HOUSE BILL 396

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

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AN ACT

RELATING TO TAXATION; CHANGING THE NAME OF THE GROSS RECEIPTS TAX TO THE STATE SALES TAX; CHANGING THE NAME OF THE COMPENSATING TAX TO THE STATE USE TAX; CHANGING THE NAME OF THE GOVERNMENTAL GROSS RECEIPTS TAX TO THE GOVERNMENTAL SALES TAX; CHANGING THE NAME OF THE INTERSTATE TELECOMMUNICATIONS GROSS RECEIPTS TAX TO THE INTERSTATE TELECOMMUNICATIONS SALES TAX; CHANGING THE NAME OF THE LEASED VEHICLE GROSS RECEIPTS TAX TO THE LEASED VEHICLE SALES TAX; CHANGING THE NAMES OF MUNICIPAL LOCAL OPTION GROSS RECEIPTS TAXES TO MUNICIPAL LOCAL OPTION SALES TAXES; CHANGING THE NAME OF COUNTY LOCAL OPTION GROSS RECEIPTS TAXES TO COUNTY LOCAL OPTION SALES TAXES; CHANGING THE NAMES OF THE ACTS AND REVENUE BONDS RELATED TO THOSE TAXES TO CONFORM TO THE NEW TAX NAMES.

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

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

"3-31-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF REVENUES--LIMITATION ON TIME OF ISSUANCE.--In addition to any other law and constitutional home rule powers authorizing a municipality to issue revenue bonds, a municipality may issue revenue bonds pursuant to Chapter 3, Article 31 NMSA 1978 for the purposes specified in this section. The term "pledged revenues", as used in Chapter 3, Article 31 NMSA 1978, means the revenues, net income or net revenues authorized to be pledged to the payment of particular revenue bonds as specifically provided in Subsections A through J of this section.

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

B. Joint utility revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing or

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otherwise improving joint water facilities, sewer facilities, gas facilities or electric facilities or for any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the net revenues from the operation of these municipal utilities for the payment of the interest on and principal of the bonds. These bonds are sometimes referred to in Chapter 3, Article 31 NMSA 1978 as "joint utility revenue bonds" or "joint utility bonds".

C. [~~For the purposes of this subsection, "gross receipts tax revenue bonds" means gross receipts tax revenue bonds or sales tax revenue bonds. Gross receipts~~] Sales tax revenue bonds may be issued for any one or more of the following purposes:

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

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

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

(4) acquiring, extending, enlarging,

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bettering, repairing, otherwise improving or maintaining storm sewers and other drainage improvements, sanitary sewers, sewage treatment plants or water utilities, including but not necessarily limited to the acquisition of rights of way and water and water rights, or any combination of the foregoing;

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

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

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

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

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

(10) acquiring, constructing, extending, bettering, repairing or otherwise improving a public transit system or regional transit systems or facilities.

The municipality may pledge irrevocably any or all of the [~~gross receipts~~] sales tax revenue received by the municipality pursuant to Section 7-1-6.4 or 7-1-6.12 NMSA 1978 to the payment of the interest on and principal of the [~~gross receipts~~] sales tax revenue bonds for any of the purposes authorized in this section or for specific purposes or for any area of municipal government services, including [~~but not limited to~~] those specified in Subsection C of Section 7-19D-9 NMSA 1978, or for public purposes authorized by municipalities having constitutional home rule charters. A law that imposes or authorizes the imposition of a municipal [~~gross receipts~~] sales tax or that affects the municipal [~~gross receipts~~] sales tax, or a law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge

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of such municipal [~~gross receipts~~] sales tax unless the outstanding revenue bonds have been discharged in full or provision has been fully made therefor.

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

D. As used in this section, the term "public building" includes but is not limited to fire stations, police buildings, municipal jails, regional jails or juvenile detention facilities, libraries, museums, auditoriums, convention halls, hospitals, buildings for administrative offices, city halls and garages for housing, repairing and maintaining city vehicles and equipment. As used in Chapter 3, Article 31 NMSA 1978, the term "[~~gross receipts~~] sales tax revenue bonds" means the bonds authorized in Subsection C of this section, and the term "[~~gross receipts~~] sales tax revenue" means the amount of money distributed to the municipality as authorized by Section 7-1-6.4 NMSA 1978 or the amount of money transferred to the municipality as authorized by Section 7-1-6.12 NMSA 1978 for any municipal [~~gross receipts~~] sales tax

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imposed pursuant to the Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act. As used in Chapter 3, Article 31 NMSA 1978, the term "bond" means any obligation of a municipality issued under Chapter 3, Article 31 NMSA 1978, whether designated as a bond, note, loan, warrant, debenture, lease-purchase agreement or other instrument evidencing an obligation of a municipality to make payments.

E. Gasoline tax revenue bonds may be issued for laying off, opening, constructing, reconstructing, resurfacing, maintaining, acquiring rights of way, repairing and otherwise improving municipal buildings, alleys, streets, public roads and bridges or any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the gasoline tax revenue received by the municipality to the payment of the interest on and principal of the gasoline tax revenue bonds. As used in Chapter 3, Article 31 NMSA 1978, "gasoline tax revenue bonds" means the bonds authorized in this subsection, and "gasoline tax revenue" means all or portions of the amounts of tax revenues distributed to municipalities pursuant to Sections 7-1-6.9 and 7-1-6.27 NMSA 1978, as from time to time amended and supplemented.

F. Project revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping and rehabilitating any revenue-producing project, including, where

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applicable, purchasing, otherwise acquiring or improving the ground therefor, including but not necessarily limited to acquiring and improving parking lots, or for any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the net revenues from the operation of the revenue-producing project for which the particular project revenue bonds are issued to the payment of the interest on and principal of the project revenue bonds. The net revenues of any revenue-producing project may not be pledged to the project revenue bonds issued for a revenue-producing project that clearly is unrelated in nature; but nothing in this subsection shall prevent the pledge to such project revenue bonds of any revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular revenue-producing project. A general determination by the governing body that any facilities or equipment is reasonably related to and constitutes a part of a specified revenue-producing project shall be conclusive if set forth in the proceedings authorizing the project revenue bonds. As used in Chapter 3, Article 31 NMSA 1978:

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

(2) "project revenues" means the net revenues of revenue-producing projects that may be pledged to project

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revenue bonds pursuant to this subsection.

G. Fire district revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping and rehabilitating any fire district project, including, where applicable, purchasing, otherwise acquiring or improving the ground therefor, or for any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the revenues received by the fire district from the fire protection fund as provided in the Fire Protection Fund Law and any or all of the revenues provided for the operation of the fire district project for which the particular bonds are issued to the payment of the interest on and principal of the bonds. The revenues of any fire district project shall not be pledged to the bonds issued for a fire district project that clearly is unrelated in its purpose; but nothing in this section prevents the pledge to such bonds of any revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular fire district project. A general determination by the governing body of the municipality that any facilities or equipment is reasonably related to and constitutes a part of a specified fire district project shall be conclusive if set forth in the proceedings authorizing the fire district bonds.

H. Law enforcement protection revenue bonds may be

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

I. Economic development [~~gross receipts~~] sales tax revenue bonds may be issued for the purpose of furthering economic development projects as defined in the Local Economic Development Act. The municipality may pledge irrevocably any or all of the revenue received from the municipal infrastructure [~~gross receipts~~] sales tax to the payment of the interest on and principal of the economic development [~~gross receipts~~] sales tax revenue bonds for any of the purposes authorized in this subsection. A law that imposes or authorizes the imposition of a municipal infrastructure [~~gross receipts~~] sales tax or that affects the municipal infrastructure [~~gross receipts~~] sales tax, or a law supplemental to or otherwise pertaining to the tax, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of the municipal infrastructure [~~gross receipts~~] sales tax unless the outstanding revenue bonds have been discharged in full or

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provision has been fully made for their discharge. As used in Chapter 3, Article 31 NMSA 1978, "economic development [~~gross receipts~~] sales tax revenue bonds" means the bonds authorized in this subsection, and "municipal infrastructure [~~gross receipts~~] sales tax revenue" means any or all of the revenue from the municipal infrastructure [~~gross receipts~~] sales tax transferred to the municipality pursuant to Section 7-1-6.12 NMSA 1978.

J. Municipal higher education facilities [~~gross receipts~~] sales tax revenue bonds may be issued for the purpose of acquisition, construction, renovation or improvement of facilities of a four-year post-secondary public educational institution located in the municipality and acquisition of or improvements to land for those facilities. The municipality may pledge irrevocably any or all of the revenue received from the municipal higher education facilities [~~gross receipts~~] sales tax to the payment of the interest on and principal of the municipal higher education facilities [~~gross receipts~~] sales tax revenue bonds. A law that imposes or authorizes the imposition of a municipal higher education facilities [~~gross receipts~~] sales tax or that affects the municipal higher education facilities [~~gross receipts~~] sales tax, or a law supplemental to or otherwise pertaining to the tax, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any

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outstanding revenue bonds that may be secured by a pledge of the municipal higher education facilities [~~gross receipts~~] sales tax unless the outstanding revenue bonds have been discharged in full or provision has been fully made for their discharge. As used in Chapter 3, Article 31 NMSA 1978, "municipal higher education facilities [~~gross receipts~~] sales tax revenue bonds" means the bonds authorized in this subsection and "municipal higher education facilities [~~gross receipts~~] sales tax revenue" means any or all of the revenue from the municipal higher education facilities [~~gross receipts~~] sales tax transferred to the municipality pursuant to Section 7-1-6.12 NMSA 1978.

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

SECTION 2. Section 3-31-4 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-30-4, as amended) is amended to read:

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"3-31-4. ORDINANCE AUTHORIZING REVENUE BONDS--[~~THREE-FOURTHS~~] THREE-FOURTHS' MAJORITY REQUIRED--RESOLUTION AUTHORIZING REVENUE BONDS TO BE ISSUED AND SOLD TO THE NEW MEXICO FINANCE AUTHORITY.--

A. At a regular or special meeting called for the purpose of issuing revenue bonds as authorized in Section 3-31-1 NMSA 1978, the governing body may adopt an ordinance that:

(1) declares the necessity for issuing revenue bonds;

(2) authorizes the issuance of revenue bonds by an affirmative vote of three-fourths of all the members of the governing body; and

(3) designates the source of the pledged revenues.

B. If a majority of the governing body, but less than three-fourths of all the members, votes in favor of adopting the ordinance authorizing the issuance of revenue bonds, the ordinance is adopted but shall not become effective until the question of issuing the revenue bonds is submitted to a vote of the qualified electors for their approval at a special or regular local election. If an election is necessary, the election shall be conducted in the manner provided in the Local Election Act.

C. In addition and as an alternative to adopting an

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ordinance as required by the provisions of Subsections A and B of this section, at a regular or special meeting called for the purpose of issuing revenue bonds as authorized in Section 3-31-1 NMSA 1978, the governing body may authorize the issuance and sale, from time to time, of revenue bonds in amounts not to exceed one million dollars ($1,000,000) at any one time to the New Mexico finance authority by adoption of a resolution that:

(1) declares the necessity for issuing and selling revenue bonds to the New Mexico finance authority;

(2) authorizes the issuance and sale of revenue bonds to the New Mexico finance authority by an affirmative vote of a majority of all the members of the governing body; and

(3) designates the source of the pledged revenues.

At the option of the governing body, revenue bonds in an amount in excess of one million dollars ($1,000,000) may be authorized by an ordinance adopted in accordance with Subsections A and B of this section and issued and sold to the New Mexico finance authority.

D. [~~No~~] An ordinance or resolution [~~may~~] shall not be adopted under the provisions of this section that uses as pledged revenues the municipal [~~gross receipts~~] sales tax authorized by Section 7-19D-9 NMSA 1978 for a purpose that would be inconsistent with the purpose for which that municipal

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[~~gross receipts~~] sales tax revenue was dedicated. Any revenue in excess of the amount necessary to meet all principal and interest payments and other requirements incident to repayment of the bonds shall be used for the purposes to which the revenue was dedicated."

SECTION 3. Section 3-31-8 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-30-8, as amended) is amended to read:

"3-31-8. REVENUE BONDS--REFUNDING AUTHORIZATION--AUTHORITY TO MORTGAGE MUNICIPAL UTILITY.--

A. Any municipality having issued revenue bonds as authorized in Sections 3-31-1 through 3-31-7 NMSA 1978 or pursuant to any other laws enabling the governing body of any municipality having issued such revenue bonds payable only out of the pledged revenue may issue refunding revenue bonds for the purpose of refinancing, paying and discharging all or any part of [~~such~~] the outstanding bonds of any one or more or all outstanding issues:

(1) for the acceleration, deceleration or other modification of the payment of such obligations, including without limitation any capitalization of any interest thereon in arrears or about to become due for any period not exceeding one year from the date of the refunding bonds;

(2) for the purpose of reducing interest costs or effecting other economies;

(3) for the purpose of modifying or

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eliminating restrictive contractual limitations pertaining to the issuance of additional bonds, otherwise concerning the outstanding bonds or to any facilities relating thereto; or

(4) for any combination of such purposes.

B. The municipality may pledge irrevocably for the payment of interest and principal on refunding bonds the appropriate pledged revenues, which may be pledged to an original issue of bonds as provided in Section 3-31-1 NMSA 1978. Nothing in this section shall permit the pledge of the [~~gross receipts~~] sales tax revenue to the payment of bonds that refund utility bonds, joint utility bonds or gasoline tax revenue bonds or the pledge of gasoline tax revenue to the payment of bonds that refund utility bonds, joint utility bonds or [~~gross receipts~~] sales tax revenue bonds or the pledge of any revenues of any utility or joint utility to the payment of bonds that refund [~~gross receipts~~] sales tax revenue bonds or gasoline tax revenue bonds.

C. Bonds for refunding and bonds for any purpose permitted by Section 3-31-1 NMSA 1978 may be issued separately or issued in combination in one series or more.

D. In addition to pledging of utility revenues to the payment of the refunding revenue bonds that refund utility bonds or joint utility bonds as provided in Section 3-23-4 NMSA 1978, the municipality may grant by ordinance, or by resolution if the refunding revenue bonds are issued and sold to the New

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Mexico finance authority pursuant to Subsection C of Section 3-31-4 NMSA 1978, a mortgage of the municipal utility that has been solely financed by revenue bonds to the bondholder or a trustee for the benefit and security of the holders of the refunding revenue bonds."

SECTION 4. Section 3-31-9 NMSA 1978 (being Laws 1973, Chapter 399, Section 1, as amended) is amended to read:

"3-31-9. REFUNDING BONDS--ESCROW--DETAIL.--

A. Refunding bonds issued pursuant to Sections 3-31-1 through 3-31-12 NMSA 1978 shall be authorized by ordinance or by resolution if the refunding bonds are to be issued and sold to the New Mexico finance authority pursuant to Subsection C of Section 3-31-4 NMSA 1978. Any bonds that are refunded under the provisions of this section shall be paid at maturity or on any permitted prior redemption date in the amounts, at the time and places and, if called prior to maturity, in accordance with any applicable notice provisions, all as provided in the proceedings authorizing the issuance of the refunded bonds or otherwise appertaining thereto, except for any such bond that is voluntarily surrendered for exchange or payment by the holder or owner.

B. Provision shall be made for paying the bonds refunded at the time or times provided in Subsection A of this section. The principal amount of the refunding bonds may exceed the principal amount of the refunded bonds and may also

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be less than or the same as the principal amount of the bonds being refunded so long as provision is duly and sufficiently made for the payment of the refunded bonds.

C. The proceeds of refunding bonds, including any accrued interest and premium appertaining to the sale of refunding bonds, shall either be immediately applied to the retirement of the bonds being refunded or be placed in escrow in a commercial bank or trust company [~~which~~] that possesses and is exercising trust powers and [~~which~~] that is a member of the federal deposit insurance corporation, to be applied to the payment of the principal of, interest on and any prior redemption premium due in connection with the bonds being refunded; provided that such refunding bond proceeds, including any accrued interest and any premium appertaining to a sale of refunding bonds, may be applied to the establishment and maintenance of a reserve fund and to the payment of expenses incidental to the refunding and the issuance of the refunding bonds, the interest thereon and the principal thereof or both interest and principal as the municipality may determine. Nothing in this section requires the establishment of an escrow if the refunded bonds become due and payable within one year from the date of the refunding bonds and if the amounts necessary to retire the refunded bonds within that time are deposited with the paying agent for the refunded bonds. Any such escrow shall not necessarily be limited to proceeds of

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refunding bonds but may include other money available for its purpose. Any proceeds in escrow pending such use may be invested or reinvested in bills, certificates of indebtedness, notes or bonds that are direct obligations of or the principal and interest of which obligations are unconditionally guaranteed by the United States of America or in certificates of deposit of banks that are members of the federal deposit insurance corporation, the par value of which certificates of deposit is collateralized by a pledge of obligations of or the payment of which is unconditionally guaranteed by the United States of America, the par value of which obligations is at least seventy-five percent of the par value of the certificates of deposit. Such proceeds and investments in escrow, together with any interest or other income to be derived from any such investment, shall be in an amount at all times sufficient as to principal, interest, any prior redemption premium due and any charges of the escrow agent payable therefrom to pay the bonds being refunded as they become due at their respective maturities or due at any designated prior redemption date or dates in connection with which the municipality shall exercise a prior redemption option. Any purchaser of any refunding bond issued [~~under~~] pursuant to Sections 3-31-1 through 3-31-12 NMSA 1978 is in no manner responsible for the application of the proceeds thereof by the municipality or any of its officers, agents or employees.

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D. Refunding bonds may bear such additional terms and provisions as may be determined by the municipality subject to the limitations in this section and Section 3-31-10 NMSA 1978 and, to the extent applicable, Sections 3-31-1 through 3-31-12 NMSA 1978 relating to original bond issues, and the refunding bonds are not subject to the provisions of any other statute except as may be incorporated by reference in Sections 3-31-1 through 3-31-12 NMSA 1978.

E. The municipality shall receive from the department of finance and administration written approval of any [~~gross receipts~~] sales tax refunding revenue bonds, gasoline tax refunding revenue bonds or project refunding revenue bonds issued pursuant to the provisions of Sections 3-31-8 through 3-31-12 NMSA 1978."

SECTION 5. Section 3-37A-2 NMSA 1978 (being Laws 1979, Chapter 284, Section 2, as amended) is amended to read:

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

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

B. "municipal share" means one and thirty-five one-hundredths percent of the taxable gross receipts as defined in the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act

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reported annually for each municipality to the taxation and revenue department during a twelve-month period ending June 30;

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

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

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

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

G. "local tax effort" means the amount produced by a one-fourth [~~of one~~] percent municipal [~~gross receipts~~] sales tax in the previous fiscal year;

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

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

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

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

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

SECTION 6. Section 3-38-14 NMSA 1978 (being Laws 1969, Chapter 199, Section 2, as amended) is amended to read:

"3-38-14. DEFINITIONS.--As used in the Lodgers' Tax Act:

A. "gross taxable rent" means the total amount of rent paid for lodging, not including the state [~~gross receipts~~] sales tax or local sales taxes;

B. "lodging" means the transaction of furnishing rooms or other accommodations by a vendor to a vendee who for rent uses, possesses or has the right to use or possess the rooms or other units of accommodations in or at a taxable premises;

C. "lodgings" means the rooms or other accommodations furnished by a vendor to a vendee by a taxable service of [~~lodgings~~] lodging;

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D. "occupancy tax" means the tax on lodging authorized by the Lodgers' Tax Act;

E. "person" means a corporation, firm, other body corporate, partnership, association or individual. "Person" includes an executor, administrator, trustee, receiver or other representative appointed according to law and acting in a representative capacity. "Person" does not include the United States of America, the state of New Mexico, any corporation, department, instrumentality or agency of the federal government or the state government or any political subdivision of the state;

F. "rent" means the consideration received by a vendor in money, credits, property or other consideration valued in money for lodgings subject to an occupancy tax authorized in the Lodgers' Tax Act;

G. "taxable premises" means a hotel, apartment, apartment hotel, apartment house, lodge, lodging house, rooming house, motor hotel, guest house, guest ranch, ranch resort, guest resort, mobile home, motor court, auto court, auto camp, trailer court, trailer camp, trailer park, tourist camp, cabin or other premises used for lodging;

H. "tourist" means a person who travels for the purpose of business, pleasure or culture to a municipality or county imposing an occupancy tax;

I. "tourist-related events" means events that are

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planned for, promoted to and attended by tourists;

J. "tourist-related facilities and attractions" means facilities and attractions that are intended to be used by or visited by tourists;

K. "tourist-related transportation systems" means transportation systems that provide transportation for tourists to and from tourist-related facilities and attractions and tourist-related events;

L. "vendee" means a natural person to whom lodgings are furnished in the exercise of the taxable service of lodging; and

M. "vendor" means a person or [~~his~~] the person's agent furnishing lodgings in the exercise of the taxable service of lodging."

SECTION 7. Section 3-38A-2 NMSA 1978 (being Laws 2003, Chapter 417, Section 2) is amended to read:

"3-38A-2. DEFINITIONS.--As used in the Hospitality Fee Act:

A. "gross rent" means the total amount of rent paid for tourist accommodations, not including the state and local option [~~gross receipts~~] sales taxes paid on the rent receipts;

B. "municipality" means a municipality located in a class A county with a population greater than two hundred fifty thousand according to the most recent federal decennial census;

C. "person" means a corporation, firm, other body

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corporate, partnership, association or individual, including an executor, administrator, trustee, receiver or other representative appointed according to law and acting in a representative capacity. "Person" does not include the United States of America; the state of New Mexico; any corporation, department, instrumentality or agency of the federal government or the state government; or any political subdivision of the state;

D. "proprietor" means a person who furnishes tourist accommodations to a renter;

E. "rent" means the consideration received by a proprietor in money, credits, property or other consideration valued in money from renters for tourist accommodations, other than:

(1) consideration received from a renter who has been a permanent resident of the tourist accommodation for a period of at least thirty consecutive days or a renter who enters into or has entered into a written agreement for rental of the tourist accommodation for a period of at least thirty consecutive days; or

(2) consideration received from a renter for a room or other unit of accommodation for which the renter has paid less than two dollars ($2.00) per day;

F. "renter" means a person to whom tourist accommodations are furnished;

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G. "room" means a room or other unit of accommodation furnished by a proprietor to a renter in a tourist accommodation; and

H. "tourist accommodation" means a hotel, apartment, apartment hotel, apartment house, lodge, lodginghouse, rooming house, motor hotel, guest house, guest ranch, ranch resort, guest resort, mobile home, motor court, auto court, auto camp, trailer court, trailer camp, trailer park, tourist camp, cabin or other premises used for accommodation. "Tourist accommodation" does not include:

(1) accommodations at religious, charitable, educational or philanthropic institutions, including summer camps operated by such institutions;

(2) clinics, hospitals or other medical facilities;

(3) privately owned and operated convalescent homes or homes for the aged, infirm, indigent or chronically ill; or

(4) accommodations that do not have at least three rooms or other units of accommodation."

SECTION 8. Section 3-60A-2 NMSA 1978 (being Laws 1979, Chapter 391, Section 2, as amended) is amended to read:

"3-60A-2. FINDINGS AND DECLARATIONS OF NECESSITY.--

A. It is found and declared that there exist in the state slum areas and blighted areas that constitute a serious

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and growing menace, injurious to the public health, safety, morals and welfare of the residents of the state; that the existence of these areas contributes substantially to the spread of disease and crime, constitutes an economic and social burden, substantially impairs or arrests the sound and orderly development of many areas of the state and retards the maintenance and expansion of necessary housing accommodations; that economic and commercial activities are lessened in those areas by the slum or blighted conditions, and the effects of these conditions include less employment in the area, lower property values, less [~~gross receipts~~] sales tax revenue and reduced use of buildings, residential dwellings and other facilities in the area; that the prevention and elimination of slum areas and blighted areas and the prevention and elimination of conditions that impair sound and orderly development is a matter of state policy and concern in order that the state shall not continue to be endangered by these areas that contribute little to the tax income of the state and its local governments and that consume an excessive proportion of its revenues because of the extra services required for police, fire, accident, hospitalization or other forms of public protection, services and facilities.

B. Certain slum areas and blighted areas or portions thereof may require land acquisition and clearance by local government, since prevailing conditions may make

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impracticable their reclamation or development; other areas or portions of the slum or blighted area may be suitable for conservation or rehabilitation efforts and the conditions and evils enumerated in Subsection A of this section may be eliminated, remedied or prevented by those efforts; and to the extent feasible, salvageable slum and blighted areas should be conserved and rehabilitated through voluntary action and the regulatory process and, when necessary, by government assistance.

C. The powers conferred by the Metropolitan Redevelopment Code regarding the use of public money are for public uses or purposes for which public money may be expended. The individual benefits accruing to persons as the result of the powers conferred by the Metropolitan Redevelopment Code and projects conducted in accordance with its provisions are found and declared to be incidental to the objectives of that code and are far outweighed by the benefit to the public as a whole. Activities authorized and powers granted by the Metropolitan Redevelopment Code are hereby declared not to result in a donation or aid to any person, association or public or private organization or enterprise. The necessity for these provisions and the power is declared to be in the public interest as a matter of legislative determination."

SECTION 9. Section 3-60A-13 NMSA 1978 (being Laws 1979, Chapter 391, Section 13, as amended) is amended to read:

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"3-60A-13. PROPERTY EXEMPT FROM TAXES AND FROM LEVY AND SALE BY VIRTUE OF AN EXECUTION.--

A. All property of a local government, including funds, owned or held in fee simple by it for the purposes of the Metropolitan Redevelopment Code shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the property nor shall judgment against a local government be a charge or lien upon the property; provided, however, that the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given pursuant to the Redevelopment Law by a local government on its rents, fees, grants, land or revenues from projects.

B. The property of a local government acquired or held for the purposes of the Metropolitan Redevelopment Code is declared to be public property used for essential public and governmental purposes, and the property shall be exempt from property taxes or assessments of the local government, the county, the state or any political subdivision thereof; provided that the exemption shall terminate when the local government transfers its fee simple interest in the property to a purchaser that is not entitled to the exemption with respect to the property. Nothing in this subsection authorizes an exemption or deduction from the imposition of the [~~gross receipts and compensating~~] state sales and use taxes under the

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[~~Gross Receipts and Compensating~~] Sales and Use Tax Act on the gross receipts from the sale of property to or the use of property by a local government or any other person in connection with a metropolitan redevelopment project created under the Metropolitan Redevelopment Code."

SECTION 10. Section 3-65-8 NMSA 1978 (being Laws 2001, Chapter 231, Section 8) is amended to read:

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

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

B. Prior to receiving the loan, the governing body shall approve the loan and related documents by an ordinance to be adopted by a majority of the members of the governing body. The ordinance shall pledge the stadium surcharge receipts to make the loan payments. In addition to pledging stadium surcharge receipts for making loan payments, the ordinance shall pledge legally available [~~gross receipts~~] sales tax revenues distributed or transferred to a municipality pursuant to Section 7-1-6.4 or 7-1-6.12 NMSA 1978 in an amount satisfactory to the authority and in an amount at least

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sufficient to make the loan payments. No action shall be brought questioning the legality of the pledge of receipts and revenues, the ordinance, the loan, the proceedings, the stadium surcharge or any other matter concerning the loan after thirty days from the date of publication of the ordinance approving the loan and related documents and pledging stadium surcharge receipts and [~~gross receipts~~] sales tax revenues of the municipality to make the loan payments.

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

SECTION 11. Section 3-65-9 NMSA 1978 (being Laws 2001, Chapter 231, Section 9) is amended to read:

"3-65-9. CUMULATIVE AND COMPLETE AUTHORITY.--The Minor League Baseball Stadium Funding Act shall be deemed to provide an additional and alternative method for obtaining funding for a minor league baseball stadium, establishing the stadium surcharge and completing the acts authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws of the state, without reference to such other laws of the state, and shall constitute full authority for the

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exercise of powers granted herein, including [~~but not limited to~~] the pledging of stadium surcharge receipts and [~~gross receipts~~] sales tax revenues by the governing body to make loan payments to the authority."

SECTION 12. Section 3-66-8 NMSA 1978 (being Laws 2005, Chapter 351, Section 10) is amended to read:

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

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

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

C. An action shall not be brought questioning the legality of the pledge of event center revenues, event center surcharge receipts or [~~gross receipts~~] sales tax revenues, bonds issued pursuant to the Municipal Event Center Funding Act, issuance of those bonds, an event center surcharge included in a vendor contract or any other matter concerning the bonds after thirty days from the date of publication of the ordinance authorizing issuance of the bonds and the pledging of

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event center receipts, event center surcharge receipts or [~~gross receipts~~] sales tax revenues of a municipality to make debt service payments.

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

SECTION 13. Section 4-48B-12 NMSA 1978 (being Laws 1981, Chapter 83, Section 12, as amended) is amended to read:

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

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

(1) in class A counties as defined in Section 4-44-1 NMSA 1978, the mill levy shall not exceed a rate of six dollars fifty cents ($6.50), or any lower maximum amount required by operation of the rate limitation provisions of

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Section 7-37-7.1 NMSA 1978 upon a mill levy imposed pursuant to this paragraph, on each one thousand dollars ($1,000) of net taxable value of property allocated to the county; however, if the county uses any portion, not to exceed one dollar fifty cents ($1.50), of the rate authorized by this paragraph to meet the requirement of Section 27-10-4 NMSA 1978, the provisions of Section 7-37-7.1 NMSA 1978 do not apply to the portion of the rate necessary to produce the revenues required, provided that the portion of the rate does not exceed one dollar fifty cents ($1.50); and

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

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

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pursuant to Section 27-10-4 NMSA 1978.

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

D. A class A county imposing the mill levy provided for in Paragraph (1) of Subsection A of this section may enter into a mutual agreement with a state educational institution named in Article 12, Section 11 of the constitution of New

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Mexico operating the hospital permitting the transfer to the county-supported medicaid fund by the county pursuant to Section 27-10-4 NMSA 1978 of not to exceed the amount that would be produced by a mill levy at a rate of one dollar fifty cents ($1.50) applied to the net taxable value of property allocated to the county for the prior property tax year and also not to exceed the amount that would be produced by imposition of the county health care [~~gross receipts~~] sales tax.

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

SECTION 14. Section 4-61-2 NMSA 1978 (being Laws 1982, Chapter 44, Section 2, as amended) is amended to read:

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

A. "adjustment factor" means a fraction, the numerator of which is the net taxable value of the state for the property tax year prior to the year in which the amount of small counties assistance is being determined and the denominator of which is the net taxable value for property tax year 2002; the adjustment factor shall be calculated without reference to assessed value determined pursuant to the Oil and Gas Ad Valorem Production Tax Act, assessed value determined

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pursuant to the Oil and Gas Production Equipment Ad Valorem Tax Act or taxable value determined pursuant to the Copper Production Ad Valorem Tax Act;

B. "ceiling valuation" means:

(1) for the 2002 property tax year, one billion four hundred million dollars ($1,400,000,000); and

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

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

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

E. "population" means the official population shown

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by the most recent federal decennial census or, if there is a change in boundaries after the date of the census, "population" for each affected unit shall be the most current estimated population for that unit provided in writing by the demographer; provided that after five years from the first day of the calendar year of the most recent federal decennial census, that census shall not be used, and "population" for the period from that date until the date when the next following official final decennial census population data are available shall be the most current estimated population provided in writing by the demographer;

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

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

(2) by July 1 of the property tax year in which any distribution under the Small Counties Assistance Act is made to the county, received a written certification from the director of the property tax division of the taxation and revenue department that the county assessor of that county has implemented an acceptable program of maintaining current and

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correct property values for property taxation purposes as required by Section 7-36-16 NMSA 1978 or has submitted to the director an acceptable plan for the implementation of such a program;

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

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

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

G. "tax rate factor" means a fraction, the numerator of which is the average rate imposed in Section 7-9-7 NMSA 1978 for the fiscal year one year prior to the fiscal year in which the distribution is to be made and the denominator of

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which is five percent; and

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

SECTION 15. Section 4-61-3 NMSA 1978 (being Laws 1982, Chapter 44, Section 3, as amended) is amended to read:

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

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

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

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

(1) its population as certified by the demographer;

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

(3) the distribution amount calculated for it.

D. The distribution amount for each qualifying county shall be determined for 2003 and each subsequent year in accordance with the following table; provided that the bracket amounts in the first two columns of the table shall be adjusted annually after 2003 by the adjustment factor. The bracket amounts in the last column shall be adjusted annually after 2005 by the inflation factor and, in 2011 and subsequent years, shall be adjusted by the tax rate factor. The department of finance and administration may round the results of the adjustments made pursuant to this subsection to the nearest one thousand dollars ($1,000).

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

at least:	but less than:	and the county population is:		then the distribution amount is:
$ 0	$100,000,000	under	1,000	$515,000
$ 0	$100,000,000	at least	1,000	
		but under	4,000	$370,000
$ 0	$100,000,000	at least	4,000	$285,000
$100,000,000	$230,000,000	under	12,000	$200,000
$100,000,000	$230,000,000	at least	12,000	$145,000
$230,000,000	$1,400,000,000	under	48,000	$85,000.

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

(1) fifty thousand dollars ($50,000) if the county has imposed and has in effect on July 1 of the year in which the distribution is to be made a county correctional facility [~~gross receipts~~] sales tax at a rate of at least one-eighth percent;

(2) twenty thousand dollars ($20,000) if the county has imposed and has in effect on July 1 of the year in which the distribution is to be made a county [~~gross receipts~~] sales tax increment of one-sixteenth percent; or

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

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

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

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

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

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

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

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

A. In addition to any other law authorizing a county to issue revenue bonds, a county may issue revenue bonds pursuant to Chapter 4, Article 62 NMSA 1978 for the purposes specified in this section. The term "pledged revenues", as used in Chapter 4, Article 62 NMSA 1978, means the revenues, net income or net revenues authorized to be pledged to the payment of particular revenue bonds as specifically provided in Subsections B through N of this section.

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

(1) constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to one or more public buildings or purchasing or improving the ground of the building or buildings;

(2) acquiring or improving county or public parking lots, structures or facilities;

(3) purchasing, acquiring or rehabilitating firefighting equipment;

(4) acquiring, extending, enlarging, bettering, repairing or otherwise improving or maintaining storm sewers and other drainage improvements, sanitary sewers, sewage treatment plants, water utilities or other water, wastewater or related facilities, which may include the acquisition of rights of way and

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water and water rights;

(5) reconstructing, resurfacing, maintaining, repairing or otherwise improving existing alleys, streets, roads or bridges or laying off, opening, constructing or otherwise acquiring new alleys, streets, roads or bridges, which may include the acquisition of rights of way;

(6) purchasing, acquiring, constructing, making additions to, enlarging, bettering, extending or equipping airport facilities, which may include the acquisition of land, easements or rights of way;

(7) purchasing, otherwise acquiring or clearing land or purchasing, otherwise acquiring or beautifying land for open space;

(8) acquiring, constructing, purchasing, equipping, furnishing, making additions to, renovating, rehabilitating, beautifying or otherwise improving public parks, public recreational buildings or other public recreational facilities;

(9) acquiring, constructing, extending, enlarging, bettering, repairing, otherwise improving or maintaining solid waste disposal equipment, equipment for operation and maintenance of sanitary landfills, sanitary landfills or solid waste facilities; and

(10) acquiring, constructing, extending, bettering, repairing or otherwise improving public transit systems

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or regional transit systems or facilities.

A county may pledge irrevocably any or all of the revenue from the first one-eighth increment, the third one-eighth increment and the one-sixteenth increment of the county [~~gross receipts~~] sales tax and any increment of the county infrastructure [~~gross receipts~~] sales tax and county capital outlay [~~gross receipts~~] sales tax for payment of principal and interest due in connection with, and other expenses related to, [~~gross receipts~~] sales tax revenue bonds for any of the purposes authorized in this section or specific purposes or for any area of county government services. If the revenue from the first one-eighth increment, the third one-eighth increment or the one-sixteenth increment of the county [~~gross receipts~~] sales tax or any increment of the county infrastructure [~~gross receipts~~] sales tax or county capital outlay [~~gross receipts~~] sales tax is pledged for payment of principal and interest as authorized by this subsection, the pledge shall require the revenues received from that increment of the county [~~gross receipts~~] sales tax or any increment of the county infrastructure [~~gross receipts~~] sales tax or county capital outlay [~~gross receipts~~] sales tax to be deposited into a special bond fund for payment of the principal, interest and expenses. At the end of each fiscal year, money remaining in the special bond fund after the annual obligations for the bonds are fully met may be transferred to any other fund of the county.

Revenues in excess of the annual principal and interest due

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on [~~gross receipts~~] sales tax revenue bonds secured by a pledge of [~~gross receipts~~] sales tax revenue may be accumulated in a debt service reserve account. The governing body of the county may appoint a commercial bank trust department to act as trustee of the proceeds of the tax and to administer the payment of principal of and interest on the bonds.

C. Fire protection revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping or rehabilitating an independent fire district project or facility, including, as applicable, purchasing, otherwise acquiring or improving the ground for the project. A county may pledge irrevocably any or all of the county fire protection [~~excise~~] sales tax revenue for payment of principal and interest due in connection with, and other expenses related to, fire protection revenue bonds. These bonds may be referred to in Chapter 4, Article 62 NMSA 1978 as "fire protection revenue bonds".

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

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"environmental revenue bonds".

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

F. Utility revenue bonds or joint utility revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing or otherwise improving water facilities, sewer facilities, gas facilities or electric facilities. A county may pledge irrevocably any or all of the net revenues from the operation of the utility or joint utility for which the particular utility or joint utility bonds are issued to the payment of principal and interest due in connection with, and other expenses related to, utility or joint utility revenue bonds. These bonds may be referred to in Chapter 4, Article 62 NMSA 1978 as "utility revenue bonds" or "joint utility revenue bonds".

G. Project revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping or rehabilitating any revenue-producing project, including, as applicable,

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purchasing, otherwise acquiring or improving the ground for the project and acquiring and improving parking lots. The county may pledge irrevocably any or all of the net revenues from the operation of the revenue-producing project for which the particular project revenue bonds are issued to the payment of the interest on and principal of the project revenue bonds. The net revenues of any revenue-producing project shall not be pledged to the project revenue bonds issued for any other revenue-producing project that is clearly unrelated in nature; but nothing in this subsection prevents the pledge to any of the project revenue bonds of the revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular revenue-producing project. A general determination by the governing body that facilities or equipment is reasonably related to and constitutes a part of a specified revenue-producing project shall be conclusive if set forth in the proceedings authorizing the project revenue bonds. As used in Chapter 4, Article 62 NMSA 1978:

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

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

H. Fire district revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving,

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constructing, purchasing, furnishing, equipping and rehabilitating a fire district project, including, as applicable, purchasing, otherwise acquiring or improving the ground for the project. The county may pledge irrevocably any or all of the revenues received by the fire district from the fire protection fund as provided in the Fire Protection Fund Law and any or all of the revenues provided for the operation of the fire district project for which the particular bonds are issued to the payment of the interest on and principal of the bonds. The revenues of a fire district project shall not be pledged to the bonds issued for a fire district project that clearly is unrelated in its purpose; but nothing in this section prevents the pledge to such bonds of revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular fire district project. A general determination by the governing body of the county that facilities or equipment is reasonably related to and constitutes a part of a specified fire district project shall be conclusive if set forth in the proceedings authorizing the fire district revenue bonds.

I. Law enforcement protection revenue bonds may be issued for the repair and purchase of law enforcement apparatus and equipment that meet nationally recognized standards. The county may pledge irrevocably any or all of the revenues received by the county from the law enforcement protection fund distributions pursuant to the Law Enforcement Protection Fund Act

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to the payment of the interest on and principal of the law enforcement protection revenue bonds.

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

K. Economic development [~~gross receipts~~] sales tax revenue bonds may be issued for the purpose of furthering economic development projects as defined in the Local Economic Development Act. A county may pledge irrevocably any or all of the county infrastructure [~~gross receipts~~] sales tax to the payment of the interest on and principal of the economic development [~~gross receipts~~] sales tax revenue bonds for the purpose authorized in this subsection.

L. County education [~~gross receipts~~] sales tax revenue bonds may be issued for public school or off-campus instruction program capital projects as authorized in Section 7-20E-20 NMSA 1978. A county may pledge irrevocably any or all of the county education [~~gross receipts~~] sales tax revenue to the payment of

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interest on and principal of the county education [~~gross receipts~~] sales tax revenue bonds for the purpose authorized in this section.

M. County area emergency communications and emergency medical and behavioral health services sales tax revenue bonds and countywide emergency communications and emergency medical and behavioral health services sales tax revenue bonds may be issued for the purpose of purchasing emergency communications equipment for an emergency communications center that has been determined by the local government division of the department of finance and administration to be a consolidated public safety answering point if the useful life of the equipment exceeds the term in which the bonds mature. A county may pledge irrevocably any or all of the county area emergency communications and emergency medical and behavioral health services sales tax revenue and the countywide emergency communications and emergency medical and behavioral health services sales tax revenue to the payment of interest on and principal of county area emergency communications and emergency medical and behavioral health services sales tax revenue bonds and countywide emergency communications and emergency medical and behavioral health services sales tax revenue bonds for the purpose authorized in this section.

N. PILT revenue bonds may be issued by a county to repay all or part of the principal and interest of an outstanding loan owed by the county to the New Mexico finance authority. A

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county may pledge irrevocably all or part of PILT revenue to the payment of principal of and interest on new loans or preexisting loans provided by the New Mexico finance authority to finance a public project as "public project" is defined in Subsection E of Section 6-21-3 NMSA 1978.

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

P. No bonds may be issued by a county, other than an H class county, a class B county as defined in Section 4-36-8 NMSA 1978 or a class A county as described in Section 4-36-10 NMSA 1978, to acquire, equip, extend, enlarge, better, repair or construct a utility unless the utility is regulated by the public regulation commission pursuant to the Public Utility Act and the issuance of the bonds is approved by the commission. For purposes of Chapter 4, Article 62 NMSA 1978, a "utility" includes a water, wastewater, sewer, gas or electric utility or joint utility

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serving the public. H class counties shall obtain public regulation commission approvals required by Section 3-23-3 NMSA 1978.

Q. Any law that imposes or authorizes the imposition of a county [~~gross receipts~~] sales tax, a county environmental services [~~gross receipts~~] sales tax, a county fire protection [~~excise~~] sales tax, a county infrastructure [~~gross receipts~~] sales tax, the county education [~~gross receipts~~] sales tax, a county capital outlay [~~gross receipts~~] sales tax, the gasoline tax, the county hospital emergency [~~gross receipts~~] sales tax, the countywide emergency communications and emergency medical and behavioral health services sales tax or the county area emergency communications and emergency medical and behavioral health services sales tax, or that affects any of those taxes, shall not be repealed or amended in such a manner as to impair outstanding revenue bonds that are issued pursuant to Chapter 4, Article 62 NMSA 1978 and that may be secured by a pledge of those taxes unless the outstanding revenue bonds have been discharged in full or for which provision has been fully made.

R. As used in this section:

(1) "county area emergency communications and emergency medical and behavioral health services sales tax revenue" means the revenue from the county area emergency communications and emergency medical and behavioral health services sales tax transferred pursuant to Section 7-1-6.13 NMSA

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1978;

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

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

(4) "county environmental services [~~gross receipts~~] sales tax revenue" means the revenue from the county environmental services [~~gross receipts~~] sales tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978;

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

(6) "county [~~gross receipts~~] sales tax revenue" means the revenue attributable to the first one-eighth increment, the third one-eighth increment and the one-sixteenth increment of the county [~~gross receipts~~] sales tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978 and any distribution related to the first one-eighth increment made pursuant to Section 7-1-6.16 NMSA 1978;

(7) "county infrastructure [~~gross receipts~~]

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sales tax revenue" means the revenue from the county infrastructure [~~gross receipts~~] sales tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978;

(8) "countywide emergency communications and emergency medical and behavioral health services sales tax revenue" means the revenue from the countywide emergency communications and emergency medical and behavioral health services sales tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978;

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

(10) "PILT revenue" means revenue received by the county from the federal government as payments in lieu of taxes; and

(11) "public building" includes fire stations, police buildings, county or regional jails, county or regional juvenile detention facilities, libraries, museums, auditoriums, convention halls, hospitals, buildings for administrative offices, courthouses and garages for housing, repairing and maintaining county vehicles and equipment.

S. As used in Chapter 4, Article 62 NMSA 1978, "bond" means any obligation of a county issued under Chapter 4, Article 62 NMSA 1978, whether designated as a bond, note, loan, warrant, debenture, lease-purchase agreement or other instrument,

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evidencing an obligation of a county to make payments."

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

"4-62-4. ORDINANCE AUTHORIZING REVENUE BONDS--[~~TWO-THIRDS~~] TWO-THIRDS' MAJORITY REQUIRED--RESOLUTION AUTHORIZING REVENUE BONDS TO BE ISSUED AND SOLD TO THE NEW MEXICO FINANCE AUTHORITY.--

A. At a regular or special meeting called for the purpose of issuing revenue bonds as authorized in Section 4-62-1 NMSA 1978, the governing body may adopt an ordinance that:

(1) declares the necessity for issuing revenue bonds;

(2) authorizes the issuance of revenue bonds by an affirmative vote of two-thirds of all the members of the governing body; and

(3) designates the source of the pledged revenues.

B. If a majority of a five-member governing body, but fewer than four members, votes in favor of adopting the ordinance authorizing the issuance of revenue bonds, the ordinance is adopted but shall not become effective until the question of issuing the revenue bonds is submitted to a vote of the qualified electors for their approval at a special or regular county election. If an election is necessary, the election shall be conducted in the manner provided in Section 4-49-8 NMSA 1978. Notice of the election shall be given as provided in Section

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4-49-8 NMSA 1978.

C. In addition and as alternative to adopting an ordinance as required by the provisions of Subsections A and B of this section, at a regular or special meeting called for the purpose of issuing revenue bonds as authorized in Section 4-62-1 NMSA 1978, the governing body may authorize the issuance and sale, from time to time, of revenue bonds in amounts not to exceed one million dollars ($1,000,000) at any one time to the New Mexico finance authority by adoption of a resolution that:

(1) declares the necessity for issuing and selling revenue bonds to the New Mexico finance authority;

(2) authorizes the issuance and sale of revenue bonds to the New Mexico finance authority by an affirmative vote of a majority of all the members of the governing body; and

(3) designates the source of the pledged revenues.

At the option of the governing body, revenue bonds in an amount in excess of one million dollars ($1,000,000) may be authorized by an ordinance adopted in accordance with Subsections A and B of this section and issued and sold to the New Mexico finance authority.

D. No ordinance or resolution may be adopted under the provisions of this section that uses as pledged revenues the county [~~gross receipts~~] sales tax for a purpose that would be inconsistent with the purpose for which that county [~~gross~~

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~~receipts~~] sales tax revenue was dedicated. Any revenue in excess of the amount necessary to meet all annual principal and interest payments and other requirements incident to repayment of the bonds may be transferred to any other fund of the county."

SECTION 18. Section 4-62-8 NMSA 1978 (being Laws 1992, Chapter 95, Section 8, as amended) is amended to read:

"4-62-8. REFUNDING BONDS--ESCROW--DETAIL.--

A. Refunding bonds issued pursuant to Chapter 4, Article 62 NMSA 1978 shall be authorized by ordinance or by resolution if the refunding bonds are to be issued and sold to the New Mexico finance authority pursuant to Subsection C of Section 4-62-4 NMSA 1978. Any bonds that are refunded under the provisions of this section shall be paid at maturity or on any permitted prior redemption date in the amounts, at the time and places and, if called prior to maturity, in accordance with any applicable notice provisions, all as provided in the proceedings authorizing the issuance of the refunded bonds or otherwise appertaining thereto, except for any bond that is voluntarily surrendered for exchange or payment by the holder or owner.

B. Provisions shall be made for paying the bonds refunded at the time provided in Subsection A of this section. The principal amount of the refunding bonds may exceed the principal amount of the refunded bonds and may also be less than or the same as the principal amount of the bonds being refunded so long as provision is duly and sufficiently made for the payment of

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the refunded bonds.

C. The proceeds of refunding bonds, including any accrued interest and premium appertaining to the sale of refunding bonds, shall either be immediately applied to the retirement of the bonds being refunded or be placed in escrow in a commercial bank or trust company that possesses and is exercising trust powers and that is a member of the federal deposit insurance corporation to be applied to the payment of the principal of, interest on and any prior redemption premium due in connection with the bonds being refunded; provided that such refunding bond proceeds, including any accrued interest and any premium appertaining to a sale of refunding bonds, may be applied to the establishment and maintenance of a reserve fund and to the payment of expenses incidental to the refunding and the issuance of the refunding bonds, the interest thereon and the principal thereof or both interest and principal as the county may determine. Nothing in this section requires the establishment of an escrow if the refunded bonds become due and payable within one year from the date of the refunding bonds and if the amounts necessary to retire the refunded bonds within that time are deposited with the paying agent for the refunded bonds. Any escrow shall not be limited to proceeds of refunding bonds but may include the other money available for its purpose. Any proceeds in escrow pending such use may be invested or reinvested in bills, certificates of indebtedness, notes or bonds that are direct obligations of, or

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the principal and interest of which obligations are unconditionally guaranteed by, the United States or in certificates of deposit of banks that are members of the federal deposit insurance corporation, the par value of which certificates of deposit is collateralized by a pledge of obligations of, or the payment of which is unconditionally guaranteed by, the United States, the par value of which obligations is at least seventy-five percent of the par value of the certificates of deposit. Such proceeds and investments in escrow together with any interest or other income to be derived from any such investment shall be in an amount at all times sufficient as to principal, interest, any prior redemption premium due and any charges of the escrow agent payable therefrom to pay the bonds being refunded as they become due at their respective maturities or due at any designated prior redemption date in connection with which the county shall exercise a prior redemption option. Any purchaser of any refunding bond issued under Chapter 4, Article 62 NMSA 1978 is in no manner responsible for the application of the proceeds thereof by the county or of its officers, agents or employees.

D. Refunding bonds may bear such additional terms and provisions as may be determined by the county subject to the limitations in this section and Section 4-62-9 NMSA 1978 and, to the extent applicable, Sections 4-62-1 through 4-62-6 NMSA 1978 relating to original bond issues, and the refunding bonds are not

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subject to the provisions of any other statute except as may be incorporated by reference in Chapter 4, Article 62 NMSA 1978.

E. The county shall receive from the department of finance and administration written approval of any non-utility [~~gross receipts~~] sales tax refunding revenue bonds, gasoline tax refunding revenue bonds, fire protection refunding revenue bonds, environmental refunding revenue bonds or non-utility project refunding revenue bonds issued pursuant to the provisions of Sections 4-62-7 through 4-62-10 NMSA 1978."

SECTION 19. Section 5-10-3 NMSA 1978 (being Laws 1993, Chapter 297, Section 3, as amended) is amended to read:

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

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

B. "broadband telecommunications network facilities" means the electronics, equipment, transmission facilities, fiber-optic cables and any other item directly related to a system capable of transmission of internet protocol or other formatted data at current federal communications commission minimum speed standard, all of which will be owned and used by a provider of internet access services;

C. "cultural facility" means a facility that is owned by the state, a county, a municipality or a qualifying entity that

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serves the public through preserving, educating and promoting the arts and culture of a particular locale, including theaters, museums, libraries, galleries, cultural compounds, educational organizations, performing arts venues and organizations, fine arts organizations, studios and media laboratories and live-work housing facilities;

D. "department" means the economic development department;

E. "economic development project" or "project" means the provision of direct or indirect assistance to a qualifying entity by a local or regional government and includes the purchase, lease, grant, construction, reconstruction, improvement or other acquisition or conveyance of land, buildings or other infrastructure; rights-of-way infrastructure, including trenching and conduit, for the placement of new broadband telecommunications network facilities; public works improvements essential to the location or expansion of a qualifying entity; payments for professional services contracts necessary for local or regional governments to implement a plan or project; the provision of direct loans or grants for land, buildings or infrastructure; technical assistance to cultural facilities; loan guarantees securing the cost of land, buildings or infrastructure in an amount not to exceed the revenue that may be derived from the municipal infrastructure [~~gross receipts~~] sales tax or the county infrastructure [~~gross receipts~~] sales tax; grants for public works

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infrastructure improvements essential to the location or expansion of a qualifying entity; grants or subsidies to cultural facilities; purchase of land for a publicly held industrial park or a publicly owned cultural facility; and the construction of a building for use by a qualifying entity;

F. "governing body" means the city council, city commission or board of trustees of a municipality or the board of county commissioners of a county;

G. "local government" means a municipality or county;

H. "municipality" means an incorporated city, town or village;

I. "person" means an individual, corporation, association, partnership or other legal entity;

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

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

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

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commonly classified as public utilities;

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

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

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

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

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

(8) a cultural facility; and

(9) a retail business;

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

L. "retail business" means a business that is primarily engaged in the sale of goods or commodities at retail and that is located in a municipality with a population, according

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to the most recent federal decennial census, of:

(1) ten thousand or less; or

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

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

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

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

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

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

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

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government in that fiscal year. The limits of this subsection shall not apply to:

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

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

(3) revenue generated through the imposition of a county infrastructure [~~gross receipts~~] sales tax pursuant to the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act; provided that no more than the greater of fifty thousand dollars ($50,000) or ten percent of the revenue collected shall be used for promotion and administration of or professional services

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contracts related to the implementation of any such economic development plan adopted by the governing body;

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

(5) the proceeds of a revenue bond issue to which county infrastructure [~~gross receipts~~] sales tax revenue is pledged; or

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

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

D. In order to expend money from an economic development fund for arts and cultural district purposes, cultural facilities or retail businesses, the governing body of a municipality or county that has imposed a municipal or county [~~local option~~] infrastructure [~~gross receipts~~] sales tax for furthering or implementing economic development plans and projects

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as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act by referendum of the majority of the voters voting on the question approving the ordinance imposing the municipal or county infrastructure [~~gross receipts~~] sales tax before July 1, 2013 shall be required to adopt a resolution. The resolution shall call for an election to approve arts and cultural districts as a qualifying purpose and cultural facilities or retail businesses as a qualifying entity before any revenue generated by the municipal or county [~~local option gross receipts~~] infrastructure sales tax for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act can be expended from the economic development fund for arts and cultural district purposes, cultural facilities or retail businesses.

E. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of approving arts and cultural districts as a qualifying purpose and cultural facilities or retail businesses as a qualifying entity eligible to utilize revenue generated by the Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act or the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act for furthering or implementing economic development plans and projects as defined in the Local Economic

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Development Act or projects as defined in the Statewide Economic Development Finance Act.

F. The question shall be submitted to the voters of the municipality or county as a separate question at a regular local or county election or at a special election called for that purpose by the governing body. A special local election shall be called, conducted and canvassed as provided in the Local Election Act. A special county election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections.

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

SECTION 21. Section 5-15-2 NMSA 1978 (being Laws 2006, Chapter 75, Section 2) is amended to read:

"5-15-2. FINDINGS AND PURPOSE.--

A. The purpose of the Tax Increment for Development Act is to create a mechanism for providing [~~gross receipts~~] sales tax financing and property tax financing for public infrastructure

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for the purpose of supporting economic development and job creation.

B. The legislature finds and declares that the powers conferred by the Tax Increment for Development Act are for public uses and purposes for which public money may be expended and the public power exercised, and that it is necessary and in the public interest for the provisions enacted in the Tax Increment for Development Act to be declared as a matter of legislative determination."

SECTION 22. Section 5-15-3 NMSA 1978 (being Laws 2006, Chapter 75, Section 3) is amended to read:

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

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

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

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(2) any amount of [~~gross receipts~~] sales taxes that would have been collected in such year if any applicable additional [~~gross receipts~~] sales taxes imposed after that year had been imposed in that year;

B. "base property taxes" means:

(1) the portion of property taxes produced by the total of all property tax levied at the rate fixed each year by each governing body levying a property tax on the assessed value of taxable property within the tax increment development area last certified for the year ending immediately prior to the year in which a tax increment development plan is approved for the tax increment development area, or, when an area is added to an existing tax increment development area, "base property taxes" means that portion of property taxes produced by the total of all property tax levied at the rate fixed each year by each governing body levying a property tax upon the assessed value of taxable property within the tax increment development area on the date of the modification of the tax increment development plan and designated by the governing body to be available as part of the property tax increment; and

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

C. "county option [~~gross receipts~~] sales taxes" means [~~gross receipts~~] sales taxes imposed by counties pursuant to the

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County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act and designated by the governing body of the county to be available as part of the [~~gross receipts~~] sales tax increment;

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

E. "district board" means a board formed in accordance with the provisions of the Tax Increment for Development Act to govern a tax increment development district;

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

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

[~~H. "gross receipts tax increment" means the gross receipts taxes collected within a tax increment development district in excess of the base gross receipts taxes collected for the duration of the existence of a tax increment development~~

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~~district and distributed to the district in the same manner as distributions are made under the provisions of the Tax Administration Act;~~

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

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

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

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

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

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

[~~O.~~] M. "project" means a tax increment development project;

[~~P.~~] N. "property tax increment" means all property

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tax collected on real property within the designated tax increment development area that is in excess of the base property tax until termination of the district and distributed to the district in the same manner as distributions are made under the provisions of the Tax Administration Act;

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

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

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

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

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

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

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

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

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

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

(9) electrical generation, transmission and distribution facilities;

(10) natural gas distribution facilities;

(11) lighting systems;

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

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

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

(15) library and other public educational or

cultural facilities;

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

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

(18) workforce housing; and

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

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

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

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

T. "state [~~gross receipts~~] sales tax" means the [~~gross receipts~~] state sales tax imposed pursuant to the [~~Gross Receipts~~

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~~and Compensating~~] Sales and Use Tax Act, but does not include that portion distributed to municipalities pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA 1978 or to counties pursuant to Section 7-1-6.47 NMSA 1978;

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

V. "tax increment development area" means the land included within the boundaries of a tax increment development district;

W. "tax increment development district" means a district formed for the purposes of carrying out tax increment development projects;

X. "tax increment development plan" means a plan for the undertaking of a tax increment development project;

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

(1) acquisition of land within a designated tax

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increment development area or a portion of that tax increment development area;

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

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

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

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

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

(7) grants for public improvements essential to

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the location or expansion of a business;

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

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

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

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

SECTION 23. Section 5-15-4 NMSA 1978 (being Laws 2006, Chapter 75, Section 4, as amended) is amended to read:

"5-15-4. RESOLUTION FOR FORMATION OF A DISTRICT.--

A. A tax increment development plan may be approved by

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the governing body of the municipality or county within which tax increment development projects are proposed. Upon filing with the clerk of the governing body of an approved tax increment development plan and upon receipt of a petition bearing the signatures of the owners of at least fifty percent of the real property located within a proposed tax increment development area, the governing body may adopt a resolution declaring its intent to form a tax increment development district. Prior to the formation of a district, the owner or developer of the real property located within an area proposed to be designated as a tax increment development area may enter into an agreement with the governing body concerning the improvement of specific property within the district, and that agreement may be used to establish obligations of the owner or developer and the governing body concerning the zoning, subdivision, improvement, impact fees, financial responsibilities and other matters relating to the development, improvement and use of real property within the district.

B. A governing body may adopt a resolution on its own motion upon its finding that a need exists for the formation of a district.

C. The resolution to form a district shall include:

(1) the area or areas to be included within the boundaries of the district;

(2) the purposes for which the district is to be formed;

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(3) a statement that a tax increment development plan is on file with the clerk of the governing body and that the plan includes a map depicting the boundaries of the tax increment development area and the real property proposed to be included in the area;

(4) the rate of any proposed property tax levy;

(5) identification of [~~gross receipts~~] sales tax increment and property tax increment financing mechanisms proposed;

(6) identification of [~~gross receipts~~] sales tax increments and property tax increments proposed to secure proposed [~~gross receipts~~] sales tax increment bonds or property tax increment bonds;

(7) requirement of a public hearing for the formation of the district and notice of the hearing;

(8) a statement that formation of a district may result in the use of [~~gross receipts~~] sales tax increments or property tax increments to pay the costs of construction of public improvements made by the district; and

(9) a reference to the Tax Increment for Development Act.

D. A resolution may direct that, prior to holding a hearing on formation of a district, petitioners for the formation of a district prepare a study of the feasibility, the financing and the estimated costs of improvements, services and benefits to

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result from the formation of the proposed district. The governing body may require those petitioners to deposit with the clerk or treasurer of the governing body an amount equal to the estimated costs of conducting the study and other estimated formation costs. The deposit shall be reimbursed from the proceeds from the sale of bonds issued by the tax increment development district if the district is formed and if [~~gross receipts~~] sales tax increment bonds or property tax increment bonds are issued by that district pursuant to the Tax Increment for Development Act.

E. A resolution adopted pursuant to this section shall direct that a public hearing on formation of the district be scheduled and that notice of the hearing be mailed and published.

F. A governing body of the municipality or county within which tax increment development projects are proposed that adopts a resolution to form a district shall notify the secretary of taxation and revenue, the secretary of finance and administration and the director of the legislative finance committee of the governing body's action within ten days following the date on which the resolution was adopted. A copy of the adopted resolution shall be included in the notice sent pursuant to this subsection. All resolution materials, including fiscal and economic studies, shall also be available electronically to the public."

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

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"5-15-5. CONTENTS OF TAX INCREMENT DEVELOPMENT PLAN.--A tax increment development plan shall include:

A. a map depicting the geographical boundaries of the area proposed for inclusion within the tax increment development area;

B. the estimated time necessary to complete the tax increment development project;

C. a description and the estimated cost of all public improvements proposed for the tax increment development project;

D. whether it is proposed to use [~~gross receipts~~] sales tax increment bonds or property tax increment bonds or both to finance all or part of the public improvements;

E. the estimated annual [~~gross receipts~~] sales tax increment to be generated by the tax increment development project and the portion of that [~~gross receipts~~] sales tax increment to be allocated during the time necessary to complete the payment of the tax increment development project;

F. the estimated annual property tax increment to be generated by the tax increment development project and the portion of that property tax increment to be allocated during the time necessary to complete the payment of the tax increment development project;

G. the general proposed land uses for the tax increment development project;

H. the number and types of jobs expected to be created

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by the tax increment development project;

I. the amount and characteristics of workforce housing expected to be created by the tax increment development project;

J. the location and characteristics of public school facilities expected to be created, improved, rehabilitated or constructed by the tax increment development project;

K. a description of innovative planning techniques, including mixed-use transit-oriented development, traditional neighborhood design or sustainable development techniques, that are deemed by the governing body to be beneficial and that will be incorporated into the tax increment development project; and

L. the amount and type of private investment in each tax increment development project."

SECTION 25. Section 5-15-12 NMSA 1978 (being Laws 2006, Chapter 75, Section 12) is amended to read:

"5-15-12. DISTRICT POWERS--LIMITATIONS.--

A. In addition to other express or implied authority granted by law, a district shall have the power to:

(1) enter into contracts or expend money for any public purpose with respect to the district;

(2) enter into agreements with a municipality, county or other local government entity in connection with real property located within the district;

(3) enter into an intergovernmental agreement in accordance with the Joint Powers Agreements Act for the planning,

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design, inspection, ownership, control, maintenance, operation or repair of public infrastructure or the provision of enhanced services by the municipality or county in which the district lies or for any other purpose authorized by the Tax Increment for Development Act;

(4) sell, lease or otherwise dispose of district property if the sale, lease or conveyance is not a violation of the terms of any contract or bond covenant of the district;

(5) reimburse a municipality or county in which the tax increment development district is located for providing services within the tax increment development area;

(6) operate, maintain and repair public infrastructure until dedicated to the governing body;

(7) employ staff, counsel, advisors and consultants;

(8) reimburse a municipality or county in which the district is located for staff and consultant services and support facilities supplied by the municipality or county;

(9) accept gifts or grants and incur and repay loans for a public purpose;

(10) enter into an agreement with an owner concerning the advance of money by an owner for a public purpose or the granting of real property by the owner for a public purpose;

(11) levy property taxes in accordance with

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election requirements of the Tax Increment for Development Act for a public purpose on real property located in the district;

(12) pay the financial, legal and administrative costs of the district;

(13) enter into contracts, agreements and trust indentures to obtain credit enhancement or liquidity support for its bonds and process the issuance, registration, transfer and payment of its bonds and the disbursement and investment of proceeds of the bonds in accordance with the provisions for investment of funds by municipal treasurers;

(14) borrow money within the limits of the Tax Increment for Development Act to fund the construction, operation and maintenance of public improvements until dedicated to the governing body or for any other lawful public purposes related to the purposes of the Tax Increment for Development Act; and

(15) use public easements and rights of way in or across public property, roadways, highways, streets or other thoroughfares and other public easements and rights of way of the district, municipality or county.

B. Notwithstanding the provisions of the Procurement Code or local procurement requirements that may otherwise be applicable to the municipality or county in which the district is located, the district board may enter into contracts to carry out any of the tax increment development district's authorized powers, including the planning, design, engineering, financing,

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construction and acquisition of public improvements for the district, with a contractor, an owner or other person or entity, on such terms and with such persons as the district board determines to be appropriate.

C. A district shall not have the power of eminent domain for any purpose.

D. A casino shall not be located in a district, and a district shall not use the proceeds of property tax increment bonds or [~~gross receipts~~] sales tax increment bonds to finance public improvements for a casino."

SECTION 26. Section 5-15-15 NMSA 1978 (being Laws 2006, Chapter 75, Section 15, as amended) is amended to read:

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

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

B. As to a district formed by a municipality, a portion of any of the following [~~gross receipts~~] sales tax

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increments may be paid by the state directly into a special fund of the district to pay the principal of, the interest on and any premium due in connection with the bonds of, loans or advances to, or any indebtedness incurred by, whether funded, refunded, assumed or otherwise, the authority for financing or refinancing, in whole or in part, a tax increment development project within the tax increment development area:

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

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

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

(4) municipal capital outlay [~~gross receipts~~] sales tax [~~authorized pursuant to the Municipal Local Option Gross Receipts Taxes Act~~];

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

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

[~~(7)~~] (6) the state [~~gross receipts~~] sales tax.

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

(1) county [~~gross receipts~~] sales tax [~~authorized pursuant to the County Local Option Gross Receipts Taxes Act~~];

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

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

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

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

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

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

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

E. An imposition of a [~~gross receipts~~] sales tax increment attributable to the imposition of a [~~gross receipts~~] sales tax by a taxing entity may be dedicated for the purpose of securing [~~gross receipts~~] sales tax increment bonds with the agreement of the taxing entity, evidenced by a resolution adopted by a majority vote of that taxing entity. A taxing entity shall not agree to dedicate for the purposes of securing [~~gross receipts~~] sales tax increment bonds more than seventy-five percent of its [~~gross receipts~~] sales tax increment attributable to the imposition of [~~gross receipts~~] sales taxes by the taxing entity. A resolution of the taxing entity to dedicate a [~~gross receipts~~] sales tax increment or to increase the dedication of a [~~gross receipts~~] sales tax increment shall become effective only on January 1 or July 1 of the calendar year.

F. An imposition of a [~~gross receipts~~] sales tax

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

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

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

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

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

G. The governing body of the jurisdiction in which a tax increment development district has been established shall timely notify the county assessor of the county in which the district has been established, the taxation and revenue department and the local government division of the department of finance and administration when:

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

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

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

SECTION 27. Section 5-15-16 NMSA 1978 (being Laws 2006, Chapter 75, Section 16) is amended to read:

"5-15-16. BONDING AUTHORITY--[~~GROSS RECEIPTS~~] SALES TAX INCREMENT.--

A. A district may issue [~~gross receipts~~] sales tax increment revenue bonds, the pledged revenue for which is a [~~gross receipts~~] sales tax increment, for any one or more of the purposes authorized by the Tax Increment for Development Act.

B. A district may pledge irrevocably any or all of a [~~gross receipts~~] sales tax increment received by the district to

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the payment of the interest on and principal of the [~~gross receipts~~] sales tax increment bonds for any of the purposes authorized in the Tax Increment for Development Act. A law that imposes or authorizes the imposition of a municipal or county [~~gross receipts~~] sales tax or that affects the municipal or county [~~gross receipts~~] sales tax shall not be repealed, amended or otherwise directly or indirectly modified in any manner to adversely impair any outstanding [~~gross receipts~~] sales tax increment bonds that may be secured by a pledge of any municipal or county [~~gross receipts~~] sales tax increment, unless those outstanding bonds have been discharged in full or provision has been fully made for those bonds.

C. Revenues in excess of the annual principal and interest due on [~~gross receipts~~] sales tax increment bonds secured by a pledge of [~~gross receipts~~] sales tax increment revenue may be accumulated in a debt service reserve account. The district may appoint a commercial bank trust department to act as paying agent or trustee of the [~~gross receipts~~] sales tax increment revenue and to administer the payment of principal of and interest on the bonds.

D. Except as otherwise provided in the Tax Increment for Development Act, [~~gross receipts~~] sales tax increment bonds:

(1) may have interest, principal value or any part thereof payable at intervals or at maturity as may be determined by the governing body;

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(2) may be subject to a prior redemption at the district's option at a time and upon terms and conditions, with or without the payment of a premium, as determined by the district board;

(3) may mature at any time not exceeding twenty-five years after the date of issuance;

(4) may be serial in form and maturity, may consist of one bond payable at one time or in installments or may be in another form determined by the district board;

(5) shall be sold for cash at, above or below par and at a price that results in a net effective interest rate that does not exceed the maximum permitted by the Public Securities Act and the Public Securities Short-Term Interest Rate Act; and

(6) may be sold at public or negotiated sale.

E. At a regular or special meeting, the district board may adopt a resolution that:

(1) declares the necessity for issuing [~~gross receipts~~] sales tax increment bonds;

(2) authorizes the issuance of [~~gross receipts~~] sales tax increment bonds by an affirmative vote of a majority of all the members of the district board; and

(3) designates the sources of [~~gross receipts~~] sales taxes or portions thereof to be pledged to the repayment of the [~~gross receipts~~] sales tax increment bonds."

SECTION 28. Section 5-15-20 NMSA 1978 (being Laws 2006,

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Chapter 75, Section 20) is amended to read:

"5-15-20. GENERAL BONDING AUTHORITY OF A TAX INCREMENT DEVELOPMENT DISTRICT--OTHER LIMITATIONS.--

A. Except as otherwise provided in this section, a district board shall not issue bonds against either [~~gross receipts~~] sales tax increments or property tax increments without the express written authorization of the department of finance and administration, as evidenced by a letter signed by the secretary of finance and administration. A district formed and approved by a class A county or by a municipality within a class A county if the municipality has a population of more than sixty-five thousand persons, according to the most recent federal decennial census, is not required to obtain express written authorization of the department of finance and administration for the issuance of [~~gross receipts~~] sales tax increment bonds or property tax increment bonds.

B. Prior to the issuance of indebtedness evidenced by the [~~gross receipts~~] sales tax increment bonds or property tax increment bonds issued by a district pursuant to the Tax Increment for Development Act, the property owners within the district shall contribute a minimum of twenty percent of the initial public infrastructure costs, which may be reimbursed with proceeds of [~~gross receipts~~] sales tax increment or property tax increment bonds; unless the project to be financed with [~~gross receipts~~] sales tax increment bonds or property tax increment bonds is a

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metropolitan redevelopment project pursuant to the Metropolitan Redevelopment Code.

C. The amount of indebtedness evidenced by the [~~gross receipts~~] sales tax increment bonds or property tax increment bonds issued pursuant to the Tax Increment for Development Act shall not exceed the estimated cost of the public improvements plus all costs connected with the public infrastructure purposes and the issuance and sale of bonds, including, without limitation, formation costs, credit enhancement and liquidity support fees and costs.

D. The indebtedness evidenced by the [~~gross receipts~~] sales tax increment bonds or property tax increment bonds shall not affect the general obligation bonding capacity of the municipality or county in which the tax increment development district is located.

E. The indebtedness evidenced by the [~~gross receipts~~] sales tax increment bonds or property tax increment bonds shall be payable only from the special funds into which are deposited the [~~gross receipts~~] sales tax increments and property tax increments as set forth in the Tax Increment for Development Act.

F. Bonds issued by a tax increment development district shall not be a general obligation of the state, the county or the municipality in which the tax increment development district is located and shall not pledge the full faith and credit of the state, the county or the municipality in which the tax

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increment development district is located."

SECTION 29. Section 5-15-21 NMSA 1978 (being Laws 2006, Chapter 75, Section 21, as amended) is amended to read:

"5-15-21. APPROVAL REQUIRED FOR ISSUANCE OF BONDS AGAINST STATE [~~GROSS RECEIPTS~~] SALES TAX INCREMENTS.--In addition to all other requirements of the Tax Increment for Development Act, prior to a district board issuing bonds that are issued in whole or in part against a [~~gross receipts~~] sales tax increment attributable to the imposition of the state [~~gross receipts~~] sales tax within a district:

A. the New Mexico finance authority shall review the proposed issuance of the bonds and determine that the proceeds of the bonds will be used for a tax increment development project in accordance with the district's tax increment development plan and present the proposed issuance of the bonds to the legislature for approval; and

B. the issuance of the bonds and the maximum amount of bonds to be issued shall be specifically authorized by law."

SECTION 30. Section 5-15-23 NMSA 1978 (being Laws 2006, Chapter 75, Section 23) is amended to read:

"5-15-23. PROTECTION FROM IMPAIRMENT.--If the provisions set forth in the Tax Increment for Development Act impair the ability of a municipality, county or other public body to meet its principal or interest payment obligations for revenue bonds or general obligation bonds outstanding prior to the effective date

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of the Tax Increment for Development Act that are secured by the pledge of all or part of the [~~municipality, county~~] municipality's, county's or other public body's [~~revenue gross receipts~~] sales tax or property tax revenue, then the amount otherwise payable to the district pursuant to the Tax Increment for Development Act shall be paid instead to the municipality, county or public body in an amount sufficient to meet any required payment."

SECTION 31. Section 5-15-24 NMSA 1978 (being Laws 2006, Chapter 75, Section 24) is amended to read:

"5-15-24. TAX INCREMENT ACCOUNTING PROCEDURES.--A district board shall separately account for all revenues and indebtedness based on [~~gross receipts~~] sales tax increments and property tax increments. The district board shall individually account for all [~~gross receipts~~] sales tax increments."

SECTION 32. Section 5-15-25.1 NMSA 1978 (being Laws 2014, Chapter 11, Section 1) is amended to read:

"5-15-25.1. BASE YEAR REVISION--RESOLUTION--COMMENT PERIOD--SUBMISSION OF MATERIALS.--

A. A district may revise the base year that the district uses to determine its [~~gross receipts~~] sales tax increment. To initiate the process of revising its base year, a district board shall:

(1) adopt a resolution declaring that intent; and

(2) forward copies of the adopted resolution to

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the secretary of taxation and revenue, the secretary of finance and administration, the developer and the local governments that have dedicated a tax increment to the district.

B. The taxation and revenue department, the department of finance and administration, the developer and the local governments that have dedicated a tax increment to the district may submit written comments to the district with copies sent to the state board of finance for fifteen days after receiving a copy of a district board's resolution indicating the board's intent to revise the base year used to determine the district's [~~gross receipts~~] sales tax increment.

C. No more than forty-five days after adopting the resolution declaring the intent to revise the base year that the district uses to determine its [~~gross receipts~~] sales tax increment, the district board shall submit to the state board of finance and send copies to the developer and any local government that has dedicated a tax increment to the district:

(1) a copy of the resolution;

(2) all comments on the matter that the district received from the taxation and revenue department, the department of finance and administration, the developer and the local governments that have dedicated a tax increment to the district; and

(3) any other related documentation.

D. As used in this section, "developer" means the

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owner or developer who has entered into an agreement pursuant to Subsection A of Section 5-15-4 NMSA 1978 with the governing body that formed the district or the owner's or developer's successors or assigns."

SECTION 33. Section 5-15-25.2 NMSA 1978 (being Laws 2014, Chapter 11, Section 2) is amended to read:

"5-15-25.2. BASE YEAR REVISION--APPROVAL.--

A. The state board of finance may approve the revision of the base year used to determine a district's [~~gross receipts~~] sales tax increment:

(1) once during the lifetime of the district;

(2) if the revised year is a calendar year that is completed;

(3) if no [~~gross receipts~~] sales tax increment bonds attributable to the district have been issued;

(4) if there is no unresolved objection to the revision by the developer or by a local government that has dedicated a tax increment to the district; and

(5) upon a finding that the revision is reasonable and in the best interest of the state.

B. If the state board of finance approves the revision of the base year used to determine a district's [~~gross receipts~~] sales tax increment, the state board of finance shall notify the district, the secretary of taxation and revenue, the developer and the local governments that have dedicated a tax increment to the

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district.

C. As used in this section, "developer" means the owner or developer who has entered into an agreement pursuant to Subsection A of Section 5-15-4 NMSA 1978 with the governing body that formed the district or the owner's or developer's successors or assigns."

SECTION 34. Section 5-15-25.3 NMSA 1978 (being Laws 2014, Chapter 11, Section 3) is amended to read:

"5-15-25.3. BASE YEAR REVISION--EFFECT.--

A. Upon notice of the approval of a revision of the base year used to determine a district's [~~gross receipts~~] sales tax increment, the district shall:

(1) return to the taxation and revenue department any [~~gross receipts~~] sales tax increment revenue credited to the period between the time that the revenue collection began and the end of the revised base year and distributed to the district;

(2) update the district tax increment development plan to reflect the revision; and

(3) file with the clerk of the governing body that formed the district the revised tax increment development plan.

B. Upon receipt of the revenue identified in Paragraph (1) of Subsection A of this section, the taxation and revenue department shall remit to the taxing entities that have dedicated a [~~gross receipts~~] sales tax increment to the district an amount

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of that revenue in proportion to the amount of [~~gross receipts~~] sales tax increment attributable to their dedication."

SECTION 35. Section 5-15-27 NMSA 1978 (being Laws 2006, Chapter 75, Section 27) is amended to read:

"5-15-27. DEDICATION OF [~~GROSS RECEIPTS~~] SALES TAX INCREMENT--NOTICE TO TAXATION AND REVENUE DEPARTMENT.--If the state board of finance or a taxing entity approves a dedication or increase in the dedication of a portion of a [~~gross receipts~~] sales tax increment to a district, the state board of finance or the taxing entity shall notify the taxation and revenue department of that approval at least one hundred twenty days before the effective date of the dedication or increase in the dedication."

SECTION 36. Section 5-15A-1 NMSA 1978 (being Laws 2007, Chapter 310, Section 1 and Laws 2007, Chapter 313, Section 1) is amended to read:

"5-15A-1. AUTHORIZATION OF ISSUANCE OF BONDS.--Pursuant to the provisions of Section 5-15-21 NMSA 1978, the legislature authorizes the issuance of bonds not to exceed five hundred million dollars ($500,000,000) in net proceeds as adjusted for inflation, secured by a [~~gross receipts~~] sales tax increment attributed to the imposition of the state [~~gross receipts~~] sales tax for the Mesa del Sol tax increment development project, subject to (1) the determination that has been made by the New Mexico finance authority that the proceeds of the bonds issued pursuant to this authorization will be used for the Mesa del Sol

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tax increment development project in accordance with the development plan, (2) the review by the New Mexico finance authority of the master indenture prior to issuance of any bonds and (3) the review by the New Mexico finance authority of any proposed amendments to the master indenture prior to the issuance of any bonds subsequent to such amendments."

SECTION 37. Section 5-15B-1 NMSA 1978 (being Laws 2015, Chapter 83, Section 1) is amended to read:

"5-15B-1. AUTHORIZATION OF ISSUANCE OF BONDS.--The legislature authorizes the issuance of bonds not to exceed forty-four million dollars ($44,000,000) in net proceeds as adjusted for inflation, secured by tax increments authorized pursuant to the Tax Increment for Development Act to be pledged to pay the principal of and interest on the bonds, including a [~~gross receipts~~] sales tax increment attributed to the imposition of the state [~~gross receipts~~] sales tax within the village of Taos Ski Valley tax increment development district, subject to the review and approval by the New Mexico finance authority of:

A. the master indenture prior to issuance of any bonds; and

B. any amendments to the master indenture prior to issuance of any bonds after any amendments are made."

SECTION 38. Section 5-15B-4 NMSA 1978 (being Laws 2015, Chapter 83, Section 4) is amended to read:

"5-15B-4. REDUCTION IN STATE [~~GROSS RECEIPTS~~] SALES TAX

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REVENUE.--Once the developer of the village of Taos Ski Valley tax increment development project has been fully reimbursed, regardless of the source of reimbursement, for the costs of eligible infrastructure, the village of Taos Ski Valley tax increment development district shall provide to the state board of finance the estimated amount of state [~~gross receipts~~] sales tax increment revenue required to pay the debt service on the district's outstanding bonds and to meet any required debt-service coverage and reserve requirements specified in the master indenture for any bonds payable from the state [~~gross receipts~~] sales tax increment. The board shall:

A. review that estimate;

B. determine:

(1) the reduced amount of state [~~gross receipts~~] sales tax increment revenue necessary each year to meet those requirements; and

(2) the reduction to the percentage of dedicated state [~~gross receipts~~] sales tax increment revenue corresponding to that reduced amount; and

C. notify the taxation and revenue department of the amount of that reduction, which shall take effect as soon as practicable after notification."

SECTION 39. Section 5-16-3 NMSA 1978 (being Laws 2006, Chapter 15, Section 3) is amended to read:

"5-16-3. DEFINITIONS.--As used in the Regional Spaceport

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District Act:

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

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

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

D. "combination" means two or more governmental units that exercise joint authority;

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

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

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

H. "revenues" means municipal regional spaceport [~~gross receipts~~] sales tax revenues and county regional spaceport [~~gross receipts~~] sales tax revenues; and

I. "spaceport" means any facility in New Mexico at which space vehicles may be launched or landed, including all facilities and support infrastructure related to launch, landing

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or payload processing."

SECTION 40. Section 5-16-13 NMSA 1978 (being Laws 2006, Chapter 15, Section 13) is amended to read:

"5-16-13. USE OF REVENUE BY GOVERNMENTAL UNITS.--Each governmental unit that is a county or municipality and is a member of a combination shall have enacted a municipal regional spaceport gross receipts tax or a county regional spaceport gross receipts tax prior to December 31, 2008, as those taxes were named prior to the effective date of this 2019 act. At least seventy-five percent of the municipal regional spaceport [~~gross receipts~~] sales tax or county regional spaceport [~~gross receipts~~] sales tax revenues received by each governmental unit must be used by the district for the financing, planning, designing, engineering and construction of a regional spaceport. No more than twenty-five percent of the municipal regional spaceport [~~gross receipts~~] sales tax or county regional spaceport [~~gross receipts~~] sales tax revenues may be used by the governmental unit enacting the tax for spaceport-related projects as approved by resolution of the governmental unit."

SECTION 41. Section 6-6A-3 NMSA 1978 (being Laws 1985, Chapter 214, Section 3) is amended to read:

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

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

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to provide leasehold communities with assistance in meeting their operating budgets.

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

(1) property tax levies;

(2) the law enforcement protection fund;

(3) the small cities assistance fund;

(4) the fire protection fund;

(5) [~~gross receipts distribution~~] sales tax distributions;

(6) gasoline tax distributions;

(7) cigarette tax distributions; and

(8) motor vehicle [~~fees~~] fee distributions.

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

(1) require each leasehold community to furnish

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and file with the division, on or before June 1 of each year, a proposed budget for the next fiscal year;

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

(3) hold public hearings on proposed budgets;

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

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

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

(7) with written approval of the secretary of finance and administration and the attorney general, increase the

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total budget of any leasehold community in the event the leasehold community undertakes an activity, service, project or construction program which was not contemplated at the time the final budget was adopted and approved and which activity, service, project or construction program will produce sufficient revenue to cover the increase in the budget or the leasehold community has surplus funds on hand not necessary to meet the expenditures provided for in the budget with which to cover the increase in the budget;

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

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

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

SECTION 42. Section 6-14-2 NMSA 1978 (being Laws 1970, Chapter 10, Section 2, as amended) is amended to read:

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

A. "net effective interest rate" means the interest rate of public securities, compounded semiannually, necessary to

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discount the scheduled debt service payments of principal and interest to the date of the public securities and to the price paid to the public body for the public securities, excluding any interest accrued to the date of delivery and based upon a year with the same number of days as the number of days for which interest is computed on the public securities;

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

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

(1) the Industrial Revenue Bond Act;

(2) the County Improvement District Act;

(3) Sections 3-33-1 through 3-33-43 NMSA 1978;

(4) the Pollution Control Revenue Bond Act;

(5) the County Pollution Control Revenue Bond Act;

(6) the County Industrial Revenue Bond Act;

(7) the Metropolitan Redevelopment Code;

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(8) the Supplemental Municipal [~~Gross Receipts~~] Sales Tax Act;

(9) the Hospital Equipment Loan Act; or

(10) the New Mexico Finance Authority Act."

SECTION 43. Section 6-21-5.1 NMSA 1978 (being Laws 1998, Chapter 65, Section 1) is amended to read:

"6-21-5.1. BONDS FOR COUNTY CORRECTIONAL FACILITY LOANS.--The authority may issue bonds for a county to design, construct, equip, furnish and otherwise improve a county correctional facility pursuant to the County Correctional Facility [~~Gross Receipts~~] Sales Tax Act only after a majority of the registered qualified electors of the county has voted to allow the county to impose a county correctional facility [~~gross receipts~~] sales tax in the amount needed to repay bonds issued by the authority for the purpose of designing, constructing, equipping, furnishing and otherwise improving a county correctional facility."

SECTION 44. Section 6-21-6.1 NMSA 1978 (being Laws 1994, Chapter 145, Section 2, as amended) is amended to read:

"6-21-6.1. PUBLIC PROJECT REVOLVING FUND--APPROPRIATIONS TO OTHER FUNDS.--

A. The authority and the department of environment may enter into a joint powers agreement pursuant to the Joint Powers Agreements Act for the purpose of describing and allocating duties and responsibilities with respect to creation of an integrated loan and grant program to be financed through issuance of bonds

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payable from the public project revolving fund. The bonds may be issued in installments or at one time by the authority in amounts authorized by law. The aggregate amount of bonds authorized and outstanding pursuant to this subsection shall not be greater than the amount of bonds that may be annually repaid from an amount not to exceed thirty-five percent of the governmental [~~gross receipts~~] sales tax proceeds distributed to the public project revolving fund in the preceding fiscal year. The net proceeds may be used for purposes of the [~~water and wastewater~~] local government planning fund and the water and wastewater project grant fund as specified in the New Mexico Finance Authority Act or for purposes of the Wastewater Facility Construction Loan Act, the Rural Infrastructure Act, the Solid Waste Act or the Drinking Water State Revolving Loan Fund Act.

B. Public projects funded pursuant to the Wastewater Facility Construction Loan Act, the Rural Infrastructure Act, the Solid Waste Act or the Drinking Water State Revolving Loan Fund Act shall not require specific authorization by law as required in Sections 6-21-6 and 6-21-8 NMSA 1978.

C. At the end of each fiscal year, after all debt service charges, replenishment of reserves and administrative costs on all outstanding bonds, notes or other obligations payable from the public project revolving fund are satisfied, an aggregate amount not to exceed thirty-five percent of the governmental [~~gross receipts~~] sales tax proceeds distributed to the public

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project revolving fund in the preceding fiscal year less all debt service charges and administrative costs of the authority paid in the preceding fiscal year on bonds issued pursuant to this section may be appropriated by the legislature from the public project revolving fund to the following funds for local infrastructure financing:

(1) the wastewater facility construction loan fund for purposes of the Wastewater Facility Construction Loan Act;

(2) the rural infrastructure revolving loan fund for purposes of the Rural Infrastructure Act;

(3) the solid waste facility grant fund for purposes of the Solid Waste Act;

(4) the drinking water state revolving loan fund for purposes of the Drinking Water State Revolving Loan Fund Act;

(5) the water and wastewater project grant fund for purposes specified in the New Mexico Finance Authority Act; or

(6) the [~~water and wastewater~~] local government planning fund for purposes specified in the New Mexico Finance Authority Act.

D. The authority and the department of environment in coordination with the New Mexico finance authority oversight committee may recommend annually to each regular session of the legislature amounts to be appropriated to the funds listed in Subsection C of this section for local infrastructure financing."

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SECTION 45. Section 6-21C-2.1 NMSA 1978 (being Laws 2004, Chapter 123, Section 1, as amended) is amended to read:

"6-21C-2.1. FINDINGS AND PURPOSE.--

A. The legislature finds that the expense of leasing office space for state occupancy has grown to the point that the state would be better served if more state-owned facilities were acquired. The legislature further finds that the state's overall occupancy costs could be reduced even after taking into account the payments necessary on bonds issued to acquire additional facilities and that, therefore, it is economically advantageous for the state to own additional office space and related facilities. Further, in anticipation of the state's future office space needs, the legislature finds it prudent to establish an office acquisition program.

B. The legislature also finds that, in extreme circumstances, it is advantageous for the state to fund certain critical facilities to avoid the need for leasing or paying emergency rents.

C. The purpose of the State Building Bonding Act is to acquire additional state office buildings and related facilities, or critical facilities located within the master planning jurisdiction of the capitol buildings planning commission, by issuing bonds paid for with distributions of [~~gross receipts~~] state sales tax revenue that reflect a portion of the savings that will result from the conversion to more state-owned facilities."

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SECTION 46. Section 6-21C-5 NMSA 1978 (being Laws 2001, Chapter 199, Section 5, as amended) is amended to read:

"6-21C-5. STATE BUILDING BONDING FUND CREATED--MONEY IN THE FUND PLEDGED.--

A. The "state building bonding fund" is created as a special fund within the New Mexico finance authority. The fund shall be administered by the New Mexico finance authority as a special account. The fund shall consist of money appropriated and transferred to the fund and [~~gross receipts~~] state sales tax revenues distributed to the fund by law. Earnings of the fund shall be credited to the fund. Balances in the fund at the end of any fiscal year shall remain in the fund, except as provided in this section.

B. Money in the state building bonding fund is pledged for the payment of principal and interest on all building bonds issued pursuant to the State Building Bonding Act. Money in the fund is appropriated:

(1) to the New Mexico finance authority for the purpose of paying debt service, including redemption premiums, on the building bonds and the expenses incurred in the issuance, payment and administration of the bonds; and

(2) if specifically authorized in the law authorizing the acquisition of a building, to the facilities management division of the general services department for expenditures for required maintenance and repairs of that building

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but only if the authority determines that money in the fund is sufficient to meet the requirements of Paragraph (1) of this subsection.

C. On the last day of January and July of each year, the New Mexico finance authority shall estimate the amount needed to make debt service and other payments during the next twelve months from the state building bonding fund on the building bonds issued pursuant to the State Building Bonding Act plus the amount that may be needed for any required reserves and, if specifically authorized in the law authorizing the acquisition of a building, the amount that may be needed for required maintenance and repairs of that building. The New Mexico finance authority shall transfer to the general fund any balance in the state building bonding fund above the estimated amounts.

D. Any balance remaining in the state building bonding fund shall be transferred to the general fund upon certification by the New Mexico finance authority that:

(1) the director of the facilities management division of the general services department and the New Mexico finance authority have agreed that the building bonds issued pursuant to the State Building Bonding Act have been retired, that no additional obligations of the state building bonding fund exist and that no additional expenditures from the fund are necessary; or

(2) a court of jurisdiction has ruled that the

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building bonds have been retired, that no additional obligations of the state building bonding fund exist and that no additional expenditures from the fund are necessary.

E. The building bonds issued pursuant to the State Building Bonding Act shall be payable solely from the state building bonding fund or, with the approval of the bondholders, such other special funds as may be provided by law and do not create an obligation or indebtedness of the state within the meaning of any constitutional provision. No breach of any contractual obligation incurred pursuant to that act shall impose a pecuniary liability or a charge upon the general credit or taxing power of the state, and the bonds are not general obligations for which the state's full faith and credit is pledged.

F. The state does hereby pledge that the state building bonding fund shall be used only for the purposes specified in this section and pledged first to pay the debt service on the building bonds issued pursuant to the State Building Bonding Act. The state further pledges that any law authorizing the distribution of taxes or other revenues to the state building bonding fund or authorizing expenditures from the fund shall not be amended or repealed or otherwise modified so as to impair the bonds to which the state building bonding fund is dedicated as provided in this section."

SECTION 47. Section 6-21D-5 NMSA 1978 (being Laws 2005,

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Chapter 176, Section 5) is amended to read:

"6-21D-5. ENERGY EFFICIENCY AND RENEWABLE ENERGY BONDING FUND--PLEDGE OF MONEY IN THE FUND.--

A. The "energy efficiency and renewable energy bonding fund" is created as a special fund within the authority. The fund shall be administered by the authority as a special account. The fund shall consist of [~~gross receipts~~] state sales tax revenues distributed to the fund by law, money transferred to the fund pursuant to the provisions of the Energy Efficiency and Renewable Energy Bonding Act and other transfers and appropriations made to the fund. Earnings of the fund shall be credited to the fund. Any unexpended or unencumbered balance in the energy efficiency and renewable energy bonding fund shall revert to the general fund at the end of a fiscal year.

B. Money in the fund shall be pledged irrevocably by the authority for the payment of principal and interest on all bonds issued pursuant to the Energy Efficiency and Renewable Energy Bonding Act. Money in the fund is appropriated to the authority for the purpose of paying debt service, including redemption premiums, on the bonds and the expenses incurred in the issuance, payment and administration of the bonds.

C. On the last day of January and July of each year, the authority shall estimate the amount needed to make debt service payments on the bonds issued pursuant to the Energy Efficiency and Renewable Energy Bonding Act plus the amount that

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may be needed for any required reserves, administrative expenses or the obligations coming due during the next twelve months from the fund. Amounts that revert to the general fund from the energy efficiency and renewable energy bonding fund may be appropriated by the legislature to the department for the purposes of carrying out the provisions of the Energy Efficiency and Renewable Energy Bonding Act.

D. Upon payment or defeasance of all principal, interest and other expenses or obligations related to the bonds, the authority shall certify to the public education department, the department of finance and administration and the secretary of taxation and revenue that all obligations for the bonds issued pursuant to the Energy Efficiency and Renewable Energy Bonding Act have been discharged and shall direct that distributions cease to the fund pursuant to that act and the Tax Administration Act.

E. The bonds issued pursuant to the Energy Efficiency and Renewable Energy Bonding Act shall be payable solely from the fund or such other special funds as may be provided by law and do not create an obligation or indebtedness of the state within the meaning of any constitutional provision. A breach of any contractual obligation incurred pursuant to that act shall not impose a pecuniary liability or a charge upon the general credit or taxing power of the state, and the bonds are not general obligations for which the state's full faith and credit is pledged.

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F. The state does hereby pledge that the fund shall be used only for the purposes specified in this section and pledged first to pay the debt service on the bonds issued pursuant to the Energy Efficiency and Renewable Energy Bonding Act. The state further pledges that any law authorizing the distribution of taxes or other revenues to the fund or authorizing expenditures from the fund shall not be amended or repealed or otherwise modified so as to impair the bonds to which the fund is dedicated as provided in this section."

SECTION 48. Section 6-23-8 NMSA 1978 (being Laws 1993, Chapter 231, Section 8, as amended) is amended to read:

"6-23-8. MUNICIPALITIES--USE OF CERTAIN REVENUES AUTHORIZED.--Upon adoption of an ordinance or resolution by an affirmative vote of a majority of the members of the governing body at any regular or special meeting of the governing body called for this purpose, a municipality may pledge utility cost savings, conservation-related cost savings or any or all revenues not otherwise pledged or obligated from [~~gross receipts~~] sales taxes received by the municipality pursuant to [~~Section~~] Sections 7-1-6.4 [~~NMSA 1978~~] and [~~Section~~] 7-1-6.12 NMSA 1978 for payments pursuant to a guaranteed utility savings contract with a qualified provider and any installment payment contract or lease-purchase agreement pursuant to that guaranteed utility savings contract. The ordinance or resolution shall declare the necessity for the guaranteed utility savings contract and related contracts or

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agreements and shall designate the source of the pledged revenues. Any revenues pledged for such contract payments shall be deposited in a special fund, and the municipality shall not use any other revenues to make such payments. At the end of each fiscal year, any money remaining in the special fund after payment obligations are met may be transferred to any other fund of the municipality."

SECTION 49. Section 6-23-9 NMSA 1978 (being Laws 1993, Chapter 231, Section 9, as amended) is amended to read:

"6-23-9. COUNTIES--USE OF CERTAIN REVENUES AUTHORIZED.--Upon adoption of an ordinance or resolution by an affirmative vote of a majority of the members of the board of county commissioners at any regular or special meeting of the board called for this purpose, a county may pledge utility cost savings, conservation-related cost savings or any or all of the revenue not otherwise pledged or obligated from the first one-eighth [~~of one~~] percent increment and of one-half of the revenue from the third one-eighth [~~of one~~] percent increment of the county [~~gross receipts~~] sales tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978 and any or all of the revenue from the distribution related to the first one-eighth [~~of one~~] percent increment made pursuant to Section 7-1-6.16 NMSA 1978 for the purpose of making payments pursuant to a guaranteed utility savings contract with a qualified provider or any installment payment contract or lease-purchase agreement pursuant to that guaranteed utility savings contract. The ordinance or resolution

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shall declare the necessity for the guaranteed utility savings contract and related contracts or agreements and shall designate the source of the pledged revenues. Any revenues pledged for such contract payments shall be deposited in a special fund and the county shall not use any other county or state revenue to make such payments. At the end of each fiscal year, any money remaining in the special fund after the payment obligations are met may be transferred to any other fund of the county."

SECTION 50. Section 6-25-3 NMSA 1978 (being Laws 2003, Chapter 349, Section 3, as amended) is amended to read:

"6-25-3. DEFINITIONS.--As used in the Statewide Economic Development Finance Act:

A. "authority" means the New Mexico finance authority;

B. "department" means the economic development department;

C. "community development entity" means an entity designed to take advantage of the federal new markets tax credit program;

D. "economic development assistance provisions" means the economic development assistance provisions of Subsection D of Article 9, Section 14 of the constitution of New Mexico;

E. "project revenue bonds" means bonds, notes or other instruments authorized in Section 6-25-7 NMSA 1978 and issued by the authority pursuant to the Statewide Economic Development Finance Act on behalf of eligible entities;

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F. "economic development goal" means:

(1) assistance to rural and underserved areas designed to increase business activity;

(2) retention and expansion of existing business enterprises;

(3) attraction of new business enterprises; or

(4) creation and promotion of an environment suitable for the support of start-up and emerging business enterprises within the state;

G. "economic development revolving fund bonds" means bonds, notes or other instruments payable from the fund and issued by the authority pursuant to the Statewide Economic Development Finance Act;

H. "eligible entity" means a for-profit or not-for-profit business enterprise, including a corporation, limited liability company, partnership or other entity, determined by the department to be engaged in an enterprise that serves an economic development goal and is suitable for financing assistance;

I. "federal new markets tax credit program" means the tax credit program codified as Section 45D of the Internal Revenue Code, as that section may be amended or renumbered, and regulations issued pursuant to that section;

J. "financing assistance" means project revenue bonds, loans, loan participations or loan guarantees provided by the authority to or for eligible entities pursuant to the Statewide

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Economic Development Finance Act;

K. "fund" means the economic development revolving fund;

L. "mortgage" means a mortgage, deed of trust or pledge of any assets as a collateral security;

M. "opt-in agreement" means an agreement entered into between the department and a qualifying county, a school district and, if applicable, a qualifying municipality that provides for county, school district and, if applicable, municipal approval of a project, subject to compliance with all local zoning, permitting and other land use rules, and for payments in lieu of taxes to the qualifying county, school district and, if applicable, qualifying municipality as provided by the Statewide Economic Development Finance Act;

N. "payment in lieu of taxes" means the total annual payment, including any state in-lieu payment, paid as compensation for the tax impact of a project, in an amount negotiated and determined in the opt-in agreement between the department and the qualifying county, the school district and, if applicable, the qualifying municipality, which payment shall be distributed to the county, municipality and school district in the same proportion as property tax revenues are normally distributed to those recipients;

O. "standard project" means land, buildings, improvements, machinery and equipment, operating capital and other

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personal property for which financing assistance is provided for adequate consideration, taking into account the anticipated quantifiable benefits of the standard project, for use by an eligible entity as:

(1) industrial or manufacturing facilities;

(2) commercial facilities, including facilities for wholesale sales and services;

(3) health care facilities, including hospitals, clinics, laboratory facilities and related office facilities;

(4) educational facilities, including schools;

(5) arts, entertainment or cultural facilities, including museums, theaters, arenas or assembly halls; and

(6) recreational and tourism facilities, including parks, pools, trails, open space and equestrian facilities;

P. "project" means a standard project or a state project;

Q. "qualifying municipality or county" means a municipality or county that enters into an opt-in agreement;

R. "quantifiable benefits" means a project's advancement of an economic development goal as measured by a variety of factors, including:

(1) the benefits an eligible entity contracts to provide, such as local hiring quotas, job training commitments and installation of public facilities or infrastructure; and

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(2) other benefits such as the total number of direct and indirect jobs created by the project, total amount of annual salaries to be paid as a result of the project, total [~~gross receipts~~] sales tax and occupancy tax collections, total property tax collections, total state corporate and personal income tax collections and other fee and revenue collections resulting from the project;

S. "school district" means a school district where a project is located that is exempt from property taxes pursuant to the Statewide Economic Development Finance Act;

T. "state in-lieu payment" means an annual payment, in an amount determined by the department, that will be distributed to a qualifying county, a school district and, if applicable, a qualifying municipality in the same proportion as property tax revenues are normally distributed to those recipients;

U. "state project" means land, buildings or infrastructure for facilities to support new or expanding eligible entities for which financing assistance is provided pursuant to the economic development assistance provisions; and

V. "tax impact of a project" means the annual reduction in property tax revenue to affected property tax revenue recipients directly resulting from the conveyance of a project to the department."

SECTION 51. Section 6-25-7 NMSA 1978 (being Laws 2003, Chapter 349, Section 7, as amended) is amended to read:

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

A. The authority may issue project revenue bonds on behalf of an eligible entity to provide funds for a project. Project revenue bonds issued pursuant to the Statewide Economic Development Finance Act shall not be a general obligation of the authority or the state within the meaning of any provision of the constitution of New Mexico and shall never give rise to a pecuniary liability of the authority or the state or a charge against the general credit or taxing powers of the state. Project revenue bonds shall be payable from the revenue derived from a project being financed by the bonds and from other revenues pledged by an eligible entity and may be secured in such manner as provided in the Statewide Economic Development Finance Act and as determined by the authority. Project revenue bonds may be executed and delivered at any time, may be in such form and denominations, may be payable in installments and at times not exceeding thirty years from their date of delivery, may bear or accrete interest at a rate or rates and may contain such provisions not inconsistent with the Statewide Economic Development Finance Act, all as provided in the resolution and proceedings of the authority authorizing issuance of the bonds. Project revenue bonds issued by the authority pursuant to the Statewide Economic Development Finance Act may be sold at public or private sale in such manner and from time to time as may be determined by the authority, and the authority may pay all

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expenses that the authority may determine necessary in connection with the authorization, sale and issuance of the bonds. All project revenue bonds issued pursuant to the Statewide Economic Development Finance Act shall be negotiable.

B. The principal of and interest on project revenue bonds issued pursuant to the Statewide Economic Development Finance Act shall be secured by a pledge of the revenues of the project being financed with the proceeds of the bonds, may be secured by a mortgage of all or a part of the project being financed or other collateral pledged by an eligible entity and may be secured by the lease of such project, which collateral and lease may be assigned, in whole or in part, by the department to the authority or to third parties to carry out the purposes of the Statewide Economic Development Finance Act. The resolution of the authority pursuant to which the project revenue bonds are authorized to be issued or any such mortgage may contain any agreement and provisions customarily contained in instruments securing bonds, including provisions respecting the fixing and collection of all revenues from any project to which the resolution or mortgage pertains, the terms to be incorporated in the lease of the project, the maintenance and insurance of the project, the creation and maintenance of special funds from the revenues of the project and the rights and remedies available in event of default to the bondholders or to the trustee under a mortgage, all as determined by the authority or the department and

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as shall not be in conflict with the Statewide Economic Development Finance Act; provided, however, that, in making any such agreements or provisions, the authority and the department may not obligate themselves except with respect to the project and application of the revenues from the project, and except as expressly permitted by the Statewide Economic Development Finance Act, and shall not have the power to incur a pecuniary liability or a charge or to pledge the general credit or taxing power of the state. The resolution authorizing the issuance of project revenue bonds may provide procedures and remedies in the event of default in payment of the principal of or interest on the bonds or in the performance of any agreement. No breach of any such agreement shall impose any pecuniary liability upon the authority, the department or the state or any charge against the general credit or taxing powers of the state.

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

D. Project revenue bonds issued to finance a project may also be secured by pledging a portion of the qualifying municipal or county infrastructure [~~gross receipts~~] sales tax

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revenues by the municipality or county in which the project is located, as permitted by the Local Economic Development Act.

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

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

SECTION 52. Section 6-25-14 NMSA 1978 (being Laws 2003, Chapter 349, Section 14, as amended) is amended to read:

"6-25-14. TAX IMPACT FUND.--

A. The "tax impact fund" is created within the state treasury. The tax impact fund shall consist of money appropriated to the fund and money distributed to the fund by law. Money remaining in the tax impact fund at the end of each fiscal year shall not revert, but shall remain in the fund for the purposes set forth in the Statewide Economic Development Finance Act. For the purpose of mitigating the tax impact of a project, money in the tax impact fund shall be disbursed by warrant of the secretary

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of finance and administration, upon vouchers submitted by the department, to qualifying counties, school districts and, if applicable, qualifying municipalities as state in-lieu payments in the same proportion as property taxes are distributed.

B. The amount of state in-lieu payments shall be determined by the department, as specified in the opt-in agreement, and shall be subject to the availability of money in the tax impact fund in each fiscal year during the term of the opt-in agreement.

C. In each fiscal year during the term of an opt-in agreement, a county, school district and, if applicable, a municipality shall qualify to receive state in-lieu payments in connection with project when the following conditions are satisfied:

(1) title to the project has been transferred to the department in connection with financing assistance provided pursuant to the Statewide Economic Development Finance Act, resulting in an exemption from property taxes that the qualifying county, school district and, if applicable, qualifying municipality would otherwise have been entitled to receive;

(2) pursuant to an opt-in agreement, the qualifying county, school district and, if applicable, qualifying municipality have certified to the department in advance that they support the project, subject to the project's compliance with the planning, zoning, subdivision, building code and other applicable

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laws and regulations governing land use;

(3) pursuant to an opt-in agreement, the county, the school district and, if applicable, the municipality and the department have agreed on the amount of the annual payment in lieu of taxes; and

(4) the department has determined that there is sufficient money on deposit in the tax impact fund in the current fiscal year to make distributions of state in-lieu payments for the project.

D. The department shall establish by rule procedures for certification by local governments concerning project support, notification of local school boards concerning financing and qualification for state in-lieu payments.

E. The amount of state in-lieu payments that a qualifying county, school district and, if applicable, qualifying municipality are entitled to receive shall be determined by the department based upon:

(1) the annual reduction in property tax revenue received by the qualifying county, school district and, if applicable, qualifying municipality that results from the transfer of title to the project to the department;

(2) the increase in local revenues that the qualifying county, school district and, if applicable, qualifying municipality are anticipated to receive as a result of the project;

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(3) an allocation of the annual revenue deposited to the tax impact fund among the qualifying municipalities, counties and school districts that have qualified to receive state in-lieu payments; and

(4) such adjustments as the department may determine by rule are appropriate and necessary to carry out the purposes of the Statewide Economic Development Finance Act, including, without limitation, adjustments that are necessary or desirable to:

(a) overcome particular barriers to economic expansion in specific locales;

(b) mitigate the tax impact of a project that will not be offset by increased local [~~gross receipts~~] sales tax revenue production directly or indirectly resulting from the project; or

(c) encourage job growth in an area in which unemployment is a particular problem."

SECTION 53. Section 7-1-2 NMSA 1978 (being Laws 1965, Chapter 248, Section 2, as amended) is amended to read:

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

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

(1) Income Tax Act;

(2) Withholding Tax Act;

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(3) Venture Capital Investment Act;

(4) [~~Gross Receipts and Compensating~~] Sales and Use Tax Act, [~~and any state gross receipts tax~~] Interstate Telecommunications Sales Tax Act and Leased Vehicle Sales Tax Act;

(5) Liquor Excise Tax Act;

(6) Local Liquor Excise Tax Act;

(7) any municipal local option [~~gross receipts~~] sales tax;

(8) any county local option [~~gross receipts~~] sales tax;

(9) Special Fuels Supplier Tax Act;

(10) Gasoline Tax Act;

(11) petroleum products loading fee, which fee shall be considered a tax for the purpose of the Tax Administration Act;

(12) Alternative Fuel Tax Act;

(13) Cigarette Tax Act;

(14) Estate Tax Act;

(15) Railroad Car Company Tax Act;

(16) Investment Credit Act, rural job tax credit, Laboratory Partnership with Small Business Tax Credit Act, Technology Jobs and Research and Development Tax Credit Act, Film Production Tax Credit Act, Affordable Housing Tax Credit Act and high-wage jobs tax credit;

(17) Corporate Income and Franchise Tax Act;

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

(19) Multistate Tax Compact;

(20) Tobacco Products Tax Act; and

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

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

(1) Resources Excise Tax Act;

(2) Severance Tax Act;

(3) any severance surtax;

(4) Oil and Gas Severance Tax Act;

(5) Oil and Gas Conservation Tax Act;

(6) Oil and Gas Emergency School Tax Act;

(7) Oil and Gas Ad Valorem Production Tax Act;

(8) Natural Gas Processors Tax Act;

(9) Oil and Gas Production Equipment Ad Valorem Tax Act;

(10) Copper Production Ad Valorem Tax Act;

(11) any advance payment required to be made by any act specified in this subsection, which advance payment shall be considered a tax for the purposes of the Tax Administration

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Act;

(12) Enhanced Oil Recovery Act;

(13) Natural Gas and Crude Oil Production Incentive Act; and

(14) intergovernmental production tax credit and intergovernmental production equipment tax credit;

C. the administration and enforcement of the following taxes, surcharges, fees or acts as they now exist or may hereafter be amended:

(1) Weight Distance Tax Act;

(2) the workers' compensation fee authorized by Section 52-5-19 NMSA 1978, which fee shall be considered a tax for purposes of the Tax Administration Act;

(3) Uniform Unclaimed Property Act (1995);

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

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

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

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

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

SECTION 54. Section 7-1-3 NMSA 1978 (being Laws 1965, Chapter 248, Section 3, as amended) is amended to read:

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

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

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

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

D. "employee of the department" means any employee of

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the department, including the secretary, or any person acting as agent or authorized to represent or perform services for the department in any capacity with respect to any law made subject to administration and enforcement under the provisions of the Tax Administration Act;

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

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

(1) the chief hearing officer;

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

(3) a contractor of the administrative hearings office;

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

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

I. "local option [~~gross receipts~~] sales tax" means a tax authorized to be imposed by a county or municipality upon the

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taxpayer's gross receipts, as that term is defined in the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act, and required to be collected by the department at the same time and in the same manner as the [~~gross receipts~~] state sales tax; [~~"local option gross receipts tax" includes the taxes imposed pursuant to the Municipal Local Option Gross Receipts Taxes Act, Supplemental Municipal Gross Receipts Tax Act, County Local Option Gross Receipts Taxes Act, Local Hospital Gross Receipts Tax Act and County Correctional Facility Gross Receipts Tax Act and such other acts as may be enacted authorizing counties or municipalities to impose taxes on gross receipts, which taxes are to be collected by the department in the same time and in the same manner as it collects the gross receipts tax;~~]

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

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

L. "overpayment" means an amount paid, pursuant to any law subject to administration and enforcement under the provisions of the Tax Administration Act, by a person to the department or

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withheld from the person in excess of tax due from the person to the state at the time of the payment or at the time the amount withheld is credited against tax due;

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

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

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

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

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

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

S. "return" means any tax or information return, application or form, declaration of estimated tax or claim for refund, including any amendments or supplements to the return,

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

T. "return information" means a taxpayer's name, address, government-issued identification number and other identifying information; any information contained in or derived from a taxpayer's return; any information with respect to any actual or possible administrative or legal action by an employee of the department concerning a taxpayer's return, such as audits, managed audits, denial of credits or refunds, assessments of tax, penalty or interest, protests of assessments or denial of refunds or credits, levies or liens; or any other information with respect to a taxpayer's return or tax liability that was not obtained from public sources or that was created by an employee of the department; but "return information" does not include statistical data or other information that cannot be associated with or directly or indirectly identify a particular taxpayer;

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

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

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

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

Y. "tax" means the total amount of each tax imposed and required to be paid, withheld and paid or collected and paid under provision of any law made subject to administration and enforcement according to the provisions of the Tax Administration Act, including the amount of any interest or civil penalty relating thereto; "tax" also means any amount of any abatement of tax made or any credit, rebate or refund paid or credited by the department under any law subject to administration and enforcement under the provisions of the Tax Administration Act to any person contrary to law, including the amount of any interest or civil penalty relating thereto;

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

(1) furnishes typing, reproducing or other

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mechanical assistance;

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

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

AA. "taxpayer" means a person liable for payment of any tax; a person responsible for withholding and payment or for collection and payment of any tax; a person to whom an assessment has been made, if the assessment remains unabated or the amount thereof has not been paid; or a person who entered into a special agreement pursuant to Section 7-1-21.1 NMSA 1978 to assume the liability of [~~gross receipts~~] state sales tax or governmental [~~gross receipts~~] sales tax of another person and the special agreement was approved by the secretary pursuant to the Tax Administration Act."

SECTION 55. Section 7-1-6.2 NMSA 1978 (being Laws 1983, Chapter 211, Section 7, as amended) is amended to read:

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

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SECTION 56. Section 7-1-6.4 NMSA 1978 (being Laws 1983, Chapter 211, Section 9, as amended) is amended to read:

"7-1-6.4. DISTRIBUTION--MUNICIPALITY FROM [~~GROSS RECEIPTS~~] STATE SALES TAX.--

A. Except as provided in Subsection B of this section, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to each municipality in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the product of the quotient of one and two hundred twenty-five thousandths percent divided by the tax rate imposed by Section 7-9-4 NMSA 1978 multiplied by the net receipts for the month attributable to the [~~gross receipts~~] state sales tax from business locations:

(1) within that municipality;

(2) on land owned by the state, commonly known as the "state fairgrounds", within the exterior boundaries of that municipality;

(3) outside the boundaries of any municipality on land owned by that municipality; and

(4) on an Indian reservation or pueblo grant in an area that is contiguous to that municipality and in which the municipality performs services pursuant to a contract between the municipality and the Indian tribe or Indian pueblo if:

(a) the contract describes an area in which the municipality is required to perform services and requires the

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municipality to perform services that are substantially the same as the services the municipality performs for itself; and

(b) the governing body of the municipality has submitted a copy of the contract to the secretary.

B. If the reduction made by Laws 1991, Chapter 9, Section 9 to the distribution under this section impairs the ability of a municipality to meet its principal or interest payment obligations for revenue bonds outstanding prior to July 1, 1991 that are secured by the pledge of all or part of the municipality's revenue from the distribution made under this section, then the amount distributed pursuant to this section to that municipality shall be increased by an amount sufficient to meet any required payment, provided that the distribution amount does not exceed the amount that would have been due that municipality under this section as it was in effect on June 30, 1992.

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

SECTION 57. Section 7-1-6.5 NMSA 1978 (being Laws 1983, Chapter 211, Section 10 and Laws 1983, Chapter 214, Section 6, as amended) is amended to read:

"7-1-6.5. DISTRIBUTION--SMALL COUNTIES ASSISTANCE FUND.--A

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distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the small counties assistance fund in an amount equal to ten percent of the net receipts attributable to the [~~compensating~~] state use tax."

SECTION 58. Section 7-1-6.7 NMSA 1978 (being Laws 1994, Chapter 5, Section 2, as amended) is amended to read:

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

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

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

C. From July 1, 2013 through June 30, 2021, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state aviation fund in an amount equal to forty-six thousandths percent of the net receipts attributable to the [~~gross receipts~~] state sales tax distributable to the general fund.

D. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state aviation fund from the net

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receipts attributable to the [~~gross receipts~~] state sales tax distributable to the general fund in an amount equal to:

(1) eighty thousand dollars ($80,000) monthly from July 1, 2007 through June 30, 2008;

(2) one hundred sixty-seven thousand dollars ($167,000) monthly from July 1, 2008 through June 30, 2009; and

(3) two hundred fifty thousand dollars ($250,000) monthly after July 1, 2009."

SECTION 59. Section 7-1-6.12 NMSA 1978 (being Laws 1983, Chapter 211, Section 17, as amended) is amended to read:

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

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

B. A transfer pursuant to this section may be adjusted

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for a distribution made to a tax increment development district with respect to a portion of a [~~gross receipts~~] sales tax increment dedicated by a municipality pursuant to the Tax Increment for Development Act."

SECTION 60. Section 7-1-6.13 NMSA 1978 (being Laws 1983, Chapter 211, Section 18, as amended) is amended to read:

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

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

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

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SECTION 61. Section 7-1-6.15 NMSA 1978 (being Laws 1983, Chapter 211, Section 20, as amended by Laws 2015, Chapter 89, Section 1 and by Laws 2015, Chapter 100, Section 1) is amended to read:

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

A. The provisions of this section apply to:

(1) any distribution to a municipality pursuant to Section 7-1-6.4, 7-1-6.36 or 7-1-6.46 NMSA 1978;

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

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

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

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

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

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

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

(9) any distribution to a municipality of

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[~~compensating~~] state use taxes pursuant to Section 7-1-6.55 NMSA 1978.

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

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

(2) if the revised total for prior periods

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

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

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

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

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

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

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

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

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

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

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

(2) if, pursuant to Subsection B of this section, the secretary determines that the recoverable amount is more than

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fifty percent of the average distribution or transfer of net receipts for that municipality or county, the secretary:

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

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

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

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

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

H. The secretary is authorized to decrease a distribution or transfer to a municipality or county upon being directed to do so by the secretary of finance and administration pursuant to the State Aid Intercept Act or to redirect a distribution or transfer to the New Mexico finance authority pursuant to an ordinance or a resolution passed by the county or municipality and a written agreement of the municipality or county and the New Mexico finance authority. Upon direction to decrease a distribution or transfer or notice to redirect a distribution or transfer to a municipality or county, the secretary shall decrease or redirect the next designated distribution or transfer, and succeeding distributions or transfers as necessary, by the amount of the state distributions intercept authorized by the secretary of finance and administration pursuant to the State Aid Intercept Act or by the amount of the state distribution intercept authorized pursuant to an ordinance or a resolution passed by the county or municipality and a written agreement with the New Mexico finance authority. The secretary shall transfer the state distributions intercept amount to the municipal or county

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treasurer or other person designated by the secretary of finance and administration or to the New Mexico finance authority pursuant to written agreement to pay the debt service to avoid default on qualified local revenue bonds or meet other local revenue bond, loan or other debt obligations of the municipality or county to the New Mexico finance authority. A decrease to or redirection of a distribution or transfer pursuant to this subsection that arose:

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

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

I. Upon the direction of the secretary of finance and administration pursuant to Section 9-6-5.2 NMSA 1978, the secretary shall temporarily withhold the balance of a distribution to a municipality or county, net of any decrease or redirected amount pursuant to Subsection H of this section and any recoverable amount pursuant to Paragraph (2) of Subsection B of

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this section, that has failed to submit an audit report required by the Audit Act or a financial report required by Subsection F of Section 6-6-2 NMSA 1978. The amount to be withheld, the source of the withheld distribution and the number of months that the distribution is to be withheld shall be as directed by the secretary of finance and administration. A distribution withheld pursuant to this subsection shall remain in the tax administration suspense fund until distributed to the municipality or county and shall not be distributed to the general fund. An amount withheld pursuant to this subsection shall be distributed to the municipality or county upon direction of the secretary of finance and administration.

J. As used in this section:

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

(2) "amounts relating to prior periods" means any amounts processed during the current month that adjust amounts processed in a period or periods prior to the current month regardless of whether the adjustment is a correction of a department error or due to the filing of amended returns, payment of department-issued assessments, filing or approval of claims for

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refund, audit adjustments or other cause;

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

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

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

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

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

(5) "repayment agreement" means an agreement between the department and a municipality or county under which the municipality or county agrees to allow the department to recover an amount determined pursuant to Paragraph (2) of Subsection B of this section by decreasing distributions or transfers to the municipality or county for one or more months

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beginning with the distribution or transfer to be made with respect to a designated month. No interest shall be charged."

SECTION 62. Section 7-1-6.16 NMSA 1978 (being Laws 1983, Chapter 213, Section 27, as amended) is amended to read:

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

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

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

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

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

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C. As used in this section:

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

(2) "monthly amount" means an amount equal to the product of:

(a) the net receipts received by the department in the month attributable to the state [~~gross receipts~~] sales tax plus five percent of the total amount of deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month plus five percent of the total amount of deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month; and

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

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

(4) "report year" means the twelve-month period ending on the July 31 immediately preceding the date upon which a

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distribution pursuant to this section is required to be made."

SECTION 63. Section 7-1-6.36 NMSA 1978 (being Laws 1992, Chapter 50, Section 13 and also Laws 1992, Chapter 67, Section 13) is amended to read:

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

A. within that municipality;

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

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

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

(1) the contract describes an area in which the

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municipality is required to perform services and requires the municipality to perform services that are substantially the same as the services the municipality performs for itself; and

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

SECTION 64. Section 7-1-6.38 NMSA 1978 (being Laws 1994, Chapter 145, Section 1, as amended) is amended to read:

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

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

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the energy, minerals and natural resources department in an amount equal to twenty-four percent of the net receipts attributable to the governmental [~~gross receipts~~] sales tax. Forty-one and two-thirds percent of the distribution is appropriated to the energy, minerals and natural resources department to implement the provisions of the New Mexico Youth Conservation Corps Act and fifty-eight and one-third percent of the distribution is appropriated to the energy, minerals and natural resources department for state park and recreation area capital improvements, including the costs of planning,

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engineering, design, construction, renovation, repair, equipment and furnishings.

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

D. The state pledges to and agrees with the holders of any bonds or notes issued by the New Mexico finance authority or by the energy, minerals and natural resources department and payable from the net receipts attributable to the governmental [~~gross receipts~~] sales tax distributed to the New Mexico finance authority or the energy, minerals and natural resources department pursuant to this section that the state will not limit, reduce or alter the distribution of the net receipts attributable to the governmental [~~gross receipts~~] sales tax to the New Mexico finance authority or the energy, minerals and natural resources department or limit, reduce or alter the rate of imposition of the governmental [~~gross receipts~~] sales tax until the bonds or notes together with the interest thereon are fully met and discharged. The New Mexico finance authority and the energy, minerals and natural resources department are authorized to include this pledge and agreement of the state in any agreement with the holders of the bonds or notes."

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SECTION 65. Section 7-1-6.42 NMSA 1978 (being Laws 2001, Chapter 199, Section 12, as amended) is amended to read:

"7-1-6.42. DISTRIBUTION--STATE BUILDING BONDING FUND--[~~GROSS RECEIPTS~~] STATE SALES TAX.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state building bonding fund in the amount of five hundred thirty thousand dollars ($530,000) from the net receipts attributable to the [~~gross receipts~~] state sales tax [~~imposed by the Gross Receipts and Compensating Tax Act~~]. The distribution shall be made:

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

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

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

SECTION 66. That version of Section 7-1-6.42 NMSA 1978 (being Laws 2001, Chapter 199, Section 12, as amended by Laws 2009, Chapter 114, Section 3) that has a contingent effective date is amended to read:

"7-1-6.42. DISTRIBUTION--STATE BUILDING BONDING FUND--[~~GROSS RECEIPTS~~] STATE SALES TAX.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state building bonding fund in the amount of six hundred eighty thousand dollars

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($680,000) from the net receipts attributable to the [~~gross receipts~~] state sales tax [~~imposed by the Gross Receipts and Compensating Tax Act~~]. The distribution shall be made:

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

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

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

SECTION 67. Section 7-1-6.46 NMSA 1978 (being Laws 2004, Chapter 116, Section 1, as amended) is amended to read:

"7-1-6.46. DISTRIBUTION TO MUNICIPALITIES--OFFSET FOR FOOD DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

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

(1) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business

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locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option [~~gross receipts~~] sales taxes in effect in the municipality for the month plus one and two hundred twenty-five thousandths percent; and

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

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

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

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

(b) on or after July 1, 2015 and prior to

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July 1, 2016, ninety-four percent;

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option [~~gross receipts~~] sales taxes in effect in the municipality on January 1, 2007 plus one and two hundred twenty-five thousandths percent in the following percentages:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(o) on or after July 1, 2028 and prior to July 1, 2029, seven percent.

C. The distribution pursuant to Subsections A and B of this section is in lieu of revenue that would have been received by the municipality but for the deductions provided by Sections 7-9-92 and 7-9-93 NMSA 1978. The distribution shall be considered [~~gross receipts~~] sales tax revenue and shall be used by the municipality in the same manner as [~~gross receipts~~] sales tax revenue, including payment of [~~gross receipts~~] sales tax revenue bonds. A distribution pursuant to this section to a municipality not described in Subsection A of this section [~~or to a municipality that has imposed a gross receipts tax through an ordinance that does not provide a deduction contained in the Gross~~

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~~Receipts and Compensating Tax Act~~] shall not be made on or after July 1, 2029.

D. If the reductions made by this 2013 act to the distributions made pursuant to Subsections A and B of this section impair the ability of a municipality to meet its principal or interest payment obligations for revenue bonds that are outstanding prior to July 1, 2013 and that are secured by the pledge of all or part of the municipality's revenue from the distribution made pursuant to this section, then the amount distributed pursuant to this section to that municipality shall be increased by an amount sufficient to meet the required payment; provided that the total amount distributed to that municipality pursuant to this section does not exceed the amount that would have been due that municipality pursuant to this section as it was in effect on June 30, 2013.

E. For the purposes of this section, "business locations attributable to the municipality" means business locations:

(1) within the municipality;

(2) on land owned by the state, commonly known as the "state fairgrounds", within the exterior boundaries of the municipality;

(3) outside the boundaries of the municipality on land owned by the municipality; and

(4) on an Indian reservation or pueblo grant in

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an area that is contiguous to the municipality and in which the municipality performs services pursuant to a contract between the municipality and the Indian tribe or Indian pueblo if:

(a) the contract describes an area in which the municipality is required to perform services and requires the municipality to perform services that are substantially the same as the services the municipality performs for itself; and

(b) the governing body of the municipality has submitted a copy of the contract to the secretary.

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

SECTION 68. Section 7-1-6.47 NMSA 1978 (being Laws 2004, Chapter 116, Section 2, as amended) is amended to read:

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

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

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

(2) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations in the county but not within a municipality multiplied by the combined rate of all county local option [~~gross receipts~~] sales taxes in effect for the month that are imposed in the county area not within a municipality;

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

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

B. For a county not described in Subsection A of this

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section, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the county in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the sum of:

(1) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option [~~gross receipts~~] sales taxes in effect on January 1, 2007 that are imposed throughout the county in the following percentages:

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

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

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

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

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

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

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

(h) on or after July 1, 2021 and prior to

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July 1, 2022, fifty-six percent;

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

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

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

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

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

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

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

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

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

(b) on or after July 1, 2015 and prior to

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July 1, 2016, ninety-four percent;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) on or after July 1, 2022 and prior to

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July 1, 2023, forty-nine percent;

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

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

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

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

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

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

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

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

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

(c) on or after July 1, 2016 and prior to

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July 1, 2017, eighty-eight percent;

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

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

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

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

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

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

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

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

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

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

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

(o) on or after July 1, 2028 and prior to July 1, 2029, seven percent.

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

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

E. A distribution pursuant to this section may be

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adjusted for a distribution made to a tax increment development district with respect to a portion of a [~~gross receipts~~] sales tax increment dedicated by a county pursuant to the Tax Increment for Development Act."

SECTION 69. Section 7-1-6.52 NMSA 1978 (being Laws 2005, Chapter 104, Section 1) is amended to read:

"7-1-6.52. DISTRIBUTION ADJUSTMENT--TAX ADMINISTRATION SUSPENSE FUND--CREDIT FOR CERTAIN SALES OF SERVICES FOR RESALE.--Distributions from the tax administration suspense fund to the general fund of revenue attributable to the [~~gross receipts~~] state sales tax or to the governmental [~~gross receipts~~] sales tax shall be adjusted for credits issued pursuant to the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act for receipts from the sale of services for resale."

SECTION 70. Section 7-1-6.53 NMSA 1978 (being Laws 2005, Chapter 176, Section 11) is amended to read:

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

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distribution shall be made:

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

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

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

SECTION 71. Section 7-1-6.54 NMSA 1978 (being Laws 2006, Chapter 75, Section 29) is amended to read:

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

SECTION 72. Section 7-1-6.55 NMSA 1978 (being Laws 2007, Chapter 331, Section 4) is amended to read:

"7-1-6.55. DISTRIBUTION TO MUNICIPALITY EQUIVALENT TO A PORTION OF [~~COMPENSATING~~] STATE USE TAX.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to each municipality in an amount calculated pursuant to Subsection B of this section, subject to any increase

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or decrease made pursuant to Section 7-1-6.15 NMSA 1978; provided that the distribution shall be phased in according to the following schedule:

(1) from July 1, 2008 until June 30, 2009, the distribution shall be equal to ten percent of the amount calculated according to Subsection B of this section; and

(2) on or after July 1, 2009, the distribution shall be equal to thirty percent of the amount calculated according to Subsection B of this section.

B. The amount of the distribution provided for in this section shall be calculated for each month in the six-month period beginning on each July 1 and January 1 and shall be equal to the reported taxable gross receipts for all business locations in the municipality for the month multiplied by:

(1) the ratio of net [~~compensating~~] state use tax receipts for the entire six-month period beginning the previous November 1 or May 1, respectively, to the reported taxable gross receipts for all business locations for the entire six-month period beginning the previous November 1 or May 1, respectively; and further multiplied by:

(2) the ratio of one and two hundred twenty-five thousandths percent to the average tax rate imposed by Section 7-9-7 NMSA 1978 in effect for the six-month period beginning on January 1 or July 1, respectively."

SECTION 73. Section 7-1-6.57 NMSA 1978 (being Laws 2007,

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Chapter 361, Section 1) is amended to read:

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

SECTION 74. Section 7-1-6.60 NMSA 1978 (being Laws 2010, Chapter 31, Section 2) is amended to read:

"7-1-6.60. DISTRIBUTION--COUNTY BUSINESS RETENTION [~~GROSS RECEIPTS~~] SALES TAX.--Beginning September 1, 2011, an annual distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to a county that has imposed and the electors have approved a county business retention [~~gross receipts~~] sales tax. The distribution shall be in an amount equal to the balance of the net receipts attributable to that tax collected in the prior fiscal year, exclusive of penalties and interest, after the state has deducted an amount for deposit to the general fund equal to the reduction in gaming tax revenue from the gaming operator licensees that are racetracks located in that county resulting from county gaming tax credits allowed in the immediately prior fiscal year for gaming operator licensees located in that county. The total receipts from any county transferred to the general fund in any fiscal year shall not exceed seven hundred fifty thousand dollars

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($750,000) or the total amount of the decrease in gaming tax revenue calculated for the county pursuant to this section, whichever is less."

SECTION 75. Section 7-1-8.8 NMSA 1978 (being Laws 2009, Chapter 243, Section 10, as amended) is amended to read:

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

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

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

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

D. the secretary of human services or the secretary's delegate under a written agreement with the department, the last known address with date of all names certified to the department as being absent parents of children receiving public financial assistance, but only for the purpose of enforcing the support liability of the absent parents by the child support enforcement division or any successor organizational unit;

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

F. the state courts, the random jury lists produced by the department of information technology under Subsection E of this section;

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

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

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

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

K. the director of the workers' compensation

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administration or to the director's representatives authorized for this purpose, return information to facilitate the identification of taxpayers that are delinquent or noncompliant in payment of fees required by Section 52-1-9.1 or 52-5-19 NMSA 1978;

L. the secretary of workforce solutions or the secretary's delegate, return information for use in enforcement of unemployment insurance collections pursuant to the terms of a written reciprocal agreement entered into by the department with the secretary of workforce solutions for exchange of information;

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

N. the secretary of human services or the secretary's delegate; provided that a person who receives the confidential return information on behalf of the human services department shall not reveal the information and shall be subject to the penalties in Section 7-1-76 NMSA 1978 if the person fails to maintain the confidentiality required:

(1) that return information needed for reports required to be made to the federal government concerning the use

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of federal funds for low-income working families; and

(2) the names and addresses of low-income taxpayers for the limited purpose of outreach to those taxpayers; provided that the human services department shall pay the department for expenses incurred by the department to derive the information requested by the human services department if the information requested is not readily available in reports for which the department's information systems are programmed."

SECTION 76. That version of Section 7-1-8.8 NMSA 1978 (being Laws 2009, Chapter 243, Section 10, as amended) that is to become effective January 1, 2020 is amended to read:

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

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

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

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

D. the secretary of human services or the secretary's

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delegate under a written agreement with the department, the last known address with date of all names certified to the department as being absent parents of children receiving public financial assistance, but only for the purpose of enforcing the support liability of the absent parents by the child support enforcement division or any successor organizational unit;

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

F. the state courts, the random jury lists produced by the department of information technology under Subsection E of this section;

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

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

I. the state racing commission, return information

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with respect to the state, municipal and county [~~gross receipts~~] sales taxes paid by racetracks;

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

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

L. the secretary of workforce solutions or the secretary's delegate, return information for use in enforcement of unemployment insurance collections pursuant to the terms of a written reciprocal agreement entered into by the department with the secretary of workforce solutions for exchange of information;

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

N. the secretary of human services or the secretary's delegate; provided that a person who receives the confidential

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return information on behalf of the human services department shall not reveal the information and shall be subject to the penalties in Section 7-1-76 NMSA 1978 if the person fails to maintain the confidentiality required:

(1) that return information needed for reports required to be made to the federal government concerning the use of federal funds for low-income working families; and

(2) the names and addresses of low-income taxpayers for the limited purpose of outreach to those taxpayers; provided that the human services department shall pay the department for expenses incurred by the department to derive the information requested by the human services department if the information requested is not readily available in reports for which the department's information systems are programmed; and

O. the superintendent of insurance, return information with respect to the premium tax and the health insurance premium surtax."

SECTION 77. Section 7-1-8.9 NMSA 1978 (being Laws 2009, Chapter 243, Section 11, as amended by Laws 2015, Chapter 89, Section 2 and by Laws 2015, Chapter 100, Section 2) is amended to read:

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

A. An employee of the department may reveal to:

(1) the officials or employees of a municipality

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

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

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

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the municipality may agree in writing; and

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

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

(a) the names, taxpayer identification numbers and addresses of registered [~~gross receipts~~] taxpayers reporting gross receipts either for that county in the case of a local option [~~gross receipts~~] sales tax imposed on a countywide basis or only for the areas of that county outside of any incorporated municipalities within that county in the case of a county local option [~~gross receipts~~] sales tax imposed only in areas of the county outside of any incorporated municipalities.

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The department may also reveal the information described in this subparagraph quarterly or upon such other periodic basis as the secretary and the county may agree in writing;

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

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

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

(3) officials or employees of a municipality or county of this state, authorized in a written request of the municipality or county, for purposes of inspection, the records of the department pertaining to an increase or decrease to a distribution or transfer made pursuant to Section 7-1-6.15 NMSA 1978 for the purpose of reviewing the basis for the increase or decrease; provided that the municipality or county receiving the information has entered into a written agreement with the department that the information shall be used for tax purposes only and specifying that the municipality or county is subject to the confidentiality provisions of Section 7-1-8 NMSA 1978 and the penalty provisions of Section 7-1-76 NMSA 1978. The authorized

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officials or employees may only reveal the information provided in this paragraph to another authorized official or employee, to an employee of the department, or a district court, an appellate court or a federal court in a proceeding relating to a disputed distribution and in which both the state and the municipality or county are parties.

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

SECTION 78. Section 7-1-8.11 NMSA 1978 (being Laws 2017, Chapter 63, Section 20) is amended to read:

"7-1-8.11. INFORMATION THAT MAY BE REVEALED TO A WATER AND SANITATION DISTRICT.--

A. An employee of the department may reveal to the officials and employees of a water and sanitation district of this state that has in effect a water and sanitation [~~gross receipts~~] sales tax imposed by the water and sanitation district upon its request for a period specified by that water and sanitation district within the twelve months preceding the request for the information by those officials and employees:

(1) the names, taxpayer identification numbers and addresses of registered gross receipts taxpayers reporting gross receipts for that water and sanitation district; the department may also release the information described in this

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paragraph quarterly or upon any other periodic basis to which the secretary and the district agree; and

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

B. The officials and employees of water and sanitation districts receiving information as provided in this section shall be subject to the confidentiality provisions of Section 7-1-8 NMSA 1978 and the penalty provisions of Section 7-1-76 NMSA 1978."

SECTION 79. Section 7-1-10 NMSA 1978 (being Laws 1965, Chapter 248, Section 15, as amended) is amended to read:

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

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

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

C. Prior to changing the method of accounting in

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

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

E. Upon the written application of a taxpayer and at the sole discretion of the secretary or the secretary's delegate, the secretary or the secretary's delegate may enter into an agreement with a taxpayer allowing the taxpayer to report values, gross receipts, deductions or the value of property on an estimated basis for [~~gross receipts and compensating tax~~] state sales and use taxes, oil and gas severance tax, oil and gas conservation tax, oil and gas emergency school tax and oil and gas ad valorem production tax purposes for a limited period of time not to exceed four years. As used in this section, "estimated basis" means a methodology that is reasonably expected to approximate the tax that will be due over the period of the

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agreement using summary rather than detail data or alternate valuation applications or methods, provided that:

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

(2) the agreement must:

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

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

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

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

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

SECTION 80. Section 7-1-13.1 NMSA 1978 (being Laws 1988,

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Chapter 99, Section 3, as amended) is amended to read:

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

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

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

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

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

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

For taxpayers who have more than one identification number issued by the department, the average tax payment shall be

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computed by combining the amounts paid under the several identification numbers.

B. Taxpayers who are required to make payment in accordance with the provisions of this section shall make payment by one or more of the following means on or before the due date so that funds are immediately available to the state on or before the due date:

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

(2) currency of the United States;

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

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

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

D. For the purposes of this section, "average tax payment" means the total amount of taxes paid with respect to a

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group of taxes listed under Subsection A of this section during a calendar year divided by the number of months in that calendar year containing a due date on which the taxpayer was required to pay one or more taxes in the group."

SECTION 81. Section 7-1-15 NMSA 1978 (being Laws 1969, Chapter 31, Section 1, as amended) is amended to read:

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

SECTION 82. Section 7-1-15.2 NMSA 1978 (being Laws 1998, Chapter 105, Section 1) is amended to read:

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

SECTION 83. Section 7-1-21.1 NMSA 1978 (being Laws 2013, Chapter 87, Section 1) is amended to read:

"7-1-21.1. SPECIAL AGREEMENTS--ALTERNATIVE GROSS RECEIPTS

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TAXPAYER.--

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

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

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

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

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

(3) a manufacturer's agreement to pay [~~gross receipts~~] state sales tax or governmental [~~gross receipts~~] sales

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tax on behalf of a utility company, which agreement:

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

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

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

C. Once approved, an agreement shall be effective only for the period of time specified in each agreement. Any person entering into an agreement to pay tax on behalf of another person shall fulfill all of the requirements set out in the agreement. Failure to fulfill all of the requirements set out in the agreement may result in the revocation of the agreement by the department. An approved agreement may only be revoked prior to expiration by written notification to all persons who are party to the agreement and shall be applied beginning on the first day of a

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month that occurs at least one month following the date on which the agreement is revoked.

D. A person approved by the secretary to pay the [~~gross receipts~~] state sales tax or governmental [~~gross receipts~~] sales tax pursuant to Subsection A of this section shall be deemed to be the taxpayer with respect to that tax pursuant to the Tax Administration Act with respect to all rights and responsibilities related to that tax, except that:

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

(2) the person shall not claim a refund of tax on the basis that the person is not statutorily liable to pay the tax.

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

SECTION 84. Section 7-1-55 NMSA 1978 (being Laws 1975, Chapter 251, Section 3, as amended) is amended to read:

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

A. A person engaged in the construction business who does not have a principal place of business in New Mexico and who enters into a prime construction contract to be performed in this

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state shall, at the time such contract is entered into, furnish the secretary or the secretary's delegate with a surety bond, or other acceptable security, in a sum equivalent to the gross receipts to be paid under the contract multiplied by the sum of the applicable rate of the [~~gross receipts~~] state sales tax imposed by Section 7-9-4 NMSA 1978 plus the applicable rate or rates of tax imposed pursuant to local option [~~gross receipts~~] sales taxes to secure payment of the tax imposed on the gross receipts from the contract and shall obtain a certificate from the secretary or the secretary's delegate that the requirements of this subsection have been met.

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

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

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

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

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

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

F. A municipality or other political subdivision of the state or any agency of the state shall not issue a building or other construction permit to any person subject to the requirements of Subsection A of this section without first having been furnished by the construction contractor with the certificate from the secretary or the secretary's delegate specified in Subsection A of this section. Any person who issues any such permit before receiving the certificate shall be deemed guilty of a misdemeanor and, upon conviction, be fined not less than fifty

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dollars ($50.00) nor more than one hundred dollars ($100) for each offense."

SECTION 85. Section 7-1-69.2 NMSA 1978 (being Laws 2016 (2nd S.S.), Chapter 3, Section 3) is amended to read:

"7-1-69.2. CIVIL PENALTY FOR FAILURE TO CORRECTLY FILE CERTAIN DEDUCTIONS.--In the case of a taxpayer that deducts gross receipts pursuant to Section 7-9-92 or 7-9-93 NMSA 1978 instead of deducting or exempting gross receipts pursuant to another applicable provision of the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act as required by those sections, there shall be assessed a penalty on the taxpayer in an amount equal to twenty percent of the value of the hold harmless distribution resulting from the incorrect deduction."

SECTION 86. Section 7-1-83 NMSA 1978 (being Laws 2016, Chapter 59, Section 2) is amended to read:

"7-1-83. BUSINESS AND EMPLOYEE STATUS DURING DISASTER RESPONSE PERIOD.--

A. An out-of-state business that conducts operations within the state for purposes of performing disaster- or emergency-related work in response to a declared state disaster or emergency during the disaster response period shall not be considered to have established a level of presence that would require that business to register, file or remit state or local taxes or fees, including [~~gross receipts~~] sales taxes or property tax on equipment brought into the state temporarily for use during

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the disaster response period and subsequently removed from the state. For purposes of any state or local tax on or measured by, in whole or in part, net or gross income or receipts, all activity of the out-of-state business that is conducted in this state pursuant to this section shall be disregarded with respect to any filing requirements for such tax, including the filing required for a unitary or combined group of which the out-of-state business may be a part. For the purpose of apportioning income, revenue or receipts, the performance by an out-of-state business of any work in accordance with this section shall not be sourced to or otherwise impact or increase the amount of income, revenue or receipts apportioned to this state.

B. An out-of-state employee shall not be considered to have established residency or a presence in the state that would require that person or that person's employer to file and pay income taxes or to be subjected to tax withholdings or to file and pay any other state or local tax or fee during the disaster response period. This includes any related state or local employer withholding and remittance obligations but does not include any transaction taxes or fees pursuant to Subsection C of this section.

C. Out-of-state businesses and out-of-state employees shall be required to pay transaction taxes and fees, including fuel taxes or [~~gross receipts~~] sales taxes on materials or services consumed or used in the state subject to [~~gross receipts~~]

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state sales tax, hotel taxes, car rental taxes or fees that the out-of-state affiliated business or out-of-state employee purchases for use or consumption in the state during the disaster response period, unless such taxes are otherwise exempted during a disaster response period.

D. An out-of-state business or out-of-state employee that remains in the state after the disaster response period will become subject to the state's normal standards for establishing residency or presence or doing business in the state and will therefore become responsible for any business or employee tax requirements that ensue.

E. As used in this section:

(1) "critical infrastructure" means property, equipment and related support facilities that service multiple customers or residents, including real and personal property such as buildings, offices, lines, poles, pipes, structures and equipment that is owned or used by:

(a) communications networks;

(b) electric generation, transmission and distribution systems;

(c) natural gas and natural gas liquids gathering, processing, storage, transmission and distribution systems;

(d) crude oil and refined product pipelines; and

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(e) water pipelines;

(2) "declared state disaster or emergency" means a disaster or emergency event for which:

(a) a governor's state of emergency proclamation has been issued;

(b) a presidential declaration of a federal major disaster or emergency has been issued; or

(c) another authorized official of the state receives notification from a registered business of a disaster or emergency and that official designates the event as a declared state disaster or emergency, thereby invoking the provisions of this section;

(3) "disaster- or emergency-related work" means repairing, renovating, installing, building, rendering services or conducting other business activities that relate to critical infrastructure that has been damaged, impaired or destroyed by a declared state disaster or emergency;

(4) "disaster response period" means a period that begins ten days prior to the first day of the governor's proclamation, the president's declaration or the designation by another authorized official of the state of a declared state disaster or emergency and that extends sixty calendar days after the declared state disaster or emergency;

(5) "out-of-state business" means a business entity that, except for disaster- or emergency-related work, has

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no presence in the state and that conducts no business in the state and whose services are requested by a registered business or by a state or local government for purposes of performing disaster- or emergency-related work in the state. "Out-of-state business" includes a business entity that is affiliated with a registered business in the state solely through common ownership and that has no registrations or tax filings or nexus in the state other than disaster- or emergency-related work during the tax year immediately preceding the declared state disaster or emergency;

(6) "out-of-state employee" means an employee who does not work in the state, except for disaster- or emergency-related work during the disaster response period; and

(7) "registered business in the state" means a business entity that is currently registered to do business in the state prior to the declared state disaster or emergency."

SECTION 87. Section 7-2-18.25 NMSA 1978 (being Laws 2009, Chapter 279, Section 1) is amended to read:

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

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

B. A taxpayer who holds an interest in a qualified generating facility located in New Mexico and who files an individual New Mexico income tax return may claim an advanced

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energy income tax credit in an amount equal to six percent of the eligible generation plant costs of a qualified generating facility, subject to the limitations imposed in this section. The tax credit claimed shall be verified and approved by the department.

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

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

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

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

(4) shall:

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

(b) deposit fees collected pursuant to this paragraph in the state air quality permit fund created pursuant to

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Section 74-2-15 NMSA 1978; and

(5) shall report annually to the appropriate interim legislative committee information that will allow the legislative committee to analyze the effectiveness of the advanced energy tax credits, including the identity of qualified generating facilities, the energy production means used, the amount of emissions identified in this section reduced and removed by those qualified generating facilities and whether any requests for certificates of eligibility could not be approved due to program limits.

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

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

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

(3) the taxpayer and all other taxpayers allocated a right to claim the advanced energy tax credits collectively own at least a five percent interest in the qualified

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generating facility.

E. To claim the advanced energy income tax credit, a taxpayer shall submit with the taxpayer's New Mexico income tax return a certificate of eligibility from the department of environment stating that the taxpayer may be eligible for advanced energy tax credits. The taxation and revenue department shall provide credit claims forms. A credit claim form shall accompany any return in which the taxpayer wishes to apply for an approved credit, and the claim shall specify the amount of credit intended to apply to each return. The taxation and revenue department shall determine the amount of advanced energy income tax credit for which the taxpayer may apply.

F. Upon receipt of the notice of an allocation of the right to claim all or a portion of the advanced energy income tax credit, the department shall verify the allocation due to the recipient.

G. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the advanced energy income tax credit that would have been allowed on a joint return.

H. The total amount of all advanced energy tax credits claimed shall not exceed the total amount determined by the department to be allowable pursuant to this section, the Corporate Income and Franchise Tax Act and Section 7-9G-2 NMSA 1978.

I. Any balance of the advanced energy income tax

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credit that the taxpayer is approved to claim may be claimed by the taxpayer as an advanced energy combined reporting tax credit allowed pursuant to Section 7-9G-2 NMSA 1978. If the advanced energy income tax credit exceeds the amount of the taxpayer's tax liabilities pursuant to the Income Tax Act and Section 7-9G-2 NMSA 1978 in the taxable year in which it is claimed, the balance of the unpaid credit may be carried forward for ten years and claimed as an advanced energy income tax credit or an advanced energy combined reporting tax credit. The advanced energy income tax credit is not refundable.

J. A taxpayer claiming the advanced energy income tax credit pursuant to this section is ineligible for credits pursuant to the Investment Credit Act or any other credit that may be taken pursuant to the Income Tax Act or credits that may be taken against the [~~gross receipts~~] state sales tax, [~~compensating~~] state use tax or withholding tax for the same expenditures.

K. The aggregate amount of all advanced energy tax credits that may be claimed with respect to a qualified generating facility shall not exceed sixty million dollars ($60,000,000).

L. As used in this section:

(1) "advanced energy tax credit" means the advanced energy income tax credit, the advanced energy corporate income tax credit and the advanced energy combined reporting tax credit;

(2) "coal-based electric generating facility"

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means a new or repowered generating facility and an associated coal gasification facility, if any, that uses coal to generate electricity and that meets the following specifications:

(a) emits the lesser of: 1) what is achievable with the best available control technology; or 2) thirty-five thousandths pound per million British thermal units of sulfur dioxide, twenty-five thousandths pound per million British thermal units of oxides of nitrogen and one hundredth pound per million British thermal units of total particulates in the flue gas;

(b) removes the greater of: 1) what is achievable with the best available control technology; or 2) ninety percent of the mercury from the input fuel;

(c) captures and sequesters or controls carbon dioxide emissions so that by the later of January 1, 2017 or eighteen months after the commercial operation date of the coal-based electric generating facility, no more than one thousand one hundred pounds per megawatt-hour of carbon dioxide is emitted into the atmosphere;

(d) all infrastructure required for sequestration is in place by the later of January 1, 2017 or eighteen months after the commercial operation date of the coal-based electric generating facility;

(e) includes methods and procedures to monitor the disposition of the carbon dioxide captured and

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sequestered from the coal-based electric generating facility; and

(f) does not exceed a name-plate capacity of seven hundred net megawatts;

(3) "eligible generation plant costs" means expenditures for the development and construction of a qualified generating facility, including permitting; site characterization and assessment; engineering; design; carbon dioxide capture, treatment, compression, transportation and sequestration; site and equipment acquisition; and fuel supply development used directly and exclusively in a qualified generating facility;

(4) "entity" means an individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate or other association or a gas, water or electric utility owned or operated by a county or municipality;

(5) "geothermal electric generating facility" means a facility with a name-plate capacity of one megawatt or more that uses geothermal energy to generate electricity, including a facility that captures and provides geothermal energy to a preexisting electric generating facility using other fuels in part;

(6) "interest in a qualified generating facility" means title to a qualified generating facility; a leasehold interest in a qualified generating facility; an ownership interest

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in a business or entity that is taxed for federal income tax purposes as a partnership that holds title to or a leasehold interest in a qualified generating facility; or an ownership interest, through one or more intermediate entities that are each taxed for federal income tax purposes as a partnership, in a business that holds title to or a leasehold interest in a qualified generating facility;

(7) "name-plate capacity" means the maximum rated output of the facility measured as alternating current or the equivalent direct current measurement;

(8) "qualified generating facility" means a facility that begins construction not later than December 31, 2015 and is:

(a) a solar thermal electric generating facility that begins construction on or after July 1, 2007 and that may include an associated renewable energy storage facility;

(b) a solar photovoltaic electric generating facility that begins construction on or after July 1, 2009 and that may include an associated renewable energy storage facility;

(c) a geothermal electric generating facility that begins construction on or after July 1, 2009;

(d) a recycled energy project if that facility begins construction on or after July 1, 2007; or

(e) a new or repowered coal-based electric

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generating facility and an associated coal gasification facility;

(9) "recycled energy" means energy produced by a generation unit with a name-plate capacity of not more than fifteen megawatts that converts the otherwise lost energy from the exhaust stacks or pipes to electricity without combustion of additional fossil fuel;

(10) "sequester" means to store, or chemically convert, carbon dioxide in a manner that prevents its release into the atmosphere and may include the use of geologic formations and enhanced oil, coalbed methane or natural gas recovery techniques;

(11) "solar photovoltaic electric generating facility" means an electric generating facility with a name-plate capacity of one megawatt or more that uses solar photovoltaic energy to generate electricity; and

(12) "solar thermal generating facility" means an electric generating facility with a name-plate capacity of one megawatt or more that uses solar thermal energy to generate electricity, including a facility that captures and provides solar energy to a preexisting electric generating facility using other fuels in part."

SECTION 88. Section 7-2A-25 NMSA 1978 (being Laws 2009, Chapter 279, Section 2) is amended to read:

"7-2A-25. ADVANCED ENERGY CORPORATE INCOME TAX CREDIT.--

A. The tax credit that may be claimed pursuant to this section may be referred to as the "advanced energy corporate

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income tax credit".

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

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

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

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

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

(4) shall:

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

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

(5) shall report annually to the appropriate interim legislative committee information that will allow the legislative committee to analyze the effectiveness of the advanced energy tax credits, including the identity of qualified generating facilities, the energy production means used, the amount of emissions identified in this section reduced and removed by those qualified generating facilities and whether any requests for certificates of eligibility could not be approved due to program limits.

D. A taxpayer that holds an interest in a qualified generating facility may be allocated the right to claim the advanced energy corporate income tax credit without regard to the taxpayer's relative interest in the qualified generating facility if:

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

(2) allocations to the taxpayer and all other taxpayers allocated a right to claim the advanced energy tax

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credit shall not exceed one hundred percent of the advanced energy tax credit allowed for the qualified generating facility; and

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

E. Upon receipt of the notice of an allocation of the right to claim all or a portion of the advanced energy corporate income tax credit, the department shall verify the allocation due to the recipient.

F. To claim the advanced energy corporate income tax credit, a taxpayer shall submit with the taxpayer's New Mexico corporate income tax return a certificate of eligibility from the department of environment stating that the taxpayer may be eligible for advanced energy tax credits. The taxation and revenue department shall provide credit claim forms. A credit claim form shall accompany any return in which the taxpayer wishes to apply for an approved credit, and the claim shall specify the amount of credit intended to apply to each return. The taxation and revenue department shall determine the amount of advanced energy corporate income tax credit for which the taxpayer may apply.

G. The total amount of all advanced energy tax credits claimed shall not exceed the total amount determined by the department to be allowable pursuant to this section, the Income

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Tax Act and Section 7-9G-2 NMSA 1978.

H. Any balance of the advanced energy corporate income tax credit that the taxpayer is approved to claim may be claimed by the taxpayer as an advanced energy combined reporting tax credit allowed pursuant to Section 7-9G-2 NMSA 1978. If the advanced energy corporate income tax credit exceeds the amount of the taxpayer's tax liabilities pursuant to the Corporate Income and Franchise Tax Act and Section 7-9G-2 NMSA 1978 in the taxable year in which it is claimed, the balance of the unpaid credit may be carried forward for ten years and claimed as an advanced energy corporate income tax credit or an advanced energy combined reporting tax credit. The advanced energy corporate income tax credit is not refundable.

I. A taxpayer claiming the advanced energy corporate income tax credit pursuant to this section is ineligible for credits pursuant to the Investment Credit Act or any other credit that may be taken pursuant to the Corporate Income and Franchise Tax Act or credits that may be taken against the [~~gross receipts~~] state sales tax, [~~compensating~~] state use tax or withholding tax for the same expenditures.

J. The aggregate amount of all advanced energy tax credits that may be claimed with respect to a qualified generating facility shall not exceed sixty million dollars ($60,000,000).

K. As used in this section:

(1) "advanced energy tax credit" means the

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advanced energy income tax credit, the advanced energy corporate income tax credit and the advanced energy combined reporting tax credit;

(2) "coal-based electric generating facility" means a new or repowered generating facility and an associated coal gasification facility, if any, that uses coal to generate electricity and that meets the following specifications:

(a) emits the lesser of: 1) what is achievable with the best available control technology; or 2) thirty-five thousandths pound per million British thermal units of sulfur dioxide, twenty-five thousandths pound per million British thermal units of oxides of nitrogen and one hundredth pound per million British thermal units of total particulates in the flue gas;

(b) removes the greater of: 1) what is achievable with the best available control technology; or 2) ninety percent of the mercury from the input fuel;

(c) captures and sequesters or controls carbon dioxide emissions so that by the later of January 1, 2017 or eighteen months after the commercial operation date of the coal-based electric generating facility, no more than one thousand one hundred pounds per megawatt-hour of carbon dioxide is emitted into the atmosphere;

(d) all infrastructure required for sequestration is in place by the later of January 1, 2017 or

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eighteen months after the commercial operation date of the coal-based electric generating facility;

(e) includes methods and procedures to monitor the disposition of the carbon dioxide captured and sequestered from the coal-based electric generating facility; and

(f) does not exceed a name-plate capacity of seven hundred net megawatts;

(3) "eligible generation plant costs" means expenditures for the development and construction of a qualified generating facility, including permitting; site characterization and assessment; engineering; design; carbon dioxide capture, treatment, compression, transportation and sequestration; site and equipment acquisition; and fuel supply development used directly and exclusively in a qualified generating facility;

(4) "entity" means an individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate or other association or a gas, water or electric utility owned or operated by a county or municipality;

(5) "geothermal electric generating facility" means a facility with a name-plate capacity of one megawatt or more that uses geothermal energy to generate electricity, including a facility that captures and provides geothermal energy to a preexisting electric generating facility using other fuels in

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part;

(6) "interest in a qualified generating facility" means title to a qualified generating facility; a leasehold interest in a qualified generating facility; an ownership interest in a business or entity that is taxed for federal income tax purposes as a partnership that holds title to or a leasehold interest in a qualified generating facility; or an ownership interest, through one or more intermediate entities that are each taxed for federal income tax purposes as a partnership, in a business that holds title to or a leasehold interest in a qualified generating facility;

(7) "name-plate capacity" means the maximum rated output of the facility measured as alternating current or the equivalent direct current measurement;

(8) "qualified generating facility" means a facility that begins construction not later than December 31, 2015 and is:

(a) a solar thermal electric generating facility that begins construction on or after July 1, 2007 and that may include an associated renewable energy storage facility;

(b) a solar photovoltaic electric generating facility that begins construction on or after July 1, 2009 and that may include an associated renewable energy storage facility;

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(c) a geothermal electric generating facility that begins construction on or after July 1, 2009;

(d) a recycled energy project if that facility begins construction on or after July 1, 2007; or

(e) a new or repowered coal-based electric generating facility and an associated coal gasification facility;

(9) "recycled energy" means energy produced by a generation unit with a name-plate capacity of not more than fifteen megawatts that converts the otherwise lost energy from the exhaust stacks or pipes to electricity without combustion of additional fossil fuel;

(10) "sequester" means to store, or chemically convert, carbon dioxide in a manner that prevents its release into the atmosphere and may include the use of geologic formations and enhanced oil, coalbed methane or natural gas recovery techniques;

(11) "solar photovoltaic electric generating facility" means an electric generating facility with a name-plate capacity of one megawatt or more that uses solar photovoltaic energy to generate electricity; and

(12) "solar thermal electric generating facility" means an electric generating facility with a name-plate capacity of one megawatt or more that uses solar thermal energy to generate electricity, including a facility that captures and provides solar energy to a preexisting electric generating facility using other fuels in part."

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SECTION 89. Section 7-2E-1.1 NMSA 1978 (being Laws 2007, Chapter 172, Section 2, as amended) is amended to read:

"7-2E-1.1. TAX CREDIT--RURAL JOB TAX CREDIT.--

A. The tax credit created by this section may be referred to as the "rural job tax credit". Every eligible employer may apply for, and the taxation and revenue department may allow, a tax credit for each qualifying job the employer creates. The maximum tax credit amount with respect to each qualifying job is equal to:

(1) twenty-five percent of the first sixteen thousand dollars ($16,000) in wages paid for the qualifying job if the job is performed or based at a location in a tier one area; or

(2) twelve and one-half percent of the first sixteen thousand dollars ($16,000) in wages paid if the qualifying job is performed or based at a location in a tier two area.

B. The purpose of the rural job tax credit is to encourage businesses to start new businesses in rural areas of the state.

C. The amount of the rural job tax credit shall be six and one-fourth percent of the first sixteen thousand dollars ($16,000) in wages paid for the qualifying job in a qualifying period. The rural job tax credit may be claimed for each qualifying job for a maximum of:

(1) four qualifying periods for each qualifying job performed or based at a location in a tier one area; and

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(2) two qualifying periods for each qualifying job performed or based at a location in a tier two area.

D. With respect to each qualifying job for which an eligible employer seeks the rural job tax credit, the employer shall certify the amount of wages paid to each eligible employee during each qualifying period, the number of weeks during the qualifying period the position was occupied and whether the qualifying job was in a tier one or tier two area.

E. The economic development department shall determine which employers are eligible employers and shall report the listing of eligible businesses to the taxation and revenue department in a manner and at times the departments shall agree upon.

F. To receive a rural job tax credit with respect to any qualifying period, an eligible employer must apply to the taxation and revenue department on forms and in the manner the department may prescribe. The application shall include a certification made pursuant to Subsection D of this section. If all the requirements of this section have been complied with, the taxation and revenue department may issue to the applicant a document granting a tax credit for the appropriate qualifying period. The tax credit document shall be numbered for identification and declare its date of issuance and the amount of rural job tax credit allowed for the respective jobs created. The tax credit documents may be sold, exchanged or otherwise

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transferred and may be carried forward for a period of three years from the date of issuance. The parties to such a transaction to sell, exchange or transfer a rural job tax credit document shall notify the department of the transaction within ten days of the sale, exchange or transfer.

G. The holder of the tax credit document may apply all or a portion of the rural job tax credit granted by the document against the holder's modified combined tax liability, personal income tax liability or corporate income tax liability. Any balance of rural job tax credit granted by the document may be carried forward for up to three years from the date of issuance of the tax credit document. No amount of rural job tax credit may be applied against a [~~gross receipts~~] local option sales tax imposed by a municipality or county.

H. Notwithstanding the provisions of Section 7-1-8 NMSA 1978, the taxation and revenue department may disclose to any person the balance of rural job tax credit remaining on any tax credit document and the balance of credit remaining on that document for any period.

I. The secretary of economic development, the secretary of taxation and revenue and the secretary of workforce solutions or their designees shall annually evaluate the effectiveness of the rural job tax credit in stimulating economic development in the rural areas of New Mexico and make a joint report of their findings to each session of the legislature so

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long as the rural job tax credit is in effect.

J. An eligible employer that creates a qualifying job in the period beginning on or after July 1, 2006 but before July 1, 2007 or creates a qualifying job, the qualifying period of which includes a part of the period between July 1, 2006 and July 1, 2007, for which the eligible employer has not received a rural job tax credit document pursuant to this section may submit an application for, and the taxation and revenue department may issue to the eligible employer applying, a document granting a tax credit for the appropriate qualifying period. Claims for a rural job tax credit submitted pursuant to the provisions of this subsection shall be submitted within three years from the date of issuance of the rural job tax credit document.

K. A qualifying job shall not be eligible for a rural job credit pursuant to this section if:

(1) the job is created due to a business merger, acquisition or other change in organization;

(2) the eligible employee was terminated from employment in New Mexico by another employer involved in the merger, acquisition or other change in organization; and

(3) the job is performed by:

(a) the person who performed the job or its functional equivalent prior to the business merger, acquisition or other change in organization; or

(b) a person replacing the person who

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performed the job or its functional equivalent prior to the business merger, acquisition or other change in organization.

L. Notwithstanding Subsection K of this section, a qualifying job that was created by another employer and for which the rural job tax credit claim was received by the taxation and revenue department prior to July 1, 2013 and is under review or has been approved shall remain eligible for the rural job tax credit for the balance of the qualifying periods for which the job qualifies by the new employer that results from a business merger, acquisition or other change in the organization.

M. A job shall not be eligible for a rural job tax credit pursuant to this section if the job is created due to an eligible employer entering into a contract or becoming a subcontractor to a contract with a governmental entity that replaces one or more entities performing functionally equivalent services for the governmental entity in New Mexico unless the job is a qualifying job that was not being performed by an employee of the replaced entity.

N. As used in this section:

(1) "eligible employee" means any individual other than an individual who:

(a) bears any of the relationships described in Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to the employer or, if the employer is a corporation, to an individual who owns, directly or indirectly, more than fifty

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percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, to any individual who owns, directly or indirectly, more than fifty percent of the capital and profits interests in the entity;

(b) if the employer is an estate or trust, is a grantor, beneficiary or fiduciary of the estate or trust or is an individual who bears any of the relationships described in Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to a grantor, beneficiary or fiduciary of the estate or trust; or

(c) is a dependent, as that term is described in 26 U.S.C. Section 152(a)(9), of the employer or, if the taxpayer is a corporation, of an individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, of any individual who owns, directly or indirectly, more than fifty percent of the capital and profits interests in the entity or, if the employer is an estate or trust, of a grantor, beneficiary or fiduciary of the estate or trust;

(2) "eligible employer" means an employer who is eligible for in-plant training assistance pursuant to Section 21-19-7 NMSA 1978;

(3) "metropolitan statistical area" means a metropolitan statistical area in New Mexico as determined by the United States bureau of the census;

(4) "modified combined tax liability" means the

total liability for the reporting period for the [~~gross receipts~~] state sales tax imposed by Section 7-9-4 NMSA 1978 together with any tax collected at the same time and in the same manner as that [~~gross receipts~~] state sales tax, such as the [~~compensating~~] state use tax, the withholding tax, the interstate telecommunications [~~gross receipts~~] sales tax, the surcharges imposed by Section 63-9D-5 NMSA 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978, minus the amount of any credit other than the rural job tax credit applied against any or all of these taxes or surcharges; but "modified combined tax liability" excludes all amounts collected with respect to local option [~~gross receipts~~] sales taxes;

(5) "qualifying job" means a job established by the employer that is occupied by an eligible employee for at least forty-eight weeks of a qualifying period;

(6) "qualifying period" means the period of twelve months beginning on the day an eligible employee begins working in a qualifying job or the period of twelve months beginning on the anniversary of the day an eligible employee began working in a qualifying job;

(7) "rural area" means any part of the state other than:

(a) an H class county;

(b) the state fairgrounds;

(c) an incorporated municipality within a

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metropolitan statistical area if the municipality's population is thirty thousand or more according to the most recent federal decennial census; and

(d) any area within ten miles of the exterior boundaries of a municipality described in Subparagraph (c) of this paragraph;

(8) "tier one area" means:

(a) any municipality within the rural area if the municipality's population according to the most recent federal decennial census is fifteen thousand or less; or

(b) any part of the rural area that is not within the exterior boundaries of a municipality;

(9) "tier two area" means any municipality within the rural area if the municipality's population according to the most recent federal decennial census is more than fifteen thousand; and

(10) "wages" means all compensation paid by an eligible employer to an eligible employee through the employer's payroll system, including those wages the employee elects to defer or redirect, such as the employee's contribution to 401(k) or cafeteria plan programs, but not including benefits or the employer's share of payroll taxes."

SECTION 90. Section 7-2F-1 NMSA 1978 (being Laws 2002, Chapter 36, Section 1, as amended) is amended to read:

"7-2F-1. FILM PRODUCTION TAX CREDIT--FILM PRODUCTION

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COMPANIES THAT COMMENCE PRINCIPAL PHOTOGRAPHY PRIOR TO JANUARY 1, 2016.--

A. The tax credit created by this section may be referred to as the "film production tax credit".

B. Except as otherwise provided in this section, an eligible film production company may apply for, and the taxation and revenue department may allow, subject to the limitation in this section, a tax credit in an amount equal to twenty-five percent of:

(1) direct production expenditures made in New Mexico that:

(a) are directly attributable to the production in New Mexico of a film or commercial audiovisual product;

(b) are subject to taxation by the state of New Mexico;

(c) exclude direct production expenditures for which another taxpayer claims the film production tax credit; and

(d) do not exceed the usual and customary cost of the goods or services acquired when purchased by unrelated parties. The secretary of taxation and revenue may determine the value of the goods or services for purposes of this section when the buyer and seller are affiliated persons or the sale or purchase is not an arm's length transaction; and

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(2) postproduction expenditures made in New Mexico that:

(a) are directly attributable to the production of a commercial film or audiovisual product;

(b) are for services performed in New Mexico;

(c) are subject to taxation by the state of New Mexico;

(d) exclude postproduction expenditures for which another taxpayer claims the film production tax credit; and

(e) do not exceed the usual and customary cost of the goods or services acquired when purchased by unrelated parties. The secretary of taxation and revenue may determine the value of the goods or services for purposes of this section when the buyer and seller are affiliated persons or the sale or purchase is not an arm's length transaction.

C. In addition to the percentage applied pursuant to Subsection B of this section, another five percent shall be applied in calculating the amount of the film production tax credit to direct production expenditures:

(1) on a standalone pilot intended for series television in New Mexico or on series television productions intended for commercial distribution with an order for at least six episodes in a single season; provided that the New Mexico budget for each of those six episodes is fifty thousand dollars

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($50,000) or more; or

(2) on a production with a total New Mexico budget of the following amounts; provided that the expenditures are directly attributable and paid to a New Mexico resident who is hired as industry crew, or who is hired as a producer, writer or director working directly with the physical production and has filed a New Mexico income tax return as a resident in the two previous taxable years:

(a) not more than thirty million dollars ($30,000,000) that shoots at least ten principal photography days in New Mexico at a qualified production facility; provided that a film production company in principal photography on or after April 10, 2015 shall: 1) shoot at least seven of those days at a sound stage that is a qualified production facility and the remaining number of required days, if any, at a standing set that is a qualified production facility; and 2) for each of the ten days, include industry crew working on the premises of those facilities for a minimum of eight hours within a twenty-four-hour period; or

(b) thirty million dollars ($30,000,000) or more that shoots at least fifteen principal photography days in New Mexico at a qualified production facility; provided that a film production company in principal photography on or after April 10, 2015 shall: 1) shoot at least ten of those days at a sound stage that is a qualified production facility and the remaining number of required days, if any, at a standing set that is a

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qualified production facility; and 2) for each day of the fifteen days, include industry crew working on the premises of the facility for a minimum of eight hours within a twenty-four-hour period.

D. With respect to expenditures attributable to a production for which the film production company receives a tax credit pursuant to the federal new markets tax credit program, the percentage to be applied in calculating the film production tax credit is twenty percent.

E. A claim for film production tax credits shall be filed as part of a return filed pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act or an information return filed by a pass-through entity. The date a credit claim is received by the taxation and revenue department shall determine the order that a credit claim is authorized for payment by the department. Except as otherwise provided in this section, the aggregate amount of claims for a credit provided by the Film Production Tax Credit Act that may be authorized for payment in any fiscal year is fifty million dollars ($50,000,000) with respect to the direct production expenditures or postproduction expenditures made on film or commercial audiovisual products. A film production company that submits a claim for a film production tax credit that is unable to receive the tax credit because the claims for the fiscal year exceed the limitation in this subsection shall be placed for the subsequent fiscal year at the

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front of a queue of credit claimants submitting claims in the subsequent fiscal year in the order of the date on which the credit was authorized for payment.

F. If, in fiscal years 2013 through 2015, the aggregate amount in each fiscal year of the film production tax credit claims authorized for payment is less than fifty million dollars ($50,000,000), then the difference in that fiscal year or ten million dollars ($10,000,000), whichever is less, shall be added to the aggregate amount of the film production tax credit claims that may be authorized for payment pursuant to Subsection E of this section in the immediately following fiscal year.

G. Except as otherwise provided in this section, credit claims authorized for payment pursuant to the Film Production Tax Credit Act shall be paid pursuant to provisions of the Tax Administration Act to the taxpayer as follows:

(1) a credit claim amount of less than two million dollars ($2,000,000) per taxable year shall be paid immediately upon authorization for payment of the credit claim;

(2) a credit claim amount of two million dollars ($2,000,000) or more but less than five million dollars ($5,000,000) per taxable year shall be divided into two equal payments, with the first payment to be made immediately upon authorization of the payment of the credit claim and the second payment to be made twelve months following the date of the first payment; and

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(3) a credit claim amount of five million dollars ($5,000,000) or more per taxable year shall be divided into three equal payments, with the first payment to be made immediately upon authorization of payment of the credit claim, the second payment to be made twelve months following the date of the first payment and the third payment to be made twenty-four months following the date of the first payment.

H. For a fiscal year in which the amount of total credit claims authorized for payment is less than the aggregate amount of credit claims that may be authorized for payment pursuant to this section, the next scheduled payments for credit claims authorized for payment pursuant to Subsection G of this section shall be accelerated for payment for that fiscal year and shall be paid to a taxpayer pursuant to the Tax Administration Act and in the order in which outstanding payments are scheduled in the queue established pursuant to Subsections E and G of this section; provided that the total credit claims authorized for payment shall not exceed the aggregate amount of credit claims that may be authorized for payment pursuant to this section. If a partial payment is made pursuant to this subsection, the difference owed shall retain its original position in the queue.

I. Any amount of a credit claim that is carried forward pursuant to Subsection G of this section shall be subject to the limit on the aggregate amount of credit claims that may be authorized for payment pursuant to Subsections E and F of this

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section in the fiscal year in which that amount is paid.

J. A credit claim shall only be considered received by the taxation and revenue department if the credit claim is made on a complete return filed after the close of the taxable year. All direct production expenditures and postproduction expenditures incurred during the taxable year by a film production company shall be submitted as part of the same income tax return and paid pursuant to this section. A credit claim shall not be divided and submitted with multiple returns or in multiple years.

K. For purposes of determining the payment of credit claims pursuant to this section, the secretary of taxation and revenue may require that credit claims of affiliated persons be combined into one claim if necessary to accurately reflect closely integrated activities of affiliated persons.

L. The film production tax credit shall not be claimed with respect to direct production expenditures or postproduction expenditures for which the film production company has delivered a nontaxable transaction certificate pursuant to Section 7-9-86 NMSA 1978.

M. A production for which the film production tax credit is claimed pursuant to Paragraph (1) of Subsection B of this section shall contain an acknowledgment to the state of New Mexico in the end screen credits that the production was filmed in New Mexico, and a state logo provided by the division shall be included and embedded in the end screen credits of long-form

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narrative film productions and television episodes, unless otherwise agreed upon in writing by the film production company and the division.

N. To be eligible for the film production tax credit, a film production company shall submit to the division information required by the division to demonstrate conformity with the requirements of the Film Production Tax Credit Act, including detailed information on each direct production expenditure and each postproduction expenditure. A film production company shall make reasonable efforts, as determined by the division, to contract with a specialized vendor that provides goods and services, inventory or services directly related to that vendor's ordinary course of business. A film production company shall provide to the division a projection of the film production tax credit claim the film production company plans to submit in the fiscal year. In addition, the film production company shall agree in writing:

(1) to pay all obligations the film production company has incurred in New Mexico;

(2) to post a notice at completion of principal photography on the [~~web site~~] website of the division that:

(a) contains production company information, including the name of the production, the address of the production company and contact information that includes a working phone number, fax number and email address for both the

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local production office and the permanent production office to notify the public of the need to file creditor claims against the film production company; and

(b) remains posted on the [~~web site~~] website until all financial obligations incurred in the state by the film production company have been paid;

(3) that outstanding obligations are not waived should a creditor fail to file;

(4) to delay filing of a claim for the film production tax credit until the division delivers written notification to the taxation and revenue department that the film production company has fulfilled all requirements for the credit; and

(5) to submit a completed application for the film production tax credit and supporting documentation to the division within one year of making the final expenditures in New Mexico that were incurred for the registered project and that are included in the credit claim.

O. The division shall determine the eligibility of the company and shall report this information to the taxation and revenue department in a manner and at times the economic development department and the taxation and revenue department shall agree upon. The division shall also post on its [~~web site~~] website all information provided by the film production company that does not reveal revenue, income or other information that may

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jeopardize the confidentiality of income tax returns, including that the division shall report quarterly the projected amount of credit claims for the fiscal year.

P. To provide guidance to film production companies regarding the amount of credit capacity remaining in the fiscal year, the taxation and revenue department shall post monthly on that department's [~~web site~~] website the aggregate amount of credits claimed and processed for the fiscal year.

Q. To receive a film production tax credit, a film production company shall apply to the taxation and revenue department on forms and in the manner the department may prescribe. The application shall include a certification of the amount of direct production expenditures or postproduction expenditures made in New Mexico with respect to the film production for which the film production company is seeking the film production tax credit; provided that for the film production tax credit, the application shall be submitted within one year of the date of the last direct production expenditure in New Mexico or the last postproduction expenditure in New Mexico. If the amount of the requested tax credit exceeds five million dollars ($5,000,000), the application shall also include the results of an audit, conducted by a certified public accountant licensed to practice in New Mexico, verifying that the expenditures have been made in compliance with the requirements of this section. If the requirements of this section have been complied with, subject to

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the provisions of Subsection E of this section, the taxation and revenue department shall approve the film production tax credit and issue a document granting the tax credit.

R. The film production company may apply all or a portion of the film production tax credit granted against personal income tax liability or corporate income tax liability. If the amount of the film production tax credit claimed exceeds the film production company's tax liability for the taxable year in which the credit is being claimed, the excess shall be refunded.

S. That amount of a film production tax credit for total payments as applied to direct production expenditures for the services of performing artists shall not exceed five million dollars ($5,000,000) for services rendered by nonresident performing artists and featured resident principal performing artists in a production. This limitation shall not apply to the services of background artists and resident performing artists who are not cast in industry standard featured principal performer roles.

T. As used in this section, "direct production expenditure":

(1) except as provided in Paragraph (2) of this subsection, means a transaction that is subject to taxation in New Mexico, including:

(a) payment of wages, fringe benefits or fees for talent, management or labor to a person who is a New

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Mexico resident;

(b) payment for wages and per diem for a performing artist who is not a New Mexico resident and who is directly employed by the film production company; provided that the film production company deducts and remits, or causes to be deducted and remitted, income tax from the first day of services rendered in New Mexico at the maximum rate pursuant to the Withholding Tax Act;

(c) payment to a personal services business for the services of a performing artist if: 1) the personal services business pays [~~gross receipts~~] state sales tax in New Mexico on the portion of those payments qualifying for the tax credit; and 2) the film production company deducts and remits, or causes to be deducted and remitted, income tax at the maximum rate in New Mexico pursuant to Subsection H of Section 7-3A-3 NMSA 1978 on the portion of those payments qualifying for the tax credit paid to a personal services business where the performing artist is a full or part owner of that business or subcontracts with a personal services business where the performing artist is a full or part owner of that business; and

(d) any of the following provided by a vendor: 1) the story and scenario to be used for a film; 2) set construction and operations, wardrobe, accessories and related services; 3) photography, sound synchronization, lighting and related services; 4) editing and related services; 5) rental of

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facilities and equipment; 6) leasing of vehicles, not including the chartering of aircraft for out-of-state transportation; however, New Mexico-based chartered aircraft for in-state transportation directly attributable to the production shall be considered a direct production expenditure; provided that only the first one hundred dollars ($100) of the daily expense of leasing a vehicle for passenger transportation on roadways in the state may be claimed as a direct production expenditure; 7) food or lodging; provided that only the first one hundred fifty dollars ($150) of lodging per individual per day is eligible to be claimed as a direct production expenditure; 8) commercial airfare if purchased through a New Mexico-based travel agency or travel company for travel to and from New Mexico or within New Mexico that is directly attributable to the production; 9) insurance coverage and bonding if purchased through a New Mexico-based insurance agent, broker or bonding agent; 10) services for an external audit upon submission of an application for a film production tax credit by an accounting firm that submits the application pursuant to this section; and 11) other direct costs of producing a film in accordance with generally accepted entertainment industry practice; and

(2) does not include an expenditure for:

(a) a gift with a value greater than twenty-five dollars ($25.00);

(b) artwork or jewelry, except that a work

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of art or a piece of jewelry may be a direct production expenditure if: 1) it is used in the film production; and 2) the expenditure is less than two thousand five hundred dollars ($2,500);

(c) entertainment, amusement or recreation;

(d) subcontracted goods or services provided by a vendor when subcontractors are not subject to state taxation, such as equipment and locations provided by the military, government and religious organizations; or

(e) a service provided by a person who is not a New Mexico resident and employed in an industry crew position, excluding a performing artist, where it is the standard entertainment industry practice for the film production company to employ a person for that industry crew position, except when the person who is not a New Mexico resident is hired or subcontracted by a vendor; and when the film production company, as determined by the division and when applicable in consultation with industry, provides: 1) reasonable efforts to hire resident crew; and 2) financial or promotional contributions toward education or [~~work force~~] workforce development efforts in New Mexico, including at least one of the following: a payment to a New Mexico public education institution that administers at least one industry-recognized film or multimedia program, as determined by the division, in an amount equal to two and one-half percent of payments made to nonresidents in approved positions employed by

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the vendor; promotion of the New Mexico film industry by directors, actors or executive producers affiliated with the production company's project through social media that is managed by the state; radio interviews facilitated by the division; enhanced screen credit acknowledgments; or related events that are facilitated, conducted or sponsored by the division.

U. As used in this section, "film production company" means a person that produces one or more films or any part of a film and that commences principal photography prior to January 1, 2016.

V. As used in this section, "vendor" means a person who sells or leases goods or services that are related to standard industry craft inventory, who has a physical presence in New Mexico and is subject to [~~gross receipts~~] state sales tax [~~pursuant to the Gross Receipts and Compensating Tax Act~~] and income tax pursuant to the Income Tax Act or corporate income tax pursuant to the Corporate Income and Franchise Tax Act but excludes a personal services business and services provided by nonresidents hired or subcontracted if the tasks and responsibilities are associated with:

(1) the standard industry job position of:

(a) a director;

(b) a writer;

(c) a producer;

(d) an associate producer;

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(e) a co-producer;

(f) an executive producer;

(g) a production supervisor;

(h) a director of photography;

(i) a motion picture driver whose sole responsibility is driving;

(j) a production or personal assistant;

(k) a designer;

(l) a still photographer; or

(m) a carpenter and utility technician at an entry level; and

(2) nonstandard industry job positions and personal support services."

SECTION 91. Section 7-2F-2.1 NMSA 1978 (being Laws 2015, Chapter 143, Section 4, as amended) is amended to read:

"7-2F-2.1. ADDITIONAL DEFINITIONS.--As used in Sections 7-2F-6 through 7-2F-12 NMSA 1978:

A. "direct production expenditure":

(1) except as provided in Paragraph (2) of this subsection, means a transaction that is subject to taxation in New Mexico, including:

(a) payment of wages, fringe benefits or fees for talent, management or labor to a person who is a New Mexico resident;

(b) payment for standard industry craft

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inventory when provided by a resident industry crew in addition to its industry crew services;

(c) payment for wages and per diem for a performing artist who is not a New Mexico resident and who is directly employed by a film production company; provided that the film production company deducts and remits, or causes to be deducted and remitted, income tax from the first day of services rendered in New Mexico at the maximum rate pursuant to the Withholding Tax Act;

(d) payment to a personal services business on the wages and per diem paid to a performing artist of the personal services business if: 1) the personal services business pays [~~gross receipts~~] the state sales tax in New Mexico on the portion of those payments qualifying for the tax credit; and 2) the film production company deducts and remits, or causes to be deducted and remitted, income tax at the maximum rate in New Mexico pursuant to Subsection H of Section 7-3A-3 NMSA 1978 on the portion of those payments qualifying for the tax credit paid to a personal services business where the performing artist is a full or part owner of that business or subcontracts with a personal services business where the performing artist is a full or part owner of that business; and

(e) any of the following provided by a vendor: 1) the story and scenario to be used for a film; 2) set construction and operations, wardrobe, accessories and related

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services; 3) photography, sound synchronization, lighting and related services; 4) editing and related services; 5) rental of facilities and equipment; 6) leasing of vehicles, not including the chartering of aircraft for out-of-state transportation; however, New Mexico-based chartered aircraft for in-state transportation directly attributable to the production shall be considered a direct production expenditure; provided that only the first one hundred dollars ($100) of the daily expense of leasing a vehicle for passenger transportation on roadways in the state may be claimed as a direct production expenditure; 7) food or lodging; provided that only the first one hundred fifty dollars ($150) of lodging per individual per day is eligible to be claimed as a direct production expenditure; 8) commercial airfare if purchased through a New Mexico-based travel agency or travel company for travel to and from New Mexico or within New Mexico that is directly attributable to the production; 9) insurance coverage and bonding if purchased through a New Mexico-based insurance agent, broker or bonding agent; 10) services for an external audit upon submission of an application for a film production tax credit by an accounting firm that submits the application pursuant to Subsection I of Section 7-2F-6 NMSA 1978; and 11) other direct costs of producing a film in accordance with generally accepted entertainment industry practice; and

(2) does not include an expenditure for:

(a) a gift with a value greater than

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twenty-five dollars ($25.00);

(b) artwork or jewelry, except that a work of art or a piece of jewelry may be a direct production expenditure if: 1) it is used in the film production; and 2) the expenditure is less than two thousand five hundred dollars ($2,500);

(c) entertainment, amusement or recreation; or

(d) subcontracted goods or services provided by a vendor when subcontractors are not subject to state taxation, such as equipment and locations provided by the military, government and religious organizations;

B. "film production company" means a person that produces one or more films or any part of a film and that commences principal photography on or after January 1, 2016; and

C. "vendor" means a person who sells or leases goods or services that are related to standard industry craft inventory, who has a physical presence in New Mexico and is subject to [~~gross receipts~~] state sales tax [~~pursuant to the Gross Receipts and Compensating Tax Act~~] and income tax [~~pursuant to the Income Tax Act~~] or corporate income tax [~~pursuant to the Corporate Income and Franchise Tax Act~~] but excludes a personal services business."

SECTION 92. Section 7-2F-4 NMSA 1978 (being Laws 2011, Chapter 165, Section 5, as amended) is amended to read:

"7-2F-4. REPORTING--ACCOUNTABILITY.--

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A. The economic development department shall:

(1) collect data to be used in an econometric tool that objectively assesses the effectiveness of the credits provided by the Film Production Tax Credit Act;

(2) track the direct expenditures for the credits;

(3) with the support and assistance of the legislative finance committee staff and the taxation and revenue department, review and assess the analysis developed in Paragraph (1) of this subsection and create a report for presentation to the revenue stabilization and tax policy committee and the legislative finance committee that provides an objective assessment of the effectiveness of the credits; and

(4) report annually to the revenue stabilization and tax policy committee and the legislative finance committee on aggregate approved tax credits made pursuant to the Film Production Tax Credit Act.

B. The division shall develop a form on which the taxpayer claiming a credit pursuant to the Film Production Tax Credit Act shall submit a report to accompany the taxpayer's application for that credit.

C. With respect to the production on which the application for a credit is based, the film production company shall report to the division at a minimum the following information:

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(1) the total aggregate wages of the members of the New Mexico resident crew;

(2) the number of New Mexico residents employed;

(3) the total amount of [~~gross receipts~~] sales taxes paid;

(4) the total number of hours worked by New Mexico residents;

(5) the total expenditures made in New Mexico that do not qualify for the credit;

(6) the aggregate wages paid to the members of the nonresident crew while working in New Mexico; and

(7) other information deemed necessary by the division and economic development department to determine the effectiveness of the credit.

D. For purposes of assessing the effectiveness of a credit, the inability of the economic development department to aggregate data due to sample size shall not relieve the department of the requirement to report all relevant data to the legislature. The division shall provide notice to a film production company applying for a credit that information provided to the division may be revealed by the department in reports to the legislature."

SECTION 93. Section 7-5A-3 NMSA 1978 (being Laws 2005, Chapter 225, Section 3) is amended to read:

"7-5A-3. DEFINITIONS.--As used in the Streamlined Sales and Use Tax Administration Act:

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A. "agreement" means the streamlined sales and use tax agreement;

B. "certified automated system" means software certified jointly by member states to:

(1) calculate the sales tax imposed by each jurisdiction on a transaction;

(2) determine the amount of tax to remit to the appropriate state; and

(3) maintain a record of the transaction;

C. "certified service provider" means an agent that performs all of the sales tax functions of a seller and that is certified jointly by member states to perform all of the sales tax functions of the seller;

D. "member state" means a state of the United States that enters into the agreement with another state and the District of Columbia if it enters into the agreement with another state;

E. "person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation and any other legal entity;

F. "sales tax" means the [~~gross receipts~~] state sales tax [~~levied pursuant to the Gross Receipts and Compensating Tax Act~~] or a tax imposed by a state on the sale of goods or services;

G. "seller" means a person making sales, leases and rentals of personal property and services; and

H. "use tax" means the [~~compensating~~] state use tax

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[~~levied pursuant to the Gross Receipts and Compensating Tax Act~~]."

SECTION 94. Section 7-9-1 NMSA 1978 (being Laws 1966, Chapter 47, Section 1, as amended) is amended to read:

"7-9-1. SHORT TITLE.--Chapter 7, Article 9 NMSA 1978 may be cited as the "[~~Gross Receipts and Compensating~~] Sales and Use Tax Act"."

SECTION 95. Section 7-9-2 NMSA 1978 (being Laws 1966, Chapter 47, Section 2) is amended to read:

"7-9-2. PURPOSE.--The purpose of the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act is to provide revenue for public purposes by levying a tax on the privilege of engaging in certain activities within New Mexico and to protect New Mexico [~~businessmen~~] businesses from the unfair competition that would otherwise result from the importation into the state of property without payment of a similar tax."

SECTION 96. Section 7-9-3 NMSA 1978 (being Laws 1978, Chapter 46, Section 1, as amended) is amended to read:

"7-9-3. DEFINITIONS.--As used in the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act:

A. "buying" or "selling" means a transfer of property for consideration or the performance of service for consideration;

B. "department" means the taxation and revenue department, the secretary of taxation and revenue or an employee of the department exercising authority lawfully delegated to that employee by the secretary;

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C. "financial corporation" means a savings and loan association or an incorporated savings and loan company, trust company, mortgage banking company, consumer finance company or other financial corporation;

D. "initial use" or "initially used" means the first employment for the intended purpose and does not include the following activities:

(1) observation of tests conducted by the performer of services;

(2) participation in progress reviews, briefings, consultations and conferences conducted by the performer of services;

(3) review of preliminary drafts, drawings and other materials prepared by the performer of the services;

(4) inspection of preliminary prototypes developed by the performer of services; or

(5) similar activities;

E. "leasing" means an arrangement whereby, for a consideration, property is employed for or by any person other than the owner of the property, except that the granting of a license to use property is licensing and is not a lease;

F. "local option [~~gross receipts~~] sales tax" means a tax authorized to be imposed by a county or municipality upon the taxpayer's gross receipts and required to be collected by the department at the same time and in the same manner as the [~~gross~~

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~~receipts~~] state sales tax; [~~"local option gross receipts tax" includes the taxes imposed pursuant to the Municipal Local Option Gross Receipts Taxes Act, Supplemental Municipal Gross Receipts Tax Act, County Local Option Gross Receipts Taxes Act, Local Hospital Gross Receipts Tax Act County Correctional Facility Gross Receipts Tax Act and such other acts as may be enacted authorizing counties or municipalities to impose taxes on gross receipts, which taxes are to be collected by the department;~~]

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

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

I. "person" means:

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

(2) a national, federal, state, Indian or other governmental unit or subdivision, or an agency, department or

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instrumentality of any of the foregoing;

J. "property" means real property, tangible personal property, licenses other than the licenses of copyrights, trademarks or patents and franchises. Tangible personal property includes electricity and manufactured homes;

K. "research and development services" means an activity engaged in for other persons for consideration, for one or more of the following purposes:

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

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

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

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

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

(6) designing and developing prototypes or

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integrating systems incorporating the advances, developments or improvements included in Paragraphs (1) through (5) of this subsection;

L. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

M. "service" means all activities engaged in for other persons for a consideration, which activities involve predominantly the performance of a service as distinguished from selling or leasing property. "Service" includes activities performed by a person for its members or shareholders. In determining what is a service, the intended use, principal objective or ultimate objective of the contracting parties shall not be controlling. "Service" includes construction activities and all tangible personal property that will become an ingredient or component part of a construction project. That tangible personal property retains its character as tangible personal property until it is installed as an ingredient or component part of a construction project in New Mexico. Sales of tangible personal property that will become an ingredient or component part of a construction project to persons engaged in the construction business are sales of tangible personal property; and

N. "use" or "using" includes use, consumption or storage other than storage for subsequent sale in the ordinary course of business or for use solely outside this state."

SECTION 97. Section 7-9-3.2 NMSA 1978 (being Laws 1991,

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Chapter 8, Section 1, as amended) is amended to read:

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

A. As used in the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act, "governmental gross receipts" means receipts of the state or an agency, institution, instrumentality or political subdivision from:

(1) the sale of tangible personal property other than water from facilities open to the general public;

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

(3) refuse collection or refuse disposal or both;

(4) sewage services;

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

(6) the renting of parking, docking or tie-down spaces or the granting of permission to park vehicles, tie down aircraft or dock boats.

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

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

SECTION 98. Section 7-9-3.3 NMSA 1978 (being Laws 2003, Chapter 272, Section 4) is amended to read:

"7-9-3.3. DEFINITION--ENGAGING IN BUSINESS.--As used in the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act, "engaging in business" means carrying on or causing to be carried on any activity with the purpose of direct or indirect benefit, except that:

A. "engaging in business" does not include having a worldwide web site as a third-party content provider on a computer physically located in New Mexico but owned by another nonaffiliated person; and

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

SECTION 99. Section 7-9-3.4 NMSA 1978 (being Laws 2003,

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Chapter 272, Section 5) is amended to read:

"7-9-3.4. DEFINITIONS--CONSTRUCTION AND CONSTRUCTION MATERIALS.--As used in the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act:

A. "construction" means:

(1) the building, altering, repairing or demolishing in the ordinary course of business any:

(a) road, highway, bridge, parking area or related project;

(b) building, stadium or other structure;

(c) airport, subway or similar facility;

(d) park, trail, athletic field, golf course or similar facility;

(e) dam, reservoir, canal, ditch or similar facility;

(f) sewerage or water treatment facility, power generating plant, pump station, natural gas compressing station, gas processing plant, coal gasification plant, refinery, distillery or similar facility;

(g) sewerage, water, gas or other pipeline;

(h) transmission line;

(i) radio, television or other tower;

(j) water, oil or other storage tank;

(k) shaft, tunnel or other mining appurtenance;

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(l) microwave station or similar facility;

(m) retaining wall, wall, fence, gate or similar structure; or

(n) similar work;

(2) the leveling or clearing of land;

(3) the excavating of earth;

(4) the drilling of wells of any type, including seismograph shot holes or core drilling; or

(5) similar work; and

B. "construction material" means tangible personal property that becomes or is intended to become an ingredient or component part of a construction project, but "construction material" does not include a replacement fixture when the replacement is not construction or a replacement part for a fixture."

SECTION 100. Section 7-9-3.5 NMSA 1978 (being Laws 2003, Chapter 272, Section 3, as amended) is amended to read:

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

A. As used in the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act:

(1) "gross receipts" means the total amount of money or the value of other consideration received from selling property in New Mexico, from leasing or licensing property employed in New Mexico, from granting a right to use a franchise employed in New Mexico, from selling services performed outside

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New Mexico, the product of which is initially used in New Mexico, or from performing services in New Mexico. In an exchange in which the money or other consideration received does not represent the value of the property or service exchanged, "gross receipts" means the reasonable value of the property or service exchanged;

(2) "gross receipts" includes:

(a) any receipts from sales of tangible personal property handled on consignment;

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

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

(d) amounts received from transmitting messages or conversations by persons providing telephone or telegraph services;

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

(f) the receipts of a home service provider

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

(3) "gross receipts" excludes:

(a) cash discounts allowed and taken;

(b) [~~New Mexico gross receipts~~] state sales tax, governmental [~~gross receipts~~] sales tax and leased vehicle [~~gross receipts~~] sales tax payable on transactions for the reporting period;

(c) taxes imposed pursuant to the provisions of any local option [~~gross receipts~~] sales tax that is payable on transactions for the reporting period;

(d) any gross receipts or sales taxes imposed by an Indian nation, tribe or pueblo; provided that the tax is approved, if approval is required by federal law or regulation, by the secretary of the interior of the United States; and provided further that the gross receipts or sales tax imposed

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by the Indian nation, tribe or pueblo provides a reciprocal exclusion for gross receipts, sales or gross receipts-based excise taxes imposed by the state or its political subdivisions;

(e) any type of time-price differential;

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

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

B. When the sale of property or service is made under any type of charge, conditional or time-sales contract or the leasing of property is made under a leasing contract, the seller or lessor may elect to treat all receipts, excluding any type of time-price differential, under such contracts as gross receipts as and when the payments are actually received. If the seller or lessor transfers the seller's or lessor's interest in any such contract to a third person, the seller or lessor shall pay the [~~gross receipts~~] state sales tax upon the full sale or leasing contract amount, excluding any type of time-price differential."

SECTION 101. Section 7-9-4 NMSA 1978 (being Laws 1966, Chapter 47, Section 4, as amended) is amended to read:

"7-9-4. IMPOSITION AND RATE OF TAX--DENOMINATION AS "[~~GROSS RECEIPTS~~] STATE SALES TAX".--

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A. For the privilege of engaging in business, an excise tax equal to five and one-eighth percent of gross receipts is imposed on any person engaging in business in New Mexico.

B. The tax imposed by this section shall be referred to as the "[~~gross receipts~~] state sales tax"."

SECTION 102. Section 7-9-4.3 NMSA 1978 (being Laws 1991, Chapter 8, Section 2, as amended by Laws 1993, Chapter 332, Section 1 and by Laws 1993, Chapter 352, Section 1) is amended to read:

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

SECTION 103. Section 7-9-5 NMSA 1978 (being Laws 1966, Chapter 47, Section 5, as amended) is amended to read:

"7-9-5. PRESUMPTION OF TAXABILITY.--

A. To prevent evasion of the [~~gross receipts~~] state sales tax and to aid in its administration, it is presumed that all receipts of a person engaging in business are subject to the

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[~~gross receipts~~] state sales tax. [~~Any~~] A person engaged solely in transactions specifically exempt under the provisions of the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act shall not be required to register or file a return under that act.

B. If receipts from nontaxable charges for mobile telecommunications services are aggregated with and not separately stated from taxable charges for mobile telecommunications services, [~~then~~] the charges for nontaxable mobile telecommunications services shall be subject to [~~gross receipts~~] sales tax unless the home service provider can reasonably identify nontaxable charges in its books and records that are kept in the regular course of business. For the purposes of this subsection, "charges for mobile telecommunications services", "home service provider" and "mobile telecommunications services" have the meanings given in the federal Mobile Telecommunications Sourcing Act."

SECTION 104. Section 7-9-6 NMSA 1978 (being Laws 1966, Chapter 47, Section 6, as amended) is amended to read:

"7-9-6. SEPARATELY STATING THE [~~GROSS RECEIPTS~~] STATE SALES TAX.--When the [~~gross receipts~~] state sales tax is stated separately on the books of the seller or lessor, and if the total amount of tax that is stated separately on transactions reportable within one reporting period is in excess of the amount of [~~gross receipts~~] state sales tax otherwise payable on the transactions on which the tax was stated separately, the excess amount of tax

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stated on the transactions within that reporting period shall be included in gross receipts."

SECTION 105. Section 7-9-7 NMSA 1978 (being Laws 1966, Chapter 47, Section 7, as amended) is amended to read:

"7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS "[~~COMPENSATING~~] STATE USE TAX".--

A. For the privilege of using tangible property in New Mexico, there is imposed on the person using the property an excise tax equal to five and one-eighth percent of the value of tangible property that was:

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

(2) acquired inside or outside of this state as the result of a transaction with a person located outside this state that would have been subject to the [~~gross receipts~~] state sales tax had the tangible personal property been acquired from a person with nexus with New Mexico; or

(3) acquired as the result of a transaction that was not initially subject to the [~~compensating~~] state use tax imposed by Paragraph (2) of this subsection or the [~~gross receipts~~] state sales tax but which transaction, because of the buyer's subsequent use of the property, should have been subject to the [~~compensating~~] state use tax imposed by Paragraph (2) of this subsection or the [~~gross receipts~~] state sales tax.

B. For the purpose of Subsection A of this section,

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value of tangible property shall be the adjusted basis of the property for federal income tax purposes determined as of the time of acquisition or introduction into this state or of conversion to use, whichever is later. If no adjusted basis for federal income tax purposes is established for the property, a reasonable value of the property shall be used.

C. For the privilege of using services rendered in New Mexico, there is imposed on the person using such services an excise tax equal to five percent of the value of the services at the time they were rendered. The services, to be taxable under this subsection, must have been rendered as the result of a transaction that was not initially subject to the [~~gross receipts~~] state sales tax but which transaction, because of the buyer's subsequent use of the services, should have been subject to the [~~gross receipts~~] state sales tax.

D. The tax imposed by this section shall be referred to as the "[~~compensating~~] state use tax"."

SECTION 106. Section 7-9-7.1 NMSA 1978 (being Laws 1993, Chapter 45, Section 1, as amended) is amended to read:

"7-9-7.1. DEPARTMENT BARRED FROM TAKING COLLECTION ACTIONS WITH RESPECT TO CERTAIN [~~COMPENSATING~~] STATE USE TAX LIABILITIES.--

A. The department shall take no action to enforce collection of [~~compensating~~] state use tax due on purchases made by an individual if:

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

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

(3) the individual is not an agent for collection of [~~compensating~~] state use tax pursuant to Section 7-9-10 NMSA 1978.

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

SECTION 107. Section 7-9-8 NMSA 1978 (being Laws 1966, Chapter 47, Section 8, as amended) is amended to read:

"7-9-8. PRESUMPTION OF TAXABILITY AND VALUE.--

A. To prevent evasion of the [~~compensating~~] state use tax and the duty to collect it, it is presumed that property bought or sold by any person for delivery into this state is bought or sold for a taxable use in this state.

B. In determining the amount of [~~compensating~~] state use tax due on the use of property, it is presumed, in the absence of preponderant evidence of another value, that the value means the total amount of money or the reasonable value of other

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consideration paid for property exclusive of any type of time-price differential. However, in an exchange in which the amount of money paid does not represent the value of the property or property and service purchased, the [~~compensating~~] state use tax shall be imposed on the reasonable value of the property or property and service purchased.

C. In determining the amount of [~~compensating~~] state use tax due on the use of a service, it is presumed, in the absence of preponderant evidence of another value, that the value means the total amount of money or the reasonable value of other consideration paid for the service exclusive of any type of time-price differential. However, in an exchange in which the amount paid does not represent the value of the service purchased, the [~~compensating~~] state use tax shall be imposed on the reasonable value of the service purchased."

SECTION 108. Section 7-9-9 NMSA 1978 (being Laws 1966, Chapter 47, Section 9, as amended) is amended to read:

"7-9-9. LIABILITY OF USER FOR PAYMENT OF [~~COMPENSATING~~] STATE USE TAX.--Any person in New Mexico using property on the value of which [~~compensating~~] state use tax is payable but has not been paid is liable to the state for payment of the [~~compensating~~] state use tax, but this liability is discharged if the buyer has paid the [~~compensating~~] state use tax to the seller for payment over to the department."

SECTION 109. Section 7-9-10 NMSA 1978 (being Laws 1966,

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Chapter 47, Section 10, as amended) is amended to read:

"7-9-10. AGENTS FOR COLLECTION OF [~~COMPENSATING~~] STATE USE TAX--DUTIES.--

A. Every person carrying on or causing to be carried on any activity within this state attempting to exploit New Mexico's markets who sells property or sells property and service for use in this state and who is not subject to the [~~gross receipts~~] state sales tax on receipts from these sales shall collect the [~~compensating~~] state use tax from the buyer and pay the tax collected to the department. "Activity", for the purposes of this section, includes but is not limited to engaging in any of the following in New Mexico: maintaining an office or other place of business; soliciting orders through employees or independent contractors; soliciting orders through advertisements placed in newspapers or magazines published in New Mexico or advertisements broadcast by New Mexico radio or television stations; soliciting orders through programs broadcast by New Mexico radio or television stations or transmitted by cable systems in New Mexico; and canvassing, demonstrating, collecting money, warehousing or storing merchandise or delivering or distributing products as a consequence of an advertising or other sales program directed at potential customers. "Activity", for the purposes of this section, does not include having a [~~world wide web site~~] worldwide website as a third-party provider on a computer physically located in New Mexico but owned by another nonaffiliated person, and

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"activity" does not include using a nonaffiliated third-party call center to accept and process telephone or electronic orders of tangible personal property or licenses primarily from non-New Mexico buyers, which orders are forwarded to a location outside New Mexico for filling, or to provide services primarily to non-New Mexico customers.

B. To ensure orderly and efficient collection of the public revenue, if any application of this section is held invalid, the section's application to other situations or persons shall not be affected."

SECTION 110. Section 7-9-11 NMSA 1978 (being Laws 1966, Chapter 47, Section 11, as amended) is amended to read:

"7-9-11. DATE PAYMENT DUE.--The taxes imposed by the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act are to be paid on or before the twenty-fifth day of the month following the month in which the taxable event occurs."

SECTION 111. Section 7-9-12 NMSA 1978 (being Laws 1969, Chapter 144, Section 5, as amended) is amended to read:

"7-9-12. EXEMPTIONS.--Exemptions from either the [~~gross receipts~~] state sales tax or the [~~compensating~~] state use tax are not exemptions from both taxes unless explicitly stated otherwise by law."

SECTION 112. Section 7-9-13 NMSA 1978 (being Laws 1969, Chapter 144, Section 6, as amended) is amended to read:

"7-9-13. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX--

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GOVERNMENTAL AGENCIES.--

A. Except as otherwise provided in this section, exempted from the [~~gross receipts~~] state sales tax are receipts of:

(1) the United States or any agency, department or instrumentality thereof;

(2) the state of New Mexico or any political subdivision thereof;

(3) any Indian nation, tribe or pueblo from activities or transactions occurring on its sovereign territory; or

(4) any foreign nation or agency, instrumentality or political subdivision thereof, but only when required by a treaty in force to which the United States is a party.

B. Receipts from the sale of gas or electricity by a utility owned or operated by a county, municipality or other political subdivision of a state are not exempted from the [~~gross receipts~~] state sales tax.

C. Receipts from the operation of a cable television system owned or operated by a municipality are not exempted from the [~~gross receipts~~] state sales tax."

SECTION 113. Section 7-9-13.1 NMSA 1978 (being Laws 1989, Chapter 262, Section 4) is amended to read:

"7-9-13.1. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX--SERVICES PERFORMED OUTSIDE THE STATE THE PRODUCT OF WHICH IS

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INITIALLY USED IN NEW MEXICO--EXCEPTIONS.--

A. Except as provided otherwise in Subsection B of this section, exempted from the [~~gross receipts~~] state sales tax are the receipts from selling services performed outside New Mexico the product of which is initially used in New Mexico.

B. The exemption provided by this section does not apply to research and development services other than research and development services:

(1) sold between affiliated corporations;

(2) sold to the United States by persons, other than organizations described in Subsection A of Section 7-9-29 NMSA 1978, who are prime contractors operating facilities in New Mexico designated as national laboratories by act of congress; or

(3) sold to persons, other than organizations described in Subsection A of Section 7-9-29 NMSA 1978, who are prime contractors operating facilities in New Mexico designated as national laboratories by act of congress.

C. An "affiliated corporation" means a corporation that directly or indirectly, through one or more intermediaries controls, is controlled by or is under common control with the subject corporation. "Control" means ownership of stock in a corporation which represents at least eighty percent of the total voting power of that corporation and has a stated or par value equal to at least eighty percent of the total stated or par value of the stock of that corporation."

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SECTION 114. Section 7-9-13.2 NMSA 1978 (being Laws 1992, Chapter 100, Section 3, as amended) is amended to read:

"7-9-13.2. EXEMPTION--GOVERNMENTAL [~~GROSS RECEIPTS~~] SALES TAX--RECEIPTS SUBJECT TO CERTAIN OTHER TAXES.--Exempted from the governmental [~~gross receipts~~] sales tax are receipts from transactions involving tangible personal property or services on which receipts or transactions the [~~gross receipts~~] state sales tax, [~~compensating~~] state use tax, motor vehicle excise tax, gasoline tax, [~~special fuel tax~~] special fuel excise tax, oil and gas emergency school tax, resources tax, processors tax, service tax or the excise tax imposed under Section 66-12-6.1 NMSA 1978 is imposed."

SECTION 115. Section 7-9-13.3 NMSA 1978 (being Laws 2001, Chapter 231, Section 12) is amended to read:

"7-9-13.3. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX AND GOVERNMENTAL [~~GROSS RECEIPTS~~] SALES TAX--STADIUM SURCHARGE.--Exempted from the [~~gross receipts~~] state sales tax and from the governmental [~~gross receipts~~] sales tax are the receipts from selling tickets, parking, souvenirs, concessions, programs, advertising, merchandise, corporate suites or boxes, broadcast revenues and all other products, services or activities sold at, related to or occurring at a minor league baseball stadium on which a stadium surcharge is imposed pursuant to the Minor League Baseball Stadium Funding Act."

SECTION 116. Section 7-9-13.4 NMSA 1978 (being Laws 2002,

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Chapter 20, Section 1) is amended to read:

"7-9-13.4. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX--SALE OF TEXTBOOKS FROM CERTAIN BOOKSTORES TO ENROLLED STUDENTS.--Exempted from the [~~gross receipts~~] state sales tax are the receipts from the sale of textbooks and other materials that are required for courses at a public post-secondary educational institution if the sale is by a bookstore located on the campus of the institution and operated pursuant to a contractual agreement with that institution and the sale is to a student enrolled at the institution who displays a valid student identification card."

SECTION 117. Section 7-9-13.5 NMSA 1978 (being Laws 2005, Chapter 351, Section 2) is amended to read:

"7-9-13.5. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX AND GOVERNMENTAL [~~GROSS RECEIPTS~~] SALES TAX--EVENT CENTER SURCHARGE.--Exempted from the [~~gross receipts~~] state sales tax and from the governmental [~~gross receipts~~] sales tax are the receipts from selling tickets, parking, souvenirs, concessions, programs, advertising, merchandise, corporate suites or boxes, broadcast revenues and all other products or services sold at or related to a municipal event center or related to activities occurring at the event center on which an event center surcharge is imposed pursuant to the Municipal Event Center Funding Act."

SECTION 118. Section 7-9-14 NMSA 1978 (being Laws 1969, Chapter 144, Section 7, as amended) is amended to read:

"7-9-14. EXEMPTION--[~~COMPENSATING~~] STATE USE TAX--

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GOVERNMENTAL AGENCIES--INDIANS.--

A. Except as otherwise provided in this subsection, there is exempted from the [~~compensating~~] state use tax the use of property by the United States or the state of New Mexico or any governmental unit or subdivision, agency, department or instrumentality thereof. The exemption provided by this subsection does not apply to:

(1) the use of property that is or will be incorporated into a metropolitan redevelopment project under the Metropolitan Redevelopment Code; or

(2) the use of construction material.

B. Exempted from the [~~compensating~~] state use tax is the use of property by any Indian nation, tribe or pueblo or any governmental unit, subdivision, agency, department or instrumentality thereof on Indian reservations or pueblo grants."

SECTION 119. Section 7-9-15 NMSA 1978 (being Laws 1970, Chapter 12, Section 1, as amended) is amended to read:

"7-9-15. EXEMPTION--[~~COMPENSATING~~] STATE USE TAX--CERTAIN ORGANIZATIONS.--Exempted from the [~~compensating~~] state use tax is the use of property by organizations that demonstrate to the department that they have been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(3) of the United States Internal Revenue Code of [~~1954~~] 1986, as amended or renumbered, in the conduct of functions described in Section

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501(c)(3) of that code. The use of property as an ingredient or component part of a construction project is not a use in the conduct of functions described in Section 501(c)(3) of that code. This section does not apply to the use of property in an unrelated trade or business as defined in Section 513 of the United States Internal Revenue Code of [~~1954~~] 1986, as amended or renumbered."

SECTION 120. Section 7-9-16 NMSA 1978 (being Laws 1969, Chapter 144, Section 9, as amended) is amended to read:

"7-9-16. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX--CERTAIN NONPROFIT FACILITIES.--Exempted from the [~~gross receipts~~] state sales tax are the receipts of nonprofit entities from the operation of facilities designed and used for providing accommodations for retired elderly persons."

SECTION 121. Section 7-9-17 NMSA 1978 (being Laws 1969, Chapter 144, Section 10) is amended to read:

"7-9-17. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX--WAGES.--Exempted from the [~~gross receipts~~] state sales tax are the receipts of employees from wages, salaries, commissions or from any other form of remuneration for personal services."

SECTION 122. Section 7-9-18 NMSA 1978 (being Laws 1969, Chapter 144, Section 11, as amended) is amended to read:

"7-9-18. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX AND GOVERNMENTAL [~~GROSS RECEIPTS~~] SALES TAX--AGRICULTURAL PRODUCTS.--

A. Exempted from the [~~gross receipts~~] state sales tax and from the governmental [~~gross receipts~~] sales tax are the

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receipts from selling livestock and receipts of growers, producers, trappers or nonprofit marketing associations from selling livestock, live poultry, unprocessed agricultural products, hides or pelts. Persons engaged in the business of buying and selling wool or mohair or of buying and selling livestock on their own account are producers for the purposes of this section.

B. Receipts from selling dairy products at retail are not exempted from the [~~gross receipts~~] state sales tax.

C. As used in this section, "livestock" means all domestic or domesticated animals that are used or raised on a farm or ranch, including the carcasses thereof, and also includes horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae upon any land in New Mexico; provided that for the purposes of [~~Chapter 77, Article 9 NMSA 1978~~] The Livestock Code, "animals" or "livestock" have the meaning defined in that article. "Animals" or "livestock" does not include canine or feline animals. For the purpose of the rules governing meat inspection, wild animals, poultry and birds used for human consumption shall also be included within the meaning of "animals" or "livestock"."

SECTION 123. Section 7-9-18.1 NMSA 1978 (being Laws 1987, Chapter 264, Section 13 and Laws 1987, Chapter 304, Section 1) is amended to read:

"7-9-18.1. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX--FOOD

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STAMPS.--Exempted from the [~~gross receipts~~] state sales tax are the receipts of a taxpayer who is approved for participation in the food stamp program authorized by U.S.C. Title 7, Chapter 51, as that chapter may be amended or renumbered, from the lawful acceptance and deposit with a financial institution of food stamps issued by the United States department of agriculture pursuant to the food stamp program."

SECTION 124. Section 7-9-19 NMSA 1978 (being Laws 1969, Chapter 144, Section 12, as amended) is amended to read:

"7-9-19. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX--LIVESTOCK FEEDING.--

A. Exempted from the [~~gross receipts~~] state sales tax are the receipts of any person derived from feeding or pasturing livestock.

B. Receipts derived from penning or handling livestock prior to sale are receipts derived from feeding livestock for the purposes of this section.

C. Receipts derived from training livestock are receipts derived from feeding livestock for the purposes of this section."

SECTION 125. Section 7-9-20 NMSA 1978 (being Laws 1988, Chapter 82, Section 1) is amended to read:

"7-9-20. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX--CERTAIN RECEIPTS OF HOMEOWNERS ASSOCIATIONS.--Exempted from the [~~gross receipts~~] state sales tax are those receipts of homeowners associations defined in Section 528(c)(1) (A thru D), (2), (3) and

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(4) (A, B and D) of the Internal Revenue Code of 1986, as amended, [~~which~~] that are received as membership fees, dues or assessments from members who are owners of residential units, residences or residential lots, except for owners of time-share interests, for payment of taxes, insurance, utility expenses, management and improvement, maintenance or rehabilitation of those common areas, elements or facilities appurtenant thereto [~~which~~] that are for the sole use of the owners and their guests."

SECTION 126. Section 7-9-22 NMSA 1978 (being Laws 1969, Chapter 144, Section 15, as amended) is amended to read:

"7-9-22. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX--VEHICLES.--Exempted from the [~~gross receipts~~] state sales tax are the receipts from selling vehicles on which a tax is imposed by the Motor Vehicle Excise Tax Act, vehicles subject to registration under Section 66-3-16 NMSA 1978 and vehicles exempt from the motor vehicle excise tax pursuant to Subsection F of Section 7-14-6 NMSA 1978."

SECTION 127. Section 7-9-22.1 NMSA 1978 (being Laws 1987, Chapter 247, Section 1) is amended to read:

"7-9-22.1. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX--BOATS.--Exempted from the [~~gross receipts~~] state sales tax are the receipts from selling boats on which a tax is imposed by Section 66-12-6.1 NMSA 1978."

SECTION 128. Section 7-9-23 NMSA 1978 (being Laws 1969, Chapter 144, Section 16, as amended) is amended to read:

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"7-9-23. EXEMPTION--[~~COMPENSATING~~] STATE USE TAX--VEHICLES.--Exempted from the [~~compensating~~] state use tax [~~is~~] are the use of vehicles on which the tax imposed by the Motor Vehicle Excise Tax Act has been paid, the use of vehicles subject to registration under Section 66-3-16 NMSA 1978 and the use of vehicles exempt from the motor vehicle excise tax pursuant to Subsection F of Section 7-14-6 NMSA 1978."

SECTION 129. Section 7-9-23.1 NMSA 1978 (being Laws 1987, Chapter 247, Section 2) is amended to read:

"7-9-23.1. EXEMPTION--[~~COMPENSATING~~] STATE USE TAX--BOATS.--Exempted from the [~~compensating~~] state use tax is the use of boats on which the tax imposed by Section 66-12-6.1 NMSA 1978 has been paid."

SECTION 130. Section 7-9-24 NMSA 1978 (being Laws 1969, Chapter 144, Section 17, as amended) is amended to read:

"7-9-24. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX--INSURANCE COMPANIES.--Exempted from the [~~gross receipts~~] state sales tax are the receipts of insurance companies or any agent thereof from premiums and any consideration received by a property bondsman, as that person is defined in Section 59A-51-2 NMSA 1978, as security or surety for a bail bond in connection with a judicial proceeding."

SECTION 131. Section 7-9-25 NMSA 1978 (being Laws 1969, Chapter 144, Section 18) is amended to read:

"7-9-25. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX--

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DIVIDENDS AND INTEREST.--Exempted from the [~~gross receipts~~] state sales tax are the receipts received as interest on money loaned or deposited, receipts received as dividends or interest from stocks, bonds or securities or receipts from the sale of stocks, bonds or securities."

SECTION 132. Section 7-9-26 NMSA 1978 (being Laws 1969, Chapter 144, Section 19, as amended) is amended to read:

"7-9-26. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX AND [~~COMPENSATING~~] STATE USE TAX--FUEL.--Exempted from the [~~gross receipts and compensating tax~~] state sales tax and the state use tax are the receipts from selling and the use of gasoline, special fuel or alternative fuel on which the tax imposed by Section 7-13-3, [~~7-16-3 or~~] 7-16A-3 or 7-16B-4 NMSA 1978 [~~or the Alternative Fuel Tax Act~~] has been paid and not refunded."

SECTION 133. Section 7-9-26.1 NMSA 1978 (being Laws 2003, Chapter 62, Section 1) is amended to read:

"7-9-26.1. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX AND [~~COMPENSATING~~] STATE USE TAX--FUEL FOR SPACE VEHICLES.--

A. Exempted from the [~~gross receipts~~] state sales tax are the receipts from selling fuel, oxidizer or a substance that combines fuel and oxidizer to propel space vehicles or to operate space vehicle launchers.

B. Exempted from the [~~compensating~~] state use tax is the use of fuel, oxidizer or a substance that combines fuel and oxidizer to propel space vehicles or to operate space vehicle

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launchers."

SECTION 134. Section 7-9-27 NMSA 1978 (being Laws 1969, Chapter 144, Section 20) is amended to read:

"7-9-27. EXEMPTION--[~~COMPENSATING~~] STATE USE TAX--PERSONAL EFFECTS.--Exempted from the [~~compensating~~] state use tax is the use by an individual of personal or household effects brought into the state in connection with the establishment by [~~him~~] the individual of an initial residence in this state and the use of property brought into the state by a nonresident for [~~his~~] the nonresident's own nonbusiness use while temporarily within this state."

SECTION 135. Section 7-9-28 NMSA 1978 (being Laws 1969, Chapter 144, Section 21) is amended to read:

"7-9-28. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX--OCCASIONAL SALE OF PROPERTY OR SERVICES.--Exempted from the [~~gross receipts~~] state sales tax are the receipts from the isolated or occasional sale of or leasing of property or a service by a person who is neither regularly engaged nor [~~holding himself out~~] making any representation as being as engaged in the business of selling or leasing the same or similar property or service."

SECTION 136. Section 7-9-29 NMSA 1978 (being Laws 1970, Chapter 12, Section 3, as amended) is amended to read:

"7-9-29. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX--CERTAIN ORGANIZATIONS.--

A. Exempted from the [~~gross receipts~~] state sales tax

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are the receipts of organizations that demonstrate to the department that they have been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(3) of the United States Internal Revenue Code of [~~1954~~] 1986, as that section may be amended or renumbered.

B. Exempted from the [~~gross receipts~~] state sales tax are the receipts from carrying on chamber of commerce, visitor bureau and convention bureau functions of organizations that demonstrate to the department that they have been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(6) of the United States Internal Revenue Code of [~~1954~~] 1986, as that section may be amended or renumbered.

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

SECTION 137. Section 7-9-30 NMSA 1978 (being Laws 1969, Chapter 144, Section 23, as amended) is amended to read:

"7-9-30. EXEMPTION--[~~COMPENSATING~~] STATE USE TAX--RAILROAD EQUIPMENT, AIRCRAFT AND SPACE VEHICLES.--

A. Exempted from the [~~compensating~~] state use tax is the use of railroad locomotives, trailers, containers, tenders or cars procured or bought for use in railroad transportation.

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B. Exempted from the [~~compensating~~] state use tax is the use of commercial aircraft bought or leased primarily for use in the transportation of passengers or property for hire in interstate commerce.

C. Exempted from the [~~compensating~~] state use tax is the use of space vehicles for transportation of persons or property in, to or from space."

SECTION 138. Section 7-9-31 NMSA 1978 (being Laws 1969, Chapter 144, Section 24) is amended to read:

"7-9-31. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX AND [~~COMPENSATING~~] STATE USE TAX--RESALE ACTIVITIES OF AN ARMED FORCES INSTRUMENTALITY.--Exempted from the [~~gross receipts~~] state sales tax and [~~compensating~~] state use tax are the receipts from selling tangible personal property and the use of property by any instrumentality of the armed forces of the United States engaged in resale activities."

SECTION 139. Section 7-9-32 NMSA 1978 (being Laws 1969, Chapter 144, Section 25) is amended to read:

"7-9-32. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX--OIL AND GAS OR MINERAL INTERESTS.--Exempted from the [~~gross receipts~~] state sales tax are the receipts from the sale of or leasing of oil, natural gas or mineral interests."

SECTION 140. Section 7-9-33 NMSA 1978 (being Laws 1969, Chapter 144, Section 26, as amended) is amended to read:

"7-9-33. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX--

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PRODUCTS SUBJECT TO OIL AND GAS EMERGENCY SCHOOL TAX ACT.--

A. Exempted from the [~~gross receipts~~] state sales tax are receipts from the sale of products the severance of which is subject to the tax imposed by the Oil and Gas Emergency School Tax Act, except that receipts from the sale of products other than for subsequent resale in the ordinary course of business, for consumption outside the state or for use as an ingredient or component part of a manufactured product are subject to the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act as well as to the Oil and Gas Emergency School Tax Act.

B. No [~~gross receipts~~] state sales tax or [~~compensating~~] state use tax [~~pursuant to the Gross Receipts and Compensating Tax Act~~] shall apply to storing crude oil, natural gas or liquid hydrocarbons, individually or any combination, or to the use of such products for fuel in the operation of a "production unit" as defined by the Oil and Gas Emergency School Tax Act."

SECTION 141. Section 7-9-34 NMSA 1978 (being Laws 1969, Chapter 144, Section 27, as amended) is amended to read:

"7-9-34. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX--REFINERS AND PERSONS SUBJECT TO NATURAL GAS PROCESSORS TAX ACT.--

A. Exempted from the [~~gross receipts~~] state sales tax are receipts from the sale or processing of products the processing of which is subject to the [~~privilege~~] natural gas processors tax [~~imposed by the Natural Gas Processors Tax Act~~], except that receipts from the sale of products other than for

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subsequent resale in the ordinary course of business, for consumption outside the state or for use as an ingredient or component part of a manufactured product are subject to the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act as well as to the Natural Gas Processors Tax Act.

B. No [~~gross receipts~~] state sales tax or [~~compensating~~] state use tax [~~pursuant to the Gross Receipts and Compensating Tax Act~~] shall apply to receipts from storing or using crude oil, natural gas or liquid hydrocarbons, individually or any combination, when stored or used in New Mexico by a "processor", as defined by the Natural Gas Processors Tax Act, or by a person engaged in the business of refining oil, natural gas or liquid hydrocarbons who stores or uses the crude oil, natural gas or liquid hydrocarbons in the regular course of [~~his~~] the person's refining business."

SECTION 142. Section 7-9-35 NMSA 1978 (being Laws 1969, Chapter 144, Section 28, as amended) is amended to read:

"7-9-35. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX--NATURAL RESOURCES SUBJECT TO RESOURCES EXCISE TAX ACT.--Exempted from the [~~gross receipts~~] state sales tax are receipts from the sale or processing of natural resources the severance or processing of which are subject to the taxes imposed by the Resources Excise Tax Act, except as otherwise provided in Section 7-25-8 NMSA 1978."

SECTION 143. Section 7-9-36 NMSA 1978 (being Laws 1969,

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Chapter 144, Section 29) is amended to read:

"7-9-36. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX--OIL AND GAS CONSUMED IN THE PIPELINE TRANSPORTATION OF OIL AND GAS PRODUCTS.--Exempted from the [~~gross receipts~~] state sales tax are receipts from the sale of oil, natural gas, liquid hydrocarbon or any combination thereof consumed as fuel in the pipeline transportation of such products."

SECTION 144. Section 7-9-37 NMSA 1978 (being Laws 1969, Chapter 144, Section 30) is amended to read:

"7-9-37. EXEMPTION--[~~COMPENSATING~~] STATE USE TAX--USE OF OIL AND GAS IN THE PIPELINE TRANSPORTATION OF OIL AND GAS PRODUCTS.--Exempted from the [~~compensating~~] state use tax is the use of oil, natural gas, liquid hydrocarbon or any combination thereof as fuel in the pipeline transportation of such products."

SECTION 145. Section 7-9-38 NMSA 1978 (being Laws 1969, Chapter 144, Section 31, as amended) is amended to read:

"7-9-38. EXEMPTION--[~~COMPENSATING~~] STATE USE TAX--USE OF ELECTRICITY IN THE PRODUCTION, CONVERSION AND TRANSMISSION OF ELECTRICITY.--Exempted from the [~~compensating~~] state use tax is electricity used in the production and transmission of electricity, including transmission using voltage source conversion technology."

SECTION 146. Section 7-9-38.1 NMSA 1978 (being Laws 1992, Chapter 50, Section 12 and also Laws 1992, Chapter 67, Section 12, as amended) is amended to read:

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"7-9-38.1. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX--INTERSTATE TELECOMMUNICATIONS SERVICES.--Exempted from the [~~gross receipts~~] state sales tax are receipts from the sale or provision of interstate telecommunications services subject to the Interstate Telecommunications [~~Gross Receipts~~] Sales Tax Act."

SECTION 147. Section 7-9-38.2 NMSA 1978 (being Laws 2002, Chapter 18, Section 2) is amended to read:

"7-9-38.2. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX--SALE OF CERTAIN TELECOMMUNICATIONS SERVICES.--Exempted from the [~~gross receipts~~] state sales tax are receipts of a home service provider from providing mobile telecommunications services to persons whose place of primary use is outside New Mexico, regardless of where the mobile telecommunications services originate, terminate or pass through. For the purposes of this section, "home service provider", "mobile telecommunications services" and "place of primary use" have the meanings given in the federal Mobile Telecommunications Sourcing Act."

SECTION 148. Section 7-9-39 NMSA 1978 (being Laws 1969, Chapter 144, Section 32, as amended) is amended to read:

"7-9-39. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX--FEES FROM SOCIAL ORGANIZATIONS.--

A. Exempted from the [~~gross receipts~~] state sales tax are the receipts from dues and registration fees of nonprofit social, fraternal, political, trade, labor or professional organizations and business leagues.

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B. For the purposes of this section:

(1) "dues" means amounts that a member of an organization pays at recurring intervals to retain membership in an organization where such amounts are used for the general maintenance and upkeep of the organization; and

(2) "registration fees" means amounts paid by persons to attend a specific event sponsored by an organization to defray the cost of the event."

SECTION 149. Section 7-9-40 NMSA 1978 (being Laws 1970, Chapter 60, Section 2, as amended) is amended to read:

"7-9-40. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX--PURSES AND JOCKEY REMUNERATION AT NEW MEXICO RACETRACKS--RECEIPTS FROM GROSS AMOUNTS WAGERED.--

A. Exempted from the [~~gross receipts~~] state sales tax are the receipts of horsemen, jockeys and trainers from race purses at New Mexico horse racetracks subject to the jurisdiction of the state racing commission.

B. Exempted from the [~~gross receipts~~] state sales tax are the receipts of a racetrack from the commissions and other amounts authorized by Section [~~60-1-10~~] 60-1A-19 NMSA 1978 to be retained by a racetrack conducting horse races under the authority of a license from the state racing commission."

SECTION 150. Section 7-9-41 NMSA 1978 (being Laws 1972, Chapter 61, Section 2) is amended to read:

"7-9-41. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX--

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RELIGIOUS ACTIVITIES.--Exempted from the [~~gross receipts~~] state sales tax are the receipts of a minister of a religious organization, which organization has been granted an exemption from federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the United States Internal Revenue Code of [~~1954~~] 1986, as that section may be amended or renumbered, from religious services provided by the minister to an individual recipient of the service."

SECTION 151. Section 7-9-41.1 NMSA 1978 (being Laws 2007, Chapter 117, Section 1) is amended to read:

"7-9-41.1. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX AND GOVERNMENTAL [~~GROSS RECEIPTS~~] SALES TAX--ATHLETIC FACILITY SURCHARGE.--Exempted from the [~~gross receipts~~] state sales tax and from the governmental [~~gross receipts~~] sales tax are the receipts of a university from an athletic facility surcharge imposed pursuant to the University Athletic Facility Funding Act."

SECTION 152. Section 7-9-41.3 NMSA 1978 (being Laws 2007, Chapter 45, Section 13 and Laws 2007, Chapter 237, Section 1) is amended to read:

"7-9-41.3. EXEMPTION--RECEIPTS FROM SALES BY DISABLED STREET VENDORS.--

A. Exempt from payment of the [~~gross receipts~~] state sales tax are receipts from the sale of goods by a disabled street vendor.

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B. As used in this section:

(1) "disabled" means to be blind or permanently disabled with medical improvement not expected pursuant to 42 USCA 421 for purposes of the federal Social Security Act or to have a permanent total disability pursuant to the Workers' Compensation Act; and

(2) "street vendor" means a person licensed by a local government to sell items of tangible personal property by newly setting up a sales site daily or selling the items from a moveable cart, tray, blanket or other device."

SECTION 153. Section 7-9-41.4 NMSA 1978 (being Laws 2009, Chapter 62, Section 1) is amended to read:

"7-9-41.4. EXEMPTION--OFFICIATING AT NEW MEXICO ACTIVITIES ASSOCIATION-SANCTIONED SCHOOL EVENTS.--Exempted from the [~~gross receipts~~] state sales tax are the receipts from refereeing, umpiring, scoring or other officiating at school events sanctioned by the New Mexico activities association."

SECTION 154. Section 7-9-43 NMSA 1978 (being Laws 1966, Chapter 47, Section 13, as amended) is amended to read:

"7-9-43. NONTAXABLE TRANSACTION CERTIFICATES AND OTHER EVIDENCE REQUIRED TO ENTITLE PERSONS TO DEDUCTIONS.--

A. Except as provided in Subsection B of this section, a person may establish entitlement to a deduction from gross receipts allowed pursuant to the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act by obtaining a properly executed nontaxable

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transaction certificate from the purchaser. Nontaxable transaction certificates shall contain the information and be in a form prescribed by the department. The department by [~~regulation~~] rule may deem to be nontaxable transaction certificates documents issued by other states or the multistate tax commission to taxpayers not required to be registered in New Mexico. Only buyers or lessees who have a registration number or have applied for a registration number and have not been refused one under Subsection C of Section 7-1-12 NMSA 1978 shall execute nontaxable transaction certificates issued by the department. If the seller or lessor has been given an identification number for tax purposes by the department, the seller or lessor shall disclose that identification number to the buyer or lessee prior to or upon acceptance of a nontaxable transaction certificate.

B. Except as provided in Subsection C of this section, a person who does not comply with Subsection A of this section may establish entitlement to a deduction from gross receipts by presenting alternative evidence that demonstrates the facts necessary to support entitlement to the deduction, but the burden of proof is on that person. Alternative evidence includes:

(1) invoices or contracts that identify the nature of the transaction;

(2) documentation as to the purchaser's use or disposition of the property or service;

(3) a statement from the purchaser indicating

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that the purchaser sold or intends to resell the property or service purchased from the seller, either by itself or in combination with other property or services, in the ordinary course of business. The statement from the purchaser shall include:

(a) the seller's name;

(b) the date of the invoice or date of the transaction;

(c) the invoice number or a copy of the invoice;

(d) a copy of the purchase order, if available;

(e) the amount of purchase; and

(f) a description of the property or service purchased or leased; or

(4) any other evidence that demonstrates the facts necessary to establish entitlement to the deduction.

C. Subsection B of this section does not apply to sellers of electricity or fuels that are parties to an agreement with the department pursuant to Section 7-1-21.1 NMSA 1978 regarding the deduction pursuant to Subsection B of Section 7-9-46 NMSA 1978.

D. When a person accepts in good faith a properly executed nontaxable transaction certificate from the purchaser, the properly executed nontaxable transaction certificate shall be

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conclusive evidence that the proceeds from the transaction are deductible from the person's gross receipts.

E. To exercise the privilege of executing appropriate nontaxable transaction certificates, a buyer or lessee shall apply to the department for permission to execute nontaxable transaction certificates, except with respect to documents issued by other states or the multistate tax commission that the department has deemed to be nontaxable transaction certificates.

F. If a person has accepted in good faith a properly executed nontaxable transaction certificate, but the purchaser has not employed the property or service purchased in the nontaxable manner or has provided materially false or inaccurate information on the nontaxable transaction certificate, the purchaser shall be liable for an amount equal to any tax, penalty and interest that the seller would have been required to pay if the seller had not complied with Subsection A of this section.

G. Any person who knowingly or willfully provides false or inaccurate information on a nontaxable transaction certificate or as alternative evidence provided in support of a claim for a deduction may be subject to prosecution under Sections 7-1-72 and 7-1-73 NMSA 1978."

SECTION 155. Section 7-9-43.1 NMSA 1978 (being Laws 1981, Chapter 333, Section 1, as amended) is amended to read:

"7-9-43.1. NONTAXABLE TRANSACTION CERTIFICATES NOT REQUIRED BY LIQUOR WHOLESALERS.--Notwithstanding the provisions of Section

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7-9-43 NMSA 1978, a liquor wholesaler licensed as a wholesaler by the superintendent of regulation and licensing pursuant to the Liquor Control Act is not required to obtain a nontaxable transaction certificate from a person issued a retailer's, dispenser's, restaurant, public service or governmental license by the superintendent of regulation and licensing pursuant to the Liquor Control Act for the purpose of taking deductions under the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act."

SECTION 156. Section 7-9-45 NMSA 1978 (being Laws 1969, Chapter 144, Section 35, as amended) is amended to read:

"7-9-45. DEDUCTIONS.--

A. Receipts may only be deducted once from gross receipts or governmental gross receipts when computing the [~~gross receipts~~] state sales tax or governmental [~~gross receipts~~] sales tax due.

B. The same receipts shall not be both exempt from the [~~gross receipts~~] state sales tax and deducted from gross receipts.

C. The same receipts shall not be both exempt from the governmental [~~gross receipts~~] sales tax and deducted from governmental gross receipts."

SECTION 157. Section 7-9-46 NMSA 1978 (being Laws 1969, Chapter 144, Section 36, as amended) is amended to read:

"7-9-46. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--GOVERNMENTAL GROSS RECEIPTS--SALES TO MANUFACTURERS.--

A. Receipts from selling tangible personal property

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may be deducted from gross receipts or from governmental gross receipts if the sale is made to a person engaged in the business of manufacturing who delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate must incorporate the tangible personal property as an ingredient or component part of the product that the buyer is in the business of manufacturing.

B. Receipts from selling tangible personal property that is a consumable and used in such a way that it is consumed in the manufacturing process of a product, provided that the tangible personal property is not a tool or equipment used to create the manufactured product, to a person engaged in the business of manufacturing that product and who delivers a nontaxable transaction certificate to the seller may be deducted in the following percentages from gross receipts or from governmental gross receipts:

(1) twenty percent of receipts received prior to January 1, 2014;

(2) forty percent of receipts received in calendar year 2014;

(3) sixty percent of receipts received in calendar year 2015;

(4) eighty percent of receipts received in calendar year 2016; and

(5) one hundred percent of receipts received on

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or after January 1, 2017.

C. The purpose of the deductions provided in this section is to encourage manufacturing businesses to locate in New Mexico and to reduce the tax burden, including reducing pyramiding, on the tangible personal property that is consumed in the manufacturing process and that is purchased by manufacturing businesses in New Mexico.

D. The department shall annually report to the revenue stabilization and tax policy committee the aggregate amount of deductions taken pursuant to this section, the number of taxpayers claiming each of the deductions and any other information that is necessary to determine that the deductions are performing the purposes for which they are enacted.

E. A taxpayer deducting gross receipts pursuant to this section shall report the amount deducted separately for each deduction provided in this section and attribute the amount of the deduction to the appropriate authorization provided in this section in a manner required by the department that facilitates the evaluation by the legislature of the benefit to the state of these deductions.

F. As used in Subsection B of this section, "consumable" means tangible personal property that is incorporated into, destroyed, depleted or transformed in the process of manufacturing a product:

(1) including electricity, fuels, water,

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manufacturing aids and supplies, chemicals, gases, repair parts, spares and other tangibles used to manufacture a product; but

(2) excluding tangible personal property used in:

(a) the generation of power;

(b) the processing of natural resources, including hydrocarbons; and

(c) the preparation of meals for immediate consumption on- or off-premises."

SECTION 158. Section 7-9-47 NMSA 1978 (being Laws 1969, Chapter 144, Section 37, as amended) is amended to read:

"7-9-47. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--GOVERNMENTAL GROSS RECEIPTS [~~TAX~~]--SALE OF TANGIBLE PERSONAL PROPERTY OR LICENSES FOR RESALE.--Receipts from selling tangible personal property or licenses may be deducted from gross receipts or from governmental gross receipts if the sale is made to a person who delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate must resell the tangible personal property or license either by itself or in combination with other tangible personal property or licenses in the ordinary course of business."

SECTION 159. Section 7-9-48 NMSA 1978 (being Laws 1969, Chapter 144, Section 38, as amended) is amended to read:

"7-9-48. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--GOVERNMENTAL GROSS RECEIPTS--SALE OF A SERVICE FOR RESALE.--Receipts from selling a service for resale may be deducted from gross receipts

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or from governmental gross receipts if the sale is made to a person who delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate must resell the service in the ordinary course of business and the resale must be subject to the [~~gross receipts~~] state sales tax or governmental [~~gross receipts~~] sales tax."

SECTION 160. Section 7-9-49 NMSA 1978 (being Laws 1969, Chapter 144, Section 39, as amended) is amended to read:

"7-9-49. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--SALE OF TANGIBLE PERSONAL PROPERTY AND LICENSES FOR LEASING.--

A. Except as otherwise provided by Subsection B of this section, receipts from selling tangible personal property and licenses may be deducted from gross receipts if the sale is made to a person who delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate shall be engaged in a business that derives a substantial portion of its receipts from leasing or selling tangible personal property or licenses of the type sold. The buyer may not utilize the tangible personal property or license in any manner other than holding it for lease or sale or leasing or selling it either by itself or in combination with other tangible personal property or licenses in the ordinary course of business.

B. The deduction provided by this section shall not apply to receipts from selling:

(1) furniture or appliances, the receipts from

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the rental or lease of which are deductible under Subsection C of Section 7-9-53 NMSA 1978;

(2) coin-operated machines; or

(3) manufactured homes."

SECTION 161. Section 7-9-50 NMSA 1978 (being Laws 1969, Chapter 144, Section 40, as amended) is amended to read:

"7-9-50. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--LEASE FOR SUBSEQUENT LEASE.--

A. Except as provided otherwise in Subsection B of this section, receipts from leasing tangible personal property or licenses may be deducted from gross receipts if the lease is made to a lessee who delivers a nontaxable transaction certificate to the lessor. The lessee delivering the nontaxable transaction certificate may not use the tangible personal property or license in any manner other than for subsequent lease in the ordinary course of business.

B. The deduction provided by this section does not apply to receipts from leasing:

(1) furniture or appliances, the receipts from the rental or lease of which are deductible under Subsection C of Section 7-9-53 NMSA 1978;

(2) coin-operated machines; or

(3) manufactured homes."

SECTION 162. Section 7-9-51 NMSA 1978 (being Laws 1969, Chapter 144, Section 41, as amended) is amended to read:

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"7-9-51. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--SALE OF CONSTRUCTION MATERIAL TO PERSONS ENGAGED IN THE CONSTRUCTION BUSINESS.--

A. Receipts from selling construction material may be deducted from gross receipts if the sale is made to a person engaged in the construction business who delivers a nontaxable transaction certificate to the seller.

B. The buyer delivering the nontaxable transaction certificate must incorporate the construction material as:

(1) an ingredient or component part of a construction project that is subject to the [~~gross receipts~~] state sales tax upon its completion or upon the completion of the overall construction project of which it is a part;

(2) an ingredient or component part of a construction project that is subject to the [~~gross receipts~~] state sales tax upon the sale in the ordinary course of business of the real property upon which it was constructed; or

(3) an ingredient or component part of a construction project that is located on the tribal territory of an Indian nation, tribe or pueblo."

SECTION 163. Section 7-9-52 NMSA 1978 (being Laws 1969, Chapter 144, Section 42, as amended) is amended to read:

"7-9-52. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--SALE OF CONSTRUCTION SERVICES AND CONSTRUCTION-RELATED SERVICES TO PERSONS ENGAGED IN THE CONSTRUCTION BUSINESS.--

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A. Receipts from selling a construction service or a construction-related service may be deducted from gross receipts if the sale is made to a person engaged in the construction business who delivers a nontaxable transaction certificate to the person performing the construction service or a construction-related service.

B. The buyer delivering the nontaxable transaction certificate shall have the construction services or construction-related services directly contracted for or billed to:

(1) a construction project that is subject to the [~~gross receipts~~] state sales tax upon its completion or upon the completion of the overall construction project of which it is a part;

(2) a construction project that is subject to the [~~gross receipts~~] state sales tax upon the sale in the ordinary course of business of the real property upon which it was constructed; or

(3) a construction project that is located on the tribal territory of an Indian nation, tribe or pueblo.

C. As used in this section, "construction-related service" means a service directly contracted for or billed to a specific construction project, including design, architecture, drafting, surveying, engineering, environmental and structural testing, security, sanitation and services required to comply with governmental construction-related regulations; but "construction-

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related service" excludes general business services such as legal or accounting services, equipment maintenance and real estate sales commissions."

SECTION 164. Section 7-9-52.1 NMSA 1978 (being Laws 2012, Chapter 5, Section 6) is amended to read:

"7-9-52.1. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--LEASE OF CONSTRUCTION EQUIPMENT TO PERSONS ENGAGED IN THE CONSTRUCTION BUSINESS.--

A. Receipts from leasing construction equipment may be deducted from gross receipts if the construction equipment is leased to a person engaged in the construction business who delivers a nontaxable transaction certificate to the person leasing the construction equipment.

B. The lessee delivering the nontaxable transaction certificate shall only use the construction equipment at the construction location of:

(1) a construction project that is subject to the [~~gross receipts~~] state sales tax upon its completion or upon the completion of the overall construction project of which it is a part;

(2) a construction project that is subject to the [~~gross receipts~~] state sales tax upon the sale in the ordinary course of business of the real property upon which it was constructed; or

(3) a construction project that is located on the

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tribal territory of an Indian nation, tribe or pueblo.

C. As used in this section, "construction equipment" means equipment used on a construction project, including trash containers, portable toilets, scaffolding and temporary fencing."

SECTION 165. Section 7-9-53 NMSA 1978 (being Laws 1969, Chapter 144, Section 43, as amended) is amended to read:

"7-9-53. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--SALE OR LEASE OF REAL PROPERTY AND LEASE OF MANUFACTURED HOMES.--

A. Receipts from the sale or lease of real property and from the lease of a manufactured home as provided in Subsection B of this section, other than receipts from the sale or lease of oil, natural gas or mineral interests exempted by Section 7-9-32 NMSA 1978, may be deducted from gross receipts. However, that portion of the receipts from the sale of real property [~~which~~] that is attributable to improvements constructed on the real property by the seller in the ordinary course of [~~his~~] the seller's construction business may not be deducted from gross receipts.

B. Receipts from the rental of a manufactured home for a period of at least one month may be deducted from gross receipts. Receipts received by hotels, motels, rooming houses, campgrounds, guest ranches, trailer parks or similar facilities, except receipts received by trailer parks from the rental of a space for a manufactured home or recreational vehicle for a period of at least one month, from lodgers, guests, roomers or occupants

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are not receipts from leasing real property for the purposes of this section.

C. Receipts attributable to the inclusion of furniture or appliances furnished as part of a leased or rented dwelling house, manufactured home or apartment by the landlord or lessor may be deducted from gross receipts."

SECTION 166. Section 7-9-54 NMSA 1978 (being Laws 1969, Chapter 144, Section 44, as amended) is amended to read:

"7-9-54. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--GOVERNMENTAL GROSS RECEIPTS [~~TAX~~]--SALES TO GOVERNMENTAL AGENCIES.--

A. Receipts from selling tangible personal property to the United States or New Mexico or a governmental unit, subdivision, agency, department or instrumentality thereof may be deducted from gross receipts or from governmental gross receipts. Unless contrary to federal law, the deduction provided by this subsection does not apply to:

(1) receipts from selling metalliferous mineral ore;

(2) receipts from selling tangible personal property that is or will be incorporated into a metropolitan redevelopment project created under the Metropolitan Redevelopment Code;

(3) receipts from selling construction material, excluding tangible personal property, whether removable or non-removable, that is or would be classified for depreciation

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purposes as three-year property, five-year property, seven-year property or ten-year property, including indirect costs related to the asset basis, by Section 168 of the Internal Revenue Code of 1986, as that section may be amended or renumbered; or

(4) that portion of the receipts from performing a "service" that reflects the value of tangible personal property utilized or produced in performance of such service.

B. Receipts from selling tangible personal property for any purpose to an Indian tribe, nation or pueblo or a governmental unit, subdivision, agency, department or instrumentality thereof for use on Indian reservations or pueblo grants may be deducted from gross receipts or from governmental gross receipts.

C. When a seller, in good faith, deducts receipts for tangible personal property sold to the state or a governmental unit, subdivision, agency, department or instrumentality thereof, after receiving written assurances from the buyer's representative that the property sold is not construction material, the department shall not assert in a later assessment or audit of the seller that the receipts are not deductible pursuant to Paragraph (3) of Subsection A of this section."

SECTION 167. Section 7-9-54.3 NMSA 1978 (being Laws 2002, Chapter 37, Section 8, as amended by Laws 2010, Chapter 77, Section 2 and by Laws 2010, Chapter 78, Section 2) is amended to read:

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"7-9-54.3. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--WIND AND SOLAR GENERATION EQUIPMENT--SALES TO GOVERNMENTS.--

A. Receipts from selling wind generation equipment or solar generation equipment to a government for the purpose of installing a wind or solar electric generation facility may be deducted from gross receipts.

B. The deduction allowed pursuant to this section shall not be claimed for receipts from an expenditure for which a taxpayer claims a credit pursuant to Section 7-2-18.25, 7-2A-25 or 7-9G-2 NMSA 1978.

C. As used in this section:

(1) "government" means the United States or the state or a governmental unit or a subdivision, agency, department or instrumentality of the federal government or the state;

(2) "related equipment" means transformers, circuit breakers and switching and metering equipment used to connect a wind or solar electric generation plant to the electric grid;

(3) "solar generation equipment" means solar thermal energy collection, concentration and heat transfer and conversion equipment; solar tracking hardware and software; photovoltaic panels and inverters; support structures; turbines and associated electrical generating equipment used to generate electricity from solar thermal energy; and related equipment; and

(4) "wind generation equipment" means wind

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generation turbines, blades, nacelles, rotors and supporting structures used to generate electricity from wind and related equipment."

SECTION 168. Section 7-9-54.4 NMSA 1978 (being Laws 2003, Chapter 62, Section 4) is amended to read:

"7-9-54.4. DEDUCTION--[~~COMPENSATING~~] STATE USE TAX--SPACE-RELATED TEST ARTICLES.--

A. The value of space-related test articles used in New Mexico exclusively for research or testing, placing on public display after research or testing or storage for future research, testing or public display may be deducted in computing [~~compensating~~] state use tax due. This subsection does not apply to any other use of a space-related test article.

B. The value of equipment and materials used in New Mexico for research or testing, or for supporting the research or testing of, space-related test articles or for storage of such equipment or materials for research or testing, or supporting the research and testing of, space-related test articles may be deducted in computing [~~compensating~~] state use tax due. This subsection does not apply to any other use of such equipment and materials.

C. As used in this section, a "space-related test article" is a material or device intended to be used primarily in research or testing to determine properties and qualities of the material or properties, qualities or functioning of a device or

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technology when the principal use of the material, device or technology is intended to be in space or as part of, or associated with, a space vehicle."

SECTION 169. Section 7-9-54.5 NMSA 1978 (being Laws 2004, Chapter 16, Section 3) is amended to read:

"7-9-54.5. DEDUCTION--[~~COMPENSATING~~] STATE USE TAX--TEST ARTICLES.--

A. The value of test articles upon which research or testing is conducted in New Mexico pursuant to a contract with the United States department of defense may be deducted in computing the [~~compensating~~] state use tax due.

B. As used in this section, "test article" means a material or device upon which research or testing is conducted to determine the properties and qualities of the material or the properties, qualities or functioning of the device or a technology used with the device.

C. The deduction provided by this section does not apply to the value of property purchased by a prime contractor operating a facility designated as a national laboratory by an act of congress."

SECTION 170. Section 7-9-55 NMSA 1978 (being Laws 1969, Chapter 144, Section 45, as amended) is amended to read:

"7-9-55. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--GOVERNMENTAL GROSS RECEIPTS [~~TAX~~]--TRANSACTION IN INTERSTATE COMMERCE.--

A. Receipts from transactions in interstate commerce

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may be deducted from gross receipts to the extent that the imposition of the [~~gross receipts~~] state sales tax would be unlawful under the United States constitution.

B. Receipts from transactions in interstate commerce may be deducted from governmental gross receipts.

C. Receipts from transmitting messages or conversations by radio other than from one point in this state to another point in this state and receipts from the sale of radio or television broadcast time when the advertising message is supplied by or on behalf of a national or regional 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."

SECTION 171. Section 7-9-56 NMSA 1978 (being Laws 1994, Chapter 112, Section 2) is amended to read:

"7-9-56. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--INTRASTATE TRANSPORTATION AND SERVICES IN INTERSTATE COMMERCE.--

A. Receipts from transporting persons or property from one point to another in this state may be deducted from gross receipts when such persons or property, including any special or extra service reasonably necessary in connection therewith, is being transported in interstate or foreign commerce under a single contract.

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B. Receipts from handling, storage, drayage or packing of property or any other accessorial services on property, which property has moved or will move in interstate or foreign commerce, when such services are performed by a local agent for a carrier or by a carrier and when such services are performed under a single contract in relation to transportation services, may be deducted from gross receipts.

C. Receipts from providing telephone or telegraph services in this state that will be used by other persons in providing telephone or telegraph services to the final user may be deducted from gross receipts."

SECTION 172. Section 7-9-56.1 NMSA 1978 (being Laws 1998, Chapter 92, Section 1, as amended) is amended to read:

"7-9-56.1. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--INTERNET SERVICES.--On and after July 1, 1998, receipts from providing leased telephone lines, telecommunications services, internet services, internet access services or computer programming that will be used by other persons in providing internet access and related services to the final user may be deducted from gross receipts if the sale is made to a person who is subject to the [~~gross receipts~~] state sales tax or the interstate telecommunications [~~gross receipts~~] sales tax."

SECTION 173. Section 7-9-56.2 NMSA 1978 (being Laws 1998, Chapter 92, Section 2) is amended to read:

"7-9-56.2. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--HOSTING [~~WORLD~~

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~~WIDE WEB SITES~~] WORLDWIDE WEBSITES.--Receipts from hosting [~~world wide web sites~~] worldwide websites may be deducted from gross receipts. For purposes of this section, "hosting" means storing information on computers attached to the internet."

SECTION 174. Section 7-9-57 NMSA 1978 (being Laws 1969, Chapter 144, Section 47, as amended) is amended to read:

"7-9-57. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--SALE OF CERTAIN SERVICES TO AN OUT-OF-STATE BUYER.--

A. Receipts from performing a service may be deducted from gross receipts if the sale of the service is made to an out-of-state buyer who delivers to the seller either an appropriate nontaxable transaction certificate or other evidence acceptable to the secretary unless the buyer of the service or any of the buyer's employees or agents makes initial use of the product of the service in New Mexico or takes delivery of the product of the service in New Mexico.

B. Receipts from performing a service that initially qualified for the deduction provided in this section but that no longer meets the criteria set forth in Subsection A of this section shall be deductible for the period prior to the disqualification."

SECTION 175. Section 7-9-57.1 NMSA 1978 (being Laws 1998, Chapter 92, Section 3) is amended to read:

"7-9-57.1. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--SALES THROUGH [~~WORLD WIDE WEB SITES~~] WORLDWIDE WEBSITES.--Receipts of any person

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derived from the sale of a service or property made through a [~~world wide web site~~] worldwide website to a person with a billing address outside New Mexico may be deducted from gross receipts."

SECTION 176. Section 7-9-57.2 NMSA 1978 (being Laws 2002, Chapter 10, Section 1) is amended to read:

"7-9-57.2. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--SALE OF SOFTWARE DEVELOPMENT SERVICES.--

A. To stimulate new business development, the receipts of an eligible software development company from the sale of software development services that are performed in a qualified area may be deducted from gross receipts.

B. As used in this section:

(1) "eligible software development company" means a taxpayer who is not a successor in business of another taxpayer; [~~and~~] whose primary business in New Mexico is established after the effective date of this section and is providing software development services; and who had no business location in New Mexico other than in a qualified area during the period for which a deduction under this section is sought;

(2) "qualified area" means the state of New Mexico except for an incorporated municipality with a population of more than fifty thousand according to the most recent federal decennial census; and

(3) "software development services" means custom software design and development and [~~web site~~] website design and

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development but does not include software implementation or support services."

SECTION 177. Section 7-9-58 NMSA 1978 (being Laws 1969, Chapter 144, Section 48, as amended) is amended to read:

"7-9-58. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--FEED--FERTILIZERS.--

A. Receipts from selling feed [~~for livestock~~], including the baling wire or twine used to contain the feed, for livestock, fish raised for human consumption, poultry or animals raised for their hides or pelts and receipts from selling seeds, roots, bulbs, plants, soil conditioners, fertilizers, insecticides, germicides, insects used to control populations of other insects, fungicides or weedicides or water for irrigation purposes may be deducted from gross receipts if the sale is made to a person who states in writing that [~~he~~] the person is regularly engaged in the business of farming, ranching or raising animals for their hides or pelts.

B. Receipts of auctioneers from selling livestock or other agricultural products at auction may also be deducted from gross receipts."

SECTION 178. Section 7-9-59 NMSA 1978 (being Laws 1969, Chapter 144, Section 49, as amended by Laws 2000, Chapter 26, Section 1 and also by Laws 2000, Chapter 87, Section 1) is amended to read:

"7-9-59. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--WAREHOUSING,

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THRESHING, HARVESTING, GROWING, CULTIVATING AND PROCESSING AGRICULTURAL PRODUCTS.--

A. Receipts from warehousing grain or other agricultural products may be deducted from gross receipts.

B. Receipts from threshing, cleaning, growing, cultivating or harvesting agricultural products, including the ginning of cotton, testing and transporting milk for the producer or nonprofit marketing association from the farm to a milk processing or dairy product manufacturing plant or processing for growers, producers or nonprofit marketing associations of agricultural products raised for food and fiber, including livestock, may be deducted from gross receipts."

SECTION 179. Section 7-9-60 NMSA 1978 (being Laws 1970, Chapter 12, Section 4, as amended) is amended to read:

"7-9-60. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--GOVERNMENTAL GROSS RECEIPTS [~~TAX~~]--SALES TO CERTAIN ORGANIZATIONS.--

A. Except as provided otherwise in Subsection B of this section, receipts from selling tangible personal property to 501(c)(3) organizations may be deducted from gross receipts or from governmental gross receipts if the sale is made to an organization that delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate shall employ the tangible personal property in the conduct of functions described in Section 501(c)(3) and shall not employ the tangible personal property in the conduct of an

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unrelated trade or business as defined in Section 513 of the United States Internal Revenue Code of 1986, as amended or renumbered.

B. The deduction provided by this section does not apply to receipts from selling construction material, excluding tangible personal property, whether removable or non-removable, that is or would be classified for depreciation purposes as three-year property, five-year property, seven-year property or ten-year property, including indirect costs related to the asset basis, by Section 168 of the Internal Revenue Code of 1986, as that section may be amended or renumbered, or from selling metalliferous mineral ore; except that receipts from selling construction material or from selling metalliferous mineral ore to a 501(c)(3) organization that is organized for the purpose of providing homeownership opportunities to low-income families may be deducted from gross receipts. Receipts may be deducted under this subsection only if the buyer delivers a nontaxable transaction certificate to the seller. The buyer shall use the property in the conduct of functions described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and shall not employ the tangible personal property in the conduct of an unrelated trade or business, as defined in Section 513 of that code.

C. For the purposes of this section, "501(c)(3) organization" means an organization that has been granted exemption from the federal income tax by the United States

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commissioner of internal revenue as an organization described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended or renumbered."

SECTION 180. Section 7-9-61.1 NMSA 1978 (being Laws 1981, Chapter 37, Section 52) is amended to read:

"7-9-61.1. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--CERTAIN RECEIPTS.--Receipts from charges made in connection with the origination, making or assumption of a loan or from charges made for handling loan payments may be deducted from gross receipts."

SECTION 181. Section 7-9-62 NMSA 1978 (being Laws 1969, Chapter 144, Section 52, as amended) is amended to read:

"7-9-62. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--AGRICULTURAL IMPLEMENTS--AIRCRAFT MANUFACTURERS--VEHICLES THAT ARE NOT REQUIRED TO BE REGISTERED--AIRCRAFT PARTS AND MAINTENANCE SERVICES--REPORTING REQUIREMENTS.--

A. Except for receipts deductible under Subsection B of this section, fifty percent of the receipts from selling agricultural implements, farm tractors, aircraft or vehicles that are not required to be registered under the Motor Vehicle Code may be deducted from gross receipts; provided that, with respect to agricultural implements, the sale is made to a person who states in writing that the person is regularly engaged in the business of farming or ranching. Any deduction allowed under Section 7-9-71 NMSA 1978 must be taken before the deduction allowed by this subsection is computed.

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B. Receipts of an aircraft manufacturer or affiliate from selling aircraft or from selling aircraft flight support, pilot training or maintenance training services may be deducted from gross receipts. Any deduction allowed under Section 7-9-71 NMSA 1978 must be taken before the deduction allowed by this subsection is computed.

C. Receipts from selling aircraft parts or maintenance services for aircraft or aircraft parts may be deducted from gross receipts. Any deduction allowed under Section 7-9-71 NMSA 1978 must be taken before the deduction allowed by this subsection is computed.

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

E. The department shall compile an annual report on the deductions provided by this section that shall include the number of taxpayers approved by the department to receive the deductions, the aggregate amount of deductions approved and any other information necessary to evaluate the effectiveness of the deductions. Beginning in 2019 and every five years thereafter that the deductions are in effect, the department shall compile and present the annual reports to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the deductions.

F. As used in this section:

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(1) "affiliate" means a business entity that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with the aircraft manufacturer;

(2) "agricultural implement" means a tool, utensil or instrument that is depreciable for federal income tax purposes and that is:

(a) designed to irrigate agricultural crops above ground or below ground at the place where the crop is grown; or

(b) designed primarily for use with a source of motive power, such as a tractor, in planting, growing, cultivating, harvesting or processing agricultural crops at the place where the crop is grown; in raising poultry or livestock; or in obtaining or processing food or fiber, such as eggs, milk, wool or mohair, from living poultry or livestock at the place where the poultry or livestock are kept for this purpose;

(3) "aircraft manufacturer" means a business entity that in the ordinary course of business designs and builds private or commercial aircraft certified by the federal aviation administration;

(4) "business entity" means a corporation, limited liability company, partnership, limited partnership, limited liability partnership or real estate investment trust, but does not mean an individual or a joint venture;

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(5) "control" means equity ownership in a business entity that:

(a) represents at least fifty percent of the total voting power of that business entity; and

(b) has a value equal to at least fifty percent of the total equity of that business entity; and

(6) "flight support" means providing navigation data, charts, weather information, online maintenance records and other aircraft or flight-related information and the software needed to access the information."

SECTION 182. Section 7-9-62.1 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 4, Section 2, as amended) is amended to read:

"7-9-62.1. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--AIRCRAFT SALES AND SERVICES--REPORTING REQUIREMENTS.--

A. Receipts from the sale of or from maintaining, refurbishing, remodeling or otherwise modifying a commercial or military carrier over ten thousand pounds gross landing weight may be deducted from gross receipts.

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

C. The department shall compile an annual report on the deduction provided by this section that shall include the number of taxpayers approved by the department to receive the deduction, the aggregate amount of deductions approved and any

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other information necessary to evaluate the effectiveness of the deduction. Beginning in 2019 and every five years thereafter that the deduction is in effect, the department shall compile and present the annual reports to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the deduction."

SECTION 183. Section 7-9-63 NMSA 1978 (being Laws 1969, Chapter 144, Section 53) is amended to read:

"7-9-63. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--PUBLICATION SALES.--Receipts from publishing newspapers or magazines, except from selling advertising space, may be deducted from gross receipts.

Receipts from selling magazines at retail may not be deducted from gross receipts."

SECTION 184. Section 7-9-64 NMSA 1978 (being Laws 1969, Chapter 144, Section 54) is amended to read:

"7-9-64. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--NEWSPAPER SALES.--Receipts from selling newspapers, except from selling advertising space, may be deducted from gross receipts."

SECTION 185. Section 7-9-65 NMSA 1978 (being Laws 1969, Chapter 144, Section 56) is amended to read:

"7-9-65. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--CHEMICALS AND REAGENTS.--Receipts from selling chemicals or reagents to any mining, milling or oil company for use in processing ores or oil in a mill, smelter or refinery or in acidizing oil wells and

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receipts from selling chemicals or reagents in lots in excess of eighteen tons may be deducted from gross receipts. Receipts from selling explosives, blasting powder or dynamite may not be deducted from gross receipts."

SECTION 186. Section 7-9-66 NMSA 1978 (being Laws 1969, Chapter 144, Section 57, as amended) is amended to read:

"7-9-66. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--COMMISSIONS.--

A. Receipts derived from commissions on sales of tangible personal property [~~which~~] that are not subject to the [~~gross receipts~~] state sales tax may be deducted from gross receipts.

B. Receipts of the owner of a dealer store derived from commissions received for performing the service of selling from the owner's dealer store a principal's tangible personal property may be deducted from gross receipts.

C. As used in this section, "dealer store" means a merchandise facility open to the public that is owned and operated by a person who contracts with a principal to act as an agent for the sale from that facility of merchandise owned by the principal."

SECTION 187. Section 7-9-66.1 NMSA 1978 (being Laws 1984, Chapter 129, Section 2, as amended) is amended to read:

"7-9-66.1. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--CERTAIN REAL ESTATE TRANSACTIONS.--

A. Receipts from real estate commissions on that

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portion of the transaction subject to [~~gross receipts~~] state sales tax pursuant to Subsection A of Section 7-9-53 NMSA 1978 may be deducted from gross receipts if the person claiming the deduction submits to the department evidence that the secretary finds substantiates the deduction.

B. For the purposes of this section, "commissions on that portion of the transaction subject to [~~gross receipts~~] state sales tax" means that portion of the commission that bears the same relationship to the total commission as the amount of the transaction subject to [~~gross receipts~~] state sales tax does to the total purchase price."

SECTION 188. Section 7-9-67 NMSA 1978 (being Laws 1969, Chapter 144, Section 58, as amended) is amended to read:

"7-9-67. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--GOVERNMENTAL GROSS RECEIPTS [~~TAX~~]--REFUNDS--UNCOLLECTIBLE DEBTS.--

A. Refunds and allowances made to buyers or amounts written off the books as an uncollectible debt by a person reporting [~~gross receipts~~] state sales tax on an accrual basis may be deducted from gross receipts. If debts reported uncollectible are subsequently collected, such receipts shall be included in gross receipts in the month of collection.

B. Refunds and allowances made to buyers or amounts written off the books as an uncollectible debt by a person reporting governmental [~~gross receipts~~] sales tax on an accrual basis may be deducted from governmental gross receipts. If debts

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reported uncollectible are subsequently collected, such receipts shall be included in governmental gross receipts in the month of collection."

SECTION 189. Section 7-9-68 NMSA 1978 (being Laws 1969, Chapter 144, Section 60) is amended to read:

"7-9-68. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--WARRANTY OBLIGATIONS.--Receipts of a dealer from furnishing goods or services to the purchaser of tangible personal property to fulfill a warranty obligation of the manufacturer of the property may be deducted from gross receipts."

SECTION 190. Section 7-9-69 NMSA 1978 (being Laws 1969, Chapter 144, Section 61, as amended) is amended to read:

"7-9-69. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--ADMINISTRATIVE AND ACCOUNTING SERVICES.--

A. Receipts of a business entity for administrative, managerial, accounting and customer services performed by it for an affiliate upon a nonprofit or cost basis and receipts of a business entity from an affiliate for the joint use or sharing of office machines and facilities upon a nonprofit or cost basis may be deducted from gross receipts.

B. For the purposes of this section:

(1) "affiliate" means a business entity that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with another business entity;

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(2) "business entity" means a corporation, limited liability company, partnership, limited partnership, limited liability partnership or real estate investment trust, but does not mean an individual or a joint venture; and

(3) "control" means equity ownership in a business entity that:

(a) represents at least fifty percent of the total voting power of that business entity; or

(b) has a value equal to at least fifty percent of the total equity of that business entity."

SECTION 191. Section 7-9-70 NMSA 1978 (being Laws 1969, Chapter 144, Section 62) is amended to read:

"7-9-70. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--RENTAL OR LEASE OF VEHICLES USED IN INTERSTATE COMMERCE.--Receipts from the rental or leasing of vehicles used in the transportation of passengers or property for hire in interstate commerce under the regulations or authorization of any agency of the United States may be deducted from gross receipts."

SECTION 192. Section 7-9-71 NMSA 1978 (being Laws 1969, Chapter 144, Section 63, as amended) is amended to read:

"7-9-71. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--TRADE-IN ALLOWANCE.--That portion of the receipts of a seller that is represented by a trade-in of tangible personal property of the same type being sold, except for the receipts represented by a trade-in of a manufactured home, may be deducted from gross

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receipts."

SECTION 193. Section 7-9-73 NMSA 1978 (being Laws 1970, Chapter 78, Section 2, as amended) is amended to read:

"7-9-73. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--GOVERNMENTAL GROSS RECEIPTS--SALE OF PROSTHETIC DEVICES.--Receipts from selling prosthetic devices may be deducted from gross receipts or from governmental gross receipts if the sale is made to a person who is licensed to practice medicine, osteopathic medicine, dentistry, podiatry, optometry, chiropractic or professional nursing and who delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate must deliver the prosthetic device incidental to the performance of a service and must include the value of the prosthetic device in [~~his~~] the charge for the service."

SECTION 194. Section 7-9-73.2 NMSA 1978 (being Laws 1998, Chapter 95, Section 2 and Laws 1998, Chapter 99, Section 4, as amended) is amended to read:

"7-9-73.2. DEDUCTION--GROSS RECEIPTS [~~TAX~~] AND GOVERNMENTAL GROSS RECEIPTS [~~TAX~~]--PRESCRIPTION DRUGS--OXYGEN.--

A. Receipts from the sale of prescription drugs and oxygen and oxygen services provided by a licensed medicare durable medical equipment provider may be deducted from gross receipts and governmental gross receipts.

B. For the purposes of this section, "prescription drugs" means insulin and substances that are:

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(1) dispensed by or under the supervision of a licensed pharmacist or by a physician or other person authorized under state law to do so;

(2) prescribed for a specified person by a person authorized under state law to prescribe the substance; and

(3) subject to the restrictions on sale contained in Subparagraph 1 of Subsection (b) of 21 USCA 353."

SECTION 195. Section 7-9-73.3 NMSA 1978 (being Laws 2014, Chapter 26, Section 1) is amended to read:

"7-9-73.3. DEDUCTION--GROSS RECEIPTS [~~TAX~~] AND GOVERNMENTAL GROSS RECEIPTS [~~TAX~~]--DURABLE MEDICAL EQUIPMENT--MEDICAL SUPPLIES.--

A. Receipts from transactions occurring prior to July 1, 2020 that are from the sale or rental of durable medical equipment and medical supplies may be deducted from gross receipts and governmental gross receipts.

B. The purpose of the deduction provided in this section is to help protect jobs and retain businesses in New Mexico that sell or rent durable medical equipment and medical supplies.

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

D. The deduction provided in this section shall be taken only by a taxpayer participating in the New Mexico medicaid

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program whose gross receipts are no less than ninety percent derived from the sale or rental of durable medical equipment, medical supplies or infusion therapy services, including the medications used in infusion therapy services.

E. Acceptance of a deduction provided by this section is authorization by the taxpayer receiving the deduction for the department to reveal information to the revenue stabilization and tax policy committee and the legislative finance committee necessary to analyze the effectiveness and cost of the deduction and whether the deduction is performing the purpose for which it was created.

F. The department shall compile an annual report on the deduction provided by this section that shall include the number of taxpayers approved by the department to receive the deduction, the aggregate amount of deductions approved and any other information necessary to evaluate the effectiveness of the deduction. Beginning in 2019 and every five years thereafter, the department shall compile and present the annual reports to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the deduction and whether the deduction is performing the purpose for which it was created.

G. As used in this section:

(1) "durable medical equipment" means a medical assistive device or other equipment that:

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(a) can withstand repeated use;

(b) is primarily and customarily used to serve a medical purpose and is not useful to an individual in the absence of an illness, injury or other medical necessity, including improved functioning of a body part;

(c) is appropriate for use at home exclusively by the eligible recipient for whom the durable medical equipment is prescribed; and

(d) is prescribed by a physician or other person licensed by the state to prescribe durable medical equipment;

(2) "infusion therapy services" means the administration of prescribed medication through a needle or catheter;

(3) "medical supplies" means items for a course of medical treatment, including nutritional products, that are:

(a) necessary for an ongoing course of medical treatment;

(b) disposable and cannot be reused; and

(c) prescribed by a physician or other person licensed by the state to prescribe medical supplies; and

(4) "prescribe" means to authorize the use of an item or substance for a course of medical treatment."

SECTION 196. Section 7-9-74 NMSA 1978 (being Laws 1971, Chapter 217, Section 2, as amended) is amended to read:

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"7-9-74. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--SALE OF PROPERTY USED IN THE MANUFACTURE OF JEWELRY.--Receipts from selling tangible personal property may be deducted from gross receipts if the sale is made to a person who states in writing that [~~he~~] the person will use the property so purchased in manufacturing jewelry. The buyer must incorporate the tangible personal property as an ingredient or component part of the jewelry that [~~he~~] the buyer is in the business of manufacturing. The deduction allowed a seller under this section shall not exceed five thousand dollars ($5,000) during any twelve-month period attributable to purchases by a single purchaser."

SECTION 197. Section 7-9-75 NMSA 1978 (being Laws 1972, Chapter 39, Section 2) is amended to read:

"7-9-75. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--SALE OF CERTAIN SERVICES PERFORMED DIRECTLY ON PRODUCT MANUFACTURED.--Receipts from selling the service of combining or processing components or materials may be deducted from gross receipts if the sale is made to a person engaged in the business of manufacturing who delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate must have the service performed directly upon tangible personal property [~~which he~~] that the buyer is in the business of manufacturing or upon ingredients or component parts thereof."

SECTION 198. Section 7-9-76 NMSA 1978 (being Laws 1977, Chapter 288, Section 2) is amended to read:

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"7-9-76. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--TRAVEL AGENTS' COMMISSIONS PAID BY CERTAIN ENTITIES.--Receipts of travel agents derived from commissions paid by maritime transportation companies and interstate airlines, railroads and passenger buses for booking, referral, reservation or ticket services may be deducted from gross receipts."

SECTION 199. Section 7-9-76.1 NMSA 1978 (being Laws 1979, Chapter 338, Section 7, as amended) is amended to read:

"7-9-76.1. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--CERTAIN MANUFACTURED HOMES.--Receipts from the resale of a manufactured home may be deducted from gross receipts if the sale is made of a manufactured home that was subject to the [~~gross receipts, compensating~~] state sales tax, state use tax or motor vehicle excise tax upon its initial sale or use in New Mexico. The seller shall retain and furnish proof satisfactory to the department that a [~~gross receipts, compensating~~] state sales tax, state use tax or motor vehicle excise tax was paid upon the initial sale or use in New Mexico of a manufactured home, and in the absence of such proof, it is presumed that the tax was not paid. Proof that a New Mexico certificate of title was issued for a manufactured home in 1972 or a prior year or proof that a manufactured home for which a New Mexico certificate of title has been issued was manufactured in 1967 or a prior year is proof that a motor vehicle excise tax was paid on the initial sale or use in New Mexico of that manufactured home."

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SECTION 200. Section 7-9-76.2 NMSA 1978 (being Laws 1984, Chapter 2, Section 6) is amended to read:

"7-9-76.2. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--FILMS AND TAPES.--Receipts from the leasing or licensing of theatrical and television films and tapes to a person engaged in the business of providing public or commercial entertainment from which gross receipts are derived may be deducted from gross receipts."

SECTION 201. Section 7-9-77 NMSA 1978 (being Laws 1966, Chapter 47, Section 15, as amended) is amended to read:

"7-9-77. DEDUCTIONS--[~~COMPENSATING~~] STATE USE TAX.--

A. Fifty percent of the value of agricultural implements, farm tractors, aircraft not exempted under Section 7-9-30 NMSA 1978 or vehicles that are not required to be registered under the Motor Vehicle Code may be deducted from the value in computing the [~~compensating~~] state use tax due; provided that, with respect to use of agricultural implements, the person using the property is regularly engaged in the business of farming or ranching. Any deduction allowed under Subsection B of this section is to be taken before the deduction allowed by this subsection is computed. As used in this subsection, "agricultural implement" means a tool, utensil or instrument that is:

(1) designed primarily for use with a source of motive power, such as a tractor, in planting, growing, cultivating, harvesting or processing agricultural produce at the place where the produce is grown; in raising poultry or livestock;

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or in obtaining or processing food or fiber, such as eggs, milk, wool or mohair, from living poultry or livestock at the place where the poultry or livestock are kept for this purpose; and

(2) depreciable for federal income tax purposes.

B. That portion of the value of tangible personal property on which an allowance was granted to the buyer for a trade-in of tangible personal property of the same type that was bought may be deducted from the value in computing the [~~compensating~~] state use tax due."

SECTION 202. Section 7-9-77.1 NMSA 1978 (being Laws 1998, Chapter 96, Section 1, as amended) is amended to read:

"7-9-77.1. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--CERTAIN MEDICAL AND HEALTH CARE SERVICES.--

A. Receipts of a health care practitioner from payments by the United States government or any agency thereof for provision of medical and other health services by a health care practitioner or of medical or other health and palliative services by hospices or nursing homes to medicare beneficiaries pursuant to the provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

B. Receipts of a health care practitioner from payments by a third-party administrator of the federal TRICARE program for provision of medical and other health services by medical doctors and osteopathic physicians to covered beneficiaries may be deducted from gross receipts.

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C. Receipts of a health care practitioner from payments by or on behalf of the Indian health service of the United States department of health and human services for provision of medical and other health services by medical doctors and osteopathic physicians to covered beneficiaries may be deducted from gross receipts.

D. Receipts of a clinical laboratory from payments by the United States government or any agency thereof for medical services provided by the clinical laboratory to medicare beneficiaries pursuant to the provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

E. Receipts of a home health agency from payments by the United States government or any agency thereof for medical, other health and palliative services provided by the home health agency to medicare beneficiaries pursuant to the provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

F. Prior to July 1, 2024, receipts of a dialysis facility from payments by the United States government or any agency thereof for medical and other health services provided by the dialysis facility to medicare beneficiaries pursuant to the provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

G. A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction separately in a

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manner required by the department. A taxpayer who has receipts that are deductible pursuant to this section and Section 7-9-93 NMSA 1978 shall deduct the receipts under this section prior to calculating the receipts that may be deducted pursuant to Section 7-9-93 NMSA 1978.

H. The department shall compile an annual report on the deductions created pursuant to this section that shall include the number of taxpayers approved by the department to receive each deduction, the aggregate amount of deductions approved and any other information necessary to evaluate the effectiveness of the deductions. The department shall compile and present the annual reports to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the deductions and whether the deductions are providing a benefit to the state.

I. For the purposes of this section:

(1) "clinical laboratory" means a laboratory accredited pursuant to 42 USCA 263a;

(2) "dialysis facility" means an end-stage renal disease facility as defined pursuant to 42 C.F.R. 405.2102;

(3) "health care practitioner" means:

(a) an athletic trainer licensed pursuant to the Athletic Trainer Practice Act;

(b) an audiologist licensed pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing

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Practices Act;

(c) a chiropractic physician licensed pursuant to the Chiropractic Physician Practice Act;

(d) a counselor or therapist practitioner licensed pursuant to the Counseling and Therapy Practice Act;

(e) a dentist licensed pursuant to the Dental Health Care Act;

(f) a doctor of oriental medicine licensed pursuant to the Acupuncture and Oriental Medicine Practice Act;

(g) an independent social worker licensed pursuant to the Social Work Practice Act;

(h) a massage therapist licensed pursuant to the Massage Therapy Practice Act;

(i) a naprapath licensed pursuant to the Naprapathic Practice Act;

(j) a nutritionist or dietitian licensed pursuant to the Nutrition and Dietetics Practice Act;

(k) an occupational therapist licensed pursuant to the Occupational Therapy Act;

(l) an optometrist licensed pursuant to the Optometry Act;

(m) an osteopathic physician licensed pursuant to the Osteopathic Medicine Act;

(n) a pharmacist licensed pursuant to the Pharmacy Act;

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(o) a physical therapist licensed pursuant to the Physical Therapy Act;

(p) a physician licensed pursuant to the Medical Practice Act;

(q) a podiatrist licensed pursuant to the Podiatry Act;

(r) a psychologist licensed pursuant to the Professional Psychologist Act;

(s) a radiologic technologist licensed pursuant to the Medical Imaging and Radiation Therapy Health and Safety Act;

(t) a registered nurse licensed pursuant to the Nursing Practice Act;

(u) a respiratory care practitioner licensed pursuant to the Respiratory Care Act; and

(v) a speech-language pathologist licensed pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

(4) "home health agency" means a for-profit entity that is licensed by the department of health and certified by the federal centers for medicare and medicaid services as a home health agency and certified to provide medicare services;

(5) "hospice" means a for-profit entity licensed by the department of health as a hospice and certified to provide medicare services;

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(6) "nursing home" means a for-profit entity licensed by the department of health as a nursing home and certified to provide medicare services; and

(7) "TRICARE program" means the program defined in 10 U.S.C. 1072(7)."

SECTION 203. Section 7-9-78 NMSA 1978 (being Laws 1969, Chapter 144, Section 65, as amended) is amended to read:

"7-9-78. DEDUCTIONS--[~~COMPENSATING~~] STATE USE TAX--USE OF TANGIBLE PERSONAL PROPERTY FOR LEASING.--

A. Except as provided otherwise in Subsection B of this section, the value of tangible personal property may be deducted in computing the [~~compensating~~] state use tax due if the person using the tangible personal property:

(1) is engaged in a business which derives a substantial portion of its receipts from leasing or selling tangible personal property of the type leased;

(2) does not use the tangible personal property in any manner other than holding it for lease or sale or leasing or selling it either by itself or in combination with other tangible personal property in the ordinary course of business; and

(3) does not use the tangible personal property in a manner incidental to the performance of a service.

B. The deduction provided by this section shall not apply to the value of:

(1) furniture or appliances furnished as part of

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a leased or rented dwelling house or apartment by the landlord or lessor;

(2) coin-operated machines; or

(3) manufactured homes."

SECTION 204. Section 7-9-78.1 NMSA 1978 (being Laws 1999, Chapter 231, Section 4) is amended to read:

"7-9-78.1. DEDUCTION--[~~COMPENSATING~~] STATE USE TAX--URANIUM ENRICHMENT PLANT EQUIPMENT.--The value of equipment and replacement parts for that equipment may be deducted in computing the [~~compensating~~] state use tax due if the person uses the equipment and replacement parts to enrich uranium in a uranium enrichment plant."

SECTION 205. Section 7-9-79 NMSA 1978 (being Laws 1966, Chapter 47, Section 16, as amended) is amended to read:

"7-9-79. CREDIT--[~~COMPENSATING~~] STATE USE TAX.--

A. If, on property bought outside this state, a gross receipts, sales, [~~compensating~~] use or similar tax has been levied by another state or political subdivision thereof on the transaction by which the person using the property in New Mexico acquired the property or a [~~compensating~~] use or similar tax has been levied by another state on the use of the property subsequent to its acquisition by the person using the property in New Mexico and such tax has been paid, the amount of such tax paid may be credited against any [~~compensating~~] state use tax due this state on the same property.

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B. When the receipts from the sale of real property constructed by a person in the ordinary course of [~~his~~] the person's construction business are subject to the [~~gross receipts~~] state sales tax, the amount of [~~compensating~~] state use tax previously paid by the person on materials [~~which~~] that became an ingredient or component part of the construction project and on construction services performed upon the construction project may be credited against the [~~gross receipts~~] state sales tax due on the sale."

SECTION 206. Section 7-9-79.1 NMSA 1978 (being Laws 1989, Chapter 262, Section 8, as amended) is amended to read:

"7-9-79.1. CREDIT--[~~GROSS RECEIPTS~~] STATE SALES TAX--SERVICES.--If on services performed outside the state a gross receipts, sales or similar tax has been levied by another state or a political subdivision thereof and such tax has been paid, the amount of the tax paid may be credited against any [~~gross receipts~~] state sales tax due this state on the receipts after July 1, 1989 from the sale in New Mexico of the product of the services performed outside this state. The amount of credit shall not exceed an amount equal to the rate of tax imposed under Section 7-9-4 NMSA 1978 multiplied by the amount subject to tax by both New Mexico and the other state or political subdivision of that state."

SECTION 207. Section 7-9-79.2 NMSA 1978 (being Laws 2007, Chapter 204, Section 9) is amended to read:

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"7-9-79.2. [~~GROSS RECEIPTS~~] STATE SALES TAX--[~~COMPENSATING~~] STATE USE TAX--BIODIESEL BLENDING FACILITY TAX CREDIT.--

A. A taxpayer who is a rack operator as defined in the Special Fuels Supplier Tax Act and who installs biodiesel blending equipment in property owned by the taxpayer for the purpose of establishing or expanding a facility to produce blended biodiesel fuel is eligible to claim a credit against [~~gross receipts~~] state sales tax or [~~compensating~~] state use tax. The credit shall be an amount equal to thirty percent of the purchase cost of the equipment plus thirty percent of the cost of installing that equipment. The credit provided by this section may be referred to as the "biodiesel blending facility tax credit".

B. The biodiesel blending facility tax credit shall not exceed fifty thousand dollars ($50,000) with respect to equipment installed at any one facility.

C. Upon application from a taxpayer wishing to claim the biodiesel blending facility tax credit, the energy, minerals and natural resources department shall determine if the equipment for which the tax credit will be claimed meets the requirements of this section and if purchase and installation costs reported by the taxpayer are legitimate. Upon these determinations being made in favor of the taxpayer, the energy, minerals and natural resources department shall issue a dated certificate of eligibility containing this information and an estimate of the amount of the biodiesel blending facility tax credit for which the

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taxpayer is eligible.

D. To claim the biodiesel blending facility tax credit, the taxpayer shall provide to the taxation and revenue department the certificate of eligibility from the energy, minerals and natural resources department. Upon receipt of the certificate, the taxation and revenue department shall approve the claim for the credit if the total cumulative amount of approved claims for the credit for all taxpayers for the calendar year does not exceed one million dollars ($1,000,000). The department shall maintain a record of the cumulative amount of claims for the credit that have been approved and when it determines that this cumulative amount has reached one million dollars ($1,000,000), it shall cease approving any additional claims for the biodiesel blending facility tax credit.

E. If a taxpayer who has received the biodiesel blending facility tax credit ceases biodiesel blending without completing at least one hundred eighty days of availability of the facility within the first three hundred sixty-five days after the issuance of the certificate of eligibility from the energy, minerals and natural resources department, any amount of approved credit not applied against the taxpayer's [~~gross receipts~~] state sales tax or [~~compensating~~] state use tax liability shall be extinguished. The taxpayer must amend the taxpayer's return, self-assess the tax owed and return any biodiesel blending facility tax credit received within four hundred twenty-five days

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of the date of issuance of the certificate of eligibility.

F. The tax credit provided by this section may only be applied against the taxpayer's [~~gross receipts~~] state sales tax liability or [~~compensating~~] state use tax liability. If the credit exceeds the taxpayer's tax liability in the reporting period for which it is granted, the credit may be carried forward for four years from the date of the certificate of eligibility.

G. For the purposes of this section:

(1) "biodiesel" means renewable, biodegradable, monoalkyl ester combustible liquid fuel that is derived from agricultural plant oils or animal fats and that meets American society for testing and materials D 6751 standard specification for biodiesel B100 blend stock for distillate fuels;

(2) "biodiesel blending equipment" means equipment necessary for the process of blending biodiesel with diesel fuel to produce blended biodiesel fuel;

(3) "blended biodiesel fuel" means a diesel fuel that contains at least two percent biodiesel; and

(4) "diesel fuel" means any diesel-engine fuel used for the generation of power to propel a motor vehicle."

SECTION 208. Section 7-9-83 NMSA 1978 (being Laws 1993, Chapter 364, Section 1, as amended) is amended to read:

"7-9-83. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--JET FUEL.--

A. From July 1, 2003 through June 30, 2017, fifty-five percent of the receipts from the sale of fuel specially

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prepared and sold for use in turboprop or jet-type engines as determined by the department may be deducted from gross receipts.

B. After June 30, 2017, forty percent of the receipts from the sale of fuel specially prepared and sold for use in turboprop or jet-type engines as determined by the department may be deducted from gross receipts."

SECTION 209. Section 7-9-84 NMSA 1978 (being Laws 1993, Chapter 364, Section 2, as amended) is amended to read:

"7-9-84. DEDUCTION--[~~COMPENSATING~~] STATE USE TAX--JET FUEL.--

A. From July 1, 2003 through June 30, 2017, fifty-five percent of the value of the fuel specially prepared and sold for use in turboprop or jet-type engines as determined by the department may be deducted in computing the [~~compensating~~] state use tax due.

B. After June 30, 2017, forty percent of the value of the fuel specially prepared and sold for use in turboprop or jet-type engines as determined by the department may be deducted in computing the [~~compensating~~] state use tax due."

SECTION 210. Section 7-9-85 NMSA 1978 (being Laws 1994, Chapter 43, Section 1) is amended to read:

"7-9-85. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--CERTAIN ORGANIZATION FUNDRAISERS.--Receipts from not more than two fundraising events annually conducted by an organization that is exempt from the federal income tax as an organization described in

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Section 501(c), other than an organization described in Section 501(c)(3), of the United States Internal Revenue Code of 1986, as amended, may be deducted from gross receipts."

SECTION 211. Section 7-9-86 NMSA 1978 (being Laws 1995, Chapter 80, Section 1, as amended) is amended to read:

"7-9-86. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--SALES TO QUALIFIED FILM PRODUCTION COMPANY.--

A. Receipts from selling or leasing property and from performing services may be deducted from gross receipts or from governmental gross receipts if the sale, lease or performance is made to a qualified production company that delivers a nontaxable transaction certificate to the seller, lessor or performer.

B. For the purposes of this section:

(1) "film" means a single media or multimedia program, including an advertising message, that:

(a) is fixed on film, digital medium, videotape, computer disc, laser disc or other similar delivery medium;

(b) can be viewed or reproduced;

(c) is not intended to and does not violate a provision of Chapter 30, Article 37 NMSA 1978; and

(d) is intended for reasonable commercial exploitation for the delivery medium used;

(2) "production company" means a person that produces one or more films for exhibition in theaters, on

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television or elsewhere;

(3) "production costs" means the costs of the following:

(a) a story and scenario to be used for a film;

(b) salaries of talent, management and labor, including payments to personal services corporations for the services of a performing artist;

(c) set construction and operations, wardrobe, accessories and related services;

(d) photography, sound synchronization, lighting and related services;

(e) editing and related services;

(f) rental of facilities and equipment; or

(g) other direct costs of producing the film in accordance with generally accepted entertainment industry practice; and

(4) "qualified production company" means a production company that meets the provisions of this section and has registered or will register with the New Mexico film division of the economic development department.

C. A qualified production company may deliver the nontaxable transaction certificates authorized by this section only with respect to production costs."

SECTION 212. Section 7-9-87 NMSA 1978 (being Laws 1995,

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Chapter 155, Section 35) is amended to read:

"7-9-87. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--LOTTERY RETAILER RECEIPTS.--Receipts of a lottery [~~game~~] retailer from selling lottery tickets pursuant to the New Mexico Lottery Act may be deducted from gross receipts."

SECTION 213. Section 7-9-88.1 NMSA 1978 (being Laws 1999, Chapter 223, Section 2, as amended) is amended to read:

"7-9-88.1. CREDIT--[~~GROSS RECEIPTS~~] STATE SALES TAX--TAX PAID TO CERTAIN TRIBES.--

A. If on a taxable transaction taking place on tribal land a qualifying gross receipts, sales or similar tax has been levied by the tribe, the amount of the tribe's tax may be credited against [~~gross receipts~~] state sales tax due this state or its political subdivisions pursuant to the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act and a local option [~~gross receipts~~] sales tax on the same transaction. The amount of the credit shall be equal to the lesser of seventy-five percent of the tax imposed by the tribe on the receipts from the transaction or seventy-five percent of the revenue produced by the sum of the rate of tax imposed pursuant to the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act and the total of the rates of local option [~~gross receipts~~] sales taxes imposed on the receipts from the same transaction. Notwithstanding any other provision of law to the contrary, the amount of credit taken and allowed shall be applied proportionately against the amount of the [~~gross~~

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~~receipts~~] state sales tax and local option [~~gross receipts~~] sales taxes and against the amount of distribution of those taxes pursuant to Section 7-1-6.1 NMSA 1978.

B. A qualifying gross receipts, sales or similar tax levied by the tribe shall be limited to a tax that:

(1) is substantially similar to the [~~gross receipts~~] state sales tax imposed by the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act;

(2) does not unlawfully discriminate among persons or transactions based on membership in the tribe;

(3) is levied on the taxable transaction at a rate not greater than the total of the [~~gross receipts~~] state sales tax rate and local option [~~gross receipts~~] sales tax rates imposed by this state and its political subdivisions located within the exterior boundaries of the tribe;

(4) provides a credit against the tribe's tax equal to the lesser of twenty-five percent of the tax imposed by the tribe on the receipts from the transactions or twenty-five percent of the tax revenue produced by the sum of the rate of tax imposed pursuant to the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act and the total of the rates of the local option [~~gross receipts~~] sales taxes imposed on the receipts from the same transactions; and

(5) is subject to a cooperative agreement between the tribe and the secretary entered into pursuant to Section

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9-11-12.1 NMSA 1978 and in effect at the time of the taxable transaction.

C. For purposes of the tax credit allowed by this section:

(1) "pueblo" means the Pueblo of Acoma, Cochiti, Isleta, Jemez, Laguna, Nambe, Picuris, Pojoaque, Sandia, San Felipe, San Ildefonso, [~~San Juan~~] Ohkay Owingeh, Santa Ana, Santa Clara, Santo Domingo, Taos, Tesuque, Zia or Zuni or the nineteen New Mexico pueblos acting collectively;

(2) "tribal land" means all land that is owned by a tribe located within the exterior boundaries of a tribe's reservation or grant and all land held by the United States in trust for that tribe; and

(3) "tribe" means a pueblo, the Jicarilla Apache Nation or the Mescalero Apache Tribe."

SECTION 214. Section 7-9-88.2 NMSA 1978 (being Laws 2001, Chapter 134, Section 1) is amended to read:

"7-9-88.2. CREDIT--[~~GROSS RECEIPTS~~] STATE SALES TAX--TAX PAID TO NAVAJO NATION ON RECEIPTS FROM SELLING COAL.--

A. If on receipts from selling coal severed from Navajo Nation land a qualifying gross receipts, sales, business activity or similar tax has been levied by the Navajo Nation, the amount of the Navajo Nation tax paid and not refunded may be credited against any [~~gross receipts~~] state sales tax due this state or its political subdivisions pursuant to the [~~Gross~~

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~~Receipts and Compensating~~] Sales and Use Tax Act and any local option [~~gross receipts~~] sales tax on the same receipts. The amount of the credit shall be equal to:

(1) for the period from July 1, 2001 through June 30, 2002, the lesser of thirty-seven and one-half percent of the tax imposed by the Navajo Nation on the receipts or thirty-seven and one-half percent of the revenue produced by the sum of the rate of tax imposed pursuant to the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act and the total of the rates of local option [~~gross receipts~~] sales taxes imposed on the same receipts; and

(2) after June 30, 2002, the lesser of seventy-five percent of the tax imposed by the Navajo Nation on the receipts or seventy-five percent of the revenue produced by the sum of the rate of tax imposed pursuant to the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act and the total of the rates of local option [~~gross receipts~~] sales taxes imposed on the same receipts.

B. Notwithstanding any other provision of law to the contrary, the amount of credit taken and allowed shall be applied proportionately against the amounts of the distributions made pursuant to Section 7-1-6.1 NMSA 1978 of the [~~gross receipts~~] state sales tax and local option [~~gross receipts~~] sales taxes imposed on those receipts.

C. A qualifying gross receipts, sales, business

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activity or similar tax levied by the Navajo Nation shall be limited to a tax that:

(1) is substantially similar to the [~~gross receipts~~] state sales tax imposed by the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act;

(2) does not unlawfully discriminate among persons or transactions based on membership in the Navajo Nation;

(3) is levied on the receipts from selling coal at a rate not greater than the total of the [~~gross receipts~~] state sales tax rate and local option [~~gross receipts~~] sales tax rates imposed by this state and its political subdivisions located within the exterior boundaries of the Navajo Nation;

(4) provides a credit against the Navajo Nation tax equal to:

(a) for the period from July 1, 2001 through June 30, 2002, the lesser of twelve and one-half percent of the tax imposed by the Navajo Nation on the receipts from selling coal severed from Navajo Nation land or twelve and one-half percent of the tax revenue produced by the sum of the rate of tax imposed pursuant to the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act and the total of the rates of the local option [~~gross receipts~~] sales taxes imposed on the same receipts; and

(b) after June 30, 2002, the lesser of twenty-five percent of the tax imposed by the Navajo Nation on the

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receipts from selling coal severed from Navajo Nation land or twenty-five percent of the tax revenue produced by the sum of the rate of tax imposed pursuant to the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act and the total of the rates of the local option [~~gross receipts~~] sales taxes imposed on the same receipts;

(5) is not used to calculate an intergovernmental coal severance tax credit with respect to the same receipts or time period; and

(6) is subject to a cooperative agreement between the Navajo Nation and the secretary entered into pursuant to Section 9-11-12.2 NMSA 1978 and in effect at the time of the taxable transaction.

D. For purposes of the tax credit allowed by this section, "Navajo Nation land" means all land in New Mexico that, on March 1, 2001, was located within the exterior boundaries of the Navajo Nation reservation or within a dependent community of the Navajo Nation or was land held by the United States in trust for the Navajo Nation."

SECTION 215. Section 7-9-90 NMSA 1978 (being Laws 1999, Chapter 231, Section 3, as amended) is amended to read:

"7-9-90. DEDUCTIONS--GROSS RECEIPTS [~~TAX~~]--SALES OF URANIUM HEXAFLUORIDE AND ENRICHMENT OF URANIUM.--

A. Receipts from selling uranium hexafluoride and from providing the service of enriching uranium may be deducted from

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gross receipts.

B. The department shall annually report to the revenue stabilization and tax policy committee aggregate amounts of deductions taken pursuant to this section, the number of taxpayers claiming the deduction and any other information that is necessary to determine that the deduction is performing a purpose that is beneficial to the state.

C. A taxpayer deducting gross receipts pursuant to this section shall report the amount deducted separately and attribute the amount of the deduction to the authorization provided in this section in a manner required by the department that facilitates the evaluation by the legislature for the benefit to the state of this deduction."

SECTION 216. Section 7-9-91 NMSA 1978 (being Laws 2001, Chapter 135, Section 1) is amended to read:

"7-9-91. DEDUCTION--[~~COMPENSATING~~] STATE USE TAX--CONTRIBUTIONS OF INVENTORY TO CERTAIN ORGANIZATIONS AND GOVERNMENTAL AGENCIES.--

A. Except as provided otherwise in Subsection D of this section, the value of tangible personal property that is removed from inventory and contributed to organizations that have been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, may be deducted in computing the [~~compensating~~] state use

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tax due, provided that the contribution is deductible for federal income tax purposes by the person from whose inventory the property was withdrawn or, if the person from whose inventory the property was withdrawn is a pass-through entity as that term is defined in Section [~~7-3-2~~] 7-3A-2 NMSA 1978, the contribution is deductible by the owner or owners of the pass-through entity.

B. Except as provided otherwise in Subsection D of this section, the value of tangible personal property that is removed from inventory and contributed to the United States or New Mexico or any governmental unit or subdivision, agency, department or instrumentality thereof may be deducted in computing the [~~compensating~~] state use tax due.

C. Except as provided otherwise in Subsection D of this section, the value of tangible personal property that is removed from inventory and contributed to an Indian tribe, nation or pueblo or any governmental subdivision, agency, department or instrumentality thereof for use on that Indian reservation or pueblo grant may be deducted in computing the [~~compensating~~] state use tax due.

D. Unless contrary to federal law, the deduction provided by this section does not apply to:

(1) a contribution of metalliferous mineral ore;

(2) a contribution of tangible personal property that is or will be incorporated into a metropolitan redevelopment project created under the Metropolitan Redevelopment Code;

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(3) a contribution of tangible personal property that will become an ingredient or component part of a construction project; or

(4) a contribution of tangible personal property utilized or produced in the performance of a service.

E. For purposes of this section:

(1) "inventory" means tangible personal property held for sale or lease in the ordinary course of business; and

(2) "contributed" or "contribution" means a transfer of ownership without consideration. Public acknowledgment of the contribution does not constitute consideration for the purpose of this section."

SECTION 217. Section 7-9-92 NMSA 1978 (being Laws 2004, Chapter 116, Section 5) is amended to read:

"7-9-92. DEDUCTION--GROSS RECEIPTS--SALE OF FOOD AT RETAIL FOOD STORE.--

A. Receipts from the sale of food at a retail food store that are not exempt from [~~gross receipts~~] state sales taxation and are not deductible pursuant to another provision of the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act may be deducted from gross receipts. The deduction provided by this section shall be separately stated by the taxpayer.

B. For the purposes of this section:

(1) "food" means any food or food product for home consumption that meets the definition of food in 7 USCA

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[~~2012(g)(1)~~] 2012(k)(1) for purposes of the federal [~~food stamp~~] supplemental nutrition assistance program; and

(2) "retail food store" means an establishment that sells food for home preparation and consumption and that meets the definition of retail food store in 7 USCA [~~2012(k)(1)~~] 2012(o)(1) for purposes of the federal [~~food stamp~~] supplemental nutrition assistance program, whether or not the establishment participates in the [~~food stamp~~] supplemental nutrition assistance program."

SECTION 218. Section 7-9-93 NMSA 1978 (being Laws 2004, Chapter 116, Section 6, as amended) is amended to read:

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

A. Receipts of a health care practitioner for commercial contract services or medicare part C services paid by a managed health care provider or health care insurer may be deducted from gross receipts if the services are within the scope of practice of the health care practitioner providing the service. Receipts from fee-for-service payments by a health care insurer may not be deducted from gross receipts.

B. The deduction provided by this section shall be applied only to gross receipts remaining after all other allowable deductions available under the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act have been taken and shall be separately stated by the taxpayer.

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C. For the purposes of this section:

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

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

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

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

(3) "health care practitioner" means:

(a) a chiropractic physician licensed pursuant to the provisions of the Chiropractic Physician Practice Act;

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

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

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(d) an optometrist licensed pursuant to the provisions of the Optometry Act;

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

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

(g) a physician or physician assistant licensed pursuant to the provisions of the Medical Practice Act;

(h) a podiatrist licensed pursuant to the provisions of the Podiatry Act;

(i) a psychologist licensed pursuant to the provisions of the Professional Psychologist Act;

(j) a registered lay midwife registered by the department of health;

(k) a registered nurse or licensed practical nurse licensed pursuant to the provisions of the Nursing Practice Act;

(l) a registered occupational therapist licensed pursuant to the provisions of the Occupational Therapy Act;

(m) a respiratory care practitioner licensed pursuant to the provisions of the Respiratory Care Act;

(n) a speech-language pathologist or audiologist licensed pursuant to the Speech-Language Pathology,

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Audiology and Hearing Aid Dispensing Practices Act;

(o) a professional clinical mental health counselor, marriage and family therapist or professional art therapist licensed pursuant to the provisions of the Counseling and Therapy Practice Act who has obtained a master's degree or a doctorate;

(p) an independent social worker licensed pursuant to the provisions of the Social Work Practice Act; and

(q) a clinical laboratory that is accredited pursuant to 42 U.S.C. Section 263a but that is not a laboratory in a physician's office or in a hospital defined pursuant to 42 U.S.C. Section 1395x;

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

(a) health maintenance organizations;

(b) preferred provider organizations;

(c) individual practice associations;

(d) competitive medical plans;

(e) exclusive provider organizations;

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(f) integrated delivery systems;

(g) independent physician-provider organizations;

(h) physician hospital-provider organizations; and

(i) managed care services organizations; and

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

SECTION 219. Section 7-9-95 NMSA 1978 (being Laws 2005, Chapter 104, Section 25) is amended to read:

"7-9-95. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--SALES OF CERTAIN TANGIBLE PERSONAL PROPERTY--LIMITED PERIOD.--Receipts from the sale at retail of the following types of tangible personal property may be deducted if the sale of the property occurs during the period beginning at 12:01 a.m. on the first Friday in August and ending at midnight on the following Sunday:

A. an article of clothing or footwear designed to be worn on or about the human body if the sales price of the article is less than one hundred dollars ($100) except:

(1) any special clothing or footwear that is primarily designed for athletic activity or protective use and that is not normally worn except when used for the athletic

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activity or protective use for which it is designed; and

(2) accessories, including jewelry, handbags, luggage, umbrellas, wallets, watches and similar items worn or carried on or about the human body, without regard to whether worn on the body in a manner characteristic of clothing;

B. a desktop, laptop or notebook computer if the sales price of the computer does not exceed one thousand dollars ($1,000) and any associated monitor, speaker or set of speakers, printer, keyboard, microphone or mouse if the sales price of the device does not exceed five hundred dollars ($500); and

C. school supplies that are items normally used by students in a standard classroom for educational purposes, including notebooks, paper, writing instruments, crayons, art supplies, rulers, book bags, backpacks, handheld calculators, maps and globes, but not including watches, radios, compact disc players, headphones, sporting equipment, portable or desktop telephones, copiers, office equipment, furniture or fixtures."

SECTION 220. Section 7-9-96 NMSA 1978 (being Laws 2005, Chapter 104, Section 26) is amended to read:

"7-9-96. CREDIT--[~~GROSS RECEIPTS~~] STATE SALES TAX--GOVERNMENTAL [~~GROSS RECEIPTS~~] SALES TAX--CERTAIN SALES FOR RESALE.--

A. A taxpayer may claim a credit against [~~gross receipts~~] state sales tax or governmental [~~gross receipts~~] sales tax due for each reporting period beginning after June 2005 in an

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amount equal to ten percent of the receipts from selling a service for resale multiplied by:

(1) three and seven hundred seventy-five thousandths percent if the taxpayer's business location is within a municipality; or

(2) five percent if the taxpayer's business location is in the unincorporated area of a county.

B. A taxpayer may claim a credit pursuant to Subsection A of this section only if:

(1) the buyer resells the service in the ordinary course of business;

(2) the resale is not subject to the [~~gross receipts~~] state sales tax or the governmental [~~gross receipts~~] sales tax; and

(3) the buyer delivers to the seller documentation in a form prescribed by the department clarifying that the service is purchased for resale in the ordinary course of business.

C. A credit permitted pursuant to this section does not apply to receipts from selling a service to a governmental entity or to a person who is a prime contractor that operates a facility in New Mexico designated as a national laboratory by an act of congress."

SECTION 221. Section 7-9-96.1 NMSA 1978 (being Laws 2007, Chapter 361, Section 7) is amended to read:

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"7-9-96.1. CREDIT--[~~GROSS RECEIPTS~~] STATE SALES TAX--RECEIPTS OF CERTAIN HOSPITALS.--

A. A hospital licensed by the department of health may claim a credit for each reporting period against the [~~gross receipts~~] state sales tax due for that reporting period as follows:

(1) for a hospital located in a municipality:

(a) on or after July 1, 2007 but before July 1, 2008, in an amount equal to seven hundred fifty-five thousandths percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken;

(b) on or after July 1, 2008 but before July 1, 2009, in an amount equal to one and fifty-one hundredths percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken;

(c) on or after July 1, 2009 but before July 1, 2010, in an amount equal to two and two hundred sixty-five thousandths percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken;

(d) on or after July 1, 2010 but before July 1, 2011, in an amount equal to three and two hundredths percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken;

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and

(e) on or after July 1, 2011, in an amount equal to three and seven hundred seventy-five thousandths percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken; and

(2) for a hospital located in the unincorporated area of a county:

(a) on or after July 1, 2007 but before July 1, 2008, in an amount equal to one percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken;

(b) on or after July 1, 2008, but before July 1, 2009, in an amount equal to two percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken;

(c) on or after July 1, 2009 but before July 1, 2010, in an amount equal to three percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken;

(d) on or after July 1, 2010 but before July 1, 2011, in an amount equal to four percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken; and

(e) on or after July 1, 2011, in an amount equal to five percent of the hospital's taxable gross receipts for

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that reporting period after all applicable deductions have been taken.

B. For the purposes of this section, "hospital" means a facility providing emergency or urgent care, inpatient medical care and nursing care for acute illness, injury, surgery or obstetrics and includes a facility licensed by the department of health as a critical access hospital, general hospital, long-term acute care hospital, psychiatric hospital, rehabilitation hospital, limited services hospital and special hospital."

SECTION 222. Section 7-9-96.2 NMSA 1978 (being Laws 2007, Chapter 361, Section 8) is amended to read:

"7-9-96.2. CREDIT--[~~GROSS RECEIPTS~~] STATE SALES TAX--UNPAID CHARGES FOR SERVICES PROVIDED IN A HOSPITAL.--

A. A licensed medical doctor or licensed osteopathic physician may claim a credit against [~~gross receipts taxes~~] state sales tax due in the following amounts:

(1) from July 1, 2007 through June 30, 2008, thirty-three percent of the value of unpaid qualified health care services;

(2) from July 1, 2008 through June 30, 2009, sixty-seven percent of the value of unpaid qualified health care services; and

(3) on and after July 1, 2009, one hundred percent of the value of unpaid qualified health care services.

B. As used in this section:

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(1) "qualified health care services" means medical care services provided by a licensed medical doctor or licensed osteopathic physician while on call to a hospital; and

(2) "value of unpaid qualified health care services" means the amount that is charged for qualified health care services, not to exceed one hundred thirty percent of the reimbursement rate for the services under the medicaid program administered by the human services department, that remains unpaid one year after the date of billing and that the licensed medical doctor or licensed osteopathic physician has reason to believe will not be paid because:

(a) at the time the services were provided, the person receiving the services had no health insurance or had health insurance that did not cover the services provided;

(b) at the time the services were provided, the person receiving the services was not eligible for medicaid; and

(c) the charges are not reimbursable under a program established pursuant to the Indigent Hospital and County Health Care Act."

SECTION 223. Section 7-9-97 NMSA 1978 (being Laws 2005, Chapter 169, Section 1) is amended to read:

"7-9-97. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--RECEIPTS FROM CERTAIN PURCHASES BY OR ON BEHALF OF THE STATE.--Receipts from the sale of property or services purchased by or on behalf of the

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state from funds obtained from the forfeiture of financial assurance pursuant to the New Mexico Mining Act or the forfeiture of financial responsibility pursuant to the Water Quality Act may be deducted from gross receipts."

SECTION 224. Section 7-9-98 NMSA 1978 (being Laws 2005, Chapter 179, Section 1) is amended to read:

"7-9-98. DEDUCTION--[~~COMPENSATING~~] STATE USE TAX--BIOMASS-RELATED EQUIPMENT--BIOMASS MATERIALS.--

A. The value of a biomass boiler, gasifier, furnace, turbine-generator, storage facility, feedstock processing or drying equipment, feedstock trailer or interconnection transformer may be deducted in computing the [~~compensating~~] state use tax due.

B. The value of biomass materials used for processing into biopower, biofuels or biobased products may be deducted in computing the [~~compensating~~] state use tax due.

C. As used in this section:

(1) "biobased products" means products created from plant- or crop-based resources such as agricultural crops and crop residues, forestry, pastures and rangelands that are normally made from petroleum;

(2) "biofuels" means biomass converted to liquid or gaseous fuels such as ethanol, methanol, methane and hydrogen;

(3) "biomass material" means organic material that is available on a renewable or recurring basis, including:

(a) forest-related materials, including

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mill residues, logging residues, forest thinnings, slash, brush, low-commercial-value materials or undesirable species, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds and woody material harvested for the purpose of forest fire fuel reduction or forest health and watershed improvement;

(b) agricultural-related materials, including orchard trees, vineyard, grain or crop residues, including straws and stover, aquatic plants and agricultural processed co-products and waste products, including fats, oils, greases, whey and lactose;

(c) animal waste, including manure and slaughterhouse and other processing waste;

(d) solid woody waste materials, including landscape or right-of-way tree trimmings, range land maintenance residues, waste pallets, crates and manufacturing, construction and demolition wood wastes, excluding pressure-treated, chemically treated or painted wood wastes and wood contaminated with plastic;

(e) crops and trees planted for the purpose of being used to produce energy;

(f) landfill gas, wastewater treatment gas and biosolids, including organic waste byproducts generated during the wastewater treatment process; and

(g) segregated municipal solid waste, excluding tires and medical and hazardous waste; and

underscored material = new
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(4) "biopower" means biomass converted to produce electrical and thermal energy."

SECTION 225. Section 7-9-99 NMSA 1978 (being Laws 2006, Chapter 35, Section 1) is amended to read:

"7-9-99. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--SALE OF ENGINEERING, ARCHITECTURAL AND NEW FACILITY CONSTRUCTION SERVICES USED IN CONSTRUCTION OF CERTAIN PUBLIC HEALTH CARE FACILITIES.--Receipts from selling an engineering, architectural or construction service used in the new facility construction of a sole community provider hospital that is located in a federally designated health professional shortage area may be deducted from gross receipts if the sale of the engineering, architectural or construction service is made to a foundation or a nonprofit organization that:

A. has entered into a written agreement with a county to pay at least ninety-five percent of the costs of new facility construction of that sole community provider hospital; and

B. delivers to the seller of the engineering, architectural or construction service either an appropriate nontaxable transaction certificate or other evidence acceptable to the secretary of a written agreement made in accordance with Subsection A of this section."

SECTION 226. Section 7-9-100 NMSA 1978 (being Laws 2006, Chapter 35, Section 2) is amended to read:

"7-9-100. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--SALE OF

CONSTRUCTION EQUIPMENT AND CONSTRUCTION MATERIALS USED IN NEW FACILITY CONSTRUCTION OF A SOLE COMMUNITY PROVIDER HOSPITAL THAT IS LOCATED IN A FEDERALLY DESIGNATED HEALTH PROFESSIONAL SHORTAGE AREA.--Receipts from selling construction equipment or construction materials used in the new facility construction of a sole community provider hospital that is located in a federally designated health professional shortage area may be deducted from gross receipts if the sale of the construction equipment or construction materials is made to a foundation or a nonprofit organization that:

A. has entered into a written agreement with a county to pay at least ninety-five percent of the costs of new facility construction of that sole community provider hospital; and

B. delivers to the seller either an appropriate nontaxable transaction certificate or other evidence acceptable to the secretary of a written agreement made in accordance with Subsection A of this section."

SECTION 227. Section 7-9-102 NMSA 1978 (being Laws 2007, Chapter 3, Section 17) is amended to read:

"7-9-102. DEDUCTION--[~~COMPENSATING~~] STATE USE TAX--EQUIPMENT FOR CERTAIN ELECTRIC TRANSMISSION OR STORAGE FACILITIES.--The value of equipment installed as part of an electric transmission facility or an interconnected storage facility acquired by the New Mexico renewable energy transmission authority pursuant to the New Mexico Renewable Energy Transmission

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Authority Act may be deducted in computing [~~compensating~~] state use tax due."

SECTION 228. Section 7-9-103.1 NMSA 1978 (being Laws 2012, Chapter 12, Section 2) is amended to read:

"7-9-103.1. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--CONVERTING ELECTRICITY.--

A. Receipts from the transmission of electricity where voltage source conversion technology is employed to provide such services and from ancillary services may be deducted from gross receipts.

B. The department shall report annually to the interim revenue stabilization and tax policy committee on the expansion of voltage source conversion technology use in the transmission of electricity in New Mexico and the use of the deduction provided in this section.

C. As used in this section, "ancillary services" means services that are supplied from or in connection with facilities employing voltage source conversion technology and that are used to support or enhance the efficient and reliable operation of the electric system."

SECTION 229. Section 7-9-105 NMSA 1978 (being Laws 2007, Chapter 45, Section 6) is amended to read:

"7-9-105. CREDIT FOR PENALTY PURSUANT TO SECTION 7-1-71.2 NMSA 1978.--

A. A taxpayer who paid a penalty pursuant to the

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provisions of Section 7-1-71.2 NMSA 1978 in effect prior to July 1, 2007 may claim a credit for the amount of the penalty.

B. To claim the credit provided in Subsection A of this section, the taxpayer shall apply to the taxation and revenue department prior to July 1, 2010, on forms and in the manner prescribed by the department, and shall supply documentation as required by the department.

C. The amount of credit provided in Subsection A of this section may be claimed against the taxpayer's [~~gross receipts~~] state sales tax, [~~compensating~~] state use tax and withholding tax due in a reporting period. Any amount of available credit that exceeds the taxpayer's [~~gross receipts~~] state sales tax, [~~compensating~~] state use tax and withholding tax due for a reporting period may be claimed in subsequent reporting periods, for a period of three years."

SECTION 230. Section 7-9-107 NMSA 1978 (being Laws 2007, Chapter 172, Section 9) is amended to read:

"7-9-107. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--PRODUCTION OR STAGING OF PROFESSIONAL CONTESTS.--Receipts from producing or staging a professional boxing, wrestling or martial arts contest that occurs in New Mexico, including receipts from ticket sales and broadcasting, may be deducted from gross receipts."

SECTION 231. Section 7-9-109 NMSA 1978 (being Laws 2007, Chapter 172, Section 11) is amended to read:

"7-9-109. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--VETERINARY

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MEDICAL SERVICES, MEDICINE OR MEDICAL SUPPLIES USED IN MEDICAL TREATMENT OF CATTLE.--

A. Receipts from sales of veterinary medical services, medicine or medical supplies used in the medical treatment of cattle may be deducted from gross receipts if the sale is made to a person who states in writing that the person is regularly engaged in the business of ranching or farming, including dairy farming, in New Mexico or if the sale is made to a veterinarian who holds a valid license pursuant to the Veterinary Practice Act and who is providing veterinary medical services, medicine or medical supplies in the treatment of cattle owned by that person.

B. As used in this section, "cattle" means animals of the genus bos, including dairy cattle, and does not include any other kind of livestock."

SECTION 232. Section 7-9-110.1 NMSA 1978 (being Laws 2011, Chapter 60, Section 1 and Laws 2011, Chapter 61, Section 1) is amended to read:

"7-9-110.1. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--LOCOMOTIVE ENGINE FUEL.--Receipts from the sale of fuel to a common carrier to be loaded or used in a locomotive engine may be deducted from gross receipts. For the purposes of this section, "locomotive engine" means a wheeled vehicle consisting of a self-propelled engine that is used to draw trains along railway tracks."

SECTION 233. Section 7-9-110.2 NMSA 1978 (being Laws 2011, Chapter 60, Section 2 and Laws 2011, Chapter 61, Section 2) is

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amended to read:

"7-9-110.2. DEDUCTION--[~~COMPENSATING~~] STATE USE TAX--LOCOMOTIVE ENGINE FUEL.--The value of fuel to be loaded or used by a common carrier in a locomotive engine may be deducted in computing the [~~compensating~~] state use tax due. For the purposes of this section, "locomotive engine" means a wheeled vehicle consisting of a self-propelled engine that is used to draw trains along railway tracks."

SECTION 234. Section 7-9-110.3 NMSA 1978 (being Laws 2011, Chapter 60, Section 3 and Laws 2011, Chapter 61, Section 3, as amended) is amended to read:

"7-9-110.3. PURPOSE AND REQUIREMENTS OF LOCOMOTIVE FUEL DEDUCTION.--

A. The purpose of the deduction on fuel loaded or used by a common carrier in a locomotive engine from [~~gross receipts~~] state sales tax and from [~~compensating~~] state use tax is to encourage the construction, renovation, maintenance and operation of railroad locomotive refueling facilities and other railroad capital investments in New Mexico.

B. To be eligible for the deduction on fuel loaded or used by a common carrier in a locomotive engine from [~~compensating~~] state use tax, the fuel shall be used or loaded by a common carrier that:

(1) after July 1, 2011, made a capital investment of one hundred million dollars ($100,000,000) or more in new

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construction or renovations at the railroad locomotive refueling facility in which the fuel is loaded or used; or

(2) on or after July 1, 2012, made a capital investment of fifty million dollars ($50,000,000) or more in new railroad infrastructure improvements, including railroad facilities, track, signals and supporting railroad network, located in New Mexico; provided that the new railroad infrastructure improvements are not required by a regulatory agency to correct problems, such as regular or preventive maintenance, specifically identified by that agency as requiring necessary corrective action.

C. To be eligible for the deduction on fuel loaded or used by a common carrier in a locomotive engine from gross receipts, a common carrier shall deliver an appropriate nontaxable transaction certificate to the seller and the sale shall be made to a common carrier that:

(1) after July 1, 2011, made a capital investment of one hundred million dollars ($100,000,000) or more in new construction or renovations at the railroad locomotive refueling facility in which the fuel is sold; or

(2) on or after July 1, 2012, made a capital investment of fifty million dollars ($50,000,000) or more in new railroad infrastructure improvements, including railroad facilities, track, signals and supporting railroad network, located in New Mexico; provided that the new railroad

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infrastructure improvements are not required by a regulatory agency to correct problems, such as regular or [~~preventative~~] preventive maintenance, specifically identified by that agency as requiring necessary corrective action.

D. The economic development department shall promulgate rules for the issuance of a certificate of eligibility for the purposes of claiming a deduction on fuel loaded or used by a common carrier in a locomotive engine from [~~gross receipts~~] state sales tax or [~~compensating~~] state use tax. A common carrier may request a certificate of eligibility from the economic development department to provide to the taxation and revenue department to establish eligibility for a nontaxable transaction certificate for the deduction on fuel loaded or used by a common carrier in a locomotive engine from gross receipts. The taxation and revenue department shall issue nontaxable transaction certificates to a common carrier upon the presentation of a certificate of eligibility obtained from the economic development department pursuant to this subsection.

E. The economic development department shall keep a record of temporary and permanent jobs from all railroad activity where a capital investment is made by a common carrier that claims a deduction on fuel loaded or used by a common carrier in a locomotive engine from [~~gross receipts~~] state sales tax or from [~~compensating~~] state use tax. The economic development department and the taxation and revenue department shall estimate the amount

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of state revenue that is attributable to all railroad activity where a capital investment is made by a common carrier that claims a deduction on fuel loaded or used by a common carrier in a locomotive engine from [~~gross receipts~~] state sales tax or from [~~compensating~~] state use tax.

F. The economic development department and the taxation and revenue department shall compile an annual report with the number of taxpayers who claim the deduction on fuel loaded or used by a common carrier in a locomotive engine from [~~gross receipts~~] state sales tax and from [~~compensating~~] state use tax, the number of jobs created as a result of that deduction, the amount of that deduction approved, the net revenue to the state as a result of that deduction and any other information required by the legislature to aid in evaluating the effectiveness of that deduction. A taxpayer who claims a deduction on fuel loaded or used by a common carrier in a locomotive engine from [~~gross receipts~~] state sales tax or from [~~compensating~~] state use tax shall provide the economic development department and the taxation and revenue department with the information required to compile that report. The economic development department and the taxation and revenue department shall present that report before the legislative interim revenue stabilization and tax policy committee and the legislative finance committee by November of each year. Notwithstanding any other section of law to the contrary, the economic development department and the taxation and revenue

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department may disclose the number of applicants for the deduction on fuel loaded or used by a common carrier in a locomotive engine from [~~gross receipts~~] state sales tax and from [~~compensating~~] state use tax, the amount of the deduction approved, the number of employees of the taxpayer and any other information required by the legislature or the taxation and revenue department to aid in evaluating the effectiveness of that deduction.

G. An appropriate legislative committee shall review the effectiveness of the deduction for each taxpayer who claims the deduction on fuel loaded or used by a common carrier in a locomotive engine from [~~gross receipts~~] state sales tax and from [~~compensating~~] state use tax every six years beginning in 2019."

SECTION 235. Section 7-9-111 NMSA 1978 (being Laws 2007, Chapter 361, Section 6) is amended to read:

"7-9-111. DEDUCTION--GROSS RECEIPTS--HEARING AIDS AND VISION AIDS AND RELATED SERVICES.--

A. Receipts that are not exempt from [~~gross receipts~~] state sales taxation and are not deductible pursuant to another provision of the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act that are from the sale of vision aids or hearing aids or related services may be deducted from gross receipts.

B. As used in this section:

(1) "hearing aid" means a small electronic prescription device that amplifies sound and is usually worn in or behind the ear of a person that compensates for impaired hearing,

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including cochlear implants, amplification systems or other devices that are:

(a) specifically designed for use by and marketed to persons with hearing loss; and

(b) not normally used by a person who does not have a hearing loss;

(2) "low vision" means impaired vision with a significant reduction in visual function that cannot be corrected with conventional glasses or contact lenses;

(3) "related services" means services required to fit or dispense hearing aids or vision aids;

(4) "vision aid" means closed circuit television systems, monoculars, magnification systems, speech output devices or other systems that are:

(a) specifically designed for use by and marketed to persons with low vision or visual impairments; and

(b) not normally used by a person who does not have low vision or a visual impairment; and

(5) "visual impairment" means a central visual acuity of 20/200 or less in the better eye with the use of a correcting lens or a limitation in the fields of vision so that the widest diameter of the visual field subtends an angle of twenty degrees or less."

SECTION 236. Section 7-9-114 NMSA 1978 (being Laws 2010, Chapter 77, Section 1 and Laws 2010, Chapter 78, Section 1, as

amended) is amended to read:

"7-9-114. ADVANCED ENERGY DEDUCTION--GROSS RECEIPTS [~~AND~~]--[~~COMPENSATING TAXES~~] STATE USE TAX.--

A. Receipts from selling or leasing tangible personal property or services that are eligible generation plant costs to a person that holds an interest in a qualified generating facility may be deducted from gross receipts if the holder of the interest delivers an appropriate nontaxable transaction certificate to the seller or lessor. The department shall issue nontaxable transaction certificates to a person that holds an interest in a qualified generating facility upon presentation to the department of a certificate of eligibility obtained from the department of environment pursuant to Subsection G of this section for the deduction created in this section or a certificate of eligibility pursuant to Section 7-2-18.25, 7-2A-25 or 7-9G-2 NMSA 1978. The deduction created in this section may be referred to as the "advanced energy deduction".

B. The purpose of the advanced energy deduction is to encourage the construction and development of qualified generating facilities in New Mexico and to sequester or control carbon dioxide emissions.

C. The value of eligible generation plant costs from the sale or lease of tangible personal property to a person that holds an interest in a qualified generating facility for which the department of environment has issued a certificate of eligibility

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pursuant to Subsection G of this section may be deducted in computing the [~~compensating~~] state use tax due.

D. The maximum tax benefit allowed for all eligible generation plant costs from a qualified generating facility shall be sixty million dollars ($60,000,000) total for eligible generation plant costs deducted or claimed pursuant to this section or Section 7-2-18.25, 7-2A-25 or 7-9G-2 NMSA 1978.

E. Deductions taken pursuant to this section shall be reported separately on a form approved by the department. The nontaxable transaction certificates used to obtain tax-deductible tangible personal property or services shall display clearly a notice to the taxpayer that the deduction shall be reported separately from any other deductions claimed from gross receipts. A taxpayer deducting eligible generation plant costs from the costs on which [~~compensating~~] state use tax is imposed shall report those eligible generation plant costs that are being deducted.

F. The deductions allowed for a qualified generating facility pursuant to this section shall be available for a ten-year period for purchases and a twenty-five-year period for leases from the year development of the qualified generating facility begins and expenditures are made for which nontaxable transaction certificates authorized pursuant to this section are submitted to sellers or lessors for eligible generation plant costs or deductions from the costs on which [~~compensating~~] state use tax

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are calculated are first taken for eligible generation plant costs.

G. An entity that holds an interest in a qualified generating facility may request a certificate of eligibility from the department of environment to enable the requester to obtain a nontaxable transaction certificate for the advanced energy deduction. The department of environment shall:

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

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

(3) issue a certificate from sequentially numbered certificates to the requester stating that the facility is or is not a qualified generating facility within one hundred eighty days after receiving all information necessary to make a determination;

(4) issue:

(a) rules governing the procedures for administering the provisions of this subsection; and

(b) a schedule of fees in which no fee exceeds one hundred fifty thousand dollars ($150,000);

(5) deposit fees collected pursuant to this subsection in the state air quality permit fund created pursuant

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to Section 74-2-15 NMSA 1978; and

(6) report annually to the appropriate interim legislative committee information that will allow the legislative committee to analyze the effectiveness of the advanced energy deduction, including the identity of qualified generating facilities, the energy production means used, the amount of emissions identified in this section reduced and removed by those qualified generating facilities and whether any requests for certificates of eligibility could not be approved due to program limits.

H. The economic development department shall keep a record of temporary and permanent jobs at all qualified generating facilities in New Mexico. The economic development department and the taxation and revenue department shall measure the amount of state revenue that is attributable to activity at each qualified generating facility in New Mexico. The economic development department shall coordinate with the department of environment to report annually to the appropriate interim legislative committee on the effectiveness of the advanced energy deduction. A taxpayer who claims an advanced energy deduction shall provide the economic development department, the department of environment and the taxation and revenue department with the information required to compile the report required by this section. Notwithstanding any other section of law to the contrary, the economic development department, the department of environment and the taxation and

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revenue department may disclose the number of applicants for the advanced energy deduction, the amount of the deduction approved, the number of employees of the taxpayer and any other information required by the legislature or the taxation and revenue department to aid in evaluating the effectiveness of that deduction.

I. If the department of environment issues a certificate of eligibility to a taxpayer stating that the taxpayer holds an interest in a qualified generating facility and the taxpayer does not sequester or control carbon dioxide emissions to the extent required by this section by the later of January 1, 2017 or eighteen months after the commercial operation date of the qualified generating facility, the taxpayer's certification as a qualified generating facility shall be revoked by the department of environment and the taxpayer shall repay to the state tax deductions granted pursuant to this section; provided that, if the taxpayer demonstrates to the department of environment that the taxpayer made every effort to sequester or control carbon dioxide emissions to the extent feasible and the facility's inability to meet the sequestration requirements of a qualified generating facility was beyond the facility's control, the department of environment shall determine, after a public hearing, the amount of tax deduction that should be repaid to the state. The department of environment, in its determination, shall consider the environmental performance of the facility and the extent to which the inability to meet the sequestration requirements of a

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qualified generating facility was in the control of the taxpayer. The repayment as determined by the department of environment shall be paid within one hundred eighty days following a final order by the department of environment.

J. The advanced energy deduction allowed pursuant to this section shall not be claimed for the same qualified expenses for which a taxpayer claims a credit pursuant to Section 7-2-18.25, 7-2A-25 or 7-9G-2 NMSA 1978 or a deduction pursuant to Section 7-9-54.3 NMSA 1978.

K. An appropriate legislative committee shall review the effectiveness of the advanced energy deduction every four years beginning in 2015.

L. As used in this section:

(1) "coal-based electric generating facility" means a new or repowered generating facility and an associated coal gasification facility, if any, that uses coal to generate electricity and that meets the following specifications:

(a) emits the lesser of: 1) what is achievable with the best available control technology; or 2) thirty-five thousandths pound per million British thermal units of sulfur dioxide, twenty-five thousandths pound per million British thermal units of oxides of nitrogen and one hundredth pound per million British thermal units of total particulate in the flue gas;

(b) removes the greater of: 1) what is

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achievable with the best available control technology; or 2) ninety percent of the mercury from the input fuel;

(c) captures and sequesters or controls carbon dioxide emissions so that by the later of January 1, 2017 or eighteen months after the commercial operation date of the coal-based electric generating facility, no more than one thousand one hundred pounds per megawatt-hour of carbon dioxide is emitted into the atmosphere;

(d) all infrastructure required for sequestration is in place by the later of January 1, 2017 or eighteen months after the commercial operation date of the coal-based electric generating facility;

(e) includes methods and procedures to monitor the disposition of the carbon dioxide captured and sequestered from the coal-based electric generating facility; and

(f) does not exceed a name-plate capacity of seven hundred net megawatts;

(2) "eligible generation plant costs" means expenditures for the development and construction of a qualified generating facility, including permitting; lease payments; site characterization and assessment; engineering; design; carbon dioxide capture, treatment, compression, transportation and sequestration; site and equipment acquisition; and fuel supply development used directly and exclusively in a qualified generating facility;

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(3) "entity" means an individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate or other association or a gas, water or electric utility owned or operated by a county or municipality;

(4) "geothermal electric generating facility" means a facility with a name-plate capacity of one megawatt or more that uses geothermal energy to generate electricity, including a facility that captures and provides geothermal energy to a preexisting electric generating facility using other fuels in part;

(5) "interest in a qualified generating facility" means title to a qualified generating facility; a lessee's interest in a qualified generating facility; and a county or municipality's interest in a qualified generating facility when the county or municipality issues an industrial revenue bond for construction of the qualified generating facility;

(6) "name-plate capacity" means the maximum rated output of the facility measured as alternating current or the equivalent direct current measurement;

(7) "qualified generating facility" means a facility that begins construction not later than December 31, 2015 and is:

(a) a solar thermal electric generating

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facility that begins construction on or after July 1, 2010 and that may include an associated renewable energy storage facility;

(b) a solar photovoltaic electric generating facility that begins construction on or after July 1, 2010 and that may include an associated renewable energy storage facility;

(c) a geothermal electric generating facility that begins construction on or after July 1, 2010;

(d) a recycled energy project if that facility begins construction on or after July 1, 2010; or

(e) a new or repowered coal-based electric generating facility and an associated coal gasification facility;

(8) "recycled energy" means energy produced by a generation unit with a name-plate capacity of not more than fifteen megawatts that converts the otherwise lost energy from the exhaust stacks or pipes to electricity without combustion of additional fossil fuel;

(9) "sequester" means to store, or chemically convert, carbon dioxide in a manner that prevents its release into the atmosphere and may include the use of geologic formations and enhanced oil, coaled methane or natural gas recovery techniques;

(10) "solar photovoltaic electric generating facility" means an electric generating facility with a name-plate capacity of one megawatt or more that uses solar photovoltaic energy to generate electricity; and

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(11) "solar thermal electric generating facility" means an electric generating facility with a name-plate capacity of one megawatt or more that uses solar thermal energy to generate electricity, including a facility that captures and provides solar thermal energy to a preexisting electric generating facility using other fuels in part."

SECTION 237. Section 7-9-115 NMSA 1978 (being Laws 2015 (1st S.S.), Chapter 2, Section 9) is amended to read:

"7-9-115. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--GOODS AND SERVICES FOR THE DEPARTMENT OF DEFENSE RELATED TO DIRECTED ENERGY AND SATELLITES.--

A. Prior to January 1, 2021, receipts from the sale by a qualified contractor of qualified research and development services and qualified directed energy and satellite-related inputs may be deducted from gross receipts when sold pursuant to a contract with the United States department of defense.

B. The purposes of the deduction allowed in this section are to promote new and sophisticated technology, enhance the viability of directed energy and satellite projects, attract new projects and employers to New Mexico and increase high-technology employment opportunities in New Mexico.

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

D. The department shall compile an annual report on

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the deduction provided by this section that shall include the number of taxpayers that claimed the deduction, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deduction. Beginning in 2017 and each year thereafter that the deduction is in effect, the department and the economic development department shall present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the deduction and whether the deduction is performing the purpose for which it was created.

E. As used in this section:

(1) "directed energy" means a system, including related services, that enables the use of the frequency spectrum, including radio waves, light and x-rays;

(2) "inputs" means systems, subsystems, components, prototypes and demonstrators or products and services involving optics, photonics, electronics, advanced materials, nanoelectromechanical and microelectromechanical systems, fabrication materials and test evaluation and computer control systems related to directed energy or satellites;

(3) "qualified contractor" means a person other than an organization designated as a national laboratory by act of congress or an operator of national laboratory facilities in New Mexico; provided that the operator may be a qualified contractor with respect to the operator's receipts not connected with

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operating the national laboratory;

(4) "qualified directed energy and satellite-related inputs" means inputs supplied to the department of defense pursuant to a contract with that department entered into on or after January 1, 2016;

(5) "qualified research and development services" means research and development services related to directed energy or satellites provided to the department of defense pursuant to a contract with that department entered into on or after January 1, 2016; and

(6) "satellite" means composite systems assembled and packaged for use in space, including launch vehicles and related products and services."

SECTION 238. Section 7-9-116 NMSA 1978 (being Laws 2018, Chapter 46, Section 1) is amended to read:

"7-9-116. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--RETAIL SALES BY CERTAIN BUSINESSES.--

A. Prior to July 1, 2020, receipts from the sale at retail of the following types of tangible personal property may be deducted if the sales price of the property is less than five hundred dollars ($500) and:

(1) the sale occurs during the period beginning at 12:01 a.m. on the first Saturday after Thanksgiving and ending at midnight on the same Saturday;

(2) the sale is for:

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(a) an article of clothing or footwear designed to be worn on or about the human body;

(b) accessories, including jewelry, handbags, book bags, backpacks, luggage, wallets, watches and similar items worn or carried on or about the human body, without regard to whether worn on the body in a manner characteristic of clothing;

(c) sporting goods and camping equipment;

(d) tools used for home improvement, gardening and automotive maintenance and repair;

(e) books, journals, paper, writing instruments, art supplies, greeting cards and postcards;

(f) works of art, including any painting, drawing, print, photograph, sculpture, pottery or ceramics, carving, textile, basketry, artifact, natural specimen, rare book, authors' papers, objects of historical or technical interest or other article of intrinsic cultural value;

(g) floral arrangements and indoor plants;

(h) cosmetics and personal grooming items;

(i) musical instruments;

(j) cookware and small home appliances for residential use;

(k) bedding, towels and bath accessories;

(l) furniture;

(m) a toy or game that is a physical item,

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product or object clearly intended and designed to be used by children or families in play;

(n) a video game or video game console and any associated accessories for the video game console; or

(o) home electronics such as computers, phones, tablets, stereo equipment and related electronics accessories; and

(3) the sale is made by a seller that carries on a trade or business in New Mexico, maintains its primary place of business in New Mexico, as determined by the department, and employed no more than ten employees at any one time during the previous fiscal year.

B. Receipts for sales made by a business that operates under a franchise agreement may not be deducted pursuant to this section.

C. The purpose of the deduction provided by this section is to increase sales at small local businesses.

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

E. The department shall compile an annual report on the deduction provided by this section that shall include the number of taxpayers that claimed the deduction, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deduction. The department

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shall present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the deduction and whether the deduction is performing the purpose for which it was created."

SECTION 239. Section 7-9A-5 NMSA 1978 (being Laws 1979, Chapter 347, Section 5, as amended by Laws 1991, Chapter 159, Section 4 and also by Laws 1991, Chapter 162, Section 4) is amended to read:

"7-9A-5. INVESTMENT CREDIT--AMOUNT--CLAIMANT.--The investment credit provided for in the Investment Credit Act is an amount equal to the percent of the [~~compensating~~] state use tax rate provided for in the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act applied to the value of the qualified equipment and may be claimed by the taxpayer carrying on a manufacturing operation in New Mexico."

SECTION 240. Section 7-9A-8 NMSA 1978 (being Laws 1979, Chapter 347, Section 8, as amended) is amended to read:

"7-9A-8. CLAIMING THE CREDIT FOR CERTAIN TAXES.--

A. A taxpayer shall apply for approval for a credit within one year following the end of the calendar year in which the qualified equipment for the manufacturing operation is purchased or introduced into New Mexico.

B. A taxpayer having applied for and been granted approval for a credit by the department pursuant to the Investment

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Credit Act may claim an amount of available credit against the taxpayer's [~~compensating~~] state use tax, [~~gross receipts~~] state sales tax or withholding tax due to the state of New Mexico; provided that no taxpayer may claim, except as provided in Subsection C of this section, an amount of available credit for any reporting period that exceeds eighty-five percent of the sum of the taxpayer's [~~gross receipts~~] state sales tax, [~~compensating~~] state use tax and withholding tax due for that reporting period. Any amount of available credit not claimed against the taxpayer's [~~gross receipts~~] state sales tax, [~~compensating~~] state use tax or withholding tax due for a reporting period may be claimed in subsequent reporting periods.

C. A taxpayer may apply by September 30 of the current calendar year for a refund of the unclaimed balance of the available credit up to a maximum of two hundred fifty thousand dollars ($250,000) if on January 1 of the current calendar year:

(1) the taxpayer's available credit is less than five hundred thousand dollars ($500,000); and

(2) the sum of the taxpayer's [~~gross receipts~~] state sales tax, [~~compensating~~] state use tax and withholding tax due for the previous calendar year was less than thirty-five percent of the taxpayer's available credit but more than ten thousand dollars ($10,000)."

SECTION 241. Section 7-9C-1 NMSA 1978 (being Laws 1992, Chapter 50, Section 1 and also Laws 1992, Chapter 67, Section 1,

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as amended) is amended to read:

"7-9C-1. SHORT TITLE.--Chapter 7, Article 9C NMSA 1978 may be cited as the "Interstate Telecommunications [~~Gross Receipts~~] Sales Tax Act"."

SECTION 242. Section 7-9C-2 NMSA 1978 (being Laws 1992, Chapter 50, Section 2 and also Laws 1992, Chapter 67, Section 2, as amended) is amended to read:

"7-9C-2. DEFINITIONS.--As used in the Interstate Telecommunications [~~Gross Receipts~~] Sales Tax Act:

A. "charges for mobile telecommunications services" has the meaning given in the federal Mobile Telecommunications Sourcing Act;

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

C. "engaging in interstate telecommunications business" means carrying on or causing to be carried on the business of providing interstate telecommunications service;

D. "home service provider" has the meaning given in the federal Mobile Telecommunications Sourcing Act;

E. "interstate telecommunications gross receipts" means the total amount of money or the value of other consideration received from providing:

(1) interstate telecommunications services, other

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than mobile telecommunications services, that either originate or terminate in New Mexico and are charged to a telephone number or account in New Mexico, regardless of where the bill for such services is actually delivered; and

(2) mobile telecommunications services that originate in one state and terminate in any location outside that state, whether within or outside the United States, to a customer with a place of primary use in New Mexico. "Interstate telecommunications gross receipts" excludes mobile telecommunications services provided to a customer with a place of primary use outside of New Mexico, cash discounts allowed and taken and interstate telecommunications [~~gross receipts~~] sales tax payable for the reporting period. Also excluded from "interstate telecommunications gross receipts" are any gross receipts or sales taxes imposed by any Indian nation, tribe or pueblo; provided that the tax is approved, if approval is required by federal law or regulation, by the secretary of the interior of the United States; and provided further that the gross receipts or sales tax imposed by the Indian nation, tribe or pueblo provides a reciprocal exclusion for gross receipts, sales or gross receipts-based excise taxes imposed by the state or its political subdivisions;

F. "interstate telecommunications service" means the service of originating or receiving in New Mexico interstate and international telephone and telegraph service, including [~~but not limited~~] to the transmission of voice, messages and data by way of

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electronic or similar means between or among points by wire, cable, fiber-optic, laser, microwave, radio, satellite or similar facilities;

G. "mobile telecommunications services" has the meaning given in the federal Mobile Telecommunications Sourcing Act;

H. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, joint venture, syndicate or other entity; the United States or any agency or instrumentality of the United States; or the state of New Mexico or any political subdivision of the state;

I. "place of primary use" has the meaning given in the federal Mobile Telecommunications Sourcing Act;

J. "private communications service" means a dedicated service for a single customer that entitles the customer to exclusive or priority use of a communications channel or group of channels between a location within New Mexico and one or more specified locations outside New Mexico; and

K. "wide-area telephone service" means a telephone service that entitles the subscriber, upon payment of a flat rate charge dependent on the total duration of all such calls and the geographic area selected by the subscriber, to either make or receive a large volume of telephonic communications to or from persons located in specified geographical areas."

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SECTION 243. Section 7-9C-3 NMSA 1978 (being Laws 1992, Chapter 50, Section 3 and also Laws 1992, Chapter 67, Section 3) is amended to read:

"7-9C-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS INTERSTATE TELECOMMUNICATIONS [~~GROSS RECEIPTS~~] SALES TAX.--

A. For the privilege of engaging in interstate telecommunications business, an excise tax equal to four and one-fourth percent of interstate telecommunications gross receipts is imposed upon any person engaging in interstate telecommunications business in New Mexico.

B. The tax imposed by this section shall be referred to as the "interstate telecommunications [~~gross receipts~~] sales tax"."

SECTION 244. Section 7-9C-4 NMSA 1978 (being Laws 1992, Chapter 50, Section 4 and Laws 1992, Chapter 67, Section 4, as amended) is amended to read:

"7-9C-4. PRESUMPTION OF TAXABILITY.--

A. To prevent evasion of the interstate telecommunications [~~gross receipts~~] sales tax and to aid in its administration, it is presumed that all receipts of a person engaging in interstate telecommunications business are subject to the interstate telecommunications [~~gross receipts~~] sales tax.

B. If receipts from nontaxable charges for mobile telecommunications services are aggregated with and not separately stated from taxable charges for mobile telecommunications

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services, [~~then~~] the charges for nontaxable mobile telecommunications services shall be subject to interstate telecommunications [~~gross receipts~~] sales tax unless the home service provider can reasonably identify nontaxable charges in its books and records that are kept in the regular course of business."

SECTION 245. Section 7-9C-5 NMSA 1978 (being Laws 1992, Chapter 50, Section 5 and also Laws 1992, Chapter 67, Section 5) is amended to read:

"7-9C-5. DATE PAYMENT DUE.--The interstate telecommunications [~~gross receipts~~] sales tax is to be paid to the department on or before the twenty-fifth day of the month following the month in which the taxable event occurs."

SECTION 246. Section 7-9C-7 NMSA 1978 (being Laws 1992, Chapter 50, Section 7 and also Laws 1992, Chapter 67, Section 7, as amended) is amended to read:

"7-9C-7. DEDUCTION--SALE OF A SERVICE FOR RESALE.--

A. Receipts from providing an interstate telecommunications service in this state that will be used by other persons in providing telephone or telegraph services to the final user may be deducted from interstate telecommunications gross receipts if the sale is made to a person who is subject to the interstate telecommunications [~~gross receipts~~] sales tax or to the gross receipts tax or the [~~compensating~~] state use tax.

B. Receipts during the period July 1, 1998 through

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June 30, 2000 from providing leased telephone lines, telecommunications services, internet access services or computer programming that will be used by other persons in providing internet access and related services to the final user may be deducted from interstate telecommunications gross receipts if the sale is made to a person who is subject to the interstate telecommunications [~~gross receipts~~] sales tax, the [~~gross receipts~~] state sales tax or the [~~compensating~~] state use tax."

SECTION 247. Section 7-9C-10 NMSA 1978 (being Laws 1992, Chapter 50, Section 10 and also Laws 1992, Chapter 67, Section 10) is amended to read:

"7-9C-10. CREDIT--SERVICES PERFORMED OUTSIDE THE STATE.--To prevent actual multi-jurisdictional taxation of the privilege of engaging in business of providing interstate telecommunications services, any taxpayer, upon proof that the taxpayer has paid to another state or political subdivision of another state a sales, use, gross receipts or similar tax on the same interstate telecommunications gross receipts subject to the interstate telecommunications [~~gross receipts~~] sales tax, shall be allowed a credit against the interstate telecommunications [~~gross receipts~~] sales tax to the extent of the amount of sales, use, gross receipts or similar tax properly due and paid to such other state or political subdivision of that state."

SECTION 248. Section 7-9C-11 NMSA 1978 (being Laws 1992, Chapter 50, Section 11 and also Laws 1992, Chapter 67, Section 11)

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is amended to read:

"7-9C-11. ADMINISTRATION.--

A. The department shall interpret the provisions of the interstate telecommunications [~~gross receipts~~] sales tax.

B. The department shall administer and enforce the collection of the interstate telecommunications [~~gross receipts~~] sales tax, and the Tax Administration Act applies to the administration and enforcement of the tax."

SECTION 249. Section 7-9E-8 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 20, Section 8, as amended) is amended to read:

"7-9E-8. CLAIMING THE TAX CREDIT--LIMITATION.--

A. A national laboratory eligible for the tax credit pursuant to the Laboratory Partnership with Small Business Tax Credit Act may claim the amount of each tax credit by crediting that amount against [~~gross receipts~~] state sales taxes otherwise due pursuant to the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act. The tax credit shall be taken on each monthly [~~gross receipts~~] state sales tax return filed by the laboratory against [~~gross receipts~~] state sales taxes due the state and shall not impact any local government tax distribution. In no event shall the tax credits taken by an individual national laboratory exceed two million four hundred thousand dollars ($2,400,000) in a given calendar year.

B. Tax credits claimed pursuant to the Laboratory Partnership with Small Business Tax Credit Act by all national

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laboratories in the aggregate for qualified expenditures for a specific small business not located in a rural area shall not exceed ten thousand dollars ($10,000).

C. Tax credits claimed pursuant to the Laboratory Partnership with Small Business Tax Credit Act by all national laboratories in the aggregate for qualified expenditures for a specific small business located in a rural area shall not exceed twenty thousand dollars ($20,000)."

SECTION 250. Section 7-9E-9 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 20, Section 9) is amended to read:

"7-9E-9. TERMINATION OF THE REVOLVING FUND.--Should the revolving fund established pursuant to Section [~~6 of the Laboratory Partnership with Small Business Tax Credit Act~~] 7-9E-6 NMSA 1978 cease to be used for the purposes stated in [~~that act~~] the Laboratory Partnership with Small Business Tax Credit Act, any amounts remaining in the revolving fund, excluding initial funding from nontax credit sources, shall be paid over to the department as additional [~~gross receipts~~] state sales taxes due. [~~Such~~] The payment of additional [~~gross receipts~~] state sales taxes due shall be made in the second month following the month a determination is made that the revolving fund ceases to be used for the purposes stated in that act."

SECTION 251. Section 7-9F-3 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 22, Section 3, as amended) is amended to read:

"7-9F-3. DEFINITIONS.--As used in the Technology Jobs and

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Research and Development Tax Credit Act:

A. "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by or is under common ownership or control with another person through ownership of voting securities or other ownership interests representing a majority of the total voting power of the entity;

B. "annual payroll expense" means the wages paid or payable to employees in the state by the taxpayer in the taxable year for which the taxpayer applies for an additional credit pursuant to the Technology Jobs and Research and Development Tax Credit Act;

C. "base payroll expense" means the wages paid or payable by the taxpayer in the taxable year prior to the taxable year for which the taxpayer applies for an additional credit pursuant to the Technology Jobs and Research and Development Tax Credit Act, adjusted for any increase from the preceding taxable year in the consumer price index for the United States for all items as published by the United States department of labor in the taxable year for which the additional credit is claimed. In a taxable year during which a taxpayer has been part of a business merger or acquisition or other change in business organization, the taxpayer's base payroll expense shall include the payroll expense of all entities included in the reorganization for all positions that are included in the business entity resulting from the reorganization;

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D. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

E. "facility" means a factory, mill, plant, refinery, warehouse, dairy, feedlot, building or complex of buildings located within the state, including the land on which it is located and all machinery, equipment and other real and tangible personal property located at or within it and used in connection with its operation;

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

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G. "qualified expenditure" means an expenditure or an allocated portion of an expenditure by a taxpayer in connection with qualified research at a qualified facility, including expenditures for depletable land and rent paid or incurred for land, improvements, the allowable amount paid or incurred to operate or maintain a facility, buildings, equipment, computer software, computer software upgrades, consultants and contractors performing work in New Mexico, payroll, technical books and manuals and test materials, but not including any expenditure on property that is owned by a municipality or county in connection with an industrial revenue bond project, property for which the taxpayer has received any credit pursuant to the Investment Credit Act, property that was owned by the taxpayer or an affiliate before July 3, 2000 or research and development expenditures reimbursed by a person who is not an affiliate of the taxpayer. If a "qualified expenditure" is an allocation of an expenditure, the cost accounting methodology used for the allocation of the expenditure shall be the same cost accounting methodology used by the taxpayer in its other business activities;

H. "qualified facility" means a facility in New Mexico at which qualified research is conducted other than a facility operated by a taxpayer for the United States or any agency, department or instrumentality thereof;

I. "qualified research" means research:

(1) that is undertaken for the purpose of

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discovering information:

(a) that is technological in nature; and

(b) the application of which is intended to be useful in the development of a new or improved business component of the taxpayer; and

(2) substantially all of the activities of which constitute elements of a process of experimentation related to a new or improved function, performance, reliability or quality, but not related to style, taste or cosmetic or seasonal design factors;

J. "qualified research and development small business" means a taxpayer that:

(1) employed no more than fifty employees as determined by the number of employees for which the taxpayer was liable for unemployment insurance coverage in the taxable year for which an additional credit is claimed;

(2) had total qualified expenditures of no more than five million dollars ($5,000,000) in the taxable year for which an additional credit is claimed; and

(3) did not have more than fifty percent of its voting securities or other equity interest with the right to designate or elect the board of directors or other governing body of the business owned directly or indirectly by another business;

K. "rural area" means any area of the state other than the state fairgrounds, an incorporated municipality with a

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population of thirty thousand or more according to the most recent federal decennial census and any area within three miles of the external boundaries of an incorporated municipality with a population of thirty thousand or more according to the most recent federal decennial census;

L. "taxpayer" means any of the following persons, other than a federal, state or other governmental unit or subdivision or an agency, department, institution or instrumentality thereof:

(1) a person liable for payment of any tax;

(2) a person responsible for withholding and payment or collection and payment of any tax;

(3) a person to whom an assessment has been made if the assessment remains unabated or the assessed amount has not been paid; or

(4) for purposes of the additional credit against the taxpayer's income tax pursuant to the Technology Jobs and Research and Development Tax Credit Act and to the extent of their respective interest in that entity, the shareholders, members, partners or other owners of:

(a) a small business corporation that has elected to be treated as an S corporation for federal income tax purposes; or

(b) an entity treated as a partnership or disregarded entity for federal income tax purposes; and

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M. "wages" means remuneration for services performed by an employee in New Mexico for an employer."

SECTION 252. Section 7-9F-9 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 22, Section 9, as amended) is amended to read:

"7-9F-9. CLAIMING THE BASIC CREDIT.--

A. A taxpayer may apply for approval of a credit within one year following the end of the reporting period in which the qualified expenditure was made.

B. A taxpayer having applied for and been granted approval for a basic credit by the department pursuant to the Technology Jobs and Research and Development Tax Credit Act may claim the amount of the approved basic credit against the taxpayer's [~~compensating~~] state use tax, withholding tax or [~~gross receipts~~] state sales tax, excluding local option [~~gross receipts~~] sales tax, due to the state of New Mexico; provided that no taxpayer may claim an amount of approved basic credit for a reporting period in which the basic credit is being claimed that exceeds the sum of the taxpayer's [~~compensating~~] state use tax, withholding tax and [~~gross receipts~~] state sales tax, excluding local option [~~gross receipts~~] sales tax, due for that reporting period.

C. Any amount of approved basic credit not claimed against the taxpayer's [~~compensating~~] state use tax, withholding tax or [~~gross receipts~~] state sales tax, excluding local option [~~gross receipts~~] sales tax, due may be claimed in subsequent

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reporting periods for a period of up to three years from the date of the original claim."

SECTION 253. Section 7-9F-11 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 22, Section 11) is amended to read:

"7-9F-11. RECAPTURE.--If the taxpayer or a successor in business of the taxpayer ceases operations in New Mexico for at least one hundred eighty consecutive days within a two-year period after the taxpayer has claimed a basic credit or an additional credit at a facility [~~with respect to which the taxpayer has claimed the basic credit or the additional credit~~], the department shall grant no further basic credit or additional credit to the taxpayer with respect to that facility. In addition, any amount of approved basic credit not claimed against the taxpayer's [~~gross receipts~~] state sales tax, [~~compensating~~] state use tax or withholding tax and any amount of approved additional credit not claimed against the taxpayer's income tax or corporate income tax shall be extinguished, and within thirty days after the one hundred eightieth day of the cessation of operations, the taxpayer shall pay the amount of any [~~gross receipts~~] state sales tax, [~~compensating~~] state use tax or withholding tax for which an approved basic credit was taken and any income tax or corporate income tax against which an approved additional credit was taken. For purposes of this section, a taxpayer shall not be deemed to have ceased operations during reasonable periods for maintenance or retooling or for the repair or replacement of facilities

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damaged or destroyed or during the continuance of labor disputes."

SECTION 254. Section 7-9G-1 NMSA 1978 (being Laws 2004, Chapter 15, Section 1, as amended) is amended to read:

"7-9G-1. HIGH-WAGE JOBS TAX CREDIT--QUALIFYING HIGH-WAGE JOBS.--

A. A taxpayer who is an eligible employer may apply for, and the department may allow, a tax credit for each new high-wage [~~economic-based~~] economic base job. The credit provided in this section may be referred to as the "high-wage jobs tax credit".

B. The purpose of the high-wage jobs tax credit is to provide an incentive for urban and rural businesses to create and fill new high-wage [~~economic-based~~] economic base jobs in New Mexico.

C. The high-wage jobs tax credit may be claimed and allowed in an amount equal to ten percent of the wages distributed to an eligible employee in a new high-wage [~~economic-based~~] economic base job, but shall not exceed twelve thousand dollars ($12,000) per job per qualifying period. The high-wage jobs tax credit may be claimed by an eligible employer for each new high-wage [~~economic-based~~] economic base job performed for the year in which the new high-wage [~~economic-based~~] economic base job is created and for the three consecutive qualifying periods as provided in this section.

D. To receive a high-wage jobs tax credit, a taxpayer

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shall file an application for approval of the credit with the department once per calendar year on forms and in the manner prescribed by the department. The annual application shall contain the certification required by Subsection K of this section and shall contain all qualifying periods that closed during the calendar year for which the application is made. Any qualifying period that did not close in the calendar year for which the application is made shall be denied by the department. The application for a calendar year shall be filed no later than December 31 of the following calendar year. If a taxpayer fails to file the annual application within the time limits provided in this section, the application shall be denied by the department. The department shall make a determination on the application within one hundred eighty days of the date on which the application was filed; provided that the one-hundred-eighty-day period shall not begin until the application is complete, as determined by the department.

E. A new high-wage [~~economic-based~~] economic base job shall not be eligible for a credit pursuant to this section for the initial qualifying period unless the eligible employer's total number of employees with threshold jobs on the last day of the initial qualifying period at the location at which the job is performed or based is at least one more than the number of threshold jobs on the day prior to the date the new high-wage [~~economic-based~~] economic base job was created. A new high-wage

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[~~economic-based~~] economic base job shall not be eligible for a credit pursuant to this section for a consecutive qualifying period unless the total number of threshold jobs at a location at which the job is performed or based on the last day of that qualifying period is greater than or equal to the number of threshold jobs at that same location on the last day of the initial qualifying period for the new high-wage [~~economic-based~~] economic base job.

F. Any consecutive qualifying period for a new high-wage [~~economic-based~~] economic base job shall not be eligible for a credit pursuant to this section unless the wage, the forty-eight-week occupancy and the residency requirements for a new high-wage [~~economic-based~~] economic base job are met for each consecutive qualifying period. If any consecutive qualifying period for a new high-wage [~~economic-based~~] economic base job does not meet the wage, the forty-eight-week occupancy and the residency requirements, all subsequent qualifying periods are ineligible.

G. Except as provided in Subsection H of this section, a new high-wage [~~economic-based~~] economic base job shall not be eligible for a credit pursuant to this section if:

(1) the new high-wage [~~economic-based~~] economic base job is created due to a business merger or acquisition or other change in business organization;

(2) the eligible employee was terminated from

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employment in New Mexico by another employer involved in the business merger or acquisition or other change in business organization with the taxpayer; and

(3) the new high-wage [~~economic-based~~] economic base job is performed by:

(a) the person who performed the job or its functional equivalent prior to the business merger or acquisition or other change in business organization; or

(b) a person replacing the person who performed the job or its functional equivalent prior to a business merger or acquisition or other change in business organization.

H. A new high-wage [~~economic-based~~] economic base job that was created by another employer and for which an application for the high-wage jobs tax credit was received and is under review by the department prior to the time of the business merger or acquisition or other change in business organization shall remain eligible for the high-wage jobs tax credit for the balance of the consecutive qualifying periods. The new employer that results from a business merger or acquisition or other change in business organization may only claim the high-wage jobs tax credit for the balance of the consecutive qualifying periods for which the new high-wage [~~economic-based~~] economic base job is otherwise eligible.

I. A new high-wage [~~economic-based~~] economic base job shall not be eligible for a credit pursuant to this section if the

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job is created due to an eligible employer entering into a contract or becoming a subcontractor to a contract with a governmental entity that replaces one or more entities performing functionally equivalent services for the governmental entity unless the job is a new high-wage [~~economic-based~~] economic base job that was not being performed by an employee of the replaced entity.

J. A new high-wage [~~economic-based~~] economic base job shall not be eligible for a credit pursuant to this section if the eligible employer has more than one business location in New Mexico from which it conducts business and the requirements of Subsection E of this section are satisfied solely by moving the job from one business location of the eligible employer in New Mexico to another business location of the eligible employer in New Mexico.

K. With respect to each annual application for a high-wage jobs tax credit, the employer shall certify and include:

(1) the amount of wages paid to each eligible employee in a new high-wage [~~economic-based~~] economic base job during the qualifying period;

(2) the number of weeks each position was occupied during the qualifying period;

(3) whether the new high-wage [~~economic-based~~] economic base job was in a municipality with a population of sixty thousand or more or with a population of less than sixty thousand

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according to the most recent federal decennial census and whether the job was in the unincorporated area of a county;

(4) whether the application pertains to the first, second, third or fourth qualifying period for each eligible employee;

(5) the total number of employees employed by the employer at the job location on the day prior to the qualifying period and on the last day of the qualifying period;

(6) the total number of threshold jobs performed or based at the eligible employer's location on the day prior to the qualifying period and on the last day of the qualifying period;

(7) for an eligible employer that has more than one business location in New Mexico from which it conducts business, the total number of threshold jobs performed or based at each business location of the eligible employer in New Mexico on the day prior to the qualifying period and on the last day of the qualifying period;

(8) whether the eligible employer is receiving or is eligible to receive development training program assistance pursuant to Section 21-19-7 NMSA 1978;

(9) whether the eligible employer has ceased business operations at any of its business locations in New Mexico; and

(10) whether the application is precluded by

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Subsection O of this section.

L. Any person who willfully submits a false, incorrect or fraudulent certification required pursuant to Subsection K of this section shall be subject to all applicable penalties under the Tax Administration Act, except that the amount on which the penalty is based shall be the total amount of credit requested on the application for approval.

M. Except as provided in Subsection N of this section, an approved high-wage jobs tax credit shall be claimed against the taxpayer's modified combined tax liability and shall be filed with the return due immediately following the date of the credit approval. If the credit exceeds the taxpayer's modified combined tax liability, the excess shall be refunded to the taxpayer.

N. If the taxpayer ceases business operations in New Mexico while an application for credit approval is pending or after an application for credit has been approved for any qualifying period for a new high-wage [~~economic-based~~] economic base job, the department shall not grant an additional high-wage jobs tax credit to that taxpayer, except as provided in Subsection O of this section, and shall extinguish any amount of credit approved for that taxpayer that has not already been claimed against the taxpayer's modified combined tax liability.

O. A taxpayer that has received a high-wage jobs tax credit shall not submit a new application for a credit for a minimum of five calendar years from the closing date of the last

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qualifying period for which the taxpayer received the credit if the taxpayer:

(1) lost eligibility to claim a tax credit from a previous application pursuant to Subsection E or N of this section; or

(2) reduces its total full-time employees in New Mexico by more than five percent after the date on which the last qualifying period on the taxpayer's previous application ends.

P. The economic development department and the taxation and revenue department shall report to the appropriate interim legislative committee each year the cost of this tax credit to the state and its impact on company recruitment and job creation.

Q. As used in this section:

(1) "benefits" means all remuneration for work performed that is provided to an employee in whole or in part by the employer, other than wages, including the employer's contributions to insurance programs, health care, medical, dental and vision plans, life insurance, employer contributions to pensions, such as a 401(k), and employer-provided services, such as child care, offered by an employer to the employee;

(2) "consecutive qualifying periods" means the three qualifying periods successively following the qualifying period in which the new high-wage [~~economic-based~~] economic base job was created;

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(3) "department" means the taxation and revenue department;

(4) "domicile" means the sole place where an individual has a true, fixed, permanent home. It is the place where the individual has a voluntary, fixed habitation of self and family with the intention of making a permanent home;

(5) "eligible employee" means an individual who is employed in New Mexico by an eligible employer and who is a resident of New Mexico; "eligible employee" does not include an individual who:

(a) bears any of the relationships described in Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to the employer or, if the employer is a corporation, to an individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, to an individual who owns, directly or indirectly, more than fifty percent of the capital and profits interest in the entity;

(b) if the employer is an estate or trust, is a grantor, beneficiary or fiduciary of the estate or trust or is an individual who bears any of the relationships described in Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to a grantor, beneficiary or fiduciary of the estate or trust;

(c) is a dependent, as that term is described in 26 U.S.C. Section 152(a)(9), of the employer or, if

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the taxpayer is a corporation, of an individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, of an individual who owns, directly or indirectly, more than fifty percent of the capital and profits interest in the entity or, if the employer is an estate or trust, of a grantor, beneficiary or fiduciary of the estate or trust; or

(d) is working or has worked as an employee or as an independent contractor for an entity that, directly or indirectly, owns stock in a corporation of the eligible employer or other interest of the eligible employer that represents fifty percent or more of the total voting power of that entity or has a value equal to fifty percent or more of the capital and profits interest in the entity;

(6) "eligible employer" means an employer that:

(a) sold and delivered more than fifty percent of its goods produced in New Mexico or non-retail services performed in New Mexico to persons outside New Mexico for use or resale outside New Mexico during the applicable qualifying period; provided that the fifty percent of those goods or services is measured by the eligible employer's gross receipts;

(b) is receiving or is eligible to receive development training program assistance pursuant to Section 21-19-7 NMSA 1978 during the applicable qualifying period; and

(c) whose principal business activities at

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the location in New Mexico for which the high-wage jobs tax credit is being claimed consist of manufacturing or performing non-retail services during the applicable qualifying period;

(7) "for use or resale outside New Mexico" means that the person who purchases the eligible employer's goods or services uses or resells the goods or services outside New Mexico or makes initial use of the goods or services outside New Mexico. If the purchaser conducts business in multiple states, goods and services are deemed for use or resale outside New Mexico, unless New Mexico is the primary market for the purchaser's goods or services;

(8) "full-time employee" means an employee who works for the same employer an average of at least thirty-two hours per week for at least forty-eight weeks per year;

(9) "manufacturing" means "manufacturing" as that term is used in Section 7-9A-3 NMSA 1978;

(10) "modified combined tax liability" means the total liability for the reporting period for the [~~gross receipts~~] state sales tax imposed by Section 7-9-4 NMSA 1978, together with any tax collected at the same time and in the same manner as the [~~gross receipts~~] state sales tax, such as the [~~compensating~~] state use tax, the withholding tax, the interstate telecommunications [~~gross receipts~~] sales tax, the surcharges imposed by Section 63-9D-5 NMSA 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978, minus the amount of any credit other than the high-wage

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jobs tax credit applied against any or all of these taxes or surcharges; but "modified combined tax liability" excludes all amounts collected with respect to local option [~~gross receipts~~] sales taxes;

(11) "new high-wage [~~economic-based~~] economic base job" means a new job created in New Mexico by an eligible employer on or after July 1, 2004 and prior to July 1, 2020 that is occupied for at least forty-eight weeks of a qualifying period by an eligible employee who is paid wages calculated for the qualifying period to be at least:

(a) for a new high-wage [~~economic-based~~] economic base job created prior to July 1, 2015: 1) forty thousand dollars ($40,000) if the job is performed or based in or within ten miles of the external boundaries of a municipality with a population of sixty thousand or more according to the most recent federal decennial census or in a class H county; and 2) twenty-eight thousand dollars ($28,000) if the job is performed or based in a municipality with a population of less than sixty thousand according to the most recent federal decennial census or in the unincorporated area, that is not within ten miles of the external boundaries of a municipality with a population of sixty thousand or more, of a county other than a class H county; and

(b) for a new high-wage [~~economic-based~~] economic base job created on or after July 1, 2015: 1) sixty thousand dollars ($60,000) if the job is performed or based in or

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within ten miles of the external boundaries of a municipality with a population of sixty thousand or more according to the most recent federal decennial census or in a class H county; and 2) forty thousand dollars ($40,000) if the job is performed or based in a municipality with a population of less than sixty thousand according to the most recent federal decennial census or in the unincorporated area, that is not within ten miles of the external boundaries of a municipality with a population of sixty thousand or more, of a county other than a class H county;

(12) "non-retail service" means a specialized service, excluding a construction service of any type, that is sold to another business or business entity and is used by the business or business entity to develop products for or deliver services to its customers. "Non-retail service" is not provided by direct individual-to-individual interaction and is not offered to the general public by the business or business entity. "Non-retail service" includes:

(a) research, development, engineering and testing services performed for a manufacturer that uses the product of the service to develop new or improve existing products;

(b) software and software application development services performed for a business;

(c) data processing and hosting services performed for a business that uses the service to deliver products

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or service to its own customers;

(d) digital film production services and post-film production services performed for a business that will market the digital product or film;

(e) customer or call center services performed for a business, if those services do not support retail activities of the eligible employer; and

(f) professional services, such as accounting, engineering, legal and information technology services, if the eligible employer does not offer those services for sale to the general public;

(13) "performed in New Mexico" means that the labor, activities, property and equipment necessary to complete, but not to deliver, a service all occur or are utilized within New Mexico;

(14) "produced in New Mexico" means the creation, bringing into existence or making available a good or product for commercial sale through the expense of labor or capital, or both, within New Mexico;

(15) "qualifying period" means the period of twelve months beginning on the day an eligible employee begins working in a new high-wage [~~economic-based~~] economic base job or the period of twelve months beginning on the anniversary of the day an eligible employee began working in a new high-wage [~~economic-based~~] economic base job;

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(16) "resident" means a natural person whose domicile is in New Mexico at the time of hire or within one hundred eighty days of the date of hire;

(17) "threshold job" means a job that is occupied for at least forty-eight weeks of a calendar year by an eligible employee and that meets the wage requirements for a "new high-wage [~~economic-based~~] economic base job"; and

(18) "wages" means all compensation paid by an eligible employer to an eligible employee through the employer's payroll system, including those wages that the employee elects to defer or redirect or the employee's contribution to a 401(k) or cafeteria plan program, but "wages" does not include benefits or the employer's share of payroll taxes, social security or medicare contributions, federal or state unemployment insurance contributions or workers' compensation."

SECTION 255. Section 7-9G-2 NMSA 1978 (being Laws 2007, Chapter 229, Section 1, as amended) is amended to read:

"7-9G-2. ADVANCED ENERGY COMBINED REPORTING TAX CREDIT--[~~GROSS RECEIPTS~~] STATE SALES TAX--[~~COMPENSATING~~] STATE USE TAX--WITHHOLDING TAX.--

A. Except as otherwise provided in this section, a taxpayer that holds an interest in a qualified generating facility located in New Mexico may claim a credit to be computed pursuant to the provisions of this section. The credit provided by this section may be referred to as the "advanced energy combined

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reporting tax credit".

B. As used in this section:

(1) "advanced energy tax credit" means the advanced energy income tax credit, the advanced energy corporate income tax credit and the advanced energy combined reporting tax credit;

(2) "coal-based electric generating facility" means a new or repowered generating facility and an associated coal gasification facility, if any, that uses coal to generate electricity and that meets the following specifications:

(a) emits the lesser of: 1) what is achievable with the best available control technology; or 2) thirty-five thousandths pound per million British thermal units of sulfur dioxide, twenty-five thousandths pound per million British thermal units of oxides of nitrogen and one hundredth pound per million British thermal units of total particulates in the flue gas;

(b) removes the greater of: 1) what is achievable with the best available control technology; or 2) ninety percent of the mercury from the input fuel;

(c) captures and sequesters or controls carbon dioxide emissions so that by the later of January 1, 2017 or eighteen months after the commercial operation date of the coal-based electric generating facility, no more than one thousand one hundred pounds per megawatt-hour of carbon dioxide is emitted

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into the atmosphere;

(d) all infrastructure required for sequestration is in place by the later of January 1, 2017 or eighteen months after the commercial operation date of the coal-based electric generating facility;

(e) includes methods and procedures to monitor the disposition of the carbon dioxide captured and sequestered from the coal-based electric generating facility; and

(f) does not exceed a name-plate capacity of seven hundred net megawatts;

(3) "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

(4) "eligible generation plant costs" means expenditures for the development and construction of a qualified generating facility, including permitting; site characterization and assessment; engineering; design; carbon dioxide capture, treatment, compression, transportation and sequestration; site and equipment acquisition; and fuel supply development used directly and exclusively in a qualified generating facility;

(5) "entity" means an individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate or other association or a

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gas, water or electric utility owned or operated by a county or municipality;

(6) "geothermal electric generating facility" means a facility with a name-plate capacity of one megawatt or more that uses geothermal energy to generate electricity, including a facility that captures and provides geothermal energy to a preexisting electric generating facility using other fuels in part;

[~~(7) "gross receipts tax due to the state" means the taxpayer's gross receipts liability for the reporting period that is:~~

~~(a) determined by, if the taxpayer's business location is described in Subsection A of Section 7-1-6.4 NMSA 1978, multiplying the taxpayer's taxable gross receipts for the reporting period by the difference between the gross receipts tax rate specified in Section 7-9-4 NMSA 1978 and one and two hundred twenty-five thousandths percent; or~~

~~(b) equal to, if the taxpayer's business location is not described in Subsection A of Section 7-1-6.4 NMSA 1978, the gross receipts tax rate specified in Section 7-9-4 NMSA 1978;~~

~~(8)~~] (7) "interest in a qualified generating facility" means title to a qualified generating facility; a leasehold interest in a qualified generating facility; an ownership interest in a business or entity that is taxed for

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federal income tax purposes as a partnership that holds title to or a leasehold interest in a qualified generating facility; or an ownership interest, through one or more intermediate entities that are each taxed for federal income tax purposes as a partnership, in a business that holds title to or a leasehold interest in a qualified generating facility;

[~~(9)~~] (8) "name-plate capacity" means the maximum rated output of the facility measured as alternating current or the equivalent direct current measurement;

[~~(10)~~] (9) "qualified generating facility" means a facility that begins construction not later than December 31, 2015 and is:

(a) a solar thermal electric generating facility that begins construction on or after July 1, 2007 and that may include an associated renewable energy storage facility;

(b) a solar photovoltaic electric generating facility that begins construction on or after July 1, 2009 and that may include an associated renewable energy storage facility;

(c) a geothermal electric generating facility that begins construction on or after July 1, 2009;

(d) a recycled energy project if that facility begins construction on or after July 1, 2007; or

(e) a new or repowered coal-based electric generating facility and an associated coal gasification facility;

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[~~(11)~~] (10) "recycled energy" means energy produced by a generation unit with a name-plate capacity of not more than fifteen megawatts that converts the otherwise lost energy from the exhaust stacks or pipes to electricity without combustion of additional fossil fuel;

[~~(12)~~] (11) "sequester" means to store, or chemically convert, carbon dioxide in a manner that prevents its release into the atmosphere and may include the use of geologic formations and enhanced oil, coalbed methane or natural gas recovery techniques;

[~~(13)~~] (12) "solar photovoltaic electric generating facility" means an electric generating facility with a name-plate capacity of one megawatt or more that uses solar photovoltaic energy to generate electricity; and

[~~(14)~~] (13) "solar thermal electric generating facility" means an electric generating facility with a name-plate capacity of one megawatt or more that uses solar thermal energy to generate electricity, including a facility that captures and provides solar energy to a preexisting electric generating facility using other fuels in part.

C. A taxpayer that holds an interest in a qualified generating facility may be allocated the right to claim the advanced energy combined reporting tax credit without regard to the taxpayer's relative interest in the qualified generating facility if:

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

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

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

D. Upon receipt of the notice of an allocation of the right to claim all or a portion of the advanced energy combined reporting tax credit, the department shall verify the allocation due to the recipient.

E. Subject to the limit imposed in Subsection [~~K~~] J of this section, the advanced energy combined reporting tax credit with respect to a qualified generating facility shall equal six percent of the eligible generation plant costs of the qualified generating facility. Taxpayers eligible to claim an advanced energy combined reporting tax credit holding less than one hundred percent of the interest in the qualified generating facility shall designate an individual to report annually to the department. That designated individual shall report the eligible generation

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plant costs incurred during the calendar year and the relative interest of those costs attributed to each eligible interest holder. The taxpayers shall submit a copy of the relative interests attributed to each interest holder to the department, and any change to the apportioned interests shall be submitted to the department. The designated person and the department may identify a mutually acceptable reporting schedule.

F. A taxpayer may apply for the advanced energy combined reporting tax credit by submitting to the taxation and revenue department a certificate issued by the department of environment pursuant to Subsection K of this section, documentation showing the taxpayer's interest in the qualified generating facility identified in the certificate, documentation of all eligible generation plant costs incurred by the taxpayer prior to the date of the application by the taxpayer for the advanced energy combined reporting tax credit and any other information the taxation and revenue department requests to determine the amount of tax credit due to the taxpayer.

G. A taxpayer having applied for and been granted approval to claim an advanced energy combined reporting tax credit by the department pursuant to this section may claim an amount of available credit against the taxpayer's [~~gross receipts~~] state sales tax, [~~compensating~~] state use tax or withholding tax due to the state. Any balance of the advanced energy combined reporting tax credit that the taxpayer is approved to claim after applying

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that tax credit against the taxpayer's [~~gross receipts~~] state sales tax, [~~compensating~~] state use tax or withholding tax liabilities may be claimed by the taxpayer against the taxpayer's tax liability pursuant to the Income Tax Act by claiming an advanced energy income tax credit or against the taxpayer's tax liability pursuant to the Corporate Income and Franchise Tax Act by claiming an advanced energy corporate income tax credit. The advanced energy combined reporting tax credit is not refundable. The total amount of tax credit claimed pursuant to this section, when combined with the advanced energy tax credits claimed pursuant to the Income Tax Act and the Corporate Income and Franchise Tax Act, shall not exceed the total amount of advanced energy tax credits approved by the department for the qualified generating facility.

H. A taxpayer that is liable for the payment of [~~gross receipts~~] state sales tax or [~~compensating~~] state use tax with respect to the ownership, development, construction, maintenance or operation of a new coal-based electric generating facility that does not meet the criteria for a qualified generating facility and that begins construction after January 1, 2007 shall not claim an advanced energy tax combined reporting credit pursuant to this section or a [~~gross receipts~~] state sales tax credit, a [~~compensating~~] state use tax credit or a withholding tax credit pursuant to any other state law.

I. If the amount of the advanced energy tax credit

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approved by the department exceeds the taxpayer's liability, the excess may be carried forward for up to ten years.

J. The aggregate amount of advanced energy tax credit that may be claimed with respect to each qualified generating facility shall not exceed sixty million dollars ($60,000,000).

K. An entity that holds an interest in a qualified generating facility may request a certificate of eligibility from the department of environment to enable the requester to apply for the advanced energy combined reporting tax credit. The department of environment:

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

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

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

(4) shall:

(a) issue rules governing the procedure for administering the provisions of this subsection and Subsection L of this section and for providing certificates of eligibility for advanced energy tax credits;

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

(c) deposit fees collected pursuant to this paragraph in the state air quality permit fund [~~created pursuant to Section 74-2-15 NMSA 1978~~]; and

(5) shall report annually to the appropriate interim legislative committee information that will allow the legislative committee to analyze the effectiveness of the advanced energy tax credits, including the identity of qualified generating facilities, the energy production means used, the amount of emissions identified in this section reduced and removed by those qualified generating facilities and whether any requests for certificates of eligibility could not be approved due to program limits.

L. If the department of environment issues a certificate of eligibility to a taxpayer stating that the taxpayer holds an interest in a qualified generating facility and the taxpayer does not sequester or control carbon dioxide emissions to the extent required by this section by the later of January 1, 2017 or eighteen months after the commercial operation date of the qualified generating facility, the taxpayer's certification as a qualified generating facility shall be revoked by the department of environment and the taxpayer shall repay to the state tax credits granted pursuant to this section; provided that if the taxpayer demonstrates to the department of environment that the

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taxpayer made every effort to sequester or control carbon dioxide emissions to the extent feasible and the facility's inability to meet the sequestration requirements of a qualified generating facility was beyond the facility's control, in which case the department of environment shall determine, after a public hearing, the amount of the tax credit that should be repaid to the state. The department of environment, in its determination, shall consider the environmental performance of the facility and the extent to which the inability to meet the sequestration requirements of a qualified generating facility was in the control of the taxpayer. The repayment as determined by the department of environment shall be paid within one hundred eighty days following a final order by the department of environment.

M. Expenditures for which a taxpayer claims an advanced energy combined reporting tax credit pursuant to this section are ineligible for credits pursuant to the provisions of the Investment Credit Act or any other credit against personal income tax, corporate income tax, [~~compensating~~] state use tax, [~~gross receipts~~] state sales tax or withholding tax.

N. A taxpayer shall apply for approval for a credit within one year following the end of the calendar year in which the eligible generation plant costs are incurred."

SECTION 256. Section 7-9I-2 NMSA 1978 (being Laws 2005, Chapter 104, Section 18, as amended) is amended to read:

"7-9I-2. DEFINITIONS.--As used in the Affordable Housing

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Tax Credit Act:

A. "affordable housing project" means land acquisition, construction, building acquisition, remodeling, improvement, rehabilitation, conversion or weatherization for residential housing that is approved by the authority and that includes single-family housing or multifamily housing;

B. "authority" means the New Mexico mortgage finance authority;

C. "department" means the taxation and revenue department;

D. "modified combined tax liability" means the total liability for the reporting period for the [~~gross receipts~~] state sales tax imposed by Section 7-9-4 NMSA 1978, together with any tax collected at the same time and in the same manner as the [~~gross receipts~~] state sales tax, such as the [~~compensating~~] state use tax, the withholding tax, the interstate telecommunications [~~gross receipts~~] sales tax, the surcharges imposed by Section 63-9D-5 NMSA 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978, minus the amount of any credit other than the affordable housing tax credit applied against any or all of these taxes or surcharges; but "modified combined tax liability" excludes all amounts collected with respect to local option [~~gross receipts~~] sales taxes and governmental [~~gross receipts~~] sales taxes; and

E. "person" means an individual, tribal government,

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housing authority, corporation, limited liability company, partnership, joint venture, syndicate, association or nonprofit organization."

SECTION 257. Section 7-9I-5 NMSA 1978 (being Laws 2005, Chapter 104, Section 21) is amended to read:

"7-9I-5. AFFORDABLE HOUSING TAX CREDIT.--

A. The tax credit provided in this section may be referred to as the "affordable housing tax credit". Except as otherwise provided by the Affordable Housing Tax Credit Act, a holder of an investment voucher that submits the investment voucher to the department may apply for, and the department may allow, a tax credit in an amount not to exceed the value of the investment voucher during the tax year in which the authority certifies to the department:

(1) completion of a service for which an investment voucher has been issued pursuant to the Affordable Housing Tax Credit Act; or

(2) approval by the authority or completion of an affordable housing project for which a land, building or cash donation has been made and for which an investment voucher has been issued pursuant to the Affordable Housing Tax Credit Act.

B. A holder of an investment voucher may apply all or a portion of the affordable housing tax credit against the holder's modified combined tax liability, personal income tax liability or corporate income tax liability. Any balance of the

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affordable housing tax credit claimed may be carried forward for up to five years from the calendar year during which the authority certifies to the department approval of the affordable housing project for which the investment voucher used to claim the affordable housing tax credit is issued. No amount of the affordable housing tax credit may be applied against a local option [~~gross receipts~~] sales tax imposed by a municipality or county or against the [~~government gross receipts~~] governmental sales tax.

C. Notwithstanding the provisions of Section 7-1-8 NMSA 1978, the department may disclose to a person the balance of the affordable housing tax credit remaining with respect to any investment voucher submitted by that person."

SECTION 258. Section 7-9J-2 NMSA 1978 (being Laws 2007, Chapter 204, Section 12, as amended) is amended to read:

"7-9J-2. DEFINITIONS.--As used in the Alternative Energy Product Manufacturers Tax Credit Act:

A. "alternative energy product" means an alternative energy vehicle, fuel cell system, renewable energy system or any component of an alternative energy vehicle, fuel cell system or renewable energy system; components for integrated gasification combined cycle coal facilities and equipment related to the sequestration of carbon from integrated gasification combined cycle plants; or, beginning in taxable year 2011 and ending in taxable year 2019, a product extracted from or secreted by a

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single cell photosynthetic organism;

B. "alternative energy vehicle" means a motor vehicle manufactured by an original equipment manufacturer that fully warrants and certifies that the motor vehicle meets the federal motor vehicle safety standards and is designed to be propelled in whole or in part by electricity; [~~"alternative energy vehicle" includes a gasoline-electric hybrid motor vehicle exempt from the motor vehicle excise tax pursuant to Subsection G of Section 7-14-6 NMSA 1978;~~]

C. "component" means a part, assembly of parts, material, ingredient or supply that is incorporated directly into an end product;

D. "department" means the taxation and revenue department, the secretary of taxation and revenue or an employee of the department exercising authority lawfully delegated to that employee by the secretary;

E. "fuel cell system" means a system that converts hydrogen, natural gas or waste gas to electricity without combustion, including:

(1) a fuel cell or a system used to generate or reform hydrogen for use in a fuel cell; or

(2) a system used to generate or reform hydrogen for use in a fuel cell, including:

(a) electrolyzers that use renewable energy; and

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(b) reformers that use natural gas as the feedstock;

F. "manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but "manufacturing" does not include construction, farming, power generation or processing natural resources;

G. "manufacturing equipment" means an essential machine, mechanism or tool or a component of an essential machine, mechanism or tool used directly and exclusively in a taxpayer's manufacturing operation and that is subject to depreciation pursuant to the Internal Revenue Code of 1986 by the taxpayer carrying on the manufacturing; provided that "manufacturing equipment" does not include a vehicle that leaves the site of a manufacturing operation for the purpose of transporting persons or property, including property for which the taxpayer claims a credit pursuant to Section 7-9-79 NMSA 1978;

H. "manufacturing operation" means a plant employing personnel to perform production tasks, in conjunction with manufacturing equipment not previously existing at the site, to produce alternative energy products;

I. "modified combined tax liability" means the total liability for the reporting period for the [~~gross receipts~~] state sales tax imposed by Section 7-9-4 NMSA 1978, together with any tax collected at the same time and in the same manner as that

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[~~gross receipts~~] state sales tax, such as the [~~compensating~~] state use tax, the withholding tax, the interstate telecommunications [~~gross receipts~~] sales tax, the surcharge imposed by Section 63-9D-5 NMSA 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978, minus the amount of any credit other than the alternative energy product manufacturers tax credit applied against any or all of those taxes or surcharges; provided that "modified combined tax liability" excludes all amounts collected with respect to local option [~~gross receipts~~] sales taxes;

J. "pass-through entity" means a business association other than:

(1) a sole proprietorship;

(2) an estate or trust;

(3) a corporation, limited liability company, partnership or other entity that is not a sole proprietorship taxed as a corporation for federal income tax purposes for the taxable year; or

(4) a partnership that is organized as an investment partnership in which the partner's income is derived solely from interest, dividends and sales of securities;

K. "qualified expenditure" means an expenditure for the purchase of manufacturing equipment made after July 1, 2006 by a taxpayer approved by the department;

L. "renewable energy" means energy from solar heat, solar light, wind, geothermal energy, landfill gas or biomass

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either singly or in combination that produces low or zero emissions and has substantial long-term production potential;

M. "renewable energy system" means a system using only renewable energy to produce hydrogen or to generate electricity, including related cogeneration systems that create mechanical energy or that produce heat or steam for space or water heating and agricultural or small industrial processes and includes a:

(1) photovoltaic energy system;

(2) solar-thermal energy system;

(3) biomass energy system;

(4) wind energy system;

(5) hydrogen production system; or

(6) battery cell energy system; and

N. "taxpayer" means a person, including a shareholder, member, partner or other owner of a pass-through entity, that is liable for payment of a tax or to whom an assessment has been made if the assessment remains unabated or the amount thereof has not been paid."

SECTION 259. Section 7-10-1 NMSA 1978 (being Laws 1970, Chapter 26, Section 1, as amended) is amended to read:

"7-10-1. SHORT TITLE.--Chapter 7, Article 10 NMSA 1978 may be cited as the "[~~Gross Receipts~~] Sales Tax Registration Act"."

SECTION 260. Section 7-10-2 NMSA 1978 (being Laws 1970, Chapter 26, Section 2, as amended) is amended to read:

"7-10-2. PURPOSE OF ACT.--The purpose of the [~~Gross~~

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~~Receipts~~] Sales Tax Registration Act is to ensure that all persons doing business with the state, whether leasing property employed in New Mexico, performing services in New Mexico or selling property in New Mexico, are registered with the department for payment of the [~~gross receipts~~] state sales tax."

SECTION 261. Section 7-10-3 NMSA 1978 (being Laws 1970, Chapter 26, Section 3, as amended) is amended to read:

"7-10-3. DEFINITIONS.--As used in the [~~Gross Receipts~~] Sales Tax Registration Act:

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

B. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity; and

C. "state" means any state agency, department or office that has authority to contract in the name of the state or to make payments from state funds."

SECTION 262. Section 7-10-4 NMSA 1978 (being Laws 1970, Chapter 26, Section 4, as amended) is amended to read:

"7-10-4. PERSONS DOING BUSINESS WITH THE STATE--REGISTRATION TO PAY THE [~~GROSS RECEIPTS~~] STATE SALES TAX REQUIRED.--Any person leasing or selling property to the state or performing services for the state, as those terms are used in the

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[~~Gross Receipts and Compensating~~] Sales and Use Tax Act, shall be registered with the department to pay the [~~gross receipts~~] state sales tax unless that person has no business location, employees or property in New Mexico and does not conduct business in New Mexico through agents or contractors."

SECTION 263. Section 7-10-5 NMSA 1978 (being Laws 1970, Chapter 26, Section 5, as amended) is amended to read:

"7-10-5. PENALTY FOR NONCOMPLIANCE.--If any person required to register under the provisions of Section 7-10-4 NMSA 1978 is not registered to pay the [~~gross receipts~~] state sales tax, the state shall withhold payment of the amount due until the person has presented evidence of registration with the department to pay the [~~gross receipts~~] state sales tax."

SECTION 264. Section 7-14-6 NMSA 1978 (being Laws 1988, Chapter 73, Section 16, as amended) is amended to read:

"7-14-6. EXEMPTIONS FROM TAX.--

A. A person who acquires a vehicle out of state thirty or more days before establishing a domicile in this state is exempt from the tax if the vehicle was acquired for personal use.

B. A person applying for a certificate of title for a vehicle registered in another state is exempt from the tax if the person has previously registered and titled the vehicle in New Mexico and has owned the vehicle continuously since that time.

C. A vehicle with a certificate of title owned by this state or any political subdivision is exempt from the tax.

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D. A person is exempt from the tax if the person has a disability at the time the person purchases a vehicle and can prove to the motor vehicle division of the department or its agent that modifications have been made to the vehicle that are:

(1) due to that person's disability; and

(2) necessary to enable that person to drive that vehicle or be transported in that vehicle.

E. A person is exempt from the tax if the person is a bona fide resident of New Mexico who served in the armed forces of the United States and who suffered, while serving in the armed forces or from a service-connected cause, the loss or complete and total loss of use of:

(1) one or both legs at or above the ankle; or

(2) one or both arms at or above the wrist.

F. A person who acquires a vehicle for subsequent lease shall be exempt from the tax if:

(1) the person does not use the vehicle in any manner other than holding it for lease or sale or leasing or selling it in the ordinary course of business;

(2) the lease is for a term of more than six months;

(3) the receipts from the subsequent lease are subject to the [~~gross receipts~~] state sales tax; and

(4) the vehicle does not have a gross vehicle weight of over twenty-six thousand pounds.

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G. From July 1, 2004 through June 30, 2009, vehicles that are gasoline-electric hybrid vehicles with a United States environmental protection agency fuel economy rating of at least twenty-seven and one-half miles per gallon are eligible for a one-time exemption from the tax at the time of the issuance of the original certificate of title for the vehicle."

SECTION 265. Section 7-14-7 NMSA 1978 (being Laws 1988, Chapter 73, Section 17) is amended to read:

"7-14-7. CREDIT AGAINST TAX.--If a vehicle has been acquired through an out-of-state transaction upon which a gross receipts, sales, [~~compensating~~] use or similar tax was levied by another state or political subdivision thereof, the amount of the tax paid may be credited against the tax due this state on the same vehicle."

SECTION 266. Section 7-14-7.1 NMSA 1978 (being Laws 1991, Chapter 197, Section 4, as amended) is amended to read:

"7-14-7.1. CREDIT--VEHICLES USED FOR SHORT-TERM LEASING--REQUIREMENTS--REPORTS.--

A. Upon application of the owner, the secretary shall suspend payment of the tax and issue a certificate of title without payment of the tax for any vehicle the leasing of which is subject to the Leased Vehicle [~~Gross Receipts~~] Sales Tax Act, if:

(1) the vehicle is acquired by the owner on or after July 1, 1991;

(2) the vehicle is required to be registered in

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this state;

(3) the owner presents proof satisfactory to the secretary that the owner is registered with the department to pay the leased vehicle [~~gross receipts~~] sales tax; and

(4) the owner declares that the vehicle for which issuance of a certificate of title is being applied will be part of a vehicle fleet of at least five vehicles, will be used primarily as a short-term rental vehicle and that each period of rental or lease will not exceed six months.

B. If an owner has paid the motor vehicle excise tax after July 1, 1991 with respect to a vehicle that qualifies for suspension of the motor vehicle excise tax pursuant to Subsection A of this section, the owner may apply for a refund of the motor vehicle excise tax paid, but the application for refund [~~must~~] shall be made within one year of the date certificate of title was issued to the owner for the vehicle. If application is made after that time, the claim for refund is not timely and the motor vehicle excise tax paid shall not be refunded.

C. On or before the twenty-fifth day of the month following the close of the calendar year, the owner shall submit to the department in a form prescribed by the secretary a report indicating the total collections of leased vehicle [~~gross receipts~~] sales tax collected in lieu of the tax. The report shall also indicate the amount of tax that would have been paid in the state of New Mexico for the preceding calendar year.

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D. If the total amount of leased vehicle [~~gross receipts~~] sales tax is less than the amount of tax that would have been collected, the owner shall pay the difference to the department at the time of filing the report required by Subsection [~~B~~] C of this section.

E. Once the total amount of leased vehicle [~~gross receipts~~] sales tax credited with respect to a vehicle for which payment of the motor vehicle excise tax is suspended pursuant to Subsection A of this section equals or exceeds the amount of motor vehicle excise tax due on that vehicle, or the owner has paid the difference pursuant to Subsection D of this section, the secretary shall cause the records of the department to indicate that the motor vehicle excise tax due with respect to that vehicle is paid in full and that payment is no longer suspended."

SECTION 267. Section 7-14A-1 NMSA 1978 (being Laws 1991, Chapter 197, Section 5, as amended) is amended to read:

"7-14A-1. SHORT TITLE.--Chapter 7, Article 14A NMSA 1978 may be cited as the "Leased Vehicle [~~Gross Receipts~~] Sales Tax Act"."

SECTION 268. Section 7-14A-2 NMSA 1978 (being Laws 1991, Chapter 197, Section 6, as amended) is amended to read:

"7-14A-2. DEFINITIONS.--As used in the Leased Vehicle [~~Gross Receipts~~] Sales Tax Act:

A. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee

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

B. "engaging in business" means carrying on or causing to be carried on the leasing of vehicles with the purpose of direct or indirect benefit;

C. "gross receipts" means the total amount of money or the value of other consideration received from leasing vehicles used in New Mexico, but excludes cash discounts allowed and taken, leased vehicle [~~gross receipts~~] sales tax payable on transactions for the reporting period, [~~gross receipts~~] state sales tax payable pursuant to the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act on transactions for the reporting period and taxes imposed pursuant to the provisions of any local option [~~gross receipts~~] sales tax, as that term is defined in the Tax Administration Act, that is payable on transactions for the reporting period and any type of time-price differential. Also excluded from "gross receipts" are any gross receipts or sales taxes imposed by an Indian nation, tribe or pueblo, provided that the tax is approved, if approval is required by federal law or regulation, by the secretary of the interior of the United States, and provided further that the gross receipts or sales tax imposed by the Indian nation, tribe or pueblo provides a reciprocal exclusion for gross receipts, sales or gross receipts-based excise taxes imposed by the state or its political subdivisions. In an exchange in which the money or other consideration received does not represent the

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value of the lease of the vehicle, "gross receipts" means the reasonable value of the lease of the vehicle. When the leasing of vehicles is made under a leasing contract, the seller or lessor may elect to treat all receipts under those contracts as gross receipts as and when the payments are actually received. "Gross receipts" also includes amounts paid by members of any cooperative association or similar organization for the lease of vehicles by that organization;

D. "leasing" means any arrangement whereby, for a consideration, a vehicle without a driver furnished by the lessor or owner is employed for or by any person other than the owner of the vehicle for a period of not more than six months;

E. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity; and

F. "vehicle" means a passenger automobile designed to accommodate six or fewer adult human beings that is part of a fleet of five or more passenger automobiles owned by the same person."

SECTION 269. Section 7-14A-3 NMSA 1978 (being Laws 1991, Chapter 197, Section 7) is amended to read:

"7-14A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS "LEASED VEHICLE [~~GROSS RECEIPTS~~] SALES TAX".--

A. For the privilege of engaging in business, an excise tax equal to five percent of gross receipts is imposed on

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any person engaging in business in New Mexico.

B. The tax imposed by this section shall be referred to as the "leased vehicle [~~gross receipts~~] sales tax"."

SECTION 270. Section 7-14A-3.1 NMSA 1978 (being Laws 1993, Chapter 359, Section 1, as amended) is amended to read:

"7-14A-3.1. IMPOSITION AND RATE--LEASED VEHICLE SURCHARGE.--

A. Except as provided in Subsection B of this section, there is imposed a surcharge on the leasing of a vehicle to another person by a person engaging in business in New Mexico if the lease is subject to the leased vehicle [~~gross receipts~~] sales tax. The amount of this surcharge is two dollars ($2.00) for each day the vehicle is leased by the person. The surcharge may be referred to as the "leased vehicle surcharge".

B. The leased vehicle surcharge imposed in Subsection A of this section shall not apply to the lease of a temporary replacement vehicle if the lessee signs a statement that the temporary replacement vehicle is to be used as a replacement for another vehicle that is being repaired, serviced or replaced. For the purposes of this section, "temporary replacement vehicle" means a vehicle that is:

(1) used by an individual in place of another vehicle that is unavailable for use by the individual due to loss, damage, mechanical breakdown or need for servicing; and

(2) leased temporarily by or on behalf of the

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individual or loaned temporarily to the individual by a vehicle repair facility or dealer while the other vehicle is being repaired, serviced or replaced."

SECTION 271. Section 7-14A-4 NMSA 1978 (being Laws 1991, Chapter 197, Section 8, as amended) is amended to read:

"7-14A-4. PRESUMPTION OF TAXABILITY.--To prevent evasion of the leased vehicle [~~gross receipts~~] sales tax and the leased vehicle surcharge and to aid in their administration, it is presumed that all receipts of a person engaging in business are subject to the leased vehicle [~~gross receipts~~] sales tax and that all vehicles leased by that person are subject to the leased vehicle surcharge."

SECTION 272. Section 7-14A-5 NMSA 1978 (being Laws 1991, Chapter 197, Section 9) is amended to read:

"7-14A-5. SEPARATELY STATING THE LEASED VEHICLE [~~GROSS RECEIPTS~~] SALES TAX.--When the leased vehicle [~~gross receipts~~] sales tax is stated separately on the books of the lessor and if the total amount of tax that is stated separately on transactions reportable within one reporting period is in excess of the amount of leased vehicle [~~gross receipts~~] sales tax otherwise payable on the transactions on which the tax was separately stated, the excess amount of tax stated on the transactions within that reporting period shall be included in gross receipts."

SECTION 273. Section 7-14A-6 NMSA 1978 (being Laws 1991, Chapter 197, Section 10, as amended) is amended to read:

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"7-14A-6. DATE PAYMENT DUE.--The tax and the surcharge imposed by the Leased Vehicle [~~Gross Receipts~~] Sales Tax Act are to be paid on or before the twenty-fifth day of the month following the month in which the taxable event occurs."

SECTION 274. Section 7-14A-7 NMSA 1978 (being Laws 1991, Chapter 197, Section 11) is amended to read:

"7-14A-7. DEDUCTION--TRANSACTIONS IN INTERSTATE COMMERCE.--Receipts from transactions in interstate commerce may be deducted from gross receipts to the extent that the imposition of the leased vehicle [~~gross receipts~~] sales tax would be unlawful under the United States constitution."

SECTION 275. Section 7-14A-10 NMSA 1978 (being Laws 1991, Chapter 197, Section 14, as amended) is amended to read:

"7-14A-10. DISTRIBUTION OF PROCEEDS.--At the end of each month, the net receipts attributable to the leased vehicle [~~gross receipts~~] sales tax and any associated penalties and interest shall be distributed as follows:

A. one-fourth to the local governments road fund; and

B. three-fourths to the highway infrastructure fund."

SECTION 276. Section 7-14A-11 NMSA 1978 (being Laws 1991, Chapter 197, Section 15, as amended) is amended to read:

"7-14A-11. ADMINISTRATION.--

A. The department shall interpret the provisions of the Leased Vehicle [~~Gross Receipts~~] Sales Tax Act.

B. The department shall administer and enforce the

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collection of the leased vehicle [~~gross receipts~~] sales tax and the leased vehicle surcharge, and the Tax Administration Act applies to the administration and enforcement of the tax and the surcharge."

SECTION 277. Section 7-16A-13.1 NMSA 1978 (being Laws 2001, Chapter 43, Section 2, as amended by Laws 2006, Chapter 73, Section 1 and by Laws 2006, Chapter 74, Section 2) is amended to read:

"7-16A-13.1. CLAIM FOR REFUND OF SPECIAL FUEL EXCISE TAX PAID ON SPECIAL FUEL.--

A. Upon the submission of proof satisfactory to the department, a user of special fuel may submit and the department may allow a claim for refund of tax paid on special fuel used to propel a vehicle authorized by contract with the public education department or with a [~~public~~] school district as a school bus, to propel a vehicle off-road, to operate auxiliary equipment by a power take-off from the main engine or transmission of a vehicle or to operate a non-automotive apparatus mounted on a vehicle when the special fuel used for such purposes and the special fuel used to propel the vehicle on the highways are drawn from a common supply tank. The vehicle must be registered with the department. The user must be registered with the department for purposes of reporting and paying [~~gross receipts~~] state sales tax.

B. No person may submit claims for refund pursuant to the provisions of this section more frequently than quarterly. No

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claim for refund may be submitted or allowed on less than one hundred gallons.

C. The department may prescribe the documents necessary to support a claim for refund pursuant to the provisions of this section. The department may prescribe the use of types of monitoring or measuring equipment.

D. This section applies to special fuel purchased on or after July 1, 2001, except for the refund for special fuel used to propel a school bus, which applies to special fuel purchased on or after July 1, 2005."

SECTION 278. Section 7-19-10 NMSA 1978 (being Laws 1979, Chapter 397, Section 1, as amended) is amended to read:

"7-19-10. SHORT TITLE.--Sections 7-19-10 through 7-19-18 NMSA 1978 may be cited as the "Supplemental Municipal [~~Gross Receipts~~] Sales Tax Act"."

SECTION 279. Section 7-19-11 NMSA 1978 (being Laws 1979, Chapter 397, Section 2, as amended) is amended to read:

"7-19-11. DEFINITIONS.--As used in the Supplemental Municipal [~~Gross Receipts~~] Sales Tax Act:

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

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

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

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

E. "refunding bonds" means bonds issued pursuant to the provisions of the Supplemental Municipal [~~Gross Receipts~~] Sales Tax Act to refund supplemental municipal [~~gross receipts~~] sales tax bonds issued pursuant to the provisions of that act;

F. "state [~~gross receipts~~] sales tax" means the [~~gross receipts~~] state sales tax imposed under the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act; and

G. "supplemental municipal [~~gross receipts~~] sales tax" means the tax authorized to be imposed under the Supplemental Municipal [~~Gross Receipts~~] Sales Tax Act."

SECTION 280. Section 7-19-12 NMSA 1978 (being Laws 1979, Chapter 397, Section 3, as amended) is amended to read:

"7-19-12. AUTHORIZATION TO IMPOSE SUPPLEMENTAL MUNICIPAL [~~GROSS RECEIPTS~~] SALES TAX--AUTHORIZATION FOR ISSUANCE OF SUPPLEMENTAL MUNICIPAL [~~GROSS RECEIPTS~~] SALES TAX BONDS--ELECTION REQUIRED.--

A. The majority of the members elected to the governing body of a municipality may enact an ordinance imposing

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an excise tax on any person engaging in business in the municipality for the privilege of engaging in business in the municipality. This tax is to be referred to as the "supplemental municipal [~~gross receipts~~] sales tax". The rate of the tax shall not exceed one percent of the gross receipts of the person engaging in business and shall be imposed in one-fourth percent increments if less than one percent.

B. The governing body of a municipality enacting an ordinance imposing the tax authorized in Subsection A of this section shall submit the question of imposing such tax and the question of the issuance of supplemental municipal [~~gross receipts~~] sales tax bonds in an amount not to exceed nine million dollars ($9,000,000), for which the revenue from the supplemental municipal [~~gross receipts~~] sales tax is dedicated, to the qualified electors of the municipality at a regular or special election.

C. The questions referred to in Subsection B of this section shall be submitted to a vote of the qualified electors of the municipality as two separate ballot questions, which shall be substantially in the following form:

(1) "Shall the municipality be authorized to issue supplemental municipal [~~gross receipts~~] sales tax bonds in an amount of not exceeding _____ dollars for the purpose of constructing and equipping and otherwise acquiring a municipal water supply system?

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For _____ Against _____"; and

(2) "Shall the municipality impose an excise tax for the privilege of engaging in business in the municipality, which shall be known as the "supplemental municipal [~~gross receipts~~] sales tax" and which shall be imposed at a rate of _____ percent of the gross receipts of the person engaging in business, the proceeds of which are dedicated to the payment of supplemental municipal [~~gross receipts~~] sales tax bonds?

For _____ Against _____".

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

E. If at an election called pursuant to this section a majority of the voters voting on each of the two questions [~~vote~~] votes in the affirmative on each [~~such~~] question, [~~then~~] the ordinance imposing the supplemental municipal [~~gross receipts~~] sales tax shall be approved. If at such election a majority of the voters voting on such questions [~~fail~~] fails to approve any of the questions, [~~then~~] the ordinance imposing the tax shall be disapproved and the questions required to be submitted by Subsection B of this section shall not be submitted to the voters for a period of one year from the date of the election.

F. Any ordinance enacted under the provisions of this

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section shall include an effective date of either July 1 or January 1, whichever date occurs first after the expiration of at least five months from the date of the election. A certified copy of any ordinance imposing a supplemental municipal [~~gross receipts~~] sales tax shall be mailed to the [~~division~~] department within five days after the ordinance is adopted by the approval by the electorate. Any ordinance repealing the imposition of a tax under the provisions of the Supplemental Municipal [~~Gross Receipts~~] Sales Tax Act shall become effective on either July 1 or January 1, after the expiration of at least five months from the date the ordinance is repealed by the governing body.

G. Nothing in this section is intended to or does alter the effectiveness or validity of any actions taken in accordance with Subsection G of Section 80 of Chapter 20 of Laws 1986."

SECTION 281. Section 7-19-13 NMSA 1978 (being Laws 1979, Chapter 397, Section 4) is amended to read:

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

A. Any ordinance imposing a supplemental municipal [~~gross receipts~~] sales tax shall adopt by reference the same definitions and the same provisions relating to exemptions and deductions as are contained in the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act then in effect and as it may

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be amended from time to time.

B. The governing body of any municipality imposing or increasing the supplemental municipal [~~gross receipts~~] sales tax [~~must~~] shall adopt the language of the model ordinance furnished to the municipality by the [~~division~~] department for the portion of the ordinance relating to the tax."

SECTION 282. Section 7-19-14 NMSA 1978 (being Laws 1979, Chapter 397, Section 5, as amended) is amended to read:

"7-19-14. SPECIFIC EXEMPTIONS.--No supplemental municipal [~~gross receipts~~] sales tax shall be imposed on the gross receipts arising from:

A. transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the municipality to another point outside the municipality; or

B. a business located outside the boundaries of a municipality on land owned by that municipality for which a [~~gross receipts tax~~] distribution is made pursuant to Section 7-1-6.4 NMSA 1978."

SECTION 283. Section 7-19-15 NMSA 1978 (being Laws 1979, Chapter 397, Section 6, as amended) is amended to read:

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

A. The department shall collect the supplemental municipal [~~gross receipts~~] sales tax in the same manner and at the

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same time it collects the state [~~gross receipts~~] sales tax.

B. The department shall withhold an administrative fee pursuant to Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA 1978. The department shall transfer to each municipality for which it is collecting a supplemental municipal [~~gross receipts~~] sales tax the amount of the tax collected less the administrative fee withheld and less any disbursements for tax credits, refunds and the payment of interest applicable to the supplemental municipal [~~gross receipts~~] sales tax. Transfer of the tax to a municipality shall be made within the month following the month in which the tax is collected."

SECTION 284. Section 7-19-16 NMSA 1978 (being Laws 1979, Chapter 397, Section 7) is amended to read:

"7-19-16. INTERPRETATION OF ACT--ADMINISTRATION AND ENFORCEMENT OF TAX.--

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

B. The [~~division~~] department shall administer and enforce the collection of the supplemental municipal [~~gross receipts~~] sales tax, and the Tax Administration Act applies to the administration and enforcement of the tax."

SECTION 285. Section 7-19-17 NMSA 1978 (being Laws 1979, Chapter 397, Section 8, as amended) is amended to read:

"7-19-17. ISSUANCE OF BONDS--PURPOSES.--

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A. If the ordinance imposing the supplemental municipal [~~gross receipts~~] sales tax is approved as provided in Subsection E of Section 7-19-12 NMSA 1978, the governing body of a municipality may issue bonds pursuant to the Supplemental Municipal [~~Gross Receipts~~] Sales Tax Act in an amount not to exceed nine million dollars ($9,000,000). The supplemental municipal [~~gross receipts~~] sales tax bonds shall be issued for the purpose of constructing and equipping and otherwise acquiring a municipal water supply system, including the purchase of water rights and easements, equipment and professional fees related thereto, to be paid back from the proceeds of the supplemental municipal [~~gross receipts~~] sales tax imposed.

B. Supplemental municipal [~~gross receipts~~] sales tax bonds shall be issued and sold as provided in the Supplemental Municipal [~~Gross Receipts~~] Sales Tax Act. The governing body of the municipality shall determine at its discretion the terms, covenants and conditions of the supplemental municipal [~~gross receipts~~] sales tax bonds, including [~~but not limited to~~] date of issuance, denomination, maturity, coupon rates, call features, premium, registration, refundability and other matters covering the general and technical aspects of their issuance. These bonds may be either serial or term and may be sold by the governing body of the municipality at the time and in the manner as the governing body may elect, at either public or private sale. The supplemental municipal [~~gross receipts~~] sales tax bonds shall not

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be considered or held to be general obligations of the municipality issuing them and are payable solely from the revenue accruing from the revenue of the supplemental municipal [~~gross receipts~~] sales tax. The ordinance authorizing the tax shall be irrepealable until these bonds are fully paid."

SECTION 286. Section 7-19-17.1 NMSA 1978 (being Laws 1997, Chapter 219, Section 4) is amended to read:

"7-19-17.1. REFUNDING BONDS--AUTHORIZATION.--

A. Any municipality may issue refunding bonds for the purpose of refinancing, paying and discharging all or any part of outstanding supplemental municipal [~~gross receipts~~] sales tax bonds of any one or more or all outstanding issues:

(1) for the acceleration, deceleration or other modification of the payment of such obligations, including without limitation any capitalization of any interest thereon in arrears or about to become due for any period not exceeding one year from the date of the refunding bonds;

(2) for the purpose of reducing interest costs or affecting other economies;

(3) for the purpose of modifying or eliminating restrictive contractual limitations pertaining to the issuance of additional bonds, otherwise concerning the outstanding bonds or to any facilities relating thereto; or

(4) for any combination of such purposes.

B. The municipality may pledge irrevocably for the

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payment of interest and principal on refunding bonds the appropriate pledged revenues, which may be pledged to an original issue of bonds as provided in the Supplemental Municipal [~~Gross Receipts~~] Sales Tax Act. Nothing in this section shall permit the pledge of [~~the gross receipts~~] supplemental municipal sales tax revenue to the payment of bonds that refund bonds issued under any other provision of law.

C. Refunding bonds may be issued separately or issued in combination in one series or more.

D. Refunding bonds issued pursuant to the Supplemental Municipal [~~Gross Receipts~~] Sales Tax Act shall be authorized by ordinance. Any bonds that are refunded under the provisions of this section shall be paid at maturity or on any permitted prior redemption date in the amounts, at the time and places and, if called prior to maturity, in accordance with any applicable notice provisions, all as provided in the proceedings authorizing the issuance of the refunded bonds, or otherwise appertaining thereto, except for any such bond that is voluntarily surrendered for exchange or payment by the holder or owner.

E. Provision shall be made for paying the bonds refunded at the time or places provided in Subsection D of this section. The principal amount of the refunding bonds shall not exceed, but may be less than or be the same as, the principal amount of the bonds being refunded so long as provision is duly and sufficiently made for the payment of the refunded bonds.

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F. The proceeds of refunding bonds, including any accrued interest and premium appertaining to the sale of refunding bonds, shall either be immediately applied to the retirement of the bonds being refunded or be placed in escrow in a commercial bank or trust company that possesses and is exercising trust powers and that is a member of the federal deposit insurance corporation, to be applied to the payment of the principal of, interest on and any prior redemption premium due in connection with the bonds being refunded; provided that such refunding bond proceeds, including any accrued interest and any premium appertaining to a sale of refunding bonds, may be applied to the establishment and maintenance of a reserve fund and to the payment of expenses incidental to the refunding and the issuance of the refunding bonds, the interest on the refunding bonds and the principal of the refunding bonds or both interest and principal as the municipality may determine. Nothing in this section requires the establishment of an escrow if the refunded bonds become due and payable within one year from the date of the refunding bonds and if the amounts necessary to retire the refunded bonds within that time are deposited with the paying agent for the refunded bonds. Any such escrow shall not necessarily be limited to proceeds of refunding bonds but may include other money available for its escrow purpose. Any proceeds in escrow pending such use may be invested or reinvested in bills, certificates of indebtedness, notes or bonds that are direct obligations of or the

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principal and interest of which obligations are unconditionally guaranteed by the United States or in certificates of deposit of banks that are members of the federal deposit insurance corporation, the par value of which certificates of deposit is collateralized by a pledge of obligations of or the payment of which is unconditionally guaranteed by the United States, the par value of which obligations is at least seventy-five percent of the par value of the certificates of deposit. Such proceeds and investments in escrow, together with any interest or other income to be derived from any such investment, shall be in an amount at all times sufficient as to principal, interest, any prior redemption premium due and any charges of the escrow agent payable therefrom to pay the bonds being refunded as they become due at their respective maturities or due at any designated prior redemption date in connection with which the municipality shall exercise a prior redemption option. Any purchaser of any refunding bond issued pursuant to the provisions of the Supplemental Municipal [~~Gross Receipts~~] Sales Tax Act is in no manner responsible for the application of the proceeds thereof by the municipality or any of its officers, agents or employees.

G. Refunding bonds may be sold at a public or negotiated sale and may bear such additional terms and provisions as may be determined by the municipality subject to limitations in the Supplemental Municipal [~~Gross Receipts~~] Sales Tax Act. The terms, provisions and authorization of the refunding bonds are not

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subject to the provisions of any other statute, provided that the Public Securities Limitation of Action Act shall be fully applicable to the issuance of refunding bonds.

H. The municipality shall receive from the department of finance and administration written approval of any refunding bonds issued pursuant to the provisions of this section."

SECTION 287. Section 7-19-18 NMSA 1978 (being Laws 1979, Chapter 397, Section 9, as amended) is amended to read:

"7-19-18. SUPPLEMENTAL MUNICIPAL [~~GROSS RECEIPTS~~] SALES TAX--USE OF PROCEEDS--RESTRICTION.--

A. The proceeds from the supplemental municipal [~~gross receipts~~] sales tax shall be deposited in a special improvement account of the municipality and shall be used only for:

(1) the payment of the principal of, interest on, any prior redemption premiums due in connection with and other expenses related to the supplemental municipal [~~gross receipts~~] sales tax bonds issued pursuant to the Supplemental Municipal [~~Gross Receipts~~] Sales Tax Act;

(2) the funding of any reserves and other accounts in connection with such bonds;

(3) refunding bonds; and

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

B. When any issue of supplemental municipal [~~gross receipts~~] sales tax bonds is fully paid, the supplemental

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municipal [~~gross receipts~~] sales tax shall cease to be imposed for that issue, but may continue to be imposed for bonds enacted and approved pursuant to Section 7-19-12 NMSA 1978 and thereafter issued, or for refunding bonds issued pursuant to Section [~~4 of this 1997 act~~] 7-19-17.1 NMSA 1978. Any money remaining in a special improvement account after the obligations for supplemental municipal [~~gross receipts~~] sales tax bonds and refunding bonds are fully paid may be transferred to any other fund of the municipality."

SECTION 288. Section 7-19D-1 NMSA 1978 (being Laws 1993, Chapter 346, Section 1) is amended to read:

"7-19D-1. SHORT TITLE.--Chapter 7, Article 19D NMSA 1978 may be cited as the "Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act"."

SECTION 289. Section 7-19D-2 NMSA 1978 (being Laws 1993, Chapter 346, Section 2) is amended to read:

"7-19D-2. DEFINITIONS.--As used in the Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act:

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

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

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

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

E. "state [~~gross receipts~~] sales tax" means the [~~gross receipts~~] state sales tax imposed [~~under~~] pursuant to provisions of the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act."

SECTION 290. Section 7-19D-3 NMSA 1978 (being Laws 1993, Chapter 346, Section 3) is amended to read:

"7-19D-3. EFFECTIVE DATE OF ORDINANCE.--An ordinance imposing, amending or repealing a tax or an increment of tax authorized by the Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act shall be effective on July 1 or January 1, whichever date occurs first after the expiration of at least three months from the date the adopted ordinance is mailed or delivered to the department. The ordinance shall include that effective date."

SECTION 291. Section 7-19D-4 NMSA 1978 (being Laws 1993, Chapter 346, Section 4) is amended to read:

"7-19D-4. ORDINANCE SHALL CONFORM TO CERTAIN PROVISIONS OF THE [~~GROSS RECEIPTS AND COMPENSATING~~] SALES AND USE TAX ACT AND REQUIREMENTS OF THE DEPARTMENT.--

A. An ordinance imposing a tax [~~under~~] pursuant to the provisions of the Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act shall adopt by reference the same definitions and

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the same provisions relating to exemptions and deductions as are contained in the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act then in effect and as it may be amended from time to time.

B. The governing body of any municipality imposing a tax [~~under~~] pursuant to provisions of the Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act shall impose the tax by adopting the model ordinance with respect to the tax furnished to the municipality by the department. An ordinance that does not conform substantially to the model ordinance of the department is not valid."

SECTION 292. Section 7-19D-5 NMSA 1978 (being Laws 1993, Chapter 346, Section 5, as amended) is amended to read:

"7-19D-5. SPECIFIC EXEMPTIONS.--No tax authorized by the provisions of the Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act shall be imposed on the gross receipts arising from:

A. transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the municipality to another point outside the municipality; or

B. a business located outside the boundaries of a municipality on land owned by that municipality for which a state [~~gross receipts~~] sales tax distribution is made pursuant to Section 7-1-6.4 NMSA 1978."

SECTION 293. Section 7-19D-6 NMSA 1978 (being Laws 1993, Chapter 346, Section 6) is amended to read:

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"7-19D-6. COPY OF ORDINANCE TO BE SUBMITTED TO DEPARTMENT.--A certified copy of the ordinance imposing or repealing a tax authorized [~~under~~] by the Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act or changing the tax rate imposed shall be mailed or delivered to the department within five days after the later of the date the ordinance is adopted or the date the results of any election held with respect to the ordinance are certified to be in favor of the ordinance."

SECTION 294. Section 7-19D-7 NMSA 1978 (being Laws 1993, Chapter 346, Section 7, as amended) is amended to read:

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

A. The department shall collect each tax imposed pursuant to the provisions of the Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act in the same manner and at the same time it collects the state [~~gross receipts~~] sales tax.

B. Except as provided in Subsection C of this section, the department shall withhold an administrative fee pursuant to Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA 1978. The department shall transfer to each municipality for which it is collecting a tax pursuant to the provisions of the Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act the amount of each tax collected for that municipality, less the administrative fee withheld and less any disbursements for tax credits, refunds and the payment of interest applicable to the tax. The transfer to

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the municipality shall be made within the month following the month in which the tax is collected.

C. With respect to the municipal [~~gross receipts~~] sales tax imposed by a municipality pursuant to Section 7-19D-9 NMSA 1978, the department shall withhold the administrative fee pursuant to Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA 1978 only on that portion of the municipal [~~gross receipts~~] sales tax arising from a municipal [~~gross receipts~~] sales tax rate in excess of one-half [~~of one~~] percent."

SECTION 295. Section 7-19D-8 NMSA 1978 (being Laws 1993, Chapter 346, Section 8) is amended to read:

"7-19D-8. INTERPRETATION OF ACT--ADMINISTRATION AND ENFORCEMENT OF ACT.--

A. The department shall interpret the provisions of the Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act.

B. The department shall administer and enforce the collection of each tax authorized [~~under~~] by the provisions of the Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act, and the Tax Administration Act applies to the administration and enforcement of each tax."

SECTION 296. Section 7-19D-9 NMSA 1978 (being Laws 1978, Chapter 151, Section 1, as amended) is amended to read:

"7-19D-9. MUNICIPAL [~~GROSS RECEIPTS~~] SALES TAX--AUTHORITY TO IMPOSE RATE.--

A. The majority of the members of the governing body

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of any municipality may impose by ordinance an excise tax not to exceed a rate of one and one-half percent of the gross receipts of any person engaging in business in the municipality for the privilege of engaging in business in the municipality. A tax imposed pursuant to this section shall be imposed by the enactment of one or more ordinances, each imposing any number of municipal [~~gross receipts~~] sales tax rate increments, but the total municipal [~~gross receipts~~] sales tax rate imposed by all ordinances shall not exceed an aggregate rate of one and one-half percent of the gross receipts of a person engaging in business. Municipalities may impose increments of one-eighth [~~of one~~] percent.

B. The tax imposed pursuant to Subsection A of this section may be referred to as the "municipal [~~gross receipts~~] sales tax".

C. The governing body of a municipality may, at the time of enacting an ordinance imposing the tax authorized in Subsection A of this section, dedicate the revenue for a specific purpose or area of municipal government services, including police protection, fire protection, public transportation or street repair and maintenance. If the governing body proposes to dedicate such revenue, the ordinance and, if any election is held, the ballot shall clearly state the purpose to which the revenue will be dedicated, and any revenue so dedicated shall be used by the municipality for that purpose unless a subsequent ordinance is

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adopted to change the purpose to which dedicated or to place the revenue in the general fund of the municipality.

D. An election shall be called on the questions of disapproval or approval of any ordinance enacted pursuant to Subsection A of this section or any ordinance amending such ordinance:

(1) if the governing body chooses to provide in the ordinance that it shall not be effective until the ordinance is approved by the majority of the registered voters voting on the question at an election to be held pursuant to the provisions of the Local Election Act; or

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

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

(b) in all other municipalities, with the municipal clerk within thirty days after the adoption of such ordinance and the petition has been signed by a number of registered voters in the municipality equal to at least five percent of the number of the voters in the municipality who were

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registered to vote in the most recent regular municipal election.

E. The signatures on the petition filed in accordance with Subsection D of this section shall be verified by the municipal clerk. If the petition is verified by the municipal clerk as containing the required number of signatures of registered voters, the governing body shall adopt an election resolution calling for the holding of a special election on the question of approving or disapproving the ordinance unless the ordinance is repealed before the adoption of the election resolution. An election held pursuant to Subparagraph (a) or (b) of Paragraph (2) of Subsection D of this section shall be called, conducted and canvassed as provided in the Local Election Act, and the election shall be held within seventy-five days after the date the petition is verified by the municipal clerk or it may be held in conjunction with a regular local election if such election occurs within seventy-five days after the date of verification by the municipal clerk.

F. If at an election called pursuant to Subsection D of this section a majority of the registered voters voting on the question approves the ordinance imposing the tax, the ordinance shall become effective in accordance with the provisions of the Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act. If at such an election a majority of the registered voters voting on the question disapproves the ordinance, the ordinance imposing the tax shall be deemed repealed and the question of imposing any

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increment of the municipal [~~gross receipts~~] sales tax authorized in this section shall not be considered again by the governing body for a period of one year from the date of the election.

G. Any municipality that has lawfully imposed by the requirements of the Special Municipal Gross Receipts Tax Act a rate of at least one-fourth [~~of one~~] percent shall be deemed to have imposed one-fourth [~~of one~~] percent municipal [~~gross receipts~~] sales tax pursuant to this section. Any rate of tax deemed to be imposed pursuant to this subsection shall continue to be dedicated to the payment of outstanding bonds issued by the municipality that pledged the tax revenues by ordinance until such time as the bonds are fully paid. A municipality may by ordinance change the purpose for any rate of tax deemed to be imposed at any time the revenues are not committed to payment of bonds.

H. Any law that imposes or authorizes the imposition of a municipal [~~gross receipts~~] sales tax or that affects the municipal [~~gross receipts~~] sales tax, or any law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of such municipal [~~gross receipts~~] sales tax unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor."

SECTION 297. Section 7-19D-10 NMSA 1978 (being Laws 1990, Chapter 99, Section 51, as amended) is amended to read:

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"7-19D-10. MUNICIPAL ENVIRONMENTAL SERVICES [~~GROSS RECEIPTS~~] SALES TAX--AUTHORITY TO IMPOSE--ORDINANCE REQUIREMENTS.--

A. Except as otherwise provided in this section, the majority of the members of the governing body of a municipality may enact an ordinance imposing an excise tax on any person engaging in business in the municipality for the privilege of engaging in business. The rate of the tax shall be one-sixteenth [~~of one~~] percent of the gross receipts of the person engaging in business.

B. The tax imposed in accordance with Subsection A of this section may be referred to as the "municipal environmental services [~~gross receipts~~] sales tax". The imposition of a municipal environmental services [~~gross receipts~~] sales tax is not subject to referendum.

C. The governing body of a municipality shall, at the time of enacting an ordinance imposing the rate of the tax authorized in Subsection A of this section, dedicate the revenue for acquisition, construction, operation and maintenance of solid waste facilities, water facilities, wastewater facilities, sewer systems and related facilities.

D. The governing body of a municipality in a class B county with a net taxable value used for rate-setting purposes for the 2008 property tax year of greater than seven hundred fifty million dollars ($750,000,000) and a population in the entire

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county according to the most recent federal decennial census of less than twenty-five thousand may enact an ordinance imposing an excise tax on any person engaging in business in the municipality for the privilege of engaging in business; provided that:

(1) the rate of the tax imposed shall not exceed one-half [~~of one~~] percent of the gross receipts of the person engaging in business;

(2) the tax is imposed in one-fourth [~~of one~~] percent increments; and

(3) the population of the municipality imposing the municipal environmental services [~~gross receipts~~] sales tax according to the most recent federal decennial census is:

(a) more than seven thousand five hundred but less than seven thousand eight hundred; or

(b) more than one thousand five hundred but less than two thousand."

SECTION 298. Section 7-19D-11 NMSA 1978 (being Laws 1991, Chapter 9, Section 3, as amended) is amended to read:

"7-19D-11. MUNICIPAL INFRASTRUCTURE [~~GROSS RECEIPTS~~] SALES TAX--AUTHORITY BY MUNICIPALITY TO IMPOSE--ORDINANCE REQUIREMENTS--ELECTION.--

A. A majority of the members of the governing body of a municipality may enact an ordinance imposing an excise tax on any person engaging in business in the municipality for the privilege of engaging in business. The rate of the tax shall not

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exceed one-fourth [~~of one~~] percent of the gross receipts of the person engaging in business and may be imposed in one-sixteenth [~~of one~~] percent increments by separate ordinances. Any ordinance enacting any increment of the first one-eighth [~~of one~~] percent of the tax is not subject to a referendum of any kind, notwithstanding any requirement of any charter municipality, except that an increment that is imposed after July 1, 1998 for economic development purposes set forth in Paragraph (5) of Subsection C of this section shall be subject to a referendum as provided in Subsection D of this section.

B. The tax imposed pursuant to Subsection A of this section may be referred to as the "municipal infrastructure [~~gross receipts~~] sales tax".

C. The governing body of a municipality, at the time of enacting any ordinance imposing the rate of the tax authorized in Subsection A of this section, may dedicate the revenue for:

(1) payment of special obligation bonds issued pursuant to a revenue bond act;

(2) repair, replacement, construction or acquisition of infrastructure improvements, including sanitary sewer lines, storm sewers and other drainage improvements, water, water rights, water lines and utilities, streets, alleys, rights of way, easements, international ports of entry and land within the municipality or within the extraterritorial zone of the municipality;

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(3) municipal general purposes;

(4) acquiring, constructing, extending, bettering, repairing or otherwise improving or operating or maintaining public transit systems or regional transit systems or authorities; and

(5) furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act, and use of not more than the greater of fifty thousand dollars ($50,000) or ten percent of the revenue collected for promotion and administration of or professional services contracts related to implementation of an economic development plan adopted by the governing body pursuant to the Local Economic Development Act and in accordance with law.

D. An ordinance imposing any increment of the municipal infrastructure [~~gross receipts~~] sales tax in excess of the first one-eighth [~~of one~~] percent or any increment imposed after July 1, 1998 for economic development purposes set forth in Paragraph (5) of Subsection C of this section shall not go into effect until after an election is held and a majority of the voters of the municipality voting in the election votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question shall be submitted to the voters of the municipality as a

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separate question at a regular local election or at a special election called for that purpose by the governing body. An election shall be called, conducted and canvassed as provided in the Local Election Act. If a majority of the voters voting on the question approves the ordinance imposing the municipal infrastructure [~~gross receipts~~] sales tax, then the ordinance shall become effective in accordance with the provisions of the Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act. If the question of imposing the municipal infrastructure [~~gross receipts~~] sales tax fails, the governing body shall not again propose the imposition of any increment of the tax in excess of the first one-eighth [~~of one~~] percent for a period of one year from the date of the election."

SECTION 299. Section 7-19D-12 NMSA 1978 (being Laws 2001, Chapter 172, Section 1, as amended) is amended to read:

"7-19D-12. MUNICIPAL CAPITAL OUTLAY [~~GROSS RECEIPTS~~] SALES TAX--PURPOSES--REFERENDUM.--

A. The majority of the members of the governing body of a municipality may enact an ordinance imposing an excise tax at a rate not to exceed one-fourth [~~of one~~] percent of the gross receipts of any person engaging in business in the municipality for the privilege of engaging in business. The tax may be imposed in increments of one-sixteenth [~~of one~~] percent not to exceed an aggregate rate of one-fourth [~~of one~~] percent.

B. The tax imposed pursuant to Subsection A of this

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section may be referred to as the "municipal capital outlay [~~gross receipts~~] sales tax".

C. The governing body, at the time of enacting an ordinance imposing a rate of tax authorized in Subsection A of this section, may dedicate the revenue for any municipal infrastructure purpose, including:

(1) the design, construction, acquisition, improvement, renovation, rehabilitation, equipping or furnishing of public buildings or facilities, including parking facilities, the acquisition of land for the public buildings or facilities and the acquisition or improvement of the grounds surrounding public buildings or facilities;

(2) acquisition, construction or improvement of water, wastewater or solid waste systems or facilities and related facilities, including water or sewer lines and storm sewers and other drainage improvements;

(3) acquisition, rehabilitation or improvement of firefighting equipment;

(4) construction, reconstruction or improvement of municipal streets, alleys, roads or bridges, including acquisition of rights of way;

(5) design, construction, acquisition, improvement or equipping of airport facilities, including acquisition of land, easements or rights of way for airport facilities;

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(6) acquisition of land for open space, public parks or public recreational facilities and the design, acquisition, construction, improvement or equipping of parks and recreational facilities; and

(7) payment of [~~gross receipts~~] sales tax revenue bonds issued pursuant to Chapter 3, Article 31 NMSA 1978 for infrastructure purposes.

D. An ordinance imposing the municipal capital outlay [~~gross receipts~~] sales tax shall not go into effect until after an election is held on the question of imposing the tax for the purpose for which the revenue is dedicated and a majority of the voters in the municipality voting in the election votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question shall be submitted to the voters of the municipality as a separate question at a general election or at a special election called for that purpose by the governing body. A special election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections. If a majority of the voters voting on the question approves the question of imposing the municipal capital outlay [~~gross receipts~~] sales tax, then the ordinance shall become effective in accordance with the provisions of the Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act. If the question of imposing the municipal capital

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outlay [~~gross receipts~~] sales tax fails, the governing body shall not again propose the imposition of the tax for a period of one year from the date of the election."

SECTION 300. Section 7-19D-14 NMSA 1978 (being Laws 2005, Chapter 212, Section 2) is amended to read:

"7-19D-14. QUALITY OF LIFE [~~GROSS RECEIPTS~~] SALES TAX--AUTHORITY TO IMPOSE--ORDINANCE REQUIREMENTS--USE OF REVENUE--ELECTION.--

A. Prior to January 1, 2016, the majority of the members of the governing body of a municipality may enact an ordinance imposing an excise tax at a rate not to exceed one-fourth percent of the gross receipts of a person engaging in business in the municipality for the privilege of engaging in business. The tax may be imposed in one or more increments of one-sixteenth percent not to exceed an aggregate rate of one-fourth percent. The tax shall be imposed for a period of not more than ten years from the effective date of the ordinance imposing the tax. Having enacted an ordinance imposing the tax prior to January 1, 2016 pursuant to the provisions of this section, the governing body may enact subsequent ordinances for succeeding periods of not more than ten years; provided that each ordinance meets the requirements of this section and of the Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act. The tax imposed pursuant to the provisions of this section may be referred to as the "quality of life [~~gross receipts~~] sales tax".

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B. The governing body, at the time of enacting an ordinance imposing the quality of life [~~gross receipts~~] sales tax, shall dedicate the revenue to cultural programs and activities provided by a local government and to cultural programs, events and activities provided by contract or operating agreement with nonprofit or publicly owned cultural organizations and institutions.

C. An ordinance imposing any increment of the quality of life [~~gross receipts~~] sales tax shall not go into effect until after an election is held and a majority of the voters in the municipality voting in the election votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election within ninety days of the date the ordinance is adopted on the question of imposing the tax. The question may be submitted to the voters as a separate question at a general election or at a special election called for that purpose by the governing body. A special election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections. In any election held, the ballot shall clearly state the purpose to which the revenue will be dedicated pursuant to this section. If a majority of the voters voting on the question approves the ordinance imposing the quality of life [~~gross receipts~~] sales tax, the ordinance shall become effective in accordance with the provisions of the Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act. If the question of imposing

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the quality of life [~~gross receipts~~] sales tax fails, the governing body shall not again propose the imposition of the tax for a period of one year from the date of the election.

D. The quality of life [~~gross receipts~~] sales tax revenue shall be used to meet the following goals: promoting and preserving cultural diversity; enhancing the quality of cultural programs and activities; fostering greater access to cultural opportunities; promoting culture in order to further economic development within the municipality; and supporting programs, events and organizations with direct, identifiable and measurable public benefit to residents of the municipality. It is the objective of the quality of life [~~gross receipts~~] sales tax that the revenue from the tax be used to expand and sustain existing programs and to develop new programs, events and activities, rather than to replace other funding sources for existing programs, events and activities.

E. The governing body of a municipality that imposes the quality of life [~~gross receipts~~] sales tax shall, within sixty days of the election approving the imposition of the tax, appoint a municipal cultural advisory board consisting of between nine and fifteen members. Persons appointed to the board shall be residents of the municipality who are knowledgeable about the activities eligible for quality of life sales tax revenue funding. The members of the board shall be appointed for fixed terms and shall not be removed during their terms except for malfeasance.

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The terms of the initial board members shall be staggered so that one-third of the members are appointed for one-year terms, one-third are appointed for two-year terms and one-third are appointed for three-year terms. Subsequent appointments to the board shall be for three-year terms. If a vacancy on the board occurs, the governing body shall appoint a replacement member for the remainder of the unexpired term. A board member shall not serve for more than two consecutive terms.

F. The municipal cultural advisory board shall have the responsibility of overseeing the distribution of the quality of life [~~gross receipts~~] sales tax revenue for the goals listed in Subsection D of this section. The board shall:

(1) biennially submit recommendations to the governing body for expenditures of revenue from the quality of life [~~gross receipts~~] sales tax that are allocated pursuant to this section through contracts for services with appropriate organizations and institutions;

(2) establish and publicize the necessary qualifications for organizations and institutions to receive quality of life [~~gross receipts~~] sales tax funding; and

(3) develop guidelines and procedures for applying for funding through a request for proposals process and the criteria by which contracts will be awarded. The evaluation process shall include a public review component.

G. The municipal cultural advisory board shall

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establish reporting requirements for recipients of the quality of life [~~gross receipts~~] sales tax revenue. The board shall provide to the governing body an annual evaluation of the use of revenue from the quality of life [~~gross receipts~~] sales tax to ensure that it is meeting the goals listed in Subsection D of this section.

H. Every four years, the municipal cultural advisory board shall review and revise as necessary:

(1) the guidelines and procedures for applying for funding; and

(2) the criteria by which applications for funding will be evaluated.

I. As used in this section:

(1) "cultural organizations and institutions" means organizations or institutions that have as a primary purpose the advancement or preservation of zoology, museums, library sciences, art, music, theater, dance, literature or the humanities; and

(2) "municipality" means an incorporated municipality except for an incorporated municipality with a population in excess of two hundred fifty thousand according to the most recent federal decennial census."

SECTION 301. Section 7-19D-15 NMSA 1978 (being Laws 2006, Chapter 15, Section 14, as amended) is amended to read:

"7-19D-15. MUNICIPAL REGIONAL SPACEPORT [~~GROSS RECEIPTS~~] SALES TAX--AUTHORITY TO IMPOSE--RATE--ELECTION REQUIRED.--

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A. A majority of the members of the governing body of a municipality that desires to become a member of a regional spaceport district pursuant to the Regional Spaceport District Act shall impose by ordinance an excise tax at a rate not to exceed one-half percent of the gross receipts of a person engaging in business in the municipality for the privilege of engaging in business. A tax imposed pursuant to this section may be imposed by one or more ordinances, each imposing any number of tax rate increments, but an increment shall not be less than one-sixteenth percent of the gross receipts of a person engaging in business in the municipality, and the aggregate of all rates shall not exceed one-half percent of the gross receipts of a person engaging in business in the municipality. The tax may be referred to as the "municipal regional spaceport [~~gross receipts~~] sales tax".

B. A governing body, at the time of enacting an ordinance imposing a tax authorized in Subsection A of this section, shall dedicate a minimum of seventy-five percent of the revenue to a regional spaceport district for the financing, planning, designing, engineering and construction of a regional spaceport pursuant to the Regional Spaceport District Act and may dedicate no more than twenty-five percent of the revenue for spaceport-related projects as approved by resolution of the governing body of the municipality.

C. An ordinance imposing a municipal regional spaceport [~~gross receipts~~] sales tax shall not go into effect

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until after an election is held and a majority of the voters of the municipality voting in the election votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question shall be submitted to the voters of the municipality as a separate question at a regular local election or at a special election called for that purpose by the governing body. An election shall be called, conducted and canvassed as provided in the Local Election Act. If a majority of the voters voting on the question approves the ordinance imposing the municipal regional spaceport [~~gross receipts~~] sales tax, the ordinance shall become effective in accordance with the provisions of the Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act. If the question of imposing the municipal regional spaceport [~~gross receipts~~] sales tax fails, the governing body shall not again propose the imposition of an increment of the tax for a period of one year from the date of the election.

D. The governing body of a municipality imposing the municipal regional spaceport [~~gross receipts~~] sales tax shall sales transfer a minimum of seventy-five percent of all proceeds from the tax to the regional spaceport district of which it is a member for regional spaceport purposes in accordance with the provisions of the Regional Spaceport District Act. The governing body of a municipality imposing the municipal regional spaceport

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[~~gross receipts~~] sales tax may retain no more than twenty-five percent of the municipal regional spaceport [~~gross receipts~~] sales tax for spaceport-related projects as approved by resolution of the governing body."

SECTION 302. Section 7-19D-16 NMSA 1978 (being Laws 2007, Chapter 148, Section 1) is amended to read:

"7-19D-16. MUNICIPAL HIGHER EDUCATION FACILITIES [~~GROSS RECEIPTS~~] SALES TAX.--

A. The majority of the members of the governing body of an eligible municipality may impose by ordinance an excise tax at a rate not to exceed one-fourth [~~of one~~] percent of the gross receipts of a person engaging in business in the municipality for the privilege of engaging in business. The tax may be imposed in increments of one-sixteenth [~~of one~~] percent not to exceed an aggregate rate of one-fourth [~~of one~~] percent. The tax shall be imposed for a period of not more than twenty years from the effective date of the ordinance imposing the tax.

B. The tax imposed pursuant to this section may be referred to as the "municipal higher education facilities [~~gross receipts~~] sales tax".

C. The governing body, at the time of enacting an ordinance imposing a rate of tax authorized in Subsection A of this section, shall dedicate the revenue only for:

(1) acquisition, construction, renovation or improvement of facilities of a four-year post-secondary public

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educational institution located in the municipality and acquisition of or improvements to land for those facilities; or

(2) payment of municipal higher education facilities [~~gross receipts~~] sales tax revenue bonds issued pursuant to Chapter 3, Article 31 NMSA 1978.

D. An ordinance imposing any increment of the municipal higher education facilities [~~gross receipts~~] sales tax shall not go into effect until after an election is held and a majority of the voters of the municipality voting in the election votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election on the question of imposing the tax at the next regular municipal election. The question shall be submitted to the voters of the municipality as a separate question. If a majority of the voters voting on the question approves the ordinance imposing the municipal higher education facilities [~~gross receipts~~] sales tax, the ordinance shall become effective in accordance with the provisions of the Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act. If the question of imposing the municipal higher education facilities [~~gross receipts~~] sales tax fails, the governing body shall not again propose the imposition of any increment of the tax for a period of one year from the date of the election.

E. For the purposes of this section, "eligible municipality" means a municipality that has a population greater than fifty thousand according to the most recent federal decennial

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census and that is located in a class B county having a net taxable value for rate-setting purposes for the 2006 property tax year or any subsequent year of more than two billion dollars ($2,000,000,000)."

SECTION 303. Section 7-19D-17 NMSA 1978 (being Laws 2012, Chapter 58, Section 1, as amended) is amended to read:

"7-19D-17. FEDERAL WATER PROJECT [~~GROSS RECEIPTS~~] SALES TAX--AUTHORIZATION--USE OF REVENUE--REFERENDUM.--

A. A majority of the members of the governing body of a municipality may enact an ordinance imposing an excise tax on any person engaging in business in the municipality for the privilege of engaging in business. The rate of the tax shall not exceed one-fourth percent of the gross receipts of the person engaging in business. An ordinance enacting the tax authorized by this section is subject to a positive referendum.

B. The tax imposed pursuant to this section may be referred to as the "federal water project [~~gross receipts~~] sales tax".

C. The governing body of a municipality, at the time of enacting an ordinance imposing the rate of the tax authorized in this section, shall dedicate the revenue for the repayment of loan obligations to the federal government for the construction, expansion, operation and maintenance of a water delivery system and for the expansion, operation and maintenance of that water delivery system after the loan obligation to the federal

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government is retired or repaid. The revenue from the federal water project [~~gross receipts~~] sales tax shall not be dedicated to repay revenue bonds or any other form of bonds.

D. An ordinance imposing the federal water project [~~gross receipts~~] sales tax shall not go into effect until an election is held and a majority of the voters of the municipality voting in the election votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question shall be submitted to the voters of the municipality as a separate question at a regular local election or at a special election called for that purpose by the governing body. An election shall be called, conducted and canvassed as provided in the Local Election Act. If a majority of the voters voting on the question approves the ordinance imposing the federal water project [~~gross receipts~~] sales tax, then the ordinance shall become effective on January 1 or July 1 in accordance with the provisions of the Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act. If the question of imposing the federal water project [~~gross receipts~~] sales tax fails, the governing body shall not again propose the imposition of the tax for a period of one year from the date of the election.

E. A municipality that imposed a federal water project [~~gross receipts~~] sales tax pursuant to this section shall not also impose a municipal capital outlay [~~gross receipts~~] sales tax.

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F. As used in this section, "municipality" means an incorporated municipality that has a population pursuant to the most recent federal decennial census of greater than twenty thousand but less than twenty-five thousand and is located in a class B county."

SECTION 304. Section 7-19D-18 NMSA 1978 (being Laws 2013, Chapter 160, Section 11) is amended to read:

"7-19D-18. MUNICIPAL HOLD HARMLESS [~~GROSS RECEIPTS~~] SALES TAX.--

A. The majority of the members of the governing body of any municipality may impose by ordinance an excise tax not to exceed a rate of three-eighths percent of the gross receipts of any person engaging in business in the municipality for the privilege of engaging in business in the municipality. A tax imposed pursuant to this section shall be imposed by the enactment of one or more ordinances, each imposing any number of [~~gross receipts~~] sales tax rate increments, but the total [~~gross receipts~~] sales tax rate imposed by all ordinances pursuant to this section shall not exceed an aggregate rate of three-eighths percent of the gross receipts of a person engaging in business. Municipalities may impose increments of one-eighth [~~of one~~] percent.

B. The tax imposed pursuant to Subsection A of this section may be referred to as the "municipal hold harmless [~~gross receipts~~] sales tax". The imposition of a municipal hold harmless

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[~~gross receipts~~] sales tax is not subject to referendum.

C. The governing body of a municipality may, at the time of enacting an ordinance imposing the tax authorized in Subsection A of this section, dedicate the revenue for a specific purpose or area of municipal government services, including [~~but not limited to~~] police protection, fire protection, public transportation or street repair and maintenance. If the governing body proposes to dedicate such revenue, the ordinance and any revenue so dedicated shall be used by the municipality for that purpose unless a subsequent ordinance is adopted to change the purpose to which the revenue is dedicated or to place the revenue in the general fund of the municipality.

D. Any law that imposes or authorizes the imposition of a municipal hold harmless [~~gross receipts~~] sales tax or that affects the municipal hold harmless [~~gross receipts~~] sales tax, or any law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of such municipal hold harmless [~~gross receipts~~] sales tax unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor."

SECTION 305. Section 7-20C-1 NMSA 1978 (being Laws 1991, Chapter 176, Section 1) is amended to read:

"7-20C-1. SHORT TITLE.--[~~Sections 1 through 15 of this act~~]

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Chapter 7, Article 20C NMSA 1978 may be cited as the "Local Hospital [~~Gross Receipts~~] Sales Tax Act"."

SECTION 306. Section 7-20C-2 NMSA 1978 (being Laws 1991, Chapter 176, Section 2, as amended) is amended to read:

"7-20C-2. DEFINITIONS.--As used in the Local Hospital [~~Gross Receipts~~] Sales Tax Act:

A. "county" means:

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

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

(3) a class B county having a population of less than ten thousand according to the most recent federal decennial census and having a net taxable value for rate-setting purposes for the 1990 property tax year or any subsequent year of more than one hundred million dollars ($100,000,000);

(4) a class B county having a population of less than twenty-five thousand according to the 1990 federal decennial

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census and having a net taxable value for rate-setting purposes for the 1993 property tax year of more than ninety-one million dollars ($91,000,000) but less than one hundred twenty-five million dollars ($125,000,000);

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

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

(7) an H class county;

(8) a class A county having a population of less than one hundred fifteen thousand according to the 2000 federal decennial census or any subsequent federal decennial census and having a net taxable value for rate-setting purposes for the 2001 property tax year or any subsequent year of more than three billion dollars ($3,000,000,000); or

(9) a class B county having a population of more than three thousand five hundred but less than ten thousand five

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hundred according to the 2000 federal decennial census or any subsequent federal decennial census and having a net taxable value for rate-setting purposes for the 2005 property tax year or any subsequent year of more than one hundred million dollars ($100,000,000) and less than one hundred sixteen million five hundred thousand dollars ($116,500,000);

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

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

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

E. "hospital facility revenues" means all or a portion of the revenues derived from a lease of a hospital facility acquired, constructed or equipped pursuant to and operated in accordance with the Local Hospital [~~Gross Receipts~~] Sales Tax Act;

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F. "local hospital [~~gross receipts~~] sales tax" means the tax authorized to be imposed under the Local Hospital [~~Gross Receipts~~] Sales Tax Act;

G. "person" means an individual or any other legal entity; and

H. "state [~~gross receipts~~] sales tax" means the [~~gross receipts~~] state sales tax imposed under the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act."

SECTION 307. Section 7-20C-3 NMSA 1978 (being Laws 1991, Chapter 176, Section 3, as amended) is amended to read:

"7-20C-3. LOCAL HOSPITAL [~~GROSS RECEIPTS~~] SALES TAX--AUTHORITY TO IMPOSE--ORDINANCE REQUIREMENTS.--

A. A majority of the members elected to the governing body of a county may enact an ordinance imposing an excise tax on a person engaging in business in the county for the privilege of engaging in business. This tax is to be referred to as the "local hospital [~~gross receipts~~] sales tax". The rate of the tax shall be:

(1) one-half percent of the gross receipts of the person engaging in business if the tax is initially imposed before January 1, 1993;

(2) one-eighth percent of the gross receipts of the person engaging in business if the tax is initially imposed after January 1, 1993; and

(3) a rate not to exceed one-half percent of the

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gross receipts of the person engaging in business if the tax is imposed after July 1, 1996 in a county described in Paragraph (4), (6), (7) or (8) of Subsection A of Section 7-20C-2 NMSA 1978; provided the tax may be imposed in any number of increments of one-eighth percent not to exceed an aggregate rate of one-half percent of gross receipts.

B. The local hospital [~~gross receipts~~] sales tax imposed:

(1) initially before January 1, 1993 shall be imposed only once for the period necessary for payment of the principal and interest on revenue bonds issued to accomplish the purpose for which the revenue is dedicated, but the period shall not exceed ten years from the effective date of the ordinance imposing the tax; or

(2) after July 1, 1996 in a county described in Paragraph (4) or (8) of Subsection A of Section 7-20C-2 NMSA 1978 shall be imposed for the period necessary for payment of the principal and interest on revenue bonds issued to accomplish the purpose for which the revenue is dedicated, but the period shall not exceed forty years from the effective date of the ordinance imposing the tax; provided, however, that the governing body of a county described in Paragraph (8) of Subsection A of Section 7-20C-2 NMSA 1978 that has enacted an ordinance imposing an increment of the local hospital [~~gross receipts~~] sales tax pursuant to the provisions of this paragraph may, prior to the

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date of the delayed repeal of the ordinance, enact an ordinance to modify the period of imposition of the tax and modify the purposes for which the revenue from the tax is dedicated, consistent with one or more of the purposes permitted pursuant to Paragraph (6) of Subsection D of this section. The ordinance shall be subject to the election requirement of Subsection E of this section.

C. No local hospital [~~gross receipts~~] sales tax authorized in Subsection A of this section shall be imposed initially after January 1, 1993 in a county described in Paragraph (2), (3) or (5) of Subsection A of Section 7-20C-2 NMSA 1978 unless:

(1) in a county described in Paragraph (2) of Subsection A of Section 7-20C-2 NMSA 1978, the voters of the county have approved the issuance of general obligation bonds of the county sufficient to pay at least one-half of the costs of the county hospital facility or county twenty-four-hour urgent care or emergency facility for which the local hospital [~~gross receipts~~] sales tax revenues are dedicated, including the costs of all acquisition, renovation and equipping of the facility; or

(2) in a county described in Paragraph (3) or (5) of Subsection A of Section 7-20C-2 NMSA 1978, the county will not have in effect at the same time a county hospital emergency [~~gross receipts~~] sales tax and the voters of the county have approved the imposition of a property tax at a rate of one dollar ($1.00) on each one thousand dollars ($1,000) of taxable value of property in

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the county for the purpose of operation and maintenance of a hospital owned by the county and operated and maintained either by the county or by another party pursuant to a lease with the county.

D. The governing body of a county enacting an ordinance imposing a local hospital [~~gross receipts~~] sales tax shall dedicate the revenue from the tax as provided in this subsection. In any election held, the ballot shall clearly state the purpose to which the revenue will be dedicated and the revenue shall be used by the county for that purpose. The revenue shall be dedicated as follows:

(1) prior to January 1, 1993, the governing body, at the time of enacting an ordinance imposing the rate of the tax authorized in Subsection A of this section, shall dedicate the revenue for acquisition of land for and the design, construction, equipping and furnishing of a county hospital facility to be operated by the county or operated and maintained by another party pursuant to a lease with the county;

(2) if the governing body of a county described in Paragraph (2), (3) or (5) of Subsection A of Section 7-20C-2 NMSA 1978 is enacting the ordinance imposing the tax after July 1, 1993, the governing body shall dedicate the revenue for acquisition, renovation and equipping of a building for a county hospital facility or a county twenty-four-hour urgent care or emergency facility or for operation and maintenance of that

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facility, whether operated and maintained by the county or by another party pursuant to a lease or management contract with the county, for the period of time the tax is imposed not to exceed ten years;

(3) if the governing body of a county described in Paragraph (4) or (8) of Subsection A of Section 7-20C-2 NMSA 1978 is enacting the ordinance imposing the tax after July 1, 1995, the governing body shall dedicate the revenue for acquisition of land or buildings for and the renovation, design, construction, equipping or furnishing of a county hospital facility or health clinic to be operated by the county or operated and maintained by another party pursuant to a health care facilities contract, lease or management contract with the county; provided, however, that the governing body of a county described in Paragraph (8) of Subsection A of Section 7-20C-2 NMSA 1978 that has imposed an increment of the local hospital [~~gross receipts~~] sales tax prior to January 1, 2009 and dedicated the revenue from that imposition pursuant to the provisions of this paragraph may, prior to the date of the delayed repeal of the ordinance imposing the increment of the tax, enact an ordinance to modify the period of imposition of the tax and modify the purposes for which the revenue from the tax is dedicated, consistent with one or more of the purposes permitted pursuant to Paragraph (6) of this subsection. The ordinance shall be subject to the election requirement of Subsection E of this section;

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(4) if the governing body of a county described in Paragraph (6) or (9) of Subsection A of Section 7-20C-2 NMSA 1978 is enacting the ordinance imposing the tax after July 1, 1997, the governing body shall dedicate the revenue for either or a combination of the following:

(a) acquisition of land or buildings for and the design, construction, renovation, equipping or furnishing of a hospital facility or health clinic owned by the county or a hospital or health clinic with which the county has entered into a health care facilities contract lease or management contract; or

(b) operations and maintenance of a hospital or health clinic owned by the county or a hospital or a health clinic with which the county has entered into a health care facilities contract;

(5) if the governing body of a county described in Paragraph (7) of Subsection A of Section 7-20C-2 NMSA 1978 is enacting the ordinance imposing the tax after January 1, 2002, the governing body shall dedicate the revenue for acquisition, lease, renovation or equipping of a hospital facility or for operation and maintenance of that facility, whether operated and maintained by the county or by another party pursuant to a health care facilities contract, lease or management contract with the county; and

(6) if the governing body of a county described in Paragraph (8) of Subsection A of Section 7-20C-2 NMSA 1978 is

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enacting the ordinance imposing one or more increments of the tax after January 1, 2009, the governing body shall dedicate the revenue for either or both of the following:

(a) payment of the principal and interest on revenue bonds, including refunding bonds, issued for acquisition of land or buildings for and the renovation, design, construction, equipping or furnishing of hospital facilities or health care clinic facilities to be operated by the county or operated and maintained by another party pursuant to a health care facilities contract, lease or management contract with the county; and

(b) use as matching funds for state or federal programs benefiting the facilities.

E. The ordinance shall not go into effect until after an election is held and a simple majority of the qualified electors of the county voting in the election [~~vote~~] votes in favor of imposing the local hospital [~~gross receipts~~] sales tax and, in the case of a county described in Paragraph (3) or (5) of Subsection A of Section 7-20C-2 NMSA 1978, also [~~vote~~] votes in favor of a property tax at a rate of one dollar ($1.00) for each one thousand dollars ($1,000) of taxable value of property in the county. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question may be submitted to the qualified electors and voted on as a separate

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question in a general election or in any special election called for that purpose by the governing body. A special election on the question shall be called, held, conducted and canvassed in substantially the same manner as provided by law for general elections. If the question of imposing a local hospital [~~gross receipts~~] sales tax fails or if the question of imposing both a local hospital [~~gross receipts~~] sales tax and a property tax fails, the governing body shall not again propose a local hospital [~~gross receipts~~] sales tax for a period of one year after the election. A certified copy of any ordinance imposing a local hospital [~~gross receipts~~] sales tax shall be mailed to the department within five days after the ordinance is adopted in an election called for that purpose.

F. An ordinance enacted pursuant to the provisions of Subsection A of this section shall include an effective date of either July 1 or January 1, whichever date occurs first after the expiration of at least three months from the date the ordinance is approved by the electorate.

G. An ordinance repealed under the provisions of the Local Hospital [~~Gross Receipts~~] Sales Tax Act shall be repealed effective on either July 1 or January 1.

H. As used in this section, "taxable value of property" means the sum of:

(1) the net taxable value, as that term is defined in the Property Tax Code, of property subject to taxation

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under the Property Tax Code;

(2) the assessed value of products, as those terms are defined in the Oil and Gas Ad Valorem Production Tax Act;

(3) the assessed value of equipment, as those terms are defined in the Oil and Gas Production Equipment Ad Valorem Tax Act; and

(4) the taxable value of copper mineral property, as those terms are defined in the Copper Production Ad Valorem Tax Act, subject to taxation under the Copper Production Ad Valorem Tax Act."

SECTION 308. Section 7-20C-4 NMSA 1978 (being Laws 1991, Chapter 176, Section 4) is amended to read:

"7-20C-4. ORDINANCE SHALL CONFORM TO CERTAIN PROVISIONS OF THE [~~GROSS RECEIPTS AND COMPENSATING~~] SALES AND USE TAX ACT AND REQUIREMENTS OF THE DEPARTMENT.--

A. Any ordinance imposing the local hospital [~~gross receipts~~] sales tax shall adopt by reference the same definitions and the same provisions relating to exemptions and deductions as are contained in the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act then in effect and as it may be amended from time to time.

B. The governing body of any county imposing the tax shall adopt the model ordinances furnished to the county by the department."

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SECTION 309. Section 7-20C-5 NMSA 1978 (being Laws 1991, Chapter 176, Section 5, as amended) is amended to read:

"7-20C-5. SPECIFIC EXEMPTIONS.--No local hospital [~~gross receipts~~] sales tax shall be imposed on the gross receipts arising from transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the county to another point outside the county."

SECTION 310. Section 7-20C-6 NMSA 1978 (being Laws 1991, Chapter 176, Section 6, as amended) is amended to read:

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

A. The department shall collect the local hospital [~~gross receipts~~] sales tax in the same manner and at the same time it collects the state [~~gross receipts~~] sales tax.

B. The department shall withhold an administrative fee pursuant to Section 7-1-6.41 NMSA 1978. The department shall transfer to each county for which it is collecting such tax the amount of the tax collected less the administrative fee withheld and less any disbursements for tax credits, refunds and the payment of interest applicable to the tax. Transfer of the tax to a county shall be made within the month following the month in which the tax is collected."

SECTION 311. Section 7-20C-7 NMSA 1978 (being Laws 1991, Chapter 176, Section 7) is amended to read:

"7-20C-7. INTERPRETATION OF ACT--ADMINISTRATION AND

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ENFORCEMENT OF TAX.--

A. The department shall interpret the provisions of the Local Hospital [~~Gross Receipts~~] Sales Tax Act.

B. The department shall administer and enforce the collection of the local hospital [~~gross receipts~~] sales tax, and the Tax Administration Act applies to the administration and enforcement of the tax."

SECTION 312. Section 7-20C-8 NMSA 1978 (being Laws 1991, Chapter 176, Section 8) is amended to read:

"7-20C-8. DISTRIBUTION.--The net receipts from the local hospital [~~gross receipts~~] sales tax shall be administered by the governing body and disbursed by the county treasurer subject to [~~the~~] approval by the governing body in accordance with the provisions of the Local Hospital [~~Gross Receipts~~] Sales Tax Act."

SECTION 313. Section 7-20C-9 NMSA 1978 (being Laws 1991, Chapter 176, Section 9, as amended) is amended to read:

"7-20C-9. LOCAL HOSPITAL REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF REVENUES.--

A. A county, other than a county described in Paragraph (2) of Subsection A of Section 7-20C-2 NMSA 1978, may issue local hospital revenue bonds pursuant to the Local Hospital [~~Gross Receipts~~] Sales Tax Act for the purpose of acquiring land for and designing, constructing, equipping and furnishing a county hospital facility or health clinic to be operated by the county or by another party pursuant to a lease or management contract with

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the county, or a hospital facility or health clinic with [~~whom~~] which the county has entered into a health care facilities contract.

B. The county issuing the local hospital revenue bonds pursuant to the Local Hospital [~~Gross Receipts~~] Sales Tax Act shall pledge irrevocably all [~~of~~] the net receipts derived from the imposition of the local hospital [~~gross receipts~~] sales tax and may pledge irrevocably any combination of hospital facility revenues and any other revenues as necessary for the payment of principal and interest on the revenue bonds."

SECTION 314. Section 7-20C-9.1 NMSA 1978 (being Laws 1993, Chapter 306, Section 4) is amended to read:

"7-20C-9.1. NEW MEXICO FINANCE AUTHORITY--REVENUE BONDS.--

A. For a county described in Paragraph (2) of Subsection A of Section 7-20C-2 NMSA 1978, the provisions of this section shall govern the financing of the acquisition, renovation or equipping of a building for a county hospital facility or a county twenty-four-hour urgent care or emergency facility.

B. Upon approval of the voters pursuant to Section 7-20C-3 NMSA 1978, the county shall determine if the issuance of revenue bonds is necessary to finance that portion of the local hospital facility that will not otherwise be financed with general obligation bonds and local revenues. Upon a determination that the issuance of revenue bonds is necessary, the county shall enter into an agreement with the New Mexico finance authority for

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issuance and sale of New Mexico finance authority revenue bonds for the purpose of the acquisition, renovation or equipping of a county hospital facility or twenty-four-hour urgent care or emergency care facility in that county and for transfer of local hospital [~~gross receipts~~] sales tax proceeds to the authority in the amount necessary for that purpose.

C. Local hospital [~~gross receipts~~] sales tax proceeds transferred to the New Mexico finance authority shall be pledged irrevocably for the payment of principal, interest, [~~any~~] premiums and [~~the~~] expenses related to issuance and sale of the bonds and shall be deposited into a special bond fund or account of the authority. To the extent such revenues are not needed to meet current debt service requirements, including any reserve fund requirements, the authority shall transfer such excess to the county to be used for the purpose for which the local hospital [~~gross receipts~~] sales tax is dedicated. The legislature shall not repeal, amend or otherwise modify any law that affects or impairs any revenue bonds of the New Mexico finance authority secured by a pledge of local hospital [~~gross receipts~~] sales tax revenues."

SECTION 315. Section 7-20C-10 NMSA 1978 (being Laws 1991, Chapter 176, Section 10) is amended to read:

"7-20C-10. ORDINANCE AUTHORIZING REVENUE BONDS.--At a regular or special meeting called for the purpose of issuing revenue bonds as authorized pursuant to the Local Hospital [~~Gross~~

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~~Receipts~~] Sales Tax Act, the governing body may adopt an ordinance that:

A. declares the necessity for issuing revenue bonds;

B. authorizes the issuance of revenue bonds by an affirmative vote of a majority of the governing body; and

C. designates the source of the pledged revenues."

SECTION 316. Section 7-20C-12 NMSA 1978 (being Laws 1991, Chapter 176, Section 12) is amended to read:

"7-20C-12. LOCAL HOSPITAL REVENUE BONDS NOT GENERAL COUNTY OBLIGATIONS.--Revenue bonds issued by a county under the authority of the Local Hospital [~~Gross Receipts~~] Sales Tax Act shall not be the general obligation of the county within the meaning of Article 9, Sections 10 and 13 of the constitution of New Mexico. The bonds shall be payable solely out of all or a portion of the net revenues derived from the imposition of the local hospital [~~gross receipts~~] sales tax. Revenue bonds and interest coupons issued under authority of that act shall never constitute an indebtedness of the county within the meaning of any state constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of the county or a charge against its general credit or taxing powers, and this fact shall be plainly stated on the face of each bond."

SECTION 317. Section 7-20C-13 NMSA 1978 (being Laws 1991, Chapter 176, Section 13) is amended to read:

"7-20C-13. REVENUE BONDS--EXEMPTION FROM TAXATION.--The

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local hospital revenue bonds issued under authority of the Local Hospital [~~Gross Receipts~~] Sales Tax Act and the income from the bonds shall be exempt from all taxation by the state or any political subdivision of the state."

SECTION 318. Section 7-20C-15 NMSA 1978 (being Laws 1991, Chapter 176, Section 15) is amended to read:

"7-20C-15. NO NOTICE OR PUBLICATION REQUIRED.--No notice, consent or approval by any governmental body or public officer shall be required as a prerequisite to the sale or issuance of any local hospital revenue bonds under the authority of the Local Hospital [~~Gross Receipts~~] Sales Tax Act, except as provided in that act."

SECTION 319. Section 7-20C-16 NMSA 1978 (being Laws 1996, Chapter 18, Section 3) is amended to read:

"7-20C-16. REVENUE BONDS--REFUNDING AUTHORIZATION.--

A. Any county having issued revenue bonds as authorized in the Local Hospital [~~Gross Receipts~~] Sales Tax Act may issue refunding revenue bonds pursuant to an ordinance adopted by majority vote of the governing body for the purpose of refinancing, paying and discharging all or any part of [~~such~~] the outstanding revenue bonds of any one or more or all outstanding issues:

(1) for the acceleration, deceleration or other modification of the payment of [~~such~~] the obligations, including without limitation [~~any~~] capitalization of [~~any~~] interest thereon

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in arrears or about to become due for any period not exceeding one year from the date of the refunding bonds;

(2) for the purpose of reducing interest costs or effecting other economies;

(3) for the purpose of modifying or eliminating restrictive contractual limitations pertaining to the issuance of additional bonds, otherwise concerning the outstanding bonds or to any facilities relating thereto; or

(4) for any combination of such purposes.

B. To pay the principal and interest on refunding bonds, the county may pledge irrevocably revenues authorized to be pledged to revenue bonds issued pursuant to the Local Hospital [~~Gross Receipts~~] Sales Tax Act.

C. Bonds for refunding and bonds for any purpose permitted by the Local Hospital [~~Gross Receipts~~] Sales Tax Act may be issued separately or issued in combination in one series or more."

SECTION 320. Section 7-20C-17 NMSA 1978 (being Laws 1996, Chapter 18, Section 4) is amended to read:

"7-20C-17. REFUNDING BONDS--ESCROW--DETAIL.--

A. Refunding bonds issued pursuant to the provisions of the Local Hospital [~~Gross Receipts~~] Sales Tax Act shall be authorized by ordinance. Any revenue bonds that are refunded [~~under the~~] pursuant to provisions of this section shall be paid at maturity or on any permitted prior redemption date in the

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amounts, at the time and places and, if called prior to maturity, in accordance with any applicable notice provisions, all as provided in the proceedings authorizing the issuance of the refunded bonds or otherwise appertaining thereto, except for any such bond that is voluntarily surrendered for exchange or payment by the holder or owner.

B. Provision shall be made for paying the bonds refunded at the time or places provided in Subsection A of this section. The principal amount of the refunding bonds may exceed, be less than or be the same as the principal amount of the bonds being refunded as long as provision is [~~duly and~~] sufficiently made for the payment of the refunded bonds.

C. The proceeds of refunding bonds, including any accrued interest and premium appertaining to the sale of refunding bonds, shall either be immediately applied to the retirement of the bonds being refunded or be placed in escrow in a commercial bank or trust company that possesses and is exercising trust powers and that is a member of the federal deposit insurance corporation, to be applied to the payment of the principal of, interest on and any prior redemption premium due in connection with the bonds being refunded; provided that [~~such~~] refunding bond proceeds, including any accrued interest and any premium appertaining to a sale of refunding bonds, may be applied to the establishment and maintenance of a reserve fund and to the payment of expenses incidental to the refunding and the issuance of the

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refunding bonds, the interest on the refunding bonds and the principal of the refunding bonds or both interest and principal as the county may determine. Nothing in this section requires the establishment of an escrow if the refunded bonds become due and payable within one year from the date of the refunding bonds and if the amounts necessary to retire the refunded bonds within that time are deposited with the paying agent for the refunded bonds. [~~Any such~~] The escrow shall not necessarily be limited to proceeds of refunding bonds, but may include other money available to retire the refunded bonds. Any proceeds in escrow pending such use may be invested in bills, certificates of indebtedness, notes or bonds that are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States of America or in certificates of deposit of banks that are members of the federal deposit insurance corporation, the par value of which certificates of deposit is collateralized by a pledge of obligations of, or the payment of which is unconditionally guaranteed by, the United States of America, the par value of which obligations is at least seventy-five percent of the par value of the certificates of deposit. Such proceeds and investments in escrow, together with any interest or other income to be derived from any such investment, shall be in an amount at all times sufficient as to principal, interest, any prior redemption premium due and any charges of the escrow agent payable therefrom to pay the bonds being refunded as

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they become due at their respective maturities or due at any designated prior redemption date [~~or dates~~] in connection with which the county shall exercise a prior redemption option. [~~Any~~] A purchaser of any refunding bond issued pursuant to the provisions of the Local Hospital [~~Gross Receipts~~] Sales Tax Act is in no manner responsible for the application of the proceeds thereof by the county or any of its officers, agents or employees.

D. Refunding bonds may be sold at a public or negotiated sale and may bear such additional terms and provisions as may be determined by the county, subject to the limitations in the Local Hospital [~~Gross Receipts~~] Sales Tax Act. The terms, provisions and authorization of the refunding bonds are not subject to the provisions of any other statute, provided that the Public Securities Limitation of Action Act shall be fully applicable to the issuance of refunding bonds."

SECTION 321. Section 7-20E-1 NMSA 1978 (being Laws 1993, Chapter 354, Section 1) is amended to read:

"7-20E-1. SHORT TITLE.--Chapter 7, Article 20E NMSA 1978 may be cited as the "County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act"."

SECTION 322. Section 7-20E-2 NMSA 1978 (being Laws 1993, Chapter 354, Section 2, as amended by Laws 1994, Chapter 93, Section 1 and also by Laws 1994, Chapter 97, Section 1) is amended to read:

"7-20E-2. DEFINITIONS.--As used in the County Local Option

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[~~Gross Receipts Taxes~~] Sales Tax Act:

A. "county" means, unless specifically defined otherwise in the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act, a county, including an H class county;

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

C. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

D. "governing body" means the board of county [~~commission~~] commissioners of the county or the county council of an H class county;

E. "person" means an individual or any other legal entity; and

F. "state [~~gross receipts~~] sales tax" means the [~~gross receipts~~] state sales tax imposed under the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act."

SECTION 323. Section 7-20E-3 NMSA 1978 (being Laws 1993, Chapter 354, Section 3, as amended) is amended to read:

"7-20E-3. OPTIONAL REFERENDUM SELECTION--EFFECTIVE DATE OF ORDINANCE.--

A. The governing body of a county imposing a tax or an increment of tax authorized by the County Local Option [~~Gross~~

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~~Receipts Taxes~~] Sales Tax Act or any other county local option [~~gross receipts~~] sales tax act that is subject to optional referendum selection shall select, when enacting the ordinance imposing the tax, one of the following referendum options:

(1) the ordinance imposing the tax or increment of tax shall go into effect on July 1 or January 1 in accordance with the provisions of the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act, but an election may be called in the county on the question of approving or disapproving that ordinance as follows:

(a) an election shall be called when: 1) in a county having a referendum provision in its charter, a petition requesting such an election is filed pursuant to the requirements of that provision in the charter and signed by the number of registered voters in the county equal to the number of registered voters required in its charter to seek a referendum; and 2) in all other counties, a petition requesting such an election is filed with the county clerk within sixty days of enactment of the ordinance by the governing body and the petition has been signed by a number of registered voters in the county equal to at least five percent of the number of the voters in the county who were registered to vote in the most recent general election;

(b) the signatures on the petition requesting an election shall be verified by the county clerk. If

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the petition is verified by the county clerk as containing the required number of signatures of registered voters, the governing body shall adopt a resolution calling an election on the question of approving or disapproving the ordinance. The election shall be held within sixty days after the date the petition is verified by the county clerk, or it may be held in conjunction with a general election if that election occurs within sixty days after the date of the verification. The election shall be called, held, conducted and canvassed in substantially the same manner as provided by law for general elections; and

(c) if a majority of the registered voters voting on the question approves the ordinance, the ordinance shall go into effect on July 1 or January 1 in accordance with the provisions of the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act. If at such an election a majority of the registered voters voting on the question disapproves the ordinance, the ordinance imposing the tax shall be deemed repealed and the question of imposing the tax or increment of tax shall not be considered again by the governing body for a period of one year from the date of the election; or

(2) the ordinance imposing the tax or increment of tax shall not go into effect until after an election is held and a simple majority of the registered voters of the county voting on the question votes in favor of imposing the tax or increment of tax. The governing body shall adopt a resolution

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calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax or increment of tax. Such question may be submitted to the voters and voted upon as a separate question at any general election or at any special election called for that purpose by the governing body. The election upon the question shall be called, held, conducted and canvassed in substantially the same manner as may be provided by law for general elections. If the question of imposing the tax or increment of tax fails, the governing body shall not again propose the tax or increment of tax for a period of one year after the election.

B. An ordinance imposing, amending or repealing a tax or an increment of tax authorized by the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act shall be effective on July 1 or January 1, whichever date occurs first after the expiration of at least three months from the date the adopted ordinance is mailed or delivered to the department. The ordinance shall include that effective date."

SECTION 324. Section 7-20E-4 NMSA 1978 (being Laws 1993, Chapter 354, Section 4) is amended to read:

"7-20E-4. ORDINANCE SHALL CONFORM TO CERTAIN PROVISIONS OF THE [~~GROSS RECEIPTS AND COMPENSATING~~] SALES AND USE TAX ACT AND REQUIREMENTS OF THE DEPARTMENT.--

A. An ordinance imposing a tax [~~under~~] pursuant to the provisions of the County Local Option [~~Gross Receipts Taxes~~] Sales

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Tax Act shall adopt by reference the same definitions and the same provisions relating to exemptions and deductions as are contained in the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act then in effect and as it may be amended from time to time.

B. The governing body of any county imposing a tax [~~under~~] authorized by the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act shall impose the tax by adopting the model ordinance with respect to the tax furnished to the county by the department. An ordinance that does not conform substantially to the model ordinance of the department is not valid."

SECTION 325. Section 7-20E-5 NMSA 1978 (being Laws 1993, Chapter 354, Section 5, as amended) is amended to read:

"7-20E-5. SPECIFIC EXEMPTIONS.--No tax authorized [~~under~~] by the provisions of the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act shall be imposed on the gross receipts arising from transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the county to another point outside the county."

SECTION 326. Section 7-20E-6 NMSA 1978 (being Laws 1993, Chapter 354, Section 6) is amended to read:

"7-20E-6. COPY OF ORDINANCE TO BE SUBMITTED TO DEPARTMENT.--A certified copy of any ordinance imposing or repealing a tax or an increment of a tax authorized [~~under~~] by the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act or

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changing the tax rate imposed shall be mailed or delivered to the department within five days after the later of the date the ordinance is adopted or the date the results of any election held with respect to the ordinance are certified to be in favor of the ordinance."

SECTION 327. Section 7-20E-7 NMSA 1978 (being Laws 1993, Chapter 354, Section 7, as amended) is amended to read:

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

A. The department shall collect each tax imposed pursuant to the provisions of the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act in the same manner and at the same time it collects the state [~~gross receipts~~] sales tax.

B. The department shall withhold an administrative fee pursuant to Section 7-1-6.41 NMSA 1978. The department shall transfer to each county for which it is collecting a tax pursuant to the provisions of the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act the amount of each tax collected for that county, less the administrative fee withheld and less any disbursements for tax credits, refunds and the payment of interest applicable to the tax. The transfer to the county shall be made within the month following the month in which the tax is collected."

SECTION 328. Section 7-20E-8 NMSA 1978 (being Laws 1993, Chapter 354, Section 8) is amended to read:

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"7-20E-8. INTERPRETATION OF ACT--ADMINISTRATION AND ENFORCEMENT OF ACT.--

A. The department shall interpret the provisions of the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act.

B. The department shall administer and enforce the collection of each tax authorized [~~under~~] by the provisions of the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act, and the Tax Administration Act applies to the administration and enforcement of each tax."

SECTION 329. Section 7-20E-9 NMSA 1978 (being Laws 1983, Chapter 213, Section 30, as amended) is amended to read:

"7-20E-9. COUNTY [~~GROSS RECEIPTS~~] SALES TAX--AUTHORITY TO IMPOSE RATE--COUNTY HEALTH CARE ASSISTANCE FUND REQUIREMENTS.--

A. Except as provided in Subsection E of this section, a majority of the members of the governing body of a county may enact an ordinance imposing an excise tax not to exceed a rate of seven-sixteenths percent of the gross receipts of any person engaging in business in the county for the privilege of engaging in business in the county. An ordinance imposing an excise tax pursuant to this subsection shall impose the tax in three independent increments of one-eighth percent and one independent increment of one-sixteenth percent, which shall be separately denominated as "the first one-eighth increment", "the second one-eighth increment", "the third one-eighth increment" and "the one-sixteenth increment", respectively, not to exceed an aggregate

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amount of seven-sixteenths percent.

B. The tax authorized by this section is to be referred to as the "county [~~gross receipts~~] sales tax".

C. A class A county with a county hospital operated and maintained pursuant to a lease or operating agreement with a state educational institution named in Article 12, Section 11 of the constitution of New Mexico enacting the second one-eighth increment of county [~~gross receipts~~] sales tax shall provide, each year that the tax is in effect, not less than one million dollars ($1,000,000) in funds, and that amount shall be dedicated to the support of indigent patients who are residents of that county. Funds for indigent care shall be made available each month of each year the tax is in effect in an amount not less than eighty-three thousand three hundred thirty-three dollars thirty-three cents ($83,333.33). The interest from the investment of county funds for indigent care may be used for other assistance to indigent persons, not to exceed twenty thousand dollars ($20,000) for all other assistance in any year.

D. A county, except a class A county with a county hospital operated and maintained pursuant to a lease or operating agreement with a state educational institution named in Article 12, Section 11 of the constitution of New Mexico, imposing the second one-eighth increment of county [~~gross receipts~~] sales tax shall be required to dedicate the entire amount of revenue produced by the imposition of the second one-eighth increment for

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the support of indigent patients who are residents of that county. The revenue produced by the imposition of the third one-eighth increment and the one-sixteenth increment may be used for general purposes. Any county that has imposed the second one-eighth increment or the third one-eighth increment, or both, on January 1, 1996 for support of indigent patients in the county or, after January 1, 1996, imposes the second one-eighth increment or imposes the third one-eighth increment and dedicates one-half of that increment for county indigent patient purposes shall deposit the revenue dedicated for county indigent purposes that is transferred to the county in the county health care assistance fund, and such revenues shall be expended pursuant to the Indigent Hospital and County Health Care Act.

E. Until June 30, 2017, in addition to the increments authorized pursuant to Subsection A of this section, the majority of the members of the governing body of a county, except a class A county with a hospital that is operated and maintained pursuant to a lease or operating agreement with a state educational institution named in Article 12, Section 11 of the constitution of New Mexico, may enact an ordinance imposing an excise tax of one-sixteenth percent or one-twelfth percent of the gross receipts of any person engaging in business in the county for the privilege of engaging in business in the county."

SECTION 330. Section 7-20E-10 NMSA 1978 (being Laws 1983, Chapter 213, Section 32, as amended) is amended to read:

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"7-20E-10. COUNTY [~~GROSS RECEIPTS~~] SALES TAX--REFERENDUM REQUIREMENTS.--

A. An ordinance enacting the first or third one-eighth increment or the one-sixteenth increment of county [~~gross receipts~~] sales tax pursuant to Section 7-20E-9 NMSA 1978 shall be subject to optional referendum selection by the governing body, pursuant to Subsection A of Section 7-20E-3 NMSA 1978.

B. Imposition by any county of the second one-eighth increment of county [~~gross receipts~~] sales tax shall not be subject to a referendum of any kind unless prescribed by the county charter or the governing body of the county."

SECTION 331. Section 7-20E-11 NMSA 1978 (being Laws 1983, Chapter 213, Section 35, as amended) is amended to read:

"7-20E-11. COUNTY [~~GROSS RECEIPTS~~] SALES TAX--USE OF PROCEEDS FROM FIRST ONE-EIGHTH INCREMENT.--

A. Each county shall establish a reserve fund to be known as the "county reserve fund". From the net receipts from the county [~~gross receipts~~] sales tax attributable to the first one-eighth increment imposed pursuant to Subsection A of Section 7-20E-9 NMSA 1978, one-fourth of the net receipts each month shall be deposited in the county reserve fund. The balance of the monthly net receipts shall be placed in either the general fund or road fund, or both, of the county. Except as provided in Subsections B through D of this section, the portions of the net receipts deposited in the county reserve fund shall remain on

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deposit in that fund until the sixteenth day of the month following the end of the state fiscal year in which the deposits were made, at which time the amount deposited from net receipts for the previous fiscal year shall be placed in either the general fund or road fund, or both, of the county.

B. If the actual amount of the distribution to a county in any state fiscal year of federal in lieu of taxes payments [~~under~~] made pursuant to the provisions of Sections 6901 through 6906 of Title 31 of the United States Code, as amended or renumbered, is less than the actual distribution to that county in the seventy-first state fiscal year or is no longer available to that county, the county may transfer from its reserve fund to its general fund or road fund, or both, an amount equal to the difference between the actual federal in lieu of taxes payments received in the seventy-first fiscal year and the payments received in the year in which the reduction occurred. The local government division of the department of finance and administration shall certify the amount to be transferred from the reserve fund.

C. If the actual amount of the distribution to a county in any state fiscal year of national forest reserves receipts [~~under~~] made pursuant to the provisions of Section 500 of Title 16 of the United States Code, as amended or renumbered, is less than the actual amount distributed to that county in the seventy-first state fiscal year, the county may transfer from its

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reserve fund to its general fund or road fund, or both, an amount equal to the difference between the actual national forest reserves receipts distributed to the county in the seventy-first fiscal year and the receipts distributed in the year in which the reduction occurred. The local government division of the department of finance and administration shall certify the amount to be transferred from the reserve fund.

D. If the actual amount of any quarterly distribution to a county in any state fiscal year of federal revenue sharing entitlement payments made [~~under~~] pursuant to the provisions of Sections 6701 through 6724 of Title 31 of the United States Code, as amended or renumbered, is less than the actual quarterly amount distributed to that county in the first federal quarter of the federal 1982-83 fiscal year, the county may transfer from its reserve fund to its general fund or road fund, or both, an amount equal to the difference between the actual federal revenue sharing quarterly entitlement payment distributed to the county in the first federal quarter of the federal 1982-83 fiscal year and the entitlement payment distributed to the county in the quarter in which the reduction occurred. The local government division of the department of finance and administration shall certify the amount to be transferred from the reserve fund."

SECTION 332. Section 7-20E-12 NMSA 1978 (being Laws 1989, Chapter 239, Section 1, as amended) is amended to read:

"7-20E-12. COUNTY EMERGENCY [~~GROSS RECEIPTS~~] SALES TAX--

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AUTHORITY TO IMPOSE [~~IN LIEU OF PROPERTY TAX~~].--

A. The majority of the members of the governing body of any county may enact an ordinance [~~or ordinances~~] imposing an excise tax not to exceed a rate of three-eighths [~~of one~~] percent of the gross receipts of any person engaging in business in the county for the privilege of engaging in business in the county. Any ordinance imposing an excise tax pursuant to this section shall impose the tax in any number of increments of one-eighth percent not to exceed an aggregate amount of three-eighths [~~of one~~] percent. Any ordinance adopted [~~under~~] pursuant to provisions of this section shall be in effect only for the twelve-month period beginning with the effective date of the ordinance and shall expire on the date one year after its effective date.

B. The tax imposed by this section may be referred to as the "county emergency [~~gross receipts~~] sales tax".

C. The tax authorized by this section may be imposed only in a property tax year for which the property taxes not admitted to be due in the aggregate claims for refund filed under the provisions of Section 7-38-40 NMSA 1978 for property taxes imposed in the county [~~under~~] pursuant to the provisions of Paragraph (1) of Subsection B of Section 7-37-7 NMSA 1978 for that property tax year are more than ten percent of property taxes imposed in the county under the cited provisions for that property tax year.

D. As used in this section, "county" means a class B

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county of the state with:

(1) a population of not less than thirty thousand and not more than thirty thousand seven hundred according to the most recent federal decennial census and a net taxable value for rate-setting purposes for the 1988 property tax year or any subsequent year of more than ninety-two million dollars ($92,000,000) but less than one hundred twenty-five million dollars ($125,000,000);

(2) a population of not less than fifty-six thousand and not more than fifty-six thousand seven hundred according to the most recent federal decennial census and a net taxable value for rate-setting purposes for the 1988 property tax year or any subsequent year of more than five hundred million dollars ($500,000,000) but less than five hundred fifty million dollars ($550,000,000); and

(3) a population of not less than eighty-one thousand and not more than eighty-one thousand seven hundred according to the most recent federal decennial census and a net taxable value for rate-setting purposes for the 1988 property tax year or any subsequent year of more than one billion five hundred million dollars ($1,500,000,000) but less than two billion dollars ($2,000,000,000).

E. The governing body prior to the month in which the proceeds of this tax will first be distributed may request the department to make an advance distribution. Upon concurrence of

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the department of finance and administration, the department shall make the advance distribution. An advance distribution is an amount equal to the product of the net receipts with respect to the [~~gross receipts~~] sales tax reported from business locations in the county for the month multiplied by a fraction the numerator of which is the rate imposed by the county under this section and the denominator of which is the rate imposed for the month by Section 7-9-4 NMSA 1978. The aggregate amount of advance distributions made to the county shall be recovered by the department by reducing the monthly amount transferable to the county as a result of the imposition of a tax [~~under~~] pursuant to provisions of this section by one-twelfth of the aggregate amount of advance distributions made."

SECTION 333. Section 7-20E-12.1 NMSA 1978 (being Laws 1994, Chapter 14, Section 1, as amended) is amended to read:

"7-20E-12.1. COUNTY HOSPITAL EMERGENCY [~~GROSS RECEIPTS~~] SALES TAX--AUTHORITY TO IMPOSE--USE OF PROCEEDS.--

A. A majority of the members of a governing body may enact an ordinance imposing an excise tax on a person engaging in business in the county for the privilege of engaging in business. The rate of the tax shall be one-fourth [~~of one~~] percent of the gross receipts of the person engaging in business. The tax shall be imposed for a period of not more than two years from the effective date of the ordinance imposing the tax. The tax may be imposed for an additional period not to exceed three years from

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the date of the ordinance imposing the tax for that period. On or after July 1, 1997:

(1) in a county described in Paragraph (1) of Subsection D of this section, the tax may be imposed for the period necessary for payment of bonds or a loan for acquisition of land or buildings for and the design, construction, equipping, remodeling or improvement of a county hospital facility, but the period shall not exceed twenty years from the effective date of the ordinance imposing the tax for that period; provided, however, that a majority of the members of a governing body that has enacted an ordinance imposing the tax pursuant to the provisions of this paragraph may, prior to the date of the delayed repeal of the ordinance, enact an ordinance to extend the period of imposition of the previously imposed tax for an additional twenty years and modify the purposes for which the revenue from the tax is dedicated, consistent with one or more of the purposes permitted pursuant to this paragraph; and

(2) in a county described in Paragraph (2) of Subsection D of this section, the tax may be imposed for the period necessary for payment of bonds or a loan for acquisition, equipping, remodeling or improvement of a county health facility, but the period shall not exceed twenty years from the effective date of the ordinance imposing the tax for that period.

B. The tax imposed by this section may be referred to as the "county hospital emergency [~~gross receipts~~] sales tax".

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C. At the time of enacting the ordinance imposing the tax authorized in this section:

(1) if the effective date of the tax is prior to July 1, 1997, the governing body shall dedicate the revenue for current operations and maintenance of a hospital owned by the county or a hospital with which the county has entered into a health care facilities contract; provided that a majority of the members of a governing body may enact an ordinance to change the purposes for which the revenue from a previously imposed tax is dedicated and to dedicate that revenue during the remainder of the tax imposition period to payment of bonds or a loan for acquisition of land or buildings for, and the design, construction, equipping, remodeling or improvement of, a county hospital facility; and

(2) if the effective date of the tax is on or after July 1, 1997:

(a) the governing body of a county described in Paragraph (1) of Subsection D of this section shall dedicate the revenue for the period of time the tax is imposed to payment of a bond or loan for acquisition, equipping, remodeling and improvement of a county hospital facility; provided, however, that a majority of the members of a governing body that has imposed the tax and dedicated the revenue from that imposition pursuant to the provisions of this paragraph may, prior to the date of the delayed repeal of the ordinance imposing the tax,

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enact an ordinance to extend the period of imposition of the tax as provided in Paragraph (1) of Subsection A of this section and modify the purposes for which the revenue from the previously imposed tax is dedicated, and dedicate that revenue to payment of bonds or a loan for acquisition of land or buildings for, and the design, construction, equipping, remodeling or improvement of, a county hospital facility; and

(b) the governing body of a county described in Paragraph (2) of Subsection D of this section shall dedicate the revenue for the period of time the tax is imposed to payment of a bond or loan for acquisition, equipping, remodeling and improvement of a county health facility.

D. As used in this section, "county" means:

(1) a class B county with a population of less than ten thousand according to the 1990 federal decennial census and with a net taxable value for rate-setting purposes for the 1993 property tax year in excess of one hundred million dollars ($100,000,000); or

(2) a class B county with a population of less than ten thousand according to the 1990 federal decennial census and with a net taxable value for rate-setting purposes for the 1997 property tax year of more than one hundred million dollars ($100,000,000) but less than one hundred twenty million dollars ($120,000,000)."

SECTION 334. Section 7-20E-13 NMSA 1978 (being Laws 1987,

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Chapter 45, Section 3, as amended) is amended to read:

"7-20E-13. SPECIAL COUNTY HOSPITAL [~~GROSS RECEIPTS~~] SALES TAX--AUTHORITY TO IMPOSE--ORDINANCE REQUIREMENTS.--

A. The majority of the members of the governing body may enact an ordinance imposing an excise tax on any person engaging in business in the county for the privilege of engaging in business. The rate of the tax shall be one-eighth [~~of one~~] percent of the gross receipts of the person engaging in business. The tax shall be imposed for a period of not more than five years from the effective date of the ordinance imposing the tax. Having once enacted an ordinance under this section, the governing body may enact subsequent ordinances for succeeding periods of not more than five years; provided that each such ordinance meets the requirements of the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act with respect to the tax imposed by this section.

B. The tax imposed by this section may be referred to as the "special county hospital [~~gross receipts~~] sales tax".

C. For the purposes of this section, "county" means:

(1) a county:

(a) having a population of more than ten thousand but less than ten thousand six hundred, according to the last federal decennial census or any subsequent decennial census, and having a net taxable value for rate-setting purposes for the 1986 property tax year or any subsequent year of more than eighty-two million dollars ($82,000,000) but less than eighty-two

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million three hundred thousand dollars ($82,300,000);

(b) that has imposed a rate of one dollar fifty cents ($1.50) to each one thousand dollars ($1,000) of net taxable value of property as defined in the Property Tax Code for property taxation purposes in the county and to each one thousand dollars ($1,000) of the assessed value of products severed and sold in the school district as determined under the Oil and Gas Ad Valorem Production Tax Act and the Oil and Gas Production Equipment Ad Valorem Tax Act or has made an appropriation of funds or has imposed another tax that produces an amount not less than the revenue that would be produced by applying a rate of one dollar fifty cents ($1.50) to each one thousand dollars ($1,000) of net taxable value of property as defined in the Property Tax Code for property taxation purposes in the school district and to each one thousand dollars ($1,000) of the assessed value of products severed and sold in the school district as determined under the Oil and Gas Ad Valorem Production Tax Act and the Oil and Gas Production Equipment Ad Valorem Tax Act. The proceeds of any tax imposed or appropriation made shall be dedicated for current operations and maintenance of a hospital owned and operated by the county or operated and maintained by another party pursuant to a lease with the county; and

(c) having qualified at any time under this definition shall continue to be qualified as a county and authorized to implement the provisions of this section; and

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(2) a class B county having a population of more than seventeen thousand five hundred but less than nineteen thousand according to the 1990 federal decennial census and having a net taxable value for property tax rate-setting purposes of under three hundred million dollars ($300,000,000).

D. The governing body of a county described in Paragraph (1) of Subsection C of this section shall, at the time of enacting an ordinance imposing the rate of the tax authorized in Subsection A of this section, dedicate the revenue for current operations and maintenance of a hospital owned and operated by the county or operated and maintained by another party pursuant to a lease with the county, and the use of these proceeds shall be for the care and maintenance of sick and indigent persons and shall be an expenditure for a public purpose. In any election held, the ballot shall clearly state the purpose to which the revenue will be dedicated, and the revenue shall be used by the county for that purpose.

E. The governing body of a county described in Paragraph (2) of Subsection C of this section shall, at the time of enacting an ordinance imposing the rate of the tax authorized in Subsection A of this section, dedicate the revenue for county ambulance transport costs or for operation of a rural health clinic. In any election held, the ballot shall clearly state the purposes to which the revenue will be dedicated, and the revenue shall be used by the county for those purposes.

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F. Any ordinance enacted under the provisions of Subsection A of this section shall include an effective date of either July 1 or January 1 in accordance with the provisions of the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act.

G. The ordinance shall not go into effect until after an election is held and a simple majority of the qualified electors of the county voting in the election votes in favor of imposing the special county hospital [~~gross receipts~~] sales tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question may be submitted to the qualified electors and voted upon as a separate question in a general election or in any special election called for that purpose by the governing body. A special election upon the question shall be called, held, conducted and canvassed in substantially the same manner as provided by law for general elections. If the question of imposing a special county hospital [~~gross receipts~~] sales tax fails, the governing body shall not again propose a special county hospital [~~gross receipts~~] sales tax for a period of one year after the election. A certified copy of any ordinance imposing a special county hospital [~~gross receipts~~] sales tax shall be mailed to the department within five days after the ordinance is adopted in any election called for that purpose.

H. A single election may be held on the question of imposing a special county hospital [~~gross receipts~~] sales tax as

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authorized in this section, on the question of imposing a special county hospital gasoline tax as authorized in the Special County Hospital Gasoline Tax Act and on the question of imposing a mill levy pursuant to the Hospital Funding Act."

SECTION 335. Section 7-20E-14 NMSA 1978 (being Laws 1987, Chapter 45, Section 8, as amended) is amended to read:

"7-20E-14. SPECIAL COUNTY HOSPITAL [~~GROSS RECEIPTS~~] SALES TAX--USE OF PROCEEDS.--The funds provided through the special county hospital [~~gross receipts~~] sales tax shall be administered by the governing body of the county. In a county described in Paragraph (1) of Subsection C of Section 7-20E-13 NMSA 1978, the funds shall be disbursed by the county treasurer to a hospital within the county, subject to the approval by the governing body of a budget or plan for use of the funds submitted by that hospital's governing board."

SECTION 336. Section 7-20E-15 NMSA 1978 (being Laws 1979, Chapter 398, Section 3, as amended) is amended to read:

"7-20E-15. COUNTY FIRE PROTECTION [~~EXCISE~~] SALES TAX--AUTHORITY TO IMPOSE--ORDINANCE REQUIREMENTS.--

A. The majority of the members of the governing body may enact an ordinance imposing an excise tax on any person engaging in business in the county area for the privilege of engaging in business. The rate of the tax shall be one-fourth percent or one-eighth percent of the gross receipts of the person engaging in business.

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B. This tax is to be referred to as the "county fire protection [~~excise~~] sales tax".

C. The governing body of a county shall, at the time of enacting an ordinance imposing the rate of the tax authorized in Subsection A of this section, dedicate the revenue for the purpose of financing the operational expenses, ambulance services or capital outlay costs of independent fire districts or ambulance services provided by the county. In any election held, the ballot shall clearly state the purpose to which the revenue will be dedicated and shall be used by the county for that purpose.

D. Any ordinance enacted under the provisions of Subsection A of this section shall include an effective date of either July 1 or January 1 in accordance with the provisions of the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act.

E. The ordinance shall not go into effect until after an election is held and a simple majority of the qualified electors of the county area voting in the election votes in favor of imposing the county fire protection [~~excise~~] sales tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. Such question may be submitted to the qualified electors and voted upon as a separate question at any special election called for that purpose by the governing body. The election upon the question shall be called, held, conducted and canvassed in substantially the same manner as

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provided by law for general elections. If the question of imposing a county fire protection [~~excise~~] sales tax fails, the governing body shall not again propose a county fire protection [~~excise~~] sales tax for a period of one year after the election."

SECTION 337. Section 7-20E-16 NMSA 1978 (being Laws 1979, Chapter 398, Section 8, as amended) is amended to read:

"7-20E-16. COUNTY FIRE PROTECTION [~~EXCISE~~] SALES TAX--USE OF PROCEEDS--BUDGET LIMITATION.--

A. The money provided through passage of the county fire protection [~~excise~~] sales tax shall be disbursed and allotted through the governing body to the county fire districts within the county; provided that no part of any distribution shall be used to pay any salary, compensation or remuneration to any employee of the state, the county or the independent fire district.

B. The governing body of any county adopting a county fire protection [~~excise~~] sales tax shall not reduce the level of funding of any independent fire district more than ten percent from the approved budget of such fire district for the prior year. The department of finance and administration shall not approve the budget of any county [~~which~~] that violates the provisions of this subsection."

SECTION 338. Section 7-20E-17 NMSA 1978 (being Laws 1990, Chapter 99, Section 58, as amended) is amended to read:

"7-20E-17. COUNTY ENVIRONMENTAL SERVICES [~~GROSS RECEIPTS~~] SALES TAX--AUTHORITY TO IMPOSE RATE--USE OF FUNDS.--

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A. The majority of the members of the governing body of any county may enact an ordinance imposing an excise tax at a rate of one-eighth [~~of one~~] percent of the gross receipts of any person engaging in business in the county area for the privilege of engaging in business.

B. This tax is to be referred to as the "county environmental services [~~gross receipts~~] sales tax".

C. Imposition by any county of the county environmental services [~~gross receipts~~] sales tax shall not be subject to a referendum of any kind unless prescribed by the county charter.

D. Any county, at the time of enacting an ordinance imposing a county environmental services [~~gross receipts~~] sales tax, shall dedicate the entire amount of revenue produced by the tax for the acquisition, construction, operation and maintenance of solid waste facilities, water facilities, wastewater facilities, sewer systems and related facilities.

E. Any ordinance enacted [~~under~~] pursuant to the provisions of Subsection A of this section shall include an effective date of either July 1 or January 1 in accordance with the provisions of the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act."

SECTION 339. Section 7-20E-18 NMSA 1978 (being Laws 1991, Chapter 212, Section 7, as amended) is amended to read:

"7-20E-18. COUNTY HEALTH CARE [~~GROSS RECEIPTS~~] SALES TAX--

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AUTHORITY TO IMPOSE RATE.--

A. The majority of the members of the governing body of any county may enact an ordinance imposing an excise tax at a rate of one-sixteenth percent of the gross receipts of any person engaging in business in the county for the privilege of engaging in business in the county. Any ordinance imposing an excise tax pursuant to this section shall not be subject to a referendum. The governing body of a county shall, at the time of enacting an ordinance imposing the tax, dedicate the revenue to the county-supported medicaid fund. This tax is to be referred to as the "county health care [~~gross receipts~~] sales tax".

B. In addition to the imposition of the county health care [~~gross receipts~~] sales tax authorized by Subsection A of this section, the majority of the members of the governing body of a county having a population of more than five hundred thousand persons according to the most recent federal decennial census may enact an ordinance imposing an additional one-sixteenth percent increment of county health care [~~gross receipts~~] sales tax; provided that the imposition of the additional increment shall be for a period that ends no later than June 30, 2009. To continue an increment after June 30, 2009 or beyond any five-year period for which the increment has been imposed, the members of the governing body shall review the need for the increment and if the majority of the members vote in favor of continuing the increment imposed pursuant to this subsection, the increment shall be

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imposed for an additional period of five years. The governing body of the county shall, at the time of enacting an ordinance imposing the additional increment of county health care [~~gross receipts~~] sales tax, dedicate the revenue to the support of indigent patients.

C. Any ordinance enacted pursuant to the provisions of Subsection A or B of this section shall include an effective date of either July 1 or January 1 in accordance with the provisions of the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act."

SECTION 340. Section 7-20E-19 NMSA 1978 (being Laws 1998, Chapter 90, Section 7, as amended) is amended to read:

"7-20E-19. COUNTY INFRASTRUCTURE [~~GROSS RECEIPTS~~] SALES TAX--AUTHORITY TO IMPOSE RATE--USE OF FUNDS--ELECTION.--

A. The majority of the members of the governing body of a county may enact an ordinance imposing an excise tax at a rate not to exceed one-eighth [~~of one~~] percent of the gross receipts of any person engaging in business in the county area for the privilege of engaging in business. The tax may be imposed in increments of one-sixteenth [~~of one~~] percent not to exceed an aggregate rate of one-eighth [~~of one~~] percent.

B. The tax imposed pursuant to Subsection A of this section may be referred to as the "county infrastructure [~~gross receipts~~] sales tax".

C. The governing body, at the time of enacting an ordinance imposing a rate of tax authorized in Subsection A of

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this section, may dedicate the revenue for:

(1) county general purposes;

(2) payment of [~~gross receipts~~] sales tax revenue bonds issued pursuant to Chapter 4, Article 62 NMSA 1978;

(3) repair, replacement, construction or acquisition of any county infrastructure improvements;

(4) acquisition, construction, operation or maintenance of solid waste facilities, water facilities, wastewater facilities, sewer systems and related facilities;

(5) acquiring, constructing, extending, bettering, repairing or otherwise improving or operating or maintaining public transit systems or regional transit systems or authorities;

(6) planning, design, construction, equipping, maintenance or operation of a county jail or juvenile detention facility; planning, assessment, design or operation of a regional system of juvenile services, including secure detention and nonsecure alternatives, that serves multiple contiguous counties; planning, design, construction, maintenance or operation of multipurpose regional adult jails or juvenile detention facilities; housing of county prisoners or juvenile offenders in any county jail or detention facility; or substance abuse, mental health or other programs for county prisoners or other inmates in county jails or for juvenile offenders in county or regional detention facilities; and

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(7) furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act, and use of not more than the greater of fifty thousand dollars ($50,000) or ten percent of the revenue collected for promotion and administration of or professional services contracts related to implementation of an economic development plan adopted by the governing body pursuant to the Local Economic Development Act and in accordance with law.

D. An ordinance imposing the county infrastructure [~~gross receipts~~] sales tax shall not go into effect until after an election is held and a majority of the voters in the county area voting in the election votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question shall be submitted to the voters of the county area as a separate question at a general election or at a special election called for that purpose by the governing body. A special election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections. If a majority of the voters voting on the question approves the ordinance imposing the county infrastructure [~~gross receipts~~] sales tax, then the ordinance shall become effective in accordance with the provisions of the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act.

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If the question of imposing the county infrastructure [~~gross receipts~~] sales tax fails, the governing body shall not again propose the imposition of the tax for a period of one year from the date of the election."

SECTION 341. Section 7-20E-20 NMSA 1978 (being Laws 2001, Chapter 328, Section 1, as amended) is amended to read:

"7-20E-20. COUNTY EDUCATION [~~GROSS RECEIPTS~~] SALES TAX--AUTHORITY TO IMPOSE--RATE--ELECTION--USE OF REVENUE.--

A. Upon submission of a resolution to the governing body pursuant to Subsection D of this section, the governing body of a county shall enact an ordinance imposing or reimposing an excise tax at a rate of one-half [~~of one~~] percent on any person engaging in business in the county for the privilege of engaging in business in the county. The tax imposed pursuant to this section may be referred to as the "county education [~~gross receipts~~] sales tax".

B. The governing body, at the time of enacting an ordinance imposing a county education [~~gross receipts~~] sales tax pursuant to this section, shall dedicate the revenue only for the payment of county education [~~gross receipts~~] sales tax revenue bonds for public school capital projects and off-campus instruction program capital projects, if any, in the county. The tax shall be imposed for the period necessary for payment of the principal and interest on the county education [~~gross receipts~~] sales tax revenue bonds issued to accomplish the purpose for which

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the revenue is dedicated, but the period shall not exceed ten years from the effective date of the ordinance imposing the tax.

C. The governing body may reimpose a county education [~~gross receipts~~] sales tax to be effective upon termination of a previously imposed county education [~~gross receipts~~] sales tax by following the procedures set forth in this section.

D. Upon a finding of need, the boards of every school district in a county that is either located wholly within the exterior boundaries of the county or that has a student membership no more than ten percent of whom reside outside the exterior boundaries of the county may enter into a joint agreement to submit a resolution to the governing body of the county requiring the governing body to impose a county education [~~gross receipts~~] sales tax and to issue county education [~~gross receipts~~] sales tax revenue bonds for funding public school capital projects and, if applicable, off-campus instruction program capital projects. The boards must agree to provide at least one-fourth of the bond proceeds for capital projects for an off-campus instruction program, if one of the school districts in the county has established such a program. The remaining revenues shall be distributed proportionately to each school district for public school capital outlay projects, including capital projects at charter schools and state-chartered charter schools within the school district, based on the ratio that the population of each school district, according to the 2010 federal decennial census,

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bears to the population of all of the school districts in the county that are parties to the agreement.

E. An ordinance imposing the county education [~~gross receipts~~] sales tax shall not go into effect until after an election is held and a majority of the voters in the county voting in the election votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election within sixty days of the date the ordinance is adopted on the question of imposing the tax. The question shall be submitted to the voters of the county as a separate question at a general election or at a special election called for that purpose by the governing body. A special election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections. If a majority of the voters voting on the question approves the ordinance imposing the county education [~~gross receipts~~] sales tax, then the ordinance shall become effective in accordance with the provisions of the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act. If the question of imposing the county education [~~gross receipts~~] sales tax fails, a resolution from the boards of school districts in the county may not again be proposed to the governing body requesting imposition of the tax for a period of one year from the date of the election.

F. The proceeds from county education [~~gross receipts~~] sales tax revenue bonds shall be administered by the governing body and disbursed by the county treasurer to the respective

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school districts in the amounts and for the purposes authorized in this section and as set out in the resolution submitted by the boards to the governing body.

G. As used in this section:

(1) "board" means the governing body of a school district;

(2) "capital projects" means the designing, constructing and equipping of new buildings; the remodeling, renovating or making additions to and equipping existing buildings; or the improving or equipping of the grounds surrounding buildings;

(3) "county" means:

(a) a class B county with a population of less than twenty-five thousand according to the 1990 federal decennial census and a net taxable value for property tax purposes for the 1999 property tax year of more than five hundred million dollars ($500,000,000);

(b) a county that has imposed a local hospital [~~gross receipts~~] sales tax pursuant to the Local Hospital [~~Gross Receipts~~] Sales Tax Act, which tax will expire on December 31, 2001; and

(c) a county that has previously imposed a county education [~~gross receipts~~] sales tax; and

(4) "off-campus instruction program" means a program established by a school district pursuant to the Off-

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Campus Instruction Act."

SECTION 342. Section 7-20E-21 NMSA 1978 (being Laws 2001, Chapter 172, Section 2, as amended) is amended to read:

"7-20E-21. COUNTY CAPITAL OUTLAY [~~GROSS RECEIPTS~~] SALES TAX--PURPOSES--REFERENDUM.--

A. The majority of the members of the governing body of a county may enact an ordinance imposing an excise tax at a rate not to exceed one-fourth [~~of one~~] percent of the gross receipts of any person engaging in business in the county for the privilege of engaging in business. The tax may be imposed in increments of one-sixteenth [~~of one~~] percent not to exceed an aggregate rate of one-fourth [~~of one~~] percent.

B. The tax imposed pursuant to Subsection A of this section may be referred to as the "county capital outlay [~~gross receipts~~] sales tax".

C. The governing body, at the time of enacting an ordinance imposing a rate of tax authorized in Subsection A of this section, may dedicate the revenue for any county infrastructure purpose, including:

(1) the design, construction, acquisition, improvement, renovation, rehabilitation, equipping or furnishing of public buildings or facilities, including parking facilities, the acquisition of land for the public buildings or facilities and the acquisition or improvement of the grounds surrounding public buildings or facilities;

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(2) acquisition, construction or improvement of water, wastewater or solid waste systems or facilities and related facilities, including water or sewer lines and storm sewers and other drainage improvements;

(3) design, construction, acquisition, improvement or equipping of a county jail, juvenile detention facility or other county correctional facility or multipurpose regional adult jail or juvenile detention facility;

(4) construction, reconstruction or improvement of roads, streets or bridges, including acquisition of rights of way;

(5) design, construction, acquisition, improvement or equipping of airport facilities, including acquisition of land, easements or rights of way for airport facilities;

(6) acquisition of land for open space, public parks or public recreational facilities and the design, acquisition, construction, improvement or equipping of parks and recreational facilities; and

(7) payment of [~~gross receipts~~] sales tax revenue bonds issued pursuant to Chapter 4, Article 62 NMSA 1978 for infrastructure purposes.

D. An ordinance imposing the county capital outlay [~~gross receipts~~] sales tax shall not go into effect until after an election is held on the question of imposing the tax for the

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purpose for which the revenue is dedicated and a majority of the voters in the county voting in the election votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question shall be submitted to the voters of the county as a separate question at a general election or at a special election called for that purpose by the governing body. A special election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections. If a majority of the voters voting on the question approves the question of imposing the county capital outlay [~~gross receipts~~] sales tax, then the ordinance shall become effective in accordance with the provisions of the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act. If the question of imposing the county capital outlay [~~gross receipts~~] sales tax fails, the governing body shall not again propose the imposition of the tax for a period of one year from the date of the election."

SECTION 343. Section 7-20E-22 NMSA 1978 (being Laws 2002, Chapter 14, Section 1, as amended) is amended to read:

"7-20E-22. COUNTY EMERGENCY COMMUNICATIONS AND EMERGENCY MEDICAL AND BEHAVIORAL HEALTH SERVICES SALES TAX--AUTHORITY TO IMPOSE COUNTYWIDE OR ONLY IN THE COUNTY AREA--ORDINANCE REQUIREMENTS-- USE OF REVENUE--ELECTION.--

A. The majority of the members of the governing body

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of an eligible county that does not have in effect a tax imposed pursuant to Subsection B of this section may enact an ordinance imposing an excise tax at a rate not to exceed one-fourth percent of the gross receipts of a person engaging in business in the county for the privilege of engaging in business. The tax imposed by this subsection may be referred to as the "countywide emergency communications and emergency medical and behavioral health services sales tax".

B. The majority of the members of the governing body of an eligible county that does not have in effect a tax imposed pursuant to Subsection A of this section may enact an ordinance imposing an excise tax at a rate not to exceed one-fourth percent of the gross receipts of a person engaging in business in the county area for the privilege of engaging in business. The tax imposed by this subsection may be referred to as the "county area emergency communications and emergency medical and behavioral health services sales tax".

C. The taxes authorized in Subsections A and B of this section may be imposed in one or more increments of one-sixteenth percent not to exceed an aggregate rate of one-fourth percent.

D. The governing body, at the time of enacting an ordinance imposing a rate of tax authorized in Subsection A or B of this section, shall dedicate the revenue to one or more of the following purposes:

(1) operation of an emergency communications

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center that has been determined by the local government division of the department of finance and administration to be a consolidated public safety answering point. That operation may include the purchase of emergency communications equipment for the center;

(2) operation of emergency medical services provided by the county; or

(3) provision of behavioral health services, including alcohol abuse and substance abuse treatment.

E. An ordinance imposing any increment of the countywide emergency communications and emergency medical and behavioral health services sales tax or the county area emergency communications and emergency medical and behavioral health services sales tax shall not go into effect until after an election is held and a majority of the voters voting in the election votes in favor of imposing the tax. In the case of an ordinance imposing an increment of the countywide emergency communications and emergency medical and behavioral health services sales tax, the election shall be conducted countywide. In the case of an ordinance imposing the county area emergency communications and emergency medical and behavioral health services sales tax, the election shall be conducted only in the county area. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question may

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be submitted to the voters as a separate question at a general election or at a special election called for that purpose by the governing body. A special election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections. In any election held, the ballot shall clearly state the purpose to which the revenue will be dedicated pursuant to Subsection D of this section. If a majority of the voters voting on the question approves the imposition of the countywide emergency communications and emergency medical and behavioral health services sales tax or the county area emergency communications and emergency medical and behavioral health services sales tax, the ordinance shall become effective in accordance with the provisions of the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act. If the question of imposing the tax fails, the governing body shall not again propose the imposition of any increment of either tax for a period of one year from the date of the election.

F. For the purposes of this section, "eligible county" means:

(1) a county that operates or, pursuant to a joint powers agreement, is served by an emergency communications center that has been determined by the local government division of the department of finance and administration to be a consolidated public safety answering point; or

(2) in the case of a county imposing the tax for

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the purposes provided in Paragraph (3) of Subsection D of this section, a county that operates or contracts for the operation of a behavioral health services facility providing alcohol abuse, substance abuse and inpatient and outpatient behavioral health treatment."

SECTION 344. Section 7-20E-23 NMSA 1978 (being Laws 2004, Chapter 17, Section 2, as amended) is amended to read:

"7-20E-23. COUNTY REGIONAL TRANSIT [~~GROSS RECEIPTS~~] SALES TAX--AUTHORITY TO IMPOSE--RATE--ELECTION REQUIRED.--

A. Upon a request by resolution of the board of directors of a regional transit district, a majority of the members of the governing body of each county that is within the district shall impose by identical ordinances an excise tax at the rate specified in the resolution, but not to exceed one-half percent of the gross receipts of any person engaging in business in the district for the privilege of engaging in business. A tax imposed pursuant to this section may be imposed by one or more ordinances, each imposing any number of tax rate increments, but an increment shall not be less than one-sixteenth percent of the gross receipts of any person engaging in business in the district and the aggregate of all rates shall not exceed one-half percent of the gross receipts of any person engaging in business in the district. The tax may be referred to as the "county regional transit [~~gross receipts~~] sales tax".

B. Each governing body, at the time of enacting an

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ordinance imposing the tax authorized in Subsection A of this section, shall dedicate the revenue for the purposes authorized by the Regional Transit District Act.

C. An ordinance imposing a county regional transit [~~gross receipts~~] sales tax shall not go into effect until after a joint election is held by all counties within the district and a majority of the voters of the district voting in the election votes in favor of imposing the tax. Each governing body shall adopt an ordinance calling for a joint election within seventy-five days of the date the resolution is adopted on the question of imposing the tax. The question shall be submitted to the voters of the district as a separate question at a general election or at a joint special election called for that purpose by each governing body. A joint special election shall be called, conducted and canvassed substantially in the same manner as provided by law for general elections. If a majority of the voters in the district voting on the question approves the ordinance imposing the county regional transit [~~gross receipts~~] sales tax, the ordinance shall become effective in accordance with the provisions of the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act. If the question of imposing the county regional transit [~~gross receipts~~] sales tax fails, the governing bodies shall not again propose the imposition of any increment of the tax for a period of one year from the date of the election.

D. The governing body of a county imposing a county

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regional transit [~~gross receipts~~] sales tax shall transfer all proceeds from the tax to the regional transit district for the purposes specified in the ordinance and in accordance with the provisions of the Regional Transit District Act.

E. As used in this section, "county within the district" means a county within which lies any portion of a regional transit district."

SECTION 345. Section 7-20E-24 NMSA 1978 (being Laws 2005, Chapter 212, Section 1) is amended to read:

"7-20E-24. QUALITY OF LIFE [~~GROSS RECEIPTS~~] SALES TAX--AUTHORITY TO IMPOSE--ORDINANCE REQUIREMENTS--USE OF REVENUE--ELECTION.--

A. Prior to January 1, 2016, the majority of the members of the governing body of a county may enact an ordinance imposing an excise tax at a rate not to exceed one-fourth percent of the gross receipts of a person engaging in business in the county area for the privilege of engaging in business. The tax may be imposed in one or more increments of one-sixteenth percent not to exceed an aggregate rate of one-fourth percent. The tax shall be imposed for a period of not more than ten years from the effective date of the ordinance imposing the tax. Having enacted an ordinance imposing the tax prior to January 1, 2016 pursuant to the provisions of this section, the governing body may enact subsequent ordinances for succeeding periods of not more than ten years; provided that each ordinance meets the requirements of this

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section and of the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act. The tax imposed pursuant to the provisions of this section may be referred to as the "quality of life [~~gross receipts~~] sales tax".

B. The governing body, at the time of enacting an ordinance imposing the quality of life [~~gross receipts~~] sales tax, shall dedicate the revenue to cultural programs and activities provided by a local government and to cultural programs, events and activities provided by contract or operating agreement with nonprofit or publicly owned cultural organizations and institutions.

C. The governing body of a class A county with a population of more than two hundred fifty thousand according to the most recent federal decennial census, when dedicating revenue pursuant to Subsection B of this section, shall specify that:

(1) the revenue may not be used for capital expenditures, endowments or fundraising;

(2) at least one percent but not more than three percent of the revenue shall be used for public education on the use of the revenue;

(3) at least three percent but not more than five percent of the revenue shall be dedicated to administration of the revenue; and

(4) at least one percent but not more than three percent of the revenue shall be used for implementation of the

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goals of the cultural plan for the county and the largest municipality located within the exterior boundaries of the county.

D. An ordinance imposing any increment of the quality of life [~~gross receipts~~] sales tax shall not go into effect until after an election is held and a majority of the voters in the county voting in the election [~~vote~~] votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election within ninety days of the date the ordinance is adopted on the question of imposing the tax. The question may be submitted to the voters as a separate question at a general election or at a special election called for that purpose by the governing body. A special election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections. In any election held, the ballot shall clearly state the purpose to which the revenue will be dedicated pursuant to this section. If a majority of the voters voting on the question approves the ordinance imposing the quality of life [~~gross receipts~~] sales tax, the ordinance shall become effective in accordance with the provisions of the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act. If the question of imposing the quality of life [~~gross receipts~~] sales tax fails, the governing body shall not again propose the imposition of the tax for a period of one year from the date of the election.

E. The quality of life [~~gross receipts~~] sales tax revenue shall be used to meet the following goals: promoting and

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preserving cultural diversity; enhancing the quality of cultural programs and activities; fostering greater access to cultural opportunities; promoting culture in order to further economic development within the county; and supporting programs, events and organizations with direct, identifiable and measurable public benefit to residents of the county. It is the objective of the quality of life [~~gross receipts~~] sales tax that the revenue from the tax be used to expand and sustain existing programs and to develop new programs, events and activities, rather than to replace other funding sources for existing programs, events and activities.

F. The governing body of a county that imposes the quality of life [~~gross receipts~~] sales tax shall, within sixty days of the election approving the imposition of the tax, appoint a county cultural advisory board consisting of between nine and fifteen members. Persons appointed to the board shall be residents of the county who are knowledgeable about the activities eligible for quality of life tax funding. At least one member of the board shall be appointed by the governing body of the most populous municipality within the county. The members of the board shall be appointed for fixed terms and shall not be removed during their terms except for malfeasance. The terms of the initial board members shall be staggered so that one-third of the members are appointed for one-year terms, one-third are appointed for two-year terms and one-third are appointed for three-year terms.

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Subsequent appointments to the board shall be for three-year terms. If a vacancy on the board occurs, the governing body shall appoint a replacement member for the remainder of the unexpired term. A board member shall not serve for more than two consecutive terms.

G. The county cultural advisory board shall have the responsibility of overseeing the distribution of the quality of life [~~gross receipts~~] sales tax revenue for the goals listed in Subsection E of this section. The board shall:

(1) biennially submit recommendations to the governing body for expenditures of revenue from the quality of life [~~gross receipts~~] sales tax that are allocated pursuant to this section through contracts for services with appropriate organizations and institutions;

(2) establish and publicize the necessary qualifications for organizations and institutions to receive quality of life [~~gross receipts~~] sales tax funding; and

(3) develop guidelines and procedures for applying for funding through a request for proposals process and the criteria by which contracts will be awarded. The evaluation process shall include a public review component.

H. The cultural advisory board shall establish reporting requirements for recipients of the quality of life [~~gross receipts~~] sales tax revenue. The board shall provide to the governing body an annual evaluation of the use of revenue from

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the quality of life [~~gross receipts~~] sales tax to ensure that it is meeting the goals listed in Subsection E of this section.

I. If the quality of life [~~gross receipts~~] sales tax is enacted in a class A county with a population of more than two hundred fifty thousand according to the most recent federal decennial census, the net revenue from the tax remaining after distributions pursuant to Subsection C of this section shall be distributed as follows subject to the recommendations of the county cultural advisory board pursuant to Subsection G of this section:

(1) for the purpose of enhancing cultural programs and activities, sixty-five percent to a municipality for cultural programs and activities within the exterior boundaries of the county and five percent to the county for cultural programs and activities within the unincorporated areas of the county; provided that:

(a) the funds are distributed according to a plan that takes into consideration progress indicators that include current budgets, fiscal responsibility and attendance;

(b) educational institutions serving kindergarten through twelfth grade are not eligible for distributions pursuant to this paragraph; and

(c) a portion of the funds may be expended by the municipality pursuant to an operating agreement with an organization that operates a facility owned by the municipality;

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(2) for the purpose of providing cultural programs and services to the residents of the county, sixteen percent may be distributed through contracts for services with private nonprofit organizations with an annual operating budget of more than one hundred thousand dollars ($100,000) and two percent may be distributed through contracts for services with private nonprofit organizations with an annual operating budget of one hundred thousand dollars ($100,000) or less. To be eligible for a distribution pursuant to this paragraph, an organization shall have:

(a) been granted for the prior three consecutive years exemption from the federal income tax by the United States commissioner of the internal revenue as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986;

(b) as its primary purpose cultural programs; and

(c) its principal office located within the exterior boundaries of the county; and

(3) for the purpose of providing cultural programs to residents of the county, twelve percent to:

(a) organizations that have a strong cultural program but do not have culture as their primary purpose; or

(b) foundations that are affiliated with

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state or federally owned institutions and that do not otherwise qualify for funding pursuant to this section but that offer cultural programs to the general public.

J. Every four years, the cultural advisory board shall review and revise as necessary:

(1) the guidelines and procedures for applying for funding;

(2) the criteria by which applications for funding will be evaluated; and

(3) the percentages specified in Paragraph (1) of Subsection I of this section for distribution of net revenue to municipally owned or county-owned institutions.

K. As used in this section:

(1) "county area" means that portion of a county located outside the boundaries of any municipality, except that for H class counties and class A counties with a population in excess of two hundred fifty thousand, according to the most recent federal decennial census, "county area" means the entire county; and

(2) "cultural organizations and institutions" means organizations and institutions that have as a primary purpose the advancement or preservation of zoology, museums, library sciences, art, music, theater, dance, literature or the humanities."

SECTION 346. Section 7-20E-25 NMSA 1978 (being Laws 2006,

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Chapter 15, Section 15) is amended to read:

"7-20E-25. COUNTY REGIONAL SPACEPORT [~~GROSS RECEIPTS~~] SALES TAX--AUTHORITY TO IMPOSE--RATE--ELECTION REQUIRED.--

A. A majority of the members of the governing body of a county that desires to become a member of a regional spaceport district pursuant to the Regional Spaceport District Act shall impose by ordinance an excise tax at a rate not to exceed one-half percent of the gross receipts of a person engaging in business in the district area of the county for the privilege of engaging in business. A tax imposed pursuant to this section may be imposed by one or more ordinances, each imposing any number of tax rate increments, but an increment shall not be less than one-sixteenth percent of the gross receipts of a person engaging in business in the district area of the county, and the aggregate of all rates shall not exceed one-half percent of the gross receipts of a person engaging in business in the district area of the county. The tax may be referred to as the "county regional spaceport [~~gross receipts~~] sales tax".

B. A governing body, at the time of enacting an ordinance imposing the tax authorized in Subsection A of this section, shall dedicate a minimum of seventy-five percent of the proceeds of the revenue to the regional spaceport district for the financing, planning, designing and engineering and construction of a spaceport or for projects or services of the district pursuant to the Regional Spaceport District Act and may dedicate no more

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than twenty-five percent of the revenue for spaceport-related projects as approved by resolution of the governing body of the county.

C. An ordinance imposing a county regional spaceport [~~gross receipts~~] sales tax shall not go into effect until after an election is held and a majority of the voters of the district area of the county voting in the election votes in favor of imposing the tax. The governing body shall adopt an ordinance calling for an election within seventy-five days of the date the resolution is adopted on the question of imposing the tax. The question shall be submitted to the voters of the district area of the county as a separate question at a general election or at a special election called for that purpose by the governing body. A special election shall be called, conducted and canvassed substantially in the same manner as provided by law for general elections. If a majority of the voters voting on the question approves the ordinance imposing the county regional spaceport [~~gross receipts~~] sales tax, the ordinance shall become effective in accordance with the provisions of the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act. If the question of imposing the county regional spaceport [~~gross receipts~~] sales tax fails, the governing body shall not again propose the imposition of an increment of the tax for a period of one year from the date of the election.

D. The governing body of a county imposing a county regional spaceport [~~gross receipts~~] sales tax shall transfer a

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minimum of seventy-five percent of all proceeds from the tax to the regional spaceport district of which it is a member for the purposes in accordance with the provisions of the Regional Spaceport District Act. The governing body of a county imposing a county regional spaceport [~~gross receipts~~] sales tax may retain no more than twenty-five percent of the county regional spaceport [~~gross receipts~~] sales tax for spaceport-related projects as approved by the resolution of the governing body of the county.

E. As used in this section, "district area of the county" means that portion of a county that is outside the boundaries of a municipality and that is within the boundaries of a regional spaceport district of which the county is a member; provided that if no municipality within the county has imposed a municipal regional spaceport [~~gross receipts~~] sales tax, "district area of the county" may mean the area within the boundaries of the county that is within the boundaries of a regional spaceport district of which the county is a member."

SECTION 347. Section 7-20E-26 NMSA 1978 (being Laws 2007, Chapter 346, Section 1) is amended to read:

"7-20E-26. WATER AND SANITATION [~~GROSS RECEIPTS~~] SALES TAX--AUTHORITY TO IMPOSE--RATE--ELECTION--USE OF REVENUE.--

A. An excise tax imposed by a governing body pursuant to this section may be referred to as the "water and sanitation [~~gross receipts~~] sales tax". The water and sanitation [~~gross receipts~~] sales tax shall be imposed by a governing body as set

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forth in this section, contingent upon a majority of the voters voting in an election on the question of whether to impose a water and sanitation [~~gross receipts~~] sales tax voting in favor of the imposition.

B. Upon receipt of a resolution adopted and submitted by the board of directors of a water and sanitation district that requests the governing body to impose a water and sanitation [~~gross receipts~~] sales tax on behalf of the water and sanitation district, a governing body shall enact an ordinance imposing a water and sanitation [~~gross receipts~~] sales tax in that water and sanitation district. The ordinance shall impose the tax at a rate of one-fourth percent on a person engaging in business within the area of the county located within the water and sanitation district for the privilege of engaging in business within that water and sanitation district within the county.

C. The governing body, at the time of enacting an ordinance imposing a water and sanitation [~~gross receipts~~] sales tax authorized pursuant to Subsection A of this section, shall dedicate the revenue only for the operation of the water and sanitation district for which the tax is imposed. The tax shall be imposed for six years from the date on which the water and sanitation [~~gross receipts~~] sales tax goes into effect.

D. Within sixty days of the date the ordinance is adopted by the governing body, the governing body shall adopt a resolution calling for an election on the question of whether to

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impose a water and sanitation [~~gross receipts~~] sales tax. The question shall be submitted to the voters of the water and sanitation district requesting the county to impose the tax. A special election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections. If a majority of the voters voting on the question approves the ordinance imposing the water and sanitation [~~gross receipts~~] sales tax, then the ordinance shall become effective in accordance with the provisions of the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act on either January 1 or July 1 following the election approving the imposition of the tax. If the question of imposing the water and sanitation [~~gross receipts~~] sales tax fails, a resolution from the board of directors of the water and sanitation district initiating the request to the county to impose a water and sanitation [~~gross receipts~~] sales tax may not again be submitted to the governing body for a period of one year from the date of the election.

E. The proceeds from the water and sanitation [~~gross receipts~~] sales tax shall be administered by the governing body and disbursed by the county treasurer to the appropriate water and sanitation district in amounts and for the purposes authorized in this section and as set out in the resolution submitted by the board of directors to the governing body. An agreement shall be entered into between the water and sanitation district and the governing body that sets out the responsibilities of both parties

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regarding administration, distribution and use of the revenue from the water and sanitation [~~gross receipts~~] sales tax."

SECTION 348. Section 7-20E-27 NMSA 1978 (being Laws 2010, Chapter 31, Section 1) is amended to read:

"7-20E-27. COUNTY BUSINESS RETENTION [~~GROSS RECEIPTS~~] SALES TAX--IMPOSITION--RATE.--

A. A majority of the members of a governing body may enact an ordinance imposing an excise tax on a person engaging in business in the county for the privilege of engaging in business in the county to provide funds to retain local businesses in the county. The maximum rate of the tax shall be one-fourth percent of the gross receipts of the person engaging in business. The tax may be imposed in its entirety or in increments of one-sixteenth percent not to exceed an aggregate rate of one-fourth percent.

B. The tax imposed pursuant to this section may be referred to as the "county business retention [~~gross receipts~~] sales tax".

C. An ordinance imposing the county business retention [~~gross receipts~~] sales tax shall not go into effect until after an election is held and a majority of the voters in the county voting in the election [~~vote~~] votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question may be submitted to the voters of the county as a separate question at a general

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election or at a special election called for that purpose by the governing body. A special election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections. If a majority of the voters voting on the question approves the ordinance imposing the county business retention [~~gross receipts~~] sales tax, then the ordinance shall become effective in accordance with the provisions of the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act. If the question of imposing the county business retention [~~gross receipts~~] sales tax fails, the governing body shall not again propose the imposition of the tax for a period of one year from the date of the election.

D. The governing body shall include in the ordinance that:

(1) an amount not to exceed seven hundred fifty thousand dollars ($750,000) of the money from the county business retention [~~gross receipts~~] sales tax shall be distributed to the state to reduce the impact to the general fund of gaming tax lost to the state from the county from reduced gaming tax revenue due to decreased economic activity in the county; and

(2) the remainder of the revenue from the county business retention [~~gross receipts~~] sales tax shall be distributed back to the county for use for promotion or administration of the county, instructional or general purposes for a public post-secondary educational institution in the county, capital outlay to

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expand or relocate a public post-secondary educational institution in the county or funding professional services contracts related to implementing an economic development plan adopted by the governing body that shall be updated on an annual basis during the period in which the tax is imposed.

E. The county shall notify the department within thirty days of adopting an ordinance and inform the department of the date on which the tax will be imposed for collection purposes.

F. The governing body of a county that has imposed a county business retention [~~gross receipts~~] sales tax pursuant to this section may adopt by a majority vote an ordinance repealing that tax as of either July 1 or January 1, as stated in the ordinance. If the county business retention [~~gross receipts~~] sales tax is repealed, the governing body shall notify the department within thirty days of the repeal and of the date on which the repeal becomes effective.

G. An ordinance enacted pursuant to the provisions of this section shall include an effective date of either July 1 or January 1 as required by the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act.

H. A county business retention [~~gross receipts~~] sales tax imposed pursuant to this section shall be in effect for no more than five years from the effective date of the tax as stated in the county ordinance.

I. As used in this section, "county" means a county

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containing gaming operator licensees that are racetracks."

SECTION 349. Section 7-20E-28 NMSA 1978 (being Laws 2013, Chapter 160, Section 12) is amended to read:

"7-20E-28. COUNTY HOLD HARMLESS [~~GROSS RECEIPTS~~] SALES TAX.--

A. The majority of the members of the governing body of any county may impose by ordinance an excise tax not to exceed a rate of three-eighths percent of the gross receipts of any person engaging in business in the county for the privilege of engaging in business in the county. A tax imposed pursuant to this section shall be imposed by the enactment of one or more ordinances, each imposing any number of gross receipts tax rate increments, but the total gross receipts tax rate imposed by all ordinances pursuant to this section shall not exceed an aggregate rate of three-eighths percent of the gross receipts of a person engaging in business. Counties may impose increments of one-eighth [~~of one~~] percent.

B. The tax imposed pursuant to Subsection A of this section may be referred to as the "county hold harmless [~~gross receipts~~] sales tax". The imposition of a county hold harmless [~~gross receipts~~] sales tax is not subject to referendum.

C. The governing body of a county may, at the time of enacting an ordinance imposing the tax authorized in Subsection A of this section, dedicate the revenue for a specific purpose or area of county government services, including [~~but not limited to~~]

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police protection, fire protection, public transportation or street repair and maintenance. If the governing body proposes to dedicate such revenue, the ordinance and any revenue so dedicated shall be used by the county for that purpose unless a subsequent ordinance is adopted to change the purpose to which the revenue is dedicated or to place the revenue in the general fund of the county.

D. Any law that imposes or authorizes the imposition of a county hold harmless [~~gross receipts~~] sales tax or that affects the county hold harmless [~~gross receipts~~] sales tax, or any law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of such county hold harmless [~~gross receipts~~] sales tax unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor."

SECTION 350. Section 7-20F-1 NMSA 1978 (being Laws 1993, Chapter 303, Section 1) is amended to read:

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

SECTION 351. Section 7-20F-2 NMSA 1978 (being Laws 1993, Chapter 303, Section 2, as amended) is amended to read:

"7-20F-2. DEFINITIONS.--As used in the County Correctional

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Facility [~~Gross Receipts~~] Sales Tax Act:

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

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

C. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

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

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

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

G. "pledged revenues" means the revenue, net income or net revenues authorized to be pledged to the payment of revenue bonds issued pursuant to the provisions of the County Correctional Facility [~~Gross Receipts~~] Sales Tax Act;

H. "refunding bond" means a refunding revenue bond issued pursuant to the provisions of the County Correctional Facility [~~Gross Receipts~~] Sales Tax Act to refund revenue bonds

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issued pursuant to the provisions of that act; and

I. "revenue bond" means a county correctional facility [~~gross receipts~~] sales tax revenue bond."

SECTION 352. Section 7-20F-3 NMSA 1978 (being Laws 1993, Chapter 303, Section 3, as amended) is amended to read:

"7-20F-3. COUNTY CORRECTIONAL FACILITY [~~GROSS RECEIPTS~~] SALES TAX--AUTHORITY TO IMPOSE--RATE--ORDINANCE REQUIREMENTS--REFERENDUM.--

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

B. The tax imposed pursuant to Subsection A of this section may be referred to as the "county correctional facility [~~gross receipts~~] sales tax".

C. Any ordinance imposing a county correctional facility [~~gross receipts~~] sales tax pursuant to this section shall:

(1) impose the tax in any number of increments of one-sixteenth percent not to exceed an aggregate amount of one-eighth percent;

(2) specify that the imposition of the tax will begin on either July 1 or January 1, whichever occurs first after the expiration of at least three months from the date that the

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department is notified personally or by mail by the county of adoption of the ordinance; and

(3) dedicate the revenue from the county correctional facility [~~gross receipts~~] sales tax:

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

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

(c) to payment of principal and interest on revenue bonds or refunding bonds issued pursuant to the provisions of the County Correctional Facility [~~Gross Receipts~~] Sales Tax Act.

D. An ordinance imposing a county correctional facility [~~gross receipts~~] sales tax pursuant to this section shall be subject to optional referendum selection by the governing body, as provided in Subsection A of Section 7-20E-3 NMSA 1978.

E. If the county has pledged the revenue from imposition of the county correctional [~~facilities gross receipts~~] facility sales tax to the repayment of bonds or other indebtedness, revenue produced by the imposition of a county

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correctional facility [~~gross receipts~~] sales tax that is in excess of the annual principal and interest due on bonds secured by a pledge of the county correctional facility [~~gross receipts~~] sales tax may be accumulated in a debt service reserve account until an amount equal to the maximum amount permitted pursuant to the provisions of the United States treasury regulations is accumulated in the debt service reserve account. After the debt service reserve account requirements have been met, the excess revenue shall be accumulated in an extraordinary mandatory redemption fund and annually used to redeem the bonds prior to their stated maturity date.

F. If the county has pledged the revenue from imposition of the county correctional [~~facilities gross receipts~~] facility sales tax to the repayment of bonds or other indebtedness, when all outstanding bonds have been paid, whether from the debt service reserve, the redemption fund or maturity, the ordinance shall be repealed if the county correctional facility [~~gross receipts~~] sales tax revenue is no longer required for the purposes for which it may be used pursuant to the provisions of the County Correctional Facility [~~Gross Receipts~~] Sales Tax Act.

G. The repeal of an ordinance imposing a county correctional facility [~~gross receipts~~] sales tax shall state that the repeal shall be effective on January 1 or July 1, whichever occurs first following the date the department is notified

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personally or by mail by the county of the repeal."

SECTION 353. Section 7-20F-4 NMSA 1978 (being Laws 1993, Chapter 303, Section 4) is amended to read:

"7-20F-4. ORDINANCE SHALL CONFORM TO CERTAIN PROVISIONS OF THE [~~GROSS RECEIPTS AND COMPENSATING~~] SALES AND USE TAX ACT AND REQUIREMENTS OF THE DEPARTMENT.--

A. Any ordinance imposing the county correctional facility [~~gross receipts~~] sales tax shall adopt by reference the same definitions and the same provisions relating to exemptions and deductions as are contained in the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act then in effect and as it may be amended from time to time.

B. The governing body of any county imposing the county correctional facility [~~gross receipts~~] sales tax shall adopt the model ordinances furnished to the county by the department."

SECTION 354. Section 7-20F-5 NMSA 1978 (being Laws 1993, Chapter 303, Section 5) is amended to read:

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

A. The department shall collect the county correctional facility [~~gross receipts~~] sales tax in the same manner and at the same time it collects the state [~~gross receipts~~] sales tax.

B. The department shall remit to each county for which

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it is collecting a county correctional facility [~~gross receipts~~] sales tax the amount of the tax collected, less any disbursement for tax credits, refunds and the payment of interest applicable to the county correctional facility [~~gross receipts~~] sales tax. Transfer of the tax to a county shall be made within the month following the month in which the tax is collected."

SECTION 355. Section 7-20F-6 NMSA 1978 (being Laws 1993, Chapter 303, Section 6, as amended) is amended to read:

"7-20F-6. SPECIFIC EXEMPTIONS.--No county correctional facility [~~gross receipts~~] sales tax shall be imposed on the gross receipts arising from transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the county to another point outside the county."

SECTION 356. Section 7-20F-7 NMSA 1978 (being Laws 1993, Chapter 303, Section 7) is amended to read:

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

A. In addition to any other law authorizing a county to issue revenue bonds, a county may issue revenue bonds pursuant to the County Correctional Facility [~~Gross Receipts~~] Sales Tax Act for the purposes specified in that act. Revenue bonds issued pursuant to the County Correctional Facility [~~Gross Receipts~~] Sales Tax Act may be referred to as "county correctional facility [~~gross receipts~~] sales tax revenue bonds".

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B. A county board, by majority vote, may adopt an ordinance providing for issuance of revenue bonds pursuant to the provisions of the County Correctional Facility [~~Gross Receipts~~] Sales Tax Act, the principal and interest of which shall be paid from the revenue derived by the county from the county correctional facility [~~gross receipts~~] sales tax and any other revenue that the county may dedicate to the payment of the revenue bonds.

C. Revenue bonds or refunding revenue bonds issued as authorized pursuant to the County Correctional Facility [~~Gross Receipts~~] Sales Tax Act are:

(1) not general obligations of the county; and

(2) collectible only from the county correctional facility [~~gross receipts~~] sales tax and, if authorized, other properly pledged revenues, and each bond shall be payable solely from the properly pledged revenues and the bondholders shall not look to any other county fund for the payment of the interest and principal of the bonds."

SECTION 357. Section 7-20F-8 NMSA 1978 (being Laws 1993, Chapter 303, Section 8) is amended to read:

"7-20F-8. REVENUE BONDS--EXECUTION--NONREPEALABLE--ISSUANCE TIME LIMITATION.--

A. The revenue bonds authorized pursuant to the County Correctional Facility [~~Gross Receipts~~] Sales Tax Act shall be executed by the [~~chairman~~] chair of the county board and either

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the county treasurer or the county clerk and may be authenticated by any public or private transfer agent or registrar, or its successor, named or otherwise designated by the governing body. The bonds may be executed as provided under the Uniform Facsimile Signature of Public Officials Act, and the coupons, if any, shall bear the facsimile signature of the county treasurer.

B. Any law that authorizes the pledge of any or all of the pledged revenues to the payment of any revenue bonds issued pursuant to the County Correctional Facility [~~Gross Receipts~~] Sales Tax Act or that affects the pledged revenues, or any law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any such outstanding revenue bonds, unless such outstanding revenue bonds have been discharged in full or provision for full discharge has been made.

C. Except for the purpose of refunding previous revenue bond issues, no county shall sell revenue bonds payable from pledged revenues after the expiration of two years from the date of the ordinance authorizing the issuance of the bonds. However, any period of time during which a particular revenue bond issue is in litigation shall not be counted in determining the expiration date of that issue."

SECTION 358. Section 7-20F-9 NMSA 1978 (being Laws 1993, Chapter 303, Section 9) is amended to read:

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"7-20F-9. REVENUE BONDS--PURPOSE OF ISSUE--USE OF PROCEEDS.--

A. Revenue bonds may be issued pursuant to the provisions of the County Correctional Facility [~~Gross Receipts~~] Sales Tax Act for the purposes of constructing, purchasing, furnishing, equipping, rehabilitating, expanding or improving a judicial-correctional facility or the grounds of a judicial-correctional facility, including [~~but not limited to~~] acquiring and improving parking lots, landscaping or any combination of the foregoing.

B. No county shall divert, use or expend any money received from the issuance of bonds for any purpose other than the purpose for which the bonds were issued."

SECTION 359. Section 7-20F-10 NMSA 1978 (being Laws 1993, Chapter 303, Section 10, as amended) is amended to read:

"7-20F-10. REVENUE BONDS--TERMS.--Revenue bonds issued pursuant to provisions of the County Correctional Facility [~~Gross Receipts~~] Sales Tax Act:

A. may have interest, appreciated principal value or any part thereof payable at intervals or at maturity as may be determined by the county board in the ordinance;

B. shall be subject to a prior redemption at the county's option at such time or times and upon such terms and conditions without the payment of premiums;

C. may mature at any time or times not exceeding

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twenty-five years after the date of issuance;

D. may be serial in form and maturity or may consist of one bond payable at one time or in installments or may be in such other form as may be determined by the county board;

E. shall be sold for cash at above or below par and at a price that results in a net effective interest rate that does not exceed the maximum permitted by the Public Securities Act; and

F. may be sold at public or negotiated sale."

SECTION 360. Section 7-20F-11 NMSA 1978 (being Laws 1993, Chapter 303, Section 11) is amended to read:

"7-20F-11. REVENUE BONDS--REFUNDING AUTHORIZATION.--

A. Any county having issued revenue bonds as authorized in the County Correctional Facility [~~Gross Receipts~~] Sales Tax Act may issue refunding revenue bonds pursuant to an ordinance adopted by majority vote of the county board for the purpose of refinancing, paying and discharging all or any part of such outstanding revenue bonds of any one or more or all outstanding issues:

(1) for the acceleration, deceleration or other modification of the payment of such obligations, including without limitation any capitalization of any interest thereon in arrears or about to become due for any period not exceeding one year from the date of the refunding bonds;

(2) for the purpose of reducing interest costs or effecting other economies;

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(3) for the purpose of modifying or eliminating restrictive contractual limitations pertaining to the issuance of additional bonds, otherwise concerning the outstanding bonds or to any facilities relating thereto; or

(4) for any combination of such purposes.

B. To pay the principal and interest on refunding bonds, the county may pledge irrevocably the pledged revenues from the revenue bonds originally issued pursuant to the County Correctional Facility [~~Gross Receipts~~] Sales Tax Act.

C. Bonds for refunding and bonds for any purpose permitted by the County Correctional Facility [~~Gross Receipts~~] Sales Tax Act may be issued separately or issued in combination in one series or more."

SECTION 361. Section 7-20F-12 NMSA 1978 (being Laws 1993, Chapter 303, Section 12) is amended to read:

"7-20F-12. REFUNDING BONDS--ESCROW--DETAIL.--

A. Refunding bonds issued pursuant to the provisions of the County Correctional Facility [~~Gross Receipts~~] Sales Tax Act shall be authorized by ordinance. Any revenue bonds that are refunded [~~under~~] pursuant to the provisions of this section shall be paid at maturity or on any permitted prior redemption date in the amounts, at the time and places and, if called prior to maturity, in accordance with any applicable notice provisions, all as provided in the proceedings authorizing the issuance of the refunded bonds or otherwise appertaining thereto, except for any

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such bond that is voluntarily surrendered for exchange or payment by the holder or owner.

B. Provision shall be made for paying the bonds refunded at the time or times provided in Subsection A of this section. The principal amount of the refunding bonds may exceed the principal amount of the refunded bonds and may also be less than or the same as the principal amount of the bonds being refunded so long as provision is duly and sufficiently made for the payment of the refunded bonds.

C. The proceeds of refunding bonds, including any accrued interest and premium appertaining to the sale of refunding bonds, shall either be immediately applied to the retirement of the bonds being refunded or be placed in escrow in a commercial bank or trust company that possesses and is exercising trust powers and that is a member of the federal deposit insurance corporation, to be applied to the payment of the principal of, interest on and any prior redemption premium due in connection with the bonds being refunded; provided that such refunding bond proceeds, including any accrued interest and any premium appertaining to a sale of refunding bonds, may be applied to the establishment and maintenance of a reserve fund and to the payment of expenses incidental to the refunding and the issuance of the refunding bonds, the interest on the refunding bonds and the principal of the refunding bonds or both interest and principal as the county may determine. Nothing in this section requires the

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establishment of an escrow if the refunded bonds become due and payable within one year from the date of the refunding bonds and if the amounts necessary to retire the refunded bonds within that time are deposited with the paying agent for the refunded bonds. Any such escrow shall not necessarily be limited to proceeds of refunding bonds but may include other money available to retire the refunded bonds. Any proceeds in escrow pending such use may be invested or reinvested in bills, certificates of indebtedness, notes or bonds that are direct obligations of or the principal and interest of which obligations are unconditionally guaranteed by the United States of America or in certificates of deposit of banks that are members of the federal deposit insurance corporation, the par value of which certificates of deposit is collateralized by a pledge of obligations of or the payment of which is unconditionally guaranteed by the United States of America, the par value of which obligations is at least seventy-five percent of the par value of the certificates of deposit. Such proceeds and investments in escrow together with any interest or other income to be derived from any such investment shall be in an amount at all times sufficient as to principal, interest, any prior redemption premium due and any charges of the escrow agent payable therefrom to pay the bonds being refunded as they become due at their respective maturities or due at any designated prior redemption date or dates in connection with which the county shall exercise a prior redemption option. Any purchaser of any

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refunding bond issued pursuant to the provisions of the County Correctional Facility [~~Gross Receipts~~] Sales Tax Act is in no manner responsible for the application of the proceeds thereof by the county or any of its officers, agents or employees.

D. Refunding bonds may be sold at a public or private sale and may bear such additional terms and provisions as may be determined by the county subject to the limitations in the County Correctional Facility [~~Gross Receipts~~] Sales Tax Act. Refunding bonds are not subject to the provisions of any other statute."

SECTION 362. Section 7-24B-7 NMSA 1978 (being Laws 1987, Chapter 45, Section 16, as amended) is amended to read:

"7-24B-7. REFERENDUM REQUIREMENTS.--

A. The ordinance imposing a special county hospital gasoline tax shall not go into effect until after an election is held and a simple majority of the qualified electors of the county voting in the election [~~vote~~] votes in favor of imposing the special county hospital gasoline tax. The governing body shall provide for an election on the question of imposing the tax within sixty days after the date the ordinance is adopted. The question may be submitted to the qualified electors and voted upon as a separate question in a general election or in any special election called for that purpose by the governing body. A special election upon the question shall be called, held, conducted and canvassed in substantially the same manner as provided by law for general elections. If the question of imposing a special county hospital

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gasoline tax fails, the governing body shall not again propose a special county hospital gasoline tax for a period of one year after the election.

B. A single election may be held on the question of imposing a special county hospital gasoline tax as authorized in the Special County Hospital Gasoline Tax Act, on the question of imposing a special county hospital [~~gross receipts~~] sales tax as authorized in the [~~Special County Hospital Gross Receipts Tax Act~~] County Local Option Sales Tax Act and on the question of imposing a mill levy pursuant to the Hospital Funding Act."

SECTION 363. Section 7-25-8 NMSA 1978 (being Laws 1966, Chapter 48, Section 8, as amended) is amended to read:

"7-25-8. SALES OF NATURAL RESOURCES SUBJECT TO [~~GROSS RECEIPTS AND COMPENSATING~~] SALES AND USE TAX ACT.--In addition to being subject to the Resources Excise Tax Act, any person who sells nonfissionable natural resources other than for subsequent sale in the ordinary course of business or for use as an ingredient or component part of a manufactured product is also subject to the provisions of the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act on such sales."

SECTION 364. Section 9-6-5.2 NMSA 1978 (being Laws 2011, Chapter 106, Section 5) is amended to read:

"9-6-5.2. FAILURE TO TIMELY SUBMIT AUDIT REPORTS OR FINANCIAL REPORTS--ENFORCEMENT POWERS OF SECRETARY.--

A. Upon notification by the state auditor pursuant to

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Subsection G of Section 12-6-3 NMSA 1978 that a state agency, state institution, municipality or county has failed to submit an audit report as required by the Audit Act, the secretary of finance and administration shall order the agency, institution, municipality or county to submit monthly financial reports to the department of finance and administration until all past-due audit reports have been submitted to the state auditor and the secretary is satisfied that the agency, institution, municipality or county is in compliance with all financial and audit requirements.

B. If, ninety days after an order has been issued pursuant to Subsection A of this section to a state agency or state institution subject to periodic allotments, the agency or institution has not submitted all past-due reports or has not otherwise made progress, satisfactory to the state auditor, toward compliance with the Audit Act, the secretary may direct the state budget division to temporarily withhold periodic allotments to the agency or institution pursuant to Section 6-3-6 NMSA 1978. The amounts withheld and the period of time for which the allotments are to be withheld shall be determined by the secretary subject to the following guidelines:

(1) the initial amount withheld shall not exceed five percent of the allotment and shall be for a period of no more than three months;

(2) every three months, the secretary shall determine if the agency or institution has submitted all past-due

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audit reports or has otherwise made progress, satisfactory to the state auditor, toward compliance with the Audit Act. If the secretary determines that past-due reports have not been submitted and that there has been inadequate progress, the secretary may direct that the amount being currently withheld be increased by an additional amount, up to another five percent of the allotment, for an additional period of up to three months; and

(3) upon a determination that all past-due audit reports have been submitted or that the agency or institution is otherwise making progress, satisfactory to the state auditor, toward compliance with the Audit Act, the secretary shall direct that all withheld amounts be distributed to the agency or institution and that future allotments shall be made in full.

C. If, ninety days after an order has been issued pursuant to Subsection A of this section to a municipality or county, the municipality or county has not submitted all past-due reports or has not otherwise made progress, satisfactory to the state auditor, toward compliance with the Audit Act, the secretary may direct the secretary of taxation and revenue to temporarily withhold distributions to the municipality or county pursuant to Section 7-1-6.15 NMSA 1978. The amounts withheld, the source of the amounts and the period of time for which the distributions are to be withheld shall be determined by the secretary of finance and administration subject to the following guidelines:

(1) transfers to a county or municipality of

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receipts from any local option [~~gross receipts~~] sales tax or from a tax imposed pursuant to the Local Liquor Excise Tax Act shall not be withheld;

(2) the source and amount of a withheld distribution shall be determined in a manner that will not:

(a) impair any outstanding bonds or other obligations of the municipality or county; or

(b) interrupt a redirected distribution to the New Mexico finance authority pursuant to an ordinance or a resolution passed by the county or municipality and a written agreement of the municipality or county and the New Mexico finance authority;

(3) the initial amount withheld shall not exceed five percent of the amount that would otherwise be distributed to the municipality or county pursuant to the Tax Administration Act and shall be for a period of no more than three months;

(4) every three months, the secretary of finance and administration shall determine if the municipality or county has submitted all past-due audit reports or has otherwise made progress, satisfactory to the state auditor, toward compliance with the Audit Act. If the secretary determines that past-due reports have not been submitted and that there has been inadequate progress, the secretary may direct that the amount being currently withheld be increased by an additional amount, up to another five percent of the amount that would otherwise be distributed, for an

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additional period of up to three months; and

(5) upon a determination that all past-due audit reports have been submitted or that the municipality or county is otherwise making progress, satisfactory to the state auditor, toward compliance with the Audit Act, the secretary shall direct that all withheld amounts be distributed to the municipality or county and that future distributions shall be made in full.

D. After receiving notice from the local government division of the department of finance and administration required by Subsection G of Section 6-6-2 NMSA 1978 that a municipality or county has failed to submit two consecutive financial reports pursuant to Subsection F of that section, the secretary may direct the secretary of taxation and revenue to temporarily withhold distributions to the municipality or county pursuant to Section 7-1-6.15 NMSA 1978. The amounts withheld, the source of the amounts and the period of time for which the distributions are to be withheld shall be determined by the secretary of finance and administration subject to the following guidelines:

(1) transfers to a county or municipality of receipts from any local option [~~gross receipts~~] sales tax or from a tax imposed pursuant to the Local Liquor Excise Tax Act shall not be withheld;

(2) the source and amount of a withheld distribution shall be determined in a manner that will not:

(a) impair any outstanding bonds or other

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obligations of the municipality or county; or

(b) interrupt a redirected distribution to the New Mexico finance authority pursuant to an ordinance or a resolution passed by the county or municipality and a written agreement of the municipality or county and the New Mexico finance authority;

(3) the initial amount withheld shall not exceed five percent of the amount that would otherwise be distributed to the municipality or county pursuant to the Tax Administration Act and shall be for a period of no more than three months;

(4) every three months, the secretary of finance and administration shall determine if the municipality or county has submitted all past-due financial reports or has otherwise made progress, satisfactory to the local government division, toward compliance with the law. If the secretary determines that past-due reports have not been submitted and that there has been inadequate progress, the secretary may direct that the amount being currently withheld be increased by an additional amount, up to another five percent of the amount that would otherwise be distributed, for an additional period of up to three months; and

(5) upon a determination that all past-due financial reports have been submitted or that the municipality or county is otherwise making progress, satisfactory to the local government division, toward compliance with the law, the secretary shall direct that all withheld amounts be distributed to the

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municipality or county and that future distributions shall be made in full."

SECTION 365. Section 9-11-12.1 NMSA 1978 (being Laws 1997, Chapter 64, Section 1, as amended) is amended to read:

"9-11-12.1. TRIBAL COOPERATIVE AGREEMENTS.--

A. The secretary may enter into cooperative agreements with the Pueblos of Acoma, Cochiti, Jemez, Isleta, Laguna, Nambe, Picuris, Pojoaque, Sandia, San Felipe, San Ildefonso, [~~San Juan~~] Ohkay Owingeh, Santa Ana, Santa Clara, Santo Domingo, Taos, Tesuque, Zia and Zuni; the Jicarilla Apache Nation; the Mescalero Apache Tribe; and [~~with~~] the nineteen pueblos acting collectively for the exchange of information and the reciprocal, joint or common enforcement, administration, collection, remittance and audit of gross receipts or sales tax revenues of the party jurisdictions.

B. Money collected by the department on behalf of a tribe in accordance with an agreement entered into pursuant to this section is not money of this state and shall be collected and disbursed in accordance with the terms of the agreement, notwithstanding any other provision of law.

C. The secretary is empowered to promulgate such rules and to establish such procedures as the secretary deems appropriate for the collection and disbursement of funds due a tribe and for the receipt of money collected by a tribe for the account of this state under the terms of a cooperative agreement

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entered into under the authority of this section, including procedures for identification of taxpayers or transactions that are subject only to the taxing authority of the tribe, taxpayers or transactions that are subject only to the taxing authority of this state and taxpayers or transactions that are subject to the taxing authority of both party jurisdictions.

D. Nothing in an agreement entered into pursuant to this section shall be construed as authorizing this state or a tribe to tax [~~persons~~] a person or [~~transactions~~] transaction that federal law prohibits that government from taxing, [~~or as~~] authorizing a state or tribal court to assert jurisdiction over [~~persons~~] a person who [~~are~~] is not otherwise subject to that court's jurisdiction or [~~as~~] affecting any issue of the respective civil or criminal jurisdictions of this state or the tribe. Nothing in an agreement entered into pursuant to this section shall be construed as an assertion or an admission by either this state or a tribe that the taxes of one have precedence over the taxes of the other when [~~the~~] a person or transaction is subject to the taxing authority of both governments. An agreement entered into pursuant to this section shall be construed solely as an agreement between the two party governments and shall not alter or affect the government-to-government relations between this state and any other tribe.

E. As used in this section:

(1) "tribal" means of or pertaining to a tribe;

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and

(2) "tribe" means an Indian nation, tribe or pueblo located entirely in New Mexico."

SECTION 366. Section 13-1-66.1 NMSA 1978 (being Laws 1989, Chapter 69, Section 4, as amended) is amended to read:

"13-1-66.1. DEFINITION--LOCAL PUBLIC WORKS PROJECT.--"Local public works project" means a project of a local public body that uses architectural or engineering services requiring professional services costing fifty thousand dollars ($50,000) or more or landscape architectural or surveying services requiring professional services costing ten thousand dollars ($10,000) or more, excluding applicable state and local [~~gross receipts~~] option sales taxes."

SECTION 367. Section 13-1-91 NMSA 1978 (being Laws 1984, Chapter 65, Section 64, as amended by Laws 2007, Chapter 312, Section 4 and by Laws 2007, Chapter 315, Section 2) is amended to read:

"13-1-91. DEFINITION--STATE PUBLIC WORKS PROJECT.--"State public works project" means a project of a state agency, not including projects of the state educational institutions, the supreme court building commission, the legislature or local public bodies, that uses architectural or engineering services requiring professional services costing fifty thousand dollars ($50,000) or more or landscape architectural or surveying services requiring professional services costing ten thousand dollars ($10,000) or

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more, excluding applicable state and local [~~gross receipts~~] option sales taxes."

SECTION 368. Section 13-1-108 NMSA 1978 (being Laws 1984, Chapter 65, Section 81, as amended) is amended to read:

"13-1-108. COMPETITIVE SEALED BIDS--AWARD.--A contract solicited by competitive sealed bids shall be awarded with reasonable promptness by written notice to the lowest responsible bidder. Contracts solicited by competitive sealed bids shall require that the bid amount exclude the applicable state [~~gross receipts~~] sales tax or applicable local option sales tax but that the contracting agency shall be required to pay the applicable tax, including any increase in the applicable tax becoming effective after the date the contract is entered into. The applicable [~~gross receipts~~] sales tax or applicable local option sales tax shall be shown as a separate amount on each billing or request for payment made under the contract."

SECTION 369. Section 13-1-125 NMSA 1978 (being Laws 1984, Chapter 65, Section 98, as amended) is amended to read:

"13-1-125. SMALL PURCHASES.--

A. A central purchasing office shall procure services, construction or items of tangible personal property having a value not exceeding sixty thousand dollars ($60,000), excluding applicable state and local [~~gross receipts~~] option sales taxes, in accordance with the applicable small purchase rules adopted by the secretary, a local public body or a central purchasing office that

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has the authority to issue rules.

B. Notwithstanding the requirements of Subsection A of this section, a central purchasing office may procure professional services having a value not exceeding sixty thousand dollars ($60,000), excluding applicable state and local [~~gross receipts~~] option sales taxes, except for the services of landscape architects or surveyors for state public works projects or local public works projects, in accordance with professional services procurement rules promulgated by the department of finance and administration, the general services department or a central purchasing office with the authority to issue rules.

C. Notwithstanding the requirements of Subsection A of this section, a state agency or a local public body may procure services, construction or items of tangible personal property having a value not exceeding twenty thousand dollars ($20,000), excluding applicable state and local [~~gross receipts~~] option sales taxes, by issuing a direct purchase order to a contractor based upon the best obtainable price.

D. Procurement requirements shall not be artificially divided so as to constitute a small purchase under this section."

SECTION 370. Section 15-3B-6 NMSA 1978 (being Laws 1968, Chapter 43, Section 5, as amended) is amended to read:

"15-3B-6. BUILDING AND REMODELING.--The division may do all acts necessary and proper for the redesigning, major renovation and remodeling of present state buildings and the erection of

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additional state buildings when needed. The division may let contracts for these purposes in accordance with the provisions of the Procurement Code. A contract for such redesigning, major renovation, remodeling or construction that costs more than five million dollars ($5,000,000), not including [~~gross receipts~~] state sales tax, must first be approved by the state board of finance. This section applies only to state buildings under the division's jurisdiction."

SECTION 371. Section 16-2-19 NMSA 1978 (being Laws 1935, Chapter 57, Section 16, as amended) is amended to read:

"16-2-19. STATE PARK AND RECREATION REVENUES--SOURCE AND DISBURSEMENT.--All money derived from the operation of state parks or recreation areas or from the governmental [~~gross receipts~~] sales tax distributions pursuant to Section 7-1-6.38 NMSA 1978 appropriated to the energy, minerals and natural resources department for state park and recreation capital improvements or from gifts, donations, bequests or endowments, except as the money may be pledged for the retirement of bonds issued under the State Park and Recreation Bond Act or appropriated for state park and recreation purposes by the legislature or acquired from any other source whatsoever, shall not at any time or in any event revert or be transferred to general or other state funds; and such funds shall be used solely for the purpose of acquiring, developing, operating and maintaining state parks or recreation areas and maintenance, operation and expenditures of the state [~~park and~~

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~~recreation~~] parks division of the energy, minerals and natural resources department, the payment of traveling expenses and salaries of officers, park superintendents and employees and the retirement of state park and recreation bonds. Expenditures shall be made in accordance with budgets approved by the department of finance and administration."

SECTION 372. Section 16-2-29 NMSA 1978 (being Laws 1965, Chapter 280, Section 10, as amended) is amended to read:

"16-2-29. SECURITY--RETIREMENT OF BONDS.--The state [~~park and recreation~~] parks division of the energy, minerals and natural resources department may pledge for the retirement of bonds issued all or any part of the revenues to be produced from any project to be constructed with bond funds, all or any part of the governmental [~~gross receipts~~] sales tax distributions pursuant to Section 7-1-6.38 NMSA 1978 appropriated to the energy, minerals and natural resources department for state park and recreation area capital improvements and, except as may be prohibited by existing contractual arrangements, may also pledge money derived from the operation of present or future state parks or recreation areas or from gifts, donations, bequests or endowments for state park or recreation purposes or any portion of the same. Bonds are payable solely from the funds enumerated in this section and are not general obligations of the state."

SECTION 373. Section 17-2A-3 NMSA 1978 (being Laws 1996, Chapter 89, Section 5, as amended) is amended to read:

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"17-2A-3. HUNTING GUIDES AND OUTFITTERS.--

A. Effective April 1, 1997, it is unlawful to be a hunting guide or outfitter in New Mexico without being registered, except for a private landowner or [~~his~~] the landowner's authorized agent who outfits or guides pursuant to a landowner permit issued by the department of game and fish for the landowner's property or for the landowner's shared private and public unit.

B. The state game commission shall adopt regulations by September 1, 1997 to govern the granting of non-interim registration, permits and certificates to hunting guides and outfitters and to regulate the operations and professional conduct of registered hunting guides and outfitters. Regulations shall be adopted in accordance with the following procedures and standards:

(1) the commission shall establish dates and locations for a public hearing and provide reasonable prior public notice of a hearing. A public hearing shall be held at a place within any quadrant of the state affected by the proposed regulation when the commission determines there is substantial public interest in holding a hearing in that quadrant;

(2) a hearing shall be held within six months of the date a proposed regulation is issued;

(3) notice of a hearing shall:

(a) include the date, time and location of the hearing;

(b) include a statement of the recommended

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action;

(c) include an indication of the location and availability of the public file on the regulation;

(d) indicate where and by what date written and oral comments and testimony may be received; and

(e) specify that the public record shall remain open for comments for thirty days after the date of the final hearing; and

(4) the commission shall make its decision and take action based upon relevant and reliable evidence.

C. No person shall be allowed to work as a registered hunting guide or outfitter in New Mexico:

(1) without being registered by the state game commission;

(2) if the person has had a guide or outfitter license, registration, permit or certificate revoked in another state;

(3) if the person has had a guide or outfitter license, registration, permit or certificate suspended in another state and it has not been reinstated; or

(4) if the person has been convicted of a felony.

D. The state game commission shall develop a point system for the suspension or revocation of a guide or outfitter registration. The point system shall be similar to the point system that governs individual hunting and fishing license

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privileges.

E. To be granted a registration to be a guide, an applicant shall, in addition to any other reasonable criteria adopted by the state game commission, and except as provided for persons granted an interim registration:

(1) be at least eighteen years of age; and

(2) pass a written or oral examination approved by the department of game and fish at a date and time approved by the department.

F. A registered or interim registered guide shall work only under the supervision of a New Mexico registered or interim registered outfitter and in an area designated by the registered or interim registered outfitter.

G. The department of game and fish may provide a registration for a temporary emergency guide, provided the registration is limited to a maximum seven-day period and is granted only in emergency circumstances as determined by the department. The fee for a temporary emergency guide registration is ten dollars ($10.00).

H. To be granted a registration to be an outfitter, an applicant shall, in addition to any other reasonable criteria adopted by the state game commission, and except as provided for persons granted an interim registration:

(1) be at least twenty-one years of age;

(2) have operated as a New Mexico registered

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guide for at least three years or have been granted an interim outfitter's registration;

(3) not be a convicted felon or have a history of violation of federal or state game and fish laws or regulations or federal or state guide or outfitter licensing or registration laws or regulations; and

(4) pass a written or oral examination approved by the department of game and fish at a date and time determined by the department.

I. A registered outfitter shall:

(1) provide proof of commercial liability insurance of at least five hundred thousand dollars ($500,000);

(2) responsibly supervise each registered guide working under [~~his~~] the outfitter's direction;

(3) provide a written contract for outfitting services, signed by the registered outfitter and identifying the outfitter's registration number, to each resident and nonresident who seeks to use the services of a registered outfitter;

(4) register with the taxation and revenue department and provide proof of that registration to the department of game and fish; and

(5) provide at least one registered guide or outfitter for every four or fewer resident or nonresident hunters who have contracted for an outfitter's guided services.

J. The department of game and fish shall provide to

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the taxation and revenue department a copy of each outfitter registration that is granted.

K. Except as provided in this subsection, no person shall be allowed to charge a processing or other fee to obtain for a resident or nonresident a license that is granted from a special drawing for a hunt on public lands pursuant to the provisions of Section 17-3-16 NMSA 1978, except that nothing in this subsection shall prohibit the department of game and fish from collecting an application fee. Persons involved in licensing services, booking agencies or license brokering that do not provide direct guide and outfitter services shall not be required to register with the department of game and fish and may charge a fee, other than the application fee for a license, for their services.

L. A New Mexico resident registered outfitter shall be a registered outfitter who is a resident as defined in Section 17-3-4 NMSA 1978. The state game commission shall adopt regulations that set forth additional requirements and that shall include at a minimum that a resident registered outfitter shall maintain a business address in New Mexico and, except as provided in Subsection Q of this section, derive at least fifty percent of [~~his~~] the outfitter's guiding or outfitting income from guiding or outfitting in New Mexico, as determined by [~~gross receipts~~] state sales tax or corporate or individual income tax returns for the immediately preceding three years.

M. The department of game and fish shall maintain for

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public distribution a list of New Mexico registered outfitters.

N. The annual registration fee for a registered guide in New Mexico is fifty dollars ($50.00) for a resident and one hundred dollars ($100) for a nonresident.

O. The annual registration fee to be a registered outfitter in New Mexico is five hundred dollars ($500) for either a resident or a nonresident.

P. Annual registration fees for guides and outfitters shall be deposited in the game protection fund.

Q. A resident interim registered or registered outfitter may apply for inactive status of [~~his~~] the registration for any period in which [~~he~~] the outfitter does not operate as an outfitter. The state game commission shall reactivate an outfitter registration at the request of the outfitter and upon proof that the outfitter complies with the provisions of this section and upon payment of the annual registration fee for the year the registration is being reinstated and payment of a reinstatement fee of not to exceed fifty dollars ($50.00).

R. The state game commission shall adopt by September 1, 1996 interim regulations, consistent to the greatest extent practicable with the provisions of this section, to provide for the granting of interim registrations to guides and outfitters. The commission shall issue interim registrations prior to mailing applications for 1997 licensed hunts to persons who qualify for interim registration and submit applications to the department of

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game and fish.

S. A person adversely affected by an action, other than a regulation, taken pursuant to the provisions of this section, including the denial, suspension or revocation of a registration, license, permit or certificate, may seek review of the action pursuant to the provisions of the Uniform Licensing Act.

T. A person adversely affected by a regulation adopted by the state game commission pursuant to this section may appeal to the court of appeals. All appeals shall be made upon the record at the hearing and shall be taken to the court of appeals within thirty days following the date of the action. The date of the action shall be the date of the filing of the regulation by the commission, pursuant to the provisions of the State Rules Act.

U. Upon appeal, the court of appeals shall set aside a regulation only if it is found to be:

(1) arbitrary, capricious or an abuse of discretion;

(2) not supported by substantial evidence in the record; or

(3) otherwise not in accordance with law.

V. After a hearing and a showing of good cause by the appellant, a stay of a regulation being appealed may be granted:

(1) by the state game commission; or

(2) by the court of appeals if the state game

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commission denies a stay or fails to act upon an application for a stay within sixty days after receipt of the application.

W. The appellant shall pay all costs for any appeal found to be frivolous by the court of appeals."

SECTION 374. Section 17-3-16 NMSA 1978 (being Laws 1964 (1st S.S.), Chapter 17, Section 7, as amended) is amended to read:

"17-3-16. FUNDS--SPECIAL DRAWINGS FOR LICENSES.--

A. The director of the department of game and fish may provide special envelopes and application blanks when a special drawing is to be held to determine the persons to receive licenses. Money required to be submitted with these applications, if enclosed in the special envelopes, need not be deposited with the state treasurer but may be held by the director until the successful applicants are determined. At that time, the fees of the successful applicants shall be deposited with the state treasurer and the fees submitted by the unsuccessful applicants shall be returned to them.

B. Beginning with the licenses issued from a special drawing for a hunt code that commences on or after April 1, 2012:

(1) licenses shall be issued as follows:

(a) ten percent of the licenses to be drawn by nonresidents and residents who will be contracted with a New Mexico outfitter prior to application; and

(b) six percent of the licenses to be drawn by nonresidents who are not required to be contracted with an

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outfitter; and

(2) a minimum of eighty-four percent of the licenses shall be issued to residents of New Mexico.

C. If the number of applicants who apply for licenses pursuant to the provisions of Paragraphs (1) and (2) of Subsection B of this section does not constitute the allocated licenses for either category, then the additional licenses available may be granted to another category of applicants. The director shall offer first choice of undersubscribed hunts to residents, whenever practicable.

D. If the determination of the percentages in Subsection B of this section yields a fraction of:

(1) five-tenths or greater, the number of licenses to be issued shall be rounded up to the next whole number; and

(2) less than five-tenths, the number of licenses shall be rounded down to the next whole number.

E. The fee for a nonresident license for a special drawing in a high-demand hunt covered in Subsection B of this section shall be assessed at the same rate as a license for nonresident quality elk or quality deer. As used in this subsection, "high-demand hunt" means:

(1) a hunt where the total number of nonresident applicants for a hunt code in each unit exceeds twenty-two percent of the total applicants and where the total applicants for a hunt

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exceeds the number of licenses available based on application data indicating that this criteria occurred in each of the two immediately preceding years; or

(2) an additional hunt code designated by the department of game and fish as a quality hunt.

F. All antlerless elk hunts pursuant to this section shall be exclusively for New Mexico residents.

G. Hunts on all state wildlife management areas shall be allocated exclusively to New Mexico residents.

H. As used in this section, "New Mexico outfitter" means a person who has a business:

(1) with a valid New Mexico state, county or municipal business registration and a valid outfitter license issued by the department of game and fish;

(2) that is authorized to do and is doing outfitting business under the laws of this state;

(3) that has paid property taxes or rent on real property in New Mexico, paid [~~gross receipts~~] sales taxes and paid at least one other tax administered by the taxation and revenue department in each of the three years immediately preceding the submission of an affidavit to the department of game and fish;

(4) the majority of which is owned by the person who has resided in New Mexico during the three-year period immediately preceding the submission of an affidavit to the department of game and fish;

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(5) that employs at least eighty percent of the total personnel of the business who are New Mexico residents; [~~and~~]

(6) that has either leased property for ten years or purchased property greater than fifty thousand dollars ($50,000) in value in New Mexico;

(7) that, if it has changed its name from that of a previously certified business, the business is identical in every way to the previously certified business that meets all criteria;

(8) that possesses all required federal or state land use permits for the hunt; and

(9) that operates as a hunting guide service during which at least two days are accompanied with the client in the area where the license is valid."

SECTION 375. Section 21-28-7 NMSA 1978 (being Laws 1989, Chapter 264, Section 7, as amended) is amended to read:

"21-28-7. LIMITATIONS ON APPLICATION OF LAWS.--

A. A research park corporation shall not be deemed an agency, public body or other political subdivision of New Mexico, including for purposes of applying statutes and laws relating to personnel, procurement of goods and services, meetings of the board of directors, [~~gross receipts~~] state sales tax, disposition or acquisition of property, capital outlays, per diem and mileage and inspection of records.

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B. A research park corporation shall be deemed an agency or other political subdivision of the state for purposes of applying statutes and laws relating to the furnishing of goods and services to the university that operates it and the risk management fund.

C. A research park corporation, its officers, directors and employees shall be granted immunity from liability for any tort as provided in the Tort Claims Act. A research park corporation may enter into agreements with insurance carriers to insure against a loss in connection with its operations even though the loss may be included among losses covered by the risk management fund of New Mexico."

SECTION 376. Section 24-1B-6 NMSA 1978 (being Laws 1991, Chapter 113, Section 6, as amended) is amended to read:

"24-1B-6. MATERNAL AND CHILD HEALTH FUNDS.--

A. The department shall contract for maternal and child health services to implement a maternal and child health plan after the plan has been approved by the department.

B. As a condition of the department contracting for maternal and child health services, after an opportunity for county or tribal input, a county or tribe may be asked to contribute to the implementation of an approved maternal and child health plan based on the relative wealth of the county or tribe as measured by the population, the per capita income, the [~~gross receipts~~] sales tax base and the average property value.

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C. The department shall contract for maternal and child health services to implement a maternal and child health plan based upon:

(1) the amount of funds appropriated for the purpose of carrying out the provisions of the Maternal and Child Health Plan Act;

(2) the need for services as measured by:

(a) maternal and child health indicators;

(b) the teen pregnancy rate; and

(c) maternal and child health provider availability and shortages; and

(3) the demonstration that the services in the maternal and child health plan fit into the comprehensive outline of community-based maternal and child health services described in Subsection D of Section 24-1B-5 NMSA 1978.

D. Nothing in the Maternal and Child Health Plan Act shall prohibit the department from contracting for those categories of maternal and child health services that it contracted for prior to the effective date of the Maternal and Child Health [~~Care~~] Plan Act or that it deems essential for public health."

SECTION 377. Section 27-5-6.2 NMSA 1978 (being Laws 2014, Chapter 79, Section 16) is amended to read:

"27-5-6.2. TRANSFER TO SAFETY NET CARE POOL FUND.--

A. A county shall, by ordinance to be effective July

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1, 2014, dedicate to the safety net care pool fund an amount equal to a [~~gross receipts~~] sales tax rate of one-twelfth percent applied to the taxable gross receipts reported during the prior fiscal year by persons engaging in business in the county. For purposes of this subsection, a county may use public funds from any existing authorized revenue source of the county.

B. A county enacting an ordinance pursuant to Subsection A of this section shall transfer to the safety net care pool fund by the last day of March, June, September and December of each year an amount equal to one-fourth of the county's payment to the safety net care pool fund."

SECTION 378. Section 27-10-4 NMSA 1978 (being Laws 1991, Chapter 212, Section 4, as amended) is amended to read:

"27-10-4. ALTERNATIVE REVENUE SOURCE TO IMPOSITION OF COUNTY HEALTH CARE [~~GROSS RECEIPTS~~] SALES TAX--TRANSFER TO COUNTY-SUPPORTED MEDICAID FUND.--

A. In the event a county does not enact an ordinance imposing a county health care [~~gross receipts~~] sales tax pursuant to Section [~~7-20D-3~~] 7-20E-18 NMSA 1978, the county shall, by ordinance to be effective July 1, 1993, dedicate to the county-supported medicaid fund an amount equal to a [~~gross receipts~~] sales tax rate of one-sixteenth [~~of one~~] percent applied to the taxable gross receipts reported during the prior fiscal year by persons engaging in business in the county. For purposes of this subsection, a county may use funds from any existing authorized

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revenue source of the county.

B. For each county that has in effect an ordinance enacted pursuant to Subsection A of this section on July 1 of each year, the taxation and revenue department shall certify to the county by September 15, 1993 and by September 15 of each subsequent fiscal year the amount of gross receipts reported for the county for purposes of the [~~gross receipts~~] sales tax during the prior fiscal year. Upon certification by the taxation and revenue department, any county enacting an ordinance pursuant to Subsection A of this section shall transfer to the county-supported medicaid fund by the last day of March, June, September and December of each year an amount equal to a rate of one sixty-fourth [~~of one~~] percent applied to the certified amount.

C. The requirements of an ordinance enacted pursuant to this section may be terminated for a county only on the effective date of an ordinance enacted by the county imposing the county health care [~~gross receipts~~] sales tax; provided that if the effective date of the ordinance imposing the tax is January 1, the termination does not apply to the payments required for September and December of that year."

SECTION 379. Section 53-7A-6 NMSA 1978 (being Laws 2003, Chapter 183, Section 6) is amended to read:

"53-7A-6. APPLICATION OF OTHER LAWS.--

A. The corporation formed pursuant to the Economic Development Corporation Act is separate and apart from the state

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and shall not be deemed an agency, public body or other political subdivision of New Mexico for purposes of applying laws relating to personnel, procurement of goods and services, [~~gross receipts~~] sales tax, disposition or acquisition of property, capital outlays and per diem and mileage.

B. Notwithstanding the provisions of the Open Meetings Act, meetings of the corporation shall be closed to the public when proprietary technical or business information or any information regarding location or expansion of a business is discussed.

C. Information obtained by the corporation that is proprietary technical or business information or related to the possible relocation or expansion of a business shall be confidential and not subject to inspection pursuant to the Inspection of Public Records Act.

D. The corporation, its officers, directors and employees shall be granted immunity from liability for any tort as provided in the Tort Claims Act and may enter into agreements with insurance carriers to insure against a loss in connection with its operations even though the loss may be included among losses covered by the risk management fund of New Mexico."

SECTION 380. Section 53-7B-6 NMSA 1978 (being Laws 2009, Chapter 66, Section 6) is amended to read:

"53-7B-6. APPLICABILITY OF OTHER LAWS.--

A. Except as otherwise provided in the New Mexico

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Research Applications Act, the research applications center shall not be deemed to be the state, or one of its agencies, instrumentalities, institutions or political subdivisions for the purpose of applying any other laws, including those relating to personnel, meetings of the board, [~~gross receipts~~] sales taxes, disposition or acquisition of property, capital outlays, per diem and mileage and inspection of records.

B. The research applications center shall be deemed:

(1) an agency of the state when applying laws relating to the furnishing of goods and services by the research applications center to the state or any other agency, political subdivision or institution of the state;

(2) a local public body for purposes of the Procurement Code, except that the board may exempt a specific procurement from the application of the Procurement Code if it makes a finding that compliance with the Procurement Code would impede the purposes of the New Mexico Research Applications Act; and

(3) a governmental entity for purposes of the Tort Claims Act; provided that the research applications center may enter into agreements with insurance carriers to insure against risk in connection with its operations even though the risk may be included among the risks covered by the Tort Claims Act."

SECTION 381. Section 57-31-3 NMSA 1978 (being Laws 2017,

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Chapter 102, Section 3) is amended to read:

"57-31-3. DISTRIBUTED ENERGY GENERATION SYSTEM DISCLOSURES--EXCEPTION.--

A. Beginning thirty days after publication in the New Mexico register of the form disclosure statements issued by the attorney general pursuant to Section [~~5 of the Distributed Generation Disclosure Act~~] 57-31-5 NMSA 1978, any agreement governing the financing, sale or lease of a distributed energy generation system, or the sale of power to a power purchaser, shall include a written statement with font no smaller than ten points and no more than four pages, unless a font larger than ten points is used, separate from the agreement and separately signed by the buyer or lessee, that includes the following provisions:

(1) the name, address, telephone number and email address of the buyer or lessee;

(2) the name, address, telephone number, email address and valid state contractor license number of the person responsible for installing the distributed energy generation system;

(3) the name, address, telephone number, email address and a valid state contractor license number of the distributed energy generation system maintenance provider, if different from the person responsible for installing the system;

(4) a provision notifying the buyer or lessee of the right to rescind the agreement for a period ending not less

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than three business days after the agreement is signed;

(5) a description of the distributed energy generation system design assumptions, including system size, estimated first-year production and estimated annual system production decreases, including the overall percentage degradation over the life of the distributed energy generation system;

(6) a description of any performance guarantees that a seller or marketer may include in an agreement;

(7) the purchase price of the distributed energy generation system, total projected lease or power purchase payments;

(8) a description of any one-time or recurring fees, including the circumstances triggering any late fees, estimated system removal fees, maintenance fees, Uniform Commercial Code notice removal and refiling fees, internet connection fees and automated [~~clearing house~~] clearing-house fees;

(9) if the seller is financing or leasing the distributed energy generation system, the total amount financed, the total number of payments, the payment frequency, the amount of the payment expressed in dollars, the payment due dates and the applicable annual percentage rate; except that in the case of financing arrangements subject to state or federal lending disclosure requirements, disclosure of the annual percentage rate shall be made in accordance with the applicable state or federal

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lending disclosure requirements;

(10) if a seller or marketer uses a tax incentive or rebate in determining the price, a provision identifying each state and federal tax incentive or rebate used;

(11) a description of the ownership and transferability of any tax credits, rebates, incentives or renewable energy certificates in connection with the distributed energy generation system;

(12) a list of the following tax obligations that the buyer may be required to pay or incur as a result of the contract's provisions, including:

(a) the cost of any business personal property taxes assessed on the distributed energy generation system in the event of a power purchase agreement or lease;

(b) [~~gross receipts~~] sales taxes for any equipment purchased and services rendered;

(c) obligations of the power purchaser or lessee to transfer tax credits or tax incentives of the distributed energy generation system to any other person; and

(d) in the case of a commercial installation, a change in assessed property taxes in the event of a purchase of a distributed energy generation system;

(13) a disclosure regarding whether the warranty or maintenance obligations related to the distributed energy generation system may be sold or transferred to a third party;

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(14) a disclosure regarding any restrictions pursuant to the agreement on the buyer's or lessee's ability to modify or transfer ownership of the distributed energy generation system, including whether any modification or transfer is subject to review or approval by a third party and the name, mailing address and telephone number of the entity responsible for approving the modification or transfer, if known to the seller or marketer at the time the agreement is made;

(15) a description of all options available to the buyer or lessee in connection with the continuation, termination or transfer of the agreement between the buyer or lessee and the seller or marketer in the event of the transfer of the real property to which the distributed energy generation system is affixed;

(16) a description of the assumptions used for any savings estimates that were provided to the buyer or lessee;

(17) a disclosure that states: "Actual utility rates may go up or down and actual savings may vary. For further information regarding rates, you may contact your local utility or the public regulation commission. Tax and other state and federal incentives are subject to change.";

(18) a disclosure notifying the buyer or the lessee of transferability of any warranty obligations to subsequent buyers or lessees; and

(19) a disclosure notifying the buyer or lessee

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that interconnection requirements, including time lines, are established by rules of the public regulation commission and may be obtained from either the public regulation commission or the local utility.

B. The seller or marketer shall provide the buyer or lessee with proof that, within thirty days of completion of installation or modification:

(1) all permits required for the installation or any modification of the distributed energy generation system were obtained prior to installation; and

(2) installation or any modification of the distributed energy generation system received the approval of an inspector authorized by the governmental authority having jurisdiction over the permitting and enforcement authority.

C. In the event that a seller or marketer causes a financing statement to be filed pursuant to the Uniform Commercial Code-Secured Transactions, the seller or marketer, or any successor in interest to the seller or marketer, shall provide to the buyer or lessee a copy of the filed financing statement within thirty calendar days of the filing.

D. If a promotional document or sales presentation related to a distributed energy generation system states that the system will result in certain financial savings for the buyer or lessee, the document or sales presentation shall provide the assumptions and calculations used to derive those savings.

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E. If a promotional document or sales presentation related to a distributed energy generation system states that the system will result in certain energy savings in terms of production, the document or sales presentation shall provide the assumptions and calculations used to derive those energy savings and any comparative estimates. If historical information is used, it shall be accompanied by the following statement: "Historical data are not necessarily representative of future results."."

SECTION 382. Section 58-18-5.4 NMSA 1978 (being Laws 1982, Chapter 86, Section 5, as amended) is amended to read:

"58-18-5.4. DUTIES OF AUTHORITY--MULTIPLE-FAMILY DWELLINGS, TRANSITIONAL AND CONGREGATE HOUSING FACILITIES.--

A. The authority shall require, as a condition of making or purchasing a project mortgage loan, that the sponsor agree to comply with the requirements and to make the representations and warranties [~~as~~] the authority deems reasonably necessary to protect its interests in the project mortgage loan and the multiple-family dwelling project or transitional or congregate housing facility, including the following:

(1) the multiple-family dwelling project or transitional or congregate housing facility and surrounding area shall be maintained in good repair;

(2) a reserve fund for repairs and replacements on the multiple-family dwelling project or transitional or congregate housing facility shall be established and maintained

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for the life of the project mortgage loan;

(3) the sponsor shall make all records and documents relating to the multiple-family dwelling project or transitional or congregate housing facility available to the authority and its agents at all reasonable times;

(4) the sponsor shall maintain its books and accounts in a manner satisfactory to the authority;

(5) the sponsor shall provide access to the authority and its agents at all reasonable times for the purpose of inspecting the multiple-family dwelling project or transitional or congregate housing facility;

(6) the sponsor shall file with the authority a copy of each report and schedule required to be filed with any provider of mortgage insurance or other security or liquidity enhancement for the mortgage loan or the authority's bonds or notes, the proceeds of which were used in whole or in part to acquire the project mortgage loan; annual financial and operating reports; and any other reports the authority may determine to be necessary;

(7) the sponsor shall purchase and maintain an insurance policy insuring the project against loss or damage by fire, windstorm, hail, smoke, explosion, riot or civil commotion in an amount not less than eighty percent of the replacement costs of the project, and the authority or its designee shall be named in the insurance policy as an additional named insured;

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(8) the sponsor shall provide the authority with a market feasibility study, market-value appraisal, architectural design and outline specifications, tenant selection plans and any other documents the authority requires in determining whether to purchase the project mortgage loan;

(9) unless otherwise exempt under any other law of the state or any political subdivision of the state, all ad valorem, [~~gross receipts~~] sales and any other taxes imposed on the land or improvements for which a multiple-family dwelling project mortgage loan is being provided shall apply;

(10) the sponsor shall maintain the project as a multiple-family dwelling project or transitional or congregate housing facility throughout the life of the project mortgage loan; and

(11) the sponsor shall comply with any other reasonable requirements the authority deems necessary to impose in the future.

B. The authority shall distribute available funds to qualified sponsors and mortgage lenders on an equitable basis using guidelines that take into consideration geographic allocation and economic feasibility of affordable housing throughout the state, including the need for new housing to attract a new industry or plant or to provide housing in an economically depressed or low-income area."

SECTION 383. Section 58-31-3 NMSA 1978 (being Laws 2005,

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Chapter 128, Section 3, as amended) is amended to read:

"58-31-3. DEFINITIONS.--As used in the Spaceport Development Act:

A. "authority" means the spaceport authority;

B. "project" means any land, building or other improvements acquired as part of a spaceport or associated with a spaceport or to aid commerce in connection with a spaceport and all real and personal property deemed necessary in connection with the spaceport;

C. "revenue" means municipal regional spaceport [~~gross receipts~~] sales tax and county regional spaceport [~~gross receipts~~] sales tax revenue received from a regional spaceport district, revenue generated by a project and any other legally available funds of the authority;

D. "space vehicle" means a vehicle capable of being flown in space or launching a payload into space; and

E. "spaceport" means a facility in New Mexico at which space vehicles may be launched or landed, including all facilities and support infrastructure related to launch, landing or payload processing."

SECTION 384. Section 58-31-5 NMSA 1978 (being Laws 2005, Chapter 128, Section 5, as amended) is amended to read:

"58-31-5. AUTHORITY POWERS AND DUTIES.--

A. The authority shall:

(1) hire an executive director, who shall employ

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the necessary professional, technical and clerical staff to enable the authority to function efficiently and shall direct the affairs and business of the authority, subject to the direction of the authority;

(2) be located within fifty miles of a southwest regional spaceport;

(3) advise the governor, the governor's staff and the New Mexico finance authority oversight committee on methods, proposals, programs and initiatives involving a southwest regional spaceport that may further stimulate space-related business and employment opportunities in New Mexico;

(4) initiate, develop, acquire, own, construct, maintain and lease space-related projects;

(5) make and execute all contracts and other instruments necessary or convenient to the exercise of its powers and duties;

(6) create programs to expand high-technology economic opportunities within New Mexico;

(7) create avenues of communication among federal government agencies, the space industry, users of space launch services and academia concerning space business;

(8) promote legislation that will further the goals of the authority and development of space business;

(9) oversee and fund production of promotional literature related to the authority's goals;

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(10) identify science and technology trends that are significant to space enterprise and the state and act as a clearinghouse for space enterprise issues and information;

(11) coordinate and expedite the involvement of the state executive branch's space-related development efforts; and

(12) perform environmental, transportation, communication, land use and other technical studies necessary or advisable for projects and programs or to secure licensing by appropriate United States agencies.

B. The authority may:

(1) advise and cooperate with municipalities, counties, state agencies and organizations, appropriate federal agencies and organizations and other interested persons and groups;

(2) solicit and accept federal, state, local and private grants of funds or property and financial or other aid for the purpose of carrying out the provisions of the Spaceport Development Act;

(3) adopt rules governing the manner in which its business is transacted and the manner in which the powers of the authority are exercised and its duties performed;

(4) operate spaceport facilities, including acquisition of real property necessary for spaceport facilities and the filing of necessary documents with appropriate agencies;

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(5) construct, purchase, accept donations of or lease projects located within the state;

(6) sell, lease or otherwise dispose of a project upon terms and conditions acceptable to the authority and in the best interests of the state;

(7) issue revenue bonds and borrow money for the purpose of defraying the cost of acquiring a project by purchase or construction and of securing the payment of the bonds or repayment of a loan;

(8) enter into contracts with regional spaceport districts and issue bonds on behalf of regional spaceport districts for the purpose of financing the purchase, construction, renovation, equipping or furnishing of a regional spaceport or a spaceport-related project;

(9) refinance a project;

(10) contract with any competent private or public organization or individual to assist in the fulfillment of its duties;

(11) fix, alter, charge and collect tolls, fees or rentals and impose any other charges for the use of or for services rendered by any authority facility, program or service; and

(12) contract with regional spaceport districts to receive municipal spaceport [~~gross receipts~~] sales tax and county regional spaceport [~~gross receipts~~] sales tax revenues.

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C. The authority shall not:

(1) incur debt as a general obligation of the state or pledge the full faith and credit of the state to repay debt; or

(2) expend funds or incur debt for the improvement, maintenance, repair or addition to property unless it is owned by the authority, the state or a political subdivision of the state."

SECTION 385. Section 58-31-6 NMSA 1978 (being Laws 2005, Chapter 128, Section 6, as amended) is amended to read:

"58-31-6. SPACEPORT AUTHORITY--BONDING AUTHORITY--POWER TO ISSUE REVENUE BONDS.--

A. The authority may issue revenue bonds on its own behalf or on behalf of a regional spaceport district, for regional spaceport purposes and spaceport-related projects. Revenue bonds so issued may be considered appropriate investments for the severance tax permanent fund or collateral for the deposit of public funds if the bonds are rated not less than "A" by a national rating service and both the principal and interest of the bonds are fully and unconditionally guaranteed by a lease agreement executed by an agency of the United States government or by a corporation organized and operating within the United States, that corporation or the long-term debt of that corporation being rated not less than "A" by a national rating service. All bonds issued by the authority are legal and authorized investments for

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banks, trust companies, savings and loan associations and insurance companies.

B. The authority may pay from the bond proceeds all expenses, premiums and commissions that the authority deems necessary or advantageous in connection with the authorization, sale and issuance of the bonds.

C. Authority revenue bonds:

(1) may have interest or appreciated principal value or any part thereof payable at intervals determined by the authority;

(2) may be subject to prior redemption or mandatory redemption at the authority's option at the time and upon such terms and conditions with or without the payment of a premium as may be provided by resolution of the authority;

(3) may mature at any time not exceeding twenty years after the date of issuance if secured by revenue from the county or municipal regional spaceport [~~gross receipts~~] sales tax or thirty years if secured by revenue from other sources;

(4) may be serial in form and maturity; may consist of one or more bonds payable at one time or in installments; or may be in such other form as determined by the authority;

(5) may be in registered or bearer form or in book-entry form through facilities of a securities depository either as to principal or interest or both;

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(6) shall be sold for cash at, above or below par and at a price that results in a net effective interest rate that conforms to the Public Securities Act; and

(7) may be sold at public or negotiated sale.

D. Subject to the approval of the state board of finance, the authority may enter into other financial arrangements if it determines that the arrangements will assist the authority."

SECTION 386. Section 59A-58-2 NMSA 1978 (being Laws 2001, Chapter 206, Section 2, as amended) is amended to read:

"59A-58-2. DEFINITIONS.--As used in the Service Contract Regulation Act:

A. "administrator" means a person who is responsible for administering a service contract that is issued, sold or offered for sale by a provider or sold by a seller;

B. "consumer" means a person who purchases, other than for resale, property used primarily for personal, family or household purposes and not for business or research purposes;

C. "holder" means a resident of this state who:

(1) purchases a service contract; or

(2) is legally in possession of a service contract and is entitled to enforce the rights of the original purchaser of the service contract;

D. "incidental costs" means expenses specified in a warranty that are incurred by the warranty holder due to the failure of the product to perform as provided in the contract.

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Incidental costs may include, without limitation, insurance policy deductibles, rental vehicle charges, the difference between the actual value of a motor vehicle at the time of failure and the cost of a replacement vehicle, [~~gross receipts~~] sales taxes, registration fees, transaction fees and mechanical inspection fees. Incidental costs may be reimbursed in either a fixed amount specified in the warranty or by use of a formula itemizing specific incidental costs incurred by the warranty holder;

E. "maintenance agreement" means a contract for a limited period that provides only for scheduled maintenance;

F. "major manufacturing company" means a person who:

(1) manufactures or produces and sells products under its own name or label or is a wholly owned subsidiary or affiliate of the person who manufactures or produces products; and

(2) maintains, or its parent company maintains, a net worth or stockholders' equity of at least one hundred million dollars ($100,000,000);

G. "property" means all property, whether movable at the time of purchase or a fixture, that is used primarily for personal, family or household purposes;

H. "provider" means a person who is contractually obligated to a holder or to indemnify the holder for the costs of repairing, replacing or performing maintenance on property;

I. "reimbursement insurance policy" means a policy of insurance issued to a provider to either provide reimbursement to

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the provider under the terms of the insured service contracts issued or sold by the provider or, in the event of the provider's non-performance, to pay on behalf of the provider all covered contractual obligations incurred by the provider under the terms of the insured service contracts issued or sold by the provider;

J. "road hazard" means a hazard that is encountered while driving a motor vehicle and that may include potholes, rocks, wood debris, metal parts, glass, plastic, curbs or composite scraps;

K. "seller" means a person who sells service contracts that contractually obligate another party or parties;

L. "service contract" means a contract pursuant to which a provider, in exchange for separately stated consideration, is obligated for a specified period to a holder to repair, replace or perform maintenance on, or indemnify or reimburse the holder for the costs of repairing, replacing or performing maintenance on, property that is described in the service contract and that has an operational or structural failure as a result of a defect in materials, workmanship or normal wear and tear, including a contract that provides or includes one or more of the following:

(1) incidental payment of indemnity under limited circumstances, including towing, rental and emergency road service and food spoilage;

(2) the repair, replacement or maintenance of property for damages that result from power surges or accidental

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damage from handling;

(3) the repair or replacement of tires and wheels on a motor vehicle damaged as a result of coming into contact with road hazards;

(4) the removal of dents, dings or creases on a motor vehicle that can be repaired using the process of paintless dent removal without affecting the existing paint finish and without replacing vehicle body panels, sanding, bonding or painting;

(5) the repair of chips or cracks in motor vehicle windshields or the replacement of motor vehicle windshields as a result of damage caused by road hazards;

(6) the replacement of a motor vehicle key or key fob in the event the key or key fob becomes inoperable or is lost or stolen; and

(7) other services approved by the superintendent if not inconsistent with other provisions of the Service Contract Regulation Act; and

M. "warranty" means a warranty provided solely by a manufacturer, importer or seller of property for which the manufacturer, importer or seller did not receive separate consideration and that:

(1) is not negotiated or separated from the sale of the property;

(2) is incidental to the sale of the property;

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and

(3) guarantees to indemnify the consumer for defective parts, mechanical or electrical failure, labor or other remedial measures required to repair or replace the property and may provide specified incidental costs."

SECTION 387. Section 60-1A-20 NMSA 1978 (being Laws 2007, Chapter 39, Section 20, as amended) is amended to read:

"60-1A-20. DAILY CAPITAL OUTLAY TAX--CAPITAL OUTLAY OFFSET--STATE FAIR COMMISSION DISTRIBUTION--DAILY LICENSE FEES.--

A. A "daily capital outlay tax" of two and three-sixteenths percent is imposed on the gross amount wagered each day at a racetrack where horse racing is conducted on the premises of a racetrack licensee and also on the gross amount wagered each day when a racetrack licensee is engaged in simulcasting pursuant to the Horse Racing Act. After deducting the amount of offset allowed pursuant to this section, any remaining daily capital outlay tax shall be paid by the commission to the taxation and revenue department from the retainage of a racetrack licensee from on-site wagers made on the licensed premises of the racetrack licensee for deposit in the general fund. Of the daily capital outlay tax imposed pursuant to this subsection:

(1) for a class A racetrack licensee, not more than one-half of the daily capital outlay tax imposed on the first two hundred fifty thousand dollars ($250,000) of the daily handle may be offset by the amount that the class A racetrack licensee

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expends for capital improvements or for long-term financing of capital improvements at the racetrack licensee's existing facility;

(2) for a class B racetrack licensee, not more than one-half of the daily capital outlay tax imposed on the first two hundred fifty thousand dollars ($250,000) of the daily handle may be offset:

(a) in an amount not to exceed one-half of the offset allowed, the amount expended by the class B racetrack licensee for capital improvements; and

(b) in an amount not to exceed one-half of the offset allowed, the amount expended by the class B racetrack licensee for advertising, marketing and promoting horse racing in the state;

(3) through December 31, 2014, for both class A and class B racetrack licensees, an amount equal to one-half of the daily capital outlay tax is appropriated and transferred to the state fair commission for expenditure on capital improvements at the state fairgrounds and for expenditure on debt service on negotiable bonds issued for the state fairgrounds' capital improvements; and

(4) on and after January 1, 2015, for both class A and class B racetrack licensees, an amount equal to one-half of the daily capital outlay tax is appropriated and transferred to the racehorse testing fund.

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B. An additional daily license fee of five hundred dollars ($500) shall be paid to the commission by the racetrack licensee for each day of live racing on the premises of the racetrack licensee.

C. Accurate records shall be kept by the racetrack licensee to show gross amounts wagered, retainage, breakage and amounts received from interstate common pools and distributions from gross amounts wagered, retainage, breakage and amounts received from interstate common pools, as well as other information the commission may require. Records shall be open to inspection and shall be audited by the commission, its authorized representatives or an independent auditor selected by the commission. The commission may prescribe the method in which records shall be maintained. A racetrack licensee shall keep records that are accurate, legible and easy to understand.

D. Notwithstanding any other provision of law, a political subdivision of the state shall not impose an occupational tax on a horse racetrack owned or operated by a racetrack licensee. A political subdivision of the state shall not impose an excise tax on a horse racetrack owned or operated by a racetrack licensee. Local option [~~gross receipts~~] sales taxes authorized by the state may be imposed to the extent authorized and imposed by a subdivision of the state on a horse racetrack owned or operated by a racetrack licensee."

SECTION 388. Section 60-2E-39 NMSA 1978 (being Laws 1997,

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Chapter 190, Section 41) is amended to read:

"60-2E-39. LIMITATIONS ON TAXES AND LICENSE FEES.--A political subdivision of the state shall not impose a license fee or tax on any licensee licensed pursuant to the Gaming Control Act except for the imposition of property taxes and local option [~~gross receipts~~] sales taxes with respect to receipts not subject to the gaming tax [~~and the distribution provided for and determined pursuant to Subsection C of Section 60-1-15 and Section 60-1-15.2 NMSA 1978~~]."

SECTION 389. Section 60-2E-47.1 NMSA 1978 (being Laws 2010, Chapter 31, Section 3) is amended to read:

"60-2E-47.1. COUNTY GAMING TAX CREDIT.--

A. Subject to the provisions of Subsection C of this section, beginning January 1, 2011, a taxpayer that is a gaming operator licensee that is a racetrack may claim, and the taxation and revenue department may allow, a tax credit in an amount of up to fifty percent of the taxpayer's monthly gaming tax liability pursuant to Section 60-2E-47 NMSA 1978, not to exceed a maximum credit of seven hundred fifty thousand dollars ($750,000) per state fiscal year, if the taxpayer:

(1) is located in a county in which the board of county commissioners has imposed and the electors have approved a county business retention [~~gross receipts~~] sales tax; and

(2) had in the immediately prior calendar year a combined net take and receipts, not including receipts for purses,

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from an allocation agreement made pursuant to Section 60-2E-27 NMSA 1978 of under fifteen million dollars ($15,000,000).

B. The tax credit that may be claimed pursuant to this section may be referred to as the "county gaming tax credit".

C. If in the prior fiscal year the total amount of county gaming tax credit claimed by the taxpayer exceeded the amount distributed to the state from the proceeds of a county business retention [~~gross receipts~~] sales tax imposed by the county in which the taxpayer is located, the taxpayer shall be deemed to owe an amount equal to the excess credit and shall remit to the state an amount equal to the excess credit. The taxpayer may not again claim the county gaming tax credit until the excess amount calculated pursuant to this subsection has been remitted to the state.

D. The county gaming tax credit shall be administered by the taxation and revenue department pursuant to the Tax Administration Act.

E. Subject to the provisions of Subsection C of this section, the credit created in this section may be claimed on a monthly basis against the gaming tax remitted to the state on a form provided by the taxation and revenue department. The credit claimed each month may not exceed one-twelfth of fifty percent of the gaming tax paid in the prior calendar year. Any additional credit that may be allowed may be claimed in the last month of the fiscal year. The maximum county gaming tax credit claimed shall

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not exceed fifty percent of the gaming tax due from the taxpayer in the fiscal year."

SECTION 390. Section 60-2F-21 NMSA 1978 (being Laws 2009, Chapter 81, Section 21) is amended to read:

"60-2F-21. TAX IMPOSITION.--

A. A bingo and raffle tax equal to one-half percent of the gross receipts of any game of chance held, operated or conducted for or by a qualified organization shall be imposed on the qualified organization.

B. No other state or local [~~gross receipts~~] option sales tax shall apply to a qualified organization's receipts generated by a game of chance authorized by the New Mexico Bingo and Raffle Act.

C. The tax imposed pursuant to this section shall be submitted quarterly to the taxation and revenue department on or before April 25, July 25, October 25 and January 25.

D. The taxation and revenue department shall administer the tax imposed in this section pursuant to the Tax Administration Act."

SECTION 391. Section 60-6A-6.1 NMSA 1978 (being Laws 2011, Chapter 110, Section 3, as amended) is amended to read:

"60-6A-6.1. CRAFT DISTILLER'S LICENSE.--

A. In any local option district, a person qualified pursuant to the provisions of the Liquor Control Act, except as otherwise provided in the Domestic Winery, Small Brewery and Craft

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Distillery Act, may apply for and be issued a craft distiller's license subject to the following conditions:

(1) the applicant submits evidence to the department that the applicant has a valid and appropriate permit issued by the federal government to be a craft distiller;

(2) renewal of the license shall be conditioned upon:

(a) no less than sixty percent of the gross receipts from the sale of spirituous liquors for the preceding twelve months of the licensee's operation being derived from the sale of spirituous liquors produced by the licensee;

(b) the manufacture of no less than one thousand proof gallons of spirituous liquors per license year at the licensee's premises; and

(c) submission to the department by the licensee of a report showing the number of proof gallons of spirituous liquors manufactured by the licensee at the licensee's premises and the annual gross receipts from the sale of spirituous liquors produced by the licensee and from the licensee's sale of distilled spirituous liquors produced by other New Mexico licensed craft distillers;

(3) a craft distiller's license shall not be transferred from person to person or from one location to another;

(4) the provisions of Section 60-6A-18 NMSA 1978 shall not apply to a craft distiller's license; and

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(5) nothing in this section shall prevent a craft distiller from receiving other licenses pursuant to the Liquor Control Act.

B. A person to whom a craft distiller's license is issued pursuant to this section may do any of the following:

(1) manufacture or produce spirituous liquors, including aging, filtering, blending, mixing, flavoring, coloring, bottling and labeling;

(2) store, transport, import or export spirituous liquors;

(3) sell only spirituous liquors that are packaged by or for the craft distiller to a person holding a wholesaler's license, a craft distiller's license or a manufacturer's license;

(4) deal in warehouse receipts for spirituous liquors;

(5) buy spirituous liquors from other persons, including licensees and permittees under the Liquor Control Act, for use in blending, flavoring, mixing or bottling of spirituous liquors;

(6) be deemed a manufacturer for purposes of the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act;

(7) conduct spirituous liquor tastings and sell, by the glass or by the bottle, or in unbroken packages for consumption off the premises but not for resale, spirituous

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liquors of the craft distiller's own production or spirituous liquors produced by another New Mexico craft distiller or New Mexico manufacturer on the craft distiller's premises; and

(8) at no more than three other locations off the craft distiller's premises, after the craft distiller has paid the applicable fee for a craft distiller's off-premises permit, after the director has determined that the off-premises locations meet the requirements of the Liquor Control Act and department rules for new liquor license locations and after the director has issued a craft distiller's off-premises permit for each off-premises location, conduct spirituous liquor tastings and sell by the glass, or in unbroken packages for consumption and not for resale, spirituous liquors produced and bottled by or for the craft distiller or spirituous liquors produced and bottled by or for another New Mexico craft distiller or manufacturer.

C. For a public celebration off the craft distiller's premises in any local option district permitting the sale of alcoholic beverages, a craft distiller shall pay ten dollars ($10.00) to the department for a "craft distiller's public celebration permit" to be issued under rules adopted by the director. Upon request, the department may issue to a craft distiller a public celebration permit for a location at the public celebration that is to be shared with other craft distillers, small brewers and winegrowers. As used in this subsection, "public celebration" includes any state or county fair, community

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fiesta, cultural or artistic event, sporting competition of a seasonal nature or other activity held on an intermittent basis.

D. Sales and tastings of spirituous liquors authorized in this section shall be permitted during the hours set forth in Subsection A of Section 60-7A-1 NMSA 1978 and between the hours of noon and midnight on Sunday and shall conform to the limitations regarding Christmas day sales and the expansion of Sunday sales hours to 2:00 a.m. on January 1, when December 31 falls on a Sunday as set forth in Section 60-7A-1 NMSA 1978."

SECTION 392. Section 60-6A-11 NMSA 1978 (being Laws 1981, Chapter 39, Section 28, as amended by Laws 2015, Chapter 102, Section 4 and by Laws 2015, Chapter 105, Section 1 and also by Laws 2015, Chapter 124, Section 1) is amended to read:

"60-6A-11. WINEGROWER'S LICENSE.--

A. A person in this state who produces wine is exempt from the procurement of any other license pursuant to the terms of the Liquor Control Act, but not from the procurement of a winegrower's license. Except during periods of shortage or reduced availability, at least fifty percent of a winegrower's overall annual production of wine shall be produced from grapes or other agricultural products grown in this state pursuant to rules adopted by the director; provided, however, that, for purposes of determining annual production and compliance with the fifty percent New Mexico grown provision of this subsection, the calculation of a winegrower's overall annual production of wine

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shall not include the winegrower's production of wine for out-of-state wine producer license holders.

B. A person issued a winegrower's license pursuant to this section may do any of the following:

(1) manufacture or produce wine, including blending, mixing, flavoring, coloring, bottling and labeling, whether the wine is manufactured or produced for a winegrower or an out-of-state wine producer holding a permit issued pursuant to the Federal Alcohol Administration Act and a valid license in a state that authorizes the wine producer to manufacture, produce, store or sell wine;

(2) store, transport, import or export wines;

(3) sell wines to a holder of a New Mexico winegrower's, wine wholesaler's, wholesaler's or wine exporter's license or to a winegrower's agent;

(4) transport not more than two hundred cases of wine in a calendar year to another location within New Mexico by common carrier;

(5) deal in warehouse receipts for wine;

(6) sell wines in other states or foreign jurisdictions to the holders of a license issued under the authority of that state or foreign jurisdiction authorizing the purchase of wine;

(7) buy wine or distilled wine products from other persons, including licensees and permittees under the Liquor

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Control Act, for use in blending, mixing or bottling of wines;

(8) buy or otherwise obtain beer from a small brewer for the purposes described in this subsection;

(9) conduct wine tastings and sell, by the glass or by the bottle, or sell in unbroken packages for consumption off the premises, but not for resale, wine of the winegrower's own production, wine produced by another New Mexico winegrower on the winegrower's premises or beer produced and bottled by or for a small brewer pursuant to Section [~~60-2A-26.1~~] 60-6A-26.1 NMSA 1978;

(10) at no more than three off-premises locations, conduct wine tastings, sell by the glass and sell in unbroken packages for consumption off premises, but not for resale, wine of the winegrower's own production, wine produced by another New Mexico winegrower or beer produced and bottled by or for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978 after the director has determined that the off-premises locations meet the requirements of the Liquor Control Act and the department rules for new liquor license locations;

(11) be deemed a manufacturer for purposes of the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act;

(12) at public celebrations on or off the winegrower's premises, after the winegrower has paid the applicable fees and been issued the appropriate permit, to conduct wine tastings, sell by the glass or the bottle, or sell in

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unbroken packages, for consumption off premises, but not for resale, wine produced by or for the winegrower;

(13) sell wine or cider in a growler for consumption off premises; and

(14) in accordance with the provisions of this section that relate to the sale of wine, accept and fulfill an order for wine that is placed via an internet [~~web site~~] website, whether the financial transaction related to the order is administered by the licensee or the licensee's agent.

C. Sales of wine or beer as provided for in this section shall be permitted between the hours of 7:00 a.m. and midnight Monday through Saturday, and the holder of a winegrower's license or public celebration permit may conduct wine tastings and sell, by the glass or bottle, or sell in unbroken packages for consumption off premises, but not for resale, wine of the winegrower's own production or beer produced and bottled by or for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978 on the winegrower's premises between the hours of 12:00 noon and midnight on Sunday.

D. At public celebrations off the winegrower's premises in any local option district permitting the sale of alcoholic beverages, the holder of a winegrower's license shall pay ten dollars ($10.00) to the alcohol and gaming division of the regulation and licensing department for a "winegrower's public celebration permit" to be issued under rules adopted by the

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director. Upon request, the alcohol and gaming division of the regulation and licensing department may issue to a holder of a winegrower's license a public celebration permit for a location at the public celebration that is to be shared with other winegrowers and small brewers. As used in this subsection, "public celebration" includes any state or county fair, community fiesta, cultural or artistic event, sporting competition of a seasonal nature or activities held on an intermittent basis.

E. Every application for the issuance or annual renewal of a winegrower's license shall be on a form prescribed by the director and accompanied by a license fee to be computed as follows on the basis of total annual wine produced or blended:

(1) less than five thousand gallons per year, twenty-five dollars ($25.00) per year;

(2) between five thousand and one hundred thousand gallons per year, one hundred dollars ($100) per year; and

(3) over one hundred thousand gallons per year, two hundred fifty dollars ($250) per year."

SECTION 393. Section 60-6A-11.1 NMSA 1978 (being Laws 2011, Chapter 109, Section 1) is amended to read:

"60-6A-11.1. DIRECT WINE SHIPMENT PERMIT--AUTHORIZATION--RESTRICTIONS.--

A. A licensee with a winegrower's license or a person licensed in a state other than New Mexico that holds a winery

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license may apply to the director for and the director may issue to the applicant a direct wine shipment permit. An application for a direct wine shipment permit shall include:

(1) contact information for the applicant in a form required by the department;

(2) an annual application fee of fifty dollars ($50.00) if the applicant does not hold a winegrower's license;

(3) the number of the applicant's winegrower's license if the applicant is located in New Mexico or a copy of the applicant's winery license if the applicant is located in a state other than New Mexico; and

(4) any other information or documents required by the director. Upon approval of an applicant for a permit, the director shall forward to the taxation and revenue department the name of each permittee and the contact information for the permittee.

B. A direct wine shipment permit shall be valid for a permit year. A permittee shall renew a direct wine shipment permit annually as required by the department to continue making direct shipments of wine to New Mexico residents.

C. A permittee may ship:

(1) not more than two nine-liter cases of wine monthly to a New Mexico resident who is twenty-one years of age or older for the recipient's personal consumption or use, but not for resale; and

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(2) wine directly to a New Mexico resident only in containers that are conspicuously labeled with the words:

"CONTAINS ALCOHOL
SIGNATURE OF PERSON 21 YEARS OR OLDER REQUIRED
FOR DELIVERY".

D. A permittee shall:

(1) register with the taxation and revenue department for the payment of liquor excise tax and [~~gross receipts~~] sales taxes due on the sales of wine pursuant to the permittee's activities in New Mexico;

(2) submit to the jurisdiction of New Mexico courts to resolve legal actions that arise from the shipping by the permittee of wine into New Mexico to New Mexico residents;

(3) monthly, by the twenty-fifth day of each month following the month in which the permittee was issued a direct wine shipment permit, pay to the taxation and revenue department the liquor excise tax due and the [~~gross receipts tax~~] sales taxes due; and

(4) submit to an audit by an agent of the taxation and revenue department of the permittee's records of the wine shipped pursuant to this section to New Mexico residents upon notice and during usual business hours.

E. As used in this section:

(1) "permit year" means the period between July 1 and June 30 of a year; and

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(2) "permittee" means a person that is the holder of a direct wine shipment permit."

SECTION 394. Section 60-6A-24 NMSA 1978 (being Laws 1983, Chapter 280, Section 5, as amended) is amended to read:

"60-6A-24. WINE BLENDER'S LICENSE.--

A. In any local option district, a person qualified under the provisions of the Liquor Control Act, except as otherwise provided in the Domestic Winery, [~~and~~] Small Brewery and Craft Distillery Act, may apply for and be issued a wine blender's license.

B. A wine blender's license authorizes the person to whom it is issued to:

(1) package, rectify, blend, mix, flavor, color, label and export wine, whether manufactured or produced by [~~him~~] the person or any other person;

(2) sell only wine packaged by or for [~~him~~] the person to a person holding a New Mexico wine wholesaler's, wholesaler's, winegrower's or wine exporter's license or to a winegrower's agent;

(3) deal in warehouse receipts for wine; and

(4) be deemed a manufacturer for purposes of the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act.

C. A wine blender's license does not authorize the person to whom it is issued:

(1) to crush, ferment and produce wine from

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grapes, berries and other fruits;

(2) to obtain or be issued a winer's license, a retailer's license or a dispenser's license;

(3) to buy, sell, receive or deliver wine from persons other than authorized licensees; or

(4) to conduct wine tastings or sell for consumption off premises, at retail, or to sponsor wine tastings, either on or off the wine blender's premises."

SECTION 395. Section 60-6A-26.1 NMSA 1978 (being Laws 1985, Chapter 217, Section 5, as amended by Laws 2015, Chapter 102, Section 5 and by Laws 2015, Chapter 124, Section 2) is amended to read:

"60-6A-26.1. SMALL BREWER'S LICENSE.--

A. In a local option district, a person qualified pursuant to the provisions of the Liquor Control Act, except as otherwise provided in the Domestic Winery, Small Brewery and Craft Distillery Act, may apply for and be issued a small brewer's license.

B. A small brewer's license authorizes the person to whom it is issued to:

(1) manufacture or produce beer;

(2) package, label and export beer, whether manufactured, bottled or produced by the licensee or any other person;

(3) sell only beer that is packaged by or for the

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licensee to a person holding a wholesaler's license or a small brewer's license;

(4) deal in warehouse receipts for beer;

(5) conduct beer tastings and sell for consumption on or off premises, but not for resale, beer produced and bottled by, or produced and packaged for, the licensee, beer produced and bottled by or for another New Mexico small brewer on the small brewer's premises or wine produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978;

(6) be deemed a manufacturer for purposes of the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act;

(7) at public celebrations off the small brewer's premises, after the small brewer has paid the applicable fee for a small brewer's public celebration permit, conduct tastings and sell by the glass or in unbroken packages, but not for resale, beer produced and bottled by or for the small brewer or wine produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978;

(8) buy or otherwise obtain wine from a winegrower;

(9) for the purposes described in this subsection, at no more than three other locations off the small brewer's premises, after the small brewer has paid the applicable fee for a small brewer's off-premises permit, after the director has determined that the off-premises locations meet the requirements of the Liquor Control Act and department rules for

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new liquor license locations and after the director has issued a small brewer's off-premises permit for each off-premises location, conduct beer tastings and sell by the glass or in unbroken packages for consumption off the small brewer's off-premises location, but not for resale, beer produced and bottled by or for the small brewer, beer produced and bottled by or for another New Mexico small brewer or wine produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978;

(10) allow members of the public, on the licensed premises and under the direct supervision of the licensee, to manufacture beer for personal consumption and not for resale using the licensee's equipment and ingredients; and

(11) sell beer in a growler for consumption off premises.

C. At public celebrations off the small brewer's premises in a local option district permitting the sale of alcoholic beverages, the holder of a small brewer's license shall pay ten dollars ($10.00) to the alcohol and gaming division of the regulation and licensing department for a "small brewer's public celebration permit" to be issued under rules adopted by the director. Upon request, the alcohol and gaming division of the regulation and licensing department may issue to a holder of a small brewer's license a public celebration permit for a location at the public celebration that is to be shared with other small brewers and winegrowers. As used in this subsection, "public

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celebration" includes a state or county fair, community fiesta, cultural or artistic event, sporting competition of a seasonal nature or activities held on an intermittent basis.

D. Sales and tastings of beer or wine authorized in this section shall be permitted during the hours set forth in Subsection A of Section 60-7A-1 NMSA 1978 and between the hours of noon and midnight on Sunday and shall conform to the limitations regarding Christmas and voting-day sales found in Section 60-7A-1 NMSA 1978 and the expansion of Sunday sales hours to 2:00 a.m. on January 1, when December 31 falls on a Sunday."

SECTION 396. Section 61-18A-28.1 NMSA 1978 (being Laws 1992, Chapter 36, Section 2) is amended to read:

"61-18A-28.1. ADDITIONAL COLLECTION FROM DEBTORS.--

A. Unless the agreement between the debtor and the creditor or the agreement between the collection agency and the creditor otherwise expressly prohibits, a collection agency may collect from the debtor an amount equal to the [~~gross receipts~~] state sales tax and the local option [~~gross receipts~~] sales taxes, as those terms are defined in the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act, imposed on the receipts of the collection agency that result from the collection of a debt from the debtor.

B. For purposes of this section, a collection agency does not mean a person who collects [~~his~~] the person's own debts using a name other than [~~his~~] the person's own which would

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indicate that a third person is collecting or attempting to collect such debts."

SECTION 397. Section 62-6-4.5 NMSA 1978 (being Laws 2003, Chapter 336, Section 4) is amended to read:

"62-6-4.5. BILLING--FRANCHISE FEES--[~~GROSS RECEIPTS~~] SALES TAXES.--

A. A franchise fee charge shall be stated as a separate line entry on a bill sent by a public utility or a distribution cooperative utility to a customer and shall only be recovered from a customer located within the jurisdiction of the government authority imposing the franchise fee.

B. Any [~~gross receipts~~] sales taxes collected on electric services received by a retail customer in the state shall be stated as a separate line entry on a bill for electric service sent to the customer by a public utility or distribution cooperative utility."

SECTION 398. Section 62-15-28 NMSA 1978 (being Laws 1939, Chapter 47, Section 28, as amended) is amended to read:

"62-15-28. TAXATION.--Cooperative and foreign corporations transacting business in this state pursuant to the provisions of the Rural Electric Cooperative Act shall pay annually, on or before July 1, to the [~~state corporation~~] public regulation commission a tax of ten dollars ($10.00) for each one hundred persons or fraction thereof to whom electricity is supplied within this state, which tax shall be in lieu of all other taxes except

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those provided in the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act; provided, however, that in the event a contract has been entered into by a rural electric cooperative and a power consumer prior to February 1, 1961 and such contract does not contain an escalator clause providing for an increase for added tax liability on the cooperative, then the sale to such power consumer shall be exempt until the expiration, extension or renewal of the contract."

SECTION 399. Section 62-17-6 NMSA 1978 (being Laws 2005, Chapter 341, Section 6, as amended by Laws 2013, Chapter 124, Section 3 and by Laws 2013, Chapter 220, Section 3) is amended to read:

"62-17-6. COST RECOVERY.--

A. A public utility that undertakes cost-effective energy efficiency and load management programs shall have the option of recovering its prudent and reasonable costs along with commission-approved incentives for demand-side resources and load management programs implemented after the effective date of the Efficient Use of Energy Act through an approved tariff rider or in base rates, or by a combination of the two. Program costs and incentives may be deferred for future recovery through creation of a regulatory asset. Funding for program costs for investor-owned electric utilities shall be three percent of customer bills, excluding [~~gross receipts~~] sales taxes and franchise and right-of-way access fees, or seventy-five thousand dollars ($75,000) per

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customer per calendar year, whichever is less, for customer classes with the opportunity to participate. Funding for annual program costs for gas utilities shall not exceed three percent of total annual revenues, nor shall charges exceed seventy-five thousand dollars ($75,000) per customer per calendar year. Provided that the public utility's total portfolio of programs remains cost-effective, no less than five percent of the amount received by the public utility for program costs shall be specifically directed to energy-efficiency programs for low-income customers. Unless otherwise ordered by the commission, a tariff rider approved by the commission shall require language on customer bills explaining program benefits.

B. The tariff rider shall be applied on a monthly basis, unless otherwise allowed by the commission.

C. A tariff rider proposed by a public utility to fund approved energy efficiency and load management programs shall go into effect thirty days after filing, unless suspended by the commission for a period not to exceed one hundred eighty days. If the tariff rider is not approved or suspended within thirty days after filing, it shall be deemed approved as a matter of law. If the commission has not acted to approve or disapprove the tariff rider by the end of an ordered suspension period, it shall be deemed approved as a matter of law. The commission shall approve utility reconciliations of the tariff rider annually."

SECTION 400. Section 63-9D-5.1 NMSA 1978 (being Laws 2017,

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Chapter 122, Section 10) is amended to read:

"63-9D-5.1. PREPAID WIRELESS ENHANCED 911 SURCHARGE--COLLECTION AND ADMINISTRATION OF SURCHARGE--LIABILITY OF SELLERS--EXCLUSIVITY OF SURCHARGE.--

A. As used in this section:

(1) "consumer" means a person who purchases prepaid wireless communication service in a retail transaction;

(2) "prepaid wireless communication service" means a wireless communication service that allows a caller to dial 911 to access the 911 system, which service must be paid for in advance and is sold in predetermined units or dollars of which the number declines with use in a known amount;

(3) "prepaid wireless enhanced 911 surcharge" means the charge that is required to be collected by a seller from a consumer in the amount established under Subsection B of this section;

(4) "provider" means a person that provides prepaid wireless communication service pursuant to a license issued by the federal communications commission;

(5) "retail transaction" means the purchase of prepaid wireless communication service from a seller for any purpose other than resale;

(6) "seller" means a person who sells prepaid wireless communication service to another person; and

(7) "wireless communication service" means

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commercial mobile radio service as defined by Section 20.3 of Title 47 of the Code of Federal Regulations, as amended.

B. A prepaid wireless enhanced 911 surcharge of one and thirty-eight hundredths percent is imposed on the gross value of each retail transaction. The prepaid wireless enhanced 911 surcharge shall be collected by the seller from the consumer with respect to each retail transaction occurring in this state. The amount of the prepaid wireless enhanced 911 surcharge shall be either separately stated on an invoice, receipt or other similar document that is provided to the consumer by the seller, or otherwise disclosed to the consumer.

C. For purposes of Subsection B of this section, a retail transaction that is effected in person by a consumer at a business location of the seller shall be treated as occurring in this state if that business location is in this state, and any other retail transaction shall be treated as occurring in this state if the retail transaction is treated as occurring in this state for purposes of the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act.

D. The prepaid wireless enhanced 911 surcharge is the liability of the consumer and not of the seller or of any provider, except that the seller shall be liable to remit all prepaid wireless enhanced 911 surcharges that the seller collects from consumers as provided in this section, including all such surcharges that the seller is deemed to collect where the amount

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of the surcharge has not been separately stated on an invoice, receipt or other similar document provided to the consumer by the seller.

E. The amount of the prepaid wireless enhanced 911 surcharge that is collected by a seller from a consumer, if such amount is separately stated on an invoice, receipt or other similar document provided to the consumer by the seller, shall not be included in the base for measuring any tax, fee, surcharge or other charge that is imposed by this state, any political subdivision of this state or any intergovernmental agency.

F. When prepaid wireless communication service is sold with one or more other products or services for a single, non-itemized price, the percentage specified in Subsection B of this section shall apply to the entire non-itemized price unless the seller elects to apply such percentage to:

(1) if the amount of the prepaid wireless communication service is disclosed to the consumer as a dollar amount, such dollar amount; or

(2) if the seller can identify the portion of the price that is attributable to the prepaid wireless communication service by reasonable and verifiable standards from its books and records that are kept in the regular course of business for other purposes, including non-tax purposes, such portion.

G. However, if a minimal amount of prepaid wireless communication service is sold with a prepaid wireless device for a

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single, non-itemized price, the seller may elect not to apply the percentage specified in Subsection B of this section to such transaction. For purposes of this subsection, an amount of service denominated as ten minutes or less, or five dollars ($5.00) or less, is minimal.

H. Prepaid wireless enhanced 911 surcharges collected by sellers shall be remitted to the department at the times and in the manner provided with respect to the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act. The department shall establish registration and payment procedures that substantially coincide with the registration and payment procedures that apply to the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act. A seller shall be permitted to deduct and retain three percent of prepaid wireless enhanced 911 surcharges that are collected by the seller from the consumer.

I. The audit and appeal procedures applicable to the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act shall apply to prepaid wireless enhanced 911 surcharges.

J. The department shall establish procedures by which a seller of prepaid wireless communication services may document that a sale is not a retail transaction, which procedures shall substantially coincide with the procedures for documenting sale for resale transactions for the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act.

K. No provider or seller of prepaid wireless

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communication services shall be liable for damages to any person resulting from or incurred in connection with the provision of, or failure to provide, 911 or enhanced 911 service, or for identifying, or failing to identify, the telephone number, address, location or name associated with any person or device that is accessing or attempting to access 911 or enhanced 911 service.

L. No provider or seller of prepaid wireless communication services shall be liable for damages to any person resulting from or incurred in connection with the provision of any assistance to any investigative or law enforcement officer of the United States, this or any other state, or any political subdivision of this or any other state, in connection with any investigation or other law enforcement activity by such law enforcement officer.

M. In addition to the protection from liability provided by Subsections K and L of this section, each provider and seller shall be entitled to the further protection from liability as provided pursuant to Section 63-9D-10 NMSA 1978.

N. The prepaid wireless enhanced 911 surcharge applies to retail transactions occurring on or after July 1, 2017."

SECTION 401. Section 63-9F-11 NMSA 1978 (being Laws 1993, Chapter 54, Section 11, as amended) is amended to read:

"63-9F-11. IMPOSITION OF SURCHARGE.--

A. A telecommunications relay service surcharge of

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thirty-three hundredths percent is imposed on the gross amount paid:

(1) by customers, except customers whose telephone service rates are reduced as authorized by the Low Income Telephone Service Assistance Act, for intrastate telecommunications services provided in this state;

(2) by customers for the intrastate portion of interconnected voice over internet protocol service;

(3) by customers for intrastate mobile telecommunications services that originate and terminate in the same state, regardless of where the mobile telecommunications services originate, terminate or pass through, provided by home service providers to customers whose place of primary use is in New Mexico; and

(4) by a prepaid consumer in a retail transaction.

B. The telecommunications relay service surcharge shall be included on the monthly bill of each customer of a local exchange company or other telecommunications company providing intrastate telecommunications services, interconnected voice over internet protocol services or intrastate mobile telecommunications services and paid at the time of payment of the monthly bill. Receipts from selling those services to any other telecommunications company or provider for resale are not subject to the surcharge. The customer is liable for the payment of the

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surcharge to the provider of intrastate mobile telecommunications services, the provider of interconnected voice over internet protocol services or the local exchange company or other telecommunications company providing intrastate telecommunications services to the customer.

C. For the purposes of the surcharge imposed on a retail transaction pursuant to Paragraph (4) of Subsection A of this section:

(1) the surcharge shall be collected by the seller from the prepaid consumer with respect to each retail transaction occurring in this state. The amount of the surcharge shall be either separately stated on an invoice, receipt or other similar document that is provided to the prepaid consumer by the seller or otherwise disclosed to the prepaid consumer;

(2) for the purposes of Paragraph (1) of this subsection, a retail transaction that is effected in person by a prepaid consumer at a business location of the seller shall be treated as occurring in this state if that business location is in this state, and any other retail transaction is treated as occurring in this state if the retail transaction is treated as occurring in this state for purposes of the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act;

(3) the surcharge is the liability of the prepaid consumer and not of the seller or any provider, except that the seller shall be liable to remit all surcharges collected from the

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prepaid consumer as provided in this subsection, including all such surcharges that the seller is deemed to collect where the amount of the surcharge has not been separately stated on an invoice, receipt or other similar document provided to the prepaid consumer by the seller;

(4) the amount of the surcharge that is collected by a seller from a prepaid consumer, if such amount is separately stated on an invoice, receipt or other similar document provided to the prepaid consumer by the seller, shall not be included in the base for measuring any tax, fee, surcharge or other charge that is imposed by this state, any political subdivision of this state or any intergovernmental agency;

(5) when prepaid wireless communications service is sold with one or more other products or services for a single, non-itemized price, the percentage specified in Subsection A of this section shall apply to the entire non-itemized price unless the seller elects to apply such percentage to:

(a) if the amount of the prepaid wireless communications service is disclosed to the prepaid consumer as a dollar amount, such dollar amount; or

(b) if the seller can identify the portion of the price that is attributable to the prepaid wireless communications service by reasonable and verifiable standards from its books and records that are kept in the regular course of business for other purposes, including non-tax purposes, such

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portion;

(6) if a minimal amount of prepaid wireless communications service is sold with a prepaid wireless device for a single, non-itemized price, the seller may elect not to apply the percentage specified in Subsection A of this section to such transaction. For the purposes of this paragraph, an amount of service denominated as ten minutes or less, or five dollars ($5.00) or less, is minimal;

(7) surcharges collected by sellers shall be remitted to the taxation and revenue department at the times and in the manner provided with respect to the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act. The department shall establish registration and payment procedures that substantially coincide with the registration and payment procedures that apply to the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act. A seller shall be permitted to deduct and retain three percent of surcharges that are collected by the seller from the prepaid consumer;

(8) the audit and appeal procedures applicable to the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act shall apply to the surcharge;

(9) the taxation and revenue department shall establish procedures by which a seller of prepaid wireless communications services may document that a sale is not a retail transaction, which procedures shall substantially coincide with

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the procedures for documenting sale for resale transactions for the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act; and

(10) notwithstanding Paragraph (1) of this subsection, if a 911 surcharge is imposed on prepaid wireless communications service pursuant to the Enhanced 911 Act, the taxation and revenue department shall promulgate rules to permit sellers to combine the surcharge imposed pursuant to this section and the surcharge imposed pursuant to the Enhanced 911 Act into a single surcharge on the invoice, receipt or other similar document that is provided to the prepaid consumer. The department shall ensure that appropriate surcharge revenues are directed proportionately to the respective 911 and telecommunications relay service funds.

D. A telecommunications company providing intrastate telecommunications services, a home service provider providing intrastate mobile telecommunications services and a seller of interconnected voice over internet protocol services shall, on sales subject to the telecommunications relay service surcharge, assess and collect the surcharge and remit the surcharge collected monthly to the taxation and revenue department on or before the twenty-fifth day of the month following collection. The department shall administer and enforce the collection of the surcharge in accordance with the Tax Administration Act.

E. The taxation and revenue department shall transfer to the telecommunications access fund the amount of the

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telecommunications relay service surcharge collected less any amount deducted in accordance with Subsection F of this section. Transfer of the net receipts from the surcharge to the telecommunications access fund shall be made within the month following the month in which the surcharge is collected.

F. The taxation and revenue department may deduct an amount not to exceed three percent of the telecommunications relay service surcharge collected as a charge for the administrative costs of collection and shall remit that amount to the state treasurer for deposit in the general fund each month.

G. The commission shall report to the revenue stabilization and tax policy committee annually by September 30 the following information with respect to the prior fiscal year:

(1) the amount and source of revenue received by the telecommunications access fund;

(2) the amount and category of expenditures from the fund; and

(3) the balance of the fund on that June 30."

SECTION 402. Section 63-9H-6 NMSA 1978 (being Laws 1999, Chapter 295, Section 6, as amended) is amended to read:

"63-9H-6. STATE RURAL UNIVERSAL SERVICE FUND--ESTABLISHMENT.--

A. The commission shall implement and maintain a "state rural universal service fund" to maintain and support universal service that is provided by eligible telecommunications

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carriers, including commercial mobile radio services carriers, as are determined by the commission. As used in this section, "universal service" means basic local exchange service, comparable retail alternative services at affordable rates, service pursuant to a low-income telephone assistance plan and broadband internet access service to unserved and underserved areas as determined by the commission.

B. The fund shall be financed by a surcharge on intrastate retail public telecommunications services to be determined by the commission, excluding services provided pursuant to a low-income telephone assistance plan billed to end-user customers by a telecommunications carrier, and excluding all amounts from surcharges, [~~gross receipts~~] sales taxes, excise taxes, franchise fees and similar charges. For the purpose of funding the fund, the commission has the authority to apply the surcharge on intrastate retail public telecommunications services provided by telecommunications carriers, including commercial mobile radio services and voice over internet protocol services, at a competitively and technologically neutral rate or rates to be determined by the commission. The commission may establish the surcharge as a percentage of intrastate retail public telecommunications services revenue or as a fixed amount applicable to each communication connection. For purposes of this section, a "communication connection" means a voice-enabled telephone access line, wireless voice connection, unique voice

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over internet protocol service connection or other uniquely identifiable functional equivalent as determined by the commission. Such surcharges shall be competitively and technologically neutral. Money deposited in the fund is not public money, and the administration of the fund is not subject to the provisions of law regulating public funds. The commission shall not apply this surcharge to a private telecommunications network; to the state, a county, a municipality or other governmental entity; to a public school district; to a public institution of higher education; to an Indian nation, tribe or pueblo; or to Native American customers who reside on tribal or pueblo land.

C. The fund shall be competitively and technologically neutral, equitable and nondiscriminatory in its collection and distribution of funds, portable between eligible telecommunications carriers and additionally shall provide a specific, predictable and sufficient support mechanism as determined by the commission that ensures universal service in the state.

D. The commission shall:

(1) establish eligibility criteria for participation in the fund consistent with federal law that ensure the availability of universal service at affordable rates. The eligibility criteria shall not restrict or limit an eligible telecommunications carrier from receiving federal universal

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service support;

(2) provide for the collection of the surcharge on a competitively neutral basis and for the administration and disbursement of money from the fund;

(3) determine those services and areas requiring support from the fund;

(4) provide for the separate administration and disbursement of federal universal service funds consistent with federal law; and

(5) establish affordability benchmark rates for local residential and business services that shall be utilized in determining the level of support from the fund. The process for determining subsequent adjustments to the benchmark shall be established through a rulemaking.

E. All incumbent telecommunications carriers and competitive carriers already designated as eligible telecommunications carriers for the fund shall be eligible for participation in the fund. All other carriers that choose to become eligible to receive support from the fund may petition the commission to be designated as an eligible telecommunications carrier for the fund. The commission may grant eligible carrier status to a competitive carrier in a rural area upon a finding that granting the application is in the public interest. In making a public interest finding, the commission may consider at least the following items:

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(1) the impact of designation of an additional eligible carrier on the size of the fund;

(2) the unique advantages and disadvantages of the competitor's service offering; and

(3) any commitments made regarding the quality of telephone service.

F. The commission shall adopt rules, including a provision for variances, for the implementation and administration of the fund in accordance with the provisions of this section. The rules shall enumerate the appropriate uses of fund support and any restrictions on the use of fund support by eligible telecommunications carriers. The rules shall require that an eligible telecommunications carrier receiving support from the fund pursuant to Subsection K, L or M of this section must expend no less than sixty percent of the support it receives to deploy and maintain broadband internet access services in rural areas of the state. The rules also shall provide for annual reporting by eligible telecommunications carriers verifying that the reporting carrier continues to meet the requirements for designation as an eligible telecommunications carrier for purposes of the fund and is in compliance with the commission's rules, including the provisions regarding use of support from the fund.

G. The commission shall, upon implementation of the fund, select a neutral third-party administrator to collect, administer and disburse money from the fund under the supervision

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and control of the commission pursuant to established criteria and rules promulgated by the commission. The administrator may be reasonably compensated for the specified services from the surcharge proceeds to be received by the fund pursuant to Subsection B of this section. For purposes of this subsection, the commission shall not be a neutral third-party administrator.

H. The fund established by the commission shall ensure the availability of universal service as determined by the commission at affordable rates in rural areas of the state; provided, however, that nothing in this section shall be construed as granting any authority to the commission to impose the surcharge on or otherwise regulate broadband internet access services.

I. The commission shall ensure that intrastate switched access charges are equal to interstate switched access charges established by the federal communications commission as of January 1, 2006. Nothing in this section shall preclude the commission from considering further adjustments to intrastate switched access charges based on changes to interstate switched access charges.

J. To ensure that providers of intrastate retail communications service contribute to the fund and to further ensure that the surcharge determined pursuant to Subsection B of this section to be paid by the end-user customer will be held to a minimum, the commission shall adopt rules, or take other

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appropriate action, to require all such providers to participate in a plan to ensure accurate reporting.

K. The commission shall authorize payments from the fund to incumbent local exchange carriers, in combination with revenue-neutral rate rebalancing up to the affordability benchmark rates. Beginning in 2018, the commission shall make access reduction support payments in the amount made from the fund in base year 2014, adjusted each year thereafter by:

(1) the annual percentage change in the number of access lines served by the incumbent local exchange carriers receiving such support for the prior calendar year, as compared to base year 2014; and

(2) changes in the affordability benchmark rates that have occurred since 2014.

L. The commission shall determine the methodology to be used to authorize payments to all other carriers that apply for and receive eligible carrier status; provided, however, that nothing in this section shall limit the commission's authority to adopt rules pursuant to Subsection F of this section regarding appropriate uses of fund support and any restrictions on the use of the fund support by eligible telecommunications carriers.

M. The commission may also authorize payments from the fund to incumbent rural telecommunications carriers or to telecommunications carriers providing comparable retail alternative services that have been designated as eligible

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telecommunications carriers serving in rural areas of the state upon a finding, based on factors that may include a carrier's regulated revenues, expenses or investment, by the commission that such payments are needed to ensure the widespread availability and affordability of universal service. The commission shall decide cases filed pursuant to this subsection with reasonable promptness, with or without a hearing, but no later than six months following the filing of an application seeking payments from the fund, unless the commission finds that a longer time will be required, in which case the commission may extend the period for an additional three months.

N. The commission shall adopt rules that establish and implement a broadband program to provide funding to eligible telecommunications carriers for the construction and maintenance of facilities capable of providing broadband internet access service. Such rules shall require that the commission consider applications for funding on a technology-neutral basis and shall require that the awards of support be consistent with federal universal service support programs and be based on the best use of the fund for rural areas of the state. Each year, a minimum of five million dollars ($5,000,000) of the fund shall be dedicated to the broadband program.

O. The total obligations of the fund determined by the commission pursuant to this section, plus administrative expenses and a prudent fund balance, shall not exceed a cap of thirty

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million dollars ($30,000,000) per year. The commission shall evaluate the amount of the cap in an appropriate proceeding to be completed by June 30, 2019 and consider whether, based on the then-current status of the fund, the cap should be modified, maintained or eliminated.

P. By December 31, 2019, the commission shall make a report to the legislature regarding the status of the fund, including relevant data relating to implementation of the broadband program and expansion of broadband internet access services in rural areas of the state. The report shall also make recommendations for any changes to the structure, size and purposes of the fund and whether the cap on the fund provided for in Subsection O of this section should be modified, maintained or eliminated."

SECTION 403. Section 66-3-401 NMSA 1978 (being Laws 1978, Chapter 35, Section 80, as amended) is amended to read:

"66-3-401. OPERATION OF VEHICLES UNDER DEALER PLATES.--

A. Any vehicle that is required to be registered pursuant to the Motor Vehicle Code and that is included in the inventory of a dealer may be operated or moved upon the highways for any purpose, provided that the vehicle display in the manner prescribed in Section 66-3-18 NMSA 1978 a unique plate issued to the dealer as provided in Section 66-3-402 NMSA 1978. This subsection shall not be construed as limiting the use of temporary registration permits issued to dealers pursuant to Section 66-3-6

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NMSA 1978. Each dealer plate shall be issued for a specific vehicle in a dealer's inventory. If a dealer wishes to use the plate on a different vehicle, the dealer must reregister that plate to the different vehicle.

B. The provisions of this section do not apply to work or service vehicles used by a dealer. For the purposes of this subsection, "work or service vehicle" includes any vehicle used substantially as a:

(1) parts or delivery vehicle;

(2) vehicle used to tow another vehicle;

(3) courtesy shuttle; or

(4) vehicle loaned to customers for their convenience.

C. Each vehicle included in a dealer's inventory required to be registered pursuant to the provisions of Subsection A of this section must conform to the registration provisions of the Motor Vehicle Code, but is not required to be titled pursuant to the provisions of that code. When a vehicle is no longer included in a dealer's inventory, and is not sold or leased to an unrelated entity, the dealer must title the vehicle and pay the motor vehicle excise tax that would have been due when the vehicle was first registered by the dealer.

D. In lieu of the use of dealer plates pursuant to this section, a dealer may register and title a vehicle included in a dealer's inventory in the name of the dealer upon payment of

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the registration fee applicable to that vehicle, but without payment of the motor vehicle excise tax, provided the vehicle is subsequently sold or leased in the ordinary course of business in a transaction subject to the motor vehicle excise tax or the leased vehicle [~~gross receipts~~] sales tax."

SECTION 404. Section 66-12-6.1 NMSA 1978 (being Laws 1987, Chapter 247, Section 9) is amended to read:

"66-12-6.1. EXCISE TAX ON ISSUANCE OF CERTIFICATES OF TITLE--APPROPRIATION.--

A. An excise tax is imposed upon the sale of every boat required to be registered in the state. To prevent evasion of the excise tax imposed by this section and the duty to collect it, it is presumed that the issuance of every original and subsequent certificate of title, other than a duplicate, for boats of a type required to be registered under the provisions of the Boat Act constitutes a sale for tax purposes, unless specifically exempted by this section or unless there is shown satisfactory proof that the boat for which the certificate of title is sought came into the possession of the applicant as a voluntary transfer without consideration or as a transfer by operation of law. The division shall collect the tax at the time application is made for issuance of a certificate of title at the rate of five percent of the sale price of the boat. If the sale price does not represent the value of the boat in the condition that existed at the time it was acquired, the excise tax shall then be imposed at the rate of

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five percent of the reasonable value of the boat in such condition at such time. However, allowances granted for trade-ins may be deducted from the sale price or the reasonable value of the boat purchased. The tax shall be paid by the applicant, and the division may require all information [~~which~~] that it deems necessary to establish the amount of the tax.

B. A penalty of fifty percent of the tax due on the issuance of a certificate of title is imposed on [~~any~~] a person who, domiciled in this state and accepting transfer in this state, fails to apply for a certificate within ninety days of the date on which ownership was transferred to [~~him~~] the person or a person who is domiciled in this state but accepts transfer outside this state and [~~who~~] fails to apply for a certificate within ninety days of the date on which the boat is brought into this state.

C. If a boat has been acquired through an out-of-state transaction upon which a gross receipts, sales, [~~compensating~~] use or similar tax was levied by another state or political subdivision thereof, the amount of the tax paid may be credited against the excise tax due this state on the same boat.

D. Persons domiciled outside this state and on active duty in the military service of the United States or on active duty as officers of the public health service detailed for duty with any branch of the military service are exempt from the tax imposed by this section.

E. Persons who acquire a boat out of state thirty or

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more days before establishing a domicile in this state are exempt from the tax imposed by this section if the boat was acquired for personal use.

F. Persons applying for a certificate of title for a boat registered in another state are exempt from the tax imposed by this section if they have previously registered and titled the boat in New Mexico and have owned the boat continuously since that time.

G. Certificates of title for all boats owned by this state or any political subdivision are exempt from the tax imposed by this section.

H. All taxes collected under the provisions of this section shall be paid to the state treasurer for credit to the "boat suspense fund", hereby created. At the end of each month, the state treasurer shall transfer fifty percent of the excise tax collections in the boat suspense fund to the division and the balance to the general fund. The amounts transferred to the division are appropriated for use by the division for improvements and maintenance of lakes and boating facilities owned or leased by the state and for administration and enforcement of the Boat Act.

I. The director of the division shall prescribe forms [~~he~~] the director deems necessary to account properly for the taxes collected under this section."

SECTION 405. EFFECTIVE DATE.--The effective date of the provisions of this act is HTRC➔~~July 1, 2019~~←HTRC HTRC➔January 1,

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