

HOUSE BILL 218

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Derrick J. Lente

AN ACT

RELATING TO TAXATION; UPDATING AND DELETING OUTDATED PROVISIONS
IN CERTAIN SECTIONS OF CHAPTER 7 NMSA 1978; AMENDING CERTAIN
PROVISIONS OF THE METROPOLITAN REDEVELOPMENT CODE AND THE TAX
INCREMENT FOR DEVELOPMENT ACT TO CONFORM WITH DESTINATION
SOURCING; AMENDING THAT SECTION OF LAW THAT ALLOWS THE TAXATION
AND REVENUE DEPARTMENT TO MAKE ADJUSTMENTS OF DISTRIBUTIONS AND
TRANSFERS TO POLITICAL SUBDIVISIONS; INCREASING THE AMOUNT A
TAXPAYER MAY OWE TO ALLOW QUARTERLY OR SEMIANNUAL FILING;
ALLOWING THE SECRETARY OF TAXATION AND REVENUE TO COMPROMISE
ASSERTED LIABILITY IN THE CASE OF A DENIAL OF A REFUND OR
CREDIT; INCREASING THE AMOUNT OF INSTALLMENT AGREEMENTS,
ABATEMENTS, REFUNDS AND CREDITS THAT SHALL BE MADE AVAILABLE
FOR PUBLIC INSPECTION; ALLOWING A COMPLETED RETURN TO
CONSTITUTE A FILING OF A CLAIM FOR REFUND; REMOVING ATTORNEY
GENERAL APPROVAL OF CLOSING AGREEMENTS AND OF REFUNDS OVER

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1 TWENTY THOUSAND DOLLARS (\$20,000); AMENDING CERTAIN PROVISIONS
2 REGARDING A LIEN FOR A TAX LIABILITY; AMENDING CERTAIN
3 PROVISIONS ON INTEREST ON DEFICIENCIES; PROVIDING THAT
4 ELECTRONIC FILERS FILE AND PAY WITH THE SAME DEADLINE AS ALL
5 OTHER FILERS; REMOVING CONTINGENT RATES FOR THE PETROLEUM
6 PRODUCTS LOADING FEE; PROVIDING THAT LOCAL OPTION GROSS
7 RECEIPTS AND COMPENSATING TAX RATES SHALL BE EFFECTIVE ON JULY
8 1 FOLLOWING ELECTION OR ADOPTED ORDINANCE UNLESS AN EMERGENCY
9 OR UNFORESEEN OCCURRENCE OCCURS; STREAMLINING ADVANCE PAYMENTS
10 OF THE CERTAIN OIL AND GAS TAXES; CLARIFYING THE APPLICATION OF
11 CERTAIN OIL PRODUCTION TAXES ON SKIM OIL; ALLOWING TAX LIENS TO
12 BE RECORDED WITHOUT A NOTARY SIGNATURE; ALIGNING A WORKERS'
13 COMPENSATION FEE DUE DATE TO THE WITHHOLDING TAX DUE DATE;
14 AMENDING A SECTION OF LAWS 2024, CHAPTER 41; AMENDING AND
15 REPEALING SECTIONS OF THE NMSA 1978.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. Section 3-60A-21 NMSA 1978 (being Laws 2024,
19 Chapter 62, Section 1) is amended to read:

20 "3-60A-21. PROPERTY AND GROSS RECEIPTS TAX INCREMENTS--
21 PROCEDURES.--

22 A. The procedures to be used in determining a
23 property tax increment are:

24 (1) the local government shall, after approval
25 of a metropolitan redevelopment plan, notify the county

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1 assessor of the taxable parcels of property within the
2 metropolitan redevelopment area;

3 (2) upon receipt of the notification, the
4 county assessor shall identify the parcels of property within
5 the metropolitan redevelopment area within their respective
6 jurisdictions and certify to the county treasurer the net
7 taxable value of the property at the time of notification as
8 the base value for the distribution of property tax revenues
9 authorized by the Property Tax Code. If because of acquisition
10 by the local government the property becomes tax exempt, the
11 county assessor shall note that fact on their respective
12 records and so notify the county treasurer, but the county
13 assessor and the county treasurer shall preserve a record of
14 the net taxable value at the time of inclusion of the property
15 within the metropolitan redevelopment area as the base value
16 for the purpose of distribution of property tax revenues when
17 the parcel again becomes taxable. The county assessor is not
18 required by this section to preserve the new taxable value at
19 the time of inclusion of the property within the metropolitan
20 redevelopment area as the base value for the purposes of
21 valuation of the property;

22 (3) if because of acquisition by the local
23 government the property becomes tax exempt, when the parcel
24 again becomes taxable, the local government shall notify the
25 county assessor of the parcels of property that because of

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1 their rehabilitation or other improvement are to be revalued
2 for property tax purposes. A new taxable value of this
3 property shall then be determined by the county assessor. If
4 no acquisition by the local government occurs, improvement or
5 rehabilitation of property subject to valuation by the assessor
6 shall be reported to the assessor as required by the Property
7 Tax Code, and the new taxable value shall be determined as of
8 January 1 of the tax year following the year in which the
9 improvement or rehabilitation is completed; and

10 (4) current tax rates shall then be applied to
11 the new taxable value of property included in the metropolitan
12 redevelopment area. The amount by which the revenue received
13 exceeds that which would have been received by application of
14 the same rates to the base value before inclusion in the
15 metropolitan redevelopment area shall be multiplied by the
16 percentage of the increment dedicated by the local government
17 pursuant to Section 3-60A-23 NMSA 1978, credited to the local
18 government and deposited in the metropolitan redevelopment
19 fund. This transfer shall take place only after the county
20 treasurer has been notified to apply the procedures pursuant to
21 this subsection to property included in a metropolitan
22 redevelopment area. Unless the entire metropolitan
23 redevelopment area is specifically included by the local
24 government for purposes of tax increment financing, the payment
25 by the county treasurer to the local government shall be

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1 limited to those properties specifically included. The
2 remaining revenue shall be distributed to participating units
3 of government as authorized by the Property Tax Code.

4 B. The procedures to be used in determining a gross
5 receipts tax increment are:

6 (1) the local government shall notify the
7 taxation and revenue department of the geographic boundaries of
8 the metropolitan redevelopment area;

9 (2) by the ~~[January 1 or]~~ July 1 following at
10 least ninety days after receipt of the notice of the geographic
11 boundaries, the taxation and revenue department shall designate
12 a reporting location code for the metropolitan redevelopment
13 area pursuant to Section 7-1-14 NMSA 1978;

14 (3) using data from the twelve months of
15 reporting periods following designation of the reporting
16 location code, the taxation and revenue department shall
17 calculate the gross receipts tax revenue for the base year as
18 follows:

19 (a) the amount of the local government's
20 local option gross receipts tax revenue attributable to the
21 gross receipts sourced to the metropolitan redevelopment area
22 pursuant to Section 7-1-14 NMSA 1978 in the previous twelve
23 months; and

24 (b) the amount of state gross receipts
25 tax revenue attributable to gross receipts sourced to the

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1 metropolitan redevelopment area pursuant to Section 7-1-14 NMSA
2 1978 in the previous twelve months, less any amount distributed
3 to the municipality pursuant to Section 7-1-6.4 NMSA 1978
4 attributable to gross receipts sourced to the metropolitan
5 redevelopment area; and

6 (4) following making the calculation of the
7 gross receipts tax revenue for the base year:

8 (a) the taxation and revenue department
9 shall compare the amounts of gross receipts tax revenues of the
10 base year with the amounts of gross receipts tax revenues of
11 that following twelve months, using the same calculation
12 methods as provided in Paragraph (3) of this subsection; and

13 (b) if there is an increase between the
14 gross receipts tax revenue of the base year and the gross
15 receipts tax revenue of that following twelve months, the
16 taxation and revenue department shall distribute, pursuant to
17 Section 7-1-6.71 NMSA 1978, the sum of: 1) the product of the
18 total rate of the local government's local option gross
19 receipts tax multiplied by the increased amount of the local
20 government's local option gross receipts tax revenue, further
21 multiplied by the percentage of the gross receipts tax
22 increment dedicated by the local government pursuant to Section
23 3-60A-23 NMSA 1978; plus 2) the product of the state gross
24 receipts tax rate multiplied by the increased amount of the
25 state gross receipts tax revenue, further multiplied by the

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1 percentage of the gross receipts tax increment dedicated by the
2 state board of finance pursuant to Section 3-60A-23 NMSA 1978.

3 C. The procedures specified in this section shall
4 be followed annually for a maximum period of twenty years
5 following the date of notification provided by this section.

6 D. The state board of finance shall promulgate
7 rules for implementing the dedication of a state gross receipts
8 tax increment for the purpose of funding a metropolitan
9 redevelopment project and for determining the amount of the
10 increment pursuant to the Metropolitan Redevelopment Code.

11 [~~D.~~] E. As used in this section:

12 (1) "local option gross receipts tax revenue"
13 means revenue transferred to the local government pursuant to
14 Section 7-1-6.12 or 7-1-6.13 NMSA 1978, as appropriate; and

15 (2) "state gross receipts tax revenue" means
16 revenue received from the gross receipts tax imposed pursuant
17 to Section 7-9-4 NMSA 1978."

18 SECTION 2. Section 5-15-3 NMSA 1978 (being Laws 2006,
19 Chapter 75, Section 3, as amended by Laws 2019, Chapter 212,
20 Section 199 and also by Laws 2019, Chapter 275, Section 1) is
21 amended to read:

22 "5-15-3. DEFINITIONS.--As used in the Tax Increment for
23 Development Act:

24 A. "base gross receipts taxes" means:

25 (1) the total amount of gross receipts [~~taxes~~

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1 ~~collected within~~ tax revenue attributable to the gross
2 receipts sourced to a tax increment development district
3 pursuant to Section 7-1-14 NMSA 1978, as ~~[estimated by the~~
4 ~~governing body that adopted a resolution to form that district,~~
5 ~~in consultation with]~~ calculated by the taxation and revenue
6 department, in the ~~[calendar year preceding the formation of~~
7 ~~the tax increment development district or, when an area is~~
8 ~~added to an existing district, the amount of gross receipts~~
9 ~~taxes collected in the calendar year preceding the effective~~
10 ~~date of the modification of the tax increment development plan]~~
11 base period and designated by the governing body to be
12 available as part of the gross receipts tax increment; and

13 (2) any amount of gross receipts taxes that
14 would have been collected in ~~[such year]~~ the base period if any
15 applicable additional gross receipts taxes imposed after that
16 ~~[year]~~ base period had been imposed in that ~~[year]~~ base period;

17 B. "base period" means, unless as revised pursuant
18 to Sections 5-15-25.1 and 5-15-25.2 NMSA 1978, the first twelve
19 months following designation of a new reporting location code
20 by the taxation and revenue department following notice of the
21 formation of a district pursuant to Section 5-15-9 NMSA 1978;

22 ~~[B.]~~ C. "base property taxes" means:

23 (1) the portion of property taxes produced by
24 the total of all property tax levied at the rate fixed each
25 year by each governing body levying a property tax on the

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1 assessed value of taxable property within the tax increment
2 development area last certified for the year ending immediately
3 prior to the year in which a tax increment development plan is
4 approved for the tax increment development area, or, when an
5 area is added to an existing tax increment development area,
6 "base property taxes" means that portion of property taxes
7 produced by the total of all property tax levied at the rate
8 fixed each year by each governing body levying a property tax
9 upon the assessed value of taxable property within the tax
10 increment development area on the date of the modification of
11 the tax increment development plan and designated by the
12 governing body to be available as part of the property tax
13 increment; and

14 (2) any amount of property taxes that would
15 have been collected in such year if any applicable additional
16 property taxes imposed after that year had been imposed in that
17 year;

18 ~~[G-]~~ D. "county option gross receipts ~~[taxes]~~ tax"
19 means gross receipts taxes imposed by counties pursuant to the
20 County Local Option Gross Receipts Taxes Act and designated by
21 the governing body of the county to be available as part of the
22 gross receipts tax increment;

23 E. "developer" means the owner or developer who has
24 entered into an agreement pursuant to Subsection A of Section
25 5-15-4 NMSA 1978 with the governing body that formed the

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1 district or the owner's or developer's successors or assigns;

2 ~~[D.]~~ F. "district" means a tax increment
3 development district;

4 ~~[E.]~~ G. "district board" means a board formed in
5 accordance with the provisions of the Tax Increment for
6 Development Act to govern a tax increment development district;

7 ~~[F.]~~ H. "enhanced services" means public services
8 provided by a municipality or county within the district at a
9 higher level or to a greater degree than otherwise available to
10 the land located in the district from the municipality or
11 county, including such services as public safety, fire
12 protection, street or sidewalk cleaning or landscape
13 maintenance in public areas; provided that "enhanced services"
14 does not include the basic operation and maintenance related to
15 infrastructure improvements financed by the district pursuant
16 to the Tax Increment for Development Act;

17 ~~[G.]~~ I. "governing body" means the city council or
18 city commission of a city, the board of trustees or council of
19 a town or village or the board of county commissioners of a
20 county;

21 ~~[H.]~~ J. "gross receipts tax increment" means the
22 gross receipts taxes ~~[collected within]~~ sourced to a tax
23 increment development district in excess of the base gross
24 receipts taxes collected in the district;

25 ~~[I.]~~ K. "gross receipts tax increment bonds" means

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1 bonds issued by a district in accordance with the Tax Increment
2 for Development Act, the pledged revenue for which is a gross
3 receipts tax increment;

4 [J-] L. "local government" means a municipality or
5 county;

6 [K-] M. "municipal option gross receipts [~~taxes~~]
7 tax" means those gross receipts taxes imposed by municipalities
8 pursuant to the Municipal Local Option Gross Receipts Taxes Act
9 and designated by the governing body of the municipality to be
10 available as part of the gross receipts tax increment;

11 [L-] N. "municipality" means an incorporated city,
12 town or village;

13 [M-] O. "new full-time economic base job" means a
14 job:

15 (1) that is primarily performed in New Mexico;

16 (2) that is held by an employee who is hired
17 to work an average of at least thirty-two hours per week for at
18 least forty-eight weeks per year;

19 (3) that is:

20 (a) involved, directly or in a
21 supervisory capacity, with the production of: 1) a service;
22 provided that the majority of the revenue generated from the
23 service is from sources outside the state; or 2) tangible or
24 intangible personal property for sale; or

25 (b) held by an employee that is employed

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1 at a regional, national or international headquarters operation
2 or at an operation that primarily provides services for other
3 operations of the qualifying entity that are located outside
4 the state; and

5 (4) that is not directly involved with natural
6 resources extraction or processing, on-site services where the
7 customer is typically present for the delivery of the service,
8 call center, retail, construction or agriculture except for
9 value-added processing performed on agricultural products that
10 would then be sold for wholesale or retail consumption;

11 [~~N-~~] P. "owner" means a person owning real property
12 within the boundaries of a district;

13 [~~O-~~] Q. "person" means an individual, corporation,
14 association, partnership, limited liability company or other
15 legal entity;

16 [~~P-~~] R. "project" means a tax increment development
17 project;

18 [~~Q-~~] S. "property tax increment" means all property
19 tax collected on real property within the designated tax
20 increment development area that is in excess of the base
21 property tax until termination of the district and distributed
22 to the district in the same manner as distributions are made
23 under the provisions of the Tax Administration Act;

24 [~~R-~~] T. "property tax increment bonds" means bonds
25 issued by a district in accordance with the Tax Increment for

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1 Development Act, the pledged revenue for which is a property
2 tax increment;

3 ~~[S-]~~ U. "public improvements" means on-site
4 improvements and off-site improvements that directly or
5 indirectly benefit a tax increment development district or
6 facilitate development within a tax increment development area
7 and that are dedicated to the governing body in which the
8 district lies. "Public improvements" includes:

9 (1) sanitary sewage systems, including
10 collection, transport, treatment, dispersal, effluent use and
11 discharge;

12 (2) drainage and flood control systems,
13 including collection, transport, storage, treatment, dispersal,
14 effluent use and discharge;

15 (3) water systems for domestic, commercial,
16 office, hotel or motel, industrial, irrigation, municipal or
17 fire protection purposes, including production, collection,
18 storage, treatment, transport, delivery, connection and
19 dispersal;

20 (4) highways, streets, roadways, bridges,
21 crossing structures and parking facilities, including all areas
22 for vehicular use for travel, ingress, egress and parking;

23 (5) trails and areas for pedestrian,
24 equestrian, bicycle or other non-motor vehicle use for travel,
25 ingress, egress and parking;

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1 (6) pedestrian and transit facilities, parks,
2 recreational facilities and open space areas for the use of
3 members of the public for entertainment, assembly and
4 recreation;

5 (7) landscaping, including earthworks,
6 structures, plants, trees and related water delivery systems;

7 (8) public buildings, public safety facilities
8 and fire protection and police facilities;

9 (9) electrical generation, transmission and
10 distribution facilities;

11 (10) natural gas distribution facilities;

12 (11) lighting systems;

13 (12) cable or other telecommunications lines
14 and related equipment;

15 (13) traffic control systems and devices,
16 including signals, controls, markings and signage;

17 (14) school sites and facilities with the
18 consent of the governing board of the public school district
19 for which the facility is to be acquired, constructed or
20 renovated;

21 (15) library and other public educational or
22 cultural facilities;

23 (16) equipment, vehicles, furnishings and
24 other personal property related to the items listed in this
25 subsection;

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1 (17) inspection, construction management,
2 planning and program management and other professional services
3 costs incidental to the project;

4 (18) workforce housing; and

5 (19) any other improvement that the governing
6 body determines to be for the use or benefit of the public;

7 ~~[F.]~~ V. "state gross receipts tax" means the gross
8 receipts tax imposed pursuant to the Gross Receipts and
9 Compensating Tax Act, but does not include that portion
10 distributed to municipalities pursuant to Sections 7-1-6.4 and
11 7-1-6.46 NMSA 1978 or to counties pursuant to Section 7-1-6.47
12 NMSA 1978;

13 ~~[H.]~~ W. "sustainable development" means land
14 development that achieves sustainable economic and social goals
15 in ways that can be supported for the long term by conserving
16 resources, protecting the environment and ensuring human health
17 and welfare using mixed-use, pedestrian-oriented, multimodal
18 land use planning;

19 ~~[V.]~~ X. "tax increment development area" means the
20 land included within the boundaries of a tax increment
21 development district;

22 ~~[W.]~~ Y. "tax increment development district" means
23 a district formed for the purposes of carrying out tax
24 increment development projects;

25 ~~[X.]~~ Z. "tax increment development plan" means a

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1 plan for the undertaking of a tax increment development
2 project;

3 [~~Y.~~] AA. "tax increment development project" means
4 activities undertaken within a tax increment development area
5 to enhance the sustainability of the local, regional or
6 statewide economy; to support the creation of jobs, schools and
7 workforce housing; and to generate tax revenue for the
8 provision of public improvements and may include:

9 (1) acquisition of land within a designated
10 tax increment development area or a portion of that tax
11 increment development area;

12 (2) demolition and removal of buildings and
13 improvements and installation, construction or reconstruction
14 of streets, utilities, parks, playgrounds and improvements
15 necessary to carry out the objectives of the Tax Increment for
16 Development Act;

17 (3) installation, construction or
18 reconstruction of streets, water utilities, sewer utilities,
19 parks, playgrounds and other public improvements necessary to
20 carry out the objectives of the Tax Increment for Development
21 Act;

22 (4) disposition of property acquired or held
23 by a tax increment development district as part of the
24 undertaking of a tax increment development project at the fair
25 market value of such property for uses in accordance with the

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1 Tax Increment for Development Act;

2 (5) payments for professional services
3 contracts necessary to implement a tax increment development
4 plan or project;

5 (6) borrowing to purchase land, buildings or
6 infrastructure in an amount not to exceed the revenue stream
7 that may be derived from the gross receipts tax increment or
8 the property tax increment estimated to be received by a tax
9 increment development district; and

10 (7) grants for public improvements essential
11 to the location or expansion of a business;

12 [~~Z.~~] BB. "taxing entity" means the governing body
13 of a political subdivision of the state, the gross receipts tax
14 increment or property tax increment of which may be used for a
15 tax increment development project; and

16 [~~AA.~~] CC. "workforce housing" means decent, safe
17 and sanitary dwellings, apartments, single-family dwellings or
18 other living accommodations that are affordable for persons or
19 families earning less than eighty percent of the median income
20 within the county in which the tax increment development
21 project is located; provided that an owner-occupied housing
22 unit is affordable to a household if the expected sales price
23 is reasonably anticipated to result in monthly housing costs
24 that do not exceed thirty-three percent of the household's
25 gross monthly income; provided that:

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1 (1) determination of mortgage amounts and
2 payments is to be based on down payment rates and interest
3 rates generally available to lower- and moderate-income
4 households; and

5 (2) a renter-occupied housing unit is
6 affordable to a household if the unit's monthly housing costs,
7 including rent and basic utility and energy costs, do not
8 exceed thirty-three percent of the household's gross monthly
9 income."

10 SECTION 3. Section 5-15-9 NMSA 1978 (being Laws 2006,
11 Chapter 75, Section 9, as amended) is amended to read:

12 "5-15-9. FORMATION OF A DISTRICT.--

13 A. If the formation of the tax increment
14 development district is approved in accordance with the
15 provisions of Section 5-15-8 NMSA 1978, the governing body
16 shall deliver a copy of the resolution ordering formation of
17 the tax increment development district to each of the following
18 persons or entities:

19 (1) the county assessor, the county treasurer
20 and the clerk of the county in which the district is located;

21 (2) the school district within which any
22 portion of the property located within a tax increment
23 development area lies;

24 (3) any other taxing entities within which any
25 portion of the property located within a tax increment

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1 development area lies;

2 (4) the taxation and revenue department;

3 (5) the local government division of the
4 department of finance and administration; and

5 (6) the director of the legislative finance
6 committee.

7 B. A notice of the formation showing the number and
8 date of the resolution and giving a description of the land
9 included in the district shall be recorded with the clerk of
10 the county in which the district is located.

11 C. A tax increment development district shall be a
12 political subdivision of the state, separate and apart from a
13 municipality or county.

14 D. By the July 1 following at least ninety days
15 after receipt of the notice required by this section, the
16 taxation and revenue department shall designate a reporting
17 location code for the tax increment development district
18 pursuant to Section 7-1-14 NMSA 1978."

19 SECTION 4. Section 5-15-15 NMSA 1978 (being Laws 2006,
20 Chapter 75, Section 15, as amended by Laws 2019, Chapter 274,
21 Section 8 and by Laws 2019, Chapter 275, Section 2) is amended
22 to read:

23 "5-15-15. TAX INCREMENT FINANCING--GROSS RECEIPTS TAX
24 INCREMENT TO SECURE BONDS.--

25 A. A tax increment development plan, as originally

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1 approved or as later modified, may contain a provision that
2 gross receipts tax increments [~~collected within~~] sourced to the
3 tax increment development area [~~after the effective date of~~
4 ~~approval of the tax increment development plan~~] pursuant to
5 Section 7-1-14 NMSA 1978 and distributed to the district
6 pursuant to Section 7-1-6.54 NMSA 1978 may be dedicated for the
7 purpose of securing gross receipts tax increment bonds pursuant
8 to the Tax Increment for Development Act.

9 B. A municipality may dedicate a portion of [~~a~~
10 ~~gross receipts tax increment from~~] any of the following [~~taxes~~]
11 to pay the principal of, the interest on and any premium due in
12 connection with the bonds of, loans or advances to, or any
13 indebtedness incurred by, whether funded, refunded, assumed or
14 otherwise, the authority for financing or refinancing, in whole
15 or in part, a tax increment development project within the tax
16 increment development area:

17 (1) an increment of a municipal option gross
18 receipts tax that is dedicated by the ordinance imposing the
19 increment to the tax increment development project; and

20 (2) an amount distributed to municipalities
21 pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA 1978.

22 C. A county may dedicate a portion of [~~a gross~~
23 ~~receipts tax increment from~~] any of the following [~~taxes~~] to
24 pay the principal of, the interest on and any premium due in
25 connection with the bonds of, loans or advances to or any

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1 indebtedness incurred by, whether funded, refunded, assumed or
2 otherwise, the district for financing or refinancing, in whole
3 or in part, a tax increment development project within the tax
4 increment development area:

5 (1) an increment of a county option gross
6 receipts tax that is dedicated by the ordinance imposing the
7 increment to the tax increment development project; and

8 (2) the amount distributed to counties
9 pursuant to Section 7-1-6.47 NMSA 1978.

10 D. Subject to the provisions of Subsection G of
11 this section, the state board of finance may dedicate a gross
12 receipts tax increment attributable to the state gross receipts
13 tax to pay the financing and refinancing costs, the principal
14 of, the interest on and any premium due in connection with
15 gross receipts tax increment bonds issued to finance a tax
16 increment development project within the tax increment
17 development area; provided that:

18 (1) beginning July 1, 2029 the increment from
19 the state gross receipts tax is no more than the average of:

20 (a) the increment from municipal option
21 gross receipts taxes dedicated by resolution by the
22 municipality, if the district is located in a municipality; and

23 (b) the increment from county option
24 gross receipts taxes dedicated by resolution by the county;

25 (2) the state board of finance has adopted a

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1 resolution dedicating an increment attributable to the state
2 gross receipts tax for the purpose of securing gross receipts
3 tax increment bonds pursuant to Subsection G of this section;
4 and

5 (3) the dedication shall be conditioned on the
6 gross receipts tax increment bonds being issued no later than
7 four years after the state board of finance has adopted the
8 resolution dedicating the increment.

9 E. The gross receipts tax increment generated by
10 the imposition of municipal or county option gross receipts
11 taxes specified by statute for particular purposes may
12 nonetheless be dedicated for the purposes of the Tax Increment
13 for Development Act if intent to do so is set forth in the tax
14 increment development plan approved by the governing body, if
15 the purpose for which the increment is intended to be used is
16 consistent with the purposes set forth in the statute
17 authorizing the municipal or county option gross receipts tax.

18 F. An imposition of a gross receipts tax increment
19 attributable to a gross receipts tax by a taxing entity may be
20 dedicated for the purpose of securing gross receipts tax
21 increment bonds with the agreement of the taxing entity,
22 evidenced by a resolution adopted by a majority vote of that
23 taxing entity. A taxing entity shall not agree to dedicate for
24 the purposes of securing gross receipts tax increment bonds
25 more than seventy-five percent of its gross receipts tax

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1 increment attributable to gross receipts taxes by the taxing
2 entity. A resolution of the taxing entity to dedicate a gross
3 receipts tax increment or to increase the dedication of a gross
4 receipts tax increment shall become effective only on [~~January~~
5 ~~1-or~~] July 1 of the calendar year pursuant to Subsection A of
6 Section 5-15-3 NMSA 1978 and after base gross receipts taxes
7 have been calculated.

8 G. The state board of finance shall condition a
9 dedication of a gross receipts tax increment attributable to
10 the state gross receipts tax on the approval required pursuant
11 to Section 5-15-21 NMSA 1978, on calculation of base gross
12 receipts taxes and that the initial gross receipts tax
13 increment bonds issuance secured by a portion of the gross
14 receipts tax increment attributable to the state gross receipts
15 tax shall be issued no later than four years after the state
16 board of finance has adopted the resolution making the
17 dedication. Subject to the limitations provided in Subsection
18 D of this section, the state board of finance shall not agree
19 to dedicate more than seventy-five percent of the gross
20 receipts tax increment attributable to the state gross receipts
21 tax within the district. The resolution of the state board of
22 finance shall become effective on [~~January 1-or~~] July 1 of the
23 calendar year pursuant to Subsection A of Section 5-15-3 NMSA
24 1978 following calculation of base gross receipts taxes and the
25 notification period pursuant to Section 5-15-27 NMSA 1978 and

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1 shall find that:

2 (1) the state board of finance has reviewed
3 the request for the use of the state gross receipts tax;

4 (2) based upon review by the state board of
5 finance of the applicable tax increment development plan, the
6 dedication by the state board of finance of a portion of the
7 gross receipts tax increment within the district for use in
8 meeting the required goals of the tax increment plan is
9 reasonable and in the best interest of the state; and

10 (3) based upon the review by the state board
11 of finance, the use of the state gross receipts tax is likely
12 to stimulate the creation of jobs, economic opportunities and
13 general revenue for the state through the addition of new
14 businesses to the state and the expansion of existing
15 businesses within the state; provided that, when reviewing the
16 applicable tax increment development plan to create jobs and
17 economic opportunities, the state board of finance shall
18 prioritize in its consideration net, new full-time economic
19 base jobs that would not have occurred on a similar scale and
20 time line but for the use of the state gross receipts tax
21 increment. The benefit to be evaluated is the marginal benefit
22 of the speed-up in time or the incremental change in job
23 creation above expected normal growth and shall exclude retail
24 jobs, call center jobs and service jobs where the customer is
25 typically on site.

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1 H. The governing body of the jurisdiction in which
2 a tax increment development district has been established shall
3 timely notify the assessor of the county in which the district
4 has been established, the taxation and revenue department and
5 the local government division of the department of finance and
6 administration when:

7 (1) a tax increment development plan has been
8 approved that contains a provision for the allocation of a
9 gross receipts tax increment;

10 (2) any outstanding bonds of the district have
11 been paid off; and

12 (3) the purposes of the district have
13 otherwise been achieved."

14 **SECTION 5.** Section 5-15-21 NMSA 1978 (being Laws 2006,
15 Chapter 75, Section 21, as amended) is amended to read:

16 "5-15-21. APPROVAL REQUIRED FOR ISSUANCE OF BONDS AGAINST
17 STATE GROSS RECEIPTS TAX INCREMENTS.--

18 A. In addition to all other requirements of the Tax
19 Increment for Development Act, prior to a district board
20 issuing bonds that are issued in whole or in part against a
21 gross receipts tax increment attributable to the state gross
22 receipts tax [~~within~~] sourced to a district and before a
23 distribution attributable to the state gross receipts tax is
24 made pursuant to Section 7-1-6.54 NMSA 1978, the New Mexico
25 finance authority shall review the proposed issuance of the

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1 bonds and determine that the proceeds of the bonds will be used
2 for a tax increment development project in accordance with the
3 district's tax increment development plan and present the
4 proposed issuance of the bonds to the legislature for approval.

5 B. The issuance of the bonds and the maximum amount
6 of bonds to be issued shall be specifically authorized by law."

7 SECTION 6. Section 5-15-25.1 NMSA 1978 (being Laws 2014,
8 Chapter 11, Section 1) is amended to read:

9 "5-15-25.1. BASE [~~YEAR~~] PERIOD REVISION--RESOLUTION--
10 COMMENT PERIOD--SUBMISSION OF MATERIALS.--

11 A. A district may revise the base [~~year~~] period
12 that the district uses to determine its gross receipts tax
13 increment. To initiate the process of revising its base [~~year~~]
14 period, a district board shall:

15 (1) adopt a resolution declaring that intent;
16 and

17 (2) forward copies of the adopted resolution
18 to the secretary of taxation and revenue, the secretary of
19 finance and administration, the developer and the local
20 governments that have dedicated a tax increment to the
21 district.

22 B. The taxation and revenue department, the
23 department of finance and administration, the developer and the
24 local governments that have dedicated a tax increment to the
25 district may submit written comments to the district with

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1 copies sent to the state board of finance for fifteen days
2 after receiving a copy of a district board's resolution
3 indicating the board's intent to revise the base [~~year~~] period
4 used to determine the district's gross receipts tax increment.

5 C. No more than forty-five days after adopting the
6 resolution declaring the intent to revise the base [~~year~~]
7 period that the district uses to determine its gross receipts
8 tax increment, the district board shall submit to the state
9 board of finance and send copies to the developer and any local
10 government that has dedicated a tax increment to the district:

11 (1) a copy of the resolution;

12 (2) all comments on the matter that the
13 district received from the taxation and revenue department, the
14 department of finance and administration, the developer and the
15 local governments that have dedicated a tax increment to the
16 district; and

17 (3) any other related documentation.

18 [~~D. As used in this section, "developer" means the
19 owner or developer who has entered into an agreement pursuant
20 to Subsection A of Section 5-15-4 NMSA 1978 with the governing
21 body that formed the district or the owner's or developer's
22 successors or assigns.]~~"]

23 SECTION 7. Section 5-15-25.2 NMSA 1978 (being Laws 2014,
24 Chapter 11, Section 2) is amended to read:

25 "5-15-25.2. BASE [~~YEAR~~] PERIOD REVISION--APPROVAL.--

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A. The state board of finance may approve the revision of the base [~~year~~] period used to determine a district's gross receipts tax increment:

(1) once during the lifetime of the district;

~~[(2) if the revised year is a calendar year that is completed;~~

~~(3)]~~ (2) if no gross receipts tax increment bonds attributable to the district have been issued;

~~[(4)]~~ (3) if there is no unresolved objection to the revision by the developer or by a local government that has dedicated a tax increment to the district; and

~~[(5)]~~ (4) upon a finding that the revision is reasonable and in the best interest of the state.

B. If the state board of finance approves the revision of the base [~~year~~] period used to determine a district's gross receipts tax increment, the state board of finance shall notify the district, the secretary of taxation and revenue, the developer and the local governments that have dedicated a tax increment to the district.

~~[G. As used in this section, "developer" means the owner or developer who has entered into an agreement pursuant to Subsection A of Section 5-15-4 NMSA 1978 with the governing body that formed the district or the owner's or developer's successors or assigns.]"~~

SECTION 8. Section 5-15-25.3 NMSA 1978 (being Laws 2014,

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1 Chapter 11, Section 3) is amended to read:

2 "5-15-25.3. BASE [~~YEAR~~] PERIOD REVISION--EFFECT.--

3 A. Upon notice of the approval of a revision of the
4 base [~~year~~] period used to determine a district's gross
5 receipts tax increment, the district shall:

6 (1) return to the taxation and revenue
7 department any gross receipts tax increment credited to the
8 period between the time that the revenue collection began and
9 the end of the revised base [~~year~~] period and distributed to
10 the district;

11 (2) update the district tax increment
12 development plan to reflect the revision; and

13 (3) file with the clerk of the governing body
14 that formed the district the revised tax increment development
15 plan.

16 B. Upon receipt of the revenue identified in
17 Paragraph (1) of Subsection A of this section, the taxation and
18 revenue department shall remit to the taxing entities that have
19 dedicated a gross receipts tax increment to the district an
20 amount of that revenue in proportion to the amount of gross
21 receipts tax increment attributable to their dedication."

22 **SECTION 9.** Section 5-15-27 NMSA 1978 (being Laws 2006,
23 Chapter 75, Section 27, as amended) is amended to read:

24 "5-15-27. DEDICATION OF GROSS RECEIPTS TAX INCREMENT--
25 NOTICE TO TAXATION AND REVENUE DEPARTMENT.--

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1 A. If the state board of finance or a taxing entity
2 approves a dedication or increase in the dedication of a gross
3 receipts tax increment to a district, the state board of
4 finance or the taxing entity shall notify the taxation and
5 revenue department of that approval at least one hundred twenty
6 days before the [~~effective date of the dedication or increase~~
7 ~~in the dedication~~] date on which the taxation and revenue
8 department is requested to designate a reporting location code
9 pursuant to Section 7-1-14 NMSA 1978 for the district in order
10 to calculate the district's base gross receipts taxes; provided
11 that the effective date of the dedication by the state board of
12 finance is on or after the date base gross receipts taxes have
13 been calculated and the bonds are approved by the legislature
14 pursuant to Section 5-15-21 NMSA 1978.

15 B. In regard to a dedication of a gross receipts
16 tax increment attributable to the state gross receipts tax, if
17 the approval required pursuant to Section 5-15-21 NMSA 1978 has
18 not occurred when the notice pursuant to Subsection A of this
19 section is made, the state board of finance shall include in
20 the notice that legislative approval is needed prior to a
21 distribution pursuant to Section 7-1-6.54 NMSA 1978
22 attributable to the state gross receipts tax can be made. Upon
23 approval pursuant to Section 5-15-21 NMSA 1978, the state board
24 of finance shall notify the department of the approval."

25 **SECTION 10.** Section 7-1-4.4 NMSA 1978 (being Laws 2005,
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1 Chapter 138, Section 1) is amended to read:

2 "7-1-4.4. NOTICE OF POTENTIAL ELIGIBILITY REQUIRED.--The
3 department shall include a notice with an income tax refund or
4 other notice sent to a taxpayer whose income is within one
5 hundred thirty percent of federal poverty guidelines as defined
6 by the United States census bureau that the taxpayer may be
7 eligible for [~~food stamps~~] supplemental nutrition assistance
8 program benefits. Included in the notice shall be general
9 information about [~~food stamps~~] those benefits, such as where
10 to apply for [~~food stamps~~] those benefits, based on information
11 received by the department from the [~~human services department~~]
12 health care authority by January 30 of each calendar year."

13 SECTION 11. Section 7-1-6.2 NMSA 1978 (being Laws 1983,
14 Chapter 211, Section 7, as amended) is amended to read:

15 "7-1-6.2. DISTRIBUTION--SMALL CITIES ASSISTANCE FUND.--
16 Subject to any increase or decrease made pursuant to Section
17 7-1-6.15 NMSA 1978, a distribution pursuant to Section 7-1-6.1
18 NMSA 1978 shall be made to the small cities assistance fund in
19 an amount equal to fifteen percent of the net receipts
20 attributable to the compensating tax."

21 SECTION 12. Section 7-1-6.4 NMSA 1978 (being Laws 1983,
22 Chapter 211, Section 9, as amended) is amended to read:

23 "7-1-6.4. DISTRIBUTION--MUNICIPALITY FROM GROSS RECEIPTS
24 TAX.--

25 A. Except as provided in Subsection B of this

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1 section, a distribution pursuant to Section 7-1-6.1 NMSA 1978
2 shall be made to each municipality in an amount, subject to any
3 increase or decrease made pursuant to Section 7-1-6.15 NMSA
4 1978, equal to the product of the quotient of one and two
5 hundred twenty-five thousandths percent divided by the tax rate
6 imposed by Section 7-9-4 NMSA 1978 multiplied by the net
7 receipts, except net receipts attributable to a nonprofit
8 hospital licensed by the [~~department of~~] health care authority,
9 for the month attributable to the gross receipts tax from
10 business locations:

- 11 (1) within that municipality;
- 12 (2) on land owned by the state, commonly known
13 as the "state fairgrounds", within the exterior boundaries of
14 that municipality;
- 15 (3) outside the boundaries of any municipality
16 on land owned by that municipality; and
- 17 (4) on an Indian reservation or pueblo grant
18 in an area that is contiguous to that municipality and in which
19 the municipality performs services pursuant to a contract
20 between the municipality and the Indian tribe or Indian pueblo
21 if:

- 22 (a) the contract describes an area in
23 which the municipality is required to perform services and
24 requires the municipality to perform services that are
25 substantially the same as the services the municipality

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1 performs for itself; and

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

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

17 ~~G.]~~ B. A distribution pursuant to this section may
18 be adjusted for a distribution made to a tax increment
19 development district with respect to a portion of a gross
20 receipts tax increment dedicated by a municipality pursuant to
21 the Tax Increment for Development Act.

22 ~~[D.]~~ C. As used in this section, "nonprofit
23 hospital" means a hospital that has been granted exemption from
24 federal income tax by the United States commissioner of
25 internal revenue as an organization described in Section

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1 501(c)(3) of the Internal Revenue Code."

2 SECTION 13. Section 7-1-6.5 NMSA 1978 (being Laws 1983,
3 Chapter 211, Section 10 and Laws 1983, Chapter 214, Section 6,
4 as amended) is amended to read:

5 "7-1-6.5. DISTRIBUTION--SMALL COUNTIES ASSISTANCE FUND.--
6 Subject to any increase or decrease made pursuant to Section
7 7-1-6.15 NMSA 1978, a distribution pursuant to Section 7-1-6.1
8 NMSA 1978 shall be made to the small counties assistance fund
9 in an amount equal to ten percent of the net receipts
10 attributable to the compensating tax."

11 SECTION 14. Section 7-1-6.9 NMSA 1978 (being Laws 1991,
12 Chapter 9, Section 11, as amended) is amended to read:

13 "7-1-6.9. DISTRIBUTION OF GASOLINE TAXES TO
14 MUNICIPALITIES AND COUNTIES.--

15 A. A distribution pursuant to Section 7-1-6.1 NMSA
16 1978 shall be made in an amount, subject to any increase or
17 decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to
18 ten and thirty-eight hundredths percent of the net receipts
19 attributable to the taxes, exclusive of penalties and interest,
20 imposed by the Gasoline Tax Act.

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

23 (1) ninety percent of the amount shall be paid
24 to the treasurers of municipalities and H class counties in the
25 proportion that the taxable motor fuel sales in each of the

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1 municipalities and H class counties bears to the aggregate
2 taxable motor fuel sales in all of these municipalities and H
3 class counties; and

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

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

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1 distribution of revenues under this section impressed with and
2 subject to these pledges.

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

7 SECTION 15. Section 7-1-6.15 NMSA 1978 (being Laws 1983,
8 Chapter 211, Section 20, as amended) is amended to read:

9 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS [~~TO~~
10 ~~MUNICIPALITIES OR COUNTIES~~].--

11 A. The provisions of this section apply to:

12 (1) any distribution to a municipality
13 pursuant to Section 7-1-6.2, 7-1-6.4, 7-1-6.36 or 7-1-6.46 NMSA
14 1978;

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

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

21 (4) any distribution to a county pursuant to
22 Section 7-1-6.5, 7-1-6.16 or 7-1-6.47 NMSA 1978;

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

25 (6) any transfer to a county with respect to

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1 any tax imposed in accordance with the Local Liquor Excise Tax
2 Act;

3 (7) any distribution to a county from the
4 county government road fund pursuant to Section 7-1-6.26 NMSA
5 1978;

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

8 [~~(9) any distribution to a municipality of~~
9 ~~compensating taxes pursuant to Section 7-1-6.55 NMSA 1978; and]~~

10 (9) any distribution to the state treasurer on
11 behalf of a political subdivision of oil and gas ad valorem
12 production taxes pursuant to Sections 7-32-1 through 7-32-38
13 NMSA 1978;

14 (10) any distribution to a political
15 subdivision of oil and gas production ad valorem equipment tax
16 pursuant to Sections 7-34-1 through 7-34-9 NMSA 1978; and

17 [~~(10)~~] (11) any distribution to a municipality
18 or a county of cannabis excise taxes pursuant to [the Cannabis
19 Tax Act] Section 7-1-6.68 NMSA 1978.

20 B. Before making a distribution or transfer
21 specified in Subsection A of this section [~~to a municipality,~~
22 ~~or county]~~ for the month, amounts comprising the net receipts
23 shall be segregated into two mutually exclusive categories.
24 One category shall be for amounts relating to the current
25 month, and the other category shall be for amounts relating to

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1 prior periods. The total of each category for a [~~municipality~~
2 ~~or county~~] distribution recipient shall be reported each month
3 to [~~that municipality or county~~] the recipient; provided that
4 all negative amounts relating to a period prior to the three
5 calendar years preceding the year of the current month, net of
6 any positive amounts in that same time period for the same
7 taxpayers to which the negative amounts pertain, shall be
8 excluded from the total relating to prior periods; provided
9 further, if the total of the amounts relating to prior periods
10 is less than zero and its absolute value exceeds the greater of
11 one hundred dollars (\$100) or an amount:

12 (1) equal to twenty percent of the average
13 distribution or transfer amount for that [~~municipality or~~
14 ~~county~~, then the following procedures shall be carried out:

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

25 ~~(2) if the revised total for prior periods~~

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1 ~~determined pursuant to Paragraph (1) of this subsection is~~
2 ~~negative and its absolute value exceeds the greater of one~~
3 ~~hundred dollars (\$100) or an amount equal to twenty percent of~~
4 ~~the average distribution or transfer amount for that~~
5 ~~municipality or county]~~ recipient, the revised total for prior
6 periods shall be excluded from the distribution or transfers
7 and the net receipts to be distributed or transferred to the
8 [~~municipality or county]~~ recipient shall be equal to the amount
9 for the current month; and provided further that the department
10 shall recover the excluded amount from the recipient; or

11 (2) less than twenty percent of the average
12 distribution or transfer amount for that recipient, the net
13 receipts to be distributed or transferred to the recipient
14 shall be adjusted to equal the amount for the current month
15 plus the revised total for prior periods.

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

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

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1 (1) that the department has made such an
2 adjustment, that the department has determined that a specified
3 amount is recoverable from the [~~municipality or county~~]
4 recipient and that the department intends to recover that
5 amount from future distributions or transfers to the
6 [~~municipality or county~~] recipient;

7 (2) that the [~~municipality or county~~]
8 recipient has ninety days from the date notice is made to enter
9 into a mutually agreeable repayment agreement with the
10 department;

11 (3) that if the [~~municipality or county~~]
12 recipient takes no action within the ninety-day period, the
13 department will recover the amount from the next six
14 distributions or transfers following the expiration of the
15 ninety days; and

16 (4) that the [~~municipality or county~~]
17 recipient may inspect, pursuant to Section 7-1-8.9 NMSA 1978,
18 an application for a claim for refund that gave rise to the
19 recoverable amount, exclusive of any amended returns that may
20 be attached to the application.

21 E. No earlier than ninety days from the date notice
22 pursuant to Subsection D of this section is given, the
23 department shall begin recovering the recoverable amount from a
24 [~~municipality or county~~] distribution recipient as follows:

25 (1) the department may collect the recoverable

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1 amount by:

2 (a) decreasing distributions or
3 transfers to the ~~[municipality or county]~~ recipient in
4 accordance with a repayment agreement entered into with the
5 ~~[municipality or county]~~ recipient; or

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

13 (2) if, pursuant to Subsection B of this
14 section, the secretary determines that the recoverable amount
15 is more than fifty percent of the average distribution or
16 transfer of net receipts for that ~~[municipality or county]~~
17 recipient, the secretary:

18 (a) shall recover only up to fifty
19 percent of the average distribution or transfer of net receipts
20 for that ~~[municipality or county]~~ recipient; and

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

24 (3) if, after application of a refund claim,
25 audit adjustment, correction of a mistake by the department or

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1 other adjustment of a prior period, but prior to any recovery
2 of the department pursuant to this section, the total net
3 receipts of a [~~municipality or county~~] recipient for the
4 twelve-month period beginning with the current month are
5 reduced or are projected to be reduced to less than fifty
6 percent of the average distribution or transfer of net
7 receipts, the secretary may waive recovery of any portion of
8 the recoverable amount, subject to approval by the state board
9 of finance.

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

18 G. On or before September 1 of each year beginning
19 in 2016, the secretary shall report to the state board of
20 finance and the legislative finance committee the total
21 recoverable amount waived pursuant to Subparagraph (b) of
22 Paragraph (2) and Paragraph (3) of Subsection E of this section
23 for each [~~municipality and county~~] distribution recipient in
24 the prior fiscal year.

25 H. The secretary is authorized to decrease a

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1 distribution or transfer to a [~~municipality or county~~]
2 distribution recipient upon being directed to do so by the
3 secretary of finance and administration pursuant to the State
4 Aid Intercept Act or to redirect a distribution or transfer to
5 the New Mexico finance authority pursuant to an ordinance or a
6 resolution passed by the [~~county or municipality~~] recipient and
7 a written agreement of the [~~municipality or county~~] recipient
8 and the New Mexico finance authority. Upon direction to
9 decrease a distribution or transfer or notice to redirect a
10 distribution or transfer to a [~~municipality or county~~]
11 recipient, the secretary shall decrease or redirect the next
12 designated distribution or transfer, and succeeding
13 distributions or transfers as necessary, by the amount of the
14 state distributions intercept authorized by the secretary of
15 finance and administration pursuant to the State Aid Intercept
16 Act or by the amount of the state distribution intercept
17 authorized pursuant to an ordinance or a resolution passed by
18 the [~~county or municipality~~] recipient and a written agreement
19 with the New Mexico finance authority. The secretary shall
20 transfer the state distributions intercept amount to the
21 [~~municipal or county~~] recipient treasurer or other person
22 designated by the secretary of finance and administration or to
23 the New Mexico finance authority pursuant to written agreement
24 to pay the debt service to avoid default on qualified local
25 revenue bonds or meet other local revenue bond, loan or other

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1 debt obligations of the [~~municipality or county~~] recipient to
2 the New Mexico finance authority. A decrease to or redirection
3 of a distribution or transfer pursuant to this subsection that
4 arose:

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

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

17 I. Upon the direction of the secretary of finance
18 and administration pursuant to Section 9-6-5.2 NMSA 1978, the
19 secretary shall temporarily withhold the balance of a
20 distribution to a [~~municipality or county~~] distribution
21 recipient, net of any decrease or redirected amount pursuant to
22 Subsection H of this section and any recoverable amount
23 pursuant to Paragraph (2) of Subsection B of this section, that
24 has failed to submit an audit report required by the Audit Act
25 or a financial report required by Subsection F of Section 6-6-2

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1 NMSA 1978. The amount to be withheld, the source of the
2 withheld distribution and the number of months that the
3 distribution is to be withheld shall be as directed by the
4 secretary of finance and administration. A distribution
5 withheld pursuant to this subsection shall remain in the tax
6 administration suspense fund until distributed to the
7 ~~[municipality or county]~~ distribution recipient and shall not
8 be distributed to the general fund. An amount withheld
9 pursuant to this subsection shall be distributed to the
10 ~~[municipality or county]~~ recipient upon direction of the
11 secretary of finance and administration.

12 J. As used in this section:

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

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

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

5 (a) the annual average of the total
6 amount distributed or transferred to a [~~municipality or county~~]
7 distribution recipient in each of the three twelve-month
8 periods preceding the current month;

9 (b) if a distribution or transfer to a
10 [~~municipality or county~~] recipient has been made for less than
11 three years, the total amount distributed or transferred in the
12 year preceding the current month; or

13 (c) if a [~~municipality or county~~]
14 recipient has not received distributions or transfers of net
15 receipts for twelve or more months, the monthly average of net
16 receipts distributed or transferred to the [~~municipality or~~
17 ~~county~~] recipient preceding the current month multiplied by
18 twelve;

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

21 (5) "repayment agreement" means an agreement
22 between the department and a [~~municipality or county~~]
23 distribution recipient under which the [~~municipality or county~~]
24 recipient agrees to allow the department to recover an amount
25 determined pursuant to Paragraph (2) of Subsection B of this

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1 section by decreasing distributions or transfers to the
2 [~~municipality or county~~] recipient for [~~one or more~~] up to
3 seventy-two months beginning with the distribution or transfer
4 to be made with respect to a designated month. No interest
5 shall be charged."

6 SECTION 16. Section 7-1-6.16 NMSA 1978 (being Laws 1983,
7 Chapter 213, Section 27, as amended) is amended to read:

8 "7-1-6.16. COUNTY EQUALIZATION DISTRIBUTION.--

9 A. [~~Beginning on September 15, 1989 and~~] On
10 September 15 of each year [~~thereafter~~], the department shall
11 distribute to any county that has imposed or continued in
12 effect during the state's preceding fiscal year a county gross
13 receipts tax pursuant to Section 7-20E-9 NMSA 1978 an amount
14 equal to:

15 (1) the product of a fraction, the numerator
16 of which is the county's population and the denominator of
17 which is the state's population, multiplied by the annual sum
18 for the county; less

19 (2) the net receipts received by the
20 department during the report year, including any increase or
21 decrease made pursuant to Section 7-1-6.15 NMSA 1978,
22 attributable to the county gross receipts tax at a rate of one-
23 eighth percent; provided that for any month in the report year,
24 if no county gross receipts tax was in effect in the county in
25 the previous month, the net receipts, for the purposes of this

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1 section, for that county for that month shall be zero.

2 B. If the amount determined by the calculation in
3 Subsection A of this section is zero or a negative number for a
4 county, no distribution shall be made to that county.

5 C. As used in this section:

6 (1) "annual sum" means for each county the sum
7 of the monthly amounts for those months in the report year that
8 follow a month in which the county had in effect a county gross
9 receipts tax;

10 (2) "monthly amount" means an amount equal to
11 the product of:

12 (a) the net receipts received by the
13 department in the month attributable to the state gross
14 receipts tax plus five percent of the total amount of
15 deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the
16 month plus five percent of the total amount of deductions
17 claimed pursuant to Section 7-9-93 NMSA 1978 for the month; and

18 (b) a fraction, the numerator of which
19 is one-eighth percent and the denominator of which is the tax
20 rate imposed by Section 7-9-4 NMSA 1978 in effect on the last
21 day of the previous month;

22 (3) "population" means the most recent
23 official census or estimate determined by the United States
24 census bureau for the unit or, if neither is available, the
25 most current estimated population for the unit provided in

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1 writing by the bureau of business and economic research at the
2 university of New Mexico; and

3 (4) "report year" means the twelve-month
4 period ending on the July 31 immediately preceding the date
5 upon which a distribution pursuant to this section is required
6 to be made."

7 SECTION 17. Section 7-1-6.18 NMSA 1978 (being Laws 1987,
8 Chapter 257, Section 1, as amended) is amended to read:

9 "7-1-6.18. DISTRIBUTION--~~[VETERANS' STATE CEMETERY FUND]~~
10 VOLUNTARY TAX REFUND CONTRIBUTIONS.--A distribution pursuant to
11 Section 7-1-6.1 NMSA 1978 shall be made to ~~[the veterans' state~~
12 ~~cemetary fund of the amounts designated pursuant to Section~~
13 ~~7-2-28 NMSA 1978 as contributions to that fund after the city~~
14 ~~of Santa Fe has received the balance of tax refund~~
15 ~~contributions in the amount of one million seventy thousand~~
16 ~~dollars (\$1,070,000)]~~ each of the following funds and entities
17 in amounts equal to the money contributed to each purpose
18 pursuant to Subsection C of Section 7-2-24 NMSA 1978:

19 A. to the department of game and fish for the game
20 protection fund;

21 B. to the energy, minerals and natural resources
22 department for the conservation planting revolving fund for the
23 planting of trees in New Mexico;

24 C. to the board of regents of New Mexico state
25 university for support of the New Mexico department of

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1 agriculture's healthy soil program;

2 D. to the veterans' services department for the
3 veterans' state cemetery fund after the city of Santa Fe has
4 received the balance of tax refund contributions in the amount
5 of one million seventy thousand dollars (\$1,070,000);

6 E. to the public education department for the
7 substance abuse education fund;

8 F. to the board of regents of the university of New
9 Mexico for the amyotrophic lateral sclerosis research fund;

10 G. to the energy, minerals and natural resources
11 department for the state parks division's kids in parks
12 education program;

13 H. to the department of military affairs to deposit
14 in a temporary suspense account for distribution to members of
15 the New Mexico national guard and to their families;

16 I. to the veterans' services department for the
17 operation, maintenance and improvement of the Vietnam veterans
18 memorial near Angel Fire, New Mexico;

19 J. to the veterans' services department for the
20 veterans' enterprise fund;

21 K. to the higher education department for the
22 lottery tuition fund;

23 L. to the New Mexico livestock board for the equine
24 shelter rescue fund;

25 M. to the aging and long-term services department

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1 to enhance or expand senior services;

2 N. to the board of veterinary medicine for the
3 animal care and facility fund;

4 O. to the New Mexico mortgage finance authority for
5 the New Mexico housing trust fund; and

6 P. to the state treasurer to remit within ten days
7 of receipt of the money from the department to each state
8 political party."

9 SECTION 18. Section 7-1-6.26 NMSA 1978 (being Laws 1987,
10 Chapter 347, Section 11, as amended) is amended to read:

11 "7-1-6.26. COUNTY GOVERNMENT ROAD FUND--DISTRIBUTION.--

12 A. For the purposes of this section, "distributable
13 amount" means the amount in the county government road fund as
14 of the last day of any month for which a distribution is
15 required to be made pursuant to this section, subject to any
16 increase or decrease made pursuant to Section 7-1-6.15 NMSA
17 1978, in excess of the balance in that fund as of the last day
18 of the preceding month after reduction for any required
19 distributions for the preceding month.

20 B. The secretary of transportation shall determine
21 and certify on or before July 1 of each year the total miles of
22 public roads maintained by each county pursuant to Section
23 66-6-23 NMSA 1978. For the purposes of this subsection, if the
24 certified mileage of public roads maintained by a county is
25 less than four hundred miles, the state treasurer shall

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1 increase the number of miles of public roads maintained by that
2 county by fifty percent and revise the total miles of public
3 roads maintained by all counties accordingly. Except as
4 provided otherwise in Subsection D of this section, each county
5 shall receive an amount equal to its proportionate share of
6 miles of public roads maintained, as the number of miles for
7 the county may have been revised pursuant to this subsection,
8 to the total miles of public roads maintained by all counties,
9 as that total may have been revised pursuant to this
10 subsection, times fifty percent of the distributable amount in
11 the county government road fund.

12 C. Except as provided otherwise in Subsection D of
13 this section, each county shall receive a share of fifty
14 percent of the distributable amount in the county government
15 road fund as determined in this subsection. The amount for
16 each county shall be the greater of:

17 (1) twenty-one cents (\$.21) multiplied by the
18 county's population as shown by the most recent federal
19 decennial census; or

20 (2) the proportionate share that the taxable
21 gallons of gasoline reported for that county for the preceding
22 fiscal year bear to the total taxable gallons of gasoline for
23 all counties in the preceding fiscal year, as determined by the
24 department, multiplied by fifty percent of the distributable
25 amount in the county government road fund.

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1 If the sum of the amounts to be distributed pursuant to
2 Paragraphs (1) and (2) of this subsection exceeds fifty percent
3 of the distributable amount in the county government road fund,
4 the excess shall be eliminated by multiplying the amount
5 determined in Paragraphs (1) and (2) of this subsection for
6 each county by a fraction, the numerator of which is fifty
7 percent of the distributable amount in the county government
8 road fund, and the denominator of which is the sum of amounts
9 determined for all counties in Paragraphs (1) and (2) of this
10 subsection.

11 D. If the distribution for a class A county or for
12 an H class county determined pursuant to Subsections B and C of
13 this section exceeds an amount equal to one-twelfth of the
14 product of the total taxable gallons of gasoline reported for
15 the county for the preceding fiscal year times one cent (\$.01),
16 the distribution for that county shall be reduced to an amount
17 equal to one-twelfth of the product of the total taxable
18 gallons of gasoline reported for the county for the preceding
19 fiscal year times one cent (\$.01). Any amount of the reduction
20 shall be shared among the counties whose distribution has not
21 been reduced pursuant to this subsection in the ratio of the
22 amounts computed in Subsections B and C of this section.

23 E. If a county has not made the required mileage
24 certification pursuant to Section 67-3-28.3 NMSA 1978 by April
25 1 of every year of the year for which distribution is being

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1 made, the secretary of transportation shall estimate the
2 mileage maintained by those counties for the purpose of making
3 distribution to all counties, and the amount calculated to be
4 distributed each month to those counties not certifying mileage
5 shall be reduced by one-third each month for that fiscal year
6 and that amount not distributed to those counties shall be
7 distributed equally to all counties that have certified
8 mileages.

9 F. Distributions made to counties pursuant to this
10 section shall be deposited in the county road fund to be used
11 for the construction, reconstruction, resurfacing or other
12 improvement or maintenance of the public roads and bridges in
13 the county, including right-of-way and materials acquisition.
14 Money distributed pursuant to this section may be used by the
15 county to provide matching funds for projects subject to
16 cooperative agreements entered into with the department of
17 transportation pursuant to Section 67-3-28 NMSA 1978."

18 SECTION 19. Section 7-1-6.27 NMSA 1978 (being Laws 1991,
19 Chapter 9, Section 20, as amended) is amended to read:

20 "7-1-6.27. DISTRIBUTION--MUNICIPAL ROADS.--

21 A. A distribution pursuant to Section 7-1-6.1 NMSA
22 1978 shall be made to municipalities for the purposes and
23 amounts specified in this section in an aggregate amount,
24 subject to any increase or decrease made pursuant to Section
25 7-1-6.15 NMSA 1978, equal to five and seventy-six hundredths

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1 percent of the net receipts attributable to the gasoline tax.

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

4 (1) reconstructing, resurfacing, maintaining,
5 repairing or otherwise improving existing alleys, streets,
6 roads or bridges, or any combination of the foregoing; or
7 laying off, opening, constructing or otherwise acquiring new
8 alleys, streets, roads or bridges, or any combination of the
9 foregoing; provided that any of the foregoing improvements may
10 include, but are not limited to, the acquisition of rights of
11 way;

12 (2) to provide matching funds for projects
13 subject to cooperative agreements with the [~~state highway and~~
14 department of transportation [~~department~~] pursuant to Section
15 67-3-28 NMSA 1978; and

16 (3) for expenses of purchasing, maintaining
17 and operating transit operations and facilities, for the
18 operation of a transit authority established by the Municipal
19 Transit Law and for the operation of a vehicle emission
20 inspection program. A municipality may engage in the business
21 of the transportation of passengers and property within the
22 political subdivision by whatever means the municipality may
23 decide and may acquire cars, trucks, motor buses and other
24 equipment necessary for operating the business. A municipality
25 may acquire land, erect buildings and equip the buildings with

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1 all the necessary machinery and facilities for the operation,
2 maintenance, modification, repair and storage of the cars,
3 trucks, motor buses and other equipment needed. A municipality
4 may do all things necessary for the acquisition and the conduct
5 of the business of public transportation.

6 C. For the purposes of this section:

7 (1) "computed distribution amount" means the
8 distribution amount calculated for a municipality for a month
9 pursuant to Paragraph (2) of Subsection D of this section prior
10 to any adjustments to the amount due to the provisions of
11 Subsections E and F of this section;

12 (2) "floor amount" means four hundred
13 seventeen dollars (\$417);

14 (3) "floor municipality" means a municipality
15 whose computed distribution amount is less than the floor
16 amount; and

17 (4) "full distribution municipality" means a
18 municipality whose population at the last federal decennial
19 census was at least two hundred thousand.

20 D. Subject to the provisions of Subsections E and F
21 of this section, each municipality shall be distributed a
22 portion of the aggregate amount distributable under this
23 section in an amount equal to the greater of:

24 (1) the floor amount; or

25 (2) eighty-five percent of the aggregate

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1 amount distributable under this section times a fraction, the
2 numerator of which is the municipality's reported taxable
3 gallons of gasoline for the immediately preceding state fiscal
4 year and the denominator of which is the reported total taxable
5 gallons for all municipalities for the same period.

6 E. Fifteen percent of the aggregate amount
7 distributable under this section shall be referred to as the
8 "redistribution amount". Beginning in August 1990, and each
9 month thereafter, from the redistribution amount there shall be
10 taken an amount sufficient to increase the computed
11 distribution amount of every floor municipality to the floor
12 amount. In the event that the redistribution amount is
13 insufficient for this purpose, the computed distribution amount
14 for each floor municipality shall be increased by an amount
15 equal to the redistribution amount times a fraction, the
16 numerator of which is the difference between the floor amount
17 and the municipality's computed distribution amount and the
18 denominator of which is the difference between the product of
19 the floor amount multiplied by the number of floor
20 municipalities and the total of the computed distribution
21 amounts for all floor municipalities.

22 F. If a balance remains after the redistribution
23 amount has been reduced pursuant to Subsection E of this
24 section, there shall be added to the computed distribution
25 amount of each municipality that is neither a full distribution

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1 municipality nor a floor municipality an amount that equals the
2 balance of the redistribution amount times a fraction, the
3 numerator of which is the computed distribution amount of the
4 municipality and the denominator of which is the sum of the
5 computed distribution amounts of all municipalities that are
6 neither full distribution municipalities nor floor
7 municipalities."

8 SECTION 20. Section 7-1-6.30 NMSA 1978 (being Laws 1990,
9 Chapter 6, Section 20, as amended) is amended to read:

10 "7-1-6.30. DISTRIBUTION--RETIREE HEALTH CARE FUND.--

11 ~~[A. Beginning January 1, 2017 and prior to July 1,~~
12 ~~2019, a distribution pursuant to Section 7-1-6.1 NMSA 1978~~
13 ~~shall be made to the retiree health care fund in an amount~~
14 ~~equal to one-twelfth of the total amount distributed to the~~
15 ~~retiree health care fund beginning July 1, 2015 and prior to~~
16 ~~July 1, 2016.~~

17 ~~B. Beginning July 1, 2019]~~ A distribution pursuant
18 to Section 7-1-6.1 NMSA 1978 shall be made to the retiree
19 health care fund in an amount equal to one-twelfth of one
20 hundred twelve percent of the total amount distributed to the
21 retiree health care fund in the previous fiscal year."

22 SECTION 21. Section 7-1-6.46 NMSA 1978 (being Laws 2004,
23 Chapter 116, Section 1, as amended) is amended to read:

24 "7-1-6.46. DISTRIBUTION TO MUNICIPALITIES--OFFSET FOR
25 FOOD DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES

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1 DEDUCTION.--

2 A. For a municipality that did not have in effect
3 on June 30, 2019 a municipal hold harmless gross receipts tax
4 through an ordinance and that has a population of less than ten
5 thousand according to the most recent federal decennial census,
6 a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
7 made to the municipality in an amount, subject to any increase
8 or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal
9 to the applicable maximum distribution for the municipality.

10 B. For a municipality that did not have in effect
11 on June 30, 2019 a municipal hold harmless gross receipts tax
12 through an ordinance and has a population of at least ten
13 thousand according to the most recent federal decennial census,
14 a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
15 made to the municipality in an amount, subject to any increase
16 or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal
17 to the following percentages of the applicable maximum
18 distribution for the municipality:

19 (1) for a municipality that has a municipal
20 poverty level two percentage points or more above the state
21 poverty level, eighty percent;

22 (2) for a municipality that has a poverty
23 level of less than two percentage points above or below the
24 state poverty level, fifty percent; and

25 (3) for a municipality that has a poverty

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1 level two percentage points or more below the state poverty
2 level,

3 ~~[(a) on or after July 1, 2022 and prior~~
4 ~~to July 1, 2023, forty nine percent;~~

5 ~~(b) on or after July 1, 2023 and prior~~
6 ~~to July 1, 2024, forty two percent;~~

7 ~~(c) on or after July 1, 2024 and prior~~
8 ~~to July 1, 2025, thirty five percent; and~~

9 ~~(d) on or after July 1, 2025]~~ thirty
10 percent.

11 C. For a municipality not described in Subsection A
12 or B of this section, a distribution pursuant to Section
13 7-1-6.1 NMSA 1978 shall be made to the municipality in an
14 amount, subject to any increase or decrease made pursuant to
15 Section 7-1-6.15 NMSA 1978, equal to the applicable maximum
16 distribution for the municipality multiplied by the following
17 percentages:

18 ~~[(1) on or after July 1, 2022 and prior to~~
19 ~~July 1, 2023, forty nine percent;~~

20 ~~(2) on or after July 1, 2023 and prior to July~~
21 ~~1, 2024, forty two percent;~~

22 ~~(3) on or after July 1, 2024 and prior to July~~
23 ~~1, 2025, thirty five percent;~~

24 ~~(4)]~~ (1) on or after July 1, 2025 and prior to
25 July 1, 2026, twenty-eight percent;

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1 [~~(5)~~] (2) on or after July 1, 2026 and prior
2 to July 1, 2027, twenty-one percent;
3 [~~(6)~~] (3) on or after July 1, 2027 and prior
4 to July 1, 2028, fourteen percent;
5 [~~(7)~~] (4) on or after July 1, 2028 and prior
6 to July 1, 2029, seven percent; and
7 [~~(8)~~] (5) on and after July 1, 2029, zero
8 percent.

9 D. A distribution pursuant to this section is in
10 lieu of revenue that would have been received by the
11 municipality but for the deductions provided by Sections 7-9-92
12 and 7-9-93 NMSA 1978. The distribution shall be considered
13 gross receipts tax revenue and shall be used by the
14 municipality in the same manner as gross receipts tax revenue,
15 including payment of gross receipts tax revenue bonds.

16 E. If the changes made by [~~this 2022 act~~] Laws
17 2022, Chapter 47 to the distributions made pursuant to this
18 section impair the ability of a municipality to meet its
19 principal or interest payment obligations for revenue bonds
20 that are outstanding prior to July 1, 2022 and that are secured
21 by the pledge of all or part of the municipality's revenue from
22 the distribution made pursuant to this section, then the amount
23 distributed pursuant to this section to that municipality shall
24 be increased by an amount sufficient to meet the required
25 payment; provided that the total amount distributed to that

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1 municipality pursuant to this section does not exceed the
2 amount that would have been due that municipality pursuant to
3 this section as it was in effect on June 30, 2022.

4 F. For the purposes of this section:

5 (1) "business locations attributable to the
6 municipality" means business locations:

7 (a) ~~[within the municipality]~~ sourced to
8 the municipality pursuant to Section 7-1-14 NMSA 1978; and

9 (b) ~~[on]~~ sourced to land owned by the
10 state, commonly known as the "state fairgrounds", within the
11 exterior boundaries of the municipality;

12 ~~[(c) outside the boundaries of the~~
13 ~~municipality on land owned by the municipality; and~~

14 ~~(d) on an Indian reservation or pueblo~~
15 ~~grant in an area that is contiguous to the municipality and in~~
16 ~~which the municipality performs services pursuant to a contract~~
17 ~~between the municipality and the Indian tribe or Indian pueblo~~
18 ~~if: 1) the contract describes an area in which the~~
19 ~~municipality is required to perform services and requires the~~
20 ~~municipality to perform services that are substantially the~~
21 ~~same as the services the municipality performs for itself; and~~
22 ~~2) the governing body of the municipality has submitted a copy~~
23 ~~of the contract to the secretary;]~~

24 (2) "maximum distribution" means:

25 (a) for a municipality that did not have

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1 in effect on June 30, 2019 a municipal hold harmless gross
2 receipts tax, the total deductions claimed pursuant to Sections
3 7-9-92 and 7-9-93 NMSA 1978 for the month by taxpayers from
4 business locations attributable to the municipality multiplied
5 by the sum of the combined rate of all municipal local option
6 gross receipts taxes in effect in the municipality for the
7 month plus one and two hundred twenty-five thousandths percent;
8 and

9 (b) for a municipality not described in
10 Subparagraph (a) of this paragraph, the total deductions
11 claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for
12 the month by taxpayers from business locations [~~attributable~~
13 sourced to the municipality multiplied by the sum of the
14 combined rate of all municipal local option gross receipts
15 taxes in effect in the municipality on January 1, 2007 plus one
16 and two hundred twenty-five thousandths percent; and

17 (3) "poverty level" means the percentage of
18 persons in poverty, according to the most recent five-year
19 American community survey, as published by the United States
20 census bureau. For the purposes of determining the poverty
21 level of a municipality, "poverty level" means the percentage
22 of persons in poverty in a municipality, according to the most
23 recent five-year American community survey, as published by the
24 United States census bureau, that includes adequate data to
25 make a determination as to the poverty level of the

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1 municipality.

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

7 SECTION 22. Section 7-1-6.47 NMSA 1978 (being Laws 2004,
8 Chapter 116, Section 2, as amended) is amended to read:

9 "7-1-6.47. DISTRIBUTION TO COUNTIES--OFFSET FOR FOOD
10 DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

11 A. For a county that did not have in effect on June
12 30, 2019 a county hold harmless gross receipts tax through an
13 ordinance and that has a population of less than forty-eight
14 thousand according to the most recent federal decennial census,
15 a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
16 made to the county in an amount, subject to any increase or
17 decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to
18 the applicable maximum distribution for the county.

19 B. For a county not described in Subsection A of
20 this section, a distribution pursuant to Section 7-1-6.1 NMSA
21 1978 shall be made to the county in an amount, subject to any
22 increase or decrease made pursuant to Section 7-1-6.15 NMSA
23 1978, equal to the applicable maximum distribution multiplied
24 by the following percentages:

25 [~~(1) on or after July 1, 2021 and prior to~~

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1 ~~July 1, 2022, fifty six percent;~~

2 ~~(2) on or after July 1, 2022 and prior to July~~
3 ~~1, 2023, forty nine percent;~~

4 ~~(3) on or after July 1, 2023 and prior to July~~
5 ~~1, 2024, forty two percent;~~

6 ~~(4) on or after July 1, 2024 and prior to July~~
7 ~~1, 2025, thirty five percent;~~

8 ~~(5)]~~ (1) on or after July 1, 2025 and prior to
9 July 1, 2026, twenty-eight percent;

10 [~~(6)]~~ (2) on or after July 1, 2026 and prior
11 to July 1, 2027, twenty-one percent;

12 [~~(7)]~~ (3) on or after July 1, 2027 and prior
13 to July 1, 2028, fourteen percent;

14 [~~(8)]~~ (4) on or after July 1, 2028 and prior
15 to July 1, 2029, seven percent; and

16 [~~(9)]~~ (5) on and after July 1, 2029, zero
17 percent.

18 C. A distribution pursuant to this section is in
19 lieu of revenue that would have been received by the county but
20 for the deductions provided by Sections 7-9-92 and 7-9-93 NMSA
21 1978. The distribution shall be considered gross receipts tax
22 revenue and shall be used by the county in the same manner as
23 gross receipts tax revenue, including payment of gross receipts
24 tax revenue bonds.

25 D. If the changes made by [~~this 2022 act~~] Laws
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1 2022, Chapter 47 to the distributions made pursuant to this
2 section impair the ability of a county to meet its principal or
3 interest payment obligations for revenue bonds that are
4 outstanding prior to July 1, 2022 and that are secured by the
5 pledge of all or part of the county's revenue from the
6 distribution made pursuant to this section, then the amount
7 distributed pursuant to this section to that county shall be
8 increased by an amount sufficient to meet the required payment;
9 provided that the total amount distributed to that county
10 pursuant to this section does not exceed the amount that would
11 have been due that county pursuant to this section as it was in
12 effect on June 30, 2022.

13 E. A distribution pursuant to this section may be
14 adjusted for a distribution made to a tax increment development
15 district with respect to a portion of a gross receipts tax
16 increment dedicated by a county pursuant to the Tax Increment
17 for Development Act.

18 F. For the purposes of this section, "maximum
19 distribution" means:

20 (1) for a county that did not have in effect
21 on June 30, 2019 a county hold harmless gross receipts tax and
22 that has a population of less than forty-eight thousand
23 according to the most recent federal decennial census, the sum
24 of:

25 (a) the total deductions claimed

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1 pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month
2 by taxpayers from business locations [~~within~~] sourced to a
3 municipality in the county pursuant to Section 7-1-14 NMSA 1978
4 multiplied by the combined rate of all county local option
5 gross receipts taxes in effect for the month that are imposed
6 throughout the county; and

7 (b) the total deductions claimed
8 pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month
9 by taxpayers from business locations [~~in~~] sourced to the county
10 but not [~~within~~] sourced to a municipality pursuant to Section
11 7-1-14 NMSA 1978 multiplied by the combined rate of all county
12 local option gross receipts taxes in effect for the month that
13 are imposed in the county area not [~~within~~] sourced to a
14 municipality pursuant to Section 7-1-14 NMSA 1978; and

15 (2) for a county not described in Paragraph
16 (1) of this subsection, the sum of:

17 (a) the total deductions claimed
18 pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month
19 by taxpayers from business locations [~~within~~] sourced to a
20 municipality in the county pursuant to Section 7-1-14 NMSA 1978
21 multiplied by the combined rate of all county local option
22 gross receipts taxes in effect on January 1, 2007 that are
23 imposed throughout the county; and

24 (b) the total deductions claimed
25 pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month

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1 by taxpayers from business locations [~~in~~] sourced to the county
2 but not [~~within~~] sourced to a municipality pursuant to Section
3 7-1-14 NMSA 1978 multiplied by the combined rate of all county
4 local option gross receipts taxes in effect on January 1, 2007
5 that are imposed in the county area not [~~within~~] sourced to a
6 municipality pursuant to Section 7-1-14 NMSA 1978."

7 SECTION 23. Section 7-1-6.58 NMSA 1978 (being Laws 2007
8 (1st S.S.), Chapter 2, Section 8) is amended to read:

9 "7-1-6.58. DISTRIBUTION--PUBLIC ELECTION FUND.--A
10 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
11 made to the public election fund from the amount deposited
12 pursuant to the provisions of Section 7-8A-13 NMSA 1978 in the
13 amount of one hundred thousand dollars (\$100,000) per month
14 [~~during fiscal year 2008 and subsequent fiscal years~~]."

15 SECTION 24. Section 7-1-6.68 NMSA 1978 (being Laws 2021
16 (1st S.S.), Chapter 4, Section 50, as amended) is amended to
17 read:

18 "7-1-6.68. DISTRIBUTION--CANNABIS EXCISE TAX--
19 MUNICIPALITIES AND COUNTIES.--

20 A. A distribution pursuant to Section 7-1-6.1 NMSA
21 1978 shall be made to each municipality, subject to any
22 increase or decrease made pursuant to Section 7-1-6.15 NMSA
23 1978, in an amount equal to thirty-three and thirty-three
24 hundredths percent of the net receipts attributable to the
25 cannabis excise tax from business locations [~~within~~] sourced to

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1 the municipality as reported pursuant to Section 7-42-4 NMSA
2 1978.

3 B. A distribution pursuant to Section 7-1-6.1 NMSA
4 1978 shall be made to each county in an amount equal to thirty-
5 three and thirty-three hundredths percent of the net receipts
6 attributable to the cannabis excise tax from business locations
7 [~~within~~] sourced to the county area of the county as reported
8 pursuant to Section 7-42-4 NMSA 1978.

9 C. The department may deduct an amount not to
10 exceed three percent of the distributions made pursuant to this
11 section for the reasonable costs for administering the
12 distributions.

13 D. As used in this section, "county area" means
14 that portion of a county located outside the boundaries of any
15 municipality."

16 SECTION 25. Section 7-1-8.9 NMSA 1978 (being Laws 2009,
17 Chapter 243, Section 11, as amended by Laws 2015, Chapter 89,
18 Section 2 and by Laws 2015, Chapter 100, Section 2) is amended
19 to read:

20 "7-1-8.9. INFORMATION THAT MAY BE REVEALED TO LOCAL
21 GOVERNMENTS AND THEIR AGENCIES.--

22 A. An employee of the department may reveal to:
23 (1) the officials or employees of a
24 municipality of this state authorized in a written request by
25 the municipality for a period specified in the request within

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1 the twelve months preceding the request; provided that the
2 municipality receiving the information has entered into a
3 written agreement with the department that the information
4 shall be used for tax purposes only and specifying that the
5 municipality is subject to the confidentiality provisions of
6 Section 7-1-8 NMSA 1978 and the penalty provisions of Section
7 7-1-76 NMSA 1978:

8 (a) the names, last four digits of the
9 taxpayer identification numbers and addresses of registered
10 gross receipts taxpayers reporting gross receipts for that
11 municipality under the Gross Receipts and Compensating Tax Act
12 or a local option gross receipts tax imposed by that
13 municipality. The department may also reveal the information
14 described in this subparagraph quarterly or upon such other
15 periodic basis as the secretary and the municipality may agree
16 in writing;

17 (b) a range of taxable gross receipts of
18 registered gross receipts paid by taxpayers from business
19 locations [~~attributable~~] sourced pursuant to Section 7-1-14
20 NMSA 1978 to that municipality [~~under the Gross Receipts and~~
21 ~~Compensating Tax Act or a local option gross receipts tax~~
22 ~~imposed by that municipality~~]; provided that authorization from
23 the federal internal revenue service to reveal such information
24 has been received. The department may also reveal the
25 information described in this subparagraph quarterly or upon

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1 such other periodic basis as the secretary and the municipality
2 may agree in writing; and

3 (c) information indicating whether
4 persons shown on a list of businesses [~~located within~~] sourced
5 pursuant to Section 7-1-14 NMSA 1978 to that municipality
6 furnished by the municipality have reported gross receipts to
7 the department but have not reported gross receipts for that
8 municipality under the Gross Receipts and Compensating Tax Act
9 or a local option gross receipts tax imposed by that
10 municipality;

11 (2) the officials or employees of a county of
12 this state authorized in a written request by the county for a
13 period specified in the request within the twelve months
14 preceding the request; provided that the county receiving the
15 information has entered into a written agreement with the
16 department that the information shall be used for tax purposes
17 only and specifying that the county is subject to the
18 confidentiality provisions of Section 7-1-8 NMSA 1978 and the
19 penalty provisions of Section 7-1-76 NMSA 1978:

20 (a) the names, last four digits of the
21 taxpayer identification numbers and addresses of registered
22 gross receipts taxpayers reporting gross receipts either for
23 that county in the case of a local option gross receipts tax
24 imposed on a countywide basis or only for the areas of that
25 county outside of any incorporated municipalities within that

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1 county in the case of a county local option gross receipts tax
2 imposed only in areas of the county outside of any incorporated
3 municipalities. The department may also reveal the information
4 described in this subparagraph quarterly or upon such other
5 periodic basis as the secretary and the county may agree in
6 writing;

7 (b) a range of taxable gross receipts of
8 registered gross receipts paid by taxpayers from business
9 locations [~~attributable~~] sourced pursuant to Section 7-1-14
10 NMSA 1978 either to that county in the case of a local option
11 gross receipts tax imposed on a countywide basis or only to the
12 areas of that county outside of any incorporated municipalities
13 within that county in the case of a county local option gross
14 receipts tax imposed only in areas of the county outside of any
15 incorporated municipalities; provided that authorization from
16 the federal internal revenue service to reveal such information
17 has been received. The department may also reveal the
18 information described in this subparagraph quarterly or upon
19 such other periodic basis as the secretary and the county may
20 agree in writing;

21 (c) in the case of a local option gross
22 receipts tax imposed by a county on a countywide basis,
23 information indicating whether persons shown on a list of
24 businesses located within the county furnished by the county
25 have reported gross receipts to the department but have not

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1 reported gross receipts for that county under the Gross
2 Receipts and Compensating Tax Act or a local option gross
3 receipts tax imposed by that county on a countywide basis; and

4 (d) in the case of a local option gross
5 receipts tax imposed by a county only on persons engaging in
6 business ~~[in]~~ sourced pursuant to Section 7-1-14 NMSA 1978 to
7 that area of the county outside of incorporated municipalities,
8 information indicating whether persons on a list of businesses
9 located in that county outside of the incorporated
10 municipalities but within that county furnished by the county
11 have reported gross receipts to the department but have not
12 reported gross receipts for that county outside of the
13 incorporated municipalities within that county under the Gross
14 Receipts and Compensating Tax Act or a local option gross
15 receipts tax imposed by the county only on persons engaging in
16 business ~~[in]~~ sourced to that county outside of the
17 incorporated municipalities; and

18 (3) officials or employees of a municipality
19 or county of this state, authorized in a written request of the
20 municipality or county, for purposes of inspection, the records
21 of the department pertaining to an increase or decrease to a
22 distribution or transfer made pursuant to Section 7-1-6.15 NMSA
23 1978 for the purpose of reviewing the basis for the increase or
24 decrease; provided that the municipality or county receiving
25 the information has entered into a written agreement with the

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1 department that the information shall be used for tax purposes
2 only and specifying that the municipality or county is subject
3 to the confidentiality provisions of Section 7-1-8 NMSA 1978
4 and the penalty provisions of Section 7-1-76 NMSA 1978. The
5 authorized officials or employees may only reveal the
6 information provided in this paragraph to another authorized
7 official or employee, to an employee of the department, or a
8 district court, an appellate court or a federal court in a
9 proceeding relating to a disputed distribution and in which
10 both the state and the municipality or county are parties.

11 B. The department ~~may~~ shall require that a
12 municipal or county official or employee satisfactorily
13 complete appropriate training on protecting confidential
14 information prior to receiving the information pursuant to
15 Subsection A of this section."

16 SECTION 26. Section 7-1-13.1 NMSA 1978 (being Laws 1988,
17 Chapter 99, Section 3, as amended) is amended to read:

18 "7-1-13.1. METHOD OF PAYMENT OF CERTAIN TAXES DUE.--

19 A. Payment of the taxes, including any applicable
20 penalties and interest, described in Paragraph (1), (2), (3) or
21 (4) of this subsection shall be made on or before the date due
22 in accordance with Subsection B of this section if the
23 taxpayer's average tax payment for the group of taxes during
24 the preceding calendar year equaled or exceeded twenty-five
25 thousand dollars (\$25,000):

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1 (1) Group 1: all taxes due under the
2 Withholding Tax Act, the Gross Receipts and Compensating Tax
3 Act, local option gross receipts tax acts, the Interstate
4 Telecommunications Gross Receipts Tax Act and the Leased
5 Vehicle Gross Receipts Tax Act;

6 (2) Group 2: all taxes due under the Oil and
7 Gas Severance Tax Act, the Oil and Gas Conservation Tax Act,
8 the Oil and Gas Emergency School Tax Act and the Oil and Gas Ad
9 Valorem Production Tax Act;

10 (3) Group 3: the tax due under the Natural
11 Gas Processors Tax Act; or

12 (4) Group 4: all taxes and fees due under the
13 Gasoline Tax Act, the Special Fuels Supplier Tax Act and the
14 Petroleum Products Loading Fee Act.

15 ~~[For taxpayers who have more than one identification~~
16 ~~number issued by the department, the average tax payment shall~~
17 ~~be computed by combining the amounts paid under the several~~
18 ~~identification numbers.]~~

19 B. Taxpayers who are required to make payment in
20 accordance with the provisions of this section shall make
21 payment by ~~[one or more of the following means on or before the~~
22 ~~due date so that funds are immediately available to the state~~
23 ~~on or before the due date:~~

24 ~~(1)~~] electronic payment; provided that a result
25 of the payment is that funds are immediately available to the

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1 state of New Mexico on or before the due date

2 [~~(2) currency of the United States;~~

3 ~~(3) check drawn on and payable at any New~~
4 ~~Mexico financial institution provided that the check is~~
5 ~~received by the department at the place and time required by~~
6 ~~the department at least one banking day prior to the due date;~~
7 ~~or~~

8 ~~(4) check drawn on and payable at any domestic~~
9 ~~non New Mexico financial institution provided that the check is~~
10 ~~received by the department at the time and place required by~~
11 ~~the department at least two banking days prior to the due~~
12 ~~date].~~

13 C. If the taxes required to be paid under this
14 section are not paid in accordance with Subsection B of this
15 section, the payment is not timely and is subject to the
16 provisions of Sections 7-1-67 and 7-1-69 NMSA 1978.

17 D. For the purposes of this section, "average tax
18 payment" means the total amount of taxes paid with respect to a
19 group of taxes listed under Subsection A of this section during
20 a calendar year divided by the number of months in that
21 calendar year containing a due date on which the taxpayer was
22 required to pay one or more taxes in the group."

23 SECTION 27. Section 7-1-15 NMSA 1978 (being Laws 1969,
24 Chapter 31, Section 1, as amended) is amended to read:

25 "7-1-15. SECRETARY MAY SET TAX REPORTING AND PAYMENT

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1 INTERVALS.--The secretary may, pursuant to [~~regulation~~] rule,
2 allow taxpayers with an anticipated tax liability of less than
3 [~~two hundred dollars (\$200)~~] five hundred dollars (\$500) a
4 month to report and pay taxes at intervals which the secretary
5 may specify. However, unless specifically permitted by law, an
6 interval shall not exceed six months. [~~The secretary may also~~
7 ~~allow direct marketers who have entered into an agreement with~~
8 ~~the department to collect and remit compensating tax to report~~
9 ~~and pay on a quarterly or semi-annual basis.]"~~

10 SECTION 28. Section 7-1-20 NMSA 1978 (being Laws 1965,
11 Chapter 248, Section 22, as amended) is amended to read:

12 "7-1-20. COMPROMISE OF TAXES--CLOSING AGREEMENTS.--

13 A. At any time after the assessment of any tax or
14 the denial of a refund or credit, if the secretary in good
15 faith is in doubt of the correctness of the denial or liability
16 for the payment [~~thereof~~] of an assessment, the secretary may
17 [~~with the written approval of the attorney general~~] compromise
18 the asserted liability for taxes or the denial by entering with
19 the taxpayer into a written agreement that adequately protects
20 the interests of the state.

21 B. The agreement provided for in this section is to
22 be known as a "closing agreement". If entered into after any
23 court acquires jurisdiction of the matter, the agreement shall
24 be part of a stipulated order or judgment disposing of the
25 case.

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1 C. As a condition for entering into a closing
2 agreement, the secretary may require the taxpayer to furnish
3 security for payment of any taxes due according to the terms of
4 the agreement.

5 D. A closing agreement is conclusive as to
6 liability or nonliability for payment of assessed taxes or the
7 denial of a refund or credit relating to the periods referred
8 to in the agreement, and except upon a showing of fraud or
9 malfeasance, or misrepresentation or concealment of a material
10 fact:

11 (1) the agreement shall not be modified by any
12 officer, employee or agent of the state; and

13 (2) in any suit, action or proceeding, the
14 agreement or any determination, assessment, collection,
15 payment, abatement, refund or credit made in accordance
16 therewith shall not be annulled, modified, set aside or
17 disregarded."

18 SECTION 29. Section 7-1-26 NMSA 1978 (being Laws 1965,
19 Chapter 248, Section 28, as amended) is amended to read:

20 "7-1-26. DISPUTING LIABILITIES--CLAIM FOR [~~CREDIT~~] REBATE
21 OR REFUND.--

22 A. A person who believes that an amount of tax has
23 been paid by or withheld from that person in excess of that for
24 which the person was liable, who has been denied a [~~credit or~~]
25 rebate claimed or who claims a prior right to property in the

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1 possession of the department pursuant to a levy made pursuant
2 to the authority of Sections 7-1-31 through 7-1-34 NMSA 1978
3 may claim a refund by directing to the secretary, within the
4 time limitations provided by Subsections F and G of this
5 section, a written claim for refund that, except as provided in
6 Subsection K of this section, includes:

7 (1) the taxpayer's name, address and
8 identification number;

9 (2) the type of tax for which a refund is
10 being claimed, the ~~[credit or]~~ rebate denied or the property
11 levied upon;

12 (3) the sum of money or other property being
13 claimed;

14 (4) with respect to a refund, the period for
15 which overpayment was made;

16 (5) a brief statement of the facts and the law
17 on which the claim is based, which may be referred to as the
18 "basis for the refund", which may include documentation that
19 substantiates the written claim and supports the taxpayer's
20 basis for the refund; and

21 (6) if applicable, a copy of an amended return
22 for each tax period for which the refund is claimed.

23 B. A claim for refund that meets the requirements
24 of Subsection A of this section and that is filed within the
25 time limitations provided by Subsections F and G of this

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1 section is deemed to be properly before the department for
2 consideration, regardless of whether the department requests
3 additional documentation after receipt of the claim for refund.

4 C. If the department requests additional relevant
5 documentation from a taxpayer who has submitted a claim for
6 refund, the claim for refund shall not be considered incomplete
7 provided the taxpayer submits sufficient information for the
8 department to make a determination.

9 D. The secretary or the secretary's delegate may
10 allow the claim in whole or in part or may deny the claim. If
11 the:

12 (1) claim is denied in whole or in part in
13 writing, the person shall not refile the denied claim, but the
14 person, within ninety days after either the mailing or delivery
15 of the denial of all or any part of the claim, may elect to
16 pursue only one of the remedies provided in Subsection E of
17 this section; and

18 (2) department has neither granted nor denied
19 any portion of a complete claim for refund within one hundred
20 eighty days after the claim was mailed or otherwise delivered
21 to the department, the person may elect to treat the claim as
22 denied and elect to pursue only one of the remedies provided in
23 Subsection E of this section.

24 E. A person may elect to pursue only one of the
25 remedies provided in this subsection. A person who timely

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1 pursues more than one remedy is deemed to have elected the
2 first. The person may:

3 (1) direct to the secretary, pursuant to the
4 provisions of Section 7-1-24 NMSA 1978, a written protest that
5 sets forth:

6 (a) the circumstances of: 1) an alleged
7 overpayment; 2) [~~a denied credit; 3)~~] a denied rebate; or [~~4)~~
8 3) a denial of a prior right to property levied upon by the
9 department;

10 (b) an allegation that, because of that
11 overpayment or denial, the state is indebted to the taxpayer
12 for a specified amount, including any allowed interest, or for
13 the property;

14 (c) a demand for the refund to the
15 taxpayer of that amount or that property; and

16 (d) a recitation of the facts of the
17 claim for refund; or

18 (2) commence a civil action in the district
19 court for Santa Fe county by filing a complaint setting forth
20 the circumstance of the claimed overpayment, denied [~~credit or~~]
21 rebate or denial of a prior right to property levied upon by
22 the department alleging that on account thereof the state is
23 indebted to the plaintiff in the amount or property stated,
24 together with any interest allowable, demanding the refund to
25 the plaintiff of that amount or property and reciting the facts

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1 of the claim for refund. The plaintiff or the secretary may
2 appeal from any final decision or order of the district court
3 to the court of appeals.

4 F. Except as otherwise provided in Subsection G of
5 this section, a ~~[credit or]~~ refund of any amount of overpaid
6 tax, penalty or interest may be allowed or made to a person if
7 a claim is properly filed:

8 (1) only within three years after the end of
9 the calendar year in which the applicable event occurs:

10 (a) in the case of tax paid with an
11 original or amended state return, the date the related tax was
12 originally due;

13 (b) in the case of tax paid in response
14 to an assessment by the department pursuant to Section 7-1-17
15 NMSA 1978, the date the tax was paid;

16 (c) in the case of tax with respect to
17 which a net-negative federal adjustment, as that term is used
18 in Section 7-1-13 NMSA 1978, relates, the final determination
19 date of that federal adjustment, as provided in Section 7-1-13
20 NMSA 1978;

21 (d) the final determination of value
22 occurs with respect to any overpayment that resulted from a
23 disapproval by any agency of the United States or the state of
24 New Mexico or any court of increase in value of a product
25 subject to taxation pursuant to the Oil and Gas Severance Tax

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1 Act, the Oil and Gas Conservation Tax Act, the Oil and Gas
2 Emergency School Tax Act, the Oil and Gas Ad Valorem Production
3 Tax Act or the Natural Gas Processors Tax Act; or

4 (e) in the case of a claim related to
5 property taken by levy, the date the property was levied upon
6 as provided in the Tax Administration Act;

7 ~~[(2) in the case of a denial of a claim for~~
8 ~~credit pursuant to the Investment Credit Act, Laboratory~~
9 ~~Partnership with Small Business Tax Credit Act or Technology~~
10 ~~Jobs and Research and Development Tax Credit Act or for the~~
11 ~~rural job tax credit provided by Section 7-2E-1.1 NMSA 1978 or~~
12 ~~similar credit, only within one year after the date of the~~
13 ~~denial;~~

14 ~~(3)]~~ (2) in the case of a taxpayer under audit
15 by the department who has signed a waiver of the limitation on
16 assessments ~~[on or after July 1, 1993]~~ pursuant to Subsection F
17 of Section 7-1-18 NMSA 1978, only for a refund of the same tax
18 paid for the same period for which the waiver was given, and
19 only until a date one year after the later of the date of the
20 mailing of an assessment issued pursuant to the audit, the date
21 of the mailing of final audit findings to the taxpayer or the
22 date a proceeding is begun in court by the department with
23 respect to the same tax and the same period;

24 ~~[(4)]~~ (3) in the case of a payment of an
25 amount of tax not made within three years of the end of the

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1 calendar year in which the original due date of the tax or date
2 of the assessment of the department occurred, only for a claim
3 for refund of that amount of tax and only within one year of
4 the date on which the tax was paid; or

5 ~~(5)~~ (4) in the case of a taxpayer who has
6 been assessed a tax ~~[on or after July 1, 1993]~~ pursuant to
7 Subsection B, C or D of Section 7-1-18 NMSA 1978 and an
8 assessment that applies to a period ending at least three years
9 prior to the beginning of the year in which the assessment was
10 made, only for a refund for the same tax for the period of the
11 assessment or for any period following that period within one
12 year of the date of the assessment unless a longer period for
13 claiming a refund is provided in this section.

14 G. No ~~[credit or]~~ refund shall be allowed or made
15 to a person claiming a refund of gasoline tax pursuant to
16 Section 7-13-11 NMSA 1978 unless notice of the destruction of
17 the gasoline was given to the department within thirty days of
18 the actual destruction and the claim for refund is made within
19 six months of the date of destruction. No ~~[credit or]~~ refund
20 shall be allowed or made to a person claiming a refund of
21 gasoline tax pursuant to Section 7-13-17 NMSA 1978 unless the
22 refund is claimed within six months of the date of purchase of
23 the gasoline and the gasoline has been used at the time the
24 claim for refund is made.

25 H. If, as a result of an audit by the department or

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1 a managed audit covering multiple periods, an overpayment of
2 tax is found in any period under the audit and if the taxpayer
3 files a claim for refund for the overpayments identified in the
4 audit, that overpayment may be credited against an underpayment
5 of the same tax found in another period under audit pursuant to
6 Section 7-1-29 NMSA 1978.

7 I. A refund of tax paid under any tax or tax act
8 administered pursuant to Subsection B of Section 7-1-2 NMSA
9 1978 may be made, at the discretion of the department, in the
10 form of credit against future tax payments if future tax
11 liabilities in an amount at least equal to the credit amount
12 reasonably may be expected to become due.

13 J. For the purposes of this section, "oil and gas
14 tax return" means a return reporting tax due with respect to
15 oil, natural gas, liquid hydrocarbons, carbon dioxide, helium
16 or nonhydrocarbon gas pursuant to the Oil and Gas Severance Tax
17 Act, the Oil and Gas Conservation Tax Act, the Oil and Gas
18 Emergency School Tax Act, the Oil and Gas Ad Valorem Production
19 Tax Act, the Natural Gas Processors Tax Act or the Oil and Gas
20 Production Equipment Ad Valorem Tax Act.

21 K. The filing of a fully completed original income
22 tax return, corporate income tax return, corporate income and
23 franchise tax return, estate tax return [~~special fuel excise~~
24 ~~tax return~~] or annual insurance premium tax return that shows a
25 balance due the taxpayer or a fully completed amended income

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1 tax return, an amended corporate income tax return, an amended
2 corporate income and franchise tax return, an amended estate
3 tax return, [~~an amended special fuel excise tax return~~] an
4 amended oil and gas tax return or an amended insurance premium
5 tax return that shows a lesser tax liability than the original
6 return constitutes the filing of a claim for refund for the
7 difference in tax due shown on the original and amended
8 returns.

9 L. The department may allow a completed return and
10 an amended return to constitute the filing of a claim for
11 refund.

12 [~~L.~~] M. In no case may a [~~credit or~~] refund be
13 claimed if the related federal adjustment is taken into account
14 by a partnership in the partnership's tax return for the
15 adjustment year and allocated to the partners in a manner
16 similar to other partnership tax items."

17 SECTION 30. Section 7-1-28 NMSA 1978 (being Laws 1965,
18 Chapter 248, Section 30, as amended) is amended to read:

19 "7-1-28. AUTHORITY FOR ABATEMENTS OF ASSESSMENTS OF
20 TAX.--

21 A. [~~In response to~~] The secretary or the
22 secretary's delegate may abate any or part of an assessment
23 determined by the secretary or the secretary's delegate if:

24 (1) a written protest is filed against an
25 assessment, submitted in accordance with the provisions of

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1 Section 7-1-24 NMSA 1978, but before any court acquires
2 jurisdiction of the matter; ~~[or when]~~

3 (2) a "notice of assessment of taxes" is
4 incorrect ~~[the secretary or the secretary's delegate may abate~~
5 ~~any part of an assessment determined by the secretary or the~~
6 ~~secretary's delegate to have been incorrectly, erroneously or~~
7 ~~illegally made. An abatement in the amount of twenty thousand~~
8 ~~dollars (\$20,000) or more shall be made with the prior approval~~
9 ~~of the attorney general; except that the secretary or the~~
10 ~~secretary's delegate may make abatements with respect to the~~
11 ~~Oil and Gas Severance Tax Act, the Oil and Gas Conservation Tax~~
12 ~~Act, the Oil and Gas Emergency School Tax Act, the Oil and Gas~~
13 ~~Ad Valorem Production Tax Act, the Natural Gas Processors Tax~~
14 ~~Act or the Oil and Gas Production Equipment Ad Valorem Tax Act,~~
15 ~~abatements of gasoline tax made under Section 7-13-17 NMSA 1978~~
16 ~~and abatements of cigarette tax made under the Cigarette Tax~~
17 ~~Act without the prior approval of the attorney general~~
18 ~~regardless of the amount] or erroneously made; or~~

19 (3) a written protest is filed solely against
20 an assessment of penalty and interest totaling not more than
21 fifty dollars (\$50.00).

22 B. Pursuant to the final order of the district
23 court, the court of appeals, the supreme court of New Mexico or
24 any federal court, from which order, appeal or review is not
25 successfully taken by the department, adjudging that any person

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1 is not required to pay any portion of tax assessed to that
2 person, the secretary or the secretary's delegate shall cause
3 that amount of the assessment to be abated.

4 C. Pursuant to a compromise of taxes agreed to by
5 the secretary and according to the terms of the closing
6 agreement formalizing the compromise pursuant to Section 7-1-20
7 NMSA 1978, the secretary or the secretary's delegate shall
8 cause the abatement of the appropriate amount of any assessment
9 of tax.

10 D. The secretary or the secretary's delegate shall
11 cause the abatement of the amount of an assessment of tax that
12 is equal to the amount of fee paid to or retained by an out-of-
13 state attorney or collection agency from a judgment or the
14 amount collected by the attorney or collection agency pursuant
15 to Section 7-1-58 NMSA 1978.

16 E. Records of abatements made in excess of ~~ten~~
17 ~~thousand dollars (\$10,000)] twenty thousand dollars (\$20,000)~~
18 shall be available for inspection by the public. The
19 department shall keep such records for a minimum of three years
20 from the date of the abatement.

21 F. In response to a timely protest pursuant to
22 Section 7-1-24 NMSA 1978 of an assessment by the department and
23 notwithstanding any other provision of the Tax Administration
24 Act, the secretary or the secretary's delegate may abate that
25 portion of an assessment of tax, including applicable penalties

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1 and interest, representing the amount of tax previously paid by
2 another person on behalf of the taxpayer on the same
3 transaction; provided that the requirements of equitable
4 recoupment are met. For purposes of this subsection, the
5 protest pursuant to Section 7-1-24 NMSA 1978 of the
6 department's assessment may be made by the taxpayer to whom the
7 assessment was issued or by the other person who claims to have
8 previously paid the tax on behalf of the taxpayer."

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

11 "7-1-29. AUTHORITY TO MAKE REFUNDS, [OR] CREDITS OR
12 REBATES.--

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

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1 ~~Act, the Oil and Gas Conservation Tax Act, the Oil and Gas~~
2 ~~Emergency School Tax Act, the Oil and Gas Ad Valorem Production~~
3 ~~Tax Act, the Natural Gas Processors Tax Act or the Oil and Gas~~
4 ~~Production Equipment Ad Valorem Tax Act, Section 7-13-17 NMSA~~
5 ~~1978 and the Cigarette Tax Act without the prior approval of~~
6 ~~the attorney general regardless of the amount.]~~

7 B. Pursuant to the final order of the district
8 court, the court of appeals, the supreme court of New Mexico or
9 a federal court, from which order, appeal or review is not
10 successfully taken, adjudging that a person has properly
11 claimed a credit, rebate or a refund of overpaid tax, the
12 secretary shall authorize the payment to the person of the
13 amount thereof. After a court acquires jurisdiction but before
14 it issues a final order, the secretary may authorize payment of
15 a credit, rebate or refund pursuant to a closing agreement
16 pursuant to Section 7-1-20 NMSA 1978.

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

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1 D. In an audit by the department or a managed audit
2 covering multiple reporting periods in which both underpayments
3 and overpayments of a tax have been made in different reporting
4 periods, the department shall credit the tax overpayments
5 against the underpayments; provided that the taxpayer files a
6 claim for refund of the overpayments. An overpayment shall be
7 applied as a credit first to the earliest underpayment and then
8 to succeeding underpayments. An underpayment of tax to which
9 an overpayment is credited pursuant to this section shall be
10 deemed paid in the period in which the overpayment was made or
11 the period to which the overpayment was credited against an
12 underpayment, whichever is later. If the overpayments credited
13 pursuant to this section exceed the underpayments of a tax, the
14 amount of the net overpayment for the periods covered in the
15 audit shall be refunded to the taxpayer.

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

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1 later.

2 F. If the department determines, upon review of an
3 original or amended income tax return, corporate income and
4 franchise tax return, estate tax return, special fuels excise
5 tax return or oil and gas tax return, that there has been an
6 overpayment of tax for the taxable period to which the return
7 or amended return relates in excess of the amount due to be
8 refunded to the taxpayer pursuant to the provisions of
9 Subsection K of Section 7-1-26 NMSA 1978, the department may
10 refund that excess amount to the taxpayer without requiring the
11 taxpayer to file a refund claim.

12 G. Records of refunds and credits made in excess of
13 [~~ten thousand dollars (\$10,000)~~] twenty thousand dollars
14 (\$20,000) shall be available for inspection by the public. The
15 department shall keep such records for a minimum of three years
16 from the date of the refund or credit.

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

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1 refund claim may be filed by the taxpayer to whom the
2 assessment was issued or by another person who claims to have
3 previously paid the tax on behalf of the taxpayer. Prior to
4 granting the refund or credit, the secretary may require a
5 waiver of all rights to claim a refund or credit of the tax
6 previously paid by another person paying a tax on behalf of the
7 taxpayer.

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

20 SECTION 32. Section 7-1-37 NMSA 1978 (being Laws 1965,
21 Chapter 248, Section 39, as amended) is amended to read:

22 "7-1-37. ASSESSMENT AS LIEN.--

23 A. If any person liable for any tax neglects or
24 refuses to pay the tax after assessment and demand for payment
25 as provided in Section 7-1-17 NMSA 1978 or if any person liable

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1 for tax pursuant to Section 7-1-63 NMSA 1978 neglects or
2 refuses to pay after demand has been made, unless and only so
3 long as such a person is entitled to the protection afforded by
4 a valid order of a United States court entered pursuant to
5 Section 362 or 1301 of Title 11 of the United States Code, as
6 amended or renumbered, the amount of the tax shall be a lien in
7 favor of the state of New Mexico upon all property and rights
8 to property of the person.

9 B. The lien imposed by Subsection A of this section
10 shall arise at the time both assessment and demand, as provided
11 in Section 7-1-17 NMSA 1978, have been made or at the time
12 demand has been made pursuant to Section 7-1-63 NMSA 1978 and
13 shall continue until the liability for payment of the amount
14 demanded is satisfied, [~~or~~] extinguished or released.

15 C. As against any mortgagee, pledgee, purchaser,
16 judgment creditor, person claiming a lien under Sections 48-2-1
17 through 48-11-9 NMSA 1978, lienor for value or other
18 encumbrancer for value, the lien imposed by Subsection A of
19 this section shall not be considered to have arisen or have any
20 effect whatever until notice of the lien has been filed as
21 provided in Section 7-1-38 NMSA 1978."

22 SECTION 33. Section 7-1-38 NMSA 1978 (being Laws 1965,
23 Chapter 248, Section 40, as amended) is amended to read:

24 "7-1-38. NOTICE OF LIEN.--A notice of the lien provided
25 for in Section 7-1-37 NMSA 1978 may be recorded in any county

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1 in the state in the tax lien index established by Sections
2 48-1-1 through 48-1-7 NMSA 1978 or with the office of the
3 secretary of state and a copy thereof shall be sent to the
4 affected taxpayer. [~~affected.~~ Any] The office of the
5 secretary of state or a county clerk to whom the notices are
6 presented shall record them as requested without charge. The
7 notice of lien shall identify the taxpayer whose liability for
8 taxes is sought to be enforced and the date or approximate date
9 on which the tax became due and shall state that New Mexico
10 claims a lien for the entire amount of tax asserted to be due,
11 including applicable interest and penalties. Recording of the
12 notice of lien shall be effective as to all property and rights
13 to property of the taxpayer. Liens may be recorded
14 electronically."

15 SECTION 34. Section 7-1-39 NMSA 1978 (being Laws 1965,
16 Chapter 248, Section 41, as amended) is amended to read:

17 "7-1-39. RELEASE OR EXTINGUISHMENT OF LIEN--LIMITATION ON
18 ACTIONS TO ENFORCE LIEN.--

19 A. When any substantial part of the amount of tax
20 due from a taxpayer is paid, the department shall immediately
21 file, in the same [~~county~~] manner in which a notice of lien was
22 filed, and in the same records, a document completely or
23 partially releasing the lien. The [~~county clerk~~] official to
24 whom such a document is presented shall record [~~it~~] the release
25 of the lien without charge.

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1 B. The department may file, in the same [~~county~~
2 manner as the notice of lien was filed, a document releasing or
3 partially releasing any lien filed in accordance with Section
4 7-1-38 NMSA 1978 when the filing of the lien was premature or
5 did not follow requirements of law or when release or partial
6 release would facilitate collection of taxes due. The [~~county~~
7 ~~clerk~~] official to whom the document is presented shall record
8 [~~it~~] the release of the lien without charge.

9 C. In all cases when a notice of lien for taxes,
10 penalties and interest has been filed under Section 7-1-38 NMSA
11 1978 and a period of ten years has passed from the date the
12 lien was filed, as shown on the notice of lien, the taxes,
13 penalties and interest for which the lien is claimed shall be
14 conclusively presumed to have been paid and the lien is thereby
15 extinguished, with no further action by the department. No
16 action shall be brought to enforce any lien extinguished in
17 accordance with this subsection."

18 SECTION 35. Section 7-1-79 NMSA 1978 (being Laws 1965,
19 Chapter 248, Section 82, as amended) is amended to read:

20 "7-1-79. ENFORCEMENT OFFICIALS.--Every individual to whom
21 the [~~director~~] secretary delegates the function of enforcing
22 any of the provisions of the Tax Administration Act:

23 A. shall be furnished with credentials identifying
24 [~~him~~] the secretary's delegate; and

25 B. may request the assistance of any sheriff or

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1 deputy sheriff or of the state police in order to perform [~~his~~]
2 the delegate's duties, which assistance shall be afforded in
3 appropriate circumstances."

4 SECTION 36. Section 7-2-12 NMSA 1978 (being Laws 1965,
5 Chapter 202, Section 10, as amended) is amended to read:

6 "7-2-12. TAXPAYER RETURNS--PAYMENT OF TAX.--~~[A.]~~ Every
7 resident of this state and every individual deriving income
8 from any business transaction, property or employment within
9 this state and not exempt from tax under the Income Tax Act who
10 is required by the laws of the United States to file a federal
11 income tax return shall file a complete tax return with the
12 department in form and content as prescribed by the secretary.
13 ~~[Except as provided in Subsection B of this section]~~ A resident
14 or any individual who is required by the provisions of the
15 Income Tax Act to file a return or pay a tax shall, on or
16 before the due date of the resident's or individual's federal
17 income tax return for the taxable year, file the return and pay
18 the tax imposed for that year.

19 ~~[B. When the department approves electronic media~~
20 ~~for use by a taxpayer whose taxable year is a calendar year,~~
21 ~~the taxpayer who uses electronic media for both filing and~~
22 ~~payment must submit the required return and the tax imposed on~~
23 ~~residents and individuals under the Income Tax Act on or before~~
24 ~~the last day of the month in which the resident's or~~
25 ~~individual's federal income tax return is originally due for~~

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1 ~~the taxable year. The due date provided in this subsection~~
2 ~~does not apply to residents or individuals who have received a~~
3 ~~filing extension from New Mexico or an automatic extension from~~
4 ~~the federal internal revenue service for the same taxable~~
5 ~~year.]"~~

6 SECTION 37. Section 7-2-12.1 NMSA 1978 (being Laws 1990,
7 Chapter 23, Section 1) is amended to read:

8 "7-2-12.1. LIMITATION ON CLAIMING OF CREDITS AND TAX
9 REBATES.--

10 A. Except as provided otherwise in this section, a
11 credit or tax rebate provided in the Income Tax Act that is
12 claimed shall be disallowed if the claim for the credit or tax
13 rebate was first made after the end of the third calendar year
14 following the calendar year in which the return upon which the
15 credit or tax rebate was first claimable was initially due.

16 B. Subsection A of this section does not apply to
17 [~~(1)~~] the credit authorized by Section 7-2-13 NMSA 1978 for
18 income taxes paid another state [~~or~~

19 ~~(2) the credit authorized by Section 7-2-19~~
20 ~~NMSA 1978 for income taxes paid another state]."~~

21 SECTION 38. Section 7-2-18.16 NMSA 1978 (being Laws 2007,
22 Chapter 45, Section 10, as amended) is amended to read:

23 "7-2-18.16. CREDIT--SPECIAL NEEDS ADOPTED CHILD TAX
24 CREDIT--CREATED--QUALIFICATIONS--DURATION OF CREDIT.--

25 A. A taxpayer who files an individual New Mexico
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1 income tax return, who is not a dependent of another
2 [~~individual~~] taxpayer and who adopts [~~a special needs child on~~
3 ~~or after January 1, 2007~~] or has adopted a special needs child
4 [~~prior to January 1, 2007~~] may claim a credit against the
5 taxpayer's tax liability imposed pursuant to the Income Tax
6 Act. The credit authorized pursuant to this section may be
7 referred to as the "special needs adopted child tax credit".

8 B. A taxpayer may claim and the department may
9 allow a special needs adopted child tax credit in the amount of
10 one thousand five hundred dollars (\$1,500) to be claimed
11 against the taxpayer's tax liability for the taxable year
12 imposed pursuant to the Income Tax Act.

13 C. A taxpayer may claim a special needs adopted
14 child tax credit for each year that the child may be claimed as
15 a dependent for federal taxation purposes by the taxpayer.

16 D. If the amount of the special needs adopted child
17 tax credit due to the taxpayer exceeds the taxpayer's
18 individual income tax liability, the excess shall be refunded.

19 E. Married individuals who file separate returns
20 for a taxable year in which they could have filed a joint
21 return may each claim only one-half of the special needs
22 adopted child tax credit provided in this section that would
23 have been allowed on a joint return.

24 F. A taxpayer allowed a tax credit pursuant to this
25 section shall [~~report the amount of the credit to the~~

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1 ~~department]~~ claim the credit on forms and in a manner required
2 by the department.

3 G. ~~[The department shall compile an annual report~~
4 ~~on the credit provided by this section that shall include the~~
5 ~~number of taxpayers approved by the department to receive the~~
6 ~~credit, the aggregate amount of credits approved and any other~~
7 ~~information necessary to evaluate the credit. The department~~
8 ~~shall present the report to the revenue stabilization and tax~~
9 ~~policy committee and the legislative finance committee with an~~
10 ~~analysis of the]~~ The tax credit provided by this section shall
11 be included in the tax expenditure budget pursuant to Section
12 7-1-84 NMSA 1978, including the annual aggregate cost of the
13 tax credit.

14 H. As used in this section, "special needs adopted
15 child" means an individual who may be over eighteen years of
16 age and who is certified by the children, youth and families
17 department or a licensed child placement agency as meeting the
18 definition of a "difficult to place child" pursuant to the
19 Adoption Act; provided, however, if the classification as a
20 "difficult to place child" is based on a physical or mental
21 impairment or an emotional disturbance the physical or mental
22 impairment or emotional disturbance shall be at least
23 moderately disabling."

24 SECTION 39. Section 7-2-18.17 NMSA 1978 (being Laws 2007,
25 Chapter 172, Section 1, as amended) is amended to read:

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1 "7-2-18.17. ANGEL INVESTMENT CREDIT.--

2 A. A taxpayer who files a New Mexico income tax
3 return, is not a dependent of another taxpayer, is an
4 accredited investor and makes a qualified investment may apply
5 for, and the department may allow, a claim for a credit in an
6 amount not to exceed twenty-five percent of the qualified
7 investment; provided that a credit for each qualified
8 investment shall not exceed sixty-two thousand five hundred
9 dollars (\$62,500). The tax credit provided in this section
10 shall be known as the "angel investment credit".

11 B. A taxpayer may claim the angel investment
12 credit:

13 (1) for not more than one qualified investment
14 per investment round;

15 (2) for qualified investments in no more than
16 five qualified businesses per taxable year; and

17 (3) for a qualified investment made on or
18 before December 31, 2030.

19 C. A taxpayer may [~~apply for~~] claim an angel
20 investment credit by submitting a completed application to the
21 department on forms and in a manner required by the department
22 no later than one year following the end of the calendar year
23 in which the qualified investment is made. A taxpayer shall
24 not [~~apply for~~] claim more than one credit for the same
25 qualified investment in the same investment round.

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1 D. Except as provided in Subsection J of this
2 section, a taxpayer shall claim the angel investment credit no
3 later than one year following the date the completed
4 application for the credit is approved by the department.

5 E. Applications and all subsequent materials
6 submitted to the department related to the application shall
7 also be submitted to the economic development department.

8 F. The department shall allow a maximum annual
9 aggregate of two million dollars (\$2,000,000) in angel
10 investment credits per calendar year. Completed applications
11 shall be considered in the order received. Applications for
12 credits that would have been allowed but for the limit imposed
13 by this subsection shall be allowed in subsequent calendar
14 years.

15 G. ~~[The department shall report annually to the~~
16 ~~revenue stabilization and tax policy committee and the~~
17 ~~legislative finance committee on the utilization and~~
18 ~~effectiveness of the angel investment credit. The report]~~ The
19 credit provided by this section shall be included in the tax
20 expenditure budget pursuant to Section 7-1-84 NMSA 1978, which
21 shall include, at a minimum: the number of accredited
22 investors determined to be eligible for the credit in the
23 previous year; the names of those investors; the amount of
24 credit for which each investor was determined to be eligible;
25 and the number and names of the businesses determined to be

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1 qualified businesses for purposes of an investment by an
2 accredited investor.

3 H. A taxpayer who otherwise qualifies for and
4 claims a credit pursuant to this section for a qualified
5 investment made by a partnership or other business association
6 of which the taxpayer is a member may claim a credit only in
7 proportion to the taxpayer's interest in the partnership or
8 business association.

9 I. Married individuals who file separate returns
10 for a taxable year in which they could have filed a joint
11 return may each claim one-half of the credit that would have
12 been allowed on a joint return.

13 J. The angel investment credit may only be deducted
14 from the taxpayer's income tax liability. Any portion of the
15 tax credit provided by this section that remains unused at the
16 end of the taxpayer's taxable year may be carried forward for
17 five consecutive years.

18 K. As used in this section:

19 (1) "accredited investor" means a person who
20 is an accredited investor within the meaning of Rule 501 issued
21 by the federal securities and exchange commission pursuant to
22 the federal Securities Act of 1933, as amended;

23 (2) "business" means a corporation, general
24 partnership, limited partnership, limited liability company or
25 other similar entity, but excludes an entity that is a

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1 government or a nonprofit organization designated as such by
2 the federal government or any state;

3 (3) "equity" means common or preferred stock
4 of a corporation, a partnership interest in a limited
5 partnership or a membership interest in a limited liability
6 company, including debt subject to an option in favor of the
7 creditor to convert the debt into common or preferred stock, a
8 partnership interest or a membership interest;

9 (4) "investment round" means an offer and sale
10 of securities and all other offers and sales of securities that
11 would be integrated with such offer and sale of securities
12 under Regulation D issued by the federal securities and
13 exchange commission pursuant to the federal Securities Act of
14 1933, as amended;

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

18 (a) construction;

19 (b) farming;

20 (c) processing natural resources,
21 including hydrocarbons; or

22 (d) preparing meals for immediate
23 consumption, on- or off-premises;

24 (6) "qualified business" means a business
25 that:

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1 (a) maintains its principal place of
2 business and employs a majority of its full-time employees, if
3 any, in New Mexico and a majority of its tangible assets, if
4 any, are located in New Mexico;

5 (b) engages in qualified research or
6 manufacturing activities in New Mexico;

7 (c) is not primarily engaged in or is
8 not primarily organized as any of the following types of
9 businesses: credit or finance services, including banks,
10 savings and loan associations, credit unions, small loan
11 companies or title loan companies; financial brokering or
12 investment; professional services, including accounting, legal
13 services, engineering and any other service the practice of
14 which requires a license; insurance; real estate; construction
15 or construction contracting; consulting or brokering; mining;
16 wholesale or retail trade; providing utility service, including
17 water, sewerage, electricity, natural gas, propane or butane;
18 publishing, including publishing newspapers or other
19 periodicals; broadcasting; or providing internet operating
20 services;

21 (d) has not issued securities registered
22 pursuant to Section 6 of the federal Securities Act of 1933, as
23 amended; has not issued securities traded on a national
24 securities exchange; is not subject to reporting requirements
25 of the federal Securities Exchange Act of 1934, as amended; and

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1 is not registered pursuant to the federal Investment Company
2 Act of 1940, as amended, at the time of the investment;

3 (e) has one hundred or fewer employees
4 calculated on a full-time-equivalent basis in the taxable year
5 in which the investment was made; and

6 (f) has not had gross revenues in excess
7 of five million dollars (\$5,000,000) in any fiscal year ending
8 on or before the date of the investment;

9 (7) "qualified investment" means a cash
10 investment in a qualified business for equity, but does not
11 include an investment by a taxpayer if the taxpayer, a member
12 of the taxpayer's immediate family or an entity affiliated with
13 the taxpayer receives compensation from the qualified business
14 in exchange for services provided to the qualified business
15 within one year of investment in the qualified business; and

16 (8) "qualified research" means "qualified
17 research" as defined by Section 41 of the Internal Revenue
18 Code."

19 SECTION 40. Section 7-2-18.22 NMSA 1978 (being Laws 2007,
20 Chapter 361, Section 2, as amended) is amended to read:

21 "7-2-18.22. RURAL HEALTH CARE PRACTITIONER TAX CREDIT.--

22 A. A taxpayer who files an individual New Mexico
23 tax return, who is not a dependent of another individual, who
24 is an eligible health care practitioner and who has provided
25 health care services in New Mexico in a rural health care

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1 underserved area in a taxable year may claim a credit against
2 the tax liability imposed by the Income Tax Act. The credit
3 provided in this section may be referred to as the "rural
4 health care practitioner tax credit".

5 B. The rural health care practitioner tax credit
6 may be claimed and allowed in an amount that shall not exceed:

7 (1) five thousand dollars (\$5,000) for all
8 physicians, osteopathic physicians, dentists, psychologists,
9 podiatric physicians and optometrists who qualify pursuant to
10 the provisions of this section and have provided health care
11 during a taxable year for at least one thousand five hundred
12 eighty-four hours at a practice site located in an approved
13 rural health care underserved area. Eligible health care
14 practitioners listed in this paragraph who provided health care
15 services for at least seven hundred ninety-two hours but less
16 than one thousand five hundred eighty-four hours at a practice
17 site located in an approved rural health care underserved area
18 during a taxable year are eligible for one-half of the tax
19 credit amount; and

20 (2) three thousand dollars (\$3,000) for all
21 pharmacists, dental hygienists, physician assistants, certified
22 registered nurse anesthetists, certified nurse practitioners,
23 clinical nurse specialists, registered nurses, midwives,
24 licensed clinical social workers, licensed independent social
25 workers, professional mental health counselors, professional

underscoring material = new
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1 clinical mental health counselors, marriage and family
2 therapists, professional art therapists, alcohol and drug abuse
3 counselors and physical therapists who qualify pursuant to the
4 provisions of this section and have provided health care during
5 a taxable year for at least one thousand five hundred eighty-
6 four hours at a practice site located in an approved rural
7 health care underserved area. Eligible health care
8 practitioners listed in this paragraph who provided health care
9 services for at least seven hundred ninety-two hours but less
10 than one thousand five hundred eighty-four hours at a practice
11 site located in an approved rural health care underserved area
12 during a taxable year are eligible for one-half of the tax
13 credit amount.

14 C. Before an eligible health care practitioner may
15 claim the rural health care practitioner tax credit, the
16 practitioner shall submit ~~[an]~~ a completed application to the
17 department of health that describes the practitioner's clinical
18 practice and contains additional information that the
19 department of health may require. The department of health
20 shall determine whether an eligible health care practitioner
21 qualifies for the rural health care practitioner tax credit and
22 shall issue a certificate to each qualifying eligible health
23 care practitioner. The department of health shall provide the
24 taxation and revenue department appropriate information for all
25 eligible health care practitioners to whom certificates are

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1 issued in a secure manner on regular intervals agreed upon by
2 both the taxation and revenue department and the department of
3 health.

4 D. A taxpayer claiming the credit provided by this
5 section shall submit a copy of the certificate issued by the
6 department of health with the taxpayer's New Mexico income tax
7 return for the taxable year. If the amount of the credit
8 claimed exceeds a taxpayer's tax liability for the taxable year
9 in which the credit is being claimed, the excess may be carried
10 forward for three consecutive taxable years.

11 E. A taxpayer allowed a tax credit pursuant to this
12 section shall ~~[report the amount of the credit to the~~
13 ~~department]~~ claim the credit on forms and in a manner required
14 by the department.

15 F. ~~[The department shall compile an annual report~~
16 ~~on the tax credit provided by this section that shall include~~
17 ~~the number of taxpayers approved by the department to receive~~
18 ~~the credit, the aggregate amount of credits approved and any~~
19 ~~other information necessary to evaluate the credit. The~~
20 ~~department shall present the report to the revenue~~
21 ~~stabilization and tax policy committee and the legislative~~
22 ~~finance committee with an analysis of the] The tax credit~~
23 provided by this section shall be included in the tax
24 expenditure budget pursuant to Section 7-1-84 NMSA 1978,
25 including the annual aggregate cost of the tax credit.

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G. As used in this section:

(1) "eligible health care practitioner" means:

(a) a dentist or dental hygienist licensed pursuant to the Dental Health Care Act;

(b) a midwife that is a: 1) certified nurse-midwife licensed by the board of nursing as a registered nurse and licensed by the public health division of the department of health to practice nurse-midwifery as a certified nurse-midwife; or 2) licensed midwife licensed by the public health division of the department of health to practice licensed midwifery;

(c) an optometrist licensed pursuant to the provisions of the Optometry Act;

(d) an osteopathic physician licensed pursuant to the provisions of the Medical Practice Act;

(e) a physician licensed pursuant to the provisions of the Medical Practice Act or a physician assistant licensed pursuant to the provisions of the Physician Assistant Act;

(f) a podiatric physician licensed pursuant to the provisions of the Podiatry Act;

(g) a psychologist licensed pursuant to the provisions of the Professional Psychologist Act;

(h) a registered nurse licensed pursuant to the provisions of the Nursing Practice Act;

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1 (i) a pharmacist licensed pursuant to
2 the provisions of the Pharmacy Act;

3 (j) a licensed clinical social worker or
4 a licensed independent social worker licensed pursuant to the
5 provisions of the Social Work Practice Act;

6 (k) a professional mental health
7 counselor, a professional clinical mental health counselor, a
8 marriage and family therapist, an alcohol and drug abuse
9 counselor or a professional art therapist licensed pursuant to
10 the provisions of the Counseling and Therapy Practice Act; and

11 (1) a physical therapist licensed
12 pursuant to the provisions of the Physical Therapy Act;

13 (2) "health care underserved area" means a
14 geographic area or practice location in which it has been
15 determined by the department of health, through the use of
16 indices and other standards set by the department of health,
17 that sufficient health care services are not being provided;

18 (3) "practice site" means a private practice,
19 public health clinic, hospital, public or private nonprofit
20 primary care clinic or other health care service location in a
21 health care underserved area; and

22 (4) "rural" means a rural county or an
23 unincorporated area of a partially rural county, as designated
24 by the health resources and services administration of the
25 United States department of health and human services."

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1 SECTION 41. Section 7-2-18.24 NMSA 1978 (being Laws 2009,
2 Chapter 271, Section 1, as amended) is amended to read:

3 "7-2-18.24. GEOTHERMAL GROUND-COUPLED HEAT PUMP INCOME
4 TAX CREDIT.--

5 A. A taxpayer who files an individual New Mexico
6 income tax return for a taxable year beginning on or after
7 January 1, 2024 and who purchases and installs after [~~the~~
8 ~~effective date of this section~~] May 15, 2024 but before
9 December 31, 2034 a geothermal ground-coupled heat pump in a
10 residence, business or agricultural enterprise in New Mexico
11 owned by that taxpayer may apply for, and the department may
12 allow, a tax credit of up to thirty percent of the purchase and
13 installation costs of the system. The credit provided in this
14 section may be referred to as the "geothermal ground-coupled
15 heat pump income tax credit". The total geothermal ground-
16 coupled heat pump income tax credit allowed to a taxpayer shall
17 not exceed nine thousand dollars (\$9,000). The department
18 shall allow a geothermal ground-coupled heat pump income tax
19 credit only for geothermal ground-coupled heat pumps that are
20 certified pursuant to Subsection C of this section and
21 installed by a nationally accredited ground source heat pump
22 installer [~~certified by the energy, minerals and natural~~
23 ~~resources department~~].

24 B. That portion of a geothermal ground-coupled heat
25 pump income tax credit that exceeds a taxpayer's tax liability

underscored material = new
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1 in the taxable year in which the credit is claimed shall be
2 refunded to the taxpayer.

3 C. The energy, minerals and natural resources
4 department shall adopt rules establishing procedures to provide
5 certification of geothermal ground-coupled heat pumps for
6 purposes of obtaining a geothermal ground-coupled heat pump
7 income tax credit. The rules shall address technical
8 specifications and requirements relating to safety, building
9 code and standards compliance, minimum system sizes, system
10 applications and lists of eligible components. The energy,
11 minerals and natural resources department may modify the
12 specifications and requirements as necessary to maintain a high
13 level of system quality and performance.

14 D. The maximum annual aggregate of credits that may
15 be certified in a calendar year by the energy, minerals and
16 natural resources department is four million dollars
17 (\$4,000,000). That department shall not certify a tax credit
18 for which a taxpayer claims a 2021 sustainable building tax
19 credit using a geothermal ground-coupled heat pump as a
20 component of qualification for the rating system certification
21 level used in determining eligibility for that credit.

22 Completed applications for the credit shall be considered in
23 the order received [~~by the department~~]. The energy, minerals
24 and natural resources department shall provide the department
25 appropriate information for all certificates of eligibility in

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1 a secure manner on regular intervals agreed upon by both
2 departments.

3 E. A taxpayer who otherwise qualifies and claims a
4 geothermal ground-coupled heat pump income tax credit with
5 respect to property owned by a partnership or other business
6 association of which the taxpayer is a member may claim a
7 credit only in proportion to that taxpayer's interest in the
8 partnership or association. The total credit claimed in the
9 aggregate by all members of the partnership or association with
10 respect to the property shall not exceed the amount of the
11 credit that could have been claimed by a sole owner of the
12 property.

13 F. Married individuals who file separate returns
14 for a taxable year in which they could have filed a joint
15 return may each claim only one-half of the credit that would
16 have been allowed on a joint return.

17 G. A taxpayer allowed a tax credit pursuant to this
18 section shall ~~[report the amount of the credit to the~~
19 ~~department]~~ claim the credit on forms and in a manner required
20 by the department.

21 H. ~~[The department shall compile an annual report~~
22 ~~on the tax credit provided by this section that shall include~~
23 ~~the number of taxpayers approved by the department to receive~~
24 ~~the credit, the aggregate amount of credits approved and any~~
25 ~~other information necessary to evaluate the credit. The~~

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1 ~~department shall present the report to the revenue~~
2 ~~stabilization and tax policy committee and the legislative~~
3 ~~finance committee with an analysis of the] The credit provided~~
4 by this section shall be included in the tax expenditure budget
5 pursuant to Section 7-1-84 NMSA 1978, including the annual
6 aggregate cost of the tax credit.

7 I. As used in this section, "geothermal ground-
8 coupled heat pump" means a heating and refrigerating system
9 that directly or indirectly utilizes available heat below the
10 surface of the earth for distribution of heating and cooling or
11 domestic hot water and that has either a minimum coefficient of
12 performance of three and four-tenths or an efficiency ratio of
13 sixteen or greater."

14 SECTION 42. Section 7-2-18.26 NMSA 1978 (being Laws 2010,
15 Chapter 84, Section 1, as amended) is amended to read:

16 "7-2-18.26. AGRICULTURAL BIOMASS INCOME TAX CREDIT.--

17 A. A taxpayer who owns a dairy or feedlot and who
18 files an individual New Mexico income tax return for a taxable
19 year [~~beginning on or after January 1, 2011 and~~] ending prior
20 to January 1, 2030, may [~~apply for~~] claim, and the department
21 may allow, a tax credit equal to five dollars (\$5.00) per wet
22 ton of agricultural biomass transported from the taxpayer's
23 dairy or feedlot to a facility that uses agricultural biomass
24 to generate electricity or make biocrude or other liquid or
25 gaseous fuel for commercial use. The tax credit created in

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1 this section may be referred to as the "agricultural biomass
2 income tax credit".

3 ~~[B. If the requirements of this section have been
4 complied with, the department shall issue to the taxpayer a
5 document granting an agricultural biomass income tax credit.
6 The document shall be numbered for identification and declare
7 its date of issuance and the amount of the tax credit allowed
8 pursuant to this section. The document may be submitted by the
9 taxpayer with that taxpayer's income tax return or may be sold,
10 exchanged or otherwise transferred to another taxpayer. The
11 parties to such a transaction shall notify the department of
12 the sale, exchange or transfer within ten days of the sale,
13 exchange or transfer.]~~

14 B. Subject to the limitations pursuant to
15 Subsection D of this section, a taxpayer shall apply for
16 certification of eligibility for the agricultural biomass
17 income tax credit from the energy, minerals and natural
18 resources department on forms and in the manner prescribed by
19 that department. Completed applications shall be considered in
20 the order received. A dated certificate of eligibility shall
21 be issued to the taxpayer providing the amount of credit for
22 which the taxpayer is eligible and the taxable year in which
23 the credit may be claimed.

24 C. The energy, minerals and natural resources
25 department shall:

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underscored material = new
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1 (1) adopt rules establishing procedures to
2 provide certification of transportation of agricultural biomass
3 to a qualified facility that uses agricultural biomass to
4 generate electricity or make biocrude or other liquid or
5 gaseous fuel for commercial use for purposes of obtaining an
6 agricultural biomass income tax credit; and

7 (2) provide the department appropriate
8 information for all certificates of eligibility in a secure
9 manner on regular intervals agreed upon by both departments.

10 D. The aggregate amount of agricultural biomass
11 income tax credits and agricultural biomass corporate income
12 tax credits that may be certified is five million dollars
13 (\$5,000,000) per calendar year. Applications for certification
14 received after this limitation shall not be approved. Any
15 remaining amount of credit that remains unused in a taxable
16 year may be available for certification for a maximum of four
17 consecutive taxable years until the credit is fully utilized.

18 ~~[G-]~~ E. Any portion of the agricultural biomass
19 income tax credit that ~~[remains unused in a taxable year may be~~
20 ~~carried forward for a maximum of four consecutive taxable years~~
21 ~~following the taxable year in which the credit originates until~~
22 ~~fully expended]~~ exceeds a taxpayer's income tax liability in
23 the taxable year in which the credit is being claimed may be
24 carried forward for up to three consecutive taxable years. A
25 certificate of eligibility for an agricultural biomass income

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1 tax credit may be sold, exchanged or otherwise transferred to
2 another taxpayer for the full value of the credit. The parties
3 to such a transaction shall notify the department of the sale,
4 exchange or transfer within ten days of the sale, exchange or
5 transfer.

6 [D-] F. A taxpayer who otherwise qualifies and
7 claims an agricultural biomass income tax credit with respect
8 to a dairy or feedlot owned by a partnership or other business
9 association of which the taxpayer is a member may claim the
10 credit only in proportion to that taxpayer's interest in the
11 partnership or business association. The total agricultural
12 biomass income tax credits claimed in the aggregate with
13 respect to the same dairy or feedlot by all members of the
14 partnership or business association shall not exceed the amount
15 of the credit that could have been claimed by a single owner of
16 the dairy or feedlot.

17 [E-] G. Married individuals who file separate
18 returns for a taxable year in which they could have filed a
19 joint return may each claim only one-half of the credit that
20 would have been allowed on a joint return.

21 [~~F.~~ ~~The energy, minerals and natural resources~~
22 ~~department shall adopt rules establishing procedures to provide~~
23 ~~certification of transportation of agricultural biomass to a~~
24 ~~qualified facility that uses agricultural biomass to generate~~
25 ~~electricity or make biocrude or other liquid or gaseous fuel~~

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1 ~~for commercial use for purposes of obtaining an agricultural~~
2 ~~biomass income tax credit. The rules may be modified as~~
3 ~~determined necessary by the energy, minerals and natural~~
4 ~~resources department to determine accurate recording of the~~
5 ~~quantity of agricultural biomass transported and used for the~~
6 ~~purpose allowable in this section.~~

7 ~~G.]~~ H. A taxpayer who claims an agricultural
8 biomass income tax credit shall not also claim an agricultural
9 biomass corporate income tax credit for transportation of the
10 same agricultural biomass on which the claim for that
11 agricultural biomass income tax credit is based.

12 ~~[H. The department shall limit the annual combined~~
13 ~~total of all agricultural biomass income tax credits and all~~
14 ~~agricultural biomass corporate income tax credits allowed to a~~
15 ~~maximum of five million dollars (\$5,000,000). Applications for~~
16 ~~the credit shall be considered in the order received by the~~
17 ~~department.]~~

18 I. A taxpayer allowed a tax credit pursuant to this
19 section shall ~~[report the amount of the credit to the~~
20 ~~department]~~ claim the credit on forms and in a manner required
21 by the department.

22 J. ~~[The department shall compile an annual report~~
23 ~~on the agricultural biomass income tax credit that shall~~
24 ~~include the number of taxpayers approved by the department to~~
25 ~~receive the credit, the aggregate amount of credits approved~~

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1 ~~and any other information necessary to evaluate the credit.~~
2 ~~The department shall present the report to the revenue~~
3 ~~stabilization and tax policy committee and the legislative~~
4 ~~finance committee with an analysis of the] The tax credit~~
5 provided by this section shall be included in the tax
6 expenditure budget pursuant to Section 7-1-84 NMSA 1978,
7 including the annual aggregate cost of the tax credit.

8 K. As used in this section:

9 (1) "agricultural biomass" means wet manure
10 meeting specifications established by the energy, minerals and
11 natural resources department from either a dairy or feedlot
12 commercial operation;

13 (2) "biocrude" means a nonfossil form of
14 energy that can be transported and refined using existing
15 petroleum refining facilities and that is made from
16 biologically derived feedstocks and other agricultural biomass;

17 (3) "feedlot" means an operation that fattens
18 livestock for market; and

19 (4) "dairy" means a facility that raises
20 livestock for milk production."

21 SECTION 43. Section 7-2-18.29 NMSA 1978 (being Laws 2015,
22 Chapter 130, Section 1, as amended) is amended to read:

23 "7-2-18.29. 2015 SUSTAINABLE BUILDING INCOME TAX
24 CREDIT.--

25 A. The tax credit provided by this section may be
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1 referred to as the "2015 sustainable building income tax
2 credit". The 2015 sustainable building income tax credit shall
3 be available for the construction in New Mexico of a
4 sustainable building, the renovation of an existing building in
5 New Mexico into a sustainable building or the permanent
6 installation of manufactured housing, regardless of where the
7 housing is manufactured, that is a sustainable building;
8 provided that the construction, renovation or installation
9 project is completed prior to April 1, 2023. The tax credit
10 provided in this section may not be claimed with respect to the
11 same sustainable building for which the 2015 sustainable
12 building corporate income tax credit, [~~provided in the~~
13 ~~Corporate Income and Franchise Tax Act or~~] the 2021 sustainable
14 building income tax credit [~~pursuant to the Income Tax Act~~] or
15 the [~~Corporate Income and Franchise Tax Act~~] 2021 sustainable
16 building corporate income tax credit has been claimed.

17 B. The purpose of the 2015 sustainable building
18 income tax credit is to encourage the construction of
19 sustainable buildings and the renovation of existing buildings
20 into sustainable buildings.

21 C. A taxpayer who files an income tax return [~~is~~
22 ~~eligible to be granted~~] may claim a 2015 sustainable building
23 income tax credit [~~by the department if the taxpayer submits a~~
24 ~~document issued pursuant to Subsection K of this section with~~
25 ~~the taxpayer's income tax return~~] if the requirements of this

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1 section are met.

2 D. For taxable years ending on or before December
3 31, 2024, the 2015 sustainable building income tax credit may
4 be claimed with respect to a sustainable commercial building.
5 The credit shall be calculated based on the certification level
6 the building has achieved in the LEED green building rating
7 system and the amount of qualified occupied square footage in
8 the building, as indicated on the following chart:

9 LEED Rating Level	10 Qualified Occupied Square Footage	11 Tax Credit per Square Foot
12 LEED-NC Silver	13 First 10,000	\$3.50
	14 Next 40,000	\$1.75
	15 Over 50,000 up to 500,000	\$.70
16 LEED-NC Gold	17 First 10,000	\$4.75
	18 Next 40,000	\$2.00
	19 Over 50,000 up to 500,000	\$1.00
20 LEED-NC Platinum	21 First 10,000	\$6.25
	22 Next 40,000	\$3.25
	23 Over 50,000 up to 500,000	\$2.00
24 LEED-EB or CS Silver	25 First 10,000	\$2.50
		\$1.25

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1		Over 50,000	
2		up to 500,000	\$.50
3	LEED-EB or CS Gold	First 10,000	\$3.35
4		Next 40,000	\$1.40
5		Over 50,000	
6		up to 500,000	\$.70
7	LEED-EB or CS Platinum	First 10,000	\$4.40
8		Next 40,000	\$2.30
9		Over 50,000	
10		up to 500,000	\$1.40
11	LEED-CI Silver	First 10,000	\$1.40
12		Next 40,000	\$.70
13		Over 50,000	
14		up to 500,000	\$.30
15	LEED-CI Gold	First 10,000	\$1.90
16		Next 40,000	\$.80
17		Over 50,000	
18		up to 500,000	\$.40
19	LEED-CI Platinum	First 10,000	\$2.50
20		Next 40,000	\$1.30
21		Over 50,000	
22		up to 500,000	\$.80.

23 E. For taxable years ending on or before December 31,
24 2024, the 2015 sustainable building income tax credit may be
25 claimed with respect to a sustainable residential building.

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1 The credit shall be calculated based on the amount of qualified
2 occupied square footage, as indicated on the following chart:

3 Rating System/Level	4 Qualified Occupied	5 Tax Credit per Square Foot
6 LEED-H Silver or Build	7 Up to 2,000	8 \$3.00
9 Green NM Silver		
10 LEED-H Gold or Build	11 Up to 2,000	12 \$4.50
13 Green NM Gold		
14 LEED-H Platinum or Build	15 Up to 2,000	16 \$6.50
17 Green NM Emerald		
18 Manufactured Housing	19 Up to 2,000	20 \$3.00.

21 F. A person that is a building owner may apply for a
22 certificate of eligibility for the 2015 sustainable building
23 income tax credit from the energy, minerals and natural
24 resources department on forms and in a manner prescribed by
25 that department after the construction, installation or
renovation of the sustainable building is complete. Completed
applications shall be considered in the order received. If the
energy, minerals and natural resources department determines
that the building owner meets the requirements of this
subsection and that the building with respect to which the tax
credit application is made meets the requirements of this
section as a sustainable residential building or a sustainable
commercial building, the energy, minerals and natural resources

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1 department may issue a dated certificate of eligibility to the
2 building owner providing the amount of credit for which the
3 building owner is eligible and the taxable year in which the
4 credit may be claimed, subject to the limitations in Subsection
5 G of this section. The certificate shall include the rating
6 system certification level awarded to the building, the amount
7 of qualified occupied square footage in the building and a
8 calculation of the maximum amount of 2015 sustainable building
9 income tax credit for which the building owner [~~would be~~] is
10 eligible. The energy, minerals and natural resources
11 department may issue rules governing the procedure for
12 administering the provisions of this subsection. [~~If the~~
13 ~~certification level for the sustainable residential building is~~
14 ~~awarded on or after January 1, 2017 but prior to April 1, 2023,~~
15 ~~the energy, minerals and natural resources department may issue~~
16 ~~a certificate of eligibility to a building owner who is:~~

17 (1) ~~the owner of the sustainable residential~~
18 ~~building at the time the certification level for the building~~
19 ~~is awarded; or~~

20 (2) ~~the subsequent purchaser of a sustainable~~
21 ~~residential building with respect to which no tax credit has~~
22 ~~been previously claimed.]~~

23 G. Except as provided in Subsection H of this
24 section, the energy, minerals and natural resources department
25 may issue a certificate of eligibility only if the [~~total~~]

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1 aggregate amount of 2015 sustainable building income tax
2 credits represented by certificates of eligibility issued by
3 the energy, minerals and natural resources department pursuant
4 to this section and [~~pursuant to the Corporate Income and~~
5 ~~Franchise Tax Act~~] Section 7-2A-28 NMSA 1978 shall not exceed
6 in any calendar year an aggregate amount of:

7 (1) one million two hundred fifty thousand
8 dollars (\$1,250,000) with respect to sustainable commercial
9 buildings;

10 (2) three million three hundred seventy-five
11 thousand dollars (\$3,375,000) with respect to sustainable
12 residential buildings that are not manufactured housing; and

13 (3) three hundred seventy-five thousand
14 dollars (\$375,000) with respect to sustainable residential
15 buildings that are manufactured housing.

16 H. For any taxable year that the energy, minerals
17 and natural resources department determines that applications
18 for sustainable building tax credits for any type of
19 sustainable building pursuant to Paragraph (1), (2) or (3) of
20 Subsection G of this section are less than the aggregate limit
21 for that type of sustainable building for that taxable year,
22 the energy, minerals and natural resources department shall
23 allow the difference between the aggregate limit and the
24 applications to be added to the aggregate limit of another type
25 of sustainable building for which applications exceeded the

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1 aggregate limit for that taxable year. Any excess not used in
2 a taxable year shall not be carried forward to subsequent
3 taxable years. The energy, minerals and natural resources
4 department shall provide the department appropriate information
5 for all certificates of eligibility in a secure manner on
6 regular intervals agreed upon by both departments.

7 I. Installation of a solar thermal system or a
8 photovoltaic system eligible for the solar market development
9 tax credit pursuant to Section 7-2-18.14 or 7-2-18.31 NMSA 1978
10 may not be used as a component of qualification for the rating
11 system certification level used in determining eligibility for
12 the 2015 sustainable building income tax credit, unless a solar
13 market development tax credit pursuant to Section 7-2-18.14 or
14 7-2-18.31 NMSA 1978 has not been claimed with respect to that
15 system and the building owner and the taxpayer claiming the
16 2015 sustainable building income tax credit certify that such a
17 tax credit will not be claimed with respect to that system.

18 J. To [~~be eligible for~~] claim the 2015 sustainable
19 building income tax credit, the building owner shall provide to
20 the [~~taxation and revenue~~] department a certificate of
21 eligibility issued by the energy, minerals and natural
22 resources department pursuant to the requirements of Subsection
23 F of this section and any other information the [~~taxation and~~
24 ~~revenue~~] department may require to determine the amount of the
25 tax credit for which the building owner is eligible.

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1 ~~[K. If the requirements of this section have been~~
2 ~~complied with, the department shall issue to the building owner~~
3 ~~a document granting a 2015 sustainable building tax credit.~~
4 ~~The document shall be numbered for identification and declare~~
5 ~~its date of issuance and the amount of the tax credit allowed~~
6 ~~pursuant to this section. The document may be submitted by the~~
7 ~~building owner with that taxpayer's income tax return, if~~
8 ~~applicable, or may be sold, exchanged or otherwise transferred~~
9 ~~to another taxpayer. The parties to such a transaction shall~~
10 ~~notify the department of the sale, exchange or transfer within~~
11 ~~ten days of the sale, exchange or transfer.~~

12 ~~L. If the approved amount of a 2015 sustainable~~
13 ~~building tax credit for a taxpayer in a taxable year~~
14 ~~represented by a document issued pursuant to Subsection K of~~
15 ~~this section is:~~

16 ~~(1) less than one hundred thousand dollars~~
17 ~~(\$100,000), a maximum of twenty five thousand dollars (\$25,000)~~
18 ~~shall be applied against the taxpayer's income tax liability~~
19 ~~for the taxable year for which the credit is approved and the~~
20 ~~next three subsequent taxable years as needed depending on the~~
21 ~~amount of credit; or~~

22 ~~(2) one hundred thousand dollars (\$100,000) or~~
23 ~~more, increments of twenty five percent of the total credit~~
24 ~~amount in each of the four taxable years, including the taxable~~
25 ~~year for which the credit is approved and the three subsequent~~

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1 ~~taxable years, shall be applied against the taxpayer's income~~
2 ~~tax liability.~~

3 ~~M. If the sum of all]~~ K. Any portion of a 2015
4 sustainable building income tax [~~credits that can be applied to~~
5 ~~a taxable year for a taxpayer, calculated according to~~
6 ~~Paragraph (1) or (2) of Subsection L of this section]~~ credit
7 that exceeds the taxpayer's income tax liability [~~for that]~~ in
8 the taxable year [~~the excess]~~ for which the credit is claimed
9 may be carried forward for [~~a period of]~~ up to seven
10 consecutive taxable years.

11 [~~N.~~] L. A taxpayer who otherwise qualifies and
12 claims a 2015 sustainable building income tax credit with
13 respect to a sustainable building owned by a partnership or
14 other business association of which the taxpayer is a member
15 may claim a credit only in proportion to that taxpayer's
16 interest in the partnership or association. The total credit
17 claimed in the aggregate by all members of the partnership or
18 association with respect to the sustainable building shall not
19 exceed the amount of the credit that could have been claimed by
20 a sole owner of the property.

21 [~~O.~~] M. Married individuals who file separate
22 returns for a taxable year in which they could have filed a
23 joint return may each claim only one-half of the 2015
24 sustainable building income tax credit that would have been
25 allowed on a joint return.

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1 ~~[P. The department shall compile an annual report~~
2 ~~on the 2015 sustainable building tax credit created pursuant to~~
3 ~~this section that shall include the number of taxpayers~~
4 ~~approved by the department to receive the tax credit, the~~
5 ~~aggregate amount of tax credits approved and any other~~
6 ~~information necessary to evaluate the effectiveness of the tax~~
7 ~~credit. Beginning in 2019 and every three years thereafter~~
8 ~~that the credit is in effect, the department shall compile and~~
9 ~~present the annual reports to the revenue stabilization and tax~~
10 ~~policy committee and the legislative finance committee]~~

11 N. The tax credit provided by this section shall be
12 included in the tax expenditure budget pursuant to Section
13 7-1-84 NMSA 1978 with an analysis of the effectiveness and cost
14 of the tax credit and whether the tax credit is performing the
15 purpose for which it was created.

16 ~~[Q.]~~ O. For the purposes of this section:

17 (1) "build green New Mexico rating system"
18 means the certification standards adopted by build green New
19 Mexico in November 2014, which include water conservation
20 standards;

21 (2) "LEED-CI" means the LEED rating system for
22 commercial interiors;

23 (3) "LEED-CS" means the LEED rating system for
24 the core and shell of buildings;

25 (4) "LEED-EB" means the LEED rating system for

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1 existing buildings;

2 (5) "LEED gold" means the rating in compliance
3 with, or exceeding, the second-highest rating awarded by the
4 LEED certification process;

5 (6) "LEED" means the most current leadership
6 in energy and environmental design green building rating system
7 guidelines developed and adopted by the United States green
8 building council;

9 (7) "LEED-H" means the LEED rating system for
10 homes;

11 (8) "LEED-NC" means the LEED rating system for
12 new buildings and major renovations;

13 (9) "LEED platinum" means the rating in
14 compliance with, or exceeding, the highest rating awarded by
15 the LEED certification process;

16 (10) "LEED silver" means the rating in
17 compliance with, or exceeding, the third-highest rating awarded
18 by the LEED certification process;

19 (11) "manufactured housing" means a
20 multisectioned home that is:

21 (a) a manufactured home or modular home;

22 (b) a single-family dwelling with a
23 heated area of at least thirty-six feet by twenty-four feet and
24 a total area of at least eight hundred sixty-four square feet;

25 (c) constructed in a factory to the

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1 standards of the United States department of housing and urban
2 development, the National Manufactured Housing Construction and
3 Safety Standards Act of 1974 and the Housing and Urban
4 Development Zone Code 2 or New Mexico construction codes up to
5 the date of the unit's construction; and

6 (d) installed consistent with the
7 Manufactured Housing Act and rules adopted pursuant to that act
8 relating to permanent foundations;

9 (12) "qualified occupied square footage" means
10 the occupied spaces of the building as determined by:

11 (a) the United States green building
12 council for those buildings obtaining LEED certification;

13 (b) the administrators of the build
14 green New Mexico rating system for those homes obtaining build
15 green New Mexico certification; and

16 (c) the United States environmental
17 protection agency for ENERGY STAR-certified manufactured homes;

18 (13) "person" does not include state, local
19 government, public school district or tribal agencies;

20 (14) "sustainable building" means either a
21 sustainable commercial building or a sustainable residential
22 building;

23 (15) "sustainable commercial building" means a
24 multifamily dwelling unit, as registered and certified under
25 the LEED-H or build green New Mexico rating system, that is

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1 certified by the United States green building council as LEED-H
2 silver or higher or by build green New Mexico as silver or
3 higher and has achieved a home energy rating system index of
4 sixty or lower as developed by the residential energy services
5 network or a building that has been registered and certified
6 under the LEED-NC, LEED-EB, LEED-CS or LEED-CI rating system
7 and that:

8 (a) is certified by the United States
9 green building council at LEED silver or higher;

10 (b) achieves any prerequisite for and at
11 least one point related to commissioning under LEED "energy and
12 atmosphere", if included in the applicable rating system; and

13 (c) has reduced energy consumption
14 beginning January 1, 2012, by sixty percent based on the
15 national average for that building type as published by the
16 United States department of energy as substantiated by the
17 United States environmental protection agency target finder
18 energy performance results form, dated no sooner than the
19 schematic design phase of development;

20 (16) "sustainable residential building" means:

21 (a) a building used as a single-family
22 residence as registered and certified under the build green New
23 Mexico or LEED-H rating system that: 1) is certified by the
24 United States green building council as LEED-H silver or higher
25 or by build green New Mexico as silver or higher; 2) has

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1 achieved a home energy rating system index of sixty or lower as
2 developed by the residential energy services network; 3) has
3 indoor plumbing fixtures and water-using appliances that, on
4 average, have flow rates equal to or lower than the flow rates
5 required for certification by WaterSense; 4) if landscape area
6 is available at the front of the property, has at least one
7 water line outside the building below the frost line that may
8 be connected to a drip irrigation system; and 5) if landscape
9 area is available at the rear of the property, has at least one
10 water line outside the building below the frost line that may
11 be connected to a drip irrigation system; or

12 (b) manufactured housing that is ENERGY
13 STAR-qualified by the United States environmental protection
14 agency;

15 (17) "tribal" means of, belonging to or
16 created by a federally recognized Indian nation, tribe or
17 pueblo; and

18 (18) "WaterSense" means a program created by
19 the federal environmental protection agency that certifies
20 water-using products that meet the environmental protection
21 agency's criteria for efficiency and performance."

22 SECTION 44. Section 7-2-18.31 NMSA 1978 (being Laws 2020,
23 Chapter 13, Section 1, as amended) is amended to read:

24 "7-2-18.31. NEW SOLAR MARKET DEVELOPMENT INCOME TAX
25 CREDIT.--

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1 A. For taxable years ending prior to January 1,
2 2032, a taxpayer who is not a dependent of another individual
3 and who, on or after March 1, 2020, purchases and installs a
4 solar thermal system or a photovoltaic system in a residence,
5 business or agricultural enterprise in New Mexico owned by that
6 taxpayer or by a federally recognized Indian nation, tribe or
7 pueblo and held in leasehold by that taxpayer may [~~apply for~~
8 claim], and the department may allow, a credit against the
9 taxpayer's tax liability imposed pursuant to the Income Tax Act
10 in an amount provided in Subsection C of this section. The tax
11 credit provided by this section may be referred to as the "new
12 solar market development income tax credit".

13 B. The purpose of the new solar market development
14 income tax credit is to encourage the installation of solar
15 thermal and photovoltaic systems in residences, businesses and
16 agricultural enterprises.

17 C. The department may allow a new solar market
18 development income tax credit of ten percent of the purchase
19 and installation costs of a solar thermal or photovoltaic
20 system.

21 D. The new solar market development income tax
22 credit shall not exceed six thousand dollars (\$6,000) per
23 taxpayer per taxable year. The department shall allow a tax
24 credit only for solar thermal and photovoltaic systems
25 certified pursuant to Subsection E of this section.

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1 E. Subject to the limitation provided in Subsection
2 F of this section, a taxpayer shall apply for certification of
3 eligibility for the new solar market development income tax
4 credit from the energy, minerals and natural resources
5 department on forms and in the manner prescribed by that
6 department. Completed applications shall be considered in the
7 order received. The application shall include proof of
8 purchase and installation of a solar thermal or photovoltaic
9 system, that the system meets technical specifications and
10 requirements relating to safety, code and standards compliance,
11 solar collector orientation and sun exposure, minimum system
12 sizes, system applications and lists of eligible components and
13 any additional information that the energy, minerals and
14 natural resources department may require to determine
15 eligibility for the credit. A dated certificate of eligibility
16 shall be issued to the taxpayer providing the amount of the new
17 solar market development income tax credit for which the
18 taxpayer is eligible and the taxable year in which the credit
19 may be claimed. A certificate of eligibility for a new solar
20 market development income tax credit may be sold, exchanged or
21 otherwise transferred to another taxpayer for the full value of
22 the credit. The parties to such a transaction shall notify the
23 department of the sale, exchange or transfer within ten days of
24 the sale, exchange or transfer. The energy, minerals and
25 natural resources department shall provide the department

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1 appropriate information for all certificates of eligibility in
2 a secure manner on regular intervals agreed upon by both
3 departments.

4 F. The aggregate amount of credits that may be
5 certified pursuant to Subsection E of this section is as
6 follows, and applications for certification received after
7 these limitations have been met shall not be approved:

8 (1) for calendar years 2020 through 2023,
9 twelve million dollars (\$12,000,000) for each calendar year;
10 provided that if this limitation has been met for any of those
11 calendar years, an additional total of twenty million dollars
12 (\$20,000,000) in credits may be certified for all of those
13 calendar years; and provided further that credits certified
14 pursuant to this paragraph shall be claimed only for taxable
15 year 2023; and

16 (2) for calendar years 2024 and thereafter,
17 thirty million dollars (\$30,000,000) for each calendar year.

18 G. A taxpayer may claim a new solar market
19 development income tax credit for the taxable year in which the
20 taxpayer purchases and installs a solar thermal or photovoltaic
21 system. To receive a new solar market development income tax
22 credit, a taxpayer shall [~~apply to the department~~] claim the
23 credit on forms and in the manner prescribed by the department
24 within twelve months following the calendar year in which the
25 system was installed; provided that, for a taxpayer who

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1 receives a certificate of eligibility pursuant to Paragraph (1)
2 of Subsection F of this section, the taxpayer shall apply to
3 the department within twelve months following the calendar year
4 in which the certification is made. The ~~[application]~~ claim
5 shall include a certification made pursuant to Subsection E of
6 this section.

7 H. That portion of a new solar market development
8 income tax credit that exceeds a taxpayer's tax liability in
9 the taxable year in which the credit is claimed shall be
10 refunded to the taxpayer.

11 I. Married individuals filing separate returns for
12 a taxable year for which they could have filed a joint return
13 may each claim only one-half of the new solar market
14 development income tax credit that would have been claimed on a
15 joint return.

16 J. A taxpayer may be allocated the right to claim a
17 new solar market development income tax credit in proportion to
18 the taxpayer's ownership interest if the taxpayer owns an
19 interest in a business entity that is taxed for federal income
20 tax purposes as a partnership or limited liability company and
21 that business entity has met all of the requirements to be
22 eligible for the credit. The total credit claimed by all
23 members of the partnership or limited liability company shall
24 not exceed the allowable credit pursuant to this section.

25 K. A taxpayer allowed a tax credit pursuant to this

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1 section shall ~~[report the amount of]~~ claim the credit ~~[to the~~
2 ~~taxation and revenue department]~~ on forms and in a manner
3 required by ~~[that]~~ the department.

4 L. ~~[The taxation and revenue department shall~~
5 ~~compile an annual report on the new solar market development~~
6 ~~income tax credit that shall include the number of taxpayers~~
7 ~~approved by the department to receive the credit, the aggregate~~
8 ~~amount of credits approved and any other information necessary~~
9 ~~to evaluate the credit. The department shall present the~~
10 ~~report to the revenue stabilization and tax policy committee~~
11 ~~and the legislative finance committee with an analysis of the]~~
12 The tax credit provided by this section shall be included in
13 the tax expenditure budget pursuant to Section 7-1-84 NMSA
14 1978, including the annual aggregate cost of the tax credit.

15 M. As used in this section:

16 (1) "photovoltaic system" means an energy
17 system that collects or absorbs sunlight for conversion into
18 electricity; and

19 (2) "solar thermal system" means an energy
20 system that collects or absorbs solar energy for conversion
21 into heat for the purposes of space heating, space cooling or
22 water heating."

23 SECTION 45. Section 7-2-18.32 NMSA 1978 (being Laws 2021,
24 Chapter 84, Section 2, as amended) is amended to read:

25 "7-2-18.32. 2021 SUSTAINABLE BUILDING INCOME TAX
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1 CREDIT.--

2 A. The tax credit provided by this section may be
3 referred to as the "2021 sustainable building income tax
4 credit". For taxable years ending prior to January 1, 2028, a
5 taxpayer who is a building owner and files an income tax return
6 ~~[is eligible to be granted]~~ may claim a 2021 sustainable
7 building income tax credit ~~[by the department]~~ if the
8 requirements of this section are met. The 2021 sustainable
9 building income tax credit shall be available for the
10 construction in New Mexico of a sustainable building, the
11 renovation of an existing building in New Mexico, the permanent
12 installation of manufactured housing, regardless of where the
13 housing is manufactured, that is a sustainable building or the
14 installation of energy-conserving products to existing
15 buildings in New Mexico, as provided in this section. The tax
16 credit provided in this section may not be claimed with respect
17 to the same sustainable building for which the 2021 sustainable
18 building corporate income tax credit, ~~[provided in the~~
19 ~~Corporate Income and Franchise Tax Act or]~~ the 2015 sustainable
20 building income tax credit ~~[pursuant to the Income Tax Act]~~ or
21 the ~~[Corporate Income and Franchise Tax Act]~~ 2015 sustainable
22 building corporate income tax credit has been claimed.

23 B. The amount of a 2021 sustainable building income
24 tax credit shall be determined as follows:

25 (1) for the construction of a new sustainable

1 commercial building that is broadband ready and electric
2 vehicle ready and is completed on or after January 1, 2022, the
3 amount of credit shall be calculated:

4 (a) based on the certification level the
5 building has achieved in the rating level and the amount of
6 qualified occupied square footage in the building, as indicated
7 on the following chart:

8 Rating Level	9 Qualified Occupied Square Footage	10 Tax Credit per Square Foot
11 LEED-NC Platinum	12 First 10,000	13 \$5.25
	14 Next 40,000	15 \$2.25
	16 Over 50,000	
	17 Up to 200,000	18 \$1.00
19 LEED-EB or CS Platinum	20 First 10,000	21 \$3.40
	22 Next 40,000	23 \$1.30
	24 Over 50,000	
	25 Up to 200,000	\$0.35
LEED-CI Platinum	First 10,000	\$1.50
	Next 40,000	\$0.40
	Over 50,000	
	Up to 200,000	\$0.30
LEED-NC Gold	First 10,000	\$3.00
	Next 40,000	\$1.00
	Over 50,000	

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1		Up to 200,000	\$0.25
2	LEED-EB or -CS Gold	First 10,000	\$2.00
3		Next 40,000	\$1.00
4		Over 50,000	
5		Up to 200,000	\$0.25
6	LEED-CI Gold	First 10,000	\$0.90
7		Next 40,000	\$0.40
8		Over 50,000	
9		Up to 200,000	\$0.10; and

10 (b) with additional amounts based on the
11 additional criteria and the amount of qualified occupied square
12 footage, as indicated in the following chart:

13	Additional Criteria	Qualified	Tax Credit
14		Occupied	per Square
15		Square Footage	Foot
16	Fully Electric Building	First 50,000	\$1.00
17		Over 50,000	
18		Up to 200,000	\$0.50
19	Zero Carbon, Energy,		
20	Waste or Water Certified	First 50,000	\$0.25
21		Over 50,000	
22		Up to 200,000	\$0.10;

23 (2) for the renovation of a commercial
24 building that was built at least ten years prior to the date of
25 the renovation, has twenty thousand square feet or more of

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1 space in which temperature is controlled and is broadband ready
2 and electric vehicle ready, the amount of credit shall be
3 calculated by multiplying two dollars twenty-five cents (\$2.25)
4 by the amount of qualified occupied square footage in the
5 building, up to a maximum of one hundred fifty thousand dollars
6 (\$150,000) per renovation; provided that the renovation reduces
7 total energy and power costs by fifty percent when compared to
8 the most current energy standard for buildings except low-rise
9 residential buildings, as developed by the American society of
10 heating, refrigerating and air-conditioning engineers;

11 (3) for the installation of the following
12 energy-conserving products to an existing commercial building
13 with less than twenty thousand square feet of space in which
14 temperature is controlled that is broadband ready, the amount
15 of credit shall be based on the cost of the product installed,
16 which shall include installation costs, and if the building is
17 affordable housing, per product installed:

Product	Amount of Credit	
	Affordable Housing	Non-Affordable Housing
Energy Star Air Source Heat Pump	\$2,000	\$1,000
Energy Star Ground Source Heat Pump	\$2,000	\$1,000
Energy Star		

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1	Windows and Doors	100% of product	50% of product
2		cost up to	cost up to
3		\$1,000	\$500
4	Insulation Improvements That		
5	Meet Rules of the		
6	Energy, Minerals and Natural		
7	Resources Department	100% of product	50% of product
8		cost up to	cost up to
9		\$2,000	\$1,000
10	Energy Star Heat Pump Water		
11	Heater	\$700	\$350
12	Electric Vehicle Ready	100% of product	50% of product
13		cost up to	cost up to
14		\$3,000	\$1,500;

15 (4) for the construction of a new sustainable
16 residential building that is broadband ready and electric
17 vehicle ready and is completed on or after January 1, 2022, the
18 amount of credit shall be calculated:

19 (a) based on the certification level the
20 building has achieved in the rating level and the amount of
21 qualified occupied square footage in the building, as indicated
22 on the following chart:

23	Rating Level	Qualified	Tax Credit
24		Occupied	Per Square
25		Square Footage	Foot

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1	LEED-H Platinum	Up to 2,000	\$5.50
2	LEED-H Gold	Up to 2,000	\$3.80
3	Build Green Emerald	Up to 2,000	\$5.50
4	Build Green Gold	Up to 2,000	\$3.80
5	Manufactured Housing	Up to 2,000	\$2.00; and

6 (b) with additional amounts based on the
7 additional criteria and the amount of qualified occupied square
8 footage, as indicated in the following chart:

9	Additional Criteria	Qualified	Tax Credit
10		Occupied	Per Square
11		Square Footage	Foot
12	Fully Electric Building	Up to 2,000	\$1.00
13	Zero Carbon, Energy,		
14	Waste or Water Certified	Up to 2,000	\$0.25; and

15 (5) for the installation of the following
16 energy-conserving products to an existing residential building,
17 the amount of credit shall be based on the cost of the product
18 installed, which shall include installation costs, and if the
19 building is affordable housing or the taxpayer is a low-income
20 taxpayer, per product installed:

21	Product	Amount of Credit	
22		Affordable	Non-Affordable
23		Housing and	Housing and
24		Low-Income	Non-Low Income
25	Energy Star Air		

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1	Source Heat Pump	\$2,000	\$1,000
2	Energy Star Ground		
3	Source Heat Pump	\$2,000	\$1,000
4	Energy Star		
5	Windows and Doors	100% of	50% of product
6		product cost	cost up to
7		up to \$1,000	\$500
8	Insulation Improvements That		
9	Meet Rules of the		
10	Energy, Minerals and Natural		
11	Resources Department	100% of product	50% of product
12		cost up to	cost up to
13		\$2,000	\$1,000
14	Energy Star Heat Pump Water		
15	Heater	\$700	\$350
16	Electric Vehicle Ready	\$1,000	\$500.

17 C. A person who is a building owner may apply for a
18 certificate of eligibility for the 2021 sustainable building
19 income tax credit from the energy, minerals and natural
20 resources department on forms and in a manner prescribed by
21 that department after the construction, installation or
22 renovation of the sustainable building or installation of
23 energy-conserving products in an existing building is complete.
24 Completed applications shall be considered in the order
25 received. If the energy, minerals and natural resources

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1 department determines that the building owner meets the
2 requirements of this subsection and that the building with
3 respect to which the application is made meets the requirements
4 of this section for a 2021 sustainable building income tax
5 credit, the energy, minerals and natural resources department
6 may issue a dated certificate of eligibility to the building
7 owner, subject to the limitations in Subsection D of this
8 section. The certificate shall include the rating system
9 certification level awarded to the building, the amount of
10 qualified occupied square footage in the building, a
11 calculation of the [~~maximum~~] amount of 2021 sustainable
12 building income tax credit for which the building owner [~~would~~
13 ~~be~~] is eligible, the identification number, date of issuance
14 and the first taxable year that the credit shall be claimed.
15 The energy, minerals and natural resources department may issue
16 rules governing the procedure for administering the provisions
17 of this subsection. [~~If the certification level for the~~
18 ~~sustainable residential building is awarded on or after January~~
19 ~~1, 2022]~~ The energy, minerals and natural resources department
20 may issue a certificate of eligibility to a building owner who
21 is:

22 (1) the owner of the sustainable residential
23 building at the time the certification level for the building
24 is awarded; or

25 (2) the subsequent purchaser of a sustainable

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underscored material = new
[bracketed material] = delete

1 residential building with respect to which no tax credit has
2 been previously claimed.

3 D. Except as provided in Subsection E of this
4 section, the energy, minerals and natural resources department
5 may issue a certificate of eligibility only if the ~~[total]~~
6 aggregate amount of 2021 sustainable building income tax
7 credits represented by certificates of eligibility issued by
8 the energy, minerals and natural resources department pursuant
9 to this section and pursuant to ~~[the Corporate Income and~~
10 ~~Franchise Tax Act]~~ Section 7-2A-28.1 NMSA 1978 shall not exceed
11 in any calendar year an aggregate amount of:

12 (1) one million dollars (\$1,000,000) with
13 respect to the construction of new sustainable commercial
14 buildings;

15 (2) two million dollars (\$2,000,000) with
16 respect to the construction of new sustainable residential
17 buildings that are not manufactured housing;

18 (3) two hundred fifty thousand dollars
19 (\$250,000) with respect to the construction of new sustainable
20 residential buildings that are manufactured housing;

21 (4) one million dollars (\$1,000,000) with
22 respect to the renovation of large commercial buildings; and

23 (5) two million nine hundred thousand dollars
24 (\$2,900,000) with respect to the installation of energy-
25 conserving products in existing commercial buildings pursuant

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underscored material = new
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1 to Paragraph (3) of Subsection B of this section and existing
2 residential buildings pursuant to Paragraph (5) of Subsection B
3 of this section.

4 E. For any taxable year that the energy, minerals
5 and natural resources department determines that applications
6 for sustainable building tax credits for any type of
7 sustainable building pursuant to Subsection D of this section
8 are less than the aggregate limit for that type of sustainable
9 building for that taxable year, the energy, minerals and
10 natural resources department shall allow the difference between
11 the aggregate limit and the applications to be added to the
12 aggregate limit of another type of sustainable building for
13 which applications exceeded the aggregate limit for that
14 taxable year. Any excess not used in a taxable year shall not
15 be carried forward to subsequent taxable years. The energy,
16 minerals and natural resources department shall provide the
17 department appropriate information for all certificates of
18 eligibility in a secure manner on regular intervals agreed upon
19 by both departments.

20 F. Installation of a solar thermal system or a
21 photovoltaic system eligible for the new solar market
22 development tax credit [~~pursuant to Section 7-2-18.31 NMSA~~
23 ~~1978~~] shall not be used as a component of qualification for the
24 rating system certification level used in determining
25 eligibility for the 2021 sustainable building income tax

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underscored material = new
[bracketed material] = delete

1 credit, unless a new solar market development tax credit
2 [~~pursuant to Section 7-2-18.31 MSA 1978~~] has not been claimed
3 with respect to that system and the building owner and the
4 taxpayer claiming the 2021 sustainable building income tax
5 credit certify that such a tax credit will not be claimed with
6 respect to that system.

7 ~~[G. To claim the 2021 sustainable building tax~~
8 ~~credit, the building owner shall provide to the taxation and~~
9 ~~revenue department a certificate of eligibility issued by the~~
10 ~~energy, minerals and natural resources department pursuant to~~
11 ~~the requirements of Subsection C of this section and any other~~
12 ~~information the taxation and revenue department may require.~~

13 ~~H. If the approved amount of a 2021 sustainable~~
14 ~~building tax credit for a taxpayer in a taxable year~~
15 ~~represented by a document issued pursuant to Subsection C of~~
16 ~~this section is:~~

17 ~~(1) less than one hundred thousand dollars~~
18 ~~(\$100,000), a maximum of twenty five thousand dollars (\$25,000)~~
19 ~~shall be applied against the taxpayer's income tax liability~~
20 ~~for the taxable year for which the credit is approved and the~~
21 ~~next three subsequent taxable years as needed depending on the~~
22 ~~amount of credit; or~~

23 ~~(2) one hundred thousand dollars (\$100,000) or~~
24 ~~more, increments of twenty five percent of the total credit~~
25 ~~amount in each of the four taxable years, including the taxable~~

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1 ~~year for which the credit is approved and the three subsequent~~
2 ~~taxable years, shall be applied against the taxpayer's income~~
3 ~~tax liability.~~

4 ~~I. If the sum of all 2021 sustainable building tax~~
5 ~~credits that can be applied to a taxable year for a taxpayer,~~
6 ~~calculated according to Paragraph (1) or (2) of Subsection H of~~
7 ~~this section.]~~

8 G. A taxpayer allowed a tax credit pursuant to this
9 section shall claim the credit on forms and in a manner
10 required by the department.

11 H. That portion of a 2021 sustainable building
12 income tax credit approved by the department that exceeds the
13 taxpayer's income tax liability for [that] the taxable year
14 [the excess] in which the credit is claimed may be carried
15 forward for [a period of] up to seven consecutive taxable
16 years; provided that if the taxpayer is a low-income taxpayer,
17 the excess shall be refunded to the taxpayer. A certificate of
18 eligibility for a 2021 sustainable building income tax credit
19 may be sold, exchanged or otherwise transferred to another
20 taxpayer for the full value of the credit. The parties to such
21 a transaction shall notify the department of the sale, exchange
22 or transfer within ten days of the sale, exchange or transfer.

23 ~~[I.]~~ I. A taxpayer who otherwise qualifies and
24 claims a 2021 sustainable building income tax credit with
25 respect to a sustainable building owned by a partnership or

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underscored material = new
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1 other business association of which the taxpayer is a member
2 may claim a credit only in proportion to that taxpayer's
3 interest in the partnership or association. The total credit
4 claimed in the aggregate by all members of the partnership or
5 association with respect to the sustainable building shall not
6 exceed the amount of the credit that could have been claimed by
7 a sole owner of the property.

8 ~~[K.]~~ J. Married individuals who file separate
9 returns for a taxable year in which they could have filed a
10 joint return may each claim only one-half of the 2021
11 sustainable building income tax credit that would have been
12 allowed on a joint return.

13 ~~[L. If the requirements of this section have been~~
14 ~~complied with, the department shall issue to the building owner~~
15 ~~a document granting a 2021 sustainable building tax credit.~~
16 ~~The document shall be numbered for identification and declare~~
17 ~~its date of issuance and the amount of the tax credit allowed~~
18 ~~pursuant to this section. The document may be submitted by the~~
19 ~~building owner with that taxpayer's income tax return, if~~
20 ~~applicable, or may be sold, exchanged or otherwise transferred~~
21 ~~to another taxpayer. The parties to such a transaction shall~~
22 ~~notify the department of the sale, exchange or transfer within~~
23 ~~ten days of the sale, exchange or transfer.~~

24 ~~M. The department and the energy, minerals and~~
25 ~~natural resources department shall compile an annual report on~~

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[bracketed material] = delete

1 ~~the 2021 sustainable building tax credit created pursuant to~~
2 ~~this section that shall include the number of taxpayers~~
3 ~~approved to receive the tax credit, the aggregate amount of tax~~
4 ~~credits approved and any other information necessary to~~
5 ~~evaluate the effectiveness of the tax credit. The department~~
6 ~~shall present the report to the revenue stabilization and tax~~
7 ~~policy committee and the legislative finance committee]~~

8 K. The tax credit provided by this section shall be
9 included in the tax expenditure budget pursuant to Section
10 7-1-84 NMSA 1978 with an analysis of the effectiveness and cost
11 of the tax credit.

12 ~~[N.]~~ L. For the purposes of this section:

13 (1) "broadband ready" means a building with an
14 internet connection capable of connecting to a broadband
15 provider;

16 (2) "build green emerald" means the emerald
17 level certification standard adopted by build green New Mexico,
18 which includes water conservation standards and uses forty
19 percent less energy than is required by the prescriptive path
20 of the most current residential energy conservation code
21 promulgated by the construction industries division of the
22 regulation and licensing department;

23 (3) "build green gold" means the gold level
24 certification standard adopted by build green New Mexico, which
25 includes water conservation standards and uses thirty percent

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[bracketed material] = delete

1 less energy than is required by the prescriptive path of the
2 most current residential energy conservation code promulgated
3 by the construction industries division of the regulation and
4 licensing department;

5 (4) "building owner" means a person who holds
6 fee simple interest in a property or a person who holds a
7 leasehold interest in land owned by a federally recognized
8 Indian nation, tribe or pueblo;

9 [~~(4)~~] (5) "electric vehicle ready" means a
10 property that for commercial buildings provides at least ten
11 percent of parking spaces and for residential buildings at
12 least one parking space with one forty-ampere, two-hundred-
13 eight-volt or two-hundred-forty-volt dedicated branch circuit
14 for servicing electric vehicles that terminates in a suitable
15 termination point, such as a receptacle or junction box, and is
16 located in reasonably close proximity to the proposed location
17 of the parking spaces;

18 [~~(5)~~] (6) "energy rating system index" means a
19 numerical score given to a building where one hundred is
20 equivalent to the 2006 international energy conservation code
21 and zero is equivalent to a net-zero home. As used in this
22 paragraph, "net-zero home" means an energy-efficient home
23 where, on a source energy basis, the actual annual delivered
24 energy is less than or equal to the on-site renewable exported
25 energy;

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1 [~~(6)~~] (7) "Energy Star" means products and
2 devices certified under the energy star program administered by
3 the United States environmental protection agency and United
4 States department of energy that meet the specified performance
5 requirements at the installed locations;

6 [~~(7)~~] (8) "fully electric building" means a
7 building that uses a permanent supply of electricity as the
8 source of energy for all space heating, water heating,
9 including pools and spas, cooking appliances and clothes drying
10 appliances and, in the case of a new building, has no natural
11 gas or propane plumbing installed in the building or, in the
12 case of an existing building, has no connected natural gas or
13 propane plumbing;

14 [~~(8)~~] (9) "LEED" means the most current
15 leadership in energy and environmental design green building
16 rating system guidelines developed and adopted by the United
17 States green building council;

18 [~~(9)~~] (10) "LEED-CI" means the LEED rating
19 system for commercial interiors;

20 [~~(10)~~] (11) "LEED-CS" means the LEED rating
21 system for the core and shell of buildings;

22 [~~(11)~~] (12) "LEED-EB" means the LEED rating
23 system for existing buildings;

24 [~~(12)~~] (13) "LEED gold" means the rating in
25 compliance with, or exceeding, the second-highest rating

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1 awarded by the LEED certification process;

2 [~~(13)~~] (14) "LEED-H" means the LEED rating
3 system for homes;

4 [~~(14)~~] (15) "LEED-NC" means the LEED rating
5 system for new buildings and major renovations;

6 [~~(15)~~] (16) "LEED platinum" means the rating
7 in compliance with, or exceeding, the highest rating awarded by
8 the LEED certification process;

9 [~~(16)~~] (17) "low-income taxpayer" means a
10 taxpayer with an annual household adjusted gross income equal
11 to or less than two hundred percent of the federal poverty
12 level guidelines published by the United States department of
13 health and human services;

14 [~~(17)~~] (18) "manufactured housing" means a
15 multisectioned home that is:

16 (a) a manufactured home or modular home;

17 (b) a single-family dwelling with a
18 heated area of at least thirty-six feet by twenty-four feet and
19 a total area of at least eight hundred sixty-four square feet;

20 (c) constructed in a factory to the
21 standards of the United States department of housing and urban
22 development, the National Manufactured Housing Construction and
23 Safety Standards Act of 1974 and the Housing and Urban
24 Development Zone Code 2 or New Mexico construction codes up to
25 the date of the unit's construction; and

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underscoring material = new
~~[bracketed material] = delete~~

1 (d) installed consistent with the
2 Manufactured Housing Act and rules adopted pursuant to that act
3 relating to permanent foundations;

4 ~~[(18)]~~ (19) "qualified occupied square
5 footage" means the occupied spaces of the building as
6 determined by:

7 (a) the United States green building
8 council for those buildings obtaining LEED certification;

9 (b) the administrators of the build
10 green New Mexico rating system for those homes obtaining build
11 green New Mexico certification; and

12 (c) the United States environmental
13 protection agency for Energy Star-certified manufactured homes;

14 ~~[(19)]~~ (20) "person" does not include state,
15 local government, public school district or tribal agencies;

16 ~~[(20)]~~ (21) "sustainable building" means
17 either a sustainable commercial building or a sustainable
18 residential building;

19 ~~[(21)]~~ (22) "sustainable commercial building"
20 means:

21 (a) a commercial building that is
22 certified as any LEED platinum or gold for commercial
23 buildings;

24 (b) a multifamily dwelling unit that is
25 certified as LEED-H platinum or gold or build green emerald or

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underscored material = new
[bracketed material] = delete

1 gold and uses at least thirty percent less energy than is
2 required by the prescriptive path of the most current
3 applicable energy conservation code promulgated by the
4 construction industries division of the regulation and
5 licensing department for build green gold or LEED-H, or uses at
6 least forty percent less energy than is required by the
7 prescriptive path of the most current residential energy
8 conservation code promulgated by the construction industries
9 division of the regulation and licensing department for build
10 green emerald or LEED platinum; or

11 (c) a building that: 1) is certified at
12 LEED-NC, LEED-EB, LEED-CS or LEED-CI platinum or gold levels;
13 2) achieves any prerequisite for and at least one point related
14 to commissioning under the LEED energy and atmosphere category,
15 if included in the applicable rating system; and 3) has reduced
16 energy consumption beginning January 1, 2012 by forty percent
17 based on the national average for that building type as
18 published by the United States department of energy as
19 substantiated by the United States environmental protection
20 agency target finder energy performance results form, dated no
21 sooner than the schematic design phase of development;

22 [~~(22)~~] (23) "sustainable residential building"
23 means:

24 (a) a building used as a single-family
25 residence that: 1) is certified as LEED-H platinum or gold or

underscored material = new
~~[bracketed material] = delete~~

1 build green emerald or gold; 2) uses at least thirty percent
2 less energy than is required by the prescriptive path of the
3 most current residential energy conservation code promulgated
4 by the construction industries division of the regulation and
5 licensing department for build green gold or LEED-H, or uses at
6 least forty percent less energy than is required by the
7 prescriptive path of the most current residential energy
8 conservation code promulgated by the construction industries
9 division of the regulation and licensing department for build
10 green emerald or LEED platinum; 3) has indoor plumbing fixtures
11 and water-using appliances that, on average, have flow rates
12 equal to or lower than the flow rates required for
13 certification by WaterSense; 4) if landscape area is available
14 at the front of the property, has at least one water line
15 outside the building below the frost line that may be connected
16 to a drip irrigation system; and 5) if landscape area is
17 available at the rear of the property, has at least one water
18 line outside the building below the frost line that may be
19 connected to a drip irrigation system; or

20 (b) manufactured housing that is Energy
21 Star-qualified;

22 [~~(23)~~] (24) "tribal" means of, belonging to or
23 created by a federally recognized Indian nation, tribe or
24 pueblo;

25 [~~(24)~~] (25) "WaterSense" means a program

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underscored material = new
[bracketed material] = delete

1 created by the federal environmental protection agency that
2 certifies water-using products that meet the environmental
3 protection agency's criteria for efficiency and performance;

4 ~~[(25)]~~ (26) "zero carbon certified" means a
5 building that is certified as LEED zero carbon by achieving a
6 carbon-dioxide-equivalent balance of zero for the building;

7 ~~[(26)]~~ (27) "zero energy certified" means a
8 building that is certified as LEED zero energy by achieving a
9 source energy use balance of zero for the building;

10 ~~[(27)]~~ (28) "zero waste certified" means a
11 building that is certified as LEED zero waste by achieving
12 green building certification incorporated's true zero waste
13 certification at the platinum level; and

14 ~~[(28)]~~ (29) "zero water certified" means a
15 building that is certified as LEED zero water by achieving a
16 potable water use balance of zero for the building."

17 SECTION 46. Section 7-2-18.35 NMSA 1978 (being Laws 2024,
18 Chapter 67, Section 9) is amended to read:

19 "7-2-18.35. HOME FIRE RECOVERY INCOME TAX CREDIT.--

20 A. A taxpayer who is not a dependent of another
21 individual and who, beginning on ~~[the effective date of this~~
22 ~~section]~~ May 15, 2024 and prior to January 1, 2030, incurs
23 qualified home expenditures for a home in New Mexico to replace
24 a prior home of the taxpayer that was destroyed by a wildfire
25 in calendar years 2021 through 2023 may claim a tax credit

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underscoring material = new
[bracketed material] = delete

1 against the taxpayer's tax liability imposed pursuant to the
2 Income Tax Act in an amount equal to the qualified home
3 expenditures incurred by the taxpayer not to exceed fifty
4 thousand dollars (\$50,000) per home. The tax credit provided
5 by this section may be referred to as the "home fire recovery
6 income tax credit".

7 B. A taxpayer who seeks to claim the tax credit
8 shall apply for certification of eligibility from the
9 construction industries division of the regulation and
10 licensing department on forms and in a manner prescribed by
11 that division. The aggregate amount of credits that may be
12 certified as eligible in any calendar year is five million
13 dollars (\$5,000,000). An application for certification shall
14 be made no later than twelve months after the calendar year in
15 which construction of the home is completed. Completed
16 applications shall be considered in the order received. If a
17 taxpayer submits an application for the tax credit and the
18 aggregate amount of certifications has been met for the
19 calendar year, the application shall be placed at the front of
20 a queue for certification in a subsequent calendar year.
21 Except as otherwise provided in Subsections [~~F and~~] G and H of
22 this section, only one tax credit shall be certified per
23 taxpayer.

24 C. An application for certification of eligibility
25 shall include:

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underscored material = new
[bracketed material] = delete

1 (1) proof that the taxpayer's prior home was
2 destroyed by wildfire in calendar years 2021 through 2023,
3 including a sworn statement by the taxpayer;

4 (2) proof that the taxpayer incurred
5 expenditures for the construction of a home on the same
6 property of the taxpayer's prior, wildfire-destroyed home,
7 including a contract with a builder or manufacturer;

8 (3) a sworn statement by the taxpayer and the
9 builder or manufacturer of the home that the construction of
10 the home has been completed and stating the date of its
11 completion; and

12 (4) any additional information the
13 construction industries division of the regulation and
14 licensing department may require to determine eligibility for
15 the tax credit.

16 D. If the construction industries division of the
17 regulation and licensing department determines that the
18 taxpayer meets the requirements of this section, the division
19 shall issue a dated certificate of eligibility to the taxpayer
20 providing the amount of tax credit for which the taxpayer is
21 eligible and the taxable year in which the credit may be
22 claimed. The construction industries division shall provide
23 the department with the certificates of eligibility issued
24 pursuant to this subsection in ~~[an]~~ a secure electronic format
25 at regularly agreed-upon intervals.

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underscored material = new
[bracketed material] = delete

1 E. A taxpayer issued a certificate of eligibility
2 shall claim the tax credit on forms and in a manner required by
3 the department within twelve months of being issued the
4 certificate of eligibility.

5 F. That portion of the tax credit that exceeds a
6 taxpayer's tax liability in the taxable year in which the tax
7 credit is claimed shall not be refunded but may be carried
8 forward for a maximum of three consecutive taxable years.

9 G. Married individuals filing separate returns for
10 a taxable year for which they could have filed a joint return
11 may each claim only one-half of the tax credit that would have
12 been claimed on a joint return.

13 H. A taxpayer may be allocated the right to claim
14 the tax credit in proportion to the taxpayer's ownership
15 interest if the taxpayer owns an interest in a business entity
16 that is taxed for federal income tax purposes as a partnership
17 or limited liability company and that business entity has met
18 all of the requirements to be eligible for the credit. The
19 total credit claimed by all members of the partnership or
20 limited liability company shall not exceed the allowable credit
21 pursuant to this section.

22 I. ~~[The department shall compile an annual report~~
23 ~~on the tax credit that shall include the number of taxpayers~~
24 ~~approved by the department to receive the credit, the aggregate~~
25 ~~amount of credits approved and any other information necessary~~

underscored material = new
[bracketed material] = delete

1 ~~to evaluate the credit. The department shall present the~~
2 ~~report to the revenue stabilization and tax policy committee~~
3 ~~and the legislative finance committee with an analysis of the]~~
4 The tax credit provided by this section shall be included in
5 the tax expenditure budget pursuant to Section 7-1-84 NMSA
6 1978, including the annual aggregate cost of the tax credit.

7 J. As used in this section:

8 (1) "home" means a dwelling designed for long-
9 term habitation in which the taxpayer resides for a majority of
10 the year and is:

11 (a) constructed permanently on a
12 taxpayer's property with a foundation and that cannot be moved;
13 or

14 (b) a manufactured home or modular home
15 that is a single-family dwelling with a heated area of at least
16 thirty-six by twenty-four feet and at least eight hundred
17 sixty-four square feet and constructed in a factory to the
18 standards of the United States department of housing and urban
19 development, the National Manufactured Housing Construction and
20 Safety Standards Act of 1974 and the Housing and Urban
21 Development Zone Code 2 or the Uniform Building Code, as
22 amended to the date of the unit's construction, and installed
23 consistent with the Manufactured Housing Act and with the rules
24 made pursuant thereto relating to permanent foundations; and

25 (2) "qualified home expenditures" means gross

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underscoring material = new
~~[bracketed material] = delete~~

1 expenditures for the construction or manufacture of a home on
2 the same property in New Mexico that a taxpayer's prior home
3 was destroyed by a wildfire in calendar years 2021 through
4 2023, less any compensation related to home construction,
5 manufacture or repair costs received pursuant to the federal
6 Hermit's Peak/Calf Canyon Fire Assistance Act or from insurance
7 or other source of compensation."

8 SECTION 47. Section 7-2-18.38 NMSA 1978 (being Laws 2024,
9 Chapter 67, Section 33) is amended to read:

10 "7-2-18.38. GEOTHERMAL ELECTRICITY GENERATION INCOME TAX
11 CREDIT.--

12 A. For taxable years ending prior to January 1,
13 2032, a taxpayer who is not a dependent of another individual
14 and who holds an interest in a geothermal electricity
15 generation facility may apply for, and the department may
16 allow, a credit against the taxpayer's tax liability imposed
17 pursuant to the Income Tax Act. The tax credit provided by
18 this section may be referred to as the "geothermal electricity
19 generation income tax credit".

20 B. The amount of a tax credit allowed pursuant to
21 this section shall be an amount equal to one and one-half cents
22 (\$.015) per kilowatt-hour of electricity generated in New
23 Mexico in a taxable year by the geothermal electricity
24 generation facility in which the taxpayer holds an interest.

25 C. A taxpayer shall apply for certification of

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underscoring material = new
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1 eligibility for the credit provided by this section from the
2 energy, minerals and natural resources department on forms and
3 in the manner prescribed by that department. The total annual
4 aggregate amount of credits that may be certified for
5 geothermal electricity generation income tax credits and
6 geothermal electricity generation corporate income tax credits
7 in any calendar year is five million dollars (\$5,000,000).
8 Completed applications shall be considered in the order
9 received. Applications for certification received after this
10 limitation has been met in a calendar year shall not be
11 approved for that calendar year, but shall be considered for
12 certification in the following calendar year. The application
13 shall include proof that the taxpayer is eligible for
14 certification, including that the geothermal electricity
15 generation facility that produced the energy for which the
16 taxpayer is claiming credit, the geothermal resources used by
17 the geothermal electricity generation facility and the
18 taxpayer's interest in the geothermal electricity generation
19 facility are in accordance with the definitions set forth in
20 this section. For taxpayers approved to receive the credit,
21 the energy, minerals and natural resources department shall
22 issue a certificate of eligibility stating the amount of credit
23 to which the taxpayer is entitled and the taxable year in which
24 the credit may be claimed. The certificate of eligibility
25 shall be numbered for identification and declare the date of

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1 issuance and the amount of the tax credit allowed.

2 D. A taxpayer may claim a geothermal electricity
3 generation income tax credit for the taxable year in which
4 electricity was generated in New Mexico by a geothermal
5 electricity generation facility in which the taxpayer holds an
6 interest. To receive the credit provided by this section, a
7 taxpayer shall apply to the department on forms and in the
8 manner prescribed by the department. The application shall
9 include a [~~certification made~~] certificate of eligibility
10 issued pursuant to Subsection C of this section.

11 E. That portion of a credit that exceeds a
12 taxpayer's tax liability in the taxable year in which the
13 credit is claimed may be carried forward for up to three
14 consecutive years.

15 F. Married individuals filing separate returns for
16 a taxable year for which they could have filed a joint return
17 may each claim only one-half of the credit that would have been
18 claimed on a joint return.

19 G. A taxpayer may be allocated the right to claim a
20 credit provided by this section in proportion to the taxpayer's
21 ownership interest if the taxpayer owns an interest in a
22 business entity that is taxed for federal income tax purposes
23 as a partnership or limited liability company and that business
24 entity has met all of the requirements to be eligible for the
25 credit. The total credit claimed by all members of the

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1 partnership or limited liability company shall not exceed the
2 maximum amount of the credit allowed pursuant to this section.

3 H. A taxpayer allowed a tax credit pursuant to this
4 section shall report the amount of the credit to the department
5 in a manner required by the department.

6 I. ~~[The department shall compile an annual report
7 on the credit provided by this section that shall include the
8 number of taxpayers approved by the department to receive the
9 credit, the aggregate amount of credits approved and any other
10 information necessary to evaluate the credit. The department
11 shall present the report to the revenue stabilization and tax
12 policy committee and the legislative finance committee with an
13 analysis of the]~~ The tax credit provided by this section shall
14 be included in the tax expenditure budget pursuant to Section
15 7-1-84 NMSA 1978, including the annual aggregate cost of the
16 tax credit.

17 J. As used in this section:

18 (1) "geothermal electricity generation
19 facility" means a facility located in New Mexico that generates
20 electricity from geothermal resources and:

21 (a) for new facilities, begins
22 construction on or after January 1, 2025; or

23 (b) for existing facilities, on or after
24 January 1, 2025, increases the amount of electricity generated
25 from geothermal resources the facility generated prior to that

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1 date by at least one hundred percent;

2 (2) "geothermal resources" means the natural
3 heat of the earth in excess of two hundred fifty degrees
4 Fahrenheit or the energy, in whatever form, below the surface
5 of the earth present in, resulting from, created by or that may
6 be extracted from this natural heat in excess of two hundred
7 fifty degrees Fahrenheit and all minerals in solution or other
8 products obtained from naturally heated fluids, brines,
9 associated gases and steam, in whatever form, found below the
10 surface of the earth, but excluding oil, hydrocarbon gas and
11 other hydrocarbon substances and excluding the heating and
12 cooling capacity of the earth not resulting from the natural
13 heat of the earth in excess of two hundred fifty degrees
14 Fahrenheit as may be used for the heating and cooling of
15 buildings through an on-site geexchange heat pump or similar
16 on-site system; and

17 (3) "interest in a geothermal electricity
18 generation facility" means title to a geothermal electricity
19 generation facility; a leasehold interest in such facility; an
20 ownership interest in a business or entity that is taxed for
21 federal income tax purposes as a partnership that holds title
22 to or a leasehold interest in such facility; or an ownership
23 interest, through one or more intermediate entities that are
24 each taxed for federal income tax purposes as a partnership, in
25 a business that holds title to or a leasehold interest in such

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1 facility."

2 SECTION 48. Section 7-2-24 NMSA 1978 (being Laws 1981,
3 Chapter 343, Section 2, as amended) is amended to read:

4 "7-2-24. OPTIONAL DESIGNATION OF TAX REFUND

5 [~~CONTRIBUTION~~] CONTRIBUTIONS.--

6 A. Except as [~~otherwise~~] provided in Subsection C
7 of this section, [~~any~~] an individual whose state income tax
8 liability after application of allowable credits and tax
9 rebates in any year is lower than the amount of money held by
10 the department to the credit of such individual for that tax
11 year may designate any portion of the income tax refund due
12 [~~him~~] to the individual to be paid [~~into the game protection~~
13 ~~fund~~] to the entities or funds as provided in Subsection B of
14 this section. In the case of a joint return, both individuals
15 must make such designation.

16 B. The department shall [~~revise~~] provide for the
17 state income tax form to allow the designation of such
18 contributions [~~in substantially the following form:~~

19 "~~New Mexico Game Protection Fund--Check {}~~
20 ~~if you wish to contribute a part or all~~
21 ~~of your tax refund to the Game Protection~~
22 ~~Fund. Enter here \$ _____ the amount~~
23 ~~of your contribution.~~"] as follows:

- 24 (1) to the game protection fund;
- 25 (2) to the energy, minerals and natural

underscored material = new
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1 resources department for the conservation planting revolving
2 fund for the planting of trees in New Mexico;

3 (3) to the board of regents of New Mexico
4 state university for the New Mexico department of agriculture's
5 healthy soil program;

6 (4) to the veterans' services department for
7 the veterans' state cemetery fund;

8 (5) to the public education department for
9 the substance abuse education fund to provide substance abuse
10 educational programs in New Mexico schools;

11 (6) to the board of regents of the university
12 of New Mexico for the amyotrophic lateral sclerosis research
13 fund for amyotrophic lateral sclerosis (Lou Gehrig's disease)
14 research;

15 (7) to the state parks division of the
16 energy, minerals and natural resources department for the kids
17 in parks education program;

18 (8) to the department of military affairs for
19 assistance to members of the New Mexico national guard and to
20 their families;

21 (9) to the veterans' services department for
22 the operation, maintenance and improvement of the Vietnam
23 veterans memorial near Angel Fire, New Mexico;

24 (10) to the veterans' services department for
25 the veterans' enterprise fund to carry out the programs, duties

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underscored material = new
[bracketed material] = delete

1 or services of the veterans' services department;
2 (11) to the higher education department for
3 the lottery tuition fund to provide tuition assistance for New
4 Mexico resident undergraduates;

5 (12) to the New Mexico livestock board for
6 the equine shelter rescue fund;

7 (13) to the aging and long-term services
8 department to enhance or expand senior services through
9 statewide area agencies on aging grant programs, including
10 senior services provided through the north central New Mexico
11 economic development district as the non-metro area agency on
12 aging, the city of Albuquerque/Bernalillo county area agency on
13 aging, the Indian area agency on aging and the Navajo area
14 agency on aging;

15 (14) to the board of veterinary medicine for
16 the animal care and facility fund to carry out the statewide
17 dog and cat spay and neuter program;

18 (15) to the New Mexico mortgage finance
19 authority for the New Mexico housing trust fund for affordable
20 housing programs; and

21 (16) two dollars (\$2.00) to a state political
22 party of the individual's choosing that on January 1 of the
23 taxable year for which the return is filed meets the
24 requirements of Subsection A of Section 1-7-2 NMSA 1978.

25 C. The provisions of this section do not apply to
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1 income tax refunds subject to interception under the provisions
2 of the Tax Refund Intercept Program Act and any designation
3 made under the provisions of this section to such refunds is
4 void.

5 D. The department shall disregard a direction on a
6 return to make an optional refund contribution if the amount of
7 refund due on the return is determined by the department to be
8 less than the sum of the amounts directed to be contributed.

9 E. Notwithstanding the provisions of Section 7-1-26
10 NMSA 1978, a taxpayer shall not claim and the department shall
11 not allow a refund with respect to any optional refund
12 contribution that was made by the department at the direction
13 of the taxpayer."

14 SECTION 49. Section 7-2-28.1 NMSA 1978 (being Laws 2011,
15 Chapter 42, Section 1, as amended) is amended to read:

16 "7-2-28.1. VETERANS' STATE CEMETERY FUND--CREATED.--The
17 "veterans' state cemetery fund" is created as a nonreverting
18 fund in the state treasury. The fund consists of
19 appropriations, gifts, grants, donations and amounts designated
20 pursuant to Section [~~7-2-28~~] 7-2-24 NMSA 1978. Money in the
21 fund at the end of a fiscal year shall not revert to any other
22 fund. The veterans' services department shall administer the
23 fund, and money in the fund is appropriated to the veterans'
24 services department."

25 SECTION 50. Section 7-2-31.1 NMSA 1978 (being Laws 1999,
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1 Chapter 47, Section 5) is amended to read:

2 "7-2-31.1. OPTIONAL REFUND CONTRIBUTION PROVISIONS--
3 CONDITIONAL REPEAL.--

4 A. By ~~[August 31, 2000, and by]~~ August 31 of ~~[every~~
5 ~~succeeding]~~ each year, the secretary shall determine the total
6 amount contributed through the preceding July 31 on returns
7 filed for taxable years ending in the preceding calendar year
8 pursuant to each ~~[provision of the Income Tax Act that allows a~~
9 ~~taxpayer the option of directing the department to contribute~~
10 ~~all or any part of an income tax refund due the taxpayer to a~~
11 ~~specified account, fund or entity]~~ purpose stated in Section
12 7-2-24 NMSA 1978.

13 B. If the secretary's determination pursuant to
14 Subsection A of this section regarding an optional refund
15 contribution provision is that the ~~[total]~~ amount contributed
16 is less than ~~[five thousand dollars (\$5,000), exclusive of~~
17 ~~directions for contributions disregarded under Subsection C of~~
18 ~~this section]~~ ten thousand dollars (\$10,000), the secretary
19 shall certify that fact to the secretary of state. Any
20 optional refund contribution ~~[provision]~~ purpose for which a
21 certification is made for three consecutive years is repealed
22 and shall no longer be included on the state income tax form,
23 effective on the January 1 following the third certification.

24 ~~[G. The department shall disregard a direction on a~~
25 ~~return to make an optional refund contribution if the amount of~~

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1 ~~refund due on the return is determined by the department to be~~
2 ~~less than the sum of the amounts directed to be contributed.~~

3 ~~D. Notwithstanding the provisions of Section~~
4 ~~7-1-26 NMSA 1978, a taxpayer may not claim and the department~~
5 ~~may not allow a refund with respect to any optional refund~~
6 ~~contribution that was made by the department at the direction~~
7 ~~of the taxpayer.]"~~

8 SECTION 51. Section 7-2-39 NMSA 1978 (being Laws 2019,
9 Chapter 270, Section 15) is amended to read:

10 "7-2-39. DEDUCTION FROM NET INCOME FOR CERTAIN
11 DEPENDENTS.--

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

20 B. A taxpayer allowed a deduction pursuant to this
21 section shall report the amount of the deduction to the
22 department in a manner required by the department.

23 C. ~~[The department shall compile an annual report~~
24 ~~on the deduction provided by this section that shall include~~
25 ~~the number of taxpayers that claimed the deduction, the~~

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1 ~~aggregate amount of deductions claimed and any other~~
2 ~~information necessary to evaluate the effectiveness of the~~
3 ~~deduction. The department shall present the annual report to~~
4 ~~the revenue stabilization and tax policy committee and the~~
5 ~~legislative finance committee with an analysis of the] The
6 deduction provided by this section shall be included in the tax
7 expenditure budget pursuant to Section 7-1-84 NMSA 1978,
8 including the annual aggregate cost of the deduction.~~

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

12 SECTION 52. Section 7-2-40 NMSA 1978 (being Laws 2021,
13 Chapter 7, Section 1) is amended to read:

14 "7-2-40. DEDUCTION--INCOME FROM LEASING A LIQUOR
15 LICENSE.--

16 A. Prior to January 1, 2026, a taxpayer who is a
17 liquor license lessor and who held the license on June 30, 2021
18 may claim a deduction from net income in an amount equal to the
19 gross receipts from sales of alcoholic beverages made by each
20 liquor license lessee in an amount, if the liquor license is a
21 dispenser's license and sales of alcoholic beverages for
22 consumption off premises are less than fifty percent of total
23 alcoholic beverage sales, not to exceed fifty thousand dollars
24 (\$50,000) for each of four taxable years.

25 B. Married individuals filing separate returns for

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1 a taxable year for which they could have filed a joint return
2 may each claim only one-half of a deduction provided by this
3 section that would have been claimed on a joint return.

4 C. A taxpayer may claim the deduction provided by
5 this section in proportion to the taxpayer's ownership interest
6 if the taxpayer owns an interest in a business entity that is
7 taxed for federal income tax purposes as a partnership or
8 limited liability company and that business entity has met all
9 of the requirements to be eligible for the deduction. The
10 total deduction claimed in the aggregate by all members of the
11 partnership or association with respect to the deduction shall
12 not exceed the amount of the deduction that could have been
13 claimed by a sole owner of the business.

14 D. A taxpayer allowed a deduction pursuant to this
15 section shall report the amount of the deduction to the
16 department in a manner required by the department.

17 E. ~~[The department shall compile an annual report~~
18 ~~on the deduction provided by this section that shall include~~
19 ~~the number of taxpayers that claimed the deduction, the~~
20 ~~aggregate amount of deductions claimed and any other~~
21 ~~information necessary to evaluate the cost of the deduction.~~
22 ~~The department shall provide the report to the revenue~~
23 ~~stabilization and tax policy committee and the legislative~~
24 ~~finance committee with an analysis of the] The deduction~~
25 provided by this section shall be included in the tax

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underscored material = new
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1 expenditure budget pursuant to Section 7-1-84 NMSA 1978,
2 including the annual aggregate cost of the deduction.

3 F. As used in this section:

4 (1) "alcoholic beverage" means alcoholic
5 beverage as defined in the Liquor Control Act;

6 (2) "dispenser's license" means a license
7 issued pursuant to the provisions of the Liquor Control Act
8 allowing the licensee to sell, offer for sale or have in the
9 person's possession with the intent to sell alcoholic beverages
10 both by the drink for consumption on the licensed premises and
11 in unbroken packages, including growlers, for consumption and
12 not for resale off the licensed premises;

13 (3) "growler" means a clean, refillable,
14 resealable container that has a liquid capacity that does not
15 exceed one gallon and that is intended and used for the sale of
16 beer, wine or cider;

17 (4) "liquor license" means a dispenser's
18 license issued pursuant to Section 60-6A-3 NMSA 1978 or a
19 dispenser's license issued pursuant to Section 60-6A-12 NMSA
20 1978 issued prior to July 1, 2021;

21 (5) "liquor license lessee" means a person
22 that leases a liquor license from a liquor license lessor; and

23 (6) "liquor license lessor" means a person
24 that leases a liquor license to a third party."

25 SECTION 53. Section 7-2-41 NMSA 1978 (being Laws 2024,
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1 Chapter 67, Section 24) is amended to read:

2 "7-2-41. DEDUCTION--SCHOOL SUPPLIES PURCHASED BY A
3 PUBLIC SCHOOL TEACHER.--

4 A. A taxpayer who is not a dependent of another
5 individual and is a public school teacher may claim a deduction
6 from net income in an amount equal to the costs of school
7 supplies purchased by the public school teacher in a taxable
8 year, not to exceed:

9 (1) for a taxable year beginning on January
10 1, 2024 and prior to January 1, 2025, five hundred dollars
11 (\$500); and

12 (2) for a taxable year beginning on January
13 1, 2025 and prior to January 1, 2029, one thousand dollars
14 (\$1,000).

15 B. To claim a deduction pursuant to this section, a
16 taxpayer shall submit to the department information required by
17 the secretary establishing that the taxpayer is eligible to
18 claim a deduction pursuant to this section.

19 C. A taxpayer allowed a deduction pursuant to this
20 section shall report the amount of the deduction to the
21 department in a manner required by the department.

22 D. ~~[The department shall compile an annual report~~
23 ~~on the deduction provided by this section that shall include~~
24 ~~the number of taxpayers approved by the department to receive~~
25 ~~the deduction, the aggregate amount of deductions approved and~~

underscored material = new
[bracketed material] = delete

1 ~~any other information necessary to evaluate the deduction. The~~
2 ~~department shall present the report to the revenue~~
3 ~~stabilization and tax policy committee and the legislative~~
4 ~~finance committee with an analysis of the] The deduction~~
5 provided by this section shall be included in the tax
6 expenditure budget pursuant to Section 7-1-84 NMSA 1978,
7 including the annual aggregate cost of the deduction.

8 E. As used in this section:

9 (1) "public school teacher" means a person
10 who is licensed as a teacher pursuant to the Public School Code
11 and who teaches at a public school, as that term is defined in
12 the Public School Code; and

13 (2) "school supplies" means items purchased
14 by a public school teacher and used by the students of the
15 teacher in the teacher's classroom for educational purposes,
16 including notebooks, paper, writing instruments, crayons, art
17 supplies, rulers, maps and globes, but not including computers
18 or other similar digital devices, watches, radios, digital
19 music players, headphones, sporting equipment, portable or
20 desktop telephones, cellular telephones or other electronic
21 communication devices, copiers, office equipment, furniture or
22 fixtures."

23 SECTION 54. Section 7-2A-9 NMSA 1978 (being Laws 1981,
24 Chapter 37, Section 42, as amended) is amended to read:

25 "7-2A-9. TAXPAYER RETURNS--PAYMENT OF TAX.--

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1 A. Every corporation deriving income from any
2 business transaction, property or employment within this state,
3 that is not exempt from tax under the Corporate Income and
4 Franchise Tax Act and that is required by the laws of the
5 United States to file a federal income tax return shall file a
6 complete tax return with the department in form and content as
7 prescribed by the secretary. [~~Except as provided in Subsection~~
8 ~~C of this section~~] A corporation that is required by the
9 provisions of the Corporate Income and Franchise Tax Act to
10 file a return or pay a tax shall, on or before the due date of
11 the corporation's federal corporate income tax return for the
12 taxable year, file the return and pay the tax imposed for that
13 year.

14 B. Every domestic or foreign corporation that is
15 not exempt from tax under the Corporate Income and Franchise
16 Tax Act, that is employed or engaged in the transaction of
17 business in, into or from this state or that derives any income
18 from property or employment within this state and every
19 domestic or foreign corporation, regardless of whether it is
20 engaged in active business, that has or exercises its corporate
21 franchise in this state and that is not exempt from tax under
22 the Corporate Income and Franchise Tax Act shall file a return
23 in the form and content as prescribed by the secretary and pay
24 the tax levied pursuant to Subsection B of Section 7-2A-3 NMSA
25 1978 in the amount for each corporation as specified in Section
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underscored material = new
[bracketed material] = delete

1 7-2A-5.1 NMSA 1978. Returns and payment of tax for corporate
2 franchise tax for a taxable year shall be filed and paid on the
3 date specified in Subsection A [~~or G~~] of this section for
4 payment of corporate income tax for the preceding taxable year.

5 ~~[G. A corporation that is required by the~~
6 ~~provisions of the Corporate Income and Franchise Tax Act to~~
7 ~~file a return or pay a tax and that is approved by the~~
8 ~~department to use electronic media for filing and paying taxes~~
9 ~~shall, if using electronic media for filing and paying taxes,~~
10 ~~file the return and pay the tax levied for that taxable year on~~
11 ~~or before the last day of the month in which the corporation's~~
12 ~~federal corporate income tax return is originally due for the~~
13 ~~taxable year. The due date provided by this subsection does~~
14 ~~not apply to corporations that have received a filing extension~~
15 ~~from New Mexico or an extension from the federal internal~~
16 ~~revenue service for the same taxable year.]"~~

17 SECTION 55. Section 7-2A-24 NMSA 1978 (being Laws 2009,
18 Chapter 271, Section 2, as amended) is amended to read:

19 "7-2A-24. GEOTHERMAL GROUND-COUPLED HEAT PUMP CORPORATE
20 INCOME TAX CREDIT.--

21 A. A taxpayer that files a New Mexico corporate
22 income tax return for a taxable year beginning on or after
23 January 1, 2024 and that purchases and installs after [~~the~~
24 ~~effective date of this section~~] May 15, 2024 but before
25 December 31, 2034 a geothermal ground-coupled heat pump in a

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underscored material = new
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1 property owned by the taxpayer may claim against the taxpayer's
2 corporate income tax liability, and the department may allow, a
3 tax credit of up to thirty percent of the purchase and
4 installation costs of the system. The credit provided in this
5 section may be referred to as the "geothermal ground-coupled
6 heat pump corporate income tax credit". The total geothermal
7 ground-coupled heat pump corporate income tax credit allowed to
8 a taxpayer shall not exceed nine thousand dollars (\$9,000).
9 The department shall allow a geothermal ground-coupled heat
10 pump corporate income tax credit only for geothermal ground-
11 coupled heat pumps that are certified pursuant to Subsection C
12 of this section and installed by a nationally accredited ground
13 source heat pump installer [~~certified by the energy, minerals~~
14 ~~and natural resources department~~].

15 B. That portion of a geothermal ground-coupled heat
16 pump corporate income tax credit that exceeds a taxpayer's tax
17 liability in the taxable year in which the credit is claimed
18 shall be refunded to the taxpayer.

19 C. The energy, minerals and natural resources
20 department shall adopt rules establishing procedures to provide
21 certification of geothermal ground-coupled heat pumps for
22 purposes of obtaining a geothermal ground-coupled heat pump
23 corporate income tax credit. The rules shall address technical
24 specifications and requirements relating to safety, building
25 code and standards compliance, minimum system sizes, system

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underscored material = new
[bracketed material] = delete

1 applications and lists of eligible components. The energy,
2 minerals and natural resources department may modify the
3 specifications and requirements as necessary to maintain a high
4 level of system quality and performance.

5 D. The maximum annual aggregate of credits that may
6 be certified in a calendar year by the energy, minerals and
7 natural resources department is four million dollars
8 (\$4,000,000). That department shall not certify a tax credit
9 for which a taxpayer claims a 2021 sustainable building
10 corporate income tax credit using a geothermal ground-coupled
11 heat pump as a component of qualification for the rating system
12 certification level used in determining eligibility for that
13 credit. Completed applications for the credit shall be
14 considered in the order received [~~by the department~~]. The
15 energy, minerals and natural resources department shall provide
16 the department appropriate information for all certificates of
17 eligibility in a secure manner on regular intervals agreed upon
18 by both departments.

19 E. A taxpayer allowed a tax credit pursuant to this
20 section shall [~~report the amount of~~] claim the credit [~~to the~~
21 ~~department~~] on forms and in a manner required by the
22 department.

23 F. [~~The department shall compile an annual report~~
24 ~~on the tax credit provided by this section that shall include~~
25 ~~the number of taxpayers approved by the department to receive~~

underscored material = new
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1 ~~the credit, the aggregate amount of credits approved and any~~
2 ~~other information necessary to evaluate the credit. The~~
3 ~~department shall present the report to the revenue~~
4 ~~stabilization and tax policy committee and the legislative~~
5 ~~finance committee with an analysis of the] The tax credit~~
6 provided by this section shall be included in the tax
7 expenditure budget pursuant to Section 7-1-84 NMSA 1978,
8 including the annual aggregate cost of the tax credit.

9 G. As used in this section, "geothermal ground-
10 coupled heat pump" means a heating and refrigerating system
11 that directly or indirectly utilizes available heat below the
12 surface of the earth for distribution of heating and cooling or
13 domestic hot water and that has either a minimum coefficient of
14 performance of three and four-tenths or an efficiency ratio of
15 sixteen or greater."

16 SECTION 56. Section 7-2A-24.1 NMSA 1978 (being Laws
17 2024, Chapter 67, Section 34) is amended to read:

18 "7-2A-24.1. GEOTHERMAL ELECTRICITY GENERATION CORPORATE
19 INCOME TAX CREDIT.--

20 A. For taxable years ending prior to January 1,
21 2032, a taxpayer that holds an interest in a geothermal
22 electricity generation facility may apply for, and the
23 department may allow, a credit against the taxpayer's tax
24 liability imposed pursuant to the Corporate Income and
25 Franchise Tax Act. The tax credit provided by this section may

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underscoring material = new
~~[bracketed material] = delete~~

1 be referred to as the "geothermal electricity generation
2 corporate income tax credit".

3 B. The amount of a tax credit allowed pursuant to
4 this section shall be an amount equal to one and one-half cents
5 (\$0.015) per kilowatt-hour of electricity generated in New
6 Mexico in a taxable year by the geothermal electricity
7 generation facility in which the taxpayer holds an interest.

8 C. A taxpayer shall apply for certification of
9 eligibility for the credit provided by this section from the
10 energy, minerals and natural resources department on forms and
11 in the manner prescribed by that department. The total annual
12 aggregate amount of geothermal electricity generation corporate
13 income tax credits and geothermal electricity generation income
14 tax credits that may be certified in any calendar year is five
15 million dollars (\$5,000,000). Completed applications shall be
16 considered in the order received. Applications for
17 certification received after this limitation has been met in a
18 calendar year shall not be approved for that calendar year, but
19 shall be considered for certification in the following calendar
20 year. The application shall include proof that the taxpayer is
21 eligible for certification, including that the geothermal
22 electricity generation facility that produced the energy for
23 which the taxpayer is claiming credit, the geothermal resources
24 used by the geothermal electricity generation facility and the
25 taxpayer's interest in the geothermal electricity generation

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underscored material = new
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1 facility are in accordance with the definitions set forth in
2 this section. For taxpayers approved to receive the credit,
3 the energy, minerals and natural resources department shall
4 issue a certificate of eligibility stating the amount of credit
5 to which the taxpayer is entitled and the taxable year in which
6 the credit may be claimed. The certificate of eligibility
7 shall be numbered for identification and declare the date of
8 issuance and the amount of the tax credit allowed.

9 D. A taxpayer may claim a geothermal electricity
10 generation corporate income tax credit for the taxable year in
11 which electricity was generated in New Mexico by a geothermal
12 electricity generation facility in which the taxpayer holds an
13 interest. To receive the credit provided by this section, a
14 taxpayer shall apply to the department on forms and in the
15 manner prescribed by the department. The application shall
16 include a [~~certification made~~] certificate of eligibility
17 issued pursuant to Subsection C of this section.

18 E. That portion of a credit that exceeds a
19 taxpayer's tax liability in the taxable year in which the
20 credit is claimed may be carried forward for up to three
21 consecutive years.

22 F. A taxpayer allowed a tax credit pursuant to this
23 section shall report the amount of the credit to the department
24 in a manner required by that department.

25 G. [~~The department shall compile an annual report~~

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[bracketed material] = delete

1 ~~on the credit provided by this section that shall include the~~
2 ~~number of taxpayers approved by the department to receive the~~
3 ~~credit, the aggregate amount of credits approved and any other~~
4 ~~information necessary to evaluate the credit. The department~~
5 ~~shall present the report to the revenue stabilization and tax~~
6 ~~policy committee and the legislative finance committee with an~~
7 ~~analysis of the]~~ The tax credit provided by this section shall
8 be included in the tax expenditure budget pursuant to Section
9 7-1-84 NMSA 1978, including the annual aggregate cost of the
10 tax credit.

11 H. As used in this section:

12 (1) "geothermal electricity generation
13 facility" means a facility located in New Mexico that generates
14 electricity from geothermal resources and:

15 (a) for new facilities, begins
16 construction on or after January 1, 2025; or

17 (b) for existing facilities, on or after
18 January 1, 2025, increases the amount of electricity generated
19 from geothermal resources the facility generated prior to that
20 date by at least one hundred percent;

21 (2) "geothermal resources" means the natural
22 heat of the earth in excess of two hundred fifty degrees
23 Fahrenheit or the energy, in whatever form, below the surface
24 of the earth present in, resulting from, created by or that may
25 be extracted from this natural heat in excess of two hundred

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1 fifty degrees Fahrenheit and all minerals in solution or other
2 products obtained from naturally heated fluids, brines,
3 associated gases and steam, in whatever form, found below the
4 surface of the earth, but excluding oil, hydrocarbon gas and
5 other hydrocarbon substances and excluding the heating and
6 cooling capacity of the earth not resulting from the natural
7 heat of the earth in excess of two hundred fifty degrees
8 Fahrenheit as may be used for the heating and cooling of
9 buildings through an on-site geexchange heat pump or similar
10 on-site system; and

11 (3) "interest in a geothermal electricity
12 generation facility" means title to a geothermal electricity
13 generation facility; a leasehold interest in such facility; an
14 ownership interest in a business or entity that is taxed for
15 federal income tax purposes as a partnership that holds title
16 to or a leasehold interest in such facility; or an ownership
17 interest, through one or more intermediate entities that are
18 each taxed for federal income tax purposes as a partnership, in
19 a business that holds title to or a leasehold interest in such
20 facility."

21 SECTION 57. Section 7-2A-26 NMSA 1978 (being Laws 2010,
22 Chapter 84, Section 2, as amended) is amended to read:

23 "7-2A-26. AGRICULTURAL BIOMASS CORPORATE INCOME TAX
24 CREDIT.--

25 A. A taxpayer that files a New Mexico corporate

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1 income tax return for a taxable year [~~beginning on or after~~
2 ~~January 1, 2011 and~~] ending prior to January 1, 2030 for a
3 dairy or feedlot owned by the taxpayer may claim against the
4 taxpayer's corporate income and franchise tax liability, and
5 the department may allow, a tax credit equal to five dollars
6 (\$5.00) per wet ton of agricultural biomass transported from
7 the taxpayer's dairy or feedlot to a facility that uses
8 agricultural biomass to generate electricity or make biocrude
9 or other liquid or gaseous fuel for commercial use. The credit
10 provided in this section may be referred to as the
11 "agricultural biomass corporate income tax credit".

12 ~~[B. If the requirements of this section have been~~
13 ~~complied with, the department shall issue to the taxpayer a~~
14 ~~document granting an agricultural biomass corporate income tax~~
15 ~~credit. The document shall be numbered for identification and~~
16 ~~declare its date of issuance and the amount of the tax credit~~
17 ~~allowed pursuant to this section. The document may be~~
18 ~~submitted by the taxpayer with that taxpayer's corporate income~~
19 ~~tax return or may be sold, exchanged or otherwise transferred~~
20 ~~to another taxpayer. The parties to such a transaction shall~~
21 ~~notify the department of the sale, exchange or transfer within~~
22 ~~ten days of the sale, exchange or transfer.]~~

23 B. Subject to the limitations of Subsection C of
24 this section, a taxpayer shall apply for certification of
25 eligibility for the agricultural biomass corporate income tax

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underscored material = new
[bracketed material] = delete

1 credit from the energy, minerals and natural resources
2 department on forms and in the manner prescribed by that
3 department. Completed applications shall be considered in the
4 order received. A dated certificate of eligibility shall be
5 issued to the taxpayer providing the amount of the agricultural
6 biomass corporate income tax credit for which the taxpayer is
7 eligible and the taxable year in which the credit may be
8 claimed. The energy, minerals and natural resources department
9 shall adopt rules establishing procedures to provide
10 certification of transportation of agricultural biomass to a
11 qualified facility that uses agricultural biomass to generate
12 electricity or make biocrude or other liquid or gaseous fuel
13 for commercial use for purposes of obtaining an agricultural
14 biomass corporate income tax credit.

15 C. The aggregate amount of agricultural biomass
16 income tax credits and agricultural biomass corporate income
17 tax credits that may be certified is five million dollars
18 (\$5,000,000) per calendar year, and applications for
19 certification received after this limitation shall not be
20 approved. Any remaining credits that remain unused in a
21 taxable year may be available for certification for a maximum
22 of four consecutive taxable years until the credits are fully
23 utilized. The energy, minerals and natural resources
24 department shall provide the department appropriate information
25 for all certificates of eligibility in a secure manner on

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1 regular intervals agreed upon by both departments.

2 [G.—A] D. Any portion of the agricultural biomass
3 corporate income tax credit that ~~[remains unused in a taxable~~
4 ~~year may be carried forward for a maximum of four consecutive~~
5 ~~taxable years following the taxable year in which the credit~~
6 ~~originates until the credit is fully expended.~~

7 ~~D. The energy, minerals and natural resources~~
8 ~~department shall adopt rules establishing procedures to provide~~
9 ~~certification of transportation of agricultural biomass to a~~
10 ~~qualified facility that uses agricultural biomass to generate~~
11 ~~electricity or make biocrude or other liquid or gaseous fuel~~
12 ~~for commercial use for purposes of obtaining an agricultural~~
13 ~~biomass corporate income tax credit. The rules may be modified~~
14 ~~as determined necessary by the energy, minerals and natural~~
15 ~~resources department to determine accurate recording of the~~
16 ~~quantity of agricultural biomass transported and used for the~~
17 ~~purpose allowable in this section] exceeds a taxpayer's~~
18 corporate income tax liability in the taxable year in which the
19 credit is being claimed may be carried forward for up to three
20 consecutive taxable years. A certificate of eligibility for an
21 agricultural biomass corporate income tax credit may be sold,
22 exchanged or otherwise transferred to another taxpayer for the
23 full value of the credit. The parties to such a transaction
24 shall notify the department of the sale, exchange or transfer
25 within ten days of the sale, exchange or transfer.

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underscored material = new
[bracketed material] = delete

1 E. A taxpayer that claims an agricultural biomass
2 corporate income tax credit shall not also claim an
3 agricultural biomass income tax credit for transportation of
4 the same agricultural biomass on which the claim for that
5 agricultural biomass income tax credit is based.

6 ~~[F. The department shall limit the annual combined~~
7 ~~total of all agricultural biomass income tax credits and all~~
8 ~~agricultural biomass corporate income tax credits allowed to a~~
9 ~~maximum of five million dollars (\$5,000,000). Applications for~~
10 ~~the credit shall be considered in the order received by the~~
11 ~~department.~~

12 G.] F. A taxpayer allowed a tax credit pursuant to
13 this section shall ~~[report the amount of]~~ claim the credit ~~[to~~
14 ~~the department]~~ on forms and in a manner required by the
15 department.

16 ~~[H. The department shall compile an annual report~~
17 ~~on the agricultural biomass corporate income tax credit that~~
18 ~~shall include the number of taxpayers approved by the~~
19 ~~department to receive the credit, the aggregate amount of~~
20 ~~credits approved and any other information necessary to~~
21 ~~evaluate the credit. The department shall present the report~~
22 ~~to the revenue stabilization and tax policy committee and the~~
23 ~~legislative finance committee with an analysis of the]~~

24 G. The tax credit provided by this section shall be
25 included in the tax expenditure budget pursuant to Section

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1 7-1-84 NMSA 1978, including the annual aggregate cost of the
2 tax credit.

3 ~~[F.]~~ H. As used in this section:

4 (1) "agricultural biomass" means wet manure
5 meeting specifications established by the energy, minerals and
6 natural resources department from either a dairy or feedlot
7 commercial operation;

8 (2) "biocrude" means a nonfossil form of
9 energy that can be transported and refined using existing
10 petroleum refining facilities and that is made from
11 biologically derived feedstocks and other agricultural biomass;

12 (3) "feedlot" means an operation that fattens
13 livestock for market; and

14 (4) "dairy" means a facility that raises
15 livestock for milk production."

16 SECTION 58. Section 7-2A-28 NMSA 1978 (being Laws 2015,
17 Chapter 130, Section 2, as amended) is amended to read:

18 "7-2A-28. 2015 SUSTAINABLE BUILDING CORPORATE INCOME TAX
19 CREDIT.--

20 A. The tax credit provided by this section may be
21 referred to as the "2015 sustainable building corporate income
22 tax credit". The 2015 sustainable building corporate income
23 tax credit shall be available for the construction in New
24 Mexico of a sustainable building, the renovation of an existing
25 building in New Mexico into a sustainable building or the

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1 permanent installation of manufactured housing, regardless of
2 where the housing is manufactured, that is a sustainable
3 building; provided that the construction, renovation or
4 installation project is completed prior to April 1, 2023. The
5 tax credit provided in this section may not be claimed with
6 respect to the same sustainable building for which the 2015
7 sustainable building income tax credit, [~~provided in the Income~~
8 ~~Tax Act or~~] the 2021 sustainable building income tax credit
9 [~~pursuant to the Income Tax Act~~] or the [~~Corporate Income and~~
10 ~~Franchise Tax Act~~] 2021 sustainable building corporate income
11 tax credit has been claimed.

12 B. The purpose of the 2015 sustainable building
13 corporate income tax credit is to encourage the construction of
14 sustainable buildings and the renovation of existing buildings
15 into sustainable buildings.

16 C. A taxpayer that files a corporate income tax
17 return [~~is eligible to be granted~~] may claim a 2015 sustainable
18 building corporate income tax credit [~~by the department if the~~
19 ~~taxpayer submits a document issued pursuant to Subsection K of~~
20 ~~this section with the taxpayer's corporate income tax return~~]
21 if the requirements of this section are met.

22 D. For taxable years ending on or before December
23 31, 2024, the 2015 sustainable building corporate income tax
24 credit may be claimed with respect to a sustainable commercial
25 building. The credit shall be calculated based on the

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1 certification level the building has achieved in the LEED green
 2 building rating system and the amount of qualified occupied
 3 square footage in the building, as indicated on the following
 4 chart:

5 LEED Rating Level	6 Qualified Occupied	7 Tax Credit per Square Footage
8 LEED-NC Silver	9 First 10,000	\$3.50
	10 Next 40,000	\$1.75
	11 Over 50,000	
	12 up to 500,000	\$.70
13 LEED-NC Gold	14 First 10,000	\$4.75
	15 Next 40,000	\$2.00
	16 Over 50,000	
	17 up to 500,000	\$1.00
18 LEED-NC Platinum	19 First 10,000	\$6.25
	20 Next 40,000	\$3.25
	21 Over 50,000	
	22 up to 500,000	\$2.00
23 LEED-EB or CS Silver	24 First 10,000	\$2.50
	25 Next 40,000	\$1.25
	Over 50,000	
	up to 500,000	\$.50
26 LEED-EB or CS Gold	27 First 10,000	\$3.35
	28 Next 40,000	\$1.40

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underscored material = new
[bracketed material] = delete

1		Over 50,000	
2		up to 500,000	\$.70
3	LEED-EB or CS		
4	Platinum	First 10,000	\$4.40
5		Next 40,000	\$2.30
6		Over 50,000	
7		up to 500,000	\$1.40
8	LEED-CI Silver	First 10,000	\$1.40
9		Next 40,000	\$.70
10		Over 50,000	
11		up to 500,000	\$.30
12	LEED-CI Gold	First 10,000	\$1.90
13		Next 40,000	\$.80
14		Over 50,000	
15		up to 500,000	\$.40
16	LEED-CI Platinum	First 10,000	\$2.50
17		Next 40,000	\$1.30
18		Over 50,000	
19		up to 500,000	\$.80.

20 E. For taxable years ending on or before December
21 31, 2024, the 2015 sustainable building corporate income tax
22 credit may be claimed with respect to a sustainable residential
23 building. The credit shall be calculated based on the amount
24 of qualified occupied square footage, as indicated on the
25 following chart:

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1	Rating System/Level	Qualified	Tax Credit
2		Occupied	per Square
3		Square Footage	Foot
4	LEED-H Silver or Build	Up to 2,000	\$3.00
5	Green NM Silver		
6	LEED-H Gold or Build	Up to 2,000	\$4.50
7	Green NM Gold		
8	LEED-H Platinum or Build	Up to 2,000	\$6.50
9	Green NM Emerald		
10	Manufactured Housing	Up to 2,000	\$3.00.

11 F. A person that is a building owner may apply for
12 a certificate of eligibility for the 2015 sustainable building
13 corporate income tax credit from the energy, minerals and
14 natural resources department after the construction,
15 installation or renovation of the sustainable building is
16 complete. Completed applications shall be considered in the
17 order received. If the energy, minerals and natural resources
18 department determines that the building owner meets the
19 requirements of this subsection and that the building with
20 respect to which the tax credit application is made meets the
21 requirements of this section as a sustainable residential
22 building or a sustainable commercial building, the energy,
23 minerals and natural resources department may issue a dated
24 certificate of eligibility to the building owner providing the
25 amount of credit for which the building owner is eligible and

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[bracketed material] = delete

1 the taxable year in which the credit may be claimed, subject to
2 the limitations in Subsection G of this section. The
3 certificate shall include the rating system certification level
4 awarded to the building, the amount of qualified occupied
5 square footage in the building and a calculation of the maximum
6 amount of 2015 sustainable building corporate income tax credit
7 for which the building owner would be eligible. The energy,
8 minerals and natural resources department may issue rules
9 governing the procedure for administering the provisions of
10 this subsection. [~~If the certification level for the~~
11 ~~sustainable residential building is awarded on or after January~~
12 ~~1, 2017 but prior to April 1, 2023, the energy, minerals and~~
13 ~~natural resources department may issue a certificate of~~
14 ~~eligibility to a building owner who is:~~

15 ~~(1) the owner of the sustainable residential~~
16 ~~building at the time the certification level for the building~~
17 ~~is awarded; or~~

18 ~~(2) the subsequent purchaser of a sustainable~~
19 ~~residential building with respect to which no tax credit has~~
20 ~~been previously claimed.]~~

21 G. Except as provided in Subsection H of this
22 section, the energy, minerals and natural resources department
23 may issue a certificate of eligibility only if the [~~total~~]
24 aggregate amount of 2015 sustainable building tax corporate
25 income credits represented by certificates of eligibility

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underscored material = new
[bracketed material] = delete

1 issued by the energy, minerals and natural resources department
2 pursuant to this section and [~~pursuant to the Income Tax Act~~]
3 Section 7-2-18.29 NMSA 1978 shall not exceed in any calendar
4 year an aggregate amount of:

5 (1) one million two hundred fifty thousand
6 dollars (\$1,250,000) with respect to sustainable commercial
7 buildings;

8 (2) three million three hundred seventy-five
9 thousand dollars (\$3,375,000) with respect to sustainable
10 residential buildings that are not manufactured housing; and

11 (3) three hundred seventy-five thousand
12 dollars (\$375,000) with respect to sustainable residential
13 buildings that are manufactured housing.

14 H. For any taxable year that the energy, minerals
15 and natural resources department determines that applications
16 for sustainable building corporate income tax credits for any
17 type of sustainable building pursuant to Paragraph (1), (2) or
18 (3) of Subsection G of this section are less than the aggregate
19 limit for that type of sustainable building for that taxable
20 year, the energy, minerals and natural resources department
21 shall allow the difference between the aggregate limit and the
22 applications to be added to the aggregate limit of another type
23 of sustainable building for which applications exceeded the
24 aggregate limit for that taxable year. Any excess not used in
25 a taxable year shall not be carried forward to subsequent

underscored material = new
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1 taxable years. The energy, minerals and natural resources
2 department shall provide the department appropriate information
3 for all certificates of eligibility in a secure manner on
4 regular intervals agreed upon by both departments.

5 I. Installation of a solar thermal system or a
6 photovoltaic system eligible for the solar market development
7 tax credit pursuant to Section 7-2-18.14 or 7-2-18.31 NMSA 1978
8 may not be used as a component of qualification for the rating
9 system certification level used in determining eligibility for
10 the 2015 sustainable building corporate income tax credit,
11 unless a solar market development tax credit pursuant to
12 Section 7-2-18.14 or 7-2-18.31 NMSA 1978 has not been claimed
13 with respect to that system and the building owner and the
14 taxpayer claiming the 2015 sustainable building corporate
15 income tax credit certify that such a tax credit will not be
16 claimed with respect to that system.

17 J. To ~~[be eligible for]~~ claim the 2015 sustainable
18 building corporate income tax credit, the building owner shall
19 provide to the ~~[taxation and revenue]~~ department a certificate
20 of eligibility issued by the energy, minerals and natural
21 resources department pursuant to the requirements of Subsection
22 F of this section and any other information the ~~[taxation and~~
23 ~~revenue]~~ department may require to determine the amount of the
24 tax credit for which the building owner is eligible.

25 ~~[K. If the requirements of this section have been~~

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underscored material = new
[bracketed material] = delete

1 ~~complied with, the department shall issue to the building owner~~
2 ~~a document granting a 2015 sustainable building tax credit.~~
3 ~~The document shall be numbered for identification and declare~~
4 ~~its date of issuance and the amount of the tax credit allowed~~
5 ~~pursuant to this section. The document may be submitted by the~~
6 ~~building owner with that taxpayer's income tax return, if~~
7 ~~applicable, or may be sold, exchanged or otherwise transferred~~
8 ~~to another taxpayer. The parties to such a transaction shall~~
9 ~~notify the department of the sale, exchange or transfer within~~
10 ~~ten days of the sale, exchange or transfer.~~

11 ~~L. If the approved amount of a 2015 sustainable~~
12 ~~building tax credit for a taxpayer in a taxable year~~
13 ~~represented by a document issued pursuant to Subsection K of~~
14 ~~this section is:~~

15 ~~(1) less than one hundred thousand dollars~~
16 ~~(\$100,000), a maximum of twenty five thousand dollars (\$25,000)~~
17 ~~shall be applied against the taxpayer's corporate income tax~~
18 ~~liability for the taxable year for which the credit is approved~~
19 ~~and the next three subsequent taxable years as needed depending~~
20 ~~on the amount of credit; or~~

21 ~~(2) one hundred thousand dollars (\$100,000)~~
22 ~~or more, increments of twenty five percent of the total credit~~
23 ~~amount in each of the four taxable years, including the taxable~~
24 ~~year for which the credit is approved and the three subsequent~~
25 ~~taxable years, shall be applied against the taxpayer's~~

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1 ~~corporate income tax liability.~~

2 ~~M. If the sum of all]~~

3 K. Any portion of a 2015 sustainable building
4 corporate income tax ~~[credits that can be applied to a taxable~~
5 ~~year for a taxpayer, calculated according to Paragraph (1) or~~
6 ~~(2) of Subsection L of this section]~~ credit that exceeds the
7 taxpayer's corporate income tax liability for ~~[that]~~ the
8 taxable year ~~[the excess]~~ in which the credit is claimed may be
9 carried forward for ~~[a period of]~~ up to seven consecutive
10 taxable years.

11 ~~[N.]~~ L. A taxpayer that otherwise qualifies and
12 claims a 2015 sustainable building corporate income tax credit
13 with respect to a sustainable building owned by a partnership
14 or other business association of which the taxpayer is a member
15 may claim a credit only in proportion to that taxpayer's
16 interest in the partnership or association. The total credit
17 claimed in the aggregate by all members of the partnership or
18 association with respect to the sustainable building shall not
19 exceed the amount of the credit that could have been claimed by
20 a sole owner of the property.

21 ~~[O. The department shall compile an annual report~~
22 ~~on the 2015 sustainable building tax credit created pursuant to~~
23 ~~this section that shall include the number of taxpayers~~
24 ~~approved by the department to receive the tax credit, the~~
25 ~~aggregate amount of tax credits approved and any other~~

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[bracketed material] = delete

1 ~~information necessary to evaluate the effectiveness of the tax~~
2 ~~credit. Beginning in 2019 and every three years thereafter~~
3 ~~that the credit is in effect, the department shall compile and~~
4 ~~present the annual reports to the revenue stabilization and tax~~
5 ~~policy committee and the legislative finance committee]~~

6 M. The credit provided by this section shall be
7 included in the tax expenditure budget pursuant to Section
8 7-1-84 NMSA 1978 with an analysis of the effectiveness and cost
9 of the tax credit and whether the tax credit is performing the
10 purpose for which it was created.

11 ~~[P-]~~ N. For the purposes of this section:

12 (1) "build green New Mexico rating system"
13 means the certification standards adopted by build green New
14 Mexico in November 2014, which include water conservation
15 standards;

16 (2) "LEED-CI" means the LEED rating system
17 for commercial interiors;

18 (3) "LEED-CS" means the LEED rating system
19 for the core and shell of buildings;

20 (4) "LEED-EB" means the LEED rating system
21 for existing buildings;

22 (5) "LEED gold" means the rating in
23 compliance with, or exceeding, the second-highest rating
24 awarded by the LEED certification process;

25 (6) "LEED" means the most current leadership

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1 in energy and environmental design green building rating system
2 guidelines developed and adopted by the United States green
3 building council;

4 (7) "LEED-H" means the LEED rating system for
5 homes;

6 (8) "LEED-NC" means the LEED rating system
7 for new buildings and major renovations;

8 (9) "LEED platinum" means the rating in
9 compliance with, or exceeding, the highest rating awarded by
10 the LEED certification process;

11 (10) "LEED silver" means the rating in
12 compliance with, or exceeding, the third-highest rating awarded
13 by the LEED certification process;

14 (11) "manufactured housing" means a
15 multisectioned home that is:

16 (a) a manufactured home or modular home;

17 (b) a single-family dwelling with a
18 heated area of at least thirty-six feet by twenty-four feet and
19 a total area of at least eight hundred sixty-four square feet;

20 (c) constructed in a factory to the
21 standards of the United States department of housing and urban
22 development, the National Manufactured Housing Construction and
23 Safety Standards Act of 1974 and the Housing and Urban
24 Development Zone Code 2 or New Mexico construction codes up to
25 the date of the unit's construction; and

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underscoring material = new
~~[bracketed material] = delete~~

1 (d) installed consistent with the
2 Manufactured Housing Act and rules adopted pursuant to that act
3 relating to permanent foundations;

4 (12) "qualified occupied square footage"
5 means the occupied spaces of the building as determined by:

6 (a) the United States green building
7 council for those buildings obtaining LEED certification;

8 (b) the administrators of the build
9 green New Mexico rating system for those homes obtaining build
10 green New Mexico certification; and

11 (c) the United States environmental
12 protection agency for ENERGY STAR-certified manufactured homes;

13 (13) "person" does not include state, local
14 government, public school district or tribal agencies;

15 (14) "sustainable building" means either a
16 sustainable commercial building or a sustainable residential
17 building;

18 (15) "sustainable commercial building" means
19 a multifamily dwelling unit, as registered and certified under
20 the LEED-H or build green New Mexico rating system, that is
21 certified by the United States green building council as LEED-H
22 silver or higher or by build green New Mexico as silver or
23 higher and has achieved a home energy rating system index of
24 sixty or lower as developed by the residential energy services
25 network or a building that has been registered and certified

underscored material = new
~~[bracketed material] = delete~~

1 under the LEED-NC, LEED-EB, LEED-CS or LEED-CI rating system
2 and that:

3 (a) is certified by the United States
4 green building council at LEED silver or higher;

5 (b) achieves any prerequisite for and at
6 least one point related to commissioning under LEED "energy and
7 atmosphere", if included in the applicable rating system; and

8 (c) has reduced energy consumption
9 beginning January 1, 2012, by sixty percent based on the
10 national average for that building type as published by the
11 United States department of energy as substantiated by the
12 United States environmental protection agency target finder
13 energy performance results form, dated no sooner than the
14 schematic design phase of development;

15 (16) "sustainable residential building"
16 means:

17 (a) a building used as a single-family
18 residence as registered and certified under the build green New
19 Mexico or LEED-H rating systems that: 1) is certified by the
20 United States green building council as LEED-H silver or higher
21 or by build green New Mexico as silver or higher; 2) has
22 achieved a home energy rating system index of sixty or lower as
23 developed by the residential energy services network; 3) has
24 indoor plumbing fixtures and water-using appliances that, on
25 average, have flow rates equal to or lower than the flow rates

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1 required for certification by WaterSense; 4) if landscape area
2 is available at the front of the property, has at least one
3 water line outside the building below the frost line that may
4 be connected to a drip irrigation system; and 5) if landscape
5 area is available at the rear of the property, has at least one
6 water line outside the building below the frost line that may
7 be connected to a drip irrigation system; or

8 (b) manufactured housing that is ENERGY
9 STAR-qualified by the United States environmental protection
10 agency;

11 (17) "tribal" means of, belonging to or
12 created by a federally recognized Indian nation, tribe or
13 pueblo; and

14 (18) "WaterSense" means a program created by
15 the federal environmental protection agency that certifies
16 water-using products that meet the environmental protection
17 agency's criteria for efficiency and performance."

18 SECTION 59. Section 7-2A-28.1 NMSA 1978 (being Laws
19 2021, Chapter 84, Section 4, as amended) is amended to read:

20 "7-2A-28.1. 2021 SUSTAINABLE BUILDING CORPORATE INCOME
21 TAX CREDIT.--

22 A. The tax credit provided by this section may be
23 referred to as the "2021 sustainable building corporate income
24 tax credit". For taxable years ending prior to January 1,
25 2028, a taxpayer that is a building owner and files a corporate

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underscored material = new
[bracketed material] = delete

1 income tax return [~~is eligible to be granted~~] may claim a 2021
2 sustainable building corporate income tax credit [~~by the~~
3 ~~department~~] if the requirements of this section are met. The
4 2021 sustainable building corporate income tax credit shall be
5 available for the construction in New Mexico of a sustainable
6 building, the renovation of an existing building in New Mexico,
7 the permanent installation of manufactured housing, regardless
8 of where the housing is manufactured, that is a sustainable
9 building or the installation of energy-conserving products to
10 existing buildings in New Mexico, as provided in this section.
11 The tax credit provided in this section may not be claimed with
12 respect to the same sustainable building for which the 2021
13 sustainable building income tax credit, [~~provided in the Income~~
14 ~~Tax Act or~~] the 2015 sustainable building tax income credit
15 [~~pursuant to the Income Tax Act~~] or the [~~Corporate Income and~~
16 ~~Franchise Tax Act~~] 2015 sustainable building corporate income
17 tax credit has been claimed.

18 B. The amount of a 2021 sustainable building
19 corporate income tax credit shall be determined as follows:

20 (1) for the construction of a new sustainable
21 commercial building that is broadband ready and electric
22 vehicle ready and is completed on or after January 1, 2022, the
23 amount of credit shall be calculated:

24 (a) based on the certification level the
25 building has achieved in the rating level and the amount of

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1 qualified occupied square footage in the building, as indicated
2 on the following chart:

3	Rating Level	Qualified	Tax Credit
4		Occupied	Per Square
5		Square Footage	Foot
6	LEED-NC Platinum	First 10,000	\$5.25
7		Next 40,000	\$2.25
8		Over 50,000	
9		up to 200,000	\$1.00
10	LEED-EB or CS Platinum	First 10,000	\$3.40
11		Next 40,000	\$1.30
12		Over 50,000	
13		up to 200,000	\$0.35
14	LEED-CI Platinum	First 10,000	\$1.50
15		Next 40,000	\$0.40
16		Over 50,000	
17		up to 200,000	\$0.30
18	LEED-NC Gold	First 10,000	\$3.00
19		Next 40,000	\$1.00
20		Over 50,000	
21		up to 200,000	\$0.25
22	LEED-EB or -CS Gold	First 10,000	\$2.00
23		Next 40,000	\$1.00
24		Over 50,000	
25		up to 200,000	\$0.25

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underscored material = new
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1	LEED-CI Gold	First 10,000	\$0.90
2		Next 40,000	\$0.40
3		Over 50,000	
4		up to 200,000	\$0.10; and

5 (b) with additional amounts based on the
6 additional criteria and the amount of qualified occupied square
7 footage, as indicated in the following chart:

8	Additional Criteria	Qualified	Tax Credit
9		Occupied	Per Square
10		Square Footage	Foot
11	Fully Electric Building	First 50,000	\$1.00
12		Over 50,000	
13		up to 200,000	\$0.50
14	Zero Carbon, Energy, Waste or Water Certified	First 50,000	\$0.25
15		Over 50,000	
16		up to 200,000	\$0.10;

18 (2) for the renovation of a commercial
19 building that was built at least ten years prior to the date of
20 the renovation, has twenty thousand square feet or more of
21 space in which temperature is controlled and is broadband ready
22 and electric vehicle ready, the amount of credit shall be
23 calculated by multiplying two dollars twenty-five cents (\$2.25)
24 by the amount of qualified occupied square footage in the
25 building, up to a maximum of one hundred fifty thousand dollars

underscored material = new
[bracketed material] = delete

1 (\$150,000) per renovation; provided that the renovation reduces
2 total energy and power costs by fifty percent when compared to
3 the most current energy standard for buildings except low-rise
4 residential buildings, as developed by the American society of
5 heating, refrigerating and air-conditioning engineers;

6 (3) for the installation of the following
7 energy-conserving products to an existing commercial building
8 with less than twenty thousand square feet of space in which
9 temperature is controlled that is broadband ready, the amount
10 of credit shall be based on the cost of the product installed,
11 which shall include installation costs, and if the building is
12 affordable housing, per product installed:

Product	Amount of Credit	
	Affordable Housing	Non-Affordable Housing
Energy Star Air Source Heat Pump	\$2,000	\$1,000
Energy Star Ground Source Heat Pump	\$2,000	\$1,000
Energy Star Windows and Doors	100% of product cost up to \$1,000	50% of product cost up to \$500
Insulation Improvements That Meet Rules of the		

underscored material = new
[bracketed material] = delete

1	Energy, Minerals and Natural		
2	Resources Department	100% of product	50% of product
3		cost up to	cost up to
4		\$2,000	\$1,000
5	Energy Star Heat Pump Water		
6	Heater	\$700	\$350
7	Electric Vehicle Ready	100% of product	50% of product
8		cost up to	cost up to
9		\$3,000	\$1,500;

10 (4) for the construction of a new sustainable
11 residential building that is broadband ready and electric
12 vehicle ready and is completed on or after January 1, 2022, the
13 amount of credit shall be calculated:

14 (a) based on the certification level the
15 building has achieved in the rating level and the amount of
16 qualified occupied square footage in the building, as indicated
17 on the following chart:

18	Rating Level	Qualified	Tax Credit
19		Occupied	Per Square
20		Square Footage	Foot
21	LEED-H Platinum	Up to 2,000	\$5.50
22	LEED-H Gold	Up to 2,000	\$3.80
23	Build Green Emerald	Up to 2,000	\$5.50
24	Build Green Gold	Up to 2,000	\$3.80
25	Manufactured Housing	Up to 2,000	\$2.00; and

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1 (b) with additional amounts based on the
 2 additional criteria and the amount of qualified occupied square
 3 footage, as indicated in the following chart:

Additional Criteria	Qualified Occupied Square Footage	Tax Credit Per Square Foot
Fully Electric Building	Up to 2,000	\$1.00
Zero Carbon, Energy, Waste or Water Certified	Up to 2,000	\$0.25; and

10 (5) for the installation of the following
 11 energy-conserving products to an existing residential building,
 12 the amount of credit shall be based on the cost of the product
 13 installed, which shall include installation costs, and if the
 14 building is affordable housing, [~~or the taxpayer is a low-~~
 15 ~~income taxpayer~~] per product installed:

Product	Amount of Credit	
	Affordable Housing [and Low Income]	Non-Affordable Housing [and Non-Low Income]
Energy Star Air Source Heat Pump	\$2,000	\$1,000
Energy Star Ground Source Heat Pump	\$2,000	\$1,000
Energy Star Windows and Doors	100% of product	50% of product

underscored material = new
 [bracketed material] = delete

underscored material = new
[bracketed material] = delete

1		cost up to	cost up to
2		\$1,000	\$500
3	Insulation Improvements That		
4	Meet Rules of the		
5	Energy, Minerals and Natural		
6	Resources Department	100% of product	50% of product
7		cost up to	cost up to
8		\$2,000	\$1,000
9	Energy Star Heat Pump Water		
10	Heater	\$700	\$350
11	Electric Vehicle Ready	\$1,000	\$500.

12 C. A person that is a building owner may apply for
13 a certificate of eligibility for the 2021 sustainable building
14 corporate income tax credit from the energy, minerals and
15 natural resources department on forms and in a manner
16 prescribed by that department after the construction,
17 installation or renovation of the sustainable building or
18 installation of energy-conserving products in an existing
19 building is complete. Completed applications shall be
20 considered in the order received. If the energy, minerals and
21 natural resources department determines that the building owner
22 meets the requirements of this subsection and that the building
23 with respect to which the application is made meets the
24 requirements of this section for a 2021 sustainable building
25 corporate income tax credit, the energy, minerals and natural

underscored material = new
~~[bracketed material] = delete~~

1 resources department may issue a dated certificate of
2 eligibility to the building owner, subject to the limitations
3 in Subsection D of this section. The certificate shall include
4 the rating system certification level awarded to the building,
5 the amount of qualified occupied square footage in the
6 building, a calculation of the [~~maximum~~] amount of 2021
7 sustainable building corporate income tax credit for which the
8 building owner [~~would be~~] is eligible, the identification
9 number, date of issuance and the first taxable year that the
10 credit shall be claimed. The energy, minerals and natural
11 resources department may issue rules governing the procedure
12 for administering the provisions of this subsection. [~~If the~~
13 ~~certification level for the sustainable residential building is~~
14 ~~awarded on or after January 1, 2022]~~ The energy, minerals and
15 natural resources department may issue a certificate of
16 eligibility to a building owner that is:

17 (1) the owner of the sustainable residential
18 building at the time the certification level for the building
19 is awarded; or

20 (2) the subsequent purchaser of a sustainable
21 residential building with respect to which no tax credit has
22 been previously claimed.

23 D. Except as provided in Subsection E of this
24 section, the energy, minerals and natural resources department
25 may issue a certificate of eligibility only if the [~~total~~]

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1 aggregate amount of 2021 sustainable building corporate income
2 tax credits represented by certificates of eligibility issued
3 by the energy, minerals and natural resources department
4 pursuant to this section and [~~pursuant to the Income Tax Act~~]
5 Section 7-2-18.32 NMSA 1978 shall not exceed in any calendar
6 year an aggregate amount of:

7 (1) one million dollars (\$1,000,000) with
8 respect to the construction of new sustainable commercial
9 buildings;

10 (2) two million dollars (\$2,000,000) with
11 respect to the construction of new sustainable residential
12 buildings that are not manufactured housing;

13 (3) two hundred fifty thousand dollars
14 (\$250,000) with respect to the construction of new sustainable
15 residential buildings that are manufactured housing;

16 (4) one million dollars (\$1,000,000) with
17 respect to the renovation of large commercial buildings; and

18 (5) two million nine hundred thousand dollars
19 (\$2,900,000) with respect to the installation of energy-
20 conserving products in existing commercial buildings pursuant
21 to Paragraph (3) of Subsection B of this section and existing
22 residential buildings pursuant to Paragraph (5) of Subsection B
23 of this section.

24 E. For any taxable year that the energy, minerals
25 and natural resources department determines that applications

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1 for sustainable building tax credits for any type of
2 sustainable building pursuant to Subsection D of this section
3 are less than the aggregate limit for that type of sustainable
4 building for that taxable year, the energy, minerals and
5 natural resources department shall allow the difference between
6 the aggregate limit and the applications to be added to the
7 aggregate limit of another type of sustainable building for
8 which applications exceeded the aggregate limit for that
9 taxable year. Any excess not used in a taxable year shall not
10 be carried forward to subsequent taxable years. The energy,
11 minerals and natural resources department shall provide the
12 department appropriate information for all certificates of
13 eligibility in a secure manner on regular intervals agreed upon
14 by both departments.

15 F. Installation of a solar thermal system or a
16 photovoltaic system eligible for the new solar market
17 development tax credit [~~pursuant to Section 7-2-18.31 NMSA~~
18 ~~1978~~] shall not be used as a component of qualification for the
19 rating system certification level used in determining
20 eligibility for the 2021 sustainable building corporate income
21 tax credit, unless a new solar market development tax credit
22 [~~pursuant to Section 7-2-18.31 NMSA 1978~~] has not been claimed
23 with respect to that system and the building owner and the
24 taxpayer claiming the 2021 sustainable building tax credit
25 certify that such a tax credit will not be claimed with respect

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1 to that system.

2 ~~[G. To claim the 2021 sustainable building tax~~
3 ~~credit, the building owner shall provide to the taxation and~~
4 ~~revenue department a certificate of eligibility issued by the~~
5 ~~energy, minerals and natural resources department pursuant to~~
6 ~~the requirements of Subsection C of this section and any other~~
7 ~~information the taxation and revenue department may require.~~

8 ~~H. If the approved amount of a 2021 sustainable~~
9 ~~building tax credit for a taxpayer in a taxable year~~
10 ~~represented by a document issued pursuant to Subsection C of~~
11 ~~this section is:~~

12 ~~(1) less than one hundred thousand dollars~~
13 ~~(\$100,000), a maximum of twenty five thousand dollars (\$25,000)~~
14 ~~shall be applied against the taxpayer's corporate income tax~~
15 ~~liability for the taxable year for which the credit is approved~~
16 ~~and the next three subsequent taxable years as needed depending~~
17 ~~on the amount of credit; or~~

18 ~~(2) one hundred thousand dollars (\$100,000)~~
19 ~~or more, increments of twenty five percent of the total credit~~
20 ~~amount in each of the four taxable years, including the taxable~~
21 ~~year for which the credit is approved and the three subsequent~~
22 ~~taxable years, shall be applied against the taxpayer's~~
23 ~~corporate income tax liability.~~

24 ~~I. If the sum of all 2021 sustainable building tax~~
25 ~~credits that can be applied to a taxable year for a taxpayer,~~

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1 ~~calculated according to Paragraph (1) or (2) of Subsection H of~~
2 ~~this section]~~

3 G. A taxpayer allowed a tax credit pursuant to this
4 section shall claim the credit on forms and in a manner
5 required by the department.

6 H. That portion of a 2021 sustainable building
7 corporate income tax credit approved by the department that
8 exceeds the taxpayer's corporate income tax liability for
9 ~~[that]~~ the taxable year [the excess] in which the credit is
10 claimed may be carried forward for ~~[a period of]~~ up to seven
11 consecutive taxable years. A certificate of eligibility for a
12 2021 sustainable building corporate income tax credit may be
13 sold, exchanged or otherwise transferred to another taxpayer
14 for the full value of the credit. The parties to such a
15 transaction shall notify the department of the sale, exchange
16 or transfer within ten days of the sale, exchange or transfer.

17 ~~[J.]~~ I. A taxpayer that otherwise qualifies and
18 claims a 2021 sustainable building corporate income tax credit
19 with respect to a sustainable building owned by a partnership
20 or other business association of which the taxpayer is a member
21 may claim a credit only in proportion to that taxpayer's
22 interest in the partnership or association. The total credit
23 claimed in the aggregate by all members of the partnership or
24 association with respect to the sustainable building shall not
25 exceed the amount of the credit that could have been claimed by

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1 a sole owner of the property.

2 ~~[K. If the requirements of this section have been~~
3 ~~complied with, the department shall issue to the building owner~~
4 ~~a document granting a 2021 sustainable building tax credit.~~
5 ~~The document shall be numbered for identification and declare~~
6 ~~its date of issuance and the amount of the tax credit allowed~~
7 ~~pursuant to this section. The document may be submitted by the~~
8 ~~building owner with that taxpayer's income tax return, if~~
9 ~~applicable, or may be sold, exchanged or otherwise transferred~~
10 ~~to another taxpayer. The parties to such a transaction shall~~
11 ~~notify the department of the sale, exchange or transfer within~~
12 ~~ten days of the sale, exchange or transfer.~~

13 ~~L. The department and the energy, minerals and~~
14 ~~natural resources department shall compile an annual report on~~
15 ~~the 2021 sustainable building tax credit created pursuant to~~
16 ~~this section that shall include the number of taxpayers~~
17 ~~approved to receive the tax credit, the aggregate amount of tax~~
18 ~~credits approved and any other information necessary to~~
19 ~~evaluate the effectiveness of the tax credit. The department~~
20 ~~shall present the report to the revenue stabilization and tax~~
21 ~~policy committee and the legislative finance committee]~~

22 J. The tax credit provided by this section shall be
23 included in the tax expenditure report pursuant to Section
24 7-1-84 NMSA 1978 with an analysis of the effectiveness and cost
25 of the tax credit.

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1 [~~M-~~] K. For the purposes of this section:

2 (1) "broadband ready" means a building with
3 an internet connection capable of connecting to a broadband
4 provider;

5 (2) "build green emerald" means the emerald
6 level certification standard adopted by build green New Mexico,
7 which includes water conservation standards and uses forty
8 percent less energy than is required by the prescriptive path
9 of the most current residential energy conservation code
10 promulgated by the construction industries division of the
11 regulation and licensing department;

12 (3) "build green gold" means the gold level
13 certification standard adopted by build green New Mexico, which
14 includes water conservation standards and uses thirty percent
15 less energy than is required by the prescriptive path of the
16 most current residential energy conservation code promulgated
17 by the construction industries division of the regulation and
18 licensing department;

19 (4) "building owner" means a person who holds
20 fee simple interest in a property or a person who holds a
21 leasehold interest in land owned by a federally recognized
22 Indian nation, tribe or pueblo;

23 [~~(4)~~] (5) "electric vehicle ready" means a
24 property that provides for commercial buildings at least ten
25 percent of parking spaces and for residential buildings at

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1 least one parking space with one forty-ampere, two-hundred-
2 eight-volt or two-hundred-forty-volt dedicated branch circuit
3 for servicing electric vehicles that terminates in a suitable
4 termination point, such as a receptacle or junction box, and is
5 located in reasonably close proximity to the proposed location
6 of the parking spaces;

7 [~~(5)~~] (6) "energy rating system index" means
8 a numerical score given to a building where one hundred is
9 equivalent to the 2006 international energy conservation code
10 and zero is equivalent to a net-zero home. As used in this
11 paragraph, "net-zero home" means an energy-efficient home
12 where, on a source energy basis, the actual annual delivered
13 energy is less than or equal to the on-site renewable exported
14 energy;

15 [~~(6)~~] (7) "Energy Star" means products and
16 devices certified under the energy star program administered by
17 the United States environmental protection agency and United
18 States department of energy that meet the specified performance
19 requirements at the installed locations;

20 [~~(7)~~] (8) "fully electric building" means a
21 building that uses a permanent supply of electricity as the
22 source of energy for all space heating, water heating,
23 including pools and spas, cooking appliances and clothes drying
24 appliances and, in the case of a new building, has no natural
25 gas or propane plumbing installed in the building or, in the

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1 case of an existing building, has no connected natural gas or
2 propane plumbing;

3 [~~(8)~~] (9) "LEED" means the most current
4 leadership in energy and environmental design green building
5 rating system guidelines developed and adopted by the United
6 States green building council;

7 [~~(9)~~] (10) "LEED-CI" means the LEED rating
8 system for commercial interiors;

9 [~~(10)~~] (11) "LEED-CS" means the LEED rating
10 system for the core and shell of buildings;

11 [~~(11)~~] (12) "LEED-EB" means the LEED rating
12 system for existing buildings;

13 [~~(12)~~] (13) "LEED gold" means the rating in
14 compliance with, or exceeding, the second-highest rating
15 awarded by the LEED certification process;

16 [~~(13)~~] (14) "LEED-H" means the LEED rating
17 system for homes;

18 [~~(14)~~] (15) "LEED-NC" means the LEED rating
19 system for new buildings and major renovations;

20 [~~(15)~~] (16) "LEED platinum" means the rating
21 in compliance with, or exceeding, the highest rating awarded by
22 the LEED certification process;

23 [~~(16)~~] "~~low income taxpayer~~" means a taxpayer
24 ~~with an annual household adjusted gross income equal to or less~~
25 ~~than two hundred percent of the federal poverty level~~

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~~[bracketed material] = delete~~

1 ~~guidelines published by the United States department of health~~
2 ~~and human services;]~~

3 (17) "manufactured housing" means a
4 multisectioned home that is:

5 (a) a manufactured home or modular home;

6 (b) a single-family dwelling with a
7 heated area of at least thirty-six feet by twenty-four feet and
8 a total area of at least eight hundred sixty-four square feet;

9 (c) constructed in a factory to the
10 standards of the United States department of housing and urban
11 development, the National Manufactured Housing Construction and
12 Safety Standards Act of 1974 and the Housing and Urban
13 Development Zone Code 2 or New Mexico construction codes up to
14 the date of the unit's construction; and

15 (d) installed consistent with the
16 Manufactured Housing Act and rules adopted pursuant to that act
17 relating to permanent foundations;

18 (18) "qualified occupied square footage"
19 means the occupied spaces of the building as determined by:

20 (a) the United States green building
21 council for those buildings obtaining LEED certification;

22 (b) the administrators of the build
23 green New Mexico rating system for those homes obtaining build
24 green New Mexico certification; and

25 (c) the United States environmental

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1 protection agency for Energy Star-certified manufactured homes;

2 (19) "person" does not include state, local
3 government, public school district or tribal agencies;

4 (20) "sustainable building" means either a
5 sustainable commercial building or a sustainable residential
6 building;

7 (21) "sustainable commercial building" means:

8 (a) a commercial building that is
9 certified as any LEED platinum or gold for commercial
10 buildings;

11 (b) a multifamily dwelling unit that is
12 certified as LEED-H platinum or gold or build green emerald or
13 gold and uses at least thirty percent less energy than is
14 required by the prescriptive path of the most current
15 applicable energy conservation code promulgated by the
16 construction industries division of the regulation and
17 licensing department for build green gold or LEED-H, or uses at
18 least forty percent less energy than is required by the
19 prescriptive path of the most current residential energy
20 conservation code promulgated by the construction industries
21 division of the regulation and licensing department for build
22 green emerald or LEED platinum; or

23 (c) a building that: 1) is certified at
24 LEED-NC, LEED-EB, LEED-CS or LEED-CI platinum or gold levels;
25 2) achieves any prerequisite for and at least one point related

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1 to commissioning under the LEED energy and atmosphere category,
2 if included in the applicable rating system; and 3) has reduced
3 energy consumption beginning January 1, 2012 by forty percent
4 based on the national average for that building type as
5 published by the United States department of energy as
6 substantiated by the United States environmental protection
7 agency target finder energy performance results form, dated no
8 sooner than the schematic design phase of development;

9 (22) "sustainable residential building"

10 means:

11 (a) a building used as a single-family
12 residence that: 1) is certified as LEED-H platinum or gold or
13 build green emerald or gold; 2) uses at least thirty percent
14 less energy than is required by the prescriptive path of the
15 most current residential energy conservation code promulgated
16 by the construction industries division of the regulation and
17 licensing department for build green gold or LEED-H, or uses at
18 least forty percent less energy than is required by the
19 prescriptive path of the most current residential energy
20 conservation code promulgated by the construction industries
21 division of the regulation and licensing department for build
22 green emerald or LEED platinum; 3) has indoor plumbing fixtures
23 and water-using appliances that, on average, have flow rates
24 equal to or lower than the flow rates required for
25 certification by WaterSense; 4) if landscape area is available

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underscored material = new
~~[bracketed material] = delete~~

1 at the front of the property, has at least one water line
2 outside the building below the frost line that may be connected
3 to a drip irrigation system; and 5) if landscape area is
4 available at the rear of the property, has at least one water
5 line outside the building below the frost line that may be
6 connected to a drip irrigation system; or

7 (b) manufactured housing that is Energy
8 Star-qualified;

9 (23) "tribal" means of, belonging to or
10 created by a federally recognized Indian nation, tribe or
11 pueblo;

12 (24) "WaterSense" means a program created by
13 the federal environmental protection agency that certifies
14 water-using products that meet the environmental protection
15 agency's criteria for efficiency and performance;

16 (25) "zero carbon certified" means a building
17 that is certified as LEED zero carbon by achieving a carbon-
18 dioxide-equivalent balance of zero for the building;

19 (26) "zero energy certified" means a building
20 that is certified as LEED zero energy by achieving a source
21 energy use balance of zero for the building;

22 (27) "zero waste certified" means a building
23 that is certified as LEED zero waste by achieving green
24 building certification incorporated's true zero waste
25 certification at the platinum level; and

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underscored material = new
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1 (28) "zero water certified" means a building
2 that is certified as LEED zero water by achieving a potable
3 water use balance of zero for the building."

4 SECTION 60. Section 7-2A-31 NMSA 1978 (being Laws 2021,
5 Chapter 7, Section 2) is amended to read:

6 "7-2A-31. DEDUCTION--INCOME FROM LEASING A LIQUOR
7 LICENSE.--

8 A. Prior to January 1, 2026, a taxpayer that is a
9 liquor license lessor and that held the license on June 30,
10 2021 may claim a deduction from taxable income in an amount
11 equal to the gross receipts from sales of alcoholic beverages
12 made by each liquor license lessee in an amount, if the liquor
13 license is a dispenser's license and sales of alcoholic
14 beverages for consumption off premises are less than fifty
15 percent of total alcoholic beverage sales, not to exceed fifty
16 thousand dollars (\$50,000) for each of four taxable years.

17 B. A taxpayer allowed a deduction pursuant to this
18 section shall report the amount of the deduction to the
19 department in a manner required by the department.

20 C. ~~[The department shall compile an annual report~~
21 ~~on the deduction provided by this section that shall include~~
22 ~~the number of taxpayers that claimed the deduction, the~~
23 ~~aggregate amount of deductions claimed and any other~~
24 ~~information necessary to evaluate the cost of the deduction.~~
25 ~~The department shall provide the report to the revenue~~

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1 ~~stabilization and tax policy committee and the legislative~~
2 ~~finance committee with an analysis of the] The deduction~~
3 provided by this section shall be included in the tax
4 expenditure budget pursuant to Section 7-1-84 NMSA 1978,
5 including the annual aggregate cost of the deduction.

6 D. As used in this section:

7 (1) "alcoholic beverage" means alcoholic
8 beverage as defined in the Liquor Control Act;

9 (2) "dispenser's license" means a license
10 issued pursuant to the provisions of the Liquor Control Act
11 allowing the licensee to sell, offer for sale or have in the
12 person's possession with the intent to sell alcoholic beverages
13 both by the drink for consumption on the licensed premises and
14 in unbroken packages, including growlers, for consumption and
15 not for resale off the licensed premises;

16 (3) "growler" means a clean, refillable,
17 resealable container that has a liquid capacity that does not
18 exceed one gallon and that is intended and used for the sale of
19 beer, wine or cider;

20 (4) "liquor license" means a dispenser's
21 license issued pursuant to Section 60-6A-3 NMSA 1978 or a
22 dispenser's license issued pursuant to Section 60-6A-12 NMSA
23 1978 issued prior to July 1, 2021;

24 (5) "liquor license lessee" means a person
25 that leases a liquor license from a liquor license lessor; and

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1 (6) "liquor license lessor" means a person
2 that leases a liquor license to a third party."

3 SECTION 61. Section 7-2C-12 NMSA 1978 (being Laws 1985,
4 Chapter 106, Section 12, as amended) is amended to read:

5 "7-2C-12. ADMINISTRATIVE COSTS--CHARGES APPROPRIATED TO
6 DEPARTMENT.--

7 A. The department shall charge claimant agencies an
8 administrative fee of three percent of the debts for the
9 claimant agencies pursuant to the Tax Refund Intercept Program
10 Act.

11 B. Money from the administrative fee authorized
12 pursuant to Subsection A of this section [~~shall be withheld on~~
13 ~~all debts set off and collected by the department on or after~~
14 ~~July 1, 1997 and shall be distributed monthly to the New Mexico~~
15 ~~finance authority to be pledged irrevocably for the payment of~~
16 ~~the principal, interest and expenses or other obligations~~
17 ~~related to the bonds for the taxation and revenue information~~
18 ~~management systems project. That distribution shall continue~~
19 ~~until the earlier of December 31, 2005 or the date on which the~~
20 ~~New Mexico finance authority certifies to the department that~~
21 ~~all obligations for bonds issued pursuant to Section 12 of this~~
22 ~~1997 act have been fully discharged or provision has been made~~
23 ~~for their discharge and directs the department to cease~~
24 ~~distributing the money from the fee pursuant to Subsection A of~~
25 ~~this section to the authority. Thereafter, the administrative~~

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1 ~~fees are]~~ is appropriated to the department for use in
2 administering the Tax Refund Intercept Program Act."

3 SECTION 62. Section 7-2E-1.1 NMSA 1978 (being Laws 2007,
4 Chapter 172, Section 2, as amended) is amended to read:

5 "7-2E-1.1. TAX CREDIT--RURAL JOB TAX CREDIT.--

6 A. The tax credit created by this section may be
7 referred to as the "rural job tax credit". Every eligible
8 employer may apply for, and the taxation and revenue department
9 may approve, a tax credit for each qualifying job the employer
10 creates. The maximum tax credit amount with respect to each
11 qualifying job is equal to:

12 (1) twenty-five percent of the first sixteen
13 thousand dollars (\$16,000) in wages paid for the qualifying job
14 if the job is performed or based at a location in a tier one
15 area; or

16 (2) twelve and one-half percent of the first
17 sixteen thousand dollars (\$16,000) in wages paid if the
18 qualifying job is performed or based at a location in a tier
19 two area.

20 B. The purpose of the rural job tax credit is to
21 encourage businesses to start new businesses or expand existing
22 businesses in rural areas of the state.

23 C. The amount of the rural job tax credit shall be
24 six and one-fourth percent of the first sixteen thousand
25 dollars (\$16,000) in wages paid for the qualifying job in a

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underscoring material = new
~~[bracketed material] = delete~~

1 qualifying period. The rural job tax credit may be claimed for
2 each qualifying job for a maximum of:

3 (1) four qualifying periods for each
4 qualifying job performed or based at a location in a tier one
5 area; and

6 (2) two qualifying periods for each
7 qualifying job performed or based at a location in a tier two
8 area.

9 D. With respect to each qualifying job for which an
10 eligible employer seeks the rural job tax credit, the employer
11 shall certify:

12 (1) the amount of wages paid to each eligible
13 employee during each qualifying period;

14 (2) the number of weeks during the qualifying
15 period the position was occupied;

16 (3) whether the qualifying job was in a tier
17 one or tier two area;

18 (4) whether the application pertains to the
19 first, second, third or fourth qualifying period, depending on
20 whether the taxpayer is in a tier one or tier two area;

21 (5) the total number of employees employed by
22 the employer at the job location on the day prior to the
23 qualifying period and on the last day of the qualifying period;

24 (6) whether the eligible employer is
25 receiving or is eligible to receive development training

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1 program assistance pursuant to Section 21-19-7 NMSA 1978; and

2 (7) whether the eligible employer has ceased
3 business operations at any of its business locations in New
4 Mexico.

5 E. The economic development department shall
6 determine which employers are eligible employers and shall
7 report the listing of eligible [~~businesses~~] employers to the
8 taxation and revenue department in a manner and at times the
9 departments shall agree upon.

10 F. To receive a rural job tax credit with respect
11 to any qualifying period, an eligible employer shall apply to
12 the taxation and revenue department once per calendar year on
13 forms and in the manner the department may prescribe. The
14 annual application shall include a certification made pursuant
15 to Subsection D of this section and contain all qualifying
16 periods that closed during the calendar year for which the
17 application is made. Any qualifying period that did not close
18 in the calendar year for which the application is made shall be
19 denied by the department. The application for a calendar year
20 shall be filed no later than December 31 of the following
21 calendar year. If a taxpayer fails to file the annual
22 application within the time limits provided in this section,
23 the department shall deny the application. If all the
24 requirements of this section have been complied with, the
25 taxation and revenue department shall issue to the applicant a

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underscored material = new
[bracketed material] = delete

1 ~~[document granting a tax credit]~~ certificate of eligibility for
2 the appropriate qualifying period. The ~~[tax credit document]~~
3 certificate of eligibility shall be numbered for identification
4 and declare its date of issuance and the amount of rural job
5 tax credit allowed for the respective jobs created. ~~[The tax~~
6 ~~credit documents]~~ A certificate of eligibility may be sold,
7 exchanged or otherwise transferred ~~[and may be carried forward~~
8 ~~for a period of three years from the date of issuance]~~ to
9 another taxpayer for the full value of the credit. The parties
10 to such a transaction to sell, exchange or transfer a rural job
11 tax credit ~~[document]~~ shall notify the department of the
12 transaction within ten days of the sale, exchange or transfer.

13 G. The ~~[holder of the tax credit document]~~ person
14 entitled to claim the credit may claim all or a portion of the
15 rural job tax credit ~~[granted by the document]~~ against the
16 ~~[holder's]~~ person's modified combined tax liability, personal
17 income tax liability or corporate income tax liability. Any
18 ~~[balance of]~~ rural job tax credit ~~[granted by the document]~~
19 that exceeds the person's tax liability may be carried forward
20 for up to three consecutive taxable years from the date of
21 issuance of the ~~[tax credit document]~~ certificate of
22 eligibility. No amount of rural job tax credit may be applied
23 against a gross receipts tax or compensating tax imposed by a
24 municipality or county.

25 H. Notwithstanding the provisions of Section 7-1-8
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1 NMSA 1978, the taxation and revenue department may disclose to
2 any person the balance of rural job tax credit remaining on any
3 tax credit [~~document~~] certificate of eligibility and the
4 balance of credit remaining [~~on that document~~] for any period.

5 I. The secretary of economic development [~~the~~
6 ~~secretary of taxation and revenue~~] and the secretary of
7 workforce solutions or their designees shall annually evaluate
8 the effectiveness of the rural job tax credit in stimulating
9 economic development in the rural areas of New Mexico and make
10 a joint report of their findings to each session of the
11 legislature so long as the rural job tax credit is in effect.

12 J. A qualifying job shall not be eligible for a
13 rural job tax credit pursuant to this section if:

14 (1) the job is created due to a business
15 merger, acquisition or other change in organization;

16 (2) the eligible employee was terminated from
17 employment in New Mexico by another employer involved in the
18 merger, acquisition or other change in organization; or

19 (3) the job is performed by:

20 (a) the person who performed the job or
21 its functional equivalent prior to the business merger,
22 acquisition or other change in organization; or

23 (b) a person replacing the person who
24 performed the job or its functional equivalent prior to the
25 business merger, acquisition or other change in organization.

underscored material = new
[bracketed material] = delete

1 ~~[K. Notwithstanding Subsection J of this section, a~~
2 ~~qualifying job that was created by another employer and for~~
3 ~~which the rural job tax credit application was received by the~~
4 ~~taxation and revenue department prior to July 1, 2013 and is~~
5 ~~under review or has been approved shall remain eligible for the~~
6 ~~rural job tax credit for the balance of the qualifying periods~~
7 ~~for which the job qualifies by the new employer that results~~
8 ~~from a business merger, acquisition or other change in the~~
9 ~~organization.~~

10 ~~L.]~~ K. A job shall not be eligible for a rural job
11 tax credit pursuant to this section if the job is created due
12 to an eligible employer entering into a contract or becoming a
13 subcontractor to a contract with a governmental entity that
14 replaces one or more entities performing functionally
15 equivalent services for the governmental entity in New Mexico
16 unless the job is a qualifying job that was not being performed
17 by an employee of the replaced entity.

18 L. The credit provided by this section shall be
19 included in the tax expenditure budget pursuant to Section
20 7-1-84 NMSA 1978, including the annual aggregate cost of the
21 credit.

22 M. As used in this section:
23 (1) "dependent" means "dependent" as defined
24 in 26 U.S.C. 152(a), as that section may be amended or
25 renumbered;

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underscoring material = new
~~[bracketed material] = delete~~

1 (2) "eligible employee" means any individual
2 other than an individual who:

3 (a) is a dependent of the employer;

4 (b) if the employer is an estate or
5 trust, is a grantor, beneficiary or fiduciary of the estate or
6 trust or is a dependent of a grantor, beneficiary or fiduciary
7 of the estate or trust;

8 (c) if the employer is a corporation, is
9 a dependent of an individual who owns, directly or indirectly,
10 more than fifty percent in value of the outstanding stock of
11 the corporation;

12 (d) if the employer is an entity other
13 than a corporation, estate or trust, is a dependent of an
14 individual who owns, directly or indirectly, more than fifty
15 percent of the capital and profits interests in the entity; or

16 (e) is working or has worked as an
17 employee or as an independent contractor for an entity that,
18 directly or indirectly, owns stock in a corporation of the
19 eligible employer or other interest of the eligible employer
20 that represents fifty percent or more of the total voting power
21 of that entity or has a value equal to fifty percent or more of
22 the capital and profits interests in the entity;

23 (3) "eligible employer" means an employer who
24 is eligible for in-plant training assistance pursuant to
25 Section 21-19-7 NMSA 1978;

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1 (4) "metropolitan statistical area" means a
2 metropolitan statistical area in New Mexico as determined by
3 the United States bureau of the census;

4 (5) "modified combined tax liability" means
5 the total liability for the reporting period for the gross
6 receipts tax imposed by Section 7-9-4 NMSA 1978 together with
7 any tax collected at the same time and in the same manner as
8 that gross receipts tax, such as the compensating tax, the
9 withholding tax, the interstate telecommunications gross
10 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA
11 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,
12 minus the amount of any credit other than the rural job tax
13 credit applied against any or all of these taxes or surcharges;
14 but "modified combined tax liability" excludes all amounts
15 collected with respect to a gross receipts tax or compensating
16 tax imposed by a municipality or county;

17 (6) "new job" means a job that is occupied by
18 an employee who has not been employed in New Mexico by the
19 eligible employer in the three years prior to the date of hire;

20 (7) "qualifying job" means a new job that was
21 created after July 1, 2000 and that was not created due to a
22 change in organizational structure established by the employer
23 that is occupied by an eligible employee for at least forty-
24 four weeks of a qualifying period;

25 (8) "qualifying period" means the period of

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1 twelve months beginning on the day an eligible employee begins
2 working in a qualifying job or the period of twelve months
3 beginning on the anniversary of the day an eligible employee
4 began working in a qualifying job;

5 (9) "rural area" means any part of the state
6 other than:

7 (a) an H class county;

8 (b) the state fairgrounds;

9 (c) an incorporated municipality within
10 a metropolitan statistical area if the municipality's
11 population is thirty thousand or more according to the most
12 recent federal decennial census; and

13 (d) any area within ten miles of the
14 exterior boundaries of a municipality described in Subparagraph
15 (c) of this paragraph;

16 (10) "tier one area" means:

17 (a) any municipality within the rural
18 area if the municipality's population according to the most
19 recent federal decennial census is fifteen thousand or less; or

20 (b) any part of the rural area that is
21 not within the exterior boundaries of a municipality;

22 (11) "tier two area" means any municipality
23 within the rural area if the municipality's population
24 according to the most recent federal decennial census is more
25 than fifteen thousand; and

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1 (12) "wages" means all compensation paid by
2 an eligible employer to an eligible employee through the
3 employer's payroll system, including those wages the employee
4 elects to defer or redirect, such as the employee's
5 contribution to 401(k) or cafeteria plan programs, but not
6 including benefits or the employer's share of payroll taxes."

7 SECTION 63. Section 7-3-7 NMSA 1978 (being Laws 1961,
8 Chapter 243, Section 8, as amended) is amended to read:

9 "7-3-7. STATEMENTS OF WITHHOLDING.--

10 A. Every employer shall file with the department an
11 annual statement of withholding for each employee. The
12 statement shall be in [~~a form~~] an electronic format prescribed
13 by the department [~~except employers with twenty-five or more~~
14 ~~employees shall file statements using a department-approved~~
15 ~~electronic medium~~]. The statement shall be filed with the
16 department on or before the last day of January of the year
17 following that for which the statement is made. It shall
18 include the total compensation paid the employee and the total
19 amount of tax withheld for the calendar year or portion of a
20 calendar year if the employee has worked less than a full
21 calendar year.

22 B. Every payer shall file with the department an
23 annual statement of withholding for each individual from whom
24 some portion of a pension or an annuity has been deducted and
25 withheld by that payer. The statement shall be in [~~a form~~] an

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1 electronic format prescribed by the department [~~except~~
2 ~~employers with twenty five or more employees shall file~~
3 ~~statements using a department approved electronic medium~~]. The
4 statement shall be in a form prescribed by the department and
5 shall be filed with the department on or before the last day of
6 January of the year following that for which the statement is
7 made. It shall include the total amount of pension or annuity
8 paid to the individual and the amount of tax withheld for the
9 calendar year.

10 C. Every person required to deduct and withhold tax
11 from a payment of winnings that are subject to withholding
12 shall file with the department an annual statement of
13 withholding for each wagerer from whom some portion of a
14 payment of winnings has been deducted and withheld by that
15 person. The statement shall be filed using a department-
16 approved electronic medium and shall be filed with the
17 department on or before the last day of January of the year
18 following that for which the statement is made. It shall
19 include the total amount of winnings paid to the individual and
20 the amount of tax withheld for the calendar year. The
21 department may also require any person who is required to
22 submit an information return to the internal revenue service
23 regarding the winnings of another person to submit copies of
24 the return to the department."

25 SECTION 64. Section 7-3-13 NMSA 1978 (being Laws 2010,

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1 Chapter 53, Section 7) is amended to read:

2 "7-3-13. WITHHOLDING [~~INFORMATION~~] RETURN REQUIRED
3 [~~PENALTY~~].--

4 A. An employer [~~that has more than fifty employees~~
5 ~~and is not required to file an unemployment insurance tax form~~
6 ~~with the workforce solutions department~~] or a payor shall file
7 quarterly a withholding [~~information~~] return with the
8 department on or before the [~~last day of the month~~] twenty-
9 fifth day of the month following the close of the calendar
10 quarter when the taxes were required to be withheld.

11 B. The quarterly withholding [~~information~~] return
12 required by this section shall contain all information required
13 by the department, including:

- 14 (1) each employee's or payee's social
15 security number;
- 16 (2) each employee's or payee's name;
- 17 (3) each employee's or payee's gross wages,
18 pensions or annuity payments;
- 19 (4) each employee's or payee's state income
20 tax withheld; and
- 21 (5) the workers' compensation fees due on
22 behalf of each employee or payee.

23 C. Each quarterly withholding [~~information~~] return
24 shall be filed with the department using a department-approved
25 electronic medium.

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1 ~~[D. Any employer or payor required to file the~~
2 ~~quarterly withholding information return who fails to do so by~~
3 ~~the due date or to file the return in accordance with~~
4 ~~Subsection C of this section is subject to a penalty in the~~
5 ~~amount of fifty dollars (\$50.00).]~~"

6 SECTION 65. Section 7-3A-9 NMSA 1978 (being Laws 2003,
7 Chapter 86, Section 12, as amended) is amended to read:

8 "7-3A-9. INTERPRETATION OF ACT--ADMINISTRATION AND
9 ENFORCEMENT OF ACT [~~REPORT TO LEGISLATURE~~].--

10 A. The department shall interpret the provisions of
11 the Oil and Gas Proceeds and Pass-Through Entity Withholding
12 Tax Act.

13 B. The department shall administer and enforce the
14 Oil and Gas Proceeds and Pass-Through Entity Withholding Tax
15 Act, and the Tax Administration Act applies to the
16 administration and enforcement of the Oil and Gas Proceeds and
17 Pass-Through Entity Withholding Tax Act.

18 ~~[G. No later than December 1 of each year, the~~
19 ~~department shall submit a report to the legislature showing:~~

20 ~~(1) the total amount of taxes withheld by~~
21 ~~remitters and paid to the department during the previous~~
22 ~~calendar year pursuant to the Oil and Gas Proceeds and Pass-~~
23 ~~Through Entity Withholding Tax Act; and~~

24 ~~(2) the amount of taxes withheld by remitters~~
25 ~~pursuant to the Oil and Gas Proceeds and Pass-Through Entity~~

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1 ~~Withholding Tax Act that were credited against income taxes or~~
2 ~~corporate income taxes by remittees during the previous~~
3 ~~calendar year.]"~~

4 SECTION 66. Section 7-9-9 NMSA 1978 (being Laws 1966,
5 Chapter 47, Section 9, as amended) is amended to read:

6 "7-9-9. LIABILITY OF USER FOR PAYMENT OF COMPENSATING
7 TAX.--Any person in New Mexico initially using property in New
8 Mexico on the value of which compensating tax is payable but
9 has not been paid is liable to the state for payment of the
10 compensating tax, but this liability is discharged if the buyer
11 has paid the compensating tax to the seller for payment over to
12 the department."

13 SECTION 67. Section 7-9-18.1 NMSA 1978 (being Laws 1987,
14 Chapter 264, Section 13 and Laws 1987, Chapter 304, Section 1)
15 is amended to read:

16 "7-9-18.1. EXEMPTION--GROSS RECEIPTS TAX--~~[FOOD STAMPS]~~
17 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS.--Exempted
18 from the gross receipts tax are the receipts of a taxpayer who
19 is approved for participation in the ~~[food stamp]~~ supplemental
20 nutrition assistance program authorized by U.S.C. Title 7,
21 Chapter 51, as that chapter may be amended or renumbered, from
22 the lawful acceptance and deposit with a financial institution
23 of ~~[food stamps]~~ benefits issued by the United States
24 department of agriculture pursuant to the ~~[food stamp]~~
25 supplemental nutrition assistance program."

underscored material = new
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1 SECTION 68. Section 7-9-43 NMSA 1978 (being Laws 1966,
2 Chapter 47, Section 13, as amended) is amended to read:

3 "7-9-43. NONTAXABLE TRANSACTION CERTIFICATES AND OTHER
4 EVIDENCE REQUIRED TO ENTITLE PERSONS TO DEDUCTIONS.--

5 A. Except as provided in Subsection B of this
6 section, a person may establish entitlement to a deduction from
7 gross receipts allowed pursuant to the Gross Receipts and
8 Compensating Tax Act by obtaining in good faith a properly
9 executed nontaxable transaction certificate from the purchaser.
10 Nontaxable transaction certificates shall contain the
11 information and be in a form prescribed by the department. The
12 department by [~~regulation~~] rule may deem to be nontaxable
13 transaction certificates documents issued by other states or
14 the multistate tax commission to taxpayers not required to be
15 registered in New Mexico. Only buyers or lessees who have a
16 registration number or have applied for a registration number
17 and have not been refused one under Subsection C of Section
18 7-1-12 NMSA 1978 shall execute nontaxable transaction
19 certificates issued by the department. If the seller or lessor
20 has been given an identification number for tax purposes by the
21 department, the seller or lessor shall disclose that
22 identification number to the buyer or lessee prior to or upon
23 acceptance of a nontaxable transaction certificate.

24 B. Except as provided in Subsection C of this
25 section, a person who does not comply with Subsection A of this

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1 section may establish entitlement to a deduction from gross
2 receipts by presenting alternative evidence that demonstrates
3 the facts necessary to support entitlement to the deduction,
4 but the burden of proof is on that person. Alternative
5 evidence includes:

6 (1) invoices or contracts that identify the
7 nature of the transaction;

8 (2) documentation as to the purchaser's use
9 or disposition of the property or service;

10 (3) a statement from the purchaser indicating
11 that the purchaser sold or intends to resell the property or
12 service purchased from the seller, either by itself or in
13 combination with other property or services, in the ordinary
14 course of business. The statement from the purchaser shall
15 include:

16 (a) the seller's name;

17 (b) the date of the invoice or date of
18 the transaction;

19 (c) the invoice number or a copy of the
20 invoice;

21 (d) a copy of the purchase order, if
22 available;

23 (e) the amount of purchase; and

24 (f) a description of the property or
25 service purchased or leased; or

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1 (4) any other evidence that demonstrates the
2 facts necessary to establish entitlement to the deduction.

3 C. Subsection B of this section does not apply to
4 sellers of electricity or fuels that are parties to an
5 agreement with the department pursuant to Section 7-1-21.1 NMSA
6 1978 regarding the deduction pursuant to Subsection B of
7 Section 7-9-46 NMSA 1978.

8 D. When a person accepts in good faith a properly
9 executed nontaxable transaction certificate from the purchaser,
10 the properly executed nontaxable transaction certificate shall
11 be conclusive evidence that the proceeds from the transaction
12 are deductible from the person's gross receipts.

13 E. To exercise the privilege of executing
14 appropriate nontaxable transaction certificates, a buyer or
15 lessee shall apply to the department for permission to execute
16 nontaxable transaction certificates, except with respect to
17 documents issued by other states or the multistate tax
18 commission that the department has deemed to be nontaxable
19 transaction certificates.

20 F. If a person has accepted in good faith a
21 properly executed nontaxable transaction certificate, but the
22 purchaser has not employed the property or service purchased in
23 the nontaxable manner or has provided materially false or
24 inaccurate information on the nontaxable transaction
25 certificate, the purchaser shall be liable for an amount equal

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1 to any tax, penalty and interest that the seller would have
2 been required to pay if the seller had not complied with
3 Subsection A of this section.

4 G. Any person who knowingly or willfully provides
5 false or inaccurate information on a nontaxable transaction
6 certificate, to obtain a nontaxable transaction certificate or
7 as alternative evidence provided in support of a claim for a
8 deduction, may be subject to prosecution under Sections 7-1-72
9 and 7-1-73 NMSA 1978."

10 SECTION 69. Section 7-9-46 NMSA 1978 (being Laws 1969,
11 Chapter 144, Section 36, as amended) is amended to read:

12 "7-9-46. DEDUCTION--GROSS RECEIPTS--GOVERNMENTAL GROSS
13 RECEIPTS--SALES TO MANUFACTURERS AND MANUFACTURING SERVICE
14 PROVIDERS.--

15 A. Receipts from selling tangible personal property
16 may be deducted from gross receipts or from governmental gross
17 receipts if the sale is made to a person engaged in the
18 business of manufacturing who delivers a nontaxable transaction
19 certificate to the seller [~~or provides alternative evidence~~
20 ~~pursuant to Section 7-9-43 NMSA 1978~~]. The buyer must
21 incorporate the tangible personal property as an ingredient or
22 component part of the product that the buyer is in the business
23 of manufacturing.

24 B. Receipts from selling a manufacturing consumable
25 to a manufacturer or a manufacturing service provider may be

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1 deducted from gross receipts or from governmental gross
2 receipts if the buyer delivers a nontaxable transaction
3 certificate to the seller or provides alternative evidence
4 pursuant to Section 7-9-43 NMSA 1978; provided that if the
5 seller is a utility company, an agreement with the department
6 pursuant to Section 7-1-21.1 NMSA 1978 and a nontaxable
7 transaction certificate shall be required.

8 C. Receipts from selling or leasing qualified
9 equipment may be deducted from gross receipts if the sale is
10 made to, or the lease is entered into with, a person engaged in
11 the business of manufacturing or a manufacturing service
12 provider who delivers a nontaxable transaction certificate to
13 the seller or provides alternative evidence pursuant to Section
14 7-9-43 NMSA 1978; provided that a manufacturer or manufacturing
15 service provider delivering a nontaxable transaction
16 certificate or alternative evidence with respect to the
17 qualified equipment shall not claim an investment credit
18 pursuant to the Investment Credit Act for that same equipment.

19 D. The purpose of the deductions provided in this
20 section is to encourage manufacturing businesses to locate in
21 New Mexico and to reduce the tax burden, including reducing
22 pyramiding, on the tangible personal property that is consumed
23 in the manufacturing process and that is purchased by
24 manufacturing businesses in New Mexico.

25 ~~[E. The department shall annually report to the~~

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1 ~~revenue stabilization and tax policy committee the aggregate~~
2 ~~amount of deductions taken pursuant to this section, the number~~
3 ~~of taxpayers claiming each of the deductions and any other~~
4 ~~information that is necessary to determine that the deductions~~
5 ~~are performing the purposes for which they are enacted.~~

6 F.] E. A taxpayer [~~deducting gross receipts~~]
7 allowed a deduction pursuant to this section shall report the
8 amount deducted separately for each deduction provided in this
9 section and attribute the amount of the deduction to the
10 appropriate authorization provided in this section in a manner
11 required by the department [~~that facilitates the evaluation by~~
12 ~~the legislature of the benefit to the state of these~~
13 ~~deductions~~].

14 F. The deductions provided by this section shall be
15 included in the tax expenditure budget pursuant to Section
16 7-1-84 NMSA 1978, including the annual aggregate cost of the
17 deductions.

18 G. As used in this section:

19 (1) "manufacturing consumable" means tangible
20 personal property, other than qualified equipment or an
21 ingredient or component part of a manufactured product, that is
22 incorporated into, destroyed, depleted or transformed in the
23 process of manufacturing a product, including electricity,
24 fuels, water, manufacturing aids and supplies, chemicals, gases
25 and other tangibles used to manufacture a product;

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1 (2) "manufacturing operation" means a plant
2 operated by a manufacturer or manufacturing service provider
3 that employs personnel to perform production tasks to produce
4 goods, in conjunction with machinery and equipment; and

5 (3) "qualified equipment" means machinery,
6 equipment and tools, including component, repair, replacement
7 and spare parts thereof, that are used directly in the
8 manufacturing process of a manufacturing operation. "Qualified
9 equipment" includes computer hardware and software used
10 directly in the manufacturing process of a manufacturing
11 operation but excludes any motor vehicle that is required to be
12 registered in this state pursuant to the Motor Vehicle Code."

13 SECTION 70. Section 7-9-56.3 NMSA 1978 (being Laws 2003,
14 Chapter 232, Section 1, as amended) is amended to read:

15 "7-9-56.3. DEDUCTION--GROSS RECEIPTS--TRADE-SUPPORT
16 COMPANY IN A BORDER ZONE.--

17 A. The receipts of a trade-support company may be
18 deducted from gross receipts if:

19 (1) the trade-support company first locates
20 in New Mexico within twenty miles of a port of entry on New
21 Mexico's border with Mexico [~~on or after July 1, 2003 but~~
22 ~~before July 1, 2013 or~~] on or after January 1, 2016 but before
23 January 1, 2021;

24 (2) the receipts are received by the company
25 within a five-year period beginning on the date the trade-

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1 support company locates in New Mexico and the receipts are
2 derived from its business activities and operations at its
3 border zone location; and

4 (3) the trade-support company employs at
5 least two employees in New Mexico.

6 B. A taxpayer allowed a deduction pursuant to this
7 section shall report the amount of the deduction separately in
8 a manner required by the department.

9 C. ~~[The department shall compile an annual report
10 on the deduction created pursuant to this section that shall
11 include the number of taxpayers approved by the department to
12 receive the deduction, the aggregate amount of deductions
13 approved and any other information necessary to evaluate the
14 effectiveness of the deduction. Beginning in 2016 and every
15 four years thereafter that the deduction is in effect, the
16 department shall compile and present the annual reports to the
17 revenue stabilization and tax policy committee and the
18 legislative finance committee]~~ The deduction provided by this
19 section shall be included in the tax expenditure budget
20 pursuant to Section 7-1-84 NMSA 1978 with an analysis of the
21 effectiveness and cost of the deduction.

22 D. As used in this section:

23 (1) "dependent" means "dependent" as defined
24 in 26 U.S.C. 152(a), as that section may be amended or
25 renumbered;

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1 (2) "employee" means an individual, other
2 than an individual who:

3 (a) is a dependent of the employer;

4 (b) if the employer is an estate or
5 trust, is a grantor, beneficiary or fiduciary of the estate or
6 trust or is a dependent of a grantor, beneficiary or fiduciary
7 of the estate or trust;

8 (c) if the employer is a corporation, is
9 a dependent of an individual who owns, directly or indirectly,
10 more than fifty percent in value of the outstanding stock of
11 the corporation; or

12 (d) if the employer is an entity other
13 than a corporation, estate or trust, is a dependent of an
14 individual who owns, directly or indirectly, more than fifty
15 percent of the capital and profits interests in the entity;

16 (3) "port of entry" means an international
17 port of entry in New Mexico at which customs services are
18 provided by United States customs and border protection; and

19 (4) "trade-support company" means a customs
20 brokerage firm or a freight forwarder."

21 SECTION 71. Section 7-9-62 NMSA 1978 (being Laws 1969,
22 Chapter 144, Section 52, as amended) is amended to read:

23 "7-9-62. DEDUCTION--GROSS RECEIPTS TAX--AGRICULTURAL
24 IMPLEMENTS--AIRCRAFT MANUFACTURERS--VEHICLES THAT ARE NOT
25 REQUIRED TO BE REGISTERED--AIRCRAFT PARTS AND MAINTENANCE

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1 SERVICES--REPORTING REQUIREMENTS.--

2 A. Except for receipts deductible under Subsection
3 B of this section, fifty percent of the receipts from selling
4 agricultural implements, farm tractors, aircraft or vehicles
5 that are not required to be registered under the Motor Vehicle
6 Code may be deducted from gross receipts; provided that, with
7 respect to agricultural implements, the sale is made to a
8 person who states in writing that the person is regularly
9 engaged in the business of farming or ranching. Any deduction
10 allowed under Section 7-9-71 NMSA 1978 must be taken before the
11 deduction allowed by this subsection is computed.

12 B. Receipts of an aircraft manufacturer or
13 affiliate from selling aircraft or from selling aircraft flight
14 support, pilot training or maintenance training services may be
15 deducted from gross receipts. Any deduction allowed under
16 Section 7-9-71 NMSA 1978 must be taken before the deduction
17 allowed by this subsection is computed.

18 C. Receipts from selling aircraft parts or
19 maintenance services for aircraft or aircraft parts may be
20 deducted from gross receipts. Any deduction allowed under
21 Section 7-9-71 NMSA 1978 must be taken before the deduction
22 allowed by this subsection is computed.

23 D. A taxpayer allowed a deduction pursuant to this
24 section shall report the amount of the deduction separately in
25 a manner required by the department.

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1 E. ~~[The department shall compile an annual report~~
2 ~~on the deductions provided by this section that shall include~~
3 ~~the number of taxpayers approved by the department to receive~~
4 ~~the deductions, the aggregate amount of deductions approved and~~
5 ~~any other information necessary to evaluate the effectiveness~~
6 ~~of the deductions. Beginning in 2019 and every five years~~
7 ~~thereafter that the deductions are in effect, the department~~
8 ~~shall compile and present the annual reports to the revenue~~
9 ~~stabilization and tax policy committee and the legislative~~
10 ~~finance committee]~~ The deductions provided by this section
11 shall be included in the tax expenditure budget pursuant to
12 Section 7-1-84 NMSA 1978 with an analysis of the effectiveness
13 and cost of the deductions.

14 F. As used in this section:

15 (1) "affiliate" means a business entity that
16 directly or indirectly through one or more intermediaries
17 controls, is controlled by or is under common control with the
18 aircraft manufacturer;

19 (2) "agricultural implement" means a tool,
20 utensil or instrument that is depreciable for federal income
21 tax purposes and that is:

22 (a) designed to irrigate agricultural
23 crops above ground or below ground at the place where the crop
24 is grown; or

25 (b) designed primarily for use with a

1 source of motive power, such as a tractor, in planting,
2 growing, cultivating, harvesting or processing agricultural
3 crops at the place where the crop is grown; in raising poultry
4 or livestock; or in obtaining or processing food or fiber, such
5 as eggs, milk, wool or mohair, from living poultry or livestock
6 at the place where the poultry or livestock are kept for this
7 purpose;

8 (3) "aircraft manufacturer" means a business
9 entity that in the ordinary course of business designs and
10 builds private or commercial aircraft certified by the federal
11 aviation administration;

12 (4) "business entity" means a corporation,
13 limited liability company, partnership, limited partnership,
14 limited liability partnership or real estate investment trust,
15 but does not mean an individual or a joint venture;

16 (5) "control" means equity ownership in a
17 business entity that:

18 (a) represents at least fifty percent of
19 the total voting power of that business entity; and

20 (b) has a value equal to at least fifty
21 percent of the total equity of that business entity; and

22 (6) "flight support" means providing
23 navigation data, charts, weather information, online
24 maintenance records and other aircraft or flight-related
25 information and the software needed to access the information."

underscored material = new
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1 SECTION 72. Section 7-9-62.1 NMSA 1978 (being Laws 2000
2 (2nd S.S.), Chapter 4, Section 2, as amended) is amended to
3 read:

4 "7-9-62.1. DEDUCTION--GROSS RECEIPTS TAX--AIRCRAFT SALES
5 AND SERVICES--REPORTING REQUIREMENTS.--

6 A. Receipts from the sale of or from maintaining,
7 refurbishing, remodeling or otherwise modifying a commercial or
8 military carrier over ten thousand pounds gross landing weight
9 may be deducted from gross receipts.

10 B. A taxpayer allowed a deduction pursuant to this
11 section shall report the amount of the deduction separately in
12 a manner required by the department.

13 C. ~~[The department shall compile an annual report~~
14 ~~on the deduction provided by this section that shall include~~
15 ~~the number of taxpayers approved by the department to receive~~
16 ~~the deduction, the aggregate amount of deductions approved and~~
17 ~~any other information necessary to evaluate the effectiveness~~
18 ~~of the deduction. Beginning in 2019 and every five years~~
19 ~~thereafter that the deduction is in effect, the department~~
20 ~~shall compile and present the annual reports to the revenue~~
21 ~~stabilization and tax policy committee and the legislative~~
22 ~~finance committee]~~ The deduction provided by this section shall
23 be included in the tax expenditure budget pursuant to Section
24 7-1-84 NMSA 1978 with an analysis of the effectiveness and cost
25 of the deduction."

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underscored material = new
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1 SECTION 73. Section 7-9-73.2 NMSA 1978 (being Laws 1998,
2 Chapter 95, Section 2 and Laws 1998, Chapter 99, Section 4, as
3 amended) is amended to read:

4 "7-9-73.2. DEDUCTION--GROSS RECEIPTS TAX AND
5 GOVERNMENTAL GROSS RECEIPTS TAX--PRESCRIPTION DRUGS--OXYGEN--
6 CANNABIS.--

7 A. Receipts from the sale of prescription drugs and
8 oxygen and oxygen services provided by a licensed medicare
9 durable medical equipment provider and cannabis products that
10 are sold in accordance with the Lynn and Erin Compassionate Use
11 Act may be deducted from gross receipts and governmental gross
12 receipts.

13 B. A taxpayer allowed a deduction pursuant to this
14 section shall report the amount of the deduction separately in
15 a manner required by the department. The deduction shall be
16 included in the tax expenditure budget pursuant to Section
17 7-1-84 NMSA 1978, including the annual aggregate cost of the
18 deduction.

19 ~~[B-]~~ C. For the purposes of this section,
20 "prescription drugs" means insulin and substances that are:

21 (1) dispensed by or under the supervision of
22 a licensed pharmacist or by a physician or other person
23 authorized under state law to do so;

24 (2) prescribed for a specified person by a
25 person authorized under state law to prescribe the substance;

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1 and

2 (3) subject to the restrictions on sale
3 contained in Subparagraph 1 of Subsection (b) of 21 USCA 353."

4 SECTION 74. Section 7-9-73.3 NMSA 1978 (being Laws 2014,
5 Chapter 26, Section 1, as amended) is amended to read:

6 "7-9-73.3. DEDUCTION--GROSS RECEIPTS TAX AND
7 GOVERNMENTAL GROSS RECEIPTS TAX--DURABLE MEDICAL EQUIPMENT--
8 MEDICAL SUPPLIES.--

9 A. Prior to July 1, 2030, receipts from the sale or
10 rental of durable medical equipment and medical supplies may be
11 deducted from gross receipts and governmental gross receipts.

12 B. The purpose of the deduction provided in this
13 section is to help protect jobs and retain businesses in New
14 Mexico that sell or rent durable medical equipment and medical
15 supplies.

16 C. A taxpayer allowed a deduction pursuant to this
17 section shall report the amount of the deduction separately in
18 a manner required by the department.

19 D. The deduction provided in this section shall be
20 taken only by a taxpayer participating in the New Mexico
21 medicaid program whose gross receipts are no less than ninety
22 percent derived from the sale or rental of durable medical
23 equipment, medical supplies or infusion therapy services,
24 including the medications used in infusion therapy services.

25 E. ~~Acceptance of~~ Claiming a deduction provided by

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1 this section is authorization by the taxpayer receiving the
2 deduction for the department to reveal return information [~~to~~
3 ~~the revenue stabilization and tax policy committee and the~~
4 ~~legislative finance committee necessary to analyze the~~
5 ~~effectiveness and cost of the deduction and whether the~~
6 ~~deduction is performing the purpose for which it was created.~~

7 ~~F. The department shall compile an annual report on~~
8 ~~the deduction provided by this section that shall include the~~
9 ~~number of taxpayers approved by the department to receive the~~
10 ~~deduction, the aggregate amount of deductions approved and any~~
11 ~~other information necessary to evaluate the effectiveness of~~
12 ~~the deduction. The department shall present the report to the~~
13 ~~revenue stabilization and tax policy committee and the~~
14 ~~legislative finance committee with an analysis of the~~
15 ~~effectiveness and cost of the deduction and whether the~~
16 ~~deduction is performing the purpose for which it was created]~~
17 necessary to comply with the requirements of Section 7-1-84
18 NMSA 1978.

19 F. The deduction provided by this section shall be
20 included in the tax expenditure budget pursuant to Section
21 7-1-84 NMSA 1978, including the annual aggregate cost of the
22 deduction.

23 G. As used in this section:

24 (1) "durable medical equipment" means a
25 medical assistive device or other equipment that:

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underscoring material = new
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1 (a) can withstand repeated use;
2 (b) is primarily and customarily used to
3 serve a medical purpose and is not useful to an individual in
4 the absence of an illness, injury or other medical necessity,
5 including improved functioning of a body part;

6 (c) is appropriate for use at home
7 exclusively by the eligible recipient for whom the durable
8 medical equipment is prescribed; and

9 (d) is prescribed by a physician or
10 other person licensed by the state to prescribe durable medical
11 equipment;

12 (2) "infusion therapy services" means the
13 administration of prescribed medication through a needle or
14 catheter;

15 (3) "medical supplies" means items for a
16 course of medical treatment, including nutritional products,
17 that are:

18 (a) necessary for an ongoing course of
19 medical treatment;

20 (b) disposable and cannot be reused; and

21 (c) prescribed by a physician or other
22 person licensed by the state to prescribe medical supplies; and

23 (4) "prescribe" means to authorize the use of
24 an item or substance for a course of medical treatment."

25 SECTION 75. Section 7-9-77.1 NMSA 1978 (being Laws 1998,
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underscored material = new
~~[bracketed material] = delete~~

1 Chapter 96, Section 1, as amended by Laws 2022, Chapter 43,
2 Section 1 and by Laws 2022, Chapter 49, Section 1) is amended
3 to read:

4 "7-9-77.1. DEDUCTION--GROSS RECEIPTS TAX--CERTAIN
5 MEDICAL AND HEALTH CARE SERVICES.--

6 A. Receipts of a health care practitioner or an
7 association of health care practitioners from payments by the
8 United States government, or any agency thereof, or from a
9 medicare administrative contractor for medical and other health
10 services provided by a health care practitioner to medicare
11 beneficiaries pursuant to the provisions of Title 18 of the
12 federal Social Security Act may be deducted from gross
13 receipts.

14 B. Receipts of a hospice or nursing home from
15 payments by the United States government, or any agency
16 thereof, or from a medicare administrative contractor for
17 medical and other health and palliative services provided by
18 the hospice or nursing home to medicare beneficiaries pursuant
19 to the provisions of Title 18 of the federal Social Security
20 Act may be deducted from gross receipts.

21 C. Receipts of a health care practitioner or an
22 association of health care practitioners from payments by a
23 third-party administrator of the federal TRICARE program for
24 medical and other health services provided by physicians and
25 osteopathic physicians to covered beneficiaries may be deducted

underscoring material = new
~~[bracketed material] = delete~~

1 from gross receipts.

2 D. Receipts of a health care practitioner or an
3 association of health care practitioners from payments by or on
4 behalf of the Indian health service of the United States
5 department of health and human services for medical and other
6 health services provided by physicians and osteopathic
7 physicians to covered beneficiaries may be deducted from gross
8 receipts.

9 E. Receipts of a clinical laboratory from payments
10 by the United States government, or any agency thereof, or from
11 a medicare administrative contractor for medical services
12 provided by the clinical laboratory to medicare beneficiaries
13 pursuant to the provisions of Title 18 of the federal Social
14 Security Act may be deducted from gross receipts.

15 F. Receipts of a home health agency from payments
16 by the United States government, or any agency thereof, or from
17 a medicare administrative contractor for medical, other health
18 and palliative services provided by the home health agency to
19 medicare beneficiaries pursuant to the provisions of Title 18
20 of the federal Social Security Act may be deducted from gross
21 receipts.

22 G. Prior to July 1, 2032, receipts of a dialysis
23 facility from payments by the United States government, or any
24 agency thereof, or from a medicare administrative contractor
25 for medical and other health services provided by the dialysis

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underscored material = new
[bracketed material] = delete

1 facility to medicare beneficiaries pursuant to the provisions
2 of Title 18 of the federal Social Security Act may be deducted
3 from gross receipts.

4 H. A taxpayer allowed a deduction pursuant to this
5 section shall report the amount of the deduction separately in
6 a manner required by the department. A taxpayer who has
7 receipts that are deductible pursuant to this section and
8 Section 7-9-93 NMSA 1978 shall deduct the receipts under this
9 section prior to calculating the receipts that may be deducted
10 pursuant to Section 7-9-93 NMSA 1978.

11 I. ~~[The department shall compile an annual report~~
12 ~~on the deductions created pursuant to this section that shall~~
13 ~~include the number of taxpayers that claimed each deduction,~~
14 ~~the aggregate amount of deductions claimed and any other~~
15 ~~information necessary to evaluate the effectiveness of the~~
16 ~~deductions. The department shall compile and present the~~
17 ~~annual reports to the revenue stabilization and tax policy~~
18 ~~committee and the legislative finance committee] The deductions~~
19 ~~provided by this section shall be included in the tax~~
20 ~~expenditure budget pursuant to Section 7-1-84 NMSA 1978~~ with an
21 analysis of the effectiveness and cost of the deductions and
22 whether the deductions are providing a benefit to the state.

23 J. For the purposes of this section:

24 (1) "association of health care
25 practitioners" means a corporation, unincorporated business

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underscoring material = new
[bracketed material] = delete

1 entity or other legal entity organized by, owned by or
2 employing one or more health care practitioners; provided that
3 the entity is not:

4 (a) an organization granted exemption
5 from the federal income tax by the United States commissioner
6 of internal revenue as organizations described in Section
7 501(c)(3) of the United States Internal Revenue Code of 1986,
8 as that section may be amended or renumbered; or

9 (b) a health maintenance organization,
10 hospital, hospice, nursing home or an entity that is solely an
11 outpatient facility or intermediate care facility licensed
12 pursuant to the [~~Public Health Act~~] Health Care Code;

13 (2) "clinical laboratory" means a laboratory
14 accredited pursuant to 42 USCA 263a;

15 (3) "dialysis facility" means a facility that
16 provides outpatient maintenance dialysis services or home
17 dialysis training and support services, including a facility
18 considered by the federal centers for medicare and medicaid
19 services to be an independent or hospital-based facility that
20 includes a self-care dialysis unit that furnishes only self-
21 dialysis services;

22 (4) "health care practitioner" means:

23 (a) an athletic trainer licensed
24 pursuant to the Athletic Trainer Practice Act;

25 (b) an audiologist licensed pursuant to

underscoring material = new
~~[bracketed material] = delete~~

- 1 the Speech-Language Pathology, Audiology and Hearing Aid
- 2 Dispensing Practices Act;
- 3 (c) a chiropractic physician licensed
- 4 pursuant to the Chiropractic Physician Practice Act;
- 5 (d) a counselor or therapist
- 6 practitioner licensed pursuant to the Counseling and Therapy
- 7 Practice Act;
- 8 (e) a dentist licensed pursuant to the
- 9 Dental Health Care Act;
- 10 (f) a doctor of oriental medicine
- 11 licensed pursuant to the Acupuncture and Oriental Medicine
- 12 Practice Act;
- 13 (g) an independent social worker
- 14 licensed pursuant to the Social Work Practice Act;
- 15 (h) a massage therapist licensed
- 16 pursuant to the Massage Therapy Practice Act;
- 17 (i) a naprapath licensed pursuant to the
- 18 Naprapathic Practice Act;
- 19 (j) a nutritionist or dietitian licensed
- 20 pursuant to the Nutrition and Dietetics Practice Act;
- 21 (k) an occupational therapist licensed
- 22 pursuant to the Occupational Therapy Act;
- 23 (l) an optometrist licensed pursuant to
- 24 the Optometry Act;
- 25 (m) an osteopathic physician licensed

underscored material = new
[bracketed material] = delete

- 1 pursuant to the Medical Practice Act;
- 2 (n) a pharmacist licensed pursuant to
- 3 the Pharmacy Act;
- 4 (o) a physical therapist licensed
- 5 pursuant to the Physical Therapy Act;
- 6 (p) a physician licensed pursuant to the
- 7 Medical Practice Act;
- 8 (q) a [~~podiatrist~~] podiatric physician
- 9 licensed pursuant to the Podiatry Act;
- 10 (r) a psychologist licensed pursuant to
- 11 the Professional Psychologist Act;
- 12 (s) a radiologic technologist licensed
- 13 pursuant to the Medical Imaging and Radiation Therapy Health
- 14 and Safety Act;
- 15 (t) a registered nurse licensed pursuant
- 16 to the Nursing Practice Act;
- 17 (u) a respiratory care practitioner
- 18 licensed pursuant to the Respiratory Care Act; and
- 19 (v) a speech-language pathologist
- 20 licensed pursuant to the Speech-Language Pathology, Audiology
- 21 and Hearing Aid Dispensing Practices Act;
- 22 (5) "home health agency" means a for-profit
- 23 entity that is licensed by the [~~department of~~] health care
- 24 authority and certified by the federal centers for medicare and
- 25 medicaid services as a home health agency and certified to

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1 provide medicare services;

2 (6) "hospice" means a for-profit entity
3 licensed by the [~~department of~~] health care authority as a
4 hospice and certified to provide medicare services;

5 (7) "medicare administrative contractor"
6 means a third-party administrator operating under contract with
7 the federal centers for medicare and medicaid services to
8 process medicare claims and make medicare fee-for-service
9 payments for medicare fee-for-service beneficiaries;

10 (8) "nursing home" means a for-profit entity
11 licensed by the [~~department of~~] health care authority as a
12 nursing home and certified to provide medicare services; and

13 (9) "TRICARE program" means the program
14 defined in 10 U.S.C. 1072(7)."

15 SECTION 76. Section 7-9-77.2 NMSA 1978 (being Laws 2024,
16 Chapter 67, Section 13) is amended to read:

17 "7-9-77.2. DEDUCTIONS--GROSS RECEIPTS--CHILD CARE
18 ASSISTANCE THROUGH A LICENSED CHILD CARE ASSISTANCE PROGRAM--
19 PRE-KINDERGARTEN SERVICES BY FOR-PROFIT PRE-KINDERGARTEN
20 PROVIDERS.--

21 A. Receipts from the sale of child care assistance
22 services by a taxpayer pursuant to a contract or grant with the
23 early childhood education and care department to provide such
24 services through a licensed child care assistance program may
25 be deducted from gross receipts.

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underscored material = new
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1 B. Receipts of for-profit pre-kindergarten
2 providers for the sale of pre-kindergarten services pursuant to
3 the Pre-Kindergarten Act may be deducted from gross receipts.

4 C. A taxpayer allowed a deduction pursuant to this
5 section shall report the amount of the deduction separately in
6 a manner required by the department.

7 D. ~~[The department shall compile an annual report~~
8 ~~on the deductions provided by this section that shall include~~
9 ~~the number of taxpayers that claimed each deduction, the~~
10 ~~aggregate amount of deductions claimed and any other~~
11 ~~information necessary to evaluate the effectiveness of the~~
12 ~~deductions. The department shall present the report to the~~
13 ~~revenue stabilization and tax policy committee and the~~
14 ~~legislative finance committee with an analysis of the]~~ The
15 deductions provided by this section shall be included in the
16 tax expenditure budget pursuant to Section 7-1-84 NMSA 1978,
17 including the annual aggregate cost of the deductions.

18 E. As used in this section:
19 (1) "child care assistance" means "child care
20 assistance" or "early childhood care assistance", as those
21 terms are defined in the Early Childhood Care Accountability
22 Act; and

23 (2) "licensed child care assistance program"
24 means "licensed child care program", "licensed early childhood
25 care program" or "licensed exempt child care program", as those

underscored material = new
[bracketed material] = delete

1 terms are defined in the Early Childhood Care Accountability
2 Act."

3 SECTION 77. Section 7-9-83 NMSA 1978 (being Laws 1993,
4 Chapter 364, Section 1, as amended) is amended to read:

5 "7-9-83. DEDUCTION--GROSS RECEIPTS TAX--JET FUEL.--

6 ~~[A. From July 1, 2003 through June 30, 2017, fifty-~~
7 ~~five percent of the receipts from the sale of fuel specially~~
8 ~~prepared and sold for use in turboprop or jet-type engines as~~
9 ~~determined by the department may be deducted from gross~~
10 ~~receipts.~~

11 ~~B. After June 30, 2017]~~ Forty percent of the
12 receipts from the sale of fuel specially prepared and sold for
13 use in turboprop or jet-type engines as determined by the
14 department may be deducted from gross receipts."

15 SECTION 78. Section 7-9-84 NMSA 1978 (being Laws 1993,
16 Chapter 364, Section 2, as amended) is amended to read:

17 "7-9-84. DEDUCTION--COMPENSATING TAX--JET FUEL.--

18 ~~[A. From July 1, 2003 through June 30, 2017, fifty-~~
19 ~~five percent of the value of the fuel specially prepared and~~
20 ~~sold for use in turboprop or jet-type engines as determined by~~
21 ~~the department may be deducted in computing the compensating~~
22 ~~tax due.~~

23 ~~B. After June 30, 2017]~~ Forty percent of the value
24 of the fuel specially prepared and sold for use in turboprop or
25 jet-type engines as determined by the department may be

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underscored material = new
[bracketed material] = delete

1 deducted in computing the compensating tax due."

2 SECTION 79. Section 7-9-90 NMSA 1978 (being Laws 1999,
3 Chapter 231, Section 3, as amended) is amended to read:

4 "7-9-90. DEDUCTIONS--GROSS RECEIPTS TAX--SALES OF
5 URANIUM HEXAFLUORIDE AND ENRICHMENT OF URANIUM.--

6 A. Receipts from selling uranium hexafluoride and
7 from providing the service of enriching uranium may be deducted
8 from gross receipts.

9 B. ~~[The department shall annually report to the~~
10 ~~revenue stabilization and tax policy committee aggregate~~
11 ~~amounts of deductions taken pursuant to this section, the~~
12 ~~number of taxpayers claiming the deduction and any other~~
13 ~~information that is necessary to determine that the deduction~~
14 ~~is performing a purpose that is beneficial to the state] The~~
15 deduction provided by this section shall be included in the tax
16 expenditure budget pursuant to Section 7-1-84 NMSA 1978,
17 including the annual aggregate cost of the deduction.

18 C. A taxpayer ~~[deducting gross receipts]~~ allowed a
19 deduction pursuant to this section shall report the amount
20 deducted separately and attribute the amount of the deduction
21 to the authorization provided in this section in a manner
22 required by the department that facilitates the evaluation by
23 the legislature for the benefit to the state of this
24 deduction."

25 SECTION 80. Section 7-9-91 NMSA 1978 (being Laws 2001,
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underscored material = new
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1 Chapter 135, Section 1) is amended to read:

2 "7-9-91. DEDUCTION--COMPENSATING TAX--CONTRIBUTIONS OF
3 INVENTORY TO CERTAIN ORGANIZATIONS AND GOVERNMENTAL AGENCIES.--

4 A. Except as provided otherwise in Subsection D of
5 this section, the value of tangible personal property that is
6 removed from inventory and contributed to organizations that
7 have been granted exemption from the federal income tax by the
8 United States commissioner of internal revenue as organizations
9 described in Section 501(c)(3) of the Internal Revenue Code of
10 1986, as amended, may be deducted in computing the compensating
11 tax due, provided that the contribution is deductible for
12 federal income tax purposes by the person from whose inventory
13 the property was withdrawn or, if the person from whose
14 inventory the property was withdrawn is a pass-through entity
15 as that term is defined in Section [~~7-3-2~~] 7-3A-2 NMSA 1978,
16 the contribution is deductible by the owner or owners of the
17 pass-through entity.

18 B. Except as provided otherwise in Subsection D of
19 this section, the value of tangible personal property that is
20 removed from inventory and contributed to the United States or
21 New Mexico or any governmental unit or subdivision, agency,
22 department or instrumentality thereof may be deducted in
23 computing the compensating tax due.

24 C. Except as provided otherwise in Subsection D of
25 this section, the value of tangible personal property that is

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1 removed from inventory and contributed to an Indian tribe,
2 nation or pueblo or any governmental subdivision, agency,
3 department or instrumentality thereof for use on that Indian
4 reservation or pueblo grant may be deducted in computing the
5 compensating tax due.

6 D. Unless contrary to federal law, the deduction
7 provided by this section does not apply to:

8 (1) a contribution of metalliferous mineral
9 ore;

10 (2) a contribution of tangible personal
11 property that is or will be incorporated into a metropolitan
12 redevelopment project created under the Metropolitan
13 Redevelopment Code;

14 (3) a contribution of tangible personal
15 property that will become an ingredient or component part of a
16 construction project; or

17 (4) a contribution of tangible personal
18 property utilized or produced in the performance of a service.

19 E. For purposes of this section:

20 (1) "inventory" means tangible personal
21 property held for sale or lease in the ordinary course of
22 business; and

23 (2) "contributed" or "contribution" means a
24 transfer of ownership without consideration. Public
25 acknowledgment of the contribution does not constitute

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1 consideration for the purpose of this section."

2 SECTION 81. Section 7-9-93 NMSA 1978 (being Laws 2004,
3 Chapter 116, Section 6, as amended) is amended to read:

4 "7-9-93. DEDUCTION--GROSS RECEIPTS--CERTAIN RECEIPTS FOR
5 SERVICES PROVIDED BY HEALTH CARE PRACTITIONER OR ASSOCIATION OF
6 HEALTH CARE PRACTITIONERS.--

7 A. Receipts of a health care practitioner or an
8 association of health care practitioners for commercial
9 contract services or medicare part C services paid by a managed
10 care organization or health care insurer may be deducted from
11 gross receipts if the services are within the scope of practice
12 of the health care practitioner providing the service.
13 Receipts from fee-for-service payments by a health care insurer
14 may not be deducted from gross receipts.

15 B. Prior to July 1, 2028, receipts from a copayment
16 or deductible paid by an insured or enrollee to a health care
17 practitioner or an association of health care practitioners for
18 commercial contract services pursuant to the terms of the
19 insured's health insurance plan or enrollee's managed care
20 health plan may be deducted from gross receipts if the services
21 are within the scope of practice of the health care
22 practitioner providing the service.

23 C. The deductions provided by this section shall be
24 applied only to gross receipts remaining after all other
25 allowable deductions available under the Gross Receipts and

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[bracketed material] = delete

1 Compensating Tax Act have been taken.

2 D. A taxpayer allowed a deduction pursuant to this
3 section shall report the amount of the deduction separately in
4 a manner required by the department.

5 E. ~~[The department shall compile an annual report~~
6 ~~on the deductions provided by this section that shall include~~
7 ~~the number of taxpayers that claimed the deductions, the~~
8 ~~aggregate amount of deductions claimed and any other~~
9 ~~information necessary to evaluate the effectiveness of the~~
10 ~~deductions. The department shall present the report to the~~
11 ~~revenue stabilization and tax policy committee and the~~
12 ~~legislative finance committee]~~ The deductions provided by this
13 section shall be included in the tax expenditure budget
14 pursuant to Section 7-1-84 NMSA 1978 with an analysis of the
15 cost of the deductions.

16 F. As used in this section:

17 (1) "association of health care
18 practitioners" means a corporation, unincorporated business
19 entity or other legal entity organized by, owned by or
20 employing one or more health care practitioners; provided that
21 the entity is not:

22 (a) an organization granted exemption
23 from the federal income tax by the United States commissioner
24 of internal revenue as organizations described in Section
25 501(c)(3) of the United States Internal Revenue Code of 1986,
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~~[bracketed material] = delete~~

1 as that section may be amended or renumbered; or

2 (b) a health maintenance organization,
3 hospital, hospice, nursing home or an entity that is solely an
4 outpatient facility or intermediate care facility licensed
5 pursuant to the Public Health Act;

6 (2) "commercial contract services" means
7 health care services performed by a health care practitioner
8 pursuant to a contract with a managed care organization or
9 health care insurer other than those health care services
10 provided for medicare patients pursuant to Title 18 of the
11 federal Social Security Act or for medicaid patients pursuant
12 to Title 19 or Title 21 of the federal Social Security Act;

13 (3) "copayment" means a fixed dollar amount
14 that a health care insurer or managed care health plan requires
15 an insured or enrollee to pay upon incurring an expense for
16 receiving medical services;

17 (4) "deductible" means the amount of covered
18 charges an insured or enrollee is required to pay in a plan
19 year for commercial contract services before the insured's
20 health insurance plan or enrollee's managed care health plan
21 begins to pay for applicable covered charges;

22 (5) "fee-for-service" means payment for
23 health care services by a health care insurer for covered
24 charges under an indemnity insurance plan;

25 (6) "health care insurer" means a person

underscoring material = new
~~[bracketed material] = delete~~

1 that:

2 (a) has a valid certificate of authority
3 in good standing pursuant to the New Mexico Insurance Code to
4 act as an insurer, health maintenance organization or nonprofit
5 health care plan or prepaid dental plan; and

6 (b) contracts to reimburse licensed
7 health care practitioners for providing basic health services
8 to enrollees at negotiated fee rates;

9 (7) "health care practitioner" means:

10 (a) a chiropractic physician licensed
11 pursuant to the provisions of the Chiropractic Physician
12 Practice Act;

13 (b) a dentist or dental hygienist
14 licensed pursuant to the Dental Health Care Act;

15 (c) a doctor of oriental medicine
16 licensed pursuant to the provisions of the Acupuncture and
17 Oriental Medicine Practice Act;

18 (d) an optometrist licensed pursuant to
19 the provisions of the Optometry Act;

20 (e) an osteopathic physician licensed
21 pursuant to the provisions of the Medical Practice Act;

22 (f) a physical therapist licensed
23 pursuant to the provisions of the Physical Therapy Act;

24 (g) a physician or physician assistant
25 licensed pursuant to the provisions of the Medical Practice

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underscoring material = new
~~[bracketed material] = delete~~

1 Act;

2 (h) a podiatric physician licensed
3 pursuant to the provisions of the Podiatry Act;

4 (i) a psychologist licensed pursuant to
5 the provisions of the Professional Psychologist Act;

6 (j) a registered lay midwife registered
7 by the department of health;

8 (k) a registered nurse or licensed
9 practical nurse licensed pursuant to the provisions of the
10 Nursing Practice Act;

11 (l) a registered occupational therapist
12 licensed pursuant to the provisions of the Occupational Therapy
13 Act;

14 (m) a respiratory care practitioner
15 licensed pursuant to the provisions of the Respiratory Care
16 Act;

17 (n) a speech-language pathologist or
18 audiologist licensed pursuant to the Speech-Language Pathology,
19 Audiology and Hearing Aid Dispensing Practices Act;

20 (o) a professional clinical mental
21 health counselor, marriage and family therapist or professional
22 art therapist licensed pursuant to the provisions of the
23 Counseling and Therapy Practice Act who has obtained a master's
24 degree or a doctorate;

25 (p) an independent social worker

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underscoring material = new
~~[bracketed material] = delete~~

1 licensed pursuant to the provisions of the Social Work Practice
2 Act; and

3 (q) a clinical laboratory that is
4 accredited pursuant to 42 U.S.C. Section 263a but that is not a
5 laboratory in a physician's office or in a hospital defined
6 pursuant to 42 U.S.C. Section 1395x;

7 (8) "managed care health plan" means a health
8 care plan offered by a managed care organization that provides
9 for the delivery of comprehensive basic health care services
10 and medically necessary services to individuals enrolled in the
11 plan other than those services provided to medicare patients
12 pursuant to Title 18 of the federal Social Security Act or to
13 medicaid patients pursuant to Title 19 or Title 21 of the
14 federal Social Security Act;

15 (9) "managed care organization" means a
16 person that provides for the delivery of comprehensive basic
17 health care services and medically necessary services to
18 individuals enrolled in a plan through its own employed health
19 care providers or by contracting with selected or participating
20 health care providers. "Managed care organization" includes
21 only those persons that provide comprehensive basic health care
22 services to enrollees on a contract basis, including the
23 following:

- 24 (a) health maintenance organizations;
- 25 (b) preferred provider organizations;

underscoring material = new
[bracketed material] = delete

- 1 (c) individual practice associations;
- 2 (d) competitive medical plans;
- 3 (e) exclusive provider organizations;
- 4 (f) integrated delivery systems;
- 5 (g) independent physician-provider
- 6 organizations;
- 7 (h) physician hospital-provider
- 8 organizations; and
- 9 (i) managed care services organizations;
- 10 and

11 (10) "medicare part C services" means
12 services performed pursuant to a contract with a managed health
13 care provider for medicare patients pursuant to Title 18 of the
14 federal Social Security Act."

15 SECTION 82. Section 7-9-94 NMSA 1978 (being Laws 2005,
16 Chapter 104, Section 23, as amended) is amended to read:

17 "7-9-94. DEDUCTION--GROSS RECEIPTS--MILITARY
18 TRANSFORMATIONAL ACQUISITION PROGRAMS.--

19 A. Receipts from transformational acquisition
20 programs performing research and development, test and
21 evaluation at New Mexico major range and test facility bases
22 pursuant to contracts entered into with the United States
23 department of defense may be deducted from gross receipts
24 through June 30, 2025.

25 B. As used in this section, "transformational

underscored material = new
[bracketed material] = delete

1 acquisition program" means a military acquisition program
2 authorized by the office of the secretary of defense force
3 transformation and not physically tested in New Mexico on or
4 before July 1, 2005.

5 C. The deduction provided in this section does not
6 apply to receipts of a prime contractor operating facilities
7 designated as a national laboratory by act of congress and is
8 not applicable to current force programs as of July 1, 2005.

9 D. ~~[The department shall compile an annual report~~
10 ~~on the deduction provided by this section that shall include~~
11 ~~the number of taxpayers that claimed the deduction, the~~
12 ~~aggregate amount of deductions claimed and any other~~
13 ~~information necessary to evaluate the effectiveness of the~~
14 ~~deduction. No later than December 1 of each year that the~~
15 ~~deduction is in effect, the department shall compile and~~
16 ~~present the annual report to the revenue stabilization and tax~~
17 ~~policy committee and the legislative finance committee with an~~
18 ~~analysis of the cost and benefit to the state]~~ A taxpayer
19 allowed a deduction pursuant to this section shall report the
20 amount of the deduction separately in a manner required by the
21 department. The deduction shall be included in the tax
22 expenditure budget pursuant to Section 7-1-84 NMSA 1978,
23 including the annual aggregate cost of the deduction."

24 SECTION 83. Section 7-9-95 NMSA 1978 (being Laws 2005,
25 Chapter 104, Section 25) is amended to read:

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[bracketed material] = delete

1 "7-9-95. DEDUCTION--GROSS RECEIPTS TAX--SALES OF CERTAIN
2 TANGIBLE PERSONAL PROPERTY--LIMITED PERIOD.--Receipts from the
3 sale at retail of the following types of tangible personal
4 property may be deducted if the sale of the property occurs
5 during the period beginning at 12:01 a.m. on the [~~first~~] last
6 Friday in [~~August~~] July and ending at midnight on the following
7 Sunday:

8 A. an article of clothing or footwear designed to
9 be worn on or about the human body if the sales price of the
10 article is less than one hundred dollars (\$100) except:

11 (1) any special clothing or footwear that is
12 primarily designed for athletic activity or protective use and
13 that is not normally worn except when used for the athletic
14 activity or protective use for which it is designed; and

15 (2) accessories, including jewelry, handbags,
16 luggage, umbrellas, wallets, watches and similar items worn or
17 carried on or about the human body, without regard to whether
18 worn on the body in a manner characteristic of clothing;

19 B. a desktop, laptop or notebook computer if the
20 sales price of the computer does not exceed one thousand
21 dollars (\$1,000) and any associated monitor, speaker or set of
22 speakers, printer, keyboard, microphone or mouse if the sales
23 price of the device does not exceed five hundred dollars
24 (\$500); and

25 C. school supplies that are items normally used by

underscored material = new
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1 students in a standard classroom for educational purposes,
2 including notebooks, paper, writing instruments, crayons, art
3 supplies, rulers, book bags, backpacks, handheld calculators,
4 maps and globes, but not including watches, radios, compact
5 disc players, headphones, sporting equipment, portable or
6 desktop telephones, copiers, office equipment, furniture or
7 fixtures."

8 SECTION 84. Section 7-9-103.1 NMSA 1978 (being Laws
9 2012, Chapter 12, Section 2) is amended to read:

10 "7-9-103.1. DEDUCTION--GROSS RECEIPTS TAX--CONVERTING
11 ELECTRICITY.--

12 A. Receipts from the transmission of electricity
13 where voltage source conversion technology is employed to
14 provide such services and from ancillary services may be
15 deducted from gross receipts.

16 B. ~~[The department shall report annually to the~~
17 ~~interim revenue stabilization and tax policy committee on the~~
18 ~~expansion of voltage source conversion technology use in the~~
19 ~~transmission of electricity in New Mexico and the use of the~~
20 ~~deduction provided in this section]~~ A taxpayer allowed a
21 deduction pursuant to this section shall report the amount of
22 the deduction separately in a manner required by the
23 department. The deduction shall be included in the tax
24 expenditure budget pursuant to Section 7-1-84 NMSA 1978,
25 including the annual aggregate cost of the deduction.

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1 C. As used in this section, "ancillary services"
2 means services that are supplied from or in connection with
3 facilities employing voltage source conversion technology and
4 that are used to support or enhance the efficient and reliable
5 operation of the electric system."

6 SECTION 85. Section 7-9-103.2 NMSA 1978 (being Laws
7 2012, Chapter 12, Section 3) is amended to read:

8 "7-9-103.2. DEDUCTION--GROSS RECEIPTS--ELECTRICITY
9 EXCHANGE.--

10 A. Receipts from operating a market or exchange for
11 the sale or trading of electricity, rights to electricity and
12 derivative products and from providing ancillary services may
13 be deducted from gross receipts.

14 B. ~~[The department shall report annually to the~~
15 ~~interim revenue stabilization and tax policy committee on use~~
16 ~~of the deduction provided in this section]~~ A taxpayer allowed a
17 deduction pursuant to this section shall report the amount of
18 the deduction separately in a manner required by the
19 department. The deduction shall be included in the tax
20 expenditure budget pursuant to Section 7-1-84 NMSA 1978,
21 including the annual aggregate cost of the deduction.

22 C. Claiming a deduction provided by this section is
23 authorization by the taxpayer receiving the deduction for the
24 department to reveal return information necessary to comply
25 with the requirements of Section 7-1-84 NMSA 1978.

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1 [~~G-~~] D. As used in this section, "ancillary
2 services" means services that are supplied from or in
3 connection with facilities employing voltage source conversion
4 technology and that are used to support or enhance the
5 efficient and reliable operation of the electric system."

6 **SECTION 86.** Section 7-9-110.3 NMSA 1978 (being Laws
7 2011, Chapter 60, Section 3 and Laws 2011, Chapter 61, Section
8 3, as amended) is amended to read:

9 "7-9-110.3. PURPOSE AND REQUIREMENTS OF LOCOMOTIVE FUEL
10 DEDUCTION.--

11 A. The purpose of the deduction on fuel loaded or
12 used by a common carrier in a locomotive engine from gross
13 receipts and from compensating tax is to encourage the
14 construction, renovation, maintenance and operation of railroad
15 locomotive refueling facilities and other railroad capital
16 investments in New Mexico.

17 B. To be eligible for the deduction on fuel loaded
18 or used by a common carrier in a locomotive engine from
19 compensating tax, the fuel shall be used or loaded by a common
20 carrier that:

21 (1) after July 1, 2011, made a capital
22 investment of one hundred million dollars (\$100,000,000) or
23 more in new construction or renovations at the railroad
24 locomotive refueling facility in which the fuel is loaded or
25 used; or

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1 (2) on or after July 1, 2012, made a capital
2 investment of fifty million dollars (\$50,000,000) or more in
3 new railroad infrastructure improvements, including railroad
4 facilities, track, signals and supporting railroad network,
5 located in New Mexico; provided that the new railroad
6 infrastructure improvements are not required by a regulatory
7 agency to correct problems, such as regular or preventive
8 maintenance, specifically identified by that agency as
9 requiring necessary corrective action.

10 C. To be eligible for the deduction on fuel loaded
11 or used by a common carrier in a locomotive engine from gross
12 receipts, a common carrier shall deliver an appropriate
13 nontaxable transaction certificate to the seller and the sale
14 shall be made to a common carrier that:

15 (1) after July 1, 2011, made a capital
16 investment of one hundred million dollars (\$100,000,000) or
17 more in new construction or renovations at the railroad
18 locomotive refueling facility in which the fuel is sold; or

19 (2) on or after July 1, 2012, made a capital
20 investment of fifty million dollars (\$50,000,000) or more in
21 new railroad infrastructure improvements, including railroad
22 facilities, track, signals and supporting railroad network,
23 located in New Mexico; provided that the new railroad
24 infrastructure improvements are not required by a regulatory
25 agency to correct problems, such as regular or ~~preventative~~

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1 preventive maintenance, specifically identified by that agency
2 as requiring necessary corrective action.

3 D. The economic development department shall
4 promulgate rules for the issuance of a certificate of
5 eligibility for the purposes of claiming a deduction on fuel
6 loaded or used by a common carrier in a locomotive engine from
7 gross receipts or compensating tax. A common carrier may
8 request a certificate of eligibility from the economic
9 development department to provide to the taxation and revenue
10 department to establish eligibility for a nontaxable
11 transaction certificate for the deduction on fuel loaded or
12 used by a common carrier in a locomotive engine from gross
13 receipts. The taxation and revenue department shall issue
14 nontaxable transaction certificates to a common carrier upon
15 the presentation of a certificate of eligibility obtained from
16 the economic development department pursuant to this
17 subsection.

18 E. The economic development department shall keep a
19 record of temporary and permanent jobs from all railroad
20 activity where a capital investment is made by a common carrier
21 that claims a deduction on fuel loaded or used by a common
22 carrier in a locomotive engine from gross receipts or from
23 compensating tax. The economic development department and the
24 taxation and revenue department shall estimate the amount of
25 state revenue that is attributable to all railroad activity

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1 where a capital investment is made by a common carrier that
2 claims a deduction on fuel loaded or used by a common carrier
3 in a locomotive engine from gross receipts or from compensating
4 tax.

5 F. The economic development department [~~and the~~
6 ~~taxation and revenue department~~] shall [~~compile an annual~~
7 ~~report [with the number of taxpayers who claim the deduction on~~
8 ~~fuel loaded or used by a common carrier in a locomotive engine~~
9 ~~from gross receipts and from compensating tax]~~ the number of
10 jobs created as a result of [~~that~~] the deduction [~~the amount of~~
11 ~~that deduction approved, the net revenue to the state as a~~
12 ~~result of that deduction]~~ and any other information required by
13 the legislature to aid in evaluating the effectiveness of
14 [~~that~~] the deduction. A taxpayer who claims a deduction on
15 fuel loaded or used by a common carrier in a locomotive engine
16 from gross receipts or from compensating tax shall provide the
17 economic development department [~~and the taxation and revenue~~
18 ~~department~~] with the information required to compile that
19 report. [~~The economic development department and the taxation~~
20 ~~and revenue department shall present that report before the~~
21 ~~legislative interim revenue stabilization and tax policy~~
22 ~~committee and the legislative finance committee by November of~~
23 ~~each year.~~] Notwithstanding any other section of law to the
24 contrary, the economic development department and the taxation
25 and revenue department may disclose the number of [~~applicants~~

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1 ~~for the deduction on fuel loaded or used by a common carrier in~~
2 ~~a locomotive engine from gross receipts and from compensating~~
3 ~~tax] taxpayers claiming the deduction, the amount of the~~
4 deduction ~~[approved]~~ claimed, the number of employees of the
5 taxpayer and any other information required by the legislature
6 or the taxation and revenue department to aid in evaluating the
7 effectiveness of ~~[that]~~ the deduction.

8 G. ~~[An appropriate legislative committee shall~~
9 ~~review the effectiveness of the deduction for each taxpayer who~~
10 ~~claims the deduction on fuel loaded or used by a common carrier~~
11 ~~in a locomotive engine from gross receipts and from~~
12 ~~compensating tax every six years beginning in 2019]~~ The
13 deduction provided by this section shall be included in the tax
14 expenditure budget pursuant to Section 7-1-84 NMSA 1978,
15 including the annual aggregate cost of the deduction."

16 SECTION 87. Section 7-9-112.1 NMSA 1978 (being Laws
17 2024, Chapter 67, Section 39) is amended to read:

18 "7-9-112.1. DEDUCTIONS--GROSS RECEIPTS TAX--COMPENSATING
19 TAX--GEOTHERMAL ELECTRICITY GENERATION-RELATED SALES AND USE.--

20 A. Prior to July 1, 2032, receipts from the
21 following sales may be deducted from gross receipts; provided
22 that the sale is made to a person who holds an interest in a
23 geothermal electricity generation facility and the person
24 delivers an appropriate nontaxable transaction certificate to
25 the seller or lessor or provides alternative evidence pursuant

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1 to Section 7-9-43 NMSA 1978:

2 (1) selling tangible personal property
3 installed as part of, or services rendered in connection with,
4 constructing and equipping a geothermal electricity generation
5 facility;

6 (2) selling tangible personal property
7 installed as part of a system used for the distribution of
8 electricity generated from a geothermal electricity generation
9 facility; and

10 (3) selling or leasing tangible personal
11 property or selling services that are construction plant costs.

12 B. Prior to July 1, 2032, the value of:

13 (1) tangible personal property installed as
14 part of, or services rendered in connection with, constructing
15 and equipping a geothermal electricity generation facility may
16 be deducted in computing compensating tax due;

17 (2) tangible personal property installed as
18 part of a system used for the distribution of electricity
19 generated from a geothermal electricity generation facility may
20 be deducted in computing compensating tax due; and

21 (3) construction plant costs purchased by a
22 person who holds an interest in a geothermal electricity
23 generation facility may be deducted in computing compensating
24 tax due.

25 C. A taxpayer allowed a deduction pursuant to this

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1 section shall report the amount of the deduction separately in
2 a manner required by the department.

3 D. ~~[The department shall compile an annual report~~
4 ~~on the deductions provided by this section that shall include~~
5 ~~the number of taxpayers that claimed the deductions, the~~
6 ~~aggregate amount of deductions claimed and any other~~
7 ~~information necessary to evaluate the effectiveness of the~~
8 ~~deductions. The department shall present the annual report to~~
9 ~~the revenue stabilization and tax policy committee and the~~
10 ~~legislative finance committee]~~ The deductions provided by this
11 section shall be included in the tax expenditure budget
12 pursuant to Section 7-1-84 NMSA 1978 with an analysis of the
13 effectiveness and cost of the deductions.

14 E. As used in this section:

15 (1) "construction plant costs" means actual
16 expenditures for the development and construction of a
17 geothermal electricity generation facility, including the
18 drilling of wells to at least twelve thousand feet; permitting;
19 site characterization and assessment; engineering; design; site
20 and equipment acquisition; raw materials; and fuel supply
21 development used directly and exclusively in the facility;

22 (2) "geothermal electricity generation
23 facility" means a facility located in New Mexico that generates
24 electricity from geothermal resources and:

25 (a) for a new facility, begins

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1 construction on or after January 1, 2025; or

2 (b) for an existing facility, on or
3 after January 1, 2025, increases the amount of electricity
4 generated from geothermal resources the facility generated
5 prior to that date by at least one hundred percent;

6 (3) "geothermal resources" means the natural
7 heat of the earth in excess of two hundred fifty degrees
8 Fahrenheit or the energy, in whatever form, below the surface
9 of the earth present in, resulting from, created by or that may
10 be extracted from this natural heat in excess of two hundred
11 fifty degrees Fahrenheit and all minerals in solution or other
12 products obtained from naturally heated fluids, brines,
13 associated gases and steam, in whatever form, found below the
14 surface of the earth, but excluding oil, hydrocarbon gas and
15 other hydrocarbon substances and excluding the heating and
16 cooling capacity of the earth not resulting from the natural
17 heat of the earth in excess of two hundred fifty degrees
18 Fahrenheit as may be used for the heating and cooling of
19 buildings through an on-site geexchange heat pump or similar
20 on-site system; and

21 (4) "interest in a geothermal electricity
22 generation facility" means title to a geothermal electricity
23 generation facility; a leasehold interest in such facility; an
24 ownership interest in a business or entity that is taxed for
25 federal income tax purposes as a partnership that holds title

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1 to or a leasehold interest in such facility; or an ownership
2 interest, through one or more intermediate entities that are
3 each taxed for federal income tax purposes as a partnership, in
4 a business that holds title to or a leasehold interest in such
5 facility."

6 SECTION 88. Section 7-9-115 NMSA 1978 (being Laws 2015
7 (1st S.S.), Chapter 2, Section 9, as amended) is amended to
8 read:

9 "7-9-115. DEDUCTION--GROSS RECEIPTS TAX--GOODS AND
10 SERVICES FOR THE DEPARTMENT OF DEFENSE RELATED TO DIRECTED
11 ENERGY AND SATELLITES.--

12 A. Prior to January 1, 2031, receipts from the sale
13 by a qualified contractor of qualified research and development
14 services and qualified directed energy and satellite-related
15 inputs may be deducted from gross receipts when sold pursuant
16 to a contract with the United States department of defense.

17 B. The purposes of the deduction allowed in this
18 section are to promote new and sophisticated technology,
19 enhance the viability of directed energy and satellite
20 projects, attract new projects and employers to New Mexico and
21 increase high-technology employment opportunities in New
22 Mexico.

23 C. A taxpayer allowed a deduction pursuant to this
24 section shall report the amount of the deduction separately in
25 a manner required by the department.

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underscored material = new
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1 D. ~~[The department shall compile an annual report~~
2 ~~on the deduction provided by this section that shall include~~
3 ~~the number of taxpayers that claimed the deduction, the~~
4 ~~aggregate amount of deductions claimed and any other~~
5 ~~information necessary to evaluate the effectiveness of the~~
6 ~~deduction. Beginning in 2017 and each year thereafter that the~~
7 ~~deduction is in effect, the department and the economic~~
8 ~~development department shall present the annual report to the~~
9 ~~revenue stabilization and tax policy committee and the~~
10 ~~legislative finance committee]~~ The deduction provided by this
11 section shall be included in the tax expenditure budget
12 pursuant to Section 7-1-84 NMSA 1978 with an analysis of the
13 effectiveness and cost of the deduction and whether the
14 deduction is performing the purpose for which it was created.

15 E. As used in this section:

16 (1) "directed energy" means a system,
17 including related services, that enables the use of the
18 frequency spectrum, including radio waves, light and x-rays;

19 (2) "inputs" means systems, subsystems,
20 components, prototypes and demonstrators or products and
21 services involving optics, photonics, electronics, advanced
22 materials, nanoelectromechanical and microelectromechanical
23 systems, fabrication materials and test evaluation and computer
24 control systems related to directed energy or satellites;

25 (3) "qualified contractor" means a person

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~~[bracketed material] = delete~~

1 other than an organization designated as a national laboratory
2 by act of congress or an operator of national laboratory
3 facilities in New Mexico; provided that the operator may be a
4 qualified contractor with respect to the operator's receipts
5 not connected with operating the national laboratory;

6 (4) "qualified directed energy and satellite-
7 related inputs" means inputs supplied to the department of
8 defense pursuant to a contract with that department entered
9 into on or after January 1, 2016;

10 (5) "qualified research and development
11 services" means research and development services related to
12 directed energy or satellites provided to the department of
13 defense pursuant to a contract with that department entered
14 into on or after January 1, 2016; and

15 (6) "satellite" means composite systems
16 assembled and packaged for use in space, including launch
17 vehicles and related products and services."

18 **SECTION 89.** Section 7-9-116 NMSA 1978 (being Laws 2018,
19 Chapter 46, Section 1, as amended) is amended to read:

20 "7-9-116. DEDUCTION--GROSS RECEIPTS TAX--RETAIL SALES BY
21 CERTAIN BUSINESSES.--

22 A. Prior to July 1, 2025, receipts from the sale at
23 retail of the following types of tangible personal property may
24 be deducted if the sales price of the property is less than
25 five hundred dollars (\$500) and:

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underscoring material = new
~~[bracketed material] = delete~~

1 (1) the sale occurs during the period
2 beginning at 12:01 a.m. on the first Saturday after
3 Thanksgiving and ending at midnight on the same Saturday;

4 (2) the sale is for:

5 (a) an article of clothing or footwear
6 designed to be worn on or about the human body;

7 (b) accessories, including jewelry,
8 handbags, book bags, backpacks, luggage, wallets, watches and
9 similar items worn or carried on or about the human body,
10 without regard to whether worn on the body in a manner
11 characteristic of clothing;

12 (c) sporting goods and camping
13 equipment;

14 (d) tools used for home improvement,
15 gardening and automotive maintenance and repair;

16 (e) books, journals, paper, writing
17 instruments, art supplies, greeting cards and postcards;

18 (f) works of art, including any
19 painting, drawing, print, photograph, sculpture, pottery or
20 ceramics, carving, textile, basketry, artifact, natural
21 specimen, rare book, authors' papers, objects of historical or
22 technical interest or other article of intrinsic cultural
23 value;

24 (g) floral arrangements and indoor
25 plants;

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- 1 (h) cosmetics and personal grooming
2 items;
- 3 (i) musical instruments;
- 4 (j) cookware and small home appliances
5 for residential use;
- 6 (k) bedding, towels and bath
7 accessories;
- 8 (l) furniture;
- 9 (m) a toy or game that is a physical
10 item, product or object clearly intended and designed to be
11 used by children or families in play;
- 12 (n) a video game or video game console
13 and any associated accessories for the video game console; or
- 14 (o) home electronics such as computers,
15 phones, tablets, stereo equipment and related electronics
16 accessories; and
- 17 (3) the sale is made by a seller that carries
18 on a trade or business in New Mexico, maintains its primary
19 place of business in New Mexico, as determined by the
20 department, and employed no more than ten employees at any one
21 time during the previous fiscal year.
- 22 B. Receipts for sales made by a business that
23 operates under a franchise agreement may not be deducted
24 pursuant to this section.
- 25 C. The purpose of the deduction provided by this

underscored material = new
[bracketed material] = delete

1 section is to increase sales at small local businesses.

2 D. A taxpayer allowed a deduction pursuant to this
3 section shall report the amount of the deduction separately in
4 a manner required by the department.

5 E. ~~[The department shall compile an annual report~~
6 ~~on the deduction provided by this section that shall include~~
7 ~~the number of taxpayers that claimed the deduction, the~~
8 ~~aggregate amount of deductions claimed and any other~~
9 ~~information necessary to evaluate the effectiveness of the~~
10 ~~deduction. The department shall present the annual report to~~
11 ~~the revenue stabilization and tax policy committee and the~~
12 ~~legislative finance committee]~~ The deduction provided by this
13 section shall be included in the tax expenditure budget
14 pursuant to Section 7-1-84 NMSA 1978 with an analysis of the
15 effectiveness and cost of the deduction and whether the
16 deduction is performing the purpose for which it was created."

17 SECTION 90. Section 7-9-119 NMSA 1978 (being Laws 2021,
18 Chapter 7, Section 3) is amended to read:

19 "7-9-119. DEDUCTION--SALES MADE BY DISPENSER'S LICENSE
20 HOLDER.--

21 A. Prior to January 1, 2026, a liquor license
22 holder who held the license on June 30, 2021 may deduct from
23 gross receipts the following receipts, for each dispenser's
24 license for which sales of alcoholic beverages for consumption
25 off premises are less than fifty percent of total alcoholic

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~~[bracketed material] = delete~~

1 beverage sales, up to fifty thousand dollars (\$50,000) of
2 receipts from the sale of alcoholic beverages for taxable years
3 2022 through 2025.

4 B. A taxpayer allowed a deduction pursuant to this
5 section shall report the amount of the deduction separately in
6 a manner required by the department.

7 C. ~~[The department shall compile an annual report~~
8 ~~on the deduction provided by this section that shall include~~
9 ~~the number of taxpayers that claimed the deduction, the~~
10 ~~aggregate amount of deductions claimed and any other~~
11 ~~information necessary to evaluate the effectiveness of the~~
12 ~~deduction. The department shall compile and present the report~~
13 ~~to the revenue stabilization and tax policy committee and the~~
14 ~~legislative finance committee]~~ The deduction provided by this
15 section shall be included in the tax expenditure budget
16 pursuant to Section 7-1-84 NMSA 1978 with an analysis of the
17 cost of the deduction.

18 D. As used in this section:

19 (1) "alcoholic beverage" means alcoholic
20 beverage as defined in the Liquor Control Act;

21 (2) "dispenser's license" means a license
22 issued pursuant to the provisions of the Liquor Control Act
23 allowing the licensee to sell, offer for sale or have in the
24 person's possession with the intent to sell alcoholic beverages
25 both by the drink for consumption on the licensed premises and

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1 in unbroken packages, including growlers, for consumption and
2 not for resale off the licensed premises;

3 (3) "growler" means a clean, refillable,
4 resealable container that has a liquid capacity that does not
5 exceed one gallon and that is intended and used for the sale of
6 beer, wine or cider; and

7 (4) "liquor license holder" means a person
8 that holds a retailer's license issued pursuant to Section
9 60-6A-2 NMSA 1978, a special dispenser's license issued
10 pursuant to Section 60-6A-3 NMSA 1978 or a dispenser's license
11 issued pursuant to Section 60-6A-12 NMSA 1978 issued prior to
12 July 1, 2021."

13 SECTION 91. Section 7-9A-5 NMSA 1978 (being Laws 1979,
14 Chapter 347, Section 5, as amended) is amended to read:

15 "7-9A-5. INVESTMENT CREDIT--AMOUNT--CLAIMANT.--

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

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

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

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

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

9 SECTION 92. Section 7-9C-7 NMSA 1978 (being Laws 1992,
10 Chapter 50, Section 7 and also Laws 1992, Chapter 67, Section
11 7, as amended) is amended to read:

12 "7-9C-7. DEDUCTION--SALE OF A SERVICE FOR RESALE.--~~[A.]~~
13 Receipts from providing an interstate telecommunications
14 service in this state that will be used by other persons in
15 providing telephone or telegraph services to the final user may
16 be deducted from interstate telecommunications gross receipts
17 if the sale is made to a person who is subject to the
18 interstate telecommunications gross receipts tax or to the
19 gross receipts tax or the compensating tax.

20 ~~[B. Receipts during the period July 1, 1998 through~~
21 ~~June 30, 2000 from providing leased telephone lines,~~
22 ~~telecommunications services, internet access services or~~
23 ~~computer programming that will be used by other persons in~~
24 ~~providing internet access and related services to the final~~
25 ~~user may be deducted from interstate telecommunications gross~~

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1 ~~receipts if the sale is made to a person who is subject to the~~
2 ~~interstate telecommunications gross receipts tax, the gross~~
3 ~~receipts tax or the compensating tax.]"~~

4 SECTION 93. Section 7-9G-1 NMSA 1978 (being Laws 2004,
5 Chapter 15, Section 1, as amended) is amended to read:

6 "7-9G-1. HIGH-WAGE JOBS TAX CREDIT--QUALIFYING HIGH-WAGE
7 JOBS.--

8 A. A taxpayer that is an eligible employer may
9 apply for, and the department may allow, a tax credit for each
10 new high-wage job. The credit provided in this section may be
11 referred to as the "high-wage jobs tax credit".

12 B. The purpose of the high-wage jobs tax credit is
13 to provide an incentive for [~~urban and rural~~] businesses to
14 create and fill new high-wage jobs in New Mexico.

15 C. The high-wage jobs tax credit may be claimed and
16 allowed in an amount equal to eight and one-half percent of the
17 wages distributed to an eligible employee in a new high-wage
18 job but shall not exceed twelve thousand seven hundred fifty
19 dollars (\$12,750) per job per qualifying period. The high-wage
20 jobs tax credit may be claimed by an eligible employer for each
21 new high-wage job performed for the year in which the new high-
22 wage job is created and for consecutive qualifying periods.

23 D. To receive a high-wage jobs tax credit, a
24 taxpayer shall file [~~an~~] a completed application for approval
25 of the credit with the department once per calendar year on

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1 forms and in the manner prescribed by the department. The
2 annual application shall contain the certification required by
3 Subsection K of this section and shall contain all qualifying
4 periods that closed during the calendar year for which the
5 application is made. Any qualifying period that did not close
6 in the calendar year for which the application is made shall be
7 denied by the department. The application for a calendar year
8 shall be filed no later than December 31 of the following
9 calendar year. If a taxpayer fails to file the annual
10 application within the time limits provided in this section,
11 the application shall be denied by the department. ~~[The~~
12 ~~department shall make a determination on the application within~~
13 ~~one hundred eighty days of the date on which the application~~
14 ~~was filed.]~~

15 E. A new high-wage job shall not be eligible for a
16 credit pursuant to this section for the initial qualifying
17 period unless the eligible employer's total number of employees
18 with threshold jobs on the last day of the initial qualifying
19 period at the location at which the job is performed or based
20 is at least one more than the number of threshold jobs on the
21 day prior to the date the new high-wage job was created. A new
22 high-wage job shall not be eligible for a credit pursuant to
23 this section for a consecutive qualifying period unless the
24 total number of threshold jobs at a location at which the job
25 is performed or based on the last day of that qualifying period

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1 is greater than or equal to the number of threshold jobs at
2 that same location on the last day of the initial qualifying
3 period for the new high-wage job.

4 F. If a consecutive qualifying period for a new
5 high-wage job does not meet the wage, occupancy and residency
6 requirements, then the qualifying period is ineligible.

7 G. Except as provided in Subsection H of this
8 section, a new high-wage job shall not be eligible for a credit
9 pursuant to this section if:

10 (1) the new high-wage job is created due to a
11 business merger or acquisition or other change in business
12 organization;

13 (2) the eligible employee was terminated from
14 employment in New Mexico by another employer involved in the
15 business merger or acquisition or other change in business
16 organization with the taxpayer; and

17 (3) the new high-wage job is performed by:

18 (a) the person who performed the job or
19 its functional equivalent prior to the business merger or
20 acquisition or other change in business organization; or

21 (b) a person replacing the person who
22 performed the job or its functional equivalent prior to a
23 business merger or acquisition or other change in business
24 organization.

25 H. A new high-wage job that was created by another

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1 employer and for which an application for the high-wage jobs
2 tax credit was received and is under review by the department
3 prior to the time of the business merger or acquisition or
4 other change in business organization shall remain eligible for
5 the high-wage jobs tax credit for the balance of the
6 consecutive qualifying periods. The new employer that results
7 from a business merger or acquisition or other change in
8 business organization may only claim the high-wage jobs tax
9 credit for the balance of the consecutive qualifying periods
10 for which the new high-wage job is otherwise eligible.

11 I. A new high-wage job shall not be eligible for a
12 credit pursuant to this section if the job is created due to an
13 eligible employer entering into a contract or becoming a
14 subcontractor to a contract with a governmental entity that
15 replaces one or more entities performing functionally
16 equivalent services for the governmental entity unless the job
17 is a new high-wage job that was not being performed by an
18 employee of the replaced entity.

19 J. A new high-wage job shall not be eligible for a
20 credit pursuant to this section if the eligible employer has
21 more than one business location in New Mexico from which it
22 conducts business and the requirements of Subsection E of this
23 section are satisfied solely by moving the job from one
24 business location of the eligible employer in New Mexico to
25 another business location of the eligible employer in New

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1 Mexico.

2 K. With respect to each annual application for a
3 high-wage jobs tax credit, the employer shall certify and
4 include:

5 (1) the amount of wages paid to each eligible
6 employee in a new high-wage job during the qualifying period;

7 (2) the number of weeks each position was
8 occupied during the qualifying period;

9 (3) whether the new high-wage job was in a
10 municipality with a population of sixty thousand or more or
11 with a population of less than sixty thousand according to the
12 most recent federal decennial census and whether the job was in
13 the unincorporated area of a county;

14 (4) which qualifying period the application
15 pertains to for each eligible employee;

16 (5) the total number of employees employed by
17 the employer at the job location on the day prior to the
18 qualifying period and on the last day of the qualifying period;

19 (6) the total number of threshold jobs
20 performed or based at the eligible employer's location on the
21 day prior to the qualifying period and on the last day of the
22 qualifying period;

23 (7) for an eligible employer that has more
24 than one business location in New Mexico from which it conducts
25 business, the total number of threshold jobs performed or based

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1 at each business location of the eligible employer in New
2 Mexico on the day prior to the qualifying period and on the
3 last day of the qualifying period;

4 (8) whether the eligible employer is
5 receiving or is eligible to receive development training
6 program assistance pursuant to Section 21-19-7 NMSA 1978;

7 (9) whether the eligible employer has ceased
8 business operations at any of its business locations in New
9 Mexico; and

10 (10) whether the application is precluded by
11 Subsection O of this section.

12 L. Any person who willfully submits a false,
13 incorrect or fraudulent certification required pursuant to
14 Subsection K of this section shall be subject to all applicable
15 penalties under the Tax Administration Act, except that the
16 amount on which the penalty is based shall be the total amount
17 of credit requested on the application for approval.

18 M. Except as provided in Subsection N of this
19 section, an approved high-wage jobs tax credit shall be claimed
20 against the taxpayer's modified combined tax liability and
21 shall be filed with the return due immediately following the
22 date of the credit approval. If the credit exceeds the
23 taxpayer's modified combined tax liability, the excess shall be
24 refunded to the taxpayer.

25 N. If the taxpayer ceases business operations in

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1 New Mexico while an application for credit approval is pending
2 or after an application for credit has been approved for any
3 qualifying period for a new high-wage job, the department shall
4 not grant an additional high-wage jobs tax credit to that
5 taxpayer except as provided in Subsection O of this section and
6 shall extinguish any amount of credit approved for that
7 taxpayer that has not already been claimed against the
8 taxpayer's modified combined tax liability.

9 O. A taxpayer that has received a high-wage jobs
10 tax credit shall not submit a new application for the credit
11 for a minimum of two calendar years from the closing date of
12 the last qualifying period for which the taxpayer received the
13 credit if the taxpayer lost eligibility to claim the credit
14 from a previous application pursuant to Subsection N of this
15 section.

16 P. The economic development department and the
17 taxation and revenue department shall report to the appropriate
18 interim legislative committee each year the cost of the high-
19 wage jobs tax credit to the state and its impact on company
20 recruitment and job creation.

21 Q. As used in this section:

22 (1) "benefits" means all remuneration for
23 work performed that is provided to an employee in whole or in
24 part by the employer, other than wages, including the
25 employer's contributions to insurance programs, health care,

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1 medical, dental and vision plans, life insurance, employer
2 contributions to pensions, such as a 401(k), and employer-
3 provided services, such as child care, offered by an employer
4 to the employee;

5 (2) "consecutive qualifying period" means
6 each of the three qualifying periods successively following the
7 qualifying period in which the new high-wage job was created;

8 (3) "department" means the taxation and
9 revenue department;

10 (4) "dependent" means "dependent" as defined
11 in 26 U.S.C. 152(a), as that section may be amended or
12 renumbered;

13 (5) "domicile" means the sole place where an
14 individual has a true, fixed, permanent home. It is the place
15 where the individual has a voluntary, fixed habitation of self
16 and family with the intention of making a permanent home;

17 (6) "eligible employee" means an individual
18 who is employed in New Mexico by an eligible employer and who
19 is a resident of New Mexico; "eligible employee" does not
20 include an individual who:

- 21 (a) is a dependent of the employer;
- 22 (b) if the employer is an estate or
23 trust, is a grantor, beneficiary or fiduciary of the estate or
24 trust or is a dependent of a grantor, beneficiary or fiduciary
25 of the estate or trust;

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1 (c) if the employer is a corporation, is
2 a dependent of an individual who owns, directly or indirectly,
3 more than fifty percent in value of the outstanding stock of
4 the corporation; or

5 (d) if the employer is an entity other
6 than a corporation, estate or trust, is a dependent of an
7 individual who owns, directly or indirectly, more than fifty
8 percent of the capital and profits interests in the entity;

9 (7) "eligible employer" means an employer
10 that, during the applicable qualifying period, would be
11 eligible for development training program assistance under the
12 fiscal year 2019 policies defining development training program
13 eligibility developed by the industrial training board in
14 accordance with Section 21-19-7 NMSA 1978;

15 (8) "modified combined tax liability" means
16 the total liability for the reporting period for the gross
17 receipts tax imposed by Section 7-9-4 NMSA 1978 together with
18 any tax collected at the same time and in the same manner as
19 the gross receipts tax, such as the compensating tax, the
20 withholding tax, the interstate telecommunications gross
21 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA
22 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,
23 minus the amount of any credit other than the high-wage jobs
24 tax credit applied against any or all of these taxes or
25 surcharges; but "modified combined tax liability" excludes all

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1 amounts collected with respect to local option gross receipts
2 taxes;

3 (9) "new high-wage job" means a new job
4 created in New Mexico by an eligible employer on or after July
5 1, 2004 and prior to July 1, 2026 that is occupied for at least
6 forty-four weeks of a qualifying period by an eligible employee
7 who is paid wages calculated for the qualifying period to be at
8 least:

9 (a) ~~[for a new high wage job created~~
10 ~~prior to July 1, 2015: 1) forty thousand dollars (\$40,000) if~~
11 ~~the job is performed or based in or within ten miles of the~~
12 ~~external boundaries of a municipality with a population of~~
13 ~~sixty thousand or more according to the most recent federal~~
14 ~~decennial census or in a class II county; and 2) twenty eight~~
15 ~~thousand dollars (\$28,000) if the job is performed or based in~~
16 ~~a municipality with a population of less than sixty thousand~~
17 ~~according to the most recent federal decennial census or in the~~
18 ~~unincorporated area, that is not within ten miles of the~~
19 ~~external boundaries of a municipality with a population of~~
20 ~~sixty thousand or more, of a county other than a class II~~
21 ~~county; and~~

22 (b) ~~for a new high wage job created on~~
23 ~~or after July 1, 2015: 1)] sixty thousand dollars (\$60,000) if~~
24 the job is performed or based in or within ten miles of the
25 external boundaries of a municipality with a population of

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1 sixty thousand or more according to the most recent federal
2 decennial census or in a class H county; and

3 [2] (b) forty thousand dollars
4 (\$40,000) if the job is performed or based in a municipality
5 with a population of less than sixty thousand according to the
6 most recent federal decennial census or in the unincorporated
7 area, that is not within ten miles of the external boundaries
8 of a municipality with a population of sixty thousand or more,
9 of a county other than a class H county;

10 (10) "new job" means a job that is occupied
11 by an employee who has not been employed in New Mexico by the
12 eligible employer in the three years prior to the date of hire;

13 (11) "qualifying period" means the period of
14 twelve months beginning on the day an eligible employee begins
15 working in a new high-wage job or the period of twelve months
16 beginning on the anniversary of the day an eligible employee
17 began working in a new high-wage job;

18 (12) "resident" means a natural person whose
19 domicile is in New Mexico at the time of hire or within one
20 hundred eighty days of the date of hire;

21 (13) "threshold job" means a job that is
22 occupied for at least forty-four weeks of a calendar year by an
23 eligible employee and that meets the wage requirements for a
24 "new high-wage job"; and

25 (14) "wages" means all compensation paid by

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1 an eligible employer to an eligible employee through the
2 employer's payroll system, including those wages that the
3 employee elects to defer or redirect or the employee's
4 contribution to a 401(k) or cafeteria plan program, but "wages"
5 does not include benefits or the employer's share of payroll
6 taxes, social security or medicare contributions, federal or
7 state unemployment insurance contributions or workers'
8 compensation."

9 SECTION 94. Section 7-13-3.5 NMSA 1978 (being Laws 1997,
10 Chapter 192, Section 3) is amended to read:

11 "7-13-3.5. BOND REQUIRED OF TAXPAYERS.--

12 A. Except as provided in Subsection H of this
13 section, every taxpayer shall file with the department a bond
14 on a form approved by the attorney general with a surety
15 company authorized by the [~~state corporation~~] public regulation
16 commission to transact business in this state as a surety and
17 upon which bond the taxpayer is the principal obligor and the
18 state the obligee. The bond shall be conditioned upon the
19 prompt filing of true reports and the payment by the taxpayer
20 to the department of all taxes levied by the Gasoline Tax Act,
21 together with all applicable penalties and interest thereon.

22 B. In lieu of the bond, the taxpayer may elect to
23 file with the department cash or bonds of the United States or
24 New Mexico or of any political subdivision of the state.

25 C. The total amount of the bond, cash or securities

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1 required of any taxpayer shall be fixed by the department and
2 may be increased or reduced by the department at any time,
3 subject to the limitations provided in this section.

4 D. In fixing the total amount of the bond, cash or
5 securities required of any taxpayer required to post bond, the
6 department shall require an equivalent in total amount to at
7 least two times the amount of the department's estimate of the
8 taxpayer's monthly gasoline tax, determined in such manner as
9 the secretary may deem proper; provided, however, the total
10 amount of bond, cash or securities required of a taxpayer shall
11 never be less than one thousand dollars (\$1,000).

12 E. In the event the department decides that the
13 amount of the existing bond, cash or securities is insufficient
14 to insure payment to this state of the amount of the gasoline
15 tax and any penalties and interest for which the taxpayer is or
16 may at any time become liable, ~~[then]~~ the taxpayer, upon
17 written demand of the department mailed to the last known
18 address of the taxpayer as shown on the records of the
19 department, shall file an additional bond, cash or securities
20 in the manner, form and amount determined by the department to
21 be necessary to secure at all times the payment by the taxpayer
22 of all taxes, penalties and interest due under the Gasoline Tax
23 Act.

24 F. A surety on a bond furnished by a taxpayer as
25 required by this section shall be released and discharged from

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1 all liability accruing on the bond after the expiration of
2 ninety days from the date upon which the surety files with the
3 department a written request to be released and discharged;
4 provided, however, that such request shall not operate to
5 release or discharge the surety from any liability already
6 accrued or that shall accrue before the expiration of the
7 ninety-day period, unless a new bond is filed during the
8 ninety-day period, in which case the previous bond may be
9 canceled as of the effective date of the new bond. On receipt
10 of notice of such request, the department promptly shall notify
11 the taxpayer who furnished the bond that the taxpayer, on or
12 before the expiration of the ninety-day period, shall file with
13 the department a new bond with a surety satisfactory to the
14 department in the amount and form required in this section.

15 G. The taxpayer required to file bond with or
16 provide cash or securities to the department in accordance with
17 this section and who is required by another state law to file
18 another bond with or provide cash or securities to the
19 department may elect to file a combined bond or provide cash or
20 securities applicable to the provisions of both this section
21 and the other law, with the approval of the secretary. The
22 amount of the combined bond, cash or securities shall be
23 determined by the department and the form of the combined bond
24 shall be approved by the attorney general.

25 H. ~~[Every taxpayer who, for the twenty-four month~~

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1 ~~period immediately preceding July 1, 1994, has not been a~~
2 ~~delinquent taxpayer pursuant to the Gasoline Tax Act is exempt~~
3 ~~from the requirement pursuant to this section to file a bond.]~~

4 A taxpayer required to file a bond pursuant to the provisions
5 of this section who, for a twenty-four consecutive month
6 period, [~~ending after July 1, 1994~~] has not been a delinquent
7 taxpayer pursuant to the Gasoline Tax Act may request to be
8 exempt from the requirement to file a bond beginning with the
9 first day of the first month following the end of the twenty-
10 four month period. If a taxpayer exempted pursuant to this
11 subsection subsequently becomes a delinquent taxpayer under the
12 Gasoline Tax Act, the department may terminate the exemption
13 and require the filing of a bond in accordance with this
14 section. If the department terminates the exemption, the
15 termination shall not be effective any earlier than ten days
16 after the date the department notifies the taxpayer in writing
17 of the termination."

18 SECTION 95. Section 7-13A-3 NMSA 1978 (being Laws 1990,
19 Chapter 124, Section 16, as amended) is amended to read:

20 "7-13A-3. IMPOSITION AND RATE OF FEE--DENOMINATION AS
21 "PETROLEUM PRODUCTS LOADING FEE".--

22 A. For the privilege of loading gasoline or special
23 fuel from a rack at a refinery or pipeline terminal in this
24 state into a cargo tank, there is imposed a fee on the
25 distributor at a rate [~~provided in Subsection C of this~~

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1 ~~section~~] of one hundred fifty dollars (\$150) per load on each
2 gallon of gasoline or special fuel loaded in New Mexico on
3 which the petroleum products loading fee has not been
4 previously paid. The fee imposed by this section may be
5 referred to as the "petroleum products loading fee".

6 B. For the privilege of importing gasoline or
7 special fuel into this state for resale or consumption in this
8 state there is imposed a fee [~~determined~~] as provided in
9 Subsection [G] A of this section on each load of gasoline or
10 special fuel imported into New Mexico for resale or consumption
11 on which the petroleum products loading fee has not been
12 previously paid. For the purposes of this section, "load"
13 means eight thousand gallons of gasoline or special fuel. To
14 determine how many loads a person is to report under the
15 provisions of this section, the person shall divide by eight
16 thousand the total gallons of gasoline reported for the
17 purposes of Section 7-13-3 NMSA 1978 as adjusted under the
18 provisions of Section 7-13-4 NMSA 1978 and the total gallons of
19 special fuels received in New Mexico less any gallons exempted
20 under Section 7-13A-4 NMSA 1978. Loads shall be calculated to
21 the nearest one-hundredth of a load.

22 [~~G. The fee imposed by this section is and may be~~
23 ~~referred to as the "petroleum products loading fee" and shall~~
24 ~~be one hundred fifty dollars (\$150) per load or whichever of~~
25 ~~the following applies:~~

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1 ~~(1) in the event the secretary of environment~~
2 ~~certifies that the unobligated balance of the corrective action~~
3 ~~fund at the end of the prior fiscal year equals or exceeds~~
4 ~~eighteen million dollars (\$18,000,000), the fee shall be set at~~
5 ~~forty dollars (\$40.00) per load;~~

6 ~~(2) in the event the secretary of environment~~
7 ~~certifies that the unobligated balance of the corrective action~~
8 ~~fund at the end of the prior fiscal year exceeds twelve million~~
9 ~~dollars (\$12,000,000) but is less than eighteen million dollars~~
10 ~~(\$18,000,000), the fee shall be set at eighty dollars (\$80.00)~~
11 ~~per load;~~

12 ~~(3) in the event the secretary of environment~~
13 ~~certifies that the unobligated balance of the corrective action~~
14 ~~fund at the end of the prior fiscal year exceeds six million~~
15 ~~dollars (\$6,000,000) but is less than twelve million dollars~~
16 ~~(\$12,000,000), the fee shall be set at one hundred twenty~~
17 ~~dollars (\$120) per load; and~~

18 ~~(4) in the event the secretary of environment~~
19 ~~certifies that the unobligated balance of the corrective action~~
20 ~~fund at the end of the prior fiscal year is less than six~~
21 ~~million dollars (\$6,000,000), the fee shall be set at one~~
22 ~~hundred fifty dollars (\$150) per load.~~

23 ~~D. The amount of the petroleum products loading fee~~
24 ~~set pursuant to Paragraph (1), (2), (3) or (4) of Subsection G~~
25 ~~of this section shall be imposed on the first day of the month~~

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1 ~~following expiration of ninety days after the end of the fiscal~~
2 ~~year for which the certification was made.~~

3 ~~E. As used in this section, "unobligated balance of~~
4 ~~the corrective action fund" means corrective action fund equity~~
5 ~~less all known or anticipated liabilities against the fund.]"~~

6 SECTION 96. Section 7-13A-5 NMSA 1978 (being Laws 1990,
7 Chapter 124, Section 18, as amended) is amended to read:

8 "7-13A-5. DEDUCTION--GASOLINE OR SPECIAL FUELS
9 RETURNED--BIODIESEL FOR SUBSEQUENT BLENDING OR RESALE BY A RACK
10 OPERATOR.--

11 A. Refunds and allowances made to buyers for
12 gasoline or special fuels returned to the refiner, pipeline
13 terminal operator or distributor or amounts of gasoline or
14 special fuels, the payment for which has not been collected and
15 has been determined to be uncollectible pursuant to [~~provisions~~
16 ~~of regulations~~] rules issued by the secretary may be deducted
17 from gallons used to determine loads for the purposes of
18 calculating the petroleum products loading fee. If such a
19 payment is subsequently collected, the gallons represented
20 shall be included in determining loads. The deduction under
21 the provisions of this section shall not be allowed if the
22 petroleum products loading fee has not been paid previously on
23 the petroleum products that were returned to the seller or the
24 sale of which created an uncollectible debt.

25 B. Biodiesel, as defined in the Special Fuels

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1 Supplier Tax Act, loaded in or imported into New Mexico and
2 delivered to a rack operator for subsequent blending or resale
3 by a rack operator may be deducted from gallons used to
4 determine loads for the purposes of calculating the petroleum
5 products loading fee.

6 C. A taxpayer that deducts an amount of biodiesel
7 pursuant to Subsection B of this section shall report the
8 deducted amount separately with the taxpayer's return in a
9 manner prescribed by the department.

10 D. ~~[The department shall calculate the aggregate~~
11 ~~amount, in dollars, of the difference between the amount of the~~
12 ~~petroleum products loading fee that would have been collected~~
13 ~~in a fiscal year if not for the deduction allowed pursuant to~~
14 ~~Subsection B of this section and the amount of the petroleum~~
15 ~~products loading fee actually collected. The department shall~~
16 ~~compile an annual report that includes the aggregate amount,~~
17 ~~the number of taxpayers that deducted an amount of biodiesel~~
18 ~~pursuant to Subsection B of this section and any other~~
19 ~~information necessary to evaluate the deduction. Beginning in~~
20 ~~2019 and every five years thereafter, the department shall~~
21 ~~compile and present the annual reports to the revenue~~
22 ~~stabilization and tax policy committee and the legislative~~
23 ~~finance committee with an analysis of the costs and benefits to~~
24 ~~the state] The deduction provided by this section shall be~~
25 included in the tax expenditure budget pursuant to Section

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1 7-1-84 NMSA 1978, including the annual aggregate cost of the
2 deduction.

3 E. For purposes of this section, "rack operator"
4 means the operator of a refinery in this state or the owner of
5 special fuel stored at a pipeline terminal in this state."

6 SECTION 97. Section 7-16A-9.4 NMSA 1978 (being Laws
7 2013, Chapter 109, Section 3) is amended to read:

8 "7-16A-9.4. REPORTING REQUIREMENTS--SPECIAL FUEL
9 DEDUCTION--BIODIESEL.--

10 A. A taxpayer that deducts an amount of special
11 fuel that is biodiesel from the total amount of special fuel
12 received in New Mexico pursuant to Paragraph (2) of Subsection
13 H of Section 7-16A-10 NMSA 1978 shall report the deducted
14 amount separately with the taxpayer's return in a manner
15 prescribed by the department.

16 B. ~~[The department shall calculate the aggregate~~
17 ~~amount, in dollars, of the difference between the amount of~~
18 ~~special fuel excise tax that would have been collected in a~~
19 ~~fiscal year if not for the deduction allowed pursuant to~~
20 ~~Paragraph (2) of Subsection H of Section 7-16A-10 NMSA 1978 and~~
21 ~~the amount of special fuel excise tax actually collected. The~~
22 ~~department shall compile an annual report that includes the~~
23 ~~aggregate amount, the number of taxpayers that deducted an~~
24 ~~amount of special fuel pursuant to Paragraph (2) of Subsection~~
25 ~~H of Section 7-16A-10 NMSA 1978 and any other information~~

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1 ~~necessary to evaluate the deduction. Beginning in 2017 and~~
2 ~~every five years thereafter, the department shall compile and~~
3 ~~present the annual reports to the revenue stabilization and tax~~
4 ~~policy committee and the legislative finance committee with an~~
5 ~~analysis of the costs and benefits of the deduction to the~~
6 ~~state.] The deduction provided by this section shall be~~
7 ~~included in the tax expenditure budget pursuant to Section~~
8 ~~7-1-84 NMSA 1978, including the annual aggregate cost of the~~
9 ~~deduction.~~"

10 SECTION 98. Section 7-16A-13.1 NMSA 1978 (being Laws
11 2001, Chapter 43, Section 2, as amended by Laws 2006, Chapter
12 73, Section 1 and by Laws 2006, Chapter 74, Section 2) is
13 amended to read:

14 "7-16A-13.1. CLAIM FOR REFUND OF SPECIAL FUEL EXCISE TAX
15 PAID ON SPECIAL FUEL.--

16 A. Upon the submission of proof satisfactory to the
17 department, a user of special fuel may submit and the
18 department may allow a claim for refund of tax paid on special
19 fuel used to propel a vehicle authorized by contract with the
20 public education department or with a public school district as
21 a school bus, to propel a vehicle off-road, to operate
22 auxiliary equipment by a power take-off from the main engine or
23 transmission of a vehicle or to operate a non-automotive
24 apparatus mounted on a vehicle when the special fuel used for
25 such purposes and the special fuel used to propel the vehicle

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1 on the highways are drawn from a common supply tank. The
2 vehicle must be registered with the department. The user must
3 be registered with the department for purposes of reporting and
4 paying gross receipts tax.

5 B. No person may submit claims for refund pursuant
6 to the provisions of this section more frequently than
7 quarterly. No claim for refund may be submitted or allowed on
8 less than one hundred gallons.

9 C. The department may prescribe the documents
10 necessary to support a claim for refund pursuant to the
11 provisions of this section. The department may prescribe the
12 use of types of monitoring or measuring equipment.

13 ~~[D. This section applies to special fuel purchased~~
14 ~~on or after July 1, 2001, except for the refund for special~~
15 ~~fuel used to propel a school bus, which applies to special fuel~~
16 ~~purchased on or after July 1, 2005.]"~~

17 SECTION 99. Section 7-16A-15 NMSA 1978 (being Laws 1992,
18 Chapter 51, Section 15, as amended) is amended to read:

19 "7-16A-15. BOND REQUIRED OF SUPPLIER.--

20 A. Except as provided in Subsection H of this
21 section, every supplier shall file with the department a bond
22 on a form approved by the attorney general with a surety
23 company authorized by the ~~[state corporation]~~ public regulation
24 commission to transact business in this state as a surety and
25 upon which bond the supplier is the principal obligor and the

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1 state the obligee. The bond shall be conditioned upon the
2 prompt filing of true reports and the payment by the supplier
3 to the department of all taxes levied by the Special Fuels
4 Supplier Tax Act, together with all applicable penalties and
5 interest thereon.

6 B. In lieu of the bond, the supplier may elect to
7 file with the department cash or bonds of the United States or
8 New Mexico or of any political subdivision of the state.

9 C. The total amount of the bond, cash or securities
10 required of any supplier shall be fixed by the department and
11 may be increased or reduced by the department at any time,
12 subject to the limitations provided in this section.

13 D. In fixing the total amount of the bond, cash or
14 securities required of any supplier required to post bond, the
15 department shall require an equivalent in total amount to at
16 least two times the amount of the department's estimate of the
17 supplier's monthly [~~special fuel excise~~] tax, determined in
18 such manner as the secretary may deem proper; provided,
19 however, the total amount of bond, cash or securities required
20 of a supplier shall never be less than one thousand dollars
21 (\$1,000).

22 E. In the event the department decides that the
23 amount of the existing bond, cash or securities is insufficient
24 to insure payment to this state of the amount of the [~~special~~
25 ~~fuel excise~~] tax and any penalties and interest for which the

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1 supplier is or may at any time become liable, ~~[then]~~ the
2 supplier shall ~~[forthwith]~~, upon written demand of the
3 department mailed to the last known address of the supplier as
4 shown on the records of the department, file an additional
5 bond, cash or securities in the manner, form and amount
6 determined by the department to be necessary to secure at all
7 times the payment by the supplier of all taxes, penalties and
8 interest due pursuant to the Special Fuels Supplier Tax Act.

9 F. Any surety on any bond furnished by any supplier
10 as required by this section shall be released and discharged
11 from all liability accruing on the bond after the expiration of
12 ninety days from the date upon which the surety files with the
13 department a written request to be released and discharged;
14 provided, however, the request shall not operate to release or
15 discharge the surety from any liability already accrued or that
16 shall accrue before the expiration of the ninety-day period,
17 unless a new bond is filed during the ninety-day period, in
18 which case the previous bond may be canceled as of the
19 effective date of the new bond. On receipt of notice of such
20 request, the department shall notify promptly the supplier who
21 furnished the bond that the supplier shall, on or before the
22 expiration of the ninety-day period, file with the department a
23 new bond with a surety satisfactory to the department in the
24 amount and form required in this section.

25 G. The supplier required to file bond with or

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1 provide cash or securities to the department in accordance with
2 this section and who is required by any other state law to file
3 another bond with or provide cash or securities to the
4 department may elect to file a combined bond or provide cash or
5 securities applicable to the provisions of both this section
6 and the other law, with the approval of the secretary. The
7 amount of the combined bond, cash or securities shall be
8 determined by the department and the form of the combined bond
9 shall be approved by the attorney general.

10 H. [~~On July 1, 1994, every supplier who, for the~~
11 ~~twenty-four month period immediately preceding that date, has~~
12 ~~not been a delinquent taxpayer under the Special Fuels Supplier~~
13 ~~Tax Act or the Special Fuels Tax Act is exempt from the~~
14 ~~requirement pursuant to this section to file a bond.~~] A
15 supplier required to file a bond pursuant to the provisions of
16 this section who, for a twenty-four consecutive month period
17 [~~ending after July 1, 1994~~] has not been a delinquent taxpayer
18 pursuant to [~~either~~] the Special Fuels Supplier Tax Act [~~or the~~
19 ~~Special Fuels Tax Act~~] may request to be exempt from the
20 requirement to file a bond beginning with the first day of the
21 first month following the end of the twenty-four month period.
22 If a supplier exempted pursuant to this subsection subsequently
23 becomes a delinquent taxpayer pursuant to the Special Fuels
24 Supplier Tax Act, the department may terminate the exemption
25 and require the filing of a bond in accordance with this

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1 section. If the department terminates the exemption, the
2 termination shall not be effective any earlier than ten days
3 after the date the department notifies the supplier in writing
4 of the termination."

5 SECTION 100. Section 7-16B-4 NMSA 1978 (being Laws 1995,
6 Chapter 16, Section 4, as amended) is amended to read:

7 "7-16B-4. IMPOSITION AND RATE OF TAX--DENOMINATION AS
8 ALTERNATIVE FUEL EXCISE TAX.--

9 A. For the privilege of distributing alternative
10 fuel in this state, there is imposed an excise tax at a rate
11 provided in Subsection C of this section on each gallon of
12 alternative fuel distributed in New Mexico.

13 B. The tax imposed by this section may be called
14 the "alternative fuel excise tax".

15 C. For each gallon of alternative fuel distributed
16 in New Mexico, the tax imposed by Subsection A of this section
17 shall be:

- 18 ~~[(1) for the period beginning January 1, 1996~~
19 ~~and ending December 31, 1997, three cents (\$0.03) per gallon;~~
- 20 ~~(2) for the period beginning January 1, 1998~~
21 ~~and ending December 31, 1999, six cents (\$0.06) per gallon;~~
- 22 ~~(3) for the period beginning January 1, 2000~~
23 ~~and ending December 31, 2001, nine cents (\$0.09) per gallon;~~
- 24 ~~(4) for the period beginning January 1, 2002~~
25 ~~and ending June 30, 2014, twelve cents (\$0.12) per gallon; and~~

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1 ~~(5)~~ for the period beginning July 1, 2014 and
2 thereafter

3 ~~(a)~~ (1) for alternative fuel that is
4 compressed natural gas, thirteen and three-tenths cents (\$.133)
5 per gallon;

6 ~~(b)~~ (2) for alternative fuel that is
7 liquefied natural gas, twenty and six-tenths cents (\$.206) per
8 gallon; and

9 ~~(c)~~ (3) for alternative fuel not described
10 in [~~Subparagraph (a) or (b) of this~~] Paragraph (1) or (2) of
11 this subsection, twelve cents (\$.12) per gallon.

12 D. Alternative fuel purchased for distribution
13 shall not be subject to the alternative fuel excise tax at the
14 time of purchase or acquisition, but the tax shall be due on
15 any alternative fuel at the time it is dispensed or delivered
16 into the supply tank of a motor vehicle that is operated on the
17 highways of this state."

18 SECTION 101. Section 7-19-11 NMSA 1978 (being Laws 1979,
19 Chapter 397, Section 2, as amended) is amended to read:

20 "7-19-11. DEFINITIONS.--As used in the Supplemental
21 Municipal Gross Receipts Tax Act:

22 A. "department" [~~or "division"~~] means the taxation
23 and revenue department, the secretary of taxation and revenue
24 or any employee of the department exercising authority lawfully
25 delegated to that employee by the secretary;

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

3 C. "municipality" means any incorporated city, town
4 or village having previously qualified to impose and did impose
5 the tax pursuant to the provisions of the Supplemental
6 Municipal Gross Receipts Tax Act in effect prior to [~~this 1997~~
7 ~~act~~] the enactment of Laws 1997, Chapter 219;

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

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

14 F. "state gross receipts tax" means the gross
15 receipts tax imposed under the Gross Receipts and Compensating
16 Tax Act; and

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

20 SECTION 102. Section 7-19-12 NMSA 1978 (being Laws 1979,
21 Chapter 397, Section 3, as amended) is amended to read:

22 "7-19-12. AUTHORIZATION TO IMPOSE SUPPLEMENTAL MUNICIPAL
23 GROSS RECEIPTS TAX--AUTHORIZATION FOR ISSUANCE OF SUPPLEMENTAL
24 MUNICIPAL GROSS RECEIPTS BONDS--ELECTION REQUIRED.--

25 A. The majority of the members elected to the

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

9 B. The governing body of a municipality enacting an
10 ordinance imposing the tax authorized in Subsection A of this
11 section shall submit the question of imposing such tax and the
12 question of the issuance of supplemental municipal gross
13 receipts bonds in an amount not to exceed nine million dollars
14 (\$9,000,000), for which the revenue from the supplemental
15 municipal gross receipts tax is dedicated, to the qualified
16 electors of the municipality at a regular or special election.

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

21 (1) "Shall the municipality be authorized to
22 issue supplemental municipal gross receipts bonds in an amount
23 of not exceeding _____ dollars for the purpose
24 of constructing and equipping and otherwise acquiring a
25 municipal water supply system?

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1 For _____ Against _____"; and
2 (2) "Shall the municipality impose an excise
3 tax for the privilege of engaging in business in the
4 municipality which shall be known as the "supplemental
5 municipal gross receipts tax" and which shall be imposed at a
6 rate of _____ percent of the gross receipts of the person
7 engaging in business, the proceeds of which are dedicated to
8 the payment of supplemental municipal gross receipts bonds?

9 For _____ Against _____".

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

16 E. If at an election called pursuant to this
17 section a majority of the voters voting on each of the two
18 questions [~~vote~~] votes in the affirmative on each [~~such~~]
19 question, [~~then~~] the ordinance imposing the supplemental
20 municipal gross receipts tax shall be approved. If at such
21 election a majority of the voters voting on such questions
22 [~~fail~~] fails to approve any of the questions, [~~then~~] the
23 ordinance imposing the tax shall be disapproved and the
24 questions required to be submitted by Subsection B of this
25 section shall not be submitted to the voters for a period of

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1 one year from the date of the election.

2 F. Except as provided in Subsection G of this
3 section, any ordinance enacted under the provisions of this
4 section shall include an effective date of [~~either~~] the first
5 July 1 [~~or January 1, whichever date occurs first~~] after the
6 expiration of at least [~~five~~] three months from the date of the
7 election. A certified copy of any ordinance imposing a
8 supplemental municipal gross receipts tax shall be mailed to
9 the [~~division~~] department within five days after the ordinance
10 is adopted by the approval by the electorate. Any ordinance
11 repealing the imposition of a tax under the provisions of the
12 Supplemental Municipal Gross Receipts Tax Act shall become
13 effective on [~~either~~] the first July 1 [~~or January 1~~] after the
14 expiration of at least [~~five~~] three months from the date the
15 ordinance is repealed by the governing body.

16 G. [~~Nothing in this section is intended to or does~~
17 ~~alter the effectiveness or validity of any actions taken in~~
18 ~~accordance with Subsection G of Section 80 of Chapter 20 of~~
19 ~~Laws 1986~~] If the governor declares a state of emergency, or if
20 there is an unforeseen occurrence that would cause a
21 municipality's reserves to drop below the amount required by
22 the local government division of the department of finance and
23 administration, as certified by the division, an ordinance
24 imposing a tax or an increment of a tax may become effective on
25 the first January 1 after the expiration of at least three

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1 months after such a declaration or event and notification to
2 the department."

3 SECTION 103. Section 7-19-13 NMSA 1978 (being Laws 1979,
4 Chapter 397, Section 4) is amended to read:

5 "7-19-13. ORDINANCE [~~MUST~~] SHALL CONFORM TO CERTAIN
6 PROVISIONS OF THE GROSS RECEIPTS AND COMPENSATING TAX ACT AND
7 REQUIREMENTS OF THE [~~DIVISION~~] DEPARTMENT.--

8 A. Any ordinance imposing a supplemental municipal
9 gross receipts tax shall adopt by reference the same
10 definitions and the same provisions relating to exemptions and
11 deductions as are contained in the Gross Receipts and
12 Compensating Tax Act then in effect and as it may be amended
13 from time to time.

14 B. The governing body of any municipality imposing
15 or increasing the supplemental municipal gross receipts tax
16 [~~must~~] shall adopt the language of the model ordinance
17 furnished to the municipality by the [~~division~~] department for
18 the portion of the ordinance relating to the tax."

19 SECTION 104. Section 7-19-14 NMSA 1978 (being Laws 1979,
20 Chapter 397, Section 5, as amended) is amended to read:

21 "7-19-14. SPECIFIC EXEMPTIONS.--No supplemental
22 municipal gross receipts tax shall be imposed on the gross
23 receipts arising from [~~A. prior to July 1, 2021, transporting~~
24 ~~persons or property for hire by railroad, motor vehicle, air~~
25 ~~transportation or any other means from one point within the~~

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1 ~~municipality to another point outside the municipality; or B.]~~
2 a business located outside the boundaries of a municipality on
3 land owned by that municipality for which a gross receipts tax
4 distribution is made pursuant to Section 7-1-6.4 NMSA 1978."

5 SECTION 105. Section 7-19-16 NMSA 1978 (being Laws 1979,
6 Chapter 397, Section 7) is amended to read:

7 "7-19-16. INTERPRETATION OF ACT--ADMINISTRATION AND
8 ENFORCEMENT OF TAX.--

9 A. The ~~[division]~~ department shall interpret the
10 provisions of the Supplemental Municipal Gross Receipts Tax
11 Act.

12 B. The ~~[division]~~ department shall administer and
13 enforce the collection of the supplemental municipal gross
14 receipts tax, and the Tax Administration Act applies to the
15 administration and enforcement of the tax."

16 SECTION 106. Section 7-19D-3 NMSA 1978 (being Laws 1993,
17 Chapter 346, Section 3) is amended to read:

18 "7-19D-3. EFFECTIVE DATE OF ORDINANCE.--

19 A. Except as provided in Subsection B of this
20 section, an ordinance imposing, amending or repealing a tax or
21 an increment of tax authorized by the Municipal Local Option
22 Gross Receipts and Compensating Taxes Act shall be effective on
23 the first July 1 [~~or January 1, whichever date occurs first~~]
24 after the expiration of at least three months from the date the
25 adopted ordinance is mailed or delivered to the department.

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1 B. If the governor declares a state of emergency,
2 or if there is an unforeseen occurrence that would cause a
3 municipality's reserves to drop below the amount required by
4 the local government division of the department of finance and
5 administration, as certified by the division, an ordinance
6 imposing a tax or an increment of a tax may become effective on
7 the first January 1 after the expiration of at least three
8 months after such a declaration or event and notification to
9 the department.

10 C. The ordinance imposing, amending or repealing a
11 tax or an increment of tax shall include [that] the effective
12 date."

13 SECTION 107. Section 7-19D-5 NMSA 1978 (being Laws 1993,
14 Chapter 346, Section 5, as amended) is amended to read:

15 "7-19D-5. SPECIFIC EXEMPTIONS.--No tax authorized by the
16 provisions of the Municipal Local Option Gross Receipts and
17 Compensating Taxes Act shall be imposed on the gross receipts
18 arising from [~~A. prior to July 1, 2021, transporting persons~~
19 ~~or property for hire by railroad, motor vehicle, air~~
20 ~~transportation or any other means from one point within the~~
21 ~~municipality to another point outside the municipality; or B.]~~
22 a business located outside the boundaries of a municipality on
23 land owned by that municipality for which a state gross
24 receipts tax distribution is made pursuant to Section 7-1-6.4
25 NMSA 1978."

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1 SECTION 108. Section 7-19D-17 NMSA 1978 (being Laws
2 2012, Chapter 58, Section 1, as amended) is amended to read:

3 "7-19D-17. FEDERAL WATER PROJECT GROSS RECEIPTS TAX--
4 AUTHORIZATION--USE OF REVENUE--REFERENDUM.--

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

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

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

25 D. An ordinance imposing the federal water project

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1 gross receipts tax shall not go into effect until an election
2 is held and a majority of the voters of the municipality voting
3 in the election votes in favor of imposing the tax. The
4 governing body shall adopt a resolution calling for an election
5 within seventy-five days of the date the ordinance is adopted
6 on the question of imposing the tax. The question shall be
7 submitted to the voters of the municipality as a separate
8 question at a regular local election or at a special election
9 called for that purpose by the governing body. An election
10 shall be called, conducted and canvassed as provided in the
11 Local Election Act. If a majority of the voters voting on the
12 question approves the ordinance imposing the federal water
13 project gross receipts tax, then the ordinance shall become
14 effective on [~~January 1 or~~] July 1 in accordance with the
15 provisions of the Municipal Local Option Gross Receipts and
16 Compensating Taxes Act. If the question of imposing the
17 federal water project gross receipts tax fails, the governing
18 body shall not again propose the imposition of the tax for a
19 period of one year from the date of the election.

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

23 ~~F.]~~ E. As used in this section, "municipality"
24 means an incorporated municipality that has a population
25 pursuant to the most recent federal decennial census of greater

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1 than twenty thousand but less than twenty-five thousand and is
2 located in a class B county."

3 SECTION 109. Section 7-20E-3 NMSA 1978 (being Laws 1993,
4 Chapter 354, Section 3, as amended) is amended to read:

5 "7-20E-3. OPTIONAL REFERENDUM SELECTION--EFFECTIVE DATE
6 OF ORDINANCE.--

7 A. The governing body of a county imposing a tax or
8 an increment of tax authorized by the County Local Option Gross
9 Receipts and Compensating Taxes Act or any other county local
10 option gross receipts tax act that is subject to optional
11 referendum selection shall select, when enacting the ordinance
12 imposing the tax, one of the following referendum options:

13 (1) except as provided in Subsection C of
14 this section, the ordinance imposing the tax or increment of
15 tax shall go into effect on July 1 [~~or January 1~~] in accordance
16 with the provisions of the County Local Option Gross Receipts
17 and Compensating Taxes Act, but an election may be called in
18 the county on the question of approving or disapproving that
19 ordinance as follows:

20 (a) an election shall be called when:
21 1) in a county having a referendum provision in its charter, a
22 petition requesting such an election is filed pursuant to the
23 requirements of that provision in the charter and signed by the
24 number of registered voters in the county equal to the number
25 of registered voters required in its charter to seek a

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1 referendum; and 2) in all other counties, a petition requesting
2 such an election is filed with the county clerk within sixty
3 days of enactment of the ordinance by the governing body and
4 the petition has been signed by a number of registered voters
5 in the county equal to at least five percent of the number of
6 the voters in the county who were registered to vote in the
7 most recent general election;

8 (b) the signatures on the petition
9 requesting an election shall be verified by the county clerk.
10 If the petition is verified by the county clerk as containing
11 the required number of signatures of registered voters, the
12 governing body shall adopt a resolution calling an election on
13 the question of approving or disapproving the ordinance. The
14 election shall be held within sixty days after the date the
15 petition is verified by the county clerk, or it may be held in
16 conjunction with a general election if that election occurs
17 within sixty days after the date of the verification. The
18 election shall be called, held, conducted and canvassed in
19 substantially the same manner as provided by law for general
20 elections; and

21 (c) if a majority of the registered
22 voters voting on the question approves the ordinance, the
23 ordinance shall go into effect on July 1 or January 1 in
24 accordance with the provisions of the County Local Option Gross
25 Receipts and Compensating Taxes Act. If at such an election a

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1 majority of the registered voters voting on the question
2 disapproves the ordinance, the ordinance imposing the tax shall
3 be deemed repealed and the question of imposing the tax or
4 increment of tax shall not be considered again by the governing
5 body for a period of one year from the date of the election; or

6 (2) the ordinance imposing the tax or
7 increment of tax shall not go into effect until after an
8 election is held and a simple majority of the registered voters
9 of the county voting on the question votes in favor of imposing
10 the tax or increment of tax. The governing body shall adopt a
11 resolution calling for an election within seventy-five days of
12 the date the ordinance is adopted on the question of imposing
13 the tax or increment of tax. Such question may be submitted to
14 the voters and voted upon as a separate question at any general
15 election or at any special election called for that purpose by
16 the governing body. The election upon the question shall be
17 called, held, conducted and canvassed in substantially the same
18 manner as may be provided by law for general elections. If the
19 question of imposing the tax or increment of tax fails, the
20 governing body shall not again propose the tax or increment of
21 tax for a period of one year after the election.

22 B. Except as provided in Subsection C of this
23 section, an ordinance imposing, amending or repealing a tax or
24 an increment of tax authorized by the County Local Option Gross
25 Receipts and Compensating Taxes Act shall be effective on the

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1 first July 1 [~~or January 1, whichever date occurs first~~] after
2 the expiration of at least three months from the date the
3 adopted ordinance is mailed or delivered to the department.

4 C. If the governor declares a state of emergency,
5 or if there is an unforeseen occurrence that would cause a
6 county's reserves to drop below the amount required by the
7 local government division of the department of finance and
8 administration, as certified by the division, an ordinance
9 imposing a tax or an increment of a tax may become effective on
10 the first January 1 after the expiration of at least three
11 months after such a declaration or event and notification to
12 the department.

13 D. The ordinance imposing, amending or repealing a
14 tax or an increment of tax shall include ~~that~~ the effective
15 date."

16 SECTION 110. Section 7-20E-13 NMSA 1978 (being Laws
17 1987, Chapter 45, Section 3, as amended) is amended to read:

18 "7-20E-13. SPECIAL COUNTY HOSPITAL GROSS RECEIPTS TAX--
19 AUTHORITY TO IMPOSE--ORDINANCE REQUIREMENTS.--

20 A. The majority of the members of the governing
21 body may enact an ordinance imposing an excise tax on any
22 person engaging in business in the county for the privilege of
23 engaging in business. The rate of the tax shall be one-eighth
24 [~~of one~~] percent of the gross receipts of the person engaging
25 in business. The tax shall be imposed for a period of not more

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1 than five years from the effective date of the ordinance
2 imposing the tax. Having once enacted an ordinance under this
3 section, the governing body may enact subsequent ordinances for
4 succeeding periods of not more than five years; provided that
5 each such ordinance meets the requirements of the County Local
6 Option Gross Receipts and Compensating Taxes Act with respect
7 to the tax imposed by this section.

8 B. The tax imposed by this section may be referred
9 to as the "special county hospital gross receipts tax".

10 C. For the purposes of this section, "county"
11 means:

12 (1) a county:
13 (a) having a population of more than ten
14 thousand but less than ten thousand six hundred, according to
15 the last federal decennial census or any subsequent decennial
16 census, and having a net taxable value for rate-setting
17 purposes for the 1986 property tax year or any subsequent year
18 of more than eighty-two million dollars (\$82,000,000) but less
19 than eighty-two million three hundred thousand dollars
20 (\$82,300,000);

21 (b) that has imposed a rate of one
22 dollar fifty cents (\$1.50) to each one thousand dollars
23 (\$1,000) of net taxable value of property as defined in the
24 Property Tax Code for property taxation purposes in the county
25 and to each one thousand dollars (\$1,000) of the assessed value

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1 of products severed and sold in the school district as
2 determined under the Oil and Gas Ad Valorem Production Tax Act
3 and the Oil and Gas Production Equipment Ad Valorem Tax Act or
4 has made an appropriation of funds or has imposed another tax
5 that produces an amount not less than the revenue that would be
6 produced by applying a rate of one dollar fifty cents (\$.50)
7 to each one thousand dollars (\$1,000) of net taxable value of
8 property as defined in the Property Tax Code for property
9 taxation purposes in the school district and to each one
10 thousand dollars (\$1,000) of the assessed value of products
11 severed and sold in the school district as determined under the
12 Oil and Gas Ad Valorem Production Tax Act and the Oil and Gas
13 Production Equipment Ad Valorem Tax Act. The proceeds of any
14 tax imposed or appropriation made shall be dedicated for
15 current operations and maintenance of a hospital owned and
16 operated by the county or operated and maintained by another
17 party pursuant to a lease with the county; and

18 (c) having qualified at any time under
19 this definition shall continue to be qualified as a county and
20 authorized to implement the provisions of this section; and

21 (2) a class B county having a population of
22 more than seventeen thousand five hundred but less than
23 nineteen thousand according to the 1990 federal decennial
24 census and having a net taxable value for property tax rate-
25 setting purposes of under three hundred million dollars

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1 (\$300,000,000).

2 D. The governing body of a county described in
3 Paragraph (1) of Subsection C of this section shall, at the
4 time of enacting an ordinance imposing the rate of the tax
5 authorized in Subsection A of this section, dedicate the
6 revenue for current operations and maintenance of a hospital
7 owned and operated by the county or operated and maintained by
8 another party pursuant to a lease with the county, and the use
9 of these proceeds shall be for the care and maintenance of sick
10 and indigent persons and shall be an expenditure for a public
11 purpose. In any election held, the ballot shall clearly state
12 the purpose to which the revenue will be dedicated, and the
13 revenue shall be used by the county for that purpose.

14 E. The governing body of a county described in
15 Paragraph (2) of Subsection C of this section shall, at the
16 time of enacting an ordinance imposing the rate of the tax
17 authorized in Subsection A of this section, dedicate the
18 revenue for county ambulance transport costs or for operation
19 of a rural health clinic. In any election held, the ballot
20 shall clearly state the purposes to which the revenue will be
21 dedicated, and the revenue shall be used by the county for
22 those purposes.

23 F. Any ordinance enacted under the provisions of
24 Subsection A of this section shall include an effective date of
25 ~~[either]~~ July 1 ~~[or January 1]~~ in accordance with the

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1 provisions of the County Local Option Gross Receipts and
2 Compensating Taxes Act.

3 G. The ordinance shall not go into effect until
4 after an election is held and a simple majority of the
5 qualified electors of the county voting in the election votes
6 in favor of imposing the special county hospital gross receipts
7 tax. The governing body shall adopt a resolution calling for
8 an election within seventy-five days of the date the ordinance
9 is adopted on the question of imposing the tax. The question
10 may be submitted to the qualified electors and voted upon as a
11 separate question in a general election or in any special
12 election called for that purpose by the governing body. A
13 special election upon the question shall be called, held,
14 conducted and canvassed in substantially the same manner as
15 provided by law for general elections. If the question of
16 imposing a special county hospital gross receipts tax fails,
17 the governing body shall not again propose a special county
18 hospital gross receipts tax for a period of one year after the
19 election. A certified copy of any ordinance imposing a special
20 county hospital gross receipts tax shall be mailed to the
21 department within five days after the ordinance is adopted in
22 any election called for that purpose.

23 H. A single election may be held on the question of
24 imposing a special county hospital gross receipts tax as
25 authorized in this section [~~on the question of imposing a~~

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1 ~~special county hospital gasoline tax as authorized in the~~
2 ~~Special County Hospital Gasoline Tax Act]~~ and on the question
3 of imposing a mill levy pursuant to the Hospital Funding Act."

4 SECTION 111. Section 7-20E-18 NMSA 1978 (being Laws
5 1991, Chapter 212, Section 7, as amended) is amended to read:

6 "7-20E-18. COUNTY HEALTH CARE GROSS RECEIPTS TAX--
7 AUTHORITY TO IMPOSE RATE.--

8 A. The majority of the members of the governing
9 body of any county may enact an ordinance imposing an excise
10 tax at a rate of one-sixteenth percent of the gross receipts of
11 any person engaging in business in the county for the privilege
12 of engaging in business in the county. Any ordinance imposing
13 an excise tax pursuant to this section shall not be subject to
14 a referendum. The governing body of a county shall, at the
15 time of enacting an ordinance imposing the tax, dedicate the
16 revenue to the county-supported medicaid fund. This tax is to
17 be referred to as the "county health care gross receipts tax".

18 B. In addition to the imposition of the county
19 health care gross receipts tax authorized by Subsection A of
20 this section, the majority of the members of the governing body
21 of a county having a population of more than five hundred
22 thousand persons according to the most recent federal decennial
23 census may enact an ordinance imposing an additional one-
24 sixteenth percent increment of county health care gross
25 receipts tax; provided that the imposition of the additional

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1 increment shall be for a period that ends no later than June
2 30, 2009. To continue an increment after June 30, 2009 or
3 beyond any five-year period for which the increment has been
4 imposed, the members of the governing body shall review the
5 need for the increment and if the majority of the members vote
6 in favor of continuing the increment imposed pursuant to this
7 subsection, the increment shall be imposed for an additional
8 period of five years. The governing body of the county shall,
9 at the time of enacting an ordinance imposing the additional
10 increment of county health care gross receipts tax, dedicate
11 the revenue to the support of indigent patients.

12 C. Any ordinance enacted pursuant to the provisions
13 of Subsection A or B of this section shall include an effective
14 date of [~~either~~] July 1 [~~or January 1~~] in accordance with the
15 provisions of the County Local Option Gross Receipts and
16 Compensating Taxes Act."

17 SECTION 112. Section 7-20E-26 NMSA 1978 (being Laws
18 2007, Chapter 346, Section 1) is amended to read:

19 "7-20E-26. WATER AND SANITATION GROSS RECEIPTS TAX--
20 AUTHORITY TO IMPOSE--RATE--ELECTION--USE OF REVENUE.--

21 A. An excise tax imposed by a governing body
22 pursuant to this section may be referred to as the "water and
23 sanitation gross receipts tax". The water and sanitation gross
24 receipts tax shall be imposed by a governing body as set forth
25 in this section, contingent upon a majority of the voters

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1 voting in an election on the question of whether to impose a
2 water and sanitation gross receipts tax voting in favor of the
3 imposition.

4 B. Upon receipt of a resolution adopted and
5 submitted by the board of directors of a water and sanitation
6 district that requests the governing body to impose a water and
7 sanitation gross receipts tax on behalf of the water and
8 sanitation district, a governing body shall enact an ordinance
9 imposing a water and sanitation gross receipts tax in that
10 water and sanitation district. The ordinance shall impose the
11 tax at a rate of one-fourth percent on a person engaging in
12 business within the area of the county located within the water
13 and sanitation district for the privilege of engaging in
14 business within that water and sanitation district within the
15 county.

16 C. The governing body, at the time of enacting an
17 ordinance imposing a water and sanitation gross receipts tax
18 authorized pursuant to Subsection A of this section, shall
19 dedicate the revenue only for the operation of the water and
20 sanitation district for which the tax is imposed. The tax
21 shall be imposed for six years from the date on which the water
22 and sanitation gross receipts tax goes into effect.

23 D. Within sixty days of the date the ordinance is
24 adopted by the governing body, the governing body shall adopt a
25 resolution calling for an election on the question of whether

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1 to impose a water and sanitation gross receipts tax. The
2 question shall be submitted to the voters of the water and
3 sanitation district requesting the county to impose the tax. A
4 special election shall be called, conducted and canvassed in
5 substantially the same manner as provided by law for general
6 elections. If a majority of the voters voting on the question
7 approves the ordinance imposing the water and sanitation gross
8 receipts tax, then the ordinance shall become effective in
9 accordance with the provisions of the County Local Option Gross
10 Receipts and Compensating Taxes Act on [~~either January 1 or~~
11 the first July 1 following the election approving the
12 imposition of the tax, except as provided in Subsection E of
13 this section. If the question of imposing the water and
14 sanitation gross receipts tax fails, a resolution from the
15 board of directors of the water and sanitation district
16 initiating the request to the county to impose a water and
17 sanitation gross receipts tax may not again be submitted to the
18 governing body for a period of one year from the date of the
19 election.

20 E. If the governor declares a state of emergency,
21 or if there is an unforeseen occurrence that would cause a
22 district's reserves to drop below the amount required by the
23 local government division of the department of finance and
24 administration, as certified by the division, an ordinance
25 imposing a tax or an increment of a tax may become effective on

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1 the first January 1 after the expiration of at least three
2 months after such a declaration or event and notification to
3 the department.

4 [E-] F. The proceeds from the water and sanitation
5 gross receipts tax shall be administered by the governing body
6 and disbursed by the county treasurer to the appropriate water
7 and sanitation district in amounts and for the purposes
8 authorized in this section and as set out in the resolution
9 submitted by the board of directors to the governing body. An
10 agreement shall be entered into between the water and
11 sanitation district and the governing body that sets out the
12 responsibilities of both parties regarding administration,
13 distribution and use of the revenue from the water and
14 sanitation gross receipts tax."

15 SECTION 113. Section 7-26-2 NMSA 1978 (being Laws 1977,
16 Chapter 102, Section 4, as amended) is amended to read:

17 "7-26-2. DEFINITIONS.--As used in the Severance Tax Act:

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

22 B. "natural resource" means timber and any
23 metalliferous or nonmetalliferous mineral product, combination
24 or compound thereof but does not include oil, natural gas,
25 liquid hydrocarbon, individually or any combination thereof, or

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1 carbon dioxide;

2 C. "severer" means any person engaging in the
3 business of severing natural resources that the person owns or
4 any person who is the owner of natural resources and has
5 another person perform the severing of such natural resources;

6 D. "severing" means mining, quarrying, extracting,
7 felling or producing any natural resources in New Mexico;

8 E. "owner", when used in connection with the
9 severing of any of the natural resources covered by the
10 Severance Tax Act under any lease or contract with the state or
11 United States, includes any person having the right to sever
12 those resources; and

13 F. [~~"director" or~~] "secretary" means the secretary
14 of taxation and revenue."

15 SECTION 114. Section 7-29-2 NMSA 1978 (being Laws 1959,
16 Chapter 52, Section 2, as amended) is amended to read:

17 "7-29-2. DEFINITIONS.--As used in the Oil and Gas
18 Severance Tax Act:

19 A. [~~"commission"~~] "department" [~~"division" or "oil
20 and gas accounting division"~~] means the taxation and revenue
21 department, the secretary of taxation and revenue or any
22 employee of the department exercising authority lawfully
23 delegated to that employee by the secretary;

24 B. "production unit" means a unit of property
25 designated by the department from which products of common

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1 ownership are severed;

2 C. "severance" means the taking from the soil,
3 produced water, tank bottoms or an oil-water separator of any
4 product, including accumulations of product, in any manner
5 whatsoever;

6 D. "value" means the actual price received for
7 products at the production unit, except as otherwise provided
8 in the Oil and Gas Severance Tax Act;

9 E. "product" or "products" means oil, including
10 crude oil, slop oil, sediment oil or skim oil and condensate;
11 natural gas; liquid hydrocarbon, including ethane, propane,
12 isobutene, normal butane and pentanes plus, individually or any
13 combination thereof; and non-hydrocarbon gases, including
14 carbon dioxide and helium;

15 F. "operator" means any person:

16 (1) engaged in the severance of products from
17 a production unit; or

18 (2) owning an interest in any product at the
19 time of severance who receives a portion or all of such product
20 for the person's interest;

21 G. "primary recovery" means the displacement of oil
22 and of other liquid hydrocarbons removed from natural gas at or
23 near the wellhead from an oil well or pool as classified by the
24 oil conservation division of the energy, minerals and natural
25 resources department pursuant to Paragraph (11) of Subsection B

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1 of Section 70-2-12 NMSA 1978 into the wellbore by means of the
2 natural pressure of the oil well or pool, including [~~but not~~
3 ~~limited to~~] artificial lift;

4 H. "purchaser" means a person who is the first
5 purchaser of:

6 (1) a product after severance from a
7 production unit, except as otherwise provided in the Oil and
8 Gas Severance Tax Act; or

9 (2) slop oil, sediment oil or skim oil and
10 condensate, including the first purchaser of slop oil, sediment
11 oil or skim oil from a person other than an operator or at a
12 production unit;

13 I. "person" means any individual, estate, trust,
14 receiver, business trust, corporation, firm, co-partnership,
15 cooperative, joint venture, association or other group or
16 combination acting as a unit, and the plural as well as the
17 singular number;

18 J. "interest owner" means a person owning an entire
19 or fractional interest of whatsoever kind or nature in the
20 products at the time of severance from a production unit, or
21 who has a right to a monetary payment that is determined by the
22 value of such products;

23 K. "new production natural gas well" means a
24 producing crude oil or natural gas well proration unit that
25 begins its initial natural gas production on or after May 1,

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1 1987 as determined by the oil conservation division of the
2 energy, minerals and natural resources department;

3 L. "qualified enhanced recovery project", prior to
4 January 1, 1994, means the use or the expanded use of carbon
5 dioxide, when approved by the oil conservation division of the
6 energy, minerals and natural resources department pursuant to
7 the Enhanced Oil Recovery Act, for the displacement of oil and
8 of other liquid hydrocarbons removed from natural gas at or
9 near the wellhead from an oil well or pool classified by the
10 oil conservation division pursuant to Paragraph (11) of
11 Subsection B of Section 70-2-12 NMSA 1978;

12 M. "qualified enhanced recovery project", on and
13 after January 1, 1994, means the use or the expanded use of any
14 process approved by the oil conservation division of the
15 energy, minerals and natural resources department pursuant to
16 the Enhanced Oil Recovery Act for the displacement of oil and
17 of other liquid hydrocarbons removed from natural gas at or
18 near the wellhead from an oil well or pool classified by the
19 oil conservation division pursuant to Paragraph (11) of
20 Subsection B of Section 70-2-12 NMSA 1978, other than a primary
21 recovery process; the term includes ~~[but is not limited to]~~ the
22 use of a pressure maintenance process, a water flooding process
23 and immiscible, miscible, chemical, thermal or biological
24 process or any other related process;

25 N. "production restoration project" means the use

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1 of any process for returning to production a natural gas or oil
2 well that had thirty days or less of production in any period
3 of twenty-four consecutive months beginning on or after January
4 1, 1993, as approved and certified by the oil conservation
5 division of the energy, minerals and natural resources
6 department pursuant to the Natural Gas and Crude Oil Production
7 Incentive Act;

8 O. "well workover project" means any procedure
9 undertaken by the operator of a natural gas or crude oil well
10 that is intended to increase the production from the well and
11 that has been approved and certified by the oil conservation
12 division of the energy, minerals and natural resources
13 department pursuant to the Natural Gas and Crude Oil Production
14 Incentive Act;

15 P. "stripper well property" means a crude oil or
16 natural gas producing property that is assigned a single
17 production unit number by the department and is certified by
18 the oil conservation division of the energy, minerals and
19 natural resources department pursuant to the Natural Gas and
20 Crude Oil Production Incentive Act to have produced in the
21 preceding calendar year:

22 (1) if a crude oil producing property, an
23 average daily production of less than ten barrels of oil per
24 eligible well per day;

25 (2) if a natural gas producing property, an

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1 average daily production of less than sixty thousand cubic feet
2 of natural gas per eligible well per day; or

3 (3) if a property with wells that produce
4 both crude oil and natural gas, an average daily production of
5 less than ten barrels of oil per eligible well per day, as
6 determined by converting the volume of natural gas produced by
7 the well to barrels of oil by using a ratio of six thousand
8 cubic feet to one barrel of oil;

9 Q. "average annual taxable value" means as
10 applicable:

11 (1) the average of the taxable value per one
12 thousand cubic feet, determined pursuant to Section 7-31-5 NMSA
13 1978, of all natural gas produced in New Mexico for the
14 specified calendar year as determined by the department; or

15 (2) the average of the taxable value per
16 barrel, determined pursuant to Section 7-31-5 NMSA 1978, of all
17 oil produced in New Mexico for the specified calendar year as
18 determined by the department;

19 R. "tax" means the oil and gas severance tax; ~~and~~

20 S. "volume" means the quantity of product severed
21 reported using:

22 (1) oil, condensate and slop oil in barrels;
23 and

24 (2) natural gas, liquid hydrocarbons, helium
25 and carbon dioxide in thousand cubic feet at a pressure base of

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1 fifteen and twenty-five thousandths pounds per square inch;

2 T. "sediment oil" means an accumulation of products
3 that is not merchantable other than through an oil and gas
4 lease;

5 U. "skim oil" means oil or condensate recovered
6 from a produced water gathering system prior to injection or
7 other disposal of the water;

8 V. "slop oil" means floating oil and solids that
9 accumulate on the surface of an oil-water separator;

10 W. "oil-water separator" means wastewater treatment
11 equipment used to separate oil from water consisting of a
12 separation tank, including the forebay and other separator
13 basins, skimmers, weirs, grit chambers and sludge hoppers.
14 "Oil-water separator" includes slop oil facilities and
15 associated tanks, storage vessels and auxiliary equipment
16 located between individual drain systems and the oil-water
17 separator. "Oil-water separator" does not include storage
18 vessels or auxiliary equipment that do not come in contact with
19 or store oily wastewater; and

20 X. "produced water" means a fluid that is an
21 incidental byproduct from drilling for or the production of
22 products."

23 SECTION 115. Section 7-29-4 NMSA 1978 (being Laws 1980,
24 Chapter 62, Section 5, as amended) is amended to read:

25 "7-29-4. OIL AND GAS SEVERANCE TAX IMPOSED--

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1 COLLECTION--INTEREST OWNER'S LIABILITY TO STATE--INDIAN
2 LIABILITY.--

3 A. There is imposed and shall be collected by the
4 department a tax on all products that are severed and sold,
5 except as provided in Subsection B of this section. The
6 measure of the tax and the rates are:

7 (1) on natural gas severed and sold, except
8 as provided in Paragraphs (4), (6) and (7) of this subsection,
9 three and three-fourths percent of the taxable value determined
10 pursuant to Section 7-29-4.1 NMSA 1978;

11 (2) on oil and on other liquid hydrocarbons
12 removed from natural gas at or near the wellhead, except as
13 provided in Paragraphs (3), (5), (8) and (9) of this
14 subsection, and on slop oil, sediment oil and skim oil,
15 wherever removed or recovered, three and three-fourths percent
16 of taxable value determined pursuant to Section 7-29-4.1 NMSA
17 1978;

18 (3) on oil and on other liquid hydrocarbons
19 removed from natural gas at or near the wellhead produced from
20 a qualified enhanced recovery project, one and seven-eighths
21 percent of the taxable value determined pursuant to Section
22 7-29-4.1 NMSA 1978, provided that the annual average price of
23 west Texas intermediate crude oil, determined by the department
24 by averaging the posted prices in effect on the last day of
25 each month of the twelve-month period ending on May 31 prior to

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1 the fiscal year in which the tax rate is to be imposed, was
2 less than twenty-eight dollars (\$28.00) per barrel;

3 (4) on the natural gas from a well workover
4 project that is certified by the oil conservation division of
5 the energy, minerals and natural resources department in its
6 approval of the well workover project, two and forty-five
7 hundredths percent of the taxable value determined pursuant to
8 Section 7-29-4.1 NMSA 1978, provided that the annual average
9 price of west Texas intermediate crude oil, determined by the
10 department by averaging the posted prices in effect on the last
11 day of each month of the twelve-month period ending on May 31
12 prior to the fiscal year in which the tax rate is to be
13 imposed, was less than twenty-four dollars (\$24.00) per barrel;

14 (5) on the oil and on other liquid
15 hydrocarbons removed from natural gas at or near the wellhead
16 from a well workover project that is certified by the oil
17 conservation division of the energy, minerals and natural
18 resources department in its approval of the well workover
19 project, two and forty-five hundredths percent of the taxable
20 value determined pursuant to Section 7-29-4.1 NMSA 1978,
21 provided that the annual average price of west Texas
22 intermediate crude oil, determined by the department by
23 averaging the posted prices in effect on the last day of each
24 month of the twelve-month period ending on May 31 prior to the
25 fiscal year in which the tax rate is to be imposed, was less

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1 than twenty-four dollars (\$24.00) per barrel;

2 (6) on the natural gas from a stripper well
3 property, one and seven-eighths percent of the taxable value
4 determined pursuant to Section 7-29-4.1 NMSA 1978, provided the
5 average annual taxable value of natural gas was equal to or
6 less than one dollar fifteen cents (\$1.15) per thousand cubic
7 feet in the calendar year preceding July 1 of the fiscal year
8 in which the tax rate is to be imposed;

9 (7) on the natural gas from a stripper well
10 property, two and thirteen-sixteenths percent of the taxable
11 value determined pursuant to Section 7-29-4.1 NMSA 1978,
12 provided that the average annual taxable value of natural gas
13 was greater than one dollar fifteen cents (\$1.15) per thousand
14 cubic feet but not more than one dollar thirty-five cents
15 (\$1.35) per thousand cubic feet in the calendar year preceding
16 July 1 of the fiscal year in which the tax rate is to be
17 imposed;

18 (8) on the oil and on other liquid
19 hydrocarbons removed from natural gas at or near the wellhead
20 from a stripper well property, one and seven-eighths percent of
21 the taxable value determined pursuant to Section 7-29-4.1 NMSA
22 1978, provided that the average annual taxable value of oil was
23 equal to or less than fifteen dollars (\$15.00) per barrel in
24 the calendar year preceding July 1 of the fiscal year in which
25 the tax rate is to be imposed;

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1 (9) on the oil and on other liquid
2 hydrocarbons removed from natural gas at or near the wellhead
3 from a stripper well property, two and thirteen-sixteenths
4 percent of the taxable value determined pursuant to Section
5 7-29-4.1 NMSA 1978, provided that the average annual taxable
6 value of oil was greater than fifteen dollars (\$15.00) per
7 barrel but not more than eighteen dollars (\$18.00) per barrel
8 in the calendar year preceding July 1 of the fiscal year in
9 which the tax rate is to be imposed; and

10 (10) on carbon dioxide, helium and non-
11 hydrocarbon gases, three and three-fourths percent of the
12 taxable value determined pursuant to Section 7-29-4.1 NMSA
13 1978.

14 B. The tax imposed in Subsection A of this section
15 shall not be imposed on:

16 (1) natural gas severed and sold from a
17 production restoration project during the first ten years of
18 production following the restoration of production, provided
19 that the annual average price of west Texas intermediate crude
20 oil, determined by the department by averaging the posted
21 prices in effect on the last day of each month of the twelve-
22 month period ending on May 31 prior to each fiscal year in
23 which the tax exemption is to be effective, was less than
24 twenty-four dollars (\$24.00) per barrel; and

25 (2) oil and other liquid hydrocarbons removed

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1 from natural gas at or near the wellhead from a production
2 restoration project during the first ten years of production
3 following the restoration of production, provided that the
4 annual average price of west Texas intermediate crude oil,
5 determined by the department by averaging the posted prices in
6 effect on the last day of each month of the twelve-month period
7 ending on May 31 prior to each fiscal year in which the tax
8 exemption is to be effective, was less than twenty-four dollars
9 (\$24.00) per barrel.

10 C. Every interest owner shall be liable for the tax
11 to the extent of [~~his~~] the interest owner's interest in such
12 products. Any Indian tribe, Indian pueblo or Indian shall be
13 liable for the tax to the extent authorized or permitted by
14 law.

15 D. The tax imposed by this section may be referred
16 to as the "oil and gas severance tax".

17 SECTION 116. Section 7-29-5 NMSA 1978 (being Laws 1959,
18 Chapter 52, Section 8) is amended to read:

19 "7-29-5. PRODUCTS ON WHICH TAX HAS BEEN LEVIED--
20 [~~REGULATION BY COMMISSION~~] DEPARTMENT RULE.--~~[This]~~ The tax
21 shall not be levied more than once on the same product.
22 Reporting of products on which [~~this~~] the tax has been paid
23 shall be subject to [~~the regulation of the commission~~]
24 department rule."

25 SECTION 117. Section 7-29-6 NMSA 1978 (being Laws 1959,

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1 Chapter 52, Section 9) is amended to read:

2 "7-29-6. OPERATOR OR PURCHASER TO WITHHOLD INTEREST
3 OWNER'S TAX--~~[COMMISSION]~~ DEPARTMENT MAY REQUIRE WITHHOLDING OF
4 TAX--TAX WITHHELD TO BE REMITTED TO THE STATE--OPERATOR OR
5 PURCHASER TO BE REIMBURSED.--

6 A. Any operator making a monetary payment to an
7 interest owner for ~~[his]~~ the interest owner's portion of the
8 value of products from a production unit shall withhold from
9 such payment the amount of tax due from the interest owner.

10 B. Any purchaser who, by express or implied
11 agreement with the operator, makes a monetary payment to an
12 interest owner for ~~[his]~~ the interest owner's portion of the
13 value of products from a production unit, shall withhold from
14 such payment the amount of tax due from the interest owner.

15 C. The ~~[commission]~~ department may require any
16 purchaser making a monetary payment to an interest owner for
17 ~~[his]~~ the interest owner's portion of the value of products
18 from a production unit to withhold from such payment the amount
19 of tax due from the interest owner.

20 D. Any operator or purchaser who pays any tax due
21 from an interest owner shall be entitled to reimbursement from
22 the interest owner for the tax so paid and may take credit for
23 such amount from any monetary payment to the interest owner for
24 the value of products."

25 SECTION 118. Section 7-29-7 NMSA 1978 (being Laws 1959,
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1 Chapter 52, Section 10, as amended) is amended to read:

2 "7-29-7. OPERATOR'S REPORT--TAX REMITTANCE--ADDITIONAL
3 INFORMATION.--Each operator shall, in the form and manner
4 required by the [~~division, make~~] department, file a return [~~to~~]
5 with the [~~division~~] department showing the total value, volume
6 and kind of products sold from each production unit for each
7 calendar month. All taxes due or to be remitted by the
8 operator shall accompany this return. The return shall be
9 filed on or before the twenty-fifth day of the second month
10 after the calendar month for which the return is required. Any
11 additional report or information the [~~division~~] department may
12 deem necessary for the proper administration of the Oil and Gas
13 Severance Tax Act may be required."

14 SECTION 119. Section 7-29-8 NMSA 1978 (being Laws 1959,
15 Chapter 52, Section 11, as amended) is amended to read:

16 "7-29-8. PURCHASER'S REPORT--TAX REMITTANCE--ADDITIONAL
17 INFORMATION.--Each purchaser shall, in the form and manner
18 required by the [~~division, make~~] department, file a return to
19 the [~~division~~] department showing the total value, volume and
20 kind of products purchased by [~~him~~] the purchaser from each
21 production unit for each calendar month. All taxes due or to
22 be remitted by the purchaser shall accompany this return. The
23 return shall be filed on or before the twenty-fifth day of the
24 second month after the calendar month for which the return is
25 required. Any additional reports or information the [~~division~~]

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1 department may deem necessary for the proper administration of
2 the Oil and Gas Severance Tax Act may be required."

3 SECTION 120. Section 7-29-23 NMSA 1978 (being Laws 1991,
4 Chapter 9, Section 36) is amended to read:

5 "7-29-23. ADVANCE PAYMENT REQUIRED.--

6 A. Any person required to make payment of tax
7 pursuant to Section 7-29-7 or 7-29-8 NMSA 1978 shall make the
8 advance payment required by this section.

9 B. For the purposes of this section:

10 (1) "advance payment" means the payment
11 required to be made by this section in addition to any oil and
12 gas severance tax, penalty or interest due; and

13 (2) "average tax" means the aggregate amount
14 of tax, ~~[net of]~~ less any refunds or credits, paid by a person
15 ~~[during]~~ for the twelve-month period ending ~~[March 31]~~ the last
16 day of February pursuant to the Oil and Gas Severance Tax Act
17 divided by the number of months during that period for which
18 the person made payment.

19 C. Each year, prior to July 1, ~~[each person~~
20 ~~required to pay tax pursuant to the Oil and Gas Severance Tax~~
21 ~~Act shall compute the average tax for the period ending March~~
22 ~~31 of that year]~~ the department shall compute the advance
23 payment required to be made pursuant to this section, compute
24 the average tax for the filing periods February through January
25 of the subsequent year for each person required to pay tax

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1 pursuant to the Oil and Gas Severance Tax Act and provide a tax
2 statement to each person required to pay tax pursuant to the
3 Oil and Gas Severance Tax Act. The average tax calculated for
4 a year shall be used during the twelve-month period beginning
5 with July of that year and ending with June of the following
6 year as the basis for making the advance payments required by
7 Subsection D of this section.

8 D. [~~Every month, beginning with July 1991, every~~]
9 Annually, by the twenty-fifth of the month in which a person
10 files or amends that person's first return pursuant to the Oil
11 and Gas Severance Tax Act and after receiving the tax statement
12 provided by the department, a person required to pay tax in a
13 month pursuant to the Oil and Gas Severance Tax Act shall pay,
14 in addition to any amount of tax, interest or penalty due, an
15 advance payment in an amount equal to the applicable average
16 tax, except:

17 (1) if the person is making a final return
18 under the Oil and Gas Severance Tax Act, no advance payment
19 pursuant to this subsection is due for that return; and

20 (2) as provided in Subsection F of this
21 section.

22 E. [~~Every month, beginning with tax payments due in~~
23 ~~August 1991, every~~] Annually, by the twenty-fifth of the month
24 in which a person files or amends that person's first return
25 pursuant to the Oil and Gas Severance Tax Act and after

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underscored material = new
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1 receiving the tax statement provided by the department, a
2 person required to pay tax pursuant to the Oil and Gas
3 Severance Tax Act may claim a credit equal to the amount of
4 advance payment made in the previous month, except as provided
5 in Subsection F of this section.

6 F. If, in any ~~month~~ year, a person is not
7 required to pay tax pursuant to the Oil and Gas Severance Tax
8 Act, that person is not required to pay the advance payment and
9 may not claim a credit pursuant to Subsection E of this
10 section; provided that, in any succeeding ~~month~~ year when the
11 person has liability under the Oil and Gas Severance Tax Act,
12 the person may claim a credit for any advance payment made and
13 not credited.

14 G. In the event that the date by which a person is
15 required to pay the tax pursuant to the Oil and Gas Severance
16 Tax Act is accelerated to a date earlier than the twenty-fifth
17 day of the second month following the month of production, the
18 advance payment provision contained in this section is ~~null~~
19 ~~and~~ void and any money held as advance payments shall be
20 credited to the taxpayers' accounts."

21 SECTION 121. Section 7-30-2 NMSA 1978 (being Laws 1959,
22 Chapter 53, Section 2, as amended) is amended to read:

23 "7-30-2. DEFINITIONS.--As used in the Oil and Gas
24 Conservation Tax Act:

25 A. "department" means the taxation and revenue

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1 department, the secretary of taxation and revenue or any
2 employee of the department exercising authority lawfully
3 delegated to that employee by the secretary;

4 B. "production unit" means a unit of property
5 designated by the department from which products of common
6 ownership are severed;

7 C. "severance" means the taking from the soil,
8 produced water, tank bottoms or an oil-water separator of any
9 product, including accumulations of product, in any manner
10 whatsoever;

11 D. "value" means the actual price received for
12 products at the production unit, except as otherwise provided
13 in the Oil and Gas Conservation Tax Act;

14 E. "product" or "products" means oil, including
15 crude oil, sediment oil, slop oil or skim oil and condensate;
16 natural gas; liquid hydrocarbon, including ethane, propane,
17 isobutene, normal butane and pentanes plus, individually or any
18 combination thereof; and non-hydrocarbon gases, including
19 carbon dioxide and helium;

20 F. "operator" means any person:

21 (1) engaged in the severance of products from
22 a production unit; or

23 (2) owning an interest in any product at the
24 time of severance who receives a portion or all of such product
25 for the person's interest;

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underscored material = new
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1 G. "purchaser" means a person who is the first
2 purchaser of:

3 (1) a product after severance from a
4 production unit, except as otherwise provided in the Oil and
5 Gas Conservation Tax Act; or

6 (2) slop oil, sediment oil or skim oil and
7 condensate, including the first purchaser of slop oil, sediment
8 oil or skim oil from a person other than an operator or at a
9 production unit;

10 H. "person" means any individual, estate, trust,
11 receiver, business trust, corporation, firm, copartnership,
12 cooperative, joint venture, association or other group or
13 combination acting as a unit, and the plural as well as the
14 singular number;

15 I. "interest owner" means a person owning an entire
16 or fractional interest of whatsoever kind or nature in the
17 products at the time of severance from a production unit or who
18 has a right to a monetary payment that is determined by the
19 value of such products;

20 J. "tax" means the oil and gas conservation tax;
21 [~~and~~]

22 K. "volume" means the quantity of product severed
23 reported using:

24 (1) oil, condensate and slop oil in barrels;
25 and

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1 (2) natural gas, liquid hydrocarbons, helium
2 and carbon dioxide in thousand cubic feet at a pressure base of
3 fifteen and twenty-five thousandths pounds per square inch;

4 L. "sediment oil" means an accumulation of products
5 that is not merchantable other than through an oil and gas
6 lease;

7 M. "skim oil" means oil or condensate recovered
8 from a produced water gathering system prior to injection or
9 other disposal of the water;

10 N. "slop oil" means floating oil and solids that
11 accumulate on the surface of an oil-water separator;

12 O. "oil-water separator" means wastewater treatment
13 equipment used to separate oil from water consisting of a
14 separation tank, including the forebay and other separator
15 basins, skimmers, weirs, grit chambers and sludge hoppers.

16 "Oil-water separator" includes slop oil facilities and
17 associated tanks, storage vessels and auxiliary equipment
18 located between individual drain systems and the oil-water
19 separator. "Oil-water separator" does not include storage
20 vessels or auxiliary equipment that do not come in contact with
21 or store oily wastewater; and

22 P. "produced water" means a fluid that is an
23 incidental byproduct from drilling for or the production of
24 products."

25 SECTION 122. Section 7-30-4 NMSA 1978 (being Laws 1959,

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underscored material = new
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1 Chapter 53, Section 4, as amended) is amended to read:

2 "7-30-4. OIL AND GAS CONSERVATION TAX LEVIED--COLLECTED
3 BY DEPARTMENT--RATE--INTEREST OWNER'S LIABILITY TO STATE--
4 INDIAN LIABILITY.--

5 A. There is levied and shall be collected by the
6 department a tax on all products that are severed and sold to a
7 purchaser from any location. The measure and rate of the tax
8 shall be nineteen-hundredths percent of the taxable value of
9 sold products. Every interest owner shall be liable for this
10 tax to the extent of the owner's interest in the value of the
11 products or to the extent of the owner's interest as may be
12 measured by the value of the products. An Indian tribe, Indian
13 pueblo or Indian shall be liable for this tax to the extent
14 authorized or permitted by law.

15 B. When the average price of west Texas
16 intermediate crude in the previous quarter exceeds seventy
17 dollars (\$70.00) per barrel, an additional tax to that provided
18 pursuant to Subsection A of this section is levied and shall be
19 collected by the department on oil that is severed and sold in
20 the ensuing quarter. The measure and rate of the total tax on
21 oil shall be twenty-four hundredths percent of the taxable
22 value of the sold product. Every interest owner shall be
23 liable for this tax to the extent of the owner's interest in
24 the value of the products or to the extent of the owner's
25 interest as may be measured by the value of the products. An

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1 Indian tribe, Indian pueblo or Indian shall be liable for this
2 tax to the extent authorized or permitted by law."

3 SECTION 123. Section 7-30-9 NMSA 1978 (being Laws 1959,
4 Chapter 53, Section 9, as amended) is amended to read:

5 "7-30-9. OPERATOR OR PURCHASER TO WITHHOLD INTEREST
6 OWNER'S TAX--DEPARTMENT MAY REQUIRE WITHHOLDING OF TAX--TAX
7 WITHHELD TO BE REMITTED TO THE STATE--OPERATOR OR PURCHASER TO
8 BE REIMBURSED.--

9 A. Any operator making a monetary payment to an
10 interest owner for [~~his~~] the interest owner's portion of the
11 value of products from a production unit shall withhold from
12 such payment the amount of tax due from the interest owner.

13 B. Any purchaser who, by express or implied
14 agreement with the operator, makes a monetary payment to an
15 interest owner for [~~his~~] the interest owner's portion of the
16 value of products from a production unit shall withhold from
17 such payment the amount of tax due from the interest owner.

18 C. The department may require any purchaser making
19 a monetary payment to an interest owner for [~~his~~] the interest
20 owner's portion of the value of products from a production unit
21 to withhold from such payment the amount of tax due from the
22 interest owner.

23 D. Any operator or purchaser who pays any tax due
24 from an interest owner shall be entitled to reimbursement from
25 the interest owner for the tax so paid and may take credit for

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[bracketed material] = delete

1 such amount from any monetary payment to the interest owner for
2 the value of products."

3 SECTION 124. Section 7-30-27 NMSA 1978 (being Laws 1991,
4 Chapter 9, Section 37) is amended to read:

5 "7-30-27. ADVANCE PAYMENT REQUIRED.--

6 A. Any person required to make payment of tax
7 pursuant to Section 7-30-10 or 7-30-11 NMSA 1978 shall make the
8 advance payment required by this section.

9 B. For the purposes of this section:

10 (1) "advance payment" means the payment
11 required to be made by this section in addition to any oil and
12 gas conservation tax, penalty or interest due; and

13 (2) "average tax" means the aggregate amount
14 of tax, ~~[net of]~~ less any refunds or credits, paid by a person
15 ~~[during]~~ for the twelve-month period ending ~~[March 31]~~ the last
16 day of February pursuant to the Oil and Gas Conservation Tax
17 Act divided by the number of months during that period for
18 which the person made payment.

19 C. Each year, prior to July 1, ~~[each person~~
20 ~~required to pay tax pursuant to the Oil and Gas Conservation~~
21 ~~Tax Act shall compute the average tax for the period ending~~
22 ~~March 31 of that year]~~ the department shall compute the advance
23 payment required to be made pursuant to this section, compute
24 the average tax for the filing periods February through January
25 of the subsequent year for each person required to pay tax

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1 pursuant to the Oil and Gas Conservation Tax Act and provide a
2 tax statement to each person required to pay tax pursuant to
3 the Oil and Gas Conservation Tax Act. The average tax
4 calculated for a year shall be used during the twelve-month
5 period beginning with July of that year and ending with June of
6 the following year as the basis for making the advance payments
7 required by Subsection D of this section.

8 D. [~~Every month, beginning with July 1991, every~~]
9 Annually, by the twenty-fifth of the month in which a person
10 files or amends that person's first return pursuant to the Oil
11 and Gas Conservation Tax Act and after receiving the tax
12 statement provided by the department, a person required to pay
13 tax in a month pursuant to the Oil and Gas Conservation Tax Act
14 shall pay, in addition to any amount of tax, interest or
15 penalty due, an advance payment in an amount equal to the
16 applicable average tax, except:

17 (1) if the person is making a final return
18 under the Oil and Gas Conservation Tax Act, no advance payment
19 pursuant to this subsection is due for that return; and

20 (2) as provided in Subsection F of this
21 section.

22 E. [~~Every month, beginning with tax payments due in~~
23 ~~August 1991, every~~] Annually, by the twenty-fifth of the month
24 in which a person files or amends that person's first return
25 pursuant to the Oil and Gas Conservation Tax Act and after

underscored material = new
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1 receiving the tax statement provided by the department, a
2 person required to pay tax pursuant to the Oil and Gas
3 Conservation Tax Act may claim a credit equal to the amount of
4 advance payment made in the previous ~~[month]~~ year, except as
5 provided in Subsection F of this section.

6 F. If, in any ~~[month]~~ year, a person is not
7 required to pay tax pursuant to the Oil and Gas Conservation
8 Tax Act, that person is not required to pay the advance payment
9 and may not claim a credit pursuant to Subsection E of this
10 section; provided that, in any succeeding month when the person
11 has liability under the Oil and Gas Conservation Tax Act, the
12 person may claim a credit for any advance payment made and not
13 credited.

14 G. In the event that the date by which a person is
15 required to pay the tax pursuant to the Oil and Gas
16 Conservation Tax Act is accelerated to a date earlier than the
17 twenty-fifth day of the second month following the month of
18 production, the advance payment provision contained in this
19 section is ~~[null and]~~ void and any money held as advance
20 payments shall be credited to the taxpayers' accounts."

21 SECTION 125. Section 7-31-2 NMSA 1978 (being Laws 1959,
22 Chapter 54, Section 2, as amended) is amended to read:

23 "7-31-2. DEFINITIONS.--As used in the Oil and Gas
24 Emergency School Tax Act:

25 A. [~~"commission"~~] "department" [~~or "division"~~]

underscored material = new
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1 means the taxation and revenue department, the secretary of
2 taxation and revenue or any employee of the department
3 exercising authority lawfully delegated to that employee by the
4 secretary;

5 B. "production unit" means a unit of property
6 designated by the department from which products of common
7 ownership are severed;

8 C. "severance" means the taking from the soil,
9 produced water, tank bottoms or an oil-water separator of any
10 product, including accumulations of product, in any manner
11 whatsoever;

12 D. "value" means the actual price received from
13 products at the production unit, except as otherwise provided
14 in the Oil and Gas Emergency School Tax Act;

15 E. "product" or "products" means oil, including
16 crude oil, slop oil or skim oil and condensate; natural gas;
17 liquid hydrocarbon, including ethane, propane, isobutene,
18 normal butane and pentanes plus, individually or any
19 combination thereof; and non-hydrocarbon gases, including
20 carbon dioxide and helium;

21 F. "operator" means any person:

22 (1) engaged in the severance of products from
23 a production unit; or

24 (2) owning an interest in any product at the
25 time of severance who receives a portion or all of such product

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underscored material = new
[bracketed material] = delete

1 for the person's interest;

2 G. "purchaser" means a person who is the first
3 purchaser of:

4 (1) a product after severance from a
5 production unit, except as otherwise provided in the Oil and
6 Gas Emergency School Tax Act; or

7 (2) slop oil, sediment oil or skim oil and
8 condensate, including the first purchaser of slop oil, sediment
9 oil or skim oil from a person other than an operator or at a
10 production unit;

11 H. "person" means any individual, estate, trust,
12 receiver, business trust, corporation, firm, copartnership,
13 cooperative, joint venture, association, limited liability
14 company or other group or combination acting as a unit, and the
15 plural as well as the singular number;

16 I. "interest owner" means a person owning an entire
17 or fractional interest of whatsoever kind or nature in the
18 products at the time of severance from a production unit or who
19 has a right to a monetary payment that is determined by the
20 value of such products;

21 J. "stripper well property" means a crude oil or
22 natural gas producing property that is assigned a single
23 production unit number by the department and is certified by
24 the oil conservation division of the energy, minerals and
25 natural resources department pursuant to the Natural Gas and

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underscoring material = new
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1 Crude Oil Production Incentive Act to have produced in the
2 preceding calendar year:

3 (1) if a crude oil producing property, an
4 average daily production of less than ten barrels of oil per
5 eligible well per day;

6 (2) if a natural gas producing property, an
7 average daily production of less than sixty thousand cubic feet
8 of natural gas per eligible well per day; or

9 (3) if a property with wells that produce
10 both crude oil and natural gas, an average daily production of
11 less than ten barrels of oil per eligible well per day, as
12 determined by converting the volume of natural gas produced by
13 the well to barrels of oil by using a ratio of six thousand
14 cubic feet to one barrel of oil;

15 K. "average annual taxable value" means as
16 applicable:

17 (1) the average of the taxable value per one
18 thousand cubic feet, determined pursuant to Section 7-31-5 NMSA
19 1978, of all natural gas produced in New Mexico for the
20 specified calendar year as determined by the department; or

21 (2) the average of the taxable value per
22 barrel, determined pursuant to Section 7-31-5 NMSA 1978, of all
23 oil produced in New Mexico for the specified calendar year as
24 determined by the department;

25 L. "tax" means the oil and gas emergency school

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1 tax; [~~and~~]

2 M. "volume" means the quantity of product severed
3 reported using:

4 (1) oil, condensate and slop oil in barrels;
5 and

6 (2) natural gas, liquid hydrocarbons, helium
7 and carbon dioxide in thousand cubic feet at a pressure base of
8 fifteen and twenty-five thousandths pounds per square inch;

9 N. "sediment oil" means an accumulation of products
10 that is not merchantable other than through an oil and gas
11 lease;

12 O. "skim oil" means oil or oil condensate recovered
13 from a produced water gathering system prior to injection or
14 other disposal of the water;

15 P. "slop oil" means floating oil and solids that
16 accumulate on the surface of an oil-water separator;

17 Q. "oil-water separator" means wastewater treatment
18 equipment used to separate oil from water consisting of a
19 separation tank, including the forebay and other separator
20 basins, skimmers, weirs, grit chambers and sludge hoppers.
21 "Oil-water separator" includes slop oil facilities and
22 associated tanks, storage vessels and auxiliary equipment
23 located between individual drain systems and the oil-water
24 separator. "Oil-water separator" does not include storage
25 vessels or auxiliary equipment that do not come in contact with

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[bracketed material] = delete

1 or store oily wastewater; and

2 R. "produced water" means a fluid that is an
3 incidental byproduct from drilling for or the production of
4 products."

5 SECTION 126. Section 7-31-4 NMSA 1978 (being Laws 1959,
6 Chapter 54, Section 4, as amended) is amended to read:

7 "7-31-4. PRIVILEGE TAX LEVIED--COLLECTED BY DEPARTMENT--
8 RATE--INTEREST OWNER'S LIABILITY TO STATE--INDIAN LIABILITY.--

9 A. There is [~~levied~~] imposed and shall be collected
10 by the department a privilege tax on [~~the business of every~~
11 ~~person severing products in this state~~] all products that are
12 severed and sold. The measure of the tax shall be:

13 (1) on oil and on oil and other liquid
14 hydrocarbons removed from natural gas at or near the wellhead,
15 except as provided in Paragraphs (4) and (5) of this
16 subsection, and on slop oil, sediment oil and skim oil,
17 wherever removed and recovered, three and [~~fifteen hundredths~~]
18 fifteen-hundredths percent of the taxable value determined
19 pursuant to Section 7-31-5 NMSA 1978;

20 (2) on carbon dioxide, helium and non-
21 hydrocarbon gases, three and [~~fifteen hundredths~~] fifteen-
22 hundredths percent of the taxable value determined pursuant to
23 Section 7-31-5 NMSA 1978;

24 (3) on natural gas, except as provided in
25 Paragraphs (6) and (7) of this subsection, four percent of the

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1 taxable value determined pursuant to Section 7-31-5 NMSA 1978;

2 (4) on the oil and on other liquid
3 hydrocarbons removed from natural gas at or near the wellhead
4 from a stripper well property, one and fifty-eight hundredths
5 percent of the taxable value determined pursuant to Section
6 7-31-5 NMSA 1978, provided that the average annual taxable
7 value of oil was equal to or less than fifteen dollars (\$15.00)
8 per barrel in the calendar year preceding July 1 of the fiscal
9 year in which the tax rate is to be imposed;

10 (5) on the oil and on other liquid
11 hydrocarbons removed from natural gas at or near the wellhead
12 from a stripper well property, two and thirty-six hundredths
13 percent of the taxable value determined pursuant to Section
14 7-31-5 NMSA 1978, provided that the average annual taxable
15 value of oil was greater than fifteen dollars (\$15.00) per
16 barrel but not more than eighteen dollars (\$18.00) per barrel
17 in the calendar year preceding July 1 of the fiscal year in
18 which the tax rate is to be imposed;

19 (6) on the natural gas removed from a
20 stripper well property, two percent of the taxable value
21 determined pursuant to Section 7-31-5 NMSA 1978, provided that
22 the average annual taxable value of natural gas was equal to or
23 less than one dollar fifteen cents (\$1.15) per thousand cubic
24 feet in the calendar year preceding July 1 of the fiscal year
25 in which the tax rate is to be imposed; and

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1 (7) on the natural gas removed from a
2 stripper well property, three percent of the taxable value
3 determined pursuant to Section 7-31-5 NMSA 1978, provided that
4 the average annual taxable value of natural gas was greater
5 than one dollar fifteen cents (\$1.15) per thousand cubic feet
6 but not more than one dollar thirty-five cents (\$1.35) per
7 thousand cubic feet in the calendar year preceding July 1 of
8 the fiscal year in which the tax rate is to be imposed.

9 B. Every interest owner, for the purpose of levying
10 this tax, is deemed to be in the business of severing products
11 and is liable for this tax to the extent of [~~his~~] the owner's
12 interest in the value of the products or to the extent of [~~his~~]
13 the owner's interest as may be measured by the value of the
14 products.

15 C. Any Indian tribe, Indian pueblo or Indian is
16 liable for this tax to the extent authorized or permitted by
17 law."

18 SECTION 127. Section 7-31-6 NMSA 1978 (being Laws 1959,
19 Chapter 54, Section 6) is amended to read:

20 "7-31-6. VALUE MAY BE DETERMINED BY [~~COMMISSION~~]
21 DEPARTMENT--STANDARD.--

22 A. The [~~commission~~] department may determine the
23 value of products severed from a production unit when:

24 [~~A.~~] (1) the operator and purchaser are
25 affiliated persons; [~~or when~~

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[bracketed material] = delete

1 ~~B.~~ (2) the sale and purchase of products is
2 not an arm's length transaction; or ~~[when~~

3 ~~C.~~ (3) products are severed and removed from
4 a production unit and a value as defined in ~~[this]~~ the Oil and
5 Gas Emergency School Tax Act is not established for such
6 products.

7 B. The value determined by the ~~[commission]~~
8 department shall be commensurate with the actual price received
9 for products of like quality, character and use which are
10 severed in the same field or area."

11 SECTION 128. Section 7-31-8 NMSA 1978 (being Laws 1959,
12 Chapter 54, Section 8) is amended to read:

13 "7-31-8. PRODUCTS ON WHICH TAX HAS BEEN LEVIED--
14 ~~[REGULATION BY COMMISSION]~~ DEPARTMENT RULE--~~[This]~~ The tax
15 shall not be levied more than once on the same product.
16 Reporting of products on which ~~[this]~~ the tax has been paid
17 shall be subject to ~~[the regulation of the commission]~~
18 department rule."

19 SECTION 129. Section 7-31-9 NMSA 1978 (being Laws 1959,
20 Chapter 54, Section 9) is amended to read:

21 "7-31-9. OPERATOR OR PURCHASER TO WITHHOLD INTEREST
22 OWNER'S TAX--~~[COMMISSION]~~ DEPARTMENT MAY REQUIRE WITHHOLDING OF
23 TAX--TAX WITHHELD TO BE REMITTED TO THE STATE--OPERATOR OR
24 PURCHASER TO BE REIMBURSED.--

25 A. Any operator making a monetary payment to an

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1 interest owner for [~~his~~] the interest owner's portion of the
2 value of products from a production unit shall withhold from
3 such payment the amount of tax due from any interest owner.

4 B. Any purchaser who, by express or implied
5 agreement with the operator, makes a monetary payment to an
6 interest owner for [~~his~~] the interest owner's portion of the
7 value of products from a production unit shall withhold from
8 such payment the amount of tax due from the interest owner.

9 C. The [~~commission~~] department may require any
10 purchaser making a monetary payment to an interest owner for
11 [~~his~~] the interest owner's portion of the value of products
12 from a production unit to withhold from such payment the amount
13 of tax due from the interest owner.

14 D. Any operator or purchaser who pays any tax due
15 from an interest owner shall be entitled to reimbursement from
16 the interest owner for the tax so paid, and may take credit for
17 such amount from any monetary payment to the interest owner for
18 the value of products."

19 **SECTION 130.** Section 7-31-10 NMSA 1978 (being Laws 1959,
20 Chapter 54, Section 10, as amended) is amended to read:

21 "7-31-10. OPERATOR'S REPORT--TAX REMITTANCE--ADDITIONAL
22 INFORMATION.--Each operator shall, in the form and manner
23 required by the [~~division, make~~] department, file a return [~~to~~]
24 with the [~~division~~] department showing the total value, volume
25 and kind of products sold from each production unit for each

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underscored material = new
[bracketed material] = delete

1 calendar month. All taxes due or to be remitted by the
2 operator shall accompany this return. The return shall be
3 filed on or before the twenty-fifth day of the second month
4 after the calendar month for which the return is required. Any
5 additional report or information the [~~division~~] department may
6 deem necessary for the proper administration of the Oil and Gas
7 Emergency School Tax Act may be required."

8 SECTION 131. Section 7-31-11 NMSA 1978 (being Laws 1959,
9 Chapter 54, Section 11, as amended) is amended to read:

10 "7-31-11. PURCHASER'S REPORT--TAX REMITTANCE--ADDITIONAL
11 INFORMATION.--Each purchaser shall, in the form and manner
12 required by the [~~division, make~~] department, file a return to
13 the [~~division~~] department showing the total value, volume and
14 kind of products purchased by [~~him~~] the purchaser from each
15 production unit for each calendar month. All taxes due or to
16 be remitted by the purchaser shall accompany this return. The
17 return shall be filed on or before the twenty-fifth day of the
18 second month after the calendar month for which the return is
19 required. Any additional reports or information the [~~division~~]
20 department may deem necessary for the proper administration of
21 the Oil and Gas Emergency School Tax Act may be required."

22 SECTION 132. Section 7-31-26 NMSA 1978 (being Laws 1991,
23 Chapter 9, Section 38) is amended to read:

24 "7-31-26. ADVANCE PAYMENT REQUIRED.--

25 A. Any person required to make payment of tax

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1 pursuant to Section 7-31-10 or 7-31-11 NMSA 1978 shall make the
2 advance payment required by this section.

3 B. For the purposes of this section:

4 (1) "advance payment" means the payment
5 required to be made by this section in addition to any oil and
6 gas emergency school tax, penalty or interest due; and

7 (2) "average tax" means the aggregate amount
8 of tax, [~~net of~~] less any refunds or credits, paid by a person
9 [~~during~~] for the twelve-month period ending [~~March 31~~] the last
10 day of February pursuant to the Oil and Gas Emergency School
11 Tax Act divided by the number of months during that period for
12 which the person made payment.

13 C. Each year, prior to July 1, [~~each person~~
14 ~~required to pay tax pursuant to the Oil and Gas Emergency~~
15 ~~School Tax Act shall compute the average tax for the period~~
16 ~~ending March 31 of that year~~] the department shall compute the
17 advance payment required to be made pursuant to this section,
18 compute the average tax for the filing periods February through
19 January of the subsequent year for each person required to pay
20 tax pursuant to the Oil and Gas Emergency School Tax Act and
21 provide a tax statement to each person required to pay tax
22 pursuant to the Oil and Gas Emergency School Tax Act. The
23 average tax calculated for a year shall be used during the
24 twelve-month period beginning with July of that year and ending
25 with June of the following year as the basis for making the

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1 advance payments required by Subsection D of this section.
2 D. ~~[Every month, beginning with July 1991, every]~~
3 Annually, by the twenty-fifth of the month in which a person
4 files or amends that person's first return pursuant to the Oil
5 and Gas Emergency School Tax Act and after receiving the tax
6 statement provided by the department, a person required to pay
7 tax in a month pursuant to the Oil and Gas Emergency School Tax
8 Act shall pay, in addition to any amount of tax, interest or
9 penalty due, an advance payment in an amount equal to the
10 applicable average tax, except:

11 (1) if the person is making a final return
12 under the Oil and Gas Emergency School Tax Act, no advance
13 payment pursuant to this subsection is due for that return; and

14 (2) as provided in Subsection F of this
15 section.

16 E. ~~[Every month, beginning with tax payments in~~
17 ~~August 1991, every]~~ Annually, by the twenty-fifth of the month
18 in which a person files or amends that person's first return
19 pursuant to the Oil and Gas Emergency School Tax Act and after
20 receiving the tax statement provided by the department, a
21 person required to pay tax pursuant to the Oil and Gas
22 Emergency School Tax Act may claim a credit equal to the amount
23 of advance payment made in the previous ~~[month]~~ year, except as
24 provided in Subsection F of this section.

25 F. If, in any ~~[month]~~ year, a person is not

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1 required to pay tax pursuant to the Oil and Gas Emergency
2 School Tax Act, that person is not required to pay the advance
3 payment and may not claim a credit pursuant to Subsection E of
4 this section; provided that, in any succeeding month when the
5 person has liability under the Oil and Gas Emergency School Tax
6 Act, the person may claim a credit for any advance payment made
7 and not credited.

8 G. In the event that the date by which a person is
9 required to pay the tax pursuant to the Oil and Gas Emergency
10 School Tax Act is accelerated to a date earlier than the
11 twenty-fifth day of the second month following the month of
12 production, the advance payment provision contained in this
13 section is ~~[null and]~~ void and any money held as advance
14 payments shall be credited to the taxpayers' accounts."

15 SECTION 133. Section 7-32-2 NMSA 1978 (being Laws 1959,
16 Chapter 55, Section 2, as amended) is amended to read:

17 "7-32-2. DEFINITIONS.--As used in the Oil and Gas Ad
18 Valorem Production Tax Act:

19 A. ~~["commission"]~~ "department" ~~[or "division"]~~
20 means the taxation and revenue department, the secretary of
21 taxation and revenue or any employee of the department
22 exercising authority lawfully delegated to that employee by the
23 secretary;

24 B. "production unit" means a unit of property
25 designated by the department from which products of common

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1 ownership are severed;

2 C. "severance" means the taking from the soil,
3 produced water, tank bottoms or an oil-water separator of any
4 product, including accumulations of product, in any manner
5 whatsoever;

6 D. "value" means the actual price received for
7 products at the production unit, except as otherwise provided
8 in the Oil and Gas Ad Valorem Production Tax Act;

9 E. "product" or "products" means oil, including
10 crude oil, slop oil or skim oil and condensate; natural gas;
11 liquid hydrocarbon, including ethane, propane, isobutene,
12 normal butane and pentanes plus, individually or any
13 combination thereof; and non-hydrocarbon gases, including
14 carbon dioxide and helium;

15 F. "operator" means any person:

16 (1) engaged in the severance of products from
17 a production unit; or

18 (2) owning an interest in any product at the
19 time of severance who receives a portion or all of such product
20 for the person's interest;

21 G. "purchaser" means a person who is the first
22 purchaser of:

23 (1) a product after severance from a
24 production unit, except as otherwise provided in the Oil and
25 Gas Ad Valorem Production Tax Act; or

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1 (2) slop oil, sediment oil or skim oil and
2 condensate, including the first purchaser of slop oil, sediment
3 oil or skim oil from a person other than an operator or at a
4 production unit;

5 H. "person" means any individual, estate, trust,
6 receiver, business trust, corporation, firm, copartnership,
7 cooperative, joint venture, association or other group or
8 combination acting as a unit, and the plural as well as the
9 singular number;

10 I. "interest owner" means a person owning an entire
11 or fractional interest of whatsoever kind or nature in the
12 products at the time of severance from a production unit or who
13 has a right to a monetary payment that is determined by the
14 value of such products;

15 J. "assessed value" means the value against which
16 tax rates are applied;

17 K. "tax" means the oil and gas ad valorem
18 production tax; [~~and~~]

19 L. "volume" means the quantity of product severed
20 reported using:

21 (1) oil, condensate and slop oil in barrels;
22 and

23 (2) natural gas, liquid hydrocarbons, helium
24 and carbon dioxide in thousand cubic feet at a pressure base of
25 fifteen and twenty-five thousandths pounds per square inch;

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1 M. "sediment oil" means an accumulation of products
2 that is not merchantable other than through an oil and gas
3 lease;

4 N. "skim oil" means oil or oil condensate recovered
5 from a produced water gathering system prior to injection or
6 other disposal of the water;

7 O. "slop oil" means floating oil and solids that
8 accumulate on the surface of an oil-water separator;

9 P. "oil-water separator" means wastewater treatment
10 equipment used to separate oil from water consisting of a
11 separation tank, including the forebay and other separator
12 basins, skimmers, weirs, grit chambers and sludge hoppers.
13 "Oil-water separator" includes slop oil facilities and
14 associated tanks, storage vessels and auxiliary equipment
15 located between individual drain systems and the oil-water
16 separator. "Oil-water separator" does not include storage
17 vessels or auxiliary equipment that do not come in contact with
18 or store oily wastewater; and

19 Q. "produced water" means a fluid that is an
20 incidental byproduct from drilling for or the production of
21 products."

22 SECTION 134. Section 7-32-4 NMSA 1978 (being Laws 1959,
23 Chapter 55, Section 4, as amended) is amended to read:

24 "7-32-4. AD VALOREM TAX LEVIED--COLLECTED BY [~~DIVISION~~]
25 DEPARTMENT--RATE--INTEREST OWNER'S LIABILITY TO STATE--INDIAN

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1 LIABILITY.--There is levied and shall be collected by the
2 [~~division~~] department an ad valorem tax on the assessed value
3 of products which are severed and sold to a purchaser from each
4 production unit, or in the case of slop oil, sediment oil and
5 skim oil from any location, at the rate certified to the
6 [~~division~~] department by the department of finance and
7 administration under the provisions of Section 7-37-7 NMSA
8 1978. Such rate shall be levied for each month following its
9 certification and shall be levied monthly thereafter until a
10 new rate is certified. Every interest owner shall be liable
11 for this tax to the extent of [~~his~~] the interest owner's
12 interest in the value of such products or to the extent of
13 [~~his~~] the interest owner's interest as may be measured by the
14 value of such products. Provided, any Indian tribe, Indian
15 pueblo or Indian shall be liable for this tax to the extent
16 authorized or permitted by law."

17 SECTION 135. Section 7-32-6 NMSA 1978 (being Laws 1959,
18 Chapter 55, Section 6) is amended to read:

19 "7-32-6. VALUE MAY BE DETERMINED BY [~~COMMISSION~~]
20 DEPARTMENT--STANDARD.--The [~~commission~~] department may
21 determine the value of products severed from a production unit
22 when:

23 A. the operator and purchaser are affiliated
24 persons; [~~or when~~]

25 B. the sale and purchase of products is not an

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1 arm's length transaction; or ~~[when]~~

2 C. products are severed and removed from a
3 production unit and a value as defined in ~~[this]~~ the Oil and
4 Gas Ad Valorem Production Tax Act is not established for such
5 products.

6 The value determined by the ~~[commission]~~ department shall
7 be commensurate with the actual price received for products of
8 like quality, character and use which are severed in the same
9 field or area."

10 SECTION 136. Section 7-32-8 NMSA 1978 (being Laws 1959,
11 Chapter 55, Section 8) is amended to read:

12 "7-32-8. PRODUCTS ON WHICH TAX HAS BEEN LEVIED--
13 ~~[REGULATION BY COMMISSION]~~ DEPARTMENT RULE--~~[This]~~ The tax
14 shall not be levied more than once on the same product.
15 Reporting of products on which ~~[this]~~ the tax has been paid
16 shall be subject to ~~[the regulation of the commission]~~
17 department rule."

18 SECTION 137. Section 7-32-9 NMSA 1978 (being Laws 1959,
19 Chapter 55, Section 9) is amended to read:

20 "7-32-9. OPERATOR OR PURCHASER TO WITHHOLD INTEREST
21 OWNER'S TAX--~~[COMMISSION]~~ DEPARTMENT MAY REQUIRE WITHHOLDING OF
22 TAX--TAX WITHHELD TO BE REMITTED TO THE STATE--OPERATOR OR
23 PURCHASER TO BE REIMBURSED.--

24 A. Any operator making a monetary payment to an
25 interest owner for ~~[his]~~ the interest owner's portion of the

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1 value of products from a production unit shall withhold from
2 such payment the amount of tax due from any interest owner.

3 B. Any purchaser, who by express or implied
4 agreement with the operator, makes a monetary payment to an
5 interest owner for ~~[his]~~ the interest owner's portion of the
6 value of products from a production unit shall withhold from
7 such payment the amount of tax due from the interest owner.

8 C. The ~~[commission]~~ department may require any
9 purchaser making a monetary payment to an interest owner for
10 ~~[his]~~ the interest owner's portion of the value of products
11 from a production unit to withhold from such payment the amount
12 of tax due from the interest owner.

13 D. Any operator or purchaser who pays any tax due
14 from an interest owner shall be entitled to reimbursement from
15 the interest owner for the tax so paid and may take credit for
16 such amount from any monetary payment to the interest owner for
17 the value of products."

18 **SECTION 138.** Section 7-32-10 NMSA 1978 (being Laws 1959,
19 Chapter 55, Section 10, as amended) is amended to read:

20 "7-32-10. OPERATOR'S REPORT--TAX REMITTANCE--ADDITIONAL
21 INFORMATION.--Each operator shall, in the form and manner
22 required by the ~~[division, make]~~ department, file a return ~~[to]~~
23 with the ~~[division]~~ department showing the total value, volume
24 and kind of products sold from each production unit for each
25 calendar month. All taxes due or to be remitted by the

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1 operator shall accompany this return. The return shall be
2 filed on or before the twenty-fifth day of the second month
3 after the calendar month for which the return is required. Any
4 additional report or information the [~~division~~] department may
5 deem necessary for the proper administration of the Oil and Gas
6 Ad Valorem Production Tax Act may be required."

7 SECTION 139. Section 7-32-11 NMSA 1978 (being Laws 1959,
8 Chapter 55, Section 11, as amended) is amended to read:

9 "7-32-11. PURCHASER'S REPORT--TAX REMITTANCE--ADDITIONAL
10 INFORMATION.--Each purchaser shall, in the form and manner
11 required by the [~~division, make~~] department, file a return to
12 the [~~division~~] department showing the total value, volume and
13 kind of products purchased by [~~him~~] the purchaser from each
14 production unit for each calendar month. All taxes due or to
15 be remitted by the purchaser shall accompany this return. The
16 return shall be filed on or before the twenty-fifth day of the
17 second month after the calendar month for which the return is
18 required. Any additional reports or information the [~~division~~]
19 department may deem necessary for the proper administration of
20 the Oil and Gas Ad Valorem Production Tax Act may be required."

21 SECTION 140. Section 7-32-13 NMSA 1978 (being Laws 1959,
22 Chapter 55, Section 13, as amended) is amended to read:

23 "7-32-13. [~~DIVISION~~] DEPARTMENT SHALL PREPARE SCHEDULES
24 AND FORWARD TO ASSESSORS [~~ASSESSOR SHALL DELIVER SCHEDULE TO~~
25 TREASURER] AND TREASURERS.--By the last day of each month, the

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1 ~~[division]~~ department shall prepare and certify a schedule to
2 the respective counties in which production units are located.
3 The schedules shall reflect the accounting of the preceding
4 month and shall list each production unit and by production
5 unit show the assessed value, taxing district, extension of tax
6 levies, tax payments and other information as the ~~[director of~~
7 ~~the division]~~ department deems appropriate. The schedules
8 shall be forwarded to the assessors and treasurers of the
9 respective counties. ~~[who]~~ Upon receipt, ~~[thereof]~~ an assessor
10 shall accept them as the assessment of property as required in
11 the Oil and Gas Ad Valorem Production Tax Act and ~~[shall~~
12 ~~deliver them to the]~~ a county treasurer shall accept them as
13 the oil and gas ad valorem schedule for the county."

14 SECTION 141. Section 7-32-28 NMSA 1978 (being Laws 1991,
15 Chapter 9, Section 39) is amended to read:

16 "7-32-28. ADVANCE PAYMENT REQUIRED.--

17 A. Any person required to make payment of tax
18 pursuant to Section 7-32-10 or 7-32-11 NMSA 1978 shall make the
19 advance payment required by this section.

20 B. For the purposes of this section:

21 (1) "advance payment" means the payment
22 required to be made by this section in addition to any oil and
23 gas ad valorem production tax, penalty or interest due; and

24 (2) "average tax" means the aggregate amount
25 of tax, ~~[net of]~~ less any refunds or credits, paid by a person

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1 during the twelve-month period ending March 31 pursuant to the
2 Oil and Gas Ad Valorem Production Tax Act divided by the number
3 of months during that period for which the person made payment.

4 C. Each year, prior to July 1, ~~[each person~~
5 ~~required to pay tax pursuant to the Oil and Gas Ad Valorem~~
6 ~~Production Tax Act shall compute the average tax for the period~~
7 ~~ending March 31 of that year]~~ the department shall compute the
8 advance payment required to be made pursuant to this section,
9 compute the average tax for the filing periods February through
10 January of the subsequent year for each person required to pay
11 tax pursuant to the Oil and Gas Ad Valorem Production Tax Act
12 and provide a tax statement to each person required to pay tax
13 pursuant to the Oil and Gas Ad Valorem Production Tax Act. The
14 average tax calculated for a year shall be used during the
15 twelve-month period beginning with July of that year and ending
16 with June of the following year as the basis for making the
17 advance payments required by Subsection D of this section.

18 D. ~~[Every month, beginning with July 1991, every]~~
19 Annually, by the twenty-fifth of the month in which a person
20 files or amends that person's first return pursuant to the Oil
21 and Gas Ad Valorem Production Tax Act and after receiving the
22 tax statement provided by the department, a person required to
23 pay tax in a month pursuant to the Oil and Gas Ad Valorem
24 Production Tax Act shall pay, in addition to any amount of tax,
25 interest or penalty due, an advance payment in an amount equal

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1 to the applicable average tax, except:

2 (1) if the person is making a final return
3 under the Oil and Gas Ad Valorem Production Tax Act, no advance
4 payment pursuant to this subsection is due for that return; and

5 (2) as provided in Subsection F of this
6 section.

7 E. ~~[Every month, beginning with tax payments due in~~
8 ~~August 1991, every]~~ Annually, by the twenty-fifth of the month
9 in which a person files or amends that person's first return
10 pursuant to the Oil and Gas Ad Valorem Production Tax Act and
11 after receiving the tax statement provided by the department, a
12 person required to pay tax pursuant to the Oil and Gas Ad
13 Valorem Production Tax Act may claim a credit equal to the
14 amount of advance payment made in the previous ~~[month]~~ year,
15 except as provided in Subsection F of this section.

16 F. If, in any ~~[month]~~ year, a person is not
17 required to pay tax pursuant to the Oil and Gas Ad Valorem
18 Production Tax Act, that person is not required to pay the
19 advance payment and may not claim a credit pursuant to
20 Subsection E of this section; provided that, in any succeeding
21 month when the person has liability under the Oil and Gas Ad
22 Valorem Production Tax Act, the person may claim a credit for
23 any advance payment made and not credited.

24 G. In the event that the date by which a person is
25 required to pay the tax pursuant to the Oil and Gas Ad Valorem

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1 Production Tax Act is accelerated to a date earlier than the
2 twenty-fifth day of the second month following the month of
3 production, the advance payment provision contained in this
4 section is ~~[null and]~~ void and any money held as advance
5 payments shall be credited to the taxpayers' accounts."

6 SECTION 142. Section 7-33-4 NMSA 1978 (being Laws 1963,
7 Chapter 179, Section 4, as amended) is amended to read:

8 "7-33-4. PRIVILEGE TAX LEVIED--COLLECTED BY DEPARTMENT--
9 RATE.--

10 A. There is levied and shall be collected by the
11 department a privilege tax on processors for the privilege of
12 operating a natural gas processing plant in New Mexico. This
13 tax may be referred to as the "natural gas processors tax".

14 B. The tax shall be imposed on the amount of mmbtu
15 of natural gas delivered to the processor at the inlet of the
16 natural gas processing plant after subtracting the mmbtu
17 deductions authorized in Subsection ~~[E]~~ D of this section. The
18 tax shall be imposed at the rate per mmbtu determined in
19 Subsection C ~~[or D]~~ of this section ~~[as applicable]~~.

20 ~~[G. The tax rate for the six-month period beginning~~
21 ~~on January 1, 1999 shall be determined by multiplying the rate~~
22 ~~of sixty-five hundredths of one cent (\$.0065) per mmbtu by a~~
23 ~~fraction, the numerator of which is the annual average taxable~~
24 ~~value per mcf of natural gas produced in New Mexico during the~~
25 ~~1997 calendar year and the denominator of which is one dollar~~

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1 ~~thirty three cents (\$1.33) per mcf. The resulting tax rate~~
2 ~~shall be rounded to the nearest one hundredth of one cent per~~
3 ~~mmbtu.~~

4 ~~D.]~~ C. The tax rate [~~for each fiscal year beginning~~
5 ~~on or after July 1, 1999]~~ shall be determined by multiplying
6 the rate of sixty-five hundredths of one cent (\$.0065) per
7 mmbtu by a fraction, the numerator of which is the annual
8 average taxable value per mcf of natural gas produced in New
9 Mexico during the preceding calendar year and the denominator
10 of which is one dollar thirty-three cents (\$1.33) per mcf. The
11 resulting tax rate shall be rounded to the nearest one-
12 hundredth of one cent per mmbtu.

13 ~~E.]~~ D. A processor may deduct from the amount of
14 mmbtus of natural gas subject to the tax the mmbtus of natural
15 gas that are:

- 16 (1) used for natural gas processing by the
- 17 processor;
- 18 (2) returned to the lease from which [~~it is~~]
19 they are produced;
- 20 (3) legally flared by the processor; or
- 21 (4) lost as a result of natural gas
- 22 processing plant malfunctions or other incidences of force
- 23 majeure.

24 ~~F.]~~ E. On or before [~~June 15, 1999 and~~] June 15 of
25 each [~~succeeding~~] year, the department shall inform each

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1 processor in writing of the tax rate applicable for the
2 succeeding fiscal year.

3 ~~[G.]~~ F. Any Indian nation, tribe or pueblo or
4 Indian is liable for the tax to the extent authorized or
5 permitted by law."

6 SECTION 143. Section 7-34-2 NMSA 1978 (being Laws 1969,
7 Chapter 119, Section 2, as amended) is amended to read:

8 "7-34-2. DEFINITIONS.--As used in the Oil and Gas
9 Production Equipment Ad Valorem Tax Act:

10 A. [~~"commission"~~] "department" [~~or "division"~~]
11 means the taxation and revenue department, the secretary of
12 taxation and revenue or any employee of the department
13 exercising authority lawfully delegated to that employee by the
14 secretary;

15 B. "person" means any individual, estate, trust,
16 receiver, business trust, corporation, firm, copartnership,
17 cooperative, joint venture, association or other group or
18 combination acting as a unit;

19 C. "operator" means any person engaged in the
20 severance of products from a production unit;

21 D. "product" means oil, natural gas or liquid
22 hydrocarbon, individually or any combination thereof, carbon
23 dioxide, helium or a non-hydrocarbon gas;

24 E. "severance" means taking any product from the
25 soil in any manner;

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1 F. "production unit" means a unit of property
2 designated by the department from which products of common
3 ownership are severed;

4 G. "equipment" means wells and nonmobile equipment
5 used at a production unit in connection with severance,
6 treatment or storage of production unit products;

7 H. "value" means the actual price received for
8 products at the production unit as established under the Oil
9 and Gas Ad Valorem Production Tax Act;

10 I. "assessed value" means the value against which
11 tax rates are applied; and

12 J. "tax" means the oil and gas production equipment
13 ad valorem tax."

14 SECTION 144. Section 7-34-3 NMSA 1978 (being Laws 1969,
15 Chapter 119, Section 3, as amended) is amended to read:

16 "7-34-3. METHOD OF DETERMINING ASSESSED VALUE.--

17 A. Annually the [~~commission~~] department shall
18 compute the value of products of each production unit for the
19 previous calendar year.

20 B. The taxable value of equipment of each
21 production unit is an amount equal to twenty-seven percent of
22 the value of products of each production unit.

23 C. The assessed value of equipment of each
24 production unit shall be determined by applying the uniform
25 assessment ratio to the taxable value of equipment of each

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1 production unit."

2 SECTION 145. Section 7-34-4 NMSA 1978 (being Laws 1969,
3 Chapter 119, Section 4, as amended) is amended to read:

4 "7-34-4. AD VALOREM TAX LEVIED.--An ad valorem tax is
5 levied on the assessed value of the equipment at each
6 production unit. The tax shall be at the rate certified to the
7 [~~division~~] department by the department of finance and
8 administration under the provisions of Section 7-37-7 NMSA
9 1978."

10 SECTION 146. Section 7-34-5 NMSA 1978 (being Laws 1969,
11 Chapter 119, Section 5, as amended) is amended to read:

12 "7-34-5. OIL AND GAS PRODUCTION EQUIPMENT AD VALOREM TAX
13 TO BE EXCLUSIVE MEASURE OF AD VALOREM TAX LIABILITY.--The tax
14 levied by Section 7-34-4 NMSA 1978 shall be the full and
15 exclusive measure of ad valorem tax liability for equipment
16 used at a production unit [~~for the calendar year 1969 and all~~
17 ~~subsequent years~~]. Any other ad valorem tax on equipment used
18 at a production unit is void."

19 SECTION 147. Section 7-34-6 NMSA 1978 (being Laws 1969,
20 Chapter 119, Section 6) is amended to read:

21 "7-34-6. TAX STATEMENT--TAX DUE DATE.--Annually the
22 [~~commission~~] department shall compute the assessed value of
23 equipment for each production unit and extend the applicable
24 rates against the assessed value to determine the amount of tax
25 due. The [~~commission~~] department shall prepare a tax statement

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1 for each production unit showing the production unit
2 identification, the taxing district in which it is located,
3 calendar-year value, assessed value, district rates and the
4 amount of tax due. The tax statement shall be sent to the
5 operator on or before [~~October 15th~~] November 1 and payment
6 shall be made to the [~~commission~~] department on or before
7 November 30."

8 SECTION 148. Section 7-34-7 NMSA 1978 (being Laws 1969,
9 Chapter 119, Section 7) is amended to read:

10 "7-34-7. [~~COMMISSION~~] DEPARTMENT SHALL REPORT TO
11 COUNTY--TAX [~~ROLL~~] SCHEDULE.--On or before December 30, the
12 [~~commission~~] department shall deliver a [~~report~~] tax schedule
13 to each county in which production units are located,
14 identifying each production unit, the taxing district in which
15 it is located, the value, assessed value, district rates and
16 the amount of tax paid."

17 SECTION 149. Section 7-40-5 NMSA 1978 (being Laws 2018,
18 Chapter 57, Section 5) is amended to read:

19 "7-40-5. EXEMPTIONS.--Exempted from the taxes imposed
20 pursuant to the Insurance Premium Tax Act are:

21 A. premiums attributable to insurance or contracts
22 purchased by the state or a political subdivision for the
23 state's or political subdivision's active or retired employees;

24 B. payments received by a health maintenance
25 organization from the federal secretary of health and human

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1 services pursuant to a risk-sharing contract issued under the
2 provisions of 42 U.S.C. Section 1395mm(g);

3 C. any business transacted pursuant to the
4 provisions of the Service Contract Regulation Act;

5 ~~[D. the premiums from each policy or plan issued or~~
6 ~~offered pursuant to the Minimum Healthcare Protection Act~~
7 ~~during the first three years of the issuance of the master~~
8 ~~policy or individual policy; and~~

9 ~~E.]~~ D. the money collected and placed in trust
10 pursuant to Section 59A-49-6 NMSA 1978; and

11 E. premiums from supplemental health care plans
12 issued by an insurer that has been granted exemption from the
13 federal income tax by the United States commissioner of
14 internal revenue as an organization described in Section
15 501(c)(3) of the United States Internal Revenue Code of 1986,
16 as amended or renumbered."

17 SECTION 150. Section 14-8-4 NMSA 1978 (being Laws 1901,
18 Chapter 62, Section 18, as amended) is amended to read:

19 "14-8-4. ACKNOWLEDGMENT NECESSARY FOR RECORDING--
20 EXCEPTIONS--RECORDING OF DUPLICATES.--

21 A. Any original instrument of writing duly
22 acknowledged may be filed and recorded. Any instrument of
23 writing not duly acknowledged may not be filed and recorded or
24 considered of record, though so entered, unless otherwise
25 provided in this section.

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1 B. For purposes of this section, "acknowledged"
2 means notarized by a person empowered to perform notarial acts
3 pursuant to the Revised Uniform Law on Notarial Acts.

4 C. The following documents need not be acknowledged
5 but may be filed and recorded:

6 (1) court-certified copies of a court order,
7 judgment or other judicial decree;

8 (2) court-certified transcripts of any money
9 judgment obtained in a court of New Mexico or, pursuant to
10 Section 14-9-9 NMSA 1978, in the United States district court
11 for the district of New Mexico;

12 (3) land patents and land office receipts;

13 (4) notice of lis pendens filed pursuant to
14 Section 38-1-14 NMSA 1978;

15 (5) provisional orders creating improvement
16 districts pursuant to Section 4-55A-7 NMSA 1978;

17 (6) notices of levy on real estate under
18 execution or writ of attachment when filed by a peace officer
19 pursuant to Section 39-4-4 NMSA 1978;

20 (7) surveys of land that do not create a
21 division of land but only show existing tracts of record when
22 filed by a professional surveyor pursuant to Section 61-23-28.2
23 NMSA 1978;

24 (8) certified copies of foreign wills,
25 marriages or birth certificates duly authenticated; ~~and~~

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1 (9) instruments of writing in any manner
2 affecting lands in the state filed pursuant to Section 14-9-7
3 NMSA 1978, when these instruments have been duly executed by an
4 authorized public officer; and

5 (10) notices of lien filed pursuant to
6 Section 7-1-38 NMSA 1978.

7 D. If an original instrument of writing is
8 unavailable but, if it were available, could be filed and
9 recorded in accordance with this section, a duplicate of that
10 instrument shall be accepted for filing and recording if
11 accompanied by an affidavit executed pursuant to this
12 subsection. The affidavit shall:

13 (1) provide the name, telephone number and
14 mailing address of the affiant;

15 (2) provide information regarding the
16 execution of the instrument, consideration paid, delivery or
17 other information establishing that the original instrument, if
18 it were available, would be entitled to be recorded pursuant to
19 Subsection A of this section;

20 (3) specify the reason the duplicate is filed
21 and recorded in place of the original instrument;

22 (4) include a statement that the duplicate is
23 a true and correct copy of the original instrument; and

24 (5) be acknowledged and made under oath
25 confirming that the statements set forth in the affidavit are

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1 true and correct and of the personal knowledge of the affiant.

2 E. The filing of a duplicate instrument in
3 accordance with Subsection D of this section shall not incur a
4 fee in addition to the fee, if any, charged for filing an
5 original instrument. When the clerk records the instrument,
6 the grantor and grantee shall be those of the duplicate
7 instrument and the name of the affiant shall be indexed under
8 miscellaneous information.

9 F. Any filing or recording permitted or required
10 under the provisions of the Uniform Commercial Code need not
11 comply with the requirements of this section.

12 G. Instruments acknowledged on behalf of a
13 corporation need not have the corporation's seal affixed
14 thereto in order to be filed and recorded."

15 SECTION 151. Section 24A-8-2 NMSA 1978 (being Laws 2024,
16 Chapter 41, Section 2) is amended to read:

17 "24A-8-2. DEFINITIONS.--As used in the Health Care
18 Delivery and Access Act:

19 A. "assessed days" means the number of inpatient
20 hospital days exclusive of medicare days for each eligible
21 hospital, with data sources to be defined by the authority and
22 updated no less frequently than every three years;

23 B. "assessed outpatient revenue" means net patient
24 revenue exclusive of medicare outpatient revenue for outpatient
25 services, with data sources to be defined by the authority and

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1 updated no less frequently than every three years;

2 C. "assessment" means the health care delivery and
3 access assessment;

4 D. "assessment amount" means the assessment amount
5 owed by an eligible hospital;

6 E. "assessment rate" means the amount per assessed
7 day and the percentage of assessed outpatient revenue
8 calculated by the authority;

9 F. "authority" means the health care authority
10 [~~department~~];

11 G. "average commercial rate" means the average rate
12 paid by commercial insurers as provided by the centers for
13 medicare and medicaid services;

14 H. "centers for medicare and medicaid services"
15 means the centers for medicare and medicaid services of the
16 United States department of health and human services;

17 I. "eligible hospital" means a non-federal facility
18 licensed as a hospital by the [~~department of health~~] authority,
19 excluding a state university teaching hospital or a state-owned
20 special hospital;

21 J. "general acute care hospital" means a hospital
22 other than a special hospital;

23 K. "hospital" means a facility providing emergency
24 or urgent care, inpatient medical care and nursing care for
25 acute illness, injury, surgery or obstetrics. "Hospital"

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1 includes a facility licensed by the [~~department of health~~]
2 authority as a critical access hospital, rural emergency
3 hospital, general hospital, long-term acute care hospital,
4 psychiatric hospital, rehabilitation hospital, limited services
5 hospital or special hospital;

6 L. "inpatient hospital services" means services
7 that:

8 (1) are ordinarily furnished in a hospital
9 for the care and treatment of inpatients;

10 (2) are furnished under the direction of a
11 physician, advanced practice clinician or dentist;

12 (3) are furnished in an institution that:

13 (a) is maintained primarily for the care
14 and treatment of patients;

15 (b) is licensed or formally approved as
16 a hospital by an officially designated authority for state
17 standard-setting;

18 (c) meets the requirements for
19 participation in medicare as a hospital; and

20 (d) has in effect a utilization review
21 plan, applicable to all medicaid patients, that meets federal
22 requirements; and

23 (4) are not skilled nursing facility services
24 or immediate care facility services furnished by a hospital
25 with a swing-bed approval;

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1 M. "managed care organization" means a person or
2 organization that has entered into a comprehensive risk-based
3 contract with the authority to provide health care services,
4 including inpatient and outpatient hospital services, to
5 medicaid beneficiaries;

6 N. "medicaid" means the medical assistance program
7 established pursuant to Title 19 of the federal Social Security
8 Act and regulations promulgated pursuant to that act;

9 O. "medicaid-directed payment program" means the
10 health care delivery and access medicaid-directed payment
11 program created pursuant to Section [~~5 of the Health Care~~
12 ~~Delivery and Access Act~~] 24A-8-5 NMSA 1978 providing additional
13 medicaid funding for hospital services provided through
14 medicaid managed care organizations, as directed by the
15 authority and approved by the centers for medicare and medicaid
16 services;

17 P. "medicare days" means the number of inpatient
18 days provided by an eligible hospital during the year to
19 patients covered under Title 18 of the federal Social Security
20 Act;

21 Q. "medicare outpatient revenue" means the amount
22 of net revenue received by an eligible hospital for outpatient
23 hospital services provided to patients covered under Title 18
24 of the federal Social Security Act;

25 R. "net patient revenue" means total net revenue

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1 received by a hospital for inpatient and outpatient hospital
2 services in a year, as determined by the authority;

3 S. "New Mexico medicaid program" means the medicaid
4 program established pursuant to Section 27-2-12 NMSA 1978;

5 T. "outpatient hospital services" means preventive,
6 diagnostic, therapeutic, rehabilitative or palliative services
7 that are furnished:

8 (1) to outpatients;

9 (2) by or under the direction of a physician,
10 advanced practice clinician or dentist; and

11 (3) by an institution that:

12 (a) is licensed or formally approved as
13 a hospital by an officially designated authority for state
14 standard-setting; and

15 (b) meets the requirements for
16 participation in medicare as a hospital;

17 U. "quality incentive payments" means the portion
18 of the medicaid-directed payment program paid to hospitals
19 based on value-based quality measurements and performance
20 evaluation criteria, as established by the authority pursuant
21 to Section [~~5 of the Health Care Delivery and Access Act~~]
22 24A-8-5 NMSA 1978;

23 V. "rehabilitation hospital" means a facility
24 licensed as a rehabilitation hospital by the [~~department of~~
25 ~~health~~] authority;

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1 W. "rural emergency hospital" means a facility
2 licensed as a rural emergency hospital by the [~~department of~~
3 ~~health~~] authority;

4 X. "rural hospital" means a hospital that is
5 located in a county that has a population of one hundred
6 twenty-five thousand or fewer according to the most recent
7 federal decennial census;

8 Y. "secretary" means the secretary of health care
9 authority;

10 Z. "small urban hospital" means a hospital that is
11 located in a county that has a population greater than one
12 hundred twenty-five thousand and that has fewer than fifteen
13 licensed inpatient beds as of January 1, 2024;

14 AA. "special hospital" means a facility licensed as
15 a special hospital by the [~~department of health~~] authority; and

16 BB. "uniform rate increase" means the portion of
17 the medicaid-directed payment program paid to hospitals as a
18 uniform dollar or percentage increase."

19 **SECTION 152.** Section 24A-8-3 NMSA 1978 (being Laws 2024,
20 Chapter 41, Section 3) is amended to read:

21 "24A-8-3. HEALTH CARE DELIVERY AND ACCESS ASSESSMENT--
22 RATE AND CALCULATION--NOTIFICATION.--

23 A. Except as otherwise provided in Subsection C of
24 this section, an assessment is imposed on inpatient hospital
25 services and outpatient hospital services provided by an

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1 eligible hospital. The assessment rate and assessment amounts
2 shall be annually calculated by the authority pursuant to
3 Subsection D of this section, and the taxation and revenue
4 department shall collect the assessment. The inpatient
5 assessment shall be based on assessed days and the outpatient
6 assessment shall be based on assessed outpatient revenue. The
7 assessment provided by this section may be referred to as the
8 "health care delivery and access assessment".

9 B. The rate of the health care delivery and access
10 assessment on a rural hospital and special hospital shall be
11 reduced by fifty percent, and the rate of the assessment on a
12 small urban hospital shall be reduced by ninety percent;
13 provided that the amount of the assessment qualifies for a
14 waiver of the uniformity requirement for provider assessment
15 from the centers for medicare and medicaid services. The
16 authority may adjust these percentages and establish
17 eligibility requirements as necessary to qualify for the
18 waiver.

19 C. The health care delivery and access assessment
20 shall not be imposed for any period for which the centers for
21 medicare and medicaid services has not approved a necessary
22 waiver or other applicable authorization required to ensure
23 that the assessment is a permissible source of non-federal
24 funding for medicaid program expenditures, or for which the
25 centers for medicare and medicaid services has not approved the

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1 distribution of the medicaid-directed payment program payments.

2 D. The authority shall annually calculate the
3 health care delivery and access assessment amount to be paid by
4 each eligible hospital and shall annually notify the taxation
5 and revenue department and all hospitals of the applicable
6 rates. The authority shall calculate the assessment amount by
7 applying the assessment rate to an eligible hospital's assessed
8 days and assessed outpatient revenue so that total revenue from
9 the assessment will equal the lesser of:

10 (1) the amount needed, in combination with
11 other funds deposited or expected to be deposited in the health
12 care delivery and access fund for the subsequent fiscal year,
13 including unexpended and unencumbered money in the fund, to
14 provide sufficient funding for:

15 (a) the non-federal share of medicaid-
16 directed payment program payments for inpatient and outpatient
17 hospital services for eligible hospitals at a level such that
18 the total reimbursement for medicaid managed care patients,
19 including any other inpatient or outpatient hospital directed
20 payments, is equivalent to the average commercial rate or such
21 other maximum level as may be set by the centers for medicare
22 and medicaid services; and

23 (b) the purposes of the health care
24 delivery and access fund; or

25 (2) the amount specified in Section

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1 1903(w)(4)(C)(ii) of the federal Social Security Act, above
2 which an indirect guarantee is determined to exist, with such
3 amount determined each year based on the most recent available
4 net patient revenue data.

5 E. The authority shall notify an eligible hospital
6 and the taxation and revenue department of [~~its applicable~~] the
7 health care delivery and access assessment amount for the
8 eligible hospital pursuant to the following schedule:

9 (1) by November 1, 2024 for the period
10 beginning on July 1, 2024 and ending on December 31, 2024;
11 provided that the assessment amount shall be based on assessed
12 days and assessed outpatient revenue for a full year; and

13 (2) by November 1 of the preceding calendar
14 year for each calendar year thereafter.

15 [~~F. The assessment imposed for the six-month period~~
16 ~~identified in Paragraph (1) of Subsection E of this section~~
17 ~~shall be based on assessed days and assessed outpatient revenue~~
18 ~~for a full year.~~

19 ~~G.]~~ F. The authority may require hospitals,
20 regardless of whether they are eligible hospitals, to report
21 information or data necessary to implement and administer the
22 Health Care Delivery and Access Act. If the authority requires
23 such reporting, it shall specify the frequency and due dates.

24 [~~H.]~~ G. The authority shall determine how the
25 health care delivery and access assessment is applied to newly

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1 created hospitals and hospitals that are merged, acquired or
2 closed.

3 ~~[F.]~~ H. A hospital shall not specifically list the
4 cost of the health care delivery and access assessment on any
5 invoice, claim or statement sent to a patient, insurer, self-
6 insured employer program or other responsible party."

7 **SECTION 153.** Section 24A-8-6 NMSA 1978 (being Laws 2024,
8 Chapter 41, Section 6) is amended to read:

9 "24A-8-6. DUE DATES--HEALTH CARE DELIVERY AND ACCESS
10 ASSESSMENT--DIRECTED PAYMENTS.--

11 A. ~~[For the period from July 1, 2024 through~~
12 ~~December 31, 2024]~~ Except as provided in Subsection B of this
13 section, a hospital shall pay the health care delivery and
14 access assessment to the taxation and revenue department as
15 follows:

16 (1) for the period from July 1, 2024 through
17 December 31, 2024:

18 ~~[(1)]~~ (a) sixty percent of the
19 assessment by March 10, 2025 ~~[for the uniform rate increase];~~
20 and

21 ~~[(2)]~~ (b) forty percent of the
22 assessment by May 10, 2025 ~~[for the quality incentive payment];~~
23 and

24 ~~[B.]~~ (2) for calendar year 2025 and
25 thereafter: ~~[a hospital shall pay the assessment to the~~

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1 ~~taxation and revenue department as follows~~

2 ~~(1)]~~ (a) fifteen percent of the
3 assessment seventy days after the end of each calendar quarter
4 ~~[for the uniform rate increase for that quarter]; and~~

5 ~~(2)]~~ (b) forty percent of the
6 assessment by May 10 of the subsequent year. ~~[for the quality~~
7 ~~incentive payment unless]~~

8 B. If approval by the centers for medicare and
9 medicaid services of the medicaid-directed payment program for
10 that year has not been received by the health care delivery and
11 access assessment's due date, ~~[in which case]~~ the due date for
12 ~~[that]~~ the assessment shall be forty-five days after such
13 approval is received.

14 C. ~~[An assessment shall not be due earlier than~~
15 ~~forty five days after the date the centers for medicare and~~
16 ~~medicaid services approves the necessary authorization sought~~
17 ~~by the secretary pursuant to Section 12 of this 2024 act for~~
18 ~~the applicable period.]~~ In the event that approval by the
19 centers for medicare and medicaid services has not been
20 received in time for a hospital to pay the health care delivery
21 and access assessment by the dates set out in Subsection A of
22 this section, the authority shall notify the taxation and
23 revenue department of the date that such approval is received,
24 of the dates on which the assessments are now due and that no
25 interest or penalty on the assessment shall accrue prior to

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1 those due dates.

2 D. The authority shall make directed payments to a
3 managed care organization as follows:

4 (1) for the period beginning on July 1, 2024
5 and ending on December 31, 2024, the authority shall transfer
6 the uniform rate increase funding to a managed care
7 organization in one installment by March 15, 2025 and the
8 quality incentive payment by May 15, 2025; and

9 (2) for calendar years 2025 and thereafter,
10 the authority shall transfer the uniform rate increase funding
11 to the managed care organization on a quarterly basis no later
12 than seventy-five days after the end of the quarter and the
13 quality incentive payment by May 15 of the subsequent calendar
14 year.

15 ~~[E. If the assessment due date has been postponed~~
16 ~~due to a delay in approval by the centers for medicare and~~
17 ~~medicaid services, the payments shall be due five days after~~
18 ~~the extended assessment due date.~~

19 ~~F.]~~ E. The authority shall require a managed care
20 organization to make directed payments to hospitals no more
21 than fifteen days after receipt of such payments from the
22 authority."

23 SECTION 154. Section 52-5-19 NMSA 1978 (being Laws 1987,
24 Chapter 235, Section 52, as amended) is amended to read:

25 "52-5-19. FEE FOR FUNDING ADMINISTRATION--WORKERS'

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1 COMPENSATION ADMINISTRATION FUND CREATED.--

2 A. ~~Beginning with the calendar quarter ending~~
3 ~~September 30, 2004 and~~ For each calendar quarter, ~~[thereafter]~~
4 there is assessed against each employer who is required or
5 elects to be covered by the Workers' Compensation Act a fee
6 equal to two dollars thirty cents (\$2.30) multiplied by the
7 number of employees covered by the Workers' Compensation Act
8 that the employer has on the last working day of each quarter.
9 At the same time, there is assessed against each employee
10 covered by the Workers' Compensation Act on the last working
11 day of each quarter a fee of two dollars (\$2.00), which shall
12 be deducted from the wages of the employee by the employer and
13 remitted along with the fee assessed on the employer. The fees
14 shall be remitted ~~[by the last]~~ on or before the twenty-fifth
15 day of the month following the end of the calendar quarter for
16 which they are due.

17 B. The taxation and revenue department may deduct
18 from the gross fees collected an amount not to exceed five
19 percent of the gross fees collected to reimburse the department
20 for costs of administration.

21 C. The taxation and revenue department shall pay
22 over the net fees collected to the state treasurer to be
23 deposited by ~~him~~ the treasurer in a fund hereby created and
24 to be known as the "workers' compensation administration fund".
25 Expenditures shall be made from this fund on vouchers signed by

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1 the director for the necessary expenses of the workers'
2 compensation administration; provided that an amount equal to
3 thirty cents (\$.30) per employee of the fee assessed against an
4 employer shall be distributed from the workers' compensation
5 administration fund to the uninsured employers' fund.

6 D. The workers' compensation fee authorized in this
7 section shall be administered and enforced by the taxation and
8 revenue department under the provisions of the Tax
9 Administration Act."

10 SECTION 155. Section 67-3-8.1 NMSA 1978 (being Laws
11 2003, Chapter 150, Section 3, as amended) is amended to read:

12 "67-3-8.1. SECRETARY--AUTHORITY TO ENTER INTO
13 INTERGOVERNMENTAL AGREEMENT--GASOLINE TAX SHARING AGREEMENT--
14 QUALIFIED TRIBE.--

15 A. The secretary may enter into an
16 intergovernmental agreement that may be referred to as a
17 "gasoline tax sharing agreement" with a qualified tribe to
18 receive forty percent of the gasoline tax revenue paid on two
19 million five hundred thousand gallons of gasoline each month in
20 exchange for the qualified tribe's agreement that the qualified
21 tribe or a registered Indian tribal distributor owned by the
22 qualified tribe shall not:

23 (1) distribute gasoline for resale outside of
24 the boundaries of that registered Indian tribal distributor's
25 Indian reservation, pueblo grant or trust land located in New

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1 Mexico; and

2 (2) claim all or part of the deduction
3 authorized in Subsection F of Section 7-13-4 NMSA 1978.

4 B. The term of a gasoline tax sharing agreement
5 entered into pursuant to this section shall be for a period of
6 up to twenty years. The secretary and a qualified tribe with a
7 gasoline tax sharing agreement shall report, at the midpoint of
8 the term of the agreement, to the legislative finance committee
9 and to the revenue stabilization and tax policy committee on
10 the status of the agreement.

11 C. A gasoline tax sharing agreement entered into
12 pursuant to this section shall be construed solely as an
13 agreement between the two party governments and shall not
14 alter or affect the government-to-government relations between
15 the state and any other tribe.

16 D. Nothing in this section or in a gasoline tax
17 sharing agreement entered into pursuant to this section shall
18 be construed as creating rights in a third party.

19 E. Copies of gasoline tax sharing agreements shall
20 be promptly transmitted to the secretary of taxation and
21 revenue upon signing by the representatives of the governments
22 that are parties to the agreement.

23 F. As used in this section:

24 (1) "qualified tribe" means the Pueblo of
25 Nambe or the Pueblo of Santo Domingo, as long as it owns one

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1 hundred percent of a registered Indian tribal distributor
2 pursuant to the Gasoline Tax Act, that qualifies for a
3 deduction pursuant to Subsection F of Section 7-13-4 NMSA 1978;
4 and

5 (2) "tribe" means an Indian nation, tribe or
6 pueblo located in New Mexico."

7 SECTION 156. Laws 2024, Chapter 41, Section 13 is
8 amended to read:

9 "SECTION 13. DELAYED REPEAL.--Sections 1 through 7, 9
10 and 11 of this act are repealed effective July 1, 2030."

11 SECTION 157. REPEAL.--Sections 7-1-6.6, 7-1-6.24,
12 7-1-6.34, 7-1-6.35, 7-1-6.48 through 7-1-6.50, 7-1-6.59,
13 7-1-6.60, 7-1-15.2, 7-2-7.2, 7-2-7.3, 7-2-18.7, 7-2-18.11,
14 7-2-18.14, 7-2-18.19, 7-2-18.23, 7-2-18.30, 7-2-23, 7-2-24.1
15 through 7-2-28, 7-2-29 through 7-2-30.9, 7-2-30.11, 7-2-31,
16 7-2A-14, 7-2A-17.1, 7-2A-21, 7-2A-29, 7-2A-30, 7-2D-1 through
17 7-2D-14, 7-2F-1, 7-2F-2.1, 7-2F-6 through 7-2F-11, 7-2H-1
18 through 7-2H-4, 7-9-10, 7-9-74, 7-9-79.2, 7-9-118, 7-9A-2.1,
19 7-9F-12, 7-9J-1 through 7-9J-8 and 7-13-10 NMSA 1978 (being
20 Laws 1983, Chapter 211, Section 11; Laws 1987, Chapter 265,
21 Section 3; Laws 1992, Chapter 108, Sections 3 and 2; Laws 2005,
22 Chapter 56, Section 1; Laws 2005, Chapter 87, Section 1; Laws
23 2005, Chapter 220, Section 1; Laws 2009, Chapter 175, Section
24 1; Laws 2010, Chapter 31, Section 2; Laws 1998, Chapter 105,
25 Section 1; Laws 2005 (1st S.S.), Chapter 3, Sections 3 and 4;
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1 Laws 2000, Chapter 64, Section 1 and Laws 2000, Chapter 78,
2 Section 1; Laws 2003, Chapter 400, Section 1; Laws 2006,
3 Chapter 93, Section 1; Laws 2007, Chapter 204, Section 3; Laws
4 2008 (2nd S.S.), Chapter 3, Section 1; Laws 2018, Chapter 36,
5 Section 1; Laws 2019, Chapter 270, Section 20; Laws 1981,
6 Chapter 343, Section 1; Laws 1992, Chapter 108, Section 4; Laws
7 2021, Chapter 90, Section 1; Laws 1987, Chapter 257, Section 3;
8 Laws 1987, Chapter 265, Sections 1 and 2; Laws 2005, Chapter
9 56, Section 2; Laws 2005, Chapter 87, Section 2; Laws 2005,
10 Chapter 220, Section 2; Laws 2009, Chapter 175, Section 2; Laws
11 2012, Chapter 7, Section 1; Laws 2012, Chapter 57, Section 1;
12 Laws 2013, Chapter 49, Section 2; Laws 2015, Chapter 50,
13 Section 1; Laws 2015, Chapter 82, Section 1; Laws 2018, Chapter
14 51, Section 1; Laws 1992, Chapter 108, Section 1; Laws 1983,
15 Chapter 218, Section 1; Laws 2003, Chapter 400, Section 2; Laws
16 2007, Chapter 204, Section 4; Laws 2018, Chapter 36, Section 2;
17 Laws 1993, Chapter 313, Sections 1, 2 and 4 through 14; Laws
18 2002, Chapter 36, Section 1; Laws 2015, Chapter 143, Sections 4
19 through 10; Laws 2008, Chapter 89, Sections 1 through 4; Laws
20 1966, Chapter 47, Section 10; Laws 1971, Chapter 217, Section
21 2; Laws 2007, Chapter 204, Section 9; Laws 2021, Chapter 4,
22 Section 3; Laws 2001, Chapter 57, Section 2 and Laws 2001,
23 Chapter 337, Section 2; Laws 2000 (2nd S.S.), Chapter 22,
24 Section 12; Laws 2007, Chapter 204, Sections 11 through 18; and
25 Laws 1977, Chapter 342, Section 5, as amended) are repealed.

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