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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RELATING TO TAXATION; UPDATING AND DELETING OUTDATED PROVISIONS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

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

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

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

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

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

25 (1) the local government shall, after approval

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1 of a metropolitan redevelopment plan, notify the county
2 assessor of the taxable parcels of property within the
3 metropolitan redevelopment area;

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

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

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

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

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

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

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

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

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

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

25 (b) the amount of state gross receipts

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

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

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

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

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

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

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

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

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

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

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

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

25 A. "base gross receipts taxes" means:

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

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

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

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

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

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

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

24 E. "developer" means the owner or developer who has
25 entered into an agreement pursuant to Subsection A of Section

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1 5-15-4 NMSA 1978 with the governing body that formed the
2 district or the owner's or developer's successors or assigns;

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

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

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

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

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

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1 ~~[I.]~~ K. "gross receipts tax increment bonds" means
2 bonds issued by a district in accordance with the Tax Increment
3 for Development Act, the pledged revenue for which is a gross
4 receipts tax increment;

5 ~~[J.]~~ L. "local government" means a municipality or
6 county;

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

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

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

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

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

20 (3) that is:

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

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1 (b) held by an employee that is employed
2 at a regional, national or international headquarters operation
3 or at an operation that primarily provides services for other
4 operations of the qualifying entity that are located outside
5 the state; and

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

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

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

17 [P.] R. "project" means a tax increment development
18 project;

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

25 [R.] T. "property tax increment bonds" means bonds

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

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

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

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

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

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

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

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1 ingress, egress and parking;

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

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

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

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

12 (10) natural gas distribution facilities;

13 (11) lighting systems;

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

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

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

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

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

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1 subsection;

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

5 (18) workforce housing; and

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

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

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

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

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

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1 ~~[X.]~~ Z. "tax increment development plan" means a
2 plan for the undertaking of a tax increment development
3 project;

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

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

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

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

23 (4) disposition of property acquired or held
24 by a tax increment development district as part of the
25 undertaking of a tax increment development project at the fair

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1 market value of such property for uses in accordance with the
2 Tax Increment for Development Act;

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

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

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

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

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

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1 gross monthly income; provided that:

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

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

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

13 "5-15-9. FORMATION OF A DISTRICT.--

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

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

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

25 (3) any other taxing entities within which any

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1 portion of the property located within a tax increment
2 development area lies;

3 (4) the taxation and revenue department;

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

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

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

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

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

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

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

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

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

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

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

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

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1 connection with the bonds of, loans or advances to or any
2 indebtedness incurred by, whether funded, refunded, assumed or
3 otherwise, the district for financing or refinancing, in whole
4 or in part, a tax increment development project within the tax
5 increment development area:

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

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

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

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

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

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

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1 (2) the state board of finance has adopted a
2 resolution dedicating an increment attributable to the state
3 gross receipts tax for the purpose of securing gross receipts
4 tax increment bonds pursuant to Subsection G of this section;
5 and

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

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

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

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

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

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1 notification period pursuant to Section 5-15-27 NMSA 1978 and
2 shall find that:

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

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

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

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1 typically on site.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 B. The taxation and revenue department, the
24 department of finance and administration, the developer and the
25 local governments that have dedicated a tax increment to the

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

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

12 (1) a copy of the resolution;

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

18 (3) any other related documentation.

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

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

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1 "5-15-25.2. BASE [~~YEAR~~] PERIOD REVISION--APPROVAL.--

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

5 (1) once during the lifetime of the district;

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

8 ~~(3)]~~ (2) if no gross receipts tax increment
9 bonds attributable to the district have been issued;

10 [~~(4)]~~ (3) if there is no unresolved objection
11 to the revision by the developer or by a local government that
12 has dedicated a tax increment to the district; and

13 [~~(5)]~~ (4) upon a finding that the revision is
14 reasonable and in the best interest of the state.

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

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

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1 SECTION 8. Section 5-15-25.3 NMSA 1978 (being Laws 2014,
2 Chapter 11, Section 3) is amended to read:

3 "5-15-25.3. BASE [~~YEAR~~] PERIOD REVISION--EFFECT.--

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

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

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

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

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

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

25 "5-15-27. DEDICATION OF GROSS RECEIPTS TAX INCREMENT--

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1 NOTICE TO TAXATION AND REVENUE DEPARTMENT.--

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

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

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

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

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

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

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

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

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

12 (1) within that municipality;

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

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

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

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

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1 substantially the same as the services the municipality
2 performs for itself; and

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

6 ~~[B. If the reduction made by Laws 1991, Chapter 9,~~
7 ~~Section 9 to the distribution under this section impairs the~~
8 ~~ability of a municipality to meet its principal or interest~~
9 ~~payment obligations for revenue bonds outstanding prior to July~~
10 ~~1, 1991 that are secured by the pledge of all or part of the~~
11 ~~municipality's revenue from the distribution made under this~~
12 ~~section, then the amount distributed pursuant to this section~~
13 ~~to that municipality shall be increased by an amount sufficient~~
14 ~~to meet any required payment, provided that the distribution~~
15 ~~amount does not exceed the amount that would have been due that~~
16 ~~municipality under this section as it was in effect on June 30,~~
17 ~~1992.~~

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

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

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1 internal revenue as an organization described in Section
2 501(c)(3) of the Internal Revenue Code."

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

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

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

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

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

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

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

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

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

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1 the payment of bonds shall receive its proportion of the
2 distribution of revenues under this section impressed with and
3 subject to these pledges.

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

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

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

12 A. The provisions of this section apply to:

13 (1) any distribution to a municipality
14 pursuant to Section 7-1-6.2, 7-1-6.4, 7-1-6.36 or 7-1-6.46 NMSA
15 1978;

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

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

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

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

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

4 (7) any distribution to a county from the
5 county government road fund pursuant to Section 7-1-6.26 NMSA
6 1978;

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

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

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

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

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

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

25 One category shall be for amounts relating to the current

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

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

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

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

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

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

21 D. Prior to or concurrently with the distribution
22 or transfer to the [~~municipality or county]~~ distribution
23 recipient of the adjusted net receipts, the department shall
24 notify the [~~municipality or county]~~ recipient whose
25 distribution or transfer has been adjusted pursuant to

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1 Paragraph (2) of Subsection B of this section:

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

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

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

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

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

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

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

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

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

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

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

25 (3) if, after application of a refund claim,

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

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

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

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

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1 revenue bonds or meet other local revenue bond, loan or other
2 debt obligations of the [~~municipality or county~~] recipient to
3 the New Mexico finance authority. A decrease to or redirection
4 of a distribution or transfer pursuant to this subsection that
5 arose:

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

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

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

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

13 J. As used in this section:

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

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

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1 claims for refund, audit adjustments or other cause;

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

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

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

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

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

22 (5) "repayment agreement" means an agreement
23 between the department and a [~~municipality or county~~]
24 distribution recipient under which the [~~municipality or county~~]
25 recipient agrees to allow the department to recover an amount

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

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

9 "7-1-6.16. COUNTY EQUALIZATION DISTRIBUTION.--

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

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

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

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1 the previous month, the net receipts, for the purposes of this
2 section, for that county for that month shall be zero.

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

6 C. As used in this section:

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

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

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

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

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

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1 most current estimated population for the unit provided in
2 writing by the bureau of business and economic research at the
3 university of New Mexico; and

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

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

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

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

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

25 C. to the board of regents of New Mexico state

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1 university for support of the New Mexico department of
2 agriculture's healthy soil program;

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

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

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

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

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

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

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

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

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

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1 M. to the aging and long-term services department
2 to enhance or expand senior services;

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

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

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

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

12 "7-1-6.26. COUNTY GOVERNMENT ROAD FUND--DISTRIBUTION.--

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

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

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

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

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

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

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1 amount in the county government road fund.

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

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

24 E. If a county has not made the required mileage
25 certification pursuant to Section 67-3-28.3 NMSA 1978 by April

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

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

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

21 "7-1-6.27. DISTRIBUTION--MUNICIPAL ROADS.--

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

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1 7-1-6.15 NMSA 1978, equal to five and seventy-six hundredths
2 percent of the net receipts attributable to the gasoline tax.

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

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

13 (2) to provide matching funds for projects
14 subject to cooperative agreements with the [~~state highway and~~
15 department of transportation [~~department~~] pursuant to Section
16 67-3-28 NMSA 1978; and

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

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

7 C. For the purposes of this section:

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

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

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

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

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

25 (1) the floor amount; or

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

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

23 F. If a balance remains after the redistribution
24 amount has been reduced pursuant to Subsection E of this
25 section, there shall be added to the computed distribution

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

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

11 "7-1-6.30. DISTRIBUTION--RETIREE HEALTH CARE FUND.--

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

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

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

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

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

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

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

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

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1 (3) for a municipality that has a poverty
2 level two percentage points or more below the state poverty
3 level,

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

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

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

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

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

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

21 ~~(2) on or after July 1, 2023 and prior to July~~
22 ~~1, 2024, forty-two percent;~~

23 ~~(3) on or after July 1, 2024 and prior to July~~
24 ~~1, 2025, thirty-five percent;~~

25 ~~(4)]~~ (1) on or after July 1, 2025 and prior to

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

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

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

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

5 F. For the purposes of this section:

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

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

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

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

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

25 (2) "maximum distribution" means:

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1 (a) for a municipality that did not have
2 in effect on June 30, 2019 a municipal hold harmless gross
3 receipts tax, the total deductions claimed pursuant to Sections
4 7-9-92 and 7-9-93 NMSA 1978 for the month by taxpayers from
5 business locations attributable to the municipality multiplied
6 by the sum of the combined rate of all municipal local option
7 gross receipts taxes in effect in the municipality for the
8 month plus one and two hundred twenty-five thousandths percent;
9 and

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

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

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1 make a determination as to the poverty level of the
2 municipality.

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

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

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

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

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

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1 ~~[(1) on or after July 1, 2021 and prior to~~
2 ~~July 1, 2022, fifty-six percent;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 SECTION 23. Section 7-1-6.58 NMSA 1978 (being Laws 2007
9 (1st S.S.), Chapter 2, Section 8) is amended to read:

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

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

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

21 A. A distribution pursuant to Section 7-1-6.1 NMSA
22 1978 shall be made to each municipality, subject to any
23 increase or decrease made pursuant to Section 7-1-6.15 NMSA
24 1978, in an amount equal to thirty-three and thirty-three
25 hundredths percent of the net receipts attributable to the

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1 cannabis excise tax from business locations [~~within~~] sourced to
2 the municipality as reported pursuant to Section 7-42-4 NMSA
3 1978.

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

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

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

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

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

23 A. An employee of the department may reveal to:

24 (1) the officials or employees of a
25 municipality of this state authorized in a written request by

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

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

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

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1 information described in this subparagraph quarterly or upon
2 such other periodic basis as the secretary and the municipality
3 may agree in writing; and

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

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

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

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

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

22 (c) in the case of a local option gross
23 receipts tax imposed by a county on a countywide basis,
24 information indicating whether persons shown on a list of
25 businesses located within the county furnished by the county

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1 have reported gross receipts to the department but have not
2 reported gross receipts for that county under the Gross
3 Receipts and Compensating Tax Act or a local option gross
4 receipts tax imposed by that county on a countywide basis; and

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

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

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

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

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

19 "7-1-13.1. METHOD OF PAYMENT OF CERTAIN TAXES DUE.--

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

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1 thousand dollars (\$25,000):

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

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

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

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

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

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

25 ~~(1)~~ electronic payment; provided that a result

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1 of the payment is that funds are immediately available to the
2 state of New Mexico on or before the due date

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

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

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

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

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

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

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1 "7-1-15. SECRETARY MAY SET TAX REPORTING AND PAYMENT
2 INTERVALS.--The secretary may, pursuant to [~~regulation~~] rule,
3 allow taxpayers with an anticipated tax liability of less than
4 [~~two hundred dollars (\$200)~~] five hundred dollars (\$500) a
5 month to report and pay taxes at intervals which the secretary
6 may specify. However, unless specifically permitted by law, an
7 interval shall not exceed six months. [~~The secretary may also~~
8 ~~allow direct marketers who have entered into an agreement with~~
9 ~~the department to collect and remit compensating tax to report~~
10 ~~and pay on a quarterly or semi-annual basis.~~]"

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

13 "7-1-20. COMPROMISE OF TAXES--CLOSING AGREEMENTS.--

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

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

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1 case.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 B. A claim for refund that meets the requirements
25 of Subsection A of this section and that is filed within the

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1 time limitations provided by Subsections F and G of this
2 section is deemed to be properly before the department for
3 consideration, regardless of whether the department requests
4 additional documentation after receipt of the claim for refund.

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

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

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

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

25 E. A person may elect to pursue only one of the

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~~[bracketed material] = delete~~

1 remedies provided in this subsection. A person who timely
2 pursues more than one remedy is deemed to have elected the
3 first. The person may:

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

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

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

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

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

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

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1 the plaintiff of that amount or property and reciting the facts
2 of the claim for refund. The plaintiff or the secretary may
3 appeal from any final decision or order of the district court
4 to the court of appeals.

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

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

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

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

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

22 (d) the final determination of value
23 occurs with respect to any overpayment that resulted from a
24 disapproval by any agency of the United States or the state of
25 New Mexico or any court of increase in value of a product

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1 subject to taxation pursuant to the Oil and Gas Severance Tax
2 Act, the Oil and Gas Conservation Tax Act, the Oil and Gas
3 Emergency School Tax Act, the Oil and Gas Ad Valorem Production
4 Tax Act or the Natural Gas Processors Tax Act; or

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

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

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

25 [~~(4)~~] (3) in the case of a payment of an
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1 amount of tax not made within three years of the end of the
2 calendar year in which the original due date of the tax or date
3 of the assessment of the department occurred, only for a claim
4 for refund of that amount of tax and only within one year of
5 the date on which the tax was paid; or

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

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

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~~[bracketed material] = delete~~

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

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

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

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

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

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

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

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

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

25 (1) a written protest is filed against an

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1 assessment, submitted in accordance with the provisions of
2 Section 7-1-24 NMSA 1978, but before any court acquires
3 jurisdiction of the matter; ~~[or when]~~

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

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

23 B. Pursuant to the final order of the district
24 court, the court of appeals, the supreme court of New Mexico or
25 any federal court, from which order, appeal or review is not

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

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

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

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

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

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

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

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

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

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

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

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

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1 credited with the credit, rebate or refund amount.

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

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

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1 the period to which the overpayment was applied, whichever is
2 later.

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

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

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

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

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

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

23 "7-1-37. ASSESSMENT AS LIEN.--

24 A. If any person liable for any tax neglects or
25 refuses to pay the tax after assessment and demand for payment

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1 as provided in Section 7-1-17 NMSA 1978 or if any person liable
2 for tax pursuant to Section 7-1-63 NMSA 1978 neglects or
3 refuses to pay after demand has been made, unless and only so
4 long as such a person is entitled to the protection afforded by
5 a valid order of a United States court entered pursuant to
6 Section 362 or 1301 of Title 11 of the United States Code, as
7 amended or renumbered, the amount of the tax shall be a lien in
8 favor of the state of New Mexico upon all property and rights
9 to property of the person.

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

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

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

25 "7-1-38. NOTICE OF LIEN.--A notice of the lien provided

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1 for in Section 7-1-37 NMSA 1978 may be recorded in any county
2 in the state in the tax lien index established by Sections
3 48-1-1 through 48-1-7 NMSA 1978 or with the office of the
4 secretary of state and a copy thereof shall be sent to the
5 affected taxpayer. [~~affected.~~ ~~Any~~] The office of the
6 secretary of state or a county clerk to whom the notices are
7 presented shall record them as requested without charge. The
8 notice of lien shall identify the taxpayer whose liability for
9 taxes is sought to be enforced and the date or approximate date
10 on which the tax became due and shall state that New Mexico
11 claims a lien for the entire amount of tax asserted to be due,
12 including applicable interest and penalties. Recording of the
13 notice of lien shall be effective as to all property and rights
14 to property of the taxpayer. Liens may be recorded
15 electronically."

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

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

20 A. When any substantial part of the amount of tax
21 due from a taxpayer is paid, the department shall immediately
22 file, in the same [~~county~~] manner in which a notice of lien was
23 filed, and in the same records, a document completely or
24 partially releasing the lien. The [~~county clerk~~] official to
25 whom such a document is presented shall record [~~it~~] the release

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1 of the lien without charge.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 F. A taxpayer allowed a tax credit pursuant to this
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1 section shall ~~[report the amount of the credit to the~~
2 ~~department]~~ claim the credit on forms and in a manner required
3 by the department.

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

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

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

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

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

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

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

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

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

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

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1 qualified investment in the same investment round.

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

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

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

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

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1 and the number and names of the businesses determined to be
2 qualified businesses for purposes of an investment by an
3 accredited investor.

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

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

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

19 K. As used in this section:

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

24 (2) "business" means a corporation, general
25 partnership, limited partnership, limited liability company or

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1 other similar entity, but excludes an entity that is a
2 government or a nonprofit organization designated as such by
3 the federal government or any state;

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

10 (4) "investment round" means an offer and sale
11 of securities and all other offers and sales of securities that
12 would be integrated with such offer and sale of securities
13 under Regulation D issued by the federal securities and
14 exchange commission pursuant to the federal Securities Act of
15 1933, as amended;

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

19 (a) construction;
20 (b) farming;
21 (c) processing natural resources,
22 including hydrocarbons; or

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

25 (6) "qualified business" means a business

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1 that:

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

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

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

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

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1 of the federal Securities Exchange Act of 1934, as amended; and
2 is not registered pursuant to the federal Investment Company
3 Act of 1940, as amended, at the time of the investment;

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

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

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

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

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

22 "7-2-18.22. RURAL HEALTH CARE PRACTITIONER TAX CREDIT.--

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

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

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

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

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

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

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

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underscored material = new
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1 eligible health care practitioners to whom certificates are
2 issued in a secure manner on regular intervals agreed upon by
3 both the taxation and revenue department and the department of
4 health.

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

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

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

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1 including the annual aggregate cost of the tax credit.

2 G. As used in this section:

3 (1) "eligible health care practitioner" means:

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

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

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

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

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

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

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

25 (h) a registered nurse licensed pursuant

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1 to the provisions of the Nursing Practice Act;

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

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

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

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

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

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

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

underscored material = new
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1 United States department of health and human services."

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

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

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

25 B. That portion of a geothermal ground-coupled heat

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1 pump income tax credit that exceeds a taxpayer's tax liability
2 in the taxable year in which the credit is claimed shall be
3 refunded to the taxpayer.

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

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

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underscoring material = new
~~[bracketed material] = delete~~

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

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

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

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

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underscored material = new
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1 ~~other information necessary to evaluate the credit. 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 credit provided~~
5 by this section shall be included in the tax expenditure budget
6 pursuant to Section 7-1-84 NMSA 1978, including the annual
7 aggregate cost of the tax credit.

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

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

17 "7-2-18.26. AGRICULTURAL BIOMASS INCOME TAX CREDIT.--

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

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underscored material = new
[bracketed material] = delete

1 gaseous fuel for commercial use. The tax credit created in
2 this section may be referred to as the "agricultural biomass
3 income tax credit".

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

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

25 C. The energy, minerals and natural resources

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underscored material = new
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1 department shall:

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

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

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

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

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underscoring material = new
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1 certificate of eligibility for an agricultural biomass income
2 tax credit may be sold, exchanged or otherwise transferred to
3 another taxpayer for the full value of the credit. The parties
4 to such a transaction shall notify the department of the sale,
5 exchange or transfer within ten days of the sale, exchange or
6 transfer.

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

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

22 ~~[F. The energy, minerals and natural resources~~
23 ~~department shall adopt rules establishing procedures to provide~~
24 ~~certification of transportation of agricultural biomass to a~~
25 ~~qualified facility that uses agricultural biomass to generate~~

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underscored material = new
[bracketed material] = delete

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

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

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

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

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

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underscored material = new
[bracketed material] = delete

1 ~~receive the credit, the aggregate amount of credits approved~~
2 ~~and any other information necessary to evaluate the credit.~~
3 ~~The 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 K. As used in this section:

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

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

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

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

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

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

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

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

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

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1 ~~the taxpayer's income tax return]~~ if the requirements of this
2 section are met.

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

LEED Rating Level	Qualified Occupied Square Footage	Tax Credit per Square Foot
LEED-NC Silver	First 10,000	\$3.50
	Next 40,000	\$1.75
	Over 50,000 up to 500,000	\$.70
LEED-NC Gold	First 10,000	\$4.75
	Next 40,000	\$2.00
	Over 50,000 up to 500,000	\$1.00
LEED-NC Platinum	First 10,000	\$6.25
	Next 40,000	\$3.25
	Over 50,000 up to 500,000	\$2.00
LEED-EB or CS Silver	First 10,000	\$2.50

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1		Next 40,000	\$1.25
2		Over 50,000	
3		up to 500,000	\$.50
4	LEED-EB or CS Gold	First 10,000	\$3.35
5		Next 40,000	\$1.40
6		Over 50,000	
7		up to 500,000	\$.70
8	LEED-EB or CS Platinum	First 10,000	\$4.40
9		Next 40,000	\$2.30
10		Over 50,000	
11		up to 500,000	\$1.40
12	LEED-CI Silver	First 10,000	\$1.40
13		Next 40,000	\$.70
14		Over 50,000	
15		up to 500,000	\$.30
16	LEED-CI Gold	First 10,000	\$1.90
17		Next 40,000	\$.80
18		Over 50,000	
19		up to 500,000	\$.40
20	LEED-CI Platinum	First 10,000	\$2.50
21		Next 40,000	\$1.30
22		Over 50,000	
23		up to 500,000	\$.80.

24 E. For taxable years ending on or before December 31,
25 2024, the 2015 sustainable building income tax credit may be

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1 claimed with respect to a sustainable residential building.
2 The credit shall be calculated based on the amount of qualified
3 occupied square footage, as indicated on the following chart:

4 Rating System/Level	5 Qualified Occupied	6 Tax Credit per Square Foot
7 LEED-H Silver or Build	8 Up to 2,000	9 \$3.00
10 Green NM Silver		
11 LEED-H Gold or Build	12 Up to 2,000	13 \$4.50
14 Green NM Gold		
15 LEED-H Platinum or Build	16 Up to 2,000	17 \$6.50
18 Green NM Emerald		
19 Manufactured Housing	20 Up to 2,000	21 \$3.00.

22 F. A person that is a building owner may apply for a
23 certificate of eligibility for the 2015 sustainable building
24 income tax credit from the energy, minerals and natural
25 resources department on forms and in a manner prescribed by
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

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

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

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

24 G. Except as provided in Subsection H of this
25 section, the energy, minerals and natural resources department

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

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

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

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

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

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

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

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

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1 tax credit for which the building owner is eligible.

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

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

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

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1 allowed on a joint return.

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

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

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

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

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

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

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1 (4) "LEED-EB" means the LEED rating system for
2 existing buildings;

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

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

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

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

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

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

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

22 (a) a manufactured home or modular home;

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

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

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

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

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

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

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

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

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

24 (15) "sustainable commercial building" means a
25 multifamily dwelling unit, as registered and certified under

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

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

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

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

21 (16) "sustainable residential building" means:

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

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

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

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

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

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

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

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

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

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

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

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~~[bracketed material] = delete~~

1 certified pursuant to Subsection E of this section.

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

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underscored material = new
[bracketed material] = delete

1 natural resources department shall provide the department
2 appropriate information for all certificates of eligibility in
3 a secure manner on regular intervals agreed upon by both
4 departments.

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

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

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

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

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underscoring material = new
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1 system was installed; provided that, for a taxpayer who
2 receives a certificate of eligibility pursuant to Paragraph (1)
3 of Subsection F of this section, the taxpayer shall apply to
4 the department within twelve months following the calendar year
5 in which the certification is made. The ~~[application]~~ claim
6 shall include a certification made pursuant to Subsection E of
7 this section.

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

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

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

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[bracketed material] = delete

1 K. A taxpayer allowed a tax credit pursuant to this
2 section shall ~~[report the amount of]~~ claim the credit ~~[to the~~
3 ~~taxation and revenue department]~~ on forms and in a manner
4 required by ~~[that]~~ the department.

5 L. ~~[The taxation and revenue department shall~~
6 ~~compile an annual report on the new solar market development~~
7 ~~income tax credit that shall include the number of taxpayers~~
8 ~~approved by the department to receive the credit, the aggregate~~
9 ~~amount of credits approved and any other information necessary~~
10 ~~to evaluate the credit. The department shall present the~~
11 ~~report to the revenue stabilization and tax policy committee~~
12 ~~and the legislative finance committee with an analysis of the]~~
13 The tax credit provided by this section shall be included in
14 the tax expenditure budget pursuant to Section 7-1-84 NMSA
15 1978, including the annual aggregate cost of the tax credit.

16 M. As used in this section:

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

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

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

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

2 CREDIT.--

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

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

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

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

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

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

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

Additional Criteria	Qualified Occupied Square Footage	Tax Credit per Square Foot
Fully Electric Building	First 50,000	\$1.00
	Over 50,000	
	Up to 200,000	\$0.50
Zero Carbon, Energy, Waste or Water Certified	First 50,000	\$0.25
	Over 50,000	
	Up to 200,000	\$0.10;

(2) for the renovation of a commercial building that was built at least ten years prior to the date of

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[bracketed material] = delete

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

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

19 Product	Amount of Credit	
20	Affordable	Non-Affordable
21	Housing	Housing
22 Energy Star Air		
23 Source Heat Pump	\$2,000	\$1,000
24 Energy Star Ground		
25 Source Heat Pump	\$2,000	\$1,000

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[bracketed material] = delete

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

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

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

24	Rating Level	Qualified	Tax Credit
25		Occupied	Per Square

underscored material = new
[bracketed material] = delete

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

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

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

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

22	Product	Amount of Credit	
23		Affordable	Non-Affordable
24		Housing and	Housing and
25		Low-Income	Non-Low Income

underscored material = new
[bracketed material] = delete

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

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

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underscoring material = new
~~[bracketed material] = delete~~

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

16 The energy, minerals and natural resources department may issue
17 rules governing the procedure for administering the provisions
18 of this subsection. [~~If the certification level for the~~
19 ~~sustainable residential building is awarded on or after January~~
20 ~~1, 2022]~~ The energy, minerals and natural resources department
21 may issue a certificate of eligibility to a building owner who
22 is:

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

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[bracketed material] = delete

1 (2) the subsequent purchaser of a sustainable
2 residential building with respect to which no tax credit has
3 been previously claimed.

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

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

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

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

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

24 (5) two million nine hundred thousand dollars
25 (\$2,900,000) with respect to the installation of energy-

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underscored material = new
[bracketed material] = delete

1 conserving products in existing commercial buildings pursuant
2 to Paragraph (3) of Subsection B of this section and existing
3 residential buildings pursuant to Paragraph (5) of Subsection B
4 of this section.

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

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

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underscored material = new
[bracketed material] = delete

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

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

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

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

24 ~~(2) one hundred thousand dollars (\$100,000) or~~
25 ~~more, increments of twenty-five percent of the total credit~~

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underscoring material = new
[bracketed material] = delete

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

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

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

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

24 ~~[J.]~~ I. A taxpayer who otherwise qualifies and
25 claims a 2021 sustainable building income tax credit with

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underscored material = new
~~[bracketed material] = delete~~

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

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

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

25 ~~M. The department and the energy, minerals and~~

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underscoring material = new
~~[bracketed material] = delete~~

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

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

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

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

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

24 (3) "build green gold" means the gold level
25 certification standard adopted by build green New Mexico, which

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underscoring material = new
~~[bracketed material] = delete~~

1 includes water conservation standards and uses 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;

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

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

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

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underscoring material = new
~~[bracketed material] = delete~~

1 energy;

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

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

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

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

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

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

25 [~~(12)~~] (13) "LEED gold" means the rating in

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1 compliance with, or exceeding, the second-highest rating
2 awarded by the LEED certification process;

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

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

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

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

15 ~~[(17)]~~ (18) "manufactured housing" means a
16 multisectioned home that is:

17 (a) a manufactured home or modular home;

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

21 (c) constructed in a factory to the
22 standards of the United States department of housing and urban
23 development, the National Manufactured Housing Construction and
24 Safety Standards Act of 1974 and the Housing and Urban
25 Development Zone Code 2 or New Mexico construction codes up to

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underscoring material = new
~~[bracketed material]~~ = delete

1 the date of the unit's construction; and

2 (d) installed consistent with the
3 Manufactured Housing Act and rules adopted pursuant to that act
4 relating to permanent foundations;

5 ~~[(18)]~~ (19) "qualified occupied square
6 footage" means the occupied spaces of the building as
7 determined by:

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

10 (b) the administrators of the build
11 green New Mexico rating system for those homes obtaining build
12 green New Mexico certification; and

13 (c) the United States environmental
14 protection agency for Energy Star-certified manufactured homes;

15 ~~[(19)]~~ (20) "person" does not include state,
16 local government, public school district or tribal agencies;

17 ~~[(20)]~~ (21) "sustainable building" means
18 either a sustainable commercial building or a sustainable
19 residential building;

20 ~~[(21)]~~ (22) "sustainable commercial building"
21 means:

22 (a) a commercial building that is
23 certified as any LEED platinum or gold for commercial
24 buildings;

25 (b) a multifamily dwelling unit that is

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underscored material = new
~~[bracketed material] = delete~~

1 certified as LEED-H platinum or gold or build green emerald or
2 gold and uses at least thirty percent less energy than is
3 required by the prescriptive path of the most current
4 applicable energy conservation code promulgated by the
5 construction industries division of the regulation and
6 licensing department for build green gold or LEED-H, or uses at
7 least forty percent less energy than is required by the
8 prescriptive path of the most current residential energy
9 conservation code promulgated by the construction industries
10 division of the regulation and licensing department for build
11 green emerald or LEED platinum; or

12 (c) a building that: 1) is certified at
13 LEED-NC, LEED-EB, LEED-CS or LEED-CI platinum or gold levels;
14 2) achieves any prerequisite for and at least one point related
15 to commissioning under the LEED energy and atmosphere category,
16 if included in the applicable rating system; and 3) has reduced
17 energy consumption beginning January 1, 2012 by forty percent
18 based on the national average for that building type as
19 published by the United States department of energy as
20 substantiated by the United States environmental protection
21 agency target finder energy performance results form, dated no
22 sooner than the schematic design phase of development;

23 ~~(+22)~~ (23) "sustainable residential building"
24 means:

25 (a) a building used as a single-family

underscoring material = new
~~[bracketed material] = delete~~

1 residence that: 1) is certified as LEED-H platinum or gold or
2 build green emerald or gold; 2) uses at least thirty percent
3 less energy than is required by the prescriptive path of the
4 most current residential energy conservation code promulgated
5 by the construction industries division of the regulation and
6 licensing department for build green gold or LEED-H, or uses at
7 least forty percent less energy than is required by the
8 prescriptive path of the most current residential energy
9 conservation code promulgated by the construction industries
10 division of the regulation and licensing department for build
11 green emerald or LEED platinum; 3) has indoor plumbing fixtures
12 and water-using appliances that, on average, have flow rates
13 equal to or lower than the flow rates required for
14 certification by WaterSense; 4) if landscape area is available
15 at the front of the property, has at least one water line
16 outside the building below the frost line that may be connected
17 to a drip irrigation system; and 5) if landscape area is
18 available at the rear of the property, has at least one water
19 line outside the building below the frost line that may be
20 connected to a drip irrigation system; or

21 (b) manufactured housing that is Energy
22 Star-qualified;

23 ~~[(23)]~~ (24) "tribal" means of, belonging to or
24 created by a federally recognized Indian nation, tribe or
25 pueblo;

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underscored material = new
[bracketed material] = delete

1 [~~(24)~~] (25) "WaterSense" means a program
2 created by the federal environmental protection agency that
3 certifies water-using products that meet the environmental
4 protection agency's criteria for efficiency and performance;

5 [~~(25)~~] (26) "zero carbon certified" means a
6 building that is certified as LEED zero carbon by achieving a
7 carbon-dioxide-equivalent balance of zero for the building;

8 [~~(26)~~] (27) "zero energy certified" means a
9 building that is certified as LEED zero energy by achieving a
10 source energy use balance of zero for the building;

11 [~~(27)~~] (28) "zero waste certified" means a
12 building that is certified as LEED zero waste by achieving
13 green building certification incorporated's true zero waste
14 certification at the platinum level; and

15 [~~(28)~~] (29) "zero water certified" means a
16 building that is certified as LEED zero water by achieving a
17 potable water use balance of zero for the building."

18 SECTION 46. Section 7-2-18.35 NMSA 1978 (being Laws 2024,
19 Chapter 67, Section 9) is amended to read:

20 "7-2-18.35. HOME FIRE RECOVERY INCOME TAX CREDIT.--

21 A. A taxpayer who is not a dependent of another
22 individual and who, beginning on [~~the effective date of this~~
23 ~~section~~] May 15, 2024 and prior to January 1, 2030, incurs
24 qualified home expenditures for a home in New Mexico to replace
25 a prior home of the taxpayer that was destroyed by a wildfire

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underscored material = new
~~[bracketed material]~~ = delete

1 in calendar years 2021 through 2023 may claim a tax credit
2 against the taxpayer's tax liability imposed pursuant to the
3 Income Tax Act in an amount equal to the qualified home
4 expenditures incurred by the taxpayer not to exceed fifty
5 thousand dollars (\$50,000) per home. The tax credit provided
6 by this section may be referred to as the "home fire recovery
7 income tax credit".

8 B. A taxpayer who seeks to claim the tax credit
9 shall apply for certification of eligibility from the
10 construction industries division of the regulation and
11 licensing department on forms and in a manner prescribed by
12 that division. The aggregate amount of credits that may be
13 certified as eligible in any calendar year is five million
14 dollars (\$5,000,000). An application for certification shall
15 be made no later than twelve months after the calendar year in
16 which construction of the home is completed. Completed
17 applications shall be considered in the order received. If a
18 taxpayer submits an application for the tax credit and the
19 aggregate amount of certifications has been met for the
20 calendar year, the application shall be placed at the front of
21 a queue for certification in a subsequent calendar year.
22 Except as otherwise provided in Subsections [~~F and~~] G and H of
23 this section, only one tax credit shall be certified per
24 taxpayer.

25 C. An application for certification of eligibility

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underscored material = new
[bracketed material] = delete

1 shall include:

2 (1) proof that the taxpayer's prior home was
3 destroyed by wildfire in calendar years 2021 through 2023,
4 including a sworn statement by the taxpayer;

5 (2) proof that the taxpayer incurred
6 expenditures for the construction of a home on the same
7 property of the taxpayer's prior, wildfire-destroyed home,
8 including a contract with a builder or manufacturer;

9 (3) a sworn statement by the taxpayer and the
10 builder or manufacturer of the home that the construction of
11 the home has been completed and stating the date of its
12 completion; and

13 (4) any additional information the
14 construction industries division of the regulation and
15 licensing department may require to determine eligibility for
16 the tax credit.

17 D. If the construction industries division of the
18 regulation and licensing department determines that the
19 taxpayer meets the requirements of this section, the division
20 shall issue a dated certificate of eligibility to the taxpayer
21 providing the amount of tax credit for which the taxpayer is
22 eligible and the taxable year in which the credit may be
23 claimed. The construction industries division shall provide
24 the department with the certificates of eligibility issued
25 pursuant to this subsection in [~~an~~] a secure electronic format

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underscoring material = new
[bracketed material] = delete

1 at regularly agreed-upon intervals.

2 E. A taxpayer issued a certificate of eligibility
3 shall claim the tax credit on forms and in a manner required by
4 the department within twelve months of being issued the
5 certificate of eligibility.

6 F. That portion of the tax credit that exceeds a
7 taxpayer's tax liability in the taxable year in which the tax
8 credit is claimed shall not be refunded but may be carried
9 forward for a maximum of three consecutive taxable years.

10 G. Married individuals filing separate returns for
11 a taxable year for which they could have filed a joint return
12 may each claim only one-half of the tax credit that would have
13 been claimed on a joint return.

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

23 I. ~~[The department shall compile an annual report~~
24 ~~on the tax credit that shall include the number of taxpayers~~
25 ~~approved by the department to receive the credit, the aggregate~~

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underscoring material = new
[bracketed material] = delete

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

8 J. As used in this section:

9 (1) "home" means a dwelling designed for long-
10 term habitation in which the taxpayer resides for a majority of
11 the year and is:

12 (a) constructed permanently on a
13 taxpayer's property with a foundation and that cannot be moved;
14 or

15 (b) a manufactured home or modular home
16 that is a single-family dwelling with a heated area of at least
17 thirty-six by twenty-four feet and at least eight hundred
18 sixty-four square feet and constructed in a factory to the
19 standards of the United States department of housing and urban
20 development, the National Manufactured Housing Construction and
21 Safety Standards Act of 1974 and the Housing and Urban
22 Development Zone Code 2 or the Uniform Building Code, as
23 amended to the date of the unit's construction, and installed
24 consistent with the Manufactured Housing Act and with the rules
25 made pursuant thereto relating to permanent foundations; and

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underscored material = new
[bracketed material] = delete

1 (2) "qualified home expenditures" means gross
2 expenditures for the construction or manufacture of a home on
3 the same property in New Mexico that a taxpayer's prior home
4 was destroyed by a wildfire in calendar years 2021 through
5 2023, less any compensation related to home construction,
6 manufacture or repair costs received pursuant to the federal
7 Hermit's Peak/Calf Canyon Fire Assistance Act or from insurance
8 or other source of compensation."

9 SECTION 47. Section 7-2-18.38 NMSA 1978 (being Laws 2024,
10 Chapter 67, Section 33) is amended to read:

11 "7-2-18.38. GEOTHERMAL ELECTRICITY GENERATION INCOME TAX
12 CREDIT.--

13 A. For taxable years ending prior to January 1,
14 2032, a taxpayer who is not a dependent of another individual
15 and who holds an interest in a geothermal electricity
16 generation facility may apply for, and the department may
17 allow, a credit against the taxpayer's tax liability imposed
18 pursuant to the Income Tax Act. The tax credit provided by
19 this section may be referred to as the "geothermal electricity
20 generation income tax credit".

21 B. The amount of a tax credit allowed pursuant to
22 this section shall be an amount equal to one and one-half cents
23 (\$.015) per kilowatt-hour of electricity generated in New
24 Mexico in a taxable year by the geothermal electricity
25 generation facility in which the taxpayer holds an interest.

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underscoring material = new
~~[bracketed material]~~ = delete

1 C. A taxpayer shall apply for certification of
2 eligibility for the credit provided by this section from the
3 energy, minerals and natural resources department on forms and
4 in the manner prescribed by that department. The total annual
5 aggregate amount of credits that may be certified for
6 geothermal electricity generation income tax credits and
7 geothermal electricity generation corporate income tax credits
8 in any calendar year is five million dollars (\$5,000,000).
9 Completed applications shall be considered in the order
10 received. Applications for certification received after this
11 limitation has been met in a calendar year shall not be
12 approved for that calendar year, but shall be considered for
13 certification in the following calendar year. The application
14 shall include proof that the taxpayer is eligible for
15 certification, including that the geothermal electricity
16 generation facility that produced the energy for which the
17 taxpayer is claiming credit, the geothermal resources used by
18 the geothermal electricity generation facility and the
19 taxpayer's interest in the geothermal electricity generation
20 facility are in accordance with the definitions set forth in
21 this section. For taxpayers approved to receive the credit,
22 the energy, minerals and natural resources department shall
23 issue a certificate of eligibility stating the amount of credit
24 to which the taxpayer is entitled and the taxable year in which
25 the credit may be claimed. The certificate of eligibility

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underscored material = new
~~[bracketed material]~~ = delete

1 shall be numbered for identification and declare the date of
2 issuance and the amount of the tax credit allowed.

3 D. A taxpayer may claim a geothermal electricity
4 generation income tax credit for the taxable year in which
5 electricity was generated in New Mexico by a geothermal
6 electricity generation facility in which the taxpayer holds an
7 interest. To receive the credit provided by this section, a
8 taxpayer shall apply to the department on forms and in the
9 manner prescribed by the department. The application shall
10 include a [~~certification made~~] certificate of eligibility
11 issued pursuant to Subsection C of this section.

12 E. That portion of a credit that exceeds a
13 taxpayer's tax liability in the taxable year in which the
14 credit is claimed may be carried forward for up to three
15 consecutive years.

16 F. Married individuals filing separate returns for
17 a taxable year for which they could have filed a joint return
18 may each claim only one-half of the credit that would have been
19 claimed on a joint return.

20 G. A taxpayer may be allocated the right to claim a
21 credit provided by this section in proportion to the taxpayer's
22 ownership interest if the taxpayer owns an interest in a
23 business entity that is taxed for federal income tax purposes
24 as a partnership or limited liability company and that business
25 entity has met all of the requirements to be eligible for the

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underscoring material = new
~~[bracketed material] = delete~~

1 credit. The total credit claimed by all members of the
2 partnership or limited liability company shall not exceed the
3 maximum amount of the credit allowed pursuant to this section.

4 H. A taxpayer allowed a tax credit pursuant to this
5 section shall report the amount of the credit to the department
6 in a manner required by the department.

7 I. ~~[The department shall compile an annual report
8 on the credit provided by this section that shall include the
9 number of taxpayers approved by the department to receive the
10 credit, the aggregate amount of credits approved and any other
11 information necessary to evaluate the credit. The department
12 shall present the report to the revenue stabilization and tax
13 policy committee and the legislative finance committee with an
14 analysis of the]~~ The tax credit provided by this section shall
15 be included in the tax expenditure budget pursuant to Section
16 7-1-84 NMSA 1978, including the annual aggregate cost of the
17 tax credit.

18 J. As used in this section:

19 (1) "geothermal electricity generation
20 facility" means a facility located in New Mexico that generates
21 electricity from geothermal resources and:

22 (a) for new facilities, begins
23 construction on or after January 1, 2025; or

24 (b) for existing facilities, on or after
25 January 1, 2025, increases the amount of electricity generated

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~~[bracketed material] = delete~~

1 from geothermal resources the facility generated prior to that
2 date by at least one hundred percent;

3 (2) "geothermal resources" means the natural
4 heat of the earth in excess of two hundred fifty degrees
5 Fahrenheit or the energy, in whatever form, below the surface
6 of the earth present in, resulting from, created by or that may
7 be extracted from this natural heat in excess of two hundred
8 fifty degrees Fahrenheit and all minerals in solution or other
9 products obtained from naturally heated fluids, brines,
10 associated gases and steam, in whatever form, found below the
11 surface of the earth, but excluding oil, hydrocarbon gas and
12 other hydrocarbon substances and excluding the heating and
13 cooling capacity of the earth not resulting from the natural
14 heat of the earth in excess of two hundred fifty degrees
15 Fahrenheit as may be used for the heating and cooling of
16 buildings through an on-site geexchange heat pump or similar
17 on-site system; and

18 (3) "interest in a geothermal electricity
19 generation facility" means title to a geothermal electricity
20 generation facility; a leasehold interest in such facility; an
21 ownership interest in a business or entity that is taxed for
22 federal income tax purposes as a partnership that holds title
23 to or a leasehold interest in such facility; or an ownership
24 interest, through one or more intermediate entities that are
25 each taxed for federal income tax purposes as a partnership, in

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1 a business that holds title to or a leasehold interest in such
2 facility."

3 SECTION 48. Section 7-2-24 NMSA 1978 (being Laws 1981,
4 Chapter 343, Section 2, as amended) is amended to read:

5 "7-2-24. OPTIONAL DESIGNATION OF TAX REFUND
6 [~~CONTRIBUTION~~] CONTRIBUTIONS.--

7 A. Except as [~~otherwise~~] provided in Subsection C
8 of this section, [~~any~~] an individual whose state income tax
9 liability after application of allowable credits and tax
10 rebates in any year is lower than the amount of money held by
11 the department to the credit of such individual for that tax
12 year may designate any portion of the income tax refund due
13 [~~him~~] to the individual to be paid [~~into the game protection~~
14 ~~fund~~] to the entities or funds as provided in Subsection B of
15 this section. In the case of a joint return, both individuals
16 must make such designation.

17 B. The department shall [~~revise~~] provide for the
18 state income tax form to allow the designation of such
19 contributions [~~in substantially the following form~~]:

20 "~~New Mexico Game Protection Fund--Check {}~~
21 ~~if you wish to contribute a part or all~~
22 ~~of your tax refund to the Game Protection~~
23 ~~Fund. Enter here \$_____the amount~~
24 ~~of your contribution."~~ as follows:

25 (1) to the game protection fund;

underscored material = new
[bracketed material] = delete

1 (2) to the energy, minerals and natural
2 resources department for the conservation planting revolving
3 fund for the planting of trees in New Mexico;

4 (3) to the board of regents of New Mexico
5 state university for the New Mexico department of agriculture's
6 healthy soil program;

7 (4) to the veterans' services department for
8 the veterans' state cemetery fund;

9 (5) to the public education department for
10 the substance abuse education fund to provide substance abuse
11 educational programs in New Mexico schools;

12 (6) to the board of regents of the university
13 of New Mexico for the amyotrophic lateral sclerosis research
14 fund for amyotrophic lateral sclerosis (Lou Gehrig's disease)
15 research;

16 (7) to the state parks division of the
17 energy, minerals and natural resources department for the kids
18 in parks education program;

19 (8) to the department of military affairs for
20 assistance to members of the New Mexico national guard and to
21 their families;

22 (9) to the veterans' services department for
23 the operation, maintenance and improvement of the Vietnam
24 veterans memorial near Angel Fire, New Mexico;

25 (10) to the veterans' services department for

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underscoring material = new
[bracketed material] = delete

1 the veterans' enterprise fund to carry out the programs, duties
2 or services of the veterans' services department;

3 (11) to the higher education department for
4 the lottery tuition fund to provide tuition assistance for New
5 Mexico resident undergraduates;

6 (12) to the New Mexico livestock board for
7 the equine shelter rescue fund;

8 (13) to the aging and long-term services
9 department to enhance or expand senior services through
10 statewide area agencies on aging grant programs, including
11 senior services provided through the north central New Mexico
12 economic development district as the non-metro area agency on
13 aging, the city of Albuquerque/Bernalillo county area agency on
14 aging, the Indian area agency on aging and the Navajo area
15 agency on aging;

16 (14) to the board of veterinary medicine for
17 the animal care and facility fund to carry out the statewide
18 dog and cat spay and neuter program;

19 (15) to the New Mexico mortgage finance
20 authority for the New Mexico housing trust fund for affordable
21 housing programs; and

22 (16) two dollars (\$2.00) to a state political
23 party of the individual's choosing that on January 1 of the
24 taxable year for which the return is filed meets the
25 requirements of Subsection A of Section 1-7-2 NMSA 1978.

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1 C. The provisions of this section do not apply to
2 income tax refunds subject to interception under the provisions
3 of the Tax Refund Intercept Program Act and any designation
4 made under the provisions of this section to such refunds is
5 void.

6 D. The department shall disregard a direction on a
7 return to make an optional refund contribution if the amount of
8 refund due on the return is determined by the department to be
9 less than the sum of the amounts directed to be contributed.

10 E. Notwithstanding the provisions of Section 7-1-26
11 NMSA 1978, a taxpayer shall not claim and the department shall
12 not allow a refund with respect to any optional refund
13 contribution that was made by the department at the direction
14 of the taxpayer."

15 SECTION 49. Section 7-2-28.1 NMSA 1978 (being Laws 2011,
16 Chapter 42, Section 1, as amended) is amended to read:

17 "7-2-28.1. VETERANS' STATE CEMETERY FUND--CREATED.--The
18 "veterans' state cemetery fund" is created as a nonreverting
19 fund in the state treasury. The fund consists of
20 appropriations, gifts, grants, donations and amounts designated
21 pursuant to Section [~~7-2-28~~] 7-2-24 NMSA 1978. Money in the
22 fund at the end of a fiscal year shall not revert to any other
23 fund. The veterans' services department shall administer the
24 fund, and money in the fund is appropriated to the veterans'
25 services department."

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underscoring material = new
[bracketed material] = delete

1 SECTION 50. Section 7-2-31.1 NMSA 1978 (being Laws 1999,
2 Chapter 47, Section 5) is amended to read:

3 "7-2-31.1. OPTIONAL REFUND CONTRIBUTION PROVISIONS--
4 CONDITIONAL REPEAL.--

5 A. By ~~[August 31, 2000, and by]~~ August 31 of ~~[every~~
6 ~~succeeding]~~ each year, the secretary shall determine the total
7 amount contributed through the preceding July 31 on returns
8 filed for taxable years ending in the preceding calendar year
9 pursuant to each ~~[provision of the Income Tax Act that allows a~~
10 ~~taxpayer the option of directing the department to contribute~~
11 ~~all or any part of an income tax refund due the taxpayer to a~~
12 ~~specified account, fund or entity]~~ purpose stated in Section
13 7-2-24 NMSA 1978.

14 B. If the secretary's determination pursuant to
15 Subsection A of this section regarding an optional refund
16 contribution provision is that the ~~[total]~~ amount contributed
17 is less than ~~[five thousand dollars (\$5,000), exclusive of~~
18 ~~directions for contributions disregarded under Subsection C of~~
19 ~~this section]~~ ten thousand dollars (\$10,000), the secretary
20 shall certify that fact to the secretary of state. Any
21 optional refund contribution ~~[provision]~~ purpose for which a
22 certification is made for three consecutive years is repealed
23 and shall no longer be included on the state income tax form,
24 effective on the January 1 following the third certification.

25 ~~[C. The department shall disregard a direction on a~~

underscoring material = new
~~[bracketed material] = delete~~

1 ~~return to make an optional refund contribution if the amount of~~
2 ~~refund due on the return is determined by the department to be~~
3 ~~less than the sum of the amounts directed to be contributed.~~

4 ~~D. Notwithstanding the provisions of Section~~
5 ~~7-1-26 NMSA 1978, a taxpayer may not claim and the department~~
6 ~~may not allow a refund with respect to any optional refund~~
7 ~~contribution that was made by the department at the direction~~
8 ~~of the taxpayer.]"~~

9 SECTION 51. Section 7-2-39 NMSA 1978 (being Laws 2019,
10 Chapter 270, Section 15) is amended to read:

11 "7-2-39. DEDUCTION FROM NET INCOME FOR CERTAIN
12 DEPENDENTS.--

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

21 B. A taxpayer allowed a deduction pursuant to this
22 section shall report the amount of the deduction to the
23 department in a manner required by the department.

24 C. ~~[The department shall compile an annual report~~
25 ~~on the deduction provided by this section that shall include~~

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

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

13 SECTION 52. Section 7-2-40 NMSA 1978 (being Laws 2021,
14 Chapter 7, Section 1) is amended to read:

15 "7-2-40. DEDUCTION--INCOME FROM LEASING A LIQUOR
16 LICENSE.--

17 A. Prior to January 1, 2026, a taxpayer who is a
18 liquor license lessor and who held the license on June 30, 2021
19 may claim a deduction from net income in an amount equal to the
20 gross receipts from sales of alcoholic beverages made by each
21 liquor license lessee in an amount, if the liquor license is a
22 dispenser's license and sales of alcoholic beverages for
23 consumption off premises are less than fifty percent of total
24 alcoholic beverage sales, not to exceed fifty thousand dollars
25 (\$50,000) for each of four taxable years.

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1 B. Married individuals filing separate returns for
2 a taxable year for which they could have filed a joint return
3 may each claim only one-half of a deduction provided by this
4 section that would have been claimed on a joint return.

5 C. A taxpayer may claim the deduction provided by
6 this section in proportion to the taxpayer's ownership interest
7 if the taxpayer owns an interest in a business entity that is
8 taxed for federal income tax purposes as a partnership or
9 limited liability company and that business entity has met all
10 of the requirements to be eligible for the deduction. The
11 total deduction claimed in the aggregate by all members of the
12 partnership or association with respect to the deduction shall
13 not exceed the amount of the deduction that could have been
14 claimed by a sole owner of the business.

15 D. A taxpayer allowed a deduction pursuant to this
16 section shall report the amount of the deduction to the
17 department in a manner required by the department.

18 E. ~~[The department shall compile an annual report~~
19 ~~on the deduction provided by this section that shall include~~
20 ~~the number of taxpayers that claimed the deduction, the~~
21 ~~aggregate amount of deductions claimed and any other~~
22 ~~information necessary to evaluate the cost of the deduction.~~
23 ~~The department shall provide the report to the revenue~~
24 ~~stabilization and tax policy committee and the legislative~~
25 ~~finance committee with an analysis of the] The deduction~~

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1 provided by this section shall be included in the tax
2 expenditure budget pursuant to Section 7-1-84 NMSA 1978,
3 including the annual aggregate cost of the deduction.

4 F. As used in this section:

5 (1) "alcoholic beverage" means alcoholic
6 beverage as defined in the Liquor Control Act;

7 (2) "dispenser's license" means a license
8 issued pursuant to the provisions of the Liquor Control Act
9 allowing the licensee to sell, offer for sale or have in the
10 person's possession with the intent to sell alcoholic beverages
11 both by the drink for consumption on the licensed premises and
12 in unbroken packages, including growlers, for consumption and
13 not for resale off the licensed premises;

14 (3) "growler" means a clean, refillable,
15 resealable container that has a liquid capacity that does not
16 exceed one gallon and that is intended and used for the sale of
17 beer, wine or cider;

18 (4) "liquor license" means a dispenser's
19 license issued pursuant to Section 60-6A-3 NMSA 1978 or a
20 dispenser's license issued pursuant to Section 60-6A-12 NMSA
21 1978 issued prior to July 1, 2021;

22 (5) "liquor license lessee" means a person
23 that leases a liquor license from a liquor license lessor; and

24 (6) "liquor license lessor" means a person
25 that leases a liquor license to a third party."

underscoring material = new
~~[bracketed material] = delete~~

1 SECTION 53. Section 7-2-41 NMSA 1978 (being Laws 2024,
2 Chapter 67, Section 24) is amended to read:

3 "7-2-41. DEDUCTION--SCHOOL SUPPLIES PURCHASED BY A
4 PUBLIC SCHOOL TEACHER.--

5 A. A taxpayer who is not a dependent of another
6 individual and is a public school teacher may claim a deduction
7 from net income in an amount equal to the costs of school
8 supplies purchased by the public school teacher in a taxable
9 year, not to exceed:

10 (1) for a taxable year beginning on January
11 1, 2024 and prior to January 1, 2025, five hundred dollars
12 (\$500); and

13 (2) for a taxable year beginning on January
14 1, 2025 and prior to January 1, 2029, one thousand dollars
15 (\$1,000).

16 B. To claim a deduction pursuant to this section, a
17 taxpayer shall submit to the department information required by
18 the secretary establishing that the taxpayer is eligible to
19 claim a deduction pursuant to this section.

20 C. 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 D. ~~[The department shall compile an annual report~~
24 ~~on the deduction provided by this section that shall include~~
25 ~~the number of taxpayers approved by the department to receive~~

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underscoring material = new
[bracketed material] = delete

1 ~~the deduction, the aggregate amount of deductions approved and~~
2 ~~any other information necessary to evaluate the deduction. 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 deduction~~
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 deduction.

9 E. As used in this section:

10 (1) "public school teacher" means a person
11 who is licensed as a teacher pursuant to the Public School Code
12 and who teaches at a public school, as that term is defined in
13 the Public School Code; and

14 (2) "school supplies" means items purchased
15 by a public school teacher and used by the students of the
16 teacher in the teacher's classroom for educational purposes,
17 including notebooks, paper, writing instruments, crayons, art
18 supplies, rulers, maps and globes, but not including computers
19 or other similar digital devices, watches, radios, digital
20 music players, headphones, sporting equipment, portable or
21 desktop telephones, cellular telephones or other electronic
22 communication devices, copiers, office equipment, furniture or
23 fixtures."

24 SECTION 54. Section 7-2A-9 NMSA 1978 (being Laws 1981,
25 Chapter 37, Section 42, as amended) is amended to read:

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1 "7-2A-9. TAXPAYER RETURNS--PAYMENT OF TAX.--

2 A. Every corporation deriving income from any
3 business transaction, property or employment within this state,
4 that is not exempt from tax under the Corporate Income and
5 Franchise Tax Act and that is required by the laws of the
6 United States to file a federal income tax return shall file a
7 complete tax return with the department in form and content as
8 prescribed by the secretary. [~~Except as provided in Subsection~~
9 ~~C of this section~~] A corporation that is required by the
10 provisions of the Corporate Income and Franchise Tax Act to
11 file a return or pay a tax shall, on or before the due date of
12 the corporation's federal corporate income tax return for the
13 taxable year, file the return and pay the tax imposed for that
14 year.

15 B. Every domestic or foreign corporation that is
16 not exempt from tax under the Corporate Income and Franchise
17 Tax Act, that is employed or engaged in the transaction of
18 business in, into or from this state or that derives any income
19 from property or employment within this state and every
20 domestic or foreign corporation, regardless of whether it is
21 engaged in active business, that has or exercises its corporate
22 franchise in this state and that is not exempt from tax under
23 the Corporate Income and Franchise Tax Act shall file a return
24 in the form and content as prescribed by the secretary and pay
25 the tax levied pursuant to Subsection B of Section 7-2A-3 NMSA

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underscored material = new
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1 1978 in the amount for each corporation as specified in Section
2 7-2A-5.1 NMSA 1978. Returns and payment of tax for corporate
3 franchise tax for a taxable year shall be filed and paid on the
4 date specified in Subsection A [~~or G~~] of this section for
5 payment of corporate income tax for the preceding taxable year.

6 ~~[G. A corporation that is required by the~~
7 ~~provisions of the Corporate Income and Franchise Tax Act to~~
8 ~~file a return or pay a tax and that is approved by the~~
9 ~~department to use electronic media for filing and paying taxes~~
10 ~~shall, if using electronic media for filing and paying taxes,~~
11 ~~file the return and pay the tax levied for that taxable year on~~
12 ~~or before the last day of the month in which the corporation's~~
13 ~~federal corporate income tax return is originally due for the~~
14 ~~taxable year. The due date provided by this subsection does~~
15 ~~not apply to corporations that have received a filing extension~~
16 ~~from New Mexico or an extension from the federal internal~~
17 ~~revenue service for the same taxable year.]"~~

18 SECTION 55. Section 7-2A-24 NMSA 1978 (being Laws 2009,
19 Chapter 271, Section 2, as amended) is amended to read:

20 "7-2A-24. GEOTHERMAL GROUND-COUPLED HEAT PUMP CORPORATE
21 INCOME TAX CREDIT.--

22 A. A taxpayer that files a New Mexico corporate
23 income tax return for a taxable year beginning on or after
24 January 1, 2024 and that purchases and installs after [~~the~~
25 ~~effective date of this section~~] May 15, 2024 but before

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underscored material = new
~~[bracketed material] = delete~~

1 December 31, 2034 a geothermal ground-coupled heat pump in a
2 property owned by the taxpayer may claim against the taxpayer's
3 corporate income tax liability, and the department may allow, a
4 tax credit of up to thirty percent of the purchase and
5 installation costs of the system. The credit provided in this
6 section may be referred to as the "geothermal ground-coupled
7 heat pump corporate income tax credit". The total geothermal
8 ground-coupled heat pump corporate income tax credit allowed to
9 a taxpayer shall not exceed nine thousand dollars (\$9,000).
10 The department shall allow a geothermal ground-coupled heat
11 pump corporate income tax credit only for geothermal ground-
12 coupled heat pumps that are certified pursuant to Subsection C
13 of this section and installed by a nationally accredited ground
14 source heat pump installer [~~certified by the energy, minerals~~
15 ~~and natural resources department~~].

16 B. That portion of a geothermal ground-coupled heat
17 pump corporate income tax credit that exceeds a taxpayer's tax
18 liability in the taxable year in which the credit is claimed
19 shall be refunded to the taxpayer.

20 C. The energy, minerals and natural resources
21 department shall adopt rules establishing procedures to provide
22 certification of geothermal ground-coupled heat pumps for
23 purposes of obtaining a geothermal ground-coupled heat pump
24 corporate income tax credit. The rules shall address technical
25 specifications and requirements relating to safety, building

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underscored material = new
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1 code and standards compliance, minimum system sizes, system
2 applications and lists of eligible components. The energy,
3 minerals and natural resources department may modify the
4 specifications and requirements as necessary to maintain a high
5 level of system quality and performance.

6 D. The maximum annual aggregate of credits that may
7 be certified in a calendar year by the energy, minerals and
8 natural resources department is four million dollars
9 (\$4,000,000). That department shall not certify a tax credit
10 for which a taxpayer claims a 2021 sustainable building
11 corporate income tax credit using a geothermal ground-coupled
12 heat pump as a component of qualification for the rating system
13 certification level used in determining eligibility for that
14 credit. Completed applications for the credit shall be
15 considered in the order received [~~by the department~~]. The
16 energy, minerals and natural resources department shall provide
17 the department appropriate information for all certificates of
18 eligibility in a secure manner on regular intervals agreed upon
19 by both departments.

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

24 F. [~~The department shall compile an annual report~~
25 ~~on the tax credit provided by this section that shall include~~

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underscoring material = new
[bracketed material] = delete

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

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

17 SECTION 56. Section 7-2A-24.1 NMSA 1978 (being Laws
18 2024, Chapter 67, Section 34) is amended to read:

19 "7-2A-24.1. GEOTHERMAL ELECTRICITY GENERATION CORPORATE
20 INCOME TAX CREDIT.--

21 A. For taxable years ending prior to January 1,
22 2032, a taxpayer that holds an interest in a geothermal
23 electricity generation facility may apply for, and the
24 department may allow, a credit against the taxpayer's tax
25 liability imposed pursuant to the Corporate Income and
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underscored material = new
~~[bracketed material] = delete~~

1 Franchise Tax Act. The tax credit provided by this section may
2 be referred to as the "geothermal electricity generation
3 corporate income tax credit".

4 B. The amount of a tax credit allowed pursuant to
5 this section shall be an amount equal to one and one-half cents
6 (\$0.015) per kilowatt-hour of electricity generated in New
7 Mexico in a taxable year by the geothermal electricity
8 generation facility in which the taxpayer holds an interest.

9 C. A taxpayer shall apply for certification of
10 eligibility for the credit provided by this section from the
11 energy, minerals and natural resources department on forms and
12 in the manner prescribed by that department. The total annual
13 aggregate amount of geothermal electricity generation corporate
14 income tax credits and geothermal electricity generation income
15 tax credits that may be certified in any calendar year is five
16 million dollars (\$5,000,000). Completed applications shall be
17 considered in the order received. Applications for
18 certification received after this limitation has been met in a
19 calendar year shall not be approved for that calendar year, but
20 shall be considered for certification in the following calendar
21 year. The application shall include proof that the taxpayer is
22 eligible for certification, including that the geothermal
23 electricity generation facility that produced the energy for
24 which the taxpayer is claiming credit, the geothermal resources
25 used by the geothermal electricity generation facility and the

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underscored material = new
~~[bracketed material] = delete~~

1 taxpayer's interest in the geothermal electricity generation
2 facility are in accordance with the definitions set forth in
3 this section. For taxpayers approved to receive the credit,
4 the energy, minerals and natural resources department shall
5 issue a certificate of eligibility stating the amount of credit
6 to which the taxpayer is entitled and the taxable year in which
7 the credit may be claimed. The certificate of eligibility
8 shall be numbered for identification and declare the date of
9 issuance and the amount of the tax credit allowed.

10 D. A taxpayer may claim a geothermal electricity
11 generation corporate income tax credit for the taxable year in
12 which electricity was generated in New Mexico by a geothermal
13 electricity generation facility in which the taxpayer holds an
14 interest. To receive the credit provided by this section, a
15 taxpayer shall apply to the department on forms and in the
16 manner prescribed by the department. The application shall
17 include a ~~[certification made]~~ certificate of eligibility
18 issued pursuant to Subsection C of this section.

19 E. That portion of a credit that exceeds a
20 taxpayer's tax liability in the taxable year in which the
21 credit is claimed may be carried forward for up to three
22 consecutive years.

23 F. A taxpayer allowed a tax credit pursuant to this
24 section shall report the amount of the credit to the department
25 in a manner required by that department.

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underscoring material = new
[bracketed material] = delete

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

12 H. As used in this section:

13 (1) "geothermal electricity generation
14 facility" means a facility located in New Mexico that generates
15 electricity from geothermal resources and:

16 (a) for new facilities, begins
17 construction on or after January 1, 2025; or

18 (b) for existing facilities, on or after
19 January 1, 2025, increases the amount of electricity generated
20 from geothermal resources the facility generated prior to that
21 date by at least one hundred percent;

22 (2) "geothermal resources" means the natural
23 heat of the earth in excess of two hundred fifty degrees
24 Fahrenheit or the energy, in whatever form, below the surface
25 of the earth present in, resulting from, created by or that may

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underscoring material = new
~~[bracketed material]~~ = delete

1 be extracted from this natural heat in excess of two hundred
2 fifty degrees Fahrenheit and all minerals in solution or other
3 products obtained from naturally heated fluids, brines,
4 associated gases and steam, in whatever form, found below the
5 surface of the earth, but excluding oil, hydrocarbon gas and
6 other hydrocarbon substances and excluding the heating and
7 cooling capacity of the earth not resulting from the natural
8 heat of the earth in excess of two hundred fifty degrees
9 Fahrenheit as may be used for the heating and cooling of
10 buildings through an on-site geexchange heat pump or similar
11 on-site system; and

12 (3) "interest in a geothermal electricity
13 generation facility" means title to a geothermal electricity
14 generation facility; a leasehold interest in such facility; an
15 ownership interest in a business or entity that is taxed for
16 federal income tax purposes as a partnership that holds title
17 to or a leasehold interest in such facility; or an ownership
18 interest, through one or more intermediate entities that are
19 each taxed for federal income tax purposes as a partnership, in
20 a business that holds title to or a leasehold interest in such
21 facility."

22 SECTION 57. Section 7-2A-26 NMSA 1978 (being Laws 2010,
23 Chapter 84, Section 2, as amended) is amended to read:

24 "7-2A-26. AGRICULTURAL BIOMASS CORPORATE INCOME TAX
25 CREDIT.--

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underscored material = new
[bracketed material] = delete

1 A. A taxpayer that files a New Mexico corporate
2 income tax return for a taxable year [~~beginning on or after~~
3 ~~January 1, 2011 and~~] ending prior to January 1, 2030 for a
4 dairy or feedlot owned by the taxpayer may claim against the
5 taxpayer's corporate income and franchise tax liability, and
6 the department may allow, a tax credit equal to five dollars
7 (\$5.00) per wet ton of agricultural biomass transported from
8 the taxpayer's dairy or feedlot to a facility that uses
9 agricultural biomass to generate electricity or make biocrude
10 or other liquid or gaseous fuel for commercial use. The credit
11 provided in this section may be referred to as the
12 "agricultural biomass corporate income tax credit".

13 ~~[B. If the requirements of this section have been~~
14 ~~complied with, the department shall issue to the taxpayer a~~
15 ~~document granting an agricultural biomass corporate income tax~~
16 ~~credit. The document shall be numbered for identification and~~
17 ~~declare its date of issuance and the amount of the tax credit~~
18 ~~allowed pursuant to this section. The document may be~~
19 ~~submitted by the taxpayer with that taxpayer's corporate income~~
20 ~~tax return 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 B. Subject to the limitations of Subsection C of
25 this section, a taxpayer shall apply for certification of

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underscoring material = new
[bracketed material] = delete

1 eligibility for the agricultural biomass corporate income tax
2 credit from the energy, minerals and natural resources
3 department on forms and in the manner prescribed by that
4 department. Completed applications shall be considered in the
5 order received. A dated certificate of eligibility shall be
6 issued to the taxpayer providing the amount of the agricultural
7 biomass corporate income tax credit for which the taxpayer is
8 eligible and the taxable year in which the credit may be
9 claimed. The energy, minerals and natural resources department
10 shall adopt rules establishing procedures to provide
11 certification of transportation of agricultural biomass to a
12 qualified facility that uses agricultural biomass to generate
13 electricity or make biocrude or other liquid or gaseous fuel
14 for commercial use for purposes of obtaining an agricultural
15 biomass corporate income tax credit.

16 C. The aggregate amount of agricultural biomass
17 income tax credits and agricultural biomass corporate income
18 tax credits that may be certified is five million dollars
19 (\$5,000,000) per calendar year, and applications for
20 certification received after this limitation shall not be
21 approved. Any remaining credits that remain unused in a
22 taxable year may be available for certification for a maximum
23 of four consecutive taxable years until the credits are fully
24 utilized. The energy, minerals and natural resources
25 department shall provide the department appropriate information

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underscored material = new
[bracketed material] = delete

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

3 ~~[G.—A] D. Any portion of the agricultural biomass~~
4 ~~corporate income tax credit that [remains unused in a taxable~~
5 ~~year may be carried forward for a maximum of four consecutive~~
6 ~~taxable years following the taxable year in which the credit~~
7 ~~originates until the credit is fully expended.~~

8 ~~D. The energy, minerals and natural resources~~
9 ~~department 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. The rules may be modified~~
15 ~~as determined necessary by the energy, minerals and natural~~
16 ~~resources department to determine accurate recording of the~~
17 ~~quantity of agricultural biomass transported and used for the~~
18 ~~purpose allowable in this section] exceeds a taxpayer's~~
19 ~~corporate income tax liability in the taxable year in which the~~
20 ~~credit is being claimed may be carried forward for up to three~~
21 ~~consecutive taxable years. A certificate of eligibility for an~~
22 ~~agricultural biomass corporate income tax credit may be sold,~~
23 ~~exchanged or otherwise transferred to another taxpayer for the~~
24 ~~full value of the credit. The parties to such a transaction~~
25 ~~shall notify the department of the sale, exchange or transfer~~

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underscored material = new
[bracketed material] = delete

1 within ten days of the sale, exchange or transfer.

2 E. A taxpayer that claims an agricultural biomass
3 corporate income tax credit shall not also claim an
4 agricultural biomass income tax credit for transportation of
5 the same agricultural biomass on which the claim for that
6 agricultural biomass income tax credit is based.

7 ~~[F. The department shall limit the annual combined~~
8 ~~total of all agricultural biomass income tax credits and all~~
9 ~~agricultural biomass corporate income tax credits allowed to a~~
10 ~~maximum of five million dollars (\$5,000,000). Applications for~~
11 ~~the credit shall be considered in the order received by the~~
12 ~~department.~~

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

17 ~~[H. The department shall compile an annual report~~
18 ~~on the agricultural biomass corporate income tax credit that~~
19 ~~shall include the number of taxpayers approved by the~~
20 ~~department to receive the credit, the aggregate amount of~~
21 ~~credits approved and any other information necessary to~~
22 ~~evaluate the credit. The department shall present the report~~
23 ~~to the revenue stabilization and tax policy committee and the~~
24 ~~legislative finance committee with an analysis of the]~~

25 G. The tax credit provided by this section shall be

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1 included in the tax expenditure budget pursuant to Section
2 7-1-84 NMSA 1978, including the annual aggregate cost of the
3 tax credit.

4 [~~F.~~] H. As used in this section:

5 (1) "agricultural biomass" means wet manure
6 meeting specifications established by the energy, minerals and
7 natural resources department from either a dairy or feedlot
8 commercial operation;

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

13 (3) "feedlot" means an operation that fattens
14 livestock for market; and

15 (4) "dairy" means a facility that raises
16 livestock for milk production."

17 SECTION 58. Section 7-2A-28 NMSA 1978 (being Laws 2015,
18 Chapter 130, Section 2, as amended) is amended to read:

19 "7-2A-28. 2015 SUSTAINABLE BUILDING CORPORATE INCOME TAX
20 CREDIT.--

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

13 B. The purpose of the 2015 sustainable building
14 corporate income tax credit is to encourage the construction of
15 sustainable buildings and the renovation of existing buildings
16 into sustainable buildings.

17 C. A taxpayer that files a corporate income tax
18 return [~~is eligible to be granted~~] may claim a 2015 sustainable
19 building corporate income tax credit [~~by the department if the~~
20 ~~taxpayer submits a document issued pursuant to Subsection K of~~
21 ~~this section with the taxpayer's corporate income tax return~~]
22 if the requirements of this section are met.

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

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1 building. The credit shall be calculated based on the
2 certification level the building has achieved in the LEED green
3 building rating system and the amount of qualified occupied
4 square footage in the building, as indicated on the following
5 chart:

6 LEED Rating Level	7 Qualified Occupied Square Footage	8 Tax Credit per Square Foot
9 LEED-NC Silver	10 First 10,000	\$3.50
	11 Next 40,000	\$1.75
	12 Over 50,000	
	13 up to 500,000	\$.70
14 LEED-NC Gold	15 First 10,000	\$4.75
	16 Next 40,000	\$2.00
	17 Over 50,000	
	18 up to 500,000	\$1.00
19 LEED-NC Platinum	20 First 10,000	\$6.25
	21 Next 40,000	\$3.25
	22 Over 50,000	
	23 up to 500,000	\$2.00
24 LEED-EB or CS Silver	25 First 10,000	\$2.50
	Next 40,000	\$1.25
	Over 50,000	
	up to 500,000	\$.50
25 LEED-EB or CS Gold	First 10,000	\$3.35

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

21 E. For taxable years ending on or before December
22 31, 2024, the 2015 sustainable building corporate income tax
23 credit may be claimed with respect to a sustainable residential
24 building. The credit shall be calculated based on the amount
25 of qualified occupied square footage, as indicated on the

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1 following chart:

2 Rating System/Level	3 Qualified	4 Tax Credit
5	6 Occupied	7 per Square
8	9 Square Footage	10 Foot
11 LEED-H Silver or Build	12 Up to 2,000	13 \$3.00
14 Green NM Silver		
15 LEED-H Gold or Build	16 Up to 2,000	17 \$4.50
18 Green NM Gold		
19 LEED-H Platinum or Build	20 Up to 2,000	21 \$6.50
22 Green NM Emerald		
23 Manufactured Housing	24 Up to 2,000	25 \$3.00.

26 F. A person that is a building owner may apply for
27 a certificate of eligibility for the 2015 sustainable building
28 corporate income tax credit from the energy, minerals and
29 natural resources department after the construction,
30 installation or renovation of the sustainable building is
31 complete. Completed applications shall be considered in the
32 order received. If the energy, minerals and natural resources
33 department determines that the building owner meets the
34 requirements of this subsection and that the building with
35 respect to which the tax credit application is made meets the
36 requirements of this section as a sustainable residential
37 building or a sustainable commercial building, the energy,
38 minerals and natural resources department may issue a dated
39 certificate of eligibility to the building owner providing the

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

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

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

22 G. Except as provided in Subsection H of this
23 section, the energy, minerals and natural resources department
24 may issue a certificate of eligibility only if the [~~total~~]
25 aggregate amount of 2015 sustainable building tax corporate

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underscored material = new
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1 income credits represented by certificates of eligibility
2 issued by the energy, minerals and natural resources department
3 pursuant to this section and ~~[pursuant to the Income Tax Act]~~
4 Section 7-2-18.29 NMSA 1978 shall not exceed in any calendar
5 year an aggregate amount of:

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

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

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

15 H. For any taxable year that the energy, minerals
16 and natural resources department determines that applications
17 for sustainable building corporate income tax credits for any
18 type of sustainable building pursuant to Paragraph (1), (2) or
19 (3) of Subsection G of this section are less than the aggregate
20 limit for that type of sustainable building for that taxable
21 year, the energy, minerals and natural resources department
22 shall allow the difference between the aggregate limit and the
23 applications to be added to the aggregate limit of another type
24 of sustainable building for which applications exceeded the
25 aggregate limit for that taxable year. Any excess not used in

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

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

18 J. To ~~[be eligible for]~~ claim the 2015 sustainable
19 building corporate income tax credit, the building owner shall
20 provide to the ~~[taxation and revenue]~~ department a certificate
21 of 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 corporate income tax~~
19 ~~liability for the taxable year for which the credit is approved~~
20 ~~and the next three subsequent taxable years as needed depending~~
21 ~~on the amount of credit; or~~

22 ~~(2) one hundred thousand dollars (\$100,000)~~
23 ~~or 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~~
2 ~~corporate income tax liability.~~

3 ~~M. If the sum of all]~~

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

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

22 ~~[O. The department shall compile an annual report~~
23 ~~on the 2015 sustainable building tax credit created pursuant to~~
24 ~~this section that shall include the number of taxpayers~~
25 ~~approved by the department to receive the tax credit, the~~

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1 ~~aggregate amount of tax credits approved and any other~~
2 ~~information necessary to evaluate the effectiveness of the tax~~
3 ~~credit. Beginning in 2019 and every three years thereafter~~
4 ~~that the credit is in effect, the department shall compile and~~
5 ~~present the annual reports to the revenue stabilization and tax~~
6 ~~policy committee and the legislative finance committee]~~

7 M. The credit provided by this section shall be
8 included in the tax expenditure budget pursuant to Section
9 7-1-84 NMSA 1978 with an analysis of the effectiveness and cost
10 of the tax credit and whether the tax credit is performing the
11 purpose for which it was created.

12 [P-] N. For the purposes of this section:

13 (1) "build green New Mexico rating system"
14 means the certification standards adopted by build green New
15 Mexico in November 2014, which include water conservation
16 standards;

17 (2) "LEED-CI" means the LEED rating system
18 for commercial interiors;

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

21 (4) "LEED-EB" means the LEED rating system
22 for existing buildings;

23 (5) "LEED gold" means the rating in
24 compliance with, or exceeding, the second-highest rating
25 awarded by the LEED certification process;

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1 (6) "LEED" means the most current leadership
2 in energy and environmental design green building rating system
3 guidelines developed and adopted by the United States green
4 building council;

5 (7) "LEED-H" means the LEED rating system for
6 homes;

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

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

12 (10) "LEED silver" means the rating in
13 compliance with, or exceeding, the third-highest rating awarded
14 by the LEED certification process;

15 (11) "manufactured housing" means a
16 multisectioned home that is:

17 (a) a manufactured home or modular home;

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

21 (c) constructed in a factory to the
22 standards of the United States department of housing and urban
23 development, the National Manufactured Housing Construction and
24 Safety Standards Act of 1974 and the Housing and Urban
25 Development Zone Code 2 or New Mexico construction codes up to

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1 the date of the unit's construction; and

2 (d) installed consistent with the
3 Manufactured Housing Act and rules adopted pursuant to that act
4 relating to permanent foundations;

5 (12) "qualified occupied square footage"
6 means the occupied spaces of the building as 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 (13) "person" does not include state, local
15 government, public school district or tribal agencies;

16 (14) "sustainable building" means either a
17 sustainable commercial building or a sustainable residential
18 building;

19 (15) "sustainable commercial building" means
20 a multifamily dwelling unit, as registered and certified under
21 the LEED-H or build green New Mexico rating system, that is
22 certified by the United States green building council as LEED-H
23 silver or higher or by build green New Mexico as silver or
24 higher and has achieved a home energy rating system index of
25 sixty or lower as developed by the residential energy services

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1 network or a building that has been registered and certified
2 under the LEED-NC, LEED-EB, LEED-CS or LEED-CI rating system
3 and that:

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

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

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

16 (16) "sustainable residential building"

17 means:

18 (a) a building used as a single-family
19 residence as registered and certified under the build green New
20 Mexico or LEED-H rating systems that: 1) is certified by the
21 United States green building council as LEED-H silver or higher
22 or by build green New Mexico as silver or higher; 2) has
23 achieved a home energy rating system index of sixty or lower as
24 developed by the residential energy services network; 3) has
25 indoor plumbing fixtures and water-using appliances that, on

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1 average, have flow rates equal to or lower than the flow rates
2 required for certification by WaterSense; 4) if landscape area
3 is available at the front of the property, has at least one
4 water line outside the building below the frost line that may
5 be connected to a drip irrigation system; and 5) if landscape
6 area is available at the rear 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; or

9 (b) manufactured housing that is ENERGY
10 STAR-qualified by the United States environmental protection
11 agency;

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

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

19 SECTION 59. Section 7-2A-28.1 NMSA 1978 (being Laws
20 2021, Chapter 84, Section 4, as amended) is amended to read:

21 "7-2A-28.1. 2021 SUSTAINABLE BUILDING CORPORATE INCOME
22 TAX CREDIT.--

23 A. The tax credit provided by this section may be
24 referred to as the "2021 sustainable building corporate income
25 tax credit". For taxable years ending prior to January 1,

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

19 B. The amount of a 2021 sustainable building
20 corporate income tax credit shall be determined as follows:

21 (1) for the construction of a new sustainable
22 commercial building that is broadband ready and electric
23 vehicle ready and is completed on or after January 1, 2022, the
24 amount of credit shall be calculated:

25 (a) based on the certification level the

1 building has achieved in the rating level and the amount of
 2 qualified occupied square footage in the building, as indicated
 3 on the following chart:

4 Rating Level	5 Qualified Occupied Square Footage	6 Tax Credit Per Square Foot
7 LEED-NC Platinum	8 First 10,000	\$5.25
	9 Next 40,000	\$2.25
	10 Over 50,000 up to 200,000	\$1.00
11 LEED-EB or CS Platinum	12 First 10,000	\$3.40
	13 Next 40,000	\$1.30
	14 Over 50,000 up to 200,000	\$0.35
15 LEED-CI Platinum	16 First 10,000	\$1.50
	17 Next 40,000	\$0.40
	18 Over 50,000 up to 200,000	\$0.30
19 LEED-NC Gold	20 First 10,000	\$3.00
	21 Next 40,000	\$1.00
	22 Over 50,000 up to 200,000	\$0.25
23 LEED-EB or -CS Gold	24 First 10,000	\$2.00
	25 Next 40,000	\$1.00
	Over 50,000	

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1		up to 200,000	\$0.25
2	LEED-CI Gold	First 10,000	\$0.90
3		Next 40,000	\$0.40
4		Over 50,000	
5		up to 200,000	\$0.10; 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	First 50,000	\$1.00
13		Over 50,000	
14		up to 200,000	\$0.50
15	Zero Carbon, Energy,		
16	Waste or Water Certified	First 50,000	\$0.25
17		Over 50,000	
18		up to 200,000	\$0.10;

19 (2) for the renovation of a commercial
20 building that was built at least ten years prior to the date of
21 the renovation, has twenty thousand square feet or more of
22 space in which temperature is controlled and is broadband ready
23 and electric vehicle ready, the amount of credit shall be
24 calculated by multiplying two dollars twenty-five cents (\$2.25)
25 by the amount of qualified occupied square footage in the

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1 building, up to a maximum of one hundred fifty thousand dollars
2 (\$150,000) per renovation; provided that the renovation reduces
3 total energy and power costs by fifty percent when compared to
4 the most current energy standard for buildings except low-rise
5 residential buildings, as developed by the American society of
6 heating, refrigerating and air-conditioning engineers;

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

14 Product	Amount of Credit	
	Affordable	Non-Affordable
	Housing	Housing
17 Energy Star Air		
18 Source Heat Pump	\$2,000	\$1,000
19 Energy Star Ground		
20 Source Heat Pump	\$2,000	\$1,000
21 Energy Star		
22 Windows and Doors	100% of product	50% of product
23	cost up to	cost up to
24	\$1,000	\$500
25 Insulation Improvements That		

underscored material = new
[bracketed material] = delete

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

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

15 (a) based on the certification level the
16 building has achieved in the rating level and the amount of
17 qualified occupied square footage in the building, as indicated
18 on the following chart:

19 Rating Level	20 Qualified	21 Tax Credit
	22 Occupied	23 Per Square
	24 Square Footage	25 Foot
22 LEED-H Platinum	Up to 2,000	\$5.50
23 LEED-H Gold	Up to 2,000	\$3.80
24 Build Green Emerald	Up to 2,000	\$5.50
25 Build Green Gold	Up to 2,000	\$3.80

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underscored material = new
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1 Manufactured Housing Up to 2,000 \$2.00; and
2 (b) with additional amounts based on the
3 additional criteria and the amount of qualified occupied square
4 footage, as indicated in the following chart:

5 Additional Criteria	6 Qualified Occupied	7 Tax Credit Per Square Foot
-----------------------	----------------------	------------------------------

8 Fully Electric Building	Up to 2,000	\$1.00
9 Zero Carbon, Energy,		
10 Waste or Water Certified	Up to 2,000	\$0.25; and

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

17 Product	18 Amount of Credit	
	19 Affordable Housing	20 Non-Affordable Housing
21 Energy Star Air Source Heat Pump	22 \$2,000	23 \$1,000
24 Energy Star Ground Source Heat Pump	\$2,000	\$1,000
25 Energy Star		

underscoring material = new
[bracketed material] = delete

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	\$1,000	\$500.

13 C. A person that is a building owner may apply for
14 a certificate of eligibility for the 2021 sustainable building
15 corporate income tax credit from the energy, minerals and
16 natural resources department on forms and in a manner
17 prescribed by that department after the construction,
18 installation or renovation of the sustainable building or
19 installation of energy-conserving products in an existing
20 building is complete. Completed applications shall be
21 considered in the order received. If the energy, minerals and
22 natural resources department determines that the building owner
23 meets the requirements of this subsection and that the building
24 with respect to which the application is made meets the
25 requirements of this section for a 2021 sustainable building

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

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

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

24 D. Except as provided in Subsection E of this
25 section, the energy, minerals and natural resources department

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1 may issue a certificate of eligibility only if the ~~[total]~~
2 aggregate amount of 2021 sustainable building corporate income
3 tax credits represented by certificates of eligibility issued
4 by the energy, minerals and natural resources department
5 pursuant to this section and ~~[pursuant to the Income Tax Act]~~
6 Section 7-2-18.32 NMSA 1978 shall not exceed in any calendar
7 year an aggregate amount of:

8 (1) one million dollars (\$1,000,000) with
9 respect to the construction of new sustainable commercial
10 buildings;

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

14 (3) two hundred fifty thousand dollars
15 (\$250,000) with respect to the construction of new sustainable
16 residential buildings that are manufactured housing;

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

19 (5) two million nine hundred thousand dollars
20 (\$2,900,000) with respect to the installation of energy-
21 conserving products in existing commercial buildings pursuant
22 to Paragraph (3) of Subsection B of this section and existing
23 residential buildings pursuant to Paragraph (5) of Subsection B
24 of this section.

25 E. For any taxable year that the energy, minerals

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

16 F. Installation of a solar thermal system or a
17 photovoltaic system eligible for the new solar market
18 development tax credit [~~pursuant to Section 7-2-18.31 NMSA~~
19 ~~1978~~] shall not be used as a component of qualification for the
20 rating system certification level used in determining
21 eligibility for the 2021 sustainable building corporate income
22 tax credit, unless a new solar market development tax credit
23 [~~pursuant to Section 7-2-18.31 NMSA 1978~~] has not been claimed
24 with respect to that system and the building owner and the
25 taxpayer claiming the 2021 sustainable building tax credit

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1 certify that such a tax credit will not be claimed with respect
2 to that system.

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

9 H. ~~If the approved amount of a 2021 sustainable~~
10 ~~building tax credit for a taxpayer in a taxable year~~
11 ~~represented by a document issued pursuant to Subsection C of~~
12 ~~this section is:~~

13 ~~(1) less than one hundred thousand dollars~~
14 ~~(\$100,000), a maximum of twenty-five thousand dollars (\$25,000)~~
15 ~~shall be applied against the taxpayer's corporate income tax~~
16 ~~liability for the taxable year for which the credit is approved~~
17 ~~and the next three subsequent taxable years as needed depending~~
18 ~~on the amount of credit; or~~

19 ~~(2) one hundred thousand dollars (\$100,000)~~
20 ~~or more, increments of twenty-five percent of the total credit~~
21 ~~amount in each of the four taxable years, including the taxable~~
22 ~~year for which the credit is approved and the three subsequent~~
23 ~~taxable years, shall be applied against the taxpayer's~~
24 ~~corporate income tax liability.~~

25 I. ~~If the sum of all 2021 sustainable building tax~~

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1 ~~credits that can be applied to a taxable year for a taxpayer,~~
2 ~~calculated according to Paragraph (1) or (2) of Subsection H of~~
3 ~~this section]~~

4 G. A taxpayer allowed a tax credit pursuant to this
5 section shall claim the credit on forms and in a manner
6 required by the department.

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

18 ~~[J.]~~ I. A taxpayer that otherwise qualifies and
19 claims a 2021 sustainable building corporate income tax credit
20 with respect to a sustainable building owned by a partnership
21 or other business association of which the taxpayer is a member
22 may claim a credit only in proportion to that taxpayer's
23 interest in the partnership or association. The total credit
24 claimed in the aggregate by all members of the partnership or
25 association with respect to the sustainable building shall not

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1 exceed the amount of the credit that could have been claimed by
2 a sole owner of the property.

3 ~~[K. If the requirements of this section have been~~
4 ~~complied with, the department shall issue to the building owner~~
5 ~~a document granting a 2021 sustainable building 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 ~~building owner with that taxpayer's income tax return, if~~
10 ~~applicable, or may be sold, exchanged or otherwise transferred~~
11 ~~to another taxpayer. The parties to such a transaction shall~~
12 ~~notify the department of the sale, exchange or transfer within~~
13 ~~ten days of the sale, exchange or transfer.~~

14 ~~L. The department and the energy, minerals and~~
15 ~~natural resources department shall compile an annual report on~~
16 ~~the 2021 sustainable building tax credit created pursuant to~~
17 ~~this section that shall include the number of taxpayers~~
18 ~~approved to receive the tax credit, the aggregate amount of tax~~
19 ~~credits approved and any other information necessary to~~
20 ~~evaluate the effectiveness of the tax credit. The department~~
21 ~~shall present the report to the revenue stabilization and tax~~
22 ~~policy committee and the legislative finance committee]~~

23 J. The tax credit provided by this section shall be
24 included in the tax expenditure report pursuant to Section
25 7-1-84 NMSA 1978 with an analysis of the effectiveness and cost
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1 of the tax credit.

2 [~~M.~~] K. For the purposes of this section:

3 (1) "broadband ready" means a building with
4 an internet connection capable of connecting to a broadband
5 provider;

6 (2) "build green emerald" means the emerald
7 level certification standard adopted by build green New Mexico,
8 which includes water conservation standards and uses forty
9 percent less energy than is required by the prescriptive path
10 of the most current residential energy conservation code
11 promulgated by the construction industries division of the
12 regulation and licensing department;

13 (3) "build green gold" means the gold level
14 certification standard adopted by build green New Mexico, which
15 includes water conservation standards and uses thirty percent
16 less energy than is required by the prescriptive path of the
17 most current residential energy conservation code promulgated
18 by the construction industries division of the regulation and
19 licensing department;

20 (4) "building owner" means a person who holds
21 fee simple interest in a property or a person who holds a
22 leasehold interest in land owned by a federally recognized
23 Indian nation, tribe or pueblo;

24 [~~(4)~~] (5) "electric vehicle ready" means a
25 property that provides for commercial buildings at least ten

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1 percent of parking spaces and for residential buildings at
2 least one parking space with one forty-ampere, two-hundred-
3 eight-volt or two-hundred-forty-volt dedicated branch circuit
4 for servicing electric vehicles that terminates in a suitable
5 termination point, such as a receptacle or junction box, and is
6 located in reasonably close proximity to the proposed location
7 of the parking spaces;

8 ~~[(5)]~~ (6) "energy rating system index" means
9 a numerical score given to a building where one hundred is
10 equivalent to the 2006 international energy conservation code
11 and zero is equivalent to a net-zero home. As used in this
12 paragraph, "net-zero home" means an energy-efficient home
13 where, on a source energy basis, the actual annual delivered
14 energy is less than or equal to the on-site renewable exported
15 energy;

16 ~~[(6)]~~ (7) "Energy Star" means products and
17 devices certified under the energy star program administered by
18 the United States environmental protection agency and United
19 States department of energy that meet the specified performance
20 requirements at the installed locations;

21 ~~[(7)]~~ (8) "fully electric building" means a
22 building that uses a permanent supply of electricity as the
23 source of energy for all space heating, water heating,
24 including pools and spas, cooking appliances and clothes drying
25 appliances and, in the case of a new building, has no natural

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1 gas or propane plumbing installed in the building or, in the
2 case of an existing building, has no connected natural gas or
3 propane plumbing;

4 [~~(8)~~] (9) "LEED" means the most current
5 leadership in energy and environmental design green building
6 rating system guidelines developed and adopted by the United
7 States green building council;

8 [~~(9)~~] (10) "LEED-CI" means the LEED rating
9 system for commercial interiors;

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

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

14 [~~(12)~~] (13) "LEED gold" means the rating in
15 compliance with, or exceeding, the second-highest rating
16 awarded by the LEED certification process;

17 [~~(13)~~] (14) "LEED-H" means the LEED rating
18 system for homes;

19 [~~(14)~~] (15) "LEED-NC" means the LEED rating
20 system for new buildings and major renovations;

21 [~~(15)~~] (16) "LEED platinum" means the rating
22 in compliance with, or exceeding, the highest rating awarded by
23 the LEED certification process;

24 [~~(16)~~] "~~low-income taxpayer~~" means a taxpayer
25 ~~with an annual household adjusted gross income equal to or less~~

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1 ~~than two hundred percent of the federal poverty level~~
2 ~~guidelines published by the United States department of health~~
3 ~~and human services;]~~

4 (17) "manufactured housing" means a
5 multisectioned home that is:

6 (a) a manufactured home or modular home;

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

10 (c) constructed in a factory to the
11 standards of the United States department of housing and urban
12 development, the National Manufactured Housing Construction and
13 Safety Standards Act of 1974 and the Housing and Urban
14 Development Zone Code 2 or New Mexico construction codes up to
15 the date of the unit's construction; and

16 (d) installed consistent with the
17 Manufactured Housing Act and rules adopted pursuant to that act
18 relating to permanent foundations;

19 (18) "qualified occupied square footage"
20 means the occupied spaces of the building as determined by:

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

23 (b) the administrators of the build
24 green New Mexico rating system for those homes obtaining build
25 green New Mexico certification; and

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1 (c) the United States environmental
2 protection agency for Energy Star-certified manufactured homes;

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

5 (20) "sustainable building" means either a
6 sustainable commercial building or a sustainable residential
7 building;

8 (21) "sustainable commercial building" means:

9 (a) a commercial building that is
10 certified as any LEED platinum or gold for commercial
11 buildings;

12 (b) a multifamily dwelling unit that is
13 certified as LEED-H platinum or gold or build green emerald or
14 gold and uses at least thirty percent less energy than is
15 required by the prescriptive path of the most current
16 applicable energy conservation code promulgated by the
17 construction industries division of the regulation and
18 licensing department for build green gold or LEED-H, or uses at
19 least forty percent less energy than is required by the
20 prescriptive path of the most current residential energy
21 conservation code promulgated by the construction industries
22 division of the regulation and licensing department for build
23 green emerald or LEED platinum; or

24 (c) a building that: 1) is certified at
25 LEED-NC, LEED-EB, LEED-CS or LEED-CI platinum or gold levels;

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1 2) achieves any prerequisite for and at least one point related
2 to commissioning under the LEED energy and atmosphere category,
3 if included in the applicable rating system; and 3) has reduced
4 energy consumption beginning January 1, 2012 by forty percent
5 based on the national average for that building type as
6 published by the United States department of energy as
7 substantiated by the United States environmental protection
8 agency target finder energy performance results form, dated no
9 sooner than the schematic design phase of development;

10 (22) "sustainable residential building"

11 means:

12 (a) a building used as a single-family
13 residence that: 1) is certified as LEED-H platinum or gold or
14 build green emerald or gold; 2) uses at least 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 for build green gold or LEED-H, or uses at
19 least forty percent less energy than is required by the
20 prescriptive path of the most current residential energy
21 conservation code promulgated by the construction industries
22 division of the regulation and licensing department for build
23 green emerald or LEED platinum; 3) has indoor plumbing fixtures
24 and water-using appliances that, on average, have flow rates
25 equal to or lower than the flow rates required for

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1 certification by WaterSense; 4) if landscape area is available
2 at the front of the property, has at least one water line
3 outside the building below the frost line that may be connected
4 to a drip irrigation system; and 5) if landscape area is
5 available at the rear of the property, has at least one water
6 line outside the building below the frost line that may be
7 connected to a drip irrigation system; or

8 (b) manufactured housing that is Energy
9 Star-qualified;

10 (23) "tribal" means of, belonging to or
11 created by a federally recognized Indian nation, tribe or
12 pueblo;

13 (24) "WaterSense" means a program created by
14 the federal environmental protection agency that certifies
15 water-using products that meet the environmental protection
16 agency's criteria for efficiency and performance;

17 (25) "zero carbon certified" means a building
18 that is certified as LEED zero carbon by achieving a carbon-
19 dioxide-equivalent balance of zero for the building;

20 (26) "zero energy certified" means a building
21 that is certified as LEED zero energy by achieving a source
22 energy use balance of zero for the building;

23 (27) "zero waste certified" means a building
24 that is certified as LEED zero waste by achieving green
25 building certification incorporated's true zero waste

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1 certification at the platinum level; and

2 (28) "zero water certified" means a building
3 that is certified as LEED zero water by achieving a potable
4 water use balance of zero for the building."

5 SECTION 60. Section 7-2A-31 NMSA 1978 (being Laws 2021,
6 Chapter 7, Section 2) is amended to read:

7 "7-2A-31. DEDUCTION--INCOME FROM LEASING A LIQUOR
8 LICENSE.--

9 A. Prior to January 1, 2026, a taxpayer that is a
10 liquor license lessor and that held the license on June 30,
11 2021 may claim a deduction from taxable income in an amount
12 equal to the gross receipts from sales of alcoholic beverages
13 made by each liquor license lessee in an amount, if the liquor
14 license is a dispenser's license and sales of alcoholic
15 beverages for consumption off premises are less than fifty
16 percent of total alcoholic beverage sales, not to exceed fifty
17 thousand dollars (\$50,000) for each of four taxable years.

18 B. A taxpayer allowed a deduction pursuant to this
19 section shall report the amount of the deduction to the
20 department in a manner required by the department.

21 C. ~~[The department shall compile an annual report~~
22 ~~on the deduction provided by this section that shall include~~
23 ~~the number of taxpayers that claimed the deduction, the~~
24 ~~aggregate amount of deductions claimed and any other~~
25 ~~information necessary to evaluate the cost of the deduction.~~

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

7 D. As used in this section:

8 (1) "alcoholic beverage" means alcoholic
9 beverage as defined in the Liquor Control Act;

10 (2) "dispenser's license" means a license
11 issued pursuant to the provisions of the Liquor Control Act
12 allowing the licensee to sell, offer for sale or have in the
13 person's possession with the intent to sell alcoholic beverages
14 both by the drink for consumption on the licensed premises and
15 in unbroken packages, including growlers, for consumption and
16 not for resale off the licensed premises;

17 (3) "growler" means a clean, refillable,
18 resealable container that has a liquid capacity that does not
19 exceed one gallon and that is intended and used for the sale of
20 beer, wine or cider;

21 (4) "liquor license" means a dispenser's
22 license issued pursuant to Section 60-6A-3 NMSA 1978 or a
23 dispenser's license issued pursuant to Section 60-6A-12 NMSA
24 1978 issued prior to July 1, 2021;

25 (5) "liquor license lessee" means a person

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1 that leases a liquor license from a liquor license lessor; and

2 (6) "liquor license lessor" means a person
3 that leases a liquor license to a third party."

4 SECTION 61. Section 7-2C-12 NMSA 1978 (being Laws 1985,
5 Chapter 106, Section 12, as amended) is amended to read:

6 "7-2C-12. ADMINISTRATIVE COSTS--CHARGES APPROPRIATED TO
7 DEPARTMENT.--

8 A. The department shall charge claimant agencies an
9 administrative fee of three percent of the debts for the
10 claimant agencies pursuant to the Tax Refund Intercept Program
11 Act.

12 B. Money from the administrative fee authorized
13 pursuant to Subsection A of this section [~~shall be withheld on~~
14 ~~all debts set off and collected by the department on or after~~
15 ~~July 1, 1997 and shall be distributed monthly to the New Mexico~~
16 ~~finance authority to be pledged irrevocably for the payment of~~
17 ~~the principal, interest and expenses or other obligations~~
18 ~~related to the bonds for the taxation and revenue information~~
19 ~~management systems project. That distribution shall continue~~
20 ~~until the earlier of December 31, 2005 or the date on which the~~
21 ~~New Mexico finance authority certifies to the department that~~
22 ~~all obligations for bonds issued pursuant to Section 12 of this~~
23 ~~1997 act have been fully discharged or provision has been made~~
24 ~~for their discharge and directs the department to cease~~
25 ~~distributing the money from the fee pursuant to Subsection A of~~

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1 ~~this section to the authority. Thereafter, the administrative~~
2 ~~fees are] is~~ appropriated to the department for use in
3 administering the Tax Refund Intercept Program Act."

4 SECTION 62. Section 7-2E-1.1 NMSA 1978 (being Laws 2007,
5 Chapter 172, Section 2, as amended) is amended to read:

6 "7-2E-1.1. TAX CREDIT--RURAL JOB TAX CREDIT.--

7 A. The tax credit created by this section may be
8 referred to as the "rural job tax credit". Every eligible
9 employer may apply for, and the taxation and revenue department
10 may approve, a tax credit for each qualifying job the employer
11 creates. The maximum tax credit amount with respect to each
12 qualifying job is equal to:

13 (1) twenty-five percent of the first sixteen
14 thousand dollars (\$16,000) in wages paid for the qualifying job
15 if the job is performed or based at a location in a tier one
16 area; or

17 (2) twelve and one-half percent of the first
18 sixteen thousand dollars (\$16,000) in wages paid if the
19 qualifying job is performed or based at a location in a tier
20 two area.

21 B. The purpose of the rural job tax credit is to
22 encourage businesses to start new businesses or expand existing
23 businesses in rural areas of the state.

24 C. The amount of the rural job tax credit shall be
25 six and one-fourth percent of the first sixteen thousand

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underscored material = new
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1 dollars (\$16,000) in wages paid for the qualifying job in a
2 qualifying period. The rural job tax credit may be claimed for
3 each qualifying job for a maximum of:

4 (1) four qualifying periods for each
5 qualifying job performed or based at a location in a tier one
6 area; and

7 (2) two qualifying periods for each
8 qualifying job performed or based at a location in a tier two
9 area.

10 D. With respect to each qualifying job for which an
11 eligible employer seeks the rural job tax credit, the employer
12 shall certify:

13 (1) the amount of wages paid to each eligible
14 employee during each qualifying period;

15 (2) the number of weeks during the qualifying
16 period the position was occupied;

17 (3) whether the qualifying job was in a tier
18 one or tier two area;

19 (4) whether the application pertains to the
20 first, second, third or fourth qualifying period, depending on
21 whether the taxpayer is in a tier one or tier two area;

22 (5) the total number of employees employed by
23 the employer at the job location on the day prior to the
24 qualifying period and on the last day of the qualifying period;

25 (6) whether the eligible employer is

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underscoring material = new
~~[bracketed material] = delete~~

1 receiving or is eligible to receive development training
2 program assistance pursuant to Section 21-19-7 NMSA 1978; and

3 (7) whether the eligible employer has ceased
4 business operations at any of its business locations in New
5 Mexico.

6 E. The economic development department shall
7 determine which employers are eligible employers and shall
8 report the listing of eligible ~~[businesses]~~ employers to the
9 taxation and revenue department in a manner and at times the
10 departments shall agree upon.

11 F. To receive a rural job tax credit with respect
12 to any qualifying period, an eligible employer shall apply to
13 the taxation and revenue department once per calendar year on
14 forms and in the manner the department may prescribe. The
15 annual application shall include a certification made pursuant
16 to Subsection D of this section and contain all qualifying
17 periods that closed during the calendar year for which the
18 application is made. Any qualifying period that did not close
19 in the calendar year for which the application is made shall be
20 denied by the department. The application for a calendar year
21 shall be filed no later than December 31 of the following
22 calendar year. If a taxpayer fails to file the annual
23 application within the time limits provided in this section,
24 the department shall deny the application. If all the
25 requirements of this section have been complied with, the

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underscored material = new
[bracketed material] = delete

1 taxation and revenue department shall issue to the applicant a
2 [~~document granting a tax credit~~] certificate of eligibility for
3 the appropriate qualifying period. The [~~tax credit document~~]
4 certificate of eligibility shall be numbered for identification
5 and declare its date of issuance and the amount of rural job
6 tax credit allowed for the respective jobs created. [~~The tax~~
7 ~~credit documents~~] A certificate of eligibility may be sold,
8 exchanged or otherwise transferred [~~and may be carried forward~~
9 ~~for a period of three years from the date of issuance~~] to
10 another taxpayer for the full value of the credit. The parties
11 to such a transaction to sell, exchange or transfer a rural job
12 tax credit [~~document~~] shall notify the department of the
13 transaction within ten days of the sale, exchange or transfer.

14 G. The [~~holder of the tax credit document~~] person
15 entitled to claim the credit may claim all or a portion of the
16 rural job tax credit [~~granted by the document~~] against the
17 [~~holder's~~] person's modified combined tax liability, personal
18 income tax liability or corporate income tax liability. Any
19 [~~balance of~~] rural job tax credit [~~granted by the document~~]
20 that exceeds the person's tax liability may be carried forward
21 for up to three consecutive taxable years from the date of
22 issuance of the [~~tax credit document~~] certificate of
23 eligibility. No amount of rural job tax credit may be applied
24 against a gross receipts tax or compensating tax imposed by a
25 municipality or county.

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underscoring material = new
~~[bracketed material] = delete~~

1 H. Notwithstanding the provisions of Section 7-1-8
2 NMSA 1978, the taxation and revenue department may disclose to
3 any person the balance of rural job tax credit remaining on any
4 tax credit ~~[document]~~ certificate of eligibility and the
5 balance of credit remaining ~~[on that document]~~ for any period.

6 I. The secretary of economic development ~~[the~~
7 ~~secretary of taxation and revenue]~~ and the secretary of
8 workforce solutions or their designees shall annually evaluate
9 the effectiveness of the rural job tax credit in stimulating
10 economic development in the rural areas of New Mexico and make
11 a joint report of their findings to each session of the
12 legislature so long as the rural job tax credit is in effect.

13 J. A qualifying job shall not be eligible for a
14 rural job tax credit pursuant to this section if:

15 (1) the job is created due to a business
16 merger, acquisition or other change in organization;

17 (2) the eligible employee was terminated from
18 employment in New Mexico by another employer involved in the
19 merger, acquisition or other change in organization; or

20 (3) the job is performed by:

21 (a) the person who performed the job or
22 its functional equivalent prior to the business merger,
23 acquisition or other change in organization; or

24 (b) a person replacing the person who
25 performed the job or its functional equivalent prior to the

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1 business merger, acquisition or other change in organization.

2 ~~[K. Notwithstanding Subsection J of this section, a~~
3 ~~qualifying job that was created by another employer and for~~
4 ~~which the rural job tax credit application was received by the~~
5 ~~taxation and revenue department prior to July 1, 2013 and is~~
6 ~~under review or has been approved shall remain eligible for the~~
7 ~~rural job tax credit for the balance of the qualifying periods~~
8 ~~for which the job qualifies by the new employer that results~~
9 ~~from a business merger, acquisition or other change in the~~
10 ~~organization.~~

11 ~~E.]~~ K. A job shall not be eligible for a rural job
12 tax credit pursuant to this section if the job is created due
13 to an 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 in New Mexico
17 unless the job is a qualifying job that was not being performed
18 by an employee of the replaced entity.

19 L. The credit 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 credit.

23 M. As used in this section:

24 (1) "dependent" means "dependent" as defined
25 in 26 U.S.C. 152(a), as that section may be amended or

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1 renumbered;

2 (2) "eligible employee" means any individual
3 other than an individual who:

4 (a) is a dependent of the employer;

5 (b) if the employer is an estate or
6 trust, is a grantor, beneficiary or fiduciary of the estate or
7 trust or is a dependent of a grantor, beneficiary or fiduciary
8 of the estate or trust;

9 (c) if the employer is a corporation, is
10 a dependent of an individual who owns, directly or indirectly,
11 more than fifty percent in value of the outstanding stock of
12 the corporation;

13 (d) if the employer is an entity other
14 than a corporation, estate or trust, is a dependent of an
15 individual who owns, directly or indirectly, more than fifty
16 percent of the capital and profits interests in the entity; or

17 (e) is working or has worked as an
18 employee or as an independent contractor for an entity that,
19 directly or indirectly, owns stock in a corporation of the
20 eligible employer or other interest of the eligible employer
21 that represents fifty percent or more of the total voting power
22 of that entity or has a value equal to fifty percent or more of
23 the capital and profits interests in the entity;

24 (3) "eligible employer" means an employer who
25 is eligible for in-plant training assistance pursuant to

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1 Section 21-19-7 NMSA 1978;

2 (4) "metropolitan statistical area" means a
3 metropolitan statistical area in New Mexico as determined by
4 the United States bureau of the census;

5 (5) "modified combined tax liability" means
6 the total liability for the reporting period for the gross
7 receipts tax imposed by Section 7-9-4 NMSA 1978 together with
8 any tax collected at the same time and in the same manner as
9 that gross receipts tax, such as the compensating tax, the
10 withholding tax, the interstate telecommunications gross
11 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA
12 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,
13 minus the amount of any credit other than the rural job tax
14 credit applied against any or all of these taxes or surcharges;
15 but "modified combined tax liability" excludes all amounts
16 collected with respect to a gross receipts tax or compensating
17 tax imposed by a municipality or county;

18 (6) "new job" means a job that is occupied by
19 an employee who has not been employed in New Mexico by the
20 eligible employer in the three years prior to the date of hire;

21 (7) "qualifying job" means a new job that was
22 created after July 1, 2000 and that was not created due to a
23 change in organizational structure established by the employer
24 that is occupied by an eligible employee for at least forty-
25 four weeks of a qualifying period;

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1 (8) "qualifying period" means the period of
2 twelve months beginning on the day an eligible employee begins
3 working in a qualifying job or the period of twelve months
4 beginning on the anniversary of the day an eligible employee
5 began working in a qualifying job;

6 (9) "rural area" means any part of the state
7 other than:

- 8 (a) an H class county;
9 (b) the state fairgrounds;
10 (c) an incorporated municipality within
11 a metropolitan statistical area if the municipality's
12 population is thirty thousand or more according to the most
13 recent federal decennial census; and
14 (d) any area within ten miles of the
15 exterior boundaries of a municipality described in Subparagraph
16 (c) of this paragraph;

17 (10) "tier one area" means:
18 (a) any municipality within the rural
19 area if the municipality's population according to the most
20 recent federal decennial census is fifteen thousand or less; or

21 (b) any part of the rural area that is
22 not within the exterior boundaries of a municipality;

23 (11) "tier two area" means any municipality
24 within the rural area if the municipality's population
25 according to the most recent federal decennial census is more

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1 than fifteen thousand; and

2 (12) "wages" means all compensation paid by
3 an eligible employer to an eligible employee through the
4 employer's payroll system, including those wages the employee
5 elects to defer or redirect, such as the employee's
6 contribution to 401(k) or cafeteria plan programs, but not
7 including benefits or the employer's share of payroll taxes."

8 SECTION 63. Section 7-3-7 NMSA 1978 (being Laws 1961,
9 Chapter 243, Section 8, as amended) is amended to read:

10 "7-3-7. STATEMENTS OF WITHHOLDING.--

11 A. Every employer shall file with the department an
12 annual statement of withholding for each employee. The
13 statement shall be in [~~a form~~] an electronic format prescribed
14 by the department [~~except employers with twenty-five or more~~
15 ~~employees shall file statements using a department-approved~~
16 ~~electronic medium~~]. The statement 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 compensation paid the employee and the total
20 amount of tax withheld for the calendar year or portion of a
21 calendar year if the employee has worked less than a full
22 calendar year.

23 B. Every payer shall file with the department an
24 annual statement of withholding for each individual from whom
25 some portion of a pension or an annuity has been deducted and

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1 withheld by that payer. The statement shall be in [~~a form~~] an
2 electronic format prescribed by the department [~~except~~
3 ~~employers with twenty-five or more employees shall file~~
4 ~~statements using a department-approved electronic medium~~]. The
5 statement shall be in a form prescribed by the department and
6 shall be filed with the department on or before the last day of
7 January of the year following that for which the statement is
8 made. It shall include the total amount of pension or annuity
9 paid to the individual and the amount of tax withheld for the
10 calendar year.

11 C. Every person required to deduct and withhold tax
12 from a payment of winnings that are subject to withholding
13 shall file with the department an annual statement of
14 withholding for each wagerer from whom some portion of a
15 payment of winnings has been deducted and withheld by that
16 person. The statement shall be filed using a department-
17 approved electronic medium and shall be filed with the
18 department on or before the last day of January of the year
19 following that for which the statement is made. It shall
20 include the total amount of winnings paid to the individual and
21 the amount of tax withheld for the calendar year. The
22 department may also require any person who is required to
23 submit an information return to the internal revenue service
24 regarding the winnings of another person to submit copies of
25 the return to the department."

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1 SECTION 64. Section 7-3-13 NMSA 1978 (being Laws 2010,
2 Chapter 53, Section 7) is amended to read:

3 "7-3-13. WITHHOLDING [~~INFORMATION~~] RETURN REQUIRED
4 [~~PENALTY~~].--

5 A. An employer [~~that has more than fifty employees~~
6 ~~and is not required to file an unemployment insurance tax form~~
7 ~~with the workforce solutions department~~] or a payor shall file
8 quarterly a withholding [~~information~~] return with the
9 department on or before the [~~last day of the month~~] twenty-
10 fifth day of the month following the close of the calendar
11 quarter when the taxes were required to be withheld.

12 B. The quarterly withholding [~~information~~] return
13 required by this section shall contain all information required
14 by the department, including:

- 15 (1) each employee's or payee's social
16 security number;
- 17 (2) each employee's or payee's name;
- 18 (3) each employee's or payee's gross wages,
19 pensions or annuity payments;
- 20 (4) each employee's or payee's state income
21 tax withheld; and
- 22 (5) the workers' compensation fees due on
23 behalf of each employee or payee.

24 C. Each quarterly withholding [~~information~~] return
25 shall be filed with the department using a department-approved

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1 electronic medium.

2 ~~[D. Any employer or payor required to file the~~
3 ~~quarterly withholding information return who fails to do so by~~
4 ~~the due date or to file the return in accordance with~~
5 ~~Subsection C of this section is subject to a penalty in the~~
6 ~~amount of fifty dollars (\$50.00).]~~"

7 SECTION 65. Section 7-3A-9 NMSA 1978 (being Laws 2003,
8 Chapter 86, Section 12, as amended) is amended to read:

9 "7-3A-9. INTERPRETATION OF ACT--ADMINISTRATION AND
10 ENFORCEMENT OF ACT [~~REPORT TO LEGISLATURE~~].--

11 A. The department shall interpret the provisions of
12 the Oil and Gas Proceeds and Pass-Through Entity Withholding
13 Tax Act.

14 B. The department shall administer and enforce the
15 Oil and Gas Proceeds and Pass-Through Entity Withholding Tax
16 Act, and the Tax Administration Act applies to the
17 administration and enforcement of the Oil and Gas Proceeds and
18 Pass-Through Entity Withholding Tax Act.

19 ~~[C. No later than December 1 of each year, the~~
20 ~~department shall submit a report to the legislature showing:~~

21 ~~(1) the total amount of taxes withheld by~~
22 ~~remitters and paid to the department during the previous~~
23 ~~calendar year pursuant to the Oil and Gas Proceeds and Pass-~~
24 ~~Through Entity Withholding Tax Act; and~~

25 ~~(2) the amount of taxes withheld by remitters~~

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1 ~~pursuant to the Oil and Gas Proceeds and Pass-Through Entity~~
2 ~~Withholding Tax Act that were credited against income taxes or~~
3 ~~corporate income taxes by remittees during the previous~~
4 ~~calendar year.]"~~

5 SECTION 66. Section 7-9-9 NMSA 1978 (being Laws 1966,
6 Chapter 47, Section 9, as amended) is amended to read:

7 "7-9-9. LIABILITY OF USER FOR PAYMENT OF COMPENSATING
8 TAX.--Any person in New Mexico initially using property in New
9 Mexico on the value of which compensating tax is payable but
10 has not been paid is liable to the state for payment of the
11 compensating tax, but this liability is discharged if the buyer
12 has paid the compensating tax to the seller for payment over to
13 the department."

14 SECTION 67. Section 7-9-18.1 NMSA 1978 (being Laws 1987,
15 Chapter 264, Section 13 and Laws 1987, Chapter 304, Section 1)
16 is amended to read:

17 "7-9-18.1. EXEMPTION--GROSS RECEIPTS TAX--~~[FOOD STAMPS]~~
18 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS---Exempted
19 from the gross receipts tax are the receipts of a taxpayer who
20 is approved for participation in the ~~[food stamp]~~ supplemental
21 nutrition assistance program authorized by U.S.C. Title 7,
22 Chapter 51, as that chapter may be amended or renumbered, from
23 the lawful acceptance and deposit with a financial institution
24 of ~~[food stamps]~~ benefits issued by the United States
25 department of agriculture pursuant to the ~~[food stamp]~~

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1 supplemental nutrition assistance program."

2 SECTION 68. Section 7-9-43 NMSA 1978 (being Laws 1966,
3 Chapter 47, Section 13, as amended) is amended to read:

4 "7-9-43. NONTAXABLE TRANSACTION CERTIFICATES AND OTHER
5 EVIDENCE REQUIRED TO ENTITLE PERSONS TO DEDUCTIONS.--

6 A. Except as provided in Subsection B of this
7 section, a person may establish entitlement to a deduction from
8 gross receipts allowed pursuant to the Gross Receipts and
9 Compensating Tax Act by obtaining in good faith a properly
10 executed nontaxable transaction certificate from the purchaser.
11 Nontaxable transaction certificates shall contain the
12 information and be in a form prescribed by the department. The
13 department by ~~[regulation]~~ rule may deem to be nontaxable
14 transaction certificates documents issued by other states or
15 the multistate tax commission to taxpayers not required to be
16 registered in New Mexico. Only buyers or lessees who have a
17 registration number or have applied for a registration number
18 and have not been refused one under Subsection C of Section
19 7-1-12 NMSA 1978 shall execute nontaxable transaction
20 certificates issued by the department. If the seller or lessor
21 has been given an identification number for tax purposes by the
22 department, the seller or lessor shall disclose that
23 identification number to the buyer or lessee prior to or upon
24 acceptance of a nontaxable transaction certificate.

25 B. Except as provided in Subsection C of this

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1 section, a person who does not comply with Subsection A of this
2 section may establish entitlement to a deduction from gross
3 receipts by presenting alternative evidence that demonstrates
4 the facts necessary to support entitlement to the deduction,
5 but the burden of proof is on that person. Alternative
6 evidence includes:

7 (1) invoices or contracts that identify the
8 nature of the transaction;

9 (2) documentation as to the purchaser's use
10 or disposition of the property or service;

11 (3) a statement from the purchaser indicating
12 that the purchaser sold or intends to resell the property or
13 service purchased from the seller, either by itself or in
14 combination with other property or services, in the ordinary
15 course of business. The statement from the purchaser shall
16 include:

17 (a) the seller's name;

18 (b) the date of the invoice or date of
19 the transaction;

20 (c) the invoice number or a copy of the
21 invoice;

22 (d) a copy of the purchase order, if
23 available;

24 (e) the amount of purchase; and

25 (f) a description of the property or

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1 service purchased or leased; or

2 (4) any other evidence that demonstrates the
3 facts necessary to establish entitlement to the deduction.

4 C. Subsection B of this section does not apply to
5 sellers of electricity or fuels that are parties to an
6 agreement with the department pursuant to Section 7-1-21.1 NMSA
7 1978 regarding the deduction pursuant to Subsection B of
8 Section 7-9-46 NMSA 1978.

9 D. When a person accepts in good faith a properly
10 executed nontaxable transaction certificate from the purchaser,
11 the properly executed nontaxable transaction certificate shall
12 be conclusive evidence that the proceeds from the transaction
13 are deductible from the person's gross receipts.

14 E. To exercise the privilege of executing
15 appropriate nontaxable transaction certificates, a buyer or
16 lessee shall apply to the department for permission to execute
17 nontaxable transaction certificates, except with respect to
18 documents issued by other states or the multistate tax
19 commission that the department has deemed to be nontaxable
20 transaction certificates.

21 F. If a person has accepted in good faith a
22 properly executed nontaxable transaction certificate, but the
23 purchaser has not employed the property or service purchased in
24 the nontaxable manner or has provided materially false or
25 inaccurate information on the nontaxable transaction

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1 certificate, the purchaser shall be liable for an amount equal
2 to any tax, penalty and interest that the seller would have
3 been required to pay if the seller had not complied with
4 Subsection A of this section.

5 G. Any person who knowingly or willfully provides
6 false or inaccurate information on a nontaxable transaction
7 certificate, to obtain a nontaxable transaction certificate or
8 as alternative evidence provided in support of a claim for a
9 deduction, may be subject to prosecution under Sections 7-1-72
10 and 7-1-73 NMSA 1978."

11 SECTION 69. Section 7-9-46 NMSA 1978 (being Laws 1969,
12 Chapter 144, Section 36, as amended) is amended to read:

13 "7-9-46. DEDUCTION--GROSS RECEIPTS--GOVERNMENTAL GROSS
14 RECEIPTS--SALES TO MANUFACTURERS AND MANUFACTURING SERVICE
15 PROVIDERS.--

16 A. Receipts from selling tangible personal property
17 may be deducted from gross receipts or from governmental gross
18 receipts if the sale is made to a person engaged in the
19 business of manufacturing who delivers a nontaxable transaction
20 certificate to the seller [~~or provides alternative evidence~~
21 ~~pursuant to Section 7-9-43 NMSA 1978~~]. The buyer must
22 incorporate the tangible personal property as an ingredient or
23 component part of the product that the buyer is in the business
24 of manufacturing.

25 B. Receipts from selling a manufacturing consumable

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1 to a manufacturer or a manufacturing service provider may be
2 deducted from gross receipts or from governmental gross
3 receipts if the buyer delivers a nontaxable transaction
4 certificate to the seller or provides alternative evidence
5 pursuant to Section 7-9-43 NMSA 1978; provided that if the
6 seller is a utility company, an agreement with the department
7 pursuant to Section 7-1-21.1 NMSA 1978 and a nontaxable
8 transaction certificate shall be required.

9 C. Receipts from selling or leasing qualified
10 equipment may be deducted from gross receipts if the sale is
11 made to, or the lease is entered into with, a person engaged in
12 the business of manufacturing or a manufacturing service
13 provider who delivers a nontaxable transaction certificate to
14 the seller or provides alternative evidence pursuant to Section
15 7-9-43 NMSA 1978; provided that a manufacturer or manufacturing
16 service provider delivering a nontaxable transaction
17 certificate or alternative evidence with respect to the
18 qualified equipment shall not claim an investment credit
19 pursuant to the Investment Credit Act for that same equipment.

20 D. The purpose of the deductions provided in this
21 section is to encourage manufacturing businesses to locate in
22 New Mexico and to reduce the tax burden, including reducing
23 pyramiding, on the tangible personal property that is consumed
24 in the manufacturing process and that is purchased by
25 manufacturing businesses in New Mexico.

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1 ~~[E. The department shall annually report to the~~
2 ~~revenue stabilization and tax policy committee the aggregate~~
3 ~~amount of deductions taken pursuant to this section, the number~~
4 ~~of taxpayers claiming each of the deductions and any other~~
5 ~~information that is necessary to determine that the deductions~~
6 ~~are performing the purposes for which they are enacted.~~

7 ~~F.]~~ E. A taxpayer ~~[deducting gross receipts]~~
8 allowed a deduction pursuant to this section shall report the
9 amount deducted separately for each deduction provided in this
10 section and attribute the amount of the deduction to the
11 appropriate authorization provided in this section in a manner
12 required by the department ~~[that facilitates the evaluation by~~
13 ~~the legislature of the benefit to the state of these~~
14 ~~deductions].~~

15 F. The deductions provided by this section 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 deductions.

19 G. As used in this section:

20 (1) "manufacturing consumable" means tangible
21 personal property, other than qualified equipment or an
22 ingredient or component part of a manufactured product, that is
23 incorporated into, destroyed, depleted or transformed in the
24 process of manufacturing a product, including electricity,
25 fuels, water, manufacturing aids and supplies, chemicals, gases

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1 and other tangibles used to manufacture a product;

2 (2) "manufacturing operation" means a plant
3 operated by a manufacturer or manufacturing service provider
4 that employs personnel to perform production tasks to produce
5 goods, in conjunction with machinery and equipment; and

6 (3) "qualified equipment" means machinery,
7 equipment and tools, including component, repair, replacement
8 and spare parts thereof, that are used directly in the
9 manufacturing process of a manufacturing operation. "Qualified
10 equipment" includes computer hardware and software used
11 directly in the manufacturing process of a manufacturing
12 operation but excludes any motor vehicle that is required to be
13 registered in this state pursuant to the Motor Vehicle Code."

14 SECTION 70. Section 7-9-56.3 NMSA 1978 (being Laws 2003,
15 Chapter 232, Section 1, as amended) is amended to read:

16 "7-9-56.3. DEDUCTION--GROSS RECEIPTS--TRADE-SUPPORT
17 COMPANY IN A BORDER ZONE.--

18 A. The receipts of a trade-support company may be
19 deducted from gross receipts if:

20 (1) the trade-support company first locates
21 in New Mexico within twenty miles of a port of entry on New
22 Mexico's border with Mexico [~~on or after July 1, 2003 but~~
23 ~~before July 1, 2013 or~~] on or after January 1, 2016 but before
24 January 1, 2021;

25 (2) the receipts are received by the company

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1 within a five-year period beginning on the date the trade-
2 support company locates in New Mexico and the receipts are
3 derived from its business activities and operations at its
4 border zone location; and

5 (3) the trade-support company employs at
6 least two employees in New Mexico.

7 B. A taxpayer allowed a deduction pursuant to this
8 section shall report the amount of the deduction separately in
9 a manner required by the department.

10 C. ~~[The department shall compile an annual report~~
11 ~~on the deduction created pursuant to this section that shall~~
12 ~~include the number of taxpayers approved by the department to~~
13 ~~receive the deduction, the aggregate amount of deductions~~
14 ~~approved and any other information necessary to evaluate the~~
15 ~~effectiveness of the deduction. Beginning in 2016 and every~~
16 ~~four years thereafter that the deduction is in effect, the~~
17 ~~department shall compile and present the annual reports to the~~
18 ~~revenue stabilization and tax policy committee and the~~
19 ~~legislative finance committee]~~ The deduction provided by this
20 section shall be included in the tax expenditure budget
21 pursuant to Section 7-1-84 NMSA 1978 with an analysis of the
22 effectiveness and cost of the deduction.

23 D. As used in this section:

24 (1) "dependent" means "dependent" as defined
25 in 26 U.S.C. 152(a), as that section may be amended or

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1 renumbered;

2 (2) "employee" means an individual, other
3 than an individual who:

4 (a) is a dependent of the employer;

5 (b) if the employer is an estate or
6 trust, is a grantor, beneficiary or fiduciary of the estate or
7 trust or is a dependent of a grantor, beneficiary or fiduciary
8 of the estate or trust;

9 (c) if the employer is a corporation, is
10 a dependent of an individual who owns, directly or indirectly,
11 more than fifty percent in value of the outstanding stock of
12 the corporation; or

13 (d) if the employer is an entity other
14 than a corporation, estate or trust, is a dependent of an
15 individual who owns, directly or indirectly, more than fifty
16 percent of the capital and profits interests in the entity;

17 (3) "port of entry" means an international
18 port of entry in New Mexico at which customs services are
19 provided by United States customs and border protection; and

20 (4) "trade-support company" means a customs
21 brokerage firm or a freight forwarder."

22 SECTION 71. Section 7-9-62 NMSA 1978 (being Laws 1969,
23 Chapter 144, Section 52, as amended) is amended to read:

24 "7-9-62. DEDUCTION--GROSS RECEIPTS TAX--AGRICULTURAL
25 IMPLEMENTS--AIRCRAFT MANUFACTURERS--VEHICLES THAT ARE NOT

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1 REQUIRED TO BE REGISTERED--AIRCRAFT PARTS AND MAINTENANCE
2 SERVICES--REPORTING REQUIREMENTS.--

3 A. Except for receipts deductible under Subsection
4 B of this section, fifty percent of the receipts from selling
5 agricultural implements, farm tractors, aircraft or vehicles
6 that are not required to be registered under the Motor Vehicle
7 Code may be deducted from gross receipts; provided that, with
8 respect to agricultural implements, the sale is made to a
9 person who states in writing that the person is regularly
10 engaged in the business of farming or ranching. Any deduction
11 allowed under Section 7-9-71 NMSA 1978 must be taken before the
12 deduction allowed by this subsection is computed.

13 B. Receipts of an aircraft manufacturer or
14 affiliate from selling aircraft or from selling aircraft flight
15 support, pilot training or maintenance training services may be
16 deducted from gross receipts. Any deduction allowed under
17 Section 7-9-71 NMSA 1978 must be taken before the deduction
18 allowed by this subsection is computed.

19 C. Receipts from selling aircraft parts or
20 maintenance services for aircraft or aircraft parts may be
21 deducted from gross receipts. Any deduction allowed under
22 Section 7-9-71 NMSA 1978 must be taken before the deduction
23 allowed by this subsection is computed.

24 D. A taxpayer allowed a deduction pursuant to this
25 section shall report the amount of the deduction separately in

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1 a manner required by the department.

2 E. ~~[The department shall compile an annual report~~
3 ~~on the deductions provided by this section that shall include~~
4 ~~the number of taxpayers approved by the department to receive~~
5 ~~the deductions, the aggregate amount of deductions approved and~~
6 ~~any other information necessary to evaluate the effectiveness~~
7 ~~of the deductions. Beginning in 2019 and every five years~~
8 ~~thereafter that the deductions are in effect, the department~~
9 ~~shall compile and present the annual reports to the revenue~~
10 ~~stabilization and tax policy committee and the legislative~~
11 ~~finance committee] The deductions provided by this section~~
12 ~~shall be included in the tax expenditure budget pursuant to~~
13 ~~Section 7-1-84 NMSA 1978 with an analysis of the effectiveness~~
14 and cost of the deductions.

15 F. As used in this section:

16 (1) "affiliate" means a business entity that
17 directly or indirectly through one or more intermediaries
18 controls, is controlled by or is under common control with the
19 aircraft manufacturer;

20 (2) "agricultural implement" means a tool,
21 utensil or instrument that is depreciable for federal income
22 tax purposes and that is:

23 (a) designed to irrigate agricultural
24 crops above ground or below ground at the place where the crop
25 is grown; or

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1 (b) designed primarily for use with a
2 source of motive power, such as a tractor, in planting,
3 growing, cultivating, harvesting or processing agricultural
4 crops at the place where the crop is grown; in raising poultry
5 or livestock; or in obtaining or processing food or fiber, such
6 as eggs, milk, wool or mohair, from living poultry or livestock
7 at the place where the poultry or livestock are kept for this
8 purpose;

9 (3) "aircraft manufacturer" means a business
10 entity that in the ordinary course of business designs and
11 builds private or commercial aircraft certified by the federal
12 aviation administration;

13 (4) "business entity" means a corporation,
14 limited liability company, partnership, limited partnership,
15 limited liability partnership or real estate investment trust,
16 but does not mean an individual or a joint venture;

17 (5) "control" means equity ownership in a
18 business entity that:

19 (a) represents at least fifty percent of
20 the total voting power of that business entity; and

21 (b) has a value equal to at least fifty
22 percent of the total equity of that business entity; and

23 (6) "flight support" means providing
24 navigation data, charts, weather information, online
25 maintenance records and other aircraft or flight-related

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1 information and the software needed to access the information."

2 SECTION 72. Section 7-9-62.1 NMSA 1978 (being Laws 2000
3 (2nd S.S.), Chapter 4, Section 2, as amended) is amended to
4 read:

5 "7-9-62.1. DEDUCTION--GROSS RECEIPTS TAX--AIRCRAFT SALES
6 AND SERVICES--REPORTING REQUIREMENTS.--

7 A. Receipts from the sale of or from maintaining,
8 refurbishing, remodeling or otherwise modifying a commercial or
9 military carrier over ten thousand pounds gross landing weight
10 may be deducted from gross receipts.

11 B. A taxpayer allowed a deduction pursuant to this
12 section shall report the amount of the deduction separately in
13 a manner required by the department.

14 C. ~~[The department shall compile an annual report
15 on the deduction provided by this section that shall include
16 the number of taxpayers approved by the department to receive
17 the deduction, the aggregate amount of deductions approved and
18 any other information necessary to evaluate the effectiveness
19 of the deduction. Beginning in 2019 and every five years
20 thereafter that the deduction is in effect, the department
21 shall compile and present the annual reports to the revenue
22 stabilization and tax policy committee and the legislative
23 finance committee]~~ The deduction provided by this section shall
24 be included in the tax expenditure budget pursuant to Section
25 7-1-84 NMSA 1978 with an analysis of the effectiveness and cost

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1 of the deduction."

2 SECTION 73. Section 7-9-73.2 NMSA 1978 (being Laws 1998,
3 Chapter 95, Section 2 and Laws 1998, Chapter 99, Section 4, as
4 amended) is amended to read:

5 "7-9-73.2. DEDUCTION--GROSS RECEIPTS TAX AND
6 GOVERNMENTAL GROSS RECEIPTS TAX--PRESCRIPTION DRUGS--OXYGEN--
7 CANNABIS.--

8 A. Receipts from the sale of prescription drugs and
9 oxygen and oxygen services provided by a licensed medicare
10 durable medical equipment provider and cannabis products that
11 are sold in accordance with the Lynn and Erin Compassionate Use
12 Act may be deducted from gross receipts and governmental gross
13 receipts.

14 B. A taxpayer allowed a deduction pursuant to this
15 section shall report the amount of the deduction separately in
16 a manner required by the department. The deduction shall be
17 included in the tax expenditure budget pursuant to Section
18 7-1-84 NMSA 1978, including the annual aggregate cost of the
19 deduction.

20 [~~B.~~] C. For the purposes of this section,
21 "prescription drugs" means insulin and substances that are:

22 (1) dispensed by or under the supervision of
23 a licensed pharmacist or by a physician or other person
24 authorized under state law to do so;

25 (2) prescribed for a specified person by a

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1 person authorized under state law to prescribe the substance;
2 and

3 (3) subject to the restrictions on sale
4 contained in Subparagraph 1 of Subsection (b) of 21 USCA 353."

5 SECTION 74. Section 7-9-73.3 NMSA 1978 (being Laws 2014,
6 Chapter 26, Section 1, as amended) is amended to read:

7 "7-9-73.3. DEDUCTION--GROSS RECEIPTS TAX AND
8 GOVERNMENTAL GROSS RECEIPTS TAX--DURABLE MEDICAL EQUIPMENT--
9 MEDICAL SUPPLIES.--

10 A. Prior to July 1, 2030, receipts from the sale or
11 rental of durable medical equipment and medical supplies may be
12 deducted from gross receipts and governmental gross receipts.

13 B. The purpose of the deduction provided in this
14 section is to help protect jobs and retain businesses in New
15 Mexico that sell or rent durable medical equipment and medical
16 supplies.

17 C. A taxpayer allowed a deduction pursuant to this
18 section shall report the amount of the deduction separately in
19 a manner required by the department.

20 D. The deduction provided in this section shall be
21 taken only by a taxpayer participating in the New Mexico
22 medicaid program whose gross receipts are no less than ninety
23 percent derived from the sale or rental of durable medical
24 equipment, medical supplies or infusion therapy services,
25 including the medications used in infusion therapy services.

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1 E. ~~[Acceptance of]~~ Claiming a deduction provided by
2 this section is authorization by the taxpayer receiving the
3 deduction for the department to reveal return information ~~[to~~
4 ~~the revenue stabilization and tax policy committee and the~~
5 ~~legislative finance committee necessary to analyze the~~
6 ~~effectiveness and cost of the deduction and whether the~~
7 ~~deduction is performing the purpose for which it was created.~~

8 F. ~~The department shall compile an annual report on~~
9 ~~the deduction provided by this section that shall include the~~
10 ~~number of taxpayers approved by the department to receive the~~
11 ~~deduction, the aggregate amount of deductions approved and any~~
12 ~~other information necessary to evaluate the effectiveness of~~
13 ~~the deduction. The department shall present the report to the~~
14 ~~revenue stabilization and tax policy committee and the~~
15 ~~legislative finance committee with an analysis of the~~
16 ~~effectiveness and cost of the deduction and whether the~~
17 ~~deduction is performing the purpose for which it was created]~~
18 necessary to comply with the requirements of Section 7-1-84
19 NMSA 1978.

20 F. The deduction provided by this section shall be
21 included in the tax expenditure budget pursuant to Section
22 7-1-84 NMSA 1978, including the annual aggregate cost of the
23 deduction.

24 G. As used in this section:

25 (1) "durable medical equipment" means a

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1 medical assistive device or other equipment that:

2 (a) can withstand repeated use;

3 (b) is primarily and customarily used to
4 serve a medical purpose and is not useful to an individual in
5 the absence of an illness, injury or other medical necessity,
6 including improved functioning of a body part;

7 (c) is appropriate for use at home
8 exclusively by the eligible recipient for whom the durable
9 medical equipment is prescribed; and

10 (d) is prescribed by a physician or
11 other person licensed by the state to prescribe durable medical
12 equipment;

13 (2) "infusion therapy services" means the
14 administration of prescribed medication through a needle or
15 catheter;

16 (3) "medical supplies" means items for a
17 course of medical treatment, including nutritional products,
18 that are:

19 (a) necessary for an ongoing course of
20 medical treatment;

21 (b) disposable and cannot be reused; and

22 (c) prescribed by a physician or other
23 person licensed by the state to prescribe medical supplies; and

24 (4) "prescribe" means to authorize the use of
25 an item or substance for a course of medical treatment."

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1 SECTION 75. Section 7-9-77.1 NMSA 1978 (being Laws 1998,
2 Chapter 96, Section 1, as amended by Laws 2022, Chapter 43,
3 Section 1 and by Laws 2022, Chapter 49, Section 1) is amended
4 to read:

5 "7-9-77.1. DEDUCTION--GROSS RECEIPTS TAX--CERTAIN
6 MEDICAL AND HEALTH CARE SERVICES.--

7 A. Receipts of a health care practitioner or an
8 association of health care practitioners from payments by the
9 United States government, or any agency thereof, or from a
10 medicare administrative contractor for medical and other health
11 services provided by a health care practitioner to medicare
12 beneficiaries pursuant to the provisions of Title 18 of the
13 federal Social Security Act may be deducted from gross
14 receipts.

15 B. Receipts of a hospice or nursing home from
16 payments by the United States government, or any agency
17 thereof, or from a medicare administrative contractor for
18 medical and other health and palliative services provided by
19 the hospice or nursing home to medicare beneficiaries pursuant
20 to the provisions of Title 18 of the federal Social Security
21 Act may be deducted from gross receipts.

22 C. Receipts of a health care practitioner or an
23 association of health care practitioners from payments by a
24 third-party administrator of the federal TRICARE program for
25 medical and other health services provided by physicians and

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underscored material = new
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1 osteopathic physicians to covered beneficiaries may be deducted
2 from gross receipts.

3 D. Receipts of a health care practitioner or an
4 association of health care practitioners from payments by or on
5 behalf of the Indian health service of the United States
6 department of health and human services for medical and other
7 health services provided by physicians and osteopathic
8 physicians to covered beneficiaries may be deducted from gross
9 receipts.

10 E. Receipts of a clinical laboratory from payments
11 by the United States government, or any agency thereof, or from
12 a medicare administrative contractor for medical services
13 provided by the clinical laboratory to medicare beneficiaries
14 pursuant to the provisions of Title 18 of the federal Social
15 Security Act may be deducted from gross receipts.

16 F. Receipts of a home health agency from payments
17 by the United States government, or any agency thereof, or from
18 a medicare administrative contractor for medical, other health
19 and palliative services provided by the home health agency to
20 medicare beneficiaries pursuant to the provisions of Title 18
21 of the federal Social Security Act may be deducted from gross
22 receipts.

23 G. Prior to July 1, 2032, receipts of a dialysis
24 facility from payments by the United States government, or any
25 agency thereof, or from a medicare administrative contractor

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1 for medical and other health services provided by the dialysis
2 facility to medicare beneficiaries pursuant to the provisions
3 of Title 18 of the federal Social Security Act may be deducted
4 from gross receipts.

5 H. A taxpayer allowed a deduction pursuant to this
6 section shall report the amount of the deduction separately in
7 a manner required by the department. A taxpayer who has
8 receipts that are deductible pursuant to this section and
9 Section 7-9-93 NMSA 1978 shall deduct the receipts under this
10 section prior to calculating the receipts that may be deducted
11 pursuant to Section 7-9-93 NMSA 1978.

12 I. ~~[The department shall compile an annual report~~
13 ~~on the deductions created pursuant to this section that shall~~
14 ~~include the number of taxpayers that claimed each deduction,~~
15 ~~the aggregate amount of deductions claimed and any other~~
16 ~~information necessary to evaluate the effectiveness of the~~
17 ~~deductions. The department shall compile and present the~~
18 ~~annual reports to the revenue stabilization and tax policy~~
19 ~~committee and the legislative finance committee]~~ The deductions
20 provided by this section shall be included in the tax
21 expenditure budget pursuant to Section 7-1-84 NMSA 1978 with an
22 analysis of the effectiveness and cost of the deductions and
23 whether the deductions are providing a benefit to the state.

24 J. For the purposes of this section:

25 (1) "association of health care

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1 practitioners" means a corporation, unincorporated business
2 entity or other legal entity organized by, owned by or
3 employing one or more health care practitioners; provided that
4 the entity is not:

5 (a) an organization granted exemption
6 from the federal income tax by the United States commissioner
7 of internal revenue as organizations described in Section
8 501(c)(3) of the United States Internal Revenue Code of 1986,
9 as that section may be amended or renumbered; or

10 (b) a health maintenance organization,
11 hospital, hospice, nursing home or an entity that is solely an
12 outpatient facility or intermediate care facility licensed
13 pursuant to the [~~Public Health Act~~] Health Care Code;

14 (2) "clinical laboratory" means a laboratory
15 accredited pursuant to 42 USCA 263a;

16 (3) "dialysis facility" means a facility that
17 provides outpatient maintenance dialysis services or home
18 dialysis training and support services, including a facility
19 considered by the federal centers for medicare and medicaid
20 services to be an independent or hospital-based facility that
21 includes a self-care dialysis unit that furnishes only self-
22 dialysis services;

23 (4) "health care practitioner" means:

24 (a) an athletic trainer licensed
25 pursuant to the Athletic Trainer Practice Act;

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underscoring material = new
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1 (b) an audiologist licensed pursuant to
2 the Speech-Language Pathology, Audiology and Hearing Aid
3 Dispensing Practices Act;

4 (c) a chiropractic physician licensed
5 pursuant to the Chiropractic Physician Practice Act;

6 (d) a counselor or therapist
7 practitioner licensed pursuant to the Counseling and Therapy
8 Practice Act;

9 (e) a dentist licensed pursuant to the
10 Dental Health Care Act;

11 (f) a doctor of oriental medicine
12 licensed pursuant to the Acupuncture and Oriental Medicine
13 Practice Act;

14 (g) an independent social worker
15 licensed pursuant to the Social Work Practice Act;

16 (h) a massage therapist licensed
17 pursuant to the Massage Therapy Practice Act;

18 (i) a naprapath licensed pursuant to the
19 Naprapathic Practice Act;

20 (j) a nutritionist or dietitian licensed
21 pursuant to the Nutrition and Dietetics Practice Act;

22 (k) an occupational therapist licensed
23 pursuant to the Occupational Therapy Act;

24 (l) an optometrist licensed pursuant to
25 the Optometry Act;

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1 (m) an osteopathic physician licensed
2 pursuant to the Medical Practice Act;

3 (n) a pharmacist licensed pursuant to
4 the Pharmacy Act;

5 (o) a physical therapist licensed
6 pursuant to the Physical Therapy Act;

7 (p) a physician licensed pursuant to the
8 Medical Practice Act;

9 (q) a [~~podiatrist~~] podiatric physician
10 licensed pursuant to the Podiatry Act;

11 (r) a psychologist licensed pursuant to
12 the Professional Psychologist Act;

13 (s) a radiologic technologist licensed
14 pursuant to the Medical Imaging and Radiation Therapy Health
15 and Safety Act;

16 (t) a registered nurse licensed pursuant
17 to the Nursing Practice Act;

18 (u) a respiratory care practitioner
19 licensed pursuant to the Respiratory Care Act; and

20 (v) a speech-language pathologist
21 licensed pursuant to the Speech-Language Pathology, Audiology
22 and Hearing Aid Dispensing Practices Act;

23 (5) "home health agency" means a for-profit
24 entity that is licensed by the [~~department of~~] health care
25 authority and certified by the federal centers for medicare and

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underscoring material = new
[bracketed material] = delete

1 medicaid services as a home health agency and certified to
2 provide medicare services;

3 (6) "hospice" means a for-profit entity
4 licensed by the [~~department of~~] health care authority as a
5 hospice and certified to provide medicare services;

6 (7) "medicare administrative contractor"
7 means a third-party administrator operating under contract with
8 the federal centers for medicare and medicaid services to
9 process medicare claims and make medicare fee-for-service
10 payments for medicare fee-for-service beneficiaries;

11 (8) "nursing home" means a for-profit entity
12 licensed by the [~~department of~~] health care authority as a
13 nursing home and certified to provide medicare services; and

14 (9) "TRICARE program" means the program
15 defined in 10 U.S.C. 1072(7)."

16 SECTION 76. Section 7-9-77.2 NMSA 1978 (being Laws 2024,
17 Chapter 67, Section 13) is amended to read:

18 "7-9-77.2. DEDUCTIONS--GROSS RECEIPTS--CHILD CARE
19 ASSISTANCE THROUGH A LICENSED CHILD CARE ASSISTANCE PROGRAM--
20 PRE-KINDERGARTEN SERVICES BY FOR-PROFIT PRE-KINDERGARTEN
21 PROVIDERS.--

22 A. Receipts from the sale of child care assistance
23 services by a taxpayer pursuant to a contract or grant with the
24 early childhood education and care department to provide such
25 services through a licensed child care assistance program may

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1 be deducted from gross receipts.

2 B. Receipts of for-profit pre-kindergarten
3 providers for the sale of pre-kindergarten services pursuant to
4 the Pre-Kindergarten Act may be deducted from gross receipts.

5 C. A taxpayer allowed a deduction pursuant to this
6 section shall report the amount of the deduction separately in
7 a manner required by the department.

8 ~~D. [The department shall compile an annual report~~
9 ~~on the deductions provided by this section that shall include~~
10 ~~the number of taxpayers that claimed each deduction, the~~
11 ~~aggregate amount of deductions claimed and any other~~
12 ~~information necessary to evaluate the effectiveness of the~~
13 ~~deductions. The department shall present the report to the~~
14 ~~revenue stabilization and tax policy committee and the~~
15 ~~legislative finance committee with an analysis of the] The~~
16 ~~deductions provided by this section shall be included in the~~
17 ~~tax expenditure budget pursuant to Section 7-1-84 NMSA 1978,~~
18 ~~including the annual aggregate cost of the deductions.~~

19 E. As used in this section:

20 (1) "child care assistance" means "child care
21 assistance" or "early childhood care assistance", as those
22 terms are defined in the Early Childhood Care Accountability
23 Act; and

24 (2) "licensed child care assistance program"
25 means "licensed child care program", "licensed early childhood

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1 care program" or "licensed exempt child care program", as those
2 terms are defined in the Early Childhood Care Accountability
3 Act."

4 SECTION 77. Section 7-9-83 NMSA 1978 (being Laws 1993,
5 Chapter 364, Section 1, as amended) is amended to read:

6 "7-9-83. DEDUCTION--GROSS RECEIPTS TAX--JET FUEL.--

7 ~~[A. From July 1, 2003 through June 30, 2017, fifty-~~
8 ~~five percent of the receipts from the sale of fuel specially~~
9 ~~prepared and sold for use in turboprop or jet-type engines as~~
10 ~~determined by the department may be deducted from gross~~
11 ~~receipts.~~

12 ~~B. After June 30, 2017]~~ Forty percent of the
13 receipts from the sale of fuel specially prepared and sold for
14 use in turboprop or jet-type engines as determined by the
15 department may be deducted from gross receipts."

16 SECTION 78. Section 7-9-84 NMSA 1978 (being Laws 1993,
17 Chapter 364, Section 2, as amended) is amended to read:

18 "7-9-84. DEDUCTION--COMPENSATING TAX--JET FUEL.--

19 ~~[A. From July 1, 2003 through June 30, 2017, fifty-~~
20 ~~five percent of the value of the fuel specially prepared and~~
21 ~~sold for use in turboprop or jet-type engines as determined by~~
22 ~~the department may be deducted in computing the compensating~~
23 ~~tax due.~~

24 ~~B. After June 30, 2017]~~ Forty percent of the value
25 of the fuel specially prepared and sold for use in turboprop or
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underscoring material = new
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1 jet-type engines as determined by the department may be
2 deducted in computing the compensating tax due."

3 SECTION 79. Section 7-9-90 NMSA 1978 (being Laws 1999,
4 Chapter 231, Section 3, as amended) is amended to read:

5 "7-9-90. DEDUCTIONS--GROSS RECEIPTS TAX--SALES OF
6 URANIUM HEXAFLUORIDE AND ENRICHMENT OF URANIUM.--

7 A. Receipts from selling uranium hexafluoride and
8 from providing the service of enriching uranium may be deducted
9 from gross receipts.

10 B. ~~[The department shall annually report to the~~
11 ~~revenue stabilization and tax policy committee aggregate~~
12 ~~amounts of deductions taken pursuant to this section, the~~
13 ~~number of taxpayers claiming the deduction and any other~~
14 ~~information that is necessary to determine that the deduction~~
15 ~~is performing a purpose that is beneficial to the state]~~ The
16 deduction provided by this section shall be included in the tax
17 expenditure budget pursuant to Section 7-1-84 NMSA 1978,
18 including the annual aggregate cost of the deduction.

19 C. A taxpayer ~~[deducting gross receipts]~~ allowed a
20 deduction pursuant to this section shall report the amount
21 deducted separately and attribute the amount of the deduction
22 to the authorization provided in this section in a manner
23 required by the department that facilitates the evaluation by
24 the legislature for the benefit to the state of this
25 deduction."

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1 SECTION 80. Section 7-9-91 NMSA 1978 (being Laws 2001,
2 Chapter 135, Section 1) is amended to read:

3 "7-9-91. DEDUCTION--COMPENSATING TAX--CONTRIBUTIONS OF
4 INVENTORY TO CERTAIN ORGANIZATIONS AND GOVERNMENTAL AGENCIES.--

5 A. Except as provided otherwise in Subsection D of
6 this section, the value of tangible personal property that is
7 removed from inventory and contributed to organizations that
8 have been granted exemption from the federal income tax by the
9 United States commissioner of internal revenue as organizations
10 described in Section 501(c)(3) of the Internal Revenue Code of
11 1986, as amended, may be deducted in computing the compensating
12 tax due, provided that the contribution is deductible for
13 federal income tax purposes by the person from whose inventory
14 the property was withdrawn or, if the person from whose
15 inventory the property was withdrawn is a pass-through entity
16 as that term is defined in Section [~~7-3-2~~] 7-3A-2 NMSA 1978,
17 the contribution is deductible by the owner or owners of the
18 pass-through entity.

19 B. Except as provided otherwise in Subsection D of
20 this section, the value of tangible personal property that is
21 removed from inventory and contributed to the United States or
22 New Mexico or any governmental unit or subdivision, agency,
23 department or instrumentality thereof may be deducted in
24 computing the compensating tax due.

25 C. Except as provided otherwise in Subsection D of
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1 this section, the value of tangible personal property that is
2 removed from inventory and contributed to an Indian tribe,
3 nation or pueblo or any governmental subdivision, agency,
4 department or instrumentality thereof for use on that Indian
5 reservation or pueblo grant may be deducted in computing the
6 compensating tax due.

7 D. Unless contrary to federal law, the deduction
8 provided by this section does not apply to:

9 (1) a contribution of metalliferous mineral
10 ore;

11 (2) a contribution of tangible personal
12 property that is or will be incorporated into a metropolitan
13 redevelopment project created under the Metropolitan
14 Redevelopment Code;

15 (3) a contribution of tangible personal
16 property that will become an ingredient or component part of a
17 construction project; or

18 (4) a contribution of tangible personal
19 property utilized or produced in the performance of a service.

20 E. For purposes of this section:

21 (1) "inventory" means tangible personal
22 property held for sale or lease in the ordinary course of
23 business; and

24 (2) "contributed" or "contribution" means a
25 transfer of ownership without consideration. Public

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1 acknowledgment of the contribution does not constitute
2 consideration for the purpose of this section."

3 SECTION 81. Section 7-9-93 NMSA 1978 (being Laws 2004,
4 Chapter 116, Section 6, as amended) is amended to read:

5 "7-9-93. DEDUCTION--GROSS RECEIPTS--CERTAIN RECEIPTS FOR
6 SERVICES PROVIDED BY HEALTH CARE PRACTITIONER OR ASSOCIATION OF
7 HEALTH CARE PRACTITIONERS.--

8 A. Receipts of a health care practitioner or an
9 association of health care practitioners for commercial
10 contract services or medicare part C services paid by a managed
11 care organization or health care insurer may be deducted from
12 gross receipts if the services are within the scope of practice
13 of the health care practitioner providing the service.
14 Receipts from fee-for-service payments by a health care insurer
15 may not be deducted from gross receipts.

16 B. Prior to July 1, 2028, receipts from a copayment
17 or deductible paid by an insured or enrollee to a health care
18 practitioner or an association of health care practitioners for
19 commercial contract services pursuant to the terms of the
20 insured's health insurance plan or enrollee's managed care
21 health plan may be deducted from gross receipts if the services
22 are within the scope of practice of the health care
23 practitioner providing the service.

24 C. The deductions provided by this section shall be
25 applied only to gross receipts remaining after all other

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1 allowable deductions available under the Gross Receipts and
2 Compensating Tax Act have been taken.

3 D. A taxpayer allowed a deduction pursuant to this
4 section shall report the amount of the deduction separately in
5 a manner required by the department.

6 E. ~~[The department shall compile an annual report~~
7 ~~on the deductions provided by this section that shall include~~
8 ~~the number of taxpayers that claimed the deductions, the~~
9 ~~aggregate amount of deductions claimed and any other~~
10 ~~information necessary to evaluate the effectiveness of the~~
11 ~~deductions. The department shall present the report to the~~
12 ~~revenue stabilization and tax policy committee and the~~
13 ~~legislative finance committee]~~ The deductions provided by this
14 section shall be included in the tax expenditure budget
15 pursuant to Section 7-1-84 NMSA 1978 with an analysis of the
16 cost of the deductions.

17 F. As used in this section:

18 (1) "association of health care
19 practitioners" means a corporation, unincorporated business
20 entity or other legal entity organized by, owned by or
21 employing one or more health care practitioners; provided that
22 the entity is not:

23 (a) an organization granted exemption
24 from the federal income tax by the United States commissioner
25 of internal revenue as organizations described in Section
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1 501(c)(3) of the United States Internal Revenue Code of 1986,
2 as that section may be amended or renumbered; or

3 (b) a health maintenance organization,
4 hospital, hospice, nursing home or an entity that is solely an
5 outpatient facility or intermediate care facility licensed
6 pursuant to the Public Health Act;

7 (2) "commercial contract services" means
8 health care services performed by a health care practitioner
9 pursuant to a contract with a managed care organization or
10 health care insurer other than those health care services
11 provided for medicare patients pursuant to Title 18 of the
12 federal Social Security Act or for medicaid patients pursuant
13 to Title 19 or Title 21 of the federal Social Security Act;

14 (3) "copayment" means a fixed dollar amount
15 that a health care insurer or managed care health plan requires
16 an insured or enrollee to pay upon incurring an expense for
17 receiving medical services;

18 (4) "deductible" means the amount of covered
19 charges an insured or enrollee is required to pay in a plan
20 year for commercial contract services before the insured's
21 health insurance plan or enrollee's managed care health plan
22 begins to pay for applicable covered charges;

23 (5) "fee-for-service" means payment for
24 health care services by a health care insurer for covered
25 charges under an indemnity insurance plan;

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underscoring material = new
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1 (6) "health care insurer" means a person
2 that:

3 (a) has a valid certificate of authority
4 in good standing pursuant to the New Mexico Insurance Code to
5 act as an insurer, health maintenance organization or nonprofit
6 health care plan or prepaid dental plan; and

7 (b) contracts to reimburse licensed
8 health care practitioners for providing basic health services
9 to enrollees at negotiated fee rates;

10 (7) "health care practitioner" means:

11 (a) a chiropractic physician licensed
12 pursuant to the provisions of the Chiropractic Physician
13 Practice Act;

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

16 (c) a doctor of oriental medicine
17 licensed pursuant to the provisions of the Acupuncture and
18 Oriental Medicine Practice Act;

19 (d) an optometrist licensed pursuant to
20 the provisions of the Optometry Act;

21 (e) an osteopathic physician licensed
22 pursuant to the provisions of the Medical Practice Act;

23 (f) a physical therapist licensed
24 pursuant to the provisions of the Physical Therapy Act;

25 (g) a physician or physician assistant

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underscoring material = new
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1 licensed pursuant to the provisions of the Medical Practice
2 Act;

3 (h) a podiatric physician licensed
4 pursuant to the provisions of the Podiatry Act;

5 (i) a psychologist licensed pursuant to
6 the provisions of the Professional Psychologist Act;

7 (j) a registered lay midwife registered
8 by the department of health;

9 (k) a registered nurse or licensed
10 practical nurse licensed pursuant to the provisions of the
11 Nursing Practice Act;

12 (l) a registered occupational therapist
13 licensed pursuant to the provisions of the Occupational Therapy
14 Act;

15 (m) a respiratory care practitioner
16 licensed pursuant to the provisions of the Respiratory Care
17 Act;

18 (n) a speech-language pathologist or
19 audiologist licensed pursuant to the Speech-Language Pathology,
20 Audiology and Hearing Aid Dispensing Practices Act;

21 (o) a professional clinical mental
22 health counselor, marriage and family therapist or professional
23 art therapist licensed pursuant to the provisions of the
24 Counseling and Therapy Practice Act who has obtained a master's
25 degree or a doctorate;

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1 (p) an independent social worker
2 licensed pursuant to the provisions of the Social Work Practice
3 Act; and

4 (q) a clinical laboratory that is
5 accredited pursuant to 42 U.S.C. Section 263a but that is not a
6 laboratory in a physician's office or in a hospital defined
7 pursuant to 42 U.S.C. Section 1395x;

8 (8) "managed care health plan" means a health
9 care plan offered by a managed care organization that provides
10 for the delivery of comprehensive basic health care services
11 and medically necessary services to individuals enrolled in the
12 plan other than those services provided to medicare patients
13 pursuant to Title 18 of the federal Social Security Act or to
14 medicaid patients pursuant to Title 19 or Title 21 of the
15 federal Social Security Act;

16 (9) "managed care organization" means a
17 person that provides for the delivery of comprehensive basic
18 health care services and medically necessary services to
19 individuals enrolled in a plan through its own employed health
20 care providers or by contracting with selected or participating
21 health care providers. "Managed care organization" includes
22 only those persons that provide comprehensive basic health care
23 services to enrollees on a contract basis, including the
24 following:

25 (a) health maintenance organizations;

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underscored material = new
[bracketed material] = delete

- 1 (b) preferred provider organizations;
- 2 (c) individual practice associations;
- 3 (d) competitive medical plans;
- 4 (e) exclusive provider organizations;
- 5 (f) integrated delivery systems;
- 6 (g) independent physician-provider
- 7 organizations;
- 8 (h) physician hospital-provider
- 9 organizations; and
- 10 (i) managed care services organizations;
- 11 and

12 (10) "medicare part C services" means
13 services performed pursuant to a contract with a managed health
14 care provider for medicare patients pursuant to Title 18 of the
15 federal Social Security Act."

16 SECTION 82. Section 7-9-94 NMSA 1978 (being Laws 2005,
17 Chapter 104, Section 23, as amended) is amended to read:

18 "7-9-94. DEDUCTION--GROSS RECEIPTS--MILITARY
19 TRANSFORMATIONAL ACQUISITION PROGRAMS.--

20 A. Receipts from transformational acquisition
21 programs performing research and development, test and
22 evaluation at New Mexico major range and test facility bases
23 pursuant to contracts entered into with the United States
24 department of defense may be deducted from gross receipts
25 through June 30, 2025.

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1 B. As used in this section, "transformational
2 acquisition program" means a military acquisition program
3 authorized by the office of the secretary of defense force
4 transformation and not physically tested in New Mexico on or
5 before July 1, 2005.

6 C. The deduction provided in this section does not
7 apply to receipts of a prime contractor operating facilities
8 designated as a national laboratory by act of congress and is
9 not applicable to current force programs as of July 1, 2005.

10 D. ~~[The department shall compile an annual report~~
11 ~~on the deduction provided by this section that shall include~~
12 ~~the number of taxpayers that claimed the deduction, the~~
13 ~~aggregate amount of deductions claimed and any other~~
14 ~~information necessary to evaluate the effectiveness of the~~
15 ~~deduction. No later than December 1 of each year that the~~
16 ~~deduction is in effect, the department shall compile and~~
17 ~~present the annual report to the revenue stabilization and tax~~
18 ~~policy committee and the legislative finance committee with an~~
19 ~~analysis of the cost and benefit to the state]~~ A taxpayer
20 allowed a deduction pursuant to this section shall report the
21 amount of the deduction separately in a manner required by the
22 department. The deduction shall be included in the tax
23 expenditure budget pursuant to Section 7-1-84 NMSA 1978,
24 including the annual aggregate cost of the deduction."

25 SECTION 83. Section 7-9-95 NMSA 1978 (being Laws 2005,
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underscored material = new
~~[bracketed material]~~ = delete

1 Chapter 104, Section 25) is amended to read:

2 "7-9-95. DEDUCTION--GROSS RECEIPTS TAX--SALES OF CERTAIN
3 TANGIBLE PERSONAL PROPERTY--LIMITED PERIOD.--Receipts from the
4 sale at retail of the following types of tangible personal
5 property may be deducted if the sale of the property occurs
6 during the period beginning at 12:01 a.m. on the [~~first~~] last
7 Friday in [~~August~~] July and ending at midnight on the following
8 Sunday:

9 A. an article of clothing or footwear designed to
10 be worn on or about the human body if the sales price of the
11 article is less than one hundred dollars (\$100) except:

12 (1) any special clothing or footwear that is
13 primarily designed for athletic activity or protective use and
14 that is not normally worn except when used for the athletic
15 activity or protective use for which it is designed; and

16 (2) accessories, including jewelry, handbags,
17 luggage, umbrellas, wallets, watches and similar items worn or
18 carried on or about the human body, without regard to whether
19 worn on the body in a manner characteristic of clothing;

20 B. a desktop, laptop or notebook computer if the
21 sales price of the computer does not exceed one thousand
22 dollars (\$1,000) and any associated monitor, speaker or set of
23 speakers, printer, keyboard, microphone or mouse if the sales
24 price of the device does not exceed five hundred dollars
25 (\$500); and

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underscoring material = new
[bracketed material] = delete

1 C. school supplies that are items normally used by
2 students in a standard classroom for educational purposes,
3 including notebooks, paper, writing instruments, crayons, art
4 supplies, rulers, book bags, backpacks, handheld calculators,
5 maps and globes, but not including watches, radios, compact
6 disc players, headphones, sporting equipment, portable or
7 desktop telephones, copiers, office equipment, furniture or
8 fixtures."

9 SECTION 84. Section 7-9-103.1 NMSA 1978 (being Laws
10 2012, Chapter 12, Section 2) is amended to read:

11 "7-9-103.1. DEDUCTION--GROSS RECEIPTS TAX--CONVERTING
12 ELECTRICITY.--

13 A. Receipts from the transmission of electricity
14 where voltage source conversion technology is employed to
15 provide such services and from ancillary services may be
16 deducted from gross receipts.

17 B. ~~[The department shall report annually to the~~
18 ~~interim revenue stabilization and tax policy committee on the~~
19 ~~expansion of voltage source conversion technology use in the~~
20 ~~transmission of electricity in New Mexico and the use of the~~
21 ~~deduction provided in this section]~~ A taxpayer allowed a
22 deduction pursuant to this section shall report the amount of
23 the deduction separately in a manner required by the
24 department. The deduction shall be included in the tax
25 expenditure budget pursuant to Section 7-1-84 NMSA 1978,

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underscored material = new
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1 including the annual aggregate cost of the deduction.

2 C. As used in this section, "ancillary services"
3 means services that are supplied from or in connection with
4 facilities employing voltage source conversion technology and
5 that are used to support or enhance the efficient and reliable
6 operation of the electric system."

7 SECTION 85. Section 7-9-103.2 NMSA 1978 (being Laws
8 2012, Chapter 12, Section 3) is amended to read:

9 "7-9-103.2. DEDUCTION--GROSS RECEIPTS--ELECTRICITY
10 EXCHANGE.--

11 A. Receipts from operating a market or exchange for
12 the sale or trading of electricity, rights to electricity and
13 derivative products and from providing ancillary services may
14 be deducted from gross receipts.

15 B. ~~[The department shall report annually to the~~
16 ~~interim revenue stabilization and tax policy committee on use~~
17 ~~of the deduction provided in this section]~~ A taxpayer allowed a
18 deduction pursuant to this section shall report the amount of
19 the deduction separately in a manner required by the
20 department. The deduction shall be included in the tax
21 expenditure budget pursuant to Section 7-1-84 NMSA 1978,
22 including the annual aggregate cost of the deduction.

23 C. Claiming a deduction provided by this section is
24 authorization by the taxpayer receiving the deduction for the
25 department to reveal return information necessary to comply

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1 with the requirements of Section 7-1-84 NMSA 1978.

2 ~~[G-]~~ D. As used in this section, "ancillary
3 services" means services that are supplied from or in
4 connection with facilities employing voltage source conversion
5 technology and that are used to support or enhance the
6 efficient and reliable operation of the electric system."

7 **SECTION 86.** Section 7-9-110.3 NMSA 1978 (being Laws
8 2011, Chapter 60, Section 3 and Laws 2011, Chapter 61, Section
9 3, as amended) is amended to read:

10 "7-9-110.3. PURPOSE AND REQUIREMENTS OF LOCOMOTIVE FUEL
11 DEDUCTION.--

12 A. The purpose of the deduction on fuel loaded or
13 used by a common carrier in a locomotive engine from gross
14 receipts and from compensating tax is to encourage the
15 construction, renovation, maintenance and operation of railroad
16 locomotive refueling facilities and other railroad capital
17 investments in New Mexico.

18 B. To be eligible for the deduction on fuel loaded
19 or used by a common carrier in a locomotive engine from
20 compensating tax, the fuel shall be used or loaded by a common
21 carrier that:

22 (1) after July 1, 2011, made a capital
23 investment of one hundred million dollars (\$100,000,000) or
24 more in new construction or renovations at the railroad
25 locomotive refueling facility in which the fuel is loaded or

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1 used; or

2 (2) on or after July 1, 2012, made a capital
3 investment of fifty million dollars (\$50,000,000) or more in
4 new railroad infrastructure improvements, including railroad
5 facilities, track, signals and supporting railroad network,
6 located in New Mexico; provided that the new railroad
7 infrastructure improvements are not required by a regulatory
8 agency to correct problems, such as regular or preventive
9 maintenance, specifically identified by that agency as
10 requiring necessary corrective action.

11 C. To be eligible for the deduction on fuel loaded
12 or used by a common carrier in a locomotive engine from gross
13 receipts, a common carrier shall deliver an appropriate
14 nontaxable transaction certificate to the seller and the sale
15 shall be made to a common carrier that:

16 (1) after July 1, 2011, made a capital
17 investment of one hundred million dollars (\$100,000,000) or
18 more in new construction or renovations at the railroad
19 locomotive refueling facility in which the fuel is sold; or

20 (2) on or after July 1, 2012, made a capital
21 investment of fifty million dollars (\$50,000,000) or more in
22 new railroad infrastructure improvements, including railroad
23 facilities, track, signals and supporting railroad network,
24 located in New Mexico; provided that the new railroad
25 infrastructure improvements are not required by a regulatory

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underscoring material = new
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1 agency to correct problems, such as regular or [~~preventative~~
2 preventive maintenance, specifically identified by that agency
3 as requiring necessary corrective action.

4 D. The economic development department shall
5 promulgate rules for the issuance of a certificate of
6 eligibility for the purposes of claiming a deduction on fuel
7 loaded or used by a common carrier in a locomotive engine from
8 gross receipts or compensating tax. A common carrier may
9 request a certificate of eligibility from the economic
10 development department to provide to the taxation and revenue
11 department to establish eligibility for a nontaxable
12 transaction certificate for the deduction on fuel loaded or
13 used by a common carrier in a locomotive engine from gross
14 receipts. The taxation and revenue department shall issue
15 nontaxable transaction certificates to a common carrier upon
16 the presentation of a certificate of eligibility obtained from
17 the economic development department pursuant to this
18 subsection.

19 E. The economic development department shall keep a
20 record of temporary and permanent jobs from all railroad
21 activity where a capital investment is made by a common carrier
22 that claims a deduction on fuel loaded or used by a common
23 carrier in a locomotive engine from gross receipts or from
24 compensating tax. The economic development department and the
25 taxation and revenue department shall estimate the amount of

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1 state revenue that is attributable to all railroad activity
2 where a capital investment is made by a common carrier that
3 claims a deduction on fuel loaded or used by a common carrier
4 in a locomotive engine from gross receipts or from compensating
5 tax.

6 F. The economic development department [~~and the~~
7 ~~taxation and revenue department~~] shall [~~compile an annual~~]
8 report [~~with the number of taxpayers who claim the deduction on~~
9 ~~fuel loaded or used by a common carrier in a locomotive engine~~
10 ~~from gross receipts and from compensating tax~~] the number of
11 jobs created as a result of [~~that~~] the deduction [~~the amount of~~
12 ~~that deduction approved, the net revenue to the state as a~~
13 ~~result of that deduction~~] and any other information required by
14 the legislature to aid in evaluating the effectiveness of
15 [~~that~~] the deduction. A taxpayer who claims a deduction on
16 fuel loaded or used by a common carrier in a locomotive engine
17 from gross receipts or from compensating tax shall provide the
18 economic development department [~~and the taxation and revenue~~
19 ~~department~~] with the information required to compile that
20 report. [~~The economic development department and the taxation~~
21 ~~and revenue department shall present that report before the~~
22 ~~legislative interim revenue stabilization and tax policy~~
23 ~~committee and the legislative finance committee by November of~~
24 ~~each year.~~] Notwithstanding any other section of law to the
25 contrary, the economic development department and the taxation

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1 and revenue department may disclose the number of [~~applicants~~
2 ~~for the deduction on fuel loaded or used by a common carrier in~~
3 ~~a locomotive engine from gross receipts and from compensating~~
4 ~~tax~~] taxpayers claiming the deduction, the amount of the
5 deduction [~~approved~~] claimed, the number of employees of the
6 taxpayer and any other information required by the legislature
7 or the taxation and revenue department to aid in evaluating the
8 effectiveness of [~~that~~] the deduction.

9 G. [~~An appropriate legislative committee shall~~
10 ~~review the effectiveness of the deduction for each taxpayer who~~
11 ~~claims the deduction on fuel loaded or used by a common carrier~~
12 ~~in a locomotive engine from gross receipts and from~~
13 ~~compensating tax every six years beginning in 2019]~~ The
14 deduction provided by this section shall be included in the tax
15 expenditure budget pursuant to Section 7-1-84 NMSA 1978,
16 including the annual aggregate cost of the deduction."

17 SECTION 87. Section 7-9-112.1 NMSA 1978 (being Laws
18 2024, Chapter 67, Section 39) is amended to read:

19 "7-9-112.1. DEDUCTIONS--GROSS RECEIPTS TAX--COMPENSATING
20 TAX--GEOTHERMAL ELECTRICITY GENERATION-RELATED SALES AND USE.--

21 A. Prior to July 1, 2032, receipts from the
22 following sales may be deducted from gross receipts; provided
23 that the sale is made to a person who holds an interest in a
24 geothermal electricity generation facility and the person
25 delivers an appropriate nontaxable transaction certificate to

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1 the seller or lessor or provides alternative evidence pursuant
2 to Section 7-9-43 NMSA 1978:

3 (1) selling tangible personal property
4 installed as part of, or services rendered in connection with,
5 constructing and equipping a geothermal electricity generation
6 facility;

7 (2) selling tangible personal property
8 installed as part of a system used for the distribution of
9 electricity generated from a geothermal electricity generation
10 facility; and

11 (3) selling or leasing tangible personal
12 property or selling services that are construction plant costs.

13 B. Prior to July 1, 2032, the value of:

14 (1) tangible personal property installed as
15 part of, or services rendered in connection with, constructing
16 and equipping a geothermal electricity generation facility may
17 be deducted in computing compensating tax due;

18 (2) tangible personal property installed as
19 part of a system used for the distribution of electricity
20 generated from a geothermal electricity generation facility may
21 be deducted in computing compensating tax due; and

22 (3) construction plant costs purchased by a
23 person who holds an interest in a geothermal electricity
24 generation facility may be deducted in computing compensating
25 tax due.

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underscoring material = new
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1 C. A taxpayer allowed a deduction pursuant to this
2 section shall report the amount of the deduction separately in
3 a manner required by the department.

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

15 E. As used in this section:

16 (1) "construction plant costs" means actual
17 expenditures for the development and construction of a
18 geothermal electricity generation facility, including the
19 drilling of wells to at least twelve thousand feet; permitting;
20 site characterization and assessment; engineering; design; site
21 and equipment acquisition; raw materials; and fuel supply
22 development used directly and exclusively in the facility;

23 (2) "geothermal electricity generation
24 facility" means a facility located in New Mexico that generates
25 electricity from geothermal resources and:

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1 (a) for a new facility, begins
2 construction on or after January 1, 2025; or

3 (b) for an existing facility, on or
4 after January 1, 2025, increases the amount of electricity
5 generated from geothermal resources the facility generated
6 prior to that date by at least one hundred percent;

7 (3) "geothermal resources" means the natural
8 heat of the earth in excess of two hundred fifty degrees
9 Fahrenheit or the energy, in whatever form, below the surface
10 of the earth present in, resulting from, created by or that may
11 be extracted from this natural heat in excess of two hundred
12 fifty degrees Fahrenheit and all minerals in solution or other
13 products obtained from naturally heated fluids, brines,
14 associated gases and steam, in whatever form, found below the
15 surface of the earth, but excluding oil, hydrocarbon gas and
16 other hydrocarbon substances and excluding the heating and
17 cooling capacity of the earth not resulting from the natural
18 heat of the earth in excess of two hundred fifty degrees
19 Fahrenheit as may be used for the heating and cooling of
20 buildings through an on-site geexchange heat pump or similar
21 on-site system; and

22 (4) "interest in a geothermal electricity
23 generation facility" means title to a geothermal electricity
24 generation facility; a leasehold interest in such facility; an
25 ownership interest in a business or entity that is taxed for

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1 federal income tax purposes as a partnership that holds title
2 to or a leasehold interest in such facility; or an ownership
3 interest, through one or more intermediate entities that are
4 each taxed for federal income tax purposes as a partnership, in
5 a business that holds title to or a leasehold interest in such
6 facility."

7 SECTION 88. Section 7-9-115 NMSA 1978 (being Laws 2015
8 (1st S.S.), Chapter 2, Section 9, as amended) is amended to
9 read:

10 "7-9-115. DEDUCTION--GROSS RECEIPTS TAX--GOODS AND
11 SERVICES FOR THE DEPARTMENT OF DEFENSE RELATED TO DIRECTED
12 ENERGY AND SATELLITES.--

13 A. Prior to January 1, 2031, receipts from the sale
14 by a qualified contractor of qualified research and development
15 services and qualified directed energy and satellite-related
16 inputs may be deducted from gross receipts when sold pursuant
17 to a contract with the United States department of defense.

18 B. The purposes of the deduction allowed in this
19 section are to promote new and sophisticated technology,
20 enhance the viability of directed energy and satellite
21 projects, attract new projects and employers to New Mexico and
22 increase high-technology employment opportunities in New
23 Mexico.

24 C. A taxpayer allowed a deduction pursuant to this
25 section shall report the amount of the deduction separately in

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1 a manner required by the department.

2 D. ~~[The department shall compile an annual report~~
3 ~~on the deduction provided by this section that shall include~~
4 ~~the number of taxpayers that claimed the deduction, the~~
5 ~~aggregate amount of deductions claimed and any other~~
6 ~~information necessary to evaluate the effectiveness of the~~
7 ~~deduction. Beginning in 2017 and each year thereafter that the~~
8 ~~deduction is in effect, the department and the economic~~
9 ~~development department shall present the annual report to the~~
10 ~~revenue stabilization and tax policy committee and the~~
11 ~~legislative finance committee]~~ The deduction provided by this
12 section shall be included in the tax expenditure budget
13 pursuant to Section 7-1-84 NMSA 1978 with an analysis of the
14 effectiveness and cost of the deduction and whether the
15 deduction is performing the purpose for which it was created.

16 E. As used in this section:

17 (1) "directed energy" means a system,
18 including related services, that enables the use of the
19 frequency spectrum, including radio waves, light and x-rays;

20 (2) "inputs" means systems, subsystems,
21 components, prototypes and demonstrators or products and
22 services involving optics, photonics, electronics, advanced
23 materials, nanoelectromechanical and microelectromechanical
24 systems, fabrication materials and test evaluation and computer
25 control systems related to directed energy or satellites;

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1 (3) "qualified contractor" means a person
2 other than an organization designated as a national laboratory
3 by act of congress or an operator of national laboratory
4 facilities in New Mexico; provided that the operator may be a
5 qualified contractor with respect to the operator's receipts
6 not connected with operating the national laboratory;

7 (4) "qualified directed energy and satellite-
8 related inputs" means inputs supplied to the department of
9 defense pursuant to a contract with that department entered
10 into on or after January 1, 2016;

11 (5) "qualified research and development
12 services" means research and development services related to
13 directed energy or satellites provided to the department of
14 defense pursuant to a contract with that department entered
15 into on or after January 1, 2016; and

16 (6) "satellite" means composite systems
17 assembled and packaged for use in space, including launch
18 vehicles and related products and services."

19 SECTION 89. Section 7-9-116 NMSA 1978 (being Laws 2018,
20 Chapter 46, Section 1, as amended) is amended to read:

21 "7-9-116. DEDUCTION--GROSS RECEIPTS TAX--RETAIL SALES BY
22 CERTAIN BUSINESSES.--

23 A. Prior to July 1, 2025, receipts from the sale at
24 retail of the following types of tangible personal property may
25 be deducted if the sales price of the property is less than

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underscoring material = new
~~[bracketed material] = delete~~

1 five hundred dollars (\$500) and:

2 (1) the sale occurs during the period
3 beginning at 12:01 a.m. on the first Saturday after
4 Thanksgiving and ending at midnight on the same Saturday;

5 (2) the sale is for:

6 (a) an article of clothing or footwear
7 designed to be worn on or about the human body;

8 (b) accessories, including jewelry,
9 handbags, book bags, backpacks, luggage, wallets, watches and
10 similar items worn or carried on or about the human body,
11 without regard to whether worn on the body in a manner
12 characteristic of clothing;

13 (c) sporting goods and camping
14 equipment;

15 (d) tools used for home improvement,
16 gardening and automotive maintenance and repair;

17 (e) books, journals, paper, writing
18 instruments, art supplies, greeting cards and postcards;

19 (f) works of art, including any
20 painting, drawing, print, photograph, sculpture, pottery or
21 ceramics, carving, textile, basketry, artifact, natural
22 specimen, rare book, authors' papers, objects of historical or
23 technical interest or other article of intrinsic cultural
24 value;

25 (g) floral arrangements and indoor

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1 plants;

2 (h) cosmetics and personal grooming
3 items;

4 (i) musical instruments;

5 (j) cookware and small home appliances
6 for residential use;

7 (k) bedding, towels and bath
8 accessories;

9 (l) furniture;

10 (m) a toy or game that is a physical
11 item, product or object clearly intended and designed to be
12 used by children or families in play;

13 (n) a video game or video game console
14 and any associated accessories for the video game console; or

15 (o) home electronics such as computers,
16 phones, tablets, stereo equipment and related electronics
17 accessories; and

18 (3) the sale is made by a seller that carries
19 on a trade or business in New Mexico, maintains its primary
20 place of business in New Mexico, as determined by the
21 department, and employed no more than ten employees at any one
22 time during the previous fiscal year.

23 B. Receipts for sales made by a business that
24 operates under a franchise agreement may not be deducted
25 pursuant to this section.

underscoring material = new
~~[bracketed material] = delete~~

1 C. The purpose of the deduction provided by this
2 section is to increase sales at small local businesses.

3 D. A taxpayer allowed a deduction pursuant to this
4 section shall report the amount of the deduction separately in
5 a manner required by the department.

6 E. ~~[The department shall compile an annual report
7 on the deduction provided by this section that shall include
8 the number of taxpayers that claimed the deduction, the
9 aggregate amount of deductions claimed and any other
10 information necessary to evaluate the effectiveness of the
11 deduction. The department shall present the annual report to
12 the revenue stabilization and tax policy committee and the
13 legislative finance committee]~~ The deduction provided by this
14 section shall be included in the tax expenditure budget
15 pursuant to Section 7-1-84 NMSA 1978 with an analysis of the
16 effectiveness and cost of the deduction and whether the
17 deduction is performing the purpose for which it was created."

18 SECTION 90. Section 7-9-119 NMSA 1978 (being Laws 2021,
19 Chapter 7, Section 3) is amended to read:

20 "7-9-119. DEDUCTION--SALES MADE BY DISPENSER'S LICENSE
21 HOLDER.--

22 A. Prior to January 1, 2026, a liquor license
23 holder who held the license on June 30, 2021 may deduct from
24 gross receipts the following receipts, for each dispenser's
25 license for which sales of alcoholic beverages for consumption

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underscoring material = new
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1 off premises are less than fifty percent of total alcoholic
2 beverage sales, up to fifty thousand dollars (\$50,000) of
3 receipts from the sale of alcoholic beverages for taxable years
4 2022 through 2025.

5 B. A taxpayer allowed a deduction pursuant to this
6 section shall report the amount of the deduction separately in
7 a manner required by the department.

8 C. ~~[The department shall compile an annual report~~
9 ~~on the deduction provided by this section that shall include~~
10 ~~the number of taxpayers that claimed the deduction, the~~
11 ~~aggregate amount of deductions claimed and any other~~
12 ~~information necessary to evaluate the effectiveness of the~~
13 ~~deduction. The department shall compile and present the report~~
14 ~~to the revenue stabilization and tax policy committee and the~~
15 ~~legislative finance committee]~~ The deduction provided by this
16 section shall be included in the tax expenditure budget
17 pursuant to Section 7-1-84 NMSA 1978 with an analysis of the
18 cost of the deduction.

19 D. As used in this section:

20 (1) "alcoholic beverage" means alcoholic
21 beverage as defined in the Liquor Control Act;

22 (2) "dispenser's license" means a license
23 issued pursuant to the provisions of the Liquor Control Act
24 allowing the licensee to sell, offer for sale or have in the
25 person's possession with the intent to sell alcoholic beverages

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underscored material = new
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1 both by the drink for consumption on the licensed premises and
2 in unbroken packages, including growlers, for consumption and
3 not for resale off the licensed premises;

4 (3) "growler" means a clean, refillable,
5 resealable container that has a liquid capacity that does not
6 exceed one gallon and that is intended and used for the sale of
7 beer, wine or cider; and

8 (4) "liquor license holder" means a person
9 that holds a retailer's license issued pursuant to Section
10 60-6A-2 NMSA 1978, a special dispenser's license issued
11 pursuant to Section 60-6A-3 NMSA 1978 or a dispenser's license
12 issued pursuant to Section 60-6A-12 NMSA 1978 issued prior to
13 July 1, 2021."

14 SECTION 91. Section 7-9A-5 NMSA 1978 (being Laws 1979,
15 Chapter 347, Section 5, as amended) is amended to read:

16 "7-9A-5. INVESTMENT CREDIT--AMOUNT--CLAIMANT.--

17 A. The investment credit provided for in the
18 Investment Credit Act may be claimed by a taxpayer carrying on
19 a manufacturing operation in New Mexico in an amount equal to:

20 (1) the product of the sum of the
21 compensating tax rate and [~~beginning July 1, 2021~~] any
22 municipal or county compensating tax rate multiplied by the
23 value of the qualified equipment; or

24 (2) if the sale is subject to the gross
25 receipts tax, the product of the sum of the state gross

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[bracketed material] = delete

1 receipts tax rate and [~~beginning July 1, 2021~~] any municipal or
2 county local option gross receipts tax rates multiplied by the
3 seller's gross receipts from the sale of the qualified
4 equipment.

5 B. If the purchase or the introduction into New
6 Mexico of the qualified equipment is not subject to the gross
7 receipts tax or compensating tax, the rate to determine the
8 amount of the credit shall be equal to [~~a~~] the rate of [five
9 and one-eighth percent] the state gross receipts tax."

10 SECTION 92. Section 7-9C-7 NMSA 1978 (being Laws 1992,
11 Chapter 50, Section 7 and also Laws 1992, Chapter 67, Section
12 7, as amended) is amended to read:

13 "7-9C-7. DEDUCTION--SALE OF A SERVICE FOR RESALE.--~~[A.]~~
14 Receipts from providing an interstate telecommunications
15 service in this state that will be used by other persons in
16 providing telephone or telegraph services to the final user may
17 be deducted from interstate telecommunications gross receipts
18 if the sale is made to a person who is subject to the
19 interstate telecommunications gross receipts tax or to the
20 gross receipts tax or the compensating tax.

21 [~~B. Receipts during the period July 1, 1998 through~~
22 ~~June 30, 2000 from providing leased telephone lines,~~
23 ~~telecommunications services, internet access services or~~
24 ~~computer programming that will be used by other persons in~~
25 ~~providing internet access and related services to the final~~

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underscored material = new
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1 ~~user may be deducted from interstate telecommunications gross~~
2 ~~receipts if the sale is made to a person who is subject to the~~
3 ~~interstate telecommunications gross receipts tax, the gross~~
4 ~~receipts tax or the compensating tax.]"~~

5 SECTION 93. Section 7-9G-1 NMSA 1978 (being Laws 2004,
6 Chapter 15, Section 1, as amended) is amended to read:

7 "7-9G-1. HIGH-WAGE JOBS TAX CREDIT--QUALIFYING HIGH-WAGE
8 JOBS.--

9 A. A taxpayer that is an eligible employer may
10 apply for, and the department may allow, a tax credit for each
11 new high-wage job. The credit provided in this section may be
12 referred to as the "high-wage jobs tax credit".

13 B. The purpose of the high-wage jobs tax credit is
14 to provide an incentive for [~~urban and rural~~] businesses to
15 create and fill new high-wage jobs in New Mexico.

16 C. The high-wage jobs tax credit may be claimed and
17 allowed in an amount equal to eight and one-half percent of the
18 wages distributed to an eligible employee in a new high-wage
19 job but shall not exceed twelve thousand seven hundred fifty
20 dollars (\$12,750) per job per qualifying period. The high-wage
21 jobs tax credit may be claimed by an eligible employer for each
22 new high-wage job performed for the year in which the new high-
23 wage job is created and for consecutive qualifying periods.

24 D. To receive a high-wage jobs tax credit, a
25 taxpayer shall file [~~an~~] a completed application for approval

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1 of the credit with the department once per calendar year on
2 forms and in the manner prescribed by the department. The
3 annual application shall contain the certification required by
4 Subsection K of this section and shall contain all qualifying
5 periods that closed during the calendar year for which the
6 application is made. Any qualifying period that did not close
7 in the calendar year for which the application is made shall be
8 denied by the department. The application for a calendar year
9 shall be filed no later than December 31 of the following
10 calendar year. If a taxpayer fails to file the annual
11 application within the time limits provided in this section,
12 the application shall be denied by the department. ~~[The~~
13 ~~department shall make a determination on the application within~~
14 ~~one hundred eighty days of the date on which the application~~
15 ~~was filed.]~~

16 E. A new high-wage job shall not be eligible for a
17 credit pursuant to this section for the initial qualifying
18 period unless the eligible employer's total number of employees
19 with threshold jobs on the last day of the initial qualifying
20 period at the location at which the job is performed or based
21 is at least one more than the number of threshold jobs on the
22 day prior to the date the new high-wage job was created. A new
23 high-wage job shall not be eligible for a credit pursuant to
24 this section for a consecutive qualifying period unless the
25 total number of threshold jobs at a location at which the job

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1 is performed or based on the last day of that qualifying period
2 is greater than or equal to the number of threshold jobs at
3 that same location on the last day of the initial qualifying
4 period for the new high-wage job.

5 F. If a consecutive qualifying period for a new
6 high-wage job does not meet the wage, occupancy and residency
7 requirements, then the qualifying period is ineligible.

8 G. Except as provided in Subsection H of this
9 section, a new high-wage job shall not be eligible for a credit
10 pursuant to this section if:

11 (1) the new high-wage job is created due to a
12 business merger or acquisition or other change in business
13 organization;

14 (2) the eligible employee was terminated from
15 employment in New Mexico by another employer involved in the
16 business merger or acquisition or other change in business
17 organization with the taxpayer; and

18 (3) the new high-wage job is performed by:

19 (a) the person who performed the job or
20 its functional equivalent prior to the business merger or
21 acquisition or other change in business organization; or

22 (b) a person replacing the person who
23 performed the job or its functional equivalent prior to a
24 business merger or acquisition or other change in business
25 organization.

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1 H. A new high-wage job that was created by another
2 employer and for which an application for the high-wage jobs
3 tax credit was received and is under review by the department
4 prior to the time of the business merger or acquisition or
5 other change in business organization shall remain eligible for
6 the high-wage jobs tax credit for the balance of the
7 consecutive qualifying periods. The new employer that results
8 from a business merger or acquisition or other change in
9 business organization may only claim the high-wage jobs tax
10 credit for the balance of the consecutive qualifying periods
11 for which the new high-wage job is otherwise eligible.

12 I. A new high-wage job shall not be eligible for a
13 credit pursuant to this section if the job is created due to an
14 eligible employer entering into a contract or becoming a
15 subcontractor to a contract with a governmental entity that
16 replaces one or more entities performing functionally
17 equivalent services for the governmental entity unless the job
18 is a new high-wage job that was not being performed by an
19 employee of the replaced entity.

20 J. A new high-wage job shall not be eligible for a
21 credit pursuant to this section if the eligible employer has
22 more than one business location in New Mexico from which it
23 conducts business and the requirements of Subsection E of this
24 section are satisfied solely by moving the job from one
25 business location of the eligible employer in New Mexico to

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1 another business location of the eligible employer in New
2 Mexico.

3 K. With respect to each annual application for a
4 high-wage jobs tax credit, the employer shall certify and
5 include:

6 (1) the amount of wages paid to each eligible
7 employee in a new high-wage job during the qualifying period;

8 (2) the number of weeks each position was
9 occupied during the qualifying period;

10 (3) whether the new high-wage job was in a
11 municipality with a population of sixty thousand or more or
12 with a population of less than sixty thousand according to the
13 most recent federal decennial census and whether the job was in
14 the unincorporated area of a county;

15 (4) which qualifying period the application
16 pertains to for each eligible employee;

17 (5) the total number of employees employed by
18 the employer at the job location on the day prior to the
19 qualifying period and on the last day of the qualifying period;

20 (6) the total number of threshold jobs
21 performed or based at the eligible employer's location on the
22 day prior to the qualifying period and on the last day of the
23 qualifying period;

24 (7) for an eligible employer that has more
25 than one business location in New Mexico from which it conducts

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1 business, the total number of threshold jobs performed or based
2 at each business location of the eligible employer in New
3 Mexico on the day prior to the qualifying period and on the
4 last day of the qualifying period;

5 (8) whether the eligible employer is
6 receiving or is eligible to receive development training
7 program assistance pursuant to Section 21-19-7 NMSA 1978;

8 (9) whether the eligible employer has ceased
9 business operations at any of its business locations in New
10 Mexico; and

11 (10) whether the application is precluded by
12 Subsection O of this section.

13 L. Any person who willfully submits a false,
14 incorrect or fraudulent certification required pursuant to
15 Subsection K of this section shall be subject to all applicable
16 penalties under the Tax Administration Act, except that the
17 amount on which the penalty is based shall be the total amount
18 of credit requested on the application for approval.

19 M. Except as provided in Subsection N of this
20 section, an approved high-wage jobs tax credit shall be claimed
21 against the taxpayer's modified combined tax liability and
22 shall be filed with the return due immediately following the
23 date of the credit approval. If the credit exceeds the
24 taxpayer's modified combined tax liability, the excess shall be
25 refunded to the taxpayer.

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1 N. If the taxpayer ceases business operations in
2 New Mexico while an application for credit approval is pending
3 or after an application for credit has been approved for any
4 qualifying period for a new high-wage job, the department shall
5 not grant an additional high-wage jobs tax credit to that
6 taxpayer except as provided in Subsection O of this section and
7 shall extinguish any amount of credit approved for that
8 taxpayer that has not already been claimed against the
9 taxpayer's modified combined tax liability.

10 O. A taxpayer that has received a high-wage jobs
11 tax credit shall not submit a new application for the credit
12 for a minimum of two calendar years from the closing date of
13 the last qualifying period for which the taxpayer received the
14 credit if the taxpayer lost eligibility to claim the credit
15 from a previous application pursuant to Subsection N of this
16 section.

17 P. The economic development department and the
18 taxation and revenue department shall report to the appropriate
19 interim legislative committee each year the cost of the high-
20 wage jobs tax credit to the state and its impact on company
21 recruitment and job creation.

22 Q. As used in this section:

23 (1) "benefits" means all remuneration for
24 work performed that is provided to an employee in whole or in
25 part by the employer, other than wages, including the

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1 employer's contributions to insurance programs, health care,
2 medical, dental and vision plans, life insurance, employer
3 contributions to pensions, such as a 401(k), and employer-
4 provided services, such as child care, offered by an employer
5 to the employee;

6 (2) "consecutive qualifying period" means
7 each of the three qualifying periods successively following the
8 qualifying period in which the new high-wage job was created;

9 (3) "department" means the taxation and
10 revenue department;

11 (4) "dependent" means "dependent" as defined
12 in 26 U.S.C. 152(a), as that section may be amended or
13 renumbered;

14 (5) "domicile" means the sole place where an
15 individual has a true, fixed, permanent home. It is the place
16 where the individual has a voluntary, fixed habitation of self
17 and family with the intention of making a permanent home;

18 (6) "eligible employee" means an individual
19 who is employed in New Mexico by an eligible employer and who
20 is a resident of New Mexico; "eligible employee" does not
21 include an individual who:

22 (a) is a dependent of the employer;

23 (b) if the employer is an estate or
24 trust, is a grantor, beneficiary or fiduciary of the estate or
25 trust or is a dependent of a grantor, beneficiary or fiduciary

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1 of the estate or trust;

2 (c) if the employer is a corporation, is
3 a dependent of an individual who owns, directly or indirectly,
4 more than fifty percent in value of the outstanding stock of
5 the corporation; or

6 (d) if the employer is an entity other
7 than a corporation, estate or trust, is a dependent of an
8 individual who owns, directly or indirectly, more than fifty
9 percent of the capital and profits interests in the entity;

10 (7) "eligible employer" means an employer
11 that, during the applicable qualifying period, would be
12 eligible for development training program assistance under the
13 fiscal year 2019 policies defining development training program
14 eligibility developed by the industrial training board in
15 accordance with Section 21-19-7 NMSA 1978;

16 (8) "modified combined tax liability" means
17 the total liability for the reporting period for the gross
18 receipts tax imposed by Section 7-9-4 NMSA 1978 together with
19 any tax collected at the same time and in the same manner as
20 the gross receipts tax, such as the compensating tax, the
21 withholding tax, the interstate telecommunications gross
22 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA
23 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,
24 minus the amount of any credit other than the high-wage jobs
25 tax credit applied against any or all of these taxes or

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1 surcharges; but "modified combined tax liability" excludes all
2 amounts collected with respect to local option gross receipts
3 taxes;

4 (9) "new high-wage job" means a new job
5 created in New Mexico by an eligible employer on or after July
6 1, 2004 and prior to July 1, 2026 that is occupied for at least
7 forty-four weeks of a qualifying period by an eligible employee
8 who is paid wages calculated for the qualifying period to be at
9 least:

10 (a) ~~[for a new high-wage job created~~
11 ~~prior to July 1, 2015: 1) forty thousand dollars (\$40,000) if~~
12 ~~the job is performed or based in or within ten miles of the~~
13 ~~external boundaries of a municipality with a population of~~
14 ~~sixty thousand or more according to the most recent federal~~
15 ~~decennial census or in a class II county; and 2) twenty-eight~~
16 ~~thousand dollars (\$28,000) if the job is performed or based in~~
17 ~~a municipality with a population of less than sixty thousand~~
18 ~~according to the most recent federal decennial census or in the~~
19 ~~unincorporated area, that is not within ten miles of the~~
20 ~~external boundaries of a municipality with a population of~~
21 ~~sixty thousand or more, of a county other than a class II~~
22 ~~county; and~~

23 (b) ~~for a new high-wage job created on~~
24 ~~or after July 1, 2015: 1)] sixty thousand dollars (\$60,000) if~~
25 the job is performed or based in or within ten miles of the

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1 external boundaries of a municipality with a population of
2 sixty thousand or more according to the most recent federal
3 decennial census or in a class H county; and

4 [2] (b) forty thousand dollars
5 (\$40,000) if the job is performed or based in a municipality
6 with a population of less than sixty thousand according to the
7 most recent federal decennial census or in the unincorporated
8 area, that is not within ten miles of the external boundaries
9 of a municipality with a population of sixty thousand or more,
10 of a county other than a class H county;

11 (10) "new job" means a job that is occupied
12 by an employee who has not been employed in New Mexico by the
13 eligible employer in the three years prior to the date of hire;

14 (11) "qualifying period" means the period of
15 twelve months beginning on the day an eligible employee begins
16 working in a new high-wage job or the period of twelve months
17 beginning on the anniversary of the day an eligible employee
18 began working in a new high-wage job;

19 (12) "resident" means a natural person whose
20 domicile is in New Mexico at the time of hire or within one
21 hundred eighty days of the date of hire;

22 (13) "threshold job" means a job that is
23 occupied for at least forty-four weeks of a calendar year by an
24 eligible employee and that meets the wage requirements for a
25 "new high-wage job"; and

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1 (14) "wages" means all compensation paid by
2 an eligible employer to an eligible employee through the
3 employer's payroll system, including those wages that the
4 employee elects to defer or redirect or the employee's
5 contribution to a 401(k) or cafeteria plan program, but "wages"
6 does not include benefits or the employer's share of payroll
7 taxes, social security or medicare contributions, federal or
8 state unemployment insurance contributions or workers'
9 compensation."

10 SECTION 94. Section 7-13-3.5 NMSA 1978 (being Laws 1997,
11 Chapter 192, Section 3) is amended to read:

12 "7-13-3.5. BOND REQUIRED OF TAXPAYERS.--

13 A. Except as provided in Subsection H of this
14 section, every taxpayer shall file with the department a bond
15 on a form approved by the attorney general with a surety
16 company authorized by the ~~[state corporation]~~ public regulation
17 commission to transact business in this state as a surety and
18 upon which bond the taxpayer is the principal obligor and the
19 state the obligee. The bond shall be conditioned upon the
20 prompt filing of true reports and the payment by the taxpayer
21 to the department of all taxes levied by the Gasoline Tax Act,
22 together with all applicable penalties and interest thereon.

23 B. In lieu of the bond, the taxpayer may elect to
24 file with the department cash or bonds of the United States or
25 New Mexico or of any political subdivision of the state.

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1 C. The total amount of the bond, cash or securities
2 required of any taxpayer shall be fixed by the department and
3 may be increased or reduced by the department at any time,
4 subject to the limitations provided in this section.

5 D. In fixing the total amount of the bond, cash or
6 securities required of any taxpayer required to post bond, the
7 department shall require an equivalent in total amount to at
8 least two times the amount of the department's estimate of the
9 taxpayer's monthly gasoline tax, determined in such manner as
10 the secretary may deem proper; provided, however, the total
11 amount of bond, cash or securities required of a taxpayer shall
12 never be less than one thousand dollars (\$1,000).

13 E. In the event the department decides that the
14 amount of the existing bond, cash or securities is insufficient
15 to insure payment to this state of the amount of the gasoline
16 tax and any penalties and interest for which the taxpayer is or
17 may at any time become liable, ~~[then]~~ the taxpayer, upon
18 written demand of the department mailed to the last known
19 address of the taxpayer as shown on the records of the
20 department, shall file an additional bond, cash or securities
21 in the manner, form and amount determined by the department to
22 be necessary to secure at all times the payment by the taxpayer
23 of all taxes, penalties and interest due under the Gasoline Tax
24 Act.

25 F. A surety on a bond furnished by a taxpayer as

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1 required by this section shall be released and discharged from
2 all liability accruing on the bond after the expiration of
3 ninety days from the date upon which the surety files with the
4 department a written request to be released and discharged;
5 provided, however, that such request shall not operate to
6 release or discharge the surety from any liability already
7 accrued or that shall accrue before the expiration of the
8 ninety-day period, unless a new bond is filed during the
9 ninety-day period, in which case the previous bond may be
10 canceled as of the effective date of the new bond. On receipt
11 of notice of such request, the department promptly shall notify
12 the taxpayer who furnished the bond that the taxpayer, on or
13 before the expiration of the ninety-day period, shall file with
14 the department a new bond with a surety satisfactory to the
15 department in the amount and form required in this section.

16 G. The taxpayer required to file bond with or
17 provide cash or securities to the department in accordance with
18 this section and who is required by another state law to file
19 another bond with or provide cash or securities to the
20 department may elect to file a combined bond or provide cash or
21 securities applicable to the provisions of both this section
22 and the other law, with the approval of the secretary. The
23 amount of the combined bond, cash or securities shall be
24 determined by the department and the form of the combined bond
25 shall be approved by the attorney general.

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1 H. ~~[Every taxpayer who, for the twenty-four month~~
2 ~~period immediately preceding July 1, 1994, has not been a~~
3 ~~delinquent taxpayer pursuant to the Gasoline Tax Act is exempt~~
4 ~~from the requirement pursuant to this section to file a bond.]~~

5 A taxpayer required to file a bond pursuant to the provisions
6 of this section who, for a twenty-four consecutive month
7 period, ~~[ending after July 1, 1994]~~ has not been a delinquent
8 taxpayer pursuant to the Gasoline Tax Act may request to be
9 exempt from the requirement to file a bond beginning with the
10 first day of the first month following the end of the twenty-
11 four month period. If a taxpayer exempted pursuant to this
12 subsection subsequently becomes a delinquent taxpayer under the
13 Gasoline Tax Act, the department may terminate the exemption
14 and require the filing of a bond in accordance with this
15 section. If the department terminates the exemption, the
16 termination shall not be effective any earlier than ten days
17 after the date the department notifies the taxpayer in writing
18 of the termination."

19 SECTION 95. Section 7-13A-3 NMSA 1978 (being Laws 1990,
20 Chapter 124, Section 16, as amended) is amended to read:

21 "7-13A-3. IMPOSITION AND RATE OF FEE--DENOMINATION AS
22 "PETROLEUM PRODUCTS LOADING FEE".--

23 A. For the privilege of loading gasoline or special
24 fuel from a rack at a refinery or pipeline terminal in this
25 state into a cargo tank, there is imposed a fee on the

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1 distributor at a rate [~~provided in Subsection C of this~~
2 ~~section~~] of one hundred fifty dollars (\$150) per load on each
3 gallon of gasoline or special fuel loaded in New Mexico on
4 which the petroleum products loading fee has not been
5 previously paid. The fee imposed by this section may be
6 referred to as the "petroleum products loading fee".

7 B. For the privilege of importing gasoline or
8 special fuel into this state for resale or consumption in this
9 state there is imposed a fee [~~determined~~] as provided in
10 Subsection [~~C~~] A of this section on each load of gasoline or
11 special fuel imported into New Mexico for resale or consumption
12 on which the petroleum products loading fee has not been
13 previously paid. For the purposes of this section, "load"
14 means eight thousand gallons of gasoline or special fuel. To
15 determine how many loads a person is to report under the
16 provisions of this section, the person shall divide by eight
17 thousand the total gallons of gasoline reported for the
18 purposes of Section 7-13-3 NMSA 1978 as adjusted under the
19 provisions of Section 7-13-4 NMSA 1978 and the total gallons of
20 special fuels received in New Mexico less any gallons exempted
21 under Section 7-13A-4 NMSA 1978. Loads shall be calculated to
22 the nearest one-hundredth of a load.

23 [~~C. The fee imposed by this section is and may be~~
24 ~~referred to as the "petroleum products loading fee" and shall~~
25 ~~be one hundred fifty dollars (\$150) per load or whichever of~~

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1 ~~the following applies:~~

2 ~~(1) in the event the secretary of environment~~
3 ~~certifies that the unobligated balance of the corrective action~~
4 ~~fund at the end of the prior fiscal year equals or exceeds~~
5 ~~eighteen million dollars (\$18,000,000), the fee shall be set at~~
6 ~~forty dollars (\$40.00) per load;~~

7 ~~(2) in the event the secretary of environment~~
8 ~~certifies that the unobligated balance of the corrective action~~
9 ~~fund at the end of the prior fiscal year exceeds twelve million~~
10 ~~dollars (\$12,000,000) but is less than eighteen million dollars~~
11 ~~(\$18,000,000), the fee shall be set at eighty dollars (\$80.00)~~
12 ~~per load;~~

13 ~~(3) in the event the secretary of environment~~
14 ~~certifies that the unobligated balance of the corrective action~~
15 ~~fund at the end of the prior fiscal year exceeds six million~~
16 ~~dollars (\$6,000,000) but is less than twelve million dollars~~
17 ~~(\$12,000,000), the fee shall be set at one hundred twenty~~
18 ~~dollars (\$120) per load; and~~

19 ~~(4) in the event the secretary of environment~~
20 ~~certifies that the unobligated balance of the corrective action~~
21 ~~fund at the end of the prior fiscal year is less than six~~
22 ~~million dollars (\$6,000,000), the fee shall be set at one~~
23 ~~hundred fifty dollars (\$150) per load.~~

24 ~~D. The amount of the petroleum products loading fee~~
25 ~~set pursuant to Paragraph (1), (2), (3) or (4) of Subsection C~~

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1 ~~of this section shall be imposed on the first day of the month~~
2 ~~following expiration of ninety days after the end of the fiscal~~
3 ~~year for which the certification was made.~~

4 ~~E. As used in this section, "unobligated balance of~~
5 ~~the corrective action fund" means corrective action fund equity~~
6 ~~less all known or anticipated liabilities against the fund.]"~~

7 SECTION 96. Section 7-13A-5 NMSA 1978 (being Laws 1990,
8 Chapter 124, Section 18, as amended) is amended to read:

9 "7-13A-5. DEDUCTION--GASOLINE OR SPECIAL FUELS
10 RETURNED--BIODIESEL FOR SUBSEQUENT BLENDING OR RESALE BY A RACK
11 OPERATOR.--

12 A. Refunds and allowances made to buyers for
13 gasoline or special fuels returned to the refiner, pipeline
14 terminal operator or distributor or amounts of gasoline or
15 special fuels, the payment for which has not been collected and
16 has been determined to be uncollectible pursuant to [~~provisions~~
17 ~~of regulations~~] rules issued by the secretary may be deducted
18 from gallons used to determine loads for the purposes of
19 calculating the petroleum products loading fee. If such a
20 payment is subsequently collected, the gallons represented
21 shall be included in determining loads. The deduction under
22 the provisions of this section shall not be allowed if the
23 petroleum products loading fee has not been paid previously on
24 the petroleum products that were returned to the seller or the
25 sale of which created an uncollectible debt.

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1 B. Biodiesel, as defined in the Special Fuels
2 Supplier Tax Act, loaded in or imported into New Mexico and
3 delivered to a rack operator for subsequent blending or resale
4 by a rack operator may be deducted from gallons used to
5 determine loads for the purposes of calculating the petroleum
6 products loading fee.

7 C. A taxpayer that deducts an amount of biodiesel
8 pursuant to Subsection B of this section shall report the
9 deducted amount separately with the taxpayer's return in a
10 manner prescribed by the department.

11 D. ~~[The department shall calculate the aggregate~~
12 ~~amount, in dollars, of the difference between the amount of the~~
13 ~~petroleum products loading fee that would have been collected~~
14 ~~in a fiscal year if not for the deduction allowed pursuant to~~
15 ~~Subsection B of this section and the amount of the petroleum~~
16 ~~products loading fee actually collected. The department shall~~
17 ~~compile an annual report that includes the aggregate amount,~~
18 ~~the number of taxpayers that deducted an amount of biodiesel~~
19 ~~pursuant to Subsection B of this section and any other~~
20 ~~information necessary to evaluate the deduction. Beginning in~~
21 ~~2019 and every five years thereafter, the department shall~~
22 ~~compile and present the annual reports to the revenue~~
23 ~~stabilization and tax policy committee and the legislative~~
24 ~~finance committee with an analysis of the costs and benefits to~~
25 ~~the state]~~ The deduction provided by this section shall be

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1 included in the tax expenditure budget pursuant to Section
2 7-1-84 NMSA 1978, including the annual aggregate cost of the
3 deduction.

4 E. For purposes of this section, "rack operator"
5 means the operator of a refinery in this state or the owner of
6 special fuel stored at a pipeline terminal in this state."

7 SECTION 97. Section 7-16A-9.4 NMSA 1978 (being Laws
8 2013, Chapter 109, Section 3) is amended to read:

9 "7-16A-9.4. REPORTING REQUIREMENTS--SPECIAL FUEL
10 DEDUCTION--BIODIESEL.--

11 A. A taxpayer that deducts an amount of special
12 fuel that is biodiesel from the total amount of special fuel
13 received in New Mexico pursuant to Paragraph (2) of Subsection
14 H of Section 7-16A-10 NMSA 1978 shall report the deducted
15 amount separately with the taxpayer's return in a manner
16 prescribed by the department.

17 B. ~~[The department shall calculate the aggregate~~
18 ~~amount, in dollars, of the difference between the amount of~~
19 ~~special fuel excise tax that would have been collected in a~~
20 ~~fiscal year if not for the deduction allowed pursuant to~~
21 ~~Paragraph (2) of Subsection H of Section 7-16A-10 NMSA 1978 and~~
22 ~~the amount of special fuel excise tax actually collected. The~~
23 ~~department shall compile an annual report that includes the~~
24 ~~aggregate amount, the number of taxpayers that deducted an~~
25 ~~amount of special fuel pursuant to Paragraph (2) of Subsection~~

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1 ~~H of Section 7-16A-10 NMSA 1978 and any other information~~
2 ~~necessary to evaluate the deduction. Beginning in 2017 and~~
3 ~~every five years thereafter, the department shall compile and~~
4 ~~present the annual reports to the revenue stabilization and tax~~
5 ~~policy committee and the legislative finance committee with an~~
6 ~~analysis of the costs and benefits of the deduction to the~~
7 ~~state.] The deduction provided by this section shall be~~
8 ~~included in the tax expenditure budget pursuant to Section~~
9 ~~7-1-84 NMSA 1978, including the annual aggregate cost of the~~
10 ~~deduction."~~

11 SECTION 98. Section 7-16A-13.1 NMSA 1978 (being Laws
12 2001, Chapter 43, Section 2, as amended by Laws 2006, Chapter
13 73, Section 1 and by Laws 2006, Chapter 74, Section 2) is
14 amended to read:

15 "7-16A-13.1. CLAIM FOR REFUND OF SPECIAL FUEL EXCISE TAX
16 PAID ON SPECIAL FUEL.--

17 A. Upon the submission of proof satisfactory to the
18 department, a user of special fuel may submit and the
19 department may allow a claim for refund of tax paid on special
20 fuel used to propel a vehicle authorized by contract with the
21 public education department or with a public school district as
22 a school bus, to propel a vehicle off-road, to operate
23 auxiliary equipment by a power take-off from the main engine or
24 transmission of a vehicle or to operate a non-automotive
25 apparatus mounted on a vehicle when the special fuel used for

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1 such purposes and the special fuel used to propel the vehicle
2 on the highways are drawn from a common supply tank. The
3 vehicle must be registered with the department. The user must
4 be registered with the department for purposes of reporting and
5 paying gross receipts tax.

6 B. No person may submit claims for refund pursuant
7 to the provisions of this section more frequently than
8 quarterly. No claim for refund may be submitted or allowed on
9 less than one hundred gallons.

10 C. The department may prescribe the documents
11 necessary to support a claim for refund pursuant to the
12 provisions of this section. The department may prescribe the
13 use of types of monitoring or measuring equipment.

14 ~~[D. This section applies to special fuel purchased~~
15 ~~on or after July 1, 2001, except for the refund for special~~
16 ~~fuel used to propel a school bus, which applies to special fuel~~
17 ~~purchased on or after July 1, 2005.]"~~

18 SECTION 99. Section 7-16A-15 NMSA 1978 (being Laws 1992,
19 Chapter 51, Section 15, as amended) is amended to read:

20 "7-16A-15. BOND REQUIRED OF SUPPLIER.--

21 A. Except as provided in Subsection H of this
22 section, every supplier shall file with the department a bond
23 on a form approved by the attorney general with a surety
24 company authorized by the ~~[state corporation]~~ public regulation
25 commission to transact business in this state as a surety and

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1 upon which bond the supplier is the principal obligor and the
2 state the obligee. The bond shall be conditioned upon the
3 prompt filing of true reports and the payment by the supplier
4 to the department of all taxes levied by the Special Fuels
5 Supplier Tax Act, together with all applicable penalties and
6 interest thereon.

7 B. In lieu of the bond, the supplier may elect to
8 file with the department cash or bonds of the United States or
9 New Mexico or of any political subdivision of the state.

10 C. The total amount of the bond, cash or securities
11 required of any supplier shall be fixed by the department and
12 may be increased or reduced by the department at any time,
13 subject to the limitations provided in this section.

14 D. In fixing the total amount of the bond, cash or
15 securities required of any supplier required to post bond, the
16 department shall require an equivalent in total amount to at
17 least two times the amount of the department's estimate of the
18 supplier's monthly [~~special fuel excise~~] tax, determined in
19 such manner as the secretary may deem proper; provided,
20 however, the total amount of bond, cash or securities required
21 of a supplier shall never be less than one thousand dollars
22 (\$1,000).

23 E. In the event the department decides that the
24 amount of the existing bond, cash or securities is insufficient
25 to insure payment to this state of the amount of the [~~special~~

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1 ~~fuel-excise]~~ tax and any penalties and interest for which the
2 supplier is or may at any time become liable, ~~[then]~~ the
3 supplier shall ~~[forthwith]~~, upon written demand of the
4 department mailed to the last known address of the supplier as
5 shown on the records of the department, file an additional
6 bond, cash or securities in the manner, form and amount
7 determined by the department to be necessary to secure at all
8 times the payment by the supplier of all taxes, penalties and
9 interest due pursuant to the Special Fuels Supplier Tax Act.

10 F. Any surety on any bond furnished by any supplier
11 as required by this section shall be released and discharged
12 from all liability accruing on the bond after the expiration of
13 ninety days from the date upon which the surety files with the
14 department a written request to be released and discharged;
15 provided, however, the request shall not operate to release or
16 discharge the surety from any liability already accrued or that
17 shall accrue before the expiration of the ninety-day period,
18 unless a new bond is filed during the ninety-day period, in
19 which case the previous bond may be canceled as of the
20 effective date of the new bond. On receipt of notice of such
21 request, the department shall notify promptly the supplier who
22 furnished the bond that the supplier shall, on or before the
23 expiration of the ninety-day period, file with the department a
24 new bond with a surety satisfactory to the department in the
25 amount and form required in this section.

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1 G. The supplier required to file bond with or
2 provide cash or securities to the department in accordance with
3 this section and who is required by any other state law to file
4 another bond with or provide cash or securities to the
5 department may elect to file a combined bond or provide cash or
6 securities applicable to the provisions of both this section
7 and the other law, with the approval of the secretary. The
8 amount of the combined bond, cash or securities shall be
9 determined by the department and the form of the combined bond
10 shall be approved by the attorney general.

11 H. ~~[On July 1, 1994, every supplier who, for the~~
12 ~~twenty-four month period immediately preceding that date, has~~
13 ~~not been a delinquent taxpayer under the Special Fuels Supplier~~
14 ~~Tax Act or the Special Fuels Tax Act is exempt from the~~
15 ~~requirement pursuant to this section to file a bond.] A~~
16 supplier required to file a bond pursuant to the provisions of
17 this section who, for a twenty-four consecutive month period
18 ~~[ending after July 1, 1994]~~ has not been a delinquent taxpayer
19 pursuant to ~~[either]~~ the Special Fuels Supplier Tax Act ~~[or the~~
20 ~~Special Fuels Tax Act]~~ may request to be exempt from the
21 requirement to file a bond beginning with the first day of the
22 first month following the end of the twenty-four month period.
23 If a supplier exempted pursuant to this subsection subsequently
24 becomes a delinquent taxpayer pursuant to the Special Fuels
25 Supplier Tax Act, the department may terminate the exemption

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1 and require the filing of a bond in accordance with this
2 section. If the department terminates the exemption, the
3 termination shall not be effective any earlier than ten days
4 after the date the department notifies the supplier in writing
5 of the termination."

6 SECTION 100. Section 7-16B-4 NMSA 1978 (being Laws 1995,
7 Chapter 16, Section 4, as amended) is amended to read:

8 "7-16B-4. IMPOSITION AND RATE OF TAX--DENOMINATION AS
9 ALTERNATIVE FUEL EXCISE TAX.--

10 A. For the privilege of distributing alternative
11 fuel in this state, there is imposed an excise tax at a rate
12 provided in Subsection C of this section on each gallon of
13 alternative fuel distributed in New Mexico.

14 B. The tax imposed by this section may be called
15 the "alternative fuel excise tax".

16 C. For each gallon of alternative fuel distributed
17 in New Mexico, the tax imposed by Subsection A of this section
18 shall be:

19 [~~(1) for the period beginning January 1, 1996~~
20 ~~and ending December 31, 1997, three cents (\$0.03) per gallon;~~

21 ~~(2) for the period beginning January 1, 1998~~
22 ~~and ending December 31, 1999, six cents (\$0.06) per gallon;~~

23 ~~(3) for the period beginning January 1, 2000~~
24 ~~and ending December 31, 2001, nine cents (\$0.09) per gallon;~~

25 ~~(4) for the period beginning January 1, 2002~~

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1 ~~and ending June 30, 2014, twelve cents (\$0.12) per gallon; and~~
2 ~~(5) for the period beginning July 1, 2014 and~~
3 ~~thereafter~~

4 ~~(a)]~~ (1) for alternative fuel that is
5 compressed natural gas, thirteen and three-tenths cents (\$.133)
6 per gallon;

7 ~~[(b)]~~ (2) for alternative fuel that is
8 liquefied natural gas, twenty and six-tenths cents (\$.206) per
9 gallon; and

10 ~~[(c)]~~ (3) for alternative fuel not described
11 in ~~[Subparagraph (a) or (b) of this]~~ Paragraph (1) or (2) of
12 this subsection, twelve cents (\$.12) per gallon.

13 D. Alternative fuel purchased for distribution
14 shall not be subject to the alternative fuel excise tax at the
15 time of purchase or acquisition, but the tax shall be due on
16 any alternative fuel at the time it is dispensed or delivered
17 into the supply tank of a motor vehicle that is operated on the
18 highways of this state."

19 SECTION 101. Section 7-19-11 NMSA 1978 (being Laws 1979,
20 Chapter 397, Section 2, as amended) is amended to read:

21 "7-19-11. DEFINITIONS.--As used in the Supplemental
22 Municipal Gross Receipts Tax Act:

23 A. "department" ~~[or "division"]~~ means the taxation
24 and revenue department, the secretary of taxation and revenue

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1 or any employee of the department exercising authority lawfully
2 delegated to that employee by the secretary;

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

5 C. "municipality" means any incorporated city, town
6 or village having previously qualified to impose and did impose
7 the tax pursuant to the provisions of the Supplemental
8 Municipal Gross Receipts Tax Act in effect prior to [~~this 1997~~
9 ~~act~~] the enactment of Laws 1997, Chapter 219;

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

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

16 F. "state gross receipts tax" means the gross
17 receipts tax imposed under the Gross Receipts and Compensating
18 Tax Act; and

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

22 SECTION 102. Section 7-19-12 NMSA 1978 (being Laws 1979,
23 Chapter 397, Section 3, as amended) is amended to read:

24 "7-19-12. AUTHORIZATION TO IMPOSE SUPPLEMENTAL MUNICIPAL
25 GROSS RECEIPTS TAX--AUTHORIZATION FOR ISSUANCE OF SUPPLEMENTAL
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1 MUNICIPAL GROSS RECEIPTS BONDS--ELECTION REQUIRED.--

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

11 B. The governing body of a municipality enacting an
12 ordinance imposing the tax authorized in Subsection A of this
13 section shall submit the question of imposing such tax and the
14 question of the issuance of supplemental municipal gross
15 receipts bonds in an amount not to exceed nine million dollars
16 (\$9,000,000), for which the revenue from the supplemental
17 municipal gross receipts tax is dedicated, to the qualified
18 electors of the municipality at a regular or special election.

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

23 (1) "Shall the municipality be authorized to
24 issue supplemental municipal gross receipts bonds in an amount
25 of not exceeding _____ dollars for the purpose

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1 of constructing and equipping and otherwise acquiring a
2 municipal water supply system?

3 For _____ Against _____"; and

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

11 For _____ Against _____".

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

18 E. If at an election called pursuant to this
19 section a majority of the voters voting on each of the two
20 questions [~~vote~~] votes in the affirmative on each [~~such~~]
21 question, [~~then~~] the ordinance imposing the supplemental
22 municipal gross receipts tax shall be approved. If at such
23 election a majority of the voters voting on such questions
24 [~~fail~~] fails to approve any of the questions, [~~then~~] the
25 ordinance imposing the tax shall be disapproved and the

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1 questions required to be submitted by Subsection B of this
2 section shall not be submitted to the voters for a period of
3 one year from the date of the election.

4 F. Except as provided in Subsection G of this
5 section, any ordinance enacted under the provisions of this
6 section shall include an effective date of [~~either~~] the first
7 July 1 [~~or January 1, whichever date occurs first~~] after the
8 expiration of at least [~~five~~] three months from the date of the
9 election. A certified copy of any ordinance imposing a
10 supplemental municipal gross receipts tax shall be mailed to
11 the [~~division~~] department within five days after the ordinance
12 is adopted by the approval by the electorate. Any ordinance
13 repealing the imposition of a tax under the provisions of the
14 Supplemental Municipal Gross Receipts Tax Act shall become
15 effective on [~~either~~] the first July 1 [~~or January 1~~] after the
16 expiration of at least [~~five~~] three months from the date the
17 ordinance is repealed by the governing body.

18 G. [~~Nothing in this section is intended to or does~~
19 ~~alter the effectiveness or validity of any actions taken in~~
20 ~~accordance with Subsection G of Section 80 of Chapter 20 of~~
21 ~~Laws 1986~~] If the governor declares a state of emergency, or if
22 there is an unforeseen occurrence that would cause a
23 municipality's reserves to drop below the amount required by
24 the local government division of the department of finance and
25 administration, as certified by the division, an ordinance

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1 imposing a tax or an increment of a tax may become effective on
2 the first January 1 after the expiration of at least three
3 months after such a declaration or event and notification to
4 the department."

5 SECTION 103. Section 7-19-13 NMSA 1978 (being Laws 1979,
6 Chapter 397, Section 4) is amended to read:

7 "7-19-13. ORDINANCE ~~[MUST]~~ SHALL CONFORM TO CERTAIN
8 PROVISIONS OF THE GROSS RECEIPTS AND COMPENSATING TAX ACT AND
9 REQUIREMENTS OF THE ~~[DIVISION]~~ DEPARTMENT.--

10 A. Any ordinance imposing a supplemental municipal
11 gross receipts tax shall adopt by reference the same
12 definitions and the same provisions relating to exemptions and
13 deductions as are contained in the Gross Receipts and
14 Compensating Tax Act then in effect and as it may be amended
15 from time to time.

16 B. The governing body of any municipality imposing
17 or increasing the supplemental municipal gross receipts tax
18 ~~[must]~~ shall adopt the language of the model ordinance
19 furnished to the municipality by the ~~[division]~~ department for
20 the portion of the ordinance relating to the tax."

21 SECTION 104. Section 7-19-14 NMSA 1978 (being Laws 1979,
22 Chapter 397, Section 5, as amended) is amended to read:

23 "7-19-14. SPECIFIC EXEMPTIONS.--No supplemental
24 municipal gross receipts tax shall be imposed on the gross
25 receipts arising from ~~[A. prior to July 1, 2021, transporting~~

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1 ~~persons or property for hire by railroad, motor vehicle, air~~
2 ~~transportation or any other means from one point within the~~
3 ~~municipality to another point outside the municipality; or B.]~~
4 a business located outside the boundaries of a municipality on
5 land owned by that municipality for which a gross receipts tax
6 distribution is made pursuant to Section 7-1-6.4 NMSA 1978."

7 SECTION 105. Section 7-19-16 NMSA 1978 (being Laws 1979,
8 Chapter 397, Section 7) is amended to read:

9 "7-19-16. INTERPRETATION OF ACT--ADMINISTRATION AND
10 ENFORCEMENT OF TAX.--

11 A. The ~~[division]~~ department shall interpret the
12 provisions of the Supplemental Municipal Gross Receipts Tax
13 Act.

14 B. The ~~[division]~~ department shall administer and
15 enforce the collection of the supplemental municipal gross
16 receipts tax, and the Tax Administration Act applies to the
17 administration and enforcement of the tax."

18 SECTION 106. Section 7-19D-3 NMSA 1978 (being Laws 1993,
19 Chapter 346, Section 3) is amended to read:

20 "7-19D-3. EFFECTIVE DATE OF ORDINANCE.--

21 A. Except as provided in Subsection B of this
22 section, an ordinance imposing, amending or repealing a tax or
23 an increment of tax authorized by the Municipal Local Option
24 Gross Receipts and Compensating Taxes Act shall be effective on
25 the first July 1 [~~or January 1, whichever date occurs first~~]

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1 after the expiration of at least three months from the date the
2 adopted ordinance is mailed or delivered to the department.

3 B. If the governor declares a state of emergency,
4 or if there is an unforeseen occurrence that would cause a
5 municipality's reserves to drop below the amount required by
6 the local government division of the department of finance and
7 administration, as certified by the division, an ordinance
8 imposing a tax or an increment of a tax may become effective on
9 the first January 1 after the expiration of at least three
10 months after such a declaration or event and notification to
11 the department.

12 C. The ordinance imposing, amending or repealing a
13 tax or an increment of tax shall include [that] the effective
14 date."

15 SECTION 107. Section 7-19D-5 NMSA 1978 (being Laws 1993,
16 Chapter 346, Section 5, as amended) is amended to read:

17 "7-19D-5. SPECIFIC EXEMPTIONS.--No tax authorized by the
18 provisions of the Municipal Local Option Gross Receipts and
19 Compensating Taxes Act shall be imposed on the gross receipts
20 arising from [~~A. prior to July 1, 2021, transporting persons~~
21 ~~or property for hire by railroad, motor vehicle, air~~
22 ~~transportation or any other means from one point within the~~
23 ~~municipality to another point outside the municipality; or B.]~~
24 a business located outside the boundaries of a municipality on
25 land owned by that municipality for which a state gross

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1 receipts tax distribution is made pursuant to Section 7-1-6.4
2 NMSA 1978."

3 SECTION 108. Section 7-19D-17 NMSA 1978 (being Laws
4 2012, Chapter 58, Section 1, as amended) is amended to read:

5 "7-19D-17. FEDERAL WATER PROJECT GROSS RECEIPTS TAX--
6 AUTHORIZATION--USE OF REVENUE--REFERENDUM.--

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

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

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

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1 bonds.

2 D. An ordinance imposing the federal water project
3 gross receipts tax shall not go into effect until an election
4 is held and a majority of the voters of the municipality voting
5 in the election votes in favor of imposing the tax. The
6 governing body shall adopt a resolution calling for an election
7 within seventy-five days of the date the ordinance is adopted
8 on the question of imposing the tax. The question shall be
9 submitted to the voters of the municipality as a separate
10 question at a regular local election or at a special election
11 called for that purpose by the governing body. An election
12 shall be called, conducted and canvassed as provided in the
13 Local Election Act. If a majority of the voters voting on the
14 question approves the ordinance imposing the federal water
15 project gross receipts tax, then the ordinance shall become
16 effective on ~~[January 1 or]~~ July 1 in accordance with the
17 provisions of the Municipal Local Option Gross Receipts and
18 Compensating Taxes Act. If the question of imposing the
19 federal water project gross receipts tax fails, the governing
20 body shall not again propose the imposition of the tax for a
21 period of one year from the date of the election.

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

25 F.] E. As used in this section, "municipality"

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1 means an incorporated municipality that has a population
2 pursuant to the most recent federal decennial census of greater
3 than twenty thousand but less than twenty-five thousand and is
4 located in a class B county."

5 SECTION 109. Section 7-20E-3 NMSA 1978 (being Laws 1993,
6 Chapter 354, Section 3, as amended) is amended to read:

7 "7-20E-3. OPTIONAL REFERENDUM SELECTION--EFFECTIVE DATE
8 OF ORDINANCE.--

9 A. The governing body of a county imposing a tax or
10 an increment of tax authorized by the County Local Option Gross
11 Receipts and Compensating Taxes Act or any other county local
12 option gross receipts tax act that is subject to optional
13 referendum selection shall select, when enacting the ordinance
14 imposing the tax, one of the following referendum options:

15 (1) except as provided in Subsection C of
16 this section, the ordinance imposing the tax or increment of
17 tax shall go into effect on July 1 [~~or January 1~~] in accordance
18 with the provisions of the County Local Option Gross Receipts
19 and Compensating Taxes Act, but an election may be called in
20 the county on the question of approving or disapproving that
21 ordinance as follows:

22 (a) an election shall be called when:
23 1) in a county having a referendum provision in its charter, a
24 petition requesting such an election is filed pursuant to the
25 requirements of that provision in the charter and signed by the

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1 number of registered voters in the county equal to the number
2 of registered voters required in its charter to seek a
3 referendum; and 2) in all other counties, a petition requesting
4 such an election is filed with the county clerk within sixty
5 days of enactment of the ordinance by the governing body and
6 the petition has been signed by a number of registered voters
7 in the county equal to at least five percent of the number of
8 the voters in the county who were registered to vote in the
9 most recent general election;

10 (b) the signatures on the petition
11 requesting an election shall be verified by the county clerk.
12 If the petition is verified by the county clerk as containing
13 the required number of signatures of registered voters, the
14 governing body shall adopt a resolution calling an election on
15 the question of approving or disapproving the ordinance. The
16 election shall be held within sixty days after the date the
17 petition is verified by the county clerk, or it may be held in
18 conjunction with a general election if that election occurs
19 within sixty days after the date of the verification. The
20 election shall be called, held, conducted and canvassed in
21 substantially the same manner as provided by law for general
22 elections; and

23 (c) if a majority of the registered
24 voters voting on the question approves the ordinance, the
25 ordinance shall go into effect on July 1 or January 1 in

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1 accordance with the provisions of the County Local Option Gross
2 Receipts and Compensating Taxes Act. If at such an election a
3 majority of the registered voters voting on the question
4 disapproves the ordinance, the ordinance imposing the tax shall
5 be deemed repealed and the question of imposing the tax or
6 increment of tax shall not be considered again by the governing
7 body for a period of one year from the date of the election; or

8 (2) the ordinance imposing the tax or
9 increment of tax shall not go into effect until after an
10 election is held and a simple majority of the registered voters
11 of the county voting on the question votes in favor of imposing
12 the tax or increment of tax. The governing body shall adopt a
13 resolution calling for an election within seventy-five days of
14 the date the ordinance is adopted on the question of imposing
15 the tax or increment of tax. Such question may be submitted to
16 the voters and voted upon as a separate question at any general
17 election or at any special election called for that purpose by
18 the governing body. The election upon the question shall be
19 called, held, conducted and canvassed in substantially the same
20 manner as may be provided by law for general elections. If the
21 question of imposing the tax or increment of tax fails, the
22 governing body shall not again propose the tax or increment of
23 tax for a period of one year after the election.

24 B. Except as provided in Subsection C of this
25 section, an ordinance imposing, amending or repealing a tax or

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1 an increment of tax authorized by the County Local Option Gross
2 Receipts and Compensating Taxes Act shall be effective on the
3 first July 1 [~~or January 1, whichever date occurs first~~] after
4 the expiration of at least three months from the date the
5 adopted ordinance is mailed or delivered to the department.

6 C. If the governor declares a state of emergency,
7 or if there is an unforeseen occurrence that would cause a
8 county's reserves to drop below the amount required by the
9 local government division of the department of finance and
10 administration, as certified by the division, an ordinance
11 imposing a tax or an increment of a tax may become effective on
12 the first January 1 after the expiration of at least three
13 months after such a declaration or event and notification to
14 the department.

15 D. The ordinance imposing, amending or repealing a
16 tax or an increment of tax shall include ~~that~~ the effective
17 date."

18 SECTION 110. Section 7-20E-13 NMSA 1978 (being Laws
19 1987, Chapter 45, Section 3, as amended) is amended to read:

20 "7-20E-13. SPECIAL COUNTY HOSPITAL GROSS RECEIPTS TAX--
21 AUTHORITY TO IMPOSE--ORDINANCE REQUIREMENTS.--

22 A. The majority of the members of the governing
23 body may enact an ordinance imposing an excise tax on any
24 person engaging in business in the county for the privilege of
25 engaging in business. The rate of the tax shall be one-eighth
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1 ~~[of one]~~ percent of the gross receipts of the person engaging
2 in business. The tax shall be imposed for a period of not more
3 than five years from the effective date of the ordinance
4 imposing the tax. Having once enacted an ordinance under this
5 section, the governing body may enact subsequent ordinances for
6 succeeding periods of not more than five years; provided that
7 each such ordinance meets the requirements of the County Local
8 Option Gross Receipts and Compensating Taxes Act with respect
9 to the tax imposed by this section.

10 B. The tax imposed by this section may be referred
11 to as the "special county hospital gross receipts tax".

12 C. For the purposes of this section, "county"
13 means:

14 (1) a county:

15 (a) having a population of more than ten
16 thousand but less than ten thousand six hundred, according to
17 the last federal decennial census or any subsequent decennial
18 census, and having a net taxable value for rate-setting
19 purposes for the 1986 property tax year or any subsequent year
20 of more than eighty-two million dollars (\$82,000,000) but less
21 than eighty-two million three hundred thousand dollars
22 (\$82,300,000);

23 (b) that has imposed a rate of one
24 dollar fifty cents (\$1.50) to each one thousand dollars
25 (\$1,000) of net taxable value of property as defined in the

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~~[bracketed material] = delete~~

1 Property Tax Code for property taxation purposes in the county
2 and to each one thousand dollars (\$1,000) of the assessed value
3 of products severed and sold in the school district as
4 determined under the Oil and Gas Ad Valorem Production Tax Act
5 and the Oil and Gas Production Equipment Ad Valorem Tax Act or
6 has made an appropriation of funds or has imposed another tax
7 that produces an amount not less than the revenue that would be
8 produced by applying a rate of one dollar fifty cents (\$1.50)
9 to each one thousand dollars (\$1,000) of net taxable value of
10 property as defined in the Property Tax Code for property
11 taxation purposes in the school district and to each one
12 thousand dollars (\$1,000) of the assessed value of products
13 severed and sold in the school district as determined under the
14 Oil and Gas Ad Valorem Production Tax Act and the Oil and Gas
15 Production Equipment Ad Valorem Tax Act. The proceeds of any
16 tax imposed or appropriation made shall be dedicated for
17 current operations and maintenance of a hospital owned and
18 operated by the county or operated and maintained by another
19 party pursuant to a lease with the county; and

20 (c) having qualified at any time under
21 this definition shall continue to be qualified as a county and
22 authorized to implement the provisions of this section; and

23 (2) a class B county having a population of
24 more than seventeen thousand five hundred but less than
25 nineteen thousand according to the 1990 federal decennial

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1 census and having a net taxable value for property tax rate-
2 setting purposes of under three hundred million dollars
3 (\$300,000,000).

4 D. The governing body of a county described in
5 Paragraph (1) of Subsection C of this section shall, at the
6 time of enacting an ordinance imposing the rate of the tax
7 authorized in Subsection A of this section, dedicate the
8 revenue for current operations and maintenance of a hospital
9 owned and operated by the county or operated and maintained by
10 another party pursuant to a lease with the county, and the use
11 of these proceeds shall be for the care and maintenance of sick
12 and indigent persons and shall be an expenditure for a public
13 purpose. In any election held, the ballot shall clearly state
14 the purpose to which the revenue will be dedicated, and the
15 revenue shall be used by the county for that purpose.

16 E. The governing body of a county described in
17 Paragraph (2) of Subsection C of this section shall, at the
18 time of enacting an ordinance imposing the rate of the tax
19 authorized in Subsection A of this section, dedicate the
20 revenue for county ambulance transport costs or for operation
21 of a rural health clinic. In any election held, the ballot
22 shall clearly state the purposes to which the revenue will be
23 dedicated, and the revenue shall be used by the county for
24 those purposes.

25 F. Any ordinance enacted under the provisions of

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1 Subsection A of this section shall include an effective date of
2 ~~[either]~~ July 1 ~~[or January 1]~~ in accordance with the
3 provisions of the County Local Option Gross Receipts and
4 Compensating Taxes Act.

5 G. The ordinance shall not go into effect until
6 after an election is held and a simple majority of the
7 qualified electors of the county voting in the election votes
8 in favor of imposing the special county hospital gross receipts
9 tax. The governing body shall adopt a resolution calling for
10 an election within seventy-five days of the date the ordinance
11 is adopted on the question of imposing the tax. The question
12 may be submitted to the qualified electors and voted upon as a
13 separate question in a general election or in any special
14 election called for that purpose by the governing body. A
15 special election upon the question shall be called, held,
16 conducted and canvassed in substantially the same manner as
17 provided by law for general elections. If the question of
18 imposing a special county hospital gross receipts tax fails,
19 the governing body shall not again propose a special county
20 hospital gross receipts tax for a period of one year after the
21 election. A certified copy of any ordinance imposing a special
22 county hospital gross receipts tax shall be mailed to the
23 department within five days after the ordinance is adopted in
24 any election called for that purpose.

25 H. A single election may be held on the question of

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1 imposing a special county hospital gross receipts tax as
2 authorized in this section [~~on the question of imposing a~~
3 ~~special county hospital gasoline tax as authorized in the~~
4 ~~Special County Hospital Gasoline Tax Act]~~ and on the question
5 of imposing a mill levy pursuant to the Hospital Funding Act."

6 SECTION 111. Section 7-20E-18 NMSA 1978 (being Laws
7 1991, Chapter 212, Section 7, as amended) is amended to read:

8 "7-20E-18. COUNTY HEALTH CARE GROSS RECEIPTS TAX--
9 AUTHORITY TO IMPOSE RATE.--

10 A. The majority of the members of the governing
11 body of any county may enact an ordinance imposing an excise
12 tax at a rate of one-sixteenth percent of the gross receipts of
13 any person engaging in business in the county for the privilege
14 of engaging in business in the county. Any ordinance imposing
15 an excise tax pursuant to this section shall not be subject to
16 a referendum. The governing body of a county shall, at the
17 time of enacting an ordinance imposing the tax, dedicate the
18 revenue to the county-supported medicaid fund. This tax is to
19 be referred to as the "county health care gross receipts tax".

20 B. In addition to the imposition of the county
21 health care gross receipts tax authorized by Subsection A of
22 this section, the majority of the members of the governing body
23 of a county having a population of more than five hundred
24 thousand persons according to the most recent federal decennial
25 census may enact an ordinance imposing an additional one-

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1 sixteenth percent increment of county health care gross
2 receipts tax; provided that the imposition of the additional
3 increment shall be for a period that ends no later than June
4 30, 2009. To continue an increment after June 30, 2009 or
5 beyond any five-year period for which the increment has been
6 imposed, the members of the governing body shall review the
7 need for the increment and if the majority of the members vote
8 in favor of continuing the increment imposed pursuant to this
9 subsection, the increment shall be imposed for an additional
10 period of five years. The governing body of the county shall,
11 at the time of enacting an ordinance imposing the additional
12 increment of county health care gross receipts tax, dedicate
13 the revenue to the support of indigent patients.

14 C. Any ordinance enacted pursuant to the provisions
15 of Subsection A or B of this section shall include an effective
16 date of [~~either~~] July 1 [~~or January 1~~] in accordance with the
17 provisions of the County Local Option Gross Receipts and
18 Compensating Taxes Act."

19 SECTION 112. Section 7-20E-26 NMSA 1978 (being Laws
20 2007, Chapter 346, Section 1) is amended to read:

21 "7-20E-26. WATER AND SANITATION GROSS RECEIPTS TAX--
22 AUTHORITY TO IMPOSE--RATE--ELECTION--USE OF REVENUE.--

23 A. An excise tax imposed by a governing body
24 pursuant to this section may be referred to as the "water and
25 sanitation gross receipts tax". The water and sanitation gross
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1 receipts tax shall be imposed by a governing body as set forth
2 in this section, contingent upon a majority of the voters
3 voting in an election on the question of whether to impose a
4 water and sanitation gross receipts tax voting in favor of the
5 imposition.

6 B. Upon receipt of a resolution adopted and
7 submitted by the board of directors of a water and sanitation
8 district that requests the governing body to impose a water and
9 sanitation gross receipts tax on behalf of the water and
10 sanitation district, a governing body shall enact an ordinance
11 imposing a water and sanitation gross receipts tax in that
12 water and sanitation district. The ordinance shall impose the
13 tax at a rate of one-fourth percent on a person engaging in
14 business within the area of the county located within the water
15 and sanitation district for the privilege of engaging in
16 business within that water and sanitation district within the
17 county.

18 C. The governing body, at the time of enacting an
19 ordinance imposing a water and sanitation gross receipts tax
20 authorized pursuant to Subsection A of this section, shall
21 dedicate the revenue only for the operation of the water and
22 sanitation district for which the tax is imposed. The tax
23 shall be imposed for six years from the date on which the water
24 and sanitation gross receipts tax goes into effect.

25 D. Within sixty days of the date the ordinance is

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1 adopted by the governing body, the governing body shall adopt a
2 resolution calling for an election on the question of whether
3 to impose a water and sanitation gross receipts tax. The
4 question shall be submitted to the voters of the water and
5 sanitation district requesting the county to impose the tax. A
6 special election shall be called, conducted and canvassed in
7 substantially the same manner as provided by law for general
8 elections. If a majority of the voters voting on the question
9 approves the ordinance imposing the water and sanitation gross
10 receipts tax, then the ordinance shall become effective in
11 accordance with the provisions of the County Local Option Gross
12 Receipts and Compensating Taxes Act on ~~[either January 1 or]~~
13 the first July 1 following the election approving the
14 imposition of the tax, except as provided in Subsection E of
15 this section. If the question of imposing the water and
16 sanitation gross receipts tax fails, a resolution from the
17 board of directors of the water and sanitation district
18 initiating the request to the county to impose a water and
19 sanitation gross receipts tax may not again be submitted to the
20 governing body for a period of one year from the date of the
21 election.

22 E. If the governor declares a state of emergency,
23 or if there is an unforeseen occurrence that would cause a
24 district's reserves to drop below the amount required by the
25 local government division of the department of finance and

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1 administration, as certified by the division, an ordinance
2 imposing a tax or an increment of a tax may become effective on
3 the first January 1 after the expiration of at least three
4 months after such a declaration or event and notification to
5 the department.

6 [E.] F. The proceeds from the water and sanitation
7 gross receipts tax shall be administered by the governing body
8 and disbursed by the county treasurer to the appropriate water
9 and sanitation district in amounts and for the purposes
10 authorized in this section and as set out in the resolution
11 submitted by the board of directors to the governing body. An
12 agreement shall be entered into between the water and
13 sanitation district and the governing body that sets out the
14 responsibilities of both parties regarding administration,
15 distribution and use of the revenue from the water and
16 sanitation gross receipts tax."

17 SECTION 113. Section 7-26-2 NMSA 1978 (being Laws 1977,
18 Chapter 102, Section 4, as amended) is amended to read:

19 "7-26-2. DEFINITIONS.--As used in the Severance Tax Act:

20 A. "department" 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. "natural resource" means timber and any
25 metalliferous or nonmetalliferous mineral product, combination

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1 or compound thereof but does not include oil, natural gas,
2 liquid hydrocarbon, individually or any combination thereof, or
3 carbon dioxide;

4 C. "severer" means any person engaging in the
5 business of severing natural resources that the person owns or
6 any person who is the owner of natural resources and has
7 another person perform the severing of such natural resources;

8 D. "severing" means mining, quarrying, extracting,
9 felling or producing any natural resources in New Mexico;

10 E. "owner", when used in connection with the
11 severing of any of the natural resources covered by the
12 Severance Tax Act under any lease or contract with the state or
13 United States, includes any person having the right to sever
14 those resources; and

15 F. [~~"director" or~~] "secretary" means the secretary
16 of taxation and revenue."

17 SECTION 114. Section 7-29-2 NMSA 1978 (being Laws 1959,
18 Chapter 52, Section 2, as amended) is amended to read:

19 "7-29-2. DEFINITIONS.--As used in the Oil and Gas
20 Severance Tax Act:

21 A. [~~"commission"~~] "department" [~~"division" or "oil~~
22 ~~and gas accounting division"~~] means the taxation and revenue
23 department, the secretary of taxation and revenue or any
24 employee of the department exercising authority lawfully
25 delegated to that employee by the secretary;

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1 B. "production unit" means a unit of property
2 designated by the department from which products of common
3 ownership are severed;

4 C. "severance" means the taking from the soil,
5 produced water, tank bottoms or an oil-water separator of any
6 product, including accumulations of product, in any manner
7 whatsoever;

8 D. "value" means the actual price received for
9 products at the production unit, except as otherwise provided
10 in the Oil and Gas Severance Tax Act;

11 E. "product" or "products" means oil, including
12 crude oil, slop oil, sediment oil or skim oil and condensate;
13 natural gas; liquid hydrocarbon, including ethane, propane,
14 isobutene, normal butane and pentanes plus, individually or any
15 combination thereof; and non-hydrocarbon gases, including
16 carbon dioxide and helium;

17 F. "operator" means any person:

18 (1) engaged in the severance of products from
19 a production unit; or

20 (2) owning an interest in any product at the
21 time of severance who receives a portion or all of such product
22 for the person's interest;

23 G. "primary recovery" means the displacement of oil
24 and of other liquid hydrocarbons removed from natural gas at or
25 near the wellhead from an oil well or pool as classified by the

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1 oil conservation division of the energy, minerals and natural
2 resources department pursuant to Paragraph (11) of Subsection B
3 of Section 70-2-12 NMSA 1978 into the wellbore by means of the
4 natural pressure of the oil well or pool, including ~~[but not~~
5 ~~limited to]~~ artificial lift;

6 H. "purchaser" means a person who is the first
7 purchaser of:

8 (1) a product after severance from a
9 production unit, except as otherwise provided in the Oil and
10 Gas Severance Tax Act; or

11 (2) slop oil, sediment oil or skim oil and
12 condensate, including the first purchaser of slop oil, sediment
13 oil or skim oil from a person other than an operator or at a
14 production unit;

15 I. "person" means any individual, estate, trust,
16 receiver, business trust, corporation, firm, co-partnership,
17 cooperative, joint venture, association or other group or
18 combination acting as a unit, and the plural as well as the
19 singular number;

20 J. "interest owner" means a person owning an entire
21 or fractional interest of whatsoever kind or nature in the
22 products at the time of severance from a production unit, or
23 who has a right to a monetary payment that is determined by the
24 value of such products;

25 K. "new production natural gas well" means a

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1 producing crude oil or natural gas well proration unit that
2 begins its initial natural gas production on or after May 1,
3 1987 as determined by the oil conservation division of the
4 energy, minerals and natural resources department;

5 L. "qualified enhanced recovery project", prior to
6 January 1, 1994, means the use or the expanded use of carbon
7 dioxide, when approved by the oil conservation division of the
8 energy, minerals and natural resources department pursuant to
9 the Enhanced Oil Recovery Act, for the displacement of oil and
10 of other liquid hydrocarbons removed from natural gas at or
11 near the wellhead from an oil well or pool classified by the
12 oil conservation division pursuant to Paragraph (11) of
13 Subsection B of Section 70-2-12 NMSA 1978;

14 M. "qualified enhanced recovery project", on and
15 after January 1, 1994, means the use or the expanded use of any
16 process approved by the oil conservation division of the
17 energy, minerals and natural resources department pursuant to
18 the Enhanced Oil Recovery Act for the displacement of oil and
19 of other liquid hydrocarbons removed from natural gas at or
20 near the wellhead from an oil well or pool classified by the
21 oil conservation division pursuant to Paragraph (11) of
22 Subsection B of Section 70-2-12 NMSA 1978, other than a primary
23 recovery process; the term includes ~~[but is not limited to]~~ the
24 use of a pressure maintenance process, a water flooding process
25 and immiscible, miscible, chemical, thermal or biological

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1 process or any other related process;

2 N. "production restoration project" means the use
3 of any process for returning to production a natural gas or oil
4 well that had thirty days or less of production in any period
5 of twenty-four consecutive months beginning on or after January
6 1, 1993, as approved and certified by the oil conservation
7 division of the energy, minerals and natural resources
8 department pursuant to the Natural Gas and Crude Oil Production
9 Incentive Act;

10 O. "well workover project" means any procedure
11 undertaken by the operator of a natural gas or crude oil well
12 that is intended to increase the production from the well and
13 that has been approved and certified by the oil conservation
14 division of the energy, minerals and natural resources
15 department pursuant to the Natural Gas and Crude Oil Production
16 Incentive Act;

17 P. "stripper well property" means a crude oil or
18 natural gas producing property that is assigned a single
19 production unit number by the department and is certified by
20 the oil conservation division of the energy, minerals and
21 natural resources department pursuant to the Natural Gas and
22 Crude Oil Production Incentive Act to have produced in the
23 preceding calendar year:

24 (1) if a crude oil producing property, an
25 average daily production of less than ten barrels of oil per

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1 eligible well per day;

2 (2) if a natural gas producing property, an
3 average daily production of less than sixty thousand cubic feet
4 of natural gas per eligible well per day; or

5 (3) if a property with wells that produce
6 both crude oil and natural gas, an average daily production of
7 less than ten barrels of oil per eligible well per day, as
8 determined by converting the volume of natural gas produced by
9 the well to barrels of oil by using a ratio of six thousand
10 cubic feet to one barrel of oil;

11 Q. "average annual taxable value" means as
12 applicable:

13 (1) the average of the taxable value per one
14 thousand cubic feet, determined pursuant to Section 7-31-5 NMSA
15 1978, of all natural gas produced in New Mexico for the
16 specified calendar year as determined by the department; or

17 (2) the average of the taxable value per
18 barrel, determined pursuant to Section 7-31-5 NMSA 1978, of all
19 oil produced in New Mexico for the specified calendar year as
20 determined by the department;

21 R. "tax" means the oil and gas severance tax; ~~[and]~~

22 S. "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 T. "sediment oil" means an accumulation of products
5 that is not merchantable other than through an oil and gas
6 lease;

7 U. "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 V. "slop oil" means floating oil and solids that
11 accumulate on the surface of an oil-water separator;

12 W. "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 X. "produced water" means a fluid that is an
23 incidental byproduct from drilling for or the production of
24 products."

25 SECTION 115. Section 7-29-4 NMSA 1978 (being Laws 1980,
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1 Chapter 62, Section 5, as amended) is amended to read:

2 "7-29-4. OIL AND GAS SEVERANCE TAX IMPOSED--
3 COLLECTION--INTEREST OWNER'S LIABILITY TO STATE--INDIAN
4 LIABILITY.--

5 A. There is imposed and shall be collected by the
6 department a tax on all products that are severed and sold,
7 except as provided in Subsection B of this section. The
8 measure of the tax and the rates are:

9 (1) on natural gas severed and sold, except
10 as provided in Paragraphs (4), (6) and (7) of this subsection,
11 three and three-fourths percent of the taxable value determined
12 pursuant to Section 7-29-4.1 NMSA 1978;

13 (2) on oil and on other liquid hydrocarbons
14 removed from natural gas at or near the wellhead, except as
15 provided in Paragraphs (3), (5), (8) and (9) of this
16 subsection, and on slop oil, sediment oil and skim oil,
17 wherever removed or recovered, three and three-fourths percent
18 of taxable value determined pursuant to Section 7-29-4.1 NMSA
19 1978;

20 (3) on oil and on other liquid hydrocarbons
21 removed from natural gas at or near the wellhead produced from
22 a qualified enhanced recovery project, one and seven-eighths
23 percent of the taxable value determined pursuant to Section
24 7-29-4.1 NMSA 1978, provided that the annual average price of
25 west Texas intermediate crude oil, determined by the department

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1 by averaging the posted prices in effect on the last day of
2 each month of the twelve-month period ending on May 31 prior to
3 the fiscal year in which the tax rate is to be imposed, was
4 less than twenty-eight dollars (\$28.00) per barrel;

5 (4) on the natural gas from a well workover
6 project that is certified by the oil conservation division of
7 the energy, minerals and natural resources department in its
8 approval of the well workover project, two and forty-five
9 hundredths percent of the taxable value determined pursuant to
10 Section 7-29-4.1 NMSA 1978, provided that the annual average
11 price of west Texas intermediate crude oil, determined by the
12 department by averaging the posted prices in effect on the last
13 day of each month of the twelve-month period ending on May 31
14 prior to the fiscal year in which the tax rate is to be
15 imposed, was less than twenty-four dollars (\$24.00) per barrel;

16 (5) on the oil and on other liquid
17 hydrocarbons removed from natural gas at or near the wellhead
18 from a well workover project that is certified by the oil
19 conservation division of the energy, minerals and natural
20 resources department in its approval of the well workover
21 project, two and forty-five hundredths percent of the taxable
22 value determined pursuant to Section 7-29-4.1 NMSA 1978,
23 provided that the annual average price of west Texas
24 intermediate crude oil, determined by the department by
25 averaging the posted prices in effect on the last day of each

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underscoring material = new
~~[bracketed material] = delete~~

1 month of the twelve-month period ending on May 31 prior to the
2 fiscal year in which the tax rate is to be imposed, was less
3 than twenty-four dollars (\$24.00) per barrel;

4 (6) on the natural gas from a stripper well
5 property, one and seven-eighths percent of the taxable value
6 determined pursuant to Section 7-29-4.1 NMSA 1978, provided the
7 average annual taxable value of natural gas was equal to or
8 less than one dollar fifteen cents (\$1.15) per thousand cubic
9 feet in the calendar year preceding July 1 of the fiscal year
10 in which the tax rate is to be imposed;

11 (7) on the natural gas from a stripper well
12 property, two and thirteen-sixteenths percent of the taxable
13 value determined pursuant to Section 7-29-4.1 NMSA 1978,
14 provided that the average annual taxable value of natural gas
15 was greater than one dollar fifteen cents (\$1.15) per thousand
16 cubic feet but not more than one dollar thirty-five cents
17 (\$1.35) per thousand cubic feet in the calendar year preceding
18 July 1 of the fiscal year in which the tax rate is to be
19 imposed;

20 (8) on the oil and on other liquid
21 hydrocarbons removed from natural gas at or near the wellhead
22 from a stripper well property, one and seven-eighths percent of
23 the taxable value determined pursuant to Section 7-29-4.1 NMSA
24 1978, provided that the average annual taxable value of oil was
25 equal to or less than fifteen dollars (\$15.00) per barrel in

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1 the calendar year preceding July 1 of the fiscal year in which
2 the tax rate is to be imposed;

3 (9) on the oil and on other liquid
4 hydrocarbons removed from natural gas at or near the wellhead
5 from a stripper well property, two and thirteen-sixteenths
6 percent of the taxable value determined pursuant to Section
7 7-29-4.1 NMSA 1978, provided that the average annual taxable
8 value of oil was greater than fifteen dollars (\$15.00) per
9 barrel but not more than eighteen dollars (\$18.00) per barrel
10 in the calendar year preceding July 1 of the fiscal year in
11 which the tax rate is to be imposed; and

12 (10) on carbon dioxide, helium and non-
13 hydrocarbon gases, three and three-fourths percent of the
14 taxable value determined pursuant to Section 7-29-4.1 NMSA
15 1978.

16 B. The tax imposed in Subsection A of this section
17 shall not be imposed on:

18 (1) natural gas severed and sold from a
19 production restoration project during the first ten years of
20 production following the restoration of production, provided
21 that the annual average price of west Texas intermediate crude
22 oil, determined by the department by averaging the posted
23 prices in effect on the last day of each month of the twelve-
24 month period ending on May 31 prior to each fiscal year in
25 which the tax exemption is to be effective, was less than

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1 twenty-four dollars (\$24.00) per barrel; and

2 (2) oil and other liquid hydrocarbons removed
3 from natural gas at or near the wellhead from a production
4 restoration project during the first ten years of production
5 following the restoration of production, provided that the
6 annual average price of west Texas intermediate crude oil,
7 determined by the department by averaging the posted prices in
8 effect on the last day of each month of the twelve-month period
9 ending on May 31 prior to each fiscal year in which the tax
10 exemption is to be effective, was less than twenty-four dollars
11 (\$24.00) per barrel.

12 C. Every interest owner shall be liable for the tax
13 to the extent of [~~his~~] the interest owner's interest in such
14 products. Any Indian tribe, Indian pueblo or Indian shall be
15 liable for the tax to the extent authorized or permitted by
16 law.

17 D. The tax imposed by this section may be referred
18 to as the "oil and gas severance tax".

19 SECTION 116. Section 7-29-5 NMSA 1978 (being Laws 1959,
20 Chapter 52, Section 8) is amended to read:

21 "7-29-5. PRODUCTS ON WHICH TAX HAS BEEN LEVIED--
22 [~~REGULATION BY COMMISSION~~] DEPARTMENT RULE.--~~[This]~~ The tax
23 shall not be levied more than once on the same product.
24 Reporting of products on which [~~this~~] the tax has been paid
25 shall be subject to [~~the regulation of the commission~~]

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1 department rule."

2 SECTION 117. Section 7-29-6 NMSA 1978 (being Laws 1959,
3 Chapter 52, Section 9) is amended to read:

4 "7-29-6. OPERATOR OR PURCHASER TO WITHHOLD INTEREST
5 OWNER'S TAX--~~[COMMISSION]~~ DEPARTMENT MAY REQUIRE WITHHOLDING OF
6 TAX--TAX WITHHELD TO BE REMITTED TO THE STATE--OPERATOR OR
7 PURCHASER TO BE REIMBURSED.--

8 A. Any operator making a monetary payment to an
9 interest owner for ~~[his]~~ the interest owner's portion of the
10 value of products from a production unit shall withhold from
11 such payment the amount of tax due from the interest owner.

12 B. Any purchaser who, by express or implied
13 agreement with the operator, makes a monetary payment to an
14 interest owner for ~~[his]~~ the interest owner's portion of the
15 value of products from a production unit, shall withhold from
16 such payment the amount of tax due from the interest owner.

17 C. The ~~[commission]~~ department may require any
18 purchaser making a monetary payment to an interest owner for
19 ~~[his]~~ the interest owner's portion of the value of products
20 from a production unit to withhold from such payment the amount
21 of tax due from the interest owner.

22 D. Any operator or purchaser who pays any tax due
23 from an interest owner shall be entitled to reimbursement from
24 the interest owner for the tax so paid and may take credit for
25 such amount from any monetary payment to the interest owner for

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1 the value of products."

2 SECTION 118. Section 7-29-7 NMSA 1978 (being Laws 1959,
3 Chapter 52, Section 10, as amended) is amended to read:

4 "7-29-7. OPERATOR'S REPORT--TAX REMITTANCE--ADDITIONAL
5 INFORMATION.--Each operator shall, in the form and manner
6 required by the [~~division, make~~] department, file a return [~~to~~]
7 with the [~~division~~] department showing the total value, volume
8 and kind of products sold from each production unit for each
9 calendar month. All taxes due or to be remitted by the
10 operator shall accompany this return. The return shall be
11 filed on or before the twenty-fifth day of the second month
12 after the calendar month for which the return is required. Any
13 additional report or information the [~~division~~] department may
14 deem necessary for the proper administration of the Oil and Gas
15 Severance Tax Act may be required."

16 SECTION 119. Section 7-29-8 NMSA 1978 (being Laws 1959,
17 Chapter 52, Section 11, as amended) is amended to read:

18 "7-29-8. PURCHASER'S REPORT--TAX REMITTANCE--ADDITIONAL
19 INFORMATION.--Each purchaser shall, in the form and manner
20 required by the [~~division, make~~] department, file a return to
21 the [~~division~~] department showing the total value, volume and
22 kind of products purchased by [~~him~~] the purchaser from each
23 production unit for each calendar month. All taxes due or to
24 be remitted by the purchaser shall accompany this return. The
25 return shall be filed on or before the twenty-fifth day of the

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1 second month after the calendar month for which the return is
2 required. Any additional reports or information the [~~division~~]
3 department may deem necessary for the proper administration of
4 the Oil and Gas Severance Tax Act may be required."

5 SECTION 120. Section 7-29-23 NMSA 1978 (being Laws 1991,
6 Chapter 9, Section 36) is amended to read:

7 "7-29-23. ADVANCE PAYMENT REQUIRED.--

8 A. Any person required to make payment of tax
9 pursuant to Section 7-29-7 or 7-29-8 NMSA 1978 shall make the
10 advance payment required by this section.

11 B. For the purposes of this section:

12 (1) "advance payment" means the payment
13 required to be made by this section in addition to any oil and
14 gas severance tax, penalty or interest due; and

15 (2) "average tax" means the aggregate amount
16 of tax, [~~net of~~] less any refunds or credits, paid by a person
17 [~~during~~] for the twelve-month period ending [~~March 31~~] the last
18 day of February pursuant to the Oil and Gas Severance Tax Act
19 divided by the number of months during that period for which
20 the person made payment.

21 C. Each year, prior to July 1, [~~each person~~
22 ~~required to pay tax pursuant to the Oil and Gas Severance Tax~~
23 ~~Act shall compute the average tax for the period ending March~~
24 ~~31 of that year] the department shall compute the advance
25 payment required to be made pursuant to this section, compute~~

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1 the average tax for the filing periods February through January
2 of the subsequent year for each person required to pay tax
3 pursuant to the Oil and Gas Severance Tax Act and provide a tax
4 statement to each person required to pay tax pursuant to the
5 Oil and Gas Severance Tax Act. The average tax calculated for
6 a year shall be used during the twelve-month period beginning
7 with July of that year and ending with June of the following
8 year as the basis for making the advance payments required by
9 Subsection D of this section.

10 D. [~~Every month, beginning with July 1991, every~~]
11 Annually, by the twenty-fifth of the month in which a person
12 files or amends that person's first return pursuant to the Oil
13 and Gas Severance Tax Act and after receiving the tax statement
14 provided by the department, a person required to pay tax in a
15 month pursuant to the Oil and Gas Severance Tax Act shall pay,
16 in addition to any amount of tax, interest or penalty due, an
17 advance payment in an amount equal to the applicable average
18 tax, except:

19 (1) if the person is making a final return
20 under the Oil and Gas Severance Tax Act, no advance payment
21 pursuant to this subsection is due for that return; and

22 (2) as provided in Subsection F of this
23 section.

24 E. [~~Every month, beginning with tax payments due in~~
25 ~~August 1991, every~~] Annually, by the twenty-fifth of the month

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underscoring material = new
[bracketed material] = delete

1 in which a person files or amends that person's first return
2 pursuant to the Oil and Gas Severance Tax Act and after
3 receiving the tax statement provided by the department, a
4 person required to pay tax pursuant to the Oil and Gas
5 Severance Tax Act may claim a credit equal to the amount of
6 advance payment made in the previous month, except as provided
7 in Subsection F of this section.

8 F. If, in any ~~month~~ year, a person is not
9 required to pay tax pursuant to the Oil and Gas Severance Tax
10 Act, that person is not required to pay the advance payment and
11 may not claim a credit pursuant to Subsection E of this
12 section; provided that, in any succeeding ~~month~~ year when the
13 person has liability under the Oil and Gas Severance Tax Act,
14 the person may claim a credit for any advance payment made and
15 not credited.

16 G. In the event that the date by which a person is
17 required to pay the tax pursuant to the Oil and Gas Severance
18 Tax Act is accelerated to a date earlier than the twenty-fifth
19 day of the second month following the month of production, the
20 advance payment provision contained in this section is ~~null~~
21 ~~and~~ void and any money held as advance payments shall be
22 credited to the taxpayers' accounts."

23 SECTION 121. Section 7-30-2 NMSA 1978 (being Laws 1959,
24 Chapter 53, Section 2, as amended) is amended to read:

25 "7-30-2. DEFINITIONS.--As used in the Oil and Gas

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1 Conservation Tax Act:

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

6 B. "production unit" means a unit of property
7 designated by the department from which products of common
8 ownership are severed;

9 C. "severance" means the taking from the soil,
10 produced water, tank bottoms or an oil-water separator of any
11 product, including accumulations of product, in any manner
12 whatsoever;

13 D. "value" means the actual price received for
14 products at the production unit, except as otherwise provided
15 in the Oil and Gas Conservation Tax Act;

16 E. "product" or "products" means oil, including
17 crude oil, sediment oil, slop oil or skim oil and condensate;
18 natural gas; liquid hydrocarbon, including ethane, propane,
19 isobutene, normal butane and pentanes plus, individually or any
20 combination thereof; and non-hydrocarbon gases, including
21 carbon dioxide and helium;

22 F. "operator" means any person:

23 (1) engaged in the severance of products from
24 a production unit; or

25 (2) owning an interest in any product at the

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~~[bracketed material] = delete~~

1 time of severance who receives a portion or all of such product
2 for the person's interest;

3 G. "purchaser" means a person who is the first
4 purchaser of:

5 (1) a product after severance from a
6 production unit, except as otherwise provided in the Oil and
7 Gas Conservation Tax Act; or

8 (2) slop oil, sediment oil or skim oil and
9 condensate, including the first purchaser of slop oil, sediment
10 oil or skim oil from a person other than an operator or at a
11 production unit;

12 H. "person" means any individual, estate, trust,
13 receiver, business trust, corporation, firm, copartnership,
14 cooperative, joint venture, association or other group or
15 combination acting as a unit, and the plural as well as the
16 singular number;

17 I. "interest owner" means a person owning an entire
18 or fractional interest of whatsoever kind or nature in the
19 products at the time of severance from a production unit or who
20 has a right to a monetary payment that is determined by the
21 value of such products;

22 J. "tax" means the oil and gas conservation tax;
23 [and]

24 K. "volume" means the quantity of product severed
25 reported using:

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1 (1) oil, condensate and slop oil in barrels;
2 and

3 (2) natural gas, liquid hydrocarbons, helium
4 and carbon dioxide in thousand cubic feet at a pressure base of
5 fifteen and twenty-five thousandths pounds per square inch;

6 L. "sediment oil" means an accumulation of products
7 that is not merchantable other than through an oil and gas
8 lease;

9 M. "skim oil" means oil or condensate recovered
10 from a produced water gathering system prior to injection or
11 other disposal of the water;

12 N. "slop oil" means floating oil and solids that
13 accumulate on the surface of an oil-water separator;

14 O. "oil-water separator" means wastewater treatment
15 equipment used to separate oil from water consisting of a
16 separation tank, including the forebay and other separator
17 basins, skimmers, weirs, grit chambers and sludge hoppers.
18 "Oil-water separator" includes slop oil facilities and
19 associated tanks, storage vessels and auxiliary equipment
20 located between individual drain systems and the oil-water
21 separator. "Oil-water separator" does not include storage
22 vessels or auxiliary equipment that do not come in contact with
23 or store oily wastewater; and

24 P. "produced water" means a fluid that is an
25 incidental byproduct from drilling for or the production of

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1 products."

2 SECTION 122. Section 7-30-4 NMSA 1978 (being Laws 1959,
3 Chapter 53, Section 4, as amended) is amended to read:

4 "7-30-4. OIL AND GAS CONSERVATION TAX LEVIED--COLLECTED
5 BY DEPARTMENT--RATE--INTEREST OWNER'S LIABILITY TO STATE--
6 INDIAN LIABILITY.--

7 A. There is levied and shall be collected by the
8 department a tax on all products that are severed and sold to a
9 purchaser from any location. The measure and rate of the tax
10 shall be nineteen-hundredths percent of the taxable value of
11 sold products. Every interest owner shall be liable for this
12 tax to the extent of the owner's interest in the value of the
13 products or to the extent of the owner's interest as may be
14 measured by the value of the products. An Indian tribe, Indian
15 pueblo or Indian shall be liable for this tax to the extent
16 authorized or permitted by law.

17 B. When the average price of west Texas
18 intermediate crude in the previous quarter exceeds seventy
19 dollars (\$70.00) per barrel, an additional tax to that provided
20 pursuant to Subsection A of this section is levied and shall be
21 collected by the department on oil that is severed and sold in
22 the ensuing quarter. The measure and rate of the total tax on
23 oil shall be twenty-four hundredths percent of the taxable
24 value of the sold product. Every interest owner shall be
25 liable for this tax to the extent of the owner's interest in

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1 the value of the products or to the extent of the owner's
2 interest as may be measured by the value of the products. An
3 Indian tribe, Indian pueblo or Indian shall be liable for this
4 tax to the extent authorized or permitted by law."

5 SECTION 123. Section 7-30-9 NMSA 1978 (being Laws 1959,
6 Chapter 53, Section 9, as amended) is amended to read:

7 "7-30-9. OPERATOR OR PURCHASER TO WITHHOLD INTEREST
8 OWNER'S TAX--DEPARTMENT MAY REQUIRE WITHHOLDING OF TAX--TAX
9 WITHHELD TO BE REMITTED TO THE STATE--OPERATOR OR PURCHASER TO
10 BE REIMBURSED.--

11 A. Any operator making 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 B. Any purchaser who, by express or implied
16 agreement with the operator, makes a monetary payment to an
17 interest owner for [~~his~~] the interest owner's portion of the
18 value of products from a production unit shall withhold from
19 such payment the amount of tax due from the interest owner.

20 C. The department may require any purchaser making
21 a monetary payment to an interest owner for [~~his~~] the interest
22 owner's portion of the value of products from a production unit
23 to withhold from such payment the amount of tax due from the
24 interest owner.

25 D. Any operator or purchaser who pays any tax due

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[bracketed material] = delete

1 from an interest owner shall be entitled to reimbursement from
2 the interest owner for the tax so paid and may take credit for
3 such amount from any monetary payment to the interest owner for
4 the value of products."

5 SECTION 124. Section 7-30-27 NMSA 1978 (being Laws 1991,
6 Chapter 9, Section 37) is amended to read:

7 "7-30-27. ADVANCE PAYMENT REQUIRED.--

8 A. Any person required to make payment of tax
9 pursuant to Section 7-30-10 or 7-30-11 NMSA 1978 shall make the
10 advance payment required by this section.

11 B. For the purposes of this section:

12 (1) "advance payment" means the payment
13 required to be made by this section in addition to any oil and
14 gas conservation tax, penalty or interest due; and

15 (2) "average tax" means the aggregate amount
16 of tax, ~~[net of]~~ less any refunds or credits, paid by a person
17 ~~[during]~~ for the twelve-month period ending ~~[March 31]~~ the last
18 day of February pursuant to the Oil and Gas Conservation Tax
19 Act divided by the number of months during that period for
20 which the person made payment.

21 C. Each year, prior to July 1, ~~[each person~~
22 ~~required to pay tax pursuant to the Oil and Gas Conservation~~
23 ~~Tax Act shall compute the average tax for the period ending~~
24 ~~March 31 of that year]~~ the department shall compute the advance
25 payment required to be made pursuant to this section, compute

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underscoring material = new
~~[bracketed material] = delete~~

1 the average tax for the filing periods February through January
2 of the subsequent year for each person required to pay tax
3 pursuant to the Oil and Gas Conservation Tax Act and provide a
4 tax statement to each person required to pay tax pursuant to
5 the Oil and Gas Conservation Tax Act. The average tax
6 calculated for a year shall be used during the twelve-month
7 period beginning with July of that year and ending with June of
8 the following year as the basis for making the advance payments
9 required by Subsection D of this section.

10 D. ~~[Every month, beginning with July 1991, every]~~
11 Annually, by the twenty-fifth of the month in which a person
12 files or amends that person's first return pursuant to the Oil
13 and Gas Conservation Tax Act and after receiving the tax
14 statement provided by the department, a person required to pay
15 tax in a month pursuant to the Oil and Gas Conservation Tax Act
16 shall pay, in addition to any amount of tax, interest or
17 penalty due, an advance payment in an amount equal to the
18 applicable average tax, except:

19 (1) if the person is making a final return
20 under the Oil and Gas Conservation Tax Act, no advance payment
21 pursuant to this subsection is due for that return; and

22 (2) as provided in Subsection F of this
23 section.

24 E. ~~[Every month, beginning with tax payments due in~~
25 ~~August 1991, every]~~ Annually, by the twenty-fifth of the month

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underscoring material = new
[bracketed material] = delete

1 in which a person files or amends that person's first return
2 pursuant to the Oil and Gas Conservation Tax Act and after
3 receiving the tax statement provided by the department, a
4 person required to pay tax pursuant to the Oil and Gas
5 Conservation Tax Act may claim a credit equal to the amount of
6 advance payment made in the previous [month] year, except as
7 provided in Subsection F of this section.

8 F. If, in any [month] year, a person is not
9 required to pay tax pursuant to the Oil and Gas Conservation
10 Tax Act, that person is not required to pay the advance payment
11 and may not claim a credit pursuant to Subsection E of this
12 section; provided that, in any succeeding month when the person
13 has liability under the Oil and Gas Conservation Tax Act, the
14 person may claim a credit for any advance payment made and not
15 credited.

16 G. In the event that the date by which a person is
17 required to pay the tax pursuant to the Oil and Gas
18 Conservation Tax Act is accelerated to a date earlier than the
19 twenty-fifth day of the second month following the month of
20 production, the advance payment provision contained in this
21 section is [~~null and~~] void and any money held as advance
22 payments shall be credited to the taxpayers' accounts."

23 SECTION 125. Section 7-31-2 NMSA 1978 (being Laws 1959,
24 Chapter 54, Section 2, as amended) is amended to read:

25 "7-31-2. DEFINITIONS.--As used in the Oil and Gas
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[bracketed material] = delete

1 Emergency School Tax Act:

2 A. [~~"commission"~~] "department" [~~or "division"~~]
3 means the taxation and revenue department, the secretary of
4 taxation and revenue or any employee of the department
5 exercising authority lawfully delegated to that employee by the
6 secretary;

7 B. "production unit" means a unit of property
8 designated by the department from which products of common
9 ownership are severed;

10 C. "severance" means the taking from the soil,
11 produced water, tank bottoms or an oil-water separator of any
12 product, including accumulations of product, in any manner
13 whatsoever;

14 D. "value" means the actual price received from
15 products at the production unit, except as otherwise provided
16 in the Oil and Gas Emergency School Tax Act;

17 E. "product" or "products" means oil, including
18 crude oil, slop oil or skim oil and condensate; natural gas;
19 liquid hydrocarbon, including ethane, propane, isobutene,
20 normal butane and pentanes plus, individually or any
21 combination thereof; and non-hydrocarbon gases, including
22 carbon dioxide and helium;

23 F. "operator" means any person:
24 (1) engaged in the severance of products from
25 a production unit; or

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[bracketed material] = delete

1 (2) owning an interest in any product at the
2 time of severance who receives a portion or all of such product
3 for the person's interest;

4 G. "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 Emergency School 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 H. "person" means any individual, estate, trust,
14 receiver, business trust, corporation, firm, copartnership,
15 cooperative, joint venture, association, limited liability
16 company or other group or combination acting as a unit, and the
17 plural as well as the singular number;

18 I. "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 who
21 has a right to a monetary payment that is determined by the
22 value of such products;

23 J. "stripper well property" means a crude oil or
24 natural gas producing property that is assigned a single
25 production unit number by the department and is certified by

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~~[bracketed material] = delete~~

1 the oil conservation division of the energy, minerals and
2 natural resources department pursuant to the Natural Gas and
3 Crude Oil Production Incentive Act to have produced in the
4 preceding calendar year:

5 (1) if a crude oil producing property, an
6 average daily production of less than ten barrels of oil per
7 eligible well per day;

8 (2) if a natural gas producing property, an
9 average daily production of less than sixty thousand cubic feet
10 of natural gas per eligible well per day; or

11 (3) if a property with wells that produce
12 both crude oil and natural gas, an average daily production of
13 less than ten barrels of oil per eligible well per day, as
14 determined by converting the volume of natural gas produced by
15 the well to barrels of oil by using a ratio of six thousand
16 cubic feet to one barrel of oil;

17 K. "average annual taxable value" means as
18 applicable:

19 (1) the average of the taxable value per one
20 thousand cubic feet, determined pursuant to Section 7-31-5 NMSA
21 1978, of all natural gas produced in New Mexico for the
22 specified calendar year as determined by the department; or

23 (2) the average of the taxable value per
24 barrel, determined pursuant to Section 7-31-5 NMSA 1978, of all
25 oil produced in New Mexico for the specified calendar year as

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1 determined by the department;

2 L. "tax" means the oil and gas emergency school
3 tax; [~~and~~]

4 M. "volume" means the quantity of product severed
5 reported using:

6 (1) oil, condensate and slop oil in barrels;
7 and

8 (2) natural gas, liquid hydrocarbons, helium
9 and carbon dioxide in thousand cubic feet at a pressure base of
10 fifteen and twenty-five thousandths pounds per square inch;

11 N. "sediment oil" means an accumulation of products
12 that is not merchantable other than through an oil and gas
13 lease;

14 O. "skim oil" means oil or oil condensate recovered
15 from a produced water gathering system prior to injection or
16 other disposal of the water;

17 P. "slop oil" means floating oil and solids that
18 accumulate on the surface of an oil-water separator;

19 Q. "oil-water separator" means wastewater treatment
20 equipment used to separate oil from water consisting of a
21 separation tank, including the forebay and other separator
22 basins, skimmers, weirs, grit chambers and sludge hoppers.

23 "Oil-water separator" includes slop oil facilities and
24 associated tanks, storage vessels and auxiliary equipment
25 located between individual drain systems and the oil-water

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underscored material = new
[bracketed material] = delete

1 separator. "Oil-water separator" does not include storage
2 vessels or auxiliary equipment that do not come in contact with
3 or store oily wastewater; and

4 R. "produced water" means a fluid that is an
5 incidental byproduct from drilling for or the production of
6 products."

7 SECTION 126. Section 7-31-4 NMSA 1978 (being Laws 1959,
8 Chapter 54, Section 4, as amended) is amended to read:

9 "7-31-4. PRIVILEGE TAX LEVIED--COLLECTED BY DEPARTMENT--
10 RATE--INTEREST OWNER'S LIABILITY TO STATE--INDIAN LIABILITY.--

11 A. There is [~~levied~~] imposed and shall be collected
12 by the department a privilege tax on [~~the business of every~~
13 ~~person severing products in this state~~] all products that are
14 severed and sold. The measure of the tax shall be:

15 (1) on oil and on oil and other liquid
16 hydrocarbons removed from natural gas at or near the wellhead,
17 except as provided in Paragraphs (4) and (5) of this
18 subsection, and on slop oil, sediment oil and skim oil,
19 wherever removed and recovered, three and [~~fifteen hundredths~~]
20 fifteen-hundredths percent of the taxable value determined
21 pursuant to Section 7-31-5 NMSA 1978;

22 (2) on carbon dioxide, helium and non-
23 hydrocarbon gases, three and [~~fifteen hundredths~~] fifteen-
24 hundredths percent of the taxable value determined pursuant to
25 Section 7-31-5 NMSA 1978;

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~~[bracketed material] = delete~~

1 (3) on natural gas, except as provided in
2 Paragraphs (6) and (7) of this subsection, four percent of the
3 taxable value determined pursuant to Section 7-31-5 NMSA 1978;

4 (4) on the oil and on other liquid
5 hydrocarbons removed from natural gas at or near the wellhead
6 from a stripper well property, one and fifty-eight hundredths
7 percent of the taxable value determined pursuant to Section
8 7-31-5 NMSA 1978, provided that the average annual taxable
9 value of oil was equal to or less than fifteen dollars (\$15.00)
10 per barrel in the calendar year preceding July 1 of the fiscal
11 year in which the tax rate is to be imposed;

12 (5) on the oil and on other liquid
13 hydrocarbons removed from natural gas at or near the wellhead
14 from a stripper well property, two and thirty-six hundredths
15 percent of the taxable value determined pursuant to Section
16 7-31-5 NMSA 1978, provided that the average annual taxable
17 value of oil was greater than fifteen dollars (\$15.00) per
18 barrel but not more than eighteen dollars (\$18.00) per barrel
19 in the calendar year preceding July 1 of the fiscal year in
20 which the tax rate is to be imposed;

21 (6) on the natural gas removed from a
22 stripper well property, two percent of the taxable value
23 determined pursuant to Section 7-31-5 NMSA 1978, provided that
24 the average annual taxable value of natural gas was equal to or
25 less than one dollar fifteen cents (\$1.15) per thousand cubic

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underscored material = new
[bracketed material] = delete

1 feet in the calendar year preceding July 1 of the fiscal year
2 in which the tax rate is to be imposed; and

3 (7) on the natural gas removed from a
4 stripper well property, three percent of the taxable value
5 determined pursuant to Section 7-31-5 NMSA 1978, provided that
6 the average annual taxable value of natural gas was greater
7 than one dollar fifteen cents (\$1.15) per thousand cubic feet
8 but not more than one dollar thirty-five cents (\$1.35) per
9 thousand cubic feet in the calendar year preceding July 1 of
10 the fiscal year in which the tax rate is to be imposed.

11 B. Every interest owner, for the purpose of levying
12 this tax, is deemed to be in the business of severing products
13 and is liable for this tax to the extent of [~~his~~] the owner's
14 interest in the value of the products or to the extent of [~~his~~]
15 the owner's interest as may be measured by the value of the
16 products.

17 C. Any Indian tribe, Indian pueblo or Indian is
18 liable for this tax to the extent authorized or permitted by
19 law."

20 SECTION 127. Section 7-31-6 NMSA 1978 (being Laws 1959,
21 Chapter 54, Section 6) is amended to read:

22 "7-31-6. VALUE MAY BE DETERMINED BY [~~COMMISSION~~]
23 DEPARTMENT--STANDARD.--

24 A. The [~~commission~~] department may determine the
25 value of products severed from a production unit when:

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underscored material = new
[bracketed material] = delete

1 [A.] (1) the operator and purchaser are
2 affiliated persons; [~~or when~~

3 B.] (2) the sale and purchase of products is
4 not an arm's length transaction; or [~~when~~

5 C.] (3) products are severed and removed from
6 a production unit and a value as defined in [~~this~~] the Oil and
7 Gas Emergency School Tax Act is not established for such
8 products.

9 B. The value determined by the [~~commission~~]
10 department shall be commensurate with the actual price received
11 for products of like quality, character and use which are
12 severed in the same field or area."

13 SECTION 128. Section 7-31-8 NMSA 1978 (being Laws 1959,
14 Chapter 54, Section 8) is amended to read:

15 "7-31-8. PRODUCTS ON WHICH TAX HAS BEEN LEVIED--
16 [~~REGULATION BY COMMISSION~~] DEPARTMENT RULE--[~~This~~] The tax
17 shall not be levied more than once on the same product.
18 Reporting of products on which [~~this~~] the tax has been paid
19 shall be subject to [~~the regulation of the commission~~]
20 department rule."

21 SECTION 129. Section 7-31-9 NMSA 1978 (being Laws 1959,
22 Chapter 54, Section 9) is amended to read:

23 "7-31-9. OPERATOR OR PURCHASER TO WITHHOLD INTEREST
24 OWNER'S TAX--[~~COMMISSION~~] DEPARTMENT MAY REQUIRE WITHHOLDING OF
25 TAX--TAX WITHHELD TO BE REMITTED TO THE STATE--OPERATOR OR

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[bracketed material] = delete

1 PURCHASER TO BE REIMBURSED.--

2 A. Any operator making a monetary payment to an
3 interest owner for [~~his~~] the interest owner's portion of the
4 value of products from a production unit shall withhold from
5 such payment the amount of tax due from any interest owner.

6 B. Any purchaser who, by express or implied
7 agreement with the operator, makes a monetary payment to an
8 interest owner for [~~his~~] the interest owner's portion of the
9 value of products from a production unit shall withhold from
10 such payment the amount of tax due from the interest owner.

11 C. The [~~commission~~] department may require any
12 purchaser making a monetary payment to an interest owner for
13 [~~his~~] the interest owner's portion of the value of products
14 from a production unit to withhold from such payment the amount
15 of tax due from the interest owner.

16 D. Any operator or purchaser who pays any tax due
17 from an interest owner shall be entitled to reimbursement from
18 the interest owner for the tax so paid, and may take credit for
19 such amount from any monetary payment to the interest owner for
20 the value of products."

21 SECTION 130. Section 7-31-10 NMSA 1978 (being Laws 1959,
22 Chapter 54, Section 10, as amended) is amended to read:

23 "7-31-10. OPERATOR'S REPORT--TAX REMITTANCE--ADDITIONAL
24 INFORMATION.--Each operator shall, in the form and manner
25 required by the [~~division, make~~] department, file a return [~~to~~]

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1 with the [~~division~~] department showing the total value, volume
2 and kind of products sold from each production unit for each
3 calendar month. All taxes due or to be remitted by the
4 operator shall accompany this return. The return shall be
5 filed on or before the twenty-fifth day of the second month
6 after the calendar month for which the return is required. Any
7 additional report or information the [~~division~~] department may
8 deem necessary for the proper administration of the Oil and Gas
9 Emergency School Tax Act may be required."

10 SECTION 131. Section 7-31-11 NMSA 1978 (being Laws 1959,
11 Chapter 54, Section 11, as amended) is amended to read:

12 "7-31-11. PURCHASER'S REPORT--TAX REMITTANCE--ADDITIONAL
13 INFORMATION.--Each purchaser shall, in the form and manner
14 required by the [~~division, make~~] department, file a return to
15 the [~~division~~] department showing the total value, volume and
16 kind of products purchased by [~~him~~] the purchaser from each
17 production unit for each calendar month. All taxes due or to
18 be remitted by the purchaser shall accompany this return. The
19 return shall be filed on or before the twenty-fifth day of the
20 second month after the calendar month for which the return is
21 required. Any additional reports or information the [~~division~~]
22 department may deem necessary for the proper administration of
23 the Oil and Gas Emergency School Tax Act may be required."

24 SECTION 132. Section 7-31-26 NMSA 1978 (being Laws 1991,
25 Chapter 9, Section 38) is amended to read:

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1 "7-31-26. ADVANCE PAYMENT REQUIRED.--

2 A. Any person required to make payment of tax
3 pursuant to Section 7-31-10 or 7-31-11 NMSA 1978 shall make the
4 advance payment required by this section.

5 B. For the purposes of this section:

6 (1) "advance payment" means the payment
7 required to be made by this section in addition to any oil and
8 gas emergency school tax, penalty or interest due; and

9 (2) "average tax" means the aggregate amount
10 of tax, [~~net of~~] less any refunds or credits, paid by a person
11 [~~during~~] for the twelve-month period ending [~~March 31~~] the last
12 day of February pursuant to the Oil and Gas Emergency School
13 Tax Act divided by the number of months during that period for
14 which the person made payment.

15 C. Each year, prior to July 1, [~~each person~~
16 ~~required to pay tax pursuant to the Oil and Gas Emergency~~
17 ~~School Tax Act shall compute the average tax for the period~~
18 ~~ending March 31 of that year~~] the department shall compute the
19 advance payment required to be made pursuant to this section,
20 compute the average tax for the filing periods February through
21 January of the subsequent year for each person required to pay
22 tax pursuant to the Oil and Gas Emergency School Tax Act and
23 provide a tax statement to each person required to pay tax
24 pursuant to the Oil and Gas Emergency School Tax Act. The
25 average tax calculated for a year shall be used during the

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underscoring material = new
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1 twelve-month period beginning with July of that year and ending
2 with June of the following year as the basis for making the
3 advance payments required by Subsection D of this section.

4 D. ~~[Every month, beginning with July 1991, every]~~
5 Annually, by the twenty-fifth of the month in which a person
6 files or amends that person's first return pursuant to the Oil
7 and Gas Emergency School Tax Act and after receiving the tax
8 statement provided by the department, a person required to pay
9 tax in a month pursuant to the Oil and Gas Emergency School Tax
10 Act shall pay, in addition to any amount of tax, interest or
11 penalty due, an advance payment in an amount equal to the
12 applicable average tax, except:

13 (1) if the person is making a final return
14 under the Oil and Gas Emergency School Tax Act, no advance
15 payment pursuant to this subsection is due for that return; and

16 (2) as provided in Subsection F of this
17 section.

18 E. ~~[Every month, beginning with tax payments in~~
19 ~~August 1991, every]~~ Annually, by the twenty-fifth of the month
20 in which a person files or amends that person's first return
21 pursuant to the Oil and Gas Emergency School Tax Act and after
22 receiving the tax statement provided by the department, a
23 person required to pay tax pursuant to the Oil and Gas
24 Emergency School Tax Act may claim a credit equal to the amount
25 of advance payment made in the previous [month] year, except as

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1 provided in Subsection F of this section.

2 F. If, in any ~~month~~ year, a person is not
3 required to pay tax pursuant to the Oil and Gas Emergency
4 School Tax Act, that person is not required to pay the advance
5 payment and may not claim a credit pursuant to Subsection E of
6 this section; provided that, in any succeeding month when the
7 person has liability under the Oil and Gas Emergency School Tax
8 Act, the person may claim a credit for any advance payment made
9 and not credited.

10 G. In the event that the date by which a person is
11 required to pay the tax pursuant to the Oil and Gas Emergency
12 School Tax Act is accelerated to a date earlier than the
13 twenty-fifth day of the second month following the month of
14 production, the advance payment provision contained in this
15 section is ~~null and~~ void and any money held as advance
16 payments shall be credited to the taxpayers' accounts."

17 SECTION 133. Section 7-32-2 NMSA 1978 (being Laws 1959,
18 Chapter 55, Section 2, as amended) is amended to read:

19 "7-32-2. DEFINITIONS.--As used in the Oil and Gas Ad
20 Valorem Production Tax Act:

21 A. ~~["commission"]~~ "department" ~~[or "division"]~~
22 means the taxation and revenue department, the secretary of
23 taxation and revenue or any employee of the department
24 exercising authority lawfully delegated to that employee by the
25 secretary;

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1 B. "production unit" means a unit of property
2 designated by the department from which products of common
3 ownership are severed;

4 C. "severance" means the taking from the soil,
5 produced water, tank bottoms or an oil-water separator of any
6 product, including accumulations of product, in any manner
7 whatsoever;

8 D. "value" means the actual price received for
9 products at the production unit, except as otherwise provided
10 in the Oil and Gas Ad Valorem Production Tax Act;

11 E. "product" or "products" means oil, including
12 crude oil, slop oil or skim oil and condensate; natural gas;
13 liquid hydrocarbon, including ethane, propane, isobutene,
14 normal butane and pentanes plus, individually or any
15 combination thereof; and non-hydrocarbon gases, including
16 carbon dioxide and helium;

17 F. "operator" means any person:

18 (1) engaged in the severance of products from
19 a production unit; or

20 (2) owning an interest in any product at the
21 time of severance who receives a portion or all of such product
22 for the person's interest;

23 G. "purchaser" means a person who is the first
24 purchaser of:

25 (1) a product after severance from a

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~~[bracketed material] = delete~~

1 production unit, except as otherwise provided in the Oil and
2 Gas Ad Valorem Production Tax Act; or

3 (2) slop oil, sediment oil or skim oil and
4 condensate, including the first purchaser of slop oil, sediment
5 oil or skim oil from a person other than an operator or at a
6 production unit;

7 H. "person" means any individual, estate, trust,
8 receiver, business trust, corporation, firm, copartnership,
9 cooperative, joint venture, association or other group or
10 combination acting as a unit, and the plural as well as the
11 singular number;

12 I. "interest owner" means a person owning an entire
13 or fractional interest of whatsoever kind or nature in the
14 products at the time of severance from a production unit or who
15 has a right to a monetary payment that is determined by the
16 value of such products;

17 J. "assessed value" means the value against which
18 tax rates are applied;

19 K. "tax" means the oil and gas ad valorem
20 production tax; ~~[and]~~

21 L. "volume" means the quantity of product severed
22 reported using:

23 (1) oil, condensate and slop oil in barrels;

24 and

25 (2) natural gas, liquid hydrocarbons, helium

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1 and carbon dioxide in thousand cubic feet at a pressure base of
2 fifteen and twenty-five thousandths pounds per square inch;

3 M. "sediment oil" means an accumulation of products
4 that is not merchantable other than through an oil and gas
5 lease;

6 N. "skim oil" means oil or oil condensate recovered
7 from a produced water gathering system prior to injection or
8 other disposal of the water;

9 O. "slop oil" means floating oil and solids that
10 accumulate on the surface of an oil-water separator;

11 P. "oil-water separator" means wastewater treatment
12 equipment used to separate oil from water consisting of a
13 separation tank, including the forebay and other separator
14 basins, skimmers, weirs, grit chambers and sludge hoppers.
15 "Oil-water separator" includes slop oil facilities and
16 associated tanks, storage vessels and auxiliary equipment
17 located between individual drain systems and the oil-water
18 separator. "Oil-water separator" does not include storage
19 vessels or auxiliary equipment that do not come in contact with
20 or store oily wastewater; and

21 Q. "produced water" means a fluid that is an
22 incidental byproduct from drilling for or the production of
23 products."

24 SECTION 134. Section 7-32-4 NMSA 1978 (being Laws 1959,
25 Chapter 55, Section 4, as amended) is amended to read:

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1 "7-32-4. AD VALOREM TAX LEVIED--COLLECTED BY [DIVISION]
2 DEPARTMENT--RATE--INTEREST OWNER'S LIABILITY TO STATE--INDIAN
3 LIABILITY.--There is levied and shall be collected by the
4 [~~division~~] department an ad valorem tax on the assessed value
5 of products which are severed and sold to a purchaser from each
6 production unit, or in the case of slop oil, sediment oil and
7 skim oil from any location, at the rate certified to the
8 [~~division~~] department by the department of finance and
9 administration under the provisions of Section 7-37-7 NMSA
10 1978. Such rate shall be levied for each month following its
11 certification and shall be levied monthly thereafter until a
12 new rate is certified. Every interest owner shall be liable
13 for this tax to the extent of [~~his~~] the interest owner's
14 interest in the value of such products or to the extent of
15 [~~his~~] the interest owner's interest as may be measured by the
16 value of such products. Provided, any Indian tribe, Indian
17 pueblo or Indian shall be liable for this tax to the extent
18 authorized or permitted by law."

19 SECTION 135. Section 7-32-6 NMSA 1978 (being Laws 1959,
20 Chapter 55, Section 6) is amended to read:

21 "7-32-6. VALUE MAY BE DETERMINED BY [~~COMMISSION~~]
22 DEPARTMENT--STANDARD.--The [~~commission~~] department may
23 determine the value of products severed from a production unit
24 when:

25 A. the operator and purchaser are affiliated

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[bracketed material] = delete

1 persons; [~~or when~~]

2 B. the sale and purchase of products is not an
3 arm's length transaction; or [~~when~~]

4 C. products are severed and removed from a
5 production unit and a value as defined in [~~this~~] the Oil and
6 Gas Ad Valorem Production Tax Act is not established for such
7 products.

8 The value determined by the [~~commission~~] department shall
9 be commensurate with the actual price received for products of
10 like quality, character and use which are severed in the same
11 field or area."

12 SECTION 136. Section 7-32-8 NMSA 1978 (being Laws 1959,
13 Chapter 55, Section 8) is amended to read:

14 "7-32-8. PRODUCTS ON WHICH TAX HAS BEEN LEVIED--
15 [~~REGULATION BY COMMISSION~~] DEPARTMENT RULE.--[~~This~~] The tax
16 shall not be levied more than once on the same product.
17 Reporting of products on which [~~this~~] the tax has been paid
18 shall be subject to [~~the regulation of the commission~~]
19 department rule."

20 SECTION 137. Section 7-32-9 NMSA 1978 (being Laws 1959,
21 Chapter 55, Section 9) is amended to read:

22 "7-32-9. OPERATOR OR PURCHASER TO WITHHOLD INTEREST
23 OWNER'S TAX--[~~COMMISSION~~] DEPARTMENT MAY REQUIRE WITHHOLDING OF
24 TAX--TAX WITHHELD TO BE REMITTED TO THE STATE--OPERATOR OR
25 PURCHASER TO BE REIMBURSED.--

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1 A. Any operator making a monetary payment to an
2 interest owner for [~~his~~] the interest owner's portion of the
3 value of products from a production unit shall withhold from
4 such payment the amount of tax due from any interest owner.

5 B. Any purchaser, who by express or implied
6 agreement with the operator, makes 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 C. The [~~commission~~] department may require any
11 purchaser making a monetary payment to an interest owner for
12 [~~his~~] the interest owner's portion of the value of products
13 from a production unit to withhold from such payment the amount
14 of tax due from the interest owner.

15 D. Any operator or purchaser who pays any tax due
16 from an interest owner shall be entitled to reimbursement from
17 the interest owner for the tax so paid and may take credit for
18 such amount from any monetary payment to the interest owner for
19 the value of products."

20 SECTION 138. Section 7-32-10 NMSA 1978 (being Laws 1959,
21 Chapter 55, Section 10, as amended) is amended to read:

22 "7-32-10. OPERATOR'S REPORT--TAX REMITTANCE--ADDITIONAL
23 INFORMATION.--Each operator shall, in the form and manner
24 required by the [~~division, make~~] department, file a return [~~to~~]
25 with the [~~division~~] department showing the total value, volume

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underscored material = new
[bracketed material] = delete

1 and kind of products sold from each production unit for each
2 calendar month. All taxes due or to be remitted by the
3 operator shall accompany this return. The return shall be
4 filed on or before the twenty-fifth day of the second month
5 after the calendar month for which the return is required. Any
6 additional report or information the [~~division~~] department may
7 deem necessary for the proper administration of the Oil and Gas
8 Ad Valorem Production Tax Act may be required."

9 SECTION 139. Section 7-32-11 NMSA 1978 (being Laws 1959,
10 Chapter 55, Section 11, as amended) is amended to read:

11 "7-32-11. PURCHASER'S REPORT--TAX REMITTANCE--ADDITIONAL
12 INFORMATION.--Each purchaser shall, in the form and manner
13 required by the [~~division, make~~] department, file a return to
14 the [~~division~~] department showing the total value, volume and
15 kind of products purchased by [~~him~~] the purchaser from each
16 production unit for each calendar month. All taxes due or to
17 be remitted by the purchaser shall accompany this return. The
18 return shall be filed on or before the twenty-fifth day of the
19 second month after the calendar month for which the return is
20 required. Any additional reports or information the [~~division~~]
21 department may deem necessary for the proper administration of
22 the Oil and Gas Ad Valorem Production Tax Act may be required."

23 SECTION 140. Section 7-32-13 NMSA 1978 (being Laws 1959,
24 Chapter 55, Section 13, as amended) is amended to read:

25 "7-32-13. [~~DIVISION~~] DEPARTMENT SHALL PREPARE SCHEDULES
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underscoring material = new
[bracketed material] = delete

1 AND FORWARD TO ASSESSORS [~~ASSESSOR SHALL DELIVER SCHEDULE TO~~
2 ~~TREASURER~~] AND TREASURERS.--By the last day of each month, the
3 [~~division~~] department shall prepare and certify a schedule to
4 the respective counties in which production units are located.
5 The schedules shall reflect the accounting of the preceding
6 month and shall list each production unit and by production
7 unit show the assessed value, taxing district, extension of tax
8 levies, tax payments and other information as the [~~director of~~
9 ~~the division~~] department deems appropriate. The schedules
10 shall be forwarded to the assessors and treasurers of the
11 respective counties. [~~who~~] Upon receipt, [~~thereof~~] an assessor
12 shall accept them as the assessment of property as required in
13 the Oil and Gas Ad Valorem Production Tax Act and [~~shall~~
14 ~~deliver them to the~~] a county treasurer shall accept them as
15 the oil and gas ad valorem schedule for the county."

16 SECTION 141. Section 7-32-28 NMSA 1978 (being Laws 1991,
17 Chapter 9, Section 39) is amended to read:

18 "7-32-28. ADVANCE PAYMENT REQUIRED.--

19 A. Any person required to make payment of tax
20 pursuant to Section 7-32-10 or 7-32-11 NMSA 1978 shall make the
21 advance payment required by this section.

22 B. For the purposes of this section:

23 (1) "advance payment" means the payment
24 required to be made by this section in addition to any oil and
25 gas ad valorem production tax, penalty or interest due; and

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underscored material = new
[bracketed material] = delete

1 (2) "average tax" means the aggregate amount
2 of tax, [~~net of~~] less any refunds or credits, paid by a person
3 during the twelve-month period ending March 31 pursuant to the
4 Oil and Gas Ad Valorem Production Tax Act divided by the number
5 of months during that period for which the person made payment.

6 C. Each year, prior to July 1, [~~each person~~
7 ~~required to pay tax pursuant to the Oil and Gas Ad Valorem~~
8 ~~Production Tax Act shall compute the average tax for the period~~
9 ~~ending March 31 of that year] the department shall compute the
10 advance payment required to be made pursuant to this section,
11 compute the average tax for the filing periods February through
12 January of the subsequent year for each person required to pay
13 tax pursuant to the Oil and Gas Ad Valorem Production Tax Act
14 and provide a tax statement to each person required to pay tax
15 pursuant to the Oil and Gas Ad Valorem Production Tax Act. The
16 average tax calculated for a year shall be used during the
17 twelve-month period beginning with July of that year and ending
18 with June of the following year as the basis for making the
19 advance payments required by Subsection D of this section.~~

20 D. [~~Every month, beginning with July 1991, every]~~
21 Annually, by the twenty-fifth of the month in which a person
22 files or amends that person's first return pursuant to the Oil
23 and Gas Ad Valorem Production Tax Act and after receiving the
24 tax statement provided by the department, a person required to
25 pay tax in a month pursuant to the Oil and Gas Ad Valorem

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1 Production Tax Act shall pay, in addition to any amount of tax,
2 interest or penalty due, an advance payment in an amount equal
3 to the applicable average tax, except:

4 (1) if the person is making a final return
5 under the Oil and Gas Ad Valorem Production Tax Act, no advance
6 payment pursuant to this subsection is due for that return; and

7 (2) as provided in Subsection F of this
8 section.

9 E. ~~[Every month, beginning with tax payments due in~~
10 ~~August 1991, every]~~ Annually, by the twenty-fifth of the month
11 in which a person files or amends that person's first return
12 pursuant to the Oil and Gas Ad Valorem Production Tax Act and
13 after receiving the tax statement provided by the department, a
14 person required to pay tax pursuant to the Oil and Gas Ad
15 Valorem Production Tax Act may claim a credit equal to the
16 amount of advance payment made in the previous [month] year,
17 except as provided in Subsection F of this section.

18 F. If, in any [month] year, a person is not
19 required to pay tax pursuant to the Oil and Gas Ad Valorem
20 Production Tax Act, that person is not required to pay the
21 advance payment and may not claim a credit pursuant to
22 Subsection E of this section; provided that, in any succeeding
23 month when the person has liability under the Oil and Gas Ad
24 Valorem Production Tax Act, the person may claim a credit for
25 any advance payment made and not credited.

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underscored material = new
[bracketed material] = delete

1 G. In the event that the date by which a person is
2 required to pay the tax pursuant to the Oil and Gas Ad Valorem
3 Production Tax Act is accelerated to a date earlier than the
4 twenty-fifth day of the second month following the month of
5 production, the advance payment provision contained in this
6 section is ~~[null and]~~ void and any money held as advance
7 payments shall be credited to the taxpayers' accounts."

8 **SECTION 142.** Section 7-33-4 NMSA 1978 (being Laws 1963,
9 Chapter 179, Section 4, as amended) is amended to read:

10 "7-33-4. PRIVILEGE TAX LEVIED--COLLECTED BY DEPARTMENT--
11 RATE.--

12 A. There is levied and shall be collected by the
13 department a privilege tax on processors for the privilege of
14 operating a natural gas processing plant in New Mexico. This
15 tax may be referred to as the "natural gas processors tax".

16 B. The tax shall be imposed on the amount of mmbtus
17 of natural gas delivered to the processor at the inlet of the
18 natural gas processing plant after subtracting the mmbtu
19 deductions authorized in Subsection ~~[E]~~ D of this section. The
20 tax shall be imposed at the rate per mmbtu determined in
21 Subsection C ~~[or D]~~ of this section ~~[as applicable]~~.

22 ~~[C. The tax rate for the six-month period beginning~~
23 ~~on January 1, 1999 shall be determined by multiplying the rate~~
24 ~~of sixty-five hundredths of one cent (\$.0065) per mmbtu by a~~
25 ~~fraction, the numerator of which is the annual average taxable~~

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underscored material = new
[bracketed material] = delete

1 ~~value per mcf of natural gas produced in New Mexico during the~~
2 ~~1997 calendar year and the denominator of which is one dollar~~
3 ~~thirty-three cents (\$1.33) per mcf. The resulting tax rate~~
4 ~~shall be rounded to the nearest one-hundredth of one cent per~~
5 ~~mmbtu.~~

6 ~~D.]~~ C. The tax rate [for each fiscal year beginning
7 on or after July 1, 1999] shall be determined by multiplying
8 the rate of sixty-five hundredths of one cent (\$.0065) per
9 mmbtu by a fraction, the numerator of which is the annual
10 average taxable value per mcf of natural gas produced in New
11 Mexico during the preceding calendar year and the denominator
12 of which is one dollar thirty-three cents (\$1.33) per mcf. The
13 resulting tax rate shall be rounded to the nearest one-
14 hundredth of one cent per mmbtu.

15 ~~[E.]~~ D. A processor may deduct from the amount of
16 mmbtus of natural gas subject to the tax the mmbtus of natural
17 gas that are:

- 18 (1) used for natural gas processing by the
19 processor;
20 (2) returned to the lease from which [it is]
21 they are produced;
22 (3) legally flared by the processor; or
23 (4) lost as a result of natural gas
24 processing plant malfunctions or other incidences of force
25 majeure.

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1 [F.] E. On or before [~~June 15, 1999 and~~] June 15 of
2 each [~~succeeding~~] year, the department shall inform each
3 processor in writing of the tax rate applicable for the
4 succeeding fiscal year.

5 [G.] F. Any Indian nation, tribe or pueblo or
6 Indian is liable for the tax to the extent authorized or
7 permitted by law."

8 **SECTION 143.** Section 7-34-2 NMSA 1978 (being Laws 1969,
9 Chapter 119, Section 2, as amended) is amended to read:

10 "7-34-2. DEFINITIONS.--As used in the Oil and Gas
11 Production Equipment Ad Valorem Tax Act:

12 A. [~~"commission"~~] "department" [~~or "division"~~]
13 means the taxation and revenue department, the secretary of
14 taxation and revenue or any employee of the department
15 exercising authority lawfully delegated to that employee by the
16 secretary;

17 B. "person" means any individual, estate, trust,
18 receiver, business trust, corporation, firm, copartnership,
19 cooperative, joint venture, association or other group or
20 combination acting as a unit;

21 C. "operator" means any person engaged in the
22 severance of products from a production unit;

23 D. "product" means oil, natural gas or liquid
24 hydrocarbon, individually or any combination thereof, carbon
25 dioxide, helium or a non-hydrocarbon gas;

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underscored material = new
[bracketed material] = delete

1 E. "severance" means taking any product from the
2 soil in any manner;

3 F. "production unit" means a unit of property
4 designated by the department from which products of common
5 ownership are severed;

6 G. "equipment" means wells and nonmobile equipment
7 used at a production unit in connection with severance,
8 treatment or storage of production unit products;

9 H. "value" means the actual price received for
10 products at the production unit as established under the Oil
11 and Gas Ad Valorem Production Tax Act;

12 I. "assessed value" means the value against which
13 tax rates are applied; and

14 J. "tax" means the oil and gas production equipment
15 ad valorem tax."

16 SECTION 144. Section 7-34-3 NMSA 1978 (being Laws 1969,
17 Chapter 119, Section 3, as amended) is amended to read:

18 "7-34-3. METHOD OF DETERMINING ASSESSED VALUE.--

19 A. Annually the [~~commission~~] department shall
20 compute the value of products of each production unit for the
21 previous calendar year.

22 B. The taxable value of equipment of each
23 production unit is an amount equal to twenty-seven percent of
24 the value of products of each production unit.

25 C. The assessed value of equipment of each

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underscored material = new
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1 production unit shall be determined by applying the uniform
2 assessment ratio to the taxable value of equipment of each
3 production unit."

4 SECTION 145. Section 7-34-4 NMSA 1978 (being Laws 1969,
5 Chapter 119, Section 4, as amended) is amended to read:

6 "7-34-4. AD VALOREM TAX LEVIED.--An ad valorem tax is
7 levied on the assessed value of the equipment at each
8 production unit. The tax shall be at the rate certified to the
9 [division] department by the department of finance and
10 administration under the provisions of Section 7-37-7 NMSA
11 1978."

12 SECTION 146. Section 7-34-5 NMSA 1978 (being Laws 1969,
13 Chapter 119, Section 5, as amended) is amended to read:

14 "7-34-5. OIL AND GAS PRODUCTION EQUIPMENT AD VALOREM TAX
15 TO BE EXCLUSIVE MEASURE OF AD VALOREM TAX LIABILITY.--The tax
16 levied by Section 7-34-4 NMSA 1978 shall be the full and
17 exclusive measure of ad valorem tax liability for equipment
18 used at a production unit [~~for the calendar year 1969 and all~~
19 ~~subsequent years~~]. Any other ad valorem tax on equipment used
20 at a production unit is void."

21 SECTION 147. Section 7-34-6 NMSA 1978 (being Laws 1969,
22 Chapter 119, Section 6) is amended to read:

23 "7-34-6. TAX STATEMENT--TAX DUE DATE.--Annually the
24 [commission] department shall compute the assessed value of
25 equipment for each production unit and extend the applicable

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underscoring material = new
[bracketed material] = delete

1 rates against the assessed value to determine the amount of tax
2 due. The [~~commission~~] department shall prepare a tax statement
3 for each production unit showing the production unit
4 identification, the taxing district in which it is located,
5 calendar-year value, assessed value, district rates and the
6 amount of tax due. The tax statement shall be sent to the
7 operator on or before [~~October 15th~~] November 1 and payment
8 shall be made to the [~~commission~~] department on or before
9 November 30."

10 SECTION 148. Section 7-34-7 NMSA 1978 (being Laws 1969,
11 Chapter 119, Section 7) is amended to read:

12 "7-34-7. [~~COMMISSION~~] DEPARTMENT SHALL REPORT TO
13 COUNTY--TAX [~~ROLL~~] SCHEDULE.--On or before December 30, the
14 [~~commission~~] department shall deliver a [~~report~~] tax schedule
15 to each county in which production units are located,
16 identifying each production unit, the taxing district in which
17 it is located, the value, assessed value, district rates and
18 the amount of tax paid."

19 SECTION 149. Section 7-40-5 NMSA 1978 (being Laws 2018,
20 Chapter 57, Section 5) is amended to read:

21 "7-40-5. EXEMPTIONS.--Exempted from the taxes imposed
22 pursuant to the Insurance Premium Tax Act are:

23 A. premiums attributable to insurance or contracts
24 purchased by the state or a political subdivision for the
25 state's or political subdivision's active or retired employees;

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1 B. payments received by a health maintenance
2 organization from the federal secretary of health and human
3 services pursuant to a risk-sharing contract issued under the
4 provisions of 42 U.S.C. Section 1395mm(g);

5 C. any business transacted pursuant to the
6 provisions of the Service Contract Regulation Act;

7 ~~[D. the premiums from each policy or plan issued or~~
8 ~~offered pursuant to the Minimum Healthcare Protection Act~~
9 ~~during the first three years of the issuance of the master~~
10 ~~policy or individual policy; and~~

11 E.] D. the money collected and placed in trust
12 pursuant to Section 59A-49-6 NMSA 1978; and

13 E. premiums from supplemental health care plans
14 issued by an insurer that has been granted exemption from the
15 federal income tax by the United States commissioner of
16 internal revenue as an organization described in Section
17 501(c)(3) of the United States Internal Revenue Code of 1986,
18 as amended or renumbered."

19 SECTION 150. Section 14-8-4 NMSA 1978 (being Laws 1901,
20 Chapter 62, Section 18, as amended) is amended to read:

21 "14-8-4. ACKNOWLEDGMENT NECESSARY FOR RECORDING--
22 EXCEPTIONS--RECORDING OF DUPLICATES.--

23 A. Any original instrument of writing duly
24 acknowledged may be filed and recorded. Any instrument of
25 writing not duly acknowledged may not be filed and recorded or

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1 considered of record, though so entered, unless otherwise
2 provided in this section.

3 B. For purposes of this section, "acknowledged"
4 means notarized by a person empowered to perform notarial acts
5 pursuant to the Revised Uniform Law on Notarial Acts.

6 C. The following documents need not be acknowledged
7 but may be filed and recorded:

8 (1) court-certified copies of a court order,
9 judgment or other judicial decree;

10 (2) court-certified transcripts of any money
11 judgment obtained in a court of New Mexico or, pursuant to
12 Section 14-9-9 NMSA 1978, in the United States district court
13 for the district of New Mexico;

14 (3) land patents and land office receipts;

15 (4) notice of lis pendens filed pursuant to
16 Section 38-1-14 NMSA 1978;

17 (5) provisional orders creating improvement
18 districts pursuant to Section 4-55A-7 NMSA 1978;

19 (6) notices of levy on real estate under
20 execution or writ of attachment when filed by a peace officer
21 pursuant to Section 39-4-4 NMSA 1978;

22 (7) surveys of land that do not create a
23 division of land but only show existing tracts of record when
24 filed by a professional surveyor pursuant to Section 61-23-28.2
25 NMSA 1978;

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1 (8) certified copies of foreign wills,
2 marriages or birth certificates duly authenticated; ~~[and]~~

3 (9) instruments of writing in any manner
4 affecting lands in the state filed pursuant to Section 14-9-7
5 NMSA 1978, when these instruments have been duly executed by an
6 authorized public officer; and

7 (10) notices of lien filed pursuant to
8 Section 7-1-38 NMSA 1978.

9 D. If an original instrument of writing is
10 unavailable but, if it were available, could be filed and
11 recorded in accordance with this section, a duplicate of that
12 instrument shall be accepted for filing and recording if
13 accompanied by an affidavit executed pursuant to this
14 subsection. The affidavit shall:

15 (1) provide the name, telephone number and
16 mailing address of the affiant;

17 (2) provide information regarding the
18 execution of the instrument, consideration paid, delivery or
19 other information establishing that the original instrument, if
20 it were available, would be entitled to be recorded pursuant to
21 Subsection A of this section;

22 (3) specify the reason the duplicate is filed
23 and recorded in place of the original instrument;

24 (4) include a statement that the duplicate is
25 a true and correct copy of the original instrument; and

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1 (5) be acknowledged and made under oath
2 confirming that the statements set forth in the affidavit are
3 true and correct and of the personal knowledge of the affiant.

4 E. The filing of a duplicate instrument in
5 accordance with Subsection D of this section shall not incur a
6 fee in addition to the fee, if any, charged for filing an
7 original instrument. When the clerk records the instrument,
8 the grantor and grantee shall be those of the duplicate
9 instrument and the name of the affiant shall be indexed under
10 miscellaneous information.

11 F. Any filing or recording permitted or required
12 under the provisions of the Uniform Commercial Code need not
13 comply with the requirements of this section.

14 G. Instruments acknowledged on behalf of a
15 corporation need not have the corporation's seal affixed
16 thereto in order to be filed and recorded."

17 SECTION 151. Section 24A-8-2 NMSA 1978 (being Laws 2024,
18 Chapter 41, Section 2) is amended to read:

19 "24A-8-2. DEFINITIONS.--As used in the Health Care
20 Delivery and Access Act:

21 A. "assessed days" means the number of inpatient
22 hospital days exclusive of medicare days for each eligible
23 hospital, with data sources to be defined by the authority and
24 updated no less frequently than every three years;

25 B. "assessed outpatient revenue" means net patient
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1 revenue exclusive of medicare outpatient revenue for outpatient
2 services, with data sources to be defined by the authority and
3 updated no less frequently than every three years;

4 C. "assessment" means the health care delivery and
5 access assessment;

6 D. "assessment amount" means the assessment amount
7 owed by an eligible hospital;

8 E. "assessment rate" means the amount per assessed
9 day and the percentage of assessed outpatient revenue
10 calculated by the authority;

11 F. "authority" means the health care authority
12 [~~department~~];

13 G. "average commercial rate" means the average rate
14 paid by commercial insurers as provided by the centers for
15 medicare and medicaid services;

16 H. "centers for medicare and medicaid services"
17 means the centers for medicare and medicaid services of the
18 United States department of health and human services;

19 I. "eligible hospital" means a non-federal facility
20 licensed as a hospital by the [~~department of health~~] authority,
21 excluding a state university teaching hospital or a state-owned
22 special hospital;

23 J. "general acute care hospital" means a hospital
24 other than a special hospital;

25 K. "hospital" means a facility providing emergency

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1 or urgent care, inpatient medical care and nursing care for
2 acute illness, injury, surgery or obstetrics. "Hospital"
3 includes a facility licensed by the [~~department of health~~]
4 authority as a critical access hospital, rural emergency
5 hospital, general hospital, long-term acute care hospital,
6 psychiatric hospital, rehabilitation hospital, limited services
7 hospital or special hospital;

8 L. "inpatient hospital services" means services
9 that:

10 (1) are ordinarily furnished in a hospital
11 for the care and treatment of inpatients;

12 (2) are furnished under the direction of a
13 physician, advanced practice clinician or dentist;

14 (3) are furnished in an institution that:

15 (a) is maintained primarily for the care
16 and treatment of patients;

17 (b) is licensed or formally approved as
18 a hospital by an officially designated authority for state
19 standard-setting;

20 (c) meets the requirements for
21 participation in medicare as a hospital; and

22 (d) has in effect a utilization review
23 plan, applicable to all medicaid patients, that meets federal
24 requirements; and

25 (4) are not skilled nursing facility services

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1 or immediate care facility services furnished by a hospital
2 with a swing-bed approval;

3 M. "managed care organization" means a person or
4 organization that has entered into a comprehensive risk-based
5 contract with the authority to provide health care services,
6 including inpatient and outpatient hospital services, to
7 medicaid beneficiaries;

8 N. "medicaid" means the medical assistance program
9 established pursuant to Title 19 of the federal Social Security
10 Act and regulations promulgated pursuant to that act;

11 O. "medicaid-directed payment program" means the
12 health care delivery and access medicaid-directed payment
13 program created pursuant to Section ~~[5 of the Health Care~~
14 ~~Delivery and Access Act]~~ 24A-8-5 NMSA 1978 providing additional
15 medicaid funding for hospital services provided through
16 medicaid managed care organizations, as directed by the
17 authority and approved by the centers for medicare and medicaid
18 services;

19 P. "medicare days" means the number of inpatient
20 days provided by an eligible hospital during the year to
21 patients covered under Title 18 of the federal Social Security
22 Act;

23 Q. "medicare outpatient revenue" means the amount
24 of net revenue received by an eligible hospital for outpatient
25 hospital services provided to patients covered under Title 18

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1 of the federal Social Security Act;

2 R. "net patient revenue" means total net revenue
3 received by a hospital for inpatient and outpatient hospital
4 services in a year, as determined by the authority;

5 S. "New Mexico medicaid program" means the medicaid
6 program established pursuant to Section 27-2-12 NMSA 1978;

7 T. "outpatient hospital services" means preventive,
8 diagnostic, therapeutic, rehabilitative or palliative services
9 that are furnished:

10 (1) to outpatients;

11 (2) by or under the direction of a physician,
12 advanced practice clinician or dentist; and

13 (3) by an institution that:

14 (a) is licensed or formally approved as
15 a hospital by an officially designated authority for state
16 standard-setting; and

17 (b) meets the requirements for
18 participation in medicare as a hospital;

19 U. "quality incentive payments" means the portion
20 of the medicaid-directed payment program paid to hospitals
21 based on value-based quality measurements and performance
22 evaluation criteria, as established by the authority pursuant
23 to Section ~~[5 of the Health Care Delivery and Access Act]~~
24 24A-8-5 NMSA 1978;

25 V. "rehabilitation hospital" means a facility

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1 licensed as a rehabilitation hospital by the [~~department of~~
2 ~~health~~] authority;

3 W. "rural emergency hospital" means a facility
4 licensed as a rural emergency hospital by the [~~department of~~
5 ~~health~~] authority;

6 X. "rural hospital" means a hospital that is
7 located in a county that has a population of one hundred
8 twenty-five thousand or fewer according to the most recent
9 federal decennial census;

10 Y. "secretary" means the secretary of health care
11 authority;

12 Z. "small urban hospital" means a hospital that is
13 located in a county that has a population greater than one
14 hundred twenty-five thousand and that has fewer than fifteen
15 licensed inpatient beds as of January 1, 2024;

16 AA. "special hospital" means a facility licensed as
17 a special hospital by the [~~department of health~~] authority; and

18 BB. "uniform rate increase" means the portion of
19 the medicaid-directed payment program paid to hospitals as a
20 uniform dollar or percentage increase."

21 SECTION 152. Section 24A-8-3 NMSA 1978 (being Laws 2024,
22 Chapter 41, Section 3) is amended to read:

23 "24A-8-3. HEALTH CARE DELIVERY AND ACCESS ASSESSMENT--
24 RATE AND CALCULATION--NOTIFICATION.--

25 A. Except as otherwise provided in Subsection C of
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1 this section, an assessment is imposed on inpatient hospital
2 services and outpatient hospital services provided by an
3 eligible hospital. The assessment rate and assessment amounts
4 shall be annually calculated by the authority pursuant to
5 Subsection D of this section, and the taxation and revenue
6 department shall collect the assessment. The inpatient
7 assessment shall be based on assessed days and the outpatient
8 assessment shall be based on assessed outpatient revenue. The
9 assessment provided by this section may be referred to as the
10 "health care delivery and access assessment".

11 B. The rate of the health care delivery and access
12 assessment on a rural hospital and special hospital shall be
13 reduced by fifty percent, and the rate of the assessment on a
14 small urban hospital shall be reduced by ninety percent;
15 provided that the amount of the assessment qualifies for a
16 waiver of the uniformity requirement for provider assessment
17 from the centers for medicare and medicaid services. The
18 authority may adjust these percentages and establish
19 eligibility requirements as necessary to qualify for the
20 waiver.

21 C. The health care delivery and access assessment
22 shall not be imposed for any period for which the centers for
23 medicare and medicaid services has not approved a necessary
24 waiver or other applicable authorization required to ensure
25 that the assessment is a permissible source of non-federal

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1 funding for medicaid program expenditures, or for which the
2 centers for medicare and medicaid services has not approved the
3 distribution of the medicaid-directed payment program payments.

4 D. The authority shall annually calculate the
5 health care delivery and access assessment amount to be paid by
6 each eligible hospital and shall annually notify the taxation
7 and revenue department and all hospitals of the applicable
8 rates. The authority shall calculate the assessment amount by
9 applying the assessment rate to an eligible hospital's assessed
10 days and assessed outpatient revenue so that total revenue from
11 the assessment will equal the lesser of:

12 (1) the amount needed, in combination with
13 other funds deposited or expected to be deposited in the health
14 care delivery and access fund for the subsequent fiscal year,
15 including unexpended and unencumbered money in the fund, to
16 provide sufficient funding for:

17 (a) the non-federal share of medicaid-
18 directed payment program payments for inpatient and outpatient
19 hospital services for eligible hospitals at a level such that
20 the total reimbursement for medicaid managed care patients,
21 including any other inpatient or outpatient hospital directed
22 payments, is equivalent to the average commercial rate or such
23 other maximum level as may be set by the centers for medicare
24 and medicaid services; and

25 (b) the purposes of the health care

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1 delivery and access fund; or

2 (2) the amount specified in Section
3 1903(w)(4)(C)(ii) of the federal Social Security Act, above
4 which an indirect guarantee is determined to exist, with such
5 amount determined each year based on the most recent available
6 net patient revenue data.

7 E. The authority shall notify an eligible hospital
8 and the taxation and revenue department of [its applicable] the
9 health care delivery and access assessment amount for the
10 eligible hospital pursuant to the following schedule:

11 (1) by November 1, 2024 for the period
12 beginning on July 1, 2024 and ending on December 31, 2024;
13 provided that the assessment amount shall be based on assessed
14 days and assessed outpatient revenue for a full year; and

15 (2) by November 1 of the preceding calendar
16 year for each calendar year thereafter.

17 ~~[F. The assessment imposed for the six-month period~~
18 ~~identified in Paragraph (1) of Subsection E of this section~~
19 ~~shall be based on assessed days and assessed outpatient revenue~~
20 ~~for a full year.~~

21 ~~G.]~~ F. The authority may require hospitals,
22 regardless of whether they are eligible hospitals, to report
23 information or data necessary to implement and administer the
24 Health Care Delivery and Access Act. If the authority requires
25 such reporting, it shall specify the frequency and due dates.

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1 [~~H.~~] G. The authority shall determine how the
2 health care delivery and access assessment is applied to newly
3 created hospitals and hospitals that are merged, acquired or
4 closed.

5 [~~F.~~] H. A hospital shall not specifically list the
6 cost of the health care delivery and access assessment on any
7 invoice, claim or statement sent to a patient, insurer, self-
8 insured employer program or other responsible party."

9 **SECTION 153.** Section 24A-8-6 NMSA 1978 (being Laws 2024,
10 Chapter 41, Section 6) is amended to read:

11 "24A-8-6. DUE DATES--HEALTH CARE DELIVERY AND ACCESS
12 ASSESSMENT--DIRECTED PAYMENTS.--

13 A. [~~For the period from July 1, 2024 through~~
14 ~~December 31, 2024~~] Except as provided in Subsection B of this
15 section, a hospital shall pay the health care delivery and
16 access assessment to the taxation and revenue department as
17 follows:

18 (1) for the period from July 1, 2024 through
19 December 31, 2024:

20 [~~(1)~~] (a) sixty percent of the
21 assessment by March 10, 2025 [~~for the uniform rate increase~~];
22 and

23 [~~(2)~~] (b) forty percent of the
24 assessment by May 10, 2025 [~~for the quality incentive payment~~];
25 and

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1 [~~B.~~] (2) for calendar year 2025 and
2 thereafter: [~~a hospital shall pay the assessment to the~~
3 ~~taxation and revenue department as follows~~

4 ~~(1)~~] (a) fifteen percent of the
5 assessment seventy days after the end of each calendar quarter
6 [~~for the uniform rate increase for that quarter~~]; and

7 ~~(2)~~] (b) forty percent of the
8 assessment by May 10 of the subsequent year. [~~for the quality~~
9 ~~incentive payment unless~~]

10 B. If approval by the centers for medicare and
11 medicaid services of the medicaid-directed payment program for
12 that year has not been received by the health care delivery and
13 access assessment's due date, [~~in which case~~] the due date for
14 [~~that~~] the assessment shall be forty-five days after such
15 approval is received.

16 C. [~~An assessment shall not be due earlier than~~
17 ~~forty-five days after the date the centers for medicare and~~
18 ~~medicaid services approves the necessary authorization sought~~
19 ~~by the secretary pursuant to Section 12 of this 2024 act for~~
20 ~~the applicable period.~~] In the event that approval by the
21 centers for medicare and medicaid services has not been
22 received in time for a hospital to pay the health care delivery
23 and access assessment by the dates set out in Subsection A of
24 this section, the authority shall notify the taxation and
25 revenue department of the date that such approval is received,

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1 of the dates on which the assessments are now due and that no
2 interest or penalty on the assessment shall accrue prior to
3 those due dates.

4 D. The authority shall make directed payments to a
5 managed care organization as follows:

6 (1) for the period beginning on July 1, 2024
7 and ending on December 31, 2024, the authority shall transfer
8 the uniform rate increase funding to a managed care
9 organization in one installment by March 15, 2025 and the
10 quality incentive payment by May 15, 2025; and

11 (2) for calendar years 2025 and thereafter,
12 the authority shall transfer the uniform rate increase funding
13 to the managed care organization on a quarterly basis no later
14 than seventy-five days after the end of the quarter and the
15 quality incentive payment by May 15 of the subsequent calendar
16 year.

17 ~~[E. If the assessment due date has been postponed~~
18 ~~due to a delay in approval by the centers for medicare and~~
19 ~~medicaid services, the payments shall be due five days after~~
20 ~~the extended assessment due date.~~

21 F.] E. The authority shall require a managed care
22 organization to make directed payments to hospitals no more
23 than fifteen days after receipt of such payments from the
24 authority."

25 SECTION 154. Section 52-5-19 NMSA 1978 (being Laws 1987,
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1 Chapter 235, Section 52, as amended) is amended to read:

2 "52-5-19. FEE FOR FUNDING ADMINISTRATION--WORKERS'
3 COMPENSATION ADMINISTRATION FUND CREATED.--

4 A. [~~Beginning with the calendar quarter ending~~
5 ~~September 30, 2004 and~~] For each calendar quarter, [~~thereafter~~]
6 there is assessed against each employer who is required or
7 elects to be covered by the Workers' Compensation Act a fee
8 equal to two dollars thirty cents (\$2.30) multiplied by the
9 number of employees covered by the Workers' Compensation Act
10 that the employer has on the last working day of each quarter.
11 At the same time, there is assessed against each employee
12 covered by the Workers' Compensation Act on the last working
13 day of each quarter a fee of two dollars (\$2.00), which shall
14 be deducted from the wages of the employee by the employer and
15 remitted along with the fee assessed on the employer. The fees
16 shall be remitted [~~by the last~~] on or before the twenty-fifth
17 day of the month following the end of the calendar quarter for
18 which they are due.

19 B. The taxation and revenue department may deduct
20 from the gross fees collected an amount not to exceed five
21 percent of the gross fees collected to reimburse the department
22 for costs of administration.

23 C. The taxation and revenue department shall pay
24 over the net fees collected to the state treasurer to be
25 deposited by [~~him~~] the treasurer in a fund hereby created and

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1 to be known as the "workers' compensation administration fund".
2 Expenditures shall be made from this fund on vouchers signed by
3 the director for the necessary expenses of the workers'
4 compensation administration; provided that an amount equal to
5 thirty cents (\$.30) per employee of the fee assessed against an
6 employer shall be distributed from the workers' compensation
7 administration fund to the uninsured employers' fund.

8 D. The workers' compensation fee authorized in this
9 section shall be administered and enforced by the taxation and
10 revenue department under the provisions of the Tax
11 Administration Act."

12 SECTION 155. Section 67-3-8.1 NMSA 1978 (being Laws
13 2003, Chapter 150, Section 3, as amended) is amended to read:

14 "67-3-8.1. SECRETARY--AUTHORITY TO ENTER INTO
15 INTERGOVERNMENTAL AGREEMENT--GASOLINE TAX SHARING AGREEMENT--
16 QUALIFIED TRIBE.--

17 A. The secretary may enter into an
18 intergovernmental agreement that may be referred to as a
19 "gasoline tax sharing agreement" with a qualified tribe to
20 receive forty percent of the gasoline tax revenue paid on two
21 million five hundred thousand gallons of gasoline each month in
22 exchange for the qualified tribe's agreement that the qualified
23 tribe or a registered Indian tribal distributor owned by the
24 qualified tribe shall not:

25 (1) distribute gasoline for resale outside of

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1 the boundaries of that registered Indian tribal distributor's
2 Indian reservation, pueblo grant or trust land located in New
3 Mexico; and

4 (2) claim all or part of the deduction
5 authorized in Subsection F of Section 7-13-4 NMSA 1978.

6 B. The term of a gasoline tax sharing agreement
7 entered into pursuant to this section shall be for a period of
8 up to twenty years. The secretary and a qualified tribe with a
9 gasoline tax sharing agreement shall report, at the midpoint of
10 the term of the agreement, to the legislative finance committee
11 and to the revenue stabilization and tax policy committee on
12 the status of the agreement.

13 C. A gasoline tax sharing agreement entered into
14 pursuant to this section shall be construed solely as an
15 agreement between the two party governments and shall not
16 alter or affect the government-to-government relations between
17 the state and any other tribe.

18 D. Nothing in this section or in a gasoline tax
19 sharing agreement entered into pursuant to this section shall
20 be construed as creating rights in a third party.

21 E. Copies of gasoline tax sharing agreements shall
22 be promptly transmitted to the secretary of taxation and
23 revenue upon signing by the representatives of the governments
24 that are parties to the agreement.

25 F. As used in this section:

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1 (1) "qualified tribe" means the Pueblo of
2 Nambe or the Pueblo of Santo Domingo, as long as it owns one
3 hundred percent of a registered Indian tribal distributor
4 pursuant to the Gasoline Tax Act, that qualifies for a
5 deduction pursuant to Subsection F of Section 7-13-4 NMSA 1978;
6 and

7 (2) "tribe" means an Indian nation, tribe or
8 pueblo located in New Mexico."

9 SECTION 156. Laws 2024, Chapter 41, Section 13 is
10 amended to read:

11 "SECTION 13. DELAYED REPEAL.--Sections 1 through 7, 9
12 and 11 of this act are repealed effective July 1, 2030."

13 SECTION 157. REPEAL.--Sections 7-1-6.6, 7-1-6.24,
14 7-1-6.34, 7-1-6.35, 7-1-6.48 through 7-1-6.50, 7-1-6.59,
15 7-1-6.60, 7-1-15.2, 7-2-7.2, 7-2-7.3, 7-2-18.7, 7-2-18.11,
16 7-2-18.14, 7-2-18.19, 7-2-18.23, 7-2-18.30, 7-2-23, 7-2-24.1
17 through 7-2-28, 7-2-29 through 7-2-30.9, 7-2-30.11, 7-2-31,
18 7-2A-14, 7-2A-17.1, 7-2A-21, 7-2A-29, 7-2A-30, 7-2D-1 through
19 7-2D-14, 7-2F-1, 7-2F-2.1, 7-2F-6 through 7-2F-11, 7-2H-1
20 through 7-2H-4, 7-9-10, 7-9-74, 7-9-79.2, 7-9-118, 7-9A-2.1,
21 7-9F-12, 7-9J-1 through 7-9J-8 and 7-13-10 NMSA 1978 (being
22 Laws 1983, Chapter 211, Section 11; Laws 1987, Chapter 265,
23 Section 3; Laws 1992, Chapter 108, Sections 3 and 2; Laws 2005,
24 Chapter 56, Section 1; Laws 2005, Chapter 87, Section 1; Laws
25 2005, Chapter 220, Section 1; Laws 2009, Chapter 175, Section
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1 1; Laws 2010, Chapter 31, Section 2; Laws 1998, Chapter 105,
2 Section 1; Laws 2005 (1st S.S.), Chapter 3, Sections 3 and 4;
3 Laws 2000, Chapter 64, Section 1 and Laws 2000, Chapter 78,
4 Section 1; Laws 2003, Chapter 400, Section 1; Laws 2006,
5 Chapter 93, Section 1; Laws 2007, Chapter 204, Section 3; Laws
6 2008 (2nd S.S.), Chapter 3, Section 1; Laws 2018, Chapter 36,
7 Section 1; Laws 2019, Chapter 270, Section 20; Laws 1981,
8 Chapter 343, Section 1; Laws 1992, Chapter 108, Section 4; Laws
9 2021, Chapter 90, Section 1; Laws 1987, Chapter 257, Section 3;
10 Laws 1987, Chapter 265, Sections 1 and 2; Laws 2005, Chapter
11 56, Section 2; Laws 2005, Chapter 87, Section 2; Laws 2005,
12 Chapter 220, Section 2; Laws 2009, Chapter 175, Section 2; Laws
13 2012, Chapter 7, Section 1; Laws 2012, Chapter 57, Section 1;
14 Laws 2013, Chapter 49, Section 2; Laws 2015, Chapter 50,
15 Section 1; Laws 2015, Chapter 82, Section 1; Laws 2018, Chapter
16 51, Section 1; Laws 1992, Chapter 108, Section 1; Laws 1983,
17 Chapter 218, Section 1; Laws 2003, Chapter 400, Section 2; Laws
18 2007, Chapter 204, Section 4; Laws 2018, Chapter 36, Section 2;
19 Laws 1993, Chapter 313, Sections 1, 2 and 4 through 14; Laws
20 2002, Chapter 36, Section 1; Laws 2015, Chapter 143, Sections 4
21 through 10; Laws 2008, Chapter 89, Sections 1 through 4; Laws
22 1966, Chapter 47, Section 10; Laws 1971, Chapter 217, Section
23 2; Laws 2007, Chapter 204, Section 9; Laws 2021, Chapter 4,
24 Section 3; Laws 2001, Chapter 57, Section 2 and Laws 2001,
25 Chapter 337, Section 2; Laws 2000 (2nd S.S.), Chapter 22,

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1 Section 12; Laws 2007, Chapter 204, Sections 11 through 18; and
2 Laws 1977, Chapter 342, Section 5, as amended) are repealed.

3 SECTION 158. ADDITIONAL REPEAL.--That version of Section
4 7-2-7 NMSA 1978 (being Laws 2005 (1st S.S.), Chapter 3, Section
5 2) is repealed.

6 SECTION 159. DELAYED REPEAL.--Section 7-1-6.66 NMSA 1978
7 (being Laws 2021, Chapter 4, Section 1) is repealed effective
8 January 1, 2028.

9 SECTION 160. EFFECTIVE DATE.--

10 A. The effective date of the provisions of Sections
11 1 through 16, 18 through 35, 37, 61, 66 through 119, 121
12 through 123, 125 through 131, 133 through 140, 142 through 150,
13 155, 157 and 158 is July 1, 2025.

14 B. The effective date of the provisions of Sections
15 17, 36, 38 through 60, 62 through 65, 120, 124, 132, 141 and
16 154 is January 1, 2026.