

FORTY-SEVENTH LEGISLATURE
SECOND SESSION, 2006

HB 82/a

February 15, 2006

Madam President:

Your **FINANCE COMMITTEE**, to whom has been referred

**HOUSE TAXATION AND REVENUE
COMMITTEE SUBSTITUTE FOR HOUSE BILLS 82, 128,
144, 295, 380, 390, 395, 424, 440, 441, 448,
455, 465, 501, 603 and 674, as amended**

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. Strike Item 5 of House Floor Amendment 1.
2. On page 1, line 13, after the semicolon insert "PROVIDING FOR A DISTRIBUTION OF A PORTION OF COMPENSATING TAX REVENUES TO THE TRIBAL INFRASTRUCTURE PROJECT FUND;".
3. On page 1, line 17, before "PROVIDING" insert "CLARIFYING THE TREATMENT OF RECEIPTS FROM THE SALE OR LICENSING OF PROPERTY IN THE DEFINITION OF "GROSS RECEIPTS" PURSUANT TO THE GROSS RECEIPTS AND COMPENSATING TAX ACT; ELIMINATING PATENTS, TRADEMARKS AND COPYRIGHTS FROM THE DEFINITION OF "PROPERTY" PURSUANT TO THAT ACT;".
4. On page 2, line 7, after the semicolon insert "PROVIDING FOR INCOME TAX AND CORPORATE INCOME TAX CREDITS FOR THE PROVISION OF EMPLOYER-SPONSORED HEALTH INSURANCE;".
5. On page 2, line 10, after the semicolon insert "PROVIDING FOR PERSONAL INCOME TAX CREDITS FOR THE PRODUCTION OF RENEWABLE ENERGY; CHANGING THE RENEWABLE ENERGY PRODUCTION TAX CREDIT RATE FOR THE USE OF SOLAR-ENERGY-DERIVED QUALIFIED ENERGY GENERATORS; CHANGING ELECTRICITY PRODUCTION REQUIREMENTS FOR THE CALCULATION OF RENEWABLE ENERGY PRODUCTION TAX CREDITS;".
6. On page 3, line 7, after the semicolon insert "PROVIDING FOR DELAYED REPEALS;".

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7. On page 13, line 5, before the first occurrence of "the" insert "fifteen percent of".

8. On page 13, line 7, after "not" strike the remainder of the line and strike line 8 up to the period and insert in lieu thereof "apply if the incorrect reporting consists solely of underreporting the amount of the deduction".

9. On page 13, between lines 9 and 10, insert the following section:

"Section 6. A new section of the Tax Administration Act is enacted to read:

"[NEW MATERIAL] DISTRIBUTION--TRIBAL INFRASTRUCTURE PROJECT FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the tribal infrastructure project fund in an amount equal to fifteen percent of the net receipts attributable to the compensating tax collected with respect to the construction or operation of a qualified generating facility located on Navajo Nation land defined pursuant to Section 7-29C-3 NMSA 1978.""

10. Renumber the succeeding sections accordingly.

11. On page 26, lines 22 and 23, strike "seven and one-half" and insert in lieu thereof "five".

12. On page 30, between lines 4 and 5, insert the following new section:

"Section 13. A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] RENEWABLE ENERGY PRODUCTION TAX CREDITS--LIMITATIONS--DEFINITIONS--CLAIMING THE CREDITS.--

A. The tax credits provided in this section may be

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referred to as the "renewable energy production tax credits".

B. A person is eligible for the renewable energy production tax credits if the person:

(1) holds title to a qualified energy generator; or

(2) leases property upon which a qualified energy generator operates from a county or municipality under authority of an industrial revenue bond.

C. The amount of the tax credit shall equal one cent (\$.01) per kilowatt-hour of the first four hundred thousand megawatt-hours of electricity produced by the qualified energy generator using a wind- or biomass-derived qualified energy resource in the taxable year; provided that the total amount of tax credits claimed by all taxpayers for a single qualified energy generator using a wind- or biomass-derived qualified energy resource in a taxable year shall not exceed one cent (\$.01) per kilowatt-hour of the first four hundred thousand megawatt-hours of electricity produced by the qualified energy generator. The amount of the tax credit shall equal two cents (\$.02) per kilowatt-hour of the first two hundred thousand megawatt-hours of electricity produced by a qualified energy generator using a solar-light- or solar-heat-derived qualified energy resource in the taxable year; provided that the total amount of tax credits claimed by all taxpayers for a single qualified energy generator using a solar-light- or solar-heat-derived qualified energy resource shall not exceed two cents (\$.02) per kilowatt-hour of the first two hundred thousand megawatt-hours of electricity produced by the qualified energy resource in the taxable year.

D. A taxpayer eligible for the renewable energy production tax credits pursuant to Subsection B of this section shall be eligible for the renewable energy production tax credits for ten consecutive years, beginning on the date the qualified energy generator begins producing electricity.

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E. As used in this section:

(1) "biomass" means agricultural or animal waste; thinnings from trees less than fifteen inches in diameter, slash and brush; lumbermill or sawmill residues; and salt cedar and other phreatophytes removed from watersheds or river basins;

(2) "qualified energy generator" means a facility with at least one megawatt generating capacity located in New Mexico that produces electricity using a qualified energy resource and that sells that electricity to an unrelated person; and

(3) "qualified energy resource" means a resource that generates electrical energy by means of a fluidized bed technology or similar low-emissions technology or a zero-emissions generation technology that has substantial long-term production potential and that uses only the following energy sources:

- (a) solar light;
- (b) solar heat;
- (c) wind; or
- (d) biomass.

F. A person that holds title to a facility generating electricity from a qualified energy resource or a person that leases such a facility from a county or municipality pursuant to an industrial revenue bond may request certification of eligibility for the renewable energy production tax credits from the energy, minerals and natural resources department, which shall determine if the facility is a qualified energy generator; provided that the department may certify the eligibility of an energy generator only if the total amount of electricity that may be produced annually by all qualified energy generators that are certified will not exceed two million megawatt-hours. Applications shall be considered in the

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order received. The energy, minerals and natural resources department may estimate the annual power-generating potential of a generating facility for the purposes of this section. The energy, minerals and natural resources department shall issue a certificate to the applicant stating whether the facility is an eligible qualified energy generator and the estimated annual production potential of the generating facility, which shall be the limit of that facility's energy production eligible for the tax credits for the taxable year. The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection.

G. A taxpayer may be allocated all or a portion of the right to claim the renewable energy production tax credits without regard to proportional ownership interest if:

(1) the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership;

(2) the business entity:

(a) would qualify for the renewable energy production tax credits pursuant to Paragraph (1) or (2) of Subsection B of this section;

(b) owns an interest in a business entity that is also taxed for federal income tax purposes as a partnership and that would qualify for the renewable energy production tax credits pursuant to Paragraph (1) or (2) of Subsection B of this section; or

(c) owns, through one or more intermediate business entities that are each taxed for federal income tax purposes as a partnership, an interest in the business entity described in Subparagraph (b) of this paragraph;

(3) the taxpayer and all other taxpayers allocated a

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right to claim the renewable energy production tax credits pursuant to this subsection own collectively at least a five percent interest in a qualified energy generator;

(4) the business entity provides notice of the allocation and the taxpayer's interest to the energy, minerals and natural resources department on forms prescribed by that department; and

(5) the energy, minerals and natural resources department certifies the allocation in writing to the taxpayer.

H. Upon receipt of notice of an allocation of the right to claim all or a portion of the renewable energy production tax credits, the energy, minerals and natural resources department shall promptly certify the allocation in writing to the recipient of the allocation.

I. A taxpayer may claim the renewable energy production tax credits by submitting to the taxation and revenue department the certificate issued by the energy, minerals and natural resources department, pursuant to Subsection F or G of this section, documentation showing the taxpayer's interest in the facility, documentation of the amount of electricity produced by the facility in the taxable year and any other information the taxation and revenue department may require to determine the amount of the tax credits due the taxpayer.

J. Once a taxpayer has been granted a renewable energy production tax credit for a given facility, that taxpayer shall be allowed to retain the facility's original date of application for a tax credit for that facility until either the facility goes out of production for more than six consecutive months in a year or until the facility's ten-year eligibility has expired.

K. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each

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claim only one-half of the tax credits that would have been allowed on a joint return.

L. A renewable energy production tax credit may be deducted from the taxpayer's New Mexico income tax liability for a taxable year. If the amount of the tax credit claimed exceeds the taxpayer's income tax liability, the excess may be carried forward for up to ten consecutive taxable years."".

13. Renumber the succeeding sections accordingly.

14. On page 33, between lines 6 and 7, insert the following sections:

"Section 16. A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] INCOME TAX--CREDIT FOR COSTS OF PROVIDING EMPLOYER-SPONSORED HEALTH INSURANCE.--

A. A taxpayer who files an individual New Mexico income tax return, who is not a dependent of another individual and who is an owner of a New Mexico business may claim a tax credit in an amount not to exceed five percent of the employer's cost of employer-sponsored health insurance provided during an eligible taxable year to the taxpayer's employees or their dependents while the employees or their dependents are residents of New Mexico.

B. For the purposes of this section:

(1) "eligible taxable year" means a taxable year in which the taxpayer employs an average of fewer than ten employees and:

(a) is a taxable year that follows a twelve-month period during which the taxpayer has not provided employer-sponsored health insurance to the taxpayer's employees or their dependents; or

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(b) is a taxable year that is one of the four taxable years following a taxable year that meets the requirements of Subparagraph (a) of this paragraph; and

(2) "employer-sponsored health insurance" means health insurance for which an employer completely or partially pays the costs for its employees or their dependents.

C. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the credit that would have been allowed on a joint return.

D. A credit provided in this section may only be deducted from the taxpayer's income tax liability for the taxable year. If the credit exceeds the taxpayer's income tax liability for the taxable year, the excess shall be refunded to the taxpayer.

E. A taxpayer may not claim a credit pursuant to this section for a taxable year for which the taxpayer is claiming a credit for providing employer-sponsored health insurance pursuant to the Corporate Income and Franchise Tax Act."

Section 17. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"[NEW MATERIAL] CORPORATE INCOME TAX--CREDIT FOR COSTS OF PROVIDING EMPLOYER-SPONSORED HEALTH INSURANCE.--

A. A taxpayer that files a corporate income tax return and that is a New Mexico business may claim a tax credit in an amount not to exceed five percent of the employer's cost of employer-sponsored health insurance provided during an eligible taxable year to the taxpayer's employees or their dependents while the employees or their dependents are residents of New Mexico.

B. For the purposes of this section:

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(1) "eligible taxable year" means a taxable year in which the taxpayer employs an average of fewer than ten employees and:

(a) is a taxable year that follows a twelve-month period during which the taxpayer has not provided employer-sponsored health insurance to the taxpayer's employees or their dependents; or

(b) is a taxable year that is one of the four taxable years following a taxable year that meets the requirements of Subparagraph (a) of this paragraph; and

(2) "employer-sponsored health insurance" means health insurance for which an employer completely or partially pays the costs for its employees or their dependents.

C. A credit provided in this section may only be deducted from the taxpayer's corporate income tax liability for the taxable year. If the credit exceeds the taxpayer's corporate income tax liability for the taxable year, the excess shall be refunded to the taxpayer.

D. A taxpayer may not claim a credit pursuant to this section for a taxable year for which the taxpayer is claiming a credit for providing employer-sponsored health insurance pursuant to the Income Tax Act."".

15. Renumber the succeeding sections accordingly.

16. On page 33, line 11, strike "CREDIT" and insert in lieu thereof "CREDITS".

17. On page 33, line 12, strike "CREDIT" and insert in lieu thereof "CREDITS".

18. On page 33, line 13, strike "credit" and insert in lieu thereof "credits".

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19. On page 33, line 14, strike "credit" and insert in lieu thereof "credits" and on line 16, strike "credit" and insert in lieu thereof "credits".

20. On page 33, line 25, after "generator" insert "using a wind- or biomass-derived qualified energy resource".

21. On page 34, line 2, after "generator" insert "using a wind- or biomass-derived qualified energy resource".

22. On page 34, line 5, after the period insert the following:

"The amount of the tax credit shall equal two cents (\$.02) per kilowatt-hour of the first two hundred thousand megawatt-hours of electricity produced by a qualified energy generator using a solar-light- or solar-heat-derived qualified energy resource in the taxable year; provided that the total amount of tax credits claimed by all taxpayers for a single qualified energy generator using a solar-light- or solar-heat-derived qualified energy resource shall not exceed two cents (\$.02) per kilowatt-hour of the first two hundred thousand megawatt-hours of electricity produced by the qualified energy resource in the taxable year."

23. On page 34, line 6, strike "a" and insert in lieu thereof "the".

24. On page 34, line 7, strike "credit" and insert in lieu thereof "credits".

25. On page 34, line 9, strike "credit" and insert in lieu thereof "credits".

26. On page 35, line 20, strike "ten megawatts" and insert in lieu thereof "one megawatt".

27. On page 36, line 14, strike "credit" and insert in lieu thereof "credits".

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28. On page 37, line 9, strike "a" and insert in lieu thereof "the" and strike "credit" and insert in lieu thereof "credits".

29. On page 37, line 16, strike "credit" and insert in lieu thereof "credits".

30. On page 37, line 21, strike "credit" and insert in lieu thereof "credits".

31. On page 38, line 5, strike "credit" and insert in lieu thereof "credits".

32. On page 38, line 16, strike "credit" and insert in lieu thereof "credits".

33. On page 38, line 20, strike "credit" and insert in lieu thereof "credits".

34. On page 39, line 6, after "for" insert "a" and strike "credits" and insert in lieu thereof "credit".

35. On page 39, line 10, strike "credit" and insert in lieu thereof "credits" and on line 12, strike "credit" and insert in lieu thereof "credits".

36. On page 39, line 14, strike "five" and insert in lieu thereof "ten".

37. On page 39, lines 16 and 17, strike "15 through 22" and insert in lieu thereof "19 through 26".

38. On page 44, between lines 15 and 16, insert the following new subsection:

"C. Claiming the advanced energy product manufacturers tax credit with respect to qualified expenditures renders the taxpayer ineligible to claim a credit with respect to those same expenditures

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pursuant to the Investment Credit Act, the Technology Jobs Tax Credit Act or the renewable energy production tax credit."

39. On page 45, line 2, strike "one" and insert in lieu thereof "the number of".

40. On page 45, line 3, strike "employee" and insert in lieu thereof "employees".

41. On page 47, between lines 16 and 17, insert the following new sections:

"Section 27. Section 7-9-3 NMSA 1978 (being Laws 1978, Chapter 46, Section 1, as amended) is amended to read:

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

A. "buying" or "selling" means a transfer of property for consideration or the performance of service for consideration;

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

C. "financial corporation" means [~~any~~] a savings and loan association or [~~any~~] an incorporated savings and loan company, trust company, mortgage banking company, consumer finance company or other financial corporation;

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

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

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

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

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

(5) similar activities;

E. "leasing" means an arrangement whereby, for a consideration, property is employed for or by any person other than the owner of the property, except that the granting of a license to use property is [~~the sale of a license and~~] not a lease;

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

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

H. "manufacturing" means combining or processing

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components or materials to increase their value for sale in the ordinary course of business, but does not include construction;

I. "person" means:

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

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

J. "property" means real property, tangible personal property, licenses and franchises [~~patents, trademarks and copyrights~~]. Tangible personal property includes electricity and manufactured homes;

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

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

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

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

(4) developing new uses or applications for an

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existing product, process or system, whether or not the new use or application is offered as the rationale for purchase, lease or other transfer of the product, process or system;

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

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

L. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

M. "service" means all activities engaged in for other persons for a consideration, which activities involve predominantly the performance of a service as distinguished from selling or leasing property. "Service" includes activities performed by a person for its members or shareholders. In determining what is a service, the intended use, principal objective or ultimate objective of the contracting parties shall not be controlling. "Service" includes construction activities and all tangible personal property that will become an ingredient or component part of a construction project. [~~Such~~] That tangible personal property retains its character as tangible personal property until it is installed as an ingredient or component part of a construction project in New Mexico. [~~However~~] Sales of tangible personal property that will become an ingredient or component part of a construction project to persons engaged in the construction business are sales of tangible personal property; and

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

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Section 28. Section 7-9-3.5 NMSA 1978 (being Laws 2003, Chapter 272, Section 3) is amended to read:

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

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

(1) "gross receipts" means the total amount of money or the value of other consideration received from selling property located in New Mexico, from leasing or licensing property employed in New Mexico, from selling services performed outside New Mexico, the product of which is initially used in New Mexico, or from performing services in New Mexico. In an exchange in which the money or other consideration received does not represent the value of the property or service exchanged, "gross receipts" means the reasonable value of the property or service exchanged;

(2) "gross receipts" includes:

(a) any receipts from sales of tangible personal property handled on consignment;

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

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

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

(e) amounts received by a New Mexico florist from the sale of flowers, plants or other products that are customarily

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sold by florists where the sale is made pursuant to orders placed with the New Mexico florist that are filled and delivered outside New Mexico by an out-of-state florist; and

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

(3) "gross receipts" excludes:

(a) cash discounts allowed and taken;

(b) New Mexico gross receipts tax, governmental gross receipts tax and leased vehicle gross receipts tax payable on transactions for the reporting period;

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

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

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(e) any type of time-price differential;

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

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

B. When the sale of property or service is made under any type of charge, conditional or time-sales contract or the leasing of property is made under a leasing contract, the seller or lessor may elect to treat all receipts, excluding any type of time-price differential, under such contracts as gross receipts as and when the payments are actually received. If the seller or lessor transfers [~~his~~] the seller's or lessor's interest in any such contract to a third person, the seller or lessor shall pay the gross receipts tax upon the full sale or leasing contract amount, excluding any type of time-price differential."".

42. Renumber the succeeding sections accordingly.

43. On page 66, lines 14 and 15, strike "one and eight hundred eighty-eight thousandths" and insert in lieu thereof "one and two hundred fifty-eight thousandths" and on line 17, strike "and".

44. On page 66, line 18, after "2007" insert "but before July 1, 2008".

45. On page 66, lines 19 and 20, strike "three and seven hundred seventy-five thousandths" and insert in lieu thereof "two and five hundred sixteen thousandths".

46. On page 66, between lines 22 and 23, insert the following new subparagraph:

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"(c) on or after July 1, 2008, in an amount equal to three and seven hundred seventy-five thousandths percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken; and".

47. On page 67, line 1, strike "two and one-half" and insert in lieu thereof "one and sixty-seven hundredths" and on line 3, strike "and".

48. On page 67, line 4, after "2007" insert "but before July 1, 2008".

49. On page 67, line 5, strike "five" and insert in lieu thereof "three and thirty-three hundredths".

50. On page 67, line 7, strike the period and insert in lieu thereof "; and" and between lines 7 and 8, insert the following new subparagraph:

"(c) on or after July 1, 2008, in an amount equal to five percent of the hospital's taxable gross receipts for that reporting period after all applicable deductions have been taken.".

51. On page 80, line 4, strike "eighty-five" and insert in lieu thereof "seventy".

52. On page 82, line 3, after "commenced" insert "after January 1, 2006, but".

53. On page 83, between lines 6 and 7, insert the following section:

"Section 49. Section 9-21-23 NMSA 1978 (being Laws 2005, Chapter 146, Section 7) is amended to read:

"9-21-23. TRIBAL INFRASTRUCTURE PROJECT FUND--CREATED--
PURPOSE--APPROPRIATIONS.--"

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A. The "tribal infrastructure project fund" is created in the state treasury and:

(1) the department of finance and administration shall administer the project fund;

(2) the project fund shall consist of:

(a) distributions made to it from the trust fund;

(b) distributions made to it pursuant to the Tax Administration Act;

~~[(b)]~~ (c) payments of principal and interest on loans for qualified projects;

~~[(e)]~~ (d) other money appropriated by the legislature or distributed or otherwise allocated to the project fund for the purpose of supporting qualified projects; and

~~[(d)]~~ (e) income from investment of the money in the project fund that shall be credited to the project fund;

(3) balances in the project fund at the end of a fiscal year shall not revert to the trust fund or to the general fund; and

(4) the project fund may consist of subaccounts as determined to be necessary by the department of finance and administration.

B. The department of finance and administration may establish procedures and adopt rules as required to administer the project fund and to originate grants or loans for qualified projects approved by the board.

C. Beginning in fiscal year 2006 and in subsequent years,

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the lesser of one percent of the money in the project fund not attributable to a distribution pursuant to the Tax Administration Act or one hundred thousand dollars (\$100,000) is appropriated from the project fund to the department of finance and administration for expenditure in the fiscal year in which it is appropriated, to administer the project fund. Any unexpended or unencumbered balance remaining at the end of any fiscal year shall revert to the project fund.

D. Beginning in fiscal year 2006 and in each subsequent year, the lesser of five percent of the money in the project fund not attributable to a distribution pursuant to the Tax Administration Act or five hundred thousand dollars (\$500,000) is appropriated from the project fund to the Indian affairs department for expenditure in the fiscal year in which it is appropriated to administer the Tribal Infrastructure Act, to pay per diem and mileage as required by that act and for operation of the board. Any unexpended or unencumbered balance remaining at the end of any fiscal year shall revert to the project fund.

E. Beginning in fiscal year 2007 and in subsequent fiscal years, the money distributed to the tribal infrastructure project fund pursuant to the Tax Administration Act is appropriated from the tribal infrastructure project fund to the Indian affairs department for powerline development for indigent Navajo families.

~~[E.]~~ F. The balance in the project fund not otherwise appropriated in this section is appropriated to the department of finance and administration for expenditure in fiscal year 2006 and in subsequent fiscal years to carry out the provisions of the Tribal Infrastructure Act by providing grants or loans for qualified projects. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall revert to the project fund."".

54. Renumber the succeeding sections accordingly.

55. On page 83, line 7, before "Sections" insert the

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subsection designation "A."

56. On page 83, line 7, strike "12 and 13" and insert in lieu thereof "14 and 15".

57. On page 83, between lines 8 and 9, insert the following new subsections:

"B. Sections 19 through 26 and 34 of this act are repealed effective January 1, 2015.

C. Sections 7-9-98 and 7-9E-1 through 7-9E-9 NMSA 1978 (being Laws 2005, Chapter 179, Section 1 and Laws 2000 (2nd S.S.), Chapter 20, Sections 1 through 9) are repealed effective January 1, 2015."

58. On page 83, strike lines 11 through 24 and insert in lieu thereof the following sections:

"Section 52. APPLICABILITY.--

A. The provisions of Sections 9 through 12, 14 through 17 and 19 through 26 of this act apply to taxable years beginning on or after January 1, 2006.

B. The provisions of Section 36 of this act apply to reporting periods beginning on or after July 1, 2006.

C. The provisions of Sections 13 and 18 of this act apply to taxable years beginning on or after January 1, 2008.

Section 53. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1, 5, 8, 27 through 31, 33, 34, 37 through 49 and 51 of this act is July 1, 2006.

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B. The effective date of the provisions of Section 35 of this act is January 1, 2007.

C. The effective date of the provisions of Sections 2 through 4 and 32 of this act is July 1, 2007."

Respectfully submitted,

Joseph A. Fidel, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

No: 0

Excused: Rodriguez

Absent: None

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.162514.1

.162518.3

.162579.2

.162589.1