AN ACT

RELATING TO TAXATION; AMENDING PERSONAL INCOME TAX BRACKETS;
LIMITING THE CAPITAL GAINS DEDUCTION FROM NET INCOME;
FORGIVING PENALTIES AND INTEREST FOR CERTAIN INCOME TAX
LIABILITIES; CREATING AN INCOME TAX DEPENDENT DEDUCTION;
INCREASING THE WORKING FAMILIES TAX CREDIT; REQUIRING
COMBINED REPORTING FOR A UNITARY GROUP; CHANGING REQUIREMENTS
FOR CORPORATIONS TO FILE A CONSOLIDATED RETURN; AMENDING AND
ADDING DEFINITIONS PURSUANT TO THE CORPORATE INCOME AND
FRANCHISE TAX ACT; CREATING A CORPORATE INCOME TAX DEDUCTION
TO OFFSET MATERIAL FINANCIAL EFFECTS OF CHANGES IN DEFERRED
TAX AMOUNTS; AMENDING THE UNIFORM DIVISION OF INCOME FOR TAX
PURPOSES ACT TO DETERMINE IN-STATE SALES OF INTANGIBLES AND
SERVICES BASED ON MARKET SOURCING RATHER THAN COST OF
PERFORMANCE; PROVIDING THAT THE COMPENSATING TAX RATE FOR
SERVICES EQUAL THE SAME RATE AS FOR PROPERTY; EXPANDING THE
IMPOSITION OF THAT TAX; PROVIDING FOR TAXATION OF CERTAIN
INTERNET SELLERS PURSUANT TO THE GROSS RECEIPTS AND
COMPENSATING TAX ACT; AMENDING SOURCING RULES FROM THE
PLACE OF BUSINESS OF THE SELLER TO DESTINATION-BASED
SOURCING; LIMITING AUDITS OF MARKETPLACE PROVIDERS AND
MARKETPLACE SELLERS; PROVIDING FOR THE TAXATION OF
FOR-PROFIT, NONPROFIT AND GOVERNMENT HOSPITALS PURSUANT TO
THE GROSS RECEIPTS AND COMPENSATING TAX ACT; EXEMPTING
NONPROFIT HOSPITALS FROM LOCAL OPTION GROSS RECEIPTS TAXES;
INCREASING THE CIGARETTE TAX; IMPOSING THE TOBACCO PRODUCTS TAX ON LITTLE CIGARS AND E-LIQUID USED IN E-CIGARETTES; REDUCING THE RATE OF TOBACCO PRODUCTS TAX ON CIGARS; PROVIDING A DISCOUNT IN TAX FOR CERTAIN CIGARETTES AND TOBACCO PRODUCTS; INCREASING THE RATE OF THE MOTOR VEHICLE EXCISE TAX; AMENDING THE DISTRIBUTION OF THE REVENUE OF THE MOTOR VEHICLE EXCISE TAX; TEMPORARILY DISTRIBUTING A PORTION OF THE REVENUE TO THE DEPARTMENT OF TRANSPORTATION TO MITIGATE THE EMERGENCY ROAD CONDITIONS RELATED TO ACTIVITY IN THE OIL FIELD IN STATE TRANSPORTATION COMMISSION DISTRICT 2 AND THEN DISTRIBUTING A PORTION OF THE REVENUE TO THE LOCAL GOVERNMENTS ROAD FUND; IMPOSING A MUNICIPAL COMPENSATING TAX AND A COUNTY COMPENSATING TAX; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

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

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

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

(1) Income Tax Act;
(2) Withholding Tax Act;
(3) Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act;
(4) Gross Receipts and Compensating Tax Act,
Interstate Telecommunications Gross Receipts Tax Act and
Leased Vehicle Gross Receipts Tax Act;
(5) Liquor Excise Tax Act;
(6) Local Liquor Excise Tax Act;
(7) any municipal local option gross receipts tax or municipal compensating tax;
(8) any county local option gross receipts tax or county compensating tax;
(9) Special Fuels Supplier Tax Act;
(10) Gasoline Tax Act;
(11) petroleum products loading fee, which fee shall be considered a tax for the purpose of the Tax Administration Act;
(12) Alternative Fuel Tax Act;
(13) Cigarette Tax Act;
(14) Estate Tax Act;
(15) Railroad Car Company Tax Act;
(16) Investment Credit Act, rural job tax credit, Laboratory Partnership with Small Business Tax Credit Act, Technology Jobs and Research and Development Tax Credit Act, Film Production Tax Credit Act, Affordable Housing Tax
Credit Act and high-wage jobs tax credit;

(17) Corporate Income and Franchise Tax Act;

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

(19) Multistate Tax Compact;

(20) Tobacco Products Tax Act; and

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

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

(1) Resources Excise Tax Act;

(2) Severance Tax Act;

(3) any severance surtax;

(4) Oil and Gas Severance Tax Act;

(5) Oil and Gas Conservation Tax Act;

(6) Oil and Gas Emergency School Tax Act;

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

(8) Natural Gas Processors Tax Act;

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

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

(12) Enhanced Oil Recovery Act;

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

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

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

(1) Weight Distance Tax Act;

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

(3) Uniform Unclaimed Property Act (1995);

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

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

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

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

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

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

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

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

B. "business location" means the location where a
taxpayer's gross receipts and deductions are required to be
reported pursuant to Section 7-1-14 NMSA 1978;

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

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

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

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

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

(1) the chief hearing officer;

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

(3) a contractor of the administrative hearings office;

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

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

J. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon a taxpayer's gross receipts, as that term is defined in the Gross Receipts and Compensating Tax Act, and required to be collected by the department at the same time and in the same manner as the gross receipts tax;

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

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

M. "overpayment" means an amount paid, pursuant to any law subject to administration and enforcement under the provisions of the Tax Administration Act, by a person to the
department or withheld from the person in excess of tax due
from the person to the state at the time of the payment or at
the time the amount withheld is credited against tax due;

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

R. "property" means property or rights to
property;
S. "property or rights to property" means any
tangible property, real or personal, or any intangible
property of a taxpayer;
T. "return" means any tax or information return,
application or form, declaration of estimated tax or claim
for refund, including any amendments or supplements to the
return, required or permitted pursuant to a law subject to
administration and enforcement pursuant to the Tax
Administration Act and filed with the secretary or the
secretary's delegate by or on behalf of any person;

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

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

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

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

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

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

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

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

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

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

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

SECTION 3. Section 7-1-6.4 NMSA 1978 (being Laws 1983, Chapter 211, Section 9, as amended) is amended to read:

"7-1-6.4. DISTRIBUTION--MUNICIPALITY FROM GROSS RECEIPTS TAX.--

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

(1) within that municipality;

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

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

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

(a) the contract describes an area in which the municipality is required to perform services and requires the municipality to perform services that are substantially the same as the services the municipality performs for itself; and

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

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

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

D. As used in this section, "nonprofit hospital"
means a hospital that has been granted exemption from federal
income tax by the United States commissioner of internal
revenue as an organization described in Section 501(c)(3) of
the Internal Revenue Code."

SECTION 4. Section 7-1-6.11 NMSA 1978 (being Laws 1983,
Chapter 211, Section 16, as amended by Laws 2017, Chapter 34,
Section 2 and by Laws 2017, Chapter 63, Section 9) is amended
to read:

"7-1-6.11. DISTRIBUTIONS OF CIGARETTE TAXES.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the comprehensive cancer center at the
university of New Mexico health sciences center in an amount
equal to seventy-one hundredths percent of the net receipts,
exclusive of penalties and interest, attributable to the
cigarette tax.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to seven and fifty-two hundredths
percent of the net receipts, exclusive of penalties and
interest, attributable to the cigarette tax, shall be made,
on behalf of and for the benefit of the university of New
Mexico health sciences center, to the New Mexico finance
authority."
C. A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to three and seventeen hundredths percent of the net receipts, exclusive of penalties and interest, attributable to the cigarette tax shall be made to the New Mexico finance authority for land acquisition and the planning, designing, construction and equipping of department of health facilities or improvements to such facilities.

D. A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to eight and twenty-six hundredths percent of the net receipts, exclusive of penalties and interest, attributable to the cigarette tax shall be made to the New Mexico finance authority for deposit in the credit enhancement account created in the authority.

E. A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to fifty-three hundredths percent of the net receipts, exclusive of penalties and interest, attributable to the cigarette tax shall be made, on behalf of and for the benefit of the rural county cancer treatment fund, to the New Mexico finance authority.

SECTION 5. Section 7-1-6.12 NMSA 1978 (being Laws 1983, Chapter 211, Section 17, as amended) is amended to read:

"7-1-6.12. TRANSFER--REVENUES FROM MUNICIPAL LOCAL OPTION GROSS RECEIPTS AND COMPENSATING TAXES.--

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

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

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

"7-1-6.13. TRANSFER--REVENUES FROM COUNTY LOCAL OPTION GROSS RECEIPTS AND COMPENSATING TAXES.--

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

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

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

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

A. The provisions of this section apply to:

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

(2) any transfer to a municipality with
respect to any local option gross receipts tax or municipal
compensating tax imposed by that municipality;

(3) any transfer to a county with respect to
any local option gross receipts tax or county compensating
tax imposed by that county;

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

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

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

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

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

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

B. Before making a distribution or transfer
specified in Subsection A of this section to a municipality
or county for the month, amounts comprising the net receipts
shall be segregated into two mutually exclusive categories.

One category shall be for amounts relating to the current
month, and the other category shall be for amounts relating
to prior periods. The total of each category for a
municipality or county shall be reported each month to that
municipality or county. If the total of the amounts relating
to prior periods is less than zero and its absolute value
exceeds the greater of one hundred dollars ($100) or an
amount equal to twenty percent of the average distribution or
transfer amount for that municipality or county, then the
following procedures shall be carried out:

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

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

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

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

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

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

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

(4) that the municipality or county may

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

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

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

(a) decreasing distributions or

transfers to the municipality or county in accordance with a
repayment agreement entered into with the municipality or
county; or

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

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

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

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

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

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

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

H. The secretary is authorized to decrease a distribution or transfer to a municipality or county upon being directed to do so by the secretary of finance and administration pursuant to the State Aid Intercept Act or to redirect a distribution or transfer to the New Mexico finance authority pursuant to an ordinance or a resolution passed by the county or municipality and a written agreement of the municipality or county and the New Mexico finance authority. Upon direction to decrease a distribution or transfer or notice to redirect a distribution or transfer to a municipality or county, the secretary shall decrease or redirect the next designated distribution or transfer, and succeeding distributions or transfers as necessary, by the amount of the state distributions intercept authorized by the secretary of finance and administration pursuant to the State Aid Intercept Act or by the amount of the state distribution.
intercept authorized pursuant to an ordinance or a resolution passed by the county or municipality and a written agreement with the New Mexico finance authority. The secretary shall transfer the state distributions intercept amount to the municipal or county treasurer or other person designated by the secretary of finance and administration or to the New Mexico finance authority pursuant to written agreement to pay the debt service to avoid default on qualified local revenue bonds or meet other local revenue bond, loan or other debt obligations of the municipality or county to the New Mexico finance authority. A decrease to or redirection of a distribution or transfer pursuant to this subsection that arose:

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

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

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

J. As used in this section:

(1) "amounts relating to the current month" means any amounts included in the net receipts of the current month that represent payment of tax due for the current month, correction of amounts processed in the current month
that relate to the current month or that otherwise relate to
obligations due for the current month;

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

(3) “average distribution or transfer
amount” means the following amounts; provided that a
distribution or transfer that is negative shall not be used
in calculating the amounts:

(a) the average monthly amount
distributed or transferred to a municipality or county in the
thirty-six-month period preceding the current month;

(b) if a distribution or transfer to a
municipality or county has been made for less than three
years, the average monthly amount distributed or transferred
in the twelve-month period preceding the current month; or

(c) if a distribution or transfer to a
municipality or county has been made for less than twelve
months, the average monthly amount distributed or transferred
to the municipality or county in the months preceding the
current month;

(4) “current month” means the month for which the distribution or transfer is being prepared; and

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

SECTION 8. Section 7-1-6.38 NMSA 1978 (being Laws 1994, Chapter 145, Section 1, as amended) is amended to read:

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

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made in amounts equal to the following percentages of the net receipts attributable to the governmental gross receipts tax, less the net receipts attributable to a hospital licensed by the department of health:

(1) seventy-five percent to the public project revolving fund administered by the New Mexico finance authority;
(2) twenty-four percent to the energy, minerals and natural resources department; provided that forty-one and two-thirds percent of the distribution is appropriated to the energy, minerals and natural resources department to implement the provisions of the New Mexico Youth Conservation Corps Act and fifty-eight and one-third percent of the distribution is appropriated to the energy, minerals and natural resources department for state park and recreation area capital improvements, including the costs of planning, engineering, design, construction, renovation, repair, equipment and furnishings; and

(3) one percent to the cultural affairs department for capital improvements at state museums and monuments administered by the cultural affairs department.

B. The state pledges to and agrees with the holders of any bonds or notes issued by the New Mexico finance authority or by the energy, minerals and natural resources department and payable from the net receipts attributable to the governmental gross receipts tax distributed to the New Mexico finance authority or the energy, minerals and natural resources department pursuant to this section that the state will not limit, reduce or alter the distribution of the net receipts attributable to the governmental gross receipts tax to the New Mexico finance authority or the energy, minerals and natural resources
department or limit, reduce or alter the rate of imposition of the governmental gross receipts tax until the bonds or notes together with the interest thereon are fully met and discharged. The New Mexico finance authority and the energy, minerals and natural resources department are authorized to include this pledge and agreement of the state in any agreement with the holders of the bonds or notes."

SECTION 9. A new section of the Tax Administration Act is enacted to read:

"DISTRIBUTION--MUNICIPALITIES AND COUNTIES.--

A. Prior to July 1, 2021, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to municipalities from the net receipts attributable to the gross receipts tax in an amount equal to one million two hundred fifty thousand dollars ($1,250,000). The amount to be distributed to each municipality shall be in proportion to the population of each municipality in the proportion that the population of each municipality is to the total population of all municipalities, according to the most recent federal decennial census.

B. Prior to July 1, 2021, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to counties from the net receipts attributable to the gross receipts tax in an amount equal to seven hundred fifty thousand dollars ($750,000). The amount to be distributed to each county
shall be in the proportion that the population of each county is to the total population of all counties, according to the most recent federal decennial census."

SECTION 10. Section 7-1-11 NMSA 1978 (being Laws 1965, Chapter 248, Section 16, as amended) is amended to read:

"7-1-11. INSPECTION OF BOOKS OF TAXPAYERS--EXCEPTION FOR MARKETPLACE PROVIDERS AND MARKETPLACE SELLERS--CREDENTIALS.--

A. To determine the correct amount of tax due, the department shall cause the records and books of account of taxpayers to be inspected or audited at such times as the department deems necessary for the effective execution of the department's responsibilities.

B. The department shall audit a marketplace provider, but not a marketplace seller, with respect to gross receipts from transactions facilitated by a marketplace provider and for which the marketplace seller may claim a deduction pursuant to Section 36 of this 2019 act, unless an audit of the marketplace seller is necessary to determine the correct amount of tax due, including examining the marketplace seller:

(1) to determine compliance with Section 36 of this 2019 act;

(2) to determine if the marketplace provider should be relieved of liability pursuant to Subsection C of
Section 7-9-5 NMSA 1978; or

(3) to enforce any other provision of the
Tax Administration Act.

C. Auditors and other officials of the department
designated by the secretary are authorized to request and
require the production for examination of the records and
books of account of a taxpayer. Auditors and officials of
the department designated by the secretary shall be furnished
with credentials identifying them as such, which they shall
display to any taxpayer whose books are sought to be
examined.

D. Taxpayers shall upon request make their records
and books of account available for inspection at reasonable
hours to the secretary or the secretary's delegate who
presents proper identification to the taxpayer.

E. If the taxpayer's records and books of account
do not exist or are insufficient to determine the taxpayer's
tax liability, if any, the department may use any reasonable
method of estimating the tax liability, including using
information about similar persons, businesses or industries
to estimate the taxpayer's liability.

F. The secretary or the secretary's delegate shall
develop and maintain written audit policies and procedures
for all audit programs in which the department routinely
carries field audits of taxpayers, including policies and
procedures concerning audit notification, scheduling, records
that may be examined, analysis that may be done, sampling
procedures, gathering information or evidence from third
parties, policies concerning the rights of taxpayers under
audit and related matters. Department audit policies and
procedures shall be made available to a person who requests
them, at a reasonable charge to defray the cost of preparing
and distributing those policies and procedures.

G. Nothing in this section shall be construed to
require the department to provide the following:

(1) information that is confidential
pursuant to Section 7-1-8 NMSA 1978; or

(2) methods, techniques and analysis used to
select taxpayers for audit, including the use of:

(a) data analytics;

(b) data mining;

(c) a scoring model;

(d) internal controls; and

(e) metadata used to detect fraud and
noncompliance.

H. For purposes of this section:

(1) "data analytics" means the science of
examining data with the purpose of drawing conclusions about
the information;

(2) "data mining" means the process of
analyzing data from different perspectives and summarizing it into useful information by collecting data into data sets for the purpose of discovering patterns;

(3) "scoring model" means a predictive model that can predict the chance of occurring of a fact and its occurrence;

(4) "methods, techniques and analysis" means a systematic way to accomplish a tactic, qualitative or quantitative component of research and the use of a specific method;

(5) "internal controls" means a process of assuring achievement of an organization's objectives in operational effectiveness and efficiency, reliable financial reporting and compliance with laws, regulations and policies;

(6) "marketplace provider" means a "marketplace provider", as that term is used in the Gross Receipts and Compensating Tax Act; and

(7) "marketplace seller" means a "marketplace seller", as that term is used in the Gross Receipts and Compensating Tax Act; and

(8) "metadata" means data that provides information about other data."

SECTION 11. Section 7-1-14 NMSA 1978 (being Laws 1969, Chapter 145, Section 1, as amended) is repealed and a new Section 7-1-14 NMSA 1978 is enacted to read:
"7-1-14. LOCATION WHERE CERTAIN GROSS RECEIPTS ARE TO
BE REPORTED--LOCATION FOR TRANSACTIONS SUBJECT TO THE
COMPENSATING TAX.--

A. Gross receipts and deductions required to be
reported pursuant to the Gross Receipts and Compensating Tax
Act or any act that imposes a state or local gross receipts
or compensating tax shall be reported as follows:

(1) gross receipts and deductions from the
sale or lease of tangible personal property or licenses and
from the licensing of tangible personal property shall be
reported to the location of delivery of that tangible
personal property to the customer; provided that the
reporting location for receipts from leasing a vehicle is the
location where the customer first makes use of the vehicle;

(2) except as otherwise provided in this
section, a seller of services shall report the seller's gross
receipts and deductions as follows:

(a) professional services shall be
reported to the seller's place of business;

(b) for a person engaged in the
construction business, the location where the construction
project is performed is the "place of business", and all
gross receipts and deductions from that project are to be
reported from that place of business;

(c) for a person engaged in the
business of providing services with respect to the selling of real estate, the location of the real property is the "place of business", and all gross receipts and deductions from that sale are to be reported from that place of business; and

(d) services, other than those described in Subparagraphs (a) through (c) of this paragraph, are to be reported at the location where the service is performed;

(3) gross receipts and deductions from the sale, lease or granting of a license to use real property shall be reported to the location of the real property; and

(4) the reporting location for gross receipts and deductions from a customer for services provided by a transportation network company pursuant to the Transportation Network Company Services Act shall be the location where the customer enters the vehicle offered for a prearranged ride.

B. Consistent with this section and with intergovernmental agreements, the secretary may, by rule, provide for the reporting of gross receipts and deductions from transactions not otherwise specified in this section, including reporting gross receipts and deductions to locations:

(1) by taxpayers having more than one place of business; and
(2) for reporting tax imposed by taxing jurisdictions at the jurisdiction's location, including:

(a) outside a municipality;
(b) within an Indian reservation or pueblo grant;
(c) within a tax increment development district; and
(d) within any other taxing jurisdiction.

C. Values from transactions subject to the compensating tax shall be reported consistent with Subsections A and B of this section unless the taxpayer can demonstrate that the taxable use in New Mexico first occurred after the purchase, lease, license or other transaction giving rise to that value and that the first taxable use occurred in another location within the state.

D. The secretary shall develop and provide to taxpayers a location-rate database that sets out the tax rates applicable to locations within the state, by address, and sellers who properly rely on this database shall not be liable for any additional tax due to the use of an incorrect rate."

SECTION 12. Section 7-2-7 NMSA 1978 (being Laws 2005, Chapter 104, Section 4) is amended to read:

"7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed
by Section 7-2-3 NMSA 1978 shall be at the following rates for any taxable year beginning on or after January 1, 2021:

A. For married individuals filing separate returns:

If the taxable income is: The tax shall be:

Not over $4,000 1.7% of taxable income
Over $4,000 but not over $8,000 $68.00 plus 3.2% of excess over $4,000
Over $8,000 but not over $12,000 $196 plus 4.7% of excess over $8,000
Over $12,000 but not over $157,500 $384 plus 4.9% of excess over $12,000
Over $157,500 $7,513.50 plus 5.9% of excess over $157,500.

B. For heads of household, surviving spouses and married individuals filing joint returns:

If the taxable income is: The tax shall be:

Not over $8,000 1.7% of taxable income
Over $8,000 but not over $16,000 $136 plus 3.2% of excess over $8,000
Over $16,000 but not over $24,000 $392 plus 4.7% of excess over $16,000
Over $24,000 but not over $315,000 $768 plus 4.9% of excess over $24,000
Over $315,000 $15,027 plus 5.9% of excess over $315,000.
C. For single individuals and for estates and trusts:

If the taxable income is: The tax shall be:

Not over $5,500 1.7% of taxable income
Over $5,500 but not over $11,000 $93.50 plus 3.2% of excess over $5,500
Over $11,000 but not over $16,000 $269.50 plus 4.7% of excess over $11,000
Over $16,000 but not over $210,000 $504.50 plus 4.9% of excess over $16,000
Over $210,000 $10,010.50 plus 5.9% of excess over $210,000.

D. The tax on the sum of any lump-sum amounts included in net income is an amount equal to five multiplied by the difference between:

(1) the amount of tax due on the taxpayer's taxable income; and
(2) the amount of tax that would be due on an amount equal to the taxpayer's taxable income and twenty percent of the taxpayer's lump-sum amounts included in net income."

SECTION 13. Section 7-2-18.15 NMSA 1978 (being Laws 2007, Chapter 45, Section 9, as amended) is amended to read:

"7-2-18.15. WORKING FAMILIES TAX CREDIT.--
A. A resident who files an individual New Mexico income tax return may claim a credit in an amount equal to seventeen percent of the federal income tax credit for which that individual is eligible for the same taxable year pursuant to Section 32 of the Internal Revenue Code. The credit provided in this section may be referred to as the "working families tax credit".

B. The working families tax credit may be deducted from the income tax liability of an individual who claims the credit and qualifies for the credit pursuant to this section. If the credit exceeds the individual's income tax liability for the taxable year, the excess shall be refunded to the individual.

SECTION 14. Section 7-2-34 NMSA 1978 (being Laws 1999, Chapter 205, Section 1, as amended) is amended to read:

"7-2-34. DEDUCTION--NET CAPITAL GAIN INCOME.--

A. Except as provided in Subsection C of this section, a taxpayer may claim a deduction from net income in an amount equal to the greater of:

(1) the taxpayer's net capital gain income for the taxable year for which the deduction is being claimed, but not to exceed one thousand dollars ($1,000); or

(2) forty percent of the taxpayer's net capital gain income for the taxable year for which the deduction is being claimed."
B. Married individuals who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the deduction provided by this section that would have been allowed on the joint return.

C. A taxpayer may not claim the deduction provided in Subsection A of this section if the taxpayer has claimed the credit provided in Section 7-2D-8.1 NMSA 1978.

D. As used in this section, "net capital gain" means "net capital gain" as defined in Section 1222 (11) of the Internal Revenue Code.

SECTION 15. A new section of the Income Tax Act is enacted to read:

"DEDUCTION FROM NET INCOME FOR CERTAIN DEPENDENTS.--

A. As long as the exemption amount pursuant to Section 151 of the Internal Revenue Code means zero, a taxpayer who is not a dependent of another individual and files a return as a head of household or married filing jointly may claim a deduction from net income in an amount equal to the product of four thousand dollars ($4,000) multiplied by the difference between the number of dependents claimed on the taxpayer's return and one.

B. A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction to the department in a manner required by the department.
C. The department shall compile an annual report on the deduction provided by this section that shall include the number of taxpayers that claimed the deduction, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deduction. The department shall present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the deduction.

D. As used in this section, "dependent" means "dependent" as defined in Section 152 of the Internal Revenue Code.

SECTION 16. Section 7-2A-2 NMSA 1978 (being Laws 1986, Chapter 20, Section 33, as amended) is amended to read:

"7-2A-2. DEFINITIONS.--For the purpose of the Corporate Income and Franchise Tax Act and unless the context requires otherwise:

A. "bank" means any national bank, national banking association, state bank or bank holding company;

B. "apportioned net income" or "apportioned net loss" means net income allocated and apportioned to New Mexico pursuant to the provisions of the Corporate Income and Franchise Tax Act or the Uniform Division of Income for Tax Purposes Act, but excluding from the sales factor any sales that represent intercompany transactions between members of...
the filing group;

C. "base income" means the federal taxable income or the federal net operating loss of a corporation for the taxable year calculated pursuant to the Internal Revenue Code, after special deductions provided in Sections 241 through 249 of the Internal Revenue Code but without any deduction for net operating losses, as if the corporation filed a federal tax return as a separate domestic entity, modified as follows:

(1) adding to that income:

   (a) interest received on a state or local bond exempt under the Internal Revenue Code;

   (b) the amount of any deduction claimed in calculating taxable income for all expenses and costs directly or indirectly paid, accrued or incurred to a captive real estate investment trust; and

   (c) the amount of any deduction, other than for premiums, for amounts paid directly or indirectly to a commonly controlled entity that is exempt from corporate income tax pursuant to Section 7-2A-4 NMSA 1978;

(2) subtracting from that income:

   (a) income from obligations of the United States net of expenses incurred to earn that income;

   (b) other amounts that the state is prohibited from taxing because of the laws or constitution of
this state or the United States net of any related expenses;

(c) an amount equal to one hundred percent of the subpart F income, as that term is defined in Section 952 of the Internal Revenue Code, as that section may be amended or renumbered, included in the income of the corporation; and

(d) an amount equal to one hundred percent of the income of the corporation under Section 951A of the Internal Revenue Code, after allowing the deduction provided in Section 250 of the Internal Revenue Code; and

(3) making other adjustments deemed necessary to properly reflect income of the unitary group, including attribution of income or expense related to unitary assets held by related corporations that are not part of the filing group;

D. "captive real estate investment trust" means a corporation, trust or association taxed as a real estate investment trust pursuant to Section 857 of the Internal Revenue Code, the shares or beneficial interests of which are not regularly traded on an established securities market; provided that more than fifty percent of any class of beneficial interests or shares of the real estate investment trust are owned directly, indirectly or constructively by the taxpayer during all or a part of the taxpayer's taxable year;

E. "common ownership" means the direct or indirect...
control or ownership of more than fifty percent of the
outstanding voting stock, ownership of which is determined
pursuant to Section 1563 of the Internal Revenue Code, as
that section may be amended or renumbered, of:

(1) a parent-subsidiary controlled group as
defined in Section 1563 of the Internal Revenue Code, except
that fifty percent shall be substituted for eighty percent;

(2) a brother-sister controlled group as
defined in Section 1563 of the Internal Revenue Code; or

(3) three or more corporations each of which
is a member of a group of corporations described in Paragraph
(1) or (2) of this subsection, and one of which is:

(a) a common parent corporation

included in a group of corporations described in Paragraph
(1) of this subsection; and

(b) included in a group of corporations

described in Paragraph (2) of this subsection;

F. "consolidated group" means the group of
entities properly filing a federal consolidated return under
the Internal Revenue Code for the taxable year;

G. "corporation" means corporations, joint stock
companies, real estate trusts organized and operated under
the Real Estate Trust Act, financial corporations and banks,
other business associations and, for corporate income tax
purposes, partnerships and limited liability companies taxed
as corporations under the Internal Revenue Code;

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

I. "filing group" means a group of corporations properly included in a return pursuant to Section 7-2A-8.3 NMSA 1978 for a particular taxable year;

J. "fiscal year" means any accounting period of twelve months ending on the last day of any month other than December;

K. "grandfathered net operating loss carryover" means:

(1) the amount of net loss properly reported to New Mexico for taxable years beginning January 1, 2013 and prior to January 1, 2020 as part of a timely filed original return, or an amended return for those taxable years filed prior to January 1, 2020, to the extent such loss can be attributed to one or more corporations that are properly included in the taxpayer's return for the first taxable year beginning on or after January 1, 2020;

(2) reduced by:

(a) adding back deductions that were taken by the corporation or corporations for royalties or interest paid to one or more related corporations, but only
to the extent that such adjustment would not create a net
loss for such related corporations; and

(b) the amount of net operating loss
deductions taken prior to January 1, 2020 that would be
charged against those losses consistent with the Internal
Revenue Code and provisions of the Corporate Income and
Franchise Tax Act applicable to the year of the deduction;
and

(3) apportioned to New Mexico using the
apportionment factors that can properly be attributed to the
corporation or corporations for the year of the net loss;

L. "Internal Revenue Code" means the United States
Internal Revenue Code of 1986, as amended;

M. "net income" means:

(1) the base income of a corporation
properly filing a tax return as a separate entity; or

(2) the combined base income and losses of
corporations that are part of a filing group that is computed
after eliminating intercompany income and expense in a manner
consistent with the consolidated filing requirements of the
Internal Revenue Code and the Corporate Income and Franchise
Tax Act;

N. "net operating loss carryover" means the
apportioned net loss properly reported on an original or
amended tax return for taxable years beginning on or after
January 1, 2020 by the taxpayer:

(1) plus:

   (a) the portion of an apportioned net
loss properly reported to New Mexico for a taxable year
beginning on or after January 1, 2020, on a separate year
return, to the extent the taxpayer would have been entitled
to include the portion of such apportioned net loss in the
taxpayer's consolidated net operating loss carryforward under
the Internal Revenue Code if the taxpayer filed a
consolidated federal return; and

   (b) the taxpayer's grandfathered net
operating loss carryover; and

(2) minus:

   (a) the amount of the net operating
loss carryover attributed to an entity that has left the
filing group, computed in a manner consistent with the
consolidated filing requirements of the Internal Revenue Code
and applicable regulations, as if the taxpayer were filing a
consolidated return; and

   (b) the amount of net operating loss
deductions properly taken by the taxpayer;

O. "net operating loss deduction" means the
portion of the net operating loss carryover that may be
deducted from the taxpayer's apportioned net income under the
Internal Revenue Code for the taxable year in which the
deduction is taken, including the eighty percent limitation
of Section 172(a) of the Internal Revenue Code calculated on
the basis of the taxpayer's apportioned net income;

P. "person" means any individual, estate, trust,
receiver, cooperative association, club, corporation,
company, firm, partnership, limited liability company, joint
venture, syndicate or other association; "person" also means,
to the extent permitted by law, any federal, state or other
governmental unit or subdivision or agency, department or
instrumentality thereof;

Q. "real estate investment trust" has the meaning
ascribed to the term in Section 856 of the Internal Revenue
Code, as that section may be amended or renumbered;

R. "related corporation" means a corporation that
is under common ownership with one or more corporations but
that is not included in the same tax return;

S. "return" means any tax or information return,
including a water's-edge or worldwide combined return, a
consolidated return, a declaration of estimated tax or a
claim for refund, including any amendments or supplements to
the return, required or permitted pursuant to a law subject
to administration and enforcement pursuant to the Tax
Administration Act and filed with the department by or on
behalf of any person;
T. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

U. "separate year return" means a properly filed original or amended return for a taxable year beginning on or after January 1, 2020 by a taxpayer reporting a loss, a portion of which is claimed as part of the net operating loss carryover by another taxpayer in a subsequent return period;

V. "state" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico, any territory or possession of the United States or political subdivision thereof or any political subdivision of a foreign country;

W. "state or local bond" means a bond issued by a state other than New Mexico or by a local government other than one of New Mexico's political subdivisions, the interest from which is excluded from income for federal income tax purposes under Section 103 of the Internal Revenue Code, as that section may be amended or renumbered;

X. "taxable income" means a taxpayer's apportioned net income minus the net operating loss deduction for the taxable year;

Y. "taxable year" means the calendar year or fiscal year upon the basis of which the net income is computed under the Corporate Income and Franchise Tax Act and
includes, in the case of the return made for a fractional part of a year under the provisions of that act, the period for which the return is made;

Z. "taxpayer" means any corporation or group of corporations filing a return pursuant to Section 7-2A-8.3 NMSA 1978 subject to the taxes imposed by the Corporate Income and Franchise Tax Act;

AA. "unitary group" means a group of two or more corporations, including a captive real estate investment trust, but not including an S corporation, an insurance company subject to the provisions of the New Mexico Insurance Code, an insurance company that would be subject to the New Mexico Insurance Code if the insurance company engaged in business in this state or a real estate investment trust that is not a captive real estate investment trust, that are:

(1) related through common ownership; and

(2) economically interdependent with one another as demonstrated by the following factors:

(a) centralized management;

(b) functional integration; and

(c) economies of scale;

BB. "water's-edge group" means all corporations that are part of a unitary group, except:

(1) corporations that are exempt from corporate income tax pursuant to Section 7-2A-4 NMSA 1978;
and

(2) corporations wherever organized or
incorporated that have less than twenty percent of their
property, payroll and sales sourced to locations within the
United States, following the sourcing rules of the Uniform
Division of Income for Tax Purposes Act; and

CC. "worldwide combined group" means all members
of a unitary group, except members that are exempt from
corporate income tax pursuant to Section 7-2A-4 NMSA 1978,
irrespective of the country in which the corporations are
incorporated or conduct business activity."

SECTION 17. Section 7-2A-3 NMSA 1978 (being Laws 1981,
Chapter 37, Section 36, as amended) is amended to read:

"7-2A-3. IMPOSITION AND LEVY OF TAXES.--

A. A tax to be known as the "corporate income tax"
is imposed at the rate specified in the Corporate Income and
Franchise Tax Act upon the taxable income of a corporation or
group of corporations, in whatever jurisdiction organized or
incorporated, that is engaged in the transaction of business
in, into or from this state or deriving any income from any
property or employment within this state.

B. A tax to be known as the "corporate franchise
tax" is imposed in the amount specified in the Corporate
Income and Franchise Tax Act upon every domestic corporation
and upon every foreign corporation employed or engaged in the
transaction of business in, into or from this state or
deriving any income from any property or employment within
this state and upon every domestic or foreign corporation,
whether engaged in active business or not, but having or
exercising its corporate franchise in this state."

SECTION 18. Section 7-2A-5 NMSA 1978 (being Laws 1981,
Chapter 37, Section 38, as amended) is amended to read:

"7-2A-5. CORPORATE INCOME TAX RATES.--The corporate
income tax imposed on corporations by Section 7-2A-3 NMSA
1978 shall be:

If the taxable income is:  The tax shall be:
Not over $500,000  4.8% of taxable income
Over $500,000  $24,000 plus
  5.9% of excess
  over $500,000."

SECTION 19. Section 7-2A-8.3 NMSA 1978 (being Laws
1983, Chapter 213, Section 12, as amended) is amended to
read:

"7-2A-8.3. COMBINED AND CONSOLIDATED RETURNS.--
A. Corporations that are part of a unitary group
shall file a return properly reporting and paying tax on
taxable income as a worldwide combined group unless they
properly elect to report and pay tax on taxable income as a
water's-edge or consolidated group, pursuant to department
rules and instructions, on the first original return required
to be filed for taxable years beginning on or after January 1, 2020. Corporations electing to file a consolidated return must file on that same basis for federal income tax purposes. Once a unitary or consolidated group has properly made an election to file as a water's-edge or consolidated group, the group and any of the group's members shall file a return on that basis for at least seven consecutive years unless the secretary grants permission otherwise. Corporations that are part of a unitary group filing a return are jointly and severally liable for the tax imposed pursuant to the Corporate Income and Franchise Tax Act on taxable income.

B. Corporations required to file a return as part of a filing group pursuant to this section may designate a member of the group to act as the principal corporation to file the return, make any elections, claim tax credits or refunds or perform any other act on behalf of the group with respect to the corporate income tax; provided that the members of the group remain jointly and severally liable for the taxes due pursuant to Subsection A of this section.

SECTION 20. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"DEDUCTION TO OFFSET MATERIAL FINANCIAL EFFECTS OF CHANGES IN DEFERRED TAX AMOUNTS DUE TO CERTAIN CHANGES MADE TO SECTIONS 7-2A-2, 7-2A-3, 7-2A-8.3, 7-4-10 AND 7-4-18 NMSA 1978.--"
A. For each of ten consecutive taxable years beginning on or after January 1, 2026, a filing group subject to the corporate income tax whose members are part of a publicly traded company may claim a deduction, as provided by Subsection B of this section, from taxable income before net operating losses are deducted.

B. The deduction for each taxable year shall not exceed one-tenth of the amount of the aggregate increase in net deferred tax liabilities, the aggregate decrease in net deferred tax assets or an aggregate change from a net deferred tax asset to a net deferred tax liability, as measured under generally accepted accounting principles, that resulted from the changes to Sections 7-2A-2, 7-2A-3, 7-2A-8.3, 7-4-10 and 7-4-18 NMSA 1978 made by this 2019 act; provided that:

(1) the amount of the aggregate change in deferred tax assets and deferred tax liabilities is properly included in the calculation of the deferred tax asset or deferred tax liability reported as part of the consolidated financial statements, as required by the federal Securities Exchange Act of 1934, for the first reporting period affected by the changes to Sections 7-2A-2, 7-2A-3, 7-2A-8.3, 7-4-10 and 7-4-18 NMSA 1978 made by this 2019 act but for the deduction provided by this section; and

(2) if the deduction provided by this
section is greater than the taxpayer's net income, any excess amount shall be carried forward and applied as a deduction to the taxpayer's net income in future income years until fully utilized.

C. A filing group shall not claim a deduction pursuant to this section unless the filing group files a preliminary notice with the secretary prior to January 1, 2023 and provides necessary information to show the calculation of the deduction expected to be claimed, as the secretary may require."

SECTION 21. Section 7-4-10 NMSA 1978 (being Laws 1993, Chapter 153, Section 1, as amended) is amended to read:

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

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

B. If eighty percent or more of the New Mexico numerators of the property and payroll factors for a filing group, or for a taxpayer that is not a member of a filing group, are employed in manufacturing, the filing group or the taxpayer may elect to have business income apportioned to this state by multiplying the income by the sales factor for
the taxable year.

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

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

1. if the election is made for taxable years beginning prior to January 1, 2020, to the taxable year in which the election is made and to each taxable year thereafter for three years, or until the taxable year ending prior to January 1, 2020, whichever is earlier;

2. if the election is made for a taxable year beginning on or after January 1, 2020, to the taxable year in which the election is made and to each taxable year thereafter until the taxpayer notifies the department, in writing, that the election is terminated, except that the taxpayer shall not terminate the election until the method of apportioning business income provided by Subsection B or C of this section has been used by the taxpayer for at least three
consecutive taxable years, including a total of at least thirty-six calendar months; and

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

E. For purposes of this section:

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

(2) "headquarters operation" means:

   (a) the center of operations of a business: 1) where corporate staff employees are physically employed; 2) where the centralized functions are primarily performed, including administrative, planning, managerial, human resources, purchasing, information technology and accounting, but not including operating a call center; 3) the function and purpose of which is to manage and direct most aspects and functions of the business operations within a subdivided area of the United States; 4) from which final authority over regional or subregional offices, operating facilities and any other offices of the business are issued; and 5) including national and regional headquarters if the national headquarters is subordinate only to the ownership of the business or its representatives and the regional
headquarters is subordinate to the national headquarters; or

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

(3) "manufacturing" means operating a computer processing facility or combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include:

(a) construction;

(b) farming;

(c) electric power generation;

(d) processing natural resources, including hydrocarbons; or

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

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

SECTION 22. Section 7-4-18 NMSA 1978 (being Laws 1965, page 59)
Chapter 203, Section 18) is amended to read:

"7-4-18. DETERMINATION OF SALES IN THIS STATE OF SERVICES AND OTHER PROPERTY FOR INCLUSION IN SALES FACTOR.--

A. Sales, other than sales described in Section 7-4-17 NMSA 1978, are in this state:

(1) in the case of sale, rental, lease or license of real property, if and to the extent the real property is located in this state;

(2) in the case of rental, lease or license of tangible personal property, if and to the extent the tangible personal property is located in this state;

(3) in the case of sale of a service, if and to the extent the service is delivered to a location in this state; and

(4) in the case of sale, rental, lease or license of intangible property, if and to the extent the intangible property is used in this state.

B. If the state or states of assignment under Subsection A of this section cannot be determined, the state or states of assignment shall be reasonably approximated.

C. If the taxpayer is not taxable in a state to which a sale is assigned pursuant to Subsection A of this section or if the state of assignment cannot be determined or reasonably approximated pursuant to Subsection B of this section, that sale shall be excluded from the numerator.
denominator of the sales factor.

D. The department may promulgate rules as
necessary or appropriate to carry out the purposes of this
section."

SECTION 23. Section 7-9-3 NMSA 1978 (being Laws 1978,
Chapter 46, Section 1, as amended) is amended to read:

"7-9-3. DEFINITIONS.—As used in the Gross Receipts and
Compensating Tax Act:

A. "buying" or "selling" means a transfer of
property for consideration or the performance of service for
consideration;

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

C. "digital good" means a digital product
delivered electronically, including software, music,
photography, video, reading material, an application and a
ringtone;

D. "financial corporation" means a savings and
loan association or an incorporated savings and loan company,
trust company, mortgage banking company, consumer finance
company or other financial corporation;

E. "initial use" or "initially used" means the
first employment for the intended purpose and does not
include the following activities:

(1) observation of tests conducted by the performer of services;

(2) participation in progress reviews, briefings, consultations and conferences conducted by the performer of services;

(3) review of preliminary drafts, drawings and other materials prepared by the performer of the services;

(4) inspection of preliminary prototypes developed by the performer of services; or

(5) similar activities;

F. "leasing" means an arrangement whereby, for a consideration, property is employed for or by any person other than the owner of the property, except that the granting of a license to use property is licensing and is not a lease;

G. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon a taxpayer's gross receipts and required to be collected by the department at the same time and in the same manner as the gross receipts tax;

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

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

J. "marketplace provider" means a person who
facilitates the sale, lease or license of tangible personal
property or services or licenses for use of real property on
a marketplace seller's behalf, or on the marketplace
provider's own behalf, by:

(1) listing or advertising the sale, lease
or license, by any means, whether physical or electronic,
including by catalog, internet website or television or radio
broadcast; and

(2) either directly or indirectly, through
agreements or arrangements with third parties collecting
payment from the customer and transmitting that payment to
the seller, regardless of whether the marketplace provider
receives compensation or other consideration in exchange for
the marketplace provider's services;

K. "marketplace seller" means a person who sells,
leases or licenses tangible personal property or services or
who licenses the use of real property through a marketplace
provider;
L. "person" means:

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

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

M. "property" means:

(1) real property;

(2) tangible personal property, including electricity and manufactured homes;

(3) licenses, including licenses of digital goods, but not including the licenses of copyrights, trademarks or patents; and

(4) franchises;

N. "research and development services" means an activity engaged in for other persons for consideration, for one or more of the following purposes:

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

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

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

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

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

(6) designing and developing prototypes or integrating systems incorporating the advances, developments or improvements included in Paragraphs (1) through (5) of this subsection;

O. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

P. "service" means all activities engaged in for other persons for a consideration, which activities involve predominantly the performance of a service as distinguished
from selling or leasing property. "Service" includes activities performed by a person for its members or shareholders. In determining what is a service, the intended use, principal objective or ultimate objective of the contracting parties shall not be controlling. "Service" includes construction activities and all tangible personal property that will become an ingredient or component part of a construction project. That tangible personal property retains its character as tangible personal property until it is installed as an ingredient or component part of a construction project in New Mexico. Sales of tangible personal property that will become an ingredient or component part of a construction project to persons engaged in the construction business are sales of tangible personal property; and

Q. "use" or "using" includes use, consumption or storage other than storage for subsequent sale in the ordinary course of business or for use solely outside this state."

SECTION 24. Section 7-9-3.2 NMSA 1978 (being Laws 1991, Chapter 8, Section 1, as amended) is amended to read:

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

A. As used in the Gross Receipts and Compensating Tax Act, "governmental gross receipts" means receipts of the state or an agency, institution, instrumentality or political
subsection from:

(1) the sale of tangible personal property
other than water from facilities open to the general public;
(2) the performance of or admissions to
recreational, athletic or entertainment services or events in
facilities open to the general public;
(3) refuse collection or refuse disposal or
both;
(4) sewage services;
(5) the sale of water by a utility owned or
operated by a county, municipality or other political
subdivision of the state;
(6) the renting of parking, docking or tie-
down spaces or the granting of permission to park vehicles,
tie down aircraft or dock boats;
(7) the sale of tangible personal property
handled on consignment when sold from facilities open to the
general public; and
(8) a hospital licensed by the department of
health.

B. "Governmental gross receipts" excludes receipts
of the state or an agency, institution, instrumentality or
political subdivision from:

(1) cash discounts taken and allowed;
(2) governmental gross receipts tax payable
on transactions reportable for the period; and

(3) any type of time-price differential.

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

SECTION 25. Section 7-9-3.3 NMSA 1978 (being Laws 2003,
Chapter 272, Section 4) is amended to read:

"7-9-3.3. DEFINITION--ENGAGING IN BUSINESS.--As used in
the Gross Receipts and Compensating Tax Act, "engaging in
business" means carrying on or causing to be carried on any
activity with the purpose of direct or indirect benefit. For
a person who lacks physical presence in this state, including
a marketplace provider, "engaging in business" means having,
in the previous calendar year, total taxable gross receipts
from sales, leases and licenses of tangible personal
property, sales of licenses and sales of services and
licenses for use of real property sourced to this state
pursuant to Section 7-1-14 NMSA 1978, of at least one hundred
thousand dollars ($100,000)."

SECTION 26. Section 7-9-3.5 NMSA 1978 (being Laws 2003,
Chapter 272, Section 3, as amended) is amended to read:

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

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

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

(2) "gross receipts" includes:

(a) any receipts from sales of tangible personal property handled on consignment;

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

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

(d) amounts received from transmitting
messages or conversations by persons providing telephone or
telegraph services;

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

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

(g) receipts collected by a marketplace...
provider engaging in business in the state from sales, leases 
and licenses of tangible personal property, sales of licenses 
and sales of services or licenses for use of real property 
that are sourced to this state and are facilitated by the 
marketplace provider on behalf of marketplace sellers, 
regardless of whether the marketplace sellers are engaging in 
business in the state; and 

(3) "gross receipts" excludes: 

(a) cash discounts allowed and taken; 

(b) New Mexico gross receipts tax, 
governmental gross receipts tax and leased vehicle gross 
receipts tax payable on transactions for the reporting 
period; 

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

(d) any gross receipts or sales taxes 
imposed by an Indian nation, tribe or pueblo; provided that 
the tax is approved, if approval is required by federal law 
or regulation, by the secretary of the interior of the United 
States; and provided further that the gross receipts or sales 
tax imposed by the Indian nation, tribe or pueblo provides a 
reciprocal exclusion for gross receipts, sales or gross 
receipts-based excise taxes imposed by the state or its 
political subdivisions;
(e) any type of time-price differential;  
(f) amounts received solely on behalf of another in a disclosed agency capacity; and  
(g) amounts received by a New Mexico florist from the sale of flowers, plants or other products that are customarily sold by florists where the sale is made pursuant to orders placed with an out-of-state florist for filling and delivery in New Mexico by a New Mexico florist.

B. When the sale of property or service is made under any type of charge, conditional or time-sales contract or the leasing of property is made under a leasing contract, the seller or lessor may elect to treat all receipts, excluding any type of time-price differential, under such contracts as gross receipts as and when the payments are actually received. If the seller or lessor transfers the seller's or lessor's interest in any such contract to a third person, the seller or lessor shall pay the gross receipts tax upon the full sale or leasing contract amount, excluding any type of time-price differential."

SECTION 27. Section 7-9-4.3 NMSA 1978 (being Laws 1991, Chapter 8, Section 2, as amended by Laws 1993, Chapter 332, Section 1 and by Laws 1993, Chapter 352, Section 1) is amended to read:

"7-9-4.3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
"GOVERNMENTAL GROSS RECEIPTS TAX".—For the privilege of engaging in certain activities by governments, there is imposed on every agency, institution, instrumentality or political subdivision of the state, except any school district and an entity licensed by the department of health, other than a hospital, that is principally engaged in providing health care services, an excise tax of five percent of governmental gross receipts. The tax imposed by this section shall be referred to as the "governmental gross receipts tax".

SECTION 28. Section 7-9-5 NMSA 1978 (being Laws 1966, Chapter 47, Section 5, as amended) is amended to read:

"7-9-5. PRESUMPTION OF TAXABILITY.—

A. To prevent evasion of the gross receipts tax and to aid in its administration, it is presumed that all receipts of a person engaging in business are subject to the gross receipts tax. A person engaged solely in transactions specifically exempt under the provisions of the Gross Receipts and Compensating Tax Act shall not be required to register or file a return under that act.

B. If receipts from nontaxable charges for mobile telecommunications services are aggregated with and not separately stated from taxable charges for mobile telecommunications services, the charges for nontaxable mobile telecommunications services shall be subject to gross
receipts tax unless the home service provider can reasonably identify nontaxable charges in its books and records that are kept in the regular course of business. For the purposes of this subsection, "charges for mobile telecommunications services", "home service provider" and "mobile telecommunications services" have the meanings given in the federal Mobile Telecommunications Sourcing Act.

C. A marketplace provider engaging in business in this state is not liable for amounts of gross receipts tax collected incorrectly due to the marketplace provider reasonably relying on erroneous information provided by the seller.

SECTION 29. Section 7-9-6 NMSA 1978 (being Laws 1966, Chapter 47, Section 6, as amended) is amended to read:

"7-9-6. SEPARATELY STATING THE GROSS RECEIPTS TAX.--

A. Taxpayers subject to the Gross Receipts and Compensating Tax Act, when billing a customer, shall separately state the amount of tax associated with the transaction or provide a statement affirmatively indicating that the gross receipts tax is included in the amount billed.

B. When the gross receipts tax is stated separately on the books of the seller or lessor, and if the total amount of tax that is stated separately on transactions reportable within one reporting period is in excess of the amount of gross receipts tax otherwise payable on the
transactions on which the tax was stated separately, the
excess amount of tax stated on the transactions within that
reporting period shall be included in gross receipts."

SECTION 30. Section 7-9-7 NMSA 1978 (being Laws 1966,
Chapter 47, Section 7, as amended) is amended to read:

"7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS
"COMPENSATING TAX".--

A. For the privilege of using tangible property in
New Mexico, there is imposed on the person using the property
an excise tax equal to five and one-eighth percent of the
value of tangible property that was:

(1) manufactured by the person using the
property in the state; or

(2) acquired inside or outside of this state
as the result of a transaction with a person located outside
this state that would have been subject to the gross receipts
tax had the tangible personal property been acquired from a
person with nexus with New Mexico.

B. For the purpose of Subsection A of this
section, value of tangible property shall be the adjusted
basis of the property for federal income tax purposes
determined as of the time of acquisition or introduction into
this state or of conversion to use, whichever is later. If
no adjusted basis for federal income tax purposes is
established for the property, a reasonable value of the
property shall be used.

C. For the privilege of using a license or franchise in New Mexico, there is imposed on the person using the license or franchise an excise tax equal to the rate provided in Subsection A of this section against the value of the license or franchise in its use in this state. The department by rule, ruling or instruction shall fairly apportion, where appropriate, the value of a license or franchise to its value in use in New Mexico. For use of a license or franchise to be taxable under this subsection, the value of the license or franchise shall be acquired inside or outside this state as the result of a transaction with a person located outside this state that would have been subject to the gross receipts tax had the license or franchise been acquired from a person with nexus with this state.

D. For the privilege of using services in New Mexico, there is imposed on the person using the services an excise tax equal to the rate provided in Subsection A of this section against the value of the services at the time the product of the service was acquired. For use of services to be taxable under this subsection, the services shall have been performed by a person outside this state and the product of the service was acquired inside or outside this state as the result of a transaction with a person located outside.
this state that would have been subject to the gross receipts tax had the service or product of the service been acquired from a person with nexus with this state.

E. The tax imposed by this section shall be referred to as the "compensating tax".

SECTION 31. Section 7-9-7.1 NMSA 1978 (being Laws 1993, Chapter 45, Section 1, as amended) is amended to read:

"7-9-7.1. DEPARTMENT BARRED FROM TAKING COLLECTION ACTIONS WITH RESPECT TO CERTAIN TAX LIABILITIES.--
The department shall take no action to enforce collection of gross receipts tax for a tax period prior to July 1, 2019 on persons engaging in business if that person:

A. lacked physical presence in the state; and

B. did not report taxable gross receipts prior to July 1, 2019."

SECTION 32. Section 7-9-13.1 NMSA 1978 (being Laws 1989, Chapter 262, Section 4) is amended to read:

"7-9-13.1. EXEMPTION--GROSS RECEIPTS TAX--CERTAIN SERVICES.--

A. Exempted from the gross receipts tax are the receipts from selling research and development services performed outside New Mexico the product of which is initially used in New Mexico and that are sold:

(1) between affiliated corporations;

(2) to the United States by persons, other
than organizations described in Subsection A of Section 7-9-29 NMSA 1978, who are prime contractors operating facilities in New Mexico designated as national laboratories by act of congress; or

(3) to persons, other than organizations described in Subsection A of Section 7-9-29 NMSA 1978, who are prime contractors operating facilities in New Mexico designated as national laboratories by act of congress.

B. An "affiliated corporation" means a corporation that directly or indirectly, through one or more intermediaries controls, is controlled by or is under common control with the subject corporation. "Control" means ownership of stock in a corporation that represents at least eighty percent of the total voting power of that corporation and has a stated or par value equal to at least eighty percent of the total stated or par value of the stock of that corporation."

SECTION 33. Section 7-9-29 NMSA 1978 (being Laws 1970, Chapter 12, Section 3, as amended) is amended to read:

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

A. Exempted from the gross receipts tax are the receipts of organizations that demonstrate to the department that they have been granted exemption from the federal income tax by the United States commissioner of internal revenue as
organizations described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as that section may be amended or renumbered, except for receipts of a hospital licensed by the department of health.

B. Exempted from the gross receipts tax are the receipts from carrying on chamber of commerce, visitor bureau and convention bureau functions of organizations that demonstrate to the department that they have been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(6) of the United States Internal Revenue Code of 1986, as that section may be amended or renumbered.

C. This section does not apply to receipts derived from an unrelated trade or business as defined in Section 513 of the United States Internal Revenue Code of 1986, as that section may be amended or renumbered.

SECTION 34. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"EXEMPTION--NONPROFIT HOSPITALS FROM LOCAL OPTION GROSS RECEIPTS TAXES.--

A. Exempted from any local option gross receipts tax, but not the state gross receipts tax, are receipts of a nonprofit hospital licensed by the department of health.

B. As used in this section, "nonprofit hospital" means a hospital that has been granted exemption from federal
income tax by the United States commissioner of internal
revenue as an organization described in Section 501(c)(3) of
the Internal Revenue Code."

SECTION 35. Section 7-9-73.1 NMSA 1978 (being Laws
1991, Chapter 8, Section 3, as amended) is amended to read:

"7-9-73.1. DEDUCTION--GROSS RECEIPTS--GOVERNMENTAL
GROSS RECEIPTS--HOSPITALS.--

A. Sixty percent of the receipts of hospitals
licensed by the department of health may be deducted from
gross receipts; provided that this deduction may be applied
only to the taxable gross receipts remaining after all other
appropriate deductions have been taken.

B. Sixty percent of the receipts of a hospital
licensed by the department of health may be deducted from
governmental gross receipts."

SECTION 36. A new section of the Gross Receipts and
Compensating Tax Act is enacted to read:

"DEDUCTION--GROSS RECEIPTS--MARKETPLACE SELLER.--

A. A marketplace seller may deduct receipts for
sales, leases and licenses of tangible personal property,
sales of licenses and sales of services or licenses for use
of real property that are facilitated by a marketplace
provider; provided that the marketplace seller obtains
documentation from the marketplace provider indicating that
the marketplace provider is registered with the department
and has remitted or will remit the taxes due on the gross
receipts from those transactions.

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

SECTION 37. A new section of the Gross Receipts and
Compensating Tax Act is enacted to read:

"AUTHORITY TO ESTABLISH STANDARDS FOR CERTIFIED SERVICE
PROVIDERS.--

A. The secretary is authorized to provide
information, upon which taxpayers may rely, as to the
taxability of gross receipts from particular transactions,
including taxability matrices, and is further authorized to
establish standards for the certification of certified
service providers that offer software-based systems to enable
taxpayers to properly determine the taxability of gross
receipts from particular transactions.

B. As used in this section, "certified service
provider" means "certified service provider" as defined in
the Streamlined Sales and Use Tax Administration Act."

SECTION 38. Section 7-9F-3 NMSA 1978 (being Laws 2000
(2nd S.S.), Chapter 22, Section 3, as amended) is amended to
read:
7-9F-3. DEFINITIONS.--As used in the Technology Jobs and Research and Development Tax Credit Act:

A. "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by or is under common ownership or control with another person through ownership of voting securities or other ownership interests representing a majority of the total voting power of the entity;

B. "annual payroll expense" means the wages paid or payable to employees in the state by the taxpayer in the taxable year for which the taxpayer applies for an additional credit pursuant to the Technology Jobs and Research and Development Tax Credit Act;

C. "base payroll expense" means the wages paid or payable by the taxpayer in the taxable year prior to the taxable year for which the taxpayer applies for an additional credit pursuant to the Technology Jobs and Research and Development Tax Credit Act, adjusted for any increase from the preceding taxable year in the consumer price index for the United States for all items as published by the United States department of labor in the taxable year for which the additional credit is claimed. In a taxable year during which a taxpayer has been part of a business merger or acquisition or other change in business organization, the taxpayer's base payroll expense shall include the payroll expense of all
entities included in the reorganization for all positions
that are included in the business entity resulting from the
reorganization;

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

E. "facility" means a factory, mill, plant,
refinery, warehouse, dairy, feedlot, building or complex of
buildings located within the state, including the land on
which it is located and all machinery, equipment and other
real and tangible personal property located at or within it
and used in connection with its operation;

F. "local option gross receipts tax" means a tax
authorized to be imposed by a county or municipality upon a
taxpayer's gross receipts, as that term is defined in the
Gross Receipts and Compensating Tax Act, and required to be
collected by the department at the same time and in the same
manner as the gross receipts tax;

G. "qualified expenditure" means an expenditure or
an allocated portion of an expenditure by a taxpayer in
connection with qualified research at a qualified facility,
including expenditures for depletable land and rent paid or
incurred for land, improvements, the allowable amount paid or
incurred to operate or maintain a facility, buildings,
equipment, computer software, computer software upgrades, consultants and contractors performing work in New Mexico, payroll, technical books and manuals and test materials, but not including any expenditure on property that is owned by a municipality or county in connection with an industrial revenue bond project, property for which the taxpayer has received any credit pursuant to the Investment Credit Act, property that was owned by the taxpayer or an affiliate before July 3, 2000 or research and development expenditures reimbursed by a person who is not an affiliate of the taxpayer. If a "qualified expenditure" is an allocation of an expenditure, the cost accounting methodology used for the allocation of the expenditure shall be the same cost accounting methodology used by the taxpayer in its other business activities;

H. "qualified facility" means a facility in New Mexico at which qualified research is conducted other than a facility operated by a taxpayer for the United States or any agency, department or instrumentality thereof;

I. "qualified research" means research:

(1) that is undertaken for the purpose of discovering information:

(a) that is technological in nature;

and

(b) the application of which is
intended to be useful in the development of a new or improved business component of the taxpayer; and

(2) substantially all of the activities of which constitute elements of a process of experimentation related to a new or improved function, performance, reliability or quality, but not related to style, taste or cosmetic or seasonal design factors;

J. "qualified research and development small business" means a taxpayer that:

(1) employed no more than fifty employees as determined by the number of employees for which the taxpayer was liable for unemployment insurance coverage in the taxable year for which an additional credit is claimed;

(2) had total qualified expenditures of no more than five million dollars ($5,000,000) in the taxable year for which an additional credit is claimed; and

(3) did not have more than fifty percent of its voting securities or other equity interest with the right to designate or elect the board of directors or other governing body of the business owned directly or indirectly by another business;

K. "rural area" means any area of the state other than the state fairgrounds, an incorporated municipality with a population of thirty thousand or more according to the most recent federal decennial census and any area within three
miles of the external boundaries of an incorporated municipality with a population of thirty thousand or more according to the most recent federal decennial census;

L. "taxpayer" means any of the following persons, other than a federal, state or other governmental unit or subdivision or an agency, department, institution or instrumentality thereof:

(1) a person liable for payment of any tax;

(2) a person responsible for withholding and payment or collection and payment of any tax;

(3) a person to whom an assessment has been made if the assessment remains unabated or the assessed amount has not been paid; or

(4) for purposes of the additional credit against the taxpayer's income tax pursuant to the Technology Jobs and Research and Development Tax Credit Act and to the extent of their respective interest in that entity, the shareholders, members, partners or other owners of:

(a) a small business corporation that has elected to be treated as an S corporation for federal income tax purposes; or

(b) an entity treated as a partnership or disregarded entity for federal income tax purposes; and

M. "wages" means remuneration for services performed by an employee in New Mexico for an employer."
SECTION 39. Section 7-12-3 NMSA 1978 (being Laws 1971, Chapter 77, Section 3, as amended) is amended to read:

"7-12-3. EXCISE TAX ON CIGARETTES--REDUCTION OF RATE FOR CERTAIN CIGARETTES.--

A. For the privilege of selling, giving or consuming cigarettes in New Mexico, there is levied an excise tax at a rate of ten cents ($.10) for each cigarette sold, given or consumed in this state.

B. The tax imposed by this section shall be referred to as the "cigarette tax".

C. The tax imposed by this section shall be reduced by fifty percent for a cigarette for which a modified risk tobacco product order has been issued by the United States secretary of health and human services pursuant to Section 21 U.S.C. 387k(g)(1).

D. The tax imposed by this section shall be reduced by twenty-five percent for a cigarette for which a modified risk tobacco product order has been issued by the United States secretary of health and human services pursuant to Section 21 U.S.C. 387k(g)(2)."

SECTION 40. Section 7-12-3.1 NMSA 1978 (being Laws 1986, Chapter 13, Section 3, as amended) is amended to read:

"7-12-3.1. CIGARETTE INVENTORY TAX--IMPOSITION OF TAX--DATE PAYMENT OF TAX DUE.--

A. A tax that may be identified as the "cigarette
inventory tax" is imposed on a distributor that has in its possession tax-exempt stamps, tax-credit stamps or tax stamps, not affixed to packages of cigarettes, at the close of business on the day prior to the date on which an increase in the cigarette tax imposed by Section 7-12-3 NMSA 1978 is effective.

B. The cigarette inventory tax due from the distributor is calculated by multiplying the number of tax stamps not affixed to packages of cigarettes in the distributor's possession by the increase in the excise tax. Tax-exempt stamps and tax-credit stamps are not included in the calculation to determine the amount of cigarette inventory tax to be paid by a distributor.

C. The cigarette inventory tax is to be paid to the department on or before the twenty-fifth day of the month following the month in which the increase in the cigarette tax is effective.

SECTION 41. Section 7-12-7 NMSA 1978 (being Laws 1971, Chapter 77, Section 7, as amended) is amended to read:

"7-12-7. SALE OF STAMPS--PRICES.--

A. Only the department shall sell stamps. Stamps may be sold by the department only to a distributor.

B. Stamps shall display a serial number. Stamps bearing the same serial number shall not be sold to more than one distributor. The department shall keep records of the
C. A stamp shall be affixed to a package of cigarettes in such a manner as to clearly display the serial number at the point of sale.

D. Tax stamps shall be sold at their face value with the following discounts:

   (1) forty-six hundredths percent less than the face value of the first thirty thousand dollars ($30,000) of stamps purchased in one calendar month;

   (2) thirty-six hundredths percent less than the face value of the second thirty thousand dollars ($30,000) of stamps purchased in one calendar month; and

   (3) twenty-two hundredths percent less than the face value of stamps purchased in excess of sixty thousand dollars ($60,000) in one calendar month.

E. Tax-credit stamps shall be provided only to distributors and shall be provided free of charge; provided that the distributor is in full compliance with the reporting requirements of the Cigarette Tax Act and rules adopted pursuant to that act.

F. If the face value of tax stamps sold in a single sale is less than one thousand dollars ($1,000), the discount provided for in this section shall not be allowed.

G. Payment for tax stamps shall be made on or before the twenty-fifth day of the month following the month.
in which the sale of stamps by the department is made.

H. Tax-exempt stamps shall be provided only to
distributors and shall be free of charge; provided that the
distributor is in full compliance with the reporting
requirements of the Cigarette Tax Act and rules adopted
pursuant to that act."

SECTION 42. Section 7-12A-2 NMSA 1978 (being Laws 1986,
Chapter 112, Section 3, as amended) is amended to read:

"7-12A-2. DEFINITIONS.--As used in the Tobacco Products
Tax Act:

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

B. "cigar" means a roll for smoking made wholly or
in part of tobacco and weighing greater than four and one-
half pounds per thousand;

C. "distribute" means to sell or to give;

D. "closed system cartridge" means a single-use,
pre-filled disposable cartridge containing five milliliters
or less of e-liquid for use in an e-cigarette;

E. "e-cigarette" means any electronic oral device,
whether composed of a heating element and battery or an
electronic circuit, that provides a vapor of nicotine or any
other substance the use or inhalation of which simulates
smoking and includes any such device, or any part thereof, whether manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe or any other product, name or descriptor. "E-cigarette" does not include any product regulated as a drug or device by the United States food and drug administration under the Federal Food, Drug, and Cosmetic Act;

F. "e-liquid" means liquid or other substance intended for use in an e-cigarette, not including any substance containing cannabis or oil derived from cannabis;

G. "engaging in business" means carrying on or causing to be carried on any activity with the purpose of direct or indirect benefit;

H. "first purchaser" means a person engaging in business in New Mexico that manufactures tobacco products or that purchases or receives on consignment tobacco products from any person outside of New Mexico, which tobacco products are to be distributed in New Mexico in the ordinary course of business;

I. "little cigar" means a roll for smoking made wholly or in part of tobacco, using an integrated cellulose acetate or other similar filter, and weighing not more than four and one-half pounds per thousand;

J. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation,
company, firm, partnership, joint venture, syndicate, limited
liability company, limited liability partnership, other
association or gas, water or electric utility owned or
operated by a county or municipality or other entity of the
state; "person" also means, to the extent permitted by law, a
federal, state or other governmental unit or subdivision or
an agency, department or instrumentality;

K. "product value" means the amount paid, net of
any discounts taken and allowed, for tobacco products or, in
the case of tobacco products received on consignment, the
value of the tobacco products received or, in the case of
tobacco products manufactured and sold in New Mexico, the
proceeds from the sale by the manufacturer of the tobacco
products; and

L. "tobacco product" means:

   (1) any product, other than cigarettes,
cigars and little cigars, made from or containing tobacco;
   (2) e-liquid;
   (3) e-cigarettes; and
   (4) closed system cartridges."

SECTION 43. Section 7-12A-3 NMSA 1978 (being Laws 1986,
Chapter 112, Section 4, as amended) is amended to read:

"7-12A-3. IMPOSITION AND RATES OF TAX--REDUCTION OF
RATE FOR CERTAIN TOBACCO PRODUCTS--DENOMINATION AS "TOBACCO
PRODUCTS TAX"--DATE PAYMENT OF TAX DUE.--
A. For the manufacture or acquisition of tobacco products in New Mexico, not including cigars, little cigars, e-liquid, e-cigarettes or closed system cartridges, to be distributed in the ordinary course of business and for the consumption of tobacco products in New Mexico, there is imposed an excise tax at the rate of twenty-five percent of the product value of the tobacco products.

B. For the manufacture or acquisition of cigars in New Mexico to be distributed in the ordinary course of business and for the consumption of cigars in New Mexico, there is imposed an excise tax at a rate equal to twenty-five percent of the product value of the cigar, not to exceed fifty cents ($0.50) per cigar.

C. For the manufacture or acquisition of little cigars in New Mexico to be distributed in the ordinary course of business and for the consumption of little cigars in New Mexico, there is imposed an excise tax at a rate equal to the rate imposed on cigarettes pursuant to Section 7-12-3 NMSA 1978 per package of little cigars.

D. For the manufacture or acquisition of e-liquid in New Mexico to be distributed in the ordinary course of business and for the consumption of e-liquid in New Mexico, there is imposed an excise tax at a rate equal to twelve and one-half percent of the product value of the e-liquid.

E. For the manufacture or acquisition of closed
system cartridges in New Mexico to be distributed in the
ordinary course of business, there is imposed an excise tax
at a rate of fifty cents ($0.50) per closed system cartridge.

F. The taxes imposed by this section shall be
reduced by fifty percent for a tobacco product, cigar or
little cigar for which a modified risk tobacco product order
has been issued by the United States secretary of health and
human services pursuant to Section 21 U.S.C. 387k(g)(1).

G. The taxes imposed by this section shall be
reduced by twenty-five percent for a tobacco product, cigar
or little cigar for which a modified risk tobacco product
order has been issued by the United States secretary of
health and human services pursuant to Section 21 U.S.C.
387k(g)(2).

H. The taxes imposed by this section may be
referred to as the "tobacco products tax".

I. The tobacco products tax shall be paid by the
first purchaser on or before the twenty-fifth day of the
month following the month in which the taxable event occurs."

SECTION 44. Section 7-14-4 NMSA 1978 (being Laws 1988,
Chapter 73, Section 14) is amended to read:

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

SECTION 45. Section 7-14-10 NMSA 1978 (being Laws 1988,
Chapter 73, Section 20, as amended) is amended to read:

"7-14-10. DISTRIBUTION OF PROCEEDS.--The receipts from
the tax and any associated interest and penalties shall be
deposited in the "motor vehicle suspense fund", hereby
created in the state treasury. As of the end of each month,
the net receipts attributable to the tax and associated
penalties and interest shall be distributed as follows:

A. prior to July 1, 2021:
   (1) seventy-one and eighty-nine hundredths
percent to the general fund;
   (2) three and eleven hundredths percent to
the state road fund; and
   (3) twenty-five percent to the department of
transportation, for expenditures needed to mitigate the
emergency road conditions related to activity in the oil
field in state transportation commission district 2; and

B. beginning July 1, 2021:
   (1) fifty-nine and thirty-nine hundredths
percent to the general fund;
(2) twenty-one and eighty-six hundredths percent to the state road fund; and

(3) eighteen and seventy-five hundredths percent to the local governments road fund."

**SECTION 46.** Section 7-19-14 NMSA 1978 (being Laws 1979, Chapter 397, Section 5, as amended) is amended to read:

"7-19-14. SPECIFIC EXEMPTIONS.—No supplemental municipal gross receipts tax shall be imposed on the gross receipts arising from:

A. prior to July 1, 2021, transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the municipality to another point outside the municipality; or

B. a business located outside the boundaries of a municipality on land owned by that municipality for which a gross receipts tax distribution is made pursuant to Section 7-1-6.4 NMSA 1978."

**SECTION 47.** Section 7-19D-1 NMSA 1978 (being Laws 1993, Chapter 346, Section 1) is amended to read:

"7-19D-1. SHORT TITLE.—Chapter 7, Article 19D NMSA 1978 may be cited as the "Municipal Local Option Gross Receipts and Compensating Taxes Act"."

**SECTION 48.** Section 7-19D-5 NMSA 1978 (being Laws 1993, Chapter 346, Section 5, as amended) is amended to read:

"7-19D-5. SPECIFIC EXEMPTIONS.—No tax authorized by
the provisions of the Municipal Local Option Gross Receipts
and Compensating Taxes Act shall be imposed on the gross
receipts arising from:

A. prior to July 1, 2021, transporting persons or
property for hire by railroad, motor vehicle, air
transportation or any other means from one point within the
municipality to another point outside the municipality; or

B. a business located outside the boundaries of a
municipality on land owned by that municipality for which a
state gross receipts tax distribution is made pursuant to
Section 7-1-6.4 NMSA 1978."

SECTION 49. Section 7-19D-7 NMSA 1978 (being Laws 1993,
Chapter 346, Section 7, as amended) is amended to read:

"7-19D-7. COLLECTION BY DEPARTMENT.--The department
shall collect each tax imposed pursuant to the provisions of
the Municipal Local Option Gross Receipts and Compensating
Taxes Act in the same manner and at the same time it collects
the state gross receipts and compensating taxes."

SECTION 50. A new Section 7-19D-9.1 NMSA 1978 is
enacted to read:

"7-19D-9.1. MUNICIPAL COMPENSATING TAX.--
A. Beginning July 1, 2021, for the privilege of
using tangible personal property in a municipality, there is
imposed on the person using the property an excise tax at a
rate equal to the combined gross receipts tax rates imposed
and in effect pursuant to the Supplemental Municipal Gross Receipts Tax Act and the Municipal Local Option Gross Receipts and Compensating Taxes Act of the value of tangible personal property that was:

(1) manufactured by the person using the property in the state; or

(2) acquired inside or outside this state as the result of a transaction with a person located outside this state that would have been subject to the state gross receipts tax had the tangible personal property been acquired from a person with nexus with New Mexico.

B. For the purpose of Subsection A of this section, the value of tangible personal property shall be the adjusted basis of the property for federal income tax purposes determined as of the time of acquisition or introduction into this state or of conversion to use, whichever is later. If no adjusted basis for federal income tax purposes is established for the property, a reasonable value of the property shall be used.

C. For the privilege of using a license or franchise in a municipality, there is imposed on the person using the license or franchise an excise tax equal to the tax rate provided in Subsection A of this section against the value of the license or franchise as determined pursuant to Section 7-9-7 NMSA 1978. The department by rule, ruling or
instruction shall fairly apportion, where appropriate, the
value of a license or franchise to its value in use in the
municipality. For use of a license or franchise to be
taxable under this subsection, the value of the license or
franchise shall be acquired inside or outside this state as
the result of a transaction with a person located outside
this state that would have been subject to the gross receipts
tax had the license or franchise been acquired from a person
with nexus with this state.

D. For the privilege of using services in a
municipality, there is imposed on the person using the
services an excise tax at the rate provided in Subsection A
of this section of the value of the services at the time the
product of the service was acquired. For use of services to
be taxable under this subsection, the services shall have
been performed by a person outside this state and the product
of which was acquired inside or outside this state as the
result of a transaction with a person located outside this
state that would have been subject to the gross receipts tax
had the service or product of the service been acquired from
a person with nexus with this state.

E. The governing body of a municipality may
dedicate the revenue from the tax imposed pursuant to this
section for any municipal purpose. If the governing body
proposes to dedicate revenue for a specific purpose, the
F. Any law that affects the municipal compensating tax, or any law supplemental or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of such municipal compensating tax unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor.

G. The tax imposed by this section may be cited as the "municipal compensating tax."

SECTION 51. Section 7-20E-1 NMSA 1978 (being Laws 1993, Chapter 354, Section 1) is amended to read:

"7-20E-1. SHORT TITLE.--Chapter 7, Article 20E NMSA 1978 may be cited as the "County Local Option Gross Receipts and Compensating Taxes Act"."

SECTION 52. Section 7-20E-7 NMSA 1978 (being Laws 1993, Chapter 354, Section 7, as amended) is amended to read:

"7-20E-7. COLLECTION BY DEPARTMENT.--The department shall collect each tax imposed pursuant to the provisions of the County Local Option Gross Receipts and Compensating Taxes Act in the same manner and at the same time it collects the
state gross receipts and compensating taxes."

SECTION 53. A new Section 7-20E-9.1 NMSA 1978 is
enacted to read:

"7-20E-9.1. COUNTY COMPENSATING TAX.--

A. Beginning July 1, 2021, for the privilege of
using tangible personal property in a county, there is
imposed on the person using the property an excise tax at a
rate equal to the combined gross receipts tax rates imposed
and in effect pursuant to the Local Hospital Gross Receipts
Tax Act, the County Local Option Gross Receipts and
Compensating Taxes Act and the County Correctional Facility
Gross Receipts Tax Act of the value of tangible personal
property that was:

(1) manufactured by the person using the
property in the state; or

(2) acquired inside or outside this state as
the result of a transaction with a person located outside
this state that would have been subject to the state gross
receipts tax had the tangible personal property been acquired
from a person with nexus with New Mexico.

B. For the purpose of Subsection A of this
section, the value of tangible personal property shall be the
adjusted basis of the property for federal income tax
purposes determined as of the time of acquisition or
introduction into this state or of conversion to use,
whichever is later. If no adjusted basis for federal income
tax purposes is established for the property, a reasonable
value of the property shall be used.

C. For the privilege of using a license or
franchise in a county, there is imposed on the person using
the license or franchise an excise tax equal to the tax rate
provided in Subsection A of this section against the value of
the license or franchise as determined pursuant to Section
7-9-7 NMSA 1978. The department by rule, ruling or
instruction shall fairly apportion, where appropriate, the
value of a license or franchise to its value in use in the
county. For use of a license or franchise to be taxable
under this subsection, the value of the license or franchise
shall be acquired inside or outside this state as the result
of a transaction with a person located outside this state
that would have been subject to the gross receipts tax had
the license or franchise been acquired from a person with
nexus with this state.

D. For the privilege of using services in a
county, there is imposed on the person using the services an
excise tax at the rate provided in Subsection A of this
section of the value of the services at the time the product
of the service was acquired. For use of services to be
taxable under this subsection, the services shall have been
performed by a person outside this state and the product of
which was acquired inside or outside this state as the result of a transaction with a person located outside this state that would have been subject to the gross receipts tax had the service or product of the service been acquired from a person with nexus with this state.

E. The governing body of a county may dedicate the revenue from the tax imposed pursuant to this section for any county purpose. If the governing body proposes to dedicate revenue for a specific purpose, the dedicated revenue shall be used by the county for that purpose unless a subsequent ordinance is adopted to change the purpose to which the revenue is dedicated or to place the revenue in the general fund of the county.

F. Any law that affects the county compensating tax, or any law supplemental or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of such county compensating tax unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor.

G. The tax imposed by this section may be cited as the "county compensating tax".

SECTION 54. TEMPORARY PROVISION--REFERENCES IN LAW.--

A. References in law to the County Local Option
Gross Receipts Taxes Act shall be deemed to be references to the County Local Option Gross Receipts and Compensating Taxes Act.

B. References in law to the Municipal Local Option Gross Receipts Taxes Act shall be deemed to be references to the Municipal Local Option Gross Receipts and Compensating Taxes Act.

SECTION 55. TEMPORARY PROVISION--UNDERPAID INCOME TAX DUE TO CHANGES MADE TO SECTIONS OF THE INCOME TAX ACT--FORGIVING PENALTIES AND INTEREST.--A taxpayer who paid income tax for taxable year 2019 in installments through withholding or estimated tax payments pursuant to Section 7-2-12.2 NMSA 1978 but underpaid due to the changes made to Section 7-2-34 NMSA 1978 pursuant to this act shall not be subject to the penalties and interest provisions of the Tax Administration Act for the underpayment; provided that the underpayment is solely attributable to the changes made to Section 7-2-34 NMSA 1978 pursuant to this act.

SECTION 56. REPEAL.--Sections 7-1-6.57 and 7-9-96.1 NMSA 1978 (being Laws 2007, Chapter 361, Sections 1 and 7) are repealed.

SECTION 57. DELAYED REPEAL.--

A. Section 9 of this act is repealed effective July 1, 2021.

B. Section 7-1-6.55 NMSA 1978 (being Laws 2007,
Chapter 331, Section 4) is repealed effective July 1, 2021.

C. Sections 7-20C-5, 7-20E-5 and 7-20F-6 NMSA 1978 (being Laws 1991, Chapter 176, Section 5, Laws 1993, Chapter 354, Section 5 and Laws 1993, Chapter 303, Section 6, as amended) are repealed effective July 1, 2021.

SECTION 58. DELAYED REPEAL.--Sections 7-2A-8 and 7-2A-8.4 NMSA 1978 (being Laws 1981, Chapter 37, Section 41 and Laws 1983, Chapter 213, Section 13, as amended) are repealed effective January 1, 2020.

SECTION 59. APPLICABILITY.--

A. The provisions of Sections 13 through 15 of this act apply to taxable years beginning on or after January 1, 2019.

B. The provisions of Sections 16 through 22 and 58 of this act apply to taxable years beginning on or after January 1, 2020.

C. The provisions of Section 12 of this act apply to taxable years beginning on or after January 1, 2021.

SECTION 60. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 10, 23 through 29, 31, 33 through 49, 51, 52 and 54 through 56 of this act is July 1, 2019.

B. The effective date of the provisions of Sections 16 through 22 of this act is January 1, 2020.

C. The effective date of the provisions of
Sections 11, 30, 32, 50 and 53 of this act is July 1, 2021.

SECTION 61. CONTINGENT EFFECTIVE DATE.--The effective
date of the provisions of Section 12 of this act is the date
on which the secretary of finance and administration certifies
to the New Mexico compilation commission and the director of
the legislative council service that fiscal year 2020
recurring general fund revenues are less than five percent
above fiscal year 2019 recurring general fund revenues. If
the certification is not made prior to February 19, 2021, the
provisions of Section 12 of this act shall not take effect.