

1 HOUSE BILL 396

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Jason C. Harper and Larry R. Scott and Antonio "Moe" Maestas
5 and Christine Chandler and Clemente Sanchez
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10 AN ACT

11 RELATING TO TAXATION; CHANGING THE NAME OF THE GROSS RECEIPTS
12 TAX TO THE STATE SALES TAX; CHANGING THE NAME OF THE
13 COMPENSATING TAX TO THE STATE USE TAX; CHANGING THE NAME OF THE
14 GOVERNMENTAL GROSS RECEIPTS TAX TO THE GOVERNMENTAL SALES TAX;
15 CHANGING THE NAME OF THE INTERSTATE TELECOMMUNICATIONS GROSS
16 RECEIPTS TAX TO THE INTERSTATE TELECOMMUNICATIONS SALES TAX;
17 CHANGING THE NAME OF THE LEASED VEHICLE GROSS RECEIPTS TAX TO
18 THE LEASED VEHICLE SALES TAX; CHANGING THE NAMES OF MUNICIPAL
19 LOCAL OPTION GROSS RECEIPTS TAXES TO MUNICIPAL LOCAL OPTION
20 SALES TAXES; CHANGING THE NAME OF COUNTY LOCAL OPTION GROSS
21 RECEIPTS TAXES TO COUNTY LOCAL OPTION SALES TAXES; CHANGING THE
22 NAMES OF THE ACTS AND REVENUE BONDS RELATED TO THOSE TAXES TO
23 CONFORM TO THE NEW TAX NAMES.
24

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

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

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

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

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

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

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

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

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

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

25 (4) acquiring, extending, enlarging,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 revenue bonds pursuant to this subsection.

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

25 H. Law enforcement protection revenue bonds may be

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

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

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

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

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1 outstanding revenue bonds that may be secured by a pledge of
2 the municipal higher education facilities [~~gross receipts~~]
3 sales tax unless the outstanding revenue bonds have been
4 discharged in full or provision has been fully made for their
5 discharge. As used in Chapter 3, Article 31 NMSA 1978,
6 "municipal higher education facilities [~~gross receipts~~] sales
7 tax revenue bonds" means the bonds authorized in this
8 subsection and "municipal higher education facilities [~~gross~~
9 ~~receipts~~] sales tax revenue" means any or all of the revenue
10 from the municipal higher education facilities [~~gross receipts~~]
11 sales tax transferred to the municipality pursuant to Section
12 7-1-6.12 NMSA 1978.

13 K. Except for the purpose of refunding previous
14 revenue bond issues, no municipality may sell revenue bonds
15 payable from pledged revenues after the expiration of two years
16 from the date of the ordinance authorizing the issuance of the
17 bonds or, for bonds to be issued and sold to the New Mexico
18 finance authority as authorized in Subsection C of Section
19 3-31-4 NMSA 1978, after the expiration of two years from the
20 date of the resolution authorizing the issuance of the bonds.
21 However, any period of time during which a particular revenue
22 bond issue is in litigation shall not be counted in determining
23 the expiration date of that issue."

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

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1 "3-31-4. ORDINANCE AUTHORIZING REVENUE BONDS--~~[THREE-~~
2 ~~FOURTHS]~~ THREE-FOURTHS' MAJORITY REQUIRED--RESOLUTION
3 AUTHORIZING REVENUE BONDS TO BE ISSUED AND SOLD TO THE NEW
4 MEXICO FINANCE AUTHORITY.--

5 A. At a regular or special meeting called for the
6 purpose of issuing revenue bonds as authorized in Section
7 3-31-1 NMSA 1978, the governing body may adopt an ordinance
8 that:

9 (1) declares the necessity for issuing revenue
10 bonds;

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

14 (3) designates the source of the pledged
15 revenues.

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

25 C. In addition and as an alternative to adopting an

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1 ordinance as required by the provisions of Subsections A and B
2 of this section, at a regular or special meeting called for the
3 purpose of issuing revenue bonds as authorized in Section
4 3-31-1 NMSA 1978, the governing body may authorize the issuance
5 and sale, from time to time, of revenue bonds in amounts not to
6 exceed one million dollars (\$1,000,000) at any one time to the
7 New Mexico finance authority by adoption of a resolution that:

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

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

14 (3) designates the source of the pledged
15 revenues.

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

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

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

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

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

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

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

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

25 (3) for the purpose of modifying or

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

4 (4) for any combination of such purposes.

5 B. The municipality may pledge irrevocably for the
6 payment of interest and principal on refunding bonds the
7 appropriate pledged revenues, which may be pledged to an
8 original issue of bonds as provided in Section 3-31-1 NMSA
9 1978. Nothing in this section shall permit the pledge of the
10 [~~gross receipts~~] sales tax revenue to the payment of bonds that
11 refund utility bonds, joint utility bonds or gasoline tax
12 revenue bonds or the pledge of gasoline tax revenue to the
13 payment of bonds that refund utility bonds, joint utility bonds
14 or [~~gross receipts~~] sales tax revenue bonds or the pledge of
15 any revenues of any utility or joint utility to the payment of
16 bonds that refund [~~gross receipts~~] sales tax revenue bonds or
17 gasoline tax revenue bonds.

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

21 D. In addition to pledging of utility revenues to
22 the payment of the refunding revenue bonds that refund utility
23 bonds or joint utility bonds as provided in Section 3-23-4 NMSA
24 1978, the municipality may grant by ordinance, or by resolution
25 if the refunding revenue bonds are issued and sold to the New

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1 Mexico finance authority pursuant to Subsection C of Section
2 3-31-4 NMSA 1978, a mortgage of the municipal utility that has
3 been solely financed by revenue bonds to the bondholder or a
4 trustee for the benefit and security of the holders of the
5 refunding revenue bonds."

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

8 "3-31-9. REFUNDING BONDS--ESCROW--DETAIL.--

9 A. Refunding bonds issued pursuant to Sections
10 3-31-1 through 3-31-12 NMSA 1978 shall be authorized by
11 ordinance or by resolution if the refunding bonds are to be
12 issued and sold to the New Mexico finance authority pursuant to
13 Subsection C of Section 3-31-4 NMSA 1978. Any bonds that are
14 refunded under the provisions of this section shall be paid at
15 maturity or on any permitted prior redemption date in the
16 amounts, at the time and places and, if called prior to
17 maturity, in accordance with any applicable notice provisions,
18 all as provided in the proceedings authorizing the issuance of
19 the refunded bonds or otherwise appertaining thereto, except
20 for any such bond that is voluntarily surrendered for exchange
21 or payment by the holder or owner.

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

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

4 C. The proceeds of refunding bonds, including any
5 accrued interest and premium appertaining to the sale of
6 refunding bonds, shall either be immediately applied to the
7 retirement of the bonds being refunded or be placed in escrow
8 in a commercial bank or trust company ~~[which]~~ that possesses
9 and is exercising trust powers and ~~[which]~~ that is a member of
10 the federal deposit insurance corporation, to be applied to the
11 payment of the principal of, interest on and any prior
12 redemption premium due in connection with the bonds being
13 refunded; provided that such refunding bond proceeds, including
14 any accrued interest and any premium appertaining to a sale of
15 refunding bonds, may be applied to the establishment and
16 maintenance of a reserve fund and to the payment of expenses
17 incidental to the refunding and the issuance of the refunding
18 bonds, the interest thereon and the principal thereof or both
19 interest and principal as the municipality may determine.

20 Nothing in this section requires the establishment of an escrow
21 if the refunded bonds become due and payable within one year
22 from the date of the refunding bonds and if the amounts
23 necessary to retire the refunded bonds within that time are
24 deposited with the paying agent for the refunded bonds. Any
25 such escrow shall not necessarily be limited to proceeds of

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1 refunding bonds but may include other money available for its
2 purpose. Any proceeds in escrow pending such use may be
3 invested or reinvested in bills, certificates of indebtedness,
4 notes or bonds that are direct obligations of or the principal
5 and interest of which obligations are unconditionally
6 guaranteed by the United States of America or in certificates
7 of deposit of banks that are members of the federal deposit
8 insurance corporation, the par value of which certificates of
9 deposit is collateralized by a pledge of obligations of or the
10 payment of which is unconditionally guaranteed by the United
11 States of America, the par value of which obligations is at
12 least seventy-five percent of the par value of the certificates
13 of deposit. Such proceeds and investments in escrow, together
14 with any interest or other income to be derived from any such
15 investment, shall be in an amount at all times sufficient as to
16 principal, interest, any prior redemption premium due and any
17 charges of the escrow agent payable therefrom to pay the bonds
18 being refunded as they become due at their respective
19 maturities or due at any designated prior redemption date or
20 dates in connection with which the municipality shall exercise
21 a prior redemption option. Any purchaser of any refunding bond
22 issued ~~[under]~~ pursuant to Sections 3-31-1 through 3-31-12 NMSA
23 1978 is in no manner responsible for the application of the
24 proceeds thereof by the municipality or any of its officers,
25 agents or employees.

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1 D. Refunding bonds may bear such additional terms
2 and provisions as may be determined by the municipality subject
3 to the limitations in this section and Section 3-31-10 NMSA
4 1978 and, to the extent applicable, Sections 3-31-1 through
5 3-31-12 NMSA 1978 relating to original bond issues, and the
6 refunding bonds are not subject to the provisions of any other
7 statute except as may be incorporated by reference in Sections
8 3-31-1 through 3-31-12 NMSA 1978.

9 E. The municipality shall receive from the
10 department of finance and administration written approval of
11 any [~~gross receipts~~] sales tax refunding revenue bonds,
12 gasoline tax refunding revenue bonds or project refunding
13 revenue bonds issued pursuant to the provisions of Sections
14 3-31-8 through 3-31-12 NMSA 1978."

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

17 "3-37A-2. DEFINITIONS.--As used in the Small Cities
18 Assistance Act:

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

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

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

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

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

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

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

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

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

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

4 (1) for which no election has been called in
5 the manner and within the time provided by Section 7-19D-9 NMSA
6 1978; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 planned for, promoted to and attended by tourists;

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

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

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

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

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

17 "3-38A-2. DEFINITIONS.--As used in the Hospitality Fee
18 Act:

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

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

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

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

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

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

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

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

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

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

4 H. "tourist accommodation" means a hotel,
5 apartment, apartment hotel, apartment house, lodge,
6 lodgthouse, rooming house, motor hotel, guest house, guest
7 ranch, ranch resort, guest resort, mobile home, motor court,
8 auto court, auto camp, trailer court, trailer camp, trailer
9 park, tourist camp, cabin or other premises used for
10 accommodation. "Tourist accommodation" does not include:

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

14 (2) clinics, hospitals or other medical
15 facilities;

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

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

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

23 "3-60A-2. FINDINGS AND DECLARATIONS OF NECESSITY.--

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

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

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

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

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

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

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1 "3-60A-13. PROPERTY EXEMPT FROM TAXES AND FROM LEVY AND
2 SALE BY VIRTUE OF AN EXECUTION.--

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

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

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

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

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

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

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

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

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

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

18 "3-65-9. CUMULATIVE AND COMPLETE AUTHORITY.--The Minor
19 League Baseball Stadium Funding Act shall be deemed to provide
20 an additional and alternative method for obtaining funding for
21 a minor league baseball stadium, establishing the stadium
22 surcharge and completing the acts authorized thereby and shall
23 be regarded as supplemental and additional to powers conferred
24 by other laws of the state, without reference to such other
25 laws of the state, and shall constitute full authority for the

.212229.1

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

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

7 "3-66-8. ISSUANCE OF BONDS.--

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

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

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

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

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

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

13 "4-48B-12. TAX LEVIES AUTHORIZED.--

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

22 (1) in class A counties as defined in Section
23 4-44-1 NMSA 1978, the mill levy shall not exceed a rate of six
24 dollars fifty cents (\$6.50), or any lower maximum amount
25 required by operation of the rate limitation provisions of

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

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

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

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1 pursuant to Section 27-10-4 NMSA 1978.

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

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

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

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

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

16 "4-61-2. DEFINITIONS.--As used in the Small Counties
17 Assistance Act:

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

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

4 B. "ceiling valuation" means:

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

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

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

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

25 E. "population" means the official population shown

.212229.1

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

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

13 (1) for the property tax year in which any
14 distribution under the Small Counties Assistance Act is made to
15 the county, imposed a property tax rate for general county
16 purposes pursuant to Paragraph (1) of Subsection B of Section
17 7-37-7 NMSA 1978 as limited by Section 7-37-7.1 NMSA 1978 of at
18 least eight dollars eighty-five cents (\$8.85) per one thousand
19 dollars (\$1,000) of net taxable value;

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

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

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

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

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

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

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1 which is five percent; and

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

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

12 "4-61-3. SMALL COUNTIES ASSISTANCE FUND--DISTRIBUTION.--

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

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

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

24 (1) its population as certified by the
25 demographer;

.212229.1

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

3 (3) the distribution amount calculated for it.

4 D. The distribution amount for each qualifying
5 county shall be determined for 2003 and each subsequent year in
6 accordance with the following table; provided that the bracket
7 amounts in the first two columns of the table shall be adjusted
8 annually after 2003 by the adjustment factor. The bracket
9 amounts in the last column shall be adjusted annually after
10 2005 by the inflation factor and, in 2011 and subsequent years,
11 shall be adjusted by the tax rate factor. The department of
12 finance and administration may round the results of the
13 adjustments made pursuant to this subsection to the nearest one
14 thousand dollars (\$1,000).

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

17	at least:	but less	and the county	then the distribution
18		than:	population is:	amount is:
19	\$ 0	\$100,000,000	under 1,000	\$515,000
20	\$ 0	\$100,000,000	at least 1,000	
21			but under 4,000	\$370,000
22	\$ 0	\$100,000,000	at least 4,000	\$285,000
23	\$100,000,000	\$230,000,000	under 12,000	\$200,000
24	\$100,000,000	\$230,000,000	at least 12,000	\$145,000
25	\$230,000,000	\$1,400,000,000	under 48,000	\$85,000.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (3) purchasing, acquiring or rehabilitating
20 firefighting equipment;

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

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1 water and water rights;

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

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

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

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

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

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

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1 or regional transit systems or facilities.

2 A county may pledge irrevocably any or all of the revenue
3 from the first one-eighth increment, the third one-eighth
4 increment and the one-sixteenth increment of the county [~~gross~~
5 ~~receipts~~] sales tax and any increment of the county infrastructure
6 [~~gross receipts~~] sales tax and county capital outlay [~~gross~~
7 ~~receipts~~] sales tax for payment of principal and interest due in
8 connection with, and other expenses related to, [~~gross receipts~~]
9 sales tax revenue bonds for any of the purposes authorized in this
10 section or specific purposes or for any area of county government
11 services. If the revenue from the first one-eighth increment, the
12 third one-eighth increment or the one-sixteenth increment of the
13 county [~~gross receipts~~] sales tax or any increment of the county
14 infrastructure [~~gross receipts~~] sales tax or county capital outlay
15 [~~gross receipts~~] sales tax is pledged for payment of principal and
16 interest as authorized by this subsection, the pledge shall
17 require the revenues received from that increment of the county
18 [~~gross receipts~~] sales tax or any increment of the county
19 infrastructure [~~gross receipts~~] sales tax or county capital outlay
20 [~~gross receipts~~] sales tax to be deposited into a special bond
21 fund for payment of the principal, interest and expenses. At the
22 end of each fiscal year, money remaining in the special bond fund
23 after the annual obligations for the bonds are fully met may be
24 transferred to any other fund of the county.

25 Revenues in excess of the annual principal and interest due

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

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

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

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1 "environmental revenue bonds".

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

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

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

.212229.1

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

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

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

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

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

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

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

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

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

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

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

4 M. County area emergency communications and emergency
5 medical and behavioral health services sales tax revenue bonds and
6 countywide emergency communications and emergency medical and
7 behavioral health services sales tax revenue bonds may be issued
8 for the purpose of purchasing emergency communications equipment
9 for an emergency communications center that has been determined by
10 the local government division of the department of finance and
11 administration to be a consolidated public safety answering point
12 if the useful life of the equipment exceeds the term in which the
13 bonds mature. A county may pledge irrevocably any or all of the
14 county area emergency communications and emergency medical and
15 behavioral health services sales tax revenue and the countywide
16 emergency communications and emergency medical and behavioral
17 health services sales tax revenue to the payment of interest on
18 and principal of county area emergency communications and
19 emergency medical and behavioral health services sales tax revenue
20 bonds and countywide emergency communications and emergency
21 medical and behavioral health services sales tax revenue bonds for
22 the purpose authorized in this section.

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

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

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

17 P. No bonds may be issued by a county, other than an H
18 class county, a class B county as defined in Section 4-36-8 NMSA
19 1978 or a class A county as described in Section 4-36-10 NMSA
20 1978, to acquire, equip, extend, enlarge, better, repair or
21 construct a utility unless the utility is regulated by the public
22 regulation commission pursuant to the Public Utility Act and the
23 issuance of the bonds is approved by the commission. For purposes
24 of Chapter 4, Article 62 NMSA 1978, a "utility" includes a water,
25 wastewater, sewer, gas or electric utility or joint utility

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

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

20 R. As used in this section:

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

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1 1978;

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

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

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

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

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

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

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

4 (8) "countywide emergency communications and
5 emergency medical and behavioral health services sales tax
6 revenue" means the revenue from the countywide emergency
7 communications and emergency medical and behavioral health
8 services sales tax transferred to the county pursuant to Section
9 7-1-6.13 NMSA 1978;

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

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

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

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

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1 evidencing an obligation of a county to make payments."

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

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

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

10 (1) declares the necessity for issuing revenue
11 bonds;

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

15 (3) designates the source of the pledged
16 revenues.

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

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1 4-49-8 NMSA 1978.

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

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

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

15 (3) designates the source of the pledged
16 revenues.

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

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

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

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

7 "4-62-8. REFUNDING BONDS--ESCROW--DETAIL.--

8 A. Refunding bonds issued pursuant to Chapter 4,
9 Article 62 NMSA 1978 shall be authorized by ordinance or by
10 resolution if the refunding bonds are to be issued and sold to the
11 New Mexico finance authority pursuant to Subsection C of Section
12 4-62-4 NMSA 1978. Any bonds that are refunded under the
13 provisions of this section shall be paid at maturity or on any
14 permitted prior redemption date in the amounts, at the time and
15 places and, if called prior to maturity, in accordance with any
16 applicable notice provisions, all as provided in the proceedings
17 authorizing the issuance of the refunded bonds or otherwise
18 appertaining thereto, except for any bond that is voluntarily
19 surrendered for exchange or payment by the holder or owner.

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

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1 the refunded bonds.

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

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

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

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

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

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

12 "5-10-3. DEFINITIONS.--As used in the Local Economic
13 Development Act:

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

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

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

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[bracketed material] = delete

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

7 D. "department" means the economic development
8 department;

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

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

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

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

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

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

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

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

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

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1 commonly classified as public utilities;

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

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

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

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

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

17 (8) a cultural facility; and

18 (9) a retail business;

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

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

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1 to the most recent federal decennial census, of:

2 (1) ten thousand or less; or

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

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

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

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

13 "5-10-4. ECONOMIC DEVELOPMENT PROJECTS--RESTRICTIONS ON
14 PUBLIC EXPENDITURES OR PLEDGES OF CREDIT.--

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

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

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

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

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

17 (3) revenue generated through the imposition of
18 a county infrastructure [~~gross receipts~~] sales tax pursuant to the
19 County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act for
20 furthering or implementing economic development plans and projects
21 as defined in the Local Economic Development Act or projects as
22 defined in the Statewide Economic Development Finance Act;
23 provided that no more than the greater of fifty thousand dollars
24 (\$50,000) or ten percent of the revenue collected shall be used
25 for promotion and administration of or professional services

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

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

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

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

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

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

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

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

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

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

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

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

22 "5-15-2. FINDINGS AND PURPOSE.--

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

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1 for the purpose of supporting economic development and job
2 creation.

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

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

12 "5-15-3. DEFINITIONS.--As used in the Tax Increment for
13 Development Act:

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

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

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

5 B. "base property taxes" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 [R.] P. "public improvements" means on-site
11 improvements and off-site improvements that directly or indirectly
12 benefit a tax increment development district or facilitate
13 development within a tax increment development area and that are
14 dedicated to the governing body in which the district lies.

15 "Public improvements" [~~include~~] includes:

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

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

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

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

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

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

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

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

14 (9) electrical generation, transmission and
15 distribution facilities;

16 (10) natural gas distribution facilities;

17 (11) lighting systems;

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

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

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

25 (15) library and other public educational or

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1 cultural facilities;

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

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

7 (18) workforce housing; and

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

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

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

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

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

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

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

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

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

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

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

25 (1) acquisition of land within a designated tax

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

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

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

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

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

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

25 (7) grants for public improvements essential to

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1 the location or expansion of a business;

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

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

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

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

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

24 "5-15-4. RESOLUTION FOR FORMATION OF A DISTRICT.--

25 A. A tax increment development plan may be approved by

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

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

21 C. The resolution to form a district shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 "5-15-5. CONTENTS OF TAX INCREMENT DEVELOPMENT PLAN.--A tax
2 increment development plan shall include:

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

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

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

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

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

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

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

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

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1 by the tax increment development project;

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

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

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

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

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

16 "5-15-12. DISTRICT POWERS--LIMITATIONS.--

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

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

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

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

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

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

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

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

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

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

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

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

25 (11) levy property taxes in accordance with

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

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

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

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

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

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

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

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

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

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

13 "5-15-15. TAX INCREMENT FINANCING--~~[GROSS RECEIPTS]~~ SALES
14 TAX INCREMENT.--

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

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

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

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

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

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

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

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

23 ~~(6)~~ (5) an amount distributed to municipalities
24 pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA 1978; and

25 [~~(7)~~] (6) the state [~~gross receipts~~] sales tax.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 "5-15-16. BONDING AUTHORITY--~~[GROSS RECEIPTS]~~ SALES TAX
19 INCREMENT.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 Chapter 75, Section 20) is amended to read:

2 "5-15-20. GENERAL BONDING AUTHORITY OF A TAX INCREMENT
3 DEVELOPMENT DISTRICT--OTHER LIMITATIONS.--

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

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

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1 metropolitan redevelopment project pursuant to the Metropolitan
2 Redevelopment Code.

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

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

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

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

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1 increment development district is located."

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

4 "5-15-21. APPROVAL REQUIRED FOR ISSUANCE OF BONDS AGAINST
5 STATE [~~GROSS RECEIPTS~~] SALES TAX INCREMENTS.--In addition to all
6 other requirements of the Tax Increment for Development Act, prior
7 to a district board issuing bonds that are issued in whole or in
8 part against a [~~gross receipts~~] sales tax increment attributable
9 to the imposition of the state [~~gross receipts~~] sales tax within a
10 district:

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

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

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

21 "5-15-23. PROTECTION FROM IMPAIRMENT.--If the provisions
22 set forth in the Tax Increment for Development Act impair the
23 ability of a municipality, county or other public body to meet its
24 principal or interest payment obligations for revenue bonds or
25 general obligation bonds outstanding prior to the effective date

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

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

11 "5-15-24. TAX INCREMENT ACCOUNTING PROCEDURES.--A district
12 board shall separately account for all revenues and indebtedness
13 based on [~~gross receipts~~] sales tax increments and property tax
14 increments. The district board shall individually account for all
15 [~~gross receipts~~] sales tax increments."

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

18 "5-15-25.1. BASE YEAR REVISION--RESOLUTION--COMMENT
19 PERIOD--SUBMISSION OF MATERIALS.--

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

- 24 (1) adopt a resolution declaring that intent; and
- 25 (2) forward copies of the adopted resolution to

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

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

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

18 (1) a copy of the resolution;

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

24 (3) any other related documentation.

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

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

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

7 "5-15-25.2. BASE YEAR REVISION--APPROVAL.--

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

11 (1) once during the lifetime of the district;

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

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

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

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

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

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1 district.

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

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

9 "5-15-25.3. BASE YEAR REVISION--EFFECT.--

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

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

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

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

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

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

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

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

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

16 "5-15A-1. AUTHORIZATION OF ISSUANCE OF BONDS.--Pursuant to
17 the provisions of Section 5-15-21 NMSA 1978, the legislature
18 authorizes the issuance of bonds not to exceed five hundred
19 million dollars (\$500,000,000) in net proceeds as adjusted for
20 inflation, secured by a [~~gross receipts~~] sales tax increment
21 attributed to the imposition of the state [~~gross receipts~~] sales
22 tax for the Mesa del Sol tax increment development project,
23 subject to (1) the determination that has been made by the New
24 Mexico finance authority that the proceeds of the bonds issued
25 pursuant to this authorization will be used for the Mesa del Sol

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

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

9 "5-15B-1. AUTHORIZATION OF ISSUANCE OF BONDS.--The
10 legislature authorizes the issuance of bonds not to exceed forty-
11 four million dollars (\$44,000,000) in net proceeds as adjusted for
12 inflation, secured by tax increments authorized pursuant to the
13 Tax Increment for Development Act to be pledged to pay the
14 principal of and interest on the bonds, including a [~~gross~~
15 ~~receipts~~] sales tax increment attributed to the imposition of the
16 state [~~gross receipts~~] sales tax within the village of Taos Ski
17 Valley tax increment development district, subject to the review
18 and approval by the New Mexico finance authority of:

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

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

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

25 "5-15B-4. REDUCTION IN STATE [~~GROSS RECEIPTS~~] SALES TAX

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

12 A. review that estimate;

13 B. determine:

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

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

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

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

25 "5-16-3. DEFINITIONS.--As used in the Regional Spaceport

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1 District Act:

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

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

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

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

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

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

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

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

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

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1 or payload processing."

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

4 "5-16-13. USE OF REVENUE BY GOVERNMENTAL UNITS.--Each
5 governmental unit that is a county or municipality and is a member
6 of a combination shall have enacted a municipal regional spaceport
7 gross receipts tax or a county regional spaceport gross receipts
8 tax prior to December 31, 2008, as those taxes were named prior to
9 the effective date of this 2019 act. At least seventy-five
10 percent of the municipal regional spaceport [~~gross receipts~~] sales
11 tax or county regional spaceport [~~gross receipts~~] sales tax
12 revenues received by each governmental unit must be used by the
13 district for the financing, planning, designing, engineering and
14 construction of a regional spaceport. No more than twenty-five
15 percent of the municipal regional spaceport [~~gross receipts~~] sales
16 tax or county regional spaceport [~~gross receipts~~] sales tax
17 revenues may be used by the governmental unit enacting the tax for
18 spaceport-related projects as approved by resolution of the
19 governmental unit."

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

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

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

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

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

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

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

- 25 (1) require each leasehold community to furnish

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

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

7 (3) hold public hearings on proposed budgets;

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

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

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

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

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

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

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

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

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

22 "6-14-2. DEFINITIONS.--As used in the Public Securities
23 Act:

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

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

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

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

- 18 (1) the Industrial Revenue Bond Act;
19 (2) the County Improvement District Act;
20 (3) Sections 3-33-1 through 3-33-43 NMSA 1978;
21 (4) the Pollution Control Revenue Bond Act;
22 (5) the County Pollution Control Revenue Bond
23 Act;
24 (6) the County Industrial Revenue Bond Act;
25 (7) the Metropolitan Redevelopment Code;

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

3 (9) the Hospital Equipment Loan Act; or

4 (10) the New Mexico Finance Authority Act."

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

7 "6-21-5.1. BONDS FOR COUNTY CORRECTIONAL FACILITY LOANS.--

8 The authority may issue bonds for a county to design, construct,
9 equip, furnish and otherwise improve a county correctional
10 facility pursuant to the County Correctional Facility [~~Gross~~
11 ~~Receipts~~] Sales Tax Act only after a majority of the registered
12 qualified electors of the county has voted to allow the county to
13 impose a county correctional facility [~~gross receipts~~] sales tax
14 in the amount needed to repay bonds issued by the authority for
15 the purpose of designing, constructing, equipping, furnishing and
16 otherwise improving a county correctional facility."

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

19 "6-21-6.1. PUBLIC PROJECT REVOLVING FUND--APPROPRIATIONS TO
20 OTHER FUNDS.--

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

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

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

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

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

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

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

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

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

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

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

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

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

3 "6-21C-2.1. FINDINGS AND PURPOSE.--

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

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

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

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

3 "6-21C-5. STATE BUILDING BONDING FUND CREATED--MONEY IN THE
4 FUND PLEDGED.--

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

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

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

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

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

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

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

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

25 (2) a court of jurisdiction has ruled that the

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

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

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

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

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1 Chapter 176, Section 5) is amended to read:

2 "6-21D-5. ENERGY EFFICIENCY AND RENEWABLE ENERGY BONDING
3 FUND--PLEDGE OF MONEY IN THE FUND.--

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

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

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

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

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

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

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

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

12 "6-23-8. MUNICIPALITIES--USE OF CERTAIN REVENUES
13 AUTHORIZED.--Upon adoption of an ordinance or resolution by an
14 affirmative vote of a majority of the members of the governing
15 body at any regular or special meeting of the governing body
16 called for this purpose, a municipality may pledge utility cost
17 savings, conservation-related cost savings or any or all revenues
18 not otherwise pledged or obligated from [~~gross receipts~~] sales
19 taxes received by the municipality pursuant to [~~Section~~] Sections
20 7-1-6.4 [~~NMSA 1978~~] and [~~Section~~] 7-1-6.12 NMSA 1978 for payments
21 pursuant to a guaranteed utility savings contract with a qualified
22 provider and any installment payment contract or lease-purchase
23 agreement pursuant to that guaranteed utility savings contract.
24 The ordinance or resolution shall declare the necessity for the
25 guaranteed utility savings contract and related contracts or

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

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

9 "6-23-9. COUNTIES--USE OF CERTAIN REVENUES

10 AUTHORIZED.--Upon adoption of an ordinance or resolution by an
11 affirmative vote of a majority of the members of the board of
12 county commissioners at any regular or special meeting of the
13 board called for this purpose, a county may pledge utility cost
14 savings, conservation-related cost savings or any or all of the
15 revenue not otherwise pledged or obligated from the first one-
16 eighth [~~of one~~] percent increment and of one-half of the revenue
17 from the third one-eighth [~~of one~~] percent increment of the county
18 [~~gross receipts~~] sales tax transferred to the county pursuant to
19 Section 7-1-6.13 NMSA 1978 and any or all of the revenue from the
20 distribution related to the first one-eighth [~~of one~~] percent
21 increment made pursuant to Section 7-1-6.16 NMSA 1978 for the
22 purpose of making payments pursuant to a guaranteed utility
23 savings contract with a qualified provider or any installment
24 payment contract or lease-purchase agreement pursuant to that
25 guaranteed utility savings contract. The ordinance or resolution

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

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

11 "6-25-3. DEFINITIONS.--As used in the Statewide Economic
12 Development Finance Act:

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

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

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

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

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

.212229.1

1 F. "economic development goal" means:

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

4 (2) retention and expansion of existing business
5 enterprises;

6 (3) attraction of new business enterprises; or

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

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

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

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

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

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1 Economic Development Finance Act;

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

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

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

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

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

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

5 (1) industrial or manufacturing facilities;

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

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

10 (4) educational facilities, including schools;

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

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

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

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

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

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

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

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

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

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

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

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

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1 "6-25-7. PROJECT REVENUE BONDS.--

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

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

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

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

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

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

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

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

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

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

17 "6-25-14. TAX IMPACT FUND.--

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

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

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

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

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

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

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1 laws and regulations governing land use;

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

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

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

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

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

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

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

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

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

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

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

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

20 "7-1-2. APPLICABILITY.--The Tax Administration Act applies
21 to and governs:

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

24 (1) Income Tax Act;

25 (2) Withholding Tax Act;

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- 1 (3) Venture Capital Investment Act;
- 2 (4) [~~Gross Receipts and Compensating~~] Sales and
3 Use Tax Act, [~~and any state gross receipts tax~~] Interstate
4 Telecommunications Sales Tax Act and Leased Vehicle Sales Tax Act;
- 5 (5) Liquor Excise Tax Act;
- 6 (6) Local Liquor Excise Tax Act;
- 7 (7) any municipal local option [~~gross receipts~~]
8 sales tax;
- 9 (8) any county local option [~~gross receipts~~]
10 sales tax;
- 11 (9) Special Fuels Supplier Tax Act;
- 12 (10) Gasoline Tax Act;
- 13 (11) petroleum products loading fee, which fee
14 shall be considered a tax for the purpose of the Tax
15 Administration Act;
- 16 (12) Alternative Fuel Tax Act;
- 17 (13) Cigarette Tax Act;
- 18 (14) Estate Tax Act;
- 19 (15) Railroad Car Company Tax Act;
- 20 (16) Investment Credit Act, rural job tax credit,
21 Laboratory Partnership with Small Business Tax Credit Act,
22 Technology Jobs and Research and Development Tax Credit Act, Film
23 Production Tax Credit Act, Affordable Housing Tax Credit Act and
24 high-wage jobs tax credit;
- 25 (17) Corporate Income and Franchise Tax Act;

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

3 (19) Multistate Tax Compact;

4 (20) Tobacco Products Tax Act; and

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

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

12 (1) Resources Excise Tax Act;

13 (2) Severance Tax Act;

14 (3) any severance surtax;

15 (4) Oil and Gas Severance Tax Act;

16 (5) Oil and Gas Conservation Tax Act;

17 (6) Oil and Gas Emergency School Tax Act;

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

19 (8) Natural Gas Processors Tax Act;

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

22 (10) Copper Production Ad Valorem Tax Act;

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

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1 Act;

2 (12) Enhanced Oil Recovery Act;

3 (13) Natural Gas and Crude Oil Production

4 Incentive Act; and

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

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

10 (1) Weight Distance Tax Act;

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

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

15 (4) 911 emergency surcharge and the network and
16 database surcharge, which surcharges shall be considered taxes for
17 purposes of the Tax Administration Act;

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

21 (6) the water conservation fee imposed by Section
22 74-1-13 NMSA 1978, which fee shall be considered a tax for the
23 purposes of the Tax Administration Act; and

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

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

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

8 "7-1-3. DEFINITIONS.--Unless the context clearly indicates
9 a different meaning, the definitions of words and phrases as they
10 are stated in this section are to be used, and whenever in the Tax
11 Administration Act these words and phrases appear, the singular
12 includes the plural and the plural includes the singular:

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

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

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

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

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

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

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

11 (1) the chief hearing officer;

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

14 (3) a contractor of the administrative hearings
15 office;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (1) furnishes typing, reproducing or other

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1 mechanical assistance;

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

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

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

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

21 "7-1-6.2. DISTRIBUTION--SMALL CITIES ASSISTANCE FUND.--A
22 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made
23 to the small cities assistance fund in an amount equal to fifteen
24 percent of the net receipts attributable to the [~~compensating~~]
25 state use tax."

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

3 "7-1-6.4. DISTRIBUTION--MUNICIPALITY FROM [~~GROSS RECEIPTS~~]
4 STATE SALES TAX.--

5 A. Except as provided in Subsection B of this section,
6 a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made
7 to each municipality in an amount, subject to any increase or
8 decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the
9 product of the quotient of one and two hundred twenty-five
10 thousandths percent divided by the tax rate imposed by Section
11 7-9-4 NMSA 1978 multiplied by the net receipts for the month
12 attributable to the [~~gross receipts~~] state sales tax from business
13 locations:

- 14 (1) within that municipality;
- 15 (2) on land owned by the state, commonly known as
16 the "state fairgrounds", within the exterior boundaries of that
17 municipality;
- 18 (3) outside the boundaries of any municipality on
19 land owned by that municipality; and
- 20 (4) on an Indian reservation or pueblo grant in
21 an area that is contiguous to that municipality and in which the
22 municipality performs services pursuant to a contract between the
23 municipality and the Indian tribe or Indian pueblo if:

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

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

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

5 B. If the reduction made by Laws 1991, Chapter 9,
6 Section 9 to the distribution under this section impairs the
7 ability of a municipality to meet its principal or interest
8 payment obligations for revenue bonds outstanding prior to July 1,
9 1991 that are secured by the pledge of all or part of the
10 municipality's revenue from the distribution made under this
11 section, then the amount distributed pursuant to this section to
12 that municipality shall be increased by an amount sufficient to
13 meet any required payment, provided that the distribution amount
14 does not exceed the amount that would have been due that
15 municipality under this section as it was in effect on June 30,
16 1992.

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

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

25 "7-1-6.5. DISTRIBUTION--SMALL COUNTIES ASSISTANCE FUND.--A

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

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

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

8 A. A distribution pursuant to Section 7-1-6.1 NMSA
9 1978 shall be made to the state aviation fund in an amount equal
10 to four and seventy-nine hundredths percent of the taxable gross
11 receipts attributable to the sale of fuel specially prepared and
12 sold for use in turboprop or jet-type engines as determined by the
13 department.

14 B. A distribution pursuant to Section 7-1-6.1 NMSA
15 1978 shall be made to the state aviation fund in an amount equal
16 to twenty-six hundredths percent of gasoline taxes, exclusive of
17 penalties and interest, collected pursuant to the Gasoline Tax
18 Act.

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

24 D. A distribution pursuant to Section 7-1-6.1 NMSA
25 1978 shall be made to the state aviation fund from the net

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

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

5 (2) one hundred sixty-seven thousand dollars
6 (\$167,000) monthly from July 1, 2008 through June 30, 2009; and

7 (3) two hundred fifty thousand dollars
8 (\$250,000) monthly after July 1, 2009."

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

11 "7-1-6.12. TRANSFER--REVENUES FROM MUNICIPAL LOCAL OPTION
12 [~~GROSS RECEIPTS~~] SALES TAXES.--

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

25 B. A transfer pursuant to this section may be adjusted

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

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

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

9 A. Except as provided in Subsection B of this section,
10 a transfer pursuant to Section 7-1-6.1 NMSA 1978 shall be made to
11 each county for which the department is collecting a local option
12 [~~gross receipts~~] sales tax imposed by that county in an amount,
13 subject to any increase or decrease made pursuant to Section
14 7-1-6.15 NMSA 1978, equal to the net receipts attributable to the
15 local option [~~gross receipts~~] sales tax imposed by that county,
16 less any deduction for administrative cost determined and made by
17 the department pursuant to the provisions of the act authorizing
18 imposition by that county of the local option [~~gross receipts~~]
19 state sales tax and any additional administrative fee withheld
20 pursuant to Subsection C of Section 7-1-6.41 NMSA 1978.

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

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

5 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO
6 MUNICIPALITIES OR COUNTIES.--

7 A. The provisions of this section apply to:

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

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

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

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

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

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

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

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

25 (9) any distribution to a municipality of

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1 [compensating] state use taxes pursuant to Section 7-1-6.55 NMSA
2 1978.

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

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

25 (2) if the revised total for prior periods

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 F. No later than ninety days from the date notice
20 pursuant to Subsection D of this section is given, the department
21 shall provide the municipality or county adequate opportunity to
22 review an application for a claim for refund that gave rise to the
23 recoverable amount, exclusive of any amended returns that may be
24 attached to the application, pursuant to Section 7-1-8.9 NMSA
25 1978.

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

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

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1 treasurer or other person designated by the secretary of finance
2 and administration or to the New Mexico finance authority pursuant
3 to written agreement to pay the debt service to avoid default on
4 qualified local revenue bonds or meet other local revenue bond,
5 loan or other debt obligations of the municipality or county to
6 the New Mexico finance authority. A decrease to or redirection of
7 a distribution or transfer pursuant to this subsection that arose:

8 (1) prior to an adjustment of a distribution or
9 transfer of net receipts creating a recoverable amount owed to the
10 department takes precedence over any collection of any recoverable
11 amount pursuant to Paragraph (2) of Subsection B of this section,
12 which may be made only from the net amount of the distribution or
13 transfer remaining after application of the decrease or
14 redirection pursuant to this subsection; and

15 (2) after an adjustment of a distribution or
16 transfer of net receipts creating a recoverable amount owed to the
17 department shall be subordinate to any collection of any
18 recoverable amount pursuant to Paragraph (2) of Subsection B of
19 this section.

20 I. Upon the direction of the secretary of finance and
21 administration pursuant to Section 9-6-5.2 NMSA 1978, the
22 secretary shall temporarily withhold the balance of a distribution
23 to a municipality or county, net of any decrease or redirected
24 amount pursuant to Subsection H of this section and any
25 recoverable amount pursuant to Paragraph (2) of Subsection B of

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1 this section, that has failed to submit an audit report required
2 by the Audit Act or a financial report required by Subsection F of
3 Section 6-6-2 NMSA 1978. The amount to be withheld, the source of
4 the withheld distribution and the number of months that the
5 distribution is to be withheld shall be as directed by the
6 secretary of finance and administration. A distribution withheld
7 pursuant to this subsection shall remain in the tax administration
8 suspense fund until distributed to the municipality or county and
9 shall not be distributed to the general fund. An amount withheld
10 pursuant to this subsection shall be distributed to the
11 municipality or county upon direction of the secretary of finance
12 and administration.

13 J. As used in this section:

14 (1) "amounts relating to the current month" means
15 any amounts included in the net receipts of the current month that
16 represent payment of tax due for the current month, correction of
17 amounts processed in the current month that relate to the current
18 month or that otherwise relate to obligations due for the current
19 month;

20 (2) "amounts relating to prior periods" means any
21 amounts processed during the current month that adjust amounts
22 processed in a period or periods prior to the current month
23 regardless of whether the adjustment is a correction of a
24 department error or due to the filing of amended returns, payment
25 of department-issued assessments, filing or approval of claims for

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1 refund, audit adjustments or other cause;

2 (3) "average distribution or transfer amount"
3 means the following amounts; provided that a distribution or
4 transfer that is negative shall not be used in calculating the
5 amounts:

6 (a) the annual average of the total amount
7 distributed or transferred to a municipality or county in each of
8 the three twelve-month periods preceding the current month;

9 (b) if a distribution or transfer to a
10 municipality or county has been made for less than three years,
11 the total amount distributed or transferred in the year preceding
12 the current month; or

13 (c) if a municipality or county has not
14 received distributions or transfers of net receipts for twelve or
15 more months, the monthly average of net receipts distributed or
16 transferred to the municipality or county preceding the current
17 month multiplied by twelve;

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

20 (5) "repayment agreement" means an agreement
21 between the department and a municipality or county under which
22 the municipality or county agrees to allow the department to
23 recover an amount determined pursuant to Paragraph (2) of
24 Subsection B of this section by decreasing distributions or
25 transfers to the municipality or county for one or more months

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1 beginning with the distribution or transfer to be made with
2 respect to a designated month. No interest shall be charged."

3 SECTION 62. Section 7-1-6.16 NMSA 1978 (being Laws 1983,
4 Chapter 213, Section 27, as amended) is amended to read:

5 "7-1-6.16. COUNTY EQUALIZATION DISTRIBUTION.--

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

11 (1) the product of a fraction, the numerator of
12 which is the county's population and the denominator of which is
13 the state's population, multiplied by the annual sum for the
14 county; less

15 (2) the net receipts received by the department
16 during the report year, including any increase or decrease made
17 pursuant to Section 7-1-6.15 NMSA 1978, attributable to the county
18 [~~gross receipts~~] sales tax at a rate of one-eighth percent;
19 provided that for any month in the report year, if no county
20 [~~gross receipts~~] sales tax was in effect in the county in the
21 previous month, the net receipts, for the purposes of this
22 section, for that county for that month shall be zero.

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

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1 C. As used in this section:

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

6 (2) "monthly amount" means an amount equal to the
7 product of:

8 (a) the net receipts received by the
9 department in the month attributable to the state [~~gross receipts~~]
10 sales tax plus five percent of the total amount of deductions
11 claimed pursuant to Section 7-9-92 NMSA 1978 for the month plus
12 five percent of the total amount of deductions claimed pursuant to
13 Section 7-9-93 NMSA 1978 for the month; and

14 (b) a fraction, the numerator of which is
15 one-eighth percent and the denominator of which is the tax rate
16 imposed by Section 7-9-4 NMSA 1978 in effect on the last day of
17 the previous month;

18 (3) "population" means the most recent official
19 census or estimate determined by the United States census bureau
20 for the unit or, if neither is available, the most current
21 estimated population for the unit provided in writing by the
22 bureau of business and economic research at the university of New
23 Mexico; and

24 (4) "report year" means the twelve-month period
25 ending on the July 31 immediately preceding the date upon which a

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1 distribution pursuant to this section is required to be made."

2 SECTION 63. Section 7-1-6.36 NMSA 1978 (being Laws 1992,
3 Chapter 50, Section 13 and also Laws 1992, Chapter 67, Section 13)
4 is amended to read:

5 "7-1-6.36. DISTRIBUTION--INTERSTATE TELECOMMUNICATIONS
6 [~~GROSS RECEIPTS~~] SALES TAX.--A distribution pursuant to Section
7 7-1-6.1 NMSA 1978 shall be made to each municipality in an amount,
8 subject to any increase or decrease made pursuant to Section
9 7-1-6.15 NMSA 1978, equal to the product of the quotient of one
10 and thirty-five hundredths percent divided by the tax rate imposed
11 by the Interstate Telecommunications [~~Gross Receipts~~] Sales Tax
12 Act times the net receipts for the month attributable to the
13 interstate telecommunications [~~gross receipts~~] sales tax from
14 business locations:

- 15 A. within that municipality;
- 16 B. on land owned by the state, commonly known as the
17 "state fairgrounds", within the exterior boundaries of that
18 municipality;
- 19 C. outside the boundaries of any municipality on land
20 owned by that municipality; and
- 21 D. on an Indian reservation or pueblo grant in an area
22 that is contiguous to that municipality and in which the
23 municipality performs services pursuant to a contract between the
24 municipality and the Indian tribe or Indian pueblo if:

25 (1) the contract describes an area in which the

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1 municipality is required to perform services and requires the
2 municipality to perform services that are substantially the same
3 as the services the municipality performs for itself; and

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

6 SECTION 64. Section 7-1-6.38 NMSA 1978 (being Laws 1994,
7 Chapter 145, Section 1, as amended) is amended to read:

8 "7-1-6.38. DISTRIBUTION--GOVERNMENTAL [~~GROSS RECEIPTS~~]
9 SALES TAX.--

10 A. A distribution pursuant to Section 7-1-6.1 NMSA
11 1978 shall be made to the public project revolving fund
12 administered by the New Mexico finance authority in an amount
13 equal to seventy-five percent of the net receipts attributable to
14 the governmental [~~gross receipts~~] sales tax.

15 B. A distribution pursuant to Section 7-1-6.1 NMSA
16 1978 shall be made to the energy, minerals and natural resources
17 department in an amount equal to twenty-four percent of the net
18 receipts attributable to the governmental [~~gross receipts~~] sales
19 tax. Forty-one and two-thirds percent of the distribution is
20 appropriated to the energy, minerals and natural resources
21 department to implement the provisions of the New Mexico Youth
22 Conservation Corps Act and fifty-eight and one-third percent of
23 the distribution is appropriated to the energy, minerals and
24 natural resources department for state park and recreation area
25 capital improvements, including the costs of planning,

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1 engineering, design, construction, renovation, repair, equipment
2 and furnishings.

3 C. A distribution pursuant to Section 7-1-6.1 NMSA
4 1978 shall be made to the [~~office of~~] cultural affairs department
5 in an amount equal to one percent of the net receipts attributable
6 to the governmental [~~gross receipts~~] sales tax for capital
7 improvements at state museums and monuments administered by the
8 [~~office of~~] cultural affairs department.

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

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1 **SECTION 65.** Section 7-1-6.42 NMSA 1978 (being Laws 2001,
2 Chapter 199, Section 12, as amended) is amended to read:

3 "7-1-6.42. DISTRIBUTION--STATE BUILDING BONDING FUND--
4 [~~GROSS RECEIPTS~~] STATE SALES TAX.--A distribution pursuant to
5 Section 7-1-6.1 NMSA 1978 shall be made to the state building
6 bonding fund in the amount of five hundred thirty thousand dollars
7 (\$530,000) from the net receipts attributable to the [~~gross~~
8 ~~receipts~~] state sales tax [~~imposed by the Gross Receipts and~~
9 ~~Compensating Tax Act~~]. The distribution shall be made:

10 A. after the required distribution pursuant to Section
11 7-1-6.4 NMSA 1978;

12 B. contemporaneously with other distributions of net
13 receipts attributable to the [~~gross receipts~~] state sales tax for
14 payment of debt service on outstanding bonds or to a fund
15 dedicated for that purpose; and

16 C. prior to any other distribution of net receipts
17 attributable to the [~~gross receipts~~] state sales tax."

18 **SECTION 66.** That version of Section 7-1-6.42 NMSA 1978
19 (being Laws 2001, Chapter 199, Section 12, as amended by Laws
20 2009, Chapter 114, Section 3) that has a contingent effective date
21 is amended to read:

22 "7-1-6.42. DISTRIBUTION--STATE BUILDING BONDING FUND--
23 [~~GROSS RECEIPTS~~] STATE SALES TAX.--A distribution pursuant to
24 Section 7-1-6.1 NMSA 1978 shall be made to the state building
25 bonding fund in the amount of six hundred eighty thousand dollars

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1 (\$680,000) from the net receipts attributable to the [~~gross~~
2 ~~receipts~~] state sales tax [~~imposed by the Gross Receipts and~~
3 ~~Compensating Tax Act~~]. The distribution shall be made:

4 A. after the required distribution pursuant to Section
5 7-1-6.4 NMSA 1978;

6 B. contemporaneously with other distributions of net
7 receipts attributable to the [~~gross receipts~~] state sales tax for
8 payment of debt service on outstanding bonds or to a fund
9 dedicated for that purpose; and

10 C. prior to any other distribution of net receipts
11 attributable to the [~~gross receipts~~] state sales tax."

12 SECTION 67. Section 7-1-6.46 NMSA 1978 (being Laws 2004,
13 Chapter 116, Section 1, as amended) is amended to read:

14 "7-1-6.46. DISTRIBUTION TO MUNICIPALITIES--OFFSET FOR FOOD
15 DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

16 A. For a municipality that has not elected to impose a
17 municipal hold harmless [~~gross receipts~~] sales tax through an
18 ordinance and that has a population of less than ten thousand
19 according to the most recent federal decennial census, a
20 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made
21 to a municipality in an amount, subject to any increase or
22 decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the
23 sum of:

24 (1) the total deductions claimed pursuant to
25 Section 7-9-92 NMSA 1978 for the month by taxpayers from business

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1 locations attributable to the municipality multiplied by the sum
2 of the combined rate of all municipal local option [~~gross~~
3 ~~receipts~~] sales taxes in effect in the municipality for the month
4 plus one and two hundred twenty-five thousandths percent; and

5 (2) the total deductions claimed pursuant to
6 Section 7-9-93 NMSA 1978 for the month by taxpayers from business
7 locations attributable to the municipality multiplied by the sum
8 of the combined rate of all municipal local option [~~gross~~
9 ~~receipts~~] sales taxes in effect in the municipality for the month
10 plus one and two hundred twenty-five thousandths percent.

11 B. For a municipality not described in Subsection A of
12 this section, a distribution pursuant to Section 7-1-6.1 NMSA 1978
13 shall be made to the municipality in an amount, subject to any
14 increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978,
15 equal to the sum of:

16 (1) the total deductions claimed pursuant to
17 Section 7-9-92 NMSA 1978 for the month by taxpayers from business
18 locations attributable to the municipality multiplied by the sum
19 of the combined rate of all municipal local option [~~gross~~
20 ~~receipts~~] sales taxes in effect in the municipality on January 1,
21 2007 plus one and two hundred twenty-five thousandths percent in
22 the following percentages:

23 (a) prior to July 1, 2015, one hundred
24 percent;

25 (b) on or after July 1, 2015 and prior to

.212229.1

1 July 1, 2016, ninety-four percent;

2 (c) on or after July 1, 2016 and prior to
3 July 1, 2017, eighty-eight percent;

4 (d) on or after July 1, 2017 and prior to
5 July 1, 2018, eighty-two percent;

6 (e) on or after July 1, 2018 and prior to
7 July 1, 2019, seventy-six percent;

8 (f) on or after July 1, 2019 and prior to
9 July 1, 2020, seventy percent;

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

12 (h) on or after July 1, 2021 and prior to
13 July 1, 2022, fifty-six percent;

14 (i) on or after July 1, 2022 and prior to
15 July 1, 2023, forty-nine percent;

16 (j) on or after July 1, 2023 and prior to
17 July 1, 2024, forty-two percent;

18 (k) on or after July 1, 2024 and prior to
19 July 1, 2025, thirty-five percent;

20 (l) on or after July 1, 2025 and prior to
21 July 1, 2026, twenty-eight percent;

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

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

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

3 (2) the total deductions claimed pursuant to
4 Section 7-9-93 NMSA 1978 for the month by taxpayers from business
5 locations attributable to the municipality multiplied by the sum
6 of the combined rate of all municipal local option [~~gross~~
7 ~~receipts~~] sales taxes in effect in the municipality on January 1,
8 2007 plus one and two hundred twenty-five thousandths percent in
9 the following percentages:

10 (a) prior to July 1, 2015, one hundred
11 percent;

12 (b) on or after July 1, 2015 and prior to
13 July 1, 2016, ninety-four percent;

14 (c) on or after July 1, 2016 and prior to
15 July 1, 2017, eighty-eight percent;

16 (d) on or after July 1, 2017 and prior to
17 July 1, 2018, eighty-two percent;

18 (e) on or after July 1, 2018 and prior to
19 July 1, 2019, seventy-six percent;

20 (f) on or after July 1, 2019 and prior to
21 July 1, 2020, seventy percent;

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

24 (h) on or after July 1, 2021 and prior to
25 July 1, 2022, fifty-six percent;

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

3 (j) on or after July 1, 2023 and prior to
4 July 1, 2024, forty-two percent;

5 (k) on or after July 1, 2024 and prior to
6 July 1, 2025, thirty-five percent;

7 (l) on or after July 1, 2025 and prior to
8 July 1, 2026, twenty-eight percent;

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

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

13 (o) on or after July 1, 2028 and prior to
14 July 1, 2029, seven percent.

15 C. The distribution pursuant to Subsections A and B of
16 this section is in lieu of revenue that would have been received
17 by the municipality but for the deductions provided by Sections
18 7-9-92 and 7-9-93 NMSA 1978. The distribution shall be considered
19 [~~gross receipts~~] sales tax revenue and shall be used by the
20 municipality in the same manner as [~~gross receipts~~] sales tax
21 revenue, including payment of [~~gross receipts~~] sales tax revenue
22 bonds. A distribution pursuant to this section to a municipality
23 not described in Subsection A of this section [~~or to a~~
24 ~~municipality that has imposed a gross receipts tax through an~~
25 ~~ordinance that does not provide a deduction contained in the Gross~~

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1 ~~Receipts and Compensating Tax Act]~~ shall not be made on or after
2 July 1, 2029.

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

16 E. For the purposes of this section, "business
17 locations attributable to the municipality" means business
18 locations:

- 19 (1) within the municipality;
- 20 (2) on land owned by the state, commonly known as
21 the "state fairgrounds", within the exterior boundaries of the
22 municipality;
- 23 (3) outside the boundaries of the municipality on
24 land owned by the municipality; and
- 25 (4) on an Indian reservation or pueblo grant in

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1 an area that is contiguous to the municipality and in which the
2 municipality performs services pursuant to a contract between the
3 municipality and the Indian tribe or Indian pueblo if:

4 (a) the contract describes an area in which
5 the municipality is required to perform services and requires the
6 municipality to perform services that are substantially the same
7 as the services the municipality performs for itself; and

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

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

15 SECTION 68. Section 7-1-6.47 NMSA 1978 (being Laws 2004,
16 Chapter 116, Section 2, as amended) is amended to read:

17 "7-1-6.47. DISTRIBUTION TO COUNTIES--OFFSET FOR FOOD
18 DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

19 A. For a county that has not elected to impose a
20 county hold harmless [~~gross receipts~~] sales tax through an
21 ordinance and that has a population of less than forty-eight
22 thousand according to the most recent federal decennial census, a
23 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made
24 to a county in an amount, subject to any increase or decrease made
25 pursuant to Section 7-1-6.15 NMSA 1978, equal to the sum of:

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

7 (2) the total deductions claimed pursuant to
8 Section 7-9-92 NMSA 1978 for the month by taxpayers from business
9 locations in the county but not within a municipality multiplied
10 by the combined rate of all county local option [~~gross receipts~~]
11 sales taxes in effect for the month that are imposed in the county
12 area not within a municipality;

13 (3) the total deductions claimed pursuant to
14 Section 7-9-93 NMSA 1978 for the month by taxpayers from business
15 locations within a municipality in the county multiplied by the
16 combined rate of all county local option [~~gross receipts~~] sales
17 taxes in effect for the month that are imposed throughout the
18 county; and

19 (4) the total deductions claimed pursuant to
20 Section 7-9-93 NMSA 1978 for the month by taxpayers from business
21 locations in the county but not within a municipality multiplied
22 by the combined rate of all county local option [~~gross receipts~~]
23 sales taxes in effect for the month that are imposed in the county
24 area not within a municipality.

25 B. For a county not described in Subsection A of this

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1 section, a distribution pursuant to Section 7-1-6.1 NMSA 1978
2 shall be made to the county in an amount, subject to any increase
3 or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to
4 the sum of:

5 (1) the total deductions claimed pursuant to
6 Section 7-9-92 NMSA 1978 for the month by taxpayers from business
7 locations within a municipality in the county multiplied by the
8 combined rate of all county local option [~~gross receipts~~] sales
9 taxes in effect on January 1, 2007 that are imposed throughout the
10 county in the following percentages:

11 (a) prior to July 1, 2015, one hundred
12 percent;

13 (b) on or after July 1, 2015 and prior to
14 July 1, 2016, ninety-four percent;

15 (c) on or after July 1, 2016 and prior to
16 July 1, 2017, eighty-eight percent;

17 (d) on or after July 1, 2017 and prior to
18 July 1, 2018, eighty-two percent;

19 (e) on or after July 1, 2018 and prior to
20 July 1, 2019, seventy-six percent;

21 (f) on or after July 1, 2019 and prior to
22 July 1, 2020, seventy percent;

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

25 (h) on or after July 1, 2021 and prior to

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1 July 1, 2022, fifty-six percent;

2 (i) on or after July 1, 2022 and prior to
3 July 1, 2023, forty-nine percent;

4 (j) on or after July 1, 2023 and prior to
5 July 1, 2024, forty-two percent;

6 (k) on or after July 1, 2024 and prior to
7 July 1, 2025, thirty-five percent;

8 (l) on or after July 1, 2025 and prior to
9 July 1, 2026, twenty-eight percent;

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

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

14 (o) on or after July 1, 2028 and prior to
15 July 1, 2029, seven percent;

16 (2) the total deductions claimed pursuant to
17 Section 7-9-92 NMSA 1978 for the month by taxpayers from business
18 locations in the county but not within a municipality multiplied
19 by the combined rate of all county local option [~~gross receipts~~]
20 sales taxes in effect on January 1, 2007 that are imposed in the
21 county area not within a municipality in the following
22 percentages:

23 (a) prior to July 1, 2015, one hundred
24 percent;

25 (b) on or after July 1, 2015 and prior to

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1 July 1, 2016, ninety-four percent;

2 (c) on or after July 1, 2016 and prior to
3 July 1, 2017, eighty-eight percent;

4 (d) on or after July 1, 2017 and prior to
5 July 1, 2018, eighty-two percent;

6 (e) on or after July 1, 2018 and prior to
7 July 1, 2019, seventy-six percent;

8 (f) on or after July 1, 2019 and prior to
9 July 1, 2020, seventy percent;

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

12 (h) on or after July 1, 2021 and prior to
13 July 1, 2022, fifty-six percent;

14 (i) on or after July 1, 2022 and prior to
15 July 1, 2023, forty-nine percent;

16 (j) on or after July 1, 2023 and prior to
17 July 1, 2024, forty-two percent;

18 (k) on or after July 1, 2024 and prior to
19 July 1, 2025, thirty-five percent;

20 (l) on or after July 1, 2025 and prior to
21 July 1, 2026, twenty-eight percent;

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

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

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

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

9 (a) prior to July 1, 2015, one hundred
10 percent;

11 (b) on or after July 1, 2015 and prior to
12 July 1, 2016, ninety-four percent;

13 (c) on or after July 1, 2016 and prior to
14 July 1, 2017, eighty-eight percent;

15 (d) on or after July 1, 2017 and prior to
16 July 1, 2018, eighty-two percent;

17 (e) on or after July 1, 2018 and prior to
18 July 1, 2019, seventy-six percent;

19 (f) on or after July 1, 2019 and prior to
20 July 1, 2020, seventy percent;

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

23 (h) on or after July 1, 2021 and prior to
24 July 1, 2022, fifty-six percent;

25 (i) on or after July 1, 2022 and prior to

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1 July 1, 2023, forty-nine percent;

2 (j) on or after July 1, 2023 and prior to
3 July 1, 2024, forty-two percent;

4 (k) on or after July 1, 2024 and prior to
5 July 1, 2025, thirty-five percent;

6 (l) on or after July 1, 2025 and prior to
7 July 1, 2026, twenty-eight percent;

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

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

12 (o) on or after July 1, 2028 and prior to
13 July 1, 2029, seven percent; and

14 (4) the total deductions claimed pursuant to
15 Section 7-9-93 NMSA 1978 for the month by taxpayers from business
16 locations in the county but not within a municipality multiplied
17 by the combined rate of all county local option [~~gross receipts~~]
18 sales taxes in effect on January 1, 2007 that are imposed in the
19 county area not within a municipality in the following
20 percentages:

21 (a) prior to July 1, 2015, one hundred
22 percent;

23 (b) on or after July 1, 2015 and prior to
24 July 1, 2016, ninety-four percent;

25 (c) on or after July 1, 2016 and prior to

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1 July 1, 2017, eighty-eight percent;

2 (d) on or after July 1, 2017 and prior to
3 July 1, 2018, eighty-two percent;

4 (e) on or after July 1, 2018 and prior to
5 July 1, 2019, seventy-six percent;

6 (f) on or after July 1, 2019 and prior to
7 July 1, 2020, seventy percent;

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

10 (h) on or after July 1, 2021 and prior to
11 July 1, 2022, fifty-six percent;

12 (i) on or after July 1, 2022 and prior to
13 July 1, 2023, forty-nine percent;

14 (j) on or after July 1, 2023 and prior to
15 July 1, 2024, forty-two percent;

16 (k) on or after July 1, 2024 and prior to
17 July 1, 2025, thirty-five percent;

18 (l) on or after July 1, 2025 and prior to
19 July 1, 2026, twenty-eight percent;

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

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

24 (o) on or after July 1, 2028 and prior to
25 July 1, 2029, seven percent.

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

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

25 E. A distribution pursuant to this section may be

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

5 SECTION 69. Section 7-1-6.52 NMSA 1978 (being Laws 2005,
6 Chapter 104, Section 1) is amended to read:

7 "7-1-6.52. DISTRIBUTION ADJUSTMENT--TAX ADMINISTRATION
8 SUSPENSE FUND--CREDIT FOR CERTAIN SALES OF SERVICES FOR RESALE.--
9 Distributions from the tax administration suspense fund to the
10 general fund of revenue attributable to the [~~gross receipts~~] state
11 sales tax or to the governmental [~~gross receipts~~] sales tax shall
12 be adjusted for credits issued pursuant to the [~~Gross Receipts and~~
13 ~~Compensating~~] Sales and Use Tax Act for receipts from the sale of
14 services for resale."

15 SECTION 70. Section 7-1-6.53 NMSA 1978 (being Laws 2005,
16 Chapter 176, Section 11) is amended to read:

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

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1 distribution shall be made:

2 A. after the required distribution pursuant to Section
3 7-1-6.4 NMSA 1978;

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

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

10 SECTION 71. Section 7-1-6.54 NMSA 1978 (being Laws 2006,
11 Chapter 75, Section 29) is amended to read:

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

19 SECTION 72. Section 7-1-6.55 NMSA 1978 (being Laws 2007,
20 Chapter 331, Section 4) is amended to read:

21 "7-1-6.55. DISTRIBUTION TO MUNICIPALITY EQUIVALENT TO A
22 PORTION OF [~~COMPENSATING~~] STATE USE TAX.--

23 A. A distribution pursuant to Section 7-1-6.1 NMSA
24 1978 shall be made to each municipality in an amount calculated
25 pursuant to Subsection B of this section, subject to any increase

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1 or decrease made pursuant to Section 7-1-6.15 NMSA 1978; provided
2 that the distribution shall be phased in according to the
3 following schedule:

4 (1) from July 1, 2008 until June 30, 2009, the
5 distribution shall be equal to ten percent of the amount
6 calculated according to Subsection B of this section; and

7 (2) on or after July 1, 2009, the distribution
8 shall be equal to thirty percent of the amount calculated
9 according to Subsection B of this section.

10 B. The amount of the distribution provided for in this
11 section shall be calculated for each month in the six-month period
12 beginning on each July 1 and January 1 and shall be equal to the
13 reported taxable gross receipts for all business locations in the
14 municipality for the month multiplied by:

15 (1) the ratio of net ~~[compensating]~~ state use tax
16 receipts for the entire six-month period beginning the previous
17 November 1 or May 1, respectively, to the reported taxable gross
18 receipts for all business locations for the entire six-month
19 period beginning the previous November 1 or May 1, respectively;
20 and further multiplied by:

21 (2) the ratio of one and two hundred twenty-five
22 thousandths percent to the average tax rate imposed by Section
23 7-9-7 NMSA 1978 in effect for the six-month period beginning on
24 January 1 or July 1, respectively."

25 SECTION 73. Section 7-1-6.57 NMSA 1978 (being Laws 2007,
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1 Chapter 361, Section 1) is amended to read:

2 "7-1-6.57. DISTRIBUTION ADJUSTMENT--TAX ADMINISTRATION
3 SUSPENSE FUND--CREDIT FOR RECEIPTS OF HOSPITALS.--Distributions
4 from the tax administration suspense fund to the general fund of
5 net receipts attributable to the [~~gross receipts~~] state sales tax
6 shall be adjusted for the full cost of credits issued pursuant to
7 the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act for
8 receipts of hospitals licensed by the department of health."

9 SECTION 74. Section 7-1-6.60 NMSA 1978 (being Laws 2010,
10 Chapter 31, Section 2) is amended to read:

11 "7-1-6.60. DISTRIBUTION--COUNTY BUSINESS RETENTION [~~GROSS~~
12 ~~RECEIPTS~~] SALES TAX.--Beginning September 1, 2011, an annual
13 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made
14 to a county that has imposed and the electors have approved a
15 county business retention [~~gross receipts~~] sales tax. The
16 distribution shall be in an amount equal to the balance of the net
17 receipts attributable to that tax collected in the prior fiscal
18 year, exclusive of penalties and interest, after the state has
19 deducted an amount for deposit to the general fund equal to the
20 reduction in gaming tax revenue from the gaming operator licensees
21 that are racetracks located in that county resulting from county
22 gaming tax credits allowed in the immediately prior fiscal year
23 for gaming operator licensees located in that county. The total
24 receipts from any county transferred to the general fund in any
25 fiscal year shall not exceed seven hundred fifty thousand dollars

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1 (\$750,000) or the total amount of the decrease in gaming tax
2 revenue calculated for the county pursuant to this section,
3 whichever is less."

4 SECTION 75. Section 7-1-8.8 NMSA 1978 (being Laws 2009,
5 Chapter 243, Section 10, as amended) is amended to read:

6 "7-1-8.8. INFORMATION THAT MAY BE REVEALED TO OTHER STATE
7 AGENCIES.--An employee of the department may reveal to:

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

11 B. the attorney general, return information acquired
12 pursuant to the Cigarette Tax Act for purposes of Section 6-4-13
13 NMSA 1978 and the master settlement agreement defined in Section
14 6-4-12 NMSA 1978;

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

19 D. the secretary of human services or the secretary's
20 delegate under a written agreement with the department, the last
21 known address with date of all names certified to the department
22 as being absent parents of children receiving public financial
23 assistance, but only for the purpose of enforcing the support
24 liability of the absent parents by the child support enforcement
25 division or any successor organizational unit;

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

8 F. the state courts, the random jury lists produced by
9 the department of information technology under Subsection E of
10 this section;

11 G. the director of the New Mexico department of
12 agriculture or the director's authorized representative, upon
13 request of the director or representative, the names and addresses
14 of all gasoline or special fuel distributors, wholesalers and
15 retailers;

16 H. the public regulation commission, return
17 information with respect to the Corporate Income and Franchise Tax
18 Act required to enable the commission to carry out its duties;

19 I. the state racing commission, return information
20 with respect to the state, municipal and county [~~gross receipts~~]
21 sales taxes paid by racetracks;

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

25 K. the director of the workers' compensation

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1 administration or to the director's representatives authorized for
2 this purpose, return information to facilitate the identification
3 of taxpayers that are delinquent or noncompliant in payment of
4 fees required by Section 52-1-9.1 or 52-5-19 NMSA 1978;

5 L. the secretary of workforce solutions or the
6 secretary's delegate, return information for use in enforcement of
7 unemployment insurance collections pursuant to the terms of a
8 written reciprocal agreement entered into by the department with
9 the secretary of workforce solutions for exchange of information;

10 M. the New Mexico finance authority, information with
11 respect to the amount of municipal and county [~~gross receipts~~]
12 sales taxes collected by municipalities and counties pursuant to
13 any local option municipal or county [~~gross receipts~~] sales taxes
14 imposed, and information with respect to the amount of
15 governmental [~~gross receipts~~] sales taxes paid by every agency,
16 institution, instrumentality or political subdivision of the state
17 pursuant to Section 7-9-4.3 NMSA 1978; and

18 N. the secretary of human services or the secretary's
19 delegate; provided that a person who receives the confidential
20 return information on behalf of the human services department
21 shall not reveal the information and shall be subject to the
22 penalties in Section 7-1-76 NMSA 1978 if the person fails to
23 maintain the confidentiality required:

24 (1) that return information needed for reports
25 required to be made to the federal government concerning the use

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1 of federal funds for low-income working families; and

2 (2) the names and addresses of low-income
3 taxpayers for the limited purpose of outreach to those taxpayers;
4 provided that the human services department shall pay the
5 department for expenses incurred by the department to derive the
6 information requested by the human services department if the
7 information requested is not readily available in reports for
8 which the department's information systems are programmed."

9 SECTION 76. That version of Section 7-1-8.8 NMSA 1978
10 (being Laws 2009, Chapter 243, Section 10, as amended) that is to
11 become effective January 1, 2020 is amended to read:

12 "7-1-8.8. INFORMATION THAT MAY BE REVEALED TO OTHER STATE
13 AGENCIES.--An employee of the department may reveal to:

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

17 B. the attorney general, return information acquired
18 pursuant to the Cigarette Tax Act for purposes of Section 6-4-13
19 NMSA 1978 and the master settlement agreement defined in Section
20 6-4-12 NMSA 1978;

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

25 D. the secretary of human services or the secretary's

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1 delegate under a written agreement with the department, the last
2 known address with date of all names certified to the department
3 as being absent parents of children receiving public financial
4 assistance, but only for the purpose of enforcing the support
5 liability of the absent parents by the child support enforcement
6 division or any successor organizational unit;

7 E. the department of information technology, by
8 electronic media, a database updated quarterly that contains the
9 names, addresses, county of address and taxpayer identification
10 numbers of New Mexico personal income tax filers, but only for the
11 purpose of producing the random jury list for the selection of
12 petit or grand jurors for the state courts pursuant to Section
13 38-5-3 NMSA 1978;

14 F. the state courts, the random jury lists produced by
15 the department of information technology under Subsection E of
16 this section;

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

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

25 I. the state racing commission, return information

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1 with respect to the state, municipal and county [~~gross receipts~~]
2 sales taxes paid by racetracks;

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

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

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

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

24 N. the secretary of human services or the secretary's
25 delegate; provided that a person who receives the confidential

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1 return information on behalf of the human services department
2 shall not reveal the information and shall be subject to the
3 penalties in Section 7-1-76 NMSA 1978 if the person fails to
4 maintain the confidentiality required:

5 (1) that return information needed for reports
6 required to be made to the federal government concerning the use
7 of federal funds for low-income working families; and

8 (2) the names and addresses of low-income
9 taxpayers for the limited purpose of outreach to those taxpayers;
10 provided that the human services department shall pay the
11 department for expenses incurred by the department to derive the
12 information requested by the human services department if the
13 information requested is not readily available in reports for
14 which the department's information systems are programmed; and

15 O. the superintendent of insurance, return information
16 with respect to the premium tax and the health insurance premium
17 surtax."

18 SECTION 77. Section 7-1-8.9 NMSA 1978 (being Laws 2009,
19 Chapter 243, Section 11, as amended by Laws 2015, Chapter 89,
20 Section 2 and by Laws 2015, Chapter 100, Section 2) is amended to
21 read:

22 "7-1-8.9. INFORMATION THAT MAY BE REVEALED TO LOCAL
23 GOVERNMENTS AND THEIR AGENCIES.--

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

25 (1) the officials or employees of a municipality

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1 of this state authorized in a written request by the municipality
2 for a period specified in the request within the twelve months
3 preceding the request; provided that the municipality receiving
4 the information has entered into a written agreement with the
5 department that the information shall be used for tax purposes
6 only and specifying that the municipality is subject to the
7 confidentiality provisions of Section 7-1-8 NMSA 1978 and the
8 penalty provisions of Section 7-1-76 NMSA 1978:

9 (a) the names, taxpayer identification
10 numbers and addresses of registered [~~gross receipts~~] taxpayers
11 reporting gross receipts for that municipality under the [~~Gross~~
12 ~~Receipts and Compensating~~] Sales and Use Tax Act or a local option
13 [~~gross receipts~~] sales tax imposed by that municipality. The
14 department may also reveal the information described in this
15 subparagraph quarterly or upon such other periodic basis as the
16 secretary and the municipality may agree in writing;

17 (b) a range of taxable gross receipts of
18 registered gross receipts paid by taxpayers from business
19 locations attributable to that municipality under the [~~Gross~~
20 ~~Receipts and Compensating~~] Sales and Use Tax Act or a local option
21 [~~gross receipts~~] sales tax imposed by that municipality; provided
22 that authorization from the federal internal revenue service to
23 reveal such information has been received. The department may
24 also reveal the information described in this subparagraph
25 quarterly or upon such other periodic basis as the secretary and

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1 the municipality may agree in writing; and

2 (c) information indicating whether persons
3 shown on a list of businesses located within that municipality
4 furnished by the municipality have reported gross receipts to the
5 department but have not reported gross receipts for that
6 municipality under the [~~Gross Receipts and Compensating~~] Sales and
7 Use Tax Act or a local option [~~gross receipts~~] sales tax imposed
8 by that municipality;

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

18 (a) the names, taxpayer identification
19 numbers and addresses of registered [~~gross receipts~~] taxpayers
20 reporting gross receipts either for that county in the case of a
21 local option [~~gross receipts~~] sales tax imposed on a countywide
22 basis or only for the areas of that county outside of any
23 incorporated municipalities within that county in the case of a
24 county local option [~~gross receipts~~] sales tax imposed only in
25 areas of the county outside of any incorporated municipalities.

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

4 (b) a range of taxable gross receipts of
5 registered gross receipts paid by taxpayers from business
6 locations attributable either to that county in the case of a
7 local option [~~gross receipts~~] sales tax imposed on a countywide
8 basis or only to the areas of that county outside of any
9 incorporated municipalities within that county in the case of a
10 county local option [~~gross receipts~~] sales tax imposed only in
11 areas of the county outside of any incorporated municipalities;
12 provided that authorization from the federal internal revenue
13 service to reveal such information has been received. The
14 department may also reveal the information described in this
15 subparagraph quarterly or upon such other periodic basis as the
16 secretary and the county may agree in writing;

17 (c) in the case of a local option [~~gross~~
18 ~~receipts~~] sales tax imposed by a county on a countywide basis,
19 information indicating whether persons shown on a list of
20 businesses located within the county furnished by the county have
21 reported gross receipts to the department but have not reported
22 gross receipts for that county under the [~~Gross Receipts and~~
23 ~~Compensating~~] Sales and Use Tax Act or a local option [~~gross~~
24 ~~receipts~~] sales tax imposed by that county on a countywide basis;
25 and

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1 (d) in the case of a local option [~~gross~~
2 ~~receipts~~] sales tax imposed by a county only on persons engaging
3 in business in that area of the county outside of incorporated
4 municipalities, information indicating whether persons on a list
5 of businesses located in that county outside of the incorporated
6 municipalities but within that county furnished by the county have
7 reported gross receipts to the department but have not reported
8 gross receipts for that county outside of the incorporated
9 municipalities within that county under the [~~Gross Receipts and~~
10 ~~Compensating~~] Sales and Use Tax Act or a local option [~~gross~~
11 ~~receipts~~] sales tax imposed by the county only on persons engaging
12 in business in that county outside of the incorporated
13 municipalities; and

14 (3) officials or employees of a municipality or
15 county of this state, authorized in a written request of the
16 municipality or county, for purposes of inspection, the records of
17 the department pertaining to an increase or decrease to a
18 distribution or transfer made pursuant to Section 7-1-6.15 NMSA
19 1978 for the purpose of reviewing the basis for the increase or
20 decrease; provided that the municipality or county receiving the
21 information has entered into a written agreement with the
22 department that the information shall be used for tax purposes
23 only and specifying that the municipality or county is subject to
24 the confidentiality provisions of Section 7-1-8 NMSA 1978 and the
25 penalty provisions of Section 7-1-76 NMSA 1978. The authorized

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1 officials or employees may only reveal the information provided in
2 this paragraph to another authorized official or employee, to an
3 employee of the department, or a district court, an appellate
4 court or a federal court in a proceeding relating to a disputed
5 distribution and in which both the state and the municipality or
6 county are parties.

7 B. The department may require that a municipal or
8 county official or employee satisfactorily complete appropriate
9 training on protecting confidential information prior to receiving
10 the information pursuant to Subsection A of this section."

11 SECTION 78. Section 7-1-8.11 NMSA 1978 (being Laws 2017,
12 Chapter 63, Section 20) is amended to read:

13 "7-1-8.11. INFORMATION THAT MAY BE REVEALED TO A WATER AND
14 SANITATION DISTRICT.--

15 A. An employee of the department may reveal to the
16 officials and employees of a water and sanitation district of this
17 state that has in effect a water and sanitation [~~gross receipts~~
18 sales tax imposed by the water and sanitation district upon its
19 request for a period specified by that water and sanitation
20 district within the twelve months preceding the request for the
21 information by those officials and employees:

22 (1) the names, taxpayer identification numbers
23 and addresses of registered gross receipts taxpayers reporting
24 gross receipts for that water and sanitation district; the
25 department may also release the information described in this

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1 paragraph quarterly or upon any other periodic basis to which the
2 secretary and the district agree; and

3 (2) information indicating whether the persons
4 shown on a list of businesses within the water and sanitation
5 district have reported gross receipts to the department but have
6 not reported gross receipts for that water and sanitation
7 district.

8 B. The officials and employees of water and sanitation
9 districts receiving information as provided in this section shall
10 be subject to the confidentiality provisions of Section 7-1-8 NMSA
11 1978 and the penalty provisions of Section 7-1-76 NMSA 1978."

12 SECTION 79. Section 7-1-10 NMSA 1978 (being Laws 1965,
13 Chapter 248, Section 15, as amended) is amended to read:

14 "7-1-10. RECORDS REQUIRED BY STATUTE--TAXPAYER RECORDS--
15 ACCOUNTING METHODS--REPORTING METHODS--INFORMATION RETURNS.--

16 A. Every person required by the provisions of any
17 statute administered by the department to keep records and
18 documents and every taxpayer shall maintain books of account or
19 other records in a manner that will permit the accurate
20 computation of state taxes or provide information required by the
21 statute under which the person is required to keep records.

22 B. Methods of accounting shall be consistent for the
23 same business. A taxpayer engaged in more than one business may
24 use a different method of accounting for each business.

25 C. Prior to changing the method of accounting in

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1 keeping books and records for tax purposes, a taxpayer shall first
2 secure the consent of the secretary or the secretary's delegate.
3 If consent is not secured, the department upon audit may require
4 the taxpayer to compute the amount of tax due on the basis of the
5 accounting method earlier used.

6 D. Prior to changing the method of reporting taxes,
7 other than for changes required by law, a taxpayer shall first
8 secure the consent of the secretary or the secretary's delegate.
9 Consent shall be granted or withheld pursuant to the provisions of
10 Section 7-4-19 NMSA 1978. If consent is not secured, the
11 secretary or the secretary's delegate upon audit may require the
12 taxpayer to compute the amount of tax due on the basis of the
13 reporting method earlier used.

14 E. Upon the written application of a taxpayer and at
15 the sole discretion of the secretary or the secretary's delegate,
16 the secretary or the secretary's delegate may enter into an
17 agreement with a taxpayer allowing the taxpayer to report values,
18 gross receipts, deductions or the value of property on an
19 estimated basis for [~~gross receipts and compensating tax~~] state
20 sales and use taxes, oil and gas severance tax, oil and gas
21 conservation tax, oil and gas emergency school tax and oil and gas
22 ad valorem production tax purposes for a limited period of time
23 not to exceed four years. As used in this section, "estimated
24 basis" means a methodology that is reasonably expected to
25 approximate the tax that will be due over the period of the

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1 agreement using summary rather than detail data or alternate
2 valuation applications or methods, provided that:

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

6 (2) the agreement must:

7 (a) specify the receipts, deductions or
8 values to be reported on an estimated basis and the methodology to
9 be followed by the taxpayer in making the estimates;

10 (b) state the term of the agreement and the
11 procedures for terminating the agreement prior to its expiration;

12 (c) be signed by the taxpayer or the
13 taxpayer's representative and the secretary or the secretary's
14 delegate; and

15 (d) contain a declaration by the taxpayer
16 or the taxpayer's representative that all statements of fact made
17 by the taxpayer or the taxpayer's representative in the taxpayer's
18 application and the agreement are true and correct as to every
19 material matter.

20 F. The secretary may, by regulation, require any
21 person doing business in the state to submit to the department
22 information reports that are considered reasonable and necessary
23 for the administration of any provision of law to which the Tax
24 Administration Act applies."

25 **SECTION 80.** Section 7-1-13.1 NMSA 1978 (being Laws 1988,

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1 Chapter 99, Section 3, as amended) is amended to read:

2 "7-1-13.1. METHOD OF PAYMENT OF CERTAIN TAXES DUE.--

3 A. Payment of the taxes, including any applicable
4 penalties and interest, described in Paragraph (1), (2), (3) or
5 (4) of this subsection shall be made on or before the date due in
6 accordance with Subsection B of this section if the taxpayer's
7 average tax payment for the group of taxes during the preceding
8 calendar year equaled or exceeded twenty-five thousand dollars
9 (\$25,000):

10 (1) Group 1: all taxes due under the Withholding
11 Tax Act, the [~~Gross Receipts and Compensating~~] Sales and Use Tax
12 Act, local option [~~gross receipts~~] sales tax acts, the Interstate
13 Telecommunications [~~Gross Receipts~~] Sales Tax Act and the Leased
14 Vehicle [~~Gross Receipts~~] Sales Tax Act;

15 (2) Group 2: all taxes due under the Oil and Gas
16 Severance Tax Act, the Oil and Gas Conservation Tax Act, the Oil
17 and Gas Emergency School Tax Act and the Oil and Gas Ad Valorem
18 Production Tax Act;

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

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

24 For taxpayers who have more than one identification number
25 issued by the department, the average tax payment shall be

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1 computed by combining the amounts paid under the several
2 identification numbers.

3 B. Taxpayers who are required to make payment in
4 accordance with the provisions of this section shall make payment
5 by one or more of the following means on or before the due date so
6 that funds are immediately available to the state on or before the
7 due date:

8 (1) electronic payment; provided that a result of
9 the payment is that funds are immediately available to the state
10 of New Mexico on or before the due date;

11 (2) currency of the United States;

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

16 (4) check drawn on and payable at any domestic
17 non-New Mexico financial institution provided that the check is
18 received by the department at the time and place required by the
19 department at least two banking days prior to the due date.

20 C. If the taxes required to be paid under this section
21 are not paid in accordance with Subsection B of this section, the
22 payment is not timely and is subject to the provisions of Sections
23 7-1-67 and 7-1-69 NMSA 1978.

24 D. For the purposes of this section, "average tax
25 payment" means the total amount of taxes paid with respect to a

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1 group of taxes listed under Subsection A of this section during a
2 calendar year divided by the number of months in that calendar
3 year containing a due date on which the taxpayer was required to
4 pay one or more taxes in the group."

5 SECTION 81. Section 7-1-15 NMSA 1978 (being Laws 1969,
6 Chapter 31, Section 1, as amended) is amended to read:

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

17 SECTION 82. Section 7-1-15.2 NMSA 1978 (being Laws 1998,
18 Chapter 105, Section 1) is amended to read:

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

23 SECTION 83. Section 7-1-21.1 NMSA 1978 (being Laws 2013,
24 Chapter 87, Section 1) is amended to read:

25 "7-1-21.1. SPECIAL AGREEMENTS--ALTERNATIVE GROSS RECEIPTS

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1 TAXPAYER.--

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

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

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

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

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

24 (3) a manufacturer's agreement to pay [~~gross~~
25 ~~receipts~~] state sales tax or governmental [~~gross receipts~~] sales

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1 tax on behalf of a utility company, which agreement:

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

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

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

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

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1 month that occurs at least one month following the date on which
2 the agreement is revoked.

3 D. A person approved by the secretary to pay the
4 [~~gross receipts~~] state sales tax or governmental [~~gross receipts~~]
5 sales tax pursuant to Subsection A of this section shall be deemed
6 to be the taxpayer with respect to that tax pursuant to the Tax
7 Administration Act with respect to all rights and responsibilities
8 related to that tax, except that:

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

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

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

19 **SECTION 84.** Section 7-1-55 NMSA 1978 (being Laws 1975,
20 Chapter 251, Section 3, as amended) is amended to read:

21 "7-1-55. CONTRACTOR'S BOND FOR GROSS RECEIPTS--TAX--
22 PENALTY.--

23 A. A person engaged in the construction business who
24 does not have a principal place of business in New Mexico and who
25 enters into a prime construction contract to be performed in this

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1 state shall, at the time such contract is entered into, furnish
2 the secretary or the secretary's delegate with a surety bond, or
3 other acceptable security, in a sum equivalent to the gross
4 receipts to be paid under the contract multiplied by the sum of
5 the applicable rate of the [~~gross receipts~~] state sales tax
6 imposed by Section 7-9-4 NMSA 1978 plus the applicable rate or
7 rates of tax imposed pursuant to local option [~~gross receipts~~]
8 sales taxes to secure payment of the tax imposed on the gross
9 receipts from the contract and shall obtain a certificate from the
10 secretary or the secretary's delegate that the requirements of
11 this subsection have been met.

12 B. If the total sum to be paid under the contract is
13 changed by ten percent or more subsequent to the date the surety
14 bond or other acceptable security is furnished to the secretary or
15 the secretary's delegate, such person shall increase or decrease,
16 as the case may be, the amount of the bond or security within
17 fourteen days after the change.

18 C. If a person fails to comply with Subsection A or B
19 of this section, the secretary or the secretary's delegate:

20 (1) may demand of the person by certified mail or
21 in person that the person comply. Upon the failure of the person
22 to comply within ten days of the date of the mailing of such
23 demand, the secretary may institute a proceeding to enjoin the
24 person from doing business as provided in Section 7-1-53 NMSA
25 1978; or

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

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

13 E. As used in this section, "construction" shall have
14 the meaning set forth in Section 7-9-3.4 NMSA 1978 and "engaging
15 in business" shall have the meaning set forth in Section 7-9-3.3
16 NMSA 1978.

17 F. A municipality or other political subdivision of
18 the state or any agency of the state shall not issue a building or
19 other construction permit to any person subject to the
20 requirements of Subsection A of this section without first having
21 been furnished by the construction contractor with the certificate
22 from the secretary or the secretary's delegate specified in
23 Subsection A of this section. Any person who issues any such
24 permit before receiving the certificate shall be deemed guilty of
25 a misdemeanor and, upon conviction, be fined not less than fifty

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1 dollars (\$50.00) nor more than one hundred dollars (\$100) for each
2 offense."

3 SECTION 85. Section 7-1-69.2 NMSA 1978 (being Laws 2016
4 (2nd S.S.), Chapter 3, Section 3) is amended to read:

5 "7-1-69.2. CIVIL PENALTY FOR FAILURE TO CORRECTLY FILE
6 CERTAIN DEDUCTIONS.--In the case of a taxpayer that deducts gross
7 receipts pursuant to Section 7-9-92 or 7-9-93 NMSA 1978 instead of
8 deducting or exempting gross receipts pursuant to another
9 applicable provision of the [~~Gross Receipts and Compensating~~
10 Sales and Use Tax Act as required by those sections, there shall
11 be assessed a penalty on the taxpayer in an amount equal to twenty
12 percent of the value of the hold harmless distribution resulting
13 from the incorrect deduction."

14 SECTION 86. Section 7-1-83 NMSA 1978 (being Laws 2016,
15 Chapter 59, Section 2) is amended to read:

16 "7-1-83. BUSINESS AND EMPLOYEE STATUS DURING DISASTER
17 RESPONSE PERIOD.--

18 A. An out-of-state business that conducts operations
19 within the state for purposes of performing disaster- or
20 emergency-related work in response to a declared state disaster or
21 emergency during the disaster response period shall not be
22 considered to have established a level of presence that would
23 require that business to register, file or remit state or local
24 taxes or fees, including [~~gross receipts~~] sales taxes or property
25 tax on equipment brought into the state temporarily for use during

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1 the disaster response period and subsequently removed from the
2 state. For purposes of any state or local tax on or measured by,
3 in whole or in part, net or gross income or receipts, all activity
4 of the out-of-state business that is conducted in this state
5 pursuant to this section shall be disregarded with respect to any
6 filing requirements for such tax, including the filing required
7 for a unitary or combined group of which the out-of-state business
8 may be a part. For the purpose of apportioning income, revenue or
9 receipts, the performance by an out-of-state business of any work
10 in accordance with this section shall not be sourced to or
11 otherwise impact or increase the amount of income, revenue or
12 receipts apportioned to this state.

13 B. An out-of-state employee shall not be considered to
14 have established residency or a presence in the state that would
15 require that person or that person's employer to file and pay
16 income taxes or to be subjected to tax withholdings or to file and
17 pay any other state or local tax or fee during the disaster
18 response period. This includes any related state or local
19 employer withholding and remittance obligations but does not
20 include any transaction taxes or fees pursuant to Subsection C of
21 this section.

22 C. Out-of-state businesses and out-of-state employees
23 shall be required to pay transaction taxes and fees, including
24 fuel taxes or [~~gross receipts~~] sales taxes on materials or
25 services consumed or used in the state subject to [~~gross receipts~~]

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1 state sales tax, hotel taxes, car rental taxes or fees that the
2 out-of-state affiliated business or out-of-state employee
3 purchases for use or consumption in the state during the disaster
4 response period, unless such taxes are otherwise exempted during a
5 disaster response period.

6 D. An out-of-state business or out-of-state employee
7 that remains in the state after the disaster response period will
8 become subject to the state's normal standards for establishing
9 residency or presence or doing business in the state and will
10 therefore become responsible for any business or employee tax
11 requirements that ensue.

12 E. As used in this section:

13 (1) "critical infrastructure" means property,
14 equipment and related support facilities that service multiple
15 customers or residents, including real and personal property such
16 as buildings, offices, lines, poles, pipes, structures and
17 equipment that is owned or used by:

18 (a) communications networks;

19 (b) electric generation, transmission and
20 distribution systems;

21 (c) natural gas and natural gas liquids
22 gathering, processing, storage, transmission and distribution
23 systems;

24 (d) crude oil and refined product
25 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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1 no presence in the state and that conducts no business in the
2 state and whose services are requested by a registered business or
3 by a state or local government for purposes of performing
4 disaster- or emergency-related work in the state. "Out-of-state
5 business" includes a business entity that is affiliated with a
6 registered business in the state solely through common ownership
7 and that has no registrations or tax filings or nexus in the state
8 other than disaster- or emergency-related work during the tax year
9 immediately preceding the declared state disaster or emergency;

10 (6) "out-of-state employee" means an employee who
11 does not work in the state, except for
12 disaster- or emergency-related work during the disaster response
13 period; and

14 (7) "registered business in the state" means a
15 business entity that is currently registered to do business in the
16 state prior to the declared state disaster or emergency."

17 **SECTION 87.** Section 7-2-18.25 NMSA 1978 (being Laws 2009,
18 Chapter 279, Section 1) is amended to read:

19 "7-2-18.25. **ADVANCED ENERGY INCOME TAX CREDIT.--**

20 A. The tax credit that may be claimed pursuant to this
21 section may be referred to as the "advanced energy income tax
22 credit".

23 B. A taxpayer who holds an interest in a qualified
24 generating facility located in New Mexico and who files an
25 individual New Mexico income tax return may claim an advanced

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1 energy income tax credit in an amount equal to six percent of the
2 eligible generation plant costs of a qualified generating
3 facility, subject to the limitations imposed in this section. The
4 tax credit claimed shall be verified and approved by the
5 department.

6 C. An entity that holds an interest in a qualified
7 generating facility may request a certificate of eligibility from
8 the department of environment to enable the requester to apply for
9 an advanced energy income tax credit. The department of
10 environment:

11 (1) shall determine if the facility is a
12 qualified generating facility;

13 (2) shall require that the requester provide the
14 department of environment with the information necessary to assess
15 whether the requester's facility meets the criteria to be a
16 qualified generating facility;

17 (3) shall issue a certificate to the requester
18 stating that the facility is or is not a qualified generating
19 facility within one hundred eighty days after receiving all
20 information necessary to make a determination;

21 (4) shall:

22 (a) issue a schedule of fees in which no
23 fee exceeds one hundred fifty thousand dollars (\$150,000); and

24 (b) deposit fees collected pursuant to this
25 paragraph in the state air quality permit fund created pursuant to

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1 Section 74-2-15 NMSA 1978; and

2 (5) shall report annually to the appropriate
3 interim legislative committee information that will allow the
4 legislative committee to analyze the effectiveness of the advanced
5 energy tax credits, including the identity of qualified generating
6 facilities, the energy production means used, the amount of
7 emissions identified in this section reduced and removed by those
8 qualified generating facilities and whether any requests for
9 certificates of eligibility could not be approved due to program
10 limits.

11 D. A taxpayer who holds an interest in a qualified
12 generating facility may be allocated the right to claim the
13 advanced energy income tax credit without regard to the taxpayer's
14 relative interest in the qualified generating facility if:

15 (1) the business entity making the allocation
16 provides notice of the allocation and the taxpayer's interest in
17 the qualified generating facility to the department on forms
18 prescribed by the department;

19 (2) allocations to the taxpayer and all other
20 taxpayers allocated a right to claim the advanced energy tax
21 credit shall not exceed one hundred percent of the advanced energy
22 tax credit allowed for the qualified generating facility; and

23 (3) the taxpayer and all other taxpayers
24 allocated a right to claim the advanced energy tax credits
25 collectively own at least a five percent interest in the qualified

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1 generating facility.

2 E. To claim the advanced energy income tax credit, a
3 taxpayer shall submit with the taxpayer's New Mexico income tax
4 return a certificate of eligibility from the department of
5 environment stating that the taxpayer may be eligible for advanced
6 energy tax credits. The taxation and revenue department shall
7 provide credit claims forms. A credit claim form shall accompany
8 any return in which the taxpayer wishes to apply for an approved
9 credit, and the claim shall specify the amount of credit intended
10 to apply to each return. The taxation and revenue department
11 shall determine the amount of advanced energy income tax credit
12 for which the taxpayer may apply.

13 F. Upon receipt of the notice of an allocation of the
14 right to claim all or a portion of the advanced energy income tax
15 credit, the department shall verify the allocation due to the
16 recipient.

17 G. A husband and wife who file separate returns for a
18 taxable year in which they could have filed a joint return may
19 each claim only one-half of the advanced energy income tax credit
20 that would have been allowed on a joint return.

21 H. The total amount of all advanced energy tax credits
22 claimed shall not exceed the total amount determined by the
23 department to be allowable pursuant to this section, the Corporate
24 Income and Franchise Tax Act and Section 7-9G-2 NMSA 1978.

25 I. Any balance of the advanced energy income tax

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1 credit that the taxpayer is approved to claim may be claimed by
2 the taxpayer as an advanced energy combined reporting tax credit
3 allowed pursuant to Section 7-9G-2 NMSA 1978. If the advanced
4 energy income tax credit exceeds the amount of the taxpayer's tax
5 liabilities pursuant to the Income Tax Act and Section 7-9G-2 NMSA
6 1978 in the taxable year in which it is claimed, the balance of
7 the unpaid credit may be carried forward for ten years and claimed
8 as an advanced energy income tax credit or an advanced energy
9 combined reporting tax credit. The advanced energy income tax
10 credit is not refundable.

11 J. A taxpayer claiming the advanced energy income tax
12 credit pursuant to this section is ineligible for credits pursuant
13 to the Investment Credit Act or any other credit that may be taken
14 pursuant to the Income Tax Act or credits that may be taken
15 against the [~~gross receipts~~] state sales tax, [~~compensating~~] state
16 use tax or withholding tax for the same expenditures.

17 K. The aggregate amount of all advanced energy tax
18 credits that may be claimed with respect to a qualified generating
19 facility shall not exceed sixty million dollars (\$60,000,000).

20 L. As used in this section:

21 (1) "advanced energy tax credit" means the
22 advanced energy income tax credit, the advanced energy corporate
23 income tax credit and the advanced energy combined reporting tax
24 credit;

25 (2) "coal-based electric generating facility"

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1 means a new or repowered generating facility and an associated
2 coal gasification facility, if any, that uses coal to generate
3 electricity and that meets the following specifications:

4 (a) emits the lesser of: 1) what is
5 achievable with the best available control technology; or 2)
6 thirty-five thousandths pound per million British thermal units of
7 sulfur dioxide, twenty-five thousandths pound per million British
8 thermal units of oxides of nitrogen and one hundredth pound per
9 million British thermal units of total particulates in the flue
10 gas;

11 (b) removes the greater of: 1) what is
12 achievable with the best available control technology; or 2)
13 ninety percent of the mercury from the input fuel;

14 (c) captures and sequesters or controls
15 carbon dioxide emissions so that by the later of January 1, 2017
16 or eighteen months after the commercial operation date of the
17 coal-based electric generating facility, no more than one thousand
18 one hundred pounds per megawatt-hour of carbon dioxide is emitted
19 into the atmosphere;

20 (d) all infrastructure required for
21 sequestration is in place by the later of January 1, 2017 or
22 eighteen months after the commercial operation date of the coal-
23 based electric generating facility;

24 (e) includes methods and procedures to
25 monitor the disposition of the carbon dioxide captured and

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1 sequestered from the coal-based electric generating facility; and

2 (f) does not exceed a name-plate capacity
3 of seven hundred net megawatts;

4 (3) "eligible generation plant costs" means
5 expenditures for the development and construction of a qualified
6 generating facility, including permitting; site characterization
7 and assessment; engineering; design; carbon dioxide capture,
8 treatment, compression, transportation and sequestration; site and
9 equipment acquisition; and fuel supply development used directly
10 and exclusively in a qualified generating facility;

11 (4) "entity" means an individual, estate, trust,
12 receiver, cooperative association, club, corporation, company,
13 firm, partnership, limited liability company, limited liability
14 partnership, joint venture, syndicate or other association or a
15 gas, water or electric utility owned or operated by a county or
16 municipality;

17 (5) "geothermal electric generating facility"
18 means a facility with a name-plate capacity of one megawatt or
19 more that uses geothermal energy to generate electricity,
20 including a facility that captures and provides geothermal energy
21 to a preexisting electric generating facility using other fuels in
22 part;

23 (6) "interest in a qualified generating facility"
24 means title to a qualified generating facility; a leasehold
25 interest in a qualified generating facility; an ownership interest

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1 in a business or entity that is taxed for federal income tax
2 purposes as a partnership that holds title to or a leasehold
3 interest in a qualified generating facility; or an ownership
4 interest, through one or more intermediate entities that are each
5 taxed for federal income tax purposes as a partnership, in a
6 business that holds title to or a leasehold interest in a
7 qualified generating facility;

8 (7) "name-plate capacity" means the maximum rated
9 output of the facility measured as alternating current or the
10 equivalent direct current measurement;

11 (8) "qualified generating facility" means a
12 facility that begins construction not later than December 31, 2015
13 and is:

14 (a) a solar thermal electric generating
15 facility that begins construction on or after July 1, 2007 and
16 that may include an associated renewable energy storage facility;

17 (b) a solar photovoltaic electric
18 generating facility that begins construction on or after July 1,
19 2009 and that may include an associated renewable energy storage
20 facility;

21 (c) a geothermal electric generating
22 facility that begins construction on or after July 1, 2009;

23 (d) a recycled energy project if that
24 facility begins construction on or after July 1, 2007; or

25 (e) a new or repowered coal-based electric

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1 generating facility and an associated coal gasification facility;

2 (9) "recycled energy" means energy produced by a
3 generation unit with a name-plate capacity of not more than
4 fifteen megawatts that converts the otherwise lost energy from the
5 exhaust stacks or pipes to electricity without combustion of
6 additional fossil fuel;

7 (10) "sequester" means to store, or chemically
8 convert, carbon dioxide in a manner that prevents its release into
9 the atmosphere and may include the use of geologic formations and
10 enhanced oil, coalbed methane or natural gas recovery techniques;

11 (11) "solar photovoltaic electric generating
12 facility" means an electric generating facility with a name-plate
13 capacity of one megawatt or more that uses solar photovoltaic
14 energy to generate electricity; and

15 (12) "solar thermal generating facility" means an
16 electric generating facility with a name-plate capacity of one
17 megawatt or more that uses solar thermal energy to generate
18 electricity, including a facility that captures and provides solar
19 energy to a preexisting electric generating facility using other
20 fuels in part."

21 **SECTION 88.** Section 7-2A-25 NMSA 1978 (being Laws 2009,
22 Chapter 279, Section 2) is amended to read:

23 "7-2A-25. **ADVANCED ENERGY CORPORATE INCOME TAX CREDIT.--**

24 A. The tax credit that may be claimed pursuant to this
25 section may be referred to as the "advanced energy corporate

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1 income tax credit".

2 B. A taxpayer that holds an interest in a qualified
3 generating facility located in New Mexico and that files a New
4 Mexico corporate income tax return may claim an advanced energy
5 corporate income tax credit in an amount equal to six percent of
6 the eligible generation plant costs of a qualified generating
7 facility, subject to the limitations imposed in this section. The
8 tax credit claimed shall be verified and approved by the
9 department.

10 C. An entity that holds an interest in a qualified
11 generating facility may request a certificate of eligibility from
12 the department of environment to enable the requester to apply for
13 an advanced energy corporate income tax credit. The department of
14 environment:

15 (1) shall determine if the facility is a
16 qualified generating facility;

17 (2) shall require that the requester provide the
18 department of environment with the information necessary to assess
19 whether the requester's facility meets the criteria to be a
20 qualified generating facility;

21 (3) shall issue a certificate to the requester
22 stating that the facility is or is not a qualified generating
23 facility within one hundred eighty days after receiving all
24 information necessary to make a determination;

25 (4) shall:

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1 (a) issue a schedule of fees in which no
2 fee exceeds one hundred fifty thousand dollars (\$150,000); and

3 (b) deposit fees collected pursuant to this
4 paragraph in the state air quality permit fund created pursuant to
5 Section 74-2-15 NMSA 1978; and

6 (5) shall report annually to the appropriate
7 interim legislative committee information that will allow the
8 legislative committee to analyze the effectiveness of the advanced
9 energy tax credits, including the identity of qualified generating
10 facilities, the energy production means used, the amount of
11 emissions identified in this section reduced and removed by those
12 qualified generating facilities and whether any requests for
13 certificates of eligibility could not be approved due to program
14 limits.

15 D. A taxpayer that holds an interest in a qualified
16 generating facility may be allocated the right to claim the
17 advanced energy corporate income tax credit without regard to the
18 taxpayer's relative interest in the qualified generating facility
19 if:

20 (1) the business entity making the allocation
21 provides notice of the allocation and the taxpayer's interest in
22 the qualified generating facility to the department on forms
23 prescribed by the department;

24 (2) allocations to the taxpayer and all other
25 taxpayers allocated a right to claim the advanced energy tax

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1 credit shall not exceed one hundred percent of the advanced energy
2 tax credit allowed for the qualified generating facility; and

3 (3) the taxpayer and all other taxpayers
4 allocated a right to claim the advanced energy tax credits
5 collectively own at least a five percent interest in the qualified
6 generating facility.

7 E. Upon receipt of the notice of an allocation of the
8 right to claim all or a portion of the advanced energy corporate
9 income tax credit, the department shall verify the allocation due
10 to the recipient.

11 F. To claim the advanced energy corporate income tax
12 credit, a taxpayer shall submit with the taxpayer's New Mexico
13 corporate income tax return a certificate of eligibility from the
14 department of environment stating that the taxpayer may be
15 eligible for advanced energy tax credits. The taxation and
16 revenue department shall provide credit claim forms. A credit
17 claim form shall accompany any return in which the taxpayer wishes
18 to apply for an approved credit, and the claim shall specify the
19 amount of credit intended to apply to each return. The taxation
20 and revenue department shall determine the amount of advanced
21 energy corporate income tax credit for which the taxpayer may
22 apply.

23 G. The total amount of all advanced energy tax credits
24 claimed shall not exceed the total amount determined by the
25 department to be allowable pursuant to this section, the Income

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1 Tax Act and Section 7-9G-2 NMSA 1978.

2 H. Any balance of the advanced energy corporate income
3 tax credit that the taxpayer is approved to claim may be claimed
4 by the taxpayer as an advanced energy combined reporting tax
5 credit allowed pursuant to Section 7-9G-2 NMSA 1978. If the
6 advanced energy corporate income tax credit exceeds the amount of
7 the taxpayer's tax liabilities pursuant to the Corporate Income
8 and Franchise Tax Act and Section 7-9G-2 NMSA 1978 in the taxable
9 year in which it is claimed, the balance of the unpaid credit may
10 be carried forward for ten years and claimed as an advanced energy
11 corporate income tax credit or an advanced energy combined
12 reporting tax credit. The advanced energy corporate income tax
13 credit is not refundable.

14 I. A taxpayer claiming the advanced energy corporate
15 income tax credit pursuant to this section is ineligible for
16 credits pursuant to the Investment Credit Act or any other credit
17 that may be taken pursuant to the Corporate Income and Franchise
18 Tax Act or credits that may be taken against the [~~gross receipts~~]
19 state sales tax, [~~compensating~~] state use tax or withholding tax
20 for the same expenditures.

21 J. The aggregate amount of all advanced energy tax
22 credits that may be claimed with respect to a qualified generating
23 facility shall not exceed sixty million dollars (\$60,000,000).

24 K. As used in this section:

25 (1) "advanced energy tax credit" means the

1 advanced energy income tax credit, the advanced energy corporate
2 income tax credit and the advanced energy combined reporting tax
3 credit;

4 (2) "coal-based electric generating facility"
5 means a new or repowered generating facility and an associated
6 coal gasification facility, if any, that uses coal to generate
7 electricity and that meets the following specifications:

8 (a) emits the lesser of: 1) what is
9 achievable with the best available control technology; or 2)
10 thirty-five thousandths pound per million British thermal units of
11 sulfur dioxide, twenty-five thousandths pound per million British
12 thermal units of oxides of nitrogen and one hundredth pound per
13 million British thermal units of total particulates in the flue
14 gas;

15 (b) removes the greater of: 1) what is
16 achievable with the best available control technology; or 2)
17 ninety percent of the mercury from the input fuel;

18 (c) captures and sequesters or controls
19 carbon dioxide emissions so that by the later of January 1, 2017
20 or eighteen months after the commercial operation date of the
21 coal-based electric generating facility, no more than one thousand
22 one hundred pounds per megawatt-hour of carbon dioxide is emitted
23 into the atmosphere;

24 (d) all infrastructure required for
25 sequestration is in place by the later of January 1, 2017 or

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1 eight months after the commercial operation date of the coal-
2 based electric generating facility;

3 (e) includes methods and procedures to
4 monitor the disposition of the carbon dioxide captured and
5 sequestered from the coal-based electric generating facility; and

6 (f) does not exceed a name-plate capacity
7 of seven hundred net megawatts;

8 (3) "eligible generation plant costs" means
9 expenditures for the development and construction of a qualified
10 generating facility, including permitting; site characterization
11 and assessment; engineering; design; carbon dioxide capture,
12 treatment, compression, transportation and sequestration; site and
13 equipment acquisition; and fuel supply development used directly
14 and exclusively in a qualified generating facility;

15 (4) "entity" means an individual, estate, trust,
16 receiver, cooperative association, club, corporation, company,
17 firm, partnership, limited liability company, limited liability
18 partnership, joint venture, syndicate or other association or a
19 gas, water or electric utility owned or operated by a county or
20 municipality;

21 (5) "geothermal electric generating facility"
22 means a facility with a name-plate capacity of one megawatt or
23 more that uses geothermal energy to generate electricity,
24 including a facility that captures and provides geothermal energy
25 to a preexisting electric generating facility using other fuels in

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1 part;

2 (6) "interest in a qualified generating facility"
3 means title to a qualified generating facility; a leasehold
4 interest in a qualified generating facility; an ownership interest
5 in a business or entity that is taxed for federal income tax
6 purposes as a partnership that holds title to or a leasehold
7 interest in a qualified generating facility; or an ownership
8 interest, through one or more intermediate entities that are each
9 taxed for federal income tax purposes as a partnership, in a
10 business that holds title to or a leasehold interest in a
11 qualified generating facility;

12 (7) "name-plate capacity" means the maximum rated
13 output of the facility measured as alternating current or the
14 equivalent direct current measurement;

15 (8) "qualified generating facility" means a
16 facility that begins construction not later than
17 December 31, 2015 and is:

18 (a) a solar thermal electric generating
19 facility that begins construction on or after
20 July 1, 2007 and that may include an associated renewable energy
21 storage facility;

22 (b) a solar photovoltaic electric
23 generating facility that begins construction on or after
24 July 1, 2009 and that may include an associated renewable energy
25 storage facility;

1 (c) a geothermal electric generating
2 facility that begins construction on or after July 1, 2009;

3 (d) a recycled energy project if that
4 facility begins construction on or after July 1, 2007; or

5 (e) a new or repowered coal-based electric
6 generating facility and an associated coal gasification facility;

7 (9) "recycled energy" means energy produced by a
8 generation unit with a name-plate capacity of not more than
9 fifteen megawatts that converts the otherwise lost energy from the
10 exhaust stacks or pipes to electricity without combustion of
11 additional fossil fuel;

12 (10) "sequester" means to store, or chemically
13 convert, carbon dioxide in a manner that prevents its release into
14 the atmosphere and may include the use of geologic formations and
15 enhanced oil, coalbed methane or natural gas recovery techniques;

16 (11) "solar photovoltaic electric generating
17 facility" means an electric generating facility with a name-plate
18 capacity of one megawatt or more that uses solar photovoltaic
19 energy to generate electricity; and

20 (12) "solar thermal electric generating facility"
21 means an electric generating facility with a
22 name-plate capacity of one megawatt or more that uses solar
23 thermal energy to generate electricity, including a facility that
24 captures and provides solar energy to a preexisting electric
25 generating facility using other fuels in part."

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1 **SECTION 89.** Section 7-2E-1.1 NMSA 1978 (being Laws 2007,
2 Chapter 172, Section 2, as amended) is amended to read:

3 "7-2E-1.1. TAX CREDIT--RURAL JOB TAX CREDIT.--

4 A. The tax credit created by this section may be
5 referred to as the "rural job tax credit". Every eligible
6 employer may apply for, and the taxation and revenue department
7 may allow, a tax credit for each qualifying job the employer
8 creates. The maximum tax credit amount with respect to each
9 qualifying job is equal to:

10 (1) twenty-five percent of the first sixteen
11 thousand dollars (\$16,000) in wages paid for the qualifying job if
12 the job is performed or based at a location in a tier one area; or

13 (2) twelve and one-half percent of the first
14 sixteen thousand dollars (\$16,000) in wages paid if the qualifying
15 job is performed or based at a location in a tier two area.

16 B. The purpose of the rural job tax credit is to
17 encourage businesses to start new businesses in rural areas of the
18 state.

19 C. The amount of the rural job tax credit shall be six
20 and one-fourth percent of the first sixteen thousand dollars
21 (\$16,000) in wages paid for the qualifying job in a qualifying
22 period. The rural job tax credit may be claimed for each
23 qualifying job for a maximum of:

24 (1) four qualifying periods for each qualifying
25 job performed or based at a location in a tier one area; and

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1 (2) two qualifying periods for each qualifying
2 job performed or based at a location in a tier two area.

3 D. With respect to each qualifying job for which an
4 eligible employer seeks the rural job tax credit, the employer
5 shall certify the amount of wages paid to each eligible employee
6 during each qualifying period, the number of weeks during the
7 qualifying period the position was occupied and whether the
8 qualifying job was in a tier one or tier two area.

9 E. The economic development department shall determine
10 which employers are eligible employers and shall report the
11 listing of eligible businesses to the taxation and revenue
12 department in a manner and at times the departments shall agree
13 upon.

14 F. To receive a rural job tax credit with respect to
15 any qualifying period, an eligible employer must apply to the
16 taxation and revenue department on forms and in the manner the
17 department may prescribe. The application shall include a
18 certification made pursuant to Subsection D of this section. If
19 all the requirements of this section have been complied with, the
20 taxation and revenue department may issue to the applicant a
21 document granting a tax credit for the appropriate qualifying
22 period. The tax credit document shall be numbered for
23 identification and declare its date of issuance and the amount of
24 rural job tax credit allowed for the respective jobs created. The
25 tax credit documents may be sold, exchanged or otherwise

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1 transferred and may be carried forward for a period of three years
2 from the date of issuance. The parties to such a transaction to
3 sell, exchange or transfer a rural job tax credit document shall
4 notify the department of the transaction within ten days of the
5 sale, exchange or transfer.

6 G. The holder of the tax credit document may apply all
7 or a portion of the rural job tax credit granted by the document
8 against the holder's modified combined tax liability, personal
9 income tax liability or corporate income tax liability. Any
10 balance of rural job tax credit granted by the document may be
11 carried forward for up to three years from the date of issuance of
12 the tax credit document. No amount of rural job tax credit may be
13 applied against a [~~gross receipts~~] local option sales tax imposed
14 by a municipality or county.

15 H. Notwithstanding the provisions of Section 7-1-8
16 NMSA 1978, the taxation and revenue department may disclose to any
17 person the balance of rural job tax credit remaining on any tax
18 credit document and the balance of credit remaining on that
19 document for any period.

20 I. The secretary of economic development, the
21 secretary of taxation and revenue and the secretary of workforce
22 solutions or their designees shall annually evaluate the
23 effectiveness of the rural job tax credit in stimulating economic
24 development in the rural areas of New Mexico and make a joint
25 report of their findings to each session of the legislature so

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1 long as the rural job tax credit is in effect.

2 J. An eligible employer that creates a qualifying job
3 in the period beginning on or after July 1, 2006 but before July
4 1, 2007 or creates a qualifying job, the qualifying period of
5 which includes a part of the period between July 1, 2006 and July
6 1, 2007, for which the eligible employer has not received a rural
7 job tax credit document pursuant to this section may submit an
8 application for, and the taxation and revenue department may issue
9 to the eligible employer applying, a document granting a tax
10 credit for the appropriate qualifying period. Claims for a rural
11 job tax credit submitted pursuant to the provisions of this
12 subsection shall be submitted within three years from the date of
13 issuance of the rural job tax credit document.

14 K. A qualifying job shall not be eligible for a rural
15 job credit pursuant to this section if:

16 (1) the job is created due to a business merger,
17 acquisition or other change in organization;

18 (2) the eligible employee was terminated from
19 employment in New Mexico by another employer involved in the
20 merger, acquisition or other change in organization; and

21 (3) the job is performed by:

22 (a) the person who performed the job or its
23 functional equivalent prior to the business merger, acquisition or
24 other change in organization; or

25 (b) a person replacing the person who

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1 performed the job or its functional equivalent prior to the
2 business merger, acquisition or other change in organization.

3 L. Notwithstanding Subsection K of this section, a
4 qualifying job that was created by another employer and for which
5 the rural job tax credit claim was received by the taxation and
6 revenue department prior to July 1, 2013 and is under review or
7 has been approved shall remain eligible for the rural job tax
8 credit for the balance of the qualifying periods for which the job
9 qualifies by the new employer that results from a business merger,
10 acquisition or other change in the organization.

11 M. A job shall not be eligible for a rural job tax
12 credit pursuant to this section if the job is created due to an
13 eligible employer entering into a contract or becoming a
14 subcontractor to a contract with a governmental entity that
15 replaces one or more entities performing functionally equivalent
16 services for the governmental entity in New Mexico unless the job
17 is a qualifying job that was not being performed by an employee of
18 the replaced entity.

19 N. As used in this section:

20 (1) "eligible employee" means any individual
21 other than an individual who:

22 (a) bears any of the relationships
23 described in Paragraphs (1) through (8) of 26 U.S.C. Section
24 152(a) to the employer or, if the employer is a corporation, to an
25 individual who owns, directly or indirectly, more than fifty

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1 percent in value of the outstanding stock of the corporation or,
2 if the employer is an entity other than a corporation, to any
3 individual who owns, directly or indirectly, more than fifty
4 percent of the capital and profits interests in the entity;

5 (b) if the employer is an estate or trust,
6 is a grantor, beneficiary or fiduciary of the estate or trust or
7 is an individual who bears any of the relationships described in
8 Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to a
9 grantor, beneficiary or fiduciary of the estate or trust; or

10 (c) is a dependent, as that term is
11 described in 26 U.S.C. Section 152(a)(9), of the employer or, if
12 the taxpayer is a corporation, of an individual who owns, directly
13 or indirectly, more than fifty percent in value of the outstanding
14 stock of the corporation or, if the employer is an entity other
15 than a corporation, of any individual who owns, directly or
16 indirectly, more than fifty percent of the capital and profits
17 interests in the entity or, if the employer is an estate or trust,
18 of a grantor, beneficiary or fiduciary of the estate or trust;

19 (2) "eligible employer" means an employer who is
20 eligible for in-plant training assistance pursuant to Section
21 21-19-7 NMSA 1978;

22 (3) "metropolitan statistical area" means a
23 metropolitan statistical area in New Mexico as determined by the
24 United States bureau of the census;

25 (4) "modified combined tax liability" means the

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1 total liability for the reporting period for the [~~gross receipts~~]
2 state sales tax imposed by Section 7-9-4 NMSA 1978 together with
3 any tax collected at the same time and in the same manner as that
4 [~~gross receipts~~] state sales tax, such as the [~~compensating~~] state
5 use tax, the withholding tax, the interstate telecommunications
6 [~~gross receipts~~] sales tax, the surcharges imposed by Section
7 63-9D-5 NMSA 1978 and the surcharge imposed by Section 63-9F-11
8 NMSA 1978, minus the amount of any credit other than the rural job
9 tax credit applied against any or all of these taxes or
10 surcharges; but "modified combined tax liability" excludes all
11 amounts collected with respect to local option [~~gross receipts~~]
12 sales taxes;

13 (5) "qualifying job" means a job established by
14 the employer that is occupied by an eligible employee for at least
15 forty-eight weeks of a qualifying period;

16 (6) "qualifying period" means the period of
17 twelve months beginning on the day an eligible employee begins
18 working in a qualifying job or the period of twelve months
19 beginning on the anniversary of the day an eligible employee began
20 working in a qualifying job;

21 (7) "rural area" means any part of the state
22 other than:

- 23 (a) an H class county;
24 (b) the state fairgrounds;
25 (c) an incorporated municipality within a

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1 metropolitan statistical area if the municipality's population is
2 thirty thousand or more according to the most recent federal
3 decennial census; and

4 (d) any area within ten miles of the
5 exterior boundaries of a municipality described in Subparagraph
6 (c) of this paragraph;

7 (8) "tier one area" means:

8 (a) any municipality within the rural area
9 if the municipality's population according to the most recent
10 federal decennial census is fifteen thousand or less; or

11 (b) any part of the rural area that is not
12 within the exterior boundaries of a municipality;

13 (9) "tier two area" means any municipality within
14 the rural area if the municipality's population according to the
15 most recent federal decennial census is more than fifteen
16 thousand; and

17 (10) "wages" means all compensation paid by an
18 eligible employer to an eligible employee through the employer's
19 payroll system, including those wages the employee elects to defer
20 or redirect, such as the employee's contribution to 401(k) or
21 cafeteria plan programs, but not including benefits or the
22 employer's share of payroll taxes."

23 **SECTION 90.** Section 7-2F-1 NMSA 1978 (being Laws 2002,
24 Chapter 36, Section 1, as amended) is amended to read:

25 "7-2F-1. FILM PRODUCTION TAX CREDIT--FILM PRODUCTION

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1 COMPANIES THAT COMMENCE PRINCIPAL PHOTOGRAPHY PRIOR TO JANUARY 1,
2 2016.--

3 A. The tax credit created by this section may be
4 referred to as the "film production tax credit".

5 B. Except as otherwise provided in this section, an
6 eligible film production company may apply for, and the taxation
7 and revenue department may allow, subject to the limitation in
8 this section, a tax credit in an amount equal to twenty-five
9 percent of:

10 (1) direct production expenditures made in New
11 Mexico that:

12 (a) are directly attributable to the
13 production in New Mexico of a film or commercial audiovisual
14 product;

15 (b) are subject to taxation by the state of
16 New Mexico;

17 (c) exclude direct production expenditures
18 for which another taxpayer claims the film production tax credit;
19 and

20 (d) do not exceed the usual and customary
21 cost of the goods or services acquired when purchased by unrelated
22 parties. The secretary of taxation and revenue may determine the
23 value of the goods or services for purposes of this section when
24 the buyer and seller are affiliated persons or the sale or
25 purchase is not an arm's length transaction; and

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- 1 (2) postproduction expenditures made in
2 New Mexico that:
- 3 (a) are directly attributable to the
4 production of a commercial film or audiovisual product;
- 5 (b) are for services performed in New
6 Mexico;
- 7 (c) are subject to taxation by the state of
8 New Mexico;
- 9 (d) exclude postproduction expenditures for
10 which another taxpayer claims the film production tax credit; and
- 11 (e) do not exceed the usual and customary
12 cost of the goods or services acquired when purchased by unrelated
13 parties. The secretary of taxation and revenue may determine the
14 value of the goods or services for purposes of this section when
15 the buyer and seller are affiliated persons or the sale or
16 purchase is not an arm's length transaction.

17 C. In addition to the percentage applied pursuant to
18 Subsection B of this section, another five percent shall be
19 applied in calculating the amount of the film production tax
20 credit to direct production expenditures:

- 21 (1) on a standalone pilot intended for series
22 television in New Mexico or on series television productions
23 intended for commercial distribution with an order for at least
24 six episodes in a single season; provided that the New Mexico
25 budget for each of those six episodes is fifty thousand dollars

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1 (\$50,000) or more; or

2 (2) on a production with a total New Mexico
3 budget of the following amounts; provided that the expenditures
4 are directly attributable and paid to a New Mexico resident who is
5 hired as industry crew, or who is hired as a producer, writer or
6 director working directly with the physical production and has
7 filed a New Mexico income tax return as a resident in the two
8 previous taxable years:

9 (a) not more than thirty million dollars
10 (\$30,000,000) that shoots at least ten principal photography days
11 in New Mexico at a qualified production facility; provided that a
12 film production company in principal photography on or after April
13 10, 2015 shall: 1) shoot at least seven of those days at a sound
14 stage that is a qualified production facility and the remaining
15 number of required days, if any, at a standing set that is a
16 qualified production facility; and 2) for each of the ten days,
17 include industry crew working on the premises of those facilities
18 for a minimum of eight hours within a twenty-four-hour period; or

19 (b) thirty million dollars (\$30,000,000) or
20 more that shoots at least fifteen principal photography days in
21 New Mexico at a qualified production facility; provided that a
22 film production company in principal photography on or after April
23 10, 2015 shall: 1) shoot at least ten of those days at a sound
24 stage that is a qualified production facility and the remaining
25 number of required days, if any, at a standing set that is a

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1 qualified production facility; and 2) for each day of the fifteen
2 days, include industry crew working on the premises of the
3 facility for a minimum of eight hours within a twenty-four-hour
4 period.

5 D. With respect to expenditures attributable to a
6 production for which the film production company receives a tax
7 credit pursuant to the federal new markets tax credit program, the
8 percentage to be applied in calculating the film production tax
9 credit is twenty percent.

10 E. A claim for film production tax credits shall be
11 filed as part of a return filed pursuant to the Income Tax Act or
12 the Corporate Income and Franchise Tax Act or an information
13 return filed by a pass-through entity. The date a credit claim is
14 received by the taxation and revenue department shall determine
15 the order that a credit claim is authorized for payment by the
16 department. Except as otherwise provided in this section, the
17 aggregate amount of claims for a credit provided by the Film
18 Production Tax Credit Act that may be authorized for payment in
19 any fiscal year is fifty million dollars (\$50,000,000) with
20 respect to the direct production expenditures or postproduction
21 expenditures made on film or commercial audiovisual products. A
22 film production company that submits a claim for a film production
23 tax credit that is unable to receive the tax credit because the
24 claims for the fiscal year exceed the limitation in this
25 subsection shall be placed for the subsequent fiscal year at the

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1 front of a queue of credit claimants submitting claims in the
2 subsequent fiscal year in the order of the date on which the
3 credit was authorized for payment.

4 F. If, in fiscal years 2013 through 2015, the
5 aggregate amount in each fiscal year of the film production tax
6 credit claims authorized for payment is less than fifty million
7 dollars (\$50,000,000), then the difference in that fiscal year or
8 ten million dollars (\$10,000,000), whichever is less, shall be
9 added to the aggregate amount of the film production tax credit
10 claims that may be authorized for payment pursuant to Subsection E
11 of this section in the immediately following fiscal year.

12 G. Except as otherwise provided in this section,
13 credit claims authorized for payment pursuant to the Film
14 Production Tax Credit Act shall be paid pursuant to provisions of
15 the Tax Administration Act to the taxpayer as follows:

16 (1) a credit claim amount of less than two
17 million dollars (\$2,000,000) per taxable year shall be paid
18 immediately upon authorization for payment of the credit claim;

19 (2) a credit claim amount of two million dollars
20 (\$2,000,000) or more but less than five million dollars
21 (\$5,000,000) per taxable year shall be divided into two equal
22 payments, with the first payment to be made immediately upon
23 authorization of the payment of the credit claim and the second
24 payment to be made twelve months following the date of the first
25 payment; and

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1 (3) a credit claim amount of five million dollars
2 (\$5,000,000) or more per taxable year shall be divided into three
3 equal payments, with the first payment to be made immediately upon
4 authorization of payment of the credit claim, the second payment
5 to be made twelve months following the date of the first payment
6 and the third payment to be made twenty-four months following the
7 date of the first payment.

8 H. For a fiscal year in which the amount of total
9 credit claims authorized for payment is less than the aggregate
10 amount of credit claims that may be authorized for payment
11 pursuant to this section, the next scheduled payments for credit
12 claims authorized for payment pursuant to Subsection G of this
13 section shall be accelerated for payment for that fiscal year and
14 shall be paid to a taxpayer pursuant to the Tax Administration Act
15 and in the order in which outstanding payments are scheduled in
16 the queue established pursuant to Subsections E and G of this
17 section; provided that the total credit claims authorized for
18 payment shall not exceed the aggregate amount of credit claims
19 that may be authorized for payment pursuant to this section. If a
20 partial payment is made pursuant to this subsection, the
21 difference owed shall retain its original position in the queue.

22 I. Any amount of a credit claim that is carried
23 forward pursuant to Subsection G of this section shall be subject
24 to the limit on the aggregate amount of credit claims that may be
25 authorized for payment pursuant to Subsections E and F of this

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1 section in the fiscal year in which that amount is paid.

2 J. A credit claim shall only be considered received by
3 the taxation and revenue department if the credit claim is made on
4 a complete return filed after the close of the taxable year. All
5 direct production expenditures and postproduction expenditures
6 incurred during the taxable year by a film production company
7 shall be submitted as part of the same income tax return and paid
8 pursuant to this section. A credit claim shall not be divided and
9 submitted with multiple returns or in multiple years.

10 K. For purposes of determining the payment of credit
11 claims pursuant to this section, the secretary of taxation and
12 revenue may require that credit claims of affiliated persons be
13 combined into one claim if necessary to accurately reflect closely
14 integrated activities of affiliated persons.

15 L. The film production tax credit shall not be claimed
16 with respect to direct production expenditures or postproduction
17 expenditures for which the film production company has delivered a
18 nontaxable transaction certificate pursuant to Section 7-9-86 NMSA
19 1978.

20 M. A production for which the film production tax
21 credit is claimed pursuant to Paragraph (1) of Subsection B of
22 this section shall contain an acknowledgment to the state of New
23 Mexico in the end screen credits that the production was filmed in
24 New Mexico, and a state logo provided by the division shall be
25 included and embedded in the end screen credits of long-form

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1 narrative film productions and television episodes, unless
2 otherwise agreed upon in writing by the film production company
3 and the division.

4 N. To be eligible for the film production tax credit,
5 a film production company shall submit to the division information
6 required by the division to demonstrate conformity with the
7 requirements of the Film Production Tax Credit Act, including
8 detailed information on each direct production expenditure and
9 each postproduction expenditure. A film production company shall
10 make reasonable efforts, as determined by the division, to
11 contract with a specialized vendor that provides goods and
12 services, inventory or services directly related to that vendor's
13 ordinary course of business. A film production company shall
14 provide to the division a projection of the film production tax
15 credit claim the film production company plans to submit in the
16 fiscal year. In addition, the film production company shall agree
17 in writing:

18 (1) to pay all obligations the film production
19 company has incurred in New Mexico;

20 (2) to post a notice at completion of principal
21 photography on the ~~[web site]~~ website of the division that:

22 (a) contains production company
23 information, including the name of the production, the address of
24 the production company and contact information that includes a
25 working phone number, fax number and email address for both the

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1 local production office and the permanent production office to
2 notify the public of the need to file creditor claims against the
3 film production company; and

4 (b) remains posted on the [~~web site~~]
5 website until all financial obligations incurred in the state by
6 the film production company have been paid;

7 (3) that outstanding obligations are not waived
8 should a creditor fail to file;

9 (4) to delay filing of a claim for the film
10 production tax credit until the division delivers written
11 notification to the taxation and revenue department that the film
12 production company has fulfilled all requirements for the credit;
13 and

14 (5) to submit a completed application for the
15 film production tax credit and supporting documentation to the
16 division within one year of making the final expenditures in New
17 Mexico that were incurred for the registered project and that are
18 included in the credit claim.

19 0. The division shall determine the eligibility of the
20 company and shall report this information to the taxation and
21 revenue department in a manner and at times the economic
22 development department and the taxation and revenue department
23 shall agree upon. The division shall also post on its [~~web site~~]
24 website all information provided by the film production company
25 that does not reveal revenue, income or other information that may

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1 jeopardize the confidentiality of income tax returns, including
2 that the division shall report quarterly the projected amount of
3 credit claims for the fiscal year.

4 P. To provide guidance to film production companies
5 regarding the amount of credit capacity remaining in the fiscal
6 year, the taxation and revenue department shall post monthly on
7 that department's ~~[web site]~~ website the aggregate amount of
8 credits claimed and processed for the fiscal year.

9 Q. To receive a film production tax credit, a film
10 production company shall apply to the taxation and revenue
11 department on forms and in the manner the department may
12 prescribe. The application shall include a certification of the
13 amount of direct production expenditures or postproduction
14 expenditures made in New Mexico with respect to the film
15 production for which the film production company is seeking the
16 film production tax credit; provided that for the film production
17 tax credit, the application shall be submitted within one year of
18 the date of the last direct production expenditure in New Mexico
19 or the last postproduction expenditure in New Mexico. If the
20 amount of the requested tax credit exceeds five million dollars
21 (\$5,000,000), the application shall also include the results of an
22 audit, conducted by a certified public accountant licensed to
23 practice in New Mexico, verifying that the expenditures have been
24 made in compliance with the requirements of this section. If the
25 requirements of this section have been complied with, subject to

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1 the provisions of Subsection E of this section, the taxation and
2 revenue department shall approve the film production tax credit
3 and issue a document granting the tax credit.

4 R. The film production company may apply all or a
5 portion of the film production tax credit granted against personal
6 income tax liability or corporate income tax liability. If the
7 amount of the film production tax credit claimed exceeds the film
8 production company's tax liability for the taxable year in which
9 the credit is being claimed, the excess shall be refunded.

10 S. That amount of a film production tax credit for
11 total payments as applied to direct production expenditures for
12 the services of performing artists shall not exceed five million
13 dollars (\$5,000,000) for services rendered by nonresident
14 performing artists and featured resident principal performing
15 artists in a production. This limitation shall not apply to the
16 services of background artists and resident performing artists who
17 are not cast in industry standard featured principal performer
18 roles.

19 T. As used in this section, "direct production
20 expenditure":

21 (1) except as provided in Paragraph (2) of this
22 subsection, means a transaction that is subject to taxation in New
23 Mexico, including:

24 (a) payment of wages, fringe benefits or
25 fees for talent, management or labor to a person who is a New

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1 Mexico resident;

2 (b) payment for wages and per diem for a
3 performing artist who is not a New Mexico resident and who is
4 directly employed by the film production company; provided that
5 the film production company deducts and remits, or causes to be
6 deducted and remitted, income tax from the first day of services
7 rendered in New Mexico at the maximum rate pursuant to the
8 Withholding Tax Act;

9 (c) payment to a personal services business
10 for the services of a performing artist if: 1) the personal
11 services business pays [~~gross receipts~~] state sales tax in New
12 Mexico on the portion of those payments qualifying for the tax
13 credit; and 2) the film production company deducts and remits, or
14 causes to be deducted and remitted, income tax at the maximum rate
15 in New Mexico pursuant to Subsection H of Section 7-3A-3 NMSA 1978
16 on the portion of those payments qualifying for the tax credit
17 paid to a personal services business where the performing artist
18 is a full or part owner of that business or subcontracts with a
19 personal services business where the performing artist is a full
20 or part owner of that business; and

21 (d) any of the following provided by a
22 vendor: 1) the story and scenario to be used for a film; 2) set
23 construction and operations, wardrobe, accessories and related
24 services; 3) photography, sound synchronization, lighting and
25 related services; 4) editing and related services; 5) rental of

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1 facilities and equipment; 6) leasing of vehicles, not including
2 the chartering of aircraft for out-of-state transportation;
3 however, New Mexico-based chartered aircraft for in-state
4 transportation directly attributable to the production shall be
5 considered a direct production expenditure; provided that only the
6 first one hundred dollars (\$100) of the daily expense of leasing a
7 vehicle for passenger transportation on roadways in the state may
8 be claimed as a direct production expenditure; 7) food or lodging;
9 provided that only the first one hundred fifty dollars (\$150) of
10 lodging per individual per day is eligible to be claimed as a
11 direct production expenditure; 8) commercial airfare if purchased
12 through a New Mexico-based travel agency or travel company for
13 travel to and from New Mexico or within New Mexico that is
14 directly attributable to the production; 9) insurance coverage and
15 bonding if purchased through a New Mexico-based insurance agent,
16 broker or bonding agent; 10) services for an external audit upon
17 submission of an application for a film production tax credit by
18 an accounting firm that submits the application pursuant to this
19 section; and 11) other direct costs of producing a film in
20 accordance with generally accepted entertainment industry
21 practice; and

22 (2) does not include an expenditure for:

23 (a) a gift with a value greater than
24 twenty-five dollars (\$25.00);

25 (b) artwork or jewelry, except that a work

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1 of art or a piece of jewelry may be a direct production
2 expenditure if: 1) it is used in the film production; and 2) the
3 expenditure is less than two thousand five hundred dollars
4 (\$2,500);

5 (c) entertainment, amusement or recreation;

6 (d) subcontracted goods or services
7 provided by a vendor when subcontractors are not subject to state
8 taxation, such as equipment and locations provided by the
9 military, government and religious organizations; or

10 (e) a service provided by a person who is
11 not a New Mexico resident and employed in an industry crew
12 position, excluding a performing artist, where it is the standard
13 entertainment industry practice for the film production company to
14 employ a person for that industry crew position, except when the
15 person who is not a New Mexico resident is hired or subcontracted
16 by a vendor; and when the film production company, as determined
17 by the division and when applicable in consultation with industry,
18 provides: 1) reasonable efforts to hire resident crew; and 2)
19 financial or promotional contributions toward education or [~~work~~
20 ~~force~~] workforce development efforts in New Mexico, including at
21 least one of the following: a payment to a New Mexico public
22 education institution that administers at least one industry-
23 recognized film or multimedia program, as determined by the
24 division, in an amount equal to two and one-half percent of
25 payments made to nonresidents in approved positions employed by

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1 the vendor; promotion of the New Mexico film industry by
2 directors, actors or executive producers affiliated with the
3 production company's project through social media that is managed
4 by the state; radio interviews facilitated by the division;
5 enhanced screen credit acknowledgments; or related events that are
6 facilitated, conducted or sponsored by the division.

7 U. As used in this section, "film production company"
8 means a person that produces one or more films or any part of a
9 film and that commences principal photography prior to January 1,
10 2016.

11 V. As used in this section, "vendor" means a person
12 who sells or leases goods or services that are related to standard
13 industry craft inventory, who has a physical presence in New
14 Mexico and is subject to [~~gross receipts~~] state sales tax
15 [~~pursuant to the Gross Receipts and Compensating Tax Act~~] and
16 income tax pursuant to the Income Tax Act or corporate income tax
17 pursuant to the Corporate Income and Franchise Tax Act but
18 excludes a personal services business and services provided by
19 nonresidents hired or subcontracted if the tasks and
20 responsibilities are associated with:

- 21 (1) the standard industry job position of:
- 22 (a) a director;
 - 23 (b) a writer;
 - 24 (c) a producer;
 - 25 (d) an associate producer;

- 1 (e) a co-producer;
- 2 (f) an executive producer;
- 3 (g) a production supervisor;
- 4 (h) a director of photography;
- 5 (i) a motion picture driver whose sole
- 6 responsibility is driving;
- 7 (j) a production or personal assistant;
- 8 (k) a designer;
- 9 (l) a still photographer; or
- 10 (m) a carpenter and utility technician at
- 11 an entry level; and

12 (2) nonstandard industry job positions and

13 personal support services."

14 SECTION 91. Section 7-2F-2.1 NMSA 1978 (being Laws 2015,

15 Chapter 143, Section 4, as amended) is amended to read:

16 "7-2F-2.1. ADDITIONAL DEFINITIONS.--As used in Sections

17 7-2F-6 through 7-2F-12 NMSA 1978:

18 A. "direct production expenditure":

19 (1) except as provided in Paragraph (2) of this

20 subsection, means a transaction that is subject to taxation in New

21 Mexico, including:

22 (a) payment of wages, fringe benefits or

23 fees for talent, management or labor to a person who is a New

24 Mexico resident;

25 (b) payment for standard industry craft

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1 inventory when provided by a resident industry crew in addition to
2 its industry crew services;

3 (c) payment for wages and per diem for a
4 performing artist who is not a New Mexico resident and who is
5 directly employed by a film production company; provided that the
6 film production company deducts and remits, or causes to be
7 deducted and remitted, income tax from the first day of services
8 rendered in New Mexico at the maximum rate pursuant to the
9 Withholding Tax Act;

10 (d) payment to a personal services business
11 on the wages and per diem paid to a performing artist of the
12 personal services business if: 1) the personal services business
13 pays [~~gross receipts~~] the state sales tax in New Mexico on the
14 portion of those payments qualifying for the tax credit; and 2)
15 the film production company deducts and remits, or causes to be
16 deducted and remitted, income tax at the maximum rate in New
17 Mexico pursuant to Subsection H of Section 7-3A-3 NMSA 1978 on the
18 portion of those payments qualifying for the tax credit paid to a
19 personal services business where the performing artist is a full
20 or part owner of that business or subcontracts with a personal
21 services business where the performing artist is a full or part
22 owner of that business; and

23 (e) any of the following provided by a
24 vendor: 1) the story and scenario to be used for a film; 2) set
25 construction and operations, wardrobe, accessories and related

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1 services; 3) photography, sound synchronization, lighting and
2 related services; 4) editing and related services; 5) rental of
3 facilities and equipment; 6) leasing of vehicles, not including
4 the chartering of aircraft for out-of-state transportation;
5 however, New Mexico-based chartered aircraft for in-state
6 transportation directly attributable to the production shall be
7 considered a direct production expenditure; provided that only the
8 first one hundred dollars (\$100) of the daily expense of leasing a
9 vehicle for passenger transportation on roadways in the state may
10 be claimed as a direct production expenditure; 7) food or lodging;
11 provided that only the first one hundred fifty dollars (\$150) of
12 lodging per individual per day is eligible to be claimed as a
13 direct production expenditure; 8) commercial airfare if purchased
14 through a New Mexico-based travel agency or travel company for
15 travel to and from New Mexico or within New Mexico that is
16 directly attributable to the production; 9) insurance coverage and
17 bonding if purchased through a New Mexico-based insurance agent,
18 broker or bonding agent; 10) services for an external audit upon
19 submission of an application for a film production tax credit by
20 an accounting firm that submits the application pursuant to
21 Subsection I of Section 7-2F-6 NMSA 1978; and 11) other direct
22 costs of producing a film in accordance with generally accepted
23 entertainment industry practice; and

24 (2) does not include an expenditure for:

25 (a) a gift with a value greater than

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1 twenty-five dollars (\$25.00);

2 (b) artwork or jewelry, except that a work
3 of art or a piece of jewelry may be a direct production
4 expenditure if: 1) it is used in the film production; and 2) the
5 expenditure is less than two thousand five hundred dollars
6 (\$2,500);

7 (c) entertainment, amusement or recreation;
8 or

9 (d) subcontracted goods or services
10 provided by a vendor when subcontractors are not subject to state
11 taxation, such as equipment and locations provided by the
12 military, government and religious organizations;

13 B. "film production company" means a person that
14 produces one or more films or any part of a film and that
15 commences principal photography on or after January 1, 2016; and

16 C. "vendor" means a person who sells or leases goods
17 or services that are related to standard industry craft inventory,
18 who has a physical presence in New Mexico and is subject to [~~gross~~
19 ~~receipts~~] state sales tax [~~pursuant to the Gross Receipts and~~
20 ~~Compensating Tax Act~~] and income tax [~~pursuant to the Income Tax~~
21 ~~Act~~] or corporate income tax [~~pursuant to the Corporate Income and~~
22 ~~Franchise Tax Act~~] but excludes a personal services business."

23 SECTION 92. Section 7-2F-4 NMSA 1978 (being Laws 2011,
24 Chapter 165, Section 5, as amended) is amended to read:

25 "7-2F-4. REPORTING--ACCOUNTABILITY.--

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- 1 A. The economic development department shall:
- 2 (1) collect data to be used in an econometric
- 3 tool that objectively assesses the effectiveness of the credits
- 4 provided by the Film Production Tax Credit Act;
- 5 (2) track the direct expenditures for the
- 6 credits;
- 7 (3) with the support and assistance of the
- 8 legislative finance committee staff and the taxation and revenue
- 9 department, review and assess the analysis developed in Paragraph
- 10 (1) of this subsection and create a report for presentation to the
- 11 revenue stabilization and tax policy committee and the legislative
- 12 finance committee that provides an objective assessment of the
- 13 effectiveness of the credits; and
- 14 (4) report annually to the revenue stabilization
- 15 and tax policy committee and the legislative finance committee on
- 16 aggregate approved tax credits made pursuant to the Film
- 17 Production Tax Credit Act.
- 18 B. The division shall develop a form on which the
- 19 taxpayer claiming a credit pursuant to the Film Production Tax
- 20 Credit Act shall submit a report to accompany the taxpayer's
- 21 application for that credit.
- 22 C. With respect to the production on which the
- 23 application for a credit is based, the film production company
- 24 shall report to the division at a minimum the following
- 25 information:

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1 (1) the total aggregate wages of the members of
2 the New Mexico resident crew;

3 (2) the number of New Mexico residents employed;

4 (3) the total amount of [~~gross receipts~~] sales
5 taxes paid;

6 (4) the total number of hours worked by New
7 Mexico residents;

8 (5) the total expenditures made in New Mexico
9 that do not qualify for the credit;

10 (6) the aggregate wages paid to the members of
11 the nonresident crew while working in New Mexico; and

12 (7) other information deemed necessary by the
13 division and economic development department to determine the
14 effectiveness of the credit.

15 D. For purposes of assessing the effectiveness of a
16 credit, the inability of the economic development department to
17 aggregate data due to sample size shall not relieve the department
18 of the requirement to report all relevant data to the legislature.
19 The division shall provide notice to a film production company
20 applying for a credit that information provided to the division
21 may be revealed by the department in reports to the legislature."

22 SECTION 93. Section 7-5A-3 NMSA 1978 (being Laws 2005,
23 Chapter 225, Section 3) is amended to read:

24 "7-5A-3. DEFINITIONS.--As used in the Streamlined Sales and
25 Use Tax Administration Act:

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1 A. "agreement" means the streamlined sales and use tax
2 agreement;

3 B. "certified automated system" means software
4 certified jointly by member states to:

5 (1) calculate the sales tax imposed by each
6 jurisdiction on a transaction;

7 (2) determine the amount of tax to remit to the
8 appropriate state; and

9 (3) maintain a record of the transaction;

10 C. "certified service provider" means an agent that
11 performs all of the sales tax functions of a seller and that is
12 certified jointly by member states to perform all of the sales tax
13 functions of the seller;

14 D. "member state" means a state of the United States
15 that enters into the agreement with another state and the District
16 of Columbia if it enters into the agreement with another state;

17 E. "person" means an individual, trust, estate,
18 fiduciary, partnership, limited liability company, limited
19 liability partnership, corporation and any other legal entity;

20 F. "sales tax" means the [~~gross receipts~~] state sales
21 tax [~~levied pursuant to the Gross Receipts and Compensating Tax~~
22 ~~Act~~] or a tax imposed by a state on the sale of goods or services;

23 G. "seller" means a person making sales, leases and
24 rentals of personal property and services; and

25 H. "use tax" means the [~~compensating~~] state use tax

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1 ~~[levied pursuant to the Gross Receipts and Compensating Tax Act]."~~

2 SECTION 94. Section 7-9-1 NMSA 1978 (being Laws 1966,
3 Chapter 47, Section 1, as amended) is amended to read:

4 "7-9-1. SHORT TITLE.--Chapter 7, Article 9 NMSA 1978 may be
5 cited as the "~~[Gross Receipts and Compensating]~~ Sales and Use Tax
6 Act"."

7 SECTION 95. Section 7-9-2 NMSA 1978 (being Laws 1966,
8 Chapter 47, Section 2) is amended to read:

9 "7-9-2. PURPOSE.--The purpose of the ~~[Gross Receipts and~~
10 ~~Compensating]~~ Sales and Use Tax Act is to provide revenue for
11 public purposes by levying a tax on the privilege of engaging in
12 certain activities within New Mexico and to protect New Mexico
13 ~~[businessmen]~~ businesses from the unfair competition that would
14 otherwise result from the importation into the state of property
15 without payment of a similar tax."

16 SECTION 96. Section 7-9-3 NMSA 1978 (being Laws 1978,
17 Chapter 46, Section 1, as amended) is amended to read:

18 "7-9-3. DEFINITIONS.--As used in the ~~[Gross Receipts and~~
19 ~~Compensating]~~ Sales and Use Tax Act:

20 A. "buying" or "selling" means a transfer of property
21 for consideration or the performance of service for consideration;

22 B. "department" means the taxation and revenue
23 department, the secretary of taxation and revenue or an employee
24 of the department exercising authority lawfully delegated to that
25 employee by the secretary;

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1 C. "financial corporation" means a savings and loan
2 association or an incorporated savings and loan company, trust
3 company, mortgage banking company, consumer finance company or
4 other financial corporation;

5 D. "initial use" or "initially used" means the first
6 employment for the intended purpose and does not include the
7 following activities:

8 (1) observation of tests conducted by the
9 performer of services;

10 (2) participation in progress reviews, briefings,
11 consultations and conferences conducted by the performer of
12 services;

13 (3) review of preliminary drafts, drawings and
14 other materials prepared by the performer of the services;

15 (4) inspection of preliminary prototypes
16 developed by the performer of services; or

17 (5) similar activities;

18 E. "leasing" means an arrangement whereby, for a
19 consideration, property is employed for or by any person other
20 than the owner of the property, except that the granting of a
21 license to use property is licensing and is not a lease;

22 F. "local option [~~gross receipts~~] sales tax" means a
23 tax authorized to be imposed by a county or municipality upon the
24 taxpayer's gross receipts and required to be collected by the
25 department at the same time and in the same manner as the [~~gross~~

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1 ~~receipts] state sales tax; [~~"local option gross receipts tax"~~~~
2 ~~includes the taxes imposed pursuant to the Municipal Local Option~~
3 ~~Gross Receipts Taxes Act, Supplemental Municipal Gross Receipts~~
4 ~~Tax Act, County Local Option Gross Receipts Taxes Act, Local~~
5 ~~Hospital Gross Receipts Tax Act County Correctional Facility Gross~~
6 ~~Receipts Tax Act and such other acts as may be enacted authorizing~~
7 ~~counties or municipalities to impose taxes on gross receipts,~~
8 ~~which taxes are to be collected by the department;]~~

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

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

17 I. "person" means:

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

24 (2) a national, federal, state, Indian or other
25 governmental unit or subdivision, or an agency, department or

1 instrumentality of any of the foregoing;

2 J. "property" means real property, tangible personal
3 property, licenses other than the licenses of copyrights,
4 trademarks or patents and franchises. Tangible personal property
5 includes electricity and manufactured homes;

6 K. "research and development services" means an
7 activity engaged in for other persons for consideration, for one
8 or more of the following purposes:

9 (1) advancing basic knowledge in a recognized
10 field of natural science;

11 (2) advancing technology in a field of technical
12 endeavor;

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

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

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

25 (6) designing and developing prototypes or

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1 integrating systems incorporating the advances, developments or
2 improvements included in Paragraphs (1) through (5) of this
3 subsection;

4 L. "secretary" means the secretary of taxation and
5 revenue or the secretary's delegate;

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

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

25 SECTION 97. Section 7-9-3.2 NMSA 1978 (being Laws 1991,

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1 Chapter 8, Section 1, as amended) is amended to read:

2 "7-9-3.2. ADDITIONAL DEFINITION.--

3 A. As used in the [~~Gross Receipts and Compensating~~
4 Sales and Use Tax Act, "governmental gross receipts" means
5 receipts of the state or an agency, institution, instrumentality
6 or political subdivision from:

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

9 (2) the performance of or admissions to
10 recreational, athletic or entertainment services or events in
11 facilities open to the general public;

12 (3) refuse collection or refuse disposal or both;

13 (4) sewage services;

14 (5) the sale of water by a utility owned or
15 operated by a county, municipality or other political subdivision
16 of the state; and

17 (6) the renting of parking, docking or tie-down
18 spaces or the granting of permission to park vehicles, tie down
19 aircraft or dock boats.

20 "Governmental gross receipts" includes receipts from the
21 sale of tangible personal property handled on consignment when
22 sold from facilities open to the general public but excludes cash
23 discounts taken and allowed, governmental [~~gross receipts~~] sales
24 tax payable on transactions reportable for the period and any type
25 of time-price differential.

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1 B. As used in this section, "facilities open to the
2 general public" does not include point of sale registers or
3 electronic devices at a bookstore owned or operated by a public
4 post-secondary educational institution when the registers or
5 devices are utilized in the sale of textbooks or other materials
6 required for courses at the institution to a student enrolled at
7 the institution who displays a valid student identification card."

8 **SECTION 98.** Section 7-9-3.3 NMSA 1978 (being Laws 2003,
9 Chapter 272, Section 4) is amended to read:

10 "7-9-3.3. DEFINITION--ENGAGING IN BUSINESS.--As used in the
11 [~~Gross Receipts and Compensating~~] Sales and Use Tax Act, "engaging
12 in business" means carrying on or causing to be carried on any
13 activity with the purpose of direct or indirect benefit, except
14 that:

15 A. "engaging in business" does not include having a
16 worldwide web site as a third-party content provider on a computer
17 physically located in New Mexico but owned by another
18 nonaffiliated person; and

19 B. "engaging in business" does not include using a
20 nonaffiliated third-party call center to accept and process
21 telephone or electronic orders of tangible personal property or
22 licenses primarily from non-New Mexico buyers, which orders are
23 forwarded to a location outside New Mexico for filling, or to
24 provide services primarily to non-New Mexico customers."

25 **SECTION 99.** Section 7-9-3.4 NMSA 1978 (being Laws 2003,

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1 Chapter 272, Section 5) is amended to read:

2 "7-9-3.4. DEFINITIONS--CONSTRUCTION AND CONSTRUCTION
3 MATERIALS.--As used in the [~~Gross Receipts and Compensating~~] Sales
4 and Use Tax Act:

5 A. "construction" means:

6 (1) the building, altering, repairing or
7 demolishing in the ordinary course of business any:

8 (a) road, highway, bridge, parking area or
9 related project;

10 (b) building, stadium or other structure;

11 (c) airport, subway or similar facility;

12 (d) park, trail, athletic field, golf
13 course or similar facility;

14 (e) dam, reservoir, canal, ditch or similar
15 facility;

16 (f) sewerage or water treatment facility,
17 power generating plant, pump station, natural gas compressing
18 station, gas processing plant, coal gasification plant, refinery,
19 distillery or similar facility;

20 (g) sewerage, water, gas or other pipeline;

21 (h) transmission line;

22 (i) radio, television or other tower;

23 (j) water, oil or other storage tank;

24 (k) shaft, tunnel or other mining

25 appurtenance;

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- 1 (l) microwave station or similar facility;
- 2 (m) retaining wall, wall, fence, gate or
- 3 similar structure; or
- 4 (n) similar work;
- 5 (2) the leveling or clearing of land;
- 6 (3) the excavating of earth;
- 7 (4) the drilling of wells of any type, including
- 8 seismograph shot holes or core drilling; or
- 9 (5) similar work; and

10 B. "construction material" means tangible personal
11 property that becomes or is intended to become an ingredient or
12 component part of a construction project, but "construction
13 material" does not include a replacement fixture when the
14 replacement is not construction or a replacement part for a
15 fixture."

16 SECTION 100. Section 7-9-3.5 NMSA 1978 (being Laws 2003,
17 Chapter 272, Section 3, as amended) is amended to read:

18 "7-9-3.5. DEFINITION--GROSS RECEIPTS.--

19 A. As used in the [~~Gross Receipts and Compensating~~]
20 Sales and Use Tax Act:

- 21 (1) "gross receipts" means the total amount of
- 22 money or the value of other consideration received from selling
- 23 property in New Mexico, from leasing or licensing property
- 24 employed in New Mexico, from granting a right to use a franchise
- 25 employed in New Mexico, from selling services performed outside

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1 New Mexico, the product of which is initially used in New Mexico,
2 or from performing services in New Mexico. In an exchange in
3 which the money or other consideration received does not represent
4 the value of the property or service exchanged, "gross receipts"
5 means the reasonable value of the property or service exchanged;

6 (2) "gross receipts" includes:

7 (a) any receipts from sales of tangible
8 personal property handled on consignment;

9 (b) the total commissions or fees derived
10 from the business of buying, selling or promoting the purchase,
11 sale or lease, as an agent or broker on a commission or fee basis,
12 of any property, service, stock, bond or security;

13 (c) amounts paid by members of any
14 cooperative association or similar organization for sales or
15 leases of personal property or performance of services by such
16 organization;

17 (d) amounts received from transmitting
18 messages or conversations by persons providing telephone or
19 telegraph services;

20 (e) amounts received by a New Mexico
21 florist from the sale of flowers, plants or other products that
22 are customarily sold by florists where the sale is made pursuant
23 to orders placed with the New Mexico florist that are filled and
24 delivered outside New Mexico by an out-of-state florist; and

25 (f) the receipts of a home service provider

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1 from providing mobile telecommunications services to customers
2 whose place of primary use is in New Mexico if: 1) the mobile
3 telecommunications services originate and terminate in the same
4 state, regardless of where the services originate, terminate or
5 pass through; and 2) the charges for mobile telecommunications
6 services are billed by or for a customer's home service provider
7 and are deemed provided by the home service provider. For the
8 purposes of this section, "home service provider", "mobile
9 telecommunications services", "customer" and "place of primary
10 use" have the meanings given in the federal Mobile
11 Telecommunications Sourcing Act; and

12 (3) "gross receipts" excludes:

13 (a) cash discounts allowed and taken;

14 (b) [~~New Mexico gross receipts~~] state sales
15 tax, governmental [~~gross receipts~~] sales tax and leased vehicle
16 [~~gross receipts~~] sales tax payable on transactions for the
17 reporting period;

18 (c) taxes imposed pursuant to the
19 provisions of any local option [~~gross receipts~~] sales tax that is
20 payable on transactions for the reporting period;

21 (d) any gross receipts or sales taxes
22 imposed by an Indian nation, tribe or pueblo; provided that the
23 tax is approved, if approval is required by federal law or
24 regulation, by the secretary of the interior of the United States;
25 and provided further that the gross receipts or sales tax imposed

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1 by the Indian nation, tribe or pueblo provides a reciprocal
2 exclusion for gross receipts, sales or gross receipts-based excise
3 taxes imposed by the state or its political subdivisions;

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

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

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

12 B. When the sale of property or service is made under
13 any type of charge, conditional or time-sales contract or the
14 leasing of property is made under a leasing contract, the seller
15 or lessor may elect to treat all receipts, excluding any type of
16 time-price differential, under such contracts as gross receipts as
17 and when the payments are actually received. If the seller or
18 lessor transfers the seller's or lessor's interest in any such
19 contract to a third person, the seller or lessor shall pay the
20 [~~gross receipts~~] state sales tax upon the full sale or leasing
21 contract amount, excluding any type of time-price differential."

22 SECTION 101. Section 7-9-4 NMSA 1978 (being Laws 1966,
23 Chapter 47, Section 4, as amended) is amended to read:

24 "7-9-4. IMPOSITION AND RATE OF TAX--DENOMINATION AS "[~~GROSS~~
25 ~~RECEIPTS~~] STATE SALES TAX".--

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1 A. For the privilege of engaging in business, an
2 excise tax equal to five and one-eighth percent of gross receipts
3 is imposed on any person engaging in business in New Mexico.

4 B. The tax imposed by this section shall be referred
5 to as the "~~[gross receipts]~~ state sales tax".

6 **SECTION 102.** Section 7-9-4.3 NMSA 1978 (being Laws 1991,
7 Chapter 8, Section 2, as amended by Laws 1993, Chapter 332,
8 Section 1 and by Laws 1993, Chapter 352, Section 1) is amended to
9 read:

10 "7-9-4.3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
11 "GOVERNMENTAL [~~GROSS RECEIPTS~~] SALES TAX".--For the privilege of
12 engaging in certain activities by governments, there is imposed on
13 every agency, institution, instrumentality or political
14 subdivision of the state, except any school district and any
15 entity licensed by the department of health that is principally
16 engaged in providing health care services, an excise tax of five
17 percent of governmental gross receipts. The tax imposed by this
18 section shall be referred to as the "governmental [~~gross receipts~~]
19 sales tax".

20 **SECTION 103.** Section 7-9-5 NMSA 1978 (being Laws 1966,
21 Chapter 47, Section 5, as amended) is amended to read:

22 "7-9-5. PRESUMPTION OF TAXABILITY.--

23 A. To prevent evasion of the [~~gross receipts~~] state
24 sales tax and to aid in its administration, it is presumed that
25 all receipts of a person engaging in business are subject to the

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1 [~~gross receipts~~] state sales tax. [~~Any~~] A person engaged solely
2 in transactions specifically exempt under the provisions of the
3 [~~Gross Receipts and Compensating~~] Sales and Use Tax Act shall not
4 be required to register or file a return under that act.

5 B. If receipts from nontaxable charges for mobile
6 telecommunications services are aggregated with and not separately
7 stated from taxable charges for mobile telecommunications
8 services, [~~then~~] the charges for nontaxable mobile
9 telecommunications services shall be subject to [~~gross receipts~~]
10 sales tax unless the home service provider can reasonably identify
11 nontaxable charges in its books and records that are kept in the
12 regular course of business. For the purposes of this subsection,
13 "charges for mobile telecommunications services", "home service
14 provider" and "mobile telecommunications services" have the
15 meanings given in the federal Mobile Telecommunications Sourcing
16 Act."

17 SECTION 104. Section 7-9-6 NMSA 1978 (being Laws 1966,
18 Chapter 47, Section 6, as amended) is amended to read:

19 "7-9-6. SEPARATELY STATING THE [~~GROSS RECEIPTS~~] STATE SALES
20 TAX.--When the [~~gross receipts~~] state sales tax is stated
21 separately on the books of the seller or lessor, and if the total
22 amount of tax that is stated separately on transactions reportable
23 within one reporting period is in excess of the amount of [~~gross~~
24 ~~receipts~~] state sales tax otherwise payable on the transactions on
25 which the tax was stated separately, the excess amount of tax

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1 stated on the transactions within that reporting period shall be
2 included in gross receipts."

3 SECTION 105. Section 7-9-7 NMSA 1978 (being Laws 1966,
4 Chapter 47, Section 7, as amended) is amended to read:

5 "7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS
6 "[~~COMPENSATING~~] STATE USE TAX".--

7 A. For the privilege of using tangible property in New
8 Mexico, there is imposed on the person using the property an
9 excise tax equal to five and one-eighth percent of the value of
10 tangible property that was:

11 (1) manufactured by the person using the property
12 in the state;

13 (2) acquired inside or outside of this state as
14 the result of a transaction with a person located outside this
15 state that would have been subject to the [~~gross receipts~~] state
16 sales tax had the tangible personal property been acquired from a
17 person with nexus with New Mexico; or

18 (3) acquired as the result of a transaction that
19 was not initially subject to the [~~compensating~~] state use tax
20 imposed by Paragraph (2) of this subsection or the [~~gross~~
21 ~~receipts~~] state sales tax but which transaction, because of the
22 buyer's subsequent use of the property, should have been subject
23 to the [~~compensating~~] state use tax imposed by Paragraph (2) of
24 this subsection or the [~~gross receipts~~] state sales tax.

25 B. For the purpose of Subsection A of this section,

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1 value of tangible property shall be the adjusted basis of the
2 property for federal income tax purposes determined as of the time
3 of acquisition or introduction into this state or of conversion to
4 use, whichever is later. If no adjusted basis for federal income
5 tax purposes is established for the property, a reasonable value
6 of the property shall be used.

7 C. For the privilege of using services rendered in New
8 Mexico, there is imposed on the person using such services an
9 excise tax equal to five percent of the value of the services at
10 the time they were rendered. The services, to be taxable under
11 this subsection, must have been rendered as the result of a
12 transaction that was not initially subject to the [~~gross receipts~~]
13 state sales tax but which transaction, because of the buyer's
14 subsequent use of the services, should have been subject to the
15 [~~gross receipts~~] state sales tax.

16 D. The tax imposed by this section shall be referred
17 to as the "[~~compensating~~] state use tax".

18 SECTION 106. Section 7-9-7.1 NMSA 1978 (being Laws 1993,
19 Chapter 45, Section 1, as amended) is amended to read:

20 "7-9-7.1. DEPARTMENT BARRED FROM TAKING COLLECTION ACTIONS
21 WITH RESPECT TO CERTAIN [~~COMPENSATING~~] STATE USE TAX
22 LIABILITIES.--

23 A. The department shall take no action to enforce
24 collection of [~~compensating~~] state use tax due on purchases made
25 by an individual if:

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

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

4 (3) the individual is not an agent for collection
5 of [~~compensating~~] state use tax pursuant to Section 7-9-10 NMSA
6 1978.

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

15 SECTION 107. Section 7-9-8 NMSA 1978 (being Laws 1966,
16 Chapter 47, Section 8, as amended) is amended to read:

17 "7-9-8. PRESUMPTION OF TAXABILITY AND VALUE.--

18 A. To prevent evasion of the [~~compensating~~] state use
19 tax and the duty to collect it, it is presumed that property
20 bought or sold by any person for delivery into this state is
21 bought or sold for a taxable use in this state.

22 B. In determining the amount of [~~compensating~~] state
23 use tax due on the use of property, it is presumed, in the absence
24 of preponderant evidence of another value, that the value means
25 the total amount of money or the reasonable value of other

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1 consideration paid for property exclusive of any type of time-
2 price differential. However, in an exchange in which the amount
3 of money paid does not represent the value of the property or
4 property and service purchased, the [~~compensating~~] state use tax
5 shall be imposed on the reasonable value of the property or
6 property and service purchased.

7 C. In determining the amount of [~~compensating~~] state
8 use tax due on the use of a service, it is presumed, in the
9 absence of preponderant evidence of another value, that the value
10 means the total amount of money or the reasonable value of other
11 consideration paid for the service exclusive of any type of time-
12 price differential. However, in an exchange in which the amount
13 paid does not represent the value of the service purchased, the
14 [~~compensating~~] state use tax shall be imposed on the reasonable
15 value of the service purchased."

16 SECTION 108. Section 7-9-9 NMSA 1978 (being Laws 1966,
17 Chapter 47, Section 9, as amended) is amended to read:

18 "7-9-9. LIABILITY OF USER FOR PAYMENT OF [~~COMPENSATING~~]
19 STATE USE TAX.--Any person in New Mexico using property on the
20 value of which [~~compensating~~] state use tax is payable but has not
21 been paid is liable to the state for payment of the [~~compensating~~]
22 state use tax, but this liability is discharged if the buyer has
23 paid the [~~compensating~~] state use tax to the seller for payment
24 over to the department."

25 SECTION 109. Section 7-9-10 NMSA 1978 (being Laws 1966,

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1 Chapter 47, Section 10, as amended) is amended to read:

2 "7-9-10. AGENTS FOR COLLECTION OF [~~COMPENSATING~~] STATE USE
3 TAX--DUTIES.--

4 A. Every person carrying on or causing to be carried
5 on any activity within this state attempting to exploit New
6 Mexico's markets who sells property or sells property and service
7 for use in this state and who is not subject to the [~~gross~~
8 ~~receipts~~] state sales tax on receipts from these sales shall
9 collect the [~~compensating~~] state use tax from the buyer and pay
10 the tax collected to the department. "Activity", for the purposes
11 of this section, includes but is not limited to engaging in any of
12 the following in New Mexico: maintaining an office or other place
13 of business; soliciting orders through employees or independent
14 contractors; soliciting orders through advertisements placed in
15 newspapers or magazines published in New Mexico or advertisements
16 broadcast by New Mexico radio or television stations; soliciting
17 orders through programs broadcast by New Mexico radio or
18 television stations or transmitted by cable systems in New Mexico;
19 and canvassing, demonstrating, collecting money, warehousing or
20 storing merchandise or delivering or distributing products as a
21 consequence of an advertising or other sales program directed at
22 potential customers. "Activity", for the purposes of this
23 section, does not include having a [~~world-wide web site~~] worldwide
24 website as a third-party provider on a computer physically located
25 in New Mexico but owned by another nonaffiliated person, and

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1 "activity" does not include using a nonaffiliated third-party call
2 center to accept and process telephone or electronic orders of
3 tangible personal property or licenses primarily from non-New
4 Mexico buyers, which orders are forwarded to a location outside
5 New Mexico for filling, or to provide services primarily to non-
6 New Mexico customers.

7 B. To ensure orderly and efficient collection of the
8 public revenue, if any application of this section is held
9 invalid, the section's application to other situations or persons
10 shall not be affected."

11 SECTION 110. Section 7-9-11 NMSA 1978 (being Laws 1966,
12 Chapter 47, Section 11, as amended) is amended to read:

13 "7-9-11. DATE PAYMENT DUE.--The taxes imposed by the [~~Gross~~
14 ~~Receipts and Compensating~~] Sales and Use Tax Act are to be paid on
15 or before the twenty-fifth day of the month following the month in
16 which the taxable event occurs."

17 SECTION 111. Section 7-9-12 NMSA 1978 (being Laws 1969,
18 Chapter 144, Section 5, as amended) is amended to read:

19 "7-9-12. EXEMPTIONS.--Exemptions from either the [~~gross~~
20 ~~receipts~~] state sales tax or the [~~compensating~~] state use tax are
21 not exemptions from both taxes unless explicitly stated otherwise
22 by law."

23 SECTION 112. Section 7-9-13 NMSA 1978 (being Laws 1969,
24 Chapter 144, Section 6, as amended) is amended to read:

25 "7-9-13. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX--

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1 GOVERNMENTAL AGENCIES.--

2 A. Except as otherwise provided in this section,
3 exempted from the [~~gross receipts~~] state sales tax are receipts
4 of:

5 (1) the United States or any agency, department
6 or instrumentality thereof;

7 (2) the state of New Mexico or any political
8 subdivision thereof;

9 (3) any Indian nation, tribe or pueblo from
10 activities or transactions occurring on its sovereign territory;
11 or

12 (4) any foreign nation or agency, instrumentality
13 or political subdivision thereof, but only when required by a
14 treaty in force to which the United States is a party.

15 B. Receipts from the sale of gas or electricity by a
16 utility owned or operated by a county, municipality or other
17 political subdivision of a state are not exempted from the [~~gross~~
18 ~~receipts~~] state sales tax.

19 C. Receipts from the operation of a cable television
20 system owned or operated by a municipality are not exempted from
21 the [~~gross receipts~~] state sales tax."

22 SECTION 113. Section 7-9-13.1 NMSA 1978 (being Laws 1989,
23 Chapter 262, Section 4) is amended to read:

24 "7-9-13.1. EXEMPTION-- [~~GROSS RECEIPTS~~] STATE SALES TAX--
25 SERVICES PERFORMED OUTSIDE THE STATE THE PRODUCT OF WHICH IS

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1 INITIALLY USED IN NEW MEXICO--EXCEPTIONS.--

2 A. Except as provided otherwise in Subsection B of
3 this section, exempted from the [~~gross receipts~~] state sales tax
4 are the receipts from selling services performed outside New
5 Mexico the product of which is initially used in New Mexico.

6 B. The exemption provided by this section does not
7 apply to research and development services other than research and
8 development services:

9 (1) sold between affiliated corporations;

10 (2) sold to the United States by persons, other
11 than organizations described in Subsection A of Section 7-9-29
12 NMSA 1978, who are prime contractors operating facilities in New
13 Mexico designated as national laboratories by act of congress; or

14 (3) sold to persons, other than organizations
15 described in Subsection A of Section 7-9-29 NMSA 1978, who are
16 prime contractors operating facilities in New Mexico designated as
17 national laboratories by act of congress.

18 C. An "affiliated corporation" means a corporation
19 that directly or indirectly, through one or more intermediaries
20 controls, is controlled by or is under common control with the
21 subject corporation. "Control" means ownership of stock in a
22 corporation which represents at least eighty percent of the total
23 voting power of that corporation and has a stated or par value
24 equal to at least eighty percent of the total stated or par value
25 of the stock of that corporation."

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1 SECTION 114. Section 7-9-13.2 NMSA 1978 (being Laws 1992,
2 Chapter 100, Section 3, as amended) is amended to read:

3 "7-9-13.2. EXEMPTION--GOVERNMENTAL [~~GROSS RECEIPTS~~] SALES
4 TAX--RECEIPTS SUBJECT TO CERTAIN OTHER TAXES.--Exempted from the
5 governmental [~~gross receipts~~] sales tax are receipts from
6 transactions involving tangible personal property or services on
7 which receipts or transactions the [~~gross receipts~~] state sales
8 tax, [~~compensating~~] state use tax, motor vehicle excise tax,
9 gasoline tax, [~~special fuel tax~~] special fuel excise tax, oil and
10 gas emergency school tax, resources tax, processors tax, service
11 tax or the excise tax imposed under Section 66-12-6.1 NMSA 1978 is
12 imposed."

13 SECTION 115. Section 7-9-13.3 NMSA 1978 (being Laws 2001,
14 Chapter 231, Section 12) is amended to read:

15 "7-9-13.3. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX AND
16 GOVERNMENTAL [~~GROSS RECEIPTS~~] SALES TAX--STADIUM SURCHARGE.--
17 Exempted from the [~~gross receipts~~] state sales tax and from the
18 governmental [~~gross receipts~~] sales tax are the receipts from
19 selling tickets, parking, souvenirs, concessions, programs,
20 advertising, merchandise, corporate suites or boxes, broadcast
21 revenues and all other products, services or activities sold at,
22 related to or occurring at a minor league baseball stadium on
23 which a stadium surcharge is imposed pursuant to the Minor League
24 Baseball Stadium Funding Act."

25 SECTION 116. Section 7-9-13.4 NMSA 1978 (being Laws 2002,

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

2 "7-9-13.4. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX--SALE
3 OF TEXTBOOKS FROM CERTAIN BOOKSTORES TO ENROLLED STUDENTS.--
4 Exempted from the ~~[gross receipts]~~ state sales tax are the
5 receipts from the sale of textbooks and other materials that are
6 required for courses at a public post-secondary educational
7 institution if the sale is by a bookstore located on the campus of
8 the institution and operated pursuant to a contractual agreement
9 with that institution and the sale is to a student enrolled at the
10 institution who displays a valid student identification card."

11 SECTION 117. Section 7-9-13.5 NMSA 1978 (being Laws 2005,
12 Chapter 351, Section 2) is amended to read:

13 "7-9-13.5. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX AND
14 GOVERNMENTAL ~~[GROSS RECEIPTS]~~ SALES TAX--EVENT CENTER SURCHARGE.--
15 Exempted from the ~~[gross receipts]~~ state sales tax and from the
16 governmental ~~[gross receipts]~~ sales tax are the receipts from
17 selling tickets, parking, souvenirs, concessions, programs,
18 advertising, merchandise, corporate suites or boxes, broadcast
19 revenues and all other products or services sold at or related to
20 a municipal event center or related to activities occurring at the
21 event center on which an event center surcharge is imposed
22 pursuant to the Municipal Event Center Funding Act."

23 SECTION 118. Section 7-9-14 NMSA 1978 (being Laws 1969,
24 Chapter 144, Section 7, as amended) is amended to read:

25 "7-9-14. EXEMPTION--~~[COMPENSATING]~~ STATE USE TAX--

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1 GOVERNMENTAL AGENCIES--INDIANS.--

2 A. Except as otherwise provided in this subsection,
3 there is exempted from the [~~compensating~~] state use tax the use of
4 property by the United States or the state of New Mexico or any
5 governmental unit or subdivision, agency, department or
6 instrumentality thereof. The exemption provided by this
7 subsection does not apply to:

8 (1) the use of property that is or will be
9 incorporated into a metropolitan redevelopment project under the
10 Metropolitan Redevelopment Code; or

11 (2) the use of construction material.

12 B. Exempted from the [~~compensating~~] state use tax is the
13 use of property by any Indian nation, tribe or pueblo or any
14 governmental unit, subdivision, agency, department or
15 instrumentality thereof on Indian reservations or pueblo grants."

16 SECTION 119. Section 7-9-15 NMSA 1978 (being Laws 1970,
17 Chapter 12, Section 1, as amended) is amended to read:

18 "7-9-15. EXEMPTION--~~[COMPENSATING]~~ STATE USE TAX--CERTAIN
19 ORGANIZATIONS.--Exempted from the [~~compensating~~] state use tax is
20 the use of property by organizations that demonstrate to the
21 department that they have been granted exemption from the federal
22 income tax by the United States commissioner of internal revenue
23 as organizations described in Section 501(c)(3) of the United
24 States Internal Revenue Code of [~~1954~~] 1986, as amended or
25 renumbered, in the conduct of functions described in Section

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1 501(c)(3) of that code. The use of property as an ingredient or
2 component part of a construction project is not a use in the
3 conduct of functions described in Section 501(c)(3) of that code.
4 This section does not apply to the use of property in an unrelated
5 trade or business as defined in Section 513 of the United States
6 Internal Revenue Code of [~~1954~~] 1986, as amended or renumbered."

7 SECTION 120. Section 7-9-16 NMSA 1978 (being Laws 1969,
8 Chapter 144, Section 9, as amended) is amended to read:

9 "7-9-16. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX--
10 CERTAIN NONPROFIT FACILITIES.--Exempted from the [~~gross receipts~~]
11 state sales tax are the receipts of nonprofit entities from the
12 operation of facilities designed and used for providing
13 accommodations for retired elderly persons."

14 SECTION 121. Section 7-9-17 NMSA 1978 (being Laws 1969,
15 Chapter 144, Section 10) is amended to read:

16 "7-9-17. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX--
17 WAGES.--Exempted from the [~~gross receipts~~] state sales tax are the
18 receipts of employees from wages, salaries, commissions or from
19 any other form of remuneration for personal services."

20 SECTION 122. Section 7-9-18 NMSA 1978 (being Laws 1969,
21 Chapter 144, Section 11, as amended) is amended to read:

22 "7-9-18. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX AND
23 GOVERNMENTAL [~~GROSS RECEIPTS~~] SALES TAX--AGRICULTURAL PRODUCTS.--

24 A. Exempted from the [~~gross receipts~~] state sales tax
25 and from the governmental [~~gross receipts~~] sales tax are the

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1 receipts from selling livestock and receipts of growers,
2 producers, trappers or nonprofit marketing associations from
3 selling livestock, live poultry, unprocessed agricultural
4 products, hides or pelts. Persons engaged in the business of
5 buying and selling wool or mohair or of buying and selling
6 livestock on their own account are producers for the purposes of
7 this section.

8 B. Receipts from selling dairy products at retail are
9 not exempted from the [~~gross receipts~~] state sales tax.

10 C. As used in this section, "livestock" means all
11 domestic or domesticated animals that are used or raised on a farm
12 or ranch, including the carcasses thereof, and also includes
13 horses, asses, mules, cattle, sheep, goats, swine, bison, poultry,
14 ostriches, emus, rheas, camelids and farmed cervidae upon any land
15 in New Mexico; provided that for the purposes of [~~Chapter 77,~~
16 ~~Article 9 NMSA 1978~~] The Livestock Code, "animals" or "livestock"
17 have the meaning defined in that article. "Animals" or
18 "livestock" does not include canine or feline animals. For the
19 purpose of the rules governing meat inspection, wild animals,
20 poultry and birds used for human consumption shall also be
21 included within the meaning of "animals" or "livestock".

22 SECTION 123. Section 7-9-18.1 NMSA 1978 (being Laws 1987,
23 Chapter 264, Section 13 and Laws 1987, Chapter 304, Section 1) is
24 amended to read:

25 "7-9-18.1. EXEMPTION-- [~~GROSS RECEIPTS~~] STATE SALES TAX--FOOD

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1 STAMPS.--Exempted from the [~~gross receipts~~] state sales tax are
2 the receipts of a taxpayer who is approved for participation in
3 the food stamp program authorized by U.S.C. Title 7, Chapter 51,
4 as that chapter may be amended or renumbered, from the lawful
5 acceptance and deposit with a financial institution of food stamps
6 issued by the United States department of agriculture pursuant to
7 the food stamp program."

8 SECTION 124. Section 7-9-19 NMSA 1978 (being Laws 1969,
9 Chapter 144, Section 12, as amended) is amended to read:

10 "7-9-19. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES
11 TAX--LIVESTOCK FEEDING.--

12 A. Exempted from the [~~gross receipts~~] state sales tax
13 are the receipts of any person derived from feeding or pasturing
14 livestock.

15 B. Receipts derived from penning or handling livestock
16 prior to sale are receipts derived from feeding livestock for the
17 purposes of this section.

18 C. Receipts derived from training livestock are receipts
19 derived from feeding livestock for the purposes of this section."

20 SECTION 125. Section 7-9-20 NMSA 1978 (being Laws 1988,
21 Chapter 82, Section 1) is amended to read:

22 "7-9-20. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX--
23 CERTAIN RECEIPTS OF HOMEOWNERS ASSOCIATIONS.--Exempted from the
24 [~~gross receipts~~] state sales tax are those receipts of homeowners
25 associations defined in Section 528(c)(1) (A thru D), (2), (3) and

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1 (4) (A, B and D) of the Internal Revenue Code of 1986, as amended,
2 [~~which~~] that are received as membership fees, dues or assessments
3 from members who are owners of residential units, residences or
4 residential lots, except for owners of time-share interests, for
5 payment of taxes, insurance, utility expenses, management and
6 improvement, maintenance or rehabilitation of those common areas,
7 elements or facilities appurtenant thereto [~~which~~] that are for
8 the sole use of the owners and their guests."

9 SECTION 126. Section 7-9-22 NMSA 1978 (being Laws 1969,
10 Chapter 144, Section 15, as amended) is amended to read:

11 "7-9-22. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX--
12 VEHICLES.--Exempted from the [~~gross receipts~~] state sales tax are
13 the receipts from selling vehicles on which a tax is imposed by
14 the Motor Vehicle Excise Tax Act, vehicles subject to registration
15 under Section 66-3-16 NMSA 1978 and vehicles exempt from the motor
16 vehicle excise tax pursuant to Subsection F of Section 7-14-6 NMSA
17 1978."

18 SECTION 127. Section 7-9-22.1 NMSA 1978 (being Laws 1987,
19 Chapter 247, Section 1) is amended to read:

20 "7-9-22.1. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX--
21 BOATS.--Exempted from the [~~gross receipts~~] state sales tax are the
22 receipts from selling boats on which a tax is imposed by Section
23 66-12-6.1 NMSA 1978."

24 SECTION 128. Section 7-9-23 NMSA 1978 (being Laws 1969,
25 Chapter 144, Section 16, as amended) is amended to read:

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1 "7-9-23. EXEMPTION--~~[COMPENSATING]~~ STATE USE TAX--
2 VEHICLES.--Exempted from the ~~[compensating]~~ state use tax ~~[is]~~ are
3 the use of vehicles on which the tax imposed by the Motor Vehicle
4 Excise Tax Act has been paid, the use of vehicles subject to
5 registration under Section 66-3-16 NMSA 1978 and the use of
6 vehicles exempt from the motor vehicle excise tax pursuant to
7 Subsection F of Section 7-14-6 NMSA 1978."

8 **SECTION 129.** Section 7-9-23.1 NMSA 1978 (being Laws 1987,
9 Chapter 247, Section 2) is amended to read:

10 "7-9-23.1. EXEMPTION--~~[COMPENSATING]~~ STATE USE TAX--BOATS.--
11 Exempted from the ~~[compensating]~~ state use tax is the use of boats
12 on which the tax imposed by Section 66-12-6.1 NMSA 1978 has been
13 paid."

14 **SECTION 130.** Section 7-9-24 NMSA 1978 (being Laws 1969,
15 Chapter 144, Section 17, as amended) is amended to read:

16 "7-9-24. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX--
17 INSURANCE COMPANIES.--Exempted from the ~~[gross receipts]~~ state
18 sales tax are the receipts of insurance companies or any agent
19 thereof from premiums and any consideration received by a property
20 bondsman, as that person is defined in Section 59A-51-2 NMSA 1978,
21 as security or surety for a bail bond in connection with a
22 judicial proceeding."

23 **SECTION 131.** Section 7-9-25 NMSA 1978 (being Laws 1969,
24 Chapter 144, Section 18) is amended to read:

25 "7-9-25. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX--

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1 DIVIDENDS AND INTEREST.--Exempted from the [~~gross receipts~~] state
2 sales tax are the receipts received as interest on money loaned or
3 deposited, receipts received as dividends or interest from stocks,
4 bonds or securities or receipts from the sale of stocks, bonds or
5 securities."

6 SECTION 132. Section 7-9-26 NMSA 1978 (being Laws 1969,
7 Chapter 144, Section 19, as amended) is amended to read:

8 "7-9-26. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX AND
9 [~~COMPENSATING~~] STATE USE TAX--FUEL--Exempted from the [~~gross~~
10 ~~receipts and compensating tax~~] state sales tax and the state use
11 tax are the receipts from selling and the use of gasoline, special
12 fuel or alternative fuel on which the tax imposed by Section
13 7-13-3, [~~7-16-3 or~~] 7-16A-3 or 7-16B-4 NMSA 1978 [~~or the~~
14 ~~Alternative Fuel Tax Act~~] has been paid and not refunded."

15 SECTION 133. Section 7-9-26.1 NMSA 1978 (being Laws 2003,
16 Chapter 62, Section 1) is amended to read:

17 "7-9-26.1. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX AND
18 [~~COMPENSATING~~] STATE USE TAX--FUEL FOR SPACE VEHICLES---

19 A. Exempted from the [~~gross receipts~~] state sales tax
20 are the receipts from selling fuel, oxidizer or a substance that
21 combines fuel and oxidizer to propel space vehicles or to operate
22 space vehicle launchers.

23 B. Exempted from the [~~compensating~~] state use tax is the
24 use of fuel, oxidizer or a substance that combines fuel and
25 oxidizer to propel space vehicles or to operate space vehicle

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1 launchers."

2 SECTION 134. Section 7-9-27 NMSA 1978 (being Laws 1969,
3 Chapter 144, Section 20) is amended to read:

4 "7-9-27. EXEMPTION--~~[COMPENSATING]~~ STATE USE TAX--PERSONAL
5 EFFECTS.--Exempted from the ~~[compensating]~~ state use tax is the
6 use by an individual of personal or household effects brought into
7 the state in connection with the establishment by ~~[him]~~ the
8 individual of an initial residence in this state and the use of
9 property brought into the state by a nonresident for ~~[his]~~ the
10 nonresident's own nonbusiness use while temporarily within this
11 state."

12 SECTION 135. Section 7-9-28 NMSA 1978 (being Laws 1969,
13 Chapter 144, Section 21) is amended to read:

14 "7-9-28. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX--
15 OCCASIONAL SALE OF PROPERTY OR SERVICES.--Exempted from the ~~[gross~~
16 receipts] state sales tax are the receipts from the isolated or
17 occasional sale of or leasing of property or a service by a person
18 who is neither regularly engaged nor ~~[holding himself out]~~ making
19 any representation as being as engaged in the business of selling
20 or leasing the same or similar property or service."

21 SECTION 136. Section 7-9-29 NMSA 1978 (being Laws 1970,
22 Chapter 12, Section 3, as amended) is amended to read:

23 "7-9-29. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX--
24 CERTAIN ORGANIZATIONS.--

25 A. Exempted from the ~~[gross receipts]~~ state sales tax

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1 are the receipts of organizations that demonstrate to the
2 department that they have been granted exemption from the federal
3 income tax by the United States commissioner of internal revenue
4 as organizations described in Section 501(c)(3) of the United
5 States Internal Revenue Code of [~~1954~~] 1986, as that section may
6 be amended or renumbered.

7 B. Exempted from the [~~gross receipts~~] state sales tax
8 are the receipts from carrying on chamber of commerce, visitor
9 bureau and convention bureau functions of organizations that
10 demonstrate to the department that they have been granted
11 exemption from the federal income tax by the United States
12 commissioner of internal revenue as organizations described in
13 Section 501(c)(6) of the United States Internal Revenue Code of
14 [~~1954~~] 1986, as that section may be amended or renumbered.

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

19 SECTION 137. Section 7-9-30 NMSA 1978 (being Laws 1969,
20 Chapter 144, Section 23, as amended) is amended to read:

21 "7-9-30. EXEMPTION--~~[COMPENSATING]~~ STATE USE TAX--RAILROAD
22 EQUIPMENT, AIRCRAFT AND SPACE VEHICLES.--

23 A. Exempted from the [~~compensating~~] state use tax is the
24 use of railroad locomotives, trailers, containers, tenders or cars
25 procured or bought for use in railroad transportation.

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1 B. Exempted from the [~~compensating~~] state use tax is the
2 use of commercial aircraft bought or leased primarily for use in
3 the transportation of passengers or property for hire in
4 interstate commerce.

5 C. Exempted from the [~~compensating~~] state use tax is the
6 use of space vehicles for transportation of persons or property
7 in, to or from space."

8 **SECTION 138.** Section 7-9-31 NMSA 1978 (being Laws 1969,
9 Chapter 144, Section 24) is amended to read:

10 "7-9-31. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX AND
11 ~~[COMPENSATING]~~ STATE USE TAX--RESALE ACTIVITIES OF AN ARMED FORCES
12 INSTRUMENTALITY.--Exempted from the [~~gross receipts~~] state sales
13 tax and [~~compensating~~] state use tax are the receipts from selling
14 tangible personal property and the use of property by any
15 instrumentality of the armed forces of the United States engaged
16 in resale activities."

17 **SECTION 139.** Section 7-9-32 NMSA 1978 (being Laws 1969,
18 Chapter 144, Section 25) is amended to read:

19 "7-9-32. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX--OIL
20 AND GAS OR MINERAL INTERESTS.--Exempted from the [~~gross receipts~~]
21 state sales tax are the receipts from the sale of or leasing of
22 oil, natural gas or mineral interests."

23 **SECTION 140.** Section 7-9-33 NMSA 1978 (being Laws 1969,
24 Chapter 144, Section 26, as amended) is amended to read:

25 "7-9-33. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX--

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1 PRODUCTS SUBJECT TO OIL AND GAS EMERGENCY SCHOOL TAX ACT.--

2 A. Exempted from the [~~gross receipts~~] state sales tax
3 are receipts from the sale of products the severance of which is
4 subject to the tax imposed by the Oil and Gas Emergency School Tax
5 Act, except that receipts from the sale of products other than for
6 subsequent resale in the ordinary course of business, for
7 consumption outside the state or for use as an ingredient or
8 component part of a manufactured product are subject to the [~~Gross~~
9 ~~Receipts and Compensating~~] Sales and Use Tax Act as well as to the
10 Oil and Gas Emergency School Tax Act.

11 B. No [~~gross receipts~~] state sales tax or [~~compensating~~]
12 state use tax [~~pursuant to the Gross Receipts and Compensating Tax~~
13 ~~Act~~] shall apply to storing crude oil, natural gas or liquid
14 hydrocarbons, individually or any combination, or to the use of
15 such products for fuel in the operation of a "production unit" as
16 defined by the Oil and Gas Emergency School Tax Act."

17 SECTION 141. Section 7-9-34 NMSA 1978 (being Laws 1969,
18 Chapter 144, Section 27, as amended) is amended to read:

19 "7-9-34. EXEMPTION--[~~GROSS RECEIPTS~~] STATE SALES TAX--
20 REFINERS AND PERSONS SUBJECT TO NATURAL GAS PROCESSORS TAX ACT.--

21 A. Exempted from the [~~gross receipts~~] state sales tax
22 are receipts from the sale or processing of products the
23 processing of which is subject to the [~~privilege~~] natural gas
24 processors tax [~~imposed by the Natural Gas Processors Tax Act~~],
25 except that receipts from the sale of products other than for

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1 subsequent resale in the ordinary course of business, for
2 consumption outside the state or for use as an ingredient or
3 component part of a manufactured product are subject to the [~~Gross~~
4 ~~Receipts and Compensating~~] Sales and Use Tax Act as well as to the
5 Natural Gas Processors Tax Act.

6 B. No [~~gross receipts~~] state sales tax or [~~compensating~~
7 state use tax [~~pursuant to the Gross Receipts and Compensating Tax~~
8 ~~Act~~] shall apply to receipts from storing or using crude oil,
9 natural gas or liquid hydrocarbons, individually or any
10 combination, when stored or used in New Mexico by a "processor",
11 as defined by the Natural Gas Processors Tax Act, or by a person
12 engaged in the business of refining oil, natural gas or liquid
13 hydrocarbons who stores or uses the crude oil, natural gas or
14 liquid hydrocarbons in the regular course of [~~his~~] the person's
15 refining business."

16 SECTION 142. Section 7-9-35 NMSA 1978 (being Laws 1969,
17 Chapter 144, Section 28, as amended) is amended to read:

18 "7-9-35. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX--
19 NATURAL RESOURCES SUBJECT TO RESOURCES EXCISE TAX ACT.--Exempted
20 from the [~~gross receipts~~] state sales tax are receipts from the
21 sale or processing of natural resources the severance or
22 processing of which are subject to the taxes imposed by the
23 Resources Excise Tax Act, except as otherwise provided in Section
24 7-25-8 NMSA 1978."

25 SECTION 143. Section 7-9-36 NMSA 1978 (being Laws 1969,

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1 Chapter 144, Section 29) is amended to read:

2 "7-9-36. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX--OIL
3 AND GAS CONSUMED IN THE PIPELINE TRANSPORTATION OF OIL AND GAS
4 PRODUCTS.--Exempted from the ~~[gross receipts]~~ state sales tax are
5 receipts from the sale of oil, natural gas, liquid hydrocarbon or
6 any combination thereof consumed as fuel in the pipeline
7 transportation of such products."

8 **SECTION 144.** Section 7-9-37 NMSA 1978 (being Laws 1969,
9 Chapter 144, Section 30) is amended to read:

10 "7-9-37. EXEMPTION--~~[COMPENSATING]~~ STATE USE TAX--USE OF OIL
11 AND GAS IN THE PIPELINE TRANSPORTATION OF OIL AND GAS PRODUCTS.--
12 Exempted from the ~~[compensating]~~ state use tax is the use of oil,
13 natural gas, liquid hydrocarbon or any combination thereof as fuel
14 in the pipeline transportation of such products."

15 **SECTION 145.** Section 7-9-38 NMSA 1978 (being Laws 1969,
16 Chapter 144, Section 31, as amended) is amended to read:

17 "7-9-38. EXEMPTION--~~[COMPENSATING]~~ STATE USE TAX--USE OF
18 ELECTRICITY IN THE PRODUCTION, CONVERSION AND TRANSMISSION OF
19 ELECTRICITY.--Exempted from the ~~[compensating]~~ state use tax is
20 electricity used in the production and transmission of
21 electricity, including transmission using voltage source
22 conversion technology."

23 **SECTION 146.** Section 7-9-38.1 NMSA 1978 (being Laws 1992,
24 Chapter 50, Section 12 and also Laws 1992, Chapter 67, Section 12,
25 as amended) is amended to read:

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1 "7-9-38.1. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX--
2 INTERSTATE TELECOMMUNICATIONS SERVICES.--Exempted from the [~~gross~~
3 ~~receipts~~] state sales tax are receipts from the sale or provision
4 of interstate telecommunications services subject to the
5 Interstate Telecommunications [~~Gross Receipts~~] Sales Tax Act."

6 SECTION 147. Section 7-9-38.2 NMSA 1978 (being Laws 2002,
7 Chapter 18, Section 2) is amended to read:

8 "7-9-38.2. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX--SALE
9 OF CERTAIN TELECOMMUNICATIONS SERVICES.--Exempted from the [~~gross~~
10 ~~receipts~~] state sales tax are receipts of a home service provider
11 from providing mobile telecommunications services to persons whose
12 place of primary use is outside New Mexico, regardless of where
13 the mobile telecommunications services originate, terminate or
14 pass through. For the purposes of this section, "home service
15 provider", "mobile telecommunications services" and "place of
16 primary use" have the meanings given in the federal Mobile
17 Telecommunications Sourcing Act."

18 SECTION 148. Section 7-9-39 NMSA 1978 (being Laws 1969,
19 Chapter 144, Section 32, as amended) is amended to read:

20 "7-9-39. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX--FEES
21 FROM SOCIAL ORGANIZATIONS.--

22 A. Exempted from the [~~gross receipts~~] state sales tax
23 are the receipts from dues and registration fees of nonprofit
24 social, fraternal, political, trade, labor or professional
25 organizations and business leagues.

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1 B. For the purposes of this section:

2 (1) "dues" means amounts that a member of an
3 organization pays at recurring intervals to retain membership in
4 an organization where such amounts are used for the general
5 maintenance and upkeep of the organization; and

6 (2) "registration fees" means amounts paid by
7 persons to attend a specific event sponsored by an organization to
8 defray the cost of the event."

9 **SECTION 149.** Section 7-9-40 NMSA 1978 (being Laws 1970,
10 Chapter 60, Section 2, as amended) is amended to read:

11 "7-9-40. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX--
12 PURSES AND JOCKEY REMUNERATION AT NEW MEXICO RACETRACKS--RECEIPTS
13 FROM GROSS AMOUNTS WAGERED.--

14 A. Exempted from the ~~[gross receipts]~~ state sales tax
15 are the receipts of horsemen, jockeys and trainers from race
16 purses at New Mexico horse racetracks subject to the jurisdiction
17 of the state racing commission.

18 B. Exempted from the ~~[gross receipts]~~ state sales tax
19 are the receipts of a racetrack from the commissions and other
20 amounts authorized by Section ~~[60-1-10]~~ 60-1A-19 NMSA 1978 to be
21 retained by a racetrack conducting horse races under the authority
22 of a license from the state racing commission."

23 **SECTION 150.** Section 7-9-41 NMSA 1978 (being Laws 1972,
24 Chapter 61, Section 2) is amended to read:

25 "7-9-41. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX--

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1 RELIGIOUS ACTIVITIES.--Exempted from the [~~gross receipts~~] state
2 sales tax are the receipts of a minister of a religious
3 organization, which organization has been granted an exemption
4 from federal income tax by the United States commissioner of
5 internal revenue as an organization described in Section 501(c)(3)
6 of the United States Internal Revenue Code of [~~1954~~] 1986, as that
7 section may be amended or renumbered, from religious services
8 provided by the minister to an individual recipient of the
9 service."

10 SECTION 151. Section 7-9-41.1 NMSA 1978 (being Laws 2007,
11 Chapter 117, Section 1) is amended to read:

12 "7-9-41.1. EXEMPTION--~~[GROSS RECEIPTS]~~ STATE SALES TAX AND
13 GOVERNMENTAL ~~[GROSS RECEIPTS]~~ SALES TAX--ATHLETIC FACILITY
14 SURCHARGE.--Exempted from the [~~gross receipts~~] state sales tax and
15 from the governmental [~~gross receipts~~] sales tax are the receipts
16 of a university from an athletic facility surcharge imposed
17 pursuant to the University Athletic Facility Funding Act."

18 SECTION 152. Section 7-9-41.3 NMSA 1978 (being Laws 2007,
19 Chapter 45, Section 13 and Laws 2007, Chapter 237, Section 1) is
20 amended to read:

21 "7-9-41.3. EXEMPTION--RECEIPTS FROM SALES BY DISABLED
22 STREET VENDORS.--

23 A. Exempt from payment of the [~~gross receipts~~] state
24 sales tax are receipts from the sale of goods by a disabled street
25 vendor.

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1 B. As used in this section:

2 (1) "disabled" means to be blind or permanently
3 disabled with medical improvement not expected pursuant to 42 USCA
4 421 for purposes of the federal Social Security Act or to have a
5 permanent total disability pursuant to the Workers' Compensation
6 Act; and

7 (2) "street vendor" means a person licensed by a
8 local government to sell items of tangible personal property by
9 newly setting up a sales site daily or selling the items from a
10 moveable cart, tray, blanket or other device."

11 **SECTION 153.** Section 7-9-41.4 NMSA 1978 (being Laws 2009,
12 Chapter 62, Section 1) is amended to read:

13 "7-9-41.4. EXEMPTION--OFFICIATING AT NEW MEXICO ACTIVITIES
14 ASSOCIATION-SANCTIONED SCHOOL EVENTS.--Exempted from the [~~gross~~
15 ~~receipts~~] state sales tax are the receipts from refereeing,
16 umpiring, scoring or other officiating at school events sanctioned
17 by the New Mexico activities association."

18 **SECTION 154.** Section 7-9-43 NMSA 1978 (being Laws 1966,
19 Chapter 47, Section 13, as amended) is amended to read:

20 "7-9-43. NONTAXABLE TRANSACTION CERTIFICATES AND OTHER
21 EVIDENCE REQUIRED TO ENTITLE PERSONS TO DEDUCTIONS.--

22 A. Except as provided in Subsection B of this section,
23 a person may establish entitlement to a deduction from gross
24 receipts allowed pursuant to the [~~Gross Receipts and Compensating~~
25 Sales and Use Tax Act by obtaining a properly executed nontaxable

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1 transaction certificate from the purchaser. Nontaxable
2 transaction certificates shall contain the information and be in a
3 form prescribed by the department. The department by [~~regulation~~]
4 rule may deem to be nontaxable transaction certificates documents
5 issued by other states or the multistate tax commission to
6 taxpayers not required to be registered in New Mexico. Only
7 buyers or lessees who have a registration number or have applied
8 for a registration number and have not been refused one under
9 Subsection C of Section 7-1-12 NMSA 1978 shall execute nontaxable
10 transaction certificates issued by the department. If the seller
11 or lessor has been given an identification number for tax purposes
12 by the department, the seller or lessor shall disclose that
13 identification number to the buyer or lessee prior to or upon
14 acceptance of a nontaxable transaction certificate.

15 B. Except as provided in Subsection C of this section,
16 a person who does not comply with Subsection A of this section may
17 establish entitlement to a deduction from gross receipts by
18 presenting alternative evidence that demonstrates the facts
19 necessary to support entitlement to the deduction, but the burden
20 of proof is on that person. Alternative evidence includes:

21 (1) invoices or contracts that identify the
22 nature of the transaction;

23 (2) documentation as to the purchaser's use or
24 disposition of the property or service;

25 (3) a statement from the purchaser indicating

.212229.1

1 that the purchaser sold or intends to resell the property or
2 service purchased from the seller, either by itself or in
3 combination with other property or services, in the ordinary
4 course of business. The statement from the purchaser shall
5 include:

- 6 (a) the seller's name;
- 7 (b) the date of the invoice or date of the
8 transaction;
- 9 (c) the invoice number or a copy of the
10 invoice;
- 11 (d) a copy of the purchase order, if
12 available;
- 13 (e) the amount of purchase; and
- 14 (f) a description of the property or
15 service purchased or leased; or

16 (4) any other evidence that demonstrates the
17 facts necessary to establish entitlement to the deduction.

18 C. Subsection B of this section does not apply to
19 sellers of electricity or fuels that are parties to an agreement
20 with the department pursuant to Section 7-1-21.1 NMSA 1978
21 regarding the deduction pursuant to Subsection B of Section 7-9-46
22 NMSA 1978.

23 D. When a person accepts in good faith a properly
24 executed nontaxable transaction certificate from the purchaser,
25 the properly executed nontaxable transaction certificate shall be

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1 conclusive evidence that the proceeds from the transaction are
2 deductible from the person's gross receipts.

3 E. To exercise the privilege of executing appropriate
4 nontaxable transaction certificates, a buyer or lessee shall apply
5 to the department for permission to execute nontaxable transaction
6 certificates, except with respect to documents issued by other
7 states or the multistate tax commission that the department has
8 deemed to be nontaxable transaction certificates.

9 F. If a person has accepted in good faith a properly
10 executed nontaxable transaction certificate, but the purchaser has
11 not employed the property or service purchased in the nontaxable
12 manner or has provided materially false or inaccurate information
13 on the nontaxable transaction certificate, the purchaser shall be
14 liable for an amount equal to any tax, penalty and interest that
15 the seller would have been required to pay if the seller had not
16 complied with Subsection A of this section.

17 G. Any person who knowingly or willfully provides
18 false or inaccurate information on a nontaxable transaction
19 certificate or as alternative evidence provided in support of a
20 claim for a deduction may be subject to prosecution under Sections
21 7-1-72 and 7-1-73 NMSA 1978."

22 SECTION 155. Section 7-9-43.1 NMSA 1978 (being Laws 1981,
23 Chapter 333, Section 1, as amended) is amended to read:

24 "7-9-43.1. NONTAXABLE TRANSACTION CERTIFICATES NOT REQUIRED
25 BY LIQUOR WHOLESALERS.--Notwithstanding the provisions of Section

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1 7-9-43 NMSA 1978, a liquor wholesaler licensed as a wholesaler by
2 the superintendent of regulation and licensing pursuant to the
3 Liquor Control Act is not required to obtain a nontaxable
4 transaction certificate from a person issued a retailer's,
5 dispenser's, restaurant, public service or governmental license by
6 the superintendent of regulation and licensing pursuant to the
7 Liquor Control Act for the purpose of taking deductions under the
8 [~~Gross Receipts and Compensating~~] Sales and Use Tax Act."

9 SECTION 156. Section 7-9-45 NMSA 1978 (being Laws 1969,
10 Chapter 144, Section 35, as amended) is amended to read:

11 "7-9-45. DEDUCTIONS.--

12 A. Receipts may only be deducted once from gross
13 receipts or governmental gross receipts when computing the [~~gross~~
14 ~~receipts~~] state sales tax or governmental [~~gross receipts~~] sales
15 tax due.

16 B. The same receipts shall not be both exempt from the
17 [~~gross receipts~~] state sales tax and deducted from gross receipts.

18 C. The same receipts shall not be both exempt from the
19 governmental [~~gross receipts~~] sales tax and deducted from
20 governmental gross receipts."

21 SECTION 157. Section 7-9-46 NMSA 1978 (being Laws 1969,
22 Chapter 144, Section 36, as amended) is amended to read:

23 "7-9-46. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--GOVERNMENTAL
24 GROSS RECEIPTS--SALES TO MANUFACTURERS.--

25 A. Receipts from selling tangible personal property

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1 may be deducted from gross receipts or from governmental gross
2 receipts if the sale is made to a person engaged in the business
3 of manufacturing who delivers a nontaxable transaction certificate
4 to the seller. The buyer delivering the nontaxable transaction
5 certificate must incorporate the tangible personal property as an
6 ingredient or component part of the product that the buyer is in
7 the business of manufacturing.

8 B. Receipts from selling tangible personal property
9 that is a consumable and used in such a way that it is consumed in
10 the manufacturing process of a product, provided that the tangible
11 personal property is not a tool or equipment used to create the
12 manufactured product, to a person engaged in the business of
13 manufacturing that product and who delivers a nontaxable
14 transaction certificate to the seller may be deducted in the
15 following percentages from gross receipts or from governmental
16 gross receipts:

17 (1) twenty percent of receipts received prior to
18 January 1, 2014;

19 (2) forty percent of receipts received in
20 calendar year 2014;

21 (3) sixty percent of receipts received in
22 calendar year 2015;

23 (4) eighty percent of receipts received in
24 calendar year 2016; and

25 (5) one hundred percent of receipts received on

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1 or after January 1, 2017.

2 C. The purpose of the deductions provided in this
3 section is to encourage manufacturing businesses to locate in New
4 Mexico and to reduce the tax burden, including reducing
5 pyramiding, on the tangible personal property that is consumed in
6 the manufacturing process and that is purchased by manufacturing
7 businesses in New Mexico.

8 D. The department shall annually report to the revenue
9 stabilization and tax policy committee the aggregate amount of
10 deductions taken pursuant to this section, the number of taxpayers
11 claiming each of the deductions and any other information that is
12 necessary to determine that the deductions are performing the
13 purposes for which they are enacted.

14 E. A taxpayer deducting gross receipts pursuant to
15 this section shall report the amount deducted separately for each
16 deduction provided in this section and attribute the amount of the
17 deduction to the appropriate authorization provided in this
18 section in a manner required by the department that facilitates
19 the evaluation by the legislature of the benefit to the state of
20 these deductions.

21 F. As used in Subsection B of this section,
22 "consumable" means tangible personal property that is incorporated
23 into, destroyed, depleted or transformed in the process of
24 manufacturing a product:

25 (1) including electricity, fuels, water,

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1 manufacturing aids and supplies, chemicals, gases, repair parts,
2 spares and other tangibles used to manufacture a product; but

3 (2) excluding tangible personal property used in:
4 (a) the generation of power;
5 (b) the processing of natural resources,
6 including hydrocarbons; and
7 (c) the preparation of meals for immediate
8 consumption on- or off-premises."

9 SECTION 158. Section 7-9-47 NMSA 1978 (being Laws 1969,
10 Chapter 144, Section 37, as amended) is amended to read:

11 "7-9-47. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--GOVERNMENTAL
12 GROSS RECEIPTS [~~TAX~~]--SALE OF TANGIBLE PERSONAL PROPERTY OR
13 LICENSES FOR RESALE.--Receipts from selling tangible personal
14 property or licenses may be deducted from gross receipts or from
15 governmental gross receipts if the sale is made to a person who
16 delivers a nontaxable transaction certificate to the seller. The
17 buyer delivering the nontaxable transaction certificate must
18 resell the tangible personal property or license either by itself
19 or in combination with other tangible personal property or
20 licenses in the ordinary course of business."

21 SECTION 159. Section 7-9-48 NMSA 1978 (being Laws 1969,
22 Chapter 144, Section 38, as amended) is amended to read:

23 "7-9-48. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--GOVERNMENTAL
24 GROSS RECEIPTS--SALE OF A SERVICE FOR RESALE.--Receipts from
25 selling a service for resale may be deducted from gross receipts

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1 or from governmental gross receipts if the sale is made to a
2 person who delivers a nontaxable transaction certificate to the
3 seller. The buyer delivering the nontaxable transaction
4 certificate must resell the service in the ordinary course of
5 business and the resale must be subject to the [~~gross receipts~~]
6 state sales tax or governmental [~~gross receipts~~] sales tax."

7 SECTION 160. Section 7-9-49 NMSA 1978 (being Laws 1969,
8 Chapter 144, Section 39, as amended) is amended to read:

9 "7-9-49. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--SALE OF TANGIBLE
10 PERSONAL PROPERTY AND LICENSES FOR LEASING.--

11 A. Except as otherwise provided by Subsection B of
12 this section, receipts from selling tangible personal property and
13 licenses may be deducted from gross receipts if the sale is made
14 to a person who delivers a nontaxable transaction certificate to
15 the seller. The buyer delivering the nontaxable transaction
16 certificate shall be engaged in a business that derives a
17 substantial portion of its receipts from leasing or selling
18 tangible personal property or licenses of the type sold. The
19 buyer may not utilize the tangible personal property or license in
20 any manner other than holding it for lease or sale or leasing or
21 selling it either by itself or in combination with other tangible
22 personal property or licenses in the ordinary course of business.

23 B. The deduction provided by this section shall not
24 apply to receipts from selling:

25 (1) furniture or appliances, the receipts from

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1 the rental or lease of which are deductible under Subsection C of
2 Section 7-9-53 NMSA 1978;

3 (2) coin-operated machines; or

4 (3) manufactured homes."

5 SECTION 161. Section 7-9-50 NMSA 1978 (being Laws 1969,
6 Chapter 144, Section 40, as amended) is amended to read:

7 "7-9-50. DEDUCTION--GROSS RECEIPTS [~~TAX~~]-LEASE FOR
8 SUBSEQUENT LEASE.--

9 A. Except as provided otherwise in Subsection B of
10 this section, receipts from leasing tangible personal property or
11 licenses may be deducted from gross receipts if the lease is made
12 to a lessee who delivers a nontaxable transaction certificate to
13 the lessor. The lessee delivering the nontaxable transaction
14 certificate may not use the tangible personal property or license
15 in any manner other than for subsequent lease in the ordinary
16 course of business.

17 B. The deduction provided by this section does not
18 apply to receipts from leasing:

19 (1) furniture or appliances, the receipts from
20 the rental or lease of which are deductible under Subsection C of
21 Section 7-9-53 NMSA 1978;

22 (2) coin-operated machines; or

23 (3) manufactured homes."

24 SECTION 162. Section 7-9-51 NMSA 1978 (being Laws 1969,
25 Chapter 144, Section 41, as amended) is amended to read:

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1 "7-9-51. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--SALE OF
2 CONSTRUCTION MATERIAL TO PERSONS ENGAGED IN THE CONSTRUCTION
3 BUSINESS.--

4 A. Receipts from selling construction material may be
5 deducted from gross receipts if the sale is made to a person
6 engaged in the construction business who delivers a nontaxable
7 transaction certificate to the seller.

8 B. The buyer delivering the nontaxable transaction
9 certificate must incorporate the construction material as:

10 (1) an ingredient or component part of a
11 construction project that is subject to the [~~gross receipts~~] state
12 sales tax upon its completion or upon the completion of the
13 overall construction project of which it is a part;

14 (2) an ingredient or component part of a
15 construction project that is subject to the [~~gross receipts~~] state
16 sales tax upon the sale in the ordinary course of business of the
17 real property upon which it was constructed; or

18 (3) an ingredient or component part of a
19 construction project that is located on the tribal territory of an
20 Indian nation, tribe or pueblo."

21 SECTION 163. Section 7-9-52 NMSA 1978 (being Laws 1969,
22 Chapter 144, Section 42, as amended) is amended to read:

23 "7-9-52. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--SALE OF
24 CONSTRUCTION SERVICES AND CONSTRUCTION-RELATED SERVICES TO PERSONS
25 ENGAGED IN THE CONSTRUCTION BUSINESS.--

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1 A. Receipts from selling a construction service or a
2 construction-related service may be deducted from gross receipts
3 if the sale is made to a person engaged in the construction
4 business who delivers a nontaxable transaction certificate to the
5 person performing the construction service or a construction-
6 related service.

7 B. The buyer delivering the nontaxable transaction
8 certificate shall have the construction services or construction-
9 related services directly contracted for or billed to:

10 (1) a construction project that is subject to the
11 [~~gross receipts~~] state sales tax upon its completion or upon the
12 completion of the overall construction project of which it is a
13 part;

14 (2) a construction project that is subject to the
15 [~~gross receipts~~] state sales tax upon the sale in the ordinary
16 course of business of the real property upon which it was
17 constructed; or

18 (3) a construction project that is located on the
19 tribal territory of an Indian nation, tribe or pueblo.

20 C. As used in this section, "construction-related
21 service" means a service directly contracted for or billed to a
22 specific construction project, including design, architecture,
23 drafting, surveying, engineering, environmental and structural
24 testing, security, sanitation and services required to comply with
25 governmental construction-related regulations; but "construction-

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1 related service" excludes general business services such as legal
2 or accounting services, equipment maintenance and real estate
3 sales commissions."

4 SECTION 164. Section 7-9-52.1 NMSA 1978 (being Laws 2012,
5 Chapter 5, Section 6) is amended to read:

6 "7-9-52.1. DEDUCTION--GROSS RECEIPTS [~~TAX~~]~~--LEASE OF~~
7 CONSTRUCTION EQUIPMENT TO PERSONS ENGAGED IN THE CONSTRUCTION
8 BUSINESS.--

9 A. Receipts from leasing construction equipment may be
10 deducted from gross receipts if the construction equipment is
11 leased to a person engaged in the construction business who
12 delivers a nontaxable transaction certificate to the person
13 leasing the construction equipment.

14 B. The lessee delivering the nontaxable transaction
15 certificate shall only use the construction equipment at the
16 construction location of:

17 (1) a construction project that is subject to the
18 [~~gross receipts~~] state sales tax upon its completion or upon the
19 completion of the overall construction project of which it is a
20 part;

21 (2) a construction project that is subject to the
22 [~~gross receipts~~] state sales tax upon the sale in the ordinary
23 course of business of the real property upon which it was
24 constructed; or

25 (3) a construction project that is located on the

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1 tribal territory of an Indian nation, tribe or pueblo.

2 C. As used in this section, "construction equipment"
3 means equipment used on a construction project, including trash
4 containers, portable toilets, scaffolding and temporary fencing."

5 SECTION 165. Section 7-9-53 NMSA 1978 (being Laws 1969,
6 Chapter 144, Section 43, as amended) is amended to read:

7 "7-9-53. DEDUCTION--GROSS RECEIPTS [~~TAX~~]~~--~~SALE OR LEASE OF
8 REAL PROPERTY AND LEASE OF MANUFACTURED HOMES.--

9 A. Receipts from the sale or lease of real property
10 and from the lease of a manufactured home as provided in
11 Subsection B of this section, other than receipts from the sale or
12 lease of oil, natural gas or mineral interests exempted by Section
13 7-9-32 NMSA 1978, may be deducted from gross receipts. However,
14 that portion of the receipts from the sale of real property
15 [~~which~~] that is attributable to improvements constructed on the
16 real property by the seller in the ordinary course of [~~his~~] the
17 seller's construction business may not be deducted from gross
18 receipts.

19 B. Receipts from the rental of a manufactured home for
20 a period of at least one month may be deducted from gross
21 receipts. Receipts received by hotels, motels, rooming houses,
22 campgrounds, guest ranches, trailer parks or similar facilities,
23 except receipts received by trailer parks from the rental of a
24 space for a manufactured home or recreational vehicle for a period
25 of at least one month, from lodgers, guests, roomers or occupants

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1 are not receipts from leasing real property for the purposes of
2 this section.

3 C. Receipts attributable to the inclusion of furniture
4 or appliances furnished as part of a leased or rented dwelling
5 house, manufactured home or apartment by the landlord or lessor
6 may be deducted from gross receipts."

7 SECTION 166. Section 7-9-54 NMSA 1978 (being Laws 1969,
8 Chapter 144, Section 44, as amended) is amended to read:

9 "7-9-54. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--GOVERNMENTAL
10 GROSS RECEIPTS [~~TAX~~]--SALES TO GOVERNMENTAL AGENCIES.--

11 A. Receipts from selling tangible personal property to
12 the United States or New Mexico or a governmental unit,
13 subdivision, agency, department or instrumentality thereof may be
14 deducted from gross receipts or from governmental gross receipts.
15 Unless contrary to federal law, the deduction provided by this
16 subsection does not apply to:

17 (1) receipts from selling metalliferous mineral
18 ore;

19 (2) receipts from selling tangible personal
20 property that is or will be incorporated into a metropolitan
21 redevelopment project created under the Metropolitan Redevelopment
22 Code;

23 (3) receipts from selling construction material,
24 excluding tangible personal property, whether removable or non-
25 removable, that is or would be classified for depreciation

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1 purposes as three-year property, five-year property, seven-year
2 property or ten-year property, including indirect costs related to
3 the asset basis, by Section 168 of the Internal Revenue Code of
4 1986, as that section may be amended or renumbered; or

5 (4) that portion of the receipts from performing
6 a "service" that reflects the value of tangible personal property
7 utilized or produced in performance of such service.

8 B. Receipts from selling tangible personal property
9 for any purpose to an Indian tribe, nation or pueblo or a
10 governmental unit, subdivision, agency, department or
11 instrumentality thereof for use on Indian reservations or pueblo
12 grants may be deducted from gross receipts or from governmental
13 gross receipts.

14 C. When a seller, in good faith, deducts receipts for
15 tangible personal property sold to the state or a governmental
16 unit, subdivision, agency, department or instrumentality thereof,
17 after receiving written assurances from the buyer's representative
18 that the property sold is not construction material, the
19 department shall not assert in a later assessment or audit of the
20 seller that the receipts are not deductible pursuant to Paragraph
21 (3) of Subsection A of this section."

22 **SECTION 167.** Section 7-9-54.3 NMSA 1978 (being Laws 2002,
23 Chapter 37, Section 8, as amended by Laws 2010, Chapter 77,
24 Section 2 and by Laws 2010, Chapter 78, Section 2) is amended to
25 read:

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1 "7-9-54.3. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--WIND AND SOLAR
2 GENERATION EQUIPMENT--SALES TO GOVERNMENTS.--

3 A. Receipts from selling wind generation
4 equipment or solar generation equipment to a government for the
5 purpose of installing a wind or solar electric generation facility
6 may be deducted from gross receipts.

7 B. The deduction allowed pursuant to this section
8 shall not be claimed for receipts from an expenditure for which a
9 taxpayer claims a credit pursuant to Section 7-2-18.25, 7-2A-25 or
10 7-9G-2 NMSA 1978.

11 C. As used in this section:

12 (1) "government" means the United States or the
13 state or a governmental unit or a subdivision, agency, department
14 or instrumentality of the federal government or the state;

15 (2) "related equipment" means transformers,
16 circuit breakers and switching and metering equipment used to
17 connect a wind or solar electric generation plant to the electric
18 grid;

19 (3) "solar generation equipment" means solar
20 thermal energy collection, concentration and heat transfer and
21 conversion equipment; solar tracking hardware and software;
22 photovoltaic panels and inverters; support structures; turbines
23 and associated electrical generating equipment used to generate
24 electricity from solar thermal energy; and related equipment; and

25 (4) "wind generation equipment" means wind

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1 generation turbines, blades, nacelles, rotors and supporting
2 structures used to generate electricity from wind and related
3 equipment."

4 SECTION 168. Section 7-9-54.4 NMSA 1978 (being Laws 2003,
5 Chapter 62, Section 4) is amended to read:

6 "7-9-54.4. DEDUCTION--~~[COMPENSATING]~~ STATE USE TAX--SPACE-
7 RELATED TEST ARTICLES.--

8 A. The value of space-related test articles used in
9 New Mexico exclusively for research or testing, placing on public
10 display after research or testing or storage for future research,
11 testing or public display may be deducted in computing
12 ~~[compensating]~~ state use tax due. This subsection does not apply
13 to any other use of a space-related test article.

14 B. The value of equipment and materials used in New
15 Mexico for research or testing, or for supporting the research or
16 testing of, space-related test articles or for storage of such
17 equipment or materials for research or testing, or supporting the
18 research and testing of, space-related test articles may be
19 deducted in computing ~~[compensating]~~ state use tax due. This
20 subsection does not apply to any other use of such equipment and
21 materials.

22 C. As used in this section, a "space-related test
23 article" is a material or device intended to be used primarily in
24 research or testing to determine properties and qualities of the
25 material or properties, qualities or functioning of a device or

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1 technology when the principal use of the material, device or
2 technology is intended to be in space or as part of, or associated
3 with, a space vehicle."

4 SECTION 169. Section 7-9-54.5 NMSA 1978 (being Laws 2004,
5 Chapter 16, Section 3) is amended to read:

6 "7-9-54.5. DEDUCTION--~~[COMPENSATING]~~ STATE USE TAX--TEST
7 ARTICLES.--

8 A. The value of test articles upon which research or
9 testing is conducted in New Mexico pursuant to a contract with the
10 United States department of defense may be deducted in computing
11 the ~~[compensating]~~ state use tax due.

12 B. As used in this section, "test article" means a
13 material or device upon which research or testing is conducted to
14 determine the properties and qualities of the material or the
15 properties, qualities or functioning of the device or a technology
16 used with the device.

17 C. The deduction provided by this section does not
18 apply to the value of property purchased by a prime contractor
19 operating a facility designated as a national laboratory by an act
20 of congress."

21 SECTION 170. Section 7-9-55 NMSA 1978 (being Laws 1969,
22 Chapter 144, Section 45, as amended) is amended to read:

23 "7-9-55. DEDUCTION--GROSS RECEIPTS ~~[TAX]~~--GOVERNMENTAL
24 GROSS RECEIPTS ~~[TAX]~~--TRANSACTION IN INTERSTATE COMMERCE.--

25 A. Receipts from transactions in interstate commerce

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1 may be deducted from gross receipts to the extent that the
2 imposition of the [~~gross receipts~~] state sales tax would be
3 unlawful under the United States constitution.

4 B. Receipts from transactions in interstate commerce
5 may be deducted from governmental gross receipts.

6 C. Receipts from transmitting messages or
7 conversations by radio other than from one point in this state to
8 another point in this state and receipts from the sale of radio or
9 television broadcast time when the advertising message is supplied
10 by or on behalf of a national or regional seller or advertiser not
11 having its principal place of business in or being incorporated
12 under the laws of this state may be deducted from gross receipts.
13 Commissions of advertising agencies from performing services in
14 this state may not be deducted from gross receipts under this
15 section."

16 SECTION 171. Section 7-9-56 NMSA 1978 (being Laws 1994,
17 Chapter 112, Section 2) is amended to read:

18 "7-9-56. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--INTRASTATE
19 TRANSPORTATION AND SERVICES IN INTERSTATE COMMERCE.--

20 A. Receipts from transporting persons or property from
21 one point to another in this state may be deducted from gross
22 receipts when such persons or property, including any special or
23 extra service reasonably necessary in connection therewith, is
24 being transported in interstate or foreign commerce under a single
25 contract.

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1 B. Receipts from handling, storage, drayage or packing
2 of property or any other accessorial services on property, which
3 property has moved or will move in interstate or foreign commerce,
4 when such services are performed by a local agent for a carrier or
5 by a carrier and when such services are performed under a single
6 contract in relation to transportation services, may be deducted
7 from gross receipts.

8 C. Receipts from providing telephone or telegraph
9 services in this state that will be used by other persons in
10 providing telephone or telegraph services to the final user may be
11 deducted from gross receipts."

12 SECTION 172. Section 7-9-56.1 NMSA 1978 (being Laws 1998,
13 Chapter 92, Section 1, as amended) is amended to read:

14 "7-9-56.1. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--INTERNET
15 SERVICES.--On and after July 1, 1998, receipts from providing
16 leased telephone lines, telecommunications services, internet
17 services, internet access services or computer programming that
18 will be used by other persons in providing internet access and
19 related services to the final user may be deducted from gross
20 receipts if the sale is made to a person who is subject to the
21 [~~gross receipts~~] state sales tax or the interstate
22 telecommunications [~~gross receipts~~] sales tax."

23 SECTION 173. Section 7-9-56.2 NMSA 1978 (being Laws 1998,
24 Chapter 92, Section 2) is amended to read:

25 "7-9-56.2. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--HOSTING [~~WORLD~~

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1 ~~WIDE WEB SITES~~ WORLDWIDE WEBSITES.--Receipts from hosting [~~world~~
2 ~~wide web sites~~] worldwide websites may be deducted from gross
3 receipts. For purposes of this section, "hosting" means storing
4 information on computers attached to the internet."

5 SECTION 174. Section 7-9-57 NMSA 1978 (being Laws 1969,
6 Chapter 144, Section 47, as amended) is amended to read:

7 "7-9-57. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--SALE OF CERTAIN
8 SERVICES TO AN OUT-OF-STATE BUYER.--

9 A. Receipts from performing a service may be deducted
10 from gross receipts if the sale of the service is made to an out-
11 of-state buyer who delivers to the seller either an appropriate
12 nontaxable transaction certificate or other evidence acceptable to
13 the secretary unless the buyer of the service or any of the
14 buyer's employees or agents makes initial use of the product of
15 the service in New Mexico or takes delivery of the product of the
16 service in New Mexico.

17 B. Receipts from performing a service that initially
18 qualified for the deduction provided in this section but that no
19 longer meets the criteria set forth in Subsection A of this
20 section shall be deductible for the period prior to the
21 disqualification."

22 SECTION 175. Section 7-9-57.1 NMSA 1978 (being Laws 1998,
23 Chapter 92, Section 3) is amended to read:

24 "7-9-57.1. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--SALES THROUGH
25 [~~WORLD WIDE WEB SITES~~] WORLDWIDE WEBSITES.--Receipts of any person

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1 derived from the sale of a service or property made through a
2 [~~world wide web site~~] worldwide website to a person with a billing
3 address outside New Mexico may be deducted from gross receipts."

4 SECTION 176. Section 7-9-57.2 NMSA 1978 (being Laws 2002,
5 Chapter 10, Section 1) is amended to read:

6 "7-9-57.2. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--SALE OF
7 SOFTWARE DEVELOPMENT SERVICES.--

8 A. To stimulate new business development, the receipts
9 of an eligible software development company from the sale of
10 software development services that are performed in a qualified
11 area may be deducted from gross receipts.

12 B. As used in this section:

13 (1) "eligible software development company" means
14 a taxpayer who is not a successor in business of another taxpayer;
15 [~~and~~] whose primary business in New Mexico is established after
16 the effective date of this section and is providing software
17 development services; and who had no business location in New
18 Mexico other than in a qualified area during the period for which
19 a deduction under this section is sought;

20 (2) "qualified area" means the state of New
21 Mexico except for an incorporated municipality with a population
22 of more than fifty thousand according to the most recent federal
23 decennial census; and

24 (3) "software development services" means custom
25 software design and development and [~~web site~~] website design and

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1 development but does not include software implementation or
2 support services."

3 SECTION 177. Section 7-9-58 NMSA 1978 (being Laws 1969,
4 Chapter 144, Section 48, as amended) is amended to read:

5 "7-9-58. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--FEED--
6 FERTILIZERS.--

7 A. Receipts from selling feed [~~for livestock~~],
8 including the baling wire or twine used to contain the feed, for
9 livestock, fish raised for human consumption, poultry or animals
10 raised for their hides or pelts and receipts from selling seeds,
11 roots, bulbs, plants, soil conditioners, fertilizers,
12 insecticides, germicides, insects used to control populations of
13 other insects, fungicides or weedicides or water for irrigation
14 purposes may be deducted from gross receipts if the sale is made
15 to a person who states in writing that [~~he~~] the person is
16 regularly engaged in the business of farming, ranching or raising
17 animals for their hides or pelts.

18 B. Receipts of auctioneers from selling livestock or
19 other agricultural products at auction may also be deducted from
20 gross receipts."

21 SECTION 178. Section 7-9-59 NMSA 1978 (being Laws 1969,
22 Chapter 144, Section 49, as amended by Laws 2000, Chapter 26,
23 Section 1 and also by Laws 2000, Chapter 87, Section 1) is amended
24 to read:

25 "7-9-59. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--WAREHOUSING,

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1 THRESHING, HARVESTING, GROWING, CULTIVATING AND PROCESSING
2 AGRICULTURAL PRODUCTS.--

3 A. Receipts from warehousing grain or other
4 agricultural products may be deducted from gross receipts.

5 B. Receipts from threshing, cleaning, growing,
6 cultivating or harvesting agricultural products, including the
7 ginning of cotton, testing and transporting milk for the producer
8 or nonprofit marketing association from the farm to a milk
9 processing or dairy product manufacturing plant or processing for
10 growers, producers or nonprofit marketing associations of
11 agricultural products raised for food and fiber, including
12 livestock, may be deducted from gross receipts."

13 SECTION 179. Section 7-9-60 NMSA 1978 (being Laws 1970,
14 Chapter 12, Section 4, as amended) is amended to read:

15 "7-9-60. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--GOVERNMENTAL
16 GROSS RECEIPTS [~~TAX~~]--SALES TO CERTAIN ORGANIZATIONS.--

17 A. Except as provided otherwise in Subsection B of
18 this section, receipts from selling tangible personal property to
19 501(c)(3) organizations may be deducted from gross receipts or
20 from governmental gross receipts if the sale is made to an
21 organization that delivers a nontaxable transaction certificate to
22 the seller. The buyer delivering the nontaxable transaction
23 certificate shall employ the tangible personal property in the
24 conduct of functions described in Section 501(c)(3) and shall not
25 employ the tangible personal property in the conduct of an

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1 unrelated trade or business as defined in Section 513 of the
2 United States Internal Revenue Code of 1986, as amended or
3 renumbered.

4 B. The deduction provided by this section does not
5 apply to receipts from selling construction material, excluding
6 tangible personal property, whether removable or non-removable,
7 that is or would be classified for depreciation purposes as three-
8 year property, five-year property, seven-year property or ten-year
9 property, including indirect costs related to the asset basis, by
10 Section 168 of the Internal Revenue Code of 1986, as that section
11 may be amended or renumbered, or from selling metalliferous
12 mineral ore; except that receipts from selling construction
13 material or from selling metalliferous mineral ore to a 501(c)(3)
14 organization that is organized for the purpose of providing
15 homeownership opportunities to low-income families may be deducted
16 from gross receipts. Receipts may be deducted under this
17 subsection only if the buyer delivers a nontaxable transaction
18 certificate to the seller. The buyer shall use the property in
19 the conduct of functions described in Section 501(c)(3) of the
20 Internal Revenue Code of 1986, as amended, and shall not employ
21 the tangible personal property in the conduct of an unrelated
22 trade or business, as defined in Section 513 of that code.

23 C. For the purposes of this section, "501(c)(3)
24 organization" means an organization that has been granted
25 exemption from the federal income tax by the United States

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1 commissioner of internal revenue as an organization described in
2 Section 501(c)(3) of the United States Internal Revenue Code of
3 1986, as amended or renumbered."

4 SECTION 180. Section 7-9-61.1 NMSA 1978 (being Laws 1981,
5 Chapter 37, Section 52) is amended to read:

6 "7-9-61.1. DEDUCTION--GROSS RECEIPTS [~~TAX~~]~~--CERTAIN~~
7 RECEIPTS.--Receipts from charges made in connection with the
8 origination, making or assumption of a loan or from charges made
9 for handling loan payments may be deducted from gross receipts."

10 SECTION 181. Section 7-9-62 NMSA 1978 (being Laws 1969,
11 Chapter 144, Section 52, as amended) is amended to read:

12 "7-9-62. DEDUCTION--GROSS RECEIPTS [~~TAX~~]~~--AGRICULTURAL~~
13 IMPLEMENTS--AIRCRAFT MANUFACTURERS--VEHICLES THAT ARE NOT REQUIRED
14 TO BE REGISTERED--AIRCRAFT PARTS AND MAINTENANCE SERVICES--
15 REPORTING REQUIREMENTS.--

16 A. Except for receipts deductible under Subsection B
17 of this section, fifty percent of the receipts from selling
18 agricultural implements, farm tractors, aircraft or vehicles that
19 are not required to be registered under the Motor Vehicle Code may
20 be deducted from gross receipts; provided that, with respect to
21 agricultural implements, the sale is made to a person who states
22 in writing that the person is regularly engaged in the business of
23 farming or ranching. Any deduction allowed under Section 7-9-71
24 NMSA 1978 must be taken before the deduction allowed by this
25 subsection is computed.

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1 B. Receipts of an aircraft manufacturer or affiliate
2 from selling aircraft or from selling aircraft flight support,
3 pilot training or maintenance training services may be deducted
4 from gross receipts. Any deduction allowed under Section 7-9-71
5 NMSA 1978 must be taken before the deduction allowed by this
6 subsection is computed.

7 C. Receipts from selling aircraft parts or maintenance
8 services for aircraft or aircraft parts may be deducted from gross
9 receipts. Any deduction allowed under Section 7-9-71 NMSA 1978
10 must be taken before the deduction allowed by this subsection is
11 computed.

12 D. A taxpayer allowed a deduction pursuant to this
13 section shall report the amount of the deduction separately in a
14 manner required by the department.

15 E. The department shall compile an annual report on
16 the deductions provided by this section that shall include the
17 number of taxpayers approved by the department to receive the
18 deductions, the aggregate amount of deductions approved and any
19 other information necessary to evaluate the effectiveness of the
20 deductions. Beginning in 2019 and every five years thereafter
21 that the deductions are in effect, the department shall compile
22 and present the annual reports to the revenue stabilization and
23 tax policy committee and the legislative finance committee with an
24 analysis of the effectiveness and cost of the deductions.

25 F. As used in this section:

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1 (1) "affiliate" means a business entity that
2 directly or indirectly through one or more intermediaries
3 controls, is controlled by or is under common control with the
4 aircraft manufacturer;

5 (2) "agricultural implement" means a tool,
6 utensil or instrument that is depreciable for federal income tax
7 purposes and that is:

8 (a) designed to irrigate agricultural crops
9 above ground or below ground at the place where the crop is grown;
10 or

11 (b) designed primarily for use with a
12 source of motive power, such as a tractor, in planting, growing,
13 cultivating, harvesting or processing agricultural crops at the
14 place where the crop is grown; in raising poultry or livestock; or
15 in obtaining or processing food or fiber, such as eggs, milk, wool
16 or mohair, from living poultry or livestock at the place where the
17 poultry or livestock are kept for this purpose;

18 (3) "aircraft manufacturer" means a business
19 entity that in the ordinary course of business designs and builds
20 private or commercial aircraft certified by the federal aviation
21 administration;

22 (4) "business entity" means a corporation,
23 limited liability company, partnership, limited partnership,
24 limited liability partnership or real estate investment trust, but
25 does not mean an individual or a joint venture;

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1 (5) "control" means equity ownership in a
2 business entity that:

3 (a) represents at least fifty percent of
4 the total voting power of that business entity; and

5 (b) has a value equal to at least fifty
6 percent of the total equity of that business entity; and

7 (6) "flight support" means providing navigation
8 data, charts, weather information, online maintenance records and
9 other aircraft or flight-related information and the software
10 needed to access the information."

11 SECTION 182. Section 7-9-62.1 NMSA 1978 (being Laws 2000
12 (2nd S.S.), Chapter 4, Section 2, as amended) is amended to read:

13 "7-9-62.1. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--AIRCRAFT SALES
14 AND SERVICES--REPORTING REQUIREMENTS.--

15 A. Receipts from the sale of or from maintaining,
16 refurbishing, remodeling or otherwise modifying a commercial or
17 military carrier over ten thousand pounds gross landing weight may
18 be deducted from gross receipts.

19 B. A taxpayer allowed a deduction pursuant to this
20 section shall report the amount of the deduction separately in a
21 manner required by the department.

22 C. The department shall compile an annual report on
23 the deduction provided by this section that shall include the
24 number of taxpayers approved by the department to receive the
25 deduction, the aggregate amount of deductions approved and any

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1 other information necessary to evaluate the effectiveness of the
2 deduction. Beginning in 2019 and every five years thereafter that
3 the deduction is in effect, the department shall compile and
4 present the annual reports to the revenue stabilization and tax
5 policy committee and the legislative finance committee with an
6 analysis of the effectiveness and cost of the deduction."

7 **SECTION 183.** Section 7-9-63 NMSA 1978 (being Laws 1969,
8 Chapter 144, Section 53) is amended to read:

9 "7-9-63. DEDUCTION--GROSS RECEIPTS [~~TAX~~]~~--PUBLICATION~~
10 SALES.--Receipts from publishing newspapers or magazines, except
11 from selling advertising space, may be deducted from gross
12 receipts.

13 Receipts from selling magazines at retail may not be
14 deducted from gross receipts."

15 **SECTION 184.** Section 7-9-64 NMSA 1978 (being Laws 1969,
16 Chapter 144, Section 54) is amended to read:

17 "7-9-64. DEDUCTION--GROSS RECEIPTS [~~TAX~~]~~--NEWSPAPER~~
18 SALES.--Receipts from selling newspapers, except from selling
19 advertising space, may be deducted from gross receipts."

20 **SECTION 185.** Section 7-9-65 NMSA 1978 (being Laws 1969,
21 Chapter 144, Section 56) is amended to read:

22 "7-9-65. DEDUCTION--GROSS RECEIPTS [~~TAX~~]~~--CHEMICALS AND~~
23 REAGENTS.--Receipts from selling chemicals or reagents to any
24 mining, milling or oil company for use in processing ores or oil
25 in a mill, smelter or refinery or in acidizing oil wells and

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1 receipts from selling chemicals or reagents in lots in excess of
2 eighteen tons may be deducted from gross receipts. Receipts from
3 selling explosives, blasting powder or dynamite may not be
4 deducted from gross receipts."

5 SECTION 186. Section 7-9-66 NMSA 1978 (being Laws 1969,
6 Chapter 144, Section 57, as amended) is amended to read:

7 "7-9-66. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--COMMISSIONS.--

8 A. Receipts derived from commissions on sales of
9 tangible personal property [~~which~~] that are not subject to the
10 [~~gross receipts~~] state sales tax may be deducted from gross
11 receipts.

12 B. Receipts of the owner of a dealer store derived
13 from commissions received for performing the service of selling
14 from the owner's dealer store a principal's tangible personal
15 property may be deducted from gross receipts.

16 C. As used in this section, "dealer store" means a
17 merchandise facility open to the public that is owned and operated
18 by a person who contracts with a principal to act as an agent for
19 the sale from that facility of merchandise owned by the
20 principal."

21 SECTION 187. Section 7-9-66.1 NMSA 1978 (being Laws 1984,
22 Chapter 129, Section 2, as amended) is amended to read:

23 "7-9-66.1. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--CERTAIN REAL
24 ESTATE TRANSACTIONS.--

25 A. Receipts from real estate commissions on that

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1 portion of the transaction subject to [~~gross receipts~~] state sales
2 tax pursuant to Subsection A of Section 7-9-53 NMSA 1978 may be
3 deducted from gross receipts if the person claiming the deduction
4 submits to the department evidence that the secretary finds
5 substantiates the deduction.

6 B. For the purposes of this section, "commissions on
7 that portion of the transaction subject to [~~gross receipts~~] state
8 sales tax" means that portion of the commission that bears the
9 same relationship to the total commission as the amount of the
10 transaction subject to [~~gross receipts~~] state sales tax does to
11 the total purchase price."

12 SECTION 188. Section 7-9-67 NMSA 1978 (being Laws 1969,
13 Chapter 144, Section 58, as amended) is amended to read:

14 "7-9-67. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--GOVERNMENTAL
15 GROSS RECEIPTS [~~TAX~~]--REFUNDS--UNCOLLECTIBLE DEBTS.--

16 A. Refunds and allowances made to buyers or amounts
17 written off the books as an uncollectible debt by a person
18 reporting [~~gross receipts~~] state sales tax on an accrual basis may
19 be deducted from gross receipts. If debts reported uncollectible
20 are subsequently collected, such receipts shall be included in
21 gross receipts in the month of collection.

22 B. Refunds and allowances made to buyers or amounts
23 written off the books as an uncollectible debt by a person
24 reporting governmental [~~gross receipts~~] sales tax on an accrual
25 basis may be deducted from governmental gross receipts. If debts

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1 reported uncollectible are subsequently collected, such receipts
2 shall be included in governmental gross receipts in the month of
3 collection."

4 SECTION 189. Section 7-9-68 NMSA 1978 (being Laws 1969,
5 Chapter 144, Section 60) is amended to read:

6 "7-9-68. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--WARRANTY
7 OBLIGATIONS.--Receipts of a dealer from furnishing goods or
8 services to the purchaser of tangible personal property to fulfill
9 a warranty obligation of the manufacturer of the property may be
10 deducted from gross receipts."

11 SECTION 190. Section 7-9-69 NMSA 1978 (being Laws 1969,
12 Chapter 144, Section 61, as amended) is amended to read:

13 "7-9-69. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--ADMINISTRATIVE
14 AND ACCOUNTING SERVICES.--

15 A. Receipts of a business entity for administrative,
16 managerial, accounting and customer services performed by it for
17 an affiliate upon a nonprofit or cost basis and receipts of a
18 business entity from an affiliate for the joint use or sharing of
19 office machines and facilities upon a nonprofit or cost basis may
20 be deducted from gross receipts.

21 B. For the purposes of this section:

22 (1) "affiliate" means a business entity that
23 directly or indirectly through one or more intermediaries
24 controls, is controlled by or is under common control with another
25 business entity;

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1 (2) "business entity" means a corporation,
2 limited liability company, partnership, limited partnership,
3 limited liability partnership or real estate investment trust, but
4 does not mean an individual or a joint venture; and

5 (3) "control" means equity ownership in a
6 business entity that:

7 (a) represents at least fifty percent of
8 the total voting power of that business entity; or

9 (b) has a value equal to at least fifty
10 percent of the total equity of that business entity."

11 SECTION 191. Section 7-9-70 NMSA 1978 (being Laws 1969,
12 Chapter 144, Section 62) is amended to read:

13 "7-9-70. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--RENTAL OR LEASE
14 OF VEHICLES USED IN INTERSTATE COMMERCE.--Receipts from the rental
15 or leasing of vehicles used in the transportation of passengers or
16 property for hire in interstate commerce under the regulations or
17 authorization of any agency of the United States may be deducted
18 from gross receipts."

19 SECTION 192. Section 7-9-71 NMSA 1978 (being Laws 1969,
20 Chapter 144, Section 63, as amended) is amended to read:

21 "7-9-71. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--TRADE-IN
22 ALLOWANCE.--That portion of the receipts of a seller that is
23 represented by a trade-in of tangible personal property of the
24 same type being sold, except for the receipts represented by a
25 trade-in of a manufactured home, may be deducted from gross

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1 receipts."

2 SECTION 193. Section 7-9-73 NMSA 1978 (being Laws 1970,
3 Chapter 78, Section 2, as amended) is amended to read:

4 "7-9-73. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--GOVERNMENTAL
5 GROSS RECEIPTS--SALE OF PROSTHETIC DEVICES.--Receipts from selling
6 prosthetic devices may be deducted from gross receipts or from
7 governmental gross receipts if the sale is made to a person who is
8 licensed to practice medicine, osteopathic medicine, dentistry,
9 podiatry, optometry, chiropractic or professional nursing and who
10 delivers a nontaxable transaction certificate to the seller. The
11 buyer delivering the nontaxable transaction certificate must
12 deliver the prosthetic device incidental to the performance of a
13 service and must include the value of the prosthetic device in
14 [~~his~~] the charge for the service."

15 SECTION 194. Section 7-9-73.2 NMSA 1978 (being Laws 1998,
16 Chapter 95, Section 2 and Laws 1998, Chapter 99, Section 4, as
17 amended) is amended to read:

18 "7-9-73.2. DEDUCTION--GROSS RECEIPTS [~~TAX~~] AND GOVERNMENTAL
19 GROSS RECEIPTS [~~TAX~~]--PRESCRIPTION DRUGS--OXYGEN.--

20 A. Receipts from the sale of prescription drugs and
21 oxygen and oxygen services provided by a licensed medicare durable
22 medical equipment provider may be deducted from gross receipts and
23 governmental gross receipts.

24 B. For the purposes of this section, "prescription
25 drugs" means insulin and substances that are:

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1 (1) dispensed by or under the supervision of a
2 licensed pharmacist or by a physician or other person authorized
3 under state law to do so;

4 (2) prescribed for a specified person by a person
5 authorized under state law to prescribe the substance; and

6 (3) subject to the restrictions on sale contained
7 in Subparagraph 1 of Subsection (b) of 21 USCA 353."

8 SECTION 195. Section 7-9-73.3 NMSA 1978 (being Laws 2014,
9 Chapter 26, Section 1) is amended to read:

10 "7-9-73.3. DEDUCTION--GROSS RECEIPTS [~~TAX~~] AND GOVERNMENTAL
11 GROSS RECEIPTS [~~TAX~~]--DURABLE MEDICAL EQUIPMENT--MEDICAL
12 SUPPLIES.--

13 A. Receipts from transactions occurring prior to July
14 1, 2020 that are from the sale or rental of durable medical
15 equipment and medical supplies may be deducted from gross receipts
16 and governmental gross receipts.

17 B. The purpose of the deduction provided in this
18 section is to help protect jobs and retain businesses in New
19 Mexico that sell or rent durable medical equipment and medical
20 supplies.

21 C. A taxpayer allowed a deduction pursuant to this
22 section shall report the amount of the deduction separately in a
23 manner required by the department.

24 D. The deduction provided in this section shall be
25 taken only by a taxpayer participating in the New Mexico medicaid

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1 program whose gross receipts are no less than ninety percent
2 derived from the sale or rental of durable medical equipment,
3 medical supplies or infusion therapy services, including the
4 medications used in infusion therapy services.

5 E. Acceptance of a deduction provided by this section
6 is authorization by the taxpayer receiving the deduction for the
7 department to reveal information to the revenue stabilization and
8 tax policy committee and the legislative finance committee
9 necessary to analyze the effectiveness and cost of the deduction
10 and whether the deduction is performing the purpose for which it
11 was created.

12 F. The department shall compile an annual report on
13 the deduction provided by this section that shall include the
14 number of taxpayers approved by the department to receive the
15 deduction, the aggregate amount of deductions approved and any
16 other information necessary to evaluate the effectiveness of the
17 deduction. Beginning in 2019 and every five years thereafter, the
18 department shall compile and present the annual reports to the
19 revenue stabilization and tax policy committee and the legislative
20 finance committee with an analysis of the effectiveness and cost
21 of the deduction and whether the deduction is performing the
22 purpose for which it was created.

23 G. As used in this section:

24 (1) "durable medical equipment" means a medical
25 assistive device or other equipment that:

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1 (a) can withstand repeated use;

2 (b) is primarily and customarily used to
3 serve a medical purpose and is not useful to an individual in the
4 absence of an illness, injury or other medical necessity,
5 including improved functioning of a body part;

6 (c) is appropriate for use at home
7 exclusively by the eligible recipient for whom the durable medical
8 equipment is prescribed; and

9 (d) is prescribed by a physician or other
10 person licensed by the state to prescribe durable medical
11 equipment;

12 (2) "infusion therapy services" means the
13 administration of prescribed medication through a needle or
14 catheter;

15 (3) "medical supplies" means items for a course
16 of medical treatment, including nutritional products, that are:

17 (a) necessary for an ongoing course of
18 medical treatment;

19 (b) disposable and cannot be reused; and

20 (c) prescribed by a physician or other
21 person licensed by the state to prescribe medical supplies; and

22 (4) "prescribe" means to authorize the use of an
23 item or substance for a course of medical treatment."

24 SECTION 196. Section 7-9-74 NMSA 1978 (being Laws 1971,
25 Chapter 217, Section 2, as amended) is amended to read:

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1 "7-9-74. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--SALE OF PROPERTY
2 USED IN THE MANUFACTURE OF JEWELRY.--Receipts from selling
3 tangible personal property may be deducted from gross receipts if
4 the sale is made to a person who states in writing that [~~he~~] the
5 person will use the property so purchased in manufacturing
6 jewelry. The buyer must incorporate the tangible personal
7 property as an ingredient or component part of the jewelry that
8 [~~he~~] the buyer is in the business of manufacturing. The deduction
9 allowed a seller under this section shall not exceed five thousand
10 dollars (\$5,000) during any twelve-month period attributable to
11 purchases by a single purchaser."

12 **SECTION 197.** Section 7-9-75 NMSA 1978 (being Laws 1972,
13 Chapter 39, Section 2) is amended to read:

14 "7-9-75. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--SALE OF CERTAIN
15 SERVICES PERFORMED DIRECTLY ON PRODUCT MANUFACTURED.--Receipts
16 from selling the service of combining or processing components or
17 materials may be deducted from gross receipts if the sale is made
18 to a person engaged in the business of manufacturing who delivers
19 a nontaxable transaction certificate to the seller. The buyer
20 delivering the nontaxable transaction certificate must have the
21 service performed directly upon tangible personal property [~~which~~
22 ~~he~~] that the buyer is in the business of manufacturing or upon
23 ingredients or component parts thereof."

24 **SECTION 198.** Section 7-9-76 NMSA 1978 (being Laws 1977,
25 Chapter 288, Section 2) is amended to read:

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1 "7-9-76. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--TRAVEL AGENTS'
2 COMMISSIONS PAID BY CERTAIN ENTITIES.--Receipts of travel agents
3 derived from commissions paid by maritime transportation companies
4 and interstate airlines, railroads and passenger buses for
5 booking, referral, reservation or ticket services may be deducted
6 from gross receipts."

7 SECTION 199. Section 7-9-76.1 NMSA 1978 (being Laws 1979,
8 Chapter 338, Section 7, as amended) is amended to read:

9 "7-9-76.1. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--CERTAIN
10 MANUFACTURED HOMES.--Receipts from the resale of a manufactured
11 home may be deducted from gross receipts if the sale is made of a
12 manufactured home that was subject to the [~~gross receipts,~~
13 ~~compensating~~] state sales tax, state use tax or motor vehicle
14 excise tax upon its initial sale or use in New Mexico. The seller
15 shall retain and furnish proof satisfactory to the department that
16 a [~~gross receipts, compensating~~] state sales tax, state use tax or
17 motor vehicle excise tax was paid upon the initial sale or use in
18 New Mexico of a manufactured home, and in the absence of such
19 proof, it is presumed that the tax was not paid. Proof that a New
20 Mexico certificate of title was issued for a manufactured home in
21 1972 or a prior year or proof that a manufactured home for which a
22 New Mexico certificate of title has been issued was manufactured
23 in 1967 or a prior year is proof that a motor vehicle excise tax
24 was paid on the initial sale or use in New Mexico of that
25 manufactured home."

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1 **SECTION 200.** Section 7-9-76.2 NMSA 1978 (being Laws 1984,
2 Chapter 2, Section 6) is amended to read:

3 "7-9-76.2. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--FILMS AND
4 TAPES.--Receipts from the leasing or licensing of theatrical and
5 television films and tapes to a person engaged in the business of
6 providing public or commercial entertainment from which gross
7 receipts are derived may be deducted from gross receipts."

8 **SECTION 201.** Section 7-9-77 NMSA 1978 (being Laws 1966,
9 Chapter 47, Section 15, as amended) is amended to read:

10 "7-9-77. DEDUCTIONS--[~~COMPENSATING~~] STATE USE TAX.--

11 A. Fifty percent of the value of agricultural
12 implements, farm tractors, aircraft not exempted under Section
13 7-9-30 NMSA 1978 or vehicles that are not required to be
14 registered under the Motor Vehicle Code may be deducted from the
15 value in computing the [~~compensating~~] state use tax due; provided
16 that, with respect to use of agricultural implements, the person
17 using the property is regularly engaged in the business of farming
18 or ranching. Any deduction allowed under Subsection B of this
19 section is to be taken before the deduction allowed by this
20 subsection is computed. As used in this subsection, "agricultural
21 implement" means a tool, utensil or instrument that is:

22 (1) designed primarily for use with a source of
23 motive power, such as a tractor, in planting, growing,
24 cultivating, harvesting or processing agricultural produce at the
25 place where the produce is grown; in raising poultry or livestock;

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1 or in obtaining or processing food or fiber, such as eggs, milk,
2 wool or mohair, from living poultry or livestock at the place
3 where the poultry or livestock are kept for this purpose; and

4 (2) depreciable for federal income tax purposes.

5 B. That portion of the value of tangible personal
6 property on which an allowance was granted to the buyer for a
7 trade-in of tangible personal property of the same type that was
8 bought may be deducted from the value in computing the
9 [~~compensating~~] state use tax due."

10 SECTION 202. Section 7-9-77.1 NMSA 1978 (being Laws 1998,
11 Chapter 96, Section 1, as amended) is amended to read:

12 "7-9-77.1. DEDUCTION--GROSS RECEIPTS [~~TAX~~]~~--~~CERTAIN MEDICAL
13 AND HEALTH CARE SERVICES.--

14 A. Receipts of a health care practitioner from
15 payments by the United States government or any agency thereof for
16 provision of medical and other health services by a health care
17 practitioner or of medical or other health and palliative services
18 by hospices or nursing homes to medicare beneficiaries pursuant to
19 the provisions of Title 18 of the federal Social Security Act may
20 be deducted from gross receipts.

21 B. Receipts of a health care practitioner from
22 payments by a third-party administrator of the federal TRICARE
23 program for provision of medical and other health services by
24 medical doctors and osteopathic physicians to covered
25 beneficiaries may be deducted from gross receipts.

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1 C. Receipts of a health care practitioner from
2 payments by or on behalf of the Indian health service of the
3 United States department of health and human services for
4 provision of medical and other health services by medical doctors
5 and osteopathic physicians to covered beneficiaries may be
6 deducted from gross receipts.

7 D. Receipts of a clinical laboratory from payments by
8 the United States government or any agency thereof for medical
9 services provided by the clinical laboratory to medicare
10 beneficiaries pursuant to the provisions of Title 18 of the
11 federal Social Security Act may be deducted from gross receipts.

12 E. Receipts of a home health agency from payments by
13 the United States government or any agency thereof for medical,
14 other health and palliative services provided by the home health
15 agency to medicare beneficiaries pursuant to the provisions of
16 Title 18 of the federal Social Security Act may be deducted from
17 gross receipts.

18 F. Prior to July 1, 2024, receipts of a dialysis
19 facility from payments by the United States government or any
20 agency thereof for medical and other health services provided by
21 the dialysis facility to medicare beneficiaries pursuant to the
22 provisions of Title 18 of the federal Social Security Act may be
23 deducted from gross receipts.

24 G. A taxpayer allowed a deduction pursuant to this
25 section shall report the amount of the deduction separately in a

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1 manner required by the department. A taxpayer who has receipts
2 that are deductible pursuant to this section and Section 7-9-93
3 NMSA 1978 shall deduct the receipts under this section prior to
4 calculating the receipts that may be deducted pursuant to Section
5 7-9-93 NMSA 1978.

6 H. The department shall compile an annual report on
7 the deductions created pursuant to this section that shall include
8 the number of taxpayers approved by the department to receive each
9 deduction, the aggregate amount of deductions approved and any
10 other information necessary to evaluate the effectiveness of the
11 deductions. The department shall compile and present the annual
12 reports to the revenue stabilization and tax policy committee and
13 the legislative finance committee with an analysis of the
14 effectiveness and cost of the deductions and whether the
15 deductions are providing a benefit to the state.

16 I. For the purposes of this section:

17 (1) "clinical laboratory" means a laboratory
18 accredited pursuant to 42 USCA 263a;

19 (2) "dialysis facility" means an end-stage renal
20 disease facility as defined pursuant to 42 C.F.R. 405.2102;

21 (3) "health care practitioner" means:

22 (a) an athletic trainer licensed pursuant
23 to the Athletic Trainer Practice Act;

24 (b) an audiologist licensed pursuant to the
25 Speech-Language Pathology, Audiology and Hearing Aid Dispensing

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1 Practices Act;

2 (c) a chiropractic physician licensed
3 pursuant to the Chiropractic Physician Practice Act;

4 (d) a counselor or therapist practitioner
5 licensed pursuant to the Counseling and Therapy Practice Act;

6 (e) a dentist licensed pursuant to the
7 Dental Health Care Act;

8 (f) a doctor of oriental medicine licensed
9 pursuant to the Acupuncture and Oriental Medicine Practice Act;

10 (g) an independent social worker licensed
11 pursuant to the Social Work Practice Act;

12 (h) a massage therapist licensed pursuant
13 to the Massage Therapy Practice Act;

14 (i) a naprapath licensed pursuant to the
15 Naprapathic Practice Act;

16 (j) a nutritionist or dietitian licensed
17 pursuant to the Nutrition and Dietetics Practice Act;

18 (k) an occupational therapist licensed
19 pursuant to the Occupational Therapy Act;

20 (l) an optometrist licensed pursuant to the
21 Optometry Act;

22 (m) an osteopathic physician licensed
23 pursuant to the Osteopathic Medicine Act;

24 (n) a pharmacist licensed pursuant to the
25 Pharmacy Act;

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1 (o) a physical therapist licensed pursuant
2 to the Physical Therapy Act;

3 (p) a physician licensed pursuant to the
4 Medical Practice Act;

5 (q) a podiatrist licensed pursuant to the
6 Podiatry Act;

7 (r) a psychologist licensed pursuant to the
8 Professional Psychologist Act;

9 (s) a radiologic technologist licensed
10 pursuant to the Medical Imaging and Radiation Therapy Health and
11 Safety Act;

12 (t) a registered nurse licensed pursuant to
13 the Nursing Practice Act;

14 (u) a respiratory care practitioner
15 licensed pursuant to the Respiratory Care Act; and

16 (v) a speech-language pathologist licensed
17 pursuant to the Speech-Language Pathology, Audiology and Hearing
18 Aid Dispensing Practices Act;

19 (4) "home health agency" means a for-profit
20 entity that is licensed by the department of health and certified
21 by the federal centers for medicare and medicaid services as a
22 home health agency and certified to provide medicare services;

23 (5) "hospice" means a for-profit entity licensed
24 by the department of health as a hospice and certified to provide
25 medicare services;

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1 (6) "nursing home" means a for-profit entity
2 licensed by the department of health as a nursing home and
3 certified to provide medicare services; and

4 (7) "TRICARE program" means the program defined
5 in 10 U.S.C. 1072(7)."

6 SECTION 203. Section 7-9-78 NMSA 1978 (being Laws 1969,
7 Chapter 144, Section 65, as amended) is amended to read:

8 "7-9-78. DEDUCTIONS--~~[COMPENSATING]~~ STATE USE TAX--USE OF
9 TANGIBLE PERSONAL PROPERTY FOR LEASING.--

10 A. Except as provided otherwise in Subsection B of
11 this section, the value of tangible personal property may be
12 deducted in computing the ~~[compensating]~~ state use tax due if the
13 person using the tangible personal property:

14 (1) is engaged in a business which derives a
15 substantial portion of its receipts from leasing or selling
16 tangible personal property of the type leased;

17 (2) does not use the tangible personal property
18 in any manner other than holding it for lease or sale or leasing
19 or selling it either by itself or in combination with other
20 tangible personal property in the ordinary course of business; and

21 (3) does not use the tangible personal property
22 in a manner incidental to the performance of a service.

23 B. The deduction provided by this section shall not
24 apply to the value of:

25 (1) furniture or appliances furnished as part of

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[bracketed material] = delete

1 a leased or rented dwelling house or apartment by the landlord or
2 lessor;

3 (2) coin-operated machines; or

4 (3) manufactured homes."

5 SECTION 204. Section 7-9-78.1 NMSA 1978 (being Laws 1999,
6 Chapter 231, Section 4) is amended to read:

7 "7-9-78.1. DEDUCTION--~~[COMPENSATING]~~ STATE USE TAX--URANIUM
8 ENRICHMENT PLANT EQUIPMENT.--The value of equipment and
9 replacement parts for that equipment may be deducted in computing
10 the ~~[compensating]~~ state use tax due if the person uses the
11 equipment and replacement parts to enrich uranium in a uranium
12 enrichment plant."

13 SECTION 205. Section 7-9-79 NMSA 1978 (being Laws 1966,
14 Chapter 47, Section 16, as amended) is amended to read:

15 "7-9-79. CREDIT--~~[COMPENSATING]~~ STATE USE TAX.--

16 A. If, on property bought outside this state, a gross
17 receipts, sales, ~~[compensating]~~ use or similar tax has been levied
18 by another state or political subdivision thereof on the
19 transaction by which the person using the property in New Mexico
20 acquired the property or a ~~[compensating]~~ use or similar tax has
21 been levied by another state on the use of the property subsequent
22 to its acquisition by the person using the property in New Mexico
23 and such tax has been paid, the amount of such tax paid may be
24 credited against any ~~[compensating]~~ state use tax due this state
25 on the same property.

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1 B. When the receipts from the sale of real property
2 constructed by a person in the ordinary course of ~~[his]~~ the
3 person's construction business are subject to the ~~[gross receipts]~~
4 state sales tax, the amount of ~~[compensating]~~ state use tax
5 previously paid by the person on materials ~~[which]~~ that became an
6 ingredient or component part of the construction project and on
7 construction services performed upon the construction project may
8 be credited against the ~~[gross receipts]~~ state sales tax due on
9 the sale."

10 **SECTION 206.** Section 7-9-79.1 NMSA 1978 (being Laws 1989,
11 Chapter 262, Section 8, as amended) is amended to read:

12 "7-9-79.1. CREDIT--~~[GROSS RECEIPTS]~~ STATE SALES TAX--
13 SERVICES.--If on services performed outside the state a gross
14 receipts, sales or similar tax has been levied by another state or
15 a political subdivision thereof and such tax has been paid, the
16 amount of the tax paid may be credited against any ~~[gross~~
17 ~~receipts]~~ state sales tax due this state on the receipts after
18 July 1, 1989 from the sale in New Mexico of the product of the
19 services performed outside this state. The amount of credit shall
20 not exceed an amount equal to the rate of tax imposed under
21 Section 7-9-4 NMSA 1978 multiplied by the amount subject to tax by
22 both New Mexico and the other state or political subdivision of
23 that state."

24 **SECTION 207.** Section 7-9-79.2 NMSA 1978 (being Laws 2007,
25 Chapter 204, Section 9) is amended to read:

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1 "7-9-79.2. [~~GROSS RECEIPTS~~] STATE SALES TAX--[~~COMPENSATING~~]
2 STATE USE TAX--BIODIESEL BLENDING FACILITY TAX CREDIT.--

3 A. A taxpayer who is a rack operator as defined in the
4 Special Fuels Supplier Tax Act and who installs biodiesel blending
5 equipment in property owned by the taxpayer for the purpose of
6 establishing or expanding a facility to produce blended biodiesel
7 fuel is eligible to claim a credit against [~~gross receipts~~] state
8 sales tax or [~~compensating~~] state use tax. The credit shall be an
9 amount equal to thirty percent of the purchase cost of the
10 equipment plus thirty percent of the cost of installing that
11 equipment. The credit provided by this section may be referred to
12 as the "biodiesel blending facility tax credit".

13 B. The biodiesel blending facility tax credit shall
14 not exceed fifty thousand dollars (\$50,000) with respect to
15 equipment installed at any one facility.

16 C. Upon application from a taxpayer wishing to claim
17 the biodiesel blending facility tax credit, the energy, minerals
18 and natural resources department shall determine if the equipment
19 for which the tax credit will be claimed meets the requirements of
20 this section and if purchase and installation costs reported by
21 the taxpayer are legitimate. Upon these determinations being made
22 in favor of the taxpayer, the energy, minerals and natural
23 resources department shall issue a dated certificate of
24 eligibility containing this information and an estimate of the
25 amount of the biodiesel blending facility tax credit for which the

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1 taxpayer is eligible.

2 D. To claim the biodiesel blending facility tax
3 credit, the taxpayer shall provide to the taxation and revenue
4 department the certificate of eligibility from the energy,
5 minerals and natural resources department. Upon receipt of the
6 certificate, the taxation and revenue department shall approve the
7 claim for the credit if the total cumulative amount of approved
8 claims for the credit for all taxpayers for the calendar year does
9 not exceed one million dollars (\$1,000,000). The department shall
10 maintain a record of the cumulative amount of claims for the
11 credit that have been approved and when it determines that this
12 cumulative amount has reached one million dollars (\$1,000,000), it
13 shall cease approving any additional claims for the biodiesel
14 blending facility tax credit.

15 E. If a taxpayer who has received the biodiesel
16 blending facility tax credit ceases biodiesel blending without
17 completing at least one hundred eighty days of availability of the
18 facility within the first three hundred sixty-five days after the
19 issuance of the certificate of eligibility from the energy,
20 minerals and natural resources department, any amount of approved
21 credit not applied against the taxpayer's [~~gross receipts~~] state
22 sales tax or [~~compensating~~] state use tax liability shall be
23 extinguished. The taxpayer must amend the taxpayer's return,
24 self-assess the tax owed and return any biodiesel blending
25 facility tax credit received within four hundred twenty-five days

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1 of the date of issuance of the certificate of eligibility.

2 F. The tax credit provided by this section may only be
3 applied against the taxpayer's [~~gross receipts~~] state sales tax
4 liability or [~~compensating~~] state use tax liability. If the
5 credit exceeds the taxpayer's tax liability in the reporting
6 period for which it is granted, the credit may be carried forward
7 for four years from the date of the certificate of eligibility.

8 G. For the purposes of this section:

9 (1) "biodiesel" means renewable, biodegradable,
10 monoalkyl ester combustible liquid fuel that is derived from
11 agricultural plant oils or animal fats and that meets American
12 society for testing and materials D 6751 standard specification
13 for biodiesel B100 blend stock for distillate fuels;

14 (2) "biodiesel blending equipment" means
15 equipment necessary for the process of blending biodiesel with
16 diesel fuel to produce blended biodiesel fuel;

17 (3) "blended biodiesel fuel" means a diesel fuel
18 that contains at least two percent biodiesel; and

19 (4) "diesel fuel" means any diesel-engine fuel
20 used for the generation of power to propel a motor vehicle."

21 **SECTION 208.** Section 7-9-83 NMSA 1978 (being Laws 1993,
22 Chapter 364, Section 1, as amended) is amended to read:

23 "7-9-83. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--JET FUEL.--

24 A. From July 1, 2003 through June 30, 2017,
25 fifty-five percent of the receipts from the sale of fuel specially

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1 prepared and sold for use in turboprop or jet-type engines as
2 determined by the department may be deducted from gross receipts.

3 B. After June 30, 2017, forty percent of the receipts
4 from the sale of fuel specially prepared and sold for use in
5 turboprop or jet-type engines as determined by the department may
6 be deducted from gross receipts."

7 SECTION 209. Section 7-9-84 NMSA 1978 (being Laws 1993,
8 Chapter 364, Section 2, as amended) is amended to read:

9 "7-9-84. DEDUCTION--~~[COMPENSATING]~~ STATE USE TAX--JET
10 FUEL.--

11 A. From July 1, 2003 through June 30, 2017, fifty-
12 five percent of the value of the fuel specially prepared and sold
13 for use in turboprop or jet-type engines as determined by the
14 department may be deducted in computing the ~~[compensating]~~ state
15 use tax due.

16 B. After June 30, 2017, forty percent of the value of
17 the fuel specially prepared and sold for use in turboprop or jet-
18 type engines as determined by the department may be deducted in
19 computing the ~~[compensating]~~ state use tax due."

20 SECTION 210. Section 7-9-85 NMSA 1978 (being Laws 1994,
21 Chapter 43, Section 1) is amended to read:

22 "7-9-85. DEDUCTION--GROSS RECEIPTS [~~TAX~~]~~--~~CERTAIN
23 ORGANIZATION FUNDRAISERS.--Receipts from not more than two
24 fundraising events annually conducted by an organization that is
25 exempt from the federal income tax as an organization described in

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1 Section 501(c), other than an organization described in Section
2 501(c)(3), of the United States Internal Revenue Code of 1986, as
3 amended, may be deducted from gross receipts."

4 SECTION 211. Section 7-9-86 NMSA 1978 (being Laws 1995,
5 Chapter 80, Section 1, as amended) is amended to read:

6 "7-9-86. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--SALES TO
7 QUALIFIED FILM PRODUCTION COMPANY.--

8 A. Receipts from selling or leasing property and from
9 performing services may be deducted from gross receipts or from
10 governmental gross receipts if the sale, lease or performance is
11 made to a qualified production company that delivers a nontaxable
12 transaction certificate to the seller, lessor or performer.

13 B. For the purposes of this section:

14 (1) "film" means a single media or multimedia
15 program, including an advertising message, that:

16 (a) is fixed on film, digital medium,
17 videotape, computer disc, laser disc or other similar delivery
18 medium;

19 (b) can be viewed or reproduced;

20 (c) is not intended to and does not violate
21 a provision of Chapter 30, Article 37 NMSA 1978; and

22 (d) is intended for reasonable commercial
23 exploitation for the delivery medium used;

24 (2) "production company" means a person that
25 produces one or more films for exhibition in theaters, on

1 television or elsewhere;

2 (3) "production costs" means the costs of the
3 following:

4 (a) a story and scenario to be used for a
5 film;

6 (b) salaries of talent, management and
7 labor, including payments to personal services corporations for
8 the services of a performing artist;

9 (c) set construction and operations,
10 wardrobe, accessories and related services;

11 (d) photography, sound synchronization,
12 lighting and related services;

13 (e) editing and related services;

14 (f) rental of facilities and equipment; or

15 (g) other direct costs of producing the
16 film in accordance with generally accepted entertainment industry
17 practice; and

18 (4) "qualified production company" means a
19 production company that meets the provisions of this section and
20 has registered or will register with the New Mexico film division
21 of the economic development department.

22 C. A qualified production company may deliver the
23 nontaxable transaction certificates authorized by this section
24 only with respect to production costs."

25 SECTION 212. Section 7-9-87 NMSA 1978 (being Laws 1995,

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1 Chapter 155, Section 35) is amended to read:

2 "7-9-87. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--LOTTERY RETAILER
3 RECEIPTS.--Receipts of a lottery [~~game~~] retailer from selling
4 lottery tickets pursuant to the New Mexico Lottery Act may be
5 deducted from gross receipts."

6 SECTION 213. Section 7-9-88.1 NMSA 1978 (being Laws 1999,
7 Chapter 223, Section 2, as amended) is amended to read:

8 "7-9-88.1. CREDIT--[~~GROSS RECEIPTS~~] STATE SALES TAX--TAX
9 PAID TO CERTAIN TRIBES.--

10 A. If on a taxable transaction taking place on tribal
11 land a qualifying gross receipts, sales or similar tax has been
12 levied by the tribe, the amount of the tribe's tax may be credited
13 against [~~gross receipts~~] state sales tax due this state or its
14 political subdivisions pursuant to the [~~Gross Receipts and~~
15 ~~Compensating~~] Sales and Use Tax Act and a local option [~~gross~~
16 ~~receipts~~] sales tax on the same transaction. The amount of the
17 credit shall be equal to the lesser of seventy-five percent of the
18 tax imposed by the tribe on the receipts from the transaction or
19 seventy-five percent of the revenue produced by the sum of the
20 rate of tax imposed pursuant to the [~~Gross Receipts and~~
21 ~~Compensating~~] Sales and Use Tax Act and the total of the rates of
22 local option [~~gross receipts~~] sales taxes imposed on the receipts
23 from the same transaction. Notwithstanding any other provision of
24 law to the contrary, the amount of credit taken and allowed shall
25 be applied proportionately against the amount of the [~~gross~~

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1 ~~receipts]~~ state sales tax and local option [~~gross receipts]~~ sales
2 taxes and against the amount of distribution of those taxes
3 pursuant to Section 7-1-6.1 NMSA 1978.

4 B. A qualifying gross receipts, sales or similar tax
5 levied by the tribe shall be limited to a tax that:

6 (1) is substantially similar to the [~~gross~~
7 ~~receipts]~~ state sales tax imposed by the [~~Gross Receipts and~~
8 ~~Compensating]~~ Sales and Use Tax Act;

9 (2) does not unlawfully discriminate among
10 persons or transactions based on membership in the tribe;

11 (3) is levied on the taxable transaction at a
12 rate not greater than the total of the [~~gross receipts]~~ state
13 sales tax rate and local option [~~gross receipts]~~ sales tax rates
14 imposed by this state and its political subdivisions located
15 within the exterior boundaries of the tribe;

16 (4) provides a credit against the tribe's tax
17 equal to the lesser of twenty-five percent of the tax imposed by
18 the tribe on the receipts from the transactions or twenty-five
19 percent of the tax revenue produced by the sum of the rate of tax
20 imposed pursuant to the [~~Gross Receipts and Compensating]~~ Sales
21 and Use Tax Act and the total of the rates of the local option
22 [~~gross receipts]~~ sales taxes imposed on the receipts from the same
23 transactions; and

24 (5) is subject to a cooperative agreement between
25 the tribe and the secretary entered into pursuant to Section

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1 9-11-12.1 NMSA 1978 and in effect at the time of the taxable
2 transaction.

3 C. For purposes of the tax credit allowed by this
4 section:

5 (1) "pueblo" means the Pueblo of Acoma, Cochiti,
6 Isleta, Jemez, Laguna, Nambe, Picuris, Pojoaque, Sandia, San
7 Felipe, San Ildefonso, [~~San Juan~~] Ohkay Owingeh, Santa Ana, Santa
8 Clara, Santo Domingo, Taos, Tesuque, Zia or Zuni or the nineteen
9 New Mexico pueblos acting collectively;

10 (2) "tribal land" means all land that is owned by
11 a tribe located within the exterior boundaries of a tribe's
12 reservation or grant and all land held by the United States in
13 trust for that tribe; and

14 (3) "tribe" means a pueblo, the Jicarilla Apache
15 Nation or the Mescalero Apache Tribe."

16 SECTION 214. Section 7-9-88.2 NMSA 1978 (being Laws 2001,
17 Chapter 134, Section 1) is amended to read:

18 "7-9-88.2. CREDIT--~~[GROSS RECEIPTS]~~ STATE SALES TAX--TAX
19 PAID TO NAVAJO NATION ON RECEIPTS FROM SELLING COAL.--

20 A. If on receipts from selling coal severed from
21 Navajo Nation land a qualifying gross receipts, sales, business
22 activity or similar tax has been levied by the Navajo Nation, the
23 amount of the Navajo Nation tax paid and not refunded may be
24 credited against any [~~gross receipts~~] state sales tax due this
25 state or its political subdivisions pursuant to the [~~Gross~~

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1 ~~Receipts and Compensating~~ Sales and Use Tax Act and any local
2 option [~~gross receipts~~] sales tax on the same receipts. The
3 amount of the credit shall be equal to:

4 (1) for the period from July 1, 2001 through June
5 30, 2002, the lesser of thirty-seven and one-half percent of the
6 tax imposed by the Navajo Nation on the receipts or thirty-seven
7 and one-half percent of the revenue produced by the sum of the
8 rate of tax imposed pursuant to the [~~Gross Receipts and~~
9 ~~Compensating~~] Sales and Use Tax Act and the total of the rates of
10 local option [~~gross receipts~~] sales taxes imposed on the same
11 receipts; and

12 (2) after June 30, 2002, the lesser of seventy-
13 five percent of the tax imposed by the Navajo Nation on the
14 receipts or seventy-five percent of the revenue produced by the
15 sum of the rate of tax imposed pursuant to the [~~Gross Receipts and~~
16 ~~Compensating~~] Sales and Use Tax Act and the total of the rates of
17 local option [~~gross receipts~~] sales taxes imposed on the same
18 receipts.

19 B. Notwithstanding any other provision of law to the
20 contrary, the amount of credit taken and allowed shall be applied
21 proportionately against the amounts of the distributions made
22 pursuant to Section 7-1-6.1 NMSA 1978 of the [~~gross receipts~~]
23 state sales tax and local option [~~gross receipts~~] sales taxes
24 imposed on those receipts.

25 C. A qualifying gross receipts, sales, business

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1 activity or similar tax levied by the Navajo Nation shall be
2 limited to a tax that:

3 (1) is substantially similar to the [~~gross~~
4 ~~receipts~~] state sales tax imposed by the [~~Gross Receipts and~~
5 ~~Compensating~~] Sales and Use Tax Act;

6 (2) does not unlawfully discriminate among
7 persons or transactions based on membership in the Navajo Nation;

8 (3) is levied on the receipts from selling coal
9 at a rate not greater than the total of the [~~gross receipts~~] state
10 sales tax rate and local option [~~gross receipts~~] sales tax rates
11 imposed by this state and its political subdivisions located
12 within the exterior boundaries of the Navajo Nation;

13 (4) provides a credit against the Navajo Nation
14 tax equal to:

15 (a) for the period from July 1, 2001
16 through June 30, 2002, the lesser of twelve and one-half percent
17 of the tax imposed by the Navajo Nation on the receipts from
18 selling coal severed from Navajo Nation land or twelve and one-
19 half percent of the tax revenue produced by the sum of the rate of
20 tax imposed pursuant to the [~~Gross Receipts and Compensating~~]
21 Sales and Use Tax Act and the total of the rates of the local
22 option [~~gross receipts~~] sales taxes imposed on the same receipts;
23 and

24 (b) after June 30, 2002, the lesser of
25 twenty-five percent of the tax imposed by the Navajo Nation on the

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1 receipts from selling coal severed from Navajo Nation land or
2 twenty-five percent of the tax revenue produced by the sum of the
3 rate of tax imposed pursuant to the [~~Gross Receipts and~~
4 ~~Compensating~~] Sales and Use Tax Act and the total of the rates of
5 the local option [~~gross receipts~~] sales taxes imposed on the same
6 receipts;

7 (5) is not used to calculate an intergovernmental
8 coal severance tax credit with respect to the same receipts or
9 time period; and

10 (6) is subject to a cooperative agreement between
11 the Navajo Nation and the secretary entered into pursuant to
12 Section 9-11-12.2 NMSA 1978 and in effect at the time of the
13 taxable transaction.

14 D. For purposes of the tax credit allowed by this
15 section, "Navajo Nation land" means all land in New Mexico that,
16 on March 1, 2001, was located within the exterior boundaries of
17 the Navajo Nation reservation or within a dependent community of
18 the Navajo Nation or was land held by the United States in trust
19 for the Navajo Nation."

20 SECTION 215. Section 7-9-90 NMSA 1978 (being Laws 1999,
21 Chapter 231, Section 3, as amended) is amended to read:

22 "7-9-90. DEDUCTIONS--GROSS RECEIPTS [~~TAX~~]--SALES OF URANIUM
23 HEXAFLUORIDE AND ENRICHMENT OF URANIUM.--

24 A. Receipts from selling uranium hexafluoride and from
25 providing the service of enriching uranium may be deducted from

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1 gross receipts.

2 B. The department shall annually report to the revenue
3 stabilization and tax policy committee aggregate amounts of
4 deductions taken pursuant to this section, the number of taxpayers
5 claiming the deduction and any other information that is necessary
6 to determine that the deduction is performing a purpose that is
7 beneficial to the state.

8 C. A taxpayer deducting gross receipts pursuant to
9 this section shall report the amount deducted separately and
10 attribute the amount of the deduction to the authorization
11 provided in this section in a manner required by the department
12 that facilitates the evaluation by the legislature for the benefit
13 to the state of this deduction."

14 SECTION 216. Section 7-9-91 NMSA 1978 (being Laws 2001,
15 Chapter 135, Section 1) is amended to read:

16 "7-9-91. DEDUCTION--~~[COMPENSATING]~~ STATE USE TAX--
17 CONTRIBUTIONS OF INVENTORY TO CERTAIN ORGANIZATIONS AND
18 GOVERNMENTAL AGENCIES.--

19 A. Except as provided otherwise in Subsection D of
20 this section, the value of tangible personal property that is
21 removed from inventory and contributed to organizations that have
22 been granted exemption from the federal income tax by the United
23 States commissioner of internal revenue as organizations described
24 in Section 501(c)(3) of the Internal Revenue Code of 1986, as
25 amended, may be deducted in computing the ~~[compensating]~~ state use

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1 tax due, provided that the contribution is deductible for federal
2 income tax purposes by the person from whose inventory the
3 property was withdrawn or, if the person from whose inventory the
4 property was withdrawn is a pass-through entity as that term is
5 defined in Section [~~7-3-2~~] 7-3A-2 NMSA 1978, the contribution is
6 deductible by the owner or owners of the pass-through entity.

7 B. Except as provided otherwise in Subsection D of
8 this section, the value of tangible personal property that is
9 removed from inventory and contributed to the United States or New
10 Mexico or any governmental unit or subdivision, agency, department
11 or instrumentality thereof may be deducted in computing the
12 [~~compensating~~] state use tax due.

13 C. Except as provided otherwise in Subsection D of
14 this section, the value of tangible personal property that is
15 removed from inventory and contributed to an Indian tribe, nation
16 or pueblo or any governmental subdivision, agency, department or
17 instrumentality thereof for use on that Indian reservation or
18 pueblo grant may be deducted in computing the [~~compensating~~] state
19 use tax due.

20 D. Unless contrary to federal law, the deduction
21 provided by this section does not apply to:

- 22 (1) a contribution of metalliferous mineral ore;
23 (2) a contribution of tangible personal property
24 that is or will be incorporated into a metropolitan redevelopment
25 project created under the Metropolitan Redevelopment Code;

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1 (3) a contribution of tangible personal property
2 that will become an ingredient or component part of a construction
3 project; or

4 (4) a contribution of tangible personal property
5 utilized or produced in the performance of a service.

6 E. For purposes of this section:

7 (1) "inventory" means tangible personal property
8 held for sale or lease in the ordinary course of business; and

9 (2) "contributed" or "contribution" means a
10 transfer of ownership without consideration. Public
11 acknowledgment of the contribution does not constitute
12 consideration for the purpose of this section."

13 SECTION 217. Section 7-9-92 NMSA 1978 (being Laws 2004,
14 Chapter 116, Section 5) is amended to read:

15 "7-9-92. DEDUCTION--GROSS RECEIPTS--SALE OF FOOD AT RETAIL
16 FOOD STORE.--

17 A. Receipts from the sale of food at a retail food
18 store that are not exempt from [~~gross receipts~~] state sales
19 taxation and are not deductible pursuant to another provision of
20 the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act may be
21 deducted from gross receipts. The deduction provided by this
22 section shall be separately stated by the taxpayer.

23 B. For the purposes of this section:

24 (1) "food" means any food or food product for
25 home consumption that meets the definition of food in 7 USCA

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1 [2012(g)(1)] 2012(k)(1) for purposes of the federal [~~food stamp~~]
2 supplemental nutrition assistance program; and

3 (2) "retail food store" means an establishment
4 that sells food for home preparation and consumption and that
5 meets the definition of retail food store in 7 USCA [2012(k)(1)]
6 2012(o)(1) for purposes of the federal [~~food stamp~~] supplemental
7 nutrition assistance program, whether or not the establishment
8 participates in the [~~food stamp~~] supplemental nutrition assistance
9 program."

10 SECTION 218. Section 7-9-93 NMSA 1978 (being Laws 2004,
11 Chapter 116, Section 6, as amended) is amended to read:

12 "7-9-93. DEDUCTION--GROSS RECEIPTS--CERTAIN RECEIPTS FOR
13 SERVICES PROVIDED BY HEALTH CARE PRACTITIONER.--

14 A. Receipts of a health care practitioner for
15 commercial contract services or medicare part C services paid by a
16 managed health care provider or health care insurer may be
17 deducted from gross receipts if the services are within the scope
18 of practice of the health care practitioner providing the service.
19 Receipts from fee-for-service payments by a health care insurer
20 may not be deducted from gross receipts.

21 B. The deduction provided by this section shall be
22 applied only to gross receipts remaining after all other allowable
23 deductions available under the [~~Gross Receipts and Compensating~~]
24 Sales and Use Tax Act have been taken and shall be separately
25 stated by the taxpayer.

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1 C. For the purposes of this section:

2 (1) "commercial contract services" means health
3 care services performed by a health care practitioner pursuant to
4 a contract with a managed health care provider or health care
5 insurer other than those health care services provided for
6 medicare patients pursuant to Title 18 of the federal Social
7 Security Act or for medicaid patients pursuant to Title 19 or
8 Title 21 of the federal Social Security Act;

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

10 (a) has a valid certificate of authority in
11 good standing pursuant to the New Mexico Insurance Code to act as
12 an insurer, health maintenance organization or nonprofit health
13 care plan or prepaid dental plan; and

14 (b) contracts to reimburse licensed health
15 care practitioners for providing basic health services to
16 enrollees at negotiated fee rates;

17 (3) "health care practitioner" means:

18 (a) a chiropractic physician licensed
19 pursuant to the provisions of the Chiropractic Physician Practice
20 Act;

21 (b) a dentist or dental hygienist licensed
22 pursuant to the Dental Health Care Act;

23 (c) a doctor of oriental medicine licensed
24 pursuant to the provisions of the Acupuncture and Oriental
25 Medicine Practice Act;

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1 (d) an optometrist licensed pursuant to the
2 provisions of the Optometry Act;

3 (e) an osteopathic physician or an
4 osteopathic physician's assistant licensed pursuant to the
5 provisions of the Osteopathic Medicine Act;

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

8 (g) a physician or physician assistant
9 licensed pursuant to the provisions of the Medical Practice Act;

10 (h) a podiatrist licensed pursuant to the
11 provisions of the Podiatry Act;

12 (i) a psychologist licensed pursuant to the
13 provisions of the Professional Psychologist Act;

14 (j) a registered lay midwife registered by
15 the department of health;

16 (k) a registered nurse or licensed
17 practical nurse licensed pursuant to the provisions of the Nursing
18 Practice Act;

19 (l) a registered occupational therapist
20 licensed pursuant to the provisions of the Occupational Therapy
21 Act;

22 (m) a respiratory care practitioner
23 licensed pursuant to the provisions of the Respiratory Care Act;

24 (n) a speech-language pathologist or
25 audiologist licensed pursuant to the Speech-Language Pathology,

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1 Audiology and Hearing Aid Dispensing Practices Act;

2 (o) a professional clinical mental health
3 counselor, marriage and family therapist or professional art
4 therapist licensed pursuant to the provisions of the Counseling
5 and Therapy Practice Act who has obtained a master's degree or a
6 doctorate;

7 (p) an independent social worker licensed
8 pursuant to the provisions of the Social Work Practice Act; and

9 (q) a clinical laboratory that is
10 accredited pursuant to 42 U.S.C. Section 263a but that is not a
11 laboratory in a physician's office or in a hospital defined
12 pursuant to 42 U.S.C. Section 1395x;

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

- 21 (a) health maintenance organizations;
- 22 (b) preferred provider organizations;
- 23 (c) individual practice associations;
- 24 (d) competitive medical plans;
- 25 (e) exclusive provider organizations;

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- 1 (f) integrated delivery systems;
2 (g) independent physician-provider
3 organizations;
4 (h) physician hospital-provider
5 organizations; and
6 (i) managed care services organizations;
7 and

8 (5) "medicare part C services" means services
9 performed pursuant to a contract with a managed health care
10 provider for medicare patients pursuant to Title 18 of the federal
11 Social Security Act."

12 SECTION 219. Section 7-9-95 NMSA 1978 (being Laws 2005,
13 Chapter 104, Section 25) is amended to read:

14 "7-9-95. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--SALES OF CERTAIN
15 TANGIBLE PERSONAL PROPERTY--LIMITED PERIOD.--Receipts from the
16 sale at retail of the following types of tangible personal
17 property may be deducted if the sale of the property occurs during
18 the period beginning at 12:01 a.m. on the first Friday in August
19 and ending at midnight on the following Sunday:

20 A. an article of clothing or footwear designed to be
21 worn on or about the human body if the sales price of the article
22 is less than one hundred dollars (\$100) except:

23 (1) any special clothing or footwear that is
24 primarily designed for athletic activity or protective use and
25 that is not normally worn except when used for the athletic

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1 activity or protective use for which it is designed; and

2 (2) accessories, including jewelry, handbags,
3 luggage, umbrellas, wallets, watches and similar items worn or
4 carried on or about the human body, without regard to whether worn
5 on the body in a manner characteristic of clothing;

6 B. a desktop, laptop or notebook computer if the sales
7 price of the computer does not exceed one thousand dollars
8 (\$1,000) and any associated monitor, speaker or set of speakers,
9 printer, keyboard, microphone or mouse if the sales price of the
10 device does not exceed five hundred dollars (\$500); and

11 C. school supplies that are items normally used by
12 students in a standard classroom for educational purposes,
13 including notebooks, paper, writing instruments, crayons, art
14 supplies, rulers, book bags, backpacks, handheld calculators, maps
15 and globes, but not including watches, radios, compact disc
16 players, headphones, sporting equipment, portable or desktop
17 telephones, copiers, office equipment, furniture or fixtures."

18 SECTION 220. Section 7-9-96 NMSA 1978 (being Laws 2005,
19 Chapter 104, Section 26) is amended to read:

20 "7-9-96. CREDIT--~~[GROSS RECEIPTS]~~ STATE SALES TAX--
21 GOVERNMENTAL ~~[GROSS RECEIPTS]~~ SALES TAX--CERTAIN SALES FOR
22 RESALE.--

23 A. A taxpayer may claim a credit against [~~gross~~
24 ~~receipts~~] state sales tax or governmental [~~gross receipts~~] sales
25 tax due for each reporting period beginning after June 2005 in an

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1 amount equal to ten percent of the receipts from selling a service
2 for resale multiplied by:

3 (1) three and seven hundred seventy-five
4 thousandths percent if the taxpayer's business location is within
5 a municipality; or

6 (2) five percent if the taxpayer's business
7 location is in the unincorporated area of a county.

8 B. A taxpayer may claim a credit pursuant to
9 Subsection A of this section only if:

10 (1) the buyer resells the service in the ordinary
11 course of business;

12 (2) the resale is not subject to the [~~gross~~
13 ~~receipts~~] state sales tax or the governmental [~~gross receipts~~]
14 sales tax; and

15 (3) the buyer delivers to the seller
16 documentation in a form prescribed by the department clarifying
17 that the service is purchased for resale in the ordinary course of
18 business.

19 C. A credit permitted pursuant to this section does
20 not apply to receipts from selling a service to a governmental
21 entity or to a person who is a prime contractor that operates a
22 facility in New Mexico designated as a national laboratory by an
23 act of congress."

24 SECTION 221. Section 7-9-96.1 NMSA 1978 (being Laws 2007,
25 Chapter 361, Section 7) is amended to read:

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1 "7-9-96.1. CREDIT--~~[GROSS RECEIPTS]~~ STATE SALES TAX--
2 RECEIPTS OF CERTAIN HOSPITALS.--

3 A. A hospital licensed by the department of health may
4 claim a credit for each reporting period against the ~~[gross~~
5 ~~receipts]~~ state sales tax due for that reporting period as
6 follows:

7 (1) for a hospital located in a municipality:

8 (a) on or after July 1, 2007 but before
9 July 1, 2008, in an amount equal to seven hundred fifty-five
10 thousandths percent of the hospital's taxable gross receipts for
11 that reporting period after all applicable deductions have been
12 taken;

13 (b) on or after July 1, 2008 but before
14 July 1, 2009, in an amount equal to one and fifty-one hundredths
15 percent of the hospital's taxable gross receipts for that
16 reporting period after all applicable deductions have been taken;

17 (c) on or after July 1, 2009 but before
18 July 1, 2010, in an amount equal to two and two hundred sixty-five
19 thousandths percent of the hospital's taxable gross receipts for
20 that reporting period after all applicable deductions have been
21 taken;

22 (d) on or after July 1, 2010 but before
23 July 1, 2011, in an amount equal to three and two hundredths
24 percent of the hospital's taxable gross receipts for that
25 reporting period after all applicable deductions have been taken;

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1 and

2 (e) on or after July 1, 2011, in an amount
3 equal to three and seven hundred seventy-five thousandths percent
4 of the hospital's taxable gross receipts for that reporting period
5 after all applicable deductions have been taken; and

6 (2) for a hospital located in the unincorporated
7 area of a county:

8 (a) on or after July 1, 2007 but before
9 July 1, 2008, in an amount equal to one percent of the hospital's
10 taxable gross receipts for that reporting period after all
11 applicable deductions have been taken;

12 (b) on or after July 1, 2008, but before
13 July 1, 2009, in an amount equal to two percent of the hospital's
14 taxable gross receipts for that reporting period after all
15 applicable deductions have been taken;

16 (c) on or after July 1, 2009 but before
17 July 1, 2010, in an amount equal to three percent of the
18 hospital's taxable gross receipts for that reporting period after
19 all applicable deductions have been taken;

20 (d) on or after July 1, 2010 but before
21 July 1, 2011, in an amount equal to four percent of the hospital's
22 taxable gross receipts for that reporting period after all
23 applicable deductions have been taken; and

24 (e) on or after July 1, 2011, in an amount
25 equal to five percent of the hospital's taxable gross receipts for

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1 that reporting period after all applicable deductions have been
2 taken.

3 B. For the purposes of this section, "hospital" means
4 a facility providing emergency or urgent care, inpatient medical
5 care and nursing care for acute illness, injury, surgery or
6 obstetrics and includes a facility licensed by the department of
7 health as a critical access hospital, general hospital, long-term
8 acute care hospital, psychiatric hospital, rehabilitation
9 hospital, limited services hospital and special hospital."

10 SECTION 222. Section 7-9-96.2 NMSA 1978 (being Laws 2007,
11 Chapter 361, Section 8) is amended to read:

12 "7-9-96.2. CREDIT--~~[GROSS RECEIPTS]~~ STATE SALES TAX--UNPAID
13 CHARGES FOR SERVICES PROVIDED IN A HOSPITAL.--

14 A. A licensed medical doctor or licensed osteopathic
15 physician may claim a credit against ~~[gross receipts taxes]~~ state
16 sales tax due in the following amounts:

17 (1) from July 1, 2007 through June 30, 2008,
18 thirty-three percent of the value of unpaid qualified health care
19 services;

20 (2) from July 1, 2008 through June 30, 2009,
21 sixty-seven percent of the value of unpaid qualified health care
22 services; and

23 (3) on and after July 1, 2009, one hundred
24 percent of the value of unpaid qualified health care services.

25 B. As used in this section:

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1 (1) "qualified health care services" means
2 medical care services provided by a licensed medical doctor or
3 licensed osteopathic physician while on call to a hospital; and

4 (2) "value of unpaid qualified health care
5 services" means the amount that is charged for qualified health
6 care services, not to exceed one hundred thirty percent of the
7 reimbursement rate for the services under the medicaid program
8 administered by the human services department, that remains unpaid
9 one year after the date of billing and that the licensed medical
10 doctor or licensed osteopathic physician has reason to believe
11 will not be paid because:

12 (a) at the time the services were provided,
13 the person receiving the services had no health insurance or had
14 health insurance that did not cover the services provided;

15 (b) at the time the services were provided,
16 the person receiving the services was not eligible for medicaid;
17 and

18 (c) the charges are not reimbursable under
19 a program established pursuant to the Indigent Hospital and County
20 Health Care Act."

21 SECTION 223. Section 7-9-97 NMSA 1978 (being Laws 2005,
22 Chapter 169, Section 1) is amended to read:

23 "7-9-97. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--RECEIPTS FROM
24 CERTAIN PURCHASES BY OR ON BEHALF OF THE STATE.--Receipts from the
25 sale of property or services purchased by or on behalf of the

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1 state from funds obtained from the forfeiture of financial
2 assurance pursuant to the New Mexico Mining Act or the forfeiture
3 of financial responsibility pursuant to the Water Quality Act may
4 be deducted from gross receipts."

5 SECTION 224. Section 7-9-98 NMSA 1978 (being Laws 2005,
6 Chapter 179, Section 1) is amended to read:

7 "7-9-98. DEDUCTION--~~[COMPENSATING]~~ STATE USE TAX--BIOMASS-
8 RELATED EQUIPMENT--BIOMASS MATERIALS.--

9 A. The value of a biomass boiler, gasifier, furnace,
10 turbine-generator, storage facility, feedstock processing or
11 drying equipment, feedstock trailer or interconnection transformer
12 may be deducted in computing the ~~[compensating]~~ state use tax due.

13 B. The value of biomass materials used for processing
14 into biopower, biofuels or biobased products may be deducted in
15 computing the ~~[compensating]~~ state use tax due.

16 C. As used in this section:

17 (1) "biobased products" means products created
18 from plant- or crop-based resources such as agricultural crops and
19 crop residues, forestry, pastures and rangelands that are normally
20 made from petroleum;

21 (2) "biofuels" means biomass converted to liquid
22 or gaseous fuels such as ethanol, methanol, methane and hydrogen;

23 (3) "biomass material" means organic material
24 that is available on a renewable or recurring basis, including:

25 (a) forest-related materials, including

1 mill residues, logging residues, forest thinnings, slash, brush,
2 low-commercial-value materials or undesirable species, salt cedar
3 and other phreatophyte or woody vegetation removed from river
4 basins or watersheds and woody material harvested for the purpose
5 of forest fire fuel reduction or forest health and watershed
6 improvement;

7 (b) agricultural-related materials,
8 including orchard trees, vineyard, grain or crop residues,
9 including straws and stover, aquatic plants and agricultural
10 processed co-products and waste products, including fats, oils,
11 greases, whey and lactose;

12 (c) animal waste, including manure and
13 slaughterhouse and other processing waste;

14 (d) solid woody waste materials, including
15 landscape or right-of-way tree trimmings, range land maintenance
16 residues, waste pallets, crates and manufacturing, construction
17 and demolition wood wastes, excluding pressure-treated, chemically
18 treated or painted wood wastes and wood contaminated with plastic;

19 (e) crops and trees planted for the purpose
20 of being used to produce energy;

21 (f) landfill gas, wastewater treatment gas
22 and biosolids, including organic waste byproducts generated during
23 the wastewater treatment process; and

24 (g) segregated municipal solid waste,
25 excluding tires and medical and hazardous waste; and

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1 (4) "biopower" means biomass converted to produce
2 electrical and thermal energy."

3 SECTION 225. Section 7-9-99 NMSA 1978 (being Laws 2006,
4 Chapter 35, Section 1) is amended to read:

5 "7-9-99. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--SALE OF
6 ENGINEERING, ARCHITECTURAL AND NEW FACILITY CONSTRUCTION SERVICES
7 USED IN CONSTRUCTION OF CERTAIN PUBLIC HEALTH CARE FACILITIES.--
8 Receipts from selling an engineering, architectural or
9 construction service used in the new facility construction of a
10 sole community provider hospital that is located in a federally
11 designated health professional shortage area may be deducted from
12 gross receipts if the sale of the engineering, architectural or
13 construction service is made to a foundation or a nonprofit
14 organization that:

15 A. has entered into a written agreement with a county
16 to pay at least ninety-five percent of the costs of new facility
17 construction of that sole community provider hospital; and

18 B. delivers to the seller of the engineering,
19 architectural or construction service either an appropriate
20 nontaxable transaction certificate or other evidence acceptable to
21 the secretary of a written agreement made in accordance with
22 Subsection A of this section."

23 SECTION 226. Section 7-9-100 NMSA 1978 (being Laws 2006,
24 Chapter 35, Section 2) is amended to read:

25 "7-9-100. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--SALE OF

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1 CONSTRUCTION EQUIPMENT AND CONSTRUCTION MATERIALS USED IN NEW
2 FACILITY CONSTRUCTION OF A SOLE COMMUNITY PROVIDER HOSPITAL THAT
3 IS LOCATED IN A FEDERALLY DESIGNATED HEALTH PROFESSIONAL SHORTAGE
4 AREA.--Receipts from selling construction equipment or
5 construction materials used in the new facility construction of a
6 sole community provider hospital that is located in a federally
7 designated health professional shortage area may be deducted from
8 gross receipts if the sale of the construction equipment or
9 construction materials is made to a foundation or a nonprofit
10 organization that:

11 A. has entered into a written agreement with a county
12 to pay at least ninety-five percent of the costs of new facility
13 construction of that sole community provider hospital; and

14 B. delivers to the seller either an appropriate
15 nontaxable transaction certificate or other evidence acceptable to
16 the secretary of a written agreement made in accordance with
17 Subsection A of this section."

18 SECTION 227. Section 7-9-102 NMSA 1978 (being Laws 2007,
19 Chapter 3, Section 17) is amended to read:

20 "7-9-102. DEDUCTION--~~[COMPENSATING]~~ STATE USE TAX--
21 EQUIPMENT FOR CERTAIN ELECTRIC TRANSMISSION OR STORAGE
22 FACILITIES.--The value of equipment installed as part of an
23 electric transmission facility or an interconnected storage
24 facility acquired by the New Mexico renewable energy transmission
25 authority pursuant to the New Mexico Renewable Energy Transmission

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1 Authority Act may be deducted in computing [~~compensating~~] state
2 use tax due."

3 SECTION 228. Section 7-9-103.1 NMSA 1978 (being Laws 2012,
4 Chapter 12, Section 2) is amended to read:

5 "7-9-103.1. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--CONVERTING
6 ELECTRICITY.--

7 A. Receipts from the transmission of electricity where
8 voltage source conversion technology is employed to provide such
9 services and from ancillary services may be deducted from gross
10 receipts.

11 B. The department shall report annually to the interim
12 revenue stabilization and tax policy committee on the expansion of
13 voltage source conversion technology use in the transmission of
14 electricity in New Mexico and the use of the deduction provided in
15 this section.

16 C. As used in this section, "ancillary services" means
17 services that are supplied from or in connection with facilities
18 employing voltage source conversion technology and that are used
19 to support or enhance the efficient and reliable operation of the
20 electric system."

21 SECTION 229. Section 7-9-105 NMSA 1978 (being Laws 2007,
22 Chapter 45, Section 6) is amended to read:

23 "7-9-105. CREDIT FOR PENALTY PURSUANT TO SECTION 7-1-71.2
24 NMSA 1978.--

25 A. A taxpayer who paid a penalty pursuant to the

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1 provisions of Section 7-1-71.2 NMSA 1978 in effect prior to July
2 1, 2007 may claim a credit for the amount of the penalty.

3 B. To claim the credit provided in Subsection A of
4 this section, the taxpayer shall apply to the taxation and revenue
5 department prior to July 1, 2010, on forms and in the manner
6 prescribed by the department, and shall supply documentation as
7 required by the department.

8 C. The amount of credit provided in Subsection A of
9 this section may be claimed against the taxpayer's [~~gross~~
10 ~~receipts~~] state sales tax, [~~compensating~~] state use tax and
11 withholding tax due in a reporting period. Any amount of
12 available credit that exceeds the taxpayer's [~~gross receipts~~]
13 state sales tax, [~~compensating~~] state use tax and withholding tax
14 due for a reporting period may be claimed in subsequent reporting
15 periods, for a period of three years."

16 SECTION 230. Section 7-9-107 NMSA 1978 (being Laws 2007,
17 Chapter 172, Section 9) is amended to read:

18 "7-9-107. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--PRODUCTION OR
19 STAGING OF PROFESSIONAL CONTESTS.--Receipts from producing or
20 staging a professional boxing, wrestling or martial arts contest
21 that occurs in New Mexico, including receipts from ticket sales
22 and broadcasting, may be deducted from gross receipts."

23 SECTION 231. Section 7-9-109 NMSA 1978 (being Laws 2007,
24 Chapter 172, Section 11) is amended to read:

25 "7-9-109. DEDUCTION--GROSS RECEIPTS [~~TAX~~]--VETERINARY

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1 MEDICAL SERVICES, MEDICINE OR MEDICAL SUPPLIES USED IN MEDICAL
2 TREATMENT OF CATTLE.--

3 A. Receipts from sales of veterinary medical services,
4 medicine or medical supplies used in the medical treatment of
5 cattle may be deducted from gross receipts if the sale is made to
6 a person who states in writing that the person is regularly
7 engaged in the business of ranching or farming, including dairy
8 farming, in New Mexico or if the sale is made to a veterinarian
9 who holds a valid license pursuant to the Veterinary Practice Act
10 and who is providing veterinary medical services, medicine or
11 medical supplies in the treatment of cattle owned by that person.

12 B. As used in this section, "cattle" means animals of
13 the genus bos, including dairy cattle, and does not include any
14 other kind of livestock."

15 SECTION 232. Section 7-9-110.1 NMSA 1978 (being Laws 2011,
16 Chapter 60, Section 1 and Laws 2011, Chapter 61, Section 1) is
17 amended to read:

18 "7-9-110.1. DEDUCTION--GROSS RECEIPTS [~~TAX~~]~~--~~LOCOMOTIVE
19 ENGINE FUEL.--Receipts from the sale of fuel to a common carrier
20 to be loaded or used in a locomotive engine may be deducted from
21 gross receipts. For the purposes of this section, "locomotive
22 engine" means a wheeled vehicle consisting of a self-propelled
23 engine that is used to draw trains along railway tracks."

24 SECTION 233. Section 7-9-110.2 NMSA 1978 (being Laws 2011,
25 Chapter 60, Section 2 and Laws 2011, Chapter 61, Section 2) is

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1 amended to read:

2 "7-9-110.2. DEDUCTION--~~[COMPENSATING]~~ STATE USE
3 TAX--LOCOMOTIVE ENGINE FUEL.--The value of fuel to be loaded or
4 used by a common carrier in a locomotive engine may be deducted in
5 computing the ~~[compensating]~~ state use tax due. For the purposes
6 of this section, "locomotive engine" means a wheeled vehicle
7 consisting of a self-propelled engine that is used to draw trains
8 along railway tracks."

9 SECTION 234. Section 7-9-110.3 NMSA 1978 (being Laws 2011,
10 Chapter 60, Section 3 and Laws 2011, Chapter 61, Section 3, as
11 amended) is amended to read:

12 "7-9-110.3. PURPOSE AND REQUIREMENTS OF LOCOMOTIVE FUEL
13 DEDUCTION.--

14 A. The purpose of the deduction on fuel loaded or used
15 by a common carrier in a locomotive engine from ~~[gross receipts]~~
16 state sales tax and from ~~[compensating]~~ state use tax is to
17 encourage the construction, renovation, maintenance and operation
18 of railroad locomotive refueling facilities and other railroad
19 capital investments in New Mexico.

20 B. To be eligible for the deduction on fuel loaded or
21 used by a common carrier in a locomotive engine from
22 ~~[compensating]~~ state use tax, the fuel shall be used or loaded by
23 a common carrier that:

24 (1) after July 1, 2011, made a capital investment
25 of one hundred million dollars (\$100,000,000) or more in new

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1 construction or renovations at the railroad locomotive refueling
2 facility in which the fuel is loaded or used; or

3 (2) on or after July 1, 2012, made a capital
4 investment of fifty million dollars (\$50,000,000) or more in new
5 railroad infrastructure improvements, including railroad
6 facilities, track, signals and supporting railroad network,
7 located in New Mexico; provided that the new railroad
8 infrastructure improvements are not required by a regulatory
9 agency to correct problems, such as regular or preventive
10 maintenance, specifically identified by that agency as requiring
11 necessary corrective action.

12 C. To be eligible for the deduction on fuel loaded or
13 used by a common carrier in a locomotive engine from gross
14 receipts, a common carrier shall deliver an appropriate nontaxable
15 transaction certificate to the seller and the sale shall be made
16 to a common carrier that:

17 (1) after July 1, 2011, made a capital investment
18 of one hundred million dollars (\$100,000,000) or more in new
19 construction or renovations at the railroad locomotive refueling
20 facility in which the fuel is sold; or

21 (2) on or after July 1, 2012, made a capital
22 investment of fifty million dollars (\$50,000,000) or more in new
23 railroad infrastructure improvements, including railroad
24 facilities, track, signals and supporting railroad network,
25 located in New Mexico; provided that the new railroad

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1 infrastructure improvements are not required by a regulatory
2 agency to correct problems, such as regular or [~~preventative~~]
3 preventive maintenance, specifically identified by that agency as
4 requiring necessary corrective action.

5 D. The economic development department shall
6 promulgate rules for the issuance of a certificate of eligibility
7 for the purposes of claiming a deduction on fuel loaded or used by
8 a common carrier in a locomotive engine from [~~gross receipts~~]
9 state sales tax or [~~compensating~~] state use tax. A common carrier
10 may request a certificate of eligibility from the economic
11 development department to provide to the taxation and revenue
12 department to establish eligibility for a nontaxable transaction
13 certificate for the deduction on fuel loaded or used by a common
14 carrier in a locomotive engine from gross receipts. The taxation
15 and revenue department shall issue nontaxable transaction
16 certificates to a common carrier upon the presentation of a
17 certificate of eligibility obtained from the economic development
18 department pursuant to this subsection.

19 E. The economic development department shall keep a
20 record of temporary and permanent jobs from all railroad activity
21 where a capital investment is made by a common carrier that claims
22 a deduction on fuel loaded or used by a common carrier in a
23 locomotive engine from [~~gross receipts~~] state sales tax or from
24 [~~compensating~~] state use tax. The economic development department
25 and the taxation and revenue department shall estimate the amount

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1 of state revenue that is attributable to all railroad activity
2 where a capital investment is made by a common carrier that claims
3 a deduction on fuel loaded or used by a common carrier in a
4 locomotive engine from [~~gross receipts~~] state sales tax or from
5 [~~compensating~~] state use tax.

6 F. The economic development department and the
7 taxation and revenue department shall compile an annual report
8 with the number of taxpayers who claim the deduction on fuel
9 loaded or used by a common carrier in a locomotive engine from
10 [~~gross receipts~~] state sales tax and from [~~compensating~~] state use
11 tax, the number of jobs created as a result of that deduction, the
12 amount of that deduction approved, the net revenue to the state as
13 a result of that deduction and any other information required by
14 the legislature to aid in evaluating the effectiveness of that
15 deduction. A taxpayer who claims a deduction on fuel loaded or
16 used by a common carrier in a locomotive engine from [~~gross~~
17 ~~receipts~~] state sales tax or from [~~compensating~~] state use tax
18 shall provide the economic development department and the taxation
19 and revenue department with the information required to compile
20 that report. The economic development department and the taxation
21 and revenue department shall present that report before the
22 legislative interim revenue stabilization and tax policy committee
23 and the legislative finance committee by November of each year.
24 Notwithstanding any other section of law to the contrary, the
25 economic development department and the taxation and revenue

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1 department may disclose the number of applicants for the deduction
2 on fuel loaded or used by a common carrier in a locomotive engine
3 from [~~gross receipts~~] state sales tax and from [~~compensating~~]
4 state use tax, the amount of the deduction approved, the number of
5 employees of the taxpayer and any other information required by
6 the legislature or the taxation and revenue department to aid in
7 evaluating the effectiveness of that deduction.

8 G. An appropriate legislative committee shall review
9 the effectiveness of the deduction for each taxpayer who claims
10 the deduction on fuel loaded or used by a common carrier in a
11 locomotive engine from [~~gross receipts~~] state sales tax and from
12 [~~compensating~~] state use tax every six years beginning in 2019."

13 SECTION 235. Section 7-9-111 NMSA 1978 (being Laws 2007,
14 Chapter 361, Section 6) is amended to read:

15 "7-9-111. DEDUCTION--GROSS RECEIPTS--HEARING AIDS AND
16 VISION AIDS AND RELATED SERVICES.--

17 A. Receipts that are not exempt from [~~gross receipts~~]
18 state sales taxation and are not deductible pursuant to another
19 provision of the [~~Gross Receipts and Compensating~~] Sales and Use
20 Tax Act that are from the sale of vision aids or hearing aids or
21 related services may be deducted from gross receipts.

22 B. As used in this section:

23 (1) "hearing aid" means a small electronic
24 prescription device that amplifies sound and is usually worn in or
25 behind the ear of a person that compensates for impaired hearing,

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1 including cochlear implants, amplification systems or other
2 devices that are:

3 (a) specifically designed for use by and
4 marketed to persons with hearing loss; and

5 (b) not normally used by a person who does
6 not have a hearing loss;

7 (2) "low vision" means impaired vision with a
8 significant reduction in visual function that cannot be corrected
9 with conventional glasses or contact lenses;

10 (3) "related services" means services required to
11 fit or dispense hearing aids or vision aids;

12 (4) "vision aid" means closed circuit television
13 systems, monoculars, magnification systems, speech output devices
14 or other systems that are:

15 (a) specifically designed for use by and
16 marketed to persons with low vision or visual impairments; and

17 (b) not normally used by a person who does
18 not have low vision or a visual impairment; and

19 (5) "visual impairment" means a central visual
20 acuity of 20/200 or less in the better eye with the use of a
21 correcting lens or a limitation in the fields of vision so that
22 the widest diameter of the visual field subtends an angle of
23 twenty degrees or less."

24 **SECTION 236.** Section 7-9-114 NMSA 1978 (being Laws 2010,
25 Chapter 77, Section 1 and Laws 2010, Chapter 78, Section 1, as

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1 amended) is amended to read:

2 "7-9-114. ADVANCED ENERGY DEDUCTION--GROSS RECEIPTS [~~AND~~--
3 [~~COMPENSATING TAXES~~] STATE USE TAX.--

4 A. Receipts from selling or leasing tangible personal
5 property or services that are eligible generation plant costs to a
6 person that holds an interest in a qualified generating facility
7 may be deducted from gross receipts if the holder of the interest
8 delivers an appropriate nontaxable transaction certificate to the
9 seller or lessor. The department shall issue nontaxable
10 transaction certificates to a person that holds an interest in a
11 qualified generating facility upon presentation to the department
12 of a certificate of eligibility obtained from the department of
13 environment pursuant to Subsection G of this section for the
14 deduction created in this section or a certificate of eligibility
15 pursuant to Section 7-2-18.25, 7-2A-25 or 7-9G-2 NMSA 1978. The
16 deduction created in this section may be referred to as the
17 "advanced energy deduction".

18 B. The purpose of the advanced energy deduction is to
19 encourage the construction and development of qualified generating
20 facilities in New Mexico and to sequester or control carbon
21 dioxide emissions.

22 C. The value of eligible generation plant costs from
23 the sale or lease of tangible personal property to a person that
24 holds an interest in a qualified generating facility for which the
25 department of environment has issued a certificate of eligibility

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1 pursuant to Subsection G of this section may be deducted in
2 computing the [~~compensating~~] state use tax due.

3 D. The maximum tax benefit allowed for all eligible
4 generation plant costs from a qualified generating facility shall
5 be sixty million dollars (\$60,000,000) total for eligible
6 generation plant costs deducted or claimed pursuant to this
7 section or Section 7-2-18.25, 7-2A-25 or 7-9G-2 NMSA 1978.

8 E. Deductions taken pursuant to this section shall be
9 reported separately on a form approved by the department. The
10 nontaxable transaction certificates used to obtain tax-deductible
11 tangible personal property or services shall display clearly a
12 notice to the taxpayer that the deduction shall be reported
13 separately from any other deductions claimed from gross receipts.
14 A taxpayer deducting eligible generation plant costs from the
15 costs on which [~~compensating~~] state use tax is imposed shall
16 report those eligible generation plant costs that are being
17 deducted.

18 F. The deductions allowed for a qualified generating
19 facility pursuant to this section shall be available for a ten-
20 year period for purchases and a twenty-five-year period for leases
21 from the year development of the qualified generating facility
22 begins and expenditures are made for which nontaxable transaction
23 certificates authorized pursuant to this section are submitted to
24 sellers or lessors for eligible generation plant costs or
25 deductions from the costs on which [~~compensating~~] state use tax

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1 are calculated are first taken for eligible generation plant
2 costs.

3 G. An entity that holds an interest in a qualified
4 generating facility may request a certificate of eligibility from
5 the department of environment to enable the requester to obtain a
6 nontaxable transaction certificate for the advanced energy
7 deduction. The department of environment shall:

8 (1) determine if the facility is a qualified
9 generating facility;

10 (2) require that the requester provide the
11 department of environment with the information necessary to assess
12 whether the requester's facility meets the criteria to be a
13 qualified generating facility;

14 (3) issue a certificate from sequentially
15 numbered certificates to the requester stating that the facility
16 is or is not a qualified generating facility within one hundred
17 eighty days after receiving all information necessary to make a
18 determination;

19 (4) issue:

20 (a) rules governing the procedures for
21 administering the provisions of this subsection; and

22 (b) a schedule of fees in which no fee
23 exceeds one hundred fifty thousand dollars (\$150,000);

24 (5) deposit fees collected pursuant to this
25 subsection in the state air quality permit fund created pursuant

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1 to Section 74-2-15 NMSA 1978; and

2 (6) report annually to the appropriate interim
3 legislative committee information that will allow the legislative
4 committee to analyze the effectiveness of the advanced energy
5 deduction, including the identity of qualified generating
6 facilities, the energy production means used, the amount of
7 emissions identified in this section reduced and removed by those
8 qualified generating facilities and whether any requests for
9 certificates of eligibility could not be approved due to program
10 limits.

11 H. The economic development department shall keep a
12 record of temporary and permanent jobs at all qualified generating
13 facilities in New Mexico. The economic development department and
14 the taxation and revenue department shall measure the amount of
15 state revenue that is attributable to activity at each qualified
16 generating facility in New Mexico. The economic development
17 department shall coordinate with the department of environment to
18 report annually to the appropriate interim legislative committee
19 on the effectiveness of the advanced energy deduction. A taxpayer
20 who claims an advanced energy deduction shall provide the economic
21 development department, the department of environment and the
22 taxation and revenue department with the information required to
23 compile the report required by this section. Notwithstanding any
24 other section of law to the contrary, the economic development
25 department, the department of environment and the taxation and

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1 revenue department may disclose the number of applicants for the
2 advanced energy deduction, the amount of the deduction approved,
3 the number of employees of the taxpayer and any other information
4 required by the legislature or the taxation and revenue department
5 to aid in evaluating the effectiveness of that deduction.

6 I. If the department of environment issues a
7 certificate of eligibility to a taxpayer stating that the taxpayer
8 holds an interest in a qualified generating facility and the
9 taxpayer does not sequester or control carbon dioxide emissions to
10 the extent required by this section by the later of January 1,
11 2017 or eighteen months after the commercial operation date of the
12 qualified generating facility, the taxpayer's certification as a
13 qualified generating facility shall be revoked by the department
14 of environment and the taxpayer shall repay to the state tax
15 deductions granted pursuant to this section; provided that, if the
16 taxpayer demonstrates to the department of environment that the
17 taxpayer made every effort to sequester or control carbon dioxide
18 emissions to the extent feasible and the facility's inability to
19 meet the sequestration requirements of a qualified generating
20 facility was beyond the facility's control, the department of
21 environment shall determine, after a public hearing, the amount of
22 tax deduction that should be repaid to the state. The department
23 of environment, in its determination, shall consider the
24 environmental performance of the facility and the extent to which
25 the inability to meet the sequestration requirements of a

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1 qualified generating facility was in the control of the taxpayer.
2 The repayment as determined by the department of environment shall
3 be paid within one hundred eighty days following a final order by
4 the department of environment.

5 J. The advanced energy deduction allowed pursuant to
6 this section shall not be claimed for the same qualified expenses
7 for which a taxpayer claims a credit pursuant to Section
8 7-2-18.25, 7-2A-25 or 7-9G-2 NMSA 1978 or a deduction pursuant to
9 Section 7-9-54.3 NMSA 1978.

10 K. An appropriate legislative committee shall review
11 the effectiveness of the advanced energy deduction every four
12 years beginning in 2015.

13 L. As used in this section:

14 (1) "coal-based electric generating facility"
15 means a new or repowered generating facility and an associated
16 coal gasification facility, if any, that uses coal to generate
17 electricity and that meets the following specifications:

18 (a) emits the lesser of: 1) what is
19 achievable with the best available control technology; or 2)
20 thirty-five thousandths pound per million British thermal units of
21 sulfur dioxide, twenty-five thousandths pound per million British
22 thermal units of oxides of nitrogen and one hundredth pound per
23 million British thermal units of total particulate in the flue
24 gas;

25 (b) removes the greater of: 1) what is

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1 achievable with the best available control technology; or 2)
2 ninety percent of the mercury from the input fuel;

3 (c) captures and sequesters or controls
4 carbon dioxide emissions so that by the later of January 1, 2017
5 or eighteen months after the commercial operation date of the
6 coal-based electric generating facility, no more than one thousand
7 one hundred pounds per megawatt-hour of carbon dioxide is emitted
8 into the atmosphere;

9 (d) all infrastructure required for
10 sequestration is in place by the later of January 1, 2017 or
11 eighteen months after the commercial operation date of the coal-
12 based electric generating facility;

13 (e) includes methods and procedures to
14 monitor the disposition of the carbon dioxide captured and
15 sequestered from the coal-based electric generating facility; and

16 (f) does not exceed a name-plate capacity
17 of seven hundred net megawatts;

18 (2) "eligible generation plant costs" means
19 expenditures for the development and construction of a qualified
20 generating facility, including permitting; lease payments; site
21 characterization and assessment; engineering; design; carbon
22 dioxide capture, treatment, compression, transportation and
23 sequestration; site and equipment acquisition; and fuel supply
24 development used directly and exclusively in a qualified
25 generating facility;

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1 (3) "entity" means an individual, estate, trust,
2 receiver, cooperative association, club, corporation, company,
3 firm, partnership, limited liability company, limited liability
4 partnership, joint venture, syndicate or other association or a
5 gas, water or electric utility owned or operated by a county or
6 municipality;

7 (4) "geothermal electric generating facility"
8 means a facility with a name-plate capacity of one megawatt or
9 more that uses geothermal energy to generate electricity,
10 including a facility that captures and provides geothermal energy
11 to a preexisting electric generating facility using other fuels in
12 part;

13 (5) "interest in a qualified generating facility"
14 means title to a qualified generating facility; a lessee's
15 interest in a qualified generating facility; and a county or
16 municipality's interest in a qualified generating facility when
17 the county or municipality issues an industrial revenue bond for
18 construction of the qualified generating facility;

19 (6) "name-plate capacity" means the maximum rated
20 output of the facility measured as alternating current or the
21 equivalent direct current measurement;

22 (7) "qualified generating facility" means a
23 facility that begins construction not later than December 31, 2015
24 and is:

25 (a) a solar thermal electric generating

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1 facility that begins construction on or after July 1, 2010 and
2 that may include an associated renewable energy storage facility;

3 (b) a solar photovoltaic electric
4 generating facility that begins construction on or after July 1,
5 2010 and that may include an associated renewable energy storage
6 facility;

7 (c) a geothermal electric generating
8 facility that begins construction on or after July 1, 2010;

9 (d) a recycled energy project if that
10 facility begins construction on or after July 1, 2010; or

11 (e) a new or repowered coal-based electric
12 generating facility and an associated coal gasification facility;

13 (8) "recycled energy" means energy produced by a
14 generation unit with a name-plate capacity of not more than
15 fifteen megawatts that converts the otherwise lost energy from the
16 exhaust stacks or pipes to electricity without combustion of
17 additional fossil fuel;

18 (9) "sequester" means to store, or chemically
19 convert, carbon dioxide in a manner that prevents its release into
20 the atmosphere and may include the use of geologic formations and
21 enhanced oil, coaled methane or natural gas recovery techniques;

22 (10) "solar photovoltaic electric generating
23 facility" means an electric generating facility with a name-plate
24 capacity of one megawatt or more that uses solar photovoltaic
25 energy to generate electricity; and

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1 (11) "solar thermal electric generating facility"
2 means an electric generating facility with a name-plate capacity
3 of one megawatt or more that uses solar thermal energy to generate
4 electricity, including a facility that captures and provides solar
5 thermal energy to a preexisting electric generating facility using
6 other fuels in part."

7 **SECTION 237.** Section 7-9-115 NMSA 1978 (being Laws 2015
8 (1st S.S.), Chapter 2, Section 9) is amended to read:

9 "7-9-115. DEDUCTION--GROSS RECEIPTS [~~TAX~~]-GOODS AND
10 SERVICES FOR THE DEPARTMENT OF DEFENSE RELATED TO DIRECTED ENERGY
11 AND SATELLITES.--

12 A. Prior to January 1, 2021, receipts from the sale by
13 a qualified contractor of qualified research and development
14 services and qualified directed energy and satellite-related
15 inputs may be deducted from gross receipts when sold pursuant to a
16 contract with the United States department of defense.

17 B. The purposes of the deduction allowed in this
18 section are to promote new and sophisticated technology, enhance
19 the viability of directed energy and satellite projects, attract
20 new projects and employers to New Mexico and increase
21 high-technology employment opportunities in New Mexico.

22 C. A taxpayer allowed a deduction pursuant to this
23 section shall report the amount of the deduction separately in a
24 manner required by the department.

25 D. The department shall compile an annual report on

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1 the deduction provided by this section that shall include the
2 number of taxpayers that claimed the deduction, the aggregate
3 amount of deductions claimed and any other information necessary
4 to evaluate the effectiveness of the deduction. Beginning in 2017
5 and each year thereafter that the deduction is in effect, the
6 department and the economic development department shall present
7 the annual report to the revenue stabilization and tax policy
8 committee and the legislative finance committee with an analysis
9 of the effectiveness and cost of the deduction and whether the
10 deduction is performing the purpose for which it was created.

11 E. As used in this section:

12 (1) "directed energy" means a system, including
13 related services, that enables the use of the frequency spectrum,
14 including radio waves, light and x-rays;

15 (2) "inputs" means systems, subsystems,
16 components, prototypes and demonstrators or products and services
17 involving optics, photonics, electronics, advanced materials,
18 nanoelectromechanical and microelectromechanical systems,
19 fabrication materials and test evaluation and computer control
20 systems related to directed energy or satellites;

21 (3) "qualified contractor" means a person other
22 than an organization designated as a national laboratory by act of
23 congress or an operator of national laboratory facilities in New
24 Mexico; provided that the operator may be a qualified contractor
25 with respect to the operator's receipts not connected with

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1 operating the national laboratory;

2 (4) "qualified directed energy and satellite-
3 related inputs" means inputs supplied to the department of defense
4 pursuant to a contract with that department entered into on or
5 after January 1, 2016;

6 (5) "qualified research and development services"
7 means research and development services related to directed energy
8 or satellites provided to the department of defense pursuant to a
9 contract with that department entered into on or after January 1,
10 2016; and

11 (6) "satellite" means composite systems assembled
12 and packaged for use in space, including launch vehicles and
13 related products and services."

14 SECTION 238. Section 7-9-116 NMSA 1978 (being Laws 2018,
15 Chapter 46, Section 1) is amended to read:

16 "7-9-116. DEDUCTION--GROSS RECEIPTS [~~TAX~~]~~--~~RETAIL SALES BY
17 CERTAIN BUSINESSES.--

18 A. Prior to July 1, 2020, receipts from the sale at
19 retail of the following types of tangible personal property may be
20 deducted if the sales price of the property is less than five
21 hundred dollars (\$500) and:

22 (1) the sale occurs during the period beginning
23 at 12:01 a.m. on the first Saturday after Thanksgiving and ending
24 at midnight on the same Saturday;

25 (2) the sale is for:

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1 (a) an article of clothing or footwear
2 designed to be worn on or about the human body;

3 (b) accessories, including jewelry,
4 handbags, book bags, backpacks, luggage, wallets, watches and
5 similar items worn or carried on or about the human body, without
6 regard to whether worn on the body in a manner characteristic of
7 clothing;

8 (c) sporting goods and camping equipment;

9 (d) tools used for home improvement,
10 gardening and automotive maintenance and repair;

11 (e) books, journals, paper, writing
12 instruments, art supplies, greeting cards and postcards;

13 (f) works of art, including any painting,
14 drawing, print, photograph, sculpture, pottery or ceramics,
15 carving, textile, basketry, artifact, natural specimen, rare book,
16 authors' papers, objects of historical or technical interest or
17 other article of intrinsic cultural value;

18 (g) floral arrangements and indoor plants;

19 (h) cosmetics and personal grooming items;

20 (i) musical instruments;

21 (j) cookware and small home appliances for
22 residential use;

23 (k) bedding, towels and bath accessories;

24 (l) furniture;

25 (m) a toy or game that is a physical item,

1 product or object clearly intended and designed to be used by
2 children or families in play;

3 (n) a video game or video game console and
4 any associated accessories for the video game console; or

5 (o) home electronics such as computers,
6 phones, tablets, stereo equipment and related electronics
7 accessories; and

8 (3) the sale is made by a seller that carries on
9 a trade or business in New Mexico, maintains its primary place of
10 business in New Mexico, as determined by the department, and
11 employed no more than ten employees at any one time during the
12 previous fiscal year.

13 B. Receipts for sales made by a business that operates
14 under a franchise agreement may not be deducted pursuant to this
15 section.

16 C. The purpose of the deduction provided by this
17 section is to increase sales at small local businesses.

18 D. A taxpayer allowed a deduction pursuant to this
19 section shall report the amount of the deduction separately in a
20 manner required by the department.

21 E. The department shall compile an annual report on
22 the deduction provided by this section that shall include the
23 number of taxpayers that claimed the deduction, the aggregate
24 amount of deductions claimed and any other information necessary
25 to evaluate the effectiveness of the deduction. The department

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1 shall present the annual report to the revenue stabilization and
2 tax policy committee and the legislative finance committee with an
3 analysis of the effectiveness and cost of the deduction and
4 whether the deduction is performing the purpose for which it was
5 created."

6 SECTION 239. Section 7-9A-5 NMSA 1978 (being Laws 1979,
7 Chapter 347, Section 5, as amended by Laws 1991, Chapter 159,
8 Section 4 and also by Laws 1991, Chapter 162, Section 4) is
9 amended to read:

10 "7-9A-5. INVESTMENT CREDIT--AMOUNT--CLAIMANT.--The
11 investment credit provided for in the Investment Credit Act is an
12 amount equal to the percent of the [~~compensating~~] state use tax
13 rate provided for in the [~~Gross Receipts and Compensating~~] Sales
14 and Use Tax Act applied to the value of the qualified equipment
15 and may be claimed by the taxpayer carrying on a manufacturing
16 operation in New Mexico."

17 SECTION 240. Section 7-9A-8 NMSA 1978 (being Laws 1979,
18 Chapter 347, Section 8, as amended) is amended to read:

19 "7-9A-8. CLAIMING THE CREDIT FOR CERTAIN TAXES.--

20 A. A taxpayer shall apply for approval for a credit
21 within one year following the end of the calendar year in which
22 the qualified equipment for the manufacturing operation is
23 purchased or introduced into New Mexico.

24 B. A taxpayer having applied for and been granted
25 approval for a credit by the department pursuant to the Investment

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1 Credit Act may claim an amount of available credit against the
2 taxpayer's [~~compensating~~] state use tax, [~~gross receipts~~] state
3 sales tax or withholding tax due to the state of New Mexico;
4 provided that no taxpayer may claim, except as provided in
5 Subsection C of this section, an amount of available credit for
6 any reporting period that exceeds eighty-five percent of the sum
7 of the taxpayer's [~~gross receipts~~] state sales tax, [~~compensating~~]
8 state use tax and withholding tax due for that reporting period.
9 Any amount of available credit not claimed against the taxpayer's
10 [~~gross receipts~~] state sales tax, [~~compensating~~] state use tax or
11 withholding tax due for a reporting period may be claimed in
12 subsequent reporting periods.

13 C. A taxpayer may apply by September 30 of the current
14 calendar year for a refund of the unclaimed balance of the
15 available credit up to a maximum of two hundred fifty thousand
16 dollars (\$250,000) if on January 1 of the current calendar year:

17 (1) the taxpayer's available credit is less than
18 five hundred thousand dollars (\$500,000); and

19 (2) the sum of the taxpayer's [~~gross receipts~~]
20 state sales tax, [~~compensating~~] state use tax and withholding tax
21 due for the previous calendar year was less than thirty-five
22 percent of the taxpayer's available credit but more than ten
23 thousand dollars (\$10,000)."

24 SECTION 241. Section 7-9C-1 NMSA 1978 (being Laws 1992,
25 Chapter 50, Section 1 and also Laws 1992, Chapter 67, Section 1,

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1 as amended) is amended to read:

2 "7-9C-1. SHORT TITLE.--Chapter 7, Article 9C NMSA 1978 may
3 be cited as the "Interstate Telecommunications [~~Gross Receipts~~
4 Sales Tax Act"."

5 SECTION 242. Section 7-9C-2 NMSA 1978 (being Laws 1992,
6 Chapter 50, Section 2 and also Laws 1992, Chapter 67, Section 2,
7 as amended) is amended to read:

8 "7-9C-2. DEFINITIONS.--As used in the Interstate
9 Telecommunications [~~Gross Receipts~~] Sales Tax Act:

10 A. "charges for mobile telecommunications services"
11 has the meaning given in the federal Mobile Telecommunications
12 Sourcing Act;

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

17 C. "engaging in interstate telecommunications
18 business" means carrying on or causing to be carried on the
19 business of providing interstate telecommunications service;

20 D. "home service provider" has the meaning given in
21 the federal Mobile Telecommunications Sourcing Act;

22 E. "interstate telecommunications gross receipts"
23 means the total amount of money or the value of other
24 consideration received from providing:

25 (1) interstate telecommunications services, other

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1 than mobile telecommunications services, that either originate or
2 terminate in New Mexico and are charged to a telephone number or
3 account in New Mexico, regardless of where the bill for such
4 services is actually delivered; and

5 (2) mobile telecommunications services that
6 originate in one state and terminate in any location outside that
7 state, whether within or outside the United States, to a customer
8 with a place of primary use in New Mexico. "Interstate
9 telecommunications gross receipts" excludes mobile
10 telecommunications services provided to a customer with a place of
11 primary use outside of New Mexico, cash discounts allowed and
12 taken and interstate telecommunications [~~gross receipts~~] sales tax
13 payable for the reporting period. Also excluded from "interstate
14 telecommunications gross receipts" are any gross receipts or sales
15 taxes imposed by any Indian nation, tribe or pueblo; provided that
16 the tax is approved, if approval is required by federal law or
17 regulation, by the secretary of the interior of the United States;
18 and provided further that the gross receipts or sales tax imposed
19 by the Indian nation, tribe or pueblo provides a reciprocal
20 exclusion for gross receipts, sales or gross receipts-based excise
21 taxes imposed by the state or its political subdivisions;

22 F. "interstate telecommunications service" means the
23 service of originating or receiving in New Mexico interstate and
24 international telephone and telegraph service, including [~~but not~~
25 ~~limited~~] to the transmission of voice, messages and data by way of

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1 electronic or similar means between or among points by wire,
2 cable, fiber-optic, laser, microwave, radio, satellite or similar
3 facilities;

4 G. "mobile telecommunications services" has the
5 meaning given in the federal Mobile Telecommunications Sourcing
6 Act;

7 H. "person" means any individual, estate, trust,
8 receiver, cooperative association, club, corporation, company,
9 firm, partnership, limited liability company, joint venture,
10 syndicate or other entity; the United States or any agency or
11 instrumentality of the United States; or the state of New Mexico
12 or any political subdivision of the state;

13 I. "place of primary use" has the meaning given in the
14 federal Mobile Telecommunications Sourcing Act;

15 J. "private communications service" means a dedicated
16 service for a single customer that entitles the customer to
17 exclusive or priority use of a communications channel or group of
18 channels between a location within New Mexico and one or more
19 specified locations outside New Mexico; and

20 K. "wide-area telephone service" means a telephone
21 service that entitles the subscriber, upon payment of a flat rate
22 charge dependent on the total duration of all such calls and the
23 geographic area selected by the subscriber, to either make or
24 receive a large volume of telephonic communications to or from
25 persons located in specified geographical areas."

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1 **SECTION 243.** Section 7-9C-3 NMSA 1978 (being Laws 1992,
2 Chapter 50, Section 3 and also Laws 1992, Chapter 67, Section 3)
3 is amended to read:

4 "7-9C-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
5 INTERSTATE TELECOMMUNICATIONS [~~GROSS RECEIPTS~~] SALES TAX.--

6 A. For the privilege of engaging in interstate
7 telecommunications business, an excise tax equal to four and one-
8 fourth percent of interstate telecommunications gross receipts is
9 imposed upon any person engaging in interstate telecommunications
10 business in New Mexico.

11 B. The tax imposed by this section shall be referred
12 to as the "interstate telecommunications [~~gross receipts~~] sales
13 tax".

14 **SECTION 244.** Section 7-9C-4 NMSA 1978 (being Laws 1992,
15 Chapter 50, Section 4 and Laws 1992, Chapter 67, Section 4, as
16 amended) is amended to read:

17 "7-9C-4. PRESUMPTION OF TAXABILITY.--

18 A. To prevent evasion of the interstate
19 telecommunications [~~gross receipts~~] sales tax and to aid in its
20 administration, it is presumed that all receipts of a person
21 engaging in interstate telecommunications business are subject to
22 the interstate telecommunications [~~gross receipts~~] sales tax.

23 B. If receipts from nontaxable charges for mobile
24 telecommunications services are aggregated with and not separately
25 stated from taxable charges for mobile telecommunications

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1 services, ~~then~~ the charges for nontaxable mobile
2 telecommunications services shall be subject to interstate
3 telecommunications ~~[gross receipts]~~ sales tax unless the home
4 service provider can reasonably identify nontaxable charges in its
5 books and records that are kept in the regular course of
6 business."

7 SECTION 245. Section 7-9C-5 NMSA 1978 (being Laws 1992,
8 Chapter 50, Section 5 and also Laws 1992, Chapter 67, Section 5)
9 is amended to read:

10 "7-9C-5. DATE PAYMENT DUE.--The interstate
11 telecommunications ~~[gross receipts]~~ sales tax is to be paid to the
12 department on or before the twenty-fifth day of the month
13 following the month in which the taxable event occurs."

14 SECTION 246. Section 7-9C-7 NMSA 1978 (being Laws 1992,
15 Chapter 50, Section 7 and also Laws 1992, Chapter 67, Section 7,
16 as amended) is amended to read:

17 "7-9C-7. DEDUCTION--SALE OF A SERVICE FOR RESALE.--

18 A. Receipts from providing an interstate
19 telecommunications service in this state that will be used by
20 other persons in providing telephone or telegraph services to the
21 final user may be deducted from interstate telecommunications
22 gross receipts if the sale is made to a person who is subject to
23 the interstate telecommunications ~~[gross receipts]~~ sales tax or to
24 the gross receipts tax or the ~~[compensating]~~ state use tax.

25 B. Receipts during the period July 1, 1998 through

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1 June 30, 2000 from providing leased telephone lines,
2 telecommunications services, internet access services or computer
3 programming that will be used by other persons in providing
4 internet access and related services to the final user may be
5 deducted from interstate telecommunications gross receipts if the
6 sale is made to a person who is subject to the interstate
7 telecommunications [~~gross receipts~~] sales tax, the [~~gross~~
8 ~~receipts~~] state sales tax or the [~~compensating~~] state use tax."

9 SECTION 247. Section 7-9C-10 NMSA 1978 (being Laws 1992,
10 Chapter 50, Section 10 and also Laws 1992, Chapter 67, Section 10)
11 is amended to read:

12 "7-9C-10. CREDIT--SERVICES PERFORMED OUTSIDE THE STATE.--To
13 prevent actual multi-jurisdictional taxation of the privilege of
14 engaging in business of providing interstate telecommunications
15 services, any taxpayer, upon proof that the taxpayer has paid to
16 another state or political subdivision of another state a sales,
17 use, gross receipts or similar tax on the same interstate
18 telecommunications gross receipts subject to the interstate
19 telecommunications [~~gross receipts~~] sales tax, shall be allowed a
20 credit against the interstate telecommunications [~~gross receipts~~]
21 sales tax to the extent of the amount of sales, use, gross
22 receipts or similar tax properly due and paid to such other state
23 or political subdivision of that state."

24 SECTION 248. Section 7-9C-11 NMSA 1978 (being Laws 1992,
25 Chapter 50, Section 11 and also Laws 1992, Chapter 67, Section 11)

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1 is amended to read:

2 "7-9C-11. ADMINISTRATION.--

3 A. The department shall interpret the provisions of
4 the interstate telecommunications [~~gross receipts~~] sales tax.

5 B. The department shall administer and enforce the
6 collection of the interstate telecommunications [~~gross receipts~~]
7 sales tax, and the Tax Administration Act applies to the
8 administration and enforcement of the tax."

9 SECTION 249. Section 7-9E-8 NMSA 1978 (being Laws 2000 (2nd
10 S.S.), Chapter 20, Section 8, as amended) is amended to read:

11 "7-9E-8. CLAIMING THE TAX CREDIT--LIMITATION.--

12 A. A national laboratory eligible for the tax credit
13 pursuant to the Laboratory Partnership with Small Business Tax
14 Credit Act may claim the amount of each tax credit by crediting
15 that amount against [~~gross receipts~~] state sales taxes otherwise
16 due pursuant to the [~~Gross Receipts and Compensating~~] Sales and
17 Use Tax Act. The tax credit shall be taken on each monthly [~~gross~~
18 ~~receipts~~] state sales tax return filed by the laboratory against
19 [~~gross receipts~~] state sales taxes due the state and shall not
20 impact any local government tax distribution. In no event shall
21 the tax credits taken by an individual national laboratory exceed
22 two million four hundred thousand dollars (\$2,400,000) in a given
23 calendar year.

24 B. Tax credits claimed pursuant to the Laboratory
25 Partnership with Small Business Tax Credit Act by all national

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1 laboratories in the aggregate for qualified expenditures for a
2 specific small business not located in a rural area shall not
3 exceed ten thousand dollars (\$10,000).

4 C. Tax credits claimed pursuant to the Laboratory
5 Partnership with Small Business Tax Credit Act by all national
6 laboratories in the aggregate for qualified expenditures for a
7 specific small business located in a rural area shall not exceed
8 twenty thousand dollars (\$20,000)."

9 SECTION 250. Section 7-9E-9 NMSA 1978 (being Laws 2000 (2nd
10 S.S.), Chapter 20, Section 9) is amended to read:

11 "7-9E-9. TERMINATION OF THE REVOLVING FUND.--Should the
12 revolving fund established pursuant to Section [~~6 of the~~
13 ~~Laboratory Partnership with Small Business Tax Credit Act~~] 7-9E-6
14 NMSA 1978 cease to be used for the purposes stated in [~~that act~~]
15 the Laboratory Partnership with Small Business Tax Credit Act, any
16 amounts remaining in the revolving fund, excluding initial funding
17 from nontax credit sources, shall be paid over to the department
18 as additional [~~gross receipts~~] state sales taxes due. [~~Such~~] The
19 payment of additional [~~gross receipts~~] state sales taxes due shall
20 be made in the second month following the month a determination is
21 made that the revolving fund ceases to be used for the purposes
22 stated in that act."

23 SECTION 251. Section 7-9F-3 NMSA 1978 (being Laws 2000 (2nd
24 S.S.), Chapter 22, Section 3, as amended) is amended to read:

25 "7-9F-3. DEFINITIONS.--As used in the Technology Jobs and

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1 Research and Development Tax Credit Act:

2 A. "affiliate" means a person who directly or
3 indirectly owns or controls, is owned or controlled by or is under
4 common ownership or control with another person through ownership
5 of voting securities or other ownership interests representing a
6 majority of the total voting power of the entity;

7 B. "annual payroll expense" means the wages paid or
8 payable to employees in the state by the taxpayer in the taxable
9 year for which the taxpayer applies for an additional credit
10 pursuant to the Technology Jobs and Research and Development Tax
11 Credit Act;

12 C. "base payroll expense" means the wages paid or
13 payable by the taxpayer in the taxable year prior to the taxable
14 year for which the taxpayer applies for an additional credit
15 pursuant to the Technology Jobs and Research and Development Tax
16 Credit Act, adjusted for any increase from the preceding taxable
17 year in the consumer price index for the United States for all
18 items as published by the United States department of labor in the
19 taxable year for which the additional credit is claimed. In a
20 taxable year during which a taxpayer has been part of a business
21 merger or acquisition or other change in business organization,
22 the taxpayer's base payroll expense shall include the payroll
23 expense of all entities included in the reorganization for all
24 positions that are included in the business entity resulting from
25 the reorganization;

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

5 E. "facility" means a factory, mill, plant, refinery,
6 warehouse, dairy, feedlot, building or complex of buildings
7 located within the state, including the land on which it is
8 located and all machinery, equipment and other real and tangible
9 personal property located at or within it and used in connection
10 with its operation;

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

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1 G. "qualified expenditure" means an expenditure or an
2 allocated portion of an expenditure by a taxpayer in connection
3 with qualified research at a qualified facility, including
4 expenditures for depletable land and rent paid or incurred for
5 land, improvements, the allowable amount paid or incurred to
6 operate or maintain a facility, buildings, equipment, computer
7 software, computer software upgrades, consultants and contractors
8 performing work in New Mexico, payroll, technical books and
9 manuals and test materials, but not including any expenditure on
10 property that is owned by a municipality or county in connection
11 with an industrial revenue bond project, property for which the
12 taxpayer has received any credit pursuant to the Investment Credit
13 Act, property that was owned by the taxpayer or an affiliate
14 before July 3, 2000 or research and development expenditures
15 reimbursed by a person who is not an affiliate of the taxpayer.
16 If a "qualified expenditure" is an allocation of an expenditure,
17 the cost accounting methodology used for the allocation of the
18 expenditure shall be the same cost accounting methodology used by
19 the taxpayer in its other business activities;

20 H. "qualified facility" means a facility in New Mexico
21 at which qualified research is conducted other than a facility
22 operated by a taxpayer for the United States or any agency,
23 department or instrumentality thereof;

24 I. "qualified research" means research:

25 (1) that is undertaken for the purpose of

1 discovering information:

2 (a) that is technological in nature; and

3 (b) the application of which is intended to
4 be useful in the development of a new or improved business
5 component of the taxpayer; and

6 (2) substantially all of the activities of which
7 constitute elements of a process of experimentation related to a
8 new or improved function, performance, reliability or quality, but
9 not related to style, taste or cosmetic or seasonal design
10 factors;

11 J. "qualified research and development small business"
12 means a taxpayer that:

13 (1) employed no more than fifty employees as
14 determined by the number of employees for which the taxpayer was
15 liable for unemployment insurance coverage in the taxable year for
16 which an additional credit is claimed;

17 (2) had total qualified expenditures of no more
18 than five million dollars (\$5,000,000) in the taxable year for
19 which an additional credit is claimed; and

20 (3) did not have more than fifty percent of its
21 voting securities or other equity interest with the right to
22 designate or elect the board of directors or other governing body
23 of the business owned directly or indirectly by another business;

24 K. "rural area" means any area of the state other than
25 the state fairgrounds, an incorporated municipality with a

1 population of thirty thousand or more according to the most recent
2 federal decennial census and any area within three miles of the
3 external boundaries of an incorporated municipality with a
4 population of thirty thousand or more according to the most recent
5 federal decennial census;

6 L. "taxpayer" means any of the following persons,
7 other than a federal, state or other governmental unit or
8 subdivision or an agency, department, institution or
9 instrumentality thereof:

10 (1) a person liable for payment of any tax;

11 (2) a person responsible for withholding and
12 payment or collection and payment of any tax;

13 (3) a person to whom an assessment has been made
14 if the assessment remains unabated or the assessed amount has not
15 been paid; or

16 (4) for purposes of the additional credit against
17 the taxpayer's income tax pursuant to the Technology Jobs and
18 Research and Development Tax Credit Act and to the extent of their
19 respective interest in that entity, the shareholders, members,
20 partners or other owners of:

21 (a) a small business corporation that has
22 elected to be treated as an S corporation for federal income tax
23 purposes; or

24 (b) an entity treated as a partnership or
25 disregarded entity for federal income tax purposes; and

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1 M. "wages" means remuneration for services performed
2 by an employee in New Mexico for an employer."

3 SECTION 252. Section 7-9F-9 NMSA 1978 (being Laws 2000 (2nd
4 S.S.), Chapter 22, Section 9, as amended) is amended to read:

5 "7-9F-9. CLAIMING THE BASIC CREDIT.--

6 A. A taxpayer may apply for approval of a credit
7 within one year following the end of the reporting period in which
8 the qualified expenditure was made.

9 B. A taxpayer having applied for and been granted
10 approval for a basic credit by the department pursuant to the
11 Technology Jobs and Research and Development Tax Credit Act may
12 claim the amount of the approved basic credit against the
13 taxpayer's [~~compensating~~] state use tax, withholding tax or [~~gross~~
14 ~~receipts~~] state sales tax, excluding local option [~~gross receipts~~]
15 sales tax, due to the state of New Mexico; provided that no
16 taxpayer may claim an amount of approved basic credit for a
17 reporting period in which the basic credit is being claimed that
18 exceeds the sum of the taxpayer's [~~compensating~~] state use tax,
19 withholding tax and [~~gross receipts~~] state sales tax, excluding
20 local option [~~gross receipts~~] sales tax, due for that reporting
21 period.

22 C. Any amount of approved basic credit not claimed
23 against the taxpayer's [~~compensating~~] state use tax, withholding
24 tax or [~~gross receipts~~] state sales tax, excluding local option
25 [~~gross receipts~~] sales tax, due may be claimed in subsequent

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1 reporting periods for a period of up to three years from the date
2 of the original claim."

3 SECTION 253. Section 7-9F-11 NMSA 1978 (being Laws 2000
4 (2nd S.S.), Chapter 22, Section 11) is amended to read:

5 "7-9F-11. RECAPTURE.--If the taxpayer or a successor in
6 business of the taxpayer ceases operations in New Mexico for at
7 least one hundred eighty consecutive days within a two-year period
8 after the taxpayer has claimed a basic credit or an additional
9 credit at a facility [~~with respect to which the taxpayer has~~
10 ~~claimed the basic credit or the additional credit~~], the department
11 shall grant no further basic credit or additional credit to the
12 taxpayer with respect to that facility. In addition, any amount
13 of approved basic credit not claimed against the taxpayer's [~~gross~~
14 ~~receipts~~] state sales tax, [~~compensating~~] state use tax or
15 withholding tax and any amount of approved additional credit not
16 claimed against the taxpayer's income tax or corporate income tax
17 shall be extinguished, and within thirty days after the one
18 hundred eightieth day of the cessation of operations, the taxpayer
19 shall pay the amount of any [~~gross receipts~~] state sales tax,
20 [~~compensating~~] state use tax or withholding tax for which an
21 approved basic credit was taken and any income tax or corporate
22 income tax against which an approved additional credit was taken.
23 For purposes of this section, a taxpayer shall not be deemed to
24 have ceased operations during reasonable periods for maintenance
25 or retooling or for the repair or replacement of facilities

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1 damaged or destroyed or during the continuance of labor disputes."

2 SECTION 254. Section 7-9G-1 NMSA 1978 (being Laws 2004,
3 Chapter 15, Section 1, as amended) is amended to read:

4 "7-9G-1. HIGH-WAGE JOBS TAX CREDIT--QUALIFYING HIGH-WAGE
5 JOBS.--

6 A. A taxpayer who is an eligible employer may apply
7 for, and the department may allow, a tax credit for each new high-
8 wage [~~economic-based~~] economic base job. The credit provided in
9 this section may be referred to as the "high-wage jobs tax
10 credit".

11 B. The purpose of the high-wage jobs tax credit is to
12 provide an incentive for urban and rural businesses to create and
13 fill new high-wage [~~economic-based~~] economic base jobs in New
14 Mexico.

15 C. The high-wage jobs tax credit may be claimed and
16 allowed in an amount equal to ten percent of the wages distributed
17 to an eligible employee in a new high-wage [~~economic-based~~]
18 economic base job, but shall not exceed twelve thousand dollars
19 (\$12,000) per job per qualifying period. The high-wage jobs tax
20 credit may be claimed by an eligible employer for each new high-
21 wage [~~economic-based~~] economic base job performed for the year in
22 which the new high-wage [~~economic-based~~] economic base job is
23 created and for the three consecutive qualifying periods as
24 provided in this section.

25 D. To receive a high-wage jobs tax credit, a taxpayer

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1 shall file an application for approval of the credit with the
2 department once per calendar year on forms and in the manner
3 prescribed by the department. The annual application shall
4 contain the certification required by Subsection K of this section
5 and shall contain all qualifying periods that closed during the
6 calendar year for which the application is made. Any qualifying
7 period that did not close in the calendar year for which the
8 application is made shall be denied by the department. The
9 application for a calendar year shall be filed no later than
10 December 31 of the following calendar year. If a taxpayer fails
11 to file the annual application within the time limits provided in
12 this section, the application shall be denied by the department.
13 The department shall make a determination on the application
14 within one hundred eighty days of the date on which the
15 application was filed; provided that the one-hundred-eighty-day
16 period shall not begin until the application is complete, as
17 determined by the department.

18 E. A new high-wage [~~economic-based~~] economic base job
19 shall not be eligible for a credit pursuant to this section for
20 the initial qualifying period unless the eligible employer's total
21 number of employees with threshold jobs on the last day of the
22 initial qualifying period at the location at which the job is
23 performed or based is at least one more than the number of
24 threshold jobs on the day prior to the date the new high-wage
25 [~~economic-based~~] economic base job was created. A new high-wage

.212229.1

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1 [~~economic-based~~] economic base job shall not be eligible for a
2 credit pursuant to this section for a consecutive qualifying
3 period unless the total number of threshold jobs at a location at
4 which the job is performed or based on the last day of that
5 qualifying period is greater than or equal to the number of
6 threshold jobs at that same location on the last day of the
7 initial qualifying period for the new high-wage [~~economic-based~~]
8 economic base job.

9 F. Any consecutive qualifying period for a new
10 high-wage [~~economic-based~~] economic base job shall not be eligible
11 for a credit pursuant to this section unless the wage, the forty-
12 eight-week occupancy and the residency requirements for a new
13 high-wage [~~economic-based~~] economic base job are met for each
14 consecutive qualifying period. If any consecutive qualifying
15 period for a new high-wage [~~economic-based~~] economic base job does
16 not meet the wage, the forty-eight-week occupancy and the
17 residency requirements, all subsequent qualifying periods are
18 ineligible.

19 G. Except as provided in Subsection H of this section,
20 a new high-wage [~~economic-based~~] economic base job shall not be
21 eligible for a credit pursuant to this section if:

22 (1) the new high-wage [~~economic-based~~] economic
23 base job is created due to a business merger or acquisition or
24 other change in business organization;

25 (2) the eligible employee was terminated from

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1 employment in New Mexico by another employer involved in the
2 business merger or acquisition or other change in business
3 organization with the taxpayer; and

4 (3) the new high-wage [~~economic-based~~] economic
5 base job is performed by:

6 (a) the person who performed the job or its
7 functional equivalent prior to the business merger or acquisition
8 or other change in business organization; or

9 (b) a person replacing the person who
10 performed the job or its functional equivalent prior to a business
11 merger or acquisition or other change in business organization.

12 H. A new high-wage [~~economic-based~~] economic base job
13 that was created by another employer and for which an application
14 for the high-wage jobs tax credit was received and is under review
15 by the department prior to the time of the business merger or
16 acquisition or other change in business organization shall remain
17 eligible for the high-wage jobs tax credit for the balance of the
18 consecutive qualifying periods. The new employer that results
19 from a business merger or acquisition or other change in business
20 organization may only claim the high-wage jobs tax credit for the
21 balance of the consecutive qualifying periods for which the new
22 high-wage [~~economic-based~~] economic base job is otherwise
23 eligible.

24 I. A new high-wage [~~economic-based~~] economic base job
25 shall not be eligible for a credit pursuant to this section if the

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1 job is created due to an eligible employer entering into a
2 contract or becoming a subcontractor to a contract with a
3 governmental entity that replaces one or more entities performing
4 functionally equivalent services for the governmental entity
5 unless the job is a new high-wage [~~economic-based~~] economic base
6 job that was not being performed by an employee of the replaced
7 entity.

8 J. A new high-wage [~~economic-based~~] economic base job
9 shall not be eligible for a credit pursuant to this section if the
10 eligible employer has more than one business location in New
11 Mexico from which it conducts business and the requirements of
12 Subsection E of this section are satisfied solely by moving the
13 job from one business location of the eligible employer in New
14 Mexico to another business location of the eligible employer in
15 New Mexico.

16 K. With respect to each annual application for a high-
17 wage jobs tax credit, the employer shall certify and include:

18 (1) the amount of wages paid to each eligible
19 employee in a new high-wage [~~economic-based~~] economic base job
20 during the qualifying period;

21 (2) the number of weeks each position was
22 occupied during the qualifying period;

23 (3) whether the new high-wage [~~economic-based~~]
24 economic base job was in a municipality with a population of sixty
25 thousand or more or with a population of less than sixty thousand

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1 according to the most recent federal decennial census and whether
2 the job was in the unincorporated area of a county;

3 (4) whether the application pertains to the
4 first, second, third or fourth qualifying period for each eligible
5 employee;

6 (5) the total number of employees employed by the
7 employer at the job location on the day prior to the qualifying
8 period and on the last day of the qualifying period;

9 (6) the total number of threshold jobs performed
10 or based at the eligible employer's location on the day prior to
11 the qualifying period and on the last day of the qualifying
12 period;

13 (7) for an eligible employer that has more than
14 one business location in New Mexico from which it conducts
15 business, the total number of threshold jobs performed or based at
16 each business location of the eligible employer in New Mexico on
17 the day prior to the qualifying period and on the last day of the
18 qualifying period;

19 (8) whether the eligible employer is receiving or
20 is eligible to receive development training program assistance
21 pursuant to Section 21-19-7 NMSA 1978;

22 (9) whether the eligible employer has ceased
23 business operations at any of its business locations in New
24 Mexico; and

25 (10) whether the application is precluded by

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1 Subsection O of this section.

2 L. Any person who willfully submits a false, incorrect
3 or fraudulent certification required pursuant to Subsection K of
4 this section shall be subject to all applicable penalties under
5 the Tax Administration Act, except that the amount on which the
6 penalty is based shall be the total amount of credit requested on
7 the application for approval.

8 M. Except as provided in Subsection N of this section,
9 an approved high-wage jobs tax credit shall be claimed against the
10 taxpayer's modified combined tax liability and shall be filed with
11 the return due immediately following the date of the credit
12 approval. If the credit exceeds the taxpayer's modified combined
13 tax liability, the excess shall be refunded to the taxpayer.

14 N. If the taxpayer ceases business operations in New
15 Mexico while an application for credit approval is pending or
16 after an application for credit has been approved for any
17 qualifying period for a new high-wage [~~economic-based~~] economic
18 base job, the department shall not grant an additional high-wage
19 jobs tax credit to that taxpayer, except as provided in Subsection
20 O of this section, and shall extinguish any amount of credit
21 approved for that taxpayer that has not already been claimed
22 against the taxpayer's modified combined tax liability.

23 O. A taxpayer that has received a high-wage jobs tax
24 credit shall not submit a new application for a credit for a
25 minimum of five calendar years from the closing date of the last

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1 qualifying period for which the taxpayer received the credit if
2 the taxpayer:

3 (1) lost eligibility to claim a tax credit from a
4 previous application pursuant to Subsection E or N of this
5 section; or

6 (2) reduces its total full-time employees in New
7 Mexico by more than five percent after the date on which the last
8 qualifying period on the taxpayer's previous application ends.

9 P. The economic development department and the
10 taxation and revenue department shall report to the appropriate
11 interim legislative committee each year the cost of this tax
12 credit to the state and its impact on company recruitment and job
13 creation.

14 Q. As used in this section:

15 (1) "benefits" means all remuneration for work
16 performed that is provided to an employee in whole or in part by
17 the employer, other than wages, including the employer's
18 contributions to insurance programs, health care, medical, dental
19 and vision plans, life insurance, employer contributions to
20 pensions, such as a 401(k), and employer-provided services, such
21 as child care, offered by an employer to the employee;

22 (2) "consecutive qualifying periods" means the
23 three qualifying periods successively following the qualifying
24 period in which the new high-wage [~~economic-based~~] economic base
25 job was created;

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1 (3) "department" means the taxation and revenue
2 department;

3 (4) "domicile" means the sole place where an
4 individual has a true, fixed, permanent home. It is the place
5 where the individual has a voluntary, fixed habitation of self and
6 family with the intention of making a permanent home;

7 (5) "eligible employee" means an individual who
8 is employed in New Mexico by an eligible employer and who is a
9 resident of New Mexico; "eligible employee" does not include an
10 individual who:

11 (a) bears any of the relationships
12 described in Paragraphs (1) through (8) of 26 U.S.C. Section
13 152(a) to the employer or, if the employer is a corporation, to an
14 individual who owns, directly or indirectly, more than fifty
15 percent in value of the outstanding stock of the corporation or,
16 if the employer is an entity other than a corporation, to an
17 individual who owns, directly or indirectly, more than fifty
18 percent of the capital and profits interest in the entity;

19 (b) if the employer is an estate or trust,
20 is a grantor, beneficiary or fiduciary of the estate or trust or
21 is an individual who bears any of the relationships described in
22 Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to a
23 grantor, beneficiary or fiduciary of the estate or trust;

24 (c) is a dependent, as that term is
25 described in 26 U.S.C. Section 152(a)(9), of the employer or, if

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1 the taxpayer is a corporation, of an individual who owns, directly
2 or indirectly, more than fifty percent in value of the outstanding
3 stock of the corporation or, if the employer is an entity other
4 than a corporation, of an individual who owns, directly or
5 indirectly, more than fifty percent of the capital and profits
6 interest in the entity or, if the employer is an estate or trust,
7 of a grantor, beneficiary or fiduciary of the estate or trust; or

8 (d) is working or has worked as an employee
9 or as an independent contractor for an entity that, directly or
10 indirectly, owns stock in a corporation of the eligible employer
11 or other interest of the eligible employer that represents fifty
12 percent or more of the total voting power of that entity or has a
13 value equal to fifty percent or more of the capital and profits
14 interest in the entity;

15 (6) "eligible employer" means an employer that:

16 (a) sold and delivered more than fifty
17 percent of its goods produced in New Mexico or non-retail services
18 performed in New Mexico to persons outside New Mexico for use or
19 resale outside New Mexico during the applicable qualifying period;
20 provided that the fifty percent of those goods or services is
21 measured by the eligible employer's gross receipts;

22 (b) is receiving or is eligible to receive
23 development training program assistance pursuant to Section
24 21-19-7 NMSA 1978 during the applicable qualifying period; and

25 (c) whose principal business activities at

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1 the location in New Mexico for which the high-wage jobs tax credit
2 is being claimed consist of manufacturing or performing non-retail
3 services during the applicable qualifying period;

4 (7) "for use or resale outside New Mexico" means
5 that the person who purchases the eligible employer's goods or
6 services uses or resells the goods or services outside New Mexico
7 or makes initial use of the goods or services outside New Mexico.
8 If the purchaser conducts business in multiple states, goods and
9 services are deemed for use or resale outside New Mexico, unless
10 New Mexico is the primary market for the purchaser's goods or
11 services;

12 (8) "full-time employee" means an employee who
13 works for the same employer an average of at least thirty-two
14 hours per week for at least forty-eight weeks per year;

15 (9) "manufacturing" means "manufacturing" as that
16 term is used in Section 7-9A-3 NMSA 1978;

17 (10) "modified combined tax liability" means the
18 total liability for the reporting period for the [~~gross receipts~~]
19 state sales tax imposed by Section 7-9-4 NMSA 1978, together with
20 any tax collected at the same time and in the same manner as the
21 [~~gross receipts~~] state sales tax, such as the [~~compensating~~] state
22 use tax, the withholding tax, the interstate telecommunications
23 [~~gross receipts~~] sales tax, the surcharges imposed by Section
24 63-9D-5 NMSA 1978 and the surcharge imposed by Section 63-9F-11
25 NMSA 1978, minus the amount of any credit other than the high-wage

.212229.1

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1 jobs tax credit applied against any or all of these taxes or
2 surcharges; but "modified combined tax liability" excludes all
3 amounts collected with respect to local option [~~gross receipts~~]
4 sales taxes;

5 (11) "new high-wage [~~economic-based~~] economic
6 base job" means a new job created in New Mexico by an eligible
7 employer on or after July 1, 2004 and prior to July 1, 2020 that
8 is occupied for at least forty-eight weeks of a qualifying period
9 by an eligible employee who is paid wages calculated for the
10 qualifying period to be at least:

11 (a) for a new high-wage [~~economic-based~~]
12 economic base job created prior to July 1, 2015: 1) forty
13 thousand dollars (\$40,000) if the job is performed or based in or
14 within ten miles of the external boundaries of a municipality with
15 a population of sixty thousand or more according to the most
16 recent federal decennial census or in a class H county; and 2)
17 twenty-eight thousand dollars (\$28,000) if the job is performed or
18 based in a municipality with a population of less than sixty
19 thousand according to the most recent federal decennial census or
20 in the unincorporated area, that is not within ten miles of the
21 external boundaries of a municipality with a population of sixty
22 thousand or more, of a county other than a class H county; and

23 (b) for a new high-wage [~~economic-based~~]
24 economic base job created on or after July 1, 2015: 1) sixty
25 thousand dollars (\$60,000) if the job is performed or based in or

.212229.1

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1 within ten miles of the external boundaries of a municipality with
2 a population of sixty thousand or more according to the most
3 recent federal decennial census or in a class H county; and 2)
4 forty thousand dollars (\$40,000) if the job is performed or based
5 in a municipality with a population of less than sixty thousand
6 according to the most recent federal decennial census or in the
7 unincorporated area, that is not within ten miles of the external
8 boundaries of a municipality with a population of sixty thousand
9 or more, of a county other than a class H county;

10 (12) "non-retail service" means a specialized
11 service, excluding a construction service of any type, that is
12 sold to another business or business entity and is used by the
13 business or business entity to develop products for or deliver
14 services to its customers. "Non-retail service" is not provided
15 by direct individual-to-individual interaction and is not offered
16 to the general public by the business or business entity. "Non-
17 retail service" includes:

18 (a) research, development, engineering and
19 testing services performed for a manufacturer that uses the
20 product of the service to develop new or improve existing
21 products;

22 (b) software and software application
23 development services performed for a business;

24 (c) data processing and hosting services
25 performed for a business that uses the service to deliver products

.212229.1

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1 or service to its own customers;

2 (d) digital film production services and
3 post-film production services performed for a business that will
4 market the digital product or film;

5 (e) customer or call center services
6 performed for a business, if those services do not support retail
7 activities of the eligible employer; and

8 (f) professional services, such as
9 accounting, engineering, legal and information technology
10 services, if the eligible employer does not offer those services
11 for sale to the general public;

12 (13) "performed in New Mexico" means that the
13 labor, activities, property and equipment necessary to complete,
14 but not to deliver, a service all occur or are utilized within New
15 Mexico;

16 (14) "produced in New Mexico" means the creation,
17 bringing into existence or making available a good or product for
18 commercial sale through the expense of labor or capital, or both,
19 within New Mexico;

20 (15) "qualifying period" means the period of
21 twelve months beginning on the day an eligible employee begins
22 working in a new high-wage [~~economic-based~~] economic base job or
23 the period of twelve months beginning on the anniversary of the
24 day an eligible employee began working in a new high-wage
25 [~~economic-based~~] economic base job;

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1 (16) "resident" means a natural person whose
2 domicile is in New Mexico at the time of hire or within one
3 hundred eighty days of the date of hire;

4 (17) "threshold job" means a job that is occupied
5 for at least forty-eight weeks of a calendar year by an eligible
6 employee and that meets the wage requirements for a "new high-wage
7 [~~economic-based~~] economic base job"; and

8 (18) "wages" means all compensation paid by an
9 eligible employer to an eligible employee through the employer's
10 payroll system, including those wages that the employee elects to
11 defer or redirect or the employee's contribution to a 401(k) or
12 cafeteria plan program, but "wages" does not include benefits or
13 the employer's share of payroll taxes, social security or medicare
14 contributions, federal or state unemployment insurance
15 contributions or workers' compensation."

16 SECTION 255. Section 7-9G-2 NMSA 1978 (being Laws 2007,
17 Chapter 229, Section 1, as amended) is amended to read:

18 "7-9G-2. ADVANCED ENERGY COMBINED REPORTING TAX CREDIT--
19 [~~GROSS RECEIPTS~~] STATE SALES TAX--[~~COMPENSATING~~] STATE USE TAX--
20 WITHHOLDING TAX.--

21 A. Except as otherwise provided in this section, a
22 taxpayer that holds an interest in a qualified generating facility
23 located in New Mexico may claim a credit to be computed pursuant
24 to the provisions of this section. The credit provided by this
25 section may be referred to as the "advanced energy combined

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1 reporting tax credit".

2 B. As used in this section:

3 (1) "advanced energy tax credit" means the
4 advanced energy income tax credit, the advanced energy corporate
5 income tax credit and the advanced energy combined reporting tax
6 credit;

7 (2) "coal-based electric generating facility"
8 means a new or repowered generating facility and an associated
9 coal gasification facility, if any, that uses coal to generate
10 electricity and that meets the following specifications:

11 (a) emits the lesser of: 1) what is
12 achievable with the best available control technology; or 2)
13 thirty-five thousandths pound per million British thermal units of
14 sulfur dioxide, twenty-five thousandths pound per million British
15 thermal units of oxides of nitrogen and one hundredth pound per
16 million British thermal units of total particulates in the flue
17 gas;

18 (b) removes the greater of: 1) what is
19 achievable with the best available control technology; or 2)
20 ninety percent of the mercury from the input fuel;

21 (c) captures and sequesters or controls
22 carbon dioxide emissions so that by the later of January 1, 2017
23 or eighteen months after the commercial operation date of the
24 coal-based electric generating facility, no more than one thousand
25 one hundred pounds per megawatt-hour of carbon dioxide is emitted

.212229.1

1 into the atmosphere;

2 (d) all infrastructure required for
3 sequestration is in place by the later of January 1, 2017 or
4 eighteen months after the commercial operation date of the coal-
5 based electric generating facility;

6 (e) includes methods and procedures to
7 monitor the disposition of the carbon dioxide captured and
8 sequestered from the coal-based electric generating facility; and

9 (f) does not exceed a name-plate capacity
10 of seven hundred net megawatts;

11 (3) "department" means the taxation and revenue
12 department, the secretary of taxation and revenue or any employee
13 of the department exercising authority lawfully delegated to that
14 employee by the secretary;

15 (4) "eligible generation plant costs" means
16 expenditures for the development and construction of a qualified
17 generating facility, including permitting; site characterization
18 and assessment; engineering; design; carbon dioxide capture,
19 treatment, compression, transportation and sequestration; site and
20 equipment acquisition; and fuel supply development used directly
21 and exclusively in a qualified generating facility;

22 (5) "entity" means an individual, estate, trust,
23 receiver, cooperative association, club, corporation, company,
24 firm, partnership, limited liability company, limited liability
25 partnership, joint venture, syndicate or other association or a

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1 gas, water or electric utility owned or operated by a county or
2 municipality;

3 (6) "geothermal electric generating facility"
4 means a facility with a name-plate capacity of one megawatt or
5 more that uses geothermal energy to generate electricity,
6 including a facility that captures and provides geothermal energy
7 to a preexisting electric generating facility using other fuels in
8 part;

9 [~~(7)~~] "~~gross receipts tax due to the state~~" means
10 ~~the taxpayer's gross receipts liability for the reporting period~~
11 ~~that is:~~

12 ~~(a) determined by, if the taxpayer's~~
13 ~~business location is described in Subsection A of Section 7-1-6.4~~
14 ~~NMSA 1978, multiplying the taxpayer's taxable gross receipts for~~
15 ~~the reporting period by the difference between the gross receipts~~
16 ~~tax rate specified in Section 7-9-4 NMSA 1978 and one and two~~
17 ~~hundred twenty-five thousandths percent; or~~

18 ~~(b) equal to, if the taxpayer's business~~
19 ~~location is not described in Subsection A of Section 7-1-6.4 NMSA~~
20 ~~1978, the gross receipts tax rate specified in Section 7-9-4 NMSA~~
21 ~~1978;~~

22 ~~(8)]~~ (7) "interest in a qualified generating
23 facility" means title to a qualified generating facility; a
24 leasehold interest in a qualified generating facility; an
25 ownership interest in a business or entity that is taxed for

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1 federal income tax purposes as a partnership that holds title to
2 or a leasehold interest in a qualified generating facility; or an
3 ownership interest, through one or more intermediate entities that
4 are each taxed for federal income tax purposes as a partnership,
5 in a business that holds title to or a leasehold interest in a
6 qualified generating facility;

7 ~~[(9)]~~ (8) "name-plate capacity" means the maximum
8 rated output of the facility measured as alternating current or
9 the equivalent direct current measurement;

10 ~~[(10)]~~ (9) "qualified generating facility" means
11 a facility that begins construction not later than December 31,
12 2015 and is:

13 (a) a solar thermal electric generating
14 facility that begins construction on or after July 1, 2007 and
15 that may include an associated renewable energy storage facility;

16 (b) a solar photovoltaic electric
17 generating facility that begins construction on or after July 1,
18 2009 and that may include an associated renewable energy storage
19 facility;

20 (c) a geothermal electric generating
21 facility that begins construction on or after July 1, 2009;

22 (d) a recycled energy project if that
23 facility begins construction on or after July 1, 2007; or

24 (e) a new or repowered coal-based electric
25 generating facility and an associated coal gasification facility;

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1 [~~(11)~~] (10) "recycled energy" means energy
2 produced by a generation unit with a name-plate capacity of not
3 more than fifteen megawatts that converts the otherwise lost
4 energy from the exhaust stacks or pipes to electricity without
5 combustion of additional fossil fuel;

6 [~~(12)~~] (11) "sequester" means to store, or
7 chemically convert, carbon dioxide in a manner that prevents its
8 release into the atmosphere and may include the use of geologic
9 formations and enhanced oil, coalbed methane or natural gas
10 recovery techniques;

11 [~~(13)~~] (12) "solar photovoltaic electric
12 generating facility" means an electric generating facility with a
13 name-plate capacity of one megawatt or more that uses solar
14 photovoltaic energy to generate electricity; and

15 [~~(14)~~] (13) "solar thermal electric generating
16 facility" means an electric generating facility with a name-plate
17 capacity of one megawatt or more that uses solar thermal energy to
18 generate electricity, including a facility that captures and
19 provides solar energy to a preexisting electric generating
20 facility using other fuels in part.

21 C. A taxpayer that holds an interest in a qualified
22 generating facility may be allocated the right to claim the
23 advanced energy combined reporting tax credit without regard to
24 the taxpayer's relative interest in the qualified generating
25 facility if:

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1 (1) the business entity making the allocation
2 provides notice of the allocation and the taxpayer's interest in
3 the qualified generating facility to the department on forms
4 prescribed by the department;

5 (2) allocations to the taxpayer and all other
6 taxpayers allocated a right to claim the advanced energy tax
7 credit shall not exceed one hundred percent of the advanced energy
8 tax credit allowed for the qualified generating facility; and

9 (3) the taxpayer and all other taxpayers
10 allocated a right to claim the advanced energy tax credits
11 collectively own at least a five percent interest in the qualified
12 generating facility.

13 D. Upon receipt of the notice of an allocation of the
14 right to claim all or a portion of the advanced energy combined
15 reporting tax credit, the department shall verify the allocation
16 due to the recipient.

17 E. Subject to the limit imposed in Subsection [~~K~~] J of
18 this section, the advanced energy combined reporting tax credit
19 with respect to a qualified generating facility shall equal six
20 percent of the eligible generation plant costs of the qualified
21 generating facility. Taxpayers eligible to claim an advanced
22 energy combined reporting tax credit holding less than one hundred
23 percent of the interest in the qualified generating facility shall
24 designate an individual to report annually to the department.

25 That designated individual shall report the eligible generation

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1 plant costs incurred during the calendar year and the relative
2 interest of those costs attributed to each eligible interest
3 holder. The taxpayers shall submit a copy of the relative
4 interests attributed to each interest holder to the department,
5 and any change to the apportioned interests shall be submitted to
6 the department. The designated person and the department may
7 identify a mutually acceptable reporting schedule.

8 F. A taxpayer may apply for the advanced energy
9 combined reporting tax credit by submitting to the taxation and
10 revenue department a certificate issued by the department of
11 environment pursuant to Subsection K of this section,
12 documentation showing the taxpayer's interest in the qualified
13 generating facility identified in the certificate, documentation
14 of all eligible generation plant costs incurred by the taxpayer
15 prior to the date of the application by the taxpayer for the
16 advanced energy combined reporting tax credit and any other
17 information the taxation and revenue department requests to
18 determine the amount of tax credit due to the taxpayer.

19 G. A taxpayer having applied for and been granted
20 approval to claim an advanced energy combined reporting tax credit
21 by the department pursuant to this section may claim an amount of
22 available credit against the taxpayer's [~~gross receipts~~] state
23 sales tax, [~~compensating~~] state use tax or withholding tax due to
24 the state. Any balance of the advanced energy combined reporting
25 tax credit that the taxpayer is approved to claim after applying

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1 that tax credit against the taxpayer's [~~gross receipts~~] state
2 sales tax, [~~compensating~~] state use tax or withholding tax
3 liabilities may be claimed by the taxpayer against the taxpayer's
4 tax liability pursuant to the Income Tax Act by claiming an
5 advanced energy income tax credit or against the taxpayer's tax
6 liability pursuant to the Corporate Income and Franchise Tax Act
7 by claiming an advanced energy corporate income tax credit. The
8 advanced energy combined reporting tax credit is not refundable.
9 The total amount of tax credit claimed pursuant to this section,
10 when combined with the advanced energy tax credits claimed
11 pursuant to the Income Tax Act and the Corporate Income and
12 Franchise Tax Act, shall not exceed the total amount of advanced
13 energy tax credits approved by the department for the qualified
14 generating facility.

15 H. A taxpayer that is liable for the payment of [~~gross~~
16 ~~receipts~~] state sales tax or [~~compensating~~] state use tax with
17 respect to the ownership, development, construction, maintenance
18 or operation of a new coal-based electric generating facility that
19 does not meet the criteria for a qualified generating facility and
20 that begins construction after January 1, 2007 shall not claim an
21 advanced energy tax combined reporting credit pursuant to this
22 section or a [~~gross receipts~~] state sales tax credit, a
23 [~~compensating~~] state use tax credit or a withholding tax credit
24 pursuant to any other state law.

25 I. If the amount of the advanced energy tax credit

.212229.1

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1 approved by the department exceeds the taxpayer's liability, the
2 excess may be carried forward for up to ten years.

3 J. The aggregate amount of advanced energy tax credit
4 that may be claimed with respect to each qualified generating
5 facility shall not exceed sixty million dollars (\$60,000,000).

6 K. An entity that holds an interest in a qualified
7 generating facility may request a certificate of eligibility from
8 the department of environment to enable the requester to apply for
9 the advanced energy combined reporting tax credit. The department
10 of environment:

11 (1) shall determine if the facility is a
12 qualified generating facility;

13 (2) shall require that the requester provide the
14 department of environment with the information necessary to assess
15 whether the requester's facility meets the criteria to be a
16 qualified generating facility;

17 (3) shall issue a certificate to the requester
18 stating that the facility is or is not a qualified generating
19 facility within one hundred eighty days after receiving all
20 information necessary to make a determination;

21 (4) shall:

22 (a) issue rules governing the procedure for
23 administering the provisions of this subsection and Subsection L
24 of this section and for providing certificates of eligibility for
25 advanced energy tax credits;

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1 (b) issue a schedule of fees in which no
2 fee exceeds one hundred fifty thousand dollars (\$150,000); and

3 (c) deposit fees collected pursuant to this
4 paragraph in the state air quality permit fund [~~created pursuant~~
5 ~~to Section 74-2-15 NMSA 1978~~]; and

6 (5) shall report annually to the appropriate
7 interim legislative committee information that will allow the
8 legislative committee to analyze the effectiveness of the advanced
9 energy tax credits, including the identity of qualified generating
10 facilities, the energy production means used, the amount of
11 emissions identified in this section reduced and removed by those
12 qualified generating facilities and whether any requests for
13 certificates of eligibility could not be approved due to program
14 limits.

15 L. If the department of environment issues a
16 certificate of eligibility to a taxpayer stating that the taxpayer
17 holds an interest in a qualified generating facility and the
18 taxpayer does not sequester or control carbon dioxide emissions to
19 the extent required by this section by the later of January 1,
20 2017 or eighteen months after the commercial operation date of the
21 qualified generating facility, the taxpayer's certification as a
22 qualified generating facility shall be revoked by the department
23 of environment and the taxpayer shall repay to the state tax
24 credits granted pursuant to this section; provided that if the
25 taxpayer demonstrates to the department of environment that the

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1 taxpayer made every effort to sequester or control carbon dioxide
2 emissions to the extent feasible and the facility's inability to
3 meet the sequestration requirements of a qualified generating
4 facility was beyond the facility's control, in which case the
5 department of environment shall determine, after a public hearing,
6 the amount of the tax credit that should be repaid to the state.
7 The department of environment, in its determination, shall
8 consider the environmental performance of the facility and the
9 extent to which the inability to meet the sequestration
10 requirements of a qualified generating facility was in the control
11 of the taxpayer. The repayment as determined by the department of
12 environment shall be paid within one hundred eighty days following
13 a final order by the department of environment.

14 M. Expenditures for which a taxpayer claims an
15 advanced energy combined reporting tax credit pursuant to this
16 section are ineligible for credits pursuant to the provisions of
17 the Investment Credit Act or any other credit against personal
18 income tax, corporate income tax, [~~compensating~~] state use tax,
19 [~~gross receipts~~] state sales tax or withholding tax.

20 N. A taxpayer shall apply for approval for a credit
21 within one year following the end of the calendar year in which
22 the eligible generation plant costs are incurred."

23 SECTION 256. Section 7-9I-2 NMSA 1978 (being Laws 2005,
24 Chapter 104, Section 18, as amended) is amended to read:

25 "7-9I-2. DEFINITIONS.--As used in the Affordable Housing

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1 Tax Credit Act:

2 A. "affordable housing project" means land
3 acquisition, construction, building acquisition, remodeling,
4 improvement, rehabilitation, conversion or weatherization for
5 residential housing that is approved by the authority and that
6 includes single-family housing or multifamily housing;

7 B. "authority" means the New Mexico mortgage finance
8 authority;

9 C. "department" means the taxation and revenue
10 department;

11 D. "modified combined tax liability" means the total
12 liability for the reporting period for the [~~gross receipts~~] state
13 sales tax imposed by Section 7-9-4 NMSA 1978, together with any
14 tax collected at the same time and in the same manner as the
15 [~~gross receipts~~] state sales tax, such as the [~~compensating~~] state
16 use tax, the withholding tax, the interstate telecommunications
17 [~~gross receipts~~] sales tax, the surcharges imposed by Section
18 63-9D-5 NMSA 1978 and the surcharge imposed by Section 63-9F-11
19 NMSA 1978, minus the amount of any credit other than the
20 affordable housing tax credit applied against any or all of these
21 taxes or surcharges; but "modified combined tax liability"
22 excludes all amounts collected with respect to local option [~~gross~~
23 ~~receipts~~] sales taxes and governmental [~~gross receipts~~] sales
24 taxes; and

25 E. "person" means an individual, tribal government,

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1 housing authority, corporation, limited liability company,
2 partnership, joint venture, syndicate, association or nonprofit
3 organization."

4 SECTION 257. Section 7-9I-5 NMSA 1978 (being Laws 2005,
5 Chapter 104, Section 21) is amended to read:

6 "7-9I-5. AFFORDABLE HOUSING TAX CREDIT.--

7 A. The tax credit provided in this section may be
8 referred to as the "affordable housing tax credit". Except as
9 otherwise provided by the Affordable Housing Tax Credit Act, a
10 holder of an investment voucher that submits the investment
11 voucher to the department may apply for, and the department may
12 allow, a tax credit in an amount not to exceed the value of the
13 investment voucher during the tax year in which the authority
14 certifies to the department:

15 (1) completion of a service for which an
16 investment voucher has been issued pursuant to the Affordable
17 Housing Tax Credit Act; or

18 (2) approval by the authority or completion of an
19 affordable housing project for which a land, building or cash
20 donation has been made and for which an investment voucher has
21 been issued pursuant to the Affordable Housing Tax Credit Act.

22 B. A holder of an investment voucher may apply all or
23 a portion of the affordable housing tax credit against the
24 holder's modified combined tax liability, personal income tax
25 liability or corporate income tax liability. Any balance of the

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1 affordable housing tax credit claimed may be carried forward for
2 up to five years from the calendar year during which the authority
3 certifies to the department approval of the affordable housing
4 project for which the investment voucher used to claim the
5 affordable housing tax credit is issued. No amount of the
6 affordable housing tax credit may be applied against a local
7 option [~~gross receipts~~] sales tax imposed by a municipality or
8 county or against the [~~government gross receipts~~] governmental
9 sales tax.

10 C. Notwithstanding the provisions of Section 7-1-8
11 NMSA 1978, the department may disclose to a person the balance of
12 the affordable housing tax credit remaining with respect to any
13 investment voucher submitted by that person."

14 SECTION 258. Section 7-9J-2 NMSA 1978 (being Laws 2007,
15 Chapter 204, Section 12, as amended) is amended to read:

16 "7-9J-2. DEFINITIONS.--As used in the Alternative Energy
17 Product Manufacturers Tax Credit Act:

18 A. "alternative energy product" means an alternative
19 energy vehicle, fuel cell system, renewable energy system or any
20 component of an alternative energy vehicle, fuel cell system or
21 renewable energy system; components for integrated gasification
22 combined cycle coal facilities and equipment related to the
23 sequestration of carbon from integrated gasification combined
24 cycle plants; or, beginning in taxable year 2011 and ending in
25 taxable year 2019, a product extracted from or secreted by a

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1 single cell photosynthetic organism;

2 B. "alternative energy vehicle" means a motor vehicle
3 manufactured by an original equipment manufacturer that fully
4 warrants and certifies that the motor vehicle meets the federal
5 motor vehicle safety standards and is designed to be propelled in
6 whole or in part by electricity; [~~"alternative energy vehicle"~~
7 ~~includes a gasoline-electric hybrid motor vehicle exempt from the~~
8 ~~motor vehicle excise tax pursuant to Subsection G of Section~~
9 ~~7-14-6 NMSA 1978;~~]

10 C. "component" means a part, assembly of parts,
11 material, ingredient or supply that is incorporated directly into
12 an end product;

13 D. "department" means the taxation and revenue
14 department, the secretary of taxation and revenue or an employee
15 of the department exercising authority lawfully delegated to that
16 employee by the secretary;

17 E. "fuel cell system" means a system that converts
18 hydrogen, natural gas or waste gas to electricity without
19 combustion, including:

20 (1) a fuel cell or a system used to generate or
21 reform hydrogen for use in a fuel cell; or

22 (2) a system used to generate or reform hydrogen
23 for use in a fuel cell, including:

24 (a) electrolyzers that use renewable
25 energy; and

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1 (b) reformers that use natural gas as the
2 feedstock;

3 F. "manufacturing" means combining or processing
4 components or materials to increase their value for sale in the
5 ordinary course of business, but "manufacturing" does not include
6 construction, farming, power generation or processing natural
7 resources;

8 G. "manufacturing equipment" means an essential
9 machine, mechanism or tool or a component of an essential machine,
10 mechanism or tool used directly and exclusively in a taxpayer's
11 manufacturing operation and that is subject to depreciation
12 pursuant to the Internal Revenue Code of 1986 by the taxpayer
13 carrying on the manufacturing; provided that "manufacturing
14 equipment" does not include a vehicle that leaves the site of a
15 manufacturing operation for the purpose of transporting persons or
16 property, including property for which the taxpayer claims a
17 credit pursuant to Section 7-9-79 NMSA 1978;

18 H. "manufacturing operation" means a plant employing
19 personnel to perform production tasks, in conjunction with
20 manufacturing equipment not previously existing at the site, to
21 produce alternative energy products;

22 I. "modified combined tax liability" means the total
23 liability for the reporting period for the [~~gross receipts~~] state
24 sales tax imposed by Section 7-9-4 NMSA 1978, together with any
25 tax collected at the same time and in the same manner as that

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1 [~~gross receipts~~] state sales tax, such as the [~~compensating~~] state
2 use tax, the withholding tax, the interstate telecommunications
3 [~~gross receipts~~] sales tax, the surcharge imposed by Section 63-
4 9D-5 NMSA 1978 and the surcharge imposed by Section 63-9F-11 NMSA
5 1978, minus the amount of any credit other than the alternative
6 energy product manufacturers tax credit applied against any or all
7 of those taxes or surcharges; provided that "modified combined tax
8 liability" excludes all amounts collected with respect to local
9 option [~~gross receipts~~] sales taxes;

10 J. "pass-through entity" means a business association
11 other than:

12 (1) a sole proprietorship;

13 (2) an estate or trust;

14 (3) a corporation, limited liability company,
15 partnership or other entity that is not a sole proprietorship
16 taxed as a corporation for federal income tax purposes for the
17 taxable year; or

18 (4) a partnership that is organized as an
19 investment partnership in which the partner's income is derived
20 solely from interest, dividends and sales of securities;

21 K. "qualified expenditure" means an expenditure for
22 the purchase of manufacturing equipment made after July 1, 2006 by
23 a taxpayer approved by the department;

24 L. "renewable energy" means energy from solar heat,
25 solar light, wind, geothermal energy, landfill gas or biomass

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1 either singly or in combination that produces low or zero
2 emissions and has substantial long-term production potential;

3 M. "renewable energy system" means a system using only
4 renewable energy to produce hydrogen or to generate electricity,
5 including related cogeneration systems that create mechanical
6 energy or that produce heat or steam for space or water heating
7 and agricultural or small industrial processes and includes a:

- 8 (1) photovoltaic energy system;
- 9 (2) solar-thermal energy system;
- 10 (3) biomass energy system;
- 11 (4) wind energy system;
- 12 (5) hydrogen production system; or
- 13 (6) battery cell energy system; and

14 N. "taxpayer" means a person, including a shareholder,
15 member, partner or other owner of a pass-through entity, that is
16 liable for payment of a tax or to whom an assessment has been made
17 if the assessment remains unabated or the amount thereof has not
18 been paid."

19 SECTION 259. Section 7-10-1 NMSA 1978 (being Laws 1970,
20 Chapter 26, Section 1, as amended) is amended to read:

21 "7-10-1. SHORT TITLE.--Chapter 7, Article 10 NMSA 1978 may
22 be cited as the "[~~Gross Receipts~~] Sales Tax Registration Act."

23 SECTION 260. Section 7-10-2 NMSA 1978 (being Laws 1970,
24 Chapter 26, Section 2, as amended) is amended to read:

25 "7-10-2. PURPOSE OF ACT.--The purpose of the [~~Gross~~

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1 ~~Receipts~~] Sales Tax Registration Act is to ensure that all persons
2 doing business with the state, whether leasing property employed
3 in New Mexico, performing services in New Mexico or selling
4 property in New Mexico, are registered with the department for
5 payment of the [~~gross receipts~~] state sales tax."

6 SECTION 261. Section 7-10-3 NMSA 1978 (being Laws 1970,
7 Chapter 26, Section 3, as amended) is amended to read:

8 "7-10-3. DEFINITIONS.--As used in the [~~Gross Receipts~~]
9 Sales Tax Registration Act:

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

14 B. "person" means any individual, estate, trust,
15 receiver, cooperative association, club, corporation, company,
16 firm, partnership, joint venture, syndicate or other entity; and

17 C. "state" means any state agency, department or
18 office that has authority to contract in the name of the state or
19 to make payments from state funds."

20 SECTION 262. Section 7-10-4 NMSA 1978 (being Laws 1970,
21 Chapter 26, Section 4, as amended) is amended to read:

22 "7-10-4. PERSONS DOING BUSINESS WITH THE STATE--
23 REGISTRATION TO PAY THE [~~GROSS RECEIPTS~~] STATE SALES TAX
24 REQUIRED.--Any person leasing or selling property to the state or
25 performing services for the state, as those terms are used in the

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1 [~~Gross Receipts and Compensating~~] Sales and Use Tax Act, shall be
2 registered with the department to pay the [~~gross receipts~~] state
3 sales tax unless that person has no business location, employees
4 or property in New Mexico and does not conduct business in New
5 Mexico through agents or contractors."

6 **SECTION 263.** Section 7-10-5 NMSA 1978 (being Laws 1970,
7 Chapter 26, Section 5, as amended) is amended to read:

8 "7-10-5. PENALTY FOR NONCOMPLIANCE.--If any person required
9 to register under the provisions of Section 7-10-4 NMSA 1978 is
10 not registered to pay the [~~gross receipts~~] state sales tax, the
11 state shall withhold payment of the amount due until the person
12 has presented evidence of registration with the department to pay
13 the [~~gross receipts~~] state sales tax."

14 **SECTION 264.** Section 7-14-6 NMSA 1978 (being Laws 1988,
15 Chapter 73, Section 16, as amended) is amended to read:

16 "7-14-6. EXEMPTIONS FROM TAX.--

17 A. A person who acquires a vehicle out of state thirty
18 or more days before establishing a domicile in this state is
19 exempt from the tax if the vehicle was acquired for personal use.

20 B. A person applying for a certificate of title for a
21 vehicle registered in another state is exempt from the tax if the
22 person has previously registered and titled the vehicle in New
23 Mexico and has owned the vehicle continuously since that time.

24 C. A vehicle with a certificate of title owned by this
25 state or any political subdivision is exempt from the tax.

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1 D. A person is exempt from the tax if the person has a
2 disability at the time the person purchases a vehicle and can
3 prove to the motor vehicle division of the department or its agent
4 that modifications have been made to the vehicle that are:

- 5 (1) due to that person's disability; and
6 (2) necessary to enable that person to drive that
7 vehicle or be transported in that vehicle.

8 E. A person is exempt from the tax if the person is a
9 bona fide resident of New Mexico who served in the armed forces of
10 the United States and who suffered, while serving in the armed
11 forces or from a service-connected cause, the loss or complete and
12 total loss of use of:

- 13 (1) one or both legs at or above the ankle; or
14 (2) one or both arms at or above the wrist.

15 F. A person who acquires a vehicle for subsequent
16 lease shall be exempt from the tax if:

- 17 (1) the person does not use the vehicle in any
18 manner other than holding it for lease or sale or leasing or
19 selling it in the ordinary course of business;
20 (2) the lease is for a term of more than six
21 months;
22 (3) the receipts from the subsequent lease are
23 subject to the [~~gross receipts~~] state sales tax; and
24 (4) the vehicle does not have a gross vehicle
25 weight of over twenty-six thousand pounds.

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1 G. From July 1, 2004 through June 30, 2009, vehicles
2 that are gasoline-electric hybrid vehicles with a United States
3 environmental protection agency fuel economy rating of at least
4 twenty-seven and one-half miles per gallon are eligible for a one-
5 time exemption from the tax at the time of the issuance of the
6 original certificate of title for the vehicle."

7 **SECTION 265.** Section 7-14-7 NMSA 1978 (being Laws 1988,
8 Chapter 73, Section 17) is amended to read:

9 "7-14-7. CREDIT AGAINST TAX.--If a vehicle has been
10 acquired through an out-of-state transaction upon which a gross
11 receipts, sales, [~~compensating~~] use or similar tax was levied by
12 another state or political subdivision thereof, the amount of the
13 tax paid may be credited against the tax due this state on the
14 same vehicle."

15 **SECTION 266.** Section 7-14-7.1 NMSA 1978 (being Laws 1991,
16 Chapter 197, Section 4, as amended) is amended to read:

17 "7-14-7.1. CREDIT--VEHICLES USED FOR SHORT-TERM LEASING--
18 REQUIREMENTS--REPORTS.--

19 A. Upon application of the owner, the secretary shall
20 suspend payment of the tax and issue a certificate of title
21 without payment of the tax for any vehicle the leasing of which is
22 subject to the Leased Vehicle [~~Gross Receipts~~] Sales Tax Act, if:

- 23 (1) the vehicle is acquired by the owner on or
24 after July 1, 1991;
25 (2) the vehicle is required to be registered in

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1 this state;

2 (3) the owner presents proof satisfactory to the
3 secretary that the owner is registered with the department to pay
4 the leased vehicle [~~gross receipts~~] sales tax; and

5 (4) the owner declares that the vehicle for which
6 issuance of a certificate of title is being applied will be part
7 of a vehicle fleet of at least five vehicles, will be used
8 primarily as a short-term rental vehicle and that each period of
9 rental or lease will not exceed six months.

10 B. If an owner has paid the motor vehicle excise tax
11 after July 1, 1991 with respect to a vehicle that qualifies for
12 suspension of the motor vehicle excise tax pursuant to Subsection
13 A of this section, the owner may apply for a refund of the motor
14 vehicle excise tax paid, but the application for refund [~~must~~]
15 shall be made within one year of the date certificate of title was
16 issued to the owner for the vehicle. If application is made after
17 that time, the claim for refund is not timely and the motor
18 vehicle excise tax paid shall not be refunded.

19 C. On or before the twenty-fifth day of the month
20 following the close of the calendar year, the owner shall submit
21 to the department in a form prescribed by the secretary a report
22 indicating the total collections of leased vehicle [~~gross~~
23 ~~receipts~~] sales tax collected in lieu of the tax. The report
24 shall also indicate the amount of tax that would have been paid in
25 the state of New Mexico for the preceding calendar year.

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1 D. If the total amount of leased vehicle [~~gross~~
2 ~~receipts~~] sales tax is less than the amount of tax that would have
3 been collected, the owner shall pay the difference to the
4 department at the time of filing the report required by Subsection
5 [B] C of this section.

6 E. Once the total amount of leased vehicle [~~gross~~
7 ~~receipts~~] sales tax credited with respect to a vehicle for which
8 payment of the motor vehicle excise tax is suspended pursuant to
9 Subsection A of this section equals or exceeds the amount of motor
10 vehicle excise tax due on that vehicle, or the owner has paid the
11 difference pursuant to Subsection D of this section, the secretary
12 shall cause the records of the department to indicate that the
13 motor vehicle excise tax due with respect to that vehicle is paid
14 in full and that payment is no longer suspended."

15 **SECTION 267.** Section 7-14A-1 NMSA 1978 (being Laws 1991,
16 Chapter 197, Section 5, as amended) is amended to read:

17 "7-14A-1. SHORT TITLE.--Chapter 7, Article 14A NMSA 1978
18 may be cited as the "Leased Vehicle [~~Gross Receipts~~] Sales Tax
19 Act"."

20 **SECTION 268.** Section 7-14A-2 NMSA 1978 (being Laws 1991,
21 Chapter 197, Section 6, as amended) is amended to read:

22 "7-14A-2. DEFINITIONS.--As used in the Leased Vehicle
23 [~~Gross Receipts~~] Sales Tax Act:

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

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

3 B. "engaging in business" means carrying on or causing
4 to be carried on the leasing of vehicles with the purpose of
5 direct or indirect benefit;

6 C. "gross receipts" means the total amount of money or
7 the value of other consideration received from leasing vehicles
8 used in New Mexico, but excludes cash discounts allowed and taken,
9 leased vehicle [~~gross receipts~~] sales tax payable on transactions
10 for the reporting period, [~~gross receipts~~] state sales tax payable
11 pursuant to the [~~Gross Receipts and Compensating~~] Sales and Use
12 Tax Act on transactions for the reporting period and taxes imposed
13 pursuant to the provisions of any local option [~~gross receipts~~]
14 sales tax, as that term is defined in the Tax Administration Act,
15 that is payable on transactions for the reporting period and any
16 type of time-price differential. Also excluded from "gross
17 receipts" are any gross receipts or sales taxes imposed by an
18 Indian nation, tribe or pueblo, provided that the tax is approved,
19 if approval is required by federal law or regulation, by the
20 secretary of the interior of the United States, and provided
21 further that the gross receipts or sales tax imposed by the Indian
22 nation, tribe or pueblo provides a reciprocal exclusion for gross
23 receipts, sales or gross receipts-based excise taxes imposed by
24 the state or its political subdivisions. In an exchange in which
25 the money or other consideration received does not represent the

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1 value of the lease of the vehicle, "gross receipts" means the
2 reasonable value of the lease of the vehicle. When the leasing of
3 vehicles is made under a leasing contract, the seller or lessor
4 may elect to treat all receipts under those contracts as gross
5 receipts as and when the payments are actually received. "Gross
6 receipts" also includes amounts paid by members of any cooperative
7 association or similar organization for the lease of vehicles by
8 that organization;

9 D. "leasing" means any arrangement whereby, for a
10 consideration, a vehicle without a driver furnished by the lessor
11 or owner is employed for or by any person other than the owner of
12 the vehicle for a period of not more than six months;

13 E. "person" means any individual, estate, trust,
14 receiver, cooperative association, club, corporation, company,
15 firm, partnership, joint venture, syndicate or other entity; and

16 F. "vehicle" means a passenger automobile designed to
17 accommodate six or fewer adult human beings that is part of a
18 fleet of five or more passenger automobiles owned by the same
19 person."

20 SECTION 269. Section 7-14A-3 NMSA 1978 (being Laws 1991,
21 Chapter 197, Section 7) is amended to read:

22 "7-14A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
23 "LEASED VEHICLE [~~GROSS RECEIPTS~~] SALES TAX".--

24 A. For the privilege of engaging in business, an
25 excise tax equal to five percent of gross receipts is imposed on

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1 any person engaging in business in New Mexico.

2 B. The tax imposed by this section shall be referred
3 to as the "leased vehicle [~~gross receipts~~] sales tax".

4 SECTION 270. Section 7-14A-3.1 NMSA 1978 (being Laws 1993,
5 Chapter 359, Section 1, as amended) is amended to read:

6 "7-14A-3.1. IMPOSITION AND RATE--LEASED VEHICLE
7 SURCHARGE.--

8 A. Except as provided in Subsection B of this section,
9 there is imposed a surcharge on the leasing of a vehicle to
10 another person by a person engaging in business in New Mexico if
11 the lease is subject to the leased vehicle [~~gross receipts~~] sales
12 tax. The amount of this surcharge is two dollars (\$2.00) for each
13 day the vehicle is leased by the person. The surcharge may be
14 referred to as the "leased vehicle surcharge".

15 B. The leased vehicle surcharge imposed in Subsection
16 A of this section shall not apply to the lease of a temporary
17 replacement vehicle if the lessee signs a statement that the
18 temporary replacement vehicle is to be used as a replacement for
19 another vehicle that is being repaired, serviced or replaced. For
20 the purposes of this section, "temporary replacement vehicle"
21 means a vehicle that is:

22 (1) used by an individual in place of another
23 vehicle that is unavailable for use by the individual due to loss,
24 damage, mechanical breakdown or need for servicing; and

25 (2) leased temporarily by or on behalf of the

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1 individual or loaned temporarily to the individual by a vehicle
2 repair facility or dealer while the other vehicle is being
3 repaired, serviced or replaced."

4 SECTION 271. Section 7-14A-4 NMSA 1978 (being Laws 1991,
5 Chapter 197, Section 8, as amended) is amended to read:

6 "7-14A-4. PRESUMPTION OF TAXABILITY.--To prevent evasion of
7 the leased vehicle [~~gross receipts~~] sales tax and the leased
8 vehicle surcharge and to aid in their administration, it is
9 presumed that all receipts of a person engaging in business are
10 subject to the leased vehicle [~~gross receipts~~] sales tax and that
11 all vehicles leased by that person are subject to the leased
12 vehicle surcharge."

13 SECTION 272. Section 7-14A-5 NMSA 1978 (being Laws 1991,
14 Chapter 197, Section 9) is amended to read:

15 "7-14A-5. SEPARATELY STATING THE LEASED VEHICLE [~~GROSS~~
16 ~~RECEIPTS~~] SALES TAX.--When the leased vehicle [~~gross receipts~~]
17 sales tax is stated separately on the books of the lessor and if
18 the total amount of tax that is stated separately on transactions
19 reportable within one reporting period is in excess of the amount
20 of leased vehicle [~~gross receipts~~] sales tax otherwise payable on
21 the transactions on which the tax was separately stated, the
22 excess amount of tax stated on the transactions within that
23 reporting period shall be included in gross receipts."

24 SECTION 273. Section 7-14A-6 NMSA 1978 (being Laws 1991,
25 Chapter 197, Section 10, as amended) is amended to read:

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1 "7-14A-6. DATE PAYMENT DUE.--The tax and the surcharge
2 imposed by the Leased Vehicle [~~Gross Receipts~~] Sales Tax Act are
3 to be paid on or before the twenty-fifth day of the month
4 following the month in which the taxable event occurs."

5 SECTION 274. Section 7-14A-7 NMSA 1978 (being Laws 1991,
6 Chapter 197, Section 11) is amended to read:

7 "7-14A-7. DEDUCTION--TRANSACTIONS IN INTERSTATE COMMERCE.--
8 Receipts from transactions in interstate commerce may be deducted
9 from gross receipts to the extent that the imposition of the
10 leased vehicle [~~gross receipts~~] sales tax would be unlawful under
11 the United States constitution."

12 SECTION 275. Section 7-14A-10 NMSA 1978 (being Laws 1991,
13 Chapter 197, Section 14, as amended) is amended to read:

14 "7-14A-10. DISTRIBUTION OF PROCEEDS.--At the end of each
15 month, the net receipts attributable to the leased vehicle [~~gross~~
16 ~~receipts~~] sales tax and any associated penalties and interest
17 shall be distributed as follows:

18 A. one-fourth to the local governments road fund; and

19 B. three-fourths to the highway infrastructure fund."

20 SECTION 276. Section 7-14A-11 NMSA 1978 (being Laws 1991,
21 Chapter 197, Section 15, as amended) is amended to read:

22 "7-14A-11. ADMINISTRATION.--

23 A. The department shall interpret the provisions of
24 the Leased Vehicle [~~Gross Receipts~~] Sales Tax Act.

25 B. The department shall administer and enforce the

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1 collection of the leased vehicle [~~gross receipts~~] sales tax and
2 the leased vehicle surcharge, and the Tax Administration Act
3 applies to the administration and enforcement of the tax and the
4 surcharge."

5 SECTION 277. Section 7-16A-13.1 NMSA 1978 (being Laws 2001,
6 Chapter 43, Section 2, as amended by Laws 2006, Chapter 73,
7 Section 1 and by Laws 2006, Chapter 74, Section 2) is amended to
8 read:

9 "7-16A-13.1. CLAIM FOR REFUND OF SPECIAL FUEL EXCISE TAX
10 PAID ON SPECIAL FUEL.--

11 A. Upon the submission of proof satisfactory to the
12 department, a user of special fuel may submit and the department
13 may allow a claim for refund of tax paid on special fuel used to
14 propel a vehicle authorized by contract with the public education
15 department or with a [~~public~~] school district as a school bus, to
16 propel a vehicle off-road, to operate auxiliary equipment by a
17 power take-off from the main engine or transmission of a vehicle
18 or to operate a non-automotive apparatus mounted on a vehicle when
19 the special fuel used for such purposes and the special fuel used
20 to propel the vehicle on the highways are drawn from a common
21 supply tank. The vehicle must be registered with the department.
22 The user must be registered with the department for purposes of
23 reporting and paying [~~gross receipts~~] state sales tax.

24 B. No person may submit claims for refund pursuant to
25 the provisions of this section more frequently than quarterly. No

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1 claim for refund may be submitted or allowed on less than one
2 hundred gallons.

3 C. The department may prescribe the documents
4 necessary to support a claim for refund pursuant to the provisions
5 of this section. The department may prescribe the use of types of
6 monitoring or measuring equipment.

7 D. This section applies to special fuel purchased on
8 or after July 1, 2001, except for the refund for special fuel used
9 to propel a school bus, which applies to special fuel purchased on
10 or after July 1, 2005."

11 SECTION 278. Section 7-19-10 NMSA 1978 (being Laws 1979,
12 Chapter 397, Section 1, as amended) is amended to read:

13 "7-19-10. SHORT TITLE.--Sections 7-19-10 through 7-19-18
14 NMSA 1978 may be cited as the "Supplemental Municipal [~~Gross~~
15 ~~Receipts~~] Sales Tax Act".

16 SECTION 279. Section 7-19-11 NMSA 1978 (being Laws 1979,
17 Chapter 397, Section 2, as amended) is amended to read:

18 "7-19-11. DEFINITIONS.--As used in the Supplemental
19 Municipal [~~Gross Receipts~~] Sales Tax Act:

20 A. "department" or "division" means the taxation and
21 revenue department, the secretary of taxation and revenue or any
22 employee of the department exercising authority lawfully delegated
23 to that employee by the secretary;

24 B. "governing body" means the city council or city
25 commission of a municipality;

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1 C. "municipality" means any incorporated city, town or
2 village having previously qualified to impose and did impose the
3 tax pursuant to the provisions of the Supplemental Municipal Gross
4 Receipts Tax Act in effect prior to [~~this 1997 act~~] the enactment
5 of Laws 1997, Chapter 219;

6 D. "person" means an individual or any other legal
7 entity;

8 E. "refunding bonds" means bonds issued pursuant to
9 the provisions of the Supplemental Municipal [~~Gross Receipts~~]
10 Sales Tax Act to refund supplemental municipal [~~gross receipts~~]
11 sales tax bonds issued pursuant to the provisions of that act;

12 F. "state [~~gross receipts~~] sales tax" means the [~~gross~~
13 ~~receipts~~] state sales tax imposed under the [~~Gross Receipts and~~
14 ~~Compensating~~] Sales and Use Tax Act; and

15 G. "supplemental municipal [~~gross receipts~~] sales tax"
16 means the tax authorized to be imposed under the Supplemental
17 Municipal [~~Gross Receipts~~] Sales Tax Act."

18 **SECTION 280.** Section 7-19-12 NMSA 1978 (being Laws 1979,
19 Chapter 397, Section 3, as amended) is amended to read:

20 "7-19-12. AUTHORIZATION TO IMPOSE SUPPLEMENTAL MUNICIPAL
21 [~~GROSS RECEIPTS~~] SALES TAX--AUTHORIZATION FOR ISSUANCE OF
22 SUPPLEMENTAL MUNICIPAL [~~GROSS RECEIPTS~~] SALES TAX BONDS--ELECTION
23 REQUIRED.--

24 A. The majority of the members elected to the
25 governing body of a municipality may enact an ordinance imposing

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1 an excise tax on any person engaging in business in the
2 municipality for the privilege of engaging in business in the
3 municipality. This tax is to be referred to as the "supplemental
4 municipal [~~gross receipts~~] sales tax". The rate of the tax shall
5 not exceed one percent of the gross receipts of the person
6 engaging in business and shall be imposed in one-fourth percent
7 increments if less than one percent.

8 B. The governing body of a municipality enacting an
9 ordinance imposing the tax authorized in Subsection A of this
10 section shall submit the question of imposing such tax and the
11 question of the issuance of supplemental municipal [~~gross~~
12 ~~receipts~~] sales tax bonds in an amount not to exceed nine million
13 dollars (\$9,000,000), for which the revenue from the supplemental
14 municipal [~~gross receipts~~] sales tax is dedicated, to the
15 qualified electors of the municipality at a regular or special
16 election.

17 C. The questions referred to in Subsection B of this
18 section shall be submitted to a vote of the qualified electors of
19 the municipality as two separate ballot questions, which shall be
20 substantially in the following form:

21 (1) "Shall the municipality be authorized to
22 issue supplemental municipal [~~gross receipts~~] sales tax bonds in
23 an amount of not exceeding _____ dollars for the
24 purpose of constructing and equipping and otherwise acquiring a
25 municipal water supply system?

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1 For _____ Against _____"; and

2 (2) "Shall the municipality impose an excise tax
3 for the privilege of engaging in business in the municipality,
4 which shall be known as the "supplemental municipal [~~gross~~
5 ~~receipts~~] sales tax" and which shall be imposed at a rate of
6 _____ percent of the gross receipts of the person engaging in
7 business, the proceeds of which are dedicated to the payment of
8 supplemental municipal [~~gross receipts~~] sales tax bonds?

9 For _____ Against _____".

10 D. Only those voters who are registered electors who
11 reside within the municipality shall be permitted to vote on these
12 two questions. The procedures for conducting the election shall
13 be substantially the same as the applicable provisions in Sections
14 3-30-1, 3-30-6 and 3-30-7 NMSA 1978 relating to municipal debt.

15 E. If at an election called pursuant to this section a
16 majority of the voters voting on each of the two questions [~~vote~~]
17 votes in the affirmative on each [~~such~~] question, [~~then~~] the
18 ordinance imposing the supplemental municipal [~~gross receipts~~]
19 sales tax shall be approved. If at such election a majority of
20 the voters voting on such questions [~~fail~~] fails to approve any of
21 the questions, [~~then~~] the ordinance imposing the tax shall be
22 disapproved and the questions required to be submitted by
23 Subsection B of this section shall not be submitted to the voters
24 for a period of one year from the date of the election.

25 F. Any ordinance enacted under the provisions of this

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1 section shall include an effective date of either July 1 or
2 January 1, whichever date occurs first after the expiration of at
3 least five months from the date of the election. A certified copy
4 of any ordinance imposing a supplemental municipal [~~gross~~
5 ~~receipts~~] sales tax shall be mailed to the [~~division~~] department
6 within five days after the ordinance is adopted by the approval by
7 the electorate. Any ordinance repealing the imposition of a tax
8 under the provisions of the Supplemental Municipal [~~Gross~~
9 ~~Receipts~~] Sales Tax Act shall become effective on either July 1 or
10 January 1, after the expiration of at least five months from the
11 date the ordinance is repealed by the governing body.

12 G. Nothing in this section is intended to or does
13 alter the effectiveness or validity of any actions taken in
14 accordance with Subsection G of Section 80 of Chapter 20 of Laws
15 1986."

16 SECTION 281. Section 7-19-13 NMSA 1978 (being Laws 1979,
17 Chapter 397, Section 4) is amended to read:

18 "7-19-13. ORDINANCE [~~MUST~~] SHALL CONFORM TO CERTAIN
19 PROVISIONS OF THE [~~GROSS RECEIPTS AND COMPENSATING~~] SALES AND USE
20 TAX ACT AND REQUIREMENTS OF THE [~~DIVISION~~] DEPARTMENT.--

21 A. Any ordinance imposing a supplemental municipal
22 [~~gross receipts~~] sales tax shall adopt by reference the same
23 definitions and the same provisions relating to exemptions and
24 deductions as are contained in the [~~Gross Receipts and~~
25 ~~Compensating~~] Sales and Use Tax Act then in effect and as it may

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1 be amended from time to time.

2 B. The governing body of any municipality imposing or
3 increasing the supplemental municipal [~~gross receipts~~] sales tax
4 [~~must~~] shall adopt the language of the model ordinance furnished
5 to the municipality by the [~~division~~] department for the portion
6 of the ordinance relating to the tax."

7 SECTION 282. Section 7-19-14 NMSA 1978 (being Laws 1979,
8 Chapter 397, Section 5, as amended) is amended to read:

9 "7-19-14. SPECIFIC EXEMPTIONS.--No supplemental municipal
10 [~~gross receipts~~] sales tax shall be imposed on the gross receipts
11 arising from:

12 A. transporting persons or property for hire by
13 railroad, motor vehicle, air transportation or any other means
14 from one point within the municipality to another point outside
15 the municipality; or

16 B. a business located outside the boundaries of a
17 municipality on land owned by that municipality for which a [~~gross~~
18 ~~receipts tax~~] distribution is made pursuant to Section 7-1-6.4
19 NMSA 1978."

20 SECTION 283. Section 7-19-15 NMSA 1978 (being Laws 1979,
21 Chapter 397, Section 6, as amended) is amended to read:

22 "7-19-15. COLLECTION BY DEPARTMENT--TRANSFER OF PROCEEDS--
23 DEDUCTIONS.--

24 A. The department shall collect the supplemental
25 municipal [~~gross receipts~~] sales tax in the same manner and at the

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1 same time it collects the state [~~gross receipts~~] sales tax.

2 B. The department shall withhold an administrative fee
3 pursuant to Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA 1978. The
4 department shall transfer to each municipality for which it is
5 collecting a supplemental municipal [~~gross receipts~~] sales tax the
6 amount of the tax collected less the administrative fee withheld
7 and less any disbursements for tax credits, refunds and the
8 payment of interest applicable to the supplemental municipal
9 [~~gross receipts~~] sales tax. Transfer of the tax to a municipality
10 shall be made within the month following the month in which the
11 tax is collected."

12 SECTION 284. Section 7-19-16 NMSA 1978 (being Laws 1979,
13 Chapter 397, Section 7) is amended to read:

14 "7-19-16. INTERPRETATION OF ACT--ADMINISTRATION AND
15 ENFORCEMENT OF TAX.--

16 A. The [~~division~~] department shall interpret the
17 provisions of the Supplemental Municipal [~~Gross Receipts~~] Sales
18 Tax Act.

19 B. The [~~division~~] department shall administer and
20 enforce the collection of the supplemental municipal [~~gross~~
21 ~~receipts~~] sales tax, and the Tax Administration Act applies to the
22 administration and enforcement of the tax."

23 SECTION 285. Section 7-19-17 NMSA 1978 (being Laws 1979,
24 Chapter 397, Section 8, as amended) is amended to read:

25 "7-19-17. ISSUANCE OF BONDS--PURPOSES.--

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1 A. If the ordinance imposing the supplemental
2 municipal [~~gross receipts~~] sales tax is approved as provided in
3 Subsection E of Section 7-19-12 NMSA 1978, the governing body of a
4 municipality may issue bonds pursuant to the Supplemental
5 Municipal [~~Gross Receipts~~] Sales Tax Act in an amount not to
6 exceed nine million dollars (\$9,000,000). The supplemental
7 municipal [~~gross receipts~~] sales tax bonds shall be issued for the
8 purpose of constructing and equipping and otherwise acquiring a
9 municipal water supply system, including the purchase of water
10 rights and easements, equipment and professional fees related
11 thereto, to be paid back from the proceeds of the supplemental
12 municipal [~~gross receipts~~] sales tax imposed.

13 B. Supplemental municipal [~~gross receipts~~] sales tax
14 bonds shall be issued and sold as provided in the Supplemental
15 Municipal [~~Gross Receipts~~] Sales Tax Act. The governing body of
16 the municipality shall determine at its discretion the terms,
17 covenants and conditions of the supplemental municipal [~~gross~~
18 ~~receipts~~] sales tax bonds, including [~~but not limited to~~] date of
19 issuance, denomination, maturity, coupon rates, call features,
20 premium, registration, refundability and other matters covering
21 the general and technical aspects of their issuance. These bonds
22 may be either serial or term and may be sold by the governing body
23 of the municipality at the time and in the manner as the governing
24 body may elect, at either public or private sale. The
25 supplemental municipal [~~gross receipts~~] sales tax bonds shall not

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1 be considered or held to be general obligations of the
2 municipality issuing them and are payable solely from the revenue
3 accruing from the revenue of the supplemental municipal [~~gross~~
4 ~~receipts~~] sales tax. The ordinance authorizing the tax shall be
5 irrevocable until these bonds are fully paid."

6 SECTION 286. Section 7-19-17.1 NMSA 1978 (being Laws 1997,
7 Chapter 219, Section 4) is amended to read:

8 "7-19-17.1. REFUNDING BONDS--AUTHORIZATION.--

9 A. Any municipality may issue refunding bonds for the
10 purpose of refinancing, paying and discharging all or any part of
11 outstanding supplemental municipal [~~gross receipts~~] sales tax
12 bonds of any one or more or all outstanding issues:

13 (1) for the acceleration, deceleration or other
14 modification of the payment of such obligations, including without
15 limitation any capitalization of any interest thereon in arrears
16 or about to become due for any period not exceeding one year from
17 the date of the refunding bonds;

18 (2) for the purpose of reducing interest costs or
19 affecting other economies;

20 (3) for the purpose of modifying or eliminating
21 restrictive contractual limitations pertaining to the issuance of
22 additional bonds, otherwise concerning the outstanding bonds or to
23 any facilities relating thereto; or

24 (4) for any combination of such purposes.

25 B. The municipality may pledge irrevocably for the

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1 payment of interest and principal on refunding bonds the
2 appropriate pledged revenues, which may be pledged to an original
3 issue of bonds as provided in the Supplemental Municipal [~~Gross~~
4 ~~Receipts~~] Sales Tax Act. Nothing in this section shall permit the
5 pledge of [~~the gross receipts~~] supplemental municipal sales tax
6 revenue to the payment of bonds that refund bonds issued under any
7 other provision of law.

8 C. Refunding bonds may be issued separately or issued
9 in combination in one series or more.

10 D. Refunding bonds issued pursuant to the Supplemental
11 Municipal [~~Gross Receipts~~] Sales Tax Act shall be authorized by
12 ordinance. Any bonds that are refunded under the provisions of
13 this section shall be paid at maturity or on any permitted prior
14 redemption date in the amounts, at the time and places and, if
15 called prior to maturity, in accordance with any applicable notice
16 provisions, all as provided in the proceedings authorizing the
17 issuance of the refunded bonds, or otherwise appertaining thereto,
18 except for any such bond that is voluntarily surrendered for
19 exchange or payment by the holder or owner.

20 E. Provision shall be made for paying the bonds
21 refunded at the time or places provided in Subsection D of this
22 section. The principal amount of the refunding bonds shall not
23 exceed, but may be less than or be the same as, the principal
24 amount of the bonds being refunded so long as provision is duly
25 and sufficiently made for the payment of the refunded bonds.

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1 F. The proceeds of refunding bonds, including any
2 accrued interest and premium appertaining to the sale of refunding
3 bonds, shall either be immediately applied to the retirement of
4 the bonds being refunded or be placed in escrow in a commercial
5 bank or trust company that possesses and is exercising trust
6 powers and that is a member of the federal deposit insurance
7 corporation, to be applied to the payment of the principal of,
8 interest on and any prior redemption premium due in connection
9 with the bonds being refunded; provided that such refunding bond
10 proceeds, including any accrued interest and any premium
11 appertaining to a sale of refunding bonds, may be applied to the
12 establishment and maintenance of a reserve fund and to the payment
13 of expenses incidental to the refunding and the issuance of the
14 refunding bonds, the interest on the refunding bonds and the
15 principal of the refunding bonds or both interest and principal as
16 the municipality may determine. Nothing in this section requires
17 the establishment of an escrow if the refunded bonds become due
18 and payable within one year from the date of the refunding bonds
19 and if the amounts necessary to retire the refunded bonds within
20 that time are deposited with the paying agent for the refunded
21 bonds. Any such escrow shall not necessarily be limited to
22 proceeds of refunding bonds but may include other money available
23 for its escrow purpose. Any proceeds in escrow pending such use
24 may be invested or reinvested in bills, certificates of
25 indebtedness, notes or bonds that are direct obligations of or the

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1 principal and interest of which obligations are unconditionally
2 guaranteed by the United States or in certificates of deposit of
3 banks that are members of the federal deposit insurance
4 corporation, the par value of which certificates of deposit is
5 collateralized by a pledge of obligations of or the payment of
6 which is unconditionally guaranteed by the United States, the par
7 value of which obligations is at least seventy-five percent of the
8 par value of the certificates of deposit. Such proceeds and
9 investments in escrow, together with any interest or other income
10 to be derived from any such investment, shall be in an amount at
11 all times sufficient as to principal, interest, any prior
12 redemption premium due and any charges of the escrow agent payable
13 therefrom to pay the bonds being refunded as they become due at
14 their respective maturities or due at any designated prior
15 redemption date in connection with which the municipality shall
16 exercise a prior redemption option. Any purchaser of any
17 refunding bond issued pursuant to the provisions of the
18 Supplemental Municipal [~~Gross Receipts~~] Sales Tax Act is in no
19 manner responsible for the application of the proceeds thereof by
20 the municipality or any of its officers, agents or employees.

21 G. Refunding bonds may be sold at a public or
22 negotiated sale and may bear such additional terms and provisions
23 as may be determined by the municipality subject to limitations in
24 the Supplemental Municipal [~~Gross Receipts~~] Sales Tax Act. The
25 terms, provisions and authorization of the refunding bonds are not

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1 subject to the provisions of any other statute, provided that the
2 Public Securities Limitation of Action Act shall be fully
3 applicable to the issuance of refunding bonds.

4 H. The municipality shall receive from the department
5 of finance and administration written approval of any refunding
6 bonds issued pursuant to the provisions of this section."

7 SECTION 287. Section 7-19-18 NMSA 1978 (being Laws 1979,
8 Chapter 397, Section 9, as amended) is amended to read:

9 "7-19-18. SUPPLEMENTAL MUNICIPAL [~~GROSS RECEIPTS~~] SALES
10 TAX--USE OF PROCEEDS--RESTRICTION.--

11 A. The proceeds from the supplemental municipal [~~gross~~
12 ~~receipts~~] sales tax shall be deposited in a special improvement
13 account of the municipality and shall be used only for:

14 (1) the payment of the principal of, interest on,
15 any prior redemption premiums due in connection with and other
16 expenses related to the supplemental municipal [~~gross receipts~~]
17 sales tax bonds issued pursuant to the Supplemental Municipal
18 [~~Gross Receipts~~] Sales Tax Act;

19 (2) the funding of any reserves and other
20 accounts in connection with such bonds;

21 (3) refunding bonds; and

22 (4) to the extent not needed for those purposes,
23 the improvement of the municipality's water system.

24 B. When any issue of supplemental municipal [~~gross~~
25 ~~receipts~~] sales tax bonds is fully paid, the supplemental

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1 municipal [~~gross receipts~~] sales tax shall cease to be imposed for
2 that issue, but may continue to be imposed for bonds enacted and
3 approved pursuant to Section 7-19-12 NMSA 1978 and thereafter
4 issued, or for refunding bonds issued pursuant to Section [~~4 of~~
5 ~~this 1997 act~~] 7-19-17.1 NMSA 1978. Any money remaining in a
6 special improvement account after the obligations for supplemental
7 municipal [~~gross receipts~~] sales tax bonds and refunding bonds are
8 fully paid may be transferred to any other fund of the
9 municipality."

10 SECTION 288. Section 7-19D-1 NMSA 1978 (being Laws 1993,
11 Chapter 346, Section 1) is amended to read:

12 "7-19D-1. SHORT TITLE.--Chapter 7, Article 19D NMSA 1978
13 may be cited as the "Municipal Local Option [~~Gross Receipts Taxes~~]
14 Sales Tax Act"."

15 SECTION 289. Section 7-19D-2 NMSA 1978 (being Laws 1993,
16 Chapter 346, Section 2) is amended to read:

17 "7-19D-2. DEFINITIONS.--As used in the Municipal Local
18 Option [~~Gross Receipts Taxes~~] Sales Tax Act:

19 A. "department" means the taxation and revenue
20 department, the secretary of taxation and revenue or any employee
21 of the department exercising authority lawfully delegated to that
22 employee by the secretary;

23 B. "governing body" means the city council or city
24 commission of a city, the board of trustees of a town or village
25 and the board of county commissioners of H-class counties;

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1 C. "municipality" means any incorporated city, town or
2 village, whether incorporated under general act, special act or
3 special charter, and an H-class county;

4 D. "person" means an individual or any other legal
5 entity; and

6 E. "state [~~gross receipts~~] sales tax" means the [~~gross~~
7 ~~receipts~~] state sales tax imposed [~~under~~] pursuant to provisions
8 of the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act."

9 SECTION 290. Section 7-19D-3 NMSA 1978 (being Laws 1993,
10 Chapter 346, Section 3) is amended to read:

11 "7-19D-3. EFFECTIVE DATE OF ORDINANCE.--An ordinance
12 imposing, amending or repealing a tax or an increment of tax
13 authorized by the Municipal Local Option [~~Gross Receipts Taxes~~]
14 Sales Tax Act shall be effective on July 1 or January 1, whichever
15 date occurs first after the expiration of at least three months
16 from the date the adopted ordinance is mailed or delivered to the
17 department. The ordinance shall include that effective date."

18 SECTION 291. Section 7-19D-4 NMSA 1978 (being Laws 1993,
19 Chapter 346, Section 4) is amended to read:

20 "7-19D-4. ORDINANCE SHALL CONFORM TO CERTAIN PROVISIONS OF
21 THE [~~GROSS RECEIPTS AND COMPENSATING~~] SALES AND USE TAX ACT AND
22 REQUIREMENTS OF THE DEPARTMENT.--

23 A. An ordinance imposing a tax [~~under~~] pursuant to the
24 provisions of the Municipal Local Option [~~Gross Receipts Taxes~~]
25 Sales Tax Act shall adopt by reference the same definitions and

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1 the same provisions relating to exemptions and deductions as are
2 contained in the [~~Gross Receipts and Compensating~~] Sales and Use
3 Tax Act then in effect and as it may be amended from time to time.

4 B. The governing body of any municipality imposing a
5 tax [~~under~~] pursuant to provisions of the Municipal Local Option
6 [~~Gross Receipts Taxes~~] Sales Tax Act shall impose the tax by
7 adopting the model ordinance with respect to the tax furnished to
8 the municipality by the department. An ordinance that does not
9 conform substantially to the model ordinance of the department is
10 not valid."

11 SECTION 292. Section 7-19D-5 NMSA 1978 (being Laws 1993,
12 Chapter 346, Section 5, as amended) is amended to read:

13 "7-19D-5. SPECIFIC EXEMPTIONS.--No tax authorized by the
14 provisions of the Municipal Local Option [~~Gross Receipts Taxes~~]
15 Sales Tax Act shall be imposed on the gross receipts arising from:

16 A. transporting persons or property for hire by
17 railroad, motor vehicle, air transportation or any other means
18 from one point within the municipality to another point outside
19 the municipality; or

20 B. a business located outside the boundaries of a
21 municipality on land owned by that municipality for which a state
22 [~~gross receipts~~] sales tax distribution is made pursuant to
23 Section 7-1-6.4 NMSA 1978."

24 SECTION 293. Section 7-19D-6 NMSA 1978 (being Laws 1993,
25 Chapter 346, Section 6) is amended to read:

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1 "7-19D-6. COPY OF ORDINANCE TO BE SUBMITTED TO
2 DEPARTMENT.--A certified copy of the ordinance imposing or
3 repealing a tax authorized [~~under~~] by the Municipal Local Option
4 [~~Gross Receipts Taxes~~] Sales Tax Act or changing the tax rate
5 imposed shall be mailed or delivered to the department within five
6 days after the later of the date the ordinance is adopted or the
7 date the results of any election held with respect to the
8 ordinance are certified to be in favor of the ordinance."

9 **SECTION 294.** Section 7-19D-7 NMSA 1978 (being Laws 1993,
10 Chapter 346, Section 7, as amended) is amended to read:

11 "7-19D-7. COLLECTION BY DEPARTMENT--TRANSFER OF
12 PROCEEDS--DEDUCTIONS.--

13 A. The department shall collect each tax imposed
14 pursuant to the provisions of the Municipal Local Option [~~Gross~~
15 ~~Receipts Taxes~~] Sales Tax Act in the same manner and at the same
16 time it collects the state [~~gross receipts~~] sales tax.

17 B. Except as provided in Subsection C of this section,
18 the department shall withhold an administrative fee pursuant to
19 Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA 1978. The department
20 shall transfer to each municipality for which it is collecting a
21 tax pursuant to the provisions of the Municipal Local Option
22 [~~Gross Receipts Taxes~~] Sales Tax Act the amount of each tax
23 collected for that municipality, less the administrative fee
24 withheld and less any disbursements for tax credits, refunds and
25 the payment of interest applicable to the tax. The transfer to

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1 the municipality shall be made within the month following the
2 month in which the tax is collected.

3 C. With respect to the municipal [~~gross receipts~~]
4 sales tax imposed by a municipality pursuant to Section 7-19D-9
5 NMSA 1978, the department shall withhold the administrative fee
6 pursuant to Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA 1978 only
7 on that portion of the municipal [~~gross receipts~~] sales tax
8 arising from a municipal [~~gross receipts~~] sales tax rate in excess
9 of one-half [~~of one~~] percent."

10 SECTION 295. Section 7-19D-8 NMSA 1978 (being Laws 1993,
11 Chapter 346, Section 8) is amended to read:

12 "7-19D-8. INTERPRETATION OF ACT--ADMINISTRATION AND
13 ENFORCEMENT OF ACT.--

14 A. The department shall interpret the provisions of
15 the Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act.

16 B. The department shall administer and enforce the
17 collection of each tax authorized [~~under~~] by the provisions of the
18 Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act, and
19 the Tax Administration Act applies to the administration and
20 enforcement of each tax."

21 SECTION 296. Section 7-19D-9 NMSA 1978 (being Laws 1978,
22 Chapter 151, Section 1, as amended) is amended to read:

23 "7-19D-9. MUNICIPAL [~~GROSS RECEIPTS~~] SALES TAX--AUTHORITY
24 TO IMPOSE RATE.--

25 A. The majority of the members of the governing body

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1 of any municipality may impose by ordinance an excise tax not to
2 exceed a rate of one and one-half percent of the gross receipts of
3 any person engaging in business in the municipality for the
4 privilege of engaging in business in the municipality. A tax
5 imposed pursuant to this section shall be imposed by the enactment
6 of one or more ordinances, each imposing any number of municipal
7 ~~[gross receipts]~~ sales tax rate increments, but the total
8 municipal ~~[gross receipts]~~ sales tax rate imposed by all
9 ordinances shall not exceed an aggregate rate of one and one-half
10 percent of the gross receipts of a person engaging in business.
11 Municipalities may impose increments of one-eighth ~~[of one]~~
12 percent.

13 B. The tax imposed pursuant to Subsection A of this
14 section may be referred to as the "municipal ~~[gross receipts]~~
15 sales tax".

16 C. The governing body of a municipality may, at the
17 time of enacting an ordinance imposing the tax authorized in
18 Subsection A of this section, dedicate the revenue for a specific
19 purpose or area of municipal government services, including police
20 protection, fire protection, public transportation or street
21 repair and maintenance. If the governing body proposes to
22 dedicate such revenue, the ordinance and, if any election is held,
23 the ballot shall clearly state the purpose to which the revenue
24 will be dedicated, and any revenue so dedicated shall be used by
25 the municipality for that purpose unless a subsequent ordinance is

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1 adopted to change the purpose to which dedicated or to place the
2 revenue in the general fund of the municipality.

3 D. An election shall be called on the questions of
4 disapproval or approval of any ordinance enacted pursuant to
5 Subsection A of this section or any ordinance amending such
6 ordinance:

7 (1) if the governing body chooses to provide in
8 the ordinance that it shall not be effective until the ordinance
9 is approved by the majority of the registered voters voting on the
10 question at an election to be held pursuant to the provisions of
11 the Local Election Act; or

12 (2) if the ordinance does not contain a mandatory
13 election provision as provided in Paragraph (1) of this
14 subsection, upon the filing of a petition requesting such an
15 election if the petition is filed:

16 (a) pursuant to the requirements of a
17 referendum provision contained in a municipal home-rule charter
18 and signed by the number of registered voters in the municipality
19 equal to the number of registered voters required in its charter
20 to seek a referendum; or

21 (b) in all other municipalities, with the
22 municipal clerk within thirty days after the adoption of such
23 ordinance and the petition has been signed by a number of
24 registered voters in the municipality equal to at least five
25 percent of the number of the voters in the municipality who were

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1 registered to vote in the most recent regular municipal election.

2 E. The signatures on the petition filed in accordance
3 with Subsection D of this section shall be verified by the
4 municipal clerk. If the petition is verified by the municipal
5 clerk as containing the required number of signatures of
6 registered voters, the governing body shall adopt an election
7 resolution calling for the holding of a special election on the
8 question of approving or disapproving the ordinance unless the
9 ordinance is repealed before the adoption of the election
10 resolution. An election held pursuant to Subparagraph (a) or (b)
11 of Paragraph (2) of Subsection D of this section shall be called,
12 conducted and canvassed as provided in the Local Election Act, and
13 the election shall be held within seventy-five days after the date
14 the petition is verified by the municipal clerk or it may be held
15 in conjunction with a regular local election if such election
16 occurs within seventy-five days after the date of verification by
17 the municipal clerk.

18 F. If at an election called pursuant to Subsection D
19 of this section a majority of the registered voters voting on the
20 question approves the ordinance imposing the tax, the ordinance
21 shall become effective in accordance with the provisions of the
22 Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act. If
23 at such an election a majority of the registered voters voting on
24 the question disapproves the ordinance, the ordinance imposing the
25 tax shall be deemed repealed and the question of imposing any

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1 increment of the municipal [~~gross receipts~~] sales tax authorized
2 in this section shall not be considered again by the governing
3 body for a period of one year from the date of the election.

4 G. Any municipality that has lawfully imposed by the
5 requirements of the Special Municipal Gross Receipts Tax Act a
6 rate of at least one-fourth [~~of one~~] percent shall be deemed to
7 have imposed one-fourth [~~of one~~] percent municipal [~~gross~~
8 ~~receipts~~] sales tax pursuant to this section. Any rate of tax
9 deemed to be imposed pursuant to this subsection shall continue to
10 be dedicated to the payment of outstanding bonds issued by the
11 municipality that pledged the tax revenues by ordinance until such
12 time as the bonds are fully paid. A municipality may by ordinance
13 change the purpose for any rate of tax deemed to be imposed at any
14 time the revenues are not committed to payment of bonds.

15 H. Any law that imposes or authorizes the imposition
16 of a municipal [~~gross receipts~~] sales tax or that affects the
17 municipal [~~gross receipts~~] sales tax, or any law supplemental
18 thereto or otherwise appertaining thereto, shall not be repealed
19 or amended or otherwise directly or indirectly modified in such a
20 manner as to impair adversely any outstanding revenue bonds that
21 may be secured by a pledge of such municipal [~~gross receipts~~]
22 sales tax unless such outstanding revenue bonds have been
23 discharged in full or provision has been fully made therefor."

24 SECTION 297. Section 7-19D-10 NMSA 1978 (being Laws 1990,
25 Chapter 99, Section 51, as amended) is amended to read:

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1 "7-19D-10. MUNICIPAL ENVIRONMENTAL SERVICES [~~GROSS~~
2 ~~RECEIPTS~~] SALES TAX--AUTHORITY TO IMPOSE--ORDINANCE
3 REQUIREMENTS.--

4 A. Except as otherwise provided in this section, the
5 majority of the members of the governing body of a municipality
6 may enact an ordinance imposing an excise tax on any person
7 engaging in business in the municipality for the privilege of
8 engaging in business. The rate of the tax shall be one-sixteenth
9 [~~of one~~] percent of the gross receipts of the person engaging in
10 business.

11 B. The tax imposed in accordance with Subsection A of
12 this section may be referred to as the "municipal environmental
13 services [~~gross receipts~~] sales tax". The imposition of a
14 municipal environmental services [~~gross receipts~~] sales tax is not
15 subject to referendum.

16 C. The governing body of a municipality shall, at the
17 time of enacting an ordinance imposing the rate of the tax
18 authorized in Subsection A of this section, dedicate the revenue
19 for acquisition, construction, operation and maintenance of solid
20 waste facilities, water facilities, wastewater facilities, sewer
21 systems and related facilities.

22 D. The governing body of a municipality in a class B
23 county with a net taxable value used for rate-setting purposes for
24 the 2008 property tax year of greater than seven hundred fifty
25 million dollars (\$750,000,000) and a population in the entire

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1 county according to the most recent federal decennial census of
2 less than twenty-five thousand may enact an ordinance imposing an
3 excise tax on any person engaging in business in the municipality
4 for the privilege of engaging in business; provided that:

5 (1) the rate of the tax imposed shall not exceed
6 one-half [~~of one~~] percent of the gross receipts of the person
7 engaging in business;

8 (2) the tax is imposed in one-fourth [~~of one~~]
9 percent increments; and

10 (3) the population of the municipality imposing
11 the municipal environmental services [~~gross receipts~~] sales tax
12 according to the most recent federal decennial census is:

13 (a) more than seven thousand five hundred
14 but less than seven thousand eight hundred; or

15 (b) more than one thousand five hundred but
16 less than two thousand."

17 **SECTION 298.** Section 7-19D-11 NMSA 1978 (being Laws 1991,
18 Chapter 9, Section 3, as amended) is amended to read:

19 "7-19D-11. MUNICIPAL INFRASTRUCTURE [~~GROSS RECEIPTS~~] SALES
20 TAX--AUTHORITY BY MUNICIPALITY TO IMPOSE--ORDINANCE REQUIREMENTS--
21 ELECTION.--

22 A. A majority of the members of the governing body of
23 a municipality may enact an ordinance imposing an excise tax on
24 any person engaging in business in the municipality for the
25 privilege of engaging in business. The rate of the tax shall not

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1 exceed one-fourth [~~of one~~] percent of the gross receipts of the
2 person engaging in business and may be imposed in one-sixteenth
3 [~~of one~~] percent increments by separate ordinances. Any ordinance
4 enacting any increment of the first one-eighth [~~of one~~] percent of
5 the tax is not subject to a referendum of any kind,
6 notwithstanding any requirement of any charter municipality,
7 except that an increment that is imposed after July 1, 1998 for
8 economic development purposes set forth in Paragraph (5) of
9 Subsection C of this section shall be subject to a referendum as
10 provided in Subsection D of this section.

11 B. The tax imposed pursuant to Subsection A of this
12 section may be referred to as the "municipal infrastructure [~~gross~~
13 ~~receipts~~] sales tax".

14 C. The governing body of a municipality, at the time
15 of enacting any ordinance imposing the rate of the tax authorized
16 in Subsection A of this section, may dedicate the revenue for:

17 (1) payment of special obligation bonds issued
18 pursuant to a revenue bond act;

19 (2) repair, replacement, construction or
20 acquisition of infrastructure improvements, including sanitary
21 sewer lines, storm sewers and other drainage improvements, water,
22 water rights, water lines and utilities, streets, alleys, rights
23 of way, easements, international ports of entry and land within
24 the municipality or within the extraterritorial zone of the
25 municipality;

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1 (3) municipal general purposes;

2 (4) acquiring, constructing, extending,
3 bettering, repairing or otherwise improving or operating or
4 maintaining public transit systems or regional transit systems or
5 authorities; and

6 (5) furthering or implementing economic
7 development plans and projects as defined in the Local Economic
8 Development Act or projects as defined in the Statewide Economic
9 Development Finance Act, and use of not more than the greater of
10 fifty thousand dollars (\$50,000) or ten percent of the revenue
11 collected for promotion and administration of or professional
12 services contracts related to implementation of an economic
13 development plan adopted by the governing body pursuant to the
14 Local Economic Development Act and in accordance with law.

15 D. An ordinance imposing any increment of the
16 municipal infrastructure [~~gross receipts~~] sales tax in excess of
17 the first one-eighth [~~of one~~] percent or any increment imposed
18 after July 1, 1998 for economic development purposes set forth in
19 Paragraph (5) of Subsection C of this section shall not go into
20 effect until after an election is held and a majority of the
21 voters of the municipality voting in the election votes in favor
22 of imposing the tax. The governing body shall adopt a resolution
23 calling for an election within seventy-five days of the date the
24 ordinance is adopted on the question of imposing the tax. The
25 question shall be submitted to the voters of the municipality as a

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1 separate question at a regular local election or at a special
2 election called for that purpose by the governing body. An
3 election shall be called, conducted and canvassed as provided in
4 the Local Election Act. If a majority of the voters voting on the
5 question approves the ordinance imposing the municipal
6 infrastructure [~~gross receipts~~] sales tax, then the ordinance
7 shall become effective in accordance with the provisions of the
8 Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act. If
9 the question of imposing the municipal infrastructure [~~gross~~
10 ~~receipts~~] sales tax fails, the governing body shall not again
11 propose the imposition of any increment of the tax in excess of
12 the first one-eighth [~~of one~~] percent for a period of one year
13 from the date of the election."

14 SECTION 299. Section 7-19D-12 NMSA 1978 (being Laws 2001,
15 Chapter 172, Section 1, as amended) is amended to read:

16 "7-19D-12. MUNICIPAL CAPITAL OUTLAY [~~GROSS RECEIPTS~~] SALES
17 TAX--PURPOSES--REFERENDUM.--

18 A. The majority of the members of the governing body
19 of a municipality may enact an ordinance imposing an excise tax at
20 a rate not to exceed one-fourth [~~of one~~] percent of the gross
21 receipts of any person engaging in business in the municipality
22 for the privilege of engaging in business. The tax may be imposed
23 in increments of one-sixteenth [~~of one~~] percent not to exceed an
24 aggregate rate of one-fourth [~~of one~~] percent.

25 B. The tax imposed pursuant to Subsection A of this

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1 section may be referred to as the "municipal capital outlay [~~gross~~
2 ~~receipts~~] sales tax".

3 C. The governing body, at the time of enacting an
4 ordinance imposing a rate of tax authorized in Subsection A of
5 this section, may dedicate the revenue for any municipal
6 infrastructure purpose, including:

7 (1) the design, construction, acquisition,
8 improvement, renovation, rehabilitation, equipping or furnishing
9 of public buildings or facilities, including parking facilities,
10 the acquisition of land for the public buildings or facilities and
11 the acquisition or improvement of the grounds surrounding public
12 buildings or facilities;

13 (2) acquisition, construction or improvement of
14 water, wastewater or solid waste systems or facilities and related
15 facilities, including water or sewer lines and storm sewers and
16 other drainage improvements;

17 (3) acquisition, rehabilitation or improvement of
18 firefighting equipment;

19 (4) construction, reconstruction or improvement
20 of municipal streets, alleys, roads or bridges, including
21 acquisition of rights of way;

22 (5) design, construction, acquisition,
23 improvement or equipping of airport facilities, including
24 acquisition of land, easements or rights of way for airport
25 facilities;

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1 (6) acquisition of land for open space, public
2 parks or public recreational facilities and the design,
3 acquisition, construction, improvement or equipping of parks and
4 recreational facilities; and

5 (7) payment of [~~gross receipts~~] sales tax revenue
6 bonds issued pursuant to Chapter 3, Article 31 NMSA 1978 for
7 infrastructure purposes.

8 D. An ordinance imposing the municipal capital outlay
9 [~~gross receipts~~] sales tax shall not go into effect until after an
10 election is held on the question of imposing the tax for the
11 purpose for which the revenue is dedicated and a majority of the
12 voters in the municipality voting in the election votes in favor
13 of imposing the tax. The governing body shall adopt a resolution
14 calling for an election within seventy-five days of the date the
15 ordinance is adopted on the question of imposing the tax. The
16 question shall be submitted to the voters of the municipality as a
17 separate question at a general election or at a special election
18 called for that purpose by the governing body. A special election
19 shall be called, conducted and canvassed in substantially the same
20 manner as provided by law for general elections. If a majority of
21 the voters voting on the question approves the question of
22 imposing the municipal capital outlay [~~gross receipts~~] sales tax,
23 then the ordinance shall become effective in accordance with the
24 provisions of the Municipal Local Option [~~Gross Receipts Taxes~~]
25 Sales Tax Act. If the question of imposing the municipal capital

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1 outlay [~~gross receipts~~] sales tax fails, the governing body shall
2 not again propose the imposition of the tax for a period of one
3 year from the date of the election."

4 SECTION 300. Section 7-19D-14 NMSA 1978 (being Laws 2005,
5 Chapter 212, Section 2) is amended to read:

6 "7-19D-14. QUALITY OF LIFE [~~GROSS RECEIPTS~~] SALES TAX--
7 AUTHORITY TO IMPOSE--ORDINANCE REQUIREMENTS--USE OF REVENUE--
8 ELECTION.--

9 A. Prior to January 1, 2016, the majority of the
10 members of the governing body of a municipality may enact an
11 ordinance imposing an excise tax at a rate not to exceed one-
12 fourth percent of the gross receipts of a person engaging in
13 business in the municipality for the privilege of engaging in
14 business. The tax may be imposed in one or more increments of
15 one-sixteenth percent not to exceed an aggregate rate of one-
16 fourth percent. The tax shall be imposed for a period of not more
17 than ten years from the effective date of the ordinance imposing
18 the tax. Having enacted an ordinance imposing the tax prior to
19 January 1, 2016 pursuant to the provisions of this section, the
20 governing body may enact subsequent ordinances for succeeding
21 periods of not more than ten years; provided that each ordinance
22 meets the requirements of this section and of the Municipal Local
23 Option [~~Gross Receipts Taxes~~] Sales Tax Act. The tax imposed
24 pursuant to the provisions of this section may be referred to as
25 the "quality of life [~~gross receipts~~] sales tax".

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1 B. The governing body, at the time of enacting an
2 ordinance imposing the quality of life [~~gross receipts~~] sales tax,
3 shall dedicate the revenue to cultural programs and activities
4 provided by a local government and to cultural programs, events
5 and activities provided by contract or operating agreement with
6 nonprofit or publicly owned cultural organizations and
7 institutions.

8 C. An ordinance imposing any increment of the quality
9 of life [~~gross receipts~~] sales tax shall not go into effect until
10 after an election is held and a majority of the voters in the
11 municipality voting in the election votes in favor of imposing the
12 tax. The governing body shall adopt a resolution calling for an
13 election within ninety days of the date the ordinance is adopted
14 on the question of imposing the tax. The question may be
15 submitted to the voters as a separate question at a general
16 election or at a special election called for that purpose by the
17 governing body. A special election shall be called, conducted and
18 canvassed in substantially the same manner as provided by law for
19 general elections. In any election held, the ballot shall clearly
20 state the purpose to which the revenue will be dedicated pursuant
21 to this section. If a majority of the voters voting on the
22 question approves the ordinance imposing the quality of life
23 [~~gross receipts~~] sales tax, the ordinance shall become effective
24 in accordance with the provisions of the Municipal Local Option
25 [~~Gross Receipts Taxes~~] Sales Tax Act. If the question of imposing

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1 the quality of life [~~gross receipts~~] sales tax fails, the
2 governing body shall not again propose the imposition of the tax
3 for a period of one year from the date of the election.

4 D. The quality of life [~~gross receipts~~] sales tax
5 revenue shall be used to meet the following goals: promoting and
6 preserving cultural diversity; enhancing the quality of cultural
7 programs and activities; fostering greater access to cultural
8 opportunities; promoting culture in order to further economic
9 development within the municipality; and supporting programs,
10 events and organizations with direct, identifiable and measurable
11 public benefit to residents of the municipality. It is the
12 objective of the quality of life [~~gross receipts~~] sales tax that
13 the revenue from the tax be used to expand and sustain existing
14 programs and to develop new programs, events and activities,
15 rather than to replace other funding sources for existing
16 programs, events and activities.

17 E. The governing body of a municipality that imposes
18 the quality of life [~~gross receipts~~] sales tax shall, within sixty
19 days of the election approving the imposition of the tax, appoint
20 a municipal cultural advisory board consisting of between nine and
21 fifteen members. Persons appointed to the board shall be
22 residents of the municipality who are knowledgeable about the
23 activities eligible for quality of life sales tax revenue funding.
24 The members of the board shall be appointed for fixed terms and
25 shall not be removed during their terms except for malfeasance.

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1 The terms of the initial board members shall be staggered so that
2 one-third of the members are appointed for one-year terms, one-
3 third are appointed for two-year terms and one-third are appointed
4 for three-year terms. Subsequent appointments to the board shall
5 be for three-year terms. If a vacancy on the board occurs, the
6 governing body shall appoint a replacement member for the
7 remainder of the unexpired term. A board member shall not serve
8 for more than two consecutive terms.

9 F. The municipal cultural advisory board shall have
10 the responsibility of overseeing the distribution of the quality
11 of life [~~gross receipts~~] sales tax revenue for the goals listed in
12 Subsection D of this section. The board shall:

13 (1) biennially submit recommendations to the
14 governing body for expenditures of revenue from the quality of
15 life [~~gross receipts~~] sales tax that are allocated pursuant to
16 this section through contracts for services with appropriate
17 organizations and institutions;

18 (2) establish and publicize the necessary
19 qualifications for organizations and institutions to receive
20 quality of life [~~gross receipts~~] sales tax funding; and

21 (3) develop guidelines and procedures for
22 applying for funding through a request for proposals process and
23 the criteria by which contracts will be awarded. The evaluation
24 process shall include a public review component.

25 G. The municipal cultural advisory board shall

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1 establish reporting requirements for recipients of the quality of
2 life [~~gross receipts~~] sales tax revenue. The board shall provide
3 to the governing body an annual evaluation of the use of revenue
4 from the quality of life [~~gross receipts~~] sales tax to ensure that
5 it is meeting the goals listed in Subsection D of this section.

6 H. Every four years, the municipal cultural advisory
7 board shall review and revise as necessary:

8 (1) the guidelines and procedures for applying
9 for funding; and

10 (2) the criteria by which applications for
11 funding will be evaluated.

12 I. As used in this section:

13 (1) "cultural organizations and institutions"
14 means organizations or institutions that have as a primary purpose
15 the advancement or preservation of zoology, museums, library
16 sciences, art, music, theater, dance, literature or the
17 humanities; and

18 (2) "municipality" means an incorporated
19 municipality except for an incorporated municipality with a
20 population in excess of two hundred fifty thousand according to
21 the most recent federal decennial census."

22 SECTION 301. Section 7-19D-15 NMSA 1978 (being Laws 2006,
23 Chapter 15, Section 14, as amended) is amended to read:

24 "7-19D-15. MUNICIPAL REGIONAL SPACEPORT [~~GROSS RECEIPTS~~]
25 SALES TAX--AUTHORITY TO IMPOSE--RATE--ELECTION REQUIRED.--

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1 A. A majority of the members of the governing body of
2 a municipality that desires to become a member of a regional
3 spaceport district pursuant to the Regional Spaceport District Act
4 shall impose by ordinance an excise tax at a rate not to exceed
5 one-half percent of the gross receipts of a person engaging in
6 business in the municipality for the privilege of engaging in
7 business. A tax imposed pursuant to this section may be imposed
8 by one or more ordinances, each imposing any number of tax rate
9 increments, but an increment shall not be less than one-sixteenth
10 percent of the gross receipts of a person engaging in business in
11 the municipality, and the aggregate of all rates shall not exceed
12 one-half percent of the gross receipts of a person engaging in
13 business in the municipality. The tax may be referred to as the
14 "municipal regional spaceport [~~gross receipts~~] sales tax".

15 B. A governing body, at the time of enacting an
16 ordinance imposing a tax authorized in Subsection A of this
17 section, shall dedicate a minimum of seventy-five percent of the
18 revenue to a regional spaceport district for the financing,
19 planning, designing, engineering and construction of a regional
20 spaceport pursuant to the Regional Spaceport District Act and may
21 dedicate no more than twenty-five percent of the revenue for
22 spaceport-related projects as approved by resolution of the
23 governing body of the municipality.

24 C. An ordinance imposing a municipal regional
25 spaceport [~~gross receipts~~] sales tax shall not go into effect

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1 until after an election is held and a majority of the voters of
2 the municipality voting in the election votes in favor of imposing
3 the tax. The governing body shall adopt a resolution calling for
4 an election within seventy-five days of the date the ordinance is
5 adopted on the question of imposing the tax. The question shall
6 be submitted to the voters of the municipality as a separate
7 question at a regular local election or at a special election
8 called for that purpose by the governing body. An election shall
9 be called, conducted and canvassed as provided in the Local
10 Election Act. If a majority of the voters voting on the question
11 approves the ordinance imposing the municipal regional spaceport
12 [~~gross receipts~~] sales tax, the ordinance shall become effective
13 in accordance with the provisions of the Municipal Local Option
14 [~~Gross Receipts Taxes~~] Sales Tax Act. If the question of imposing
15 the municipal regional spaceport [~~gross receipts~~] sales tax fails,
16 the governing body shall not again propose the imposition of an
17 increment of the tax for a period of one year from the date of the
18 election.

19 D. The governing body of a municipality imposing the
20 municipal regional spaceport [~~gross receipts~~] sales tax shall
21 sales transfer a minimum of seventy-five percent of all proceeds
22 from the tax to the regional spaceport district of which it is a
23 member for regional spaceport purposes in accordance with the
24 provisions of the Regional Spaceport District Act. The governing
25 body of a municipality imposing the municipal regional spaceport

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1 [~~gross receipts~~] sales tax may retain no more than twenty-five
2 percent of the municipal regional spaceport [~~gross receipts~~] sales
3 tax for spaceport-related projects as approved by resolution of
4 the governing body."

5 SECTION 302. Section 7-19D-16 NMSA 1978 (being Laws 2007,
6 Chapter 148, Section 1) is amended to read:

7 "7-19D-16. MUNICIPAL HIGHER EDUCATION FACILITIES [~~GROSS~~
8 ~~RECEIPTS~~] SALES TAX.--

9 A. The majority of the members of the governing body
10 of an eligible municipality may impose by ordinance an excise tax
11 at a rate not to exceed one-fourth [~~of one~~] percent of the gross
12 receipts of a person engaging in business in the municipality for
13 the privilege of engaging in business. The tax may be imposed in
14 increments of one-sixteenth [~~of one~~] percent not to exceed an
15 aggregate rate of one-fourth [~~of one~~] percent. The tax shall be
16 imposed for a period of not more than twenty years from the
17 effective date of the ordinance imposing the tax.

18 B. The tax imposed pursuant to this section may be
19 referred to as the "municipal higher education facilities [~~gross~~
20 ~~receipts~~] sales tax".

21 C. The governing body, at the time of enacting an
22 ordinance imposing a rate of tax authorized in Subsection A of
23 this section, shall dedicate the revenue only for:

24 (1) acquisition, construction, renovation or
25 improvement of facilities of a four-year post-secondary public

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1 educational institution located in the municipality and
2 acquisition of or improvements to land for those facilities; or

3 (2) payment of municipal higher education
4 facilities [~~gross receipts~~] sales tax revenue bonds issued
5 pursuant to Chapter 3, Article 31 NMSA 1978.

6 D. An ordinance imposing any increment of the
7 municipal higher education facilities [~~gross receipts~~] sales tax
8 shall not go into effect until after an election is held and a
9 majority of the voters of the municipality voting in the election
10 votes in favor of imposing the tax. The governing body shall
11 adopt a resolution calling for an election on the question of
12 imposing the tax at the next regular municipal election. The
13 question shall be submitted to the voters of the municipality as a
14 separate question. If a majority of the voters voting on the
15 question approves the ordinance imposing the municipal higher
16 education facilities [~~gross receipts~~] sales tax, the ordinance
17 shall become effective in accordance with the provisions of the
18 Municipal Local Option [~~Gross Receipts Taxes~~] Sales Tax Act. If
19 the question of imposing the municipal higher education facilities
20 [~~gross receipts~~] sales tax fails, the governing body shall not
21 again propose the imposition of any increment of the tax for a
22 period of one year from the date of the election.

23 E. For the purposes of this section, "eligible
24 municipality" means a municipality that has a population greater
25 than fifty thousand according to the most recent federal decennial

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1 census and that is located in a class B county having a net
2 taxable value for rate-setting purposes for the 2006 property tax
3 year or any subsequent year of more than two billion dollars
4 (\$2,000,000,000)."

5 SECTION 303. Section 7-19D-17 NMSA 1978 (being Laws 2012,
6 Chapter 58, Section 1, as amended) is amended to read:

7 "7-19D-17. FEDERAL WATER PROJECT [~~GROSS RECEIPTS~~] SALES
8 TAX--AUTHORIZATION--USE OF REVENUE--REFERENDUM.--

9 A. A majority of the members of the governing body of
10 a municipality may enact an ordinance imposing an excise tax on
11 any person engaging in business in the municipality for the
12 privilege of engaging in business. The rate of the tax shall not
13 exceed one-fourth percent of the gross receipts of the person
14 engaging in business. An ordinance enacting the tax authorized by
15 this section is subject to a positive referendum.

16 B. The tax imposed pursuant to this section may be
17 referred to as the "federal water project [~~gross receipts~~] sales
18 tax".

19 C. The governing body of a municipality, at the time
20 of enacting an ordinance imposing the rate of the tax authorized
21 in this section, shall dedicate the revenue for the repayment of
22 loan obligations to the federal government for the construction,
23 expansion, operation and maintenance of a water delivery system
24 and for the expansion, operation and maintenance of that water
25 delivery system after the loan obligation to the federal

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1 government is retired or repaid. The revenue from the federal
2 water project [~~gross receipts~~] sales tax shall not be dedicated to
3 repay revenue bonds or any other form of bonds.

4 D. An ordinance imposing the federal water project
5 [~~gross receipts~~] sales tax shall not go into effect until an
6 election is held and a majority of the voters of the municipality
7 voting in the election votes in favor of imposing the tax. The
8 governing body shall adopt a resolution calling for an election
9 within seventy-five days of the date the ordinance is adopted on
10 the question of imposing the tax. The question shall be submitted
11 to the voters of the municipality as a separate question at a
12 regular local election or at a special election called for that
13 purpose by the governing body. An election shall be called,
14 conducted and canvassed as provided in the Local Election Act. If
15 a majority of the voters voting on the question approves the
16 ordinance imposing the federal water project [~~gross receipts~~]
17 sales tax, then the ordinance shall become effective on January 1
18 or July 1 in accordance with the provisions of the Municipal Local
19 Option [~~Gross Receipts Taxes~~] Sales Tax Act. If the question of
20 imposing the federal water project [~~gross receipts~~] sales tax
21 fails, the governing body shall not again propose the imposition
22 of the tax for a period of one year from the date of the election.

23 E. A municipality that imposed a federal water project
24 [~~gross receipts~~] sales tax pursuant to this section shall not also
25 impose a municipal capital outlay [~~gross receipts~~] sales tax.

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1 F. As used in this section, "municipality" means an
2 incorporated municipality that has a population pursuant to the
3 most recent federal decennial census of greater than twenty
4 thousand but less than twenty-five thousand and is located in a
5 class B county."

6 SECTION 304. Section 7-19D-18 NMSA 1978 (being Laws 2013,
7 Chapter 160, Section 11) is amended to read:

8 "7-19D-18. MUNICIPAL HOLD HARMLESS [~~GROSS RECEIPTS~~] SALES
9 TAX.--

10 A. The majority of the members of the governing body
11 of any municipality may impose by ordinance an excise tax not to
12 exceed a rate of three-eighths percent of the gross receipts of
13 any person engaging in business in the municipality for the
14 privilege of engaging in business in the municipality. A tax
15 imposed pursuant to this section shall be imposed by the enactment
16 of one or more ordinances, each imposing any number of [~~gross~~
17 ~~receipts~~] sales tax rate increments, but the total [~~gross~~
18 ~~receipts~~] sales tax rate imposed by all ordinances pursuant to
19 this section shall not exceed an aggregate rate of three-eighths
20 percent of the gross receipts of a person engaging in business.
21 Municipalities may impose increments of one-eighth [~~of one~~]
22 percent.

23 B. The tax imposed pursuant to Subsection A of this
24 section may be referred to as the "municipal hold harmless [~~gross~~
25 ~~receipts~~] sales tax". The imposition of a municipal hold harmless

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1 [~~gross receipts~~] sales tax is not subject to referendum.

2 C. The governing body of a municipality may, at the
3 time of enacting an ordinance imposing the tax authorized in
4 Subsection A of this section, dedicate the revenue for a specific
5 purpose or area of municipal government services, including [~~but~~
6 ~~not limited to~~] police protection, fire protection, public
7 transportation or street repair and maintenance. If the governing
8 body proposes to dedicate such revenue, the ordinance and any
9 revenue so dedicated shall be used by the municipality for that
10 purpose unless a subsequent ordinance is adopted to change the
11 purpose to which the revenue is dedicated or to place the revenue
12 in the general fund of the municipality.

13 D. Any law that imposes or authorizes the imposition
14 of a municipal hold harmless [~~gross receipts~~] sales tax or that
15 affects the municipal hold harmless [~~gross receipts~~] sales tax, or
16 any law supplemental thereto or otherwise appertaining thereto,
17 shall not be repealed or amended or otherwise directly or
18 indirectly modified in such a manner as to impair adversely any
19 outstanding revenue bonds that may be secured by a pledge of such
20 municipal hold harmless [~~gross receipts~~] sales tax unless such
21 outstanding revenue bonds have been discharged in full or
22 provision has been fully made therefor."

23 SECTION 305. Section 7-20C-1 NMSA 1978 (being Laws 1991,
24 Chapter 176, Section 1) is amended to read:

25 "7-20C-1. SHORT TITLE.--~~[Sections 1 through 15 of this act]~~

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1 Chapter 7, Article 20C NMSA 1978 may be cited as the "Local
2 Hospital [~~Gross Receipts~~] Sales Tax Act."

3 SECTION 306. Section 7-20C-2 NMSA 1978 (being Laws 1991,
4 Chapter 176, Section 2, as amended) is amended to read:

5 "7-20C-2. DEFINITIONS.--As used in the Local Hospital
6 [~~Gross Receipts~~] Sales Tax Act:

7 A. "county" means:

8 (1) a class B county having a population of less
9 than twenty-five thousand according to the most recent federal
10 decennial census and having a net taxable value for rate-setting
11 purposes for the 1990 property tax year or any subsequent year of
12 more than two hundred fifty million dollars (\$250,000,000);

13 (2) a class B county having a population of less
14 than forty-seven thousand but more than forty-four thousand
15 according to the 1990 federal decennial census and having a net
16 taxable value for rate-setting purposes for the 1992 property tax
17 year of more than three hundred million dollars (\$300,000,000) but
18 less than six hundred million dollars (\$600,000,000);

19 (3) a class B county having a population of less
20 than ten thousand according to the most recent federal decennial
21 census and having a net taxable value for rate-setting purposes
22 for the 1990 property tax year or any subsequent year of more than
23 one hundred million dollars (\$100,000,000);

24 (4) a class B county having a population of less
25 than twenty-five thousand according to the 1990 federal decennial

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1 census and having a net taxable value for rate-setting purposes
2 for the 1993 property tax year of more than ninety-one million
3 dollars (\$91,000,000) but less than one hundred twenty-five
4 million dollars (\$125,000,000);

5 (5) a class B county having a population of more
6 than seventeen thousand but less than twenty thousand according to
7 the 1990 federal decennial census and having a net taxable value
8 for rate-setting purposes for the 1993 property tax year of more
9 than one hundred fifty-three million dollars (\$153,000,000) but
10 less than one hundred fifty-six million dollars (\$156,000,000);

11 (6) a class B county having a population of more
12 than fifteen thousand according to the 1990 federal decennial
13 census and having a net taxable value for rate-setting purposes
14 for the 1996 property tax year of more than one hundred fifty
15 million dollars (\$150,000,000) but less than one hundred seventy-
16 five million dollars (\$175,000,000);

17 (7) an H class county;

18 (8) a class A county having a population of less
19 than one hundred fifteen thousand according to the 2000 federal
20 decennial census or any subsequent federal decennial census and
21 having a net taxable value for rate-setting purposes for the 2001
22 property tax year or any subsequent year of more than three
23 billion dollars (\$3,000,000,000); or

24 (9) a class B county having a population of more
25 than three thousand five hundred but less than ten thousand five

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1 hundred according to the 2000 federal decennial census or any
2 subsequent federal decennial census and having a net taxable value
3 for rate-setting purposes for the 2005 property tax year or any
4 subsequent year of more than one hundred million dollars
5 (\$100,000,000) and less than one hundred sixteen million five
6 hundred thousand dollars (\$116,500,000);

7 B. "department" means the taxation and revenue
8 department, the secretary of taxation and revenue or any employee
9 of the department exercising authority lawfully delegated to that
10 employee by the secretary;

11 C. "governing body" means the board of county
12 commissioners of a county;

13 D. "health care facilities contract" means an
14 agreement between a hospital or health clinic not owned by the
15 county and a county imposing the tax authorized by the Local
16 Hospital [~~Gross Receipts~~] Sales Tax Act that obligates the county
17 to pay to the hospital revenue generated by the tax authorized in
18 that act as consideration for the agreement by the hospital or
19 health clinic to use the funds only for nonsectarian purposes and
20 to make health care services available for the benefit of the
21 county;

22 E. "hospital facility revenues" means all or a portion
23 of the revenues derived from a lease of a hospital facility
24 acquired, constructed or equipped pursuant to and operated in
25 accordance with the Local Hospital [~~Gross Receipts~~] Sales Tax Act;

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1 F. "local hospital [~~gross receipts~~] sales tax" means
2 the tax authorized to be imposed under the Local Hospital [~~Gross~~
3 ~~Receipts~~] Sales Tax Act;

4 G. "person" means an individual or any other legal
5 entity; and

6 H. "state [~~gross receipts~~] sales tax" means the [~~gross~~
7 ~~receipts~~] state sales tax imposed under the [~~Gross Receipts and~~
8 ~~Compensating~~] Sales and Use Tax Act."

9 SECTION 307. Section 7-20C-3 NMSA 1978 (being Laws 1991,
10 Chapter 176, Section 3, as amended) is amended to read:

11 "7-20C-3. LOCAL HOSPITAL [~~GROSS RECEIPTS~~] SALES TAX--
12 AUTHORITY TO IMPOSE--ORDINANCE REQUIREMENTS.--

13 A. A majority of the members elected to the governing
14 body of a county may enact an ordinance imposing an excise tax on
15 a person engaging in business in the county for the privilege of
16 engaging in business. This tax is to be referred to as the "local
17 hospital [~~gross receipts~~] sales tax". The rate of the tax shall
18 be:

19 (1) one-half percent of the gross receipts of the
20 person engaging in business if the tax is initially imposed before
21 January 1, 1993;

22 (2) one-eighth percent of the gross receipts of
23 the person engaging in business if the tax is initially imposed
24 after January 1, 1993; and

25 (3) a rate not to exceed one-half percent of the

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1 gross receipts of the person engaging in business if the tax is
2 imposed after July 1, 1996 in a county described in Paragraph (4),
3 (6), (7) or (8) of Subsection A of Section 7-20C-2 NMSA 1978;
4 provided the tax may be imposed in any number of increments of
5 one-eighth percent not to exceed an aggregate rate of one-half
6 percent of gross receipts.

7 B. The local hospital [~~gross receipts~~] sales tax
8 imposed:

9 (1) initially before January 1, 1993 shall be
10 imposed only once for the period necessary for payment of the
11 principal and interest on revenue bonds issued to accomplish the
12 purpose for which the revenue is dedicated, but the period shall
13 not exceed ten years from the effective date of the ordinance
14 imposing the tax; or

15 (2) after July 1, 1996 in a county described in
16 Paragraph (4) or (8) of Subsection A of Section 7-20C-2 NMSA 1978
17 shall be imposed for the period necessary for payment of the
18 principal and interest on revenue bonds issued to accomplish the
19 purpose for which the revenue is dedicated, but the period shall
20 not exceed forty years from the effective date of the ordinance
21 imposing the tax; provided, however, that the governing body of a
22 county described in Paragraph (8) of Subsection A of Section
23 7-20C-2 NMSA 1978 that has enacted an ordinance imposing an
24 increment of the local hospital [~~gross receipts~~] sales tax
25 pursuant to the provisions of this paragraph may, prior to the

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1 date of the delayed repeal of the ordinance, enact an ordinance to
2 modify the period of imposition of the tax and modify the purposes
3 for which the revenue from the tax is dedicated, consistent with
4 one or more of the purposes permitted pursuant to Paragraph (6) of
5 Subsection D of this section. The ordinance shall be subject to
6 the election requirement of Subsection E of this section.

7 C. No local hospital [~~gross receipts~~] sales tax
8 authorized in Subsection A of this section shall be imposed
9 initially after January 1, 1993 in a county described in Paragraph
10 (2), (3) or (5) of Subsection A of Section 7-20C-2 NMSA 1978
11 unless:

12 (1) in a county described in Paragraph (2) of
13 Subsection A of Section 7-20C-2 NMSA 1978, the voters of the
14 county have approved the issuance of general obligation bonds of
15 the county sufficient to pay at least one-half of the costs of the
16 county hospital facility or county twenty-four-hour urgent care or
17 emergency facility for which the local hospital [~~gross receipts~~]
18 sales tax revenues are dedicated, including the costs of all
19 acquisition, renovation and equipping of the facility; or

20 (2) in a county described in Paragraph (3) or (5)
21 of Subsection A of Section 7-20C-2 NMSA 1978, the county will not
22 have in effect at the same time a county hospital emergency [~~gross~~
23 ~~receipts~~] sales tax and the voters of the county have approved the
24 imposition of a property tax at a rate of one dollar (\$1.00) on
25 each one thousand dollars (\$1,000) of taxable value of property in

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1 the county for the purpose of operation and maintenance of a
2 hospital owned by the county and operated and maintained either by
3 the county or by another party pursuant to a lease with the
4 county.

5 D. The governing body of a county enacting an
6 ordinance imposing a local hospital [~~gross receipts~~] sales tax
7 shall dedicate the revenue from the tax as provided in this
8 subsection. In any election held, the ballot shall clearly state
9 the purpose to which the revenue will be dedicated and the revenue
10 shall be used by the county for that purpose. The revenue shall
11 be dedicated as follows:

12 (1) prior to January 1, 1993, the governing body,
13 at the time of enacting an ordinance imposing the rate of the tax
14 authorized in Subsection A of this section, shall dedicate the
15 revenue for acquisition of land for and the design, construction,
16 equipping and furnishing of a county hospital facility to be
17 operated by the county or operated and maintained by another party
18 pursuant to a lease with the county;

19 (2) if the governing body of a county described
20 in Paragraph (2), (3) or (5) of Subsection A of Section 7-20C-2
21 NMSA 1978 is enacting the ordinance imposing the tax after July 1,
22 1993, the governing body shall dedicate the revenue for
23 acquisition, renovation and equipping of a building for a county
24 hospital facility or a county twenty-four-hour urgent care or
25 emergency facility or for operation and maintenance of that

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1 facility, whether operated and maintained by the county or by
2 another party pursuant to a lease or management contract with the
3 county, for the period of time the tax is imposed not to exceed
4 ten years;

5 (3) if the governing body of a county described
6 in Paragraph (4) or (8) of Subsection A of Section 7-20C-2 NMSA
7 1978 is enacting the ordinance imposing the tax after July 1,
8 1995, the governing body shall dedicate the revenue for
9 acquisition of land or buildings for and the renovation, design,
10 construction, equipping or furnishing of a county hospital
11 facility or health clinic to be operated by the county or operated
12 and maintained by another party pursuant to a health care
13 facilities contract, lease or management contract with the county;
14 provided, however, that the governing body of a county described
15 in Paragraph (8) of Subsection A of Section 7-20C-2 NMSA 1978 that
16 has imposed an increment of the local hospital [~~gross receipts~~]
17 sales tax prior to January 1, 2009 and dedicated the revenue from
18 that imposition pursuant to the provisions of this paragraph may,
19 prior to the date of the delayed repeal of the ordinance imposing
20 the increment of the tax, enact an ordinance to modify the period
21 of imposition of the tax and modify the purposes for which the
22 revenue from the tax is dedicated, consistent with one or more of
23 the purposes permitted pursuant to Paragraph (6) of this
24 subsection. The ordinance shall be subject to the election
25 requirement of Subsection E of this section;

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1 (4) if the governing body of a county described
2 in Paragraph (6) or (9) of Subsection A of Section 7-20C-2 NMSA
3 1978 is enacting the ordinance imposing the tax after July 1,
4 1997, the governing body shall dedicate the revenue for either or
5 a combination of the following:

6 (a) acquisition of land or buildings for
7 and the design, construction, renovation, equipping or furnishing
8 of a hospital facility or health clinic owned by the county or a
9 hospital or health clinic with which the county has entered into a
10 health care facilities contract lease or management contract; or

11 (b) operations and maintenance of a
12 hospital or health clinic owned by the county or a hospital or a
13 health clinic with which the county has entered into a health care
14 facilities contract;

15 (5) if the governing body of a county described
16 in Paragraph (7) of Subsection A of Section 7-20C-2 NMSA 1978 is
17 enacting the ordinance imposing the tax after January 1, 2002, the
18 governing body shall dedicate the revenue for acquisition, lease,
19 renovation or equipping of a hospital facility or for operation
20 and maintenance of that facility, whether operated and maintained
21 by the county or by another party pursuant to a health care
22 facilities contract, lease or management contract with the county;
23 and

24 (6) if the governing body of a county described
25 in Paragraph (8) of Subsection A of Section 7-20C-2 NMSA 1978 is

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1 enacting the ordinance imposing one or more increments of the tax
2 after January 1, 2009, the governing body shall dedicate the
3 revenue for either or both of the following:

4 (a) payment of the principal and interest
5 on revenue bonds, including refunding bonds, issued for
6 acquisition of land or buildings for and the renovation, design,
7 construction, equipping or furnishing of hospital facilities or
8 health care clinic facilities to be operated by the county or
9 operated and maintained by another party pursuant to a health care
10 facilities contract, lease or management contract with the county;
11 and

12 (b) use as matching funds for state or
13 federal programs benefiting the facilities.

14 E. The ordinance shall not go into effect until after
15 an election is held and a simple majority of the qualified
16 electors of the county voting in the election [~~vote~~] votes in
17 favor of imposing the local hospital [~~gross receipts~~] sales tax
18 and, in the case of a county described in Paragraph (3) or (5) of
19 Subsection A of Section 7-20C-2 NMSA 1978, also [~~vote~~] votes in
20 favor of a property tax at a rate of one dollar (\$1.00) for each
21 one thousand dollars (\$1,000) of taxable value of property in the
22 county. The governing body shall adopt a resolution calling for
23 an election within seventy-five days of the date the ordinance is
24 adopted on the question of imposing the tax. The question may be
25 submitted to the qualified electors and voted on as a separate

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1 question in a general election or in any special election called
2 for that purpose by the governing body. A special election on the
3 question shall be called, held, conducted and canvassed in
4 substantially the same manner as provided by law for general
5 elections. If the question of imposing a local hospital [~~gross~~
6 ~~receipts~~] sales tax fails or if the question of imposing both a
7 local hospital [~~gross receipts~~] sales tax and a property tax
8 fails, the governing body shall not again propose a local hospital
9 [~~gross receipts~~] sales tax for a period of one year after the
10 election. A certified copy of any ordinance imposing a local
11 hospital [~~gross receipts~~] sales tax shall be mailed to the
12 department within five days after the ordinance is adopted in an
13 election called for that purpose.

14 F. An ordinance enacted pursuant to the provisions of
15 Subsection A of this section shall include an effective date of
16 either July 1 or January 1, whichever date occurs first after the
17 expiration of at least three months from the date the ordinance is
18 approved by the electorate.

19 G. An ordinance repealed under the provisions of the
20 Local Hospital [~~Gross Receipts~~] Sales Tax Act shall be repealed
21 effective on either July 1 or January 1.

22 H. As used in this section, "taxable value of
23 property" means the sum of:

24 (1) the net taxable value, as that term is
25 defined in the Property Tax Code, of property subject to taxation

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1 under the Property Tax Code;

2 (2) the assessed value of products, as those
3 terms are defined in the Oil and Gas Ad Valorem Production Tax
4 Act;

5 (3) the assessed value of equipment, as those
6 terms are defined in the Oil and Gas Production Equipment Ad
7 Valorem Tax Act; and

8 (4) the taxable value of copper mineral property,
9 as those terms are defined in the Copper Production Ad Valorem Tax
10 Act, subject to taxation under the Copper Production Ad Valorem
11 Tax Act."

12 SECTION 308. Section 7-20C-4 NMSA 1978 (being Laws 1991,
13 Chapter 176, Section 4) is amended to read:

14 "7-20C-4. ORDINANCE SHALL CONFORM TO CERTAIN PROVISIONS OF
15 THE [~~GROSS RECEIPTS AND COMPENSATING~~] SALES AND USE TAX ACT AND
16 REQUIREMENTS OF THE DEPARTMENT.--

17 A. Any ordinance imposing the local hospital [~~gross~~
18 ~~receipts~~] sales tax shall adopt by reference the same definitions
19 and the same provisions relating to exemptions and deductions as
20 are contained in the [~~Gross Receipts and Compensating~~] Sales and
21 Use Tax Act then in effect and as it may be amended from time to
22 time.

23 B. The governing body of any county imposing the tax
24 shall adopt the model ordinances furnished to the county by the
25 department."

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1 SECTION 309. Section 7-20C-5 NMSA 1978 (being Laws 1991,
2 Chapter 176, Section 5, as amended) is amended to read:

3 "7-20C-5. SPECIFIC EXEMPTIONS.--No local hospital [~~gross~~
4 ~~receipts~~] sales tax shall be imposed on the gross receipts arising
5 from transporting persons or property for hire by railroad, motor
6 vehicle, air transportation or any other means from one point
7 within the county to another point outside the county."

8 SECTION 310. Section 7-20C-6 NMSA 1978 (being Laws 1991,
9 Chapter 176, Section 6, as amended) is amended to read:

10 "7-20C-6. COLLECTION BY DEPARTMENT--TRANSFER OF PROCEEDS--
11 DEDUCTIONS.--

12 A. The department shall collect the local hospital
13 [~~gross receipts~~] sales tax in the same manner and at the same time
14 it collects the state [~~gross receipts~~] sales tax.

15 B. The department shall withhold an administrative fee
16 pursuant to Section 7-1-6.41 NMSA 1978. The department shall
17 transfer to each county for which it is collecting such tax the
18 amount of the tax collected less the administrative fee withheld
19 and less any disbursements for tax credits, refunds and the
20 payment of interest applicable to the tax. Transfer of the tax to
21 a county shall be made within the month following the month in
22 which the tax is collected."

23 SECTION 311. Section 7-20C-7 NMSA 1978 (being Laws 1991,
24 Chapter 176, Section 7) is amended to read:

25 "7-20C-7. INTERPRETATION OF ACT--ADMINISTRATION AND

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1 ENFORCEMENT OF TAX.--

2 A. The department shall interpret the provisions of
3 the Local Hospital [~~Gross Receipts~~] Sales Tax Act.

4 B. The department shall administer and enforce the
5 collection of the local hospital [~~gross receipts~~] sales tax, and
6 the Tax Administration Act applies to the administration and
7 enforcement of the tax."

8 SECTION 312. Section 7-20C-8 NMSA 1978 (being Laws 1991,
9 Chapter 176, Section 8) is amended to read:

10 "7-20C-8. DISTRIBUTION.--The net receipts from the local
11 hospital [~~gross receipts~~] sales tax shall be administered by the
12 governing body and disbursed by the county treasurer subject to
13 [~~the~~] approval by the governing body in accordance with the
14 provisions of the Local Hospital [~~Gross Receipts~~] Sales Tax Act."

15 SECTION 313. Section 7-20C-9 NMSA 1978 (being Laws 1991,
16 Chapter 176, Section 9, as amended) is amended to read:

17 "7-20C-9. LOCAL HOSPITAL REVENUE BONDS--AUTHORITY TO
18 ISSUE--PLEDGE OF REVENUES.--

19 A. A county, other than a county described in
20 Paragraph (2) of Subsection A of Section 7-20C-2 NMSA 1978, may
21 issue local hospital revenue bonds pursuant to the Local Hospital
22 [~~Gross Receipts~~] Sales Tax Act for the purpose of acquiring land
23 for and designing, constructing, equipping and furnishing a county
24 hospital facility or health clinic to be operated by the county or
25 by another party pursuant to a lease or management contract with

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1 the county, or a hospital facility or health clinic with ~~whom~~
2 which the county has entered into a health care facilities
3 contract.

4 B. The county issuing the local hospital revenue bonds
5 pursuant to the Local Hospital ~~[Gross Receipts]~~ Sales Tax Act
6 shall pledge irrevocably all ~~[of]~~ the net receipts derived from
7 the imposition of the local hospital ~~[gross receipts]~~ sales tax
8 and may pledge irrevocably any combination of hospital facility
9 revenues and any other revenues as necessary for the payment of
10 principal and interest on the revenue bonds."

11 SECTION 314. Section 7-20C-9.1 NMSA 1978 (being Laws 1993,
12 Chapter 306, Section 4) is amended to read:

13 "7-20C-9.1. NEW MEXICO FINANCE AUTHORITY--REVENUE BONDS.--

14 A. For a county described in Paragraph (2) of
15 Subsection A of Section 7-20C-2 NMSA 1978, the provisions of this
16 section shall govern the financing of the acquisition, renovation
17 or equipping of a building for a county hospital facility or a
18 county twenty-four-hour urgent care or emergency facility.

19 B. Upon approval of the voters pursuant to Section
20 7-20C-3 NMSA 1978, the county shall determine if the issuance of
21 revenue bonds is necessary to finance that portion of the local
22 hospital facility that will not otherwise be financed with general
23 obligation bonds and local revenues. Upon a determination that
24 the issuance of revenue bonds is necessary, the county shall enter
25 into an agreement with the New Mexico finance authority for

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1 issuance and sale of New Mexico finance authority revenue bonds
2 for the purpose of the acquisition, renovation or equipping of a
3 county hospital facility or twenty-four-hour urgent care or
4 emergency care facility in that county and for transfer of local
5 hospital [~~gross receipts~~] sales tax proceeds to the authority in
6 the amount necessary for that purpose.

7 C. Local hospital [~~gross receipts~~] sales tax proceeds
8 transferred to the New Mexico finance authority shall be pledged
9 irrevocably for the payment of principal, interest, [~~any~~] premiums
10 and [~~the~~] expenses related to issuance and sale of the bonds and
11 shall be deposited into a special bond fund or account of the
12 authority. To the extent such revenues are not needed to meet
13 current debt service requirements, including any reserve fund
14 requirements, the authority shall transfer such excess to the
15 county to be used for the purpose for which the local hospital
16 [~~gross receipts~~] sales tax is dedicated. The legislature shall
17 not repeal, amend or otherwise modify any law that affects or
18 impairs any revenue bonds of the New Mexico finance authority
19 secured by a pledge of local hospital [~~gross receipts~~] sales tax
20 revenues."

21 SECTION 315. Section 7-20C-10 NMSA 1978 (being Laws 1991,
22 Chapter 176, Section 10) is amended to read:

23 "7-20C-10. ORDINANCE AUTHORIZING REVENUE BONDS.--At a
24 regular or special meeting called for the purpose of issuing
25 revenue bonds as authorized pursuant to the Local Hospital [~~Gross~~

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1 ~~Receipts]~~ Sales Tax Act, the governing body may adopt an ordinance
2 that:

3 A. declares the necessity for issuing revenue bonds;

4 B. authorizes the issuance of revenue bonds by an
5 affirmative vote of a majority of the governing body; and

6 C. designates the source of the pledged revenues."

7 SECTION 316. Section 7-20C-12 NMSA 1978 (being Laws 1991,
8 Chapter 176, Section 12) is amended to read:

9 "7-20C-12. LOCAL HOSPITAL REVENUE BONDS NOT GENERAL COUNTY
10 OBLIGATIONS.--Revenue bonds issued by a county under the authority
11 of the Local Hospital [~~Gross Receipts]~~ Sales Tax Act shall not be
12 the general obligation of the county within the meaning of Article
13 9, Sections 10 and 13 of the constitution of New Mexico. The
14 bonds shall be payable solely out of all or a portion of the net
15 revenues derived from the imposition of the local hospital [~~gross~~
16 ~~receipts]~~ sales tax. Revenue bonds and interest coupons issued
17 under authority of that act shall never constitute an indebtedness
18 of the county within the meaning of any state constitutional
19 provision or statutory limitation and shall never constitute or
20 give rise to a pecuniary liability of the county or a charge
21 against its general credit or taxing powers, and this fact shall
22 be plainly stated on the face of each bond."

23 SECTION 317. Section 7-20C-13 NMSA 1978 (being Laws 1991,
24 Chapter 176, Section 13) is amended to read:

25 "7-20C-13. REVENUE BONDS--EXEMPTION FROM TAXATION.--The

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1 local hospital revenue bonds issued under authority of the Local
2 Hospital [~~Gross Receipts~~] Sales Tax Act and the income from the
3 bonds shall be exempt from all taxation by the state or any
4 political subdivision of the state."

5 SECTION 318. Section 7-20C-15 NMSA 1978 (being Laws 1991,
6 Chapter 176, Section 15) is amended to read:

7 "7-20C-15. NO NOTICE OR PUBLICATION REQUIRED.--No notice,
8 consent or approval by any governmental body or public officer
9 shall be required as a prerequisite to the sale or issuance of any
10 local hospital revenue bonds under the authority of the Local
11 Hospital [~~Gross Receipts~~] Sales Tax Act, except as provided in
12 that act."

13 SECTION 319. Section 7-20C-16 NMSA 1978 (being Laws 1996,
14 Chapter 18, Section 3) is amended to read:

15 "7-20C-16. REVENUE BONDS--REFUNDING AUTHORIZATION.--

16 A. Any county having issued revenue bonds as
17 authorized in the Local Hospital [~~Gross Receipts~~] Sales Tax Act
18 may issue refunding revenue bonds pursuant to an ordinance adopted
19 by majority vote of the governing body for the purpose of
20 refinancing, paying and discharging all or any part of [~~such~~] the
21 outstanding revenue bonds of any one or more or all outstanding
22 issues:

23 (1) for the acceleration, deceleration or other
24 modification of the payment of [~~such~~] the obligations, including
25 without limitation [~~any~~] capitalization of [~~any~~] interest thereon

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1 in arrears or about to become due for any period not exceeding one
2 year from the date of the refunding bonds;

3 (2) for the purpose of reducing interest costs or
4 effecting other economies;

5 (3) for the purpose of modifying or eliminating
6 restrictive contractual limitations pertaining to the issuance of
7 additional bonds, otherwise concerning the outstanding bonds or to
8 any facilities relating thereto; or

9 (4) for any combination of such purposes.

10 B. To pay the principal and interest on refunding
11 bonds, the county may pledge irrevocably revenues authorized to be
12 pledged to revenue bonds issued pursuant to the Local Hospital
13 [~~Gross Receipts~~] Sales Tax Act.

14 C. Bonds for refunding and bonds for any purpose
15 permitted by the Local Hospital [~~Gross Receipts~~] Sales Tax Act may
16 be issued separately or issued in combination in one series or
17 more."

18 **SECTION 320.** Section 7-20C-17 NMSA 1978 (being Laws 1996,
19 Chapter 18, Section 4) is amended to read:

20 "7-20C-17. REFUNDING BONDS--ESCROW--DETAIL.--

21 A. Refunding bonds issued pursuant to the provisions
22 of the Local Hospital [~~Gross Receipts~~] Sales Tax Act shall be
23 authorized by ordinance. Any revenue bonds that are refunded
24 [~~under the~~] pursuant to provisions of this section shall be paid
25 at maturity or on any permitted prior redemption date in the

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1 amounts, at the time and places and, if called prior to maturity,
2 in accordance with any applicable notice provisions, all as
3 provided in the proceedings authorizing the issuance of the
4 refunded bonds or otherwise appertaining thereto, except for any
5 such bond that is voluntarily surrendered for exchange or payment
6 by the holder or owner.

7 B. Provision shall be made for paying the bonds
8 refunded at the time or places provided in Subsection A of this
9 section. The principal amount of the refunding bonds may exceed,
10 be less than or be the same as the principal amount of the bonds
11 being refunded as long as provision is [~~duly and~~] sufficiently
12 made for the payment of the refunded bonds.

13 C. The proceeds of refunding bonds, including any
14 accrued interest and premium appertaining to the sale of refunding
15 bonds, shall either be immediately applied to the retirement of
16 the bonds being refunded or be placed in escrow in a commercial
17 bank or trust company that possesses and is exercising trust
18 powers and that is a member of the federal deposit insurance
19 corporation, to be applied to the payment of the principal of,
20 interest on and any prior redemption premium due in connection
21 with the bonds being refunded; provided that [~~such~~] refunding bond
22 proceeds, including any accrued interest and any premium
23 appertaining to a sale of refunding bonds, may be applied to the
24 establishment and maintenance of a reserve fund and to the payment
25 of expenses incidental to the refunding and the issuance of the

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1 refunding bonds, the interest on the refunding bonds and the
2 principal of the refunding bonds or both interest and principal as
3 the county may determine. Nothing in this section requires the
4 establishment of an escrow if the refunded bonds become due and
5 payable within one year from the date of the refunding bonds and
6 if the amounts necessary to retire the refunded bonds within that
7 time are deposited with the paying agent for the refunded bonds.
8 ~~[Any such]~~ The escrow shall not necessarily be limited to proceeds
9 of refunding bonds, but may include other money available to
10 retire the refunded bonds. Any proceeds in escrow pending such
11 use may be invested in bills, certificates of indebtedness, notes
12 or bonds that are direct obligations of, or the principal and
13 interest of which obligations are unconditionally guaranteed by,
14 the United States of America or in certificates of deposit of
15 banks that are members of the federal deposit insurance
16 corporation, the par value of which certificates of deposit is
17 collateralized by a pledge of obligations of, or the payment of
18 which is unconditionally guaranteed by, the United States of
19 America, the par value of which obligations is at least seventy-
20 five percent of the par value of the certificates of deposit.
21 Such proceeds and investments in escrow, together with any
22 interest or other income to be derived from any such investment,
23 shall be in an amount at all times sufficient as to principal,
24 interest, any prior redemption premium due and any charges of the
25 escrow agent payable therefrom to pay the bonds being refunded as

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1 they become due at their respective maturities or due at any
2 designated prior redemption date [~~or dates~~] in connection with
3 which the county shall exercise a prior redemption option. [~~Any~~]
4 A purchaser of any refunding bond issued pursuant to the
5 provisions of the Local Hospital [~~Gross Receipts~~] Sales Tax Act is
6 in no manner responsible for the application of the proceeds
7 thereof by the county or any of its officers, agents or employees.

8 D. Refunding bonds may be sold at a public or
9 negotiated sale and may bear such additional terms and provisions
10 as may be determined by the county, subject to the limitations in
11 the Local Hospital [~~Gross Receipts~~] Sales Tax Act. The terms,
12 provisions and authorization of the refunding bonds are not
13 subject to the provisions of any other statute, provided that the
14 Public Securities Limitation of Action Act shall be fully
15 applicable to the issuance of refunding bonds."

16 SECTION 321. Section 7-20E-1 NMSA 1978 (being Laws 1993,
17 Chapter 354, Section 1) is amended to read:

18 "7-20E-1. SHORT TITLE.--Chapter 7, Article 20E NMSA 1978
19 may be cited as the "County Local Option [~~Gross Receipts Taxes~~]
20 Sales Tax Act"."

21 SECTION 322. Section 7-20E-2 NMSA 1978 (being Laws 1993,
22 Chapter 354, Section 2, as amended by Laws 1994, Chapter 93,
23 Section 1 and also by Laws 1994, Chapter 97, Section 1) is amended
24 to read:

25 "7-20E-2. DEFINITIONS.--As used in the County Local Option

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1 ~~[Gross Receipts Taxes]~~ Sales Tax Act:

2 A. "county" means, unless specifically defined
3 otherwise in the County Local Option ~~[Gross Receipts Taxes]~~ Sales
4 Tax Act, a county, including an H class county;

5 B. "county area" means that portion of a county
6 located outside the boundaries of any municipality, except that
7 for H class counties, "county area" means the entire county;

8 C. "department" means the taxation and revenue
9 department, the secretary of taxation and revenue or any employee
10 of the department exercising authority lawfully delegated to that
11 employee by the secretary;

12 D. "governing body" means the board of county
13 ~~[commission]~~ commissioners of the county or the county council of
14 an H class county;

15 E. "person" means an individual or any other legal
16 entity; and

17 F. "state ~~[gross receipts]~~ sales tax" means the ~~[gross~~
18 ~~receipts]~~ state sales tax imposed under the ~~[Gross Receipts and~~
19 ~~Compensating]~~ Sales and Use Tax Act."

20 **SECTION 323.** Section 7-20E-3 NMSA 1978 (being Laws 1993,
21 Chapter 354, Section 3, as amended) is amended to read:

22 "7-20E-3. OPTIONAL REFERENDUM SELECTION--EFFECTIVE DATE OF
23 ORDINANCE.--

24 A. The governing body of a county imposing a tax or an
25 increment of tax authorized by the County Local Option ~~[Gross~~

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1 ~~Receipts Taxes~~] Sales Tax Act or any other county local option
2 [~~gross receipts~~] sales tax act that is subject to optional
3 referendum selection shall select, when enacting the ordinance
4 imposing the tax, one of the following referendum options:

5 (1) the ordinance imposing the tax or increment
6 of tax shall go into effect on July 1 or January 1 in accordance
7 with the provisions of the County Local Option [~~Gross Receipts~~
8 ~~Taxes~~] Sales Tax Act, but an election may be called in the county
9 on the question of approving or disapproving that ordinance as
10 follows:

11 (a) an election shall be called when: 1)
12 in a county having a referendum provision in its charter, a
13 petition requesting such an election is filed pursuant to the
14 requirements of that provision in the charter and signed by the
15 number of registered voters in the county equal to the number of
16 registered voters required in its charter to seek a referendum;
17 and 2) in all other counties, a petition requesting such an
18 election is filed with the county clerk within sixty days of
19 enactment of the ordinance by the governing body and the petition
20 has been signed by a number of registered voters in the county
21 equal to at least five percent of the number of the voters in the
22 county who were registered to vote in the most recent general
23 election;

24 (b) the signatures on the petition
25 requesting an election shall be verified by the county clerk. If

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1 the petition is verified by the county clerk as containing the
2 required number of signatures of registered voters, the governing
3 body shall adopt a resolution calling an election on the question
4 of approving or disapproving the ordinance. The election shall be
5 held within sixty days after the date the petition is verified by
6 the county clerk, or it may be held in conjunction with a general
7 election if that election occurs within sixty days after the date
8 of the verification. The election shall be called, held,
9 conducted and canvassed in substantially the same manner as
10 provided by law for general elections; and

11 (c) if a majority of the registered voters
12 voting on the question approves the ordinance, the ordinance shall
13 go into effect on July 1 or January 1 in accordance with the
14 provisions of the County Local Option [~~Gross Receipts Taxes~~] Sales
15 Tax Act. If at such an election a majority of the registered
16 voters voting on the question disapproves the ordinance, the
17 ordinance imposing the tax shall be deemed repealed and the
18 question of imposing the tax or increment of tax shall not be
19 considered again by the governing body for a period of one year
20 from the date of the election; or

21 (2) the ordinance imposing the tax or increment
22 of tax shall not go into effect until after an election is held
23 and a simple majority of the registered voters of the county
24 voting on the question votes in favor of imposing the tax or
25 increment of tax. The governing body shall adopt a resolution

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1 calling for an election within seventy-five days of the date the
2 ordinance is adopted on the question of imposing the tax or
3 increment of tax. Such question may be submitted to the voters
4 and voted upon as a separate question at any general election or
5 at any special election called for that purpose by the governing
6 body. The election upon the question shall be called, held,
7 conducted and canvassed in substantially the same manner as may be
8 provided by law for general elections. If the question of
9 imposing the tax or increment of tax fails, the governing body
10 shall not again propose the tax or increment of tax for a period
11 of one year after the election.

12 B. An ordinance imposing, amending or repealing a tax
13 or an increment of tax authorized by the County Local Option
14 [~~Gross Receipts Taxes~~] Sales Tax Act shall be effective on July 1
15 or January 1, whichever date occurs first after the expiration of
16 at least three months from the date the adopted ordinance is
17 mailed or delivered to the department. The ordinance shall
18 include that effective date."

19 SECTION 324. Section 7-20E-4 NMSA 1978 (being Laws 1993,
20 Chapter 354, Section 4) is amended to read:

21 "7-20E-4. ORDINANCE SHALL CONFORM TO CERTAIN PROVISIONS OF
22 THE [~~GROSS RECEIPTS AND COMPENSATING~~] SALES AND USE TAX ACT AND
23 REQUIREMENTS OF THE DEPARTMENT.--

24 A. An ordinance imposing a tax [~~under~~] pursuant to the
25 provisions of the County Local Option [~~Gross Receipts Taxes~~] Sales

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1 Tax Act shall adopt by reference the same definitions and the same
2 provisions relating to exemptions and deductions as are contained
3 in the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act
4 then in effect and as it may be amended from time to time.

5 B. The governing body of any county imposing a tax
6 [~~under~~] authorized by the County Local Option [~~Gross Receipts~~
7 ~~Taxes~~] Sales Tax Act shall impose the tax by adopting the model
8 ordinance with respect to the tax furnished to the county by the
9 department. An ordinance that does not conform substantially to
10 the model ordinance of the department is not valid."

11 SECTION 325. Section 7-20E-5 NMSA 1978 (being Laws 1993,
12 Chapter 354, Section 5, as amended) is amended to read:

13 "7-20E-5. SPECIFIC EXEMPTIONS.--No tax authorized [~~under~~]
14 by the provisions of the County Local Option [~~Gross Receipts~~
15 ~~Taxes~~] Sales Tax Act shall be imposed on the gross receipts
16 arising from transporting persons or property for hire by
17 railroad, motor vehicle, air transportation or any other means
18 from one point within the county to another point outside the
19 county."

20 SECTION 326. Section 7-20E-6 NMSA 1978 (being Laws 1993,
21 Chapter 354, Section 6) is amended to read:

22 "7-20E-6. COPY OF ORDINANCE TO BE SUBMITTED TO
23 DEPARTMENT.--A certified copy of any ordinance imposing or
24 repealing a tax or an increment of a tax authorized [~~under~~] by the
25 County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act or

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1 changing the tax rate imposed shall be mailed or delivered to the
2 department within five days after the later of the date the
3 ordinance is adopted or the date the results of any election held
4 with respect to the ordinance are certified to be in favor of the
5 ordinance."

6 SECTION 327. Section 7-20E-7 NMSA 1978 (being Laws 1993,
7 Chapter 354, Section 7, as amended) is amended to read:

8 "7-20E-7. COLLECTION BY DEPARTMENT--TRANSFER OF PROCEEDS--
9 DEDUCTIONS.--

10 A. The department shall collect each tax imposed
11 pursuant to the provisions of the County Local Option [~~Gross~~
12 ~~Receipts Taxes~~] Sales Tax Act in the same manner and at the same
13 time it collects the state [~~gross receipts~~] sales tax.

14 B. The department shall withhold an administrative fee
15 pursuant to Section 7-1-6.41 NMSA 1978. The department shall
16 transfer to each county for which it is collecting a tax pursuant
17 to the provisions of the County Local Option [~~Gross Receipts~~
18 ~~Taxes~~] Sales Tax Act the amount of each tax collected for that
19 county, less the administrative fee withheld and less any
20 disbursements for tax credits, refunds and the payment of interest
21 applicable to the tax. The transfer to the county shall be made
22 within the month following the month in which the tax is
23 collected."

24 SECTION 328. Section 7-20E-8 NMSA 1978 (being Laws 1993,
25 Chapter 354, Section 8) is amended to read:

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1 "7-20E-8. INTERPRETATION OF ACT--ADMINISTRATION AND
2 ENFORCEMENT OF ACT.--

3 A. The department shall interpret the provisions of
4 the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act.

5 B. The department shall administer and enforce the
6 collection of each tax authorized [~~under~~] by the provisions of the
7 County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act, and the
8 Tax Administration Act applies to the administration and
9 enforcement of each tax."

10 **SECTION 329.** Section 7-20E-9 NMSA 1978 (being Laws 1983,
11 Chapter 213, Section 30, as amended) is amended to read:

12 "7-20E-9. COUNTY [~~GROSS RECEIPTS~~] SALES TAX--AUTHORITY TO
13 IMPOSE RATE--COUNTY HEALTH CARE ASSISTANCE FUND REQUIREMENTS.--

14 A. Except as provided in Subsection E of this section,
15 a majority of the members of the governing body of a county may
16 enact an ordinance imposing an excise tax not to exceed a rate of
17 seven-sixteenths percent of the gross receipts of any person
18 engaging in business in the county for the privilege of engaging
19 in business in the county. An ordinance imposing an excise tax
20 pursuant to this subsection shall impose the tax in three
21 independent increments of one-eighth percent and one independent
22 increment of one-sixteenth percent, which shall be separately
23 denominated as "the first one-eighth increment", "the second one-
24 eighth increment", "the third one-eighth increment" and "the one-
25 sixteenth increment", respectively, not to exceed an aggregate

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1 amount of seven-sixteenths percent.

2 B. The tax authorized by this section is to be
3 referred to as the "county [~~gross receipts~~] sales tax".

4 C. A class A county with a county hospital operated
5 and maintained pursuant to a lease or operating agreement with a
6 state educational institution named in Article 12, Section 11 of
7 the constitution of New Mexico enacting the second one-eighth
8 increment of county [~~gross receipts~~] sales tax shall provide, each
9 year that the tax is in effect, not less than one million dollars
10 (\$1,000,000) in funds, and that amount shall be dedicated to the
11 support of indigent patients who are residents of that county.
12 Funds for indigent care shall be made available each month of each
13 year the tax is in effect in an amount not less than eighty-three
14 thousand three hundred thirty-three dollars thirty-three cents
15 (\$83,333.33). The interest from the investment of county funds
16 for indigent care may be used for other assistance to indigent
17 persons, not to exceed twenty thousand dollars (\$20,000) for all
18 other assistance in any year.

19 D. A county, except a class A county with a county
20 hospital operated and maintained pursuant to a lease or operating
21 agreement with a state educational institution named in Article
22 12, Section 11 of the constitution of New Mexico, imposing the
23 second one-eighth increment of county [~~gross receipts~~] sales tax
24 shall be required to dedicate the entire amount of revenue
25 produced by the imposition of the second one-eighth increment for

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1 the support of indigent patients who are residents of that county.
2 The revenue produced by the imposition of the third one-eighth
3 increment and the one-sixteenth increment may be used for general
4 purposes. Any county that has imposed the second one-eighth
5 increment or the third one-eighth increment, or both, on January
6 1, 1996 for support of indigent patients in the county or, after
7 January 1, 1996, imposes the second one-eighth increment or
8 imposes the third one-eighth increment and dedicates one-half of
9 that increment for county indigent patient purposes shall deposit
10 the revenue dedicated for county indigent purposes that is
11 transferred to the county in the county health care assistance
12 fund, and such revenues shall be expended pursuant to the Indigent
13 Hospital and County Health Care Act.

14 E. Until June 30, 2017, in addition to the increments
15 authorized pursuant to Subsection A of this section, the majority
16 of the members of the governing body of a county, except a class A
17 county with a hospital that is operated and maintained pursuant to
18 a lease or operating agreement with a state educational
19 institution named in Article 12, Section 11 of the constitution of
20 New Mexico, may enact an ordinance imposing an excise tax of one-
21 sixteenth percent or one-twelfth percent of the gross receipts of
22 any person engaging in business in the county for the privilege of
23 engaging in business in the county."

24 **SECTION 330.** Section 7-20E-10 NMSA 1978 (being Laws 1983,
25 Chapter 213, Section 32, as amended) is amended to read:

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1 "7-20E-10. COUNTY [~~GROSS RECEIPTS~~] SALES TAX--REFERENDUM
2 REQUIREMENTS.--

3 A. An ordinance enacting the first or third one-eighth
4 increment or the one-sixteenth increment of county [~~gross~~
5 ~~receipts~~] sales tax pursuant to Section 7-20E-9 NMSA 1978 shall be
6 subject to optional referendum selection by the governing body,
7 pursuant to Subsection A of Section 7-20E-3 NMSA 1978.

8 B. Imposition by any county of the second one-eighth
9 increment of county [~~gross receipts~~] sales tax shall not be
10 subject to a referendum of any kind unless prescribed by the
11 county charter or the governing body of the county."

12 **SECTION 331.** Section 7-20E-11 NMSA 1978 (being Laws 1983,
13 Chapter 213, Section 35, as amended) is amended to read:

14 "7-20E-11. COUNTY [~~GROSS RECEIPTS~~] SALES TAX--USE OF
15 PROCEEDS FROM FIRST ONE-EIGHTH INCREMENT.--

16 A. Each county shall establish a reserve fund to be
17 known as the "county reserve fund". From the net receipts from
18 the county [~~gross receipts~~] sales tax attributable to the first
19 one-eighth increment imposed pursuant to Subsection A of Section
20 7-20E-9 NMSA 1978, one-fourth of the net receipts each month shall
21 be deposited in the county reserve fund. The balance of the
22 monthly net receipts shall be placed in either the general fund or
23 road fund, or both, of the county. Except as provided in
24 Subsections B through D of this section, the portions of the net
25 receipts deposited in the county reserve fund shall remain on

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1 deposit in that fund until the sixteenth day of the month
2 following the end of the state fiscal year in which the deposits
3 were made, at which time the amount deposited from net receipts
4 for the previous fiscal year shall be placed in either the general
5 fund or road fund, or both, of the county.

6 B. If the actual amount of the distribution to a
7 county in any state fiscal year of federal in lieu of taxes
8 payments [~~under~~] made pursuant to the provisions of Sections 6901
9 through 6906 of Title 31 of the United States Code, as amended or
10 renumbered, is less than the actual distribution to that county in
11 the seventy-first state fiscal year or is no longer available to
12 that county, the county may transfer from its reserve fund to its
13 general fund or road fund, or both, an amount equal to the
14 difference between the actual federal in lieu of taxes payments
15 received in the seventy-first fiscal year and the payments
16 received in the year in which the reduction occurred. The local
17 government division of the department of finance and
18 administration shall certify the amount to be transferred from the
19 reserve fund.

20 C. If the actual amount of the distribution to a
21 county in any state fiscal year of national forest reserves
22 receipts [~~under~~] made pursuant to the provisions of Section 500 of
23 Title 16 of the United States Code, as amended or renumbered, is
24 less than the actual amount distributed to that county in the
25 seventy-first state fiscal year, the county may transfer from its

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1 reserve fund to its general fund or road fund, or both, an amount
2 equal to the difference between the actual national forest
3 reserves receipts distributed to the county in the seventy-first
4 fiscal year and the receipts distributed in the year in which the
5 reduction occurred. The local government division of the
6 department of finance and administration shall certify the amount
7 to be transferred from the reserve fund.

8 D. If the actual amount of any quarterly distribution
9 to a county in any state fiscal year of federal revenue sharing
10 entitlement payments made [~~under~~] pursuant to the provisions of
11 Sections 6701 through 6724 of Title 31 of the United States Code,
12 as amended or renumbered, is less than the actual quarterly amount
13 distributed to that county in the first federal quarter of the
14 federal 1982-83 fiscal year, the county may transfer from its
15 reserve fund to its general fund or road fund, or both, an amount
16 equal to the difference between the actual federal revenue sharing
17 quarterly entitlement payment distributed to the county in the
18 first federal quarter of the federal 1982-83 fiscal year and the
19 entitlement payment distributed to the county in the quarter in
20 which the reduction occurred. The local government division of
21 the department of finance and administration shall certify the
22 amount to be transferred from the reserve fund."

23 SECTION 332. Section 7-20E-12 NMSA 1978 (being Laws 1989,
24 Chapter 239, Section 1, as amended) is amended to read:

25 "7-20E-12. COUNTY EMERGENCY [~~GROSS RECEIPTS~~] SALES TAX--

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1 AUTHORITY TO IMPOSE [~~IN LIEU OF PROPERTY TAX~~].--

2 A. The majority of the members of the governing body
3 of any county may enact an ordinance [~~or ordinances~~] imposing an
4 excise tax not to exceed a rate of three-eighths [~~of one~~] percent
5 of the gross receipts of any person engaging in business in the
6 county for the privilege of engaging in business in the county.
7 Any ordinance imposing an excise tax pursuant to this section
8 shall impose the tax in any number of increments of one-eighth
9 percent not to exceed an aggregate amount of three-eighths [~~of~~
10 ~~one~~] percent. Any ordinance adopted [~~under~~] pursuant to
11 provisions of this section shall be in effect only for the twelve-
12 month period beginning with the effective date of the ordinance
13 and shall expire on the date one year after its effective date.

14 B. The tax imposed by this section may be referred to
15 as the "county emergency [~~gross receipts~~] sales tax".

16 C. The tax authorized by this section may be imposed
17 only in a property tax year for which the property taxes not
18 admitted to be due in the aggregate claims for refund filed under
19 the provisions of Section 7-38-40 NMSA 1978 for property taxes
20 imposed in the county [~~under~~] pursuant to the provisions of
21 Paragraph (1) of Subsection B of Section 7-37-7 NMSA 1978 for that
22 property tax year are more than ten percent of property taxes
23 imposed in the county under the cited provisions for that property
24 tax year.

25 D. As used in this section, "county" means a class B

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1 county of the state with:

2 (1) a population of not less than thirty thousand
3 and not more than thirty thousand seven hundred according to the
4 most recent federal decennial census and a net taxable value for
5 rate-setting purposes for the 1988 property tax year or any
6 subsequent year of more than ninety-two million dollars
7 (\$92,000,000) but less than one hundred twenty-five million
8 dollars (\$125,000,000);

9 (2) a population of not less than fifty-six
10 thousand and not more than fifty-six thousand seven hundred
11 according to the most recent federal decennial census and a net
12 taxable value for rate-setting purposes for the 1988 property tax
13 year or any subsequent year of more than five hundred million
14 dollars (\$500,000,000) but less than five hundred fifty million
15 dollars (\$550,000,000); and

16 (3) a population of not less than eighty-one
17 thousand and not more than eighty-one thousand seven hundred
18 according to the most recent federal decennial census and a net
19 taxable value for rate-setting purposes for the 1988 property tax
20 year or any subsequent year of more than one billion five hundred
21 million dollars (\$1,500,000,000) but less than two billion dollars
22 (\$2,000,000,000).

23 E. The governing body prior to the month in which the
24 proceeds of this tax will first be distributed may request the
25 department to make an advance distribution. Upon concurrence of

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1 the department of finance and administration, the department shall
2 make the advance distribution. An advance distribution is an
3 amount equal to the product of the net receipts with respect to
4 the [~~gross receipts~~] sales tax reported from business locations in
5 the county for the month multiplied by a fraction the numerator of
6 which is the rate imposed by the county under this section and the
7 denominator of which is the rate imposed for the month by Section
8 7-9-4 NMSA 1978. The aggregate amount of advance distributions
9 made to the county shall be recovered by the department by
10 reducing the monthly amount transferable to the county as a result
11 of the imposition of a tax [~~under~~] pursuant to provisions of this
12 section by one-twelfth of the aggregate amount of advance
13 distributions made."

14 SECTION 333. Section 7-20E-12.1 NMSA 1978 (being Laws 1994,
15 Chapter 14, Section 1, as amended) is amended to read:

16 "7-20E-12.1. COUNTY HOSPITAL EMERGENCY [~~GROSS RECEIPTS~~]
17 SALES TAX--AUTHORITY TO IMPOSE--USE OF PROCEEDS.--

18 A. A majority of the members of a governing body may
19 enact an ordinance imposing an excise tax on a person engaging in
20 business in the county for the privilege of engaging in business.
21 The rate of the tax shall be one-fourth [~~of one~~] percent of the
22 gross receipts of the person engaging in business. The tax shall
23 be imposed for a period of not more than two years from the
24 effective date of the ordinance imposing the tax. The tax may be
25 imposed for an additional period not to exceed three years from

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1 the date of the ordinance imposing the tax for that period. On or
2 after July 1, 1997:

3 (1) in a county described in Paragraph (1) of
4 Subsection D of this section, the tax may be imposed for the
5 period necessary for payment of bonds or a loan for acquisition of
6 land or buildings for and the design, construction, equipping,
7 remodeling or improvement of a county hospital facility, but the
8 period shall not exceed twenty years from the effective date of
9 the ordinance imposing the tax for that period; provided, however,
10 that a majority of the members of a governing body that has
11 enacted an ordinance imposing the tax pursuant to the provisions
12 of this paragraph may, prior to the date of the delayed repeal of
13 the ordinance, enact an ordinance to extend the period of
14 imposition of the previously imposed tax for an additional twenty
15 years and modify the purposes for which the revenue from the tax
16 is dedicated, consistent with one or more of the purposes
17 permitted pursuant to this paragraph; and

18 (2) in a county described in Paragraph (2) of
19 Subsection D of this section, the tax may be imposed for the
20 period necessary for payment of bonds or a loan for acquisition,
21 equipping, remodeling or improvement of a county health facility,
22 but the period shall not exceed twenty years from the effective
23 date of the ordinance imposing the tax for that period.

24 B. The tax imposed by this section may be referred to
25 as the "county hospital emergency [~~gross receipts~~] sales tax".

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1 C. At the time of enacting the ordinance imposing the
2 tax authorized in this section:

3 (1) if the effective date of the tax is prior to
4 July 1, 1997, the governing body shall dedicate the revenue for
5 current operations and maintenance of a hospital owned by the
6 county or a hospital with which the county has entered into a
7 health care facilities contract; provided that a majority of the
8 members of a governing body may enact an ordinance to change the
9 purposes for which the revenue from a previously imposed tax is
10 dedicated and to dedicate that revenue during the remainder of the
11 tax imposition period to payment of bonds or a loan for
12 acquisition of land or buildings for, and the design,
13 construction, equipping, remodeling or improvement of, a county
14 hospital facility; and

15 (2) if the effective date of the tax is on or
16 after July 1, 1997:

17 (a) the governing body of a county
18 described in Paragraph (1) of Subsection D of this section shall
19 dedicate the revenue for the period of time the tax is imposed to
20 payment of a bond or loan for acquisition, equipping, remodeling
21 and improvement of a county hospital facility; provided, however,
22 that a majority of the members of a governing body that has
23 imposed the tax and dedicated the revenue from that imposition
24 pursuant to the provisions of this paragraph may, prior to the
25 date of the delayed repeal of the ordinance imposing the tax,

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1 enact an ordinance to extend the period of imposition of the tax
2 as provided in Paragraph (1) of Subsection A of this section and
3 modify the purposes for which the revenue from the previously
4 imposed tax is dedicated, and dedicate that revenue to payment of
5 bonds or a loan for acquisition of land or buildings for, and the
6 design, construction, equipping, remodeling or improvement of, a
7 county hospital facility; and

8 (b) the governing body of a county
9 described in Paragraph (2) of Subsection D of this section shall
10 dedicate the revenue for the period of time the tax is imposed to
11 payment of a bond or loan for acquisition, equipping, remodeling
12 and improvement of a county health facility.

13 D. As used in this section, "county" means:

14 (1) a class B county with a population of less
15 than ten thousand according to the 1990 federal decennial census
16 and with a net taxable value for rate-setting purposes for the
17 1993 property tax year in excess of one hundred million dollars
18 (\$100,000,000); or

19 (2) a class B county with a population of less
20 than ten thousand according to the 1990 federal decennial census
21 and with a net taxable value for rate-setting purposes for the
22 1997 property tax year of more than one hundred million dollars
23 (\$100,000,000) but less than one hundred twenty million dollars
24 (\$120,000,000)."

25 SECTION 334. Section 7-20E-13 NMSA 1978 (being Laws 1987,

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1 Chapter 45, Section 3, as amended) is amended to read:

2 "7-20E-13. SPECIAL COUNTY HOSPITAL [~~GROSS RECEIPTS~~] SALES
3 TAX--AUTHORITY TO IMPOSE--ORDINANCE REQUIREMENTS.--

4 A. The majority of the members of the governing body
5 may enact an ordinance imposing an excise tax on any person
6 engaging in business in the county for the privilege of engaging
7 in business. The rate of the tax shall be one-eighth [~~of one~~]
8 percent of the gross receipts of the person engaging in business.
9 The tax shall be imposed for a period of not more than five years
10 from the effective date of the ordinance imposing the tax. Having
11 once enacted an ordinance under this section, the governing body
12 may enact subsequent ordinances for succeeding periods of not more
13 than five years; provided that each such ordinance meets the
14 requirements of the County Local Option [~~Gross Receipts Taxes~~]
15 Sales Tax Act with respect to the tax imposed by this section.

16 B. The tax imposed by this section may be referred to
17 as the "special county hospital [~~gross receipts~~] sales tax".

18 C. For the purposes of this section, "county" means:

- 19 (1) a county:
 - 20 (a) having a population of more than ten
 - 21 thousand but less than ten thousand six hundred, according to the
 - 22 last federal decennial census or any subsequent decennial census,
 - 23 and having a net taxable value for rate-setting purposes for the
 - 24 1986 property tax year or any subsequent year of more than
 - 25 eighty-two million dollars (\$82,000,000) but less than eighty-two

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1 million three hundred thousand dollars (\$82,300,000);

2 (b) that has imposed a rate of one dollar
3 fifty cents (\$1.50) to each one thousand dollars (\$1,000) of net
4 taxable value of property as defined in the Property Tax Code for
5 property taxation purposes in the county and to each one thousand
6 dollars (\$1,000) of the assessed value of products severed and
7 sold in the school district as determined under the Oil and Gas Ad
8 Valorem Production Tax Act and the Oil and Gas Production
9 Equipment Ad Valorem Tax Act or has made an appropriation of funds
10 or has imposed another tax that produces an amount not less than
11 the revenue that would be produced by applying a rate of one
12 dollar fifty cents (\$1.50) to each one thousand dollars (\$1,000)
13 of net taxable value of property as defined in the Property Tax
14 Code for property taxation purposes in the school district and to
15 each one thousand dollars (\$1,000) of the assessed value of
16 products severed and sold in the school district as determined
17 under the Oil and Gas Ad Valorem Production Tax Act and the Oil
18 and Gas Production Equipment Ad Valorem Tax Act. The proceeds of
19 any tax imposed or appropriation made shall be dedicated for
20 current operations and maintenance of a hospital owned and
21 operated by the county or operated and maintained by another party
22 pursuant to a lease with the county; and

23 (c) having qualified at any time under this
24 definition shall continue to be qualified as a county and
25 authorized to implement the provisions of this section; and

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1 (2) a class B county having a population of more
2 than seventeen thousand five hundred but less than nineteen
3 thousand according to the 1990 federal decennial census and having
4 a net taxable value for property tax rate-setting purposes of
5 under three hundred million dollars (\$300,000,000).

6 D. The governing body of a county described in
7 Paragraph (1) of Subsection C of this section shall, at the time
8 of enacting an ordinance imposing the rate of the tax authorized
9 in Subsection A of this section, dedicate the revenue for current
10 operations and maintenance of a hospital owned and operated by the
11 county or operated and maintained by another party pursuant to a
12 lease with the county, and the use of these proceeds shall be for
13 the care and maintenance of sick and indigent persons and shall be
14 an expenditure for a public purpose. In any election held, the
15 ballot shall clearly state the purpose to which the revenue will
16 be dedicated, and the revenue shall be used by the county for that
17 purpose.

18 E. The governing body of a county described in
19 Paragraph (2) of Subsection C of this section shall, at the time
20 of enacting an ordinance imposing the rate of the tax authorized
21 in Subsection A of this section, dedicate the revenue for county
22 ambulance transport costs or for operation of a rural health
23 clinic. In any election held, the ballot shall clearly state the
24 purposes to which the revenue will be dedicated, and the revenue
25 shall be used by the county for those purposes.

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1 F. Any ordinance enacted under the provisions of
2 Subsection A of this section shall include an effective date of
3 either July 1 or January 1 in accordance with the provisions of
4 the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act.

5 G. The ordinance shall not go into effect until after
6 an election is held and a simple majority of the qualified
7 electors of the county voting in the election votes in favor of
8 imposing the special county hospital [~~gross receipts~~] sales tax.
9 The governing body shall adopt a resolution calling for an
10 election within seventy-five days of the date the ordinance is
11 adopted on the question of imposing the tax. The question may be
12 submitted to the qualified electors and voted upon as a separate
13 question in a general election or in any special election called
14 for that purpose by the governing body. A special election upon
15 the question shall be called, held, conducted and canvassed in
16 substantially the same manner as provided by law for general
17 elections. If the question of imposing a special county hospital
18 [~~gross receipts~~] sales tax fails, the governing body shall not
19 again propose a special county hospital [~~gross receipts~~] sales tax
20 for a period of one year after the election. A certified copy of
21 any ordinance imposing a special county hospital [~~gross receipts~~]
22 sales tax shall be mailed to the department within five days after
23 the ordinance is adopted in any election called for that purpose.

24 H. A single election may be held on the question of
25 imposing a special county hospital [~~gross receipts~~] sales tax as

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1 authorized in this section, on the question of imposing a special
2 county hospital gasoline tax as authorized in the Special County
3 Hospital Gasoline Tax Act and on the question of imposing a mill
4 levy pursuant to the Hospital Funding Act."

5 SECTION 335. Section 7-20E-14 NMSA 1978 (being Laws 1987,
6 Chapter 45, Section 8, as amended) is amended to read:

7 "7-20E-14. SPECIAL COUNTY HOSPITAL [~~GROSS RECEIPTS~~] SALES
8 TAX--USE OF PROCEEDS.--The funds provided through the special
9 county hospital [~~gross receipts~~] sales tax shall be administered
10 by the governing body of the county. In a county described in
11 Paragraph (1) of Subsection C of Section 7-20E-13 NMSA 1978, the
12 funds shall be disbursed by the county treasurer to a hospital
13 within the county, subject to the approval by the governing body
14 of a budget or plan for use of the funds submitted by that
15 hospital's governing board."

16 SECTION 336. Section 7-20E-15 NMSA 1978 (being Laws 1979,
17 Chapter 398, Section 3, as amended) is amended to read:

18 "7-20E-15. COUNTY FIRE PROTECTION [~~EXCISE~~] SALES
19 TAX--AUTHORITY TO IMPOSE--ORDINANCE REQUIREMENTS.--

20 A. The majority of the members of the governing body
21 may enact an ordinance imposing an excise tax on any person
22 engaging in business in the county area for the privilege of
23 engaging in business. The rate of the tax shall be one-fourth
24 percent or one-eighth percent of the gross receipts of the person
25 engaging in business.

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1 B. This tax is to be referred to as the "county fire
2 protection [~~excise~~] sales tax".

3 C. The governing body of a county shall, at the time
4 of enacting an ordinance imposing the rate of the tax authorized
5 in Subsection A of this section, dedicate the revenue for the
6 purpose of financing the operational expenses, ambulance services
7 or capital outlay costs of independent fire districts or ambulance
8 services provided by the county. In any election held, the ballot
9 shall clearly state the purpose to which the revenue will be
10 dedicated and shall be used by the county for that purpose.

11 D. Any ordinance enacted under the provisions of
12 Subsection A of this section shall include an effective date of
13 either July 1 or January 1 in accordance with the provisions of
14 the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act.

15 E. The ordinance shall not go into effect until after
16 an election is held and a simple majority of the qualified
17 electors of the county area voting in the election votes in favor
18 of imposing the county fire protection [~~excise~~] sales tax. The
19 governing body shall adopt a resolution calling for an election
20 within seventy-five days of the date the ordinance is adopted on
21 the question of imposing the tax. Such question may be submitted
22 to the qualified electors and voted upon as a separate question at
23 any special election called for that purpose by the governing
24 body. The election upon the question shall be called, held,
25 conducted and canvassed in substantially the same manner as

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1 provided by law for general elections. If the question of
2 imposing a county fire protection [~~excise~~] sales tax fails, the
3 governing body shall not again propose a county fire protection
4 [~~excise~~] sales tax for a period of one year after the election."

5 SECTION 337. Section 7-20E-16 NMSA 1978 (being Laws 1979,
6 Chapter 398, Section 8, as amended) is amended to read:

7 "7-20E-16. COUNTY FIRE PROTECTION [~~EXCISE~~] SALES TAX--USE OF
8 PROCEEDS--BUDGET LIMITATION.--

9 A. The money provided through passage of the county
10 fire protection [~~excise~~] sales tax shall be disbursed and allotted
11 through the governing body to the county fire districts within the
12 county; provided that no part of any distribution shall be used to
13 pay any salary, compensation or remuneration to any employee of
14 the state, the county or the independent fire district.

15 B. The governing body of any county adopting a county
16 fire protection [~~excise~~] sales tax shall not reduce the level of
17 funding of any independent fire district more than ten percent
18 from the approved budget of such fire district for the prior year.
19 The department of finance and administration shall not approve the
20 budget of any county [~~which~~] that violates the provisions of this
21 subsection."

22 SECTION 338. Section 7-20E-17 NMSA 1978 (being Laws 1990,
23 Chapter 99, Section 58, as amended) is amended to read:

24 "7-20E-17. COUNTY ENVIRONMENTAL SERVICES [~~GROSS RECEIPTS~~]
25 SALES TAX--AUTHORITY TO IMPOSE RATE--USE OF FUNDS.--

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1 A. The majority of the members of the governing body
2 of any county may enact an ordinance imposing an excise tax at a
3 rate of one-eighth [~~of one~~] percent of the gross receipts of any
4 person engaging in business in the county area for the privilege
5 of engaging in business.

6 B. This tax is to be referred to as the "county
7 environmental services [~~gross receipts~~] sales tax".

8 C. Imposition by any county of the county
9 environmental services [~~gross receipts~~] sales tax shall not be
10 subject to a referendum of any kind unless prescribed by the
11 county charter.

12 D. Any county, at the time of enacting an ordinance
13 imposing a county environmental services [~~gross receipts~~] sales
14 tax, shall dedicate the entire amount of revenue produced by the
15 tax for the acquisition, construction, operation and maintenance
16 of solid waste facilities, water facilities, wastewater
17 facilities, sewer systems and related facilities.

18 E. Any ordinance enacted [~~under~~] pursuant to the
19 provisions of Subsection A of this section shall include an
20 effective date of either July 1 or January 1 in accordance with
21 the provisions of the County Local Option [~~Gross Receipts Taxes~~]
22 Sales Tax Act."

23 **SECTION 339.** Section 7-20E-18 NMSA 1978 (being Laws 1991,
24 Chapter 212, Section 7, as amended) is amended to read:

25 "7-20E-18. COUNTY HEALTH CARE [~~GROSS RECEIPTS~~] SALES TAX--

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1 AUTHORITY TO IMPOSE RATE.--

2 A. The majority of the members of the governing body
3 of any county may enact an ordinance imposing an excise tax at a
4 rate of one-sixteenth percent of the gross receipts of any person
5 engaging in business in the county for the privilege of engaging
6 in business in the county. Any ordinance imposing an excise tax
7 pursuant to this section shall not be subject to a referendum.
8 The governing body of a county shall, at the time of enacting an
9 ordinance imposing the tax, dedicate the revenue to the county-
10 supported medicaid fund. This tax is to be referred to as the
11 "county health care [~~gross receipts~~] sales tax".

12 B. In addition to the imposition of the county health
13 care [~~gross receipts~~] sales tax authorized by Subsection A of this
14 section, the majority of the members of the governing body of a
15 county having a population of more than five hundred thousand
16 persons according to the most recent federal decennial census may
17 enact an ordinance imposing an additional one-sixteenth percent
18 increment of county health care [~~gross receipts~~] sales tax;
19 provided that the imposition of the additional increment shall be
20 for a period that ends no later than June 30, 2009. To continue
21 an increment after June 30, 2009 or beyond any five-year period
22 for which the increment has been imposed, the members of the
23 governing body shall review the need for the increment and if the
24 majority of the members vote in favor of continuing the increment
25 imposed pursuant to this subsection, the increment shall be

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1 imposed for an additional period of five years. The governing
2 body of the county shall, at the time of enacting an ordinance
3 imposing the additional increment of county health care [~~gross~~
4 ~~receipts~~] sales tax, dedicate the revenue to the support of
5 indigent patients.

6 C. Any ordinance enacted pursuant to the provisions of
7 Subsection A or B of this section shall include an effective date
8 of either July 1 or January 1 in accordance with the provisions of
9 the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act."

10 SECTION 340. Section 7-20E-19 NMSA 1978 (being Laws 1998,
11 Chapter 90, Section 7, as amended) is amended to read:

12 "7-20E-19. COUNTY INFRASTRUCTURE [~~GROSS RECEIPTS~~] SALES
13 TAX--AUTHORITY TO IMPOSE RATE--USE OF FUNDS--ELECTION.--

14 A. The majority of the members of the governing body
15 of a county may enact an ordinance imposing an excise tax at a
16 rate not to exceed one-eighth [~~of one~~] percent of the gross
17 receipts of any person engaging in business in the county area for
18 the privilege of engaging in business. The tax may be imposed in
19 increments of one-sixteenth [~~of one~~] percent not to exceed an
20 aggregate rate of one-eighth [~~of one~~] percent.

21 B. The tax imposed pursuant to Subsection A of this
22 section may be referred to as the "county infrastructure [~~gross~~
23 ~~receipts~~] sales tax".

24 C. The governing body, at the time of enacting an
25 ordinance imposing a rate of tax authorized in Subsection A of

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1 this section, may dedicate the revenue for:

2 (1) county general purposes;

3 (2) payment of [~~gross receipts~~] sales tax revenue
4 bonds issued pursuant to Chapter 4, Article 62 NMSA 1978;

5 (3) repair, replacement, construction or
6 acquisition of any county infrastructure improvements;

7 (4) acquisition, construction, operation or
8 maintenance of solid waste facilities, water facilities,
9 wastewater facilities, sewer systems and related facilities;

10 (5) acquiring, constructing, extending,
11 bettering, repairing or otherwise improving or operating or
12 maintaining public transit systems or regional transit systems or
13 authorities;

14 (6) planning, design, construction, equipping,
15 maintenance or operation of a county jail or juvenile detention
16 facility; planning, assessment, design or operation of a regional
17 system of juvenile services, including secure detention and
18 nonsecure alternatives, that serves multiple contiguous counties;
19 planning, design, construction, maintenance or operation of
20 multipurpose regional adult jails or juvenile detention
21 facilities; housing of county prisoners or juvenile offenders in
22 any county jail or detention facility; or substance abuse, mental
23 health or other programs for county prisoners or other inmates in
24 county jails or for juvenile offenders in county or regional
25 detention facilities; and

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1 (7) furthering or implementing economic
2 development plans and projects as defined in the Local Economic
3 Development Act or projects as defined in the Statewide Economic
4 Development Finance Act, and use of not more than the greater of
5 fifty thousand dollars (\$50,000) or ten percent of the revenue
6 collected for promotion and administration of or professional
7 services contracts related to implementation of an economic
8 development plan adopted by the governing body pursuant to the
9 Local Economic Development Act and in accordance with law.

10 D. An ordinance imposing the county infrastructure
11 [~~gross receipts~~] sales tax shall not go into effect until after an
12 election is held and a majority of the voters in the county area
13 voting in the election votes in favor of imposing the tax. The
14 governing body shall adopt a resolution calling for an election
15 within seventy-five days of the date the ordinance is adopted on
16 the question of imposing the tax. The question shall be submitted
17 to the voters of the county area as a separate question at a
18 general election or at a special election called for that purpose
19 by the governing body. A special election shall be called,
20 conducted and canvassed in substantially the same manner as
21 provided by law for general elections. If a majority of the
22 voters voting on the question approves the ordinance imposing the
23 county infrastructure [~~gross receipts~~] sales tax, then the
24 ordinance shall become effective in accordance with the provisions
25 of the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act.

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1 If the question of imposing the county infrastructure [~~gross~~
2 ~~receipts~~] sales tax fails, the governing body shall not again
3 propose the imposition of the tax for a period of one year from
4 the date of the election."

5 SECTION 341. Section 7-20E-20 NMSA 1978 (being Laws 2001,
6 Chapter 328, Section 1, as amended) is amended to read:

7 "7-20E-20. COUNTY EDUCATION [~~GROSS RECEIPTS~~] SALES TAX--
8 AUTHORITY TO IMPOSE--RATE--ELECTION--USE OF REVENUE.--

9 A. Upon submission of a resolution to the governing
10 body pursuant to Subsection D of this section, the governing body
11 of a county shall enact an ordinance imposing or reimposing an
12 excise tax at a rate of one-half [~~of one~~] percent on any person
13 engaging in business in the county for the privilege of engaging
14 in business in the county. The tax imposed pursuant to this
15 section may be referred to as the "county education [~~gross~~
16 ~~receipts~~] sales tax".

17 B. The governing body, at the time of enacting an
18 ordinance imposing a county education [~~gross receipts~~] sales tax
19 pursuant to this section, shall dedicate the revenue only for the
20 payment of county education [~~gross receipts~~] sales tax revenue
21 bonds for public school capital projects and off-campus
22 instruction program capital projects, if any, in the county. The
23 tax shall be imposed for the period necessary for payment of the
24 principal and interest on the county education [~~gross receipts~~]
25 sales tax revenue bonds issued to accomplish the purpose for which

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1 the revenue is dedicated, but the period shall not exceed ten
2 years from the effective date of the ordinance imposing the tax.

3 C. The governing body may reimpose a county education
4 [~~gross receipts~~] sales tax to be effective upon termination of a
5 previously imposed county education [~~gross receipts~~] sales tax by
6 following the procedures set forth in this section.

7 D. Upon a finding of need, the boards of every school
8 district in a county that is either located wholly within the
9 exterior boundaries of the county or that has a student membership
10 no more than ten percent of whom reside outside the exterior
11 boundaries of the county may enter into a joint agreement to
12 submit a resolution to the governing body of the county requiring
13 the governing body to impose a county education [~~gross receipts~~]
14 sales tax and to issue county education [~~gross receipts~~] sales tax
15 revenue bonds for funding public school capital projects and, if
16 applicable, off-campus instruction program capital projects. The
17 boards must agree to provide at least one-fourth of the bond
18 proceeds for capital projects for an off-campus instruction
19 program, if one of the school districts in the county has
20 established such a program. The remaining revenues shall be
21 distributed proportionately to each school district for public
22 school capital outlay projects, including capital projects at
23 charter schools and state-chartered charter schools within the
24 school district, based on the ratio that the population of each
25 school district, according to the 2010 federal decennial census,

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1 bears to the population of all of the school districts in the
2 county that are parties to the agreement.

3 E. An ordinance imposing the county education [~~gross~~
4 ~~receipts~~] sales tax shall not go into effect until after an
5 election is held and a majority of the voters in the county voting
6 in the election votes in favor of imposing the tax. The governing
7 body shall adopt a resolution calling for an election within sixty
8 days of the date the ordinance is adopted on the question of
9 imposing the tax. The question shall be submitted to the voters
10 of the county as a separate question at a general election or at a
11 special election called for that purpose by the governing body. A
12 special election shall be called, conducted and canvassed in
13 substantially the same manner as provided by law for general
14 elections. If a majority of the voters voting on the question
15 approves the ordinance imposing the county education [~~gross~~
16 ~~receipts~~] sales tax, then the ordinance shall become effective in
17 accordance with the provisions of the County Local Option [~~Gross~~
18 ~~Receipts Taxes~~] Sales Tax Act. If the question of imposing the
19 county education [~~gross receipts~~] sales tax fails, a resolution
20 from the boards of school districts in the county may not again be
21 proposed to the governing body requesting imposition of the tax
22 for a period of one year from the date of the election.

23 F. The proceeds from county education [~~gross receipts~~]
24 sales tax revenue bonds shall be administered by the governing
25 body and disbursed by the county treasurer to the respective

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1 school districts in the amounts and for the purposes authorized in
2 this section and as set out in the resolution submitted by the
3 boards to the governing body.

4 G. As used in this section:

5 (1) "board" means the governing body of a school
6 district;

7 (2) "capital projects" means the designing,
8 constructing and equipping of new buildings; the remodeling,
9 renovating or making additions to and equipping existing
10 buildings; or the improving or equipping of the grounds
11 surrounding buildings;

12 (3) "county" means:

13 (a) a class B county with a population of
14 less than twenty-five thousand according to the 1990 federal
15 decennial census and a net taxable value for property tax purposes
16 for the 1999 property tax year of more than five hundred million
17 dollars (\$500,000,000);

18 (b) a county that has imposed a local
19 hospital [~~gross receipts~~] sales tax pursuant to the Local Hospital
20 [~~Gross Receipts~~] Sales Tax Act, which tax will expire on December
21 31, 2001; and

22 (c) a county that has previously imposed a
23 county education [~~gross receipts~~] sales tax; and

24 (4) "off-campus instruction program" means a
25 program established by a school district pursuant to the Off-

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1 Campus Instruction Act."

2 SECTION 342. Section 7-20E-21 NMSA 1978 (being Laws 2001,
3 Chapter 172, Section 2, as amended) is amended to read:

4 "7-20E-21. COUNTY CAPITAL OUTLAY [~~GROSS RECEIPTS~~] SALES
5 TAX--PURPOSES--REFERENDUM.--

6 A. The majority of the members of the governing body
7 of a county may enact an ordinance imposing an excise tax at a
8 rate not to exceed one-fourth [~~of one~~] percent of the gross
9 receipts of any person engaging in business in the county for the
10 privilege of engaging in business. The tax may be imposed in
11 increments of one-sixteenth [~~of one~~] percent not to exceed an
12 aggregate rate of one-fourth [~~of one~~] percent.

13 B. The tax imposed pursuant to Subsection A of this
14 section may be referred to as the "county capital outlay [~~gross~~
15 ~~receipts~~] sales tax".

16 C. The governing body, at the time of enacting an
17 ordinance imposing a rate of tax authorized in Subsection A of
18 this section, may dedicate the revenue for any county
19 infrastructure purpose, including:

20 (1) the design, construction, acquisition,
21 improvement, renovation, rehabilitation, equipping or furnishing
22 of public buildings or facilities, including parking facilities,
23 the acquisition of land for the public buildings or facilities and
24 the acquisition or improvement of the grounds surrounding public
25 buildings or facilities;

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1 (2) acquisition, construction or improvement of
2 water, wastewater or solid waste systems or facilities and related
3 facilities, including water or sewer lines and storm sewers and
4 other drainage improvements;

5 (3) design, construction, acquisition,
6 improvement or equipping of a county jail, juvenile detention
7 facility or other county correctional facility or multipurpose
8 regional adult jail or juvenile detention facility;

9 (4) construction, reconstruction or improvement
10 of roads, streets or bridges, including acquisition of rights of
11 way;

12 (5) design, construction, acquisition,
13 improvement or equipping of airport facilities, including
14 acquisition of land, easements or rights of way for airport
15 facilities;

16 (6) acquisition of land for open space, public
17 parks or public recreational facilities and the design,
18 acquisition, construction, improvement or equipping of parks and
19 recreational facilities; and

20 (7) payment of [~~gross receipts~~] sales tax revenue
21 bonds issued pursuant to Chapter 4, Article 62 NMSA 1978 for
22 infrastructure purposes.

23 D. An ordinance imposing the county capital outlay
24 [~~gross receipts~~] sales tax shall not go into effect until after an
25 election is held on the question of imposing the tax for the

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1 purpose for which the revenue is dedicated and a majority of the
2 voters in the county voting in the election votes in favor of
3 imposing the tax. The governing body shall adopt a resolution
4 calling for an election within seventy-five days of the date the
5 ordinance is adopted on the question of imposing the tax. The
6 question shall be submitted to the voters of the county as a
7 separate question at a general election or at a special election
8 called for that purpose by the governing body. A special election
9 shall be called, conducted and canvassed in substantially the same
10 manner as provided by law for general elections. If a majority of
11 the voters voting on the question approves the question of
12 imposing the county capital outlay [~~gross receipts~~] sales tax,
13 then the ordinance shall become effective in accordance with the
14 provisions of the County Local Option [~~Gross Receipts Taxes~~] Sales
15 Tax Act. If the question of imposing the county capital outlay
16 [~~gross receipts~~] sales tax fails, the governing body shall not
17 again propose the imposition of the tax for a period of one year
18 from the date of the election."

19 SECTION 343. Section 7-20E-22 NMSA 1978 (being Laws 2002,
20 Chapter 14, Section 1, as amended) is amended to read:

21 "7-20E-22. COUNTY EMERGENCY COMMUNICATIONS AND EMERGENCY
22 MEDICAL AND BEHAVIORAL HEALTH SERVICES SALES TAX--AUTHORITY TO
23 IMPOSE COUNTYWIDE OR ONLY IN THE COUNTY AREA--ORDINANCE
24 REQUIREMENTS-- USE OF REVENUE--ELECTION.--

25 A. The majority of the members of the governing body

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1 of an eligible county that does not have in effect a tax imposed
2 pursuant to Subsection B of this section may enact an ordinance
3 imposing an excise tax at a rate not to exceed one-fourth percent
4 of the gross receipts of a person engaging in business in the
5 county for the privilege of engaging in business. The tax imposed
6 by this subsection may be referred to as the "countywide emergency
7 communications and emergency medical and behavioral health
8 services sales tax".

9 B. The majority of the members of the governing body
10 of an eligible county that does not have in effect a tax imposed
11 pursuant to Subsection A of this section may enact an ordinance
12 imposing an excise tax at a rate not to exceed one-fourth percent
13 of the gross receipts of a person engaging in business in the
14 county area for the privilege of engaging in business. The tax
15 imposed by this subsection may be referred to as the "county area
16 emergency communications and emergency medical and behavioral
17 health services sales tax".

18 C. The taxes authorized in Subsections A and B of this
19 section may be imposed in one or more increments of one-sixteenth
20 percent not to exceed an aggregate rate of one-fourth percent.

21 D. The governing body, at the time of enacting an
22 ordinance imposing a rate of tax authorized in Subsection A or B
23 of this section, shall dedicate the revenue to one or more of the
24 following purposes:

25 (1) operation of an emergency communications

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1 center that has been determined by the local government division
2 of the department of finance and administration to be a
3 consolidated public safety answering point. That operation may
4 include the purchase of emergency communications equipment for the
5 center;

6 (2) operation of emergency medical services
7 provided by the county; or

8 (3) provision of behavioral health services,
9 including alcohol abuse and substance abuse treatment.

10 E. An ordinance imposing any increment of the
11 countywide emergency communications and emergency medical and
12 behavioral health services sales tax or the county area emergency
13 communications and emergency medical and behavioral health
14 services sales tax shall not go into effect until after an
15 election is held and a majority of the voters voting in the
16 election votes in favor of imposing the tax. In the case of an
17 ordinance imposing an increment of the countywide emergency
18 communications and emergency medical and behavioral health
19 services sales tax, the election shall be conducted countywide.
20 In the case of an ordinance imposing the county area emergency
21 communications and emergency medical and behavioral health
22 services sales tax, the election shall be conducted only in the
23 county area. The governing body shall adopt a resolution calling
24 for an election within seventy-five days of the date the ordinance
25 is adopted on the question of imposing the tax. The question may

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1 be submitted to the voters as a separate question at a general
2 election or at a special election called for that purpose by the
3 governing body. A special election shall be called, conducted and
4 canvassed in substantially the same manner as provided by law for
5 general elections. In any election held, the ballot shall clearly
6 state the purpose to which the revenue will be dedicated pursuant
7 to Subsection D of this section. If a majority of the voters
8 voting on the question approves the imposition of the countywide
9 emergency communications and emergency medical and behavioral
10 health services sales tax or the county area emergency
11 communications and emergency medical and behavioral health
12 services sales tax, the ordinance shall become effective in
13 accordance with the provisions of the County Local Option [~~Gross~~
14 ~~Receipts Taxes~~] Sales Tax Act. If the question of imposing the
15 tax fails, the governing body shall not again propose the
16 imposition of any increment of either tax for a period of one year
17 from the date of the election.

18 F. For the purposes of this section, "eligible county"
19 means:

20 (1) a county that operates or, pursuant to a
21 joint powers agreement, is served by an emergency communications
22 center that has been determined by the local government division
23 of the department of finance and administration to be a
24 consolidated public safety answering point; or

25 (2) in the case of a county imposing the tax for

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1 the purposes provided in Paragraph (3) of Subsection D of this
2 section, a county that operates or contracts for the operation of
3 a behavioral health services facility providing alcohol abuse,
4 substance abuse and inpatient and outpatient behavioral health
5 treatment."

6 SECTION 344. Section 7-20E-23 NMSA 1978 (being Laws 2004,
7 Chapter 17, Section 2, as amended) is amended to read:

8 "7-20E-23. COUNTY REGIONAL TRANSIT [~~GROSS RECEIPTS~~] SALES
9 TAX--AUTHORITY TO IMPOSE--RATE--ELECTION REQUIRED.--

10 A. Upon a request by resolution of the board of
11 directors of a regional transit district, a majority of the
12 members of the governing body of each county that is within the
13 district shall impose by identical ordinances an excise tax at the
14 rate specified in the resolution, but not to exceed one-half
15 percent of the gross receipts of any person engaging in business
16 in the district for the privilege of engaging in business. A tax
17 imposed pursuant to this section may be imposed by one or more
18 ordinances, each imposing any number of tax rate increments, but
19 an increment shall not be less than one-sixteenth percent of the
20 gross receipts of any person engaging in business in the district
21 and the aggregate of all rates shall not exceed one-half percent
22 of the gross receipts of any person engaging in business in the
23 district. The tax may be referred to as the "county regional
24 transit [~~gross receipts~~] sales tax".

25 B. Each governing body, at the time of enacting an

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1 ordinance imposing the tax authorized in Subsection A of this
2 section, shall dedicate the revenue for the purposes authorized by
3 the Regional Transit District Act.

4 C. An ordinance imposing a county regional transit
5 [~~gross receipts~~] sales tax shall not go into effect until after a
6 joint election is held by all counties within the district and a
7 majority of the voters of the district voting in the election
8 votes in favor of imposing the tax. Each governing body shall
9 adopt an ordinance calling for a joint election within seventy-
10 five days of the date the resolution is adopted on the question of
11 imposing the tax. The question shall be submitted to the voters
12 of the district as a separate question at a general election or at
13 a joint special election called for that purpose by each governing
14 body. A joint special election shall be called, conducted and
15 canvassed substantially in the same manner as provided by law for
16 general elections. If a majority of the voters in the district
17 voting on the question approves the ordinance imposing the county
18 regional transit [~~gross receipts~~] sales tax, the ordinance shall
19 become effective in accordance with the provisions of the County
20 Local Option [~~Gross Receipts Taxes~~] Sales Tax Act. If the
21 question of imposing the county regional transit [~~gross receipts~~]
22 sales tax fails, the governing bodies shall not again propose the
23 imposition of any increment of the tax for a period of one year
24 from the date of the election.

25 D. The governing body of a county imposing a county

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1 regional transit [~~gross receipts~~] sales tax shall transfer all
2 proceeds from the tax to the regional transit district for the
3 purposes specified in the ordinance and in accordance with the
4 provisions of the Regional Transit District Act.

5 E. As used in this section, "county within the
6 district" means a county within which lies any portion of a
7 regional transit district."

8 SECTION 345. Section 7-20E-24 NMSA 1978 (being Laws 2005,
9 Chapter 212, Section 1) is amended to read:

10 "7-20E-24. QUALITY OF LIFE [~~GROSS RECEIPTS~~] SALES TAX--
11 AUTHORITY TO IMPOSE--ORDINANCE REQUIREMENTS--USE OF REVENUE--
12 ELECTION.--

13 A. Prior to January 1, 2016, the majority of the
14 members of the governing body of a county may enact an ordinance
15 imposing an excise tax at a rate not to exceed one-fourth percent
16 of the gross receipts of a person engaging in business in the
17 county area for the privilege of engaging in business. The tax
18 may be imposed in one or more increments of one-sixteenth percent
19 not to exceed an aggregate rate of one-fourth percent. The tax
20 shall be imposed for a period of not more than ten years from the
21 effective date of the ordinance imposing the tax. Having enacted
22 an ordinance imposing the tax prior to January 1, 2016 pursuant to
23 the provisions of this section, the governing body may enact
24 subsequent ordinances for succeeding periods of not more than ten
25 years; provided that each ordinance meets the requirements of this

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1 section and of the County Local Option [~~Gross Receipts Taxes~~
2 Sales Tax Act. The tax imposed pursuant to the provisions of this
3 section may be referred to as the "quality of life [~~gross~~
4 ~~receipts~~] sales tax".

5 B. The governing body, at the time of enacting an
6 ordinance imposing the quality of life [~~gross receipts~~] sales tax,
7 shall dedicate the revenue to cultural programs and activities
8 provided by a local government and to cultural programs, events
9 and activities provided by contract or operating agreement with
10 nonprofit or publicly owned cultural organizations and
11 institutions.

12 C. The governing body of a class A county with a
13 population of more than two hundred fifty thousand according to
14 the most recent federal decennial census, when dedicating revenue
15 pursuant to Subsection B of this section, shall specify that:

16 (1) the revenue may not be used for capital
17 expenditures, endowments or fundraising;

18 (2) at least one percent but not more than three
19 percent of the revenue shall be used for public education on the
20 use of the revenue;

21 (3) at least three percent but not more than five
22 percent of the revenue shall be dedicated to administration of the
23 revenue; and

24 (4) at least one percent but not more than three
25 percent of the revenue shall be used for implementation of the

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1 goals of the cultural plan for the county and the largest
2 municipality located within the exterior boundaries of the county.

3 D. An ordinance imposing any increment of the quality
4 of life [~~gross receipts~~] sales tax shall not go into effect until
5 after an election is held and a majority of the voters in the
6 county voting in the election [~~vote~~] votes in favor of imposing
7 the tax. The governing body shall adopt a resolution calling for
8 an election within ninety days of the date the ordinance is
9 adopted on the question of imposing the tax. The question may be
10 submitted to the voters as a separate question at a general
11 election or at a special election called for that purpose by the
12 governing body. A special election shall be called, conducted and
13 canvassed in substantially the same manner as provided by law for
14 general elections. In any election held, the ballot shall clearly
15 state the purpose to which the revenue will be dedicated pursuant
16 to this section. If a majority of the voters voting on the
17 question approves the ordinance imposing the quality of life
18 [~~gross receipts~~] sales tax, the ordinance shall become effective
19 in accordance with the provisions of the County Local Option
20 [~~Gross Receipts Taxes~~] Sales Tax Act. If the question of imposing
21 the quality of life [~~gross receipts~~] sales tax fails, the
22 governing body shall not again propose the imposition of the tax
23 for a period of one year from the date of the election.

24 E. The quality of life [~~gross receipts~~] sales tax
25 revenue shall be used to meet the following goals: promoting and

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1 preserving cultural diversity; enhancing the quality of cultural
2 programs and activities; fostering greater access to cultural
3 opportunities; promoting culture in order to further economic
4 development within the county; and supporting programs, events and
5 organizations with direct, identifiable and measurable public
6 benefit to residents of the county. It is the objective of the
7 quality of life [~~gross receipts~~] sales tax that the revenue from
8 the tax be used to expand and sustain existing programs and to
9 develop new programs, events and activities, rather than to
10 replace other funding sources for existing programs, events and
11 activities.

12 F. The governing body of a county that imposes the
13 quality of life [~~gross receipts~~] sales tax shall, within sixty
14 days of the election approving the imposition of the tax, appoint
15 a county cultural advisory board consisting of between nine and
16 fifteen members. Persons appointed to the board shall be
17 residents of the county who are knowledgeable about the activities
18 eligible for quality of life tax funding. At least one member of
19 the board shall be appointed by the governing body of the most
20 populous municipality within the county. The members of the board
21 shall be appointed for fixed terms and shall not be removed during
22 their terms except for malfeasance. The terms of the initial
23 board members shall be staggered so that one-third of the members
24 are appointed for one-year terms, one-third are appointed for two-
25 year terms and one-third are appointed for three-year terms.

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1 Subsequent appointments to the board shall be for three-year
2 terms. If a vacancy on the board occurs, the governing body shall
3 appoint a replacement member for the remainder of the unexpired
4 term. A board member shall not serve for more than two
5 consecutive terms.

6 G. The county cultural advisory board shall have the
7 responsibility of overseeing the distribution of the quality of
8 life [~~gross receipts~~] sales tax revenue for the goals listed in
9 Subsection E of this section. The board shall:

10 (1) biennially submit recommendations to the
11 governing body for expenditures of revenue from the quality of
12 life [~~gross receipts~~] sales tax that are allocated pursuant to
13 this section through contracts for services with appropriate
14 organizations and institutions;

15 (2) establish and publicize the necessary
16 qualifications for organizations and institutions to receive
17 quality of life [~~gross receipts~~] sales tax funding; and

18 (3) develop guidelines and procedures for
19 applying for funding through a request for proposals process and
20 the criteria by which contracts will be awarded. The evaluation
21 process shall include a public review component.

22 H. The cultural advisory board shall establish
23 reporting requirements for recipients of the quality of life
24 [~~gross receipts~~] sales tax revenue. The board shall provide to
25 the governing body an annual evaluation of the use of revenue from

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1 the quality of life [~~gross receipts~~] sales tax to ensure that it
2 is meeting the goals listed in Subsection E of this section.

3 I. If the quality of life [~~gross receipts~~] sales tax
4 is enacted in a class A county with a population of more than two
5 hundred fifty thousand according to the most recent federal
6 decennial census, the net revenue from the tax remaining after
7 distributions pursuant to Subsection C of this section shall be
8 distributed as follows subject to the recommendations of the
9 county cultural advisory board pursuant to Subsection G of this
10 section:

11 (1) for the purpose of enhancing cultural
12 programs and activities, sixty-five percent to a municipality for
13 cultural programs and activities within the exterior boundaries of
14 the county and five percent to the county for cultural programs
15 and activities within the unincorporated areas of the county;
16 provided that:

17 (a) the funds are distributed according to
18 a plan that takes into consideration progress indicators that
19 include current budgets, fiscal responsibility and attendance;

20 (b) educational institutions serving
21 kindergarten through twelfth grade are not eligible for
22 distributions pursuant to this paragraph; and

23 (c) a portion of the funds may be expended
24 by the municipality pursuant to an operating agreement with an
25 organization that operates a facility owned by the municipality;

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1 (2) for the purpose of providing cultural
2 programs and services to the residents of the county, sixteen
3 percent may be distributed through contracts for services with
4 private nonprofit organizations with an annual operating budget of
5 more than one hundred thousand dollars (\$100,000) and two percent
6 may be distributed through contracts for services with private
7 nonprofit organizations with an annual operating budget of one
8 hundred thousand dollars (\$100,000) or less. To be eligible for a
9 distribution pursuant to this paragraph, an organization shall
10 have:

11 (a) been granted for the prior three
12 consecutive years exemption from the federal income tax by the
13 United States commissioner of the internal revenue as an
14 organization described in Section 501(c)(3) of the Internal
15 Revenue Code of 1986;

16 (b) as its primary purpose cultural
17 programs; and

18 (c) its principal office located within the
19 exterior boundaries of the county; and

20 (3) for the purpose of providing cultural
21 programs to residents of the county, twelve percent to:

22 (a) organizations that have a strong
23 cultural program but do not have culture as their primary purpose;

24 or

25 (b) foundations that are affiliated with

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1 state or federally owned institutions and that do not otherwise
2 qualify for funding pursuant to this section but that offer
3 cultural programs to the general public.

4 J. Every four years, the cultural advisory board shall
5 review and revise as necessary:

6 (1) the guidelines and procedures for applying
7 for funding;

8 (2) the criteria by which applications for
9 funding will be evaluated; and

10 (3) the percentages specified in Paragraph (1) of
11 Subsection I of this section for distribution of net revenue to
12 municipally owned or county-owned institutions.

13 K. As used in this section:

14 (1) "county area" means that portion of a county
15 located outside the boundaries of any municipality, except that
16 for H class counties and class A counties with a population in
17 excess of two hundred fifty thousand, according to the most recent
18 federal decennial census, "county area" means the entire county;
19 and

20 (2) "cultural organizations and institutions"
21 means organizations and institutions that have as a primary
22 purpose the advancement or preservation of zoology, museums,
23 library sciences, art, music, theater, dance, literature or the
24 humanities."

25 SECTION 346. Section 7-20E-25 NMSA 1978 (being Laws 2006,

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1 Chapter 15, Section 15) is amended to read:

2 "7-20E-25. COUNTY REGIONAL SPACEPORT [~~GROSS RECEIPTS~~] SALES
3 TAX--AUTHORITY TO IMPOSE--RATE--ELECTION REQUIRED.--

4 A. A majority of the members of the governing body of
5 a county that desires to become a member of a regional spaceport
6 district pursuant to the Regional Spaceport District Act shall
7 impose by ordinance an excise tax at a rate not to exceed one-half
8 percent of the gross receipts of a person engaging in business in
9 the district area of the county for the privilege of engaging in
10 business. A tax imposed pursuant to this section may be imposed
11 by one or more ordinances, each imposing any number of tax rate
12 increments, but an increment shall not be less than one-sixteenth
13 percent of the gross receipts of a person engaging in business in
14 the district area of the county, and the aggregate of all rates
15 shall not exceed one-half percent of the gross receipts of a
16 person engaging in business in the district area of the county.
17 The tax may be referred to as the "county regional spaceport
18 [~~gross receipts~~] sales tax".

19 B. A governing body, at the time of enacting an
20 ordinance imposing the tax authorized in Subsection A of this
21 section, shall dedicate a minimum of seventy-five percent of the
22 proceeds of the revenue to the regional spaceport district for the
23 financing, planning, designing and engineering and construction of
24 a spaceport or for projects or services of the district pursuant
25 to the Regional Spaceport District Act and may dedicate no more

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1 than twenty-five percent of the revenue for spaceport-related
2 projects as approved by resolution of the governing body of the
3 county.

4 C. An ordinance imposing a county regional spaceport
5 [~~gross receipts~~] sales tax shall not go into effect until after an
6 election is held and a majority of the voters of the district area
7 of the county voting in the election votes in favor of imposing
8 the tax. The governing body shall adopt an ordinance calling for
9 an election within seventy-five days of the date the resolution is
10 adopted on the question of imposing the tax. The question shall
11 be submitted to the voters of the district area of the county as a
12 separate question at a general election or at a special election
13 called for that purpose by the governing body. A special election
14 shall be called, conducted and canvassed substantially in the same
15 manner as provided by law for general elections. If a majority of
16 the voters voting on the question approves the ordinance imposing
17 the county regional spaceport [~~gross receipts~~] sales tax, the
18 ordinance shall become effective in accordance with the provisions
19 of the County Local Option [~~Gross Receipts Taxes~~] Sales Tax Act.
20 If the question of imposing the county regional spaceport [~~gross~~
21 ~~receipts~~] sales tax fails, the governing body shall not again
22 propose the imposition of an increment of the tax for a period of
23 one year from the date of the election.

24 D. The governing body of a county imposing a county
25 regional spaceport [~~gross receipts~~] sales tax shall transfer a

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1 minimum of seventy-five percent of all proceeds from the tax to
2 the regional spaceport district of which it is a member for the
3 purposes in accordance with the provisions of the Regional
4 Spaceport District Act. The governing body of a county imposing a
5 county regional spaceport [~~gross receipts~~] sales tax may retain no
6 more than twenty-five percent of the county regional spaceport
7 [~~gross receipts~~] sales tax for spaceport-related projects as
8 approved by the resolution of the governing body of the county.

9 E. As used in this section, "district area of the
10 county" means that portion of a county that is outside the
11 boundaries of a municipality and that is within the boundaries of
12 a regional spaceport district of which the county is a member;
13 provided that if no municipality within the county has imposed a
14 municipal regional spaceport [~~gross receipts~~] sales tax, "district
15 area of the county" may mean the area within the boundaries of the
16 county that is within the boundaries of a regional spaceport
17 district of which the county is a member."

18 SECTION 347. Section 7-20E-26 NMSA 1978 (being Laws 2007,
19 Chapter 346, Section 1) is amended to read:

20 "7-20E-26. WATER AND SANITATION [~~GROSS RECEIPTS~~] SALES
21 TAX--AUTHORITY TO IMPOSE--RATE--ELECTION--USE OF REVENUE.--

22 A. An excise tax imposed by a governing body pursuant
23 to this section may be referred to as the "water and sanitation
24 [~~gross receipts~~] sales tax". The water and sanitation [~~gross~~
25 ~~receipts~~] sales tax shall be imposed by a governing body as set

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1 forth in this section, contingent upon a majority of the voters
2 voting in an election on the question of whether to impose a water
3 and sanitation [~~gross receipts~~] sales tax voting in favor of the
4 imposition.

5 B. Upon receipt of a resolution adopted and submitted
6 by the board of directors of a water and sanitation district that
7 requests the governing body to impose a water and sanitation
8 [~~gross receipts~~] sales tax on behalf of the water and sanitation
9 district, a governing body shall enact an ordinance imposing a
10 water and sanitation [~~gross receipts~~] sales tax in that water and
11 sanitation district. The ordinance shall impose the tax at a rate
12 of one-fourth percent on a person engaging in business within the
13 area of the county located within the water and sanitation
14 district for the privilege of engaging in business within that
15 water and sanitation district within the county.

16 C. The governing body, at the time of enacting an
17 ordinance imposing a water and sanitation [~~gross receipts~~] sales
18 tax authorized pursuant to Subsection A of this section, shall
19 dedicate the revenue only for the operation of the water and
20 sanitation district for which the tax is imposed. The tax shall
21 be imposed for six years from the date on which the water and
22 sanitation [~~gross receipts~~] sales tax goes into effect.

23 D. Within sixty days of the date the ordinance is
24 adopted by the governing body, the governing body shall adopt a
25 resolution calling for an election on the question of whether to

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1 impose a water and sanitation [~~gross receipts~~] sales tax. The
2 question shall be submitted to the voters of the water and
3 sanitation district requesting the county to impose the tax. A
4 special election shall be called, conducted and canvassed in
5 substantially the same manner as provided by law for general
6 elections. If a majority of the voters voting on the question
7 approves the ordinance imposing the water and sanitation [~~gross~~
8 ~~receipts~~] sales tax, then the ordinance shall become effective in
9 accordance with the provisions of the County Local Option [~~Gross~~
10 ~~Receipts Taxes~~] Sales Tax Act on either January 1 or July 1
11 following the election approving the imposition of the tax. If
12 the question of imposing the water and sanitation [~~gross receipts~~]
13 sales tax fails, a resolution from the board of directors of the
14 water and sanitation district initiating the request to the county
15 to impose a water and sanitation [~~gross receipts~~] sales tax may
16 not again be submitted to the governing body for a period of one
17 year from the date of the election.

18 E. The proceeds from the water and sanitation [~~gross~~
19 ~~receipts~~] sales tax shall be administered by the governing body
20 and disbursed by the county treasurer to the appropriate water and
21 sanitation district in amounts and for the purposes authorized in
22 this section and as set out in the resolution submitted by the
23 board of directors to the governing body. An agreement shall be
24 entered into between the water and sanitation district and the
25 governing body that sets out the responsibilities of both parties

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1 regarding administration, distribution and use of the revenue from
2 the water and sanitation [~~gross receipts~~] sales tax."

3 SECTION 348. Section 7-20E-27 NMSA 1978 (being Laws 2010,
4 Chapter 31, Section 1) is amended to read:

5 "7-20E-27. COUNTY BUSINESS RETENTION [~~GROSS RECEIPTS~~] SALES
6 TAX--IMPOSITION--RATE.--

7 A. A majority of the members of a governing body may
8 enact an ordinance imposing an excise tax on a person engaging in
9 business in the county for the privilege of engaging in business
10 in the county to provide funds to retain local businesses in the
11 county. The maximum rate of the tax shall be one-fourth percent
12 of the gross receipts of the person engaging in business. The tax
13 may be imposed in its entirety or in increments of one-sixteenth
14 percent not to exceed an aggregate rate of one-fourth percent.

15 B. The tax imposed pursuant to this section may be
16 referred to as the "county business retention [~~gross receipts~~]
17 sales tax".

18 C. An ordinance imposing the county business retention
19 [~~gross receipts~~] sales tax shall not go into effect until after an
20 election is held and a majority of the voters in the county voting
21 in the election [~~vote~~] votes in favor of imposing the tax. The
22 governing body shall adopt a resolution calling for an election
23 within seventy-five days of the date the ordinance is adopted on
24 the question of imposing the tax. The question may be submitted
25 to the voters of the county as a separate question at a general

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1 election or at a special election called for that purpose by the
2 governing body. A special election shall be called, conducted and
3 canvassed in substantially the same manner as provided by law for
4 general elections. If a majority of the voters voting on the
5 question approves the ordinance imposing the county business
6 retention [~~gross receipts~~] sales tax, then the ordinance shall
7 become effective in accordance with the provisions of the County
8 Local Option [~~Gross Receipts Taxes~~] Sales Tax Act. If the
9 question of imposing the county business retention [~~gross~~
10 ~~receipts~~] sales tax fails, the governing body shall not again
11 propose the imposition of the tax for a period of one year from
12 the date of the election.

13 D. The governing body shall include in the ordinance
14 that:

15 (1) an amount not to exceed seven hundred fifty
16 thousand dollars (\$750,000) of the money from the county business
17 retention [~~gross receipts~~] sales tax shall be distributed to the
18 state to reduce the impact to the general fund of gaming tax lost
19 to the state from the county from reduced gaming tax revenue due
20 to decreased economic activity in the county; and

21 (2) the remainder of the revenue from the county
22 business retention [~~gross receipts~~] sales tax shall be distributed
23 back to the county for use for promotion or administration of the
24 county, instructional or general purposes for a public post-
25 secondary educational institution in the county, capital outlay to

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1 expand or relocate a public post-secondary educational institution
2 in the county or funding professional services contracts related
3 to implementing an economic development plan adopted by the
4 governing body that shall be updated on an annual basis during the
5 period in which the tax is imposed.

6 E. The county shall notify the department within
7 thirty days of adopting an ordinance and inform the department of
8 the date on which the tax will be imposed for collection purposes.

9 F. The governing body of a county that has imposed a
10 county business retention [~~gross receipts~~] sales tax pursuant to
11 this section may adopt by a majority vote an ordinance repealing
12 that tax as of either July 1 or January 1, as stated in the
13 ordinance. If the county business retention [~~gross receipts~~]
14 sales tax is repealed, the governing body shall notify the
15 department within thirty days of the repeal and of the date on
16 which the repeal becomes effective.

17 G. An ordinance enacted pursuant to the provisions of
18 this section shall include an effective date of either July 1 or
19 January 1 as required by the County Local Option [~~Gross Receipts~~
20 ~~Taxes~~] Sales Tax Act.

21 H. A county business retention [~~gross receipts~~] sales
22 tax imposed pursuant to this section shall be in effect for no
23 more than five years from the effective date of the tax as stated
24 in the county ordinance.

25 I. As used in this section, "county" means a county

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1 containing gaming operator licensees that are racetracks."

2 SECTION 349. Section 7-20E-28 NMSA 1978 (being Laws 2013,
3 Chapter 160, Section 12) is amended to read:

4 "7-20E-28. COUNTY HOLD HARMLESS [~~GROSS RECEIPTS~~] SALES
5 TAX.--

6 A. The majority of the members of the governing body
7 of any county may impose by ordinance an excise tax not to exceed
8 a rate of three-eighths percent of the gross receipts of any
9 person engaging in business in the county for the privilege of
10 engaging in business in the county. A tax imposed pursuant to
11 this section shall be imposed by the enactment of one or more
12 ordinances, each imposing any number of gross receipts tax rate
13 increments, but the total gross receipts tax rate imposed by all
14 ordinances pursuant to this section shall not exceed an aggregate
15 rate of three-eighths percent of the gross receipts of a person
16 engaging in business. Counties may impose increments of one-
17 eighth [~~of one~~] percent.

18 B. The tax imposed pursuant to Subsection A of this
19 section may be referred to as the "county hold harmless [~~gross~~
20 ~~receipts~~] sales tax". The imposition of a county hold harmless
21 [~~gross receipts~~] sales tax is not subject to referendum.

22 C. The governing body of a county may, at the time of
23 enacting an ordinance imposing the tax authorized in Subsection A
24 of this section, dedicate the revenue for a specific purpose or
25 area of county government services, including [~~but not limited to~~]

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1 police protection, fire protection, public transportation or
2 street repair and maintenance. If the governing body proposes to
3 dedicate such revenue, the ordinance and any revenue so dedicated
4 shall be used by the county for that purpose unless a subsequent
5 ordinance is adopted to change the purpose to which the revenue is
6 dedicated or to place the revenue in the general fund of the
7 county.

8 D. Any law that imposes or authorizes the imposition
9 of a county hold harmless [~~gross receipts~~] sales tax or that
10 affects the county hold harmless [~~gross receipts~~] sales tax, or
11 any law supplemental thereto or otherwise appertaining thereto,
12 shall not be repealed or amended or otherwise directly or
13 indirectly modified in such a manner as to impair adversely any
14 outstanding revenue bonds that may be secured by a pledge of such
15 county hold harmless [~~gross receipts~~] sales tax unless such
16 outstanding revenue bonds have been discharged in full or
17 provision has been fully made therefor."

18 SECTION 350. Section 7-20F-1 NMSA 1978 (being Laws 1993,
19 Chapter 303, Section 1) is amended to read:

20 "7-20F-1. SHORT TITLE.--~~[Sections 3 through 14 of this act]~~
21 Chapter 7, Article 20F NMSA 1978 may be cited as the "County
22 Correctional Facility [~~Gross Receipts~~] Sales Tax Act".

23 SECTION 351. Section 7-20F-2 NMSA 1978 (being Laws 1993,
24 Chapter 303, Section 2, as amended) is amended to read:

25 "7-20F-2. DEFINITIONS.--As used in the County Correctional

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1 Facility [~~Gross Receipts~~] Sales Tax Act:

2 A. "county" means a county of New Mexico;

3 B. "county board" means the board of county
4 commissioners of a county;

5 C. "department" means the taxation and revenue
6 department, the secretary of taxation and revenue or any employee
7 of the department exercising authority lawfully delegated to that
8 employee by the secretary;

9 D. "judicial-correctional facility" means a facility
10 for housing and use by judicial and corrections agencies,
11 including housing for persons confined in county correctional
12 facilities; however, none of the facilities are required to be
13 located on the same or contiguous parcels of land;

14 E. "municipality" means any incorporated city, town or
15 village, whether incorporated under general act, special act or
16 special charter;

17 F. "person" means an individual or any other legal
18 entity;

19 G. "pledged revenues" means the revenue, net income or
20 net revenues authorized to be pledged to the payment of revenue
21 bonds issued pursuant to the provisions of the County Correctional
22 Facility [~~Gross Receipts~~] Sales Tax Act;

23 H. "refunding bond" means a refunding revenue bond
24 issued pursuant to the provisions of the County Correctional
25 Facility [~~Gross Receipts~~] Sales Tax Act to refund revenue bonds

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1 issued pursuant to the provisions of that act; and

2 I. "revenue bond" means a county correctional facility
3 [~~gross receipts~~] sales tax revenue bond."

4 SECTION 352. Section 7-20F-3 NMSA 1978 (being Laws 1993,
5 Chapter 303, Section 3, as amended) is amended to read:

6 "7-20F-3. COUNTY CORRECTIONAL FACILITY [~~GROSS RECEIPTS~~]
7 SALES TAX--AUTHORITY TO IMPOSE--RATE--ORDINANCE REQUIREMENTS--
8 REFERENDUM.--

9 A. The majority of the members elected to the county
10 board may enact an ordinance imposing on a countywide basis an
11 excise tax not to exceed a rate of one-eighth percent of the gross
12 receipts of any person engaging in business in the county,
13 including all municipalities within the county.

14 B. The tax imposed pursuant to Subsection A of this
15 section may be referred to as the "county correctional facility
16 [~~gross receipts~~] sales tax".

17 C. Any ordinance imposing a county correctional
18 facility [~~gross receipts~~] sales tax pursuant to this section
19 shall:

20 (1) impose the tax in any number of increments of
21 one-sixteenth percent not to exceed an aggregate amount of
22 one-eighth percent;

23 (2) specify that the imposition of the tax will
24 begin on either July 1 or January 1, whichever occurs first after
25 the expiration of at least three months from the date that the

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1 department is notified personally or by mail by the county of
2 adoption of the ordinance; and

3 (3) dedicate the revenue from the county
4 correctional facility [~~gross receipts~~] sales tax:

5 (a) for the purpose of operating,
6 maintaining, constructing, purchasing, furnishing, equipping,
7 rehabilitating, expanding or improving a judicial-correctional or
8 a county correctional facility or the grounds of a judicial-
9 correctional or county correctional facility, including acquiring
10 and improving parking lots, landscaping or any combination of the
11 foregoing;

12 (b) for the purpose of transporting or
13 extraditing prisoners; or

14 (c) to payment of principal and interest on
15 revenue bonds or refunding bonds issued pursuant to the provisions
16 of the County Correctional Facility [~~Gross Receipts~~] Sales Tax
17 Act.

18 D. An ordinance imposing a county correctional
19 facility [~~gross receipts~~] sales tax pursuant to this section shall
20 be subject to optional referendum selection by the governing body,
21 as provided in Subsection A of Section 7-20E-3 NMSA 1978.

22 E. If the county has pledged the revenue from
23 imposition of the county correctional [~~facilities gross receipts~~]
24 facility sales tax to the repayment of bonds or other
25 indebtedness, revenue produced by the imposition of a county

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1 correctional facility [~~gross receipts~~] sales tax that is in excess
2 of the annual principal and interest due on bonds secured by a
3 pledge of the county correctional facility [~~gross receipts~~] sales
4 tax may be accumulated in a debt service reserve account until an
5 amount equal to the maximum amount permitted pursuant to the
6 provisions of the United States treasury regulations is
7 accumulated in the debt service reserve account. After the debt
8 service reserve account requirements have been met, the excess
9 revenue shall be accumulated in an extraordinary mandatory
10 redemption fund and annually used to redeem the bonds prior to
11 their stated maturity date.

12 F. If the county has pledged the revenue from
13 imposition of the county correctional [~~facilities gross receipts~~]
14 facility sales tax to the repayment of bonds or other
15 indebtedness, when all outstanding bonds have been paid, whether
16 from the debt service reserve, the redemption fund or maturity,
17 the ordinance shall be repealed if the county correctional
18 facility [~~gross receipts~~] sales tax revenue is no longer required
19 for the purposes for which it may be used pursuant to the
20 provisions of the County Correctional Facility [~~Gross Receipts~~]
21 Sales Tax Act.

22 G. The repeal of an ordinance imposing a county
23 correctional facility [~~gross receipts~~] sales tax shall state that
24 the repeal shall be effective on January 1 or July 1, whichever
25 occurs first following the date the department is notified

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1 personally or by mail by the county of the repeal."

2 SECTION 353. Section 7-20F-4 NMSA 1978 (being Laws 1993,
3 Chapter 303, Section 4) is amended to read:

4 "7-20F-4. ORDINANCE SHALL CONFORM TO CERTAIN PROVISIONS OF
5 THE [~~GROSS RECEIPTS AND COMPENSATING~~] SALES AND USE TAX ACT AND
6 REQUIREMENTS OF THE DEPARTMENT.--

7 A. Any ordinance imposing the county correctional
8 facility [~~gross receipts~~] sales tax shall adopt by reference the
9 same definitions and the same provisions relating to exemptions
10 and deductions as are contained in the [~~Gross Receipts and~~
11 ~~Compensating~~] Sales and Use Tax Act then in effect and as it may
12 be amended from time to time.

13 B. The governing body of any county imposing the
14 county correctional facility [~~gross receipts~~] sales tax shall
15 adopt the model ordinances furnished to the county by the
16 department."

17 SECTION 354. Section 7-20F-5 NMSA 1978 (being Laws 1993,
18 Chapter 303, Section 5) is amended to read:

19 "7-20F-5. COLLECTION BY DEPARTMENT--TRANSFER OF PROCEEDS--
20 DEDUCTIONS.--

21 A. The department shall collect the county
22 correctional facility [~~gross receipts~~] sales tax in the same
23 manner and at the same time it collects the state [~~gross receipts~~]
24 sales tax.

25 B. The department shall remit to each county for which

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1 it is collecting a county correctional facility [~~gross receipts~~
2 sales tax the amount of the tax collected, less any disbursement
3 for tax credits, refunds and the payment of interest applicable to
4 the county correctional facility [~~gross receipts~~] sales tax.
5 Transfer of the tax to a county shall be made within the month
6 following the month in which the tax is collected."

7 SECTION 355. Section 7-20F-6 NMSA 1978 (being Laws 1993,
8 Chapter 303, Section 6, as amended) is amended to read:

9 "7-20F-6. SPECIFIC EXEMPTIONS.--No county correctional
10 facility [~~gross receipts~~] sales tax shall be imposed on the gross
11 receipts arising from transporting persons or property for hire by
12 railroad, motor vehicle, air transportation or any other means
13 from one point within the county to another point outside the
14 county."

15 SECTION 356. Section 7-20F-7 NMSA 1978 (being Laws 1993,
16 Chapter 303, Section 7) is amended to read:

17 "7-20F-7. REVENUE BONDS--AUTHORITY TO ISSUE--ORDINANCE
18 AUTHORIZING ISSUE--PLEDGE OF REVENUE.--

19 A. In addition to any other law authorizing a county
20 to issue revenue bonds, a county may issue revenue bonds pursuant
21 to the County Correctional Facility [~~Gross Receipts~~] Sales Tax Act
22 for the purposes specified in that act. Revenue bonds issued
23 pursuant to the County Correctional Facility [~~Gross Receipts~~]
24 Sales Tax Act may be referred to as "county correctional facility
25 [~~gross receipts~~] sales tax revenue bonds".

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1 B. A county board, by majority vote, may adopt an
2 ordinance providing for issuance of revenue bonds pursuant to the
3 provisions of the County Correctional Facility [~~Gross Receipts~~
4 Sales Tax Act, the principal and interest of which shall be paid
5 from the revenue derived by the county from the county
6 correctional facility [~~gross receipts~~] sales tax and any other
7 revenue that the county may dedicate to the payment of the revenue
8 bonds.

9 C. Revenue bonds or refunding revenue bonds issued as
10 authorized pursuant to the County Correctional Facility [~~Gross~~
11 ~~Receipts~~] Sales Tax Act are:

12 (1) not general obligations of the county; and

13 (2) collectible only from the county correctional
14 facility [~~gross receipts~~] sales tax and, if authorized, other
15 properly pledged revenues, and each bond shall be payable solely
16 from the properly pledged revenues and the bondholders shall not
17 look to any other county fund for the payment of the interest and
18 principal of the bonds."

19 **SECTION 357.** Section 7-20F-8 NMSA 1978 (being Laws 1993,
20 Chapter 303, Section 8) is amended to read:

21 "7-20F-8. REVENUE BONDS--EXECUTION--NONREPEALABLE--ISSUANCE
22 TIME LIMITATION.--

23 A. The revenue bonds authorized pursuant to the County
24 Correctional Facility [~~Gross Receipts~~] Sales Tax Act shall be
25 executed by the [~~chairman~~] chair of the county board and either

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1 the county treasurer or the county clerk and may be authenticated
2 by any public or private transfer agent or registrar, or its
3 successor, named or otherwise designated by the governing body.
4 The bonds may be executed as provided under the Uniform Facsimile
5 Signature of Public Officials Act, and the coupons, if any, shall
6 bear the facsimile signature of the county treasurer.

7 B. Any law that authorizes the pledge of any or all of
8 the pledged revenues to the payment of any revenue bonds issued
9 pursuant to the County Correctional Facility [~~Gross Receipts~~]
10 Sales Tax Act or that affects the pledged revenues, or any law
11 supplemental thereto or otherwise appertaining thereto, shall not
12 be repealed or amended or otherwise directly or indirectly
13 modified in such a manner as to impair adversely any such
14 outstanding revenue bonds, unless such outstanding revenue bonds
15 have been discharged in full or provision for full discharge has
16 been made.

17 C. Except for the purpose of refunding previous
18 revenue bond issues, no county shall sell revenue bonds payable
19 from pledged revenues after the expiration of two years from the
20 date of the ordinance authorizing the issuance of the bonds.
21 However, any period of time during which a particular revenue bond
22 issue is in litigation shall not be counted in determining the
23 expiration date of that issue."

24 SECTION 358. Section 7-20F-9 NMSA 1978 (being Laws 1993,
25 Chapter 303, Section 9) is amended to read:

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1 "7-20F-9. REVENUE BONDS--PURPOSE OF ISSUE--USE OF
2 PROCEEDS.--

3 A. Revenue bonds may be issued pursuant to the
4 provisions of the County Correctional Facility [~~Gross Receipts~~]
5 Sales Tax Act for the purposes of constructing, purchasing,
6 furnishing, equipping, rehabilitating, expanding or improving a
7 judicial-correctional facility or the grounds of a judicial-
8 correctional facility, including [~~but not limited to~~] acquiring
9 and improving parking lots, landscaping or any combination of the
10 foregoing.

11 B. No county shall divert, use or expend any money
12 received from the issuance of bonds for any purpose other than the
13 purpose for which the bonds were issued."

14 SECTION 359. Section 7-20F-10 NMSA 1978 (being Laws 1993,
15 Chapter 303, Section 10, as amended) is amended to read:

16 "7-20F-10. REVENUE BONDS--TERMS.--Revenue bonds issued
17 pursuant to provisions of the County Correctional Facility [~~Gross~~
18 ~~Receipts~~] Sales Tax Act:

19 A. may have interest, appreciated principal value or
20 any part thereof payable at intervals or at maturity as may be
21 determined by the county board in the ordinance;

22 B. shall be subject to a prior redemption at the
23 county's option at such time or times and upon such terms and
24 conditions without the payment of premiums;

25 C. may mature at any time or times not exceeding

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1 twenty-five years after the date of issuance;

2 D. may be serial in form and maturity or may consist
3 of one bond payable at one time or in installments or may be in
4 such other form as may be determined by the county board;

5 E. shall be sold for cash at above or below par and at
6 a price that results in a net effective interest rate that does
7 not exceed the maximum permitted by the Public Securities Act; and

8 F. may be sold at public or negotiated sale."

9 SECTION 360. Section 7-20F-11 NMSA 1978 (being Laws 1993,
10 Chapter 303, Section 11) is amended to read:

11 "7-20F-11. REVENUE BONDS--REFUNDING AUTHORIZATION.--

12 A. Any county having issued revenue bonds as
13 authorized in the County Correctional Facility [~~Gross Receipts~~]
14 Sales Tax Act may issue refunding revenue bonds pursuant to an
15 ordinance adopted by majority vote of the county board for the
16 purpose of refinancing, paying and discharging all or any part of
17 such outstanding revenue bonds of any one or more or all
18 outstanding issues:

19 (1) for the acceleration, deceleration or other
20 modification of the payment of such obligations, including without
21 limitation any capitalization of any interest thereon in arrears
22 or about to become due for any period not exceeding one year from
23 the date of the refunding bonds;

24 (2) for the purpose of reducing interest costs or
25 effecting other economies;

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1 (3) for the purpose of modifying or eliminating
2 restrictive contractual limitations pertaining to the issuance of
3 additional bonds, otherwise concerning the outstanding bonds or to
4 any facilities relating thereto; or

5 (4) for any combination of such purposes.

6 B. To pay the principal and interest on refunding
7 bonds, the county may pledge irrevocably the pledged revenues from
8 the revenue bonds originally issued pursuant to the County
9 Correctional Facility [~~Gross Receipts~~] Sales Tax Act.

10 C. Bonds for refunding and bonds for any purpose
11 permitted by the County Correctional Facility [~~Gross Receipts~~]
12 Sales Tax Act may be issued separately or issued in combination in
13 one series or more."

14 SECTION 361. Section 7-20F-12 NMSA 1978 (being Laws 1993,
15 Chapter 303, Section 12) is amended to read:

16 "7-20F-12. REFUNDING BONDS--ESCROW--DETAIL.--

17 A. Refunding bonds issued pursuant to the provisions
18 of the County Correctional Facility [~~Gross Receipts~~] Sales Tax Act
19 shall be authorized by ordinance. Any revenue bonds that are
20 refunded [~~under~~] pursuant to the provisions of this section shall
21 be paid at maturity or on any permitted prior redemption date in
22 the amounts, at the time and places and, if called prior to
23 maturity, in accordance with any applicable notice provisions, all
24 as provided in the proceedings authorizing the issuance of the
25 refunded bonds or otherwise appertaining thereto, except for any

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1 such bond that is voluntarily surrendered for exchange or payment
2 by the holder or owner.

3 B. Provision shall be made for paying the bonds
4 refunded at the time or times provided in Subsection A of this
5 section. The principal amount of the refunding bonds may exceed
6 the principal amount of the refunded bonds and may also be less
7 than or the same as the principal amount of the bonds being
8 refunded so long as provision is duly and sufficiently made for
9 the payment of the refunded bonds.

10 C. The proceeds of refunding bonds, including any
11 accrued interest and premium appertaining to the sale of refunding
12 bonds, shall either be immediately applied to the retirement of
13 the bonds being refunded or be placed in escrow in a commercial
14 bank or trust company that possesses and is exercising trust
15 powers and that is a member of the federal deposit insurance
16 corporation, to be applied to the payment of the principal of,
17 interest on and any prior redemption premium due in connection
18 with the bonds being refunded; provided that such refunding bond
19 proceeds, including any accrued interest and any premium
20 appertaining to a sale of refunding bonds, may be applied to the
21 establishment and maintenance of a reserve fund and to the payment
22 of expenses incidental to the refunding and the issuance of the
23 refunding bonds, the interest on the refunding bonds and the
24 principal of the refunding bonds or both interest and principal as
25 the county may determine. Nothing in this section requires the

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1 establishment of an escrow if the refunded bonds become due and
2 payable within one year from the date of the refunding bonds and
3 if the amounts necessary to retire the refunded bonds within that
4 time are deposited with the paying agent for the refunded bonds.
5 Any such escrow shall not necessarily be limited to proceeds of
6 refunding bonds but may include other money available to retire
7 the refunded bonds. Any proceeds in escrow pending such use may
8 be invested or reinvested in bills, certificates of indebtedness,
9 notes or bonds that are direct obligations of or the principal and
10 interest of which obligations are unconditionally guaranteed by
11 the United States of America or in certificates of deposit of
12 banks that are members of the federal deposit insurance
13 corporation, the par value of which certificates of deposit is
14 collateralized by a pledge of obligations of or the payment of
15 which is unconditionally guaranteed by the United States of
16 America, the par value of which obligations is at least seventy-
17 five percent of the par value of the certificates of deposit.
18 Such proceeds and investments in escrow together with any interest
19 or other income to be derived from any such investment shall be in
20 an amount at all times sufficient as to principal, interest, any
21 prior redemption premium due and any charges of the escrow agent
22 payable therefrom to pay the bonds being refunded as they become
23 due at their respective maturities or due at any designated prior
24 redemption date or dates in connection with which the county shall
25 exercise a prior redemption option. Any purchaser of any

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1 refunding bond issued pursuant to the provisions of the County
2 Correctional Facility [~~Gross Receipts~~] Sales Tax Act is in no
3 manner responsible for the application of the proceeds thereof by
4 the county or any of its officers, agents or employees.

5 D. Refunding bonds may be sold at a public or private
6 sale and may bear such additional terms and provisions as may be
7 determined by the county subject to the limitations in the County
8 Correctional Facility [~~Gross Receipts~~] Sales Tax Act. Refunding
9 bonds are not subject to the provisions of any other statute."

10 SECTION 362. Section 7-24B-7 NMSA 1978 (being Laws 1987,
11 Chapter 45, Section 16, as amended) is amended to read:

12 "7-24B-7. REFERENDUM REQUIREMENTS.--

13 A. The ordinance imposing a special county hospital
14 gasoline tax shall not go into effect until after an election is
15 held and a simple majority of the qualified electors of the county
16 voting in the election [~~vote~~] votes in favor of imposing the
17 special county hospital gasoline tax. The governing body shall
18 provide for an election on the question of imposing the tax within
19 sixty days after the date the ordinance is adopted. The question
20 may be submitted to the qualified electors and voted upon as a
21 separate question in a general election or in any special election
22 called for that purpose by the governing body. A special election
23 upon the question shall be called, held, conducted and canvassed
24 in substantially the same manner as provided by law for general
25 elections. If the question of imposing a special county hospital

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1 gasoline tax fails, the governing body shall not again propose a
2 special county hospital gasoline tax for a period of one year
3 after the election.

4 B. A single election may be held on the question of
5 imposing a special county hospital gasoline tax as authorized in
6 the Special County Hospital Gasoline Tax Act, on the question of
7 imposing a special county hospital [~~gross receipts~~] sales tax as
8 authorized in the [~~Special County Hospital Gross Receipts Tax Act~~]
9 County Local Option Sales Tax Act and on the question of imposing
10 a mill levy pursuant to the Hospital Funding Act."

11 SECTION 363. Section 7-25-8 NMSA 1978 (being Laws 1966,
12 Chapter 48, Section 8, as amended) is amended to read:

13 "7-25-8. SALES OF NATURAL RESOURCES SUBJECT TO [~~GROSS~~
14 ~~RECEIPTS AND COMPENSATING~~] SALES AND USE TAX ACT.--In addition to
15 being subject to the Resources Excise Tax Act, any person who
16 sells nonfissionable natural resources other than for subsequent
17 sale in the ordinary course of business or for use as an
18 ingredient or component part of a manufactured product is also
19 subject to the provisions of the [~~Gross Receipts and Compensating~~]
20 Sales and Use Tax Act on such sales."

21 SECTION 364. Section 9-6-5.2 NMSA 1978 (being Laws 2011,
22 Chapter 106, Section 5) is amended to read:

23 "9-6-5.2. FAILURE TO TIMELY SUBMIT AUDIT REPORTS OR
24 FINANCIAL REPORTS--ENFORCEMENT POWERS OF SECRETARY.--

25 A. Upon notification by the state auditor pursuant to

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1 Subsection G of Section 12-6-3 NMSA 1978 that a state agency,
2 state institution, municipality or county has failed to submit an
3 audit report as required by the Audit Act, the secretary of
4 finance and administration shall order the agency, institution,
5 municipality or county to submit monthly financial reports to the
6 department of finance and administration until all past-due audit
7 reports have been submitted to the state auditor and the secretary
8 is satisfied that the agency, institution, municipality or county
9 is in compliance with all financial and audit requirements.

10 B. If, ninety days after an order has been issued
11 pursuant to Subsection A of this section to a state agency or
12 state institution subject to periodic allotments, the agency or
13 institution has not submitted all past-due reports or has not
14 otherwise made progress, satisfactory to the state auditor, toward
15 compliance with the Audit Act, the secretary may direct the state
16 budget division to temporarily withhold periodic allotments to the
17 agency or institution pursuant to Section 6-3-6 NMSA 1978. The
18 amounts withheld and the period of time for which the allotments
19 are to be withheld shall be determined by the secretary subject to
20 the following guidelines:

21 (1) the initial amount withheld shall not exceed
22 five percent of the allotment and shall be for a period of no more
23 than three months;

24 (2) every three months, the secretary shall
25 determine if the agency or institution has submitted all past-due

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1 audit reports or has otherwise made progress, satisfactory to the
2 state auditor, toward compliance with the Audit Act. If the
3 secretary determines that past-due reports have not been submitted
4 and that there has been inadequate progress, the secretary may
5 direct that the amount being currently withheld be increased by an
6 additional amount, up to another five percent of the allotment,
7 for an additional period of up to three months; and

8 (3) upon a determination that all past-due audit
9 reports have been submitted or that the agency or institution is
10 otherwise making progress, satisfactory to the state auditor,
11 toward compliance with the Audit Act, the secretary shall direct
12 that all withheld amounts be distributed to the agency or
13 institution and that future allotments shall be made in full.

14 C. If, ninety days after an order has been issued
15 pursuant to Subsection A of this section to a municipality or
16 county, the municipality or county has not submitted all past-due
17 reports or has not otherwise made progress, satisfactory to the
18 state auditor, toward compliance with the Audit Act, the secretary
19 may direct the secretary of taxation and revenue to temporarily
20 withhold distributions to the municipality or county pursuant to
21 Section 7-1-6.15 NMSA 1978. The amounts withheld, the source of
22 the amounts and the period of time for which the distributions are
23 to be withheld shall be determined by the secretary of finance and
24 administration subject to the following guidelines:

25 (1) transfers to a county or municipality of

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1 receipts from any local option [~~gross receipts~~] sales tax or from
2 a tax imposed pursuant to the Local Liquor Excise Tax Act shall
3 not be withheld;

4 (2) the source and amount of a withheld
5 distribution shall be determined in a manner that will not:

6 (a) impair any outstanding bonds or other
7 obligations of the municipality or county; or

8 (b) interrupt a redirected distribution to
9 the New Mexico finance authority pursuant to an ordinance or a
10 resolution passed by the county or municipality and a written
11 agreement of the municipality or county and the New Mexico finance
12 authority;

13 (3) the initial amount withheld shall not exceed
14 five percent of the amount that would otherwise be distributed to
15 the municipality or county pursuant to the Tax Administration Act
16 and shall be for a period of no more than three months;

17 (4) every three months, the secretary of finance
18 and administration shall determine if the municipality or county
19 has submitted all past-due audit reports or has otherwise made
20 progress, satisfactory to the state auditor, toward compliance
21 with the Audit Act. If the secretary determines that past-due
22 reports have not been submitted and that there has been inadequate
23 progress, the secretary may direct that the amount being currently
24 withheld be increased by an additional amount, up to another five
25 percent of the amount that would otherwise be distributed, for an

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1 additional period of up to three months; and

2 (5) upon a determination that all past-due audit
3 reports have been submitted or that the municipality or county is
4 otherwise making progress, satisfactory to the state auditor,
5 toward compliance with the Audit Act, the secretary shall direct
6 that all withheld amounts be distributed to the municipality or
7 county and that future distributions shall be made in full.

8 D. After receiving notice from the local government
9 division of the department of finance and administration required
10 by Subsection G of Section 6-6-2 NMSA 1978 that a municipality or
11 county has failed to submit two consecutive financial reports
12 pursuant to Subsection F of that section, the secretary may direct
13 the secretary of taxation and revenue to temporarily withhold
14 distributions to the municipality or county pursuant to Section
15 7-1-6.15 NMSA 1978. The amounts withheld, the source of the
16 amounts and the period of time for which the distributions are to
17 be withheld shall be determined by the secretary of finance and
18 administration subject to the following guidelines:

19 (1) transfers to a county or municipality of
20 receipts from any local option [~~gross receipts~~] sales tax or from
21 a tax imposed pursuant to the Local Liquor Excise Tax Act shall
22 not be withheld;

23 (2) the source and amount of a withheld
24 distribution shall be determined in a manner that will not:

25 (a) impair any outstanding bonds or other

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1 obligations of the municipality or county; or

2 (b) interrupt a redirected distribution
3 to the New Mexico finance authority pursuant to an ordinance or a
4 resolution passed by the county or municipality and a written
5 agreement of the municipality or county and the New Mexico finance
6 authority;

7 (3) the initial amount withheld shall not exceed
8 five percent of the amount that would otherwise be distributed to
9 the municipality or county pursuant to the Tax Administration Act
10 and shall be for a period of no more than three months;

11 (4) every three months, the secretary of finance
12 and administration shall determine if the municipality or county
13 has submitted all past-due financial reports or has otherwise made
14 progress, satisfactory to the local government division, toward
15 compliance with the law. If the secretary determines that past-
16 due reports have not been submitted and that there has been
17 inadequate progress, the secretary may direct that the amount
18 being currently withheld be increased by an additional amount, up
19 to another five percent of the amount that would otherwise be
20 distributed, for an additional period of up to three months; and

21 (5) upon a determination that all past-due
22 financial reports have been submitted or that the municipality or
23 county is otherwise making progress, satisfactory to the local
24 government division, toward compliance with the law, the secretary
25 shall direct that all withheld amounts be distributed to the

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1 municipality or county and that future distributions shall be made
2 in full."

3 SECTION 365. Section 9-11-12.1 NMSA 1978 (being Laws 1997,
4 Chapter 64, Section 1, as amended) is amended to read:

5 "9-11-12.1. TRIBAL COOPERATIVE AGREEMENTS.--

6 A. The secretary may enter into cooperative agreements
7 with the Pueblos of Acoma, Cochiti, Jemez, Isleta, Laguna, Nambe,
8 Picuris, Pojoaque, Sandia, San Felipe, San Ildefonso, [~~San Juan~~]
9 Ohkay Owingeh, Santa Ana, Santa Clara, Santo Domingo, Taos,
10 Tesuque, Zia and Zuni; the Jicarilla Apache Nation; the Mescalero
11 Apache Tribe; and [~~with~~] the nineteen pueblos acting collectively
12 for the exchange of information and the reciprocal, joint or
13 common enforcement, administration, collection, remittance and
14 audit of gross receipts or sales tax revenues of the party
15 jurisdictions.

16 B. Money collected by the department on behalf of a
17 tribe in accordance with an agreement entered into pursuant to
18 this section is not money of this state and shall be collected and
19 disbursed in accordance with the terms of the agreement,
20 notwithstanding any other provision of law.

21 C. The secretary is empowered to promulgate such rules
22 and to establish such procedures as the secretary deems
23 appropriate for the collection and disbursement of funds due a
24 tribe and for the receipt of money collected by a tribe for the
25 account of this state under the terms of a cooperative agreement

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1 entered into under the authority of this section, including
2 procedures for identification of taxpayers or transactions that
3 are subject only to the taxing authority of the tribe, taxpayers
4 or transactions that are subject only to the taxing authority of
5 this state and taxpayers or transactions that are subject to the
6 taxing authority of both party jurisdictions.

7 D. Nothing in an agreement entered into pursuant to
8 this section shall be construed as authorizing this state or a
9 tribe to tax ~~[persons]~~ a person or ~~[transactions]~~ transaction that
10 federal law prohibits that government from taxing, ~~[or as]~~
11 authorizing a state or tribal court to assert jurisdiction over
12 ~~[persons]~~ a person who ~~[are]~~ is not otherwise subject to that
13 court's jurisdiction or ~~[as]~~ affecting any issue of the respective
14 civil or criminal jurisdictions of this state or the tribe.
15 Nothing in an agreement entered into pursuant to this section
16 shall be construed as an assertion or an admission by either this
17 state or a tribe that the taxes of one have precedence over the
18 taxes of the other when ~~[the]~~ a person or transaction is subject
19 to the taxing authority of both governments. An agreement entered
20 into pursuant to this section shall be construed solely as an
21 agreement between the two party governments and shall not alter or
22 affect the government-to-government relations between this state
23 and any other tribe.

24 E. As used in this section:

25 (1) "tribal" means of or pertaining to a tribe;

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1 and

2 (2) "tribe" means an Indian nation, tribe or
3 pueblo located entirely in New Mexico."

4 SECTION 366. Section 13-1-66.1 NMSA 1978 (being Laws 1989,
5 Chapter 69, Section 4, as amended) is amended to read:

6 "13-1-66.1. DEFINITION--LOCAL PUBLIC WORKS PROJECT.--"Local
7 public works project" means a project of a local public body that
8 uses architectural or engineering services requiring professional
9 services costing fifty thousand dollars (\$50,000) or more or
10 landscape architectural or surveying services requiring
11 professional services costing ten thousand dollars (\$10,000) or
12 more, excluding applicable state and local [~~gross receipts~~] option
13 sales taxes."

14 SECTION 367. Section 13-1-91 NMSA 1978 (being Laws 1984,
15 Chapter 65, Section 64, as amended by Laws 2007, Chapter 312,
16 Section 4 and by Laws 2007, Chapter 315, Section 2) is amended to
17 read:

18 "13-1-91. DEFINITION--STATE PUBLIC WORKS PROJECT.--"State
19 public works project" means a project of a state agency, not
20 including projects of the state educational institutions, the
21 supreme court building commission, the legislature or local public
22 bodies, that uses architectural or engineering services requiring
23 professional services costing fifty thousand dollars (\$50,000) or
24 more or landscape architectural or surveying services requiring
25 professional services costing ten thousand dollars (\$10,000) or

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1 more, excluding applicable state and local [~~gross receipts~~] option
2 sales taxes."

3 SECTION 368. Section 13-1-108 NMSA 1978 (being Laws 1984,
4 Chapter 65, Section 81, as amended) is amended to read:

5 "13-1-108. COMPETITIVE SEALED BIDS--AWARD.--A contract
6 solicited by competitive sealed bids shall be awarded with
7 reasonable promptness by written notice to the lowest responsible
8 bidder. Contracts solicited by competitive sealed bids shall
9 require that the bid amount exclude the applicable state [~~gross~~
10 ~~receipts~~] sales tax or applicable local option sales tax but that
11 the contracting agency shall be required to pay the applicable
12 tax, including any increase in the applicable tax becoming
13 effective after the date the contract is entered into. The
14 applicable [~~gross receipts~~] sales tax or applicable local option
15 sales tax shall be shown as a separate amount on each billing or
16 request for payment made under the contract."

17 SECTION 369. Section 13-1-125 NMSA 1978 (being Laws 1984,
18 Chapter 65, Section 98, as amended) is amended to read:

19 "13-1-125. SMALL PURCHASES.--

20 A. A central purchasing office shall procure services,
21 construction or items of tangible personal property having a value
22 not exceeding sixty thousand dollars (\$60,000), excluding
23 applicable state and local [~~gross receipts~~] option sales taxes, in
24 accordance with the applicable small purchase rules adopted by the
25 secretary, a local public body or a central purchasing office that

.212229.1

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1 has the authority to issue rules.

2 B. Notwithstanding the requirements of Subsection A of
3 this section, a central purchasing office may procure professional
4 services having a value not exceeding sixty thousand dollars
5 (\$60,000), excluding applicable state and local [~~gross receipts~~]
6 option sales taxes, except for the services of landscape
7 architects or surveyors for state public works projects or local
8 public works projects, in accordance with professional services
9 procurement rules promulgated by the department of finance and
10 administration, the general services department or a central
11 purchasing office with the authority to issue rules.

12 C. Notwithstanding the requirements of Subsection A of
13 this section, a state agency or a local public body may procure
14 services, construction or items of tangible personal property
15 having a value not exceeding twenty thousand dollars (\$20,000),
16 excluding applicable state and local [~~gross receipts~~] option sales
17 taxes, by issuing a direct purchase order to a contractor based
18 upon the best obtainable price.

19 D. Procurement requirements shall not be artificially
20 divided so as to constitute a small purchase under this section."

21 **SECTION 370.** Section 15-3B-6 NMSA 1978 (being Laws 1968,
22 Chapter 43, Section 5, as amended) is amended to read:

23 "15-3B-6. BUILDING AND REMODELING.--The division may do all
24 acts necessary and proper for the redesigning, major renovation
25 and remodeling of present state buildings and the erection of

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1 additional state buildings when needed. The division may let
2 contracts for these purposes in accordance with the provisions of
3 the Procurement Code. A contract for such redesigning, major
4 renovation, remodeling or construction that costs more than five
5 million dollars (\$5,000,000), not including [~~gross receipts~~] state
6 sales tax, must first be approved by the state board of finance.
7 This section applies only to state buildings under the division's
8 jurisdiction."

9 SECTION 371. Section 16-2-19 NMSA 1978 (being Laws 1935,
10 Chapter 57, Section 16, as amended) is amended to read:

11 "16-2-19. STATE PARK AND RECREATION REVENUES--SOURCE AND
12 DISBURSEMENT.--All money derived from the operation of state parks
13 or recreation areas or from the governmental [~~gross receipts~~]
14 sales tax distributions pursuant to Section 7-1-6.38 NMSA 1978
15 appropriated to the energy, minerals and natural resources
16 department for state park and recreation capital improvements or
17 from gifts, donations, bequests or endowments, except as the money
18 may be pledged for the retirement of bonds issued under the State
19 Park and Recreation Bond Act or appropriated for state park and
20 recreation purposes by the legislature or acquired from any other
21 source whatsoever, shall not at any time or in any event revert or
22 be transferred to general or other state funds; and such funds
23 shall be used solely for the purpose of acquiring, developing,
24 operating and maintaining state parks or recreation areas and
25 maintenance, operation and expenditures of the state [~~park and~~

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1 ~~recreation]~~ parcs division of the energy, minerals and natural
2 resources department, the payment of traveling expenses and
3 salaries of officers, park superintendents and employees and the
4 retirement of state park and recreation bonds. Expenditures shall
5 be made in accordance with budgets approved by the department of
6 finance and administration."

7 **SECTION 372.** Section 16-2-29 NMSA 1978 (being Laws 1965,
8 Chapter 280, Section 10, as amended) is amended to read:

9 "16-2-29. SECURITY--RETIREMENT OF BONDS.--The state [~~park~~
10 ~~and recreation]~~ parcs division of the energy, minerals and natural
11 resources department may pledge for the retirement of bonds issued
12 all or any part of the revenues to be produced from any project to
13 be constructed with bond funds, all or any part of the
14 governmental [~~gross receipts]~~ sales tax distributions pursuant to
15 Section 7-1-6.38 NMSA 1978 appropriated to the energy, minerals
16 and natural resources department for state park and recreation
17 area capital improvements and, except as may be prohibited by
18 existing contractual arrangements, may also pledge money derived
19 from the operation of present or future state parks or recreation
20 areas or from gifts, donations, bequests or endowments for state
21 park or recreation purposes or any portion of the same. Bonds are
22 payable solely from the funds enumerated in this section and are
23 not general obligations of the state."

24 **SECTION 373.** Section 17-2A-3 NMSA 1978 (being Laws 1996,
25 Chapter 89, Section 5, as amended) is amended to read:

.212229.1

1 "17-2A-3. HUNTING GUIDES AND OUTFITTERS.--

2 A. Effective April 1, 1997, it is unlawful to be a
3 hunting guide or outfitter in New Mexico without being registered,
4 except for a private landowner or [~~his~~] the landowner's authorized
5 agent who outfits or guides pursuant to a landowner permit issued
6 by the department of game and fish for the landowner's property or
7 for the landowner's shared private and public unit.

8 B. The state game commission shall adopt regulations
9 by September 1, 1997 to govern the granting of non-interim
10 registration, permits and certificates to hunting guides and
11 outfitters and to regulate the operations and professional conduct
12 of registered hunting guides and outfitters. Regulations shall be
13 adopted in accordance with the following procedures and standards:

14 (1) the commission shall establish dates and
15 locations for a public hearing and provide reasonable prior public
16 notice of a hearing. A public hearing shall be held at a place
17 within any quadrant of the state affected by the proposed
18 regulation when the commission determines there is substantial
19 public interest in holding a hearing in that quadrant;

20 (2) a hearing shall be held within six months of
21 the date a proposed regulation is issued;

22 (3) notice of a hearing shall:

23 (a) include the date, time and location of
24 the hearing;

25 (b) include a statement of the recommended

.212229.1

1 action;

2 (c) include an indication of the location
3 and availability of the public file on the regulation;

4 (d) indicate where and by what date written
5 and oral comments and testimony may be received; and

6 (e) specify that the public record shall
7 remain open for comments for thirty days after the date of the
8 final hearing; and

9 (4) the commission shall make its decision and
10 take action based upon relevant and reliable evidence.

11 C. No person shall be allowed to work as a registered
12 hunting guide or outfitter in New Mexico:

13 (1) without being registered by the state game
14 commission;

15 (2) if the person has had a guide or outfitter
16 license, registration, permit or certificate revoked in another
17 state;

18 (3) if the person has had a guide or outfitter
19 license, registration, permit or certificate suspended in another
20 state and it has not been reinstated; or

21 (4) if the person has been convicted of a felony.

22 D. The state game commission shall develop a point
23 system for the suspension or revocation of a guide or outfitter
24 registration. The point system shall be similar to the point
25 system that governs individual hunting and fishing license

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1 privileges.

2 E. To be granted a registration to be a guide, an
3 applicant shall, in addition to any other reasonable criteria
4 adopted by the state game commission, and except as provided for
5 persons granted an interim registration:

6 (1) be at least eighteen years of age; and

7 (2) pass a written or oral examination approved
8 by the department of game and fish at a date and time approved by
9 the department.

10 F. A registered or interim registered guide shall work
11 only under the supervision of a New Mexico registered or interim
12 registered outfitter and in an area designated by the registered
13 or interim registered outfitter.

14 G. The department of game and fish may provide a
15 registration for a temporary emergency guide, provided the
16 registration is limited to a maximum seven-day period and is
17 granted only in emergency circumstances as determined by the
18 department. The fee for a temporary emergency guide registration
19 is ten dollars (\$10.00).

20 H. To be granted a registration to be an outfitter, an
21 applicant shall, in addition to any other reasonable criteria
22 adopted by the state game commission, and except as provided for
23 persons granted an interim registration:

24 (1) be at least twenty-one years of age;

25 (2) have operated as a New Mexico registered

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1 guide for at least three years or have been granted an interim
2 outfitter's registration;

3 (3) not be a convicted felon or have a history of
4 violation of federal or state game and fish laws or regulations or
5 federal or state guide or outfitter licensing or registration laws
6 or regulations; and

7 (4) pass a written or oral examination approved
8 by the department of game and fish at a date and time determined
9 by the department.

10 I. A registered outfitter shall:

11 (1) provide proof of commercial liability
12 insurance of at least five hundred thousand dollars (\$500,000);

13 (2) responsibly supervise each registered guide
14 working under [~~his~~] the outfitter's direction;

15 (3) provide a written contract for outfitting
16 services, signed by the registered outfitter and identifying the
17 outfitter's registration number, to each resident and nonresident
18 who seeks to use the services of a registered outfitter;

19 (4) register with the taxation and revenue
20 department and provide proof of that registration to the
21 department of game and fish; and

22 (5) provide at least one registered guide or
23 outfitter for every four or fewer resident or nonresident hunters
24 who have contracted for an outfitter's guided services.

25 J. The department of game and fish shall provide to

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1 the taxation and revenue department a copy of each outfitter
2 registration that is granted.

3 K. Except as provided in this subsection, no person
4 shall be allowed to charge a processing or other fee to obtain for
5 a resident or nonresident a license that is granted from a special
6 drawing for a hunt on public lands pursuant to the provisions of
7 Section 17-3-16 NMSA 1978, except that nothing in this subsection
8 shall prohibit the department of game and fish from collecting an
9 application fee. Persons involved in licensing services, booking
10 agencies or license brokering that do not provide direct guide and
11 outfitter services shall not be required to register with the
12 department of game and fish and may charge a fee, other than the
13 application fee for a license, for their services.

14 L. A New Mexico resident registered outfitter shall be
15 a registered outfitter who is a resident as defined in Section
16 17-3-4 NMSA 1978. The state game commission shall adopt
17 regulations that set forth additional requirements and that shall
18 include at a minimum that a resident registered outfitter shall
19 maintain a business address in New Mexico and, except as provided
20 in Subsection Q of this section, derive at least fifty percent of
21 [~~his~~] the outfitter's guiding or outfitting income from guiding or
22 outfitting in New Mexico, as determined by [~~gross receipts~~] state
23 sales tax or corporate or individual income tax returns for the
24 immediately preceding three years.

25 M. The department of game and fish shall maintain for

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1 public distribution a list of New Mexico registered outfitters.

2 N. The annual registration fee for a registered guide
3 in New Mexico is fifty dollars (\$50.00) for a resident and one
4 hundred dollars (\$100) for a nonresident.

5 O. The annual registration fee to be a registered
6 outfitter in New Mexico is five hundred dollars (\$500) for either
7 a resident or a nonresident.

8 P. Annual registration fees for guides and outfitters
9 shall be deposited in the game protection fund.

10 Q. A resident interim registered or registered
11 outfitter may apply for inactive status of [~~his~~] the registration
12 for any period in which [~~he~~] the outfitter does not operate as an
13 outfitter. The state game commission shall reactivate an
14 outfitter registration at the request of the outfitter and upon
15 proof that the outfitter complies with the provisions of this
16 section and upon payment of the annual registration fee for the
17 year the registration is being reinstated and payment of a
18 reinstatement fee of not to exceed fifty dollars (\$50.00).

19 R. The state game commission shall adopt by September
20 1, 1996 interim regulations, consistent to the greatest extent
21 practicable with the provisions of this section, to provide for
22 the granting of interim registrations to guides and outfitters.
23 The commission shall issue interim registrations prior to mailing
24 applications for 1997 licensed hunts to persons who qualify for
25 interim registration and submit applications to the department of

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1 game and fish.

2 S. A person adversely affected by an action, other
3 than a regulation, taken pursuant to the provisions of this
4 section, including the denial, suspension or revocation of a
5 registration, license, permit or certificate, may seek review of
6 the action pursuant to the provisions of the Uniform Licensing
7 Act.

8 T. A person adversely affected by a regulation adopted
9 by the state game commission pursuant to this section may appeal
10 to the court of appeals. All appeals shall be made upon the
11 record at the hearing and shall be taken to the court of appeals
12 within thirty days following the date of the action. The date of
13 the action shall be the date of the filing of the regulation by
14 the commission, pursuant to the provisions of the State Rules Act.

15 U. Upon appeal, the court of appeals shall set aside a
16 regulation only if it is found to be:

17 (1) arbitrary, capricious or an abuse of
18 discretion;

19 (2) not supported by substantial evidence in the
20 record; or

21 (3) otherwise not in accordance with law.

22 V. After a hearing and a showing of good cause by the
23 appellant, a stay of a regulation being appealed may be granted:

24 (1) by the state game commission; or

25 (2) by the court of appeals if the state game

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1 commission denies a stay or fails to act upon an application for a
2 stay within sixty days after receipt of the application.

3 W. The appellant shall pay all costs for any appeal
4 found to be frivolous by the court of appeals."

5 SECTION 374. Section 17-3-16 NMSA 1978 (being Laws 1964
6 (1st S.S.), Chapter 17, Section 7, as amended) is amended to read:

7 "17-3-16. FUNDS--SPECIAL DRAWINGS FOR LICENSES.--

8 A. The director of the department of game and fish may
9 provide special envelopes and application blanks when a special
10 drawing is to be held to determine the persons to receive
11 licenses. Money required to be submitted with these applications,
12 if enclosed in the special envelopes, need not be deposited with
13 the state treasurer but may be held by the director until the
14 successful applicants are determined. At that time, the fees of
15 the successful applicants shall be deposited with the state
16 treasurer and the fees submitted by the unsuccessful applicants
17 shall be returned to them.

18 B. Beginning with the licenses issued from a special
19 drawing for a hunt code that commences on or after April 1, 2012:

20 (1) licenses shall be issued as follows:

21 (a) ten percent of the licenses to be drawn
22 by nonresidents and residents who will be contracted with a New
23 Mexico outfitter prior to application; and

24 (b) six percent of the licenses to be drawn
25 by nonresidents who are not required to be contracted with an

.212229.1

1 outfitter; and

2 (2) a minimum of eighty-four percent of the
3 licenses shall be issued to residents of New Mexico.

4 C. If the number of applicants who apply for licenses
5 pursuant to the provisions of Paragraphs (1) and (2) of Subsection
6 B of this section does not constitute the allocated licenses for
7 either category, then the additional licenses available may be
8 granted to another category of applicants. The director shall
9 offer first choice of undersubscribed hunts to residents, whenever
10 practicable.

11 D. If the determination of the percentages in
12 Subsection B of this section yields a fraction of:

13 (1) five-tenths or greater, the number of
14 licenses to be issued shall be rounded up to the next whole
15 number; and

16 (2) less than five-tenths, the number of licenses
17 shall be rounded down to the next whole number.

18 E. The fee for a nonresident license for a special
19 drawing in a high-demand hunt covered in Subsection B of this
20 section shall be assessed at the same rate as a license for
21 nonresident quality elk or quality deer. As used in this
22 subsection, "high-demand hunt" means:

23 (1) a hunt where the total number of nonresident
24 applicants for a hunt code in each unit exceeds twenty-two percent
25 of the total applicants and where the total applicants for a hunt

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1 exceeds the number of licenses available based on application data
2 indicating that this criteria occurred in each of the two
3 immediately preceding years; or

4 (2) an additional hunt code designated by the
5 department of game and fish as a quality hunt.

6 F. All antlerless elk hunts pursuant to this section
7 shall be exclusively for New Mexico residents.

8 G. Hunts on all state wildlife management areas shall
9 be allocated exclusively to New Mexico residents.

10 H. As used in this section, "New Mexico outfitter"
11 means a person who has a business:

12 (1) with a valid New Mexico state, county or
13 municipal business registration and a valid outfitter license
14 issued by the department of game and fish;

15 (2) that is authorized to do and is doing
16 outfitting business under the laws of this state;

17 (3) that has paid property taxes or rent on real
18 property in New Mexico, paid [~~gross receipts~~] sales taxes and paid
19 at least one other tax administered by the taxation and revenue
20 department in each of the three years immediately preceding the
21 submission of an affidavit to the department of game and fish;

22 (4) the majority of which is owned by the person
23 who has resided in New Mexico during the three-year period
24 immediately preceding the submission of an affidavit to the
25 department of game and fish;

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1 (5) that employs at least eighty percent of the
2 total personnel of the business who are New Mexico residents;
3 [~~and~~]

4 (6) that has either leased property for ten years
5 or purchased property greater than fifty thousand dollars
6 (\$50,000) in value in New Mexico;

7 (7) that, if it has changed its name from that of
8 a previously certified business, the business is identical in
9 every way to the previously certified business that meets all
10 criteria;

11 (8) that possesses all required federal or state
12 land use permits for the hunt; and

13 (9) that operates as a hunting guide service
14 during which at least two days are accompanied with the client in
15 the area where the license is valid."

16 SECTION 375. Section 21-28-7 NMSA 1978 (being Laws 1989,
17 Chapter 264, Section 7, as amended) is amended to read:

18 "21-28-7. LIMITATIONS ON APPLICATION OF LAWS.--

19 A. A research park corporation shall not be deemed an
20 agency, public body or other political subdivision of New Mexico,
21 including for purposes of applying statutes and laws relating to
22 personnel, procurement of goods and services, meetings of the
23 board of directors, [~~gross receipts~~] state sales tax, disposition
24 or acquisition of property, capital outlays, per diem and mileage
25 and inspection of records.

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1 B. A research park corporation shall be deemed an
2 agency or other political subdivision of the state for purposes of
3 applying statutes and laws relating to the furnishing of goods and
4 services to the university that operates it and the risk
5 management fund.

6 C. A research park corporation, its officers,
7 directors and employees shall be granted immunity from liability
8 for any tort as provided in the Tort Claims Act. A research park
9 corporation may enter into agreements with insurance carriers to
10 insure against a loss in connection with its operations even
11 though the loss may be included among losses covered by the risk
12 management fund of New Mexico."

13 **SECTION 376.** Section 24-1B-6 NMSA 1978 (being Laws 1991,
14 Chapter 113, Section 6, as amended) is amended to read:

15 "24-1B-6. MATERNAL AND CHILD HEALTH FUNDS.--

16 A. The department shall contract for maternal and
17 child health services to implement a maternal and child health
18 plan after the plan has been approved by the department.

19 B. As a condition of the department contracting for
20 maternal and child health services, after an opportunity for
21 county or tribal input, a county or tribe may be asked to
22 contribute to the implementation of an approved maternal and child
23 health plan based on the relative wealth of the county or tribe as
24 measured by the population, the per capita income, the [~~gross~~
25 ~~receipts~~] sales tax base and the average property value.

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1 C. The department shall contract for maternal and
2 child health services to implement a maternal and child health
3 plan based upon:

4 (1) the amount of funds appropriated for the
5 purpose of carrying out the provisions of the Maternal and Child
6 Health Plan Act;

7 (2) the need for services as measured by:

8 (a) maternal and child health indicators;

9 (b) the teen pregnancy rate; and

10 (c) maternal and child health provider
11 availability and shortages; and

12 (3) the demonstration that the services in the
13 maternal and child health plan fit into the comprehensive outline
14 of community-based maternal and child health services described in
15 Subsection D of Section 24-1B-5 NMSA 1978.

16 D. Nothing in the Maternal and Child Health Plan Act
17 shall prohibit the department from contracting for those
18 categories of maternal and child health services that it
19 contracted for prior to the effective date of the Maternal and
20 Child Health ~~[Care]~~ Plan Act or that it deems essential for public
21 health."

22 SECTION 377. Section 27-5-6.2 NMSA 1978 (being Laws 2014,
23 Chapter 79, Section 16) is amended to read:

24 "27-5-6.2. TRANSFER TO SAFETY NET CARE POOL FUND.--

25 A. A county shall, by ordinance to be effective July

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1 1, 2014, dedicate to the safety net care pool fund an amount equal
2 to a [~~gross receipts~~] sales tax rate of one-twelfth percent
3 applied to the taxable gross receipts reported during the prior
4 fiscal year by persons engaging in business in the county. For
5 purposes of this subsection, a county may use public funds from
6 any existing authorized revenue source of the county.

7 B. A county enacting an ordinance pursuant to
8 Subsection A of this section shall transfer to the safety net care
9 pool fund by the last day of March, June, September and December
10 of each year an amount equal to one-fourth of the county's payment
11 to the safety net care pool fund."

12 SECTION 378. Section 27-10-4 NMSA 1978 (being Laws 1991,
13 Chapter 212, Section 4, as amended) is amended to read:

14 "27-10-4. ALTERNATIVE REVENUE SOURCE TO IMPOSITION OF
15 COUNTY HEALTH CARE [~~GROSS RECEIPTS~~] SALES TAX--TRANSFER TO COUNTY-
16 SUPPORTED MEDICAID FUND.--

17 A. In the event a county does not enact an ordinance
18 imposing a county health care [~~gross receipts~~] sales tax pursuant
19 to Section [~~7-20D-3~~] 7-20E-18 NMSA 1978, the county shall, by
20 ordinance to be effective July 1, 1993, dedicate to the county-
21 supported medicaid fund an amount equal to a [~~gross receipts~~]
22 sales tax rate of one-sixteenth [~~of one~~] percent applied to the
23 taxable gross receipts reported during the prior fiscal year by
24 persons engaging in business in the county. For purposes of this
25 subsection, a county may use funds from any existing authorized

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1 revenue source of the county.

2 B. For each county that has in effect an ordinance
3 enacted pursuant to Subsection A of this section on July 1 of each
4 year, the taxation and revenue department shall certify to the
5 county by September 15, 1993 and by September 15 of each
6 subsequent fiscal year the amount of gross receipts reported for
7 the county for purposes of the [~~gross receipts~~] sales tax during
8 the prior fiscal year. Upon certification by the taxation and
9 revenue department, any county enacting an ordinance pursuant to
10 Subsection A of this section shall transfer to the county-
11 supported medicaid fund by the last day of March, June, September
12 and December of each year an amount equal to a rate of one sixty-
13 fourth [~~of one~~] percent applied to the certified amount.

14 C. The requirements of an ordinance enacted pursuant
15 to this section may be terminated for a county only on the
16 effective date of an ordinance enacted by the county imposing the
17 county health care [~~gross receipts~~] sales tax; provided that if
18 the effective date of the ordinance imposing the tax is January 1,
19 the termination does not apply to the payments required for
20 September and December of that year."

21 SECTION 379. Section 53-7A-6 NMSA 1978 (being Laws 2003,
22 Chapter 183, Section 6) is amended to read:

23 "53-7A-6. APPLICATION OF OTHER LAWS.--

24 A. The corporation formed pursuant to the Economic
25 Development Corporation Act is separate and apart from the state

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1 and shall not be deemed an agency, public body or other political
2 subdivision of New Mexico for purposes of applying laws relating
3 to personnel, procurement of goods and services, [~~gross receipts~~]
4 sales tax, disposition or acquisition of property, capital outlays
5 and per diem and mileage.

6 B. Notwithstanding the provisions of the Open Meetings
7 Act, meetings of the corporation shall be closed to the public
8 when proprietary technical or business information or any
9 information regarding location or expansion of a business is
10 discussed.

11 C. Information obtained by the corporation that is
12 proprietary technical or business information or related to the
13 possible relocation or expansion of a business shall be
14 confidential and not subject to inspection pursuant to the
15 Inspection of Public Records Act.

16 D. The corporation, its officers, directors and
17 employees shall be granted immunity from liability for any tort as
18 provided in the Tort Claims Act and may enter into agreements with
19 insurance carriers to insure against a loss in connection with its
20 operations even though the loss may be included among losses
21 covered by the risk management fund of New Mexico."

22 **SECTION 380.** Section 53-7B-6 NMSA 1978 (being Laws 2009,
23 Chapter 66, Section 6) is amended to read:

24 "53-7B-6. APPLICABILITY OF OTHER LAWS.--

25 A. Except as otherwise provided in the New Mexico

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1 Research Applications Act, the research applications center shall
2 not be deemed to be the state, or one of its agencies,
3 instrumentalities, institutions or political subdivisions for the
4 purpose of applying any other laws, including those relating to
5 personnel, meetings of the board, [~~gross receipts~~] sales taxes,
6 disposition or acquisition of property, capital outlays, per diem
7 and mileage and inspection of records.

8 B. The research applications center shall be deemed:

9 (1) an agency of the state when applying laws
10 relating to the furnishing of goods and services by the research
11 applications center to the state or any other agency, political
12 subdivision or institution of the state;

13 (2) a local public body for purposes of the
14 Procurement Code, except that the board may exempt a specific
15 procurement from the application of the Procurement Code if it
16 makes a finding that compliance with the Procurement Code would
17 impede the purposes of the New Mexico Research Applications Act;
18 and

19 (3) a governmental entity for purposes of the
20 Tort Claims Act; provided that the research applications center
21 may enter into agreements with insurance carriers to insure
22 against risk in connection with its operations even though the
23 risk may be included among the risks covered by the Tort Claims
24 Act."

25 SECTION 381. Section 57-31-3 NMSA 1978 (being Laws 2017,

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1 Chapter 102, Section 3) is amended to read:

2 "57-31-3. DISTRIBUTED ENERGY GENERATION SYSTEM

3 DISCLOSURES--EXCEPTION.--

4 A. Beginning thirty days after publication in the New
5 Mexico register of the form disclosure statements issued by the
6 attorney general pursuant to Section [~~5 of the Distributed~~
7 ~~Generation Disclosure Act~~] 57-31-5 NMSA 1978, any agreement
8 governing the financing, sale or lease of a distributed energy
9 generation system, or the sale of power to a power purchaser,
10 shall include a written statement with font no smaller than ten
11 points and no more than four pages, unless a font larger than ten
12 points is used, separate from the agreement and separately signed
13 by the buyer or lessee, that includes the following provisions:

14 (1) the name, address, telephone number and email
15 address of the buyer or lessee;

16 (2) the name, address, telephone number, email
17 address and valid state contractor license number of the person
18 responsible for installing the distributed energy generation
19 system;

20 (3) the name, address, telephone number, email
21 address and a valid state contractor license number of the
22 distributed energy generation system maintenance provider, if
23 different from the person responsible for installing the system;

24 (4) a provision notifying the buyer or lessee of
25 the right to rescind the agreement for a period ending not less

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1 than three business days after the agreement is signed;

2 (5) a description of the distributed energy
3 generation system design assumptions, including system size,
4 estimated first-year production and estimated annual system
5 production decreases, including the overall percentage degradation
6 over the life of the distributed energy generation system;

7 (6) a description of any performance guarantees
8 that a seller or marketer may include in an agreement;

9 (7) the purchase price of the distributed energy
10 generation system, total projected lease or power purchase
11 payments;

12 (8) a description of any one-time or recurring
13 fees, including the circumstances triggering any late fees,
14 estimated system removal fees, maintenance fees, Uniform
15 Commercial Code notice removal and refiling fees, internet
16 connection fees and automated [~~clearing house~~] clearing-house
17 fees;

18 (9) if the seller is financing or leasing the
19 distributed energy generation system, the total amount financed,
20 the total number of payments, the payment frequency, the amount of
21 the payment expressed in dollars, the payment due dates and the
22 applicable annual percentage rate; except that in the case of
23 financing arrangements subject to state or federal lending
24 disclosure requirements, disclosure of the annual percentage rate
25 shall be made in accordance with the applicable state or federal

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1 lending disclosure requirements;

2 (10) if a seller or marketer uses a tax incentive
3 or rebate in determining the price, a provision identifying each
4 state and federal tax incentive or rebate used;

5 (11) a description of the ownership and
6 transferability of any tax credits, rebates, incentives or
7 renewable energy certificates in connection with the distributed
8 energy generation system;

9 (12) a list of the following tax obligations that
10 the buyer may be required to pay or incur as a result of the
11 contract's provisions, including:

12 (a) the cost of any business personal
13 property taxes assessed on the distributed energy generation
14 system in the event of a power purchase agreement or lease;

15 (b) [~~gross receipts~~] sales taxes for any
16 equipment purchased and services rendered;

17 (c) obligations of the power purchaser or
18 lessee to transfer tax credits or tax incentives of the
19 distributed energy generation system to any other person; and

20 (d) in the case of a commercial
21 installation, a change in assessed property taxes in the event of
22 a purchase of a distributed energy generation system;

23 (13) a disclosure regarding whether the warranty
24 or maintenance obligations related to the distributed energy
25 generation system may be sold or transferred to a third party;

.212229.1

1 (14) a disclosure regarding any restrictions
2 pursuant to the agreement on the buyer's or lessee's ability to
3 modify or transfer ownership of the distributed energy generation
4 system, including whether any modification or transfer is subject
5 to review or approval by a third party and the name, mailing
6 address and telephone number of the entity responsible for
7 approving the modification or transfer, if known to the seller or
8 marketer at the time the agreement is made;

9 (15) a description of all options available to
10 the buyer or lessee in connection with the continuation,
11 termination or transfer of the agreement between the buyer or
12 lessee and the seller or marketer in the event of the transfer of
13 the real property to which the distributed energy generation
14 system is affixed;

15 (16) a description of the assumptions used for
16 any savings estimates that were provided to the buyer or lessee;

17 (17) a disclosure that states: "Actual utility
18 rates may go up or down and actual savings may vary. For further
19 information regarding rates, you may contact your local utility or
20 the public regulation commission. Tax and other state and federal
21 incentives are subject to change.";

22 (18) a disclosure notifying the buyer or the
23 lessee of transferability of any warranty obligations to
24 subsequent buyers or lessees; and

25 (19) a disclosure notifying the buyer or lessee

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1 that interconnection requirements, including time lines, are
2 established by rules of the public regulation commission and may
3 be obtained from either the public regulation commission or the
4 local utility.

5 B. The seller or marketer shall provide the buyer or
6 lessee with proof that, within thirty days of completion of
7 installation or modification:

8 (1) all permits required for the installation or
9 any modification of the distributed energy generation system were
10 obtained prior to installation; and

11 (2) installation or any modification of the
12 distributed energy generation system received the approval of an
13 inspector authorized by the governmental authority having
14 jurisdiction over the permitting and enforcement authority.

15 C. In the event that a seller or marketer causes a
16 financing statement to be filed pursuant to the Uniform Commercial
17 Code-Secured Transactions, the seller or marketer, or any
18 successor in interest to the seller or marketer, shall provide to
19 the buyer or lessee a copy of the filed financing statement within
20 thirty calendar days of the filing.

21 D. If a promotional document or sales presentation
22 related to a distributed energy generation system states that the
23 system will result in certain financial savings for the buyer or
24 lessee, the document or sales presentation shall provide the
25 assumptions and calculations used to derive those savings.

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1 E. If a promotional document or sales presentation
2 related to a distributed energy generation system states that the
3 system will result in certain energy savings in terms of
4 production, the document or sales presentation shall provide the
5 assumptions and calculations used to derive those energy savings
6 and any comparative estimates. If historical information is used,
7 it shall be accompanied by the following statement: "Historical
8 data are not necessarily representative of future results."

9 **SECTION 382.** Section 58-18-5.4 NMSA 1978 (being Laws 1982,
10 Chapter 86, Section 5, as amended) is amended to read:

11 "58-18-5.4. DUTIES OF AUTHORITY--MULTIPLE-FAMILY DWELLINGS,
12 TRANSITIONAL AND CONGREGATE HOUSING FACILITIES.--

13 A. The authority shall require, as a condition of
14 making or purchasing a project mortgage loan, that the sponsor
15 agree to comply with the requirements and to make the
16 representations and warranties [as] the authority deems reasonably
17 necessary to protect its interests in the project mortgage loan
18 and the multiple-family dwelling project or transitional or
19 congregate housing facility, including the following:

20 (1) the multiple-family dwelling project or
21 transitional or congregate housing facility and surrounding area
22 shall be maintained in good repair;

23 (2) a reserve fund for repairs and replacements
24 on the multiple-family dwelling project or transitional or
25 congregate housing facility shall be established and maintained

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1 for the life of the project mortgage loan;

2 (3) the sponsor shall make all records and
3 documents relating to the multiple-family dwelling project or
4 transitional or congregate housing facility available to the
5 authority and its agents at all reasonable times;

6 (4) the sponsor shall maintain its books and
7 accounts in a manner satisfactory to the authority;

8 (5) the sponsor shall provide access to the
9 authority and its agents at all reasonable times for the purpose
10 of inspecting the multiple-family dwelling project or transitional
11 or congregate housing facility;

12 (6) the sponsor shall file with the authority a
13 copy of each report and schedule required to be filed with any
14 provider of mortgage insurance or other security or liquidity
15 enhancement for the mortgage loan or the authority's bonds or
16 notes, the proceeds of which were used in whole or in part to
17 acquire the project mortgage loan; annual financial and operating
18 reports; and any other reports the authority may determine to be
19 necessary;

20 (7) the sponsor shall purchase and maintain an
21 insurance policy insuring the project against loss or damage by
22 fire, windstorm, hail, smoke, explosion, riot or civil commotion
23 in an amount not less than eighty percent of the replacement costs
24 of the project, and the authority or its designee shall be named
25 in the insurance policy as an additional named insured;

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1 (8) the sponsor shall provide the authority with
2 a market feasibility study, market-value appraisal, architectural
3 design and outline specifications, tenant selection plans and any
4 other documents the authority requires in determining whether to
5 purchase the project mortgage loan;

6 (9) unless otherwise exempt under any other law
7 of the state or any political subdivision of the state, all ad
8 valorem, [~~gross receipts~~] sales and any other taxes imposed on the
9 land or improvements for which a multiple-family dwelling project
10 mortgage loan is being provided shall apply;

11 (10) the sponsor shall maintain the project as a
12 multiple-family dwelling project or transitional or congregate
13 housing facility throughout the life of the project mortgage loan;
14 and

15 (11) the sponsor shall comply with any other
16 reasonable requirements the authority deems necessary to impose in
17 the future.

18 B. The authority shall distribute available funds to
19 qualified sponsors and mortgage lenders on an equitable basis
20 using guidelines that take into consideration geographic
21 allocation and economic feasibility of affordable housing
22 throughout the state, including the need for new housing to
23 attract a new industry or plant or to provide housing in an
24 economically depressed or low-income area."

25 SECTION 383. Section 58-31-3 NMSA 1978 (being Laws 2005,

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1 Chapter 128, Section 3, as amended) is amended to read:

2 "58-31-3. DEFINITIONS.--As used in the Spaceport
3 Development Act:

4 A. "authority" means the spaceport authority;

5 B. "project" means any land, building or other
6 improvements acquired as part of a spaceport or associated with a
7 spaceport or to aid commerce in connection with a spaceport and
8 all real and personal property deemed necessary in connection with
9 the spaceport;

10 C. "revenue" means municipal regional spaceport [~~gross~~
11 ~~receipts~~] sales tax and county regional spaceport [~~gross receipts~~]
12 sales tax revenue received from a regional spaceport district,
13 revenue generated by a project and any other legally available
14 funds of the authority;

15 D. "space vehicle" means a vehicle capable of being
16 flown in space or launching a payload into space; and

17 E. "spaceport" means a facility in New Mexico at which
18 space vehicles may be launched or landed, including all facilities
19 and support infrastructure related to launch, landing or payload
20 processing."

21 **SECTION 384.** Section 58-31-5 NMSA 1978 (being Laws 2005,
22 Chapter 128, Section 5, as amended) is amended to read:

23 "58-31-5. AUTHORITY POWERS AND DUTIES.--

24 A. The authority shall:

25 (1) hire an executive director, who shall employ

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1 the necessary professional, technical and clerical staff to enable
2 the authority to function efficiently and shall direct the affairs
3 and business of the authority, subject to the direction of the
4 authority;

5 (2) be located within fifty miles of a southwest
6 regional spaceport;

7 (3) advise the governor, the governor's staff and
8 the New Mexico finance authority oversight committee on methods,
9 proposals, programs and initiatives involving a southwest regional
10 spaceport that may further stimulate space-related business and
11 employment opportunities in New Mexico;

12 (4) initiate, develop, acquire, own, construct,
13 maintain and lease space-related projects;

14 (5) make and execute all contracts and other
15 instruments necessary or convenient to the exercise of its powers
16 and duties;

17 (6) create programs to expand high-technology
18 economic opportunities within New Mexico;

19 (7) create avenues of communication among federal
20 government agencies, the space industry, users of space launch
21 services and academia concerning space business;

22 (8) promote legislation that will further the
23 goals of the authority and development of space business;

24 (9) oversee and fund production of promotional
25 literature related to the authority's goals;

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1 (10) identify science and technology trends that
2 are significant to space enterprise and the state and act as a
3 clearinghouse for space enterprise issues and information;

4 (11) coordinate and expedite the involvement of
5 the state executive branch's space-related development efforts;
6 and

7 (12) perform environmental, transportation,
8 communication, land use and other technical studies necessary or
9 advisable for projects and programs or to secure licensing by
10 appropriate United States agencies.

11 B. The authority may:

12 (1) advise and cooperate with municipalities,
13 counties, state agencies and organizations, appropriate federal
14 agencies and organizations and other interested persons and
15 groups;

16 (2) solicit and accept federal, state, local and
17 private grants of funds or property and financial or other aid for
18 the purpose of carrying out the provisions of the Spaceport
19 Development Act;

20 (3) adopt rules governing the manner in which its
21 business is transacted and the manner in which the powers of the
22 authority are exercised and its duties performed;

23 (4) operate spaceport facilities, including
24 acquisition of real property necessary for spaceport facilities
25 and the filing of necessary documents with appropriate agencies;

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1 (5) construct, purchase, accept donations of or
2 lease projects located within the state;

3 (6) sell, lease or otherwise dispose of a project
4 upon terms and conditions acceptable to the authority and in the
5 best interests of the state;

6 (7) issue revenue bonds and borrow money for the
7 purpose of defraying the cost of acquiring a project by purchase
8 or construction and of securing the payment of the bonds or
9 repayment of a loan;

10 (8) enter into contracts with regional spaceport
11 districts and issue bonds on behalf of regional spaceport
12 districts for the purpose of financing the purchase, construction,
13 renovation, equipping or furnishing of a regional spaceport or a
14 spaceport-related project;

15 (9) refinance a project;

16 (10) contract with any competent private or
17 public organization or individual to assist in the fulfillment of
18 its duties;

19 (11) fix, alter, charge and collect tolls, fees
20 or rentals and impose any other charges for the use of or for
21 services rendered by any authority facility, program or service;
22 and

23 (12) contract with regional spaceport districts
24 to receive municipal spaceport [~~gross receipts~~] sales tax and
25 county regional spaceport [~~gross receipts~~] sales tax revenues.

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1 C. The authority shall not:

2 (1) incur debt as a general obligation of the
3 state or pledge the full faith and credit of the state to repay
4 debt; or

5 (2) expend funds or incur debt for the
6 improvement, maintenance, repair or addition to property unless it
7 is owned by the authority, the state or a political subdivision of
8 the state."

9 **SECTION 385.** Section 58-31-6 NMSA 1978 (being Laws 2005,
10 Chapter 128, Section 6, as amended) is amended to read:

11 "58-31-6. SPACEPORT AUTHORITY--BONDING AUTHORITY--POWER TO
12 ISSUE REVENUE BONDS.--

13 A. The authority may issue revenue bonds on its own
14 behalf or on behalf of a regional spaceport district, for regional
15 spaceport purposes and spaceport-related projects. Revenue bonds
16 so issued may be considered appropriate investments for the
17 severance tax permanent fund or collateral for the deposit of
18 public funds if the bonds are rated not less than "A" by a
19 national rating service and both the principal and interest of the
20 bonds are fully and unconditionally guaranteed by a lease
21 agreement executed by an agency of the United States government or
22 by a corporation organized and operating within the United States,
23 that corporation or the long-term debt of that corporation being
24 rated not less than "A" by a national rating service. All bonds
25 issued by the authority are legal and authorized investments for

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1 banks, trust companies, savings and loan associations and
2 insurance companies.

3 B. The authority may pay from the bond proceeds all
4 expenses, premiums and commissions that the authority deems
5 necessary or advantageous in connection with the authorization,
6 sale and issuance of the bonds.

7 C. Authority revenue bonds:

8 (1) may have interest or appreciated principal
9 value or any part thereof payable at intervals determined by the
10 authority;

11 (2) may be subject to prior redemption or
12 mandatory redemption at the authority's option at the time and
13 upon such terms and conditions with or without the payment of a
14 premium as may be provided by resolution of the authority;

15 (3) may mature at any time not exceeding twenty
16 years after the date of issuance if secured by revenue from the
17 county or municipal regional spaceport [~~gross receipts~~] sales tax
18 or thirty years if secured by revenue from other sources;

19 (4) may be serial in form and maturity; may
20 consist of one or more bonds payable at one time or in
21 installments; or may be in such other form as determined by the
22 authority;

23 (5) may be in registered or bearer form or in
24 book-entry form through facilities of a securities depository
25 either as to principal or interest or both;

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1 (6) shall be sold for cash at, above or below par
2 and at a price that results in a net effective interest rate that
3 conforms to the Public Securities Act; and

4 (7) may be sold at public or negotiated sale.

5 D. Subject to the approval of the state board of
6 finance, the authority may enter into other financial arrangements
7 if it determines that the arrangements will assist the authority."

8 **SECTION 386.** Section 59A-58-2 NMSA 1978 (being Laws 2001,
9 Chapter 206, Section 2, as amended) is amended to read:

10 "59A-58-2. DEFINITIONS.--As used in the Service Contract
11 Regulation Act:

12 A. "administrator" means a person who is responsible
13 for administering a service contract that is issued, sold or
14 offered for sale by a provider or sold by a seller;

15 B. "consumer" means a person who purchases, other than
16 for resale, property used primarily for personal, family or
17 household purposes and not for business or research purposes;

18 C. "holder" means a resident of this state who:

19 (1) purchases a service contract; or

20 (2) is legally in possession of a service
21 contract and is entitled to enforce the rights of the original
22 purchaser of the service contract;

23 D. "incidental costs" means expenses specified in a
24 warranty that are incurred by the warranty holder due to the
25 failure of the product to perform as provided in the contract.

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1 Incidental costs may include, without limitation, insurance policy
2 deductibles, rental vehicle charges, the difference between the
3 actual value of a motor vehicle at the time of failure and the
4 cost of a replacement vehicle, [~~gross receipts~~] sales taxes,
5 registration fees, transaction fees and mechanical inspection
6 fees. Incidental costs may be reimbursed in either a fixed amount
7 specified in the warranty or by use of a formula itemizing
8 specific incidental costs incurred by the warranty holder;

9 E. "maintenance agreement" means a contract for a
10 limited period that provides only for scheduled maintenance;

11 F. "major manufacturing company" means a person who:

12 (1) manufactures or produces and sells products
13 under its own name or label or is a wholly owned subsidiary or
14 affiliate of the person who manufactures or produces products; and

15 (2) maintains, or its parent company maintains, a
16 net worth or stockholders' equity of at least one hundred million
17 dollars (\$100,000,000);

18 G. "property" means all property, whether movable at
19 the time of purchase or a fixture, that is used primarily for
20 personal, family or household purposes;

21 H. "provider" means a person who is contractually
22 obligated to a holder or to indemnify the holder for the costs of
23 repairing, replacing or performing maintenance on property;

24 I. "reimbursement insurance policy" means a policy of
25 insurance issued to a provider to either provide reimbursement to

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1 the provider under the terms of the insured service contracts
2 issued or sold by the provider or, in the event of the provider's
3 non-performance, to pay on behalf of the provider all covered
4 contractual obligations incurred by the provider under the terms
5 of the insured service contracts issued or sold by the provider;

6 J. "road hazard" means a hazard that is encountered
7 while driving a motor vehicle and that may include potholes,
8 rocks, wood debris, metal parts, glass, plastic, curbs or
9 composite scraps;

10 K. "seller" means a person who sells service contracts
11 that contractually obligate another party or parties;

12 L. "service contract" means a contract pursuant to
13 which a provider, in exchange for separately stated consideration,
14 is obligated for a specified period to a holder to repair, replace
15 or perform maintenance on, or indemnify or reimburse the holder
16 for the costs of repairing, replacing or performing maintenance
17 on, property that is described in the service contract and that
18 has an operational or structural failure as a result of a defect
19 in materials, workmanship or normal wear and tear, including a
20 contract that provides or includes one or more of the following:

21 (1) incidental payment of indemnity under limited
22 circumstances, including towing, rental and emergency road service
23 and food spoilage;

24 (2) the repair, replacement or maintenance of
25 property for damages that result from power surges or accidental

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1 damage from handling;

2 (3) the repair or replacement of tires and wheels
3 on a motor vehicle damaged as a result of coming into contact with
4 road hazards;

5 (4) the removal of dents, dings or creases on a
6 motor vehicle that can be repaired using the process of paintless
7 dent removal without affecting the existing paint finish and
8 without replacing vehicle body panels, sanding, bonding or
9 painting;

10 (5) the repair of chips or cracks in motor
11 vehicle windshields or the replacement of motor vehicle
12 windshields as a result of damage caused by road hazards;

13 (6) the replacement of a motor vehicle key or key
14 fob in the event the key or key fob becomes inoperable or is lost
15 or stolen; and

16 (7) other services approved by the superintendent
17 if not inconsistent with other provisions of the Service Contract
18 Regulation Act; and

19 M. "warranty" means a warranty provided solely by a
20 manufacturer, importer or seller of property for which the
21 manufacturer, importer or seller did not receive separate
22 consideration and that:

23 (1) is not negotiated or separated from the sale
24 of the property;

25 (2) is incidental to the sale of the property;

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1 and

2 (3) guarantees to indemnify the consumer for
3 defective parts, mechanical or electrical failure, labor or other
4 remedial measures required to repair or replace the property and
5 may provide specified incidental costs."

6 SECTION 387. Section 60-1A-20 NMSA 1978 (being Laws 2007,
7 Chapter 39, Section 20, as amended) is amended to read:

8 "60-1A-20. DAILY CAPITAL OUTLAY TAX--CAPITAL OUTLAY
9 OFFSET--STATE FAIR COMMISSION DISTRIBUTION--DAILY LICENSE FEES.--

10 A. A "daily capital outlay tax" of two and three-
11 sixteenths percent is imposed on the gross amount wagered each day
12 at a racetrack where horse racing is conducted on the premises of
13 a racetrack licensee and also on the gross amount wagered each day
14 when a racetrack licensee is engaged in simulcasting pursuant to
15 the Horse Racing Act. After deducting the amount of offset
16 allowed pursuant to this section, any remaining daily capital
17 outlay tax shall be paid by the commission to the taxation and
18 revenue department from the retainage of a racetrack licensee from
19 on-site wagers made on the licensed premises of the racetrack
20 licensee for deposit in the general fund. Of the daily capital
21 outlay tax imposed pursuant to this subsection:

22 (1) for a class A racetrack licensee, not more
23 than one-half of the daily capital outlay tax imposed on the first
24 two hundred fifty thousand dollars (\$250,000) of the daily handle
25 may be offset by the amount that the class A racetrack licensee

.212229.1

1 expends for capital improvements or for long-term financing of
2 capital improvements at the racetrack licensee's existing
3 facility;

4 (2) for a class B racetrack licensee, not more
5 than one-half of the daily capital outlay tax imposed on the first
6 two hundred fifty thousand dollars (\$250,000) of the daily handle
7 may be offset:

8 (a) in an amount not to exceed one-half of
9 the offset allowed, the amount expended by the class B racetrack
10 licensee for capital improvements; and

11 (b) in an amount not to exceed one-half of
12 the offset allowed, the amount expended by the class B racetrack
13 licensee for advertising, marketing and promoting horse racing in
14 the state;

15 (3) through December 31, 2014, for both class A
16 and class B racetrack licensees, an amount equal to one-half of
17 the daily capital outlay tax is appropriated and transferred to
18 the state fair commission for expenditure on capital improvements
19 at the state fairgrounds and for expenditure on debt service on
20 negotiable bonds issued for the state fairgrounds' capital
21 improvements; and

22 (4) on and after January 1, 2015, for both class
23 A and class B racetrack licensees, an amount equal to one-half of
24 the daily capital outlay tax is appropriated and transferred to
25 the racehorse testing fund.

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1 B. An additional daily license fee of five hundred
2 dollars (\$500) shall be paid to the commission by the racetrack
3 licensee for each day of live racing on the premises of the
4 racetrack licensee.

5 C. Accurate records shall be kept by the racetrack
6 licensee to show gross amounts wagered, retainage, breakage and
7 amounts received from interstate common pools and distributions
8 from gross amounts wagered, retainage, breakage and amounts
9 received from interstate common pools, as well as other
10 information the commission may require. Records shall be open to
11 inspection and shall be audited by the commission, its authorized
12 representatives or an independent auditor selected by the
13 commission. The commission may prescribe the method in which
14 records shall be maintained. A racetrack licensee shall keep
15 records that are accurate, legible and easy to understand.

16 D. Notwithstanding any other provision of law, a
17 political subdivision of the state shall not impose an
18 occupational tax on a horse racetrack owned or operated by a
19 racetrack licensee. A political subdivision of the state shall
20 not impose an excise tax on a horse racetrack owned or operated by
21 a racetrack licensee. Local option [~~gross receipts~~] sales taxes
22 authorized by the state may be imposed to the extent authorized
23 and imposed by a subdivision of the state on a horse racetrack
24 owned or operated by a racetrack licensee."

25 **SECTION 388.** Section 60-2E-39 NMSA 1978 (being Laws 1997,

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1 Chapter 190, Section 41) is amended to read:

2 "60-2E-39. LIMITATIONS ON TAXES AND LICENSE FEES.--A
3 political subdivision of the state shall not impose a license fee
4 or tax on any licensee licensed pursuant to the Gaming Control Act
5 except for the imposition of property taxes and local option
6 [~~gross receipts~~] sales taxes with respect to receipts not subject
7 to the gaming tax [~~and the distribution provided for and~~
8 ~~determined pursuant to Subsection C of Section 60-1-15 and Section~~
9 ~~60-1-15.2 NMSA 1978~~]."

10 SECTION 389. Section 60-2E-47.1 NMSA 1978 (being Laws 2010,
11 Chapter 31, Section 3) is amended to read:

12 "60-2E-47.1. COUNTY GAMING TAX CREDIT.--

13 A. Subject to the provisions of Subsection C of this
14 section, beginning January 1, 2011, a taxpayer that is a gaming
15 operator licensee that is a racetrack may claim, and the taxation
16 and revenue department may allow, a tax credit in an amount of up
17 to fifty percent of the taxpayer's monthly gaming tax liability
18 pursuant to Section 60-2E-47 NMSA 1978, not to exceed a maximum
19 credit of seven hundred fifty thousand dollars (\$750,000) per
20 state fiscal year, if the taxpayer:

21 (1) is located in a county in which the board of
22 county commissioners has imposed and the electors have approved a
23 county business retention [~~gross receipts~~] sales tax; and

24 (2) had in the immediately prior calendar year a
25 combined net take and receipts, not including receipts for purses,

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1 from an allocation agreement made pursuant to Section 60-2E-27
2 NMSA 1978 of under fifteen million dollars (\$15,000,000).

3 B. The tax credit that may be claimed pursuant to this
4 section may be referred to as the "county gaming tax credit".

5 C. If in the prior fiscal year the total amount of
6 county gaming tax credit claimed by the taxpayer exceeded the
7 amount distributed to the state from the proceeds of a county
8 business retention [~~gross receipts~~] sales tax imposed by the
9 county in which the taxpayer is located, the taxpayer shall be
10 deemed to owe an amount equal to the excess credit and shall remit
11 to the state an amount equal to the excess credit. The taxpayer
12 may not again claim the county gaming tax credit until the excess
13 amount calculated pursuant to this subsection has been remitted to
14 the state.

15 D. The county gaming tax credit shall be administered
16 by the taxation and revenue department pursuant to the Tax
17 Administration Act.

18 E. Subject to the provisions of Subsection C of this
19 section, the credit created in this section may be claimed on a
20 monthly basis against the gaming tax remitted to the state on a
21 form provided by the taxation and revenue department. The credit
22 claimed each month may not exceed one-twelfth of fifty percent of
23 the gaming tax paid in the prior calendar year. Any additional
24 credit that may be allowed may be claimed in the last month of the
25 fiscal year. The maximum county gaming tax credit claimed shall

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1 not exceed fifty percent of the gaming tax due from the taxpayer
2 in the fiscal year."

3 SECTION 390. Section 60-2F-21 NMSA 1978 (being Laws 2009,
4 Chapter 81, Section 21) is amended to read:

5 "60-2F-21. TAX IMPOSITION.--

6 A. A bingo and raffle tax equal to one-half percent of
7 the gross receipts of any game of chance held, operated or
8 conducted for or by a qualified organization shall be imposed on
9 the qualified organization.

10 B. No other state or local [~~gross receipts~~] option
11 sales tax shall apply to a qualified organization's receipts
12 generated by a game of chance authorized by the New Mexico Bingo
13 and Raffle Act.

14 C. The tax imposed pursuant to this section shall be
15 submitted quarterly to the taxation and revenue department on or
16 before April 25, July 25, October 25 and January 25.

17 D. The taxation and revenue department shall
18 administer the tax imposed in this section pursuant to the Tax
19 Administration Act."

20 SECTION 391. Section 60-6A-6.1 NMSA 1978 (being Laws 2011,
21 Chapter 110, Section 3, as amended) is amended to read:

22 "60-6A-6.1. CRAFT DISTILLER'S LICENSE.--

23 A. In any local option district, a person qualified
24 pursuant to the provisions of the Liquor Control Act, except as
25 otherwise provided in the Domestic Winery, Small Brewery and Craft

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1 Distillery Act, may apply for and be issued a craft distiller's
2 license subject to the following conditions:

3 (1) the applicant submits evidence to the
4 department that the applicant has a valid and appropriate permit
5 issued by the federal government to be a craft distiller;

6 (2) renewal of the license shall be conditioned
7 upon:

8 (a) no less than sixty percent of the gross
9 receipts from the sale of spirituous liquors for the preceding
10 twelve months of the licensee's operation being derived from the
11 sale of spirituous liquors produced by the licensee;

12 (b) the manufacture of no less than one
13 thousand proof gallons of spirituous liquors per license year at
14 the licensee's premises; and

15 (c) submission to the department by the
16 licensee of a report showing the number of proof gallons of
17 spirituous liquors manufactured by the licensee at the licensee's
18 premises and the annual gross receipts from the sale of spirituous
19 liquors produced by the licensee and from the licensee's sale of
20 distilled spirituous liquors produced by other New Mexico licensed
21 craft distillers;

22 (3) a craft distiller's license shall not be
23 transferred from person to person or from one location to another;

24 (4) the provisions of Section 60-6A-18 NMSA 1978
25 shall not apply to a craft distiller's license; and

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1 (5) nothing in this section shall prevent a craft
2 distiller from receiving other licenses pursuant to the Liquor
3 Control Act.

4 B. A person to whom a craft distiller's license is
5 issued pursuant to this section may do any of the following:

6 (1) manufacture or produce spirituous liquors,
7 including aging, filtering, blending, mixing, flavoring, coloring,
8 bottling and labeling;

9 (2) store, transport, import or export spirituous
10 liquors;

11 (3) sell only spirituous liquors that are
12 packaged by or for the craft distiller to a person holding a
13 wholesaler's license, a craft distiller's license or a
14 manufacturer's license;

15 (4) deal in warehouse receipts for spirituous
16 liquors;

17 (5) buy spirituous liquors from other persons,
18 including licensees and permittees under the Liquor Control Act,
19 for use in blending, flavoring, mixing or bottling of spirituous
20 liquors;

21 (6) be deemed a manufacturer for purposes of the
22 [~~Gross Receipts and Compensating~~] Sales and Use Tax Act;

23 (7) conduct spirituous liquor tastings and sell,
24 by the glass or by the bottle, or in unbroken packages for
25 consumption off the premises but not for resale, spirituous

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1 liquors of the craft distiller's own production or spirituous
2 liquors produced by another New Mexico craft distiller or New
3 Mexico manufacturer on the craft distiller's premises; and

4 (8) at no more than three other locations off the
5 craft distiller's premises, after the craft distiller has paid the
6 applicable fee for a craft distiller's off-premises permit, after
7 the director has determined that the off-premises locations meet
8 the requirements of the Liquor Control Act and department rules
9 for new liquor license locations and after the director has issued
10 a craft distiller's off-premises permit for each off-premises
11 location, conduct spirituous liquor tastings and sell by the
12 glass, or in unbroken packages for consumption and not for resale,
13 spirituous liquors produced and bottled by or for the craft
14 distiller or spirituous liquors produced and bottled by or for
15 another New Mexico craft distiller or manufacturer.

16 C. For a public celebration off the craft distiller's
17 premises in any local option district permitting the sale of
18 alcoholic beverages, a craft distiller shall pay ten dollars
19 (\$10.00) to the department for a "craft distiller's public
20 celebration permit" to be issued under rules adopted by the
21 director. Upon request, the department may issue to a craft
22 distiller a public celebration permit for a location at the public
23 celebration that is to be shared with other craft distillers,
24 small brewers and winegrowers. As used in this subsection,
25 "public celebration" includes any state or county fair, community

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1 fiesta, cultural or artistic event, sporting competition of a
2 seasonal nature or other activity held on an intermittent basis.

3 D. Sales and tastings of spirituous liquors authorized
4 in this section shall be permitted during the hours set forth in
5 Subsection A of Section 60-7A-1 NMSA 1978 and between the hours of
6 noon and midnight on Sunday and shall conform to the limitations
7 regarding Christmas day sales and the expansion of Sunday sales
8 hours to 2:00 a.m. on January 1, when December 31 falls on a
9 Sunday as set forth in Section 60-7A-1 NMSA 1978."

10 SECTION 392. Section 60-6A-11 NMSA 1978 (being Laws 1981,
11 Chapter 39, Section 28, as amended by Laws 2015, Chapter 102,
12 Section 4 and by Laws 2015, Chapter 105, Section 1 and also by
13 Laws 2015, Chapter 124, Section 1) is amended to read:

14 "60-6A-11. WINEGROWER'S LICENSE.--

15 A. A person in this state who produces wine is exempt
16 from the procurement of any other license pursuant to the terms of
17 the Liquor Control Act, but not from the procurement of a
18 winegrower's license. Except during periods of shortage or
19 reduced availability, at least fifty percent of a winegrower's
20 overall annual production of wine shall be produced from grapes or
21 other agricultural products grown in this state pursuant to rules
22 adopted by the director; provided, however, that, for purposes of
23 determining annual production and compliance with the fifty
24 percent New Mexico grown provision of this subsection, the
25 calculation of a winegrower's overall annual production of wine

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1 shall not include the winegrower's production of wine for out-of-
2 state wine producer license holders.

3 B. A person issued a winegrower's license pursuant to
4 this section may do any of the following:

5 (1) manufacture or produce wine, including
6 blending, mixing, flavoring, coloring, bottling and labeling,
7 whether the wine is manufactured or produced for a winegrower or
8 an out-of-state wine producer holding a permit issued pursuant to
9 the Federal Alcohol Administration Act and a valid license in a
10 state that authorizes the wine producer to manufacture, produce,
11 store or sell wine;

12 (2) store, transport, import or export wines;

13 (3) sell wines to a holder of a New Mexico
14 winegrower's, wine wholesaler's, wholesaler's or wine exporter's
15 license or to a winegrower's agent;

16 (4) transport not more than two hundred cases of
17 wine in a calendar year to another location within New Mexico by
18 common carrier;

19 (5) deal in warehouse receipts for wine;

20 (6) sell wines in other states or foreign
21 jurisdictions to the holders of a license issued under the
22 authority of that state or foreign jurisdiction authorizing the
23 purchase of wine;

24 (7) buy wine or distilled wine products from
25 other persons, including licensees and permittees under the Liquor

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1 Control Act, for use in blending, mixing or bottling of wines;

2 (8) buy or otherwise obtain beer from a small
3 brewer for the purposes described in this subsection;

4 (9) conduct wine tastings and sell, by the glass
5 or by the bottle, or sell in unbroken packages for consumption off
6 the premises, but not for resale, wine of the winegrower's own
7 production, wine produced by another New Mexico winegrower on the
8 winegrower's premises or beer produced and bottled by or for a
9 small brewer pursuant to Section [~~60-2A-26.1~~] 60-6A-26.1 NMSA
10 1978;

11 (10) at no more than three off-premises
12 locations, conduct wine tastings, sell by the glass and sell in
13 unbroken packages for consumption off premises, but not for
14 resale, wine of the winegrower's own production, wine produced by
15 another New Mexico winegrower or beer produced and bottled by or
16 for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978 after
17 the director has determined that the off-premises locations meet
18 the requirements of the Liquor Control Act and the department
19 rules for new liquor license locations;

20 (11) be deemed a manufacturer for purposes of the
21 [~~Gross Receipts and Compensating~~] Sales and Use Tax Act;

22 (12) at public celebrations on or off the
23 winegrower's premises, after the winegrower has paid the
24 applicable fees and been issued the appropriate permit, to conduct
25 wine tastings, sell by the glass or the bottle, or sell in

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1 unbroken packages, for consumption off premises, but not for
2 resale, wine produced by or for the winegrower;

3 (13) sell wine or cider in a growler for
4 consumption off premises; and

5 (14) in accordance with the provisions of this
6 section that relate to the sale of wine, accept and fulfill an
7 order for wine that is placed via an internet [~~web site~~] website,
8 whether the financial transaction related to the order is
9 administered by the licensee or the licensee's agent.

10 C. Sales of wine or beer as provided for in this
11 section shall be permitted between the hours of 7:00 a.m. and
12 midnight Monday through Saturday, and the holder of a winegrower's
13 license or public celebration permit may conduct wine tastings and
14 sell, by the glass or bottle, or sell in unbroken packages for
15 consumption off premises, but not for resale, wine of the
16 winegrower's own production or beer produced and bottled by or for
17 a small brewer pursuant to Section 60-6A-26.1 NMSA 1978 on the
18 winegrower's premises between the hours of 12:00 noon and midnight
19 on Sunday.

20 D. At public celebrations off the winegrower's
21 premises in any local option district permitting the sale of
22 alcoholic beverages, the holder of a winegrower's license shall
23 pay ten dollars (\$10.00) to the alcohol and gaming division of the
24 regulation and licensing department for a "winegrower's public
25 celebration permit" to be issued under rules adopted by the

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1 director. Upon request, the alcohol and gaming division of the
2 regulation and licensing department may issue to a holder of a
3 winegrower's license a public celebration permit for a location at
4 the public celebration that is to be shared with other winegrowers
5 and small brewers. As used in this subsection, "public
6 celebration" includes any state or county fair, community fiesta,
7 cultural or artistic event, sporting competition of a seasonal
8 nature or activities held on an intermittent basis.

9 E. Every application for the issuance or annual
10 renewal of a winegrower's license shall be on a form prescribed by
11 the director and accompanied by a license fee to be computed as
12 follows on the basis of total annual wine produced or blended:

13 (1) less than five thousand gallons per year,
14 twenty-five dollars (\$25.00) per year;

15 (2) between five thousand and one hundred
16 thousand gallons per year, one hundred dollars (\$100) per year;
17 and

18 (3) over one hundred thousand gallons per year,
19 two hundred fifty dollars (\$250) per year."

20 SECTION 393. Section 60-6A-11.1 NMSA 1978 (being Laws 2011,
21 Chapter 109, Section 1) is amended to read:

22 "60-6A-11.1. DIRECT WINE SHIPMENT PERMIT--AUTHORIZATION--
23 RESTRICTIONS.--

24 A. A licensee with a winegrower's license or a person
25 licensed in a state other than New Mexico that holds a winery

.212229.1

1 license may apply to the director for and the director may issue
2 to the applicant a direct wine shipment permit. An application
3 for a direct wine shipment permit shall include:

4 (1) contact information for the applicant in a
5 form required by the department;

6 (2) an annual application fee of fifty dollars
7 (\$50.00) if the applicant does not hold a winegrower's license;

8 (3) the number of the applicant's winegrower's
9 license if the applicant is located in New Mexico or a copy of the
10 applicant's winery license if the applicant is located in a state
11 other than New Mexico; and

12 (4) any other information or documents required
13 by the director. Upon approval of an applicant for a permit, the
14 director shall forward to the taxation and revenue department the
15 name of each permittee and the contact information for the
16 permittee.

17 B. A direct wine shipment permit shall be valid for a
18 permit year. A permittee shall renew a direct wine shipment
19 permit annually as required by the department to continue making
20 direct shipments of wine to New Mexico residents.

21 C. A permittee may ship:

22 (1) not more than two nine-liter cases of wine
23 monthly to a New Mexico resident who is twenty-one years of age or
24 older for the recipient's personal consumption or use, but not for
25 resale; and

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1 (2) wine directly to a New Mexico resident only
2 in containers that are conspicuously labeled with the words:

3 "CONTAINS ALCOHOL

4 SIGNATURE OF PERSON 21 YEARS OR OLDER REQUIRED

5 FOR DELIVERY".

6 D. A permittee shall:

7 (1) register with the taxation and revenue
8 department for the payment of liquor excise tax and [~~gross~~
9 ~~receipts~~] sales taxes due on the sales of wine pursuant to the
10 permittee's activities in New Mexico;

11 (2) submit to the jurisdiction of New Mexico
12 courts to resolve legal actions that arise from the shipping by
13 the permittee of wine into New Mexico to New Mexico residents;

14 (3) monthly, by the twenty-fifth day of each
15 month following the month in which the permittee was issued a
16 direct wine shipment permit, pay to the taxation and revenue
17 department the liquor excise tax due and the [~~gross receipts tax~~]
18 sales taxes due; and

19 (4) submit to an audit by an agent of the
20 taxation and revenue department of the permittee's records of the
21 wine shipped pursuant to this section to New Mexico residents upon
22 notice and during usual business hours.

23 E. As used in this section:

24 (1) "permit year" means the period between July 1
25 and June 30 of a year; and

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1 (2) "permittee" means a person that is the holder
2 of a direct wine shipment permit."

3 SECTION 394. Section 60-6A-24 NMSA 1978 (being Laws 1983,
4 Chapter 280, Section 5, as amended) is amended to read:

5 "60-6A-24. WINE BLENDER'S LICENSE.--

6 A. In any local option district, a person qualified
7 under the provisions of the Liquor Control Act, except as
8 otherwise provided in the Domestic Winery, ~~[and]~~ Small Brewery and
9 Craft Distillery Act, may apply for and be issued a wine blender's
10 license.

11 B. A wine blender's license authorizes the person to
12 whom it is issued to:

13 (1) package, rectify, blend, mix, flavor, color,
14 label and export wine, whether manufactured or produced by ~~[him]~~
15 the person or any other person;

16 (2) sell only wine packaged by or for ~~[him]~~ the
17 person to a person holding a New Mexico wine wholesaler's,
18 wholesaler's, winegrower's or wine exporter's license or to a
19 winegrower's agent;

20 (3) deal in warehouse receipts for wine; and

21 (4) be deemed a manufacturer for purposes of the
22 ~~[Gross Receipts and Compensating]~~ Sales and Use Tax Act.

23 C. A wine blender's license does not authorize the
24 person to whom it is issued:

25 (1) to crush, ferment and produce wine from

1 grapes, berries and other fruits;

2 (2) to obtain or be issued a winer's license, a
3 retailer's license or a dispenser's license;

4 (3) to buy, sell, receive or deliver wine from
5 persons other than authorized licensees; or

6 (4) to conduct wine tastings or sell for
7 consumption off premises, at retail, or to sponsor wine tastings,
8 either on or off the wine blender's premises."

9 SECTION 395. Section 60-6A-26.1 NMSA 1978 (being Laws 1985,
10 Chapter 217, Section 5, as amended by Laws 2015, Chapter 102,
11 Section 5 and by Laws 2015, Chapter 124, Section 2) is amended to
12 read:

13 "60-6A-26.1. SMALL BREWER'S LICENSE.--

14 A. In a local option district, a person qualified
15 pursuant to the provisions of the Liquor Control Act, except as
16 otherwise provided in the Domestic Winery, Small Brewery and Craft
17 Distillery Act, may apply for and be issued a small brewer's
18 license.

19 B. A small brewer's license authorizes the person to
20 whom it is issued to:

21 (1) manufacture or produce beer;

22 (2) package, label and export beer, whether
23 manufactured, bottled or produced by the licensee or any other
24 person;

25 (3) sell only beer that is packaged by or for the

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1 licensee to a person holding a wholesaler's license or a small
2 brewer's license;

3 (4) deal in warehouse receipts for beer;

4 (5) conduct beer tastings and sell for
5 consumption on or off premises, but not for resale, beer produced
6 and bottled by, or produced and packaged for, the licensee, beer
7 produced and bottled by or for another New Mexico small brewer on
8 the small brewer's premises or wine produced by a winegrower
9 pursuant to Section 60-6A-11 NMSA 1978;

10 (6) be deemed a manufacturer for purposes of the
11 [~~Gross Receipts and Compensating~~] Sales and Use Tax Act;

12 (7) at public celebrations off the small brewer's
13 premises, after the small brewer has paid the applicable fee for a
14 small brewer's public celebration permit, conduct tastings and
15 sell by the glass or in unbroken packages, but not for resale,
16 beer produced and bottled by or for the small brewer or wine
17 produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978;

18 (8) buy or otherwise obtain wine from a
19 winegrower;

20 (9) for the purposes described in this
21 subsection, at no more than three other locations off the small
22 brewer's premises, after the small brewer has paid the applicable
23 fee for a small brewer's off-premises permit, after the director
24 has determined that the off-premises locations meet the
25 requirements of the Liquor Control Act and department rules for

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1 new liquor license locations and after the director has issued a
2 small brewer's off-premises permit for each off-premises location,
3 conduct beer tastings and sell by the glass or in unbroken
4 packages for consumption off the small brewer's off-premises
5 location, but not for resale, beer produced and bottled by or for
6 the small brewer, beer produced and bottled by or for another New
7 Mexico small brewer or wine produced by a winegrower pursuant to
8 Section 60-6A-11 NMSA 1978;

9 (10) allow members of the public, on the licensed
10 premises and under the direct supervision of the licensee, to
11 manufacture beer for personal consumption and not for resale using
12 the licensee's equipment and ingredients; and

13 (11) sell beer in a growler for consumption off
14 premises.

15 C. At public celebrations off the small brewer's
16 premises in a local option district permitting the sale of
17 alcoholic beverages, the holder of a small brewer's license shall
18 pay ten dollars (\$10.00) to the alcohol and gaming division of the
19 regulation and licensing department for a "small brewer's public
20 celebration permit" to be issued under rules adopted by the
21 director. Upon request, the alcohol and gaming division of the
22 regulation and licensing department may issue to a holder of a
23 small brewer's license a public celebration permit for a location
24 at the public celebration that is to be shared with other small
25 brewers and winegrowers. As used in this subsection, "public

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1 celebration" includes a state or county fair, community fiesta,
2 cultural or artistic event, sporting competition of a seasonal
3 nature or activities held on an intermittent basis.

4 D. Sales and tastings of beer or wine authorized in
5 this section shall be permitted during the hours set forth in
6 Subsection A of Section 60-7A-1 NMSA 1978 and between the hours of
7 noon and midnight on Sunday and shall conform to the limitations
8 regarding Christmas and voting-day sales found in Section 60-7A-1
9 NMSA 1978 and the expansion of Sunday sales hours to 2:00 a.m. on
10 January 1, when December 31 falls on a Sunday."

11 SECTION 396. Section 61-18A-28.1 NMSA 1978 (being Laws
12 1992, Chapter 36, Section 2) is amended to read:

13 "61-18A-28.1. ADDITIONAL COLLECTION FROM DEBTORS.--

14 A. Unless the agreement between the debtor and the
15 creditor or the agreement between the collection agency and the
16 creditor otherwise expressly prohibits, a collection agency may
17 collect from the debtor an amount equal to the [~~gross receipts~~
18 state sales tax and the local option [~~gross receipts~~] sales taxes,
19 as those terms are defined in the [~~Gross Receipts and~~
20 ~~Compensating~~] Sales and Use Tax Act, imposed on the receipts of
21 the collection agency that result from the collection of a debt
22 from the debtor.

23 B. For purposes of this section, a collection agency
24 does not mean a person who collects [~~his~~] the person's own debts
25 using a name other than [~~his~~] the person's own which would

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1 indicate that a third person is collecting or attempting to
2 collect such debts."

3 SECTION 397. Section 62-6-4.5 NMSA 1978 (being Laws 2003,
4 Chapter 336, Section 4) is amended to read:

5 "62-6-4.5. BILLING--FRANCHISE FEES--[GROSS RECEIPTS] SALES
6 TAXES.--

7 A. A franchise fee charge shall be stated as a
8 separate line entry on a bill sent by a public utility or a
9 distribution cooperative utility to a customer and shall only be
10 recovered from a customer located within the jurisdiction of the
11 government authority imposing the franchise fee.

12 B. Any [~~gross receipts~~] sales taxes collected on
13 electric services received by a retail customer in the state shall
14 be stated as a separate line entry on a bill for electric service
15 sent to the customer by a public utility or distribution
16 cooperative utility."

17 SECTION 398. Section 62-15-28 NMSA 1978 (being Laws 1939,
18 Chapter 47, Section 28, as amended) is amended to read:

19 "62-15-28. TAXATION.--Cooperative and foreign corporations
20 transacting business in this state pursuant to the provisions of
21 the Rural Electric Cooperative Act shall pay annually, on or
22 before July 1, to the [~~state corporation~~] public regulation
23 commission a tax of ten dollars (\$10.00) for each one hundred
24 persons or fraction thereof to whom electricity is supplied within
25 this state, which tax shall be in lieu of all other taxes except

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1 those provided in the [~~Gross Receipts and Compensating~~] Sales and
2 Use Tax Act; provided, however, that in the event a contract has
3 been entered into by a rural electric cooperative and a power
4 consumer prior to February 1, 1961 and such contract does not
5 contain an escalator clause providing for an increase for added
6 tax liability on the cooperative, then the sale to such power
7 consumer shall be exempt until the expiration, extension or
8 renewal of the contract."

9 SECTION 399. Section 62-17-6 NMSA 1978 (being Laws 2005,
10 Chapter 341, Section 6, as amended by Laws 2013, Chapter 124,
11 Section 3 and by Laws 2013, Chapter 220, Section 3) is amended to
12 read:

13 "62-17-6. COST RECOVERY.--

14 A. A public utility that undertakes cost-effective
15 energy efficiency and load management programs shall have the
16 option of recovering its prudent and reasonable costs along with
17 commission-approved incentives for demand-side resources and load
18 management programs implemented after the effective date of the
19 Efficient Use of Energy Act through an approved tariff rider or in
20 base rates, or by a combination of the two. Program costs and
21 incentives may be deferred for future recovery through creation of
22 a regulatory asset. Funding for program costs for investor-owned
23 electric utilities shall be three percent of customer bills,
24 excluding [~~gross receipts~~] sales taxes and franchise and right-of-
25 way access fees, or seventy-five thousand dollars (\$75,000) per

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1 customer per calendar year, whichever is less, for customer
2 classes with the opportunity to participate. Funding for annual
3 program costs for gas utilities shall not exceed three percent of
4 total annual revenues, nor shall charges exceed seventy-five
5 thousand dollars (\$75,000) per customer per calendar year.

6 Provided that the public utility's total portfolio of programs
7 remains cost-effective, no less than five percent of the amount
8 received by the public utility for program costs shall be
9 specifically directed to energy-efficiency programs for low-income
10 customers. Unless otherwise ordered by the commission, a tariff
11 rider approved by the commission shall require language on
12 customer bills explaining program benefits.

13 B. The tariff rider shall be applied on a monthly
14 basis, unless otherwise allowed by the commission.

15 C. A tariff rider proposed by a public utility to fund
16 approved energy efficiency and load management programs shall go
17 into effect thirty days after filing, unless suspended by the
18 commission for a period not to exceed one hundred eighty days. If
19 the tariff rider is not approved or suspended within thirty days
20 after filing, it shall be deemed approved as a matter of law. If
21 the commission has not acted to approve or disapprove the tariff
22 rider by the end of an ordered suspension period, it shall be
23 deemed approved as a matter of law. The commission shall approve
24 utility reconciliations of the tariff rider annually."

25 SECTION 400. Section 63-9D-5.1 NMSA 1978 (being Laws 2017,

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1 Chapter 122, Section 10) is amended to read:

2 "63-9D-5.1. PREPAID WIRELESS ENHANCED 911 SURCHARGE--
3 COLLECTION AND ADMINISTRATION OF SURCHARGE--LIABILITY OF
4 SELLERS--EXCLUSIVITY OF SURCHARGE.--

5 A. As used in this section:

6 (1) "consumer" means a person who purchases
7 prepaid wireless communication service in a retail transaction;

8 (2) "prepaid wireless communication service"
9 means a wireless communication service that allows a caller to
10 dial 911 to access the 911 system, which service must be paid for
11 in advance and is sold in predetermined units or dollars of which
12 the number declines with use in a known amount;

13 (3) "prepaid wireless enhanced 911 surcharge"
14 means the charge that is required to be collected by a seller from
15 a consumer in the amount established under Subsection B of this
16 section;

17 (4) "provider" means a person that provides
18 prepaid wireless communication service pursuant to a license
19 issued by the federal communications commission;

20 (5) "retail transaction" means the purchase of
21 prepaid wireless communication service from a seller for any
22 purpose other than resale;

23 (6) "seller" means a person who sells prepaid
24 wireless communication service to another person; and

25 (7) "wireless communication service" means

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1 commercial mobile radio service as defined by Section 20.3 of
2 Title 47 of the Code of Federal Regulations, as amended.

3 B. A prepaid wireless enhanced 911 surcharge of one
4 and thirty-eight hundredths percent is imposed on the gross value
5 of each retail transaction. The prepaid wireless enhanced 911
6 surcharge shall be collected by the seller from the consumer with
7 respect to each retail transaction occurring in this state. The
8 amount of the prepaid wireless enhanced 911 surcharge shall be
9 either separately stated on an invoice, receipt or other similar
10 document that is provided to the consumer by the seller, or
11 otherwise disclosed to the consumer.

12 C. For purposes of Subsection B of this section, a
13 retail transaction that is effected in person by a consumer at a
14 business location of the seller shall be treated as occurring in
15 this state if that business location is in this state, and any
16 other retail transaction shall be treated as occurring in this
17 state if the retail transaction is treated as occurring in this
18 state for purposes of the [~~Gross Receipts and Compensating~~] Sales
19 and Use Tax Act.

20 D. The prepaid wireless enhanced 911 surcharge is the
21 liability of the consumer and not of the seller or of any
22 provider, except that the seller shall be liable to remit all
23 prepaid wireless enhanced 911 surcharges that the seller collects
24 from consumers as provided in this section, including all such
25 surcharges that the seller is deemed to collect where the amount

.212229.1

1 of the surcharge has not been separately stated on an invoice,
2 receipt or other similar document provided to the consumer by the
3 seller.

4 E. The amount of the prepaid wireless enhanced 911
5 surcharge that is collected by a seller from a consumer, if such
6 amount is separately stated on an invoice, receipt or other
7 similar document provided to the consumer by the seller, shall not
8 be included in the base for measuring any tax, fee, surcharge or
9 other charge that is imposed by this state, any political
10 subdivision of this state or any intergovernmental agency.

11 F. When prepaid wireless communication service is sold
12 with one or more other products or services for a single,
13 non-itemized price, the percentage specified in Subsection B of
14 this section shall apply to the entire non-itemized price unless
15 the seller elects to apply such percentage to:

16 (1) if the amount of the prepaid wireless
17 communication service is disclosed to the consumer as a dollar
18 amount, such dollar amount; or

19 (2) if the seller can identify the portion of the
20 price that is attributable to the prepaid wireless communication
21 service by reasonable and verifiable standards from its books and
22 records that are kept in the regular course of business for other
23 purposes, including non-tax purposes, such portion.

24 G. However, if a minimal amount of prepaid wireless
25 communication service is sold with a prepaid wireless device for a

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1 single, non-itemized price, the seller may elect not to apply the
2 percentage specified in Subsection B of this section to such
3 transaction. For purposes of this subsection, an amount of
4 service denominated as ten minutes or less, or five dollars
5 (\$5.00) or less, is minimal.

6 H. Prepaid wireless enhanced 911 surcharges collected
7 by sellers shall be remitted to the department at the times and in
8 the manner provided with respect to the [~~Gross Receipts and~~
9 ~~Compensating~~] Sales and Use Tax Act. The department shall
10 establish registration and payment procedures that substantially
11 coincide with the registration and payment procedures that apply
12 to the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act. A
13 seller shall be permitted to deduct and retain three percent of
14 prepaid wireless enhanced 911 surcharges that are collected by the
15 seller from the consumer.

16 I. The audit and appeal procedures applicable to the
17 [~~Gross Receipts and Compensating~~] Sales and Use Tax Act shall
18 apply to prepaid wireless enhanced 911 surcharges.

19 J. The department shall establish procedures by which
20 a seller of prepaid wireless communication services may document
21 that a sale is not a retail transaction, which procedures shall
22 substantially coincide with the procedures for documenting sale
23 for resale transactions for the [~~Gross Receipts and Compensating~~]
24 Sales and Use Tax Act.

25 K. No provider or seller of prepaid wireless

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1 communication services shall be liable for damages to any person
2 resulting from or incurred in connection with the provision of, or
3 failure to provide, 911 or enhanced 911 service, or for
4 identifying, or failing to identify, the telephone number,
5 address, location or name associated with any person or device
6 that is accessing or attempting to access 911 or enhanced 911
7 service.

8 L. No provider or seller of prepaid wireless
9 communication services shall be liable for damages to any person
10 resulting from or incurred in connection with the provision of any
11 assistance to any investigative or law enforcement officer of the
12 United States, this or any other state, or any political
13 subdivision of this or any other state, in connection with any
14 investigation or other law enforcement activity by such law
15 enforcement officer.

16 M. In addition to the protection from liability
17 provided by Subsections K and L of this section, each provider and
18 seller shall be entitled to the further protection from liability
19 as provided pursuant to Section 63-9D-10 NMSA 1978.

20 N. The prepaid wireless enhanced 911 surcharge applies
21 to retail transactions occurring on or after July 1, 2017."

22 SECTION 401. Section 63-9F-11 NMSA 1978 (being Laws 1993,
23 Chapter 54, Section 11, as amended) is amended to read:

24 "63-9F-11. IMPOSITION OF SURCHARGE.--

25 A. A telecommunications relay service surcharge of

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1 thirty-three hundredths percent is imposed on the gross amount
2 paid:

3 (1) by customers, except customers whose
4 telephone service rates are reduced as authorized by the Low
5 Income Telephone Service Assistance Act, for intrastate
6 telecommunications services provided in this state;

7 (2) by customers for the intrastate portion of
8 interconnected voice over internet protocol service;

9 (3) by customers for intrastate mobile
10 telecommunications services that originate and terminate in the
11 same state, regardless of where the mobile telecommunications
12 services originate, terminate or pass through, provided by home
13 service providers to customers whose place of primary use is in
14 New Mexico; and

15 (4) by a prepaid consumer in a retail
16 transaction.

17 B. The telecommunications relay service surcharge
18 shall be included on the monthly bill of each customer of a local
19 exchange company or other telecommunications company providing
20 intrastate telecommunications services, interconnected voice over
21 internet protocol services or intrastate mobile telecommunications
22 services and paid at the time of payment of the monthly bill.
23 Receipts from selling those services to any other
24 telecommunications company or provider for resale are not subject
25 to the surcharge. The customer is liable for the payment of the

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1 surcharge to the provider of intrastate mobile telecommunications
2 services, the provider of interconnected voice over internet
3 protocol services or the local exchange company or other
4 telecommunications company providing intrastate telecommunications
5 services to the customer.

6 C. For the purposes of the surcharge imposed on a
7 retail transaction pursuant to Paragraph (4) of Subsection A of
8 this section:

9 (1) the surcharge shall be collected by the
10 seller from the prepaid consumer with respect to each retail
11 transaction occurring in this state. The amount of the surcharge
12 shall be either separately stated on an invoice, receipt or other
13 similar document that is provided to the prepaid consumer by the
14 seller or otherwise disclosed to the prepaid consumer;

15 (2) for the purposes of Paragraph (1) of this
16 subsection, a retail transaction that is effected in person by a
17 prepaid consumer at a business location of the seller shall be
18 treated as occurring in this state if that business location is in
19 this state, and any other retail transaction is treated as
20 occurring in this state if the retail transaction is treated as
21 occurring in this state for purposes of the [~~Gross Receipts and~~
22 ~~Compensating~~] Sales and Use Tax Act;

23 (3) the surcharge is the liability of the prepaid
24 consumer and not of the seller or any provider, except that the
25 seller shall be liable to remit all surcharges collected from the

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1 prepaid consumer as provided in this subsection, including all
2 such surcharges that the seller is deemed to collect where the
3 amount of the surcharge has not been separately stated on an
4 invoice, receipt or other similar document provided to the prepaid
5 consumer by the seller;

6 (4) the amount of the surcharge that is collected
7 by a seller from a prepaid consumer, if such amount is separately
8 stated on an invoice, receipt or other similar document provided
9 to the prepaid consumer by the seller, shall not be included in
10 the base for measuring any tax, fee, surcharge or other charge
11 that is imposed by this state, any political subdivision of this
12 state or any intergovernmental agency;

13 (5) when prepaid wireless communications service
14 is sold with one or more other products or services for a single,
15 non-itemized price, the percentage specified in Subsection A of
16 this section shall apply to the entire non-itemized price unless
17 the seller elects to apply such percentage to:

18 (a) if the amount of the prepaid wireless
19 communications service is disclosed to the prepaid consumer as a
20 dollar amount, such dollar amount; or

21 (b) if the seller can identify the portion
22 of the price that is attributable to the prepaid wireless
23 communications service by reasonable and verifiable standards from
24 its books and records that are kept in the regular course of
25 business for other purposes, including non-tax purposes, such

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1 portion;

2 (6) if a minimal amount of prepaid wireless
3 communications service is sold with a prepaid wireless device for
4 a single, non-itemized price, the seller may elect not to apply
5 the percentage specified in Subsection A of this section to such
6 transaction. For the purposes of this paragraph, an amount of
7 service denominated as ten minutes or less, or five dollars
8 (\$5.00) or less, is minimal;

9 (7) surcharges collected by sellers shall be
10 remitted to the taxation and revenue department at the times and
11 in the manner provided with respect to the [~~Gross Receipts and~~
12 ~~Compensating~~] Sales and Use Tax Act. The department shall
13 establish registration and payment procedures that substantially
14 coincide with the registration and payment procedures that apply
15 to the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act. A
16 seller shall be permitted to deduct and retain three percent of
17 surcharges that are collected by the seller from the prepaid
18 consumer;

19 (8) the audit and appeal procedures applicable to
20 the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act shall
21 apply to the surcharge;

22 (9) the taxation and revenue department shall
23 establish procedures by which a seller of prepaid wireless
24 communications services may document that a sale is not a retail
25 transaction, which procedures shall substantially coincide with

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1 the procedures for documenting sale for resale transactions for
2 the [~~Gross Receipts and Compensating~~] Sales and Use Tax Act; and

3 (10) notwithstanding Paragraph (1) of this
4 subsection, if a 911 surcharge is imposed on prepaid wireless
5 communications service pursuant to the Enhanced 911 Act, the
6 taxation and revenue department shall promulgate rules to permit
7 sellers to combine the surcharge imposed pursuant to this section
8 and the surcharge imposed pursuant to the Enhanced 911 Act into a
9 single surcharge on the invoice, receipt or other similar document
10 that is provided to the prepaid consumer. The department shall
11 ensure that appropriate surcharge revenues are directed
12 proportionately to the respective 911 and telecommunications relay
13 service funds.

14 D. A telecommunications company providing intrastate
15 telecommunications services, a home service provider providing
16 intrastate mobile telecommunications services and a seller of
17 interconnected voice over internet protocol services shall, on
18 sales subject to the telecommunications relay service surcharge,
19 assess and collect the surcharge and remit the surcharge collected
20 monthly to the taxation and revenue department on or before the
21 twenty-fifth day of the month following collection. The
22 department shall administer and enforce the collection of the
23 surcharge in accordance with the Tax Administration Act.

24 E. The taxation and revenue department shall transfer
25 to the telecommunications access fund the amount of the

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1 telecommunications relay service surcharge collected less any
2 amount deducted in accordance with Subsection F of this section.
3 Transfer of the net receipts from the surcharge to the
4 telecommunications access fund shall be made within the month
5 following the month in which the surcharge is collected.

6 F. The taxation and revenue department may deduct an
7 amount not to exceed three percent of the telecommunications relay
8 service surcharge collected as a charge for the administrative
9 costs of collection and shall remit that amount to the state
10 treasurer for deposit in the general fund each month.

11 G. The commission shall report to the revenue
12 stabilization and tax policy committee annually by September 30
13 the following information with respect to the prior fiscal year:

14 (1) the amount and source of revenue received by
15 the telecommunications access fund;

16 (2) the amount and category of expenditures from
17 the fund; and

18 (3) the balance of the fund on that June 30."

19 SECTION 402. Section 63-9H-6 NMSA 1978 (being Laws 1999,
20 Chapter 295, Section 6, as amended) is amended to read:

21 "63-9H-6. STATE RURAL UNIVERSAL SERVICE FUND--
22 ESTABLISHMENT.--

23 A. The commission shall implement and maintain a
24 "state rural universal service fund" to maintain and support
25 universal service that is provided by eligible telecommunications

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1 carriers, including commercial mobile radio services carriers, as
2 are determined by the commission. As used in this section,
3 "universal service" means basic local exchange service, comparable
4 retail alternative services at affordable rates, service pursuant
5 to a low-income telephone assistance plan and broadband internet
6 access service to unserved and underserved areas as determined by
7 the commission.

8 B. The fund shall be financed by a surcharge on
9 intrastate retail public telecommunications services to be
10 determined by the commission, excluding services provided pursuant
11 to a low-income telephone assistance plan billed to end-user
12 customers by a telecommunications carrier, and excluding all
13 amounts from surcharges, [~~gross receipts~~] sales taxes, excise
14 taxes, franchise fees and similar charges. For the purpose of
15 funding the fund, the commission has the authority to apply the
16 surcharge on intrastate retail public telecommunications services
17 provided by telecommunications carriers, including commercial
18 mobile radio services and voice over internet protocol services,
19 at a competitively and technologically neutral rate or rates to be
20 determined by the commission. The commission may establish the
21 surcharge as a percentage of intrastate retail public
22 telecommunications services revenue or as a fixed amount
23 applicable to each communication connection. For purposes of this
24 section, a "communication connection" means a voice-enabled
25 telephone access line, wireless voice connection, unique voice

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1 over internet protocol service connection or other uniquely
2 identifiable functional equivalent as determined by the
3 commission. Such surcharges shall be competitively and
4 technologically neutral. Money deposited in the fund is not
5 public money, and the administration of the fund is not subject to
6 the provisions of law regulating public funds. The commission
7 shall not apply this surcharge to a private telecommunications
8 network; to the state, a county, a municipality or other
9 governmental entity; to a public school district; to a public
10 institution of higher education; to an Indian nation, tribe or
11 pueblo; or to Native American customers who reside on tribal or
12 pueblo land.

13 C. The fund shall be competitively and technologically
14 neutral, equitable and nondiscriminatory in its collection and
15 distribution of funds, portable between eligible
16 telecommunications carriers and additionally shall provide a
17 specific, predictable and sufficient support mechanism as
18 determined by the commission that ensures universal service in the
19 state.

20 D. The commission shall:

21 (1) establish eligibility criteria for
22 participation in the fund consistent with federal law that ensure
23 the availability of universal service at affordable rates. The
24 eligibility criteria shall not restrict or limit an eligible
25 telecommunications carrier from receiving federal universal

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1 service support;

2 (2) provide for the collection of the surcharge
3 on a competitively neutral basis and for the administration and
4 disbursement of money from the fund;

5 (3) determine those services and areas requiring
6 support from the fund;

7 (4) provide for the separate administration and
8 disbursement of federal universal service funds consistent with
9 federal law; and

10 (5) establish affordability benchmark rates for
11 local residential and business services that shall be utilized in
12 determining the level of support from the fund. The process for
13 determining subsequent adjustments to the benchmark shall be
14 established through a rulemaking.

15 E. All incumbent telecommunications carriers and
16 competitive carriers already designated as eligible
17 telecommunications carriers for the fund shall be eligible for
18 participation in the fund. All other carriers that choose to
19 become eligible to receive support from the fund may petition the
20 commission to be designated as an eligible telecommunications
21 carrier for the fund. The commission may grant eligible carrier
22 status to a competitive carrier in a rural area upon a finding
23 that granting the application is in the public interest. In
24 making a public interest finding, the commission may consider at
25 least the following items:

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1 (1) the impact of designation of an additional
2 eligible carrier on the size of the fund;

3 (2) the unique advantages and disadvantages of
4 the competitor's service offering; and

5 (3) any commitments made regarding the quality of
6 telephone service.

7 F. The commission shall adopt rules, including a
8 provision for variances, for the implementation and administration
9 of the fund in accordance with the provisions of this section.

10 The rules shall enumerate the appropriate uses of fund support and
11 any restrictions on the use of fund support by eligible

12 telecommunications carriers. The rules shall require that an
13 eligible telecommunications carrier receiving support from the

14 fund pursuant to Subsection K, L or M of this section must expend
15 no less than sixty percent of the support it receives to deploy

16 and maintain broadband internet access services in rural areas of
17 the state. The rules also shall provide for annual reporting by

18 eligible telecommunications carriers verifying that the reporting
19 carrier continues to meet the requirements for designation as an

20 eligible telecommunications carrier for purposes of the fund and
21 is in compliance with the commission's rules, including the

22 provisions regarding use of support from the fund.

23 G. The commission shall, upon implementation of the
24 fund, select a neutral third-party administrator to collect,
25 administer and disburse money from the fund under the supervision

.212229.1

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1 and control of the commission pursuant to established criteria and
2 rules promulgated by the commission. The administrator may be
3 reasonably compensated for the specified services from the
4 surcharge proceeds to be received by the fund pursuant to
5 Subsection B of this section. For purposes of this subsection,
6 the commission shall not be a neutral third-party administrator.

7 H. The fund established by the commission shall ensure
8 the availability of universal service as determined by the
9 commission at affordable rates in rural areas of the state;
10 provided, however, that nothing in this section shall be construed
11 as granting any authority to the commission to impose the
12 surcharge on or otherwise regulate broadband internet access
13 services.

14 I. The commission shall ensure that intrastate
15 switched access charges are equal to interstate switched access
16 charges established by the federal communications commission as of
17 January 1, 2006. Nothing in this section shall preclude the
18 commission from considering further adjustments to intrastate
19 switched access charges based on changes to interstate switched
20 access charges.

21 J. To ensure that providers of intrastate retail
22 communications service contribute to the fund and to further
23 ensure that the surcharge determined pursuant to Subsection B of
24 this section to be paid by the end-user customer will be held to a
25 minimum, the commission shall adopt rules, or take other

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1 appropriate action, to require all such providers to participate
2 in a plan to ensure accurate reporting.

3 K. The commission shall authorize payments from the
4 fund to incumbent local exchange carriers, in combination with
5 revenue-neutral rate rebalancing up to the affordability benchmark
6 rates. Beginning in 2018, the commission shall make access
7 reduction support payments in the amount made from the fund in
8 base year 2014, adjusted each year thereafter by:

9 (1) the annual percentage change in the number of
10 access lines served by the incumbent local exchange carriers
11 receiving such support for the prior calendar year, as compared to
12 base year 2014; and

13 (2) changes in the affordability benchmark rates
14 that have occurred since 2014.

15 L. The commission shall determine the methodology to
16 be used to authorize payments to all other carriers that apply for
17 and receive eligible carrier status; provided, however, that
18 nothing in this section shall limit the commission's authority to
19 adopt rules pursuant to Subsection F of this section regarding
20 appropriate uses of fund support and any restrictions on the use
21 of the fund support by eligible telecommunications carriers.

22 M. The commission may also authorize payments from the
23 fund to incumbent rural telecommunications carriers or to
24 telecommunications carriers providing comparable retail
25 alternative services that have been designated as eligible

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1 telecommunications carriers serving in rural areas of the state
2 upon a finding, based on factors that may include a carrier's
3 regulated revenues, expenses or investment, by the commission that
4 such payments are needed to ensure the widespread availability and
5 affordability of universal service. The commission shall decide
6 cases filed pursuant to this subsection with reasonable
7 promptness, with or without a hearing, but no later than six
8 months following the filing of an application seeking payments
9 from the fund, unless the commission finds that a longer time will
10 be required, in which case the commission may extend the period
11 for an additional three months.

12 N. The commission shall adopt rules that establish and
13 implement a broadband program to provide funding to eligible
14 telecommunications carriers for the construction and maintenance
15 of facilities capable of providing broadband internet access
16 service. Such rules shall require that the commission consider
17 applications for funding on a technology-neutral basis and shall
18 require that the awards of support be consistent with federal
19 universal service support programs and be based on the best use of
20 the fund for rural areas of the state. Each year, a minimum of
21 five million dollars (\$5,000,000) of the fund shall be dedicated
22 to the broadband program.

23 O. The total obligations of the fund determined by the
24 commission pursuant to this section, plus administrative expenses
25 and a prudent fund balance, shall not exceed a cap of thirty

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1 million dollars (\$30,000,000) per year. The commission shall
2 evaluate the amount of the cap in an appropriate proceeding to be
3 completed by June 30, 2019 and consider whether, based on the
4 then-current status of the fund, the cap should be modified,
5 maintained or eliminated.

6 P. By December 31, 2019, the commission shall make a
7 report to the legislature regarding the status of the fund,
8 including relevant data relating to implementation of the
9 broadband program and expansion of broadband internet access
10 services in rural areas of the state. The report shall also make
11 recommendations for any changes to the structure, size and
12 purposes of the fund and whether the cap on the fund provided for
13 in Subsection 0 of this section should be modified, maintained or
14 eliminated."

15 **SECTION 403.** Section 66-3-401 NMSA 1978 (being Laws 1978,
16 Chapter 35, Section 80, as amended) is amended to read:

17 "66-3-401. OPERATION OF VEHICLES UNDER DEALER PLATES.--

18 A. Any vehicle that is required to be registered
19 pursuant to the Motor Vehicle Code and that is included in the
20 inventory of a dealer may be operated or moved upon the highways
21 for any purpose, provided that the vehicle display in the manner
22 prescribed in Section 66-3-18 NMSA 1978 a unique plate issued to
23 the dealer as provided in Section 66-3-402 NMSA 1978. This
24 subsection shall not be construed as limiting the use of temporary
25 registration permits issued to dealers pursuant to Section 66-3-6

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1 NMSA 1978. Each dealer plate shall be issued for a specific
2 vehicle in a dealer's inventory. If a dealer wishes to use the
3 plate on a different vehicle, the dealer must reregister that
4 plate to the different vehicle.

5 B. The provisions of this section do not apply to work
6 or service vehicles used by a dealer. For the purposes of this
7 subsection, "work or service vehicle" includes any vehicle used
8 substantially as a:

- 9 (1) parts or delivery vehicle;
- 10 (2) vehicle used to tow another vehicle;
- 11 (3) courtesy shuttle; or
- 12 (4) vehicle loaned to customers for their
13 convenience.

14 C. Each vehicle included in a dealer's inventory
15 required to be registered pursuant to the provisions of Subsection
16 A of this section must conform to the registration provisions of
17 the Motor Vehicle Code, but is not required to be titled pursuant
18 to the provisions of that code. When a vehicle is no longer
19 included in a dealer's inventory, and is not sold or leased to an
20 unrelated entity, the dealer must title the vehicle and pay the
21 motor vehicle excise tax that would have been due when the vehicle
22 was first registered by the dealer.

23 D. In lieu of the use of dealer plates pursuant to
24 this section, a dealer may register and title a vehicle included
25 in a dealer's inventory in the name of the dealer upon payment of

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1 the registration fee applicable to that vehicle, but without
2 payment of the motor vehicle excise tax, provided the vehicle is
3 subsequently sold or leased in the ordinary course of business in
4 a transaction subject to the motor vehicle excise tax or the
5 leased vehicle [~~gross receipts~~] sales tax."

6 SECTION 404. Section 66-12-6.1 NMSA 1978 (being Laws 1987,
7 Chapter 247, Section 9) is amended to read:

8 "66-12-6.1. EXCISE TAX ON ISSUANCE OF CERTIFICATES OF
9 TITLE--APPROPRIATION.--

10 A. An excise tax is imposed upon the sale of every
11 boat required to be registered in the state. To prevent evasion
12 of the excise tax imposed by this section and the duty to collect
13 it, it is presumed that the issuance of every original and
14 subsequent certificate of title, other than a duplicate, for boats
15 of a type required to be registered under the provisions of the
16 Boat Act constitutes a sale for tax purposes, unless specifically
17 exempted by this section or unless there is shown satisfactory
18 proof that the boat for which the certificate of title is sought
19 came into the possession of the applicant as a voluntary transfer
20 without consideration or as a transfer by operation of law. The
21 division shall collect the tax at the time application is made for
22 issuance of a certificate of title at the rate of five percent of
23 the sale price of the boat. If the sale price does not represent
24 the value of the boat in the condition that existed at the time it
25 was acquired, the excise tax shall then be imposed at the rate of

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1 five percent of the reasonable value of the boat in such condition
2 at such time. However, allowances granted for trade-ins may be
3 deducted from the sale price or the reasonable value of the boat
4 purchased. The tax shall be paid by the applicant, and the
5 division may require all information [~~which~~] that it deems
6 necessary to establish the amount of the tax.

7 B. A penalty of fifty percent of the tax due on the
8 issuance of a certificate of title is imposed on [~~any~~] a person
9 who, domiciled in this state and accepting transfer in this state,
10 fails to apply for a certificate within ninety days of the date on
11 which ownership was transferred to [~~him~~] the person or a person
12 who is domiciled in this state but accepts transfer outside this
13 state and [~~who~~] fails to apply for a certificate within ninety
14 days of the date on which the boat is brought into this state.

15 C. If a boat has been acquired through an out-of-state
16 transaction upon which a gross receipts, sales, [~~compensating~~] use
17 or similar tax was levied by another state or political
18 subdivision thereof, the amount of the tax paid may be credited
19 against the excise tax due this state on the same boat.

20 D. Persons domiciled outside this state and on active
21 duty in the military service of the United States or on active
22 duty as officers of the public health service detailed for duty
23 with any branch of the military service are exempt from the tax
24 imposed by this section.

25 E. Persons who acquire a boat out of state thirty or

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1 more days before establishing a domicile in this state are exempt
2 from the tax imposed by this section if the boat was acquired for
3 personal use.

4 F. Persons applying for a certificate of title for a
5 boat registered in another state are exempt from the tax imposed
6 by this section if they have previously registered and titled the
7 boat in New Mexico and have owned the boat continuously since that
8 time.

9 G. Certificates of title for all boats owned by this
10 state or any political subdivision are exempt from the tax imposed
11 by this section.

12 H. All taxes collected under the provisions of this
13 section shall be paid to the state treasurer for credit to the
14 "boat suspense fund", hereby created. At the end of each month,
15 the state treasurer shall transfer fifty percent of the excise tax
16 collections in the boat suspense fund to the division and the
17 balance to the general fund. The amounts transferred to the
18 division are appropriated for use by the division for improvements
19 and maintenance of lakes and boating facilities owned or leased by
20 the state and for administration and enforcement of the Boat Act.

21 I. The director of the division shall prescribe forms
22 [~~he~~] the director deems necessary to account properly for the
23 taxes collected under this section."

24 SECTION 405. EFFECTIVE DATE.--The effective date of the
25 provisions of this act is July 1, 2019.

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