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SENATE BILL 279

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

Ron Griggs

AN ACT

RELATING TO TAXATION; ENACTING THE FOOD GROSS RECEIPTS TAX ACT;
DISTRIBUTING THE REVENUE FROM THE FOOD GROSS RECEIPTS TAX TO
MUNICIPALITIES; PROVIDING AN EXEMPTION FOR SOCIAL SECURITY
INCOME FROM INCOME TAX; PROVIDING AN EXEMPTION FOR MILITARY
RETIREMENT INCOME FROM INCOME TAX; REPEALING THE HOLD HARMLESS
DISTRIBUTIONS TO MUNICIPALITIES AND COUNTIES THAT OFFSET THE
FOOD AND HEALTH CARE PRACTITIONER DEDUCTIONS FROM GROSS
RECEIPTS.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 5 of this act may be cited as the "Food Gross Receipts
Tax Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Food Gross Receipts Tax Act:

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1 A. "engaging in business" means carrying on or
2 causing to be carried on the selling of food at a retail food
3 store with the purpose of direct or indirect benefit;

4 B. "food" means any food or food product for home
5 consumption that meets the definition of food in 7 U.S.C.
6 2012(k)(1) for purposes of the federal supplemental nutrition
7 assistance program;

8 C. "food gross receipts" means the total amount of
9 money or the value of other consideration received from selling
10 food at a retail food store in New Mexico, or, if in an
11 exchange in which the money or other consideration received
12 does not represent the value of the food, "food gross receipts"
13 means the reasonable value of the food. "Food gross receipts"
14 excludes:

15 (1) cash discounts allowed and taken;

16 (2) food gross receipts tax payable on
17 transactions for the reporting period;

18 (3) gross receipts tax payable pursuant to the
19 Gross Receipts and Compensating Tax Act on transactions for the
20 reporting period;

21 (4) taxes imposed pursuant to the provisions
22 of any local option gross receipts tax, as that term is defined
23 in the Tax Administration Act, that is payable for the
24 reporting period;

25 (5) a time-price differential; and

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1 (6) any gross receipts or sales taxes imposed
2 by an Indian nation, tribe or pueblo; provided that the tax is
3 approved, if approval is required by federal law or regulation,
4 by the United States secretary of the interior; and provided
5 further that the gross receipts or sales tax imposed by the
6 Indian nation, tribe or pueblo provides a reciprocal exclusion
7 from gross receipts, sales or gross receipts-based excise taxes
8 imposed by the state or its political subdivisions; and

9 D. "retail food store" means an establishment that
10 sells food for home preparation and consumption and that meets
11 the definition of retail food store in 7 U.S.C. 2012(p)(1) for
12 purposes of the federal supplemental nutrition assistance
13 program, whether or not the establishment participates in the
14 federal supplemental nutrition assistance program.

15 SECTION 3. [NEW MATERIAL] FOOD GROSS RECEIPTS TAX.--For
16 the privilege of engaging in business, an excise tax of two and
17 one-half percent of gross receipts on the sale of food at a
18 retail food store is imposed on any person engaging in business
19 in New Mexico. The tax imposed by this section may be cited as
20 the "food gross receipts tax".

21 SECTION 4. [NEW MATERIAL] EXEMPTIONS.--Exempted from the
22 food gross receipts tax are receipts that are exempt from the
23 gross receipts tax pursuant to the Gross Receipts and
24 Compensating Tax Act pursuant to Sections 7-9-13, 7-9-13.1,
25 7-9-18.1, 7-9-28, 7-9-29 and 7-9-41.3 NMSA 1978.

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1 SECTION 5. ~~[NEW MATERIAL]~~ DATE PAYMENT DUE.--The taxes
2 imposed by the Food Gross Receipts Tax Act are to be paid on or
3 before the twenty-fifth day of the month following the month in
4 which the taxable event occurs.

5 SECTION 6. Section 7-1-2 NMSA 1978 (being Laws 1965,
6 Chapter 248, Section 2, as amended by Laws 2019, Chapter 47,
7 Section 1 and by Laws 2019, Chapter 53, Section 10 and also by
8 Laws 2019, Chapter 270, Section 1) is amended to read:

9 "7-1-2. APPLICABILITY.--The Tax Administration Act
10 applies to and governs:

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

- 14 (1) Income Tax Act;
- 15 (2) Withholding Tax Act;
- 16 (3) Oil and Gas Proceeds and Pass-Through
17 Entity Withholding Tax Act;
- 18 (4) Gross Receipts and Compensating Tax Act,
19 Interstate Telecommunications Gross Receipts Tax Act and Leased
20 Vehicle Gross Receipts Tax Act;
- 21 (5) Liquor Excise Tax Act;
- 22 (6) Local Liquor Excise Tax Act;
- 23 (7) any municipal local option gross receipts
24 tax or municipal compensating tax;
- 25 (8) any county local option gross receipts tax

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1 or county compensating tax;

2 (9) Special Fuels Supplier Tax Act;

3 (10) Gasoline Tax Act;

4 (11) petroleum products loading fee, which fee
5 shall be considered a tax for the purpose of the Tax

6 Administration Act;

7 (12) Alternative Fuel Tax Act;

8 (13) Cigarette Tax Act;

9 (14) Estate Tax Act;

10 (15) Railroad Car Company Tax Act;

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

16 (17) Corporate Income and Franchise Tax Act;

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

19 (19) Multistate Tax Compact;

20 (20) Tobacco Products Tax Act;

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

25 (22) the Insurance Premium Tax Act;

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1 (23) the Health Care Quality Surcharge Act;

2 and

3 (24) the Food Gross Receipts Tax Act;

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

7 (1) Resources Excise Tax Act;

8 (2) Severance Tax Act;

9 (3) any severance surtax;

10 (4) Oil and Gas Severance Tax Act;

11 (5) Oil and Gas Conservation Tax Act;

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

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

14 (8) Natural Gas Processors Tax Act;

15 (9) Oil and Gas Production Equipment Ad

16 Valorem Tax Act;

17 (10) Copper Production Ad Valorem Tax Act;

18 (11) any advance payment required to be made

19 by any act specified in this subsection, which advance payment

20 shall be considered a tax for the purposes of the Tax

21 Administration Act;

22 (12) Enhanced Oil Recovery Act;

23 (13) Natural Gas and Crude Oil Production

24 Incentive Act; and

25 (14) intergovernmental production tax credit

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1 and intergovernmental production equipment tax credit;

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

5 (1) Weight Distance Tax Act;

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

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

10 (4) 911 emergency surcharge and the network
11 and database surcharge, which surcharges shall be considered
12 taxes for purposes of the Tax Administration Act;

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

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

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

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

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

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

7 A. The provisions of this section apply to:

8 (1) any distribution to a municipality
9 pursuant to Section 7-1-6.4 or 7-1-6.36 [~~or 7-1-6.46~~] NMSA
10 1978;

11 (2) any transfer to a municipality with
12 respect to any local option gross receipts tax imposed by that
13 municipality;

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

16 (4) any distribution to a county pursuant to
17 Section 7-1-6.16 [~~or 7-1-6.47~~] NMSA 1978;

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

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

23 (7) any distribution to a county from the
24 county government road fund pursuant to Section 7-1-6.26 NMSA
25 1978;

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

3 (9) any distribution to a municipality of
4 compensating taxes pursuant to Section 7-1-6.55 NMSA 1978; and

5 (10) any distribution to a municipality
6 pursuant to Section 8 of this 2020 act.

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

21 (1) all negative amounts relating to any
22 period prior to the three calendar years preceding the year of
23 the current month, net of any positive amounts in that same
24 time period for the same taxpayers to which the negative
25 amounts pertain, shall be excluded from the total relating to

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1 prior periods. Except as provided in Paragraph (2) of this
2 subsection, the net receipts to be distributed or transferred
3 to the municipality or county shall be adjusted to equal the
4 amount for the current month plus the revised total for prior
5 periods; and

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

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

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

25 (1) that the department has made such an

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1 adjustment, that the department has determined that a specified
2 amount is recoverable from the municipality or county and that
3 the department intends to recover that amount from future
4 distributions or transfers to the municipality or county;

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

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

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

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

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

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

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1 county; or

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

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

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

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

20 (3) if, after application of a refund claim,
21 audit adjustment, correction of a mistake by the department or
22 other adjustment of a prior period, but prior to any recovery
23 of the department pursuant to this section, the total net
24 receipts of a municipality or county for the twelve-month
25 period beginning with the current month are reduced or are

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1 projected to be reduced to less than fifty percent of the
2 average distribution or transfer of net receipts, the secretary
3 may waive recovery of any portion of the recoverable amount,
4 subject to approval by the state board of finance.

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

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

18 H. The secretary is authorized to decrease a
19 distribution or transfer to a municipality or county upon being
20 directed to do so by the secretary of finance and
21 administration pursuant to the State Aid Intercept Act or to
22 redirect a distribution or transfer to the New Mexico finance
23 authority pursuant to an ordinance or a resolution passed by
24 the county or municipality and a written agreement of the
25 municipality or county and the New Mexico finance authority.

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1 Upon direction to decrease a distribution or transfer or notice
2 to redirect a distribution or transfer to a municipality or
3 county, the secretary shall decrease or redirect the next
4 designated distribution or transfer, and succeeding
5 distributions or transfers as necessary, by the amount of the
6 state distributions intercept authorized by the secretary of
7 finance and administration pursuant to the State Aid Intercept
8 Act or by the amount of the state distribution intercept
9 authorized pursuant to an ordinance or a resolution passed by
10 the county or municipality and a written agreement with the New
11 Mexico finance authority. The secretary shall transfer the
12 state distributions intercept amount to the municipal or county
13 treasurer or other person designated by the secretary of
14 finance and administration or to the New Mexico finance
15 authority pursuant to written agreement to pay the debt service
16 to avoid default on qualified local revenue bonds or meet other
17 local revenue bond, loan or other debt obligations of the
18 municipality or county to the New Mexico finance authority. A
19 decrease to or redirection of a distribution or transfer
20 pursuant to this subsection that arose:

21 (1) prior to an adjustment of a distribution
22 or transfer of net receipts creating a recoverable amount owed
23 to the department takes precedence over any collection of any
24 recoverable amount pursuant to Paragraph (2) of Subsection B of
25 this section, which may be made only from the net amount of the

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1 distribution or transfer remaining after application of the
2 decrease or redirection pursuant to this subsection; and

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

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

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1 finance and administration.

2 J. As used in this section:

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

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

16 (3) "average distribution or transfer amount"
17 means the following amounts; provided that a distribution or
18 transfer that is negative shall not be used in calculating the
19 amounts:

20 (a) the annual average of the total
21 amount distributed or transferred to a municipality or county
22 in each of the three twelve-month periods preceding the current
23 month;

24 (b) if a distribution or transfer to a
25 municipality or county has been made for less than three years,

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1 the total amount distributed or transferred in the year
2 preceding the current month; or

3 (c) if a municipality or county has not
4 received distributions or transfers of net receipts for twelve
5 or more months, the monthly average of net receipts distributed
6 or transferred to the municipality or county preceding the
7 current month multiplied by twelve;

8 (4) "current month" means the month for which
9 the distribution or transfer is being prepared; and

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

18 SECTION 8. A new section of the Tax Administration Act is
19 enacted to read:

20 "[NEW MATERIAL] DISTRIBUTION--FOOD GROSS RECEIPTS TAX--
21 MUNICIPALITIES.--

22 A. A distribution pursuant to Section 7-1-6.1 NMSA
23 1978 shall be made to each municipality in an amount equal to
24 eighty-five percent of the net receipts attributable to the
25 food gross receipts tax on food sold in the municipality.

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1 B. The distribution amounts made pursuant to this
2 section shall be subject to any increase or decrease made
3 pursuant to Section 7-1-6.15 NMSA 1978.

4 C. The department may withhold an administrative
5 fee of three percent of the net amount to be distributed
6 pursuant to this section."

7 **SECTION 9.** A new section of the Income Tax Act is enacted
8 to read:

9 "[NEW MATERIAL] EXEMPTION--SOCIAL SECURITY INCOME.--

10 A. An individual may claim an exemption in an
11 amount not to exceed the individual's net income from the
12 amount included in adjusted gross income pursuant to Section 86
13 of the Internal Revenue Code, as that section may be amended or
14 renumbered.

15 B. An individual that claims an exemption pursuant
16 to this section shall not claim the exemption pursuant to
17 Section 7-2-5.2 NMSA 1978."

18 **SECTION 10.** A new section of the Income Tax Act is
19 enacted to read:

20 "[NEW MATERIAL] EXEMPTION--MILITARY RETIREMENT INCOME.--

21 A. An individual who is a uniformed services
22 retiree or a uniformed services retiree's surviving spouse may
23 claim an exemption in an amount not to exceed the individual's
24 net income from the amount of military retirement income that
25 the individual received in a taxable year.

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1 B. As used in this section:

2 (1) "uniformed services" means the United
3 States army, navy, air force, marine corps and coast guard and
4 the commissioned officer corps of the national oceanic and
5 atmospheric administration; and

6 (2) "uniformed services retiree" means a
7 former member of the uniformed services who has qualified by
8 years of service or disability to separate from service with
9 lifetime benefits."

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

12 "7-9-3.5. DEFINITION--GROSS RECEIPTS.--

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

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

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(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

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1 in the same state, regardless of where the services originate,
2 terminate or pass through; and 2) the charges for mobile
3 telecommunications services are billed by or for a customer's
4 home service provider and are deemed provided by the home
5 service provider. For the purposes of this section, "home
6 service provider", "mobile telecommunications services",
7 "customer" and "place of primary use" have the meanings given
8 in the federal Mobile Telecommunications Sourcing Act; and

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

17 (3) "gross receipts" excludes:

18 (a) cash discounts allowed and taken;
19 (b) New Mexico gross receipts tax,
20 governmental gross receipts tax, ~~and~~ leased vehicle gross
21 receipts tax and food gross receipts tax payable on
22 transactions for the reporting period;

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

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1 (d) any gross receipts or sales taxes
2 imposed by an Indian nation, tribe or pueblo; provided that the
3 tax is approved, if approval is required by federal law or
4 regulation, by the secretary of the interior of the United
5 States; and provided further that the gross receipts or sales
6 tax imposed by the Indian nation, tribe or pueblo provides a
7 reciprocal exclusion for gross receipts, sales or gross
8 receipts-based excise taxes imposed by the state or its
9 political subdivisions;

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

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

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

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

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1 lessor shall pay the gross receipts tax upon the full sale or
2 leasing contract amount, excluding any type of time-price
3 differential."

4 SECTION 12. REPEAL.--Sections 7-1-6.46 and 7-1-6.47 NMSA
5 1978 (being Laws 2004, Chapter 116, Sections 1 and 2, as
6 amended) are repealed.

7 SECTION 13. APPLICABILITY.--The provisions of Sections 9
8 and 10 of this act apply to taxable years beginning on or after
9 January 1, 2020.

10 SECTION 14. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2020.