

AN ACT

1
2 RELATING TO TAXATION; SUSPENDING A DISTRIBUTION TO THE
3 LEGISLATIVE RETIREMENT FUND FOR TWO YEARS, THEN SENDING THE
4 DISTRIBUTION TO THE MAGISTRATE RETIREMENT FUND AND THE
5 JUDICIAL RETIREMENT FUND FOR THREE YEARS, THEN RESUMING THE
6 DISTRIBUTION TO THE LEGISLATIVE RETIREMENT FUND; DELAYING
7 REDUCTION OF THE CORPORATE INCOME TAX RATES; DELAYING SINGLE
8 SALES APPORTIONMENT OF INCOME FOR MANUFACTURERS; CLARIFYING
9 THAT THE SOURCE OF THE DISTRIBUTION IS THE NET RECEIPTS
10 ATTRIBUTABLE TO THE AMOUNT OF TAX DEDUCTED PURSUANT TO THE
11 OIL AND GAS PROCEEDS AND PASS-THROUGH ENTITY WITHHOLDING TAX
12 ACT; PROVIDING THAT THE PLACE OF BUSINESS OF A PERSON WITHOUT
13 PHYSICAL PRESENCE IN THIS STATE IS WHERE THE PROPERTY OR
14 SERVICE BEING SOLD IS DELIVERED; ALLOWING A REFUND OF GROSS
15 RECEIPTS TAX DUE A PERSON TO BE APPLIED AGAINST COMPENSATING
16 TAX OWED BY THE PERSON'S CUSTOMER AS A RESULT OF TRANSACTIONS
17 WITH THAT PERSON; CLARIFYING THAT A PERSON WITHOUT PHYSICAL
18 PRESENCE IN THE STATE THAT HAS LESS THAN ONE HUNDRED THOUSAND
19 DOLLARS (\$100,000) IN GROSS RECEIPTS IS NOT ENGAGING IN
20 BUSINESS PURSUANT TO THE GROSS RECEIPTS AND COMPENSATING TAX
21 ACT; BARRING THE TAXATION AND REVENUE DEPARTMENT FROM
22 ENFORCING COLLECTION OF THE GROSS RECEIPTS TAX IN CERTAIN
23 CIRCUMSTANCES; IMPOSING THE STATE GROSS RECEIPTS TAX ON THE
24 NET PATIENT CARE REVENUE OF A NONPROFIT HOSPITAL; IMPOSING
25 THE GOVERNMENTAL GROSS RECEIPTS TAX ON THE NET PATIENT CARE

1 REVENUE OF A GOVERNMENT HOSPITAL; DISTRIBUTING A PORTION OF
2 THE GROSS RECEIPTS TAX TO THE COUNTY-SUPPORTED MEDICAID FUND;
3 DISTRIBUTING THE NET GOVERNMENTAL GROSS RECEIPTS ATTRIBUTABLE
4 TO NET PATIENT CARE REVENUE TO THE GENERAL FUND; ADJUSTING
5 CERTAIN DEDUCTIONS AND EXEMPTIONS FROM GROSS RECEIPTS AND
6 GOVERNMENTAL GROSS RECEIPTS FOR HOSPITALS; INCREASING THE
7 GASOLINE TAX, SPECIAL FUEL EXCISE TAX AND MOTOR VEHICLE
8 EXCISE TAX; DISTRIBUTING THE REVENUE FROM THE INCREASES TO
9 THE GASOLINE AND MOTOR VEHICLE EXCISE TAXES AND A PORTION OF
10 THE INCREASE OF THE SPECIAL FUEL EXCISE TAX TO THE TAX
11 STABILIZATION RESERVE UNTIL STATE RESERVE FUNDS REACH FIVE
12 PERCENT, TO MUNICIPALITIES AND COUNTIES FOR MAINTENANCE AND
13 REPAIR OF EXISTING TRANSPORTATION INFRASTRUCTURE AND TO THE
14 STATE ROAD MAINTENANCE FUND; CREATING THE STATE ROAD
15 MAINTENANCE FUND; SETTING THE PETROLEUM PRODUCTS LOADING FEE
16 AT ONE HUNDRED FIFTY DOLLARS (\$150) AND DISTRIBUTING A
17 PORTION OF THE FEE TO THE TAX STABILIZATION RESERVE UNTIL
18 STATE RESERVE FUNDS REACH FIVE PERCENT; CREATING THE WEIGHT
19 DISTANCE TAX IDENTIFICATION PERMIT TAX; REQUIRING THE
20 TAXATION AND REVENUE DEPARTMENT TO EVALUATE AND REPORT TO THE
21 LEGISLATURE ON HEALTH-CARE-INDUSTRY-RELATED REVENUE
22 COLLECTIONS AND TAX EXPENDITURES; REPEALING THE CREDIT
23 AGAINST THE GROSS RECEIPTS TAX FOR CERTAIN HOSPITALS AND A
24 DISTRIBUTION RELATED TO THAT CREDIT; MAKING AN APPROPRIATION.

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

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

4 "7-1-6.4. DISTRIBUTION--MUNICIPALITY FROM GROSS
5 RECEIPTS TAX.--

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

17 (1) within that municipality;

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

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

23 (4) on an Indian reservation or pueblo grant
24 in an area that is contiguous to that municipality and in
25 which the municipality performs services pursuant to a

1 contract between the municipality and the Indian tribe or
2 Indian pueblo if:

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

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

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

23 C. A distribution pursuant to this section may be
24 adjusted for a distribution made to a tax increment
25 development district with respect to a portion of a gross

1 receipts tax increment dedicated by a municipality pursuant
2 to the Tax Increment for Development Act."

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

5 "7-1-6.7. DISTRIBUTIONS--STATE AVIATION FUND.--

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

12 B. A distribution pursuant to Section 7-1-6.1 NMSA
13 1978 shall be made to the state aviation fund in an amount
14 equal to one hundred sixty-four thousandths percent of
15 gasoline taxes, exclusive of penalties and interest,
16 collected pursuant to the Gasoline Tax Act.

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

22 D. A distribution pursuant to Section 7-1-6.1 NMSA
23 1978 shall be made to the state aviation fund from the net
24 receipts attributable to the gross receipts tax distributable
25 to the general fund in an amount equal to two hundred fifty

1 thousand dollars (\$250,000)."

2 SECTION 3. Section 7-1-6.8 NMSA 1978 (being Laws 1983,
3 Chapter 211, Section 13, as amended) is amended to read:

4 "7-1-6.8. DISTRIBUTION--MOTORBOAT FUEL TAX FUND.--A
5 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
6 made to the motorboat fuel tax fund in an amount equal to
7 eighty-two thousandths percent of the net receipts
8 attributable to the gasoline tax."

9 SECTION 4. Section 7-1-6.9 NMSA 1978 (being Laws 1991,
10 Chapter 9, Section 11, as amended) is amended to read:

11 "7-1-6.9. DISTRIBUTION OF GASOLINE TAXES TO
12 MUNICIPALITIES AND COUNTIES.--

13 A. A distribution pursuant to Section 7-1-6.1 NMSA
14 1978 shall be made in an amount equal to six and five hundred
15 thirty-six thousandths percent of the net receipts
16 attributable to the taxes, exclusive of penalties and
17 interest, imposed by the Gasoline Tax Act.

18 B. The amount determined in Subsection A of this
19 section shall be distributed as follows:

20 (1) ninety percent of the amount shall be
21 paid to the treasurers of municipalities and H class counties
22 in the proportion that the taxable motor fuel sales in each
23 of the municipalities and H class counties bears to the
24 aggregate taxable motor fuel sales in all of these
25 municipalities and H class counties; and

1 (2) ten percent of the amount shall be paid
2 to the treasurers of the counties, including H class
3 counties, in the proportion that the taxable motor fuel sales
4 outside of incorporated municipalities in each of the
5 counties bears to the aggregate taxable motor fuel sales
6 outside of incorporated municipalities in all of the
7 counties.

8 C. Except as provided in Subsection D of this
9 section, this distribution shall be paid into a separate road
10 fund in the municipal treasury or county road fund for
11 expenditure only for construction, reconstruction,
12 resurfacing or other improvement or maintenance of public
13 roads, streets, alleys or bridges, including right-of-way and
14 materials acquisition. Money distributed pursuant to this
15 section may be used by a municipality or county to provide
16 matching funds for projects subject to cooperative agreements
17 entered into with the department of transportation pursuant
18 to Section 67-3-28 NMSA 1978. Any municipality or H class
19 county that has created or that creates a "street improvement
20 fund" to which gasoline tax revenues or distributions are
21 irrevocably pledged under Sections 3-34-1 through 3-34-4 NMSA
22 1978 or that has pledged all or a portion of gasoline tax
23 revenues or distributions to the payment of bonds shall
24 receive its proportion of the distribution of revenues under
25 this section impressed with and subject to these pledges.

1 D. This distribution may be paid into a separate
2 road fund or the general fund of the municipality or county
3 if the municipality has a population less than three thousand
4 or the county has a population less than four thousand."

5 SECTION 5. Section 7-1-6.10 NMSA 1978 (being Laws 1983,
6 Chapter 211, Section 15, as amended) is amended to read:

7 "7-1-6.10. DISTRIBUTIONS--STATE ROAD FUND.--

8 A. A distribution pursuant to Section 7-1-6.1 NMSA
9 1978 shall be made to the state road fund in an amount equal
10 to the net receipts attributable to the taxes, surcharges,
11 penalties and interest imposed pursuant to the Gasoline Tax
12 Act and to the taxes, surtaxes, fees, penalties and interest
13 imposed pursuant to the Special Fuels Supplier Tax Act and
14 the Alternative Fuel Tax Act less:

15 (1) the amount distributed to the state
16 aviation fund pursuant to Subsection B of Section 7-1-6.7
17 NMSA 1978;

18 (2) the amount distributed to the motorboat
19 fuel tax fund pursuant to Section 7-1-6.8 NMSA 1978;

20 (3) the amount distributed to municipalities
21 and counties pursuant to Section 7-1-6.9 NMSA 1978 and
22 Section 14 of this 2017 act;

23 (4) the amount distributed to the county
24 government road fund pursuant to Section 7-1-6.19 NMSA 1978;

25 (5) the amount distributed to the local

1 governments road fund pursuant to Section 7-1-6.39 NMSA 1978;

2 (6) the amount distributed to the
3 municipalities pursuant to Section 7-1-6.27 NMSA 1978;

4 (7) the amount distributed to the municipal
5 arterial program of the local governments road fund pursuant
6 to Section 7-1-6.28 NMSA 1978;

7 (8) the amount distributed to a qualified
8 tribe pursuant to Subsection A of Section 7-1-6.44 NMSA 1978;

9 (9) the amount distributed to the general
10 fund pursuant to Subsection B of Section 7-1-6.44 NMSA 1978;

11 (10) the amount distributed to the tax
12 stabilization reserve pursuant to Section 13 of this 2017
13 act; and

14 (11) the amount distributed to the state
15 road maintenance fund pursuant to Section 15 of this 2017
16 act.

17 B. A distribution pursuant to Section 7-1-6.1 NMSA
18 1978 shall be made to the state road fund in an amount equal
19 to the net receipts attributable to the taxes, interest and
20 penalties from the Weight Distance Tax Act."

21 **SECTION 6.** Section 7-1-6.19 NMSA 1978 (being Laws 1991,
22 Chapter 9, Section 15, as amended) is amended to read:

23 "7-1-6.19. DISTRIBUTION--COUNTY GOVERNMENT ROAD FUND
24 CREATED.--

25 A. There is created in the state treasury the

1 "county government road fund".

2 B. A distribution pursuant to Section 7-1-6.1 NMSA
3 1978 shall be made to the county government road fund in an
4 amount equal to three and six hundred twenty-seven
5 thousandths percent of the net receipts attributable to the
6 gasoline tax."

7 **SECTION 7.** Section 7-1-6.25 NMSA 1978 (being Laws 1988,
8 Chapter 70, Section 9, as amended) is amended to read:

9 "7-1-6.25. DISTRIBUTION OF PETROLEUM PRODUCTS LOADING
10 FEE--CORRECTIVE ACTION FUND--LOCAL GOVERNMENTS ROAD FUND.--A
11 distribution pursuant to Section 7-1-6.1 NMSA 1978 of the net
12 receipts attributable to the petroleum products loading fee
13 shall be made to each of the following funds in the following
14 amounts:

15 A. to the local governments road fund an amount
16 equal to the net receipts attributable to a fee of forty
17 dollars (\$40.00) per load;

18 B. to the tax stabilization reserve, an amount
19 equal to the net receipts attributable to a fee of one
20 hundred ten dollars (\$110) per load, prior to and including
21 the last month a distribution to the tax stabilization
22 reserve is made pursuant to Section 13 of this 2017 act; and

23 C. beginning one month after the last distribution
24 is made to the tax stabilization reserve pursuant to Section
25 13 of this 2017 act, to the corrective action fund, the

1 balance, if any, of the net receipts."

2 SECTION 8. Section 7-1-6.27 NMSA 1978 (being Laws 1991,
3 Chapter 9, Section 20, as amended) is amended to read:

4 "7-1-6.27. DISTRIBUTION--MUNICIPAL ROADS.--

5 A. A distribution pursuant to Section 7-1-6.1 NMSA
6 1978 shall be made to municipalities for the purposes and
7 amounts specified in this section in an aggregate amount
8 equal to three and six hundred twenty-seven thousandths
9 percent of the net receipts attributable to the gasoline tax.

10 B. The distribution authorized in this section
11 shall be used for the following purposes:

12 (1) reconstructing, resurfacing,
13 maintaining, repairing or otherwise improving existing
14 alleys, streets, roads or bridges, or any combination of the
15 foregoing; or laying off, opening, constructing or otherwise
16 acquiring new alleys, streets, roads or bridges, or any
17 combination of the foregoing; provided that any of the
18 foregoing improvements may include the acquisition of rights
19 of way;

20 (2) to provide matching funds for projects
21 subject to cooperative agreements with the department of
22 transportation pursuant to Section 67-3-28 NMSA 1978; and

23 (3) for expenses of purchasing, maintaining
24 and operating transit operations and facilities, for the
25 operation of a transit authority established by the Municipal

1 Transit Law and for the operation of a vehicle emission
2 inspection program. A municipality may engage in the
3 business of the transportation of passengers and property
4 within the political subdivision by whatever means the
5 municipality may decide and may acquire cars, trucks, motor
6 buses and other equipment necessary for operating the
7 business. A municipality may acquire land, erect buildings
8 and equip the buildings with all the necessary machinery and
9 facilities for the operation, maintenance, modification,
10 repair and storage of the cars, trucks, motor buses and other
11 equipment needed. A municipality may do all things necessary
12 for the acquisition and the conduct of the business of public
13 transportation.

14 C. For the purposes of this section:

15 (1) "computed distribution amount" means the
16 distribution amount calculated for a municipality for a month
17 pursuant to Paragraph (2) of Subsection D of this section
18 prior to any adjustments to the amount due to the provisions
19 of Subsections E and F of this section;

20 (2) "floor amount" means four hundred
21 seventeen dollars (\$417);

22 (3) "floor municipality" means a
23 municipality whose computed distribution amount is less than
24 the floor amount; and

25 (4) "full distribution municipality" means a

1 municipality whose population at the last federal decennial
2 census was at least two hundred thousand.

3 D. Subject to the provisions of Subsections E and
4 F of this section, each municipality shall be distributed a
5 portion of the aggregate amount distributable under this
6 section in an amount equal to the greater of:

7 (1) the floor amount; or

8 (2) eighty-five percent of the aggregate
9 amount distributable under this section times a fraction, the
10 numerator of which is the municipality's reported taxable
11 gallons of gasoline for the immediately preceding state
12 fiscal year and the denominator of which is the reported
13 total taxable gallons for all municipalities for the same
14 period.

15 E. Fifteen percent of the aggregate amount
16 distributable under this section shall be referred to as the
17 "redistribution amount". Beginning in August 1990, and each
18 month thereafter, from the redistribution amount there shall
19 be taken an amount sufficient to increase the computed
20 distribution amount of every floor municipality to the floor
21 amount. In the event that the redistribution amount is
22 insufficient for this purpose, the computed distribution
23 amount for each floor municipality shall be increased by an
24 amount equal to the redistribution amount times a fraction,
25 the numerator of which is the difference between the floor

1 amount and the municipality's computed distribution amount
2 and the denominator of which is the difference between the
3 product of the floor amount multiplied by the number of floor
4 municipalities and the total of the computed distribution
5 amounts for all floor municipalities.

6 F. If a balance remains after the redistribution
7 amount has been reduced pursuant to Subsection E of this
8 section, there shall be added to the computed distribution
9 amount of each municipality that is neither a full
10 distribution municipality nor a floor municipality an amount
11 that equals the balance of the redistribution amount times a
12 fraction, the numerator of which is the computed distribution
13 amount of the municipality and the denominator of which is
14 the sum of the computed distribution amounts of all
15 municipalities that are neither full distribution
16 municipalities nor floor municipalities."

17 SECTION 9. Section 7-1-6.28 NMSA 1978 (being Laws 1991,
18 Chapter 9, Section 22, as amended) is amended to read:

19 "7-1-6.28. DISTRIBUTION--MUNICIPAL ARTERIAL PROGRAM OF
20 LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to
21 Section 7-1-6.1 NMSA 1978 shall be made to the municipal
22 arterial program of the local governments road fund created
23 in Section 67-3-28.2 NMSA 1978 in an amount equal to nine
24 hundred seven thousandths percent of the net receipts
25 attributable to the gasoline tax."

1 SECTION 10. Section 7-1-6.38 NMSA 1978 (being Laws
2 1994, Chapter 145, Section 1, as amended) is amended to read:

3 "7-1-6.38. DISTRIBUTION--GOVERNMENTAL GROSS RECEIPTS
4 TAX.--

5 A. A distribution pursuant to Section 7-1-6.1 NMSA
6 1978 shall be made in amounts equal to the following
7 percentages of the net receipts attributable to the
8 governmental gross receipts tax, less the net receipts
9 attributable to net patient care revenue from a hospital
10 licensed by the department of health:

11 (1) seventy-five percent to the public
12 project revolving fund administered by the New Mexico finance
13 authority;

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

25 (3) one percent to the cultural affairs

1 department for capital improvements at state museums and
2 monuments administered by the cultural affairs department.

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

21 SECTION 11. Section 7-1-6.39 NMSA 1978 (being Laws
22 1995, Chapter 6, Section 9, as amended) is amended to read:

23 "7-1-6.39. DISTRIBUTION OF SPECIAL FUEL EXCISE TAX TO
24 LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to
25 Section 7-1-6.1 NMSA 1978 shall be made to the local

1 governments road fund in an amount equal to seven and sixty-
2 nine hundredths percent of the net receipts attributable to
3 the taxes, exclusive of penalties and interest, from the
4 special fuel excise tax imposed by the Special Fuels Supplier
5 Tax Act."

6 SECTION 12. Section 7-1-6.43 NMSA 1978 (being Laws
7 2003, Chapter 86, Section 1, as amended) is amended to read:

8 "7-1-6.43. DISTRIBUTION TO JUDICIAL RETIREMENT AND
9 MAGISTRATE RETIREMENT FUNDS--LEGISLATIVE RETIREMENT FUND.--

10 A. A distribution pursuant to Section 7-1-6.1 NMSA
11 1978 from the net receipts attributable to the amount of tax
12 deducted pursuant to the Oil and Gas Proceeds and Pass-
13 Through Entity Withholding Tax Act shall be made:

14 (1) beginning July 1, 2019 and prior to July
15 1, 2022, to the:

16 (a) judicial retirement fund, in the
17 amount of fifty-five thousand one hundred twenty-five dollars
18 (\$55,125); and

19 (b) magistrate retirement fund, in the
20 amount of nineteen thousand eight hundred seventy-five
21 dollars (\$19,875); and

22 (2) on and after July 1, 2022, to the
23 legislative retirement fund in the amount equal to seventy-
24 five thousand dollars (\$75,000) or, if larger, in an amount
25 equal to one-twelfth of the amount necessary to pay out the

1 retirement benefits due under state legislator member
2 coverage plan 2 and Paragraph (2) of Subsection C of Section
3 10-11-41 NMSA 1978 for the succeeding calendar year.

4 B. In regard to the distribution to the
5 legislative retirement fund, in December 2021 and in each
6 December thereafter, the public employees retirement
7 association, with the assistance of the legislative council
8 service, shall determine the amount of retirement benefits
9 for the succeeding calendar year. If the monthly average
10 exceeds seventy-five thousand dollars (\$75,000), the
11 association shall immediately notify the department of the
12 average amount."

13 **SECTION 13.** A new section of the Tax Administration Act
14 is enacted to read:

15 "DISTRIBUTION--TAX STABILIZATION RESERVE.--

16 A. A distribution pursuant to Section 7-1-6.1 NMSA
17 1978 shall be made to the tax stabilization reserve in an
18 amount equal to eighteen and fifty-two hundredths percent of
19 the net receipts attributable to the gasoline tax and in an
20 amount equal to nine and sixty-one hundredths percent of the
21 net receipts attributable to the special fuel excise tax
22 until the month following a certification by the state board
23 of finance to the secretary that the total amount in state
24 reserve funds at the end of the prior fiscal year, according
25 to the general fund financial summary that is prepared by the

1 department of finance and administration in August of each
2 year, was at least five percent of the total general fund
3 appropriations for the prior fiscal year.

4 B. As used in this section, "state reserve funds"
5 means the general fund operating reserve, the appropriation
6 contingency fund, the tax stabilization reserve, the
7 taxpayers dividend fund and the tobacco settlement permanent
8 fund."

9 SECTION 14. A new section of the Tax Administration Act
10 is enacted to read:

11 "ADDITIONAL DISTRIBUTION OF THE GASOLINE TAX AND THE
12 SPECIAL FUEL EXCISE TAX TO MUNICIPALITIES AND COUNTIES.--

13 A. A distribution pursuant to Section 7-1-6.1 NMSA
14 1978 shall be made to municipalities and counties, subject to
15 the requirements of Subsection B of this section, in the
16 following amounts:

17 (1) prior to and including the last month a
18 distribution is made pursuant to Section 13 of this 2017 act:

19 (a) nine and two hundred fifty-six
20 thousandths percent of the net receipts attributable to the
21 gasoline tax; and

22 (b) two and eighty-nine hundredths
23 percent of the net receipts attributable to the special fuel
24 excise tax; and

25 (2) beginning one month after the last

1 distribution is made to the tax stabilization reserve
2 pursuant to Section 13 of this 2017 act, in an amount equal
3 to:

4 (a) eighteen and five hundred sixteen
5 thousandths percent of the net receipts attributable to the
6 gasoline tax; and

7 (b) seven and six hundred ninety-five
8 thousandths percent of the net receipts attributable to the
9 special fuel excise tax.

10 B. Except as provided in Subsection D of this
11 section, this distribution shall be paid into a maintenance
12 and repair road fund in the municipal treasury or county road
13 fund for expenditure only for reconstruction, resurfacing or
14 other improvement or maintenance of existing public roads,
15 streets, alleys or bridges, including right-of-way and
16 materials acquisition.

17 C. The amount determined in Subsection A of this
18 section shall be distributed as follows:

19 (1) sixty-six and seven-tenths percent of
20 the amount shall be paid to the treasurers of municipalities
21 and H class counties in the proportion that the taxable motor
22 fuel sales in each of the municipalities and H class counties
23 bears to the aggregate taxable motor fuel sales in all of
24 these municipalities and H class counties; and

25 (2) thirty-three and three-tenths percent of

1 the amount shall be paid to the treasurers of the counties,
2 including H class counties, in the proportion that the
3 taxable motor fuel sales outside of incorporated
4 municipalities in each of the counties bears to the aggregate
5 taxable motor fuel sales outside of incorporated
6 municipalities in all of the counties.

7 D. The distributions made pursuant to this section
8 may be paid into a separate road fund or the general fund of
9 the municipality or county if the municipality has a
10 population less than three thousand or the county has a
11 population less than four thousand.

12 E. Money from the distribution made pursuant to
13 this section shall not be pledged for the payment of bonds or
14 debentures or expended to pay the principal or interest of
15 outstanding bonds or debentures."

16 **SECTION 15.** A new section of the Tax Administration Act
17 is enacted to read:

18 "DISTRIBUTION OF THE GASOLINE TAX AND THE SPECIAL FUEL
19 EXCISE TAX--STATE ROAD MAINTENANCE FUND.--

20 A. The "state road maintenance fund" is created as
21 a nonreverting fund in the state treasury. No income earned
22 on the fund shall be transferred to another fund.

23 B. A distribution pursuant to Section 7-1-6.1 NMSA
24 1978 shall be made to the state road maintenance fund in the
25 following amounts:

1 (1) prior to and including the last month a
2 distribution is made pursuant to Section 13 of this 2017 act:

3 (a) nine and two hundred fifty-six
4 thousandths percent of the net receipts attributable to the
5 gasoline tax; and

6 (b) two and eighty-nine hundredths
7 percent of the net receipts attributable to the special fuel
8 excise tax; and

9 (2) beginning one month after the last
10 distribution is made to the tax stabilization reserve
11 pursuant to Section 13 of this 2017 act, in an amount equal
12 to:

13 (a) eighteen and five hundred sixteen
14 thousandths percent of the net receipts attributable to the
15 gasoline tax; and

16 (b) seven and six hundred ninety-five
17 thousandths percent of the net receipts attributable to the
18 special fuel excise tax.

19 C. The department of transportation shall
20 administer the fund, and money in the fund is subject to
21 appropriation by the legislature only to the department of
22 transportation for expenditure for reconstruction,
23 resurfacing or other improvement or maintenance of existing
24 public roads, streets, alleys or bridges, including
25 right-of-way and materials acquisition.

1 D. Money in the fund shall not be pledged for the
2 payment of bonds or debentures or expended to pay the
3 principal or interest of outstanding bonds or debentures.

4 E. Money in the fund shall be disbursed on
5 warrants signed by the secretary of finance and
6 administration pursuant to vouchers signed by the secretary
7 of transportation or the secretary's authorized
8 representative."

9 **SECTION 16.** A new section of the Tax Administration Act
10 is enacted to read:

11 "DISTRIBUTION--GROSS RECEIPTS TAX TO COUNTY-SUPPORTED
12 MEDICAID FUND.--A distribution pursuant to Section 7-1-6.1
13 NMSA 1978 of the net receipts attributable to the gross
14 receipts tax shall be made to the county-supported medicaid
15 fund in the amount of two million two hundred thousand
16 dollars (\$2,200,000)."

17 **SECTION 17.** Section 7-1-14 NMSA 1978 (being Laws 1969,
18 Chapter 145, Section 1, as amended) is amended to read:

19 "7-1-14. SECRETARY MAY DETERMINE WHERE CERTAIN GROSS
20 RECEIPTS ARE TO BE REPORTED--PLACE OF BUSINESS FOR
21 CONSTRUCTION PROJECTS, CERTAIN REAL PROPERTY SALES AND SALES
22 BY OUT-OF-STATE VENDORS.--

23 A. By regulation, the secretary may require any
24 person maintaining one or more places of business to report
25 the person's taxable gross receipts and deductions for each

1 municipality or county or area within an Indian reservation
2 or pueblo grant in which the person maintains a place of
3 business.

4 B. For persons engaged in the construction
5 business, the place where the construction project is
6 performed is a "place of business", and all receipts from
7 that project are to be reported from that place of business.

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

12 D. For a person engaged in the business of selling
13 real estate, the location of the real property sold is the
14 "place of business", and all receipts from that sale are to
15 be reported from that place of business.

16 E. For a person engaging in business but is
17 without physical presence in this state, "place of business"
18 is the location where the property or the product of a
19 service being sold by the person is delivered."

20 **SECTION 18.** Section 7-1-29 NMSA 1978 (being Laws 1965,
21 Chapter 248, Section 31, as amended) is amended to read:

22 "7-1-29. AUTHORITY TO MAKE REFUNDS OR CREDITS.--

23 A. In response to a claim for refund, credit or
24 rebate made as provided in Section 7-1-26 NMSA 1978, but
25 before a court acquires jurisdiction of the matter, the

1 secretary or the secretary's delegate may authorize payment
2 to a person in the amount of the credit or rebate claimed or
3 refund an overpayment of tax determined by the secretary or
4 the secretary's delegate to have been erroneously made by the
5 person, together with allowable interest. A payment of a
6 credit rebate claimed or a refund of tax and interest
7 erroneously paid amounting to twenty thousand dollars
8 (\$20,000) or more shall be made with the prior approval of
9 the attorney general, except that the secretary or the
10 secretary's delegate may make refunds with respect to the Oil
11 and Gas Severance Tax Act, the Oil and Gas Conservation Tax
12 Act, the Oil and Gas Emergency School Tax Act, the Oil and
13 Gas Ad Valorem Production Tax Act, the Natural Gas Processors
14 Tax Act or the Oil and Gas Production Equipment Ad Valorem
15 Tax Act, Section 7-13-17 NMSA 1978 and the Cigarette Tax Act
16 without the prior approval of the attorney general regardless
17 of the amount.

18 B. Pursuant to the final order of the district
19 court, the court of appeals, the supreme court of New Mexico
20 or a federal court, from which order, appeal or review is not
21 successfully taken, adjudging that a person has properly
22 claimed a credit or rebate or made an overpayment of tax, the
23 secretary shall authorize the payment to the person of the
24 amount thereof.

25 C. In the discretion of the secretary, any amount

1 of credit or rebate to be paid or tax to be refunded may be
2 offset against any amount of tax for which the person due to
3 receive the credit, rebate payment or refund is liable, or in
4 the case of a refund of gross receipts tax, any compensating
5 tax owed by that person's customer as a result of
6 transactions with that person. The secretary or the
7 secretary's delegate shall give notice to the taxpayer that
8 the credit, rebate payment or refund will be made in this
9 manner, and the taxpayer shall be entitled to interest
10 pursuant to Section 7-1-68 NMSA 1978 until the tax liability
11 is credited with the credit, rebate or refund amount.

12 D. In an audit by the department or a managed
13 audit covering multiple reporting periods in which both
14 underpayments and overpayments of a tax have been made in
15 different reporting periods, the department shall credit the
16 tax overpayments against the underpayments; provided that the
17 taxpayer files a claim for refund of the overpayments. An
18 overpayment shall be applied as a credit first to the
19 earliest underpayment and then to succeeding underpayments.
20 An underpayment of tax to which an overpayment is credited
21 pursuant to this section shall be deemed paid in the period
22 in which the overpayment was made or the period to which the
23 overpayment was credited against an underpayment, whichever
24 is later. If the overpayments credited pursuant to this
25 section exceed the underpayments of a tax, the amount of the

1 net overpayment for the periods covered in the audit shall be
2 refunded to the taxpayer.

3 E. When a taxpayer makes a payment identified to a
4 particular return or assessment, and the department
5 determines that the payment exceeds the amount due pursuant
6 to that return or assessment, the secretary may apply the
7 excess to the taxpayer's other liabilities pursuant to the
8 tax acts to which the return or assessment applies, without
9 requiring the taxpayer to file a claim for a refund. The
10 liability to which an overpayment is applied pursuant to this
11 section shall be deemed paid in the period in which the
12 overpayment was made or the period to which the overpayment
13 was applied, whichever is later.

14 F. If the department determines, upon review of an
15 original or amended income tax return, corporate income and
16 franchise tax return, estate tax return, special fuels excise
17 tax return or oil and gas tax return, that there has been an
18 overpayment of tax for the taxable period to which the return
19 or amended return relates in excess of the amount due to be
20 refunded to the taxpayer pursuant to the provisions of
21 Subsection I of Section 7-1-26 NMSA 1978, the department may
22 refund that excess amount to the taxpayer without requiring
23 the taxpayer to file a refund claim.

24 G. Records of refunds and credits made in excess
25 of ten thousand dollars (\$10,000) shall be available for

1 inspection by the public. The department shall keep such
2 records for a minimum of three years from the date of the
3 refund or credit.

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

20 **SECTION 19.** Section 7-2A-5 NMSA 1978 (being Laws 1981,
21 Chapter 37, Section 38, as amended) is amended to read:

22 "7-2A-5. CORPORATE INCOME TAX RATES.--The corporate
23 income tax imposed on corporations by Section 7-2A-3 NMSA
24 1978 shall be at the rates specified in the following tables:

25 A. For taxable years beginning prior to January 1, HTRC/HB 202
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1 2014:

2	If the net income is:	The tax shall be:
3	Not over \$500,000	4.8% of net income
4	Over \$500,000 but not	
5	over \$1,000,000	\$24,000 plus
6		6.4% of excess
7		over \$500,000
8	Over \$1,000,000	\$56,000
9		plus 7.6% of excess
10		over \$1,000,000.

11 B. For taxable years beginning on or after January
12 1, 2014 and prior to January 1, 2015:

13	If the net income is:	The tax shall be:
14	Not over \$500,000	4.8% of net income
15	Over \$500,000 but not	
16	over \$1,000,000	\$24,000 plus
17		6.4% of excess
18		over \$500,000
19	Over \$1,000,000	\$56,000
20		plus 7.3% of excess
21		over \$1,000,000.

22 C. For taxable years beginning on or after January
23 1, 2015 and prior to January 1, 2016:

24	If the net income is:	The tax shall be:
25	Not over \$500,000	4.8% of net income

1 Over \$500,000 but not
2 over \$1,000,000 \$24,000 plus
3 6.4% of excess
4 over \$500,000
5 Over \$1,000,000 \$56,000
6 plus 6.9% of excess
7 over \$1,000,000.

8 D. For taxable years beginning on or after January
9 1, 2016 and prior to January 1, 2019:

10 If the net income is: The tax shall be:
11 Not over \$500,000 4.8% of net income
12 Over \$500,000 but not
13 over \$1,000,000 \$24,000 plus
14 6.4% of excess
15 over \$500,000
16 Over \$1,000,000 \$56,000
17 plus 6.6% of excess
18 over \$1,000,000.

19 E. For taxable years beginning on or after January
20 1, 2019:

21 If the net income is: The tax shall be:
22 Not over \$500,000 4.8% of net income
23 Over \$500,000 \$24,000 plus
24 5.9% of excess
25 over \$500,000."

1 SECTION 20. Section 7-4-10 NMSA 1978 (being Laws 1993,
2 Chapter 153, Section 1, as amended) is amended to read:

3 "7-4-10. APPORTIONMENT OF BUSINESS INCOME.--

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

10 B. A taxpayer whose principal business activity in
11 New Mexico is manufacturing may elect to have business income
12 apportioned to this state:

13 (1) in the taxable year beginning on or after
14 January 1, 2014 and prior to January 1, 2015, by multiplying
15 the income by a fraction, the numerator of which is twice the
16 sales factor plus the property factor plus the payroll factor
17 and the denominator of which is four;

18 (2) in the taxable year beginning on or after
19 January 1, 2015 and prior to January 1, 2016, by multiplying
20 the income by a fraction, the numerator of which is three
21 multiplied by the sales factor plus the property factor plus
22 the payroll factor and the denominator of which is five;

23 (3) in the taxable years beginning on or after
24 January 1, 2016 and prior to January 1, 2019, by multiplying
25 the income by a fraction, the numerator of which is seven

1 multiplied by the sales factor plus one and one-half
2 multiplied by the property factor plus one and one-half
3 multiplied by the payroll factor and the denominator of which
4 is ten; and

5 (4) in taxable years beginning on or after
6 January 1, 2019, by multiplying the income by a fraction, the
7 numerator of which is the total sales of the taxpayer in New
8 Mexico during the taxable year and the denominator of which
9 is the total sales of the taxpayer from any location within
10 or outside of the state during the taxable year.

11 C. A taxpayer whose principal business activity in
12 New Mexico is a headquarters operation may elect to have
13 business income apportioned to this state by multiplying the
14 income by a fraction, the numerator of which is the total
15 sales of the taxpayer in New Mexico during the taxable year
16 and the denominator of which is the total sales of the
17 taxpayer from any location within or outside of the state
18 during the taxable year.

19 D. To elect the method of apportionment provided by
20 Subsection B or C of this section, the taxpayer shall notify
21 the department of the election, in writing, no later than the
22 date on which the taxpayer files the return for the first
23 taxable year to which the election will apply. The election
24 will apply to that taxable year and to each taxable year
25 thereafter until the taxpayer notifies the department, in

1 writing, that the election is terminated, except that the
2 taxpayer shall not terminate the election until the method of
3 apportioning business income provided by Subsection B or C of
4 this section has been used by the taxpayer for at least three
5 consecutive taxable years, including a total of at least
6 thirty-six calendar months. The election will apply to the
7 separately filed return of the taxpayer or the combined or
8 consolidated return the taxpayer has elected to be included
9 pursuant to Section 7-2A-8.3 or 7-2A-8.4 NMSA 1978.

10 E. For purposes of this section:

11 (1) "headquarters operation" means:

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

1 is subordinate to the national headquarters; or

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

7 (2) "manufacturing" means combining or
8 processing components or materials to increase their value
9 for sale in the ordinary course of business, but does not
10 include:

11 (a) construction;

12 (b) farming;

13 (c) power generation, except for
14 electricity generation at a facility other than one for which
15 both location approval and a certificate of convenience and
16 necessity are required prior to commencing construction or
17 operation of the facility, pursuant to the Public Utility
18 Act; or

19 (d) processing natural resources,
20 including hydrocarbons."

21 **SECTION 21.** Section 7-9-3 NMSA 1978 (being Laws 1978,
22 Chapter 46, Section 1, as amended) is amended to read:

23 "7-9-3. DEFINITIONS.--As used in the Gross Receipts and
24 Compensating Tax Act:

25 A. "buying" or "selling" means a transfer of

1 property for consideration or the performance of service for
2 consideration;

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

7 C. "financial corporation" means a savings and loan
8 association or an incorporated savings and loan company,
9 trust company, mortgage banking company, consumer finance
10 company or other financial corporation;

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

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

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

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

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

23 (5) similar activities;

24 E. "leasing" means an arrangement whereby, for a
25 consideration, property is employed for or by any person

1 other than the owner of the property, except that the
2 granting of a license to use property is licensing and is not
3 a lease;

4 F. "local option gross receipts tax" means a tax
5 authorized to be imposed by a county or municipality upon the
6 taxpayer's gross receipts and required to be collected by the
7 department at the same time and in the same manner as the
8 gross receipts tax; "local option gross receipts tax"
9 includes the taxes imposed pursuant to the Municipal Local
10 Option Gross Receipts Taxes Act, Supplemental Municipal Gross
11 Receipts Tax Act, County Local Option Gross Receipts Taxes
12 Act, Local Hospital Gross Receipts Tax Act and County
13 Correctional Facility Gross Receipts Tax Act and such other
14 acts as may be enacted authorizing counties or municipalities
15 to impose taxes on gross receipts, which taxes are to be
16 collected by the department;

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

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

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

5 J. "person" means:

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

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

16 K. "property" means real property, tangible
17 personal property, licenses other than the licenses of
18 copyrights, trademarks or patents and franchises. Tangible
19 personal property includes electricity and manufactured
20 homes;

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

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

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

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

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

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

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

21 M. "secretary" means the secretary of taxation and
22 revenue or the secretary's delegate;

23 N. "service" means all activities engaged in for
24 other persons for a consideration, which activities involve
25 predominantly the performance of a service as distinguished

1 from selling or leasing property. "Service" includes
2 activities performed by a person for its members or
3 shareholders. In determining what is a service, the intended
4 use, principal objective or ultimate objective of the
5 contracting parties shall not be controlling. "Service"
6 includes construction activities and all tangible personal
7 property that will become an ingredient or component part of
8 a construction project. That tangible personal property
9 retains its character as tangible personal property until it
10 is installed as an ingredient or component part of a
11 construction project in New Mexico. Sales of tangible
12 personal property that will become an ingredient or component
13 part of a construction project to persons engaged in the
14 construction business are sales of tangible personal
15 property; and

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

20 **SECTION 22.** Section 7-9-3.2 NMSA 1978 (being Laws 1991,
21 Chapter 8, Section 1, as amended) is amended to read:

22 "7-9-3.2. ADDITIONAL DEFINITION.--

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

25 (1) receipts of the state or an agency,

1 institution, instrumentality or political subdivision from:

2 (a) the sale of tangible personal property
3 other than water from facilities open to the general public;

4 (b) the performance of or admissions to
5 recreational, athletic or entertainment services or events in
6 facilities open to the general public;

7 (c) refuse collection or refuse disposal
8 or both;

9 (d) sewage services;

10 (e) the sale of water by a utility owned
11 or operated by a county, municipality or other political
12 subdivision of the state;

13 (f) the renting of parking, docking or
14 tie-down spaces or the granting of permission to park
15 vehicles, tie down aircraft or dock boats; and

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

19 (2) includes receipts from the sale of tangible
20 personal property handled on consignment when sold from
21 facilities open to the general public but excludes cash
22 discounts taken and allowed, governmental gross receipts tax
23 payable on transactions reportable for the period and any
24 type of time-price differential.

25 B. As used in this section, "facilities open to the

1 general public" does not include point of sale registers or
2 electronic devices at a bookstore owned or operated by a
3 public post-secondary educational institution when the
4 registers or devices are utilized in the sale of textbooks or
5 other materials required for courses at the institution to a
6 student enrolled at the institution who displays a valid
7 student identification card."

8 **SECTION 23.** Section 7-9-3.3 NMSA 1978 (being Laws 2003,
9 Chapter 272, Section 4) is amended to read:

10 "7-9-3.3. DEFINITION--ENGAGING IN BUSINESS.--As used in
11 the Gross Receipts and Compensating Tax Act, "engaging in
12 business" means carrying on or causing to be carried on any
13 activity with the purpose of direct or indirect benefit,
14 without regard to having physical presence, including the
15 presence of a representative acting on behalf of the person,
16 in the state, except that "engaging in business" does not
17 include:

18 A. having a worldwide website as a third-party
19 content provider on a computer physically located in New
20 Mexico but owned by another nonaffiliated person;

21 B. using a nonaffiliated third-party call center to
22 accept and process telephone or electronic orders of tangible
23 personal property or licenses primarily from non-New Mexico
24 buyers, which orders are forwarded to a location outside New
25 Mexico for filling, or to provide services primarily to non-

1 New Mexico customers; and

2 C. the activities of a person without physical
3 presence in this state if the person and the person's
4 affiliates have less than one hundred thousand dollars
5 (\$100,000) of gross receipts in the state, based on receipts
6 during the prior calendar year. As used in this subsection,
7 "affiliate" means a business entity that, directly or
8 indirectly, through one or more intermediaries, controls, is
9 controlled by or is under common control with another
10 business entity."

11 **SECTION 24.** Section 7-9-3.5 NMSA 1978 (being Laws 2003,
12 Chapter 272, Section 3, as amended) is amended to read:

13 "7-9-3.5. DEFINITION--GROSS RECEIPTS.--

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

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

1 reasonable value of the property or service exchanged;

2 (2) "gross receipts" includes:

3 (a) any receipts from sales of tangible
4 personal property handled on consignment, including third-
5 party sales made over a multi-vendor marketplace platform
6 that acts as the intermediary, typically as the processor of
7 the transaction, between the seller and the purchaser;

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

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

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

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

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

14 (3) "gross receipts" excludes:

15 (a) cash discounts allowed and taken;
16 (b) New Mexico gross receipts tax,
17 governmental gross receipts tax and leased vehicle gross
18 receipts tax payable on transactions for the reporting
19 period;

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

23 (d) any gross receipts or sales taxes
24 imposed by an Indian nation, tribe or pueblo; provided that
25 the tax is approved, if approval is required by federal law

1 or regulation, by the secretary of the interior of the United
2 States; and provided further that the gross receipts or sales
3 tax imposed by the Indian nation, tribe or pueblo provides a
4 reciprocal exclusion for gross receipts, sales or gross
5 receipts-based excise taxes imposed by the state or its
6 political subdivisions;

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

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

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

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

1 **SECTION 25.** Section 7-9-4.3 NMSA 1978 (being Laws 1991,
2 Chapter 8, Section 2, as amended by Laws 1993, Chapter 332,
3 Section 1 and by Laws 1993, Chapter 352, Section 1) is
4 amended to read:

5 "7-9-4.3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
6 "GOVERNMENTAL GROSS RECEIPTS TAX".--For the privilege of
7 engaging in certain activities by governments, there is
8 imposed on every agency, institution, instrumentality or
9 political subdivision of the state, except any school
10 district, an excise tax of five percent of governmental gross
11 receipts. The tax imposed by this section shall be referred
12 to as the "governmental gross receipts tax"."

13 **SECTION 26.** A new Section 7-9-4.4 NMSA 1978 is enacted
14 to read:

15 "7-9-4.4. EXEMPTION--GOVERNMENTAL GROSS RECEIPTS TAX--
16 CERTAIN SERVICES PROVIDED BY A HOSPITAL LICENSED BY THE
17 DEPARTMENT OF HEALTH.--Exempted from the governmental gross
18 receipts tax are the receipts of an entity licensed by the
19 department of health that is principally engaged in providing
20 health care services; provided that the receipts are not
21 receipts of net patient care revenue."

22 **SECTION 27.** Section 7-9-7.1 NMSA 1978 (being Laws 1993,
23 Chapter 45, Section 1, as amended) is amended to read:

24 "7-9-7.1. DEPARTMENT BARRED FROM TAKING COLLECTION
25 ACTIONS WITH RESPECT TO CERTAIN COMPENSATING AND GROSS

1 RECEIPTS TAX LIABILITIES.--

2 A. The department shall take no action to enforce
3 collection of compensating tax due on purchases made by an
4 individual if:

5 (1) the property is used only for nonbusiness
6 purposes;

7 (2) the property is not a manufactured home;
8 and

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

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

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

17 (2) did not report taxable gross receipts.

18 C. The prohibition in Subsection A of this section
19 does not prevent the department from enforcing collection of
20 compensating tax on purchases from persons who are not
21 individuals, who are agents for collection pursuant to
22 Section 7-9-10 NMSA 1978 or who use the property in the
23 course of engaging in business in New Mexico or from
24 enforcing collection of compensating tax due on purchase of
25 manufactured homes."

1 SECTION 28. Section 7-9-29 NMSA 1978 (being Laws 1970,
2 Chapter 12, Section 3, as amended) is amended to read:

3 "7-9-29. EXEMPTION--GROSS RECEIPTS TAX--CERTAIN
4 ORGANIZATIONS.--

5 A. Exempted from the gross receipts tax are the
6 receipts of organizations that demonstrate to the department
7 that they have been granted exemption from the federal income
8 tax by the United States commissioner of internal revenue as
9 organizations described in Section 501(c)(3) of the United
10 States Internal Revenue Code of 1986, as that section may be
11 amended or renumbered, except receipts of net patient care
12 revenue as provided in Subsection B of this section.

13 B. Exempted from any local option gross receipts
14 tax, but not the state gross receipts tax, are receipts of
15 net patient care revenue of an organization that is a
16 hospital licensed by the department of health that
17 demonstrates to the department that it has been granted
18 exemption from the federal income tax by the United States
19 commissioner of internal revenue as organizations described
20 in Section 501(c)(3) of the United States Internal Revenue
21 Code of 1986, as that section may be amended or renumbered.

22 C. Exempted from the gross receipts tax are the
23 receipts from carrying on chamber of commerce, visitor bureau
24 and convention bureau functions of organizations that
25 demonstrate to the department that they have been granted

1 exemption from the federal income tax by the United States
2 commissioner of internal revenue as organizations described
3 in Section 501(c)(6) of the United States Internal Revenue
4 Code of 1986, as that section may be amended or renumbered.

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

9 **SECTION 29.** Section 7-9-73.1 NMSA 1978 (being Laws 1991,
10 Chapter 8, Section 3, as amended) is amended to read:

11 "7-9-73.1. DEDUCTION--GROSS RECEIPTS--GOVERNMENTAL GROSS
12 RECEIPTS--HOSPITALS.--

13 A. Prior to July 1, 2018, sixty percent, and on and
14 after July 1, 2018, sixty-five percent of the receipts of
15 hospitals licensed by the department of health may be
16 deducted from gross receipts; provided that this deduction
17 may be applied only to the taxable gross receipts remaining
18 after all other appropriate deductions have been taken.

19 B. Prior to July 1, 2018, sixty percent, and on and
20 after July 1, 2018, sixty-five percent of the receipts from
21 net patient care revenue received by a hospital licensed by
22 the department of health may be deducted from governmental
23 gross receipts; provided that this deduction may be applied
24 only to the taxable governmental gross receipts remaining
25 after all other appropriate deductions have been taken."

1 **SECTION 30.** Section 7-13-3 NMSA 1978 (being Laws 1971,
2 Chapter 207, Section 3, as amended) is amended to read:

3 "7-13-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
4 "GASOLINE TAX".--

5 A. For the privilege of receiving gasoline in this
6 state, there is imposed an excise tax at a rate provided in
7 Subsection B of this section on each gallon of gasoline
8 received in New Mexico.

9 B. The tax imposed by Subsection A of this section
10 shall be twenty-seven cents (\$.27) per gallon received in New
11 Mexico.

12 C. The tax imposed by this section may be called
13 the "gasoline tax".

14 **SECTION 31.** Section 7-13A-3 NMSA 1978 (being Laws 1990,
15 Chapter 124, Section 16, as amended) is amended to read:

16 "7-13A-3. IMPOSITION AND RATE OF FEE--DENOMINATION AS
17 "PETROLEUM PRODUCTS LOADING FEE".--

18 A. For the privilege of loading gasoline or special
19 fuel from a rack at a refinery or pipeline terminal in this
20 state into a cargo tank, there is imposed a fee on the
21 distributor at a rate provided in Subsection D of this
22 section on each gallon of gasoline or special fuel loaded in
23 New Mexico on which the petroleum products loading fee has
24 not been previously paid.

25 B. For the privilege of importing gasoline or

1 special fuel into this state for resale or consumption in
2 this state there is imposed a fee determined as provided in
3 Subsection D of this section on each load of gasoline or
4 special fuel imported into New Mexico for resale or
5 consumption on which the petroleum products loading fee has
6 not been previously paid.

7 C. To determine how many loads a person is to
8 report under the provisions of this section, the person shall
9 divide by eight thousand the total gallons of gasoline
10 reported for the purposes of Section 7-13-3 NMSA 1978 as
11 adjusted pursuant to the provisions of Section 7-13-4 NMSA
12 1978 and the total gallons of special fuel received in New
13 Mexico less any gallons exempted under Section 7-13A-4 NMSA
14 1978. Loads shall be calculated to the nearest one-hundredth
15 of a load.

16 D. The fee imposed by this section may be referred
17 to as the "petroleum products loading fee" and shall be:

18 (1) one hundred fifty dollars (\$150) per load
19 prior to and including the last month a distribution to the
20 tax stabilization reserve is made pursuant to Section 13 of
21 this 2017 act; and

22 (2) beginning one month after the last
23 distribution to the tax stabilization reserve is made
24 pursuant to Section 13 of this 2017 act, one hundred fifty
25 dollars (\$150) per load or whichever of the following

1 applies:

2 (a) forty dollars (\$40.00) per load if, as
3 certified by the secretary of environment, the unobligated
4 balance of the corrective action fund at the end of the prior
5 fiscal year equals or exceeds eighteen million dollars
6 (\$18,000,000);

7 (b) eighty dollars (\$80.00) per load if,
8 as certified by the secretary of environment, the unobligated
9 balance of the corrective action fund at the end of the prior
10 fiscal year exceeds twelve million dollars (\$12,000,000) but
11 is less than eighteen million dollars (\$18,000,000);

12 (c) one hundred twenty dollars (\$120) per
13 load if, as certified by the secretary of environment, the
14 unobligated balance of the corrective action fund at the end
15 of the prior fiscal year exceeds six million dollars
16 (\$6,000,000) but is less than twelve million dollars
17 (\$12,000,000); or

18 (d) one hundred fifty dollars (\$150) per
19 load if, as certified by the secretary of environment, the
20 unobligated balance of the corrective action fund at the end
21 of the prior fiscal year is less than six million dollars
22 (\$6,000,000).

23 E. The amount of the petroleum products loading fee
24 determined pursuant to Paragraph (2) of Subsection D of this
25 section shall be imposed on the first day of the month

1 following expiration of ninety days after the end of the
2 fiscal year for which the certification was made, except as
3 provided in Paragraph (2) of Subsection D of this section.

4 F. As used in this section, "load" means eight
5 thousand gallons of gasoline or special fuel."

6 **SECTION 32.** Section 7-14-4 NMSA 1978 (being Laws 1988,
7 Chapter 73, Section 14) is amended to read:

8 "7-14-4. DETERMINATION OF AMOUNT OF MOTOR VEHICLE EXCISE
9 TAX.--The rate of the motor vehicle excise tax is four
10 percent and is applied to the price paid for the vehicle. If
11 the price paid does not represent the value of the vehicle in
12 the condition that existed at the time it was acquired, the
13 tax rate shall be applied to the reasonable value of the
14 vehicle in such condition at such time. However, allowances
15 granted for vehicle trade-ins may be deducted from the price
16 paid or the reasonable value of the vehicle purchased."

17 **SECTION 33.** Section 7-14-10 NMSA 1978 (being Laws 1988,
18 Chapter 73, Section 20, as amended) is amended to read:

19 "7-14-10. DISTRIBUTION OF PROCEEDS.--The receipts from
20 the tax and any associated interest and penalties shall be
21 deposited in the "motor vehicle suspense fund", hereby
22 created in the state treasury. As of the end of each month,
23 the net receipts attributable to the tax and associated
24 penalties and interest shall be distributed as follows:

25 A. seventy-five percent to the general fund; and

1 B. twenty-five percent to the:

2 (1) tax stabilization reserve prior to and
3 including the last month a distribution to the tax
4 stabilization reserve is made pursuant to Section 13 of this
5 2017 act; and

6 (2) state road maintenance fund beginning one
7 month after the last distribution is made pursuant to Section
8 13 of this 2017 act."

9 **SECTION 34.** Section 7-15A-13 NMSA 1978 (being Laws 2003
10 (1st S.S.), Chapter 3, Section 7) is amended to read:

11 "7-15A-13. WEIGHT DISTANCE TAX IDENTIFICATION PERMIT
12 TAX--ADMINISTRATIVE FEE.--

13 A. A person that obtains a weight distance tax
14 identification permit shall pay to the department, in
15 addition to a weight distance tax, special fuel excise tax
16 and other use fee imposed for the use of public highways of
17 this state:

18 (1) a permit tax in the amount of fifty-five
19 dollars (\$55.00); and

20 (2) an administrative fee for the reasonable
21 and necessary expense that the department incurs for
22 processing and issuing a weight distance tax identification
23 permit in an amount determined by the department by rule, but
24 not more than ten dollars (\$10.00).

25 B. The department shall deposit:

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

4 (2) to the weight distance tax identification
5 permit administration fund, all proceeds from administrative
6 fees collected by the department pursuant to Paragraph (2) of
7 Subsection A of this section."

8 **SECTION 35.** Section 7-16A-3 NMSA 1978 (being Laws 1992,
9 Chapter 51, Section 3, as amended) is amended to read:

10 "7-16A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
11 SPECIAL FUEL EXCISE TAX.--

12 A. For the privilege of receiving or using special
13 fuel in this state, there is imposed an excise tax at a rate
14 provided in Subsection B of this section on each gallon of
15 special fuel received in New Mexico.

16 B. The tax imposed by Subsection A of this section
17 shall be twenty-six cents (\$.26) per gallon of special fuel
18 received or used in New Mexico.

19 C. The tax imposed by this section may be called
20 the "special fuel excise tax".

21 **SECTION 36.** TEMPORARY PROVISION--UNDERESTIMATING
22 CORPORATE INCOME TAX--FORGIVING PENALTIES AND INTEREST.--A
23 taxpayer that estimated corporate income tax to the state
24 pursuant to Section 7-2A-9.1 NMSA 1978 for corporate income
25 tax liabilities for taxable year 2017 but underpaid due to

1 the changes made to Sections 7-2A-5 and 7-4-10 NMSA 1978
2 pursuant to this act shall not be subject to the penalties
3 and interest provisions of the Tax Administration Act;
4 provided that the underestimation is solely attributable to
5 the changes made to Sections 7-2A-5 and 7-4-10 NMSA 1978
6 pursuant to this act.

7 **SECTION 37. TEMPORARY PROVISION--DEPARTMENT REPORT TO**
8 **LEGISLATURE--HEALTH CARE INDUSTRY REVENUE AND TAX**
9 **EXPENDITURES.--**The taxation and revenue department shall
10 evaluate health-care-industry-related revenue collections and
11 tax expenditures and shall, by December 1, 2017, report to
12 the legislative finance committee and the revenue
13 stabilization and tax policy committee the result of that
14 evaluation with a recommendation as to whether existing tax
15 expenditures for that industry should be adjusted.

16 **SECTION 38. REPEAL.--**Sections 7-1-6.57 and 7-9-96.1 NMSA
17 1978 (being Laws 2007, Chapter 361, Sections 1 and 7) are
18 repealed.

19 **SECTION 39. APPLICABILITY.--**The provisions of Section 33
20 of this act apply to receipts of the motor vehicle excise tax
21 and any associated interest and penalties that are collected
22 on and after July 1, 2017.

23 **SECTION 40. EFFECTIVE DATE.--**The effective date of the
24 provisions of this act is July 1, 2017. _____