

1 AN ACT

2 RELATING TO TAXATION; AMENDING THE TAX ADMINISTRATION ACT TO
3 DIRECT THE CREATION OF BUSINESS LOCATION CODES, PROVIDE
4 BUSINESS LOCATION INSTRUCTIONS AND ALLOW OFFSETTING OF
5 CERTAIN ERRONEOUSLY PAID COMPENSATING TAXES AGAINST GROSS
6 RECEIPTS TAX DUE; AMENDING THE DEFINITION OF "MANUFACTURING"
7 IN THE UNIFORM DIVISION OF INCOME FOR TAX PURPOSES ACT;
8 AMENDING DEFINITIONS RELATED TO CONSTRUCTION SERVICES IN THE
9 GROSS RECEIPTS AND COMPENSATING TAX ACT; REPEALING A CERTAIN
10 DEDUCTION AND A CERTAIN CREDIT PURSUANT TO THAT ACT;
11 EXPANDING A GROSS RECEIPTS TAX DEDUCTION FOR MARKETPLACE
12 SELLERS TO ALLOW GOVERNMENTAL GROSS RECEIPTS TO BE DEDUCTED;
13 EXTENDING THE DATE OF A TAX CREDIT PROVIDED IN THE INVESTMENT
14 CREDIT ACT; PROVIDING A TERMINATION DATE FOR THE CREDIT;
15 INCLUDING A CALCULATION FOR THE CREDIT IF THE SALE OF
16 QUALIFIED EQUIPMENT FOR WHICH THE CREDIT IS ALLOWED IS
17 SUBJECT TO THE GROSS RECEIPTS TAX; INCLUDING A CALCULATION
18 FOR THE CREDIT IF THE QUALIFIED EQUIPMENT IS NOT SUBJECT TO
19 THE GROSS RECEIPTS TAX OR THE COMPENSATING TAX; PROVIDING
20 THAT THE CREDIT WILL BE CLAIMED AGAINST A TAXPAYER'S STATE
21 AND LOCAL TAX LIABILITIES; PROVIDING THAT INCREMENTS OF THE
22 MUNICIPAL GROSS RECEIPTS TAX AND THE COUNTY GROSS RECEIPTS
23 TAX SHALL BE IMPOSED IN INCREMENTS OF ONE-HUNDREDTHS PERCENT
24 AND THAT ORDINANCES IMPOSING INCREMENTS OF CERTAIN LOCAL
25 OPTION GROSS RECEIPTS TAXES REPEALED BY LAWS 2019, CHAPTER

1 274, SECTION 16 ARE IMPOSING INCREMENTS OF THE MUNICIPAL
2 GROSS RECEIPTS TAX AND THE COUNTY GROSS RECEIPTS TAX.

3
4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

5 SECTION 1. Section 7-1-14 NMSA 1978 (being Laws 1969,
6 Chapter 145, Section 1, as amended) is repealed and a new
7 Section 7-1-14 NMSA 1978 is enacted to read:

8 "7-1-14. BUSINESS LOCATION INSTRUCTIONS FOR PURPOSES OF
9 REPORTING GROSS RECEIPTS AND USE--LOCATION-CODE DATABASE AND
10 LOCATION-RATE DATABASE.--

11 A. For purposes of the Gross Receipts and
12 Compensating Tax Act, Interstate Telecommunications Gross
13 Receipts Tax Act, Leased Vehicle Gross Receipts Tax Act and
14 any act authorizing the imposition of a local option gross
15 receipts or compensating tax, a person that has gross
16 receipts and a person using property or services in New
17 Mexico in a taxable manner shall report the gross receipts to
18 the proper business location as provided in this section.

19 B. The business location for gross receipts from
20 the sale, lease or granting of a license to use real property
21 located in New Mexico, and any related deductions, shall be
22 the location of the property.

23 C. The business location for gross receipts from
24 the sale or license of tangible personal property, and any
25 related deductions, shall be at the following locations:

1 (1) if the property is received by the
2 purchaser at the New Mexico business location of the seller,
3 the location of the seller;

4 (2) if the property is not received by the
5 purchaser at a business location of the seller, the location
6 indicated by instructions for delivery to the purchaser, or
7 the purchaser's donee, when known to the seller;

8 (3) if Paragraphs (1) and (2) of this
9 subsection do not apply, the location indicated by an address
10 for the purchaser available from the business records of the
11 seller that are maintained in the ordinary course of
12 business; provided that use of the address does not
13 constitute bad faith;

14 (4) if Paragraphs (1) through (3) of this
15 subsection do not apply, the location for the purchaser
16 obtained during consummation of the sale, including the
17 address of a purchaser's payment instrument, if no other
18 address is available; provided that use of this address does
19 not constitute bad faith; or

20 (5) if Paragraphs (1) through (4) of this
21 subsection do not apply, including a circumstance in which
22 the seller is without sufficient information to apply those
23 standards, the location from which the property was shipped
24 or transmitted.

25 D. The business location for gross receipts from

1 the lease of tangible personal property, including vehicles,
2 other transportation equipment and other mobile tangible
3 personal property, and any related deductions, shall be the
4 location of primary use of the property, as indicated by the
5 address for the property provided by the lessee that is
6 available to the lessor from the lessor's records maintained
7 in the ordinary course of business; provided that use of this
8 address does not constitute bad faith. The primary business
9 location shall not be altered by intermittent use at
10 different locations, such as use of business property that
11 accompanies employees on business trips and service calls.

12 E. The business location for gross receipts from
13 the sale, lease or license of franchises, and any related
14 deductions, shall be where the franchise is used.

15 F. The business location for gross receipts from
16 the performance or sale of the following services, and any
17 related deductions, shall be at the following locations:

18 (1) for professional services performed in
19 New Mexico, other than construction-related services, or
20 performed outside New Mexico when the product of the service
21 is initially used in New Mexico, the location of the
22 performer of the service or seller of the product of the
23 service, as appropriate;

24 (2) for construction services and
25 construction-related services performed for a construction

1 project in New Mexico, the location of the construction site;

2 (3) for services with respect to the selling
3 of real estate located in New Mexico, the location of the
4 real estate;

5 (4) for transportation of persons or
6 property in, into or from New Mexico, the location where the
7 person or property enters the vehicle; and

8 (5) for services other than those described
9 in Paragraphs (1) through (4) of this subsection, the
10 location where the product of the service is delivered.

11 G. Except as provided in Subsection H of this
12 section, uses of property or services subject to the
13 compensating tax shall be reported at the business location
14 at which gross receipts would have been required to be
15 reported had the transaction been subject to the gross
16 receipts tax.

17 H. If a person subject to the compensating tax can
18 demonstrate that the first use upon which compensating tax is
19 imposed occurred at a time and place different from the time
20 and place of the purchase, then compensating tax shall be
21 reported at the business location of the first use.

22 I. The secretary shall designate codes to identify
23 the business locations for a person's gross receipts, or use
24 for purchases subject to the compensating tax, and deductions
25 related to those receipts or that use shall be reported.

1 J. The secretary shall develop a location-code
2 database that provides the business location codes designated
3 pursuant to Subsection I of this section. The secretary
4 shall also develop and provide to taxpayers a location-rate
5 database that sets out the tax rates applicable to business
6 locations within the state, by address, and sellers who
7 properly rely on this database shall not be liable for any
8 additional tax due to the use of an incorrect rate.

9 K. As used in this section:

10 (1) "business location" means the code
11 designated by the department to identify business locations
12 and required to be used to report the gross receipts, or use
13 for purchases subject to the compensating tax, and deductions
14 related to those receipts or that use;

15 (2) "gross receipts" means, as applicable,
16 "gross receipts" as used in the Gross Receipts and
17 Compensating Tax Act and the Leased Vehicle Gross Receipts
18 Tax Act and "interstate telecommunications gross receipts" in
19 the Interstate Telecommunications Gross Receipts Tax Act;

20 (3) "in-person service" means a service
21 physically provided in person by the service provider, where
22 the customer or the customer's real or tangible personal
23 property upon which the service is performed is in the same
24 location as the service provider at the time the service is
25 performed; and

1 (4) "professional service" means a service,
2 other than an in-person service, that requires either an
3 advanced degree from an accredited post-secondary educational
4 institution or a license from the state to perform."

5 SECTION 2. Section 7-1-29 NMSA 1978 (being Laws 1965,
6 Chapter 248, Section 31, as amended) is amended to read:

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

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

1 without the prior approval of the attorney general regardless
2 of the amount.

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

10 C. In the discretion of the secretary, any amount
11 of credit or rebate to be paid or tax to be refunded may be
12 offset against any amount of tax for which the person due to
13 receive the credit, rebate payment or refund is liable. The
14 secretary or the secretary's delegate shall give notice to
15 the taxpayer that the credit, rebate payment or refund will
16 be made in this manner, and the taxpayer shall be entitled to
17 interest pursuant to Section 7-1-68 NMSA 1978 until the tax
18 liability is credited with the credit, rebate or refund
19 amount.

20 D. In an audit by the department or a managed
21 audit covering multiple reporting periods in which both
22 underpayments and overpayments of a tax have been made in
23 different reporting periods, the department shall credit the
24 tax overpayments against the underpayments; provided that the
25 taxpayer files a claim for refund of the overpayments. An

1 overpayment shall be applied as a credit first to the
2 earliest underpayment and then to succeeding underpayments.
3 An underpayment of tax to which an overpayment is credited
4 pursuant to this section shall be deemed paid in the period
5 in which the overpayment was made or the period to which the
6 overpayment was credited against an underpayment, whichever
7 is later. If the overpayments credited pursuant to this
8 section exceed the underpayments of a tax, the amount of the
9 net overpayment for the periods covered in the audit shall be
10 refunded to the taxpayer.

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

22 F. If the department determines, upon review of an
23 original or amended income tax return, corporate income and
24 franchise tax return, estate tax return, special fuels excise
25 tax return or oil and gas tax return, that there has been an

1 overpayment of tax for the taxable period to which the return
2 or amended return relates in excess of the amount due to be
3 refunded to the taxpayer pursuant to the provisions of
4 Subsection K of Section 7-1-26 NMSA 1978, the department may
5 refund that excess amount to the taxpayer without requiring
6 the taxpayer to file a refund claim.

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

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

1 previously paid by another person paying a tax on behalf of
2 the taxpayer.

3 I. If, as a result of an audit by the department
4 or a managed audit, a person is determined to owe gross
5 receipts tax on receipts from the sale of property or
6 services, the department may credit against the amount owed
7 an amount of compensating tax paid by the purchaser if the
8 person can demonstrate that the purchaser timely paid the
9 compensating tax on the same property or services. The
10 credit provided by this subsection shall not be denied solely
11 because the purchaser cannot timely file for a refund of the
12 compensating tax paid and, if the credit is to be granted,
13 the department shall require, for the purpose of granting the
14 credit, that the purchaser give up any right to claim a
15 refund of that tax."

16 SECTION 3. Section 7-4-10 NMSA 1978 (being Laws 1993,
17 Chapter 153, Section 1, as amended) is amended to read:

18 "7-4-10. APPORTIONMENT OF BUSINESS INCOME.--

19 A. Except as provided in Subsections B and C of
20 this section, all business income shall be apportioned to
21 this state by multiplying the income by a fraction, the
22 numerator of which is the property factor plus the payroll
23 factor plus the sales factor and the denominator of which is
24 three.

25 B. If eighty percent or more of the New Mexico

1 numerators of the property and payroll factors for a filing
2 group, or for a taxpayer that is not a member of a filing
3 group, are employed in manufacturing or operating a computer
4 processing facility, the filing group or the taxpayer may
5 elect to have business income apportioned to this state by
6 multiplying the income by the sales factor for the taxable
7 year.

8 C. If a filing group, or a taxpayer that is not a
9 member of a filing group, has a headquarters operation in New
10 Mexico, the filing group or the taxpayer may elect to have
11 business income apportioned to this state by multiplying the
12 income by the sales factor for the taxable year.

13 D. To elect the method of apportionment provided
14 by Subsection B or C of this section, the taxpayer shall
15 notify the department of the election, in writing, no later
16 than the date on which the taxpayer files the return for the
17 first taxable year to which the election will apply. The
18 election shall apply as follows:

19 (1) if the election is made for taxable
20 years beginning prior to January 1, 2020, to the taxable year
21 in which the election is made and to each taxable year
22 thereafter for three years, or until the taxable year ending
23 prior to January 1, 2020, whichever is earlier;

24 (2) if the election is made for a taxable
25 year beginning on or after January 1, 2020, to the taxable

1 year in which the election is made and to each taxable year
2 thereafter until the taxpayer notifies the department, in
3 writing, that the election is terminated, except that the
4 taxpayer shall not terminate the election until the method of
5 apportioning business income provided by Subsection B or C of
6 this section has been used by the taxpayer for at least three
7 consecutive taxable years, including a total of at least
8 thirty-six calendar months; and

9 (3) if the election is made by a qualifying
10 filing group, the election shall apply to the members of the
11 filing group properly included pursuant to Section 7-2A-8.3
12 NMSA 1978.

13 E. For purposes of this section:

14 (1) "filing group" means "filing group" as
15 that term is defined in the Corporate Income and Franchise
16 Tax Act;

17 (2) "headquarters operation" means:

18 (a) the center of operations of a
19 business: 1) where corporate staff employees are physically
20 employed; 2) where the centralized functions are primarily
21 performed, including administrative, planning, managerial,
22 human resources, purchasing, information technology and
23 accounting, but not including operating a call center; 3) the
24 function and purpose of which is to manage and direct most
25 aspects and functions of the business operations within a

1 subdivided area of the United States; 4) from which final
2 authority over regional or subregional offices, operating
3 facilities and any other offices of the business are issued;
4 and 5) including national and regional headquarters if the
5 national headquarters is subordinate only to the ownership of
6 the business or its representatives and the regional
7 headquarters is subordinate to the national headquarters; or

8 (b) the center of operations of a
9 business: 1) the function and purpose of which is to manage
10 and direct most aspects of one or more centralized functions;
11 and 2) from which final authority over one or more
12 centralized functions is issued;

13 (3) "manufacturing" means combining or
14 processing components or materials to increase their value
15 for sale in the ordinary course of business, but does not
16 include:

17 (a) construction;

18 (b) farming;

19 (c) power generation; provided that for
20 taxable years beginning prior to January 1, 2024,

21 "manufacturing" includes electricity generation at a facility
22 that does not require location approval and a certificate of
23 convenience and necessity prior to commencing construction or
24 operation of the facility pursuant to the Public Utility Act;

25 (d) processing natural resources,

1 including hydrocarbons; or

2 (e) processing or preparation of meals
3 for immediate consumption; and

4 (4) "operating a computer processing
5 facility" means managing the necessary and ancillary
6 activities for the operation of a facility primarily used to
7 process data or information, but does not include managing
8 the operation of facilities that are predominantly used to
9 support sales of tangible property or the provision of
10 banking, financial or professional services."

11 SECTION 4. Section 7-9-3.4 NMSA 1978 (being Laws 2003,
12 Chapter 272, Section 5) is amended to read:

13 "7-9-3.4. DEFINITIONS--CONSTRUCTION, CONSTRUCTION
14 MATERIALS AND CONSTRUCTION-RELATED SERVICES.--As used in the
15 Gross Receipts and Compensating Tax Act:

16 A. "construction" means:

17 (1) the building, altering, repairing or
18 demolishing in the ordinary course of business any:

19 (a) road, highway, bridge, parking area
20 or related project;

21 (b) building, stadium or other
22 structure;

23 (c) airport, subway or similar
24 facility;

25 (d) park, trail, athletic field, golf

1 course or similar facility;

2 (e) dam, reservoir, canal, ditch or
3 similar facility;

4 (f) sewerage or water treatment
5 facility, power generating plant, pump station, natural gas
6 compressing station, gas processing plant, coal gasification
7 plant, refinery, distillery or similar facility;

8 (g) sewerage, water, gas or other
9 pipeline;

10 (h) transmission line;

11 (i) radio, television or other tower;

12 (j) water, oil or other storage tank;

13 (k) shaft, tunnel or other mining

14 appurtenance;

15 (l) microwave station or similar
16 facility;

17 (m) retaining wall, wall, fence, gate
18 or similar structure; or

19 (n) similar work;

20 (2) the leveling or clearing of land;

21 (3) the excavating of earth;

22 (4) the drilling of wells of any type,
23 including seismograph shot holes or core drilling; or

24 (5) similar work;

25 B. "construction material" means tangible personal HB 326/a
Page 16

1 property that becomes or is intended to become an ingredient
2 or component part of a construction project, but
3 "construction material" does not include a replacement
4 fixture when the replacement is not construction or a
5 replacement part for a fixture; and

6 C. "construction-related service" means a service
7 directly contracted for or billed to a specific construction
8 project, including design, architecture, drafting, surveying,
9 engineering, environmental and structural testing, security,
10 sanitation and services required to comply with governmental
11 construction-related rules. "Construction-related service"
12 does not include general business services, such as legal or
13 accounting services, equipment maintenance or real estate
14 sales commissions."

15 SECTION 5. Section 7-9-52 NMSA 1978 (being Laws 1969,
16 Chapter 144, Section 42, as amended) is amended to read:

17 "7-9-52. DEDUCTION--GROSS RECEIPTS TAX--SALE OF
18 CONSTRUCTION SERVICES AND CONSTRUCTION-RELATED SERVICES TO
19 PERSONS ENGAGED IN THE CONSTRUCTION BUSINESS.--

20 A. Receipts from selling a construction service or
21 a construction-related service may be deducted from gross
22 receipts if the sale is made to a person engaged in the
23 construction business who delivers a nontaxable transaction
24 certificate to the person performing the construction service
25 or a construction-related service.

1 B. The buyer delivering the nontaxable transaction
2 certificate shall have the construction services or
3 construction-related services directly contracted for or
4 billed to:

5 (1) a construction project that is subject
6 to the gross receipts tax upon its completion or upon the
7 completion of the overall construction project of which it is
8 a part;

9 (2) a construction project that is subject
10 to the gross receipts tax upon the sale in the ordinary
11 course of business of the real property upon which it was
12 constructed; or

13 (3) a construction project that is located
14 on the tribal territory of an Indian nation, tribe or
15 pueblo."

16 **SECTION 6.** Section 7-9-117 NMSA 1978 (being Laws 2019,
17 Chapter 270, Section 36) is amended to read:

18 "7-9-117. DEDUCTION--GROSS RECEIPTS--GOVERNMENTAL GROSS
19 RECEIPTS--MARKETPLACE SELLER.--

20 A. A marketplace seller may deduct receipts for
21 sales, leases and licenses of tangible personal property,
22 sales of licenses and sales of services or licenses for use
23 of real property that are facilitated by a marketplace
24 provider from gross receipts and governmental gross receipts;
25 provided that the marketplace seller obtains documentation

1 from the marketplace provider indicating that the marketplace
2 provider is registered with the department and has remitted
3 or will remit the taxes due on the gross receipts from those
4 transactions.

5 B. The deduction provided by this section shall
6 not apply if the marketplace provider is determined not to
7 owe the tax due to the marketplace provider's reliance on
8 information provided by the seller as determined pursuant to
9 Subsection C of Section 7-9-5 NMSA 1978."

10 SECTION 7. Section 7-9A-5 NMSA 1978 (being Laws 1979,
11 Chapter 347, Section 5, as amended by Laws 1991, Chapter 159,
12 Section 4 and also by Laws 1991, Chapter 162, Section 4) is
13 amended to read:

14 "7-9A-5. INVESTMENT CREDIT--AMOUNT--CLAIMANT.--

15 A. The investment credit provided for in the
16 Investment Credit Act may be claimed by a taxpayer carrying
17 on a manufacturing operation in New Mexico in an amount equal
18 to:

19 (1) the product of the sum of the
20 compensating tax rate and, beginning July 1, 2021, any
21 municipal or county compensating tax rate multiplied by the
22 value of the qualified equipment; or

23 (2) if the sale is subject to the gross
24 receipts tax, the product of the sum of the gross receipts
25 tax rate and, beginning July 1, 2021, any municipal or county

1 local option gross receipts tax rates multiplied by the
2 seller's gross receipts from the sale of the qualified
3 equipment.

4 B. If the purchase or the introduction into New
5 Mexico of the qualified equipment is not subject to the gross
6 receipts tax or compensating tax, the rate to determine the
7 amount of the credit shall be equal to a rate of five and
8 one-eighth percent."

9 SECTION 8. Section 7-9A-7 NMSA 1978 (being Laws 1979,
10 Chapter 347, Section 7, as amended) is amended to read:

11 "7-9A-7. VALUE OF QUALIFIED EQUIPMENT.--Prior to July 1,
12 2030, the value of qualified equipment shall be the adjusted
13 basis established for the equipment under the applicable
14 provisions of the Internal Revenue Code of 1986."

15 SECTION 9. Section 7-9A-7.1 NMSA 1978 (being Laws 1983,
16 Chapter 206, Section 6, as amended) is amended to read:

17 "7-9A-7.1. EMPLOYMENT REQUIREMENTS.--

18 A. Prior to July 1, 2030, to be eligible to claim
19 a credit pursuant to the Investment Credit Act, the taxpayer
20 shall employ the equivalent of one full-time employee who has
21 not been counted to meet this employment requirement for any
22 prior claim in addition to the number of full-time employees
23 employed on the day one year prior to the day on which the
24 taxpayer applies for the credit for every:

25 (1) seven hundred fifty thousand dollars

1 (\$750,000), or portion of that amount, in value of qualified
2 equipment claimed by the taxpayer in a taxable year in the
3 same claim, up to a value of thirty million dollars
4 (\$30,000,000); and

5 (2) one million dollars (\$1,000,000), or
6 portion of that amount, in value of qualified equipment over
7 thirty million dollars (\$30,000,000) claimed by the taxpayer
8 in a taxable year in the same claim.

9 B. The department may require evidence showing
10 compliance with this section. The department may find that an
11 additional employee meets the requirements of this section,
12 although employed earlier than one year prior to the day on
13 which the taxpayer applies for the credit, if the employee
14 was only being trained prior to that date or the employee's
15 employment was necessitated by the use of the qualified
16 equipment."

17 SECTION 10. 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
21 credit within one year following the end of the calendar year
22 in which the qualified equipment for the manufacturing
23 operation is 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

1 Investment Credit Act may claim an amount of available credit
2 against the taxpayer's tax liabilities; provided that the
3 credit shall be claimed against the taxpayer's tax
4 liabilities pursuant to the Gross Receipts and Compensating
5 Tax Act, the Municipal Local Option Gross Receipts and
6 Compensating Taxes Act and the County Local Option Gross
7 Receipts and Compensating Taxes Act before being claimed
8 against the taxpayer's tax liabilities pursuant to the
9 Withholding Tax Act; provided further that no taxpayer may
10 claim, except as provided in Subsection C of this section, an
11 amount of available credit for any reporting period that
12 exceeds eighty-five percent of the sum of the taxpayer's tax
13 liabilities for that reporting period. Any amount of
14 available credit not claimed against the taxpayer's tax
15 liabilities for a reporting period may be claimed in
16 subsequent reporting periods.

17 C. A taxpayer may apply by September 30 of the
18 current calendar year for a refund of the unclaimed balance
19 of the available credit up to a maximum of two hundred fifty
20 thousand dollars (\$250,000) if on January 1 of the current
21 calendar year:

22 (1) the taxpayer's available credit is less
23 than five hundred thousand dollars (\$500,000); and

24 (2) the sum of the taxpayer's tax
25 liabilities for the previous calendar year was less than

1 thirty-five percent of the taxpayer's available credit but
2 more than ten thousand dollars (\$10,000).

3 D. As used in this section, "tax liabilities"
4 means any tax liability a taxpayer incurs pursuant to the
5 Withholding Tax Act, the Gross Receipts and Compensating Tax
6 Act, the Municipal Local Option Gross Receipts and
7 Compensating Taxes Act or the County Local Option Gross
8 Receipts and Compensating Taxes Act."

9 SECTION 11. Section 7-19D-9 NMSA 1978 (being Laws 1978,
10 Chapter 151, Section 1, as amended) is amended to read:

11 "7-19D-9. MUNICIPAL GROSS RECEIPTS TAX--AUTHORITY TO
12 IMPOSE RATE.--

13 A. The majority of the members of the governing
14 body of any municipality may impose by ordinance an excise
15 tax on the gross receipts of any person engaging in business
16 in the municipality for the privilege of engaging in business
17 in the municipality. A tax imposed pursuant to this section
18 shall be imposed by the enactment of one or more ordinances
19 enacting any number of increments of one-hundredth percent;
20 provided that the total increments do not exceed the maximum
21 rate provided in Subsection C of this section; and provided
22 further that, if at the time of enacting the ordinance the
23 total municipal gross receipts tax rate is not an even
24 multiple of one-hundredth percent, the municipality may
25 impose an increment in an amount sufficient to bring the

1 total rate to an even multiple of one-hundredth percent. The
2 governing body of a municipality may, at the time of enacting
3 the ordinance, dedicate the revenue for any municipal
4 purpose. If the governing body proposes to dedicate such
5 revenue, the ordinance and, if any election is held, the
6 ballot shall clearly state the purpose to which the revenue
7 will be dedicated, and any revenue so dedicated shall be used
8 by the municipality for that purpose unless a subsequent
9 ordinance is adopted to change the purpose to which dedicated
10 or to place the revenue in the general fund of the
11 municipality.

12 B. The tax imposed pursuant to Subsection A of
13 this section may be referred to as the "municipal gross
14 receipts tax".

15 C. The maximum rate of the municipal gross
16 receipts tax on the gross receipts of any person engaging in
17 business in the municipality shall not exceed two and one-
18 half percent. Of that two and one-half percent:

19 (1) a governing body may choose to require
20 an election to impose increments up to a total of two and
21 five-hundredths percent; and

22 (2) the remaining increments, up to a total
23 of forty-five hundredths percent, shall not go into effect
24 until after an election is held and a majority of the voters
25 in the municipality voting in the election votes in favor of

1 the tax. Increments approved by voters prior to July 1, 2019
2 shall be included in the increments approved by the voters,
3 as provided in this paragraph.

4 D. An election shall be called on the questions of
5 disapproval or approval of any ordinance enacted pursuant to
6 Subsection C of this section or any ordinance amending such
7 ordinance:

8 (1) if the governing body chooses to provide
9 in the ordinance that it shall not be effective until the
10 ordinance is approved by the majority of the registered
11 voters voting on the question at an election to be held
12 pursuant to the provisions of the Local Election Act; or

13 (2) if the ordinance does not contain a
14 mandatory election provision as provided in Paragraph (1) of
15 this subsection, upon the filing of a petition requesting
16 such an election if the petition is filed:

17 (a) pursuant to the requirements of a
18 referendum provision contained in a municipal home-rule
19 charter and signed by the number of registered voters in the
20 municipality equal to the number of registered voters
21 required in its charter to seek a referendum; or

22 (b) in all other municipalities, with
23 the municipal clerk within thirty days after the adoption of
24 such ordinance and the petition has been signed by a number
25 of registered voters in the municipality equal to at least

1 five percent of the number of the voters in the municipality
2 who were registered to vote in the most recent regular
3 municipal election.

4 E. The signatures on the petition filed in
5 accordance with Subsection D of this section shall be
6 verified by the municipal clerk. If the petition is verified
7 by the municipal clerk as containing the required number of
8 signatures of registered voters, the governing body shall
9 adopt an election resolution calling for the holding of a
10 special election on the question of approving or disapproving
11 the ordinance unless the ordinance is repealed before the
12 adoption of the election resolution. An election held
13 pursuant to Subparagraph (a) or (b) of Paragraph (2) of
14 Subsection D of this section shall be called, conducted and
15 canvassed as provided in the Local Election Act, and the
16 election shall be held within seventy-five days after the
17 date the petition is verified by the municipal clerk or it
18 may be held in conjunction with a regular local election if
19 such election occurs within seventy-five days after the date
20 of verification by the municipal clerk.

21 F. If at an election called pursuant to Subsection
22 D of this section a majority of the registered voters voting
23 on the question approves the ordinance imposing the tax, the
24 ordinance shall become effective in accordance with the
25 provisions of the Municipal Local Option Gross Receipts and

1 Compensating Taxes Act. If at such an election a majority of
2 the registered voters voting on the question disapproves the
3 ordinance, the ordinance imposing the tax shall be deemed
4 repealed and the question of imposing any increment of the
5 municipal gross receipts tax authorized in this section shall
6 not be considered again by the governing body for a period of
7 one year from the date of the election.

8 G. Any law that imposes or authorizes the
9 imposition of a municipal gross receipts tax or that affects
10 the municipal gross receipts tax, or any law supplemental
11 thereto or otherwise appertaining thereto, shall not be
12 repealed or amended or otherwise directly or indirectly
13 modified in such a manner as to impair adversely any
14 outstanding revenue bonds that may be secured by a pledge of
15 such municipal gross receipts tax unless such outstanding
16 revenue bonds have been discharged in full or provision has
17 been fully made therefor."

18 SECTION 12. Section 7-20E-9 NMSA 1978 (being Laws 1983,
19 Chapter 213, Section 30, as amended) is amended to read:

20 "7-20E-9. COUNTY GROSS RECEIPTS TAX--AUTHORITY TO
21 IMPOSE RATE--COUNTY HEALTH CARE ASSISTANCE FUND
22 REQUIREMENTS.--

23 A. A majority of the members of the governing body
24 of a county may impose by ordinance an excise tax on the
25 gross receipts of a person engaging in business in the county

1 or the county area. A tax imposed pursuant to this section
2 shall be imposed by the enactment of one or more ordinances
3 enacting any number of increments of one-hundredth percent;
4 provided that the total increments do not exceed the maximum
5 rate provided in Subsections C and D of this section; and
6 provided further that, if at the time of enacting the
7 ordinance the total county gross receipts tax rate is not an
8 even multiple of one-hundredth percent, the county may impose
9 an increment in an amount sufficient to bring the total rate
10 to an even multiple of one-hundredth percent. The governing
11 body may, at the time of enacting the ordinance, dedicate the
12 revenue for any county purpose.

13 B. The tax authorized by this section is to be
14 referred to as the "county gross receipts tax".

15 C. The maximum rate of the county gross receipts
16 tax that may be imposed on the gross receipts of any person
17 engaging in business in a county shall not exceed one and
18 twenty-five hundredths percent. Of that one and twenty-five
19 hundredths percent:

20 (1) a governing body may choose to require
21 an election to impose increments up to a total of one
22 percent; and

23 (2) the remaining increments, up to a total
24 of twenty-five hundredths percent, shall not go into effect
25 until after an election is held and a majority of the voters

1 in the county voting in the election votes in favor of the
2 tax. Increments approved by voters prior to July 1, 2019
3 shall be included in the increments approved by the voters,
4 as provided in this paragraph.

5 D. In addition to the maximum rate that may be
6 imposed on the gross receipts of any person engaging in
7 business in a county, the maximum rate of the county gross
8 receipts tax that may be imposed on the gross receipts of any
9 person engaging in business in a county area shall not exceed
10 one-half percent. Of that one-half percent:

11 (1) a governing body may choose to require
12 an election to impose increments that total twelve hundredths
13 percent; but

14 (2) the remaining increments, up to a total
15 of thirty-eight hundredths percent, shall not go into effect
16 until after an election is held and a majority of the voters
17 in the county area voting in the election votes in favor of
18 the tax. Increments approved by voters prior to July 1, 2019
19 shall be included in the increments approved by the voters,
20 as provided in this paragraph.

21 E. A class A county with a county hospital
22 operated and maintained pursuant to a lease or operating
23 agreement with a state educational institution named in
24 Article 12, Section 11 of the constitution of New Mexico
25 shall provide not less than one million dollars (\$1,000,000)

1 in funds, and that amount shall be dedicated to the support
2 of indigent patients who are residents of that county. Funds
3 for indigent care shall be made available each month of each
4 year the tax is in effect in an amount not less than eighty-
5 three thousand three hundred thirty-three dollars thirty-
6 three cents (\$83,333.33). The interest from the investment
7 of county funds for indigent care may be used for other
8 assistance to indigent persons, not to exceed twenty thousand
9 dollars (\$20,000) for all other assistance in any year.

10 F. A county, except a class A county with a county
11 hospital operated and maintained pursuant to a lease or
12 operating agreement with a state educational institution
13 named in Article 12, Section 11 of the constitution of New
14 Mexico, shall be required to dedicate revenue produced by the
15 imposition of a one-eighth percent gross receipts tax
16 increment for the support of indigent patients who are
17 residents of that county. A county that imposed up to two
18 one-eighth percent increments on January 1, 1996 for support
19 of indigent patients in the county or, after January 1, 1996,
20 imposes a one-eighth percent increment and dedicates one-half
21 of that increment for county indigent patient purposes shall
22 deposit the revenue dedicated for county indigent purposes
23 that is transferred to the county in the county health care
24 assistance fund, and such revenues shall be expended pursuant
25 to the Indigent Hospital and County Health Care Act."

1 SECTION 13. TEMPORARY PROVISION--ORDINANCES IMPOSING
2 CERTAIN REPEALED LOCAL OPTION GROSS RECEIPTS TAXES DEEMED TO
3 BE IMPOSING AN EQUAL RATE OF THE MUNICIPAL OR COUNTY GROSS
4 RECEIPTS TAX.--An ordinance imposing a local option gross
5 receipts tax authorized by those sections of law that were
6 repealed and consolidated with the municipal gross receipts
7 tax or the county gross receipts tax by Laws 2019, Chapter
8 274 is deemed to be imposing an equal rate of the municipal
9 gross receipts tax or county gross receipts tax, as
10 appropriate, as was imposed by the ordinance when the
11 ordinance was enacted; provided that the ordinance was in
12 effect on the date of repeal and the ordinance has not been
13 repealed by the governing body. Any dedication of revenue
14 pursuant to the ordinance remains in effect until changed by
15 the governing body; provided that, if the dedication were
16 approved by the electorate, any change to the dedication must
17 also be approved by the electorate.

18 SECTION 14. REPEAL.--Sections 7-9-57.1 and 7-9-96 NMSA
19 1978 (being Laws 1998, Chapter 92, Section 3 and Laws 2005,
20 Chapter 104, Section 26) are repealed effective July 1, 2020.

21 SECTION 15. REPEAL.--Laws 2019, Chapter 270, Section 11
22 is repealed.

23 SECTION 16. APPLICABILITY.--

24 A. The provisions of Section 3 of this act apply
25 to taxable years beginning on and after January 1, 2020.

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B. The provisions of Section 9 of this act apply to qualified equipment purchased or introduced to the state on and after July 1, 2020.

SECTION 17. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1, 2, 4 and 15 of this act is July 1, 2021.

B. The effective date of the provisions of Sections 6 through 12 of this act is July 1, 2020._____