

## **7-18A-6. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 1995, ch. 101, § 1 repealed 7-18A-6 NMSA 1978, as enacted by Laws 1989, ch. 327, § 7, relating to judicial proceedings, effective July 1, 1995. For provisions of former sections, see the 1994 NMSA 1978 on *NMOneSource.com*.

## **7-18A-7. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 1995, ch. 101, § 1 repealed 7-18A-7 NMSA 1978, as enacted by Laws 1989, ch. 327, § 8, relating to notification of district attorney, effective July 1, 1995. For provisions of former sections, see the 1994 NMSA 1978 on *NMOneSource.com*.

# **ARTICLE 19**

## **Supplemental Municipal Gross Receipts Tax**

## **7-19-1. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 1993, ch. 346, § 12A repealed 7-19-1 NMSA 1978, as enacted by Laws 1975 (S.S.), ch. 16, § 1, relating to the short title of the Municipal Gross Receipts Tax Act, effective July 1, 1993. For provisions of former sections, see the 1992 NMSA 1978 on *NMOneSource.com*.

## **7-19-2. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 1993, ch. 346, § 12A repealed 7-19-2 NMSA 1978, as enacted by Laws 1975 (S.S.), ch. 16, § 2, relating to definitions of the Municipal Gross Receipts Tax Act, effective July 1, 1993. For provisions of former sections, see the 1992 NMSA 1978 on *NMOneSource.com*.

## **7-19-3. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 1981, ch. 37, § 95, repealed 7-19-3 NMSA 1978, as enacted by Laws 1975 (S.S.), ch. 16, § 3, relating to the authority to impose a municipal gross receipts tax and establishing its initial rate, effective July 1, 1981.

## **7-19-4. Recompiled.**

### **ANNOTATIONS**

**Recompilations.** — Laws 1993, ch. 346, § 9 recompiled former 7-19-4 NMSA 1978 as amended by Laws 1988, ch. 120, § 1, relating to authority to impose rate, as 7-19D-9 NMSA 1978, effective July 1, 1993.

## **7-19-4.1. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 1993, ch. 346, § 12A repealed 7-19-4.1 NMSA 1978, as enacted by enacted by Laws 1979, ch. 155, § 2, relating to municipal gross receipts tax rate limit, effective July 1, 1993. For provisions of former sections, see the 1992 NMSA 1978 on *NMOneSource.com*.

## **7-19-5. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 1993, ch. 346, § 12A repealed 7-19-5 NMSA 1978, as enacted by Laws 1975 (S.S.), ch. 16, § 4, relating to specific exemptions, effective July 1, 1993. For provisions of former sections, see the 1992 NMSA 1978 on *NMOneSource.com*.

## **7-19-6. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 1993, ch. 346, § 12A repealed 7-19-6 NMSA 1978, as enacted by Laws 1975 (S.S.), ch. 16, § 5, relating to ordinance must conform to certain provisions of the Gross Receipts and Compensating Tax Act, effective July 1, 1993. For provisions of former sections, see the 1992 NMSA 1978 on *NMOneSource.com*.

## **7-19-7. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 1993, ch. 346, § 12A repealed 7-19-7 NMSA 1978, as enacted by Laws 1975 (S.S.), ch. 16, § 6, relating to procedure for adoption, and effective date,

effective July 1, 1993. For provisions of former sections, see the 1992 NMSA 1978 on *NMOneSource.com*.

## **7-19-8. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 1993, ch. 346, § 12A repealed 7-19-8 NMSA 1978, as enacted by Laws 1975 (S.S.), ch. 16, § 7, relating to collection by revenue division, distribution of proceeds, deductions, effective July 1, 1993. For provisions of former sections, see the 1992 NMSA 1978 on *NMOneSource.com*.

## **7-19-9. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 1993, ch. 346, § 12A repealed 7-19-9 NMSA 1978, as enacted by Laws 1975 (S.S.), ch. 16, § 8, relating to interpretation of act, administration and enforcement of tax, effective July 1, 1993. For provisions of former sections, see the 1992 NMSA 1978 on *NMOneSource.com*.

## **7-19-10. Short title.**

Sections 7-19-10 through 7-19-18 NMSA 1978 may be cited as the "Supplemental Municipal Gross Receipts Tax Act".

**History:** Laws 1979, ch. 397, § 1; 1983, ch. 211, § 32.

## **7-19-11. Definitions.**

As used in the Supplemental Municipal Gross Receipts Tax Act:

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

B. "governing body" means the city council or city commission of a municipality;

C. "municipality" means any incorporated city, town or village having previously qualified to impose and did impose the tax pursuant to the provisions of the Supplemental Municipal Gross Receipts Tax Act in effect prior to this 1997 act;

D. "person" means an individual or any other legal entity;

E. "refunding bonds" means bonds issued pursuant to the provisions of the Supplemental Municipal Gross Receipts Tax Act to refund supplemental municipal gross receipts tax bonds issued pursuant to the provisions of that act;

F. "state gross receipts tax" means the gross receipts tax imposed under the Gross Receipts and Compensating Tax Act [Chapter 7, Article 9 NMSA 1978]; and

G. "supplemental municipal gross receipts tax" means the tax authorized to be imposed under the Supplemental Municipal Gross Receipts Tax Act.

**History:** Laws 1979, ch. 397, § 2; 1980, ch. 106, § 1; 1986, ch. 20, § 79; 1997, ch. 219, § 1.

### **ANNOTATIONS**

**Compiler's notes.** — The phrase "this 1997 act" in Subsection C refers to Laws 1997, ch. 219, which amended this section.

**The 1997 amendment,** effective June 20, 1997, rewrote Subsection C, added Subsection E, and redesignated the remaining subsections accordingly.

### **7-19-12. Authorization to impose supplemental municipal gross receipts tax; authorization for issuance of supplemental municipal gross receipts bonds; election required.**

A. The majority of the members elected to the governing body of a municipality may enact an ordinance imposing an excise tax on any person engaging in business in the municipality for the privilege of engaging in business in the municipality. This tax is to be referred to as the "supplemental municipal gross receipts tax". The rate of the tax shall not exceed one percent of the gross receipts of the person engaging in business and shall be imposed in one-fourth percent increments if less than one percent.

B. The governing body of a municipality enacting an ordinance imposing the tax authorized in Subsection A of this section shall submit the question of imposing such tax and the question of the issuance of supplemental municipal gross receipts bonds in an amount not to exceed nine million dollars (\$9,000,000), for which the revenue from the supplemental municipal gross receipts tax is dedicated, to the qualified electors of the municipality at a regular or special election.

C. The questions referred to in Subsection B of this section shall be submitted to a vote of the qualified electors of the municipality as two separate ballot questions which shall be substantially in the following form:

(1) "Shall the municipality be authorized to issue supplemental municipal gross receipts bonds in an amount of not exceeding \_\_\_\_\_ dollars for

the purpose of constructing and equipping and otherwise acquiring a municipal water supply system?

For \_\_\_\_\_ Against \_\_\_\_\_"; and

(2) "Shall the municipality impose an excise tax for the privilege of engaging in business in the municipality which shall be known as the "supplemental municipal gross receipts tax" and which shall be imposed at a rate of \_\_\_\_\_ percent of the gross receipts of the person engaging in business, the proceeds of which are dedicated to the payment of supplemental municipal gross receipts bonds?

For \_\_\_\_\_ Against \_\_\_\_\_".

D. Only those voters who are registered electors who reside within the municipality shall be permitted to vote on these two questions. The procedures for conducting the election shall be substantially the same as the applicable provisions in Sections 3-30-1, 3-30-6 and 3-30-7 NMSA 1978 relating to municipal debt.

E. If at an election called pursuant to this section a majority of the voters voting on each of the two questions vote in the affirmative on each such question, then the ordinance imposing the supplemental municipal gross receipts tax shall be approved. If at such election a majority of the voters voting on such questions fail to approve any of the questions, then the ordinance imposing the tax shall be disapproved and the questions required to be submitted by Subsection B of this section shall not be submitted to the voters for a period of one year from the date of the election.

F. Any ordinance enacted under the provisions of this section shall include an effective date of either July 1 or January 1, whichever date occurs first after the expiration of at least five months from the date of the election. A certified copy of any ordinance imposing a supplemental municipal gross receipts tax shall be mailed to the division within five days after the ordinance is adopted by the approval by the electorate. Any ordinance repealing the imposition of a tax under the provisions of the Supplemental Municipal Gross Receipts Tax Act shall become effective on either July 1 or January 1, after the expiration of at least five months from the date the ordinance is repealed by the governing body.

G. Nothing in this section is intended to or does alter the effectiveness or validity of any actions taken in accordance with Subsection G of Section 80 of Chapter 20 of Laws 1986.

**History:** Laws 1979, ch. 397, § 3; 1980, ch. 106, § 2; 1986, ch. 6, § 1; 1986, ch. 20, § 80; 1997, ch. 219, § 2.

## ANNOTATIONS

**Compiler's notes.** — Laws 1986, ch. 20, § 80, referred to in Subsection G, amended this section. The reference to Subsection G of that law is a reference to Subsection G of this section as it read prior to the 1997 amendment by Laws 1997, ch. 219, § 2, when Subsection G provided that no ordinance would be effective under this article unless the ordinance is enacted and the required election is held prior to February 1, 1986.

**The 1997 amendment,** effective June 20, 1997, deleted "authorization removed" at the end of the section heading, deleted "registered" preceding "electors" near the end of Subsection B and in the introductory paragraph of Subsection C, and made a minor stylistic change in Subsection C, inserted "municipal" preceding "gross receipts tax" in the first sentence of Subsection E, and rewrote Subsection G.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 68 Am. Jur. 2d Sales and Use Taxes § 1 et seq.

### **7-19-13. Ordinance must conform to certain provisions of the Gross Receipts and Compensating Tax Act and requirements of the division.**

A. Any ordinance imposing a supplemental municipal gross receipts tax shall adopt by reference the same definitions and the same provisions relating to exemptions and deductions as are contained in the Gross Receipts and Compensating Tax Act [Chapter 7, Article 9 NMSA 1978] then in effect and as it may be amended from time to time.

B. The governing body of any municipality imposing or increasing the supplemental municipal gross receipts tax must adopt the language of the model ordinance furnished to the municipality by the division for the portion of the ordinance relating to the tax.

**History:** Laws 1979, ch. 397, § 4.

### **ANNOTATIONS**

**Emergency clauses.** — Laws 1979, ch. 397, § 10 contained an emergency clause and was approved April 6, 1979.

### **7-19-14. Specific exemptions.**

No supplemental municipal gross receipts tax shall be imposed on the gross receipts arising from:

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

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

**History:** Laws 1979, ch. 397, § 5; 1983, ch. 211, § 33; 1994, ch. 101, § 1; 2019, ch. 270, § 46.

## ANNOTATIONS

**The 2019 amendment**, effective July 1, 2019, provided that no municipal gross receipts tax shall be imposed on the gross receipts arising from transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the municipality to another point outside the municipality prior to July 1, 2021; and in Subsection A, added "prior to July 1, 2021".

**The 1994 amendment**, effective July 1, 1994, deleted former Subsection A, which read: "the transmission of messages by wire or other means from one point within the municipality to another point outside the municipality;" and redesignated former Subsections B and C as Subsections A and B; and in Subsection B, deleted "Subsection C of" following "pursuant to."

### **7-19-15. Collection by department; transfer of proceeds; deductions.**

A. The department shall collect the supplemental municipal gross receipts tax in the same manner and at the same time it collects the state gross receipts tax.

B. The department shall withhold an administrative fee pursuant to Section 1 [7-1-6.41 NMSA 1978] of this 1997 act. The department shall transfer to each municipality for which it is collecting a supplemental municipal gross receipts tax the amount of the tax collected less the administrative fee withheld and less any disbursements for tax credits, refunds and the payment of interest applicable to the supplemental municipal gross receipts tax. Transfer of the tax to a municipality shall be made within the month following the month in which the tax is collected.

**History:** Laws 1979, ch. 397, § 6; 1983, ch. 211, § 34; 1997, ch. 125, § 6.

## ANNOTATIONS

**Compiler's notes.** — The phrase "this 1997 act" in Subsection B refers to Laws 1997, ch. 125, which amended this section.

**The 1997 amendment**, effective July 1, 1997, substituted "department" for "division" throughout the section and in the section heading, and in Subsection B, substituted "shall withhold an administrative fee pursuant to Section 1 of this 1997 act" for "may deduct an amount not to exceed three percent of the supplemental municipal gross

receipts tax collected as a charge for the administrative costs of collection, which amount shall be remitted to the state treasurer for deposit in the state general fund each month" in the first sentence, and substituted "less the administrative fee withheld" for "less any deduction for administrative cost" in the second sentence.

## **7-19-16. Interpretation of act; administration and enforcement of tax.**

A. The division shall interpret the provisions of the Supplemental Municipal Gross Receipts Tax Act.

B. The division shall administer and enforce the collection of the supplemental municipal gross receipts tax, and the Tax Administration Act [Chapter 7, Article 1 NMSA 1978] applies to the administration and enforcement of the tax.

**History:** Laws 1979, ch. 397, § 7.

## **ANNOTATIONS**

**Emergency clauses.** — Laws 1979, ch. 397, § 10 contained an emergency clause and was approved April 6, 1979.

## **7-19-17. Issuance of bonds; purposes.**

A. If the ordinance imposing the supplemental municipal gross receipts tax is approved as provided in Subsection E of Section 7-19-12 NMSA 1978, the governing body of a municipality may issue bonds pursuant to the Supplemental Municipal Gross Receipts Tax Act in an amount not to exceed nine million dollars (\$9,000,000). The supplemental municipal gross receipts bonds shall be issued for the purpose of constructing and equipping and otherwise acquiring a municipal water supply system, including the purchase of water rights and easements, equipment and professional fees related thereto, to be paid back from the proceeds of the supplemental municipal gross receipts tax imposed.

B. Supplemental municipal gross receipts bonds shall be issued and sold as provided in the Supplemental Municipal Gross Receipts Tax Act. The governing body of the municipality shall determine at its discretion the terms, covenants and conditions of the supplemental municipal gross receipts bonds, including but not limited to, date of issuance, denomination, maturity, coupon rates, call features, premium, registration, refundability and other matters covering the general and technical aspects of their issuance. These bonds may be either serial or term and may be sold by the governing body of the municipality at the time and in the manner as the governing body may elect, at either public or private sale. The supplemental municipal gross receipts bonds shall not be considered or held to be general obligations of the municipality issuing them and are payable solely from the revenue accruing from the revenue of the supplemental



municipal gross receipts tax. The ordinance authorizing the tax shall be irrevocable until these bonds are fully paid.

**History:** Laws 1979, ch. 397, § 8; 1980, ch. 106, § 3; 1986, ch. 6, § 2.

### **7-19-17.1. Refunding bonds; authorization.**

A. Any municipality may issue refunding bonds for the purpose of refinancing, paying and discharging all or any part of outstanding supplemental municipal gross receipts tax bonds of any one or more or all outstanding issues:

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

(2) for the purpose of reducing interest costs or affecting other economies;

(3) for the purpose of modifying or eliminating restrictive contractual limitations pertaining to the issuance of additional bonds, otherwise concerning the outstanding bonds or to any facilities relating thereto; or

(4) for any combination of such purposes.

B. The municipality may pledge irrevocably for the payment of interest and principal on refunding bonds the appropriate pledged revenues, which may be pledged to an original issue of bonds as provided in the Supplemental Municipal Gross Receipts Tax Act. Nothing in this section shall permit the pledge of the gross receipts tax revenue to the payment of bonds that refund bonds issued under any other provision of law.

C. Refunding bonds may be issued separately or issued in combination in one series or more.

D. Refunding bonds issued pursuant to the Supplemental Municipal Gross Receipts Tax Act shall be authorized by ordinance. Any bonds that are refunded under the provisions of this section shall be paid at maturity or on any permitted prior redemption date in the amounts, at the time and places and, if called prior to maturity, in accordance with any applicable notice provisions, all as provided in the proceedings authorizing the issuance of the refunded bonds, or otherwise appertaining thereto, except for any such bond that is voluntarily surrendered for exchange or payment by the holder or owner.

E. Provision shall be made for paying the bonds refunded at the time or places provided in Subsection D of this section. The principal amount of the refunding bonds shall not exceed, but may be less than or be the same as the principal amount of the

bonds being refunded so long as provision is duly and sufficiently made for the payment of the refunded bonds.

F. The proceeds of refunding bonds, including any accrued interest and premium appertaining to the sale of refunding bonds, shall either be immediately applied to the retirement of the bonds being refunded or be placed in escrow in a commercial bank or trust company that possesses and is exercising trust powers and that is a member of the federal deposit insurance corporation, to be applied to the payment of the principal of, interest on and any prior redemption premium due in connection with the bonds being refunded; provided that such refunding bond proceeds, including any accrued interest and any premium appertaining to a sale of refunding bonds, may be applied to the establishment and maintenance of a reserve fund and to the payment of expenses incidental to the refunding and the issuance of the refunding bonds, the interest on the refunding bonds and the principal of the refunding bonds or both interest and principal as the municipality may determine. Nothing in this section requires the establishment of an escrow if the refunded bonds become due and payable within one year from the date of the refunding bonds and if the amounts necessary to retire the refunded bonds within that time are deposited with the paying agent for the refunded bonds. Any such escrow shall not necessarily be limited to proceeds of refunding bonds but may include other money available for its escrow purpose. Any proceeds in escrow pending such use may be invested or reinvested in bills, certificates of indebtedness, notes or bonds that are direct obligations of or the principal and interest of which obligations are unconditionally guaranteed by the United States or in certificates of deposit of banks that are members of the federal deposit insurance corporation, the par value of which certificates of deposit is collateralized by a pledge of obligations of or the payment of which is unconditionally guaranteed by the United States, the par value of which obligations is [at] least seventy-five percent of the par value of the certificates of deposit. Such proceeds and investments in escrow together with any interest or other income to be derived from any such investment shall be in an amount at all times sufficient as to principal, interest, any prior redemption premium due and any charges of the escrow agent payable therefrom to pay the bonds being refunded as they become due at their respective maturities or due at any designated prior redemption date in connection with which the municipality shall exercise a prior redemption option. Any purchaser of any refunding bond issued pursuant to the provisions of the Supplemental Municipal Gross Receipts Tax Act is in no manner responsible for the application of the proceeds thereof by the municipality or any of its officers, agents or employees.

G. Refunding bonds may be sold at a public or negotiated sale and may bear such additional terms and provisions as may be determined by the municipality subject to limitations in the Supplemental Municipal Gross Receipts Tax Act. The terms, provisions and authorization of the refunding bonds are not subject to the provisions of any other statute, provided that the Public Securities Limitation of Action Act [6-14-4 to 6-14-7 NMSA 1978] shall be fully applicable to the issuance of refunding bonds.

H. The municipality shall receive from the department of finance and administration written approval of any refunding bonds issued pursuant to the provisions of this section.

**History:** Laws 1997, ch. 219, § 4.

## **ANNOTATIONS**

**Effective dates.** — Laws 1997, ch. 219 contained no effective date provision, but, pursuant to N.M. Const., art. IV, § 23, was effective June 20, 1997, 90 days after the adjournment of the legislature.

**Bracketed material.** — The bracketed material was inserted by the compiler and is not part of the law.

### **7-19-18. Supplemental municipal gross receipts tax; use of proceeds; restriction.**

A. The proceeds from the supplemental municipal gross receipts tax shall be deposited in a special improvement account of the municipality and shall be used only for:

(1) the payment of the principal of, interest on, any prior redemption premiums due in connection with and other expenses related to the supplemental municipal gross receipts bonds issued pursuant to the Supplemental Municipal Gross Receipts Tax Act;

(2) the funding of any reserves and other accounts in connection with such bonds;

(3) refunding bonds; and

(4) to the extent not needed for those purposes, the improvement of the municipality's water system.

B. When any issue of supplemental municipal gross receipts bonds is fully paid, the supplemental municipal gross receipts tax shall cease to be imposed for that issue, but may continue to be imposed for bonds enacted and approved pursuant to Section 7-19-12 NMSA 1978 and thereafter issued, or for refunding bonds issued pursuant to Section 4 [7-19-17.1 NMSA 1978] of this 1997 act. Any money remaining in a special improvement account after the obligations for supplemental municipal gross receipts bonds and refunding bonds, are fully paid may be transferred to any other fund of the municipality.

**History:** Laws 1979, ch. 397, § 9; 1980, ch. 106, § 4; 1986, ch. 6, § 3; 1997, ch. 219, § 3.

## ANNOTATIONS

**Compiler's notes.** — The phrase "this 1997 act" in Subsection B refers to Laws 1997, ch. 219, which amended this section.

**The 1997 amendment,** June 20, 1997, designated the former first sentence as Paragraphs A(1), (2) and (4), and added Paragraph A(3); designated the former second and third sentences as Subsection B, and in Subsection B, inserted "any issue of" near the beginning of the subsection, added the language beginning "for that issue, but may continue to be imposed for bonds" at the end of the first sentence, inserted "and refunding bonds," in the second sentence, and made minor stylistic changes throughout the section.

## ARTICLE 19A

### Special Municipal Gross Receipts Tax (Repealed.)

#### 7-19A-1. Repealed.

## ANNOTATIONS

**Repeals.** — Laws 1986, ch. 20, § 136E repealed 7-19A-1 NMSA 1978, as enacted by Laws 1984, ch. 3, § 1, relating to the short title of the Special Municipal Gross Receipts Tax Act, effective July 1, 1996. For provisions of the former section, see the 1995 NMSA 1978 on *NMOneSource.com*.

#### 7-19A-2. Repealed.

## ANNOTATIONS

**Repeals.** — Laws 1986, ch. 20, § 136E repealed 7-19A-2 NMSA 1978, as enacted by Laws 1984, ch. 3, § 2, relating to definitions, effective July 1, 1996. For provisions of the former section, see the 1995 NMSA 1978 on *NMOneSource.com*.

#### 7-19A-3. Repealed.

## ANNOTATIONS

**Repeals.** — Laws 1986, ch. 20, § 136E repealed 7-19A-3 NMSA 1978, as enacted by Laws 1984, ch. 3, § 3, relating to special municipal gross receipts tax, authority to impose, ordinance requirements, effective July 1, 1996. For provisions of the former section, see the 1995 NMSA 1978 on *NMOneSource.com*.

#### 7-19A-4. Repealed.

## **ANNOTATIONS**

**Repeals.** — Laws 1986, ch. 20, § 136E repealed 7-19A-4 NMSA 1978, as enacted by Laws 1984, ch. 3, § 4, relating to ordinance conforming to certain provisions of the Gross Receipts and Compensating Tax Act and requirements of the division, effective July 1, 1996. For provisions of the former section, see the 1995 NMSA 1978 on *NMOneSource.com*.

### **7-19A-5. Repealed.**

## **ANNOTATIONS**

**Repeals.** — Laws 1986, ch. 20, § 136E repealed 7-19A-5 NMSA 1978, as enacted by Laws 1984, ch. 3, § 5, relating to specific exemptions, effective July 1, 1996. For provisions of the former section, see the 1995 NMSA 1978 on *NMOneSource.com*.

### **7-19A-6. Repealed.**

## **ANNOTATIONS**

**Repeals.** — Laws 1986, ch. 20, § 136E repealed 7-19A-6 NMSA 1978, as enacted by Laws 1984, ch. 3, § 6, relating to collection by division, distribution of proceeds, deductions, effective July 1, 1996. For provisions of the former section, see the 1995 NMSA 1978 on *NMOneSource.com*.

### **7-19A-7. Repealed.**

## **ANNOTATIONS**

**Repeals.** — Laws 1986, ch. 20, § 136E repealed 7-19A-7 NMSA 1978, as enacted by Laws 1984, ch. 3, § 7, relating to interpretation of act, administration and enforcement of tax, effective July 1, 1996. For provisions of the former section, see the 1995 NMSA 1978 on *NMOneSource.com*.

## **ARTICLE 19B**

### **Municipal Environmental Services Gross Receipts Tax (Repealed.)**

#### **7-19B-1. Repealed.**

## **ANNOTATIONS**

**Repeals.** — Laws 1993, ch. 346, § 12B repealed 7-19B-1 NMSA 1978, as enacted by Laws 1990, ch. 99, § 49, relating to short title of the Municipal Environmental Services

Gross Receipts Tax Act, effective July 1, 1993. For provisions of former section, see the 1992 NMSA 1978 on *NMOneSource.com*.

## **7-19B-2. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 1993, ch. 346, § 12B repealed 7-19B-2 NMSA 1978, as enacted by Laws 1990, ch. 99, § 50, relating to the definitions of the Municipal Environmental Services Gross Receipts Tax Act, effective July 1, 1993. For provisions of former sections, see the 1992 NMSA 1978 on *NMOneSource.com*.

## **7-19B-3. Recompiled.**

### **ANNOTATIONS**

**Recompilations.** — Laws 1993, ch. 346, § 10 recompiled former 7-19B-3 NMSA 1978 as enacted by Laws 1990, ch. 99, § 51, relating to authority to impose tax, as 7-19D-10 NMSA 1978, effective July 1, 1993.

## **7-19B-4. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 1993, ch. 346, § 12B repealed 7-19B-4 NMSA 1978, as enacted by Laws 1990, ch. 99, § 52, relating to specific exemptions, effective July 1, 1993. For provisions of former sections, see the 1992 NMSA 1978 on *NMOneSource.com*.

## **7-19B-5. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 1993, ch. 346, § 12B repealed 7-19B-5 NMSA 1978, as enacted by Laws 1990, ch. 99, § 53, relating to ordinances conforming to certain provisions of the gross receipts and compensating tax act and requirements of the department, effective July 1, 1993. For provisions of former sections, see the 1992 NMSA 1978 on *NMOneSource.com*.

## **7-19B-6. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 1993, ch. 346, § 12B repealed 7-19B-6 NMSA 1978, as enacted by Laws 1990, ch. 99, § 54, relating to collection by department, transfer of proceeds,

deductions, effective July 1, 1993. For provisions of former sections, see the 1992 NMSA 1978 on *NMOneSource.com*.

## **7-19B-7. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 1993, ch. 346, § 12B repealed 7-19B-7 NMSA 1978, as enacted by Laws 1990, ch. 99, § 55, relating to interpretation of act, administration and enforcement of tax, effective July 1, 1993. For provisions of former sections, see the 1992 NMSA 1978 on *NMOneSource.com*.

## **ARTICLE 19C**

### **Municipal Infrastructure Gross Receipts Tax (Repealed, Recompiled.)**

## **7-19C-1. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 1993, ch. 346, § 12C repealed 7-19C-1 NMSA 1978, as enacted by Laws 1991, ch. 9, § 1, relating to the short title of the Municipal Infrastructure Gross Receipts Tax Act, effective July 1, 1993. For provisions of former sections, see the 1992 NMSA 1978 on *NMOneSource.com*.

## **7-19C-2. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 1993, ch. 346, § 12C repealed 7-19C-2 NMSA 1978, as enacted by Laws 1991, ch. 9, § 2, relating to definitions of the Municipal Infrastructure Gross Receipts Tax Act, effective July 1, 1993. For provisions of former sections, see the 1992 NMSA 1978 on *NMOneSource.com*.

## **7-19C-3. Recompiled.**

### **ANNOTATIONS**

**Recompilations.** — Laws 1993, ch. 346, § 11 recompiled former 7-19C-3 NMSA 1978, as amended by Laws 1992, ch. 98, § 2, relating to authority to impose tax, as 7-19D-11 NMSA 1978, effective July 1, 1993.

## **7-19C-4. Repealed.**

## **ANNOTATIONS**

**Repeals.** — Laws 1993, ch. 346, § 12C repealed 7-19C-4 NMSA 1978, as enacted by Laws 1991, ch. 9, § 4, relating to ordinances conforming to certain provisions of the Gross Receipts and Compensating Tax Act and requirements of the department, effective July 1, 1993. For provisions of former sections, see the 1992 NMSA 1978 on *NMOneSource.com*.

### **7-19C-5. Repealed.**

## **ANNOTATIONS**

**Repeals.** — Laws 1993, ch. 346, § 12C repealed 7-19C-5 NMSA 1978, as enacted by Laws 1991, ch. 9, § 5, relating to specific exemptions, effective July 1, 1993. For provisions of former sections, see the 1992 NMSA 1978 on *NMOneSource.com*.

### **7-19C-6. Repealed.**

## **ANNOTATIONS**

**Repeals.** — Laws 1993, ch. 346, § 12C repealed 7-19C-6 NMSA 1978, as enacted by Laws 1991, ch. 9, §6, relating to collection by department, distribution of proceeds, deductions, effective July 1, 1993. For provisions of former sections, see the 1992 NMSA 1978 on *NMOneSource.com*.

### **7-19C-7. Repealed.**

## **ANNOTATIONS**

**Repeals.** — Laws 1993, ch. 346, § 12C repealed 7-19C-7 NMSA 1978, as enacted by Laws 1991, ch. 9, § 7, relating to interpretation of act, administration and enforcement of tax, effective July 1, 1993. For provisions of former sections, see the 1992 NMSA 1978 on *NMOneSource.com*.

## **ARTICLE 19D**

# **Municipal Local Option Gross Receipts and Compensating Taxes**

### **7-19D-1. Short title.**

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



**History:** 1978 Comp., § 7-19D-1, enacted by Laws 1993, ch. 346, § 1; 2019, ch. 270, § 47.

## **ANNOTATIONS**

**The 2019 amendment,** effective July 1, 2019, changed the name of the Municipal Local Option Gross Receipts Taxes Act to the Municipal Local Option Gross Receipts and Compensating Taxes Act; after "Receipts", added "and Compensating".

**Temporary provisions.** — Laws 2019, ch. 270, § 54, provided that references in law to the County Local Option Gross Receipts Taxes Act shall be deemed to be references to the County Local Option Gross Receipts and Compensating Taxes Act, and references in law to the Municipal Local Option Gross Receipts Taxes Act shall be deemed to be references to the Municipal Local Option Gross Receipts and Compensating Taxes Act.

**Law reviews.** — For article, "New Mexico Taxes: Taking Another Look," see 32 N.M.L. Rev. 351 (2002).

### **7-19D-2. Definitions.**

As used in the Municipal Local Option Gross Receipts Taxes Act:

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

B. "governing body" means the city council or city commission of a city, the board of trustees of a town or village and the board of county commissioners of H-class counties;

C. "municipality" means any incorporated city, town or village, whether incorporated under general act, special act or special charter, and an H-class county;

D. "person" means an individual or any other legal entity; and

E. "state gross receipts tax" means the gross receipts tax imposed under the Gross Receipts and Compensating Tax Act [Chapter 7, Article 9 NMSA 1978].

**History:** 1978 Comp., § 7-19D-2, enacted by Laws 1993, ch. 346, § 2.

## **ANNOTATIONS**

**Effective dates.** — Laws 1993, ch. 346, § 13 made Laws 1993, ch. 346, § 2 effective July 1, 1993.

### **7-19D-3. Effective date of ordinance.**

An ordinance imposing, amending or repealing a tax or an increment of tax authorized by the Municipal Local Option Gross Receipts Taxes Act shall be effective on July 1 or January 1, whichever date occurs first after the expiration of at least three months from the date the adopted ordinance is mailed or delivered to the department. The ordinance shall include that effective date.

**History:** 1978 Comp., § 7-19D-3, enacted by Laws 1993, ch. 346, § 3.

#### **ANNOTATIONS**

**Effective dates.** — Laws 1993, ch. 346, § 13 made Laws 1993, ch. 346, § 3 effective July 1, 1993.

#### **7-19D-4. Ordinance shall conform to certain provisions of the Gross Receipts and Compensating Tax Act and requirements of the department.**

A. An ordinance imposing a tax under the provisions of the Municipal Local Option Gross Receipts Taxes Act shall adopt by reference the same definitions and the same provisions relating to exemptions and deductions as are contained in the Gross Receipts and Compensating Tax Act [Chapter 7, Article 9 NMSA 1978] then in effect and as it may be amended from time to time.

B. The governing body of any municipality imposing a tax under the Municipal Local Option Gross Receipts Taxes Act shall impose the tax by adopting the model ordinance with respect to the tax furnished to the municipality by the department. An ordinance that does not conform substantially to the model ordinance of the department is not valid.

**History:** 1978 Comp., § 7-19D-4, enacted by Laws 1993, ch. 346, § 4.

#### **ANNOTATIONS**

**Effective dates.** — Laws 1993, ch. 346, § 13 made Laws 1993, ch. 346, § 4 effective July 1, 1993.

#### **7-19D-5. Specific exemptions.**

No tax authorized by the provisions of the Municipal Local Option Gross Receipts and Compensating Taxes Act shall be imposed on the gross receipts arising from:

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

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

**History:** 1978 Comp., § 7-19D-5, enacted by Laws 1993, ch. 346, § 5; 1994, ch. 101, § 3; 2019, ch. 270, § 48.

### **ANNOTATIONS**

**The 2019 amendment**, effective July 1, 2019, provided that no tax authorized by the provisions of the Municipal Local Option Gross Receipts and Compensating Taxes Act shall be imposed on the gross receipts arising from transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the municipality to another point outside the municipality prior to July 1, 2021; and in Subsection A, added "prior to July 1, 2021".

**The 1994 amendment**, effective July 1, 1994, substituted "by" for "under" in the undesignated paragraph; deleted former Subsection A, which read: "the transmission of messages by wire or other means from one point within the municipality to another point outside the municipality;" and redesignated former Subsections B and C as Subsections A and B; and in Subsection B, deleted "Subsection C of" following "pursuant to".

### **7-19D-6. Copy of ordinance to be submitted to department.**

A certified copy of the ordinance imposing or repealing a tax authorized under the Municipal Local Option Gross Receipts Taxes Act or changing the tax rate imposed shall be mailed or delivered to the department within five days after the later of the date the ordinance is adopted or the date the results of any election held with respect to the ordinance are certified to be in favor of the ordinance.

**History:** 1978 Comp., § 7-19D-6, enacted by Laws 1993, ch. 346, § 6.

### **ANNOTATIONS**

**Effective dates.** — Laws 1993, ch. 346, § 13 made Laws 1993, ch. 346, § 6 effective July 1, 1993.

### **7-19D-7. Collection by department.**

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

**History:** 1978 Comp., § 7-19D-7, enacted by Laws 1993, ch. 346, § 7; 1997, ch. 125, § 7; 2019, ch. 270, § 49.

## ANNOTATIONS

**The 2019 amendment**, effective July 1, 2019, removed provisions related to administrative fees; in the section heading, deleted "transfer of proceeds; deductions"; deleted former subsection designation "A.", after "Gross Receipts", added "and Compensating", and after "state gross receipts", deleted "tax" and added "and compensating taxes"; and deleted former Subsections B and C.

**The 1997 amendment**, effective July 1, 1997, substituted "pursuant to" for "under" in Subsection A; in Subsection B, substituted "shall withhold an administrative fee pursuant to Section 1 of this 1997 act" for "may deduct an amount not to exceed three percent of each tax collected under the provisions of the Municipal Local Option Gross Receipts Taxes Act as a charge for the administrative costs of collection, which amount shall be remitted to the state treasurer for deposit in the state general fund each month", and in the second sentence, substituted "pursuant" for "under" and substituted "the administrative fee withheld and less any disbursements for" for "any disbursement for administrative charges made pursuant to this section"; and substituted "shall withhold the administrative fee pursuant to Section 1 of this 1997 act only on that" for "may deduct as a charge for administration an amount equal to three percent of the" in Subsection C.

### **7-19D-8. Interpretation of act; administration and enforcement of act.**

A. The department shall interpret the provisions of the Municipal Local Option Gross Receipts Taxes Act.

B. The department shall administer and enforce the collection of each tax authorized under the provisions of the Municipal Local Option Gross Receipts Taxes Act, and the Tax Administration Act [Chapter 7, Article 1 NMSA 1978] applies to the administration and enforcement of each tax.

**History:** 1978 Comp., § 7-19D-8, enacted by Laws 1993, ch. 346, § 8.

## ANNOTATIONS

**Effective dates.** — Laws 1993, ch. 346, § 13 made Laws 1993, ch. 346, § 8 effective July 1, 1993.

### **7-19D-9. Municipal gross receipts tax; authority to impose rate.**

A. The majority of the members of the governing body of any municipality may impose by ordinance an excise tax on the gross receipts of any person engaging in business in the municipality for the privilege of engaging in business in the municipality. A tax imposed pursuant to this section shall be imposed by the enactment of one or more ordinances enacting any number of increments of one-hundredth percent;

provided that the total increments do not exceed the maximum rate provided in Subsection C of this section; and provided further that, if at the time of enacting the ordinance the total municipal gross receipts tax rate is not an even multiple of one-hundredth percent, the municipality may impose an increment in an amount sufficient to bring the total rate to an even multiple of one-hundredth percent. The governing body of a municipality may, at the time of enacting the ordinance, dedicate the revenue for any municipal purpose. If the governing body proposes to dedicate such revenue, the ordinance and, if any election is held, the ballot shall clearly state the purpose to which the revenue will be dedicated, and any revenue so dedicated shall be used by the municipality for that purpose unless a subsequent ordinance is adopted to change the purpose to which dedicated or to place the revenue in the general fund of the municipality.

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

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

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

(2) the remaining increments, up to a total of forty-five hundredths percent, shall not go into effect until after an election is held and a majority of the voters in the municipality voting in the election votes in favor of the tax. Increments approved by voters prior to July 1, 2019 shall be included in the increments approved by the voters, as provided in this paragraph.

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

(1) if the governing body chooses to provide in the ordinance that it shall not be effective until the ordinance is approved by the majority of the registered voters voting on the question at an election to be held pursuant to the provisions of the Local Election Act [Chapter 1, Article 22 NMSA 1978]; or

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

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

(b) in all other municipalities, with the municipal clerk within thirty days after the adoption of such ordinance and the petition has been signed by a number of registered voters in the municipality equal to at least five percent of the number of the voters in the municipality who were registered to vote in the most recent regular municipal election.

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

F. If at an election called pursuant to Subsection D of this section a majority of the registered voters voting on the question approves the ordinance imposing the tax, the ordinance shall become effective in accordance with the provisions of the Municipal Local Option Gross Receipts and Compensating Taxes Act. If at such an election a majority of the registered voters voting on the question disapproves the ordinance, the ordinance imposing the tax shall be deemed repealed and the question of imposing any increment of the municipal gross receipts tax authorized in this section shall not be considered again by the governing body for a period of one year from the date of the election.

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

**History:** Laws 1978, ch. 151, § 1; 1979, ch. 155, § 1; 1981, ch. 37, § 11; 1982, ch. 3, § 2; 1983, ch. 213, § 18; 1985, ch. 208, § 121; 1986, ch. 20, § 76; 1987, ch. 323, § 26; 1988, ch. 120, § 1; 1978, Comp., § 7-19-4, amended and recompiled as 1978 Comp., § 7-19D-9 by Laws 1993, ch. 346, § 9; 2007, ch. 331, § 5; 2018, ch. 79, § 76; 2019, ch. 274, § 13; 2020, ch. 80, § 11.

## **ANNOTATIONS**

**The 2020 amendment**, effective July 1, 2020, provided that increments of the municipal gross receipts tax shall be imposed in increments of one-hundredths percent; in Subsection A, added "enacting any number of increments of one-hundredth percent; provided that the total increments do not exceed the maximum rate provided in Subsection C of this section; and provided further that, if at the time of enacting the ordinance the total municipal gross receipts tax rate is not an even multiple of one-hundredth percent, the municipality may impose an increment in an amount sufficient to bring the total rate to an even multiple of one-hundredth percent"; in Subsection C, Paragraph C(1), after "increments", deleted "that" and added "up to a", and in Paragraph C(2), after "increments", deleted "totaling" and added "up to a total of"; and in Subsection F, after "Municipal Local Option Gross Receipts", added "and Compensating".

**Temporary provisions.** — Laws 2020, ch. 80, § 13, effective May 20, 2020, provided that an ordinance imposing a local option gross receipts tax authorized by those sections of law that were repealed and consolidated with the municipal gross receipts tax or the county gross receipts tax by Laws 2019, Chapter 274 is deemed to be imposing an equal rate of the municipal gross receipts tax or county gross receipts tax, as appropriate, as was imposed by the ordinance when the ordinance was enacted; provided that the ordinance was in effect on the date of repeal and the ordinance has not been repealed by the governing body. Any dedication of revenue pursuant to the ordinance remains in effect until changed by the governing body; provided that, if the dedication were approved by the electorate, any change to the dedication must also be approved by the electorate.

**The 2019 amendment**, effective July 1, 2019, replaced the one and one-half percent maximum authority for municipal gross receipts tax local option with a maximum authority of two and one-half percent, provided that local authorities are authorized to allow local voters to approve any enactments of less than an aggregate two and five hundredths percent, and provided that any authorization over two and five-hundredths percent to be approved by the local voters; in Subsection A, after "an excise tax", deleted "not to exceed a rate of one and one-half percent of", and deleted "each imposing any number of municipal gross receipts tax rate increments but the total municipal gross receipts tax rate imposed by all ordinances shall not exceed an aggregate rate of one and one-half percent of the gross receipts of a person engaging in business. Municipalities may impose increments of one-eighth of one percent." and added "any municipal purpose"; deleted former Subsection B and subsection designation "C"; after "dedicate the revenue for", deleted "a specific purpose or area of municipal government services, including police protection, fire protection, public transportation or street repair and maintenance"; added new Subsections B and C; and deleted former Subsection G and redesignated former Subsection H as Subsection G.

**The 2018 amendment**, effective July 1, 2018, provided that elections called to approve or disapprove ordinances imposing excise taxes shall be called, conducted and canvassed pursuant to the provisions of the Local Election Act, and made technical and conforming changes; in Paragraph D(1), after "pursuant to the provisions of", deleted "a

home-rule charter or on a date set by the governing body and pursuant to the provisions of the Municipal Election Code governing special elections" and added "the Local Election Act"; and in Subsection E, after "canvassed as provided in the", deleted "Municipal Election Code for special elections" and added "Local Election Act", and after "regular", deleted "municipal" and added "local".

**Temporary provisions.** — Laws 2018, ch. 79, § 174 provided that references in law to the Municipal Election Code and to the School Election Law shall be deemed to be references to the Local Election Act.

**The 2007 amendment,** effective July 1, 2007, increased the maximum aggregate gross receipts tax rate to one-half percent of gross receipts and provided that all municipalities may impose increments of one-eighth of one percent.

**The 1993 amendment,** effective July 1, 1993, renumbered this section and rewrote it to the extent that a detailed comparison is impracticable.

## **7-19D-9.1. Municipal compensating tax.**

A. Beginning July 1, 2021, for the privilege of using tangible personal property in a municipality, there is imposed on the person using the property an excise tax at a rate equal to the combined gross receipts tax rates imposed and in effect pursuant to the Supplemental Municipal Gross Receipts Tax Act [7-19-10 to 7-19-18 NMSA 1978] and the Municipal Local Option Gross Receipts and Compensating Taxes Act of the value of tangible personal property that was:

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

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

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



this state as the result of a transaction with a person located outside this state that would have been subject to the gross receipts tax had the license or franchise been acquired from a person with nexus with this state.

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

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

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

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

**History:** 1978 Comp., § 7-19D-9.1, enacted by Laws 2019, ch. 270, § 50.

## **ANNOTATIONS**

**Effective dates.** — Laws 2019, ch. 270, § 60 made Laws 2019, ch. 270, § 50 effective July 1, 2021.

## **7-19D-10. Repealed.**

**History:** Laws 1990, ch. 99, § 51; 1978 Comp., § 7-19B-3, amended and recompiled as 1978 Comp., § 7-19D-10 by Laws 1993, ch. 346, § 10; 2009, ch. 284, § 1; 2019, ch. 17, § 1; repealed by Laws 2019, ch. 274, § 16.

## **ANNOTATIONS**

**Repeals.** — Laws 2019, ch. 274, § 16 repealed 7-19D-10 NMSA 1978, as enacted by Laws 1990, ch. 99, § 51, relating to municipal environmental services gross receipts tax, authority to impose, ordinance requirements, effective July 1, 2019. For provisions of former section, see the 2018 NMSA 1978 on *NMOneSource.com*.

Section 7-19D-10 NMSA 1978 was also amended by Laws 2019, ch. 17, § 1, effective June 14, 2019. Pursuant to 12-1-8 NMSA 1978, Laws 2019, ch. 274, § 16, as the last act signed by the governor was compiled.

## **7-19D-11. Repealed.**

**History:** Laws 1991, ch. 9, § 3; 1992, ch. 98, § 2; 1978 Comp., § 7-19C-3, amended and recompiled as 1978 Comp., § 7-19D-11 by Laws 1993, ch. 346, § 11; 1998, ch. 90, § 6; 2003, ch. 349, § 18; 2018, ch. 79, § 77; repealed by Laws 2019, ch. 274, § 16.

### **ANNOTATIONS**

**Repeals.** — Laws 2019, ch. 274, § 16 repealed 7-19D-11 NMSA 1978, as enacted by Laws 1991, ch. 9, § 3, relating to municipal infrastructure gross receipts tax, authority by municipality to impose, ordinance requirements, election, effective July 1, 2019. For provisions of former section, see the 2018 NMSA 1978 on *NMOneSource.com*.

## **7-19D-12. Repealed.**

**History:** Laws 2001, ch. 172, § 1; 2005, ch. 129, § 1; 2010, ch. 44, § 1; repealed by Laws 2019, ch. 274, § 16.

### **ANNOTATIONS**

**Repeals.** — Laws 2019, ch. 274, § 16 repealed 7-19D-12 NMSA 1978, as enacted by Laws 2001, ch. 172, § 1, relating to municipal capital outlay gross receipts tax, purposes, referendum, effective July 1, 2019. For provisions of former section, see the 2018 NMSA 1978 on *NMOneSource.com*.

## **7-19D-13. Repealed.**

**History:** Laws 2004, ch. 17, § 1; repealed by Laws 2007, ch. 199, § 2.

### **ANNOTATIONS**

**Repeals.** — Laws 2007, ch. 199, § 2 repealed 7-19D-13 NMSA 1978, as enacted by Laws 2004, ch. 17, § 1, providing for the effective date of an ordinance imposing a municipal local option gross receipts tax, effective July 1, 2007. For provisions of former section, see the 2006 NMSA 1978 on *NMOneSource.com*.

## **7-19D-14. Quality of life gross receipts tax; authority to impose; ordinance requirements; use of revenue; election.**

A. Prior to January 1, 2016, the majority of the members of the governing body of a municipality may enact an ordinance imposing an excise tax at a rate not to exceed one-fourth percent of the gross receipts of a person engaging in business in the municipality for the privilege of engaging in business. The tax may be imposed in one or more increments of one-sixteenth percent not to exceed an aggregate rate of one-fourth percent. The tax shall be imposed for a period of not more than ten years from the effective date of the ordinance imposing the tax. Having enacted an ordinance imposing the tax prior to January 1, 2016 pursuant to the provisions of this section, the governing body may enact subsequent ordinances for succeeding periods of not more than ten years; provided that each ordinance meets the requirements of this section and of the Municipal Local Option Gross Receipts Taxes Act. The tax imposed pursuant to the provisions of this section may be referred to as the "quality of life gross receipts tax".

B. The governing body, at the time of enacting an ordinance imposing the quality of life gross receipts tax, shall dedicate the revenue to cultural programs and activities provided by a local government and to cultural programs, events and activities provided by contract or operating agreement with nonprofit or publicly owned cultural organizations and institutions.

C. An ordinance imposing any increment of the quality of life gross receipts tax shall not go into effect until after an election is held and a majority of the voters in the municipality voting in the election votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election within ninety days of the date the ordinance is adopted on the question of imposing the tax. The question may be submitted to the voters as a separate question at a general election or at a special election called for that purpose by the governing body. A special election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections. In any election held, the ballot shall clearly state the purpose to which the revenue will be dedicated pursuant to this section. If a majority of the voters voting on the question approves the ordinance imposing the quality of life gross receipts tax, the ordinance shall become effective in accordance with the provisions of the Municipal Local Option Gross Receipts Taxes Act. If the question of imposing the quality of life gross receipts tax fails, the governing body shall not again propose the imposition of the tax for a period of one year from the date of the election.

D. The quality of life gross receipts tax revenue shall be used to meet the following goals: promoting and preserving cultural diversity; enhancing the quality of cultural programs and activities; fostering greater access to cultural opportunities; promoting culture in order to further economic development within the municipality; and supporting programs, events and organizations with direct, identifiable and measurable public benefit to residents of the municipality. It is the objective of the quality of life gross receipts tax that the revenue from the tax be used to expand and sustain existing

programs and to develop new programs, events and activities, rather than to replace other funding sources for existing programs, events and activities.

E. The governing body of a municipality that imposes the quality of life gross receipts tax shall, within sixty days of the election approving the imposition of the tax, appoint a municipal cultural advisory board consisting of between nine and fifteen members. Persons appointed to the board shall be residents of the municipality who are knowledgeable about the activities eligible for quality of life tax funding. The members of the board shall be appointed for fixed terms and shall not be removed during their terms except for malfeasance. The terms of the initial board members shall be staggered so that one-third of the members are appointed for one-year terms, one-third are appointed for two-year terms and one-third are appointed for three-year terms. Subsequent appointments to the board shall be for three-year terms. If a vacancy on the board occurs, the governing body shall appoint a replacement member for the remainder of the unexpired term. A board member shall not serve for more than two consecutive terms.

F. The municipal cultural advisory board shall have the responsibility of overseeing the distribution of the quality of life gross receipts tax revenue for the goals listed in Subsection D of this section. The board shall:

- (1) biennially submit recommendations to the governing body for expenditures of revenue from the quality of life gross receipts tax that are allocated pursuant to this section through contracts for services with appropriate organizations and institutions;
- (2) establish and publicize the necessary qualifications for organizations and institutions to receive quality of life gross receipts tax funding; and
- (3) develop guidelines and procedures for applying for funding through a request for proposals process and the criteria by which contracts will be awarded. The evaluation process shall include a public review component.

G. The municipal cultural advisory board shall establish reporting requirements for recipients of the quality of life gross receipts tax revenue. The board shall provide to the governing body an annual evaluation of the use of revenue from the quality of life gross receipts tax to ensure that it is meeting the goals listed in Subsection D of this section.

H. Every four years, the municipal cultural advisory board shall review and revise as necessary:

- (1) the guidelines and procedures for applying for funding; and
- (2) the criteria by which applications for funding will be evaluated.

I. As used in this section:

(1) "cultural organizations and institutions" means organizations or institutions that have as a primary purpose the advancement or preservation of zoology, museums, library sciences, art, music, theater, dance, literature or the humanities; and

(2) "municipality" means an incorporated municipality except for an incorporated municipality with a population in excess of two hundred fifty thousand according to the most recent federal decennial census.

**History:** Laws 2005, ch. 212, § 2.

## **ANNOTATIONS**

**Effective dates.** — Laws 2005, ch. 212, § 3 made Laws 2005, ch. 212, § 2 effective July 1, 2005.

### **7-19D-15. Municipal regional spaceport gross receipts tax; authority to impose; rate; election required.**

A. A majority of the members of the governing body of a municipality that desires to become a member of a regional spaceport district pursuant to the Regional Spaceport District Act [5-16-1 to 5-16-13 NMSA 1978] shall impose by ordinance an excise tax at a rate not to exceed one-half percent of the gross receipts of a person engaging in business in the municipality for the privilege of engaging in business. A tax imposed pursuant to this section may be imposed by one or more ordinances, each imposing any number of tax rate increments, but an increment shall not be less than one-sixteenth percent of the gross receipts of a person engaging in business in the municipality, and the aggregate of all rates shall not exceed one-half percent of the gross receipts of a person engaging in business in the municipality. The tax may be referred to as the "municipal regional spaceport gross receipts tax".

B. A governing body, at the time of enacting an ordinance imposing a tax authorized in Subsection A of this section, shall dedicate a minimum of seventy-five percent of the revenue to a regional spaceport district for the financing, planning, designing, engineering and construction of a regional spaceport pursuant to the Regional Spaceport District Act and may dedicate no more than twenty-five percent of the revenue for spaceport-related projects as approved by resolution of the governing body of the municipality.

C. An ordinance imposing a municipal regional spaceport gross receipts tax shall not go into effect until after an election is held and a majority of the voters of the municipality voting in the election votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question shall be submitted to the voters of the municipality as a separate question at a regular local election or at a special election called for that purpose by the governing body. An election shall be called, conducted and canvassed as provided in the Local Election Act

[Chapter 1, Article 22 NMSA 1978]. If a majority of the voters voting on the question approves the ordinance imposing the municipal regional spaceport gross receipts tax, the ordinance shall become effective in accordance with the provisions of the Municipal Local Option Gross Receipts Taxes Act. If the question of imposing the municipal regional spaceport gross receipts tax fails, the governing body shall not again propose the imposition of an increment of the tax for a period of one year from the date of the election.

D. The governing body of a municipality imposing the municipal regional spaceport gross receipts tax shall transfer a minimum of seventy-five percent of all proceeds from the tax to the regional spaceport district of which it is a member for regional spaceport purposes in accordance with the provisions of the Regional Spaceport District Act. The governing body of a municipality imposing the municipal regional spaceport gross receipts tax may retain no more than twenty-five percent of the municipal regional spaceport gross receipts tax for spaceport-related projects as approved by resolution of the governing body.

**History:** Laws 2006, ch. 15, § 14; 2018, ch. 79, § 78.

#### **ANNOTATIONS**

**The 2018 amendment**, effective July 1, 2018, provided that elections called to approve or disapprove an ordinance imposing a municipal regional spaceport gross receipts tax shall be called, conducted and canvassed as provided in the Local Election Act, and made technical and conforming changes; and in Subsection C, after "at a regular", deleted "municipal" and added "local", after "governing body.", deleted "A special municipal" and added "An", and after "as provided in the", deleted "Municipal Election Code" and added "Local Election Act".

**Temporary provisions.** — Laws 2018, ch. 79, § 174 provided that references in law to the Municipal Election Code and to the School Election Law shall be deemed to be references to the Local Election Act.

#### **7-19D-16. Municipal higher education facilities gross receipts tax.**

A. The majority of the members of the governing body of an eligible municipality may impose by ordinance an excise tax at a rate not to exceed one-fourth of one percent of the gross receipts of a person engaging in business in the municipality for the privilege of engaging in business. The tax may be imposed in increments of one-sixteenth of one percent not to exceed an aggregate rate of one-fourth of one percent. The tax shall be imposed for a period of not more than twenty years from the effective date of the ordinance imposing the tax.

B. The tax imposed pursuant to this section may be referred to as the "municipal higher education facilities gross receipts tax".

C. The governing body, at the time of enacting an ordinance imposing a rate of tax authorized in Subsection A of this section, shall dedicate the revenue only for:

(1) acquisition, construction, renovation or improvement of facilities of a four-year post-secondary public educational institution located in the municipality and acquisition of or improvements to land for those facilities; or

(2) payment of municipal higher education facilities gross receipts tax revenue bonds issued pursuant to Chapter 3, Article 31 NMSA 1978.

D. An ordinance imposing any increment of the municipal higher education facilities gross receipts tax shall not go into effect until after an election is held and a majority of the voters of the municipality voting in the election votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election on the question of imposing the tax at the next regular municipal election. The question shall be submitted to the voters of the municipality as a separate question. If a majority of the voters voting on the question approves the ordinance imposing the municipal higher education facilities gross receipts tax, the ordinance shall become effective in accordance with the provisions of the Municipal Local Option Gross Receipts Taxes Act. If the question of imposing the municipal higher education facilities gross receipts tax fails, the governing body shall not again propose the imposition of any increment of the tax for a period of one year from the date of the election.

E. For the purposes of this section, "eligible municipality" means a municipality that has a population greater than fifty thousand according to the most recent federal decennial census and that is located in a class B county having a net taxable value for rate-setting purposes for the 2006 property tax year or any subsequent year of more than two billion dollars (\$2,000,000,000).

**History:** Laws 2007, ch. 148, § 1.

### **ANNOTATIONS**

**Effective dates.** — Laws 2007, ch. 148, § 3 made Laws 2007, ch. 148, § 1 effective July 1, 2007.

### **7-19D-17. Federal water project gross receipts tax; authorization; use of revenue; referendum.**

A. A majority of the members of the governing body of a municipality may enact an ordinance imposing an excise tax on any person engaging in business in the municipality for the privilege of engaging in business. The rate of the tax shall not exceed one-fourth percent of the gross receipts of the person engaging in business. An ordinance enacting the tax authorized by this section is subject to a positive referendum.

B. The tax imposed pursuant to this section may be referred to as the "federal water project gross receipts tax".

C. The governing body of a municipality, at the time of enacting an ordinance imposing the rate of the tax authorized in this section, shall dedicate the revenue for the repayment of loan obligations to the federal government for the construction, expansion, operation and maintenance of a water delivery system and for the expansion, operation and maintenance of that water delivery system after the loan obligation to the federal government is retired or repaid. The revenue from the federal water project gross receipts tax shall not be dedicated to repay revenue bonds or any other form of bonds.

D. An ordinance imposing the federal water project gross receipts tax shall not go into effect until an election is held and a majority of the voters of the municipality voting in the election votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question shall be submitted to the voters of the municipality as a separate question at a regular local election or at a special election called for that purpose by the governing body. An election shall be called, conducted and canvassed as provided in the Local Election Act [Chapter 1, Article 22 NMSA 1978]. If a majority of the voters voting on the question approves the ordinance imposing the federal water project gross receipts tax, then the ordinance shall become effective on January 1 or July 1 in accordance with the provisions of the Municipal Local Option Gross Receipts Taxes Act. If the question of imposing the federal water project gross receipts tax fails, the governing body shall not again propose the imposition of the tax for a period of one year from the date of the election.

E. A municipality that imposed a federal water project gross receipts tax pursuant to this section shall not also impose a municipal capital outlay gross receipts tax.

F. As used in this section, "municipality" means an incorporated municipality that has a population pursuant to the most recent federal decennial census of greater than twenty thousand but less than twenty-five thousand and is located in a class B county.

**History:** Laws 2012, ch. 58, § 1; 2018, ch. 79, § 79.

### **ANNOTATIONS**

**The 2018 amendment**, effective July 1, 2018, provided that elections called to approve or disapprove an ordinance imposing the federal water project gross receipts tax shall be called, conducted and canvassed as provided in the Local Election Act, and made technical and conforming changes; in Subsection D, after "at a regular", deleted "municipal" and added "local", after "the governing body.", deleted "A special municipal" and added "An", and after "as provided in the", deleted "Municipal Election Code" and added "Local Election Act".