

SENATE BILL 6

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SPECIAL SESSION, 2016

INTRODUCED BY

John Arthur Smith and Carlos Cisneros

This document incorporates committee amendments adopted during the House Ways and Means Committee's consideration of this measure. It also includes House Floor Amendment #1 which was adopted. It is a tool to show the amendments in context and is not to be used for introduction, amendment or substitution.

AN ACT

RELATING TO TAXATION; ~~ACCELERATING THE PHASE-OUT OF THE HOLD HARMLESS DISTRIBUTIONS;~~ REDUCING A DISTRIBUTION TO THE LEGISLATIVE RETIREMENT FUND; PROVIDING A CIVIL PENALTY IF A TAXPAYER FAILS TO CORRECTLY FILE FOR A GROSS RECEIPTS DEDUCTION PURSUANT TO SECTION 7-9-92 NMSA 1978 (BEING LAWS 2004, CHAPTER 116, SECTION 5) OR SECTION 7-9-93 NMSA 1978 (BEING LAWS 2004, CHAPTER 116, SECTION 6, AS AMENDED); ~~CLARIFYING THAT A PERSON WITHOUT PHYSICAL PRESENCE IN THE STATE THAT HAS LESS THAN ONE HUNDRED THOUSAND DOLLARS (\$100,000) IN GROSS RECEIPTS IS NOT ENGAGING IN BUSINESS PURSUANT TO THE GROSS RECEIPTS AND COMPENSATING TAX ACT; BARRING THE TAXATION AND REVENUE DEPARTMENT FROM ENFORCING COLLECTION OF THE GROSS RECEIPTS TAX IN CERTAIN CIRCUMSTANCES;~~ CLARIFYING THE TYPE OF HEALTH CARE PROVIDER THAT MAY TAKE CERTAIN GROSS RECEIPTS TAX DEDUCTIONS

.204850.2 Amendments in Context

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FOR MEDICAL AND HEALTH CARE SERVICES; PROVIDING ADDITIONAL REQUIREMENTS TO BE ELIGIBLE TO CLAIM A HIGH-WAGE JOBS TAX CREDIT; EXCLUDING BENEFITS FROM CALCULATION OF THE CREDIT AMOUNT; ~~LIMITING THE AMOUNT OF HIGH-WAGE JOBS TAX CREDITS TO AN AGGREGATE AMOUNT OF TWENTY-FOUR MILLION DOLLARS (\$24,000,000) PER FISCAL YEAR;~~ **MAKING AN APPROPRIATION;** DECLARING AN EMERGENCY.

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

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

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

~~-----A. For a municipality that [has not elected to impose] does not have in effect a municipal hold harmless gross receipts tax through an ordinance and that has a population of less than ten thousand according to the most recent federal decennial census, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to [a] the municipality in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the [sum of:~~

~~----- (1) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied~~

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~~by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality for the month plus one and two hundred twenty-five thousandths percent; and~~

~~_____ (2) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality for the month plus one and two hundred twenty-five thousandths percent] applicable maximum distribution for the municipality.~~

~~_____ B. For a municipality not described in Subsection A of this section, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the municipality in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the [sum of:~~

~~_____ (1) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality on January 1, 2007 plus one and two hundred twenty-five thousandths percent in the following percentages:~~

~~_____ (a) prior to July 1, 2015, one hundred percent;~~

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~~_____ (b) on or after July 1, 2015 and prior to July 1, 2016, ninety-four percent;~~

~~_____ (c) on or after July 1, 2016 and prior to July 1, 2017, eighty-eight percent;~~

~~_____ (d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;~~

~~_____ (e) on or after July 1, 2018 and prior to July 1, 2019, seventy-six percent;~~

~~_____ (f) on or after July 1, 2019 and prior to July 1, 2020, seventy percent;~~

~~_____ (g) on or after July 1, 2020 and prior to July 1, 2021, sixty-three percent;~~

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

~~_____ (i) on or after July 1, 2022 and prior to July 1, 2023, forty-nine percent;~~

~~_____ (j) on or after July 1, 2023 and prior to July 1, 2024, forty-two percent;~~

~~_____ (k) on or after July 1, 2024 and prior to July 1, 2025, thirty-five percent;~~

~~_____ (l) on or after July 1, 2025 and prior to July 1, 2026, twenty-eight percent;~~

~~_____ (m) on or after July 1, 2026 and prior to July 1, 2027, twenty-one percent;~~

~~_____ (n) on or after July 1, 2027 and prior~~

.204850.2 Amendments in Context

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~~to July 1, 2028, fourteen percent; and~~

~~_____ (o) on or after July 1, 2028 and prior to July 1, 2029, seven percent; and~~

~~_____ (2) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality on January 1, 2007 plus one and two hundred twenty-five thousandths percent in] applicable maximum distribution for the municipality multiplied by the following percentages:~~

~~_____ [(a) prior to July 1, 2015, one hundred percent;~~

~~_____ (b) on or after July 1, 2015 and prior to July 1, 2016, ninety-four percent;~~

~~_____ (c) on or after July 1, 2016 and prior to July 1, 2017, eighty-eight percent;~~

~~_____ (d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;~~

~~_____ (e)] (1) on or after [July 1, 2018] January 1, 2017 and prior to July 1, [2019] 2018, seventy-six percent;~~

~~_____ [(f)] (2) on or after July 1, [2019] 2018 and prior to July 1, [2020] 2019, seventy percent;~~

~~_____ [(g)] (3) on or after July 1, [2020] 2019 and prior to July 1, [2021] 2020, sixty-three percent;~~

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~~_____ [(h)] (4) on or after July 1, [2021] 2020 and prior to July 1, [2022] 2021, fifty-six percent;~~
~~_____ [(i)] (5) on or after July 1, [2022] 2021 and prior to July 1, [2023] 2022, forty-nine percent;~~
~~_____ [(j)] (6) on or after July 1, [2023] 2022 and prior to July 1, [2024] 2023, forty-two percent;~~
~~_____ [(k)] (7) on or after July 1, [2024] 2023 and prior to July 1, [2025] 2024, thirty-five percent;~~
~~_____ [(l)] (8) on or after July 1, [2025] 2024 and prior to July 1, [2026] 2025, twenty-eight percent;~~
~~_____ [(m)] (9) on or after July 1, [2026] 2025 and prior to July 1, [2027] 2026, twenty-one percent;~~
~~_____ [(n)] (10) on or after July 1, [2027] 2026 and prior to July 1, [2028] 2027, fourteen percent; [and~~
~~_____ [(o)] (11) on or after July 1, [2028] 2027 and prior to July 1, [2029] 2028, seven percent; and~~
~~_____ (12) on and after July 1, 2028, zero percent.~~

~~_____ C. [The] A distribution pursuant to [Subsections A and B of] this section is in lieu of revenue that would have been received by the municipality but for the deductions provided by Sections 7-9-92 and 7-9-93 NMSA 1978. The distribution shall be considered gross receipts tax revenue and shall be used by the municipality in the same manner as gross receipts tax revenue, including payment of gross receipts tax revenue bonds. [A distribution pursuant to this section to a~~

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~~municipality not described in Subsection A of this section or to a municipality that has imposed a gross receipts tax through an ordinance that does not provide a deduction contained in the Gross Receipts and Compensating Tax Act shall not be made on or after July 1, 2029.]~~

~~————— D. If the reductions made by this [2013] 2016 act to the distributions made pursuant to [Subsections A and B of] this section impair the ability of a municipality to meet its principal or interest payment obligations for revenue bonds that are outstanding prior to [July 1, 2013] the effective date of this 2016 act and that are secured by the pledge of all or part of the municipality's revenue from the distribution made pursuant to this section, then the amount distributed pursuant to this section to that municipality shall be increased by an amount sufficient to meet the required payment; provided that the total amount distributed to that municipality pursuant to this section does not exceed the amount that would have been due that municipality pursuant to this section as it was in effect on [June 30, 2013] the day prior to the effective date of this 2016 act.~~

~~————— E. For the purposes of this section:~~

~~————— (1) "business locations attributable to the municipality" means business locations:~~

~~————— [(1)] (a) within the municipality;~~

~~————— [(2)] (b) on land owned by the state,~~

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~~commonly known as the "state fairgrounds", within the exterior boundaries of the municipality;~~

~~_____ [(3)] (c) outside the boundaries of the municipality on land owned by the municipality; and~~

~~_____ [(4)] (d) on an Indian reservation or pueblo grant in an area that is contiguous to the municipality and in which the municipality performs services pursuant to a contract between the municipality and the Indian tribe or Indian pueblo if: [(a)] 1) the contract describes an area in which the municipality is required to perform services and requires the municipality to perform services that are substantially the same as the services the municipality performs for itself; and [(b)] 2) the governing body of the municipality has submitted a copy of the contract to the secretary; and~~

~~_____ (2) "maximum distribution" means:~~

~~_____ (a) for a municipality that has a population of less than ten thousand according to the most recent federal decennial census, the total deductions claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality for the month plus one and two hundred twenty-five thousandths percent; and~~

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~~_____ (b) for a municipality that has a population of ten thousand or more according to the most recent federal decennial census, the total deductions claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality on January 1, 2007 plus one and two hundred twenty-five thousandths percent.~~

~~_____ F. A distribution pursuant to this section may be adjusted for a distribution made to a tax increment development district with respect to a portion of a gross receipts tax increment dedicated by a municipality pursuant to the Tax Increment for Development Act."~~

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

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

~~_____ A. For a county that [has not elected to impose] does not have in effect a county hold harmless gross receipts tax through an ordinance and that has a population of less than forty-eight thousand according to the most recent federal decennial census, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to [a] the county in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15~~

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~~NMSA 1978, equal to the [sum of:~~

~~————— (1) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed throughout the county;~~

~~————— (2) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations in the county but not within a municipality multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed in the county area not within a municipality;~~

~~————— (3) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed throughout the county; and~~

~~————— (4) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations in the county but not within a municipality multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed in the county area not within a municipality] applicable~~

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~~maximum distribution for the county.~~

~~————— B. For a county not described in Subsection A of this section, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the county in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the [sum of:~~

~~————— (1) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect on January 1, 2007 that are imposed throughout the county in the following percentages:~~

~~————— (a) prior to July 1, 2015, one hundred percent;~~

~~————— (b) on or after July 1, 2015 and prior to July 1, 2016, ninety-four percent;~~

~~————— (c) on or after July 1, 2016 and prior to July 1, 2017, eighty-eight percent;~~

~~————— (d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;~~

~~————— (e) on or after July 1, 2018 and prior to July 1, 2019, seventy-six percent;~~

~~————— (f) on or after July 1, 2019 and prior to July 1, 2020, seventy percent;~~

~~————— (g) on or after July 1, 2020 and prior~~

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~~to July 1, 2021, sixty-three percent;~~
~~_____ (h) on or after July 1, 2021 and prior~~
~~to July 1, 2022, fifty-six percent;~~
~~_____ (i) on or after July 1, 2022 and prior~~
~~to July 1, 2023, forty-nine percent;~~
~~_____ (j) on or after July 1, 2023 and prior~~
~~to July 1, 2024, forty-two percent;~~
~~_____ (k) on or after July 1, 2024 and prior~~
~~to July 1, 2025, thirty-five percent;~~
~~_____ (l) on or after July 1, 2025 and prior~~
~~to July 1, 2026, twenty-eight percent;~~
~~_____ (m) on or after July 1, 2026 and prior~~
~~to July 1, 2027, twenty-one percent;~~
~~_____ (n) on or after July 1, 2027 and prior~~
~~to July 1, 2028, fourteen percent; and~~
~~_____ (o) on or after July 1, 2028 and prior~~
~~to July 1, 2029, seven percent;~~
~~_____ (2) the total deductions claimed pursuant to~~
~~Section 7-9-92 NMSA 1978 for the month by taxpayers from~~
~~business locations in the county but not within a municipality~~
~~multiplied by the combined rate of all county local option~~
~~gross receipts taxes in effect on January 1, 2007 that are~~
~~imposed in the county area not within a municipality in the~~
~~following percentages:~~
~~_____ (a) prior to July 1, 2015, one hundred~~

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percent;

~~_____ (b) on or after July 1, 2015 and prior to July 1, 2016, ninety-four percent;~~

~~_____ (c) on or after July 1, 2016 and prior to July 1, 2017, eighty-eight percent;~~

~~_____ (d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;~~

~~_____ (e) on or after July 1, 2018 and prior to July 1, 2019, seventy-six percent;~~

~~_____ (f) on or after July 1, 2019 and prior to July 1, 2020, seventy percent;~~

~~_____ (g) on or after July 1, 2020 and prior to July 1, 2021, sixty-three percent;~~

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

~~_____ (i) on or after July 1, 2022 and prior to July 1, 2023, forty-nine percent;~~

~~_____ (j) on or after July 1, 2023 and prior to July 1, 2024, forty-two percent;~~

~~_____ (k) on or after July 1, 2024 and prior to July 1, 2025, thirty-five percent;~~

~~_____ (l) on or after July 1, 2025 and prior to July 1, 2026, twenty-eight percent;~~

~~_____ (m) on or after July 1, 2026 and prior to July 1, 2027, twenty-one percent;~~

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~~_____ (n) on or after July 1, 2027 and prior to July 1, 2028, fourteen percent; and~~

~~_____ (o) on or after July 1, 2028 and prior to July 1, 2029, seven percent;~~

~~_____ (3) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect on January 1, 2007 that are imposed throughout the county in the following percentages:~~

~~_____ (a) prior to July 1, 2015, one hundred percent;~~

~~_____ (b) on or after July 1, 2015 and prior to July 1, 2016, ninety-four percent;~~

~~_____ (c) on or after July 1, 2016 and prior to July 1, 2017, eighty-eight percent;~~

~~_____ (d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;~~

~~_____ (e) on or after July 1, 2018 and prior to July 1, 2019, seventy-six percent;~~

~~_____ (f) on or after July 1, 2019 and prior to July 1, 2020, seventy percent;~~

~~_____ (g) on or after July 1, 2020 and prior to July 1, 2021, sixty-three percent;~~

~~_____ (h) on or after July 1, 2021 and prior~~

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~~to July 1, 2022, fifty-six percent;~~
~~_____ (i) on or after July 1, 2022 and prior~~
~~to July 1, 2023, forty-nine percent;~~
~~_____ (j) on or after July 1, 2023 and prior~~
~~to July 1, 2024, forty-two percent;~~
~~_____ (k) on or after July 1, 2024 and prior~~
~~to July 1, 2025, thirty-five percent;~~
~~_____ (l) on or after July 1, 2025 and prior~~
~~to July 1, 2026, twenty-eight percent;~~
~~_____ (m) on or after July 1, 2026 and prior~~
~~to July 1, 2027, twenty-one percent;~~
~~_____ (n) on or after July 1, 2027 and prior~~
~~to July 1, 2028, fourteen percent; and~~
~~_____ (o) on or after July 1, 2028 and prior~~
~~to July 1, 2029, seven percent; and~~
~~_____ (4) the total deductions claimed pursuant to~~
~~Section 7-9-93 NMSA 1978 for the month by taxpayers from~~
~~business locations in the county but not within a municipality~~
~~multiplied by the combined rate of all county local option~~
~~gross receipts taxes in effect on January 1, 2007 that are~~
~~imposed in the county area not within a municipality, in]~~
~~applicable maximum distribution multiplied by the following~~
~~percentages:~~
~~_____ [(a) prior to July 1, 2015, one hundred~~
~~percent;~~

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- ~~_____ (b) on or after July 1, 2015 and prior to July 1, 2016, ninety-four percent;~~
- ~~_____ (c) on or after July 1, 2016 and prior to July 1, 2017, eighty-eight percent;~~
- ~~_____ (d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;~~
- ~~_____ (e) (1) on or after [July 1, 2018] January 1, 2017 and prior to July 1, [2019] 2018, seventy-six percent;~~
- ~~_____ [(f)] (2) on or after July 1, [2019] 2018 and prior to July 1, [2020] 2019, seventy percent;~~
- ~~_____ [(g)] (3) on or after July 1, [2020] 2019 and prior to July 1, [2021] 2020, sixty-three percent;~~
- ~~_____ [(h)] (4) on or after July 1, [2021] 2020 and prior to July 1, [2022] 2021, fifty-six percent;~~
- ~~_____ [(i)] (5) on or after July 1, [2022] 2021 and prior to July 1, [2023] 2022, forty-nine percent;~~
- ~~_____ [(j)] (6) on or after July 1, [2023] 2022 and prior to July 1, [2024] 2023, forty-two percent;~~
- ~~_____ [(k)] (7) on or after July 1, [2024] 2023 and prior to July 1, [2025] 2024, thirty-five percent;~~
- ~~_____ [(l)] (8) on or after July 1, [2025] 2024 and prior to July 1, [2026] 2025, twenty-eight percent;~~
- ~~_____ [(m)] (9) on or after July 1, [2026] 2025 and prior to July 1, [2027] 2026, twenty-one percent;~~
- ~~_____ [(n)] (10) on or after July 1, [2027] 2026 and~~

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~~prior to July 1, [2028] 2027, fourteen percent; [and
----- (o)] (11) on or after July 1, [2028] 2027 and
prior to July 1, [2029] 2028, seven percent; and
----- (12) on and after July 1, 2028, zero percent.~~

~~C. [The] A distribution pursuant to [Subsections A
and B of] this section is in lieu of revenue that would have
been received by the county but for the deductions provided by
Sections 7-9-92 and 7-9-93 NMSA 1978. The distribution shall
be considered gross receipts tax revenue and shall be used by
the county in the same manner as gross receipts tax revenue,
including payment of gross receipts tax revenue bonds. [A
distribution pursuant to this section to a county not described
in Subsection A of this section or to a county that has imposed
a gross receipts tax through an ordinance that does not provide
a deduction contained in the Gross Receipts and Compensating
Tax Act shall not be made on or after July 1, 2029.]~~

~~D. If the reductions made by this [2013] 2016 act
to the distributions made pursuant to [Subsections A and B of]
this section impair the ability of a county to meet its
principal or interest payment obligations for revenue bonds
that are outstanding prior to [July 1, 2013] the effective date
of this 2016 act and that are secured by the pledge of all or
part of the county's revenue from the distribution made
pursuant to this section, then the amount distributed pursuant
to this section to that county shall be increased by an amount~~

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~~sufficient to meet the required payment; provided that the total amount distributed to that county pursuant to this section does not exceed the amount that would have been due that county pursuant to this section as it was in effect on {June 30, 2013} the day prior to the effective date of this 2016 act.~~

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

~~————— F. For purposes of this section, "maximum distribution" means:~~

~~————— (1) for counties that have a population of less than forty-eight thousand according to the most recent federal decennial census, the sum of:~~

~~————— (a) the total deductions claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed throughout the county; and~~

~~————— (b) the total deductions claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month by taxpayers from business locations in the county but not~~

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~~within a municipality multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed in the county area not within a municipality; and~~

~~————— (2) for counties that have a population of forty-eight thousand or more according to the most recent federal decennial census, the sum of:~~

~~————— (a) the total deductions claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect on January 1, 2007 that are imposed throughout the county; and~~

~~————— (b) the total deductions claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month by taxpayers from business locations in the county but not within a municipality multiplied by the combined rate of all county local option gross receipts taxes in effect on January 1, 2007 that are imposed in the county area not within a municipality.~~

SECTION 1. Section 7-1-6.43 NMSA 1978 (being Laws 2003, Chapter 86, Section 1) is amended to read:

"7-1-6.43. DISTRIBUTION TO LEGISLATIVE RETIREMENT FUND.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the legislative retirement fund in an amount equal to [two hundred thousand dollars (\$200,000)]

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seventy-five thousand dollars (\$75,000) or, if larger, one-twelfth of the amount necessary to pay out the retirement benefits due under state legislator member coverage plan 2 and Paragraph (2) of Subsection C of Section [~~10-11-42~~] 10-11-41 NMSA 1978 for the calendar year.

B. In December 2003 and in each December thereafter, the public employees retirement association, with the assistance of the legislative council service, shall determine the amount of those retirement benefits for the succeeding calendar year. If the monthly average exceeds [~~two hundred thousand dollars (\$200,000)~~] seventy-five thousand dollars (\$75,000), the association shall notify immediately the department of the average amount. That average amount shall be the amount distributed pursuant to Subsection A of this section as of the end of each month of the twelve consecutive months beginning with the December in which the determination was made."

SECTION ~~31~~ 32. Section 7-1-68 NMSA 1978 (being Laws 1965, Chapter 248, Section 69, as amended) is amended to read:

"7-1-68. INTEREST ON OVERPAYMENTS.--

A. As provided in this section, interest shall be allowed and paid on the amount of tax overpaid by a person that is subsequently refunded or credited to that person.

B. Interest on overpayments of tax shall accrue and be paid at the underpayment rate established pursuant to

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Section 6621 of the Internal Revenue Code, computed on a daily basis; provided that if a different rate is specified by a compact or other interstate agreement to which New Mexico is a party, that rate shall apply to amounts due under the compact or other agreement.

C. Unless otherwise provided by this section, interest on an overpayment not arising from an assessment by the department shall be paid from the date of the claim for refund until a date preceding by not more than thirty days the date of the credit or refund to any person; and interest on an overpayment arising from an assessment by the department shall be paid from the date of overpayment until a date preceding by not more than thirty days the date of the credit or refund to any person.

D. No interest shall be allowed or paid with respect to an amount credited or refunded if:

- (1) the amount of interest due is less than one dollar (\$1.00);
- (2) the credit or refund is made within:
 - (a) fifty-five days of the date of the claim for refund of income tax, pursuant to either the Income Tax Act or the Corporate Income and Franchise Tax Act for the tax year immediately preceding the tax year in which the claim is made;
 - (b) sixty days of the date of the claim

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for refund of any tax not provided for in this paragraph;

(c) seventy-five days of the date of the claim for refund of gasoline tax to users of gasoline off the highways;

(d) one hundred twenty days of the date of the claim for refund of tax imposed pursuant to the Resources Excise Tax Act, the Severance Tax Act, the Oil and Gas Severance Tax Act, the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency School Tax Act, the Oil and Gas Ad Valorem Production Tax Act, the Natural Gas Processors Tax Act or the Oil and Gas Production Equipment Ad Valorem Tax Act; or

(e) one hundred twenty days of the date of the claim for refund of income tax, pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act, for any tax year more than one year prior to the year in which the claim is made;

(3) Sections 6611(f) and 6611(g) of the Internal Revenue Code, as those sections may be amended or renumbered, prohibit payment of interest for federal income tax purposes;

(4) the credit results from overpayments found in an audit of multiple reporting periods and applied to underpayments found in that audit or refunded as a net overpayment to the taxpayer pursuant to Section 7-1-29 NMSA 1978;

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(5) the department applies the credit or refund to an intercept program, to the taxpayer's estimated payment prior to the due date for the estimated payment or to offset prior liabilities of the taxpayer pursuant to Subsection E of Section 7-1-29 NMSA 1978;

(6) the credit or refund results from overpayments the department finds pursuant to Subsection F of Section 7-1-29 NMSA 1978 that exceed the refund claimed by the taxpayer on the return; or

(7) the refund results from a [~~film~~ production] tax credit pursuant to [~~Section 7-2F-1 NMSA 1978~~] the Film Production Tax Credit Act or a high-wage jobs tax credit.

E. Nothing in this section shall be construed to require the payment of interest upon interest."

SECTION 43. A new section of the Tax Administration Act is enacted to read:

"[NEW MATERIAL] CIVIL PENALTY FOR FAILURE TO CORRECTLY FILE CERTAIN DEDUCTIONS.--In the case of a taxpayer that deducts gross receipts pursuant to Section 7-9-92 or 7-9-93 NMSA 1978 instead of deducting or exempting gross receipts pursuant to another applicable provision of the Gross Receipts and Compensating Tax Act as required by those sections, there shall be assessed a penalty on the taxpayer in an amount equal to twenty percent of the value of the hold harmless

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distribution resulting from the incorrect deduction."

~~SECTION 5. Section 7-9-3.3 NMSA 1978 (being Laws 2003, Chapter 272, Section 4) is amended to read:~~

~~7-9-3.3. DEFINITION--ENGAGING IN BUSINESS.--As used in the Gross Receipts and Compensating Tax Act, "engaging in business" means carrying on or causing to be carried on any activity with the purpose of direct or indirect benefit, without regard to having physical presence, including the presence of a representative acting on behalf of the person, in the state, except that:~~

~~A. "engaging in business" does not include having a worldwide [web site] website as a third-party content provider on a computer physically located in New Mexico but owned by another nonaffiliated person; [and]~~

~~B. "engaging in business" does not include using a nonaffiliated third-party call center to accept and process telephone or electronic orders of tangible personal property or licenses primarily from non-New Mexico buyers, which orders are forwarded to a location outside New Mexico for filling, or to provide services primarily to non-New Mexico customers; and~~

~~C. "engaging in business" does not include the activities of a person without physical presence in this state if the person and the person's affiliates have less than one hundred thousand dollars (\$100,000) of gross receipts in the state, based on receipts during the prior calendar year. As~~

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~~used in this subsection, "affiliate" means a business entity that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with another business entity."~~

~~SECTION 6. Section 7-9-7.1 NMSA 1978 (being Laws 1993, Chapter 45, Section 1, as amended) is amended to read:~~

~~"7-9-7.1. DEPARTMENT BARRED FROM TAKING COLLECTION ACTIONS WITH RESPECT TO CERTAIN COMPENSATING AND GROSS RECEIPTS TAX LIABILITIES.--~~

~~A. The department shall take no action to enforce collection of compensating tax due on purchases made by an individual if:~~

~~(1) the property is used only for nonbusiness purposes;~~

~~(2) the property is not a manufactured home;~~
~~and~~

~~(3) the individual is not an agent for collection of compensating tax pursuant to Section 7-9-10 NMSA 1978.~~

~~B. The department shall take no action to enforce collection of gross receipts tax for a tax period prior to April 1, 2017 on persons engaging in business if, for those tax periods, those persons:~~

~~(1) lacked physical presence in the state; and~~

~~(2) did not report taxable gross receipts.~~

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~~----- [B.] C. The prohibition in Subsection A of this section does not prevent the department from enforcing collection of compensating tax on purchases from persons who are not individuals, who are agents for collection pursuant to Section 7-9-10 NMSA 1978 or who use the property in the course of engaging in business in New Mexico or from enforcing collection of compensating tax due on purchase of manufactured homes."~~

SECTION 74. Section 7-9-77.1 NMSA 1978 (being Laws 1998, Chapter 96, Section 1, as amended) is amended to read:

"7-9-77.1. DEDUCTION--GROSS RECEIPTS TAX--CERTAIN MEDICAL AND HEALTH CARE SERVICES.--

A. Receipts of a health care practitioner from payments by the United States government or any agency thereof for provision of medical and other health services by [~~medical doctors, osteopathic physicians, doctors of oriental medicine, athletic trainers, chiropractic physicians, counselor and therapist practitioners, dentists, massage therapists, naprapaths, nurses, nutritionists, dietitians, occupational therapists, optometrists, pharmacists, physical therapists, psychologists, radiologic technologists, respiratory care practitioners, audiologists, speech-language pathologists, social workers and podiatrists~~] a health care practitioner or of medical or other health and palliative services by hospices or nursing homes to medicare beneficiaries pursuant to the

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provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

B. Receipts of a health care practitioner from payments by a third-party administrator of the federal TRICARE program for provision of medical and other health services by medical doctors and osteopathic physicians to covered beneficiaries may be deducted from gross receipts.

C. Receipts of a health care practitioner from payments by or on behalf of the Indian health service of the United States department of health and human services for provision of medical and other health services by medical doctors and osteopathic physicians to covered beneficiaries may be deducted from gross receipts.

D. Receipts of a clinical laboratory from payments by the United States government or any agency thereof for medical services provided by [a] the clinical laboratory to medicare beneficiaries pursuant to the provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

E. Receipts of a home health agency from payments by the United States government or any agency thereof for medical, other health and palliative services provided by [a] the home health agency to medicare beneficiaries pursuant to the provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts.

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F. Prior to July 1, 2024, receipts of a dialysis facility from payments by the United States government or any agency thereof for medical and other health services provided by [a] the dialysis facility to medicare beneficiaries pursuant to the provisions of Title 18 of the federal Social Security Act may be deducted from gross receipts [~~according to the following schedule:~~

~~(1) from July 1, 2014 through June 30, 2015, thirty-three and one-third percent of the receipts may be deducted;~~

~~(2) from July 1, 2015 through June 30, 2016, sixty-six and two-thirds percent of the receipts may be deducted; and~~

~~(3) after June 30, 2016, one hundred percent of the receipts may be deducted].~~

G. A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction separately in a manner required by the department. A taxpayer who has receipts that are deductible pursuant to this section and Section 7-9-93 NMSA 1978 shall deduct the receipts under this section prior to calculating the receipts that may be deducted pursuant to Section 7-9-93 NMSA 1978.

H. The department shall compile an annual report on the deductions created pursuant to this section that shall include the number of taxpayers approved by the department to

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receive each deduction, the aggregate amount of deductions approved and any other information necessary to evaluate the effectiveness of the deductions. [~~Beginning in 2020 and every five years thereafter that this section is in effect~~] The department shall compile and present the annual reports to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the deductions and whether the deductions are providing a benefit to the state.

I. For the purposes of this section:

~~[(1) "athletic trainer" means a person licensed as an athletic trainer pursuant to the provisions of Chapter 61, Article 14D NMSA 1978;~~

~~(2) "chiropractic physician" means a person who practices chiropractic as defined in the Chiropractic Physician Practice Act;~~

~~(3)]~~ (1) "clinical laboratory" means a laboratory accredited pursuant to 42 USCA 263a;

~~[(4) "counselor and therapist practitioner" means a person licensed to practice as a counselor or therapist pursuant to the provisions of Chapter 61, Article 9A NMSA 1978;~~

~~(5) "dentist" means a person licensed to practice as a dentist pursuant to the provisions of Chapter 61, Article 5A NMSA 1978;~~

~~(6)]~~ (2) "dialysis facility" means an end-

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stage renal disease facility as defined pursuant to 42 C.F.R. 405.2102;

~~[(7) "doctor of oriental medicine" means a person licensed as a physician to practice acupuncture or oriental medicine pursuant to the provisions of Chapter 61, Article 14A NMSA 1978;]~~

(3) "health care practitioner" means:

(a) an athletic trainer licensed pursuant to the Athletic Trainer Practice Act;

(b) an audiologist licensed pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

(c) a chiropractic physician licensed pursuant to the Chiropractic Physician Practice Act;

(d) a counselor or therapist practitioner licensed pursuant to the Counseling and Therapy Practice Act;

(e) a dentist licensed pursuant to the Dental Health Care Act;

(f) a doctor of oriental medicine licensed pursuant to the Acupuncture and Oriental Medicine Practice Act;

(g) an independent social worker licensed pursuant to the Social Work Practice Act;

(h) a massage therapist licensed

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pursuant to the Massage Therapy Practice Act;

(i) a naprapath licensed pursuant to the
Naprapathic Practice Act;

(j) a nutritionist or dietitian licensed
pursuant to the Nutrition and Dietetics Practice Act;

(k) an occupational therapist licensed
pursuant to the Occupational Therapy Act;

(l) an optometrist licensed pursuant to
the Optometry Act;

(m) an osteopathic physician licensed
pursuant to the Osteopathic Medicine Act;

(n) a pharmacist licensed pursuant to
the Pharmacy Act;

(o) a physical therapist licensed
pursuant to Physical Therapy Act;

(p) a physician licensed pursuant to the
Medical Practice Act;

(q) a podiatrist licensed pursuant to
the Podiatry Act;

(r) a psychologist licensed pursuant to
the Professional Psychologist Act;

(s) a radiologic technologist licensed
pursuant to the Medical Imaging and Radiation Therapy Health
and Safety Act;

(t) a registered nurse licensed pursuant

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to the Nursing Practice Act;

(u) a respiratory care practitioner licensed pursuant to the Respiratory Care Act; and

(v) a speech-language pathologist licensed pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

[~~(8)~~] (4) "home health agency" means a for-profit entity that is licensed by the department of health and certified by the federal centers for medicare and medicaid services as a home health agency and certified to provide medicare services;

[~~(9)~~] (5) "hospice" means a for-profit entity licensed by the department of health as a hospice and certified to provide medicare services;

[~~(10)~~] "~~massage therapist~~" means a person licensed to practice massage therapy pursuant to the provisions of Chapter 61, Article 12C NMSA 1978;

[~~(11)~~] "~~medical doctor~~" means a person licensed as a physician to practice medicine pursuant to the provisions of the Medical Practice Act;

[~~(12)~~] "~~naprapath~~" means a person licensed as a naprapath pursuant to the provisions of Chapter 61, Article 12F NMSA 1978;

[~~(13)~~] "~~nurse~~" means a person licensed as a registered nurse pursuant to the provisions of Chapter 61,

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~~Article 3 NMSA 1978;~~

~~(14)] (6) "nursing home" means a for-profit entity licensed by the department of health as a nursing home and certified to provide medicare services; and~~

~~[(15) "nutritionist" or "dietitian" means a person licensed as a nutritionist or dietitian pursuant to the provisions of Chapter 61, Article 7A NMSA 1978;~~

~~(16) "occupational therapist" means a person licensed as an occupational therapist pursuant to the provisions of Chapter 61, Article 12A NMSA 1978;~~

~~(17) "osteopathic physician" means a person licensed as an osteopathic physician pursuant to the provisions of Chapter 61, Article 10 NMSA 1978;~~

~~(18) "optometrist" means a person licensed to practice optometry pursuant to the provisions of Chapter 61, Article 2 NMSA 1978;~~

~~(19) "pharmacist" means a person licensed as a pharmacist pursuant to the provisions of Chapter 61, Article 11 NMSA 1978;~~

~~(20) "physical therapist" means a person licensed as a physical therapist pursuant to the provisions of Chapter 61, Article 12D NMSA 1978;~~

~~(21) "podiatrist" means a person licensed as a podiatrist pursuant to the provisions of the Podiatry Act;~~

~~(22) "psychologist" means a person licensed as~~

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~~a psychologist pursuant to the provisions of Chapter 61,
Article 9 NMSA 1978;~~

~~(23) "radiologic technologist" means a person
licensed as a radiologic technologist pursuant to the
provisions of Chapter 61, Article 14E NMSA 1978;~~

~~(24) "respiratory care practitioner" means a
person licensed as a respiratory care practitioner pursuant to
the provisions of Chapter 61, Article 12B NMSA 1978;~~

~~(25) "social worker" means a person licensed
as an independent social worker pursuant to the provisions of
Chapter 61, Article 31 NMSA 1978;~~

~~(26) "speech-language pathologist" means a
person licensed as a speech-language pathologist pursuant to
the provisions of Chapter 61, Article 14B NMSA 1978; and~~

~~(27)]~~ (7) "TRICARE program" means the program
defined in 10 U.S.C. 1072(7)."

SECTION 85. Section 7-9-93 NMSA 1978 (being Laws 2004,
Chapter 116, Section 6, as amended) is amended to read:

"7-9-93. DEDUCTION--GROSS RECEIPTS--CERTAIN RECEIPTS FOR
SERVICES PROVIDED BY HEALTH CARE PRACTITIONER.--

A. Receipts [~~from payments by a managed health care
provider or health care insurer~~] of a health care practitioner
for commercial contract services or medicare part C services
[~~provided by a health care practitioner that are not otherwise
deductible pursuant to another provision of the Gross Receipts~~

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~~and Compensating Tax Act]~~ paid by a managed health care provider or health care insurer may be deducted from gross receipts [~~provided that~~] if the services are within the scope of practice of the [~~person~~] health care practitioner providing the service. Receipts from fee-for-service payments by a health care insurer may not be deducted from gross receipts.

B. The deduction provided by this section shall be applied only to gross receipts remaining after all other allowable deductions available under the Gross Receipts and Compensating Tax Act have been taken and shall be separately stated by the taxpayer.

[~~B.~~] C. For the purposes of this section:

(1) "commercial contract services" means health care services performed by a health care practitioner pursuant to a contract with a managed health care provider or health care insurer other than those health care services provided for medicare patients pursuant to Title 18 of the federal Social Security Act or for medicaid patients pursuant to Title 19 or Title 21 of the federal Social Security Act;

(2) "health care insurer" means a person that:

(a) has a valid certificate of authority in good standing pursuant to the New Mexico Insurance Code to act as an insurer, health maintenance organization or nonprofit health care plan or prepaid dental plan; and

(b) contracts to reimburse licensed

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health care practitioners for providing basic health services to enrollees at negotiated fee rates;

(3) "health care practitioner" means:

(a) a chiropractic physician licensed pursuant to the provisions of the Chiropractic Physician Practice Act;

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

(c) a doctor of oriental medicine licensed pursuant to the provisions of the Acupuncture and Oriental Medicine Practice Act;

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

(e) an osteopathic physician [~~licensed pursuant to the provisions of Chapter 61, Article 10 NMSA 1978~~] or an osteopathic physician's assistant licensed pursuant to the provisions of the Osteopathic [~~Physicians' Assistants~~] Medicine Act;

(f) a physical therapist licensed pursuant to the provisions of the Physical Therapy Act;

(g) a physician or physician assistant licensed pursuant to the provisions of [~~Chapter 61, Article 6 NMSA 1978~~] the Medical Practice Act;

(h) a podiatrist licensed pursuant to the provisions of the Podiatry Act;

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

(j) a registered lay midwife registered by the department of health;

(k) a registered nurse or licensed practical nurse licensed pursuant to the provisions of the Nursing Practice Act;

(l) a registered occupational therapist licensed pursuant to the provisions of the Occupational Therapy Act;

(m) a respiratory care practitioner licensed pursuant to the provisions of the Respiratory Care Act;

(n) a speech-language pathologist or audiologist licensed pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

(o) a professional clinical mental health counselor, marriage and family therapist or professional art therapist licensed pursuant to the provisions of the Counseling and Therapy Practice Act who has obtained a master's degree or a doctorate;

(p) an independent social worker licensed pursuant to the provisions of the Social Work Practice Act; and

(q) a clinical laboratory that is

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accredited pursuant to 42 U.S.C. Section 263a but that is not a laboratory in a physician's office or in a hospital defined pursuant to 42 U.S.C. Section 1395x;

(4) "managed health care provider" means a person that provides for the delivery of comprehensive basic health care services and medically necessary services to individuals enrolled in a plan through its own employed health care providers or by contracting with selected or participating health care providers. "Managed health care provider" includes only those persons that provide comprehensive basic health care services to enrollees on a contract basis, including the following:

- (a) health maintenance organizations;
 - (b) preferred provider organizations;
 - (c) individual practice associations;
 - (d) competitive medical plans;
 - (e) exclusive provider organizations;
 - (f) integrated delivery systems;
 - (g) independent physician-provider organizations;
 - (h) physician hospital-provider organizations; and
 - (i) managed care services organizations;
- and

(5) "medicare part C services" means services

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performed pursuant to a contract with a managed health care provider for medicare patients pursuant to Title 18 of the federal Social Security Act."

SECTION 96. Section 7-9G-1 NMSA 1978 (being Laws 2004, Chapter 15, Section 1, as amended) is amended to read:

"7-9G-1. HIGH-WAGE JOBS TAX CREDIT--QUALIFYING HIGH-WAGE JOBS.--

A. A taxpayer who is an eligible employer may apply for, and the [~~taxation and revenue~~] department may allow, a tax credit for each new high-wage economic-based job. The credit provided in this section may be referred to as the "high-wage jobs tax credit".

B. The purpose of the high-wage jobs tax credit is to provide an incentive for urban and rural businesses to create and fill new high-wage economic-based jobs in New Mexico.

C. ~~Subject to the limitation pursuant to Section 7-9G-1.1 NMSA 1978, the~~The high-wage jobs tax credit may be claimed and allowed in an amount equal to ten percent of the wages [~~and benefits~~] distributed to an eligible employee in a new high-wage economic-based job, but shall not exceed twelve thousand dollars (\$12,000) per job per qualifying period. [~~D.~~] The high-wage jobs tax credit may be claimed by an eligible employer for each new high-wage economic-based job performed for the year in which the new high-wage economic-based job is

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created and for the three consecutive qualifying periods [A taxpayer shall apply for approval of the credit after the close of a qualifying period, but not later than twelve months following the end of the calendar year in which the taxpayer's final qualifying period closes] as provided in this section.

D. To receive a high-wage jobs tax credit, a taxpayer shall file an application for approval of the credit with the department once per calendar year on forms and in the manner prescribed by the department. The annual application shall contain the certification required by Subsection K of this section and shall contain all qualifying periods that closed during the calendar year for which the application is made. Any qualifying period that did not close in the calendar year for which the application is made shall be denied by the department. The application for a calendar year shall be filed no later than December 31 of the following calendar year. If a taxpayer fails to file the annual application within the time limits provided in this section, the application shall be denied by the department. The department shall make a determination on the application within one hundred eighty days of the date on which the application was filed; provided that the one-hundred-eighty-day period shall not begin until the application is complete, as determined by the department.

E. A new high-wage economic-based job shall not be eligible for a credit pursuant to this section for the initial

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qualifying period unless the eligible employer's total number of employees with ~~[high-wage economic-based]~~ threshold jobs on the last day of the initial qualifying period at the location at which the job is performed or based is at least one more than the number of threshold jobs on the day prior to the date the new high-wage economic-based job was created. A new high-wage economic-based job shall not be eligible for a credit pursuant to this section for a consecutive qualifying period unless the total number of threshold jobs at a location at which the job is performed or based on the last day of that qualifying period is greater than or equal to the number of threshold jobs at that same location on the last day of the initial qualifying period for the new high-wage economic-based job.

F. Any consecutive qualifying period for a new high-wage economic-based job shall not be eligible for a credit pursuant to this section unless the wage, the forty-eight-week occupancy and the residency requirements for a new high-wage economic-based job are met for each consecutive qualifying period. If any consecutive qualifying period for a new high-wage economic-based job does not meet the wage, the forty-eight-week occupancy and the residency requirements, all subsequent qualifying periods are ineligible.

[F.] G. Except as provided in Subsection H of this section, a new high-wage economic-based job shall not be

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eligible for a credit pursuant to this section if:

(1) the new high-wage economic-based job is created due to a business merger or acquisition or other change in business organization;

(2) the eligible employee was terminated from employment in New Mexico by another employer involved in the business merger or acquisition or other change in business organization with the taxpayer; and

(3) the new high-wage economic-based job is performed by:

(a) the person who performed the job or its functional equivalent prior to the business merger or acquisition or other change in business organization; or

(b) a person replacing the person who performed the job or its functional equivalent prior to a business merger or acquisition or other change in business organization.

~~[G. Notwithstanding the provisions of Subsection F of this section]~~ H. A new high-wage economic-based job that was created by another employer and for which an application for the high-wage jobs tax credit was received and is under review by the ~~[taxation and revenue]~~ department prior to the time of the business merger or acquisition or other change in business organization shall remain eligible for the high-wage jobs tax credit for the balance of the consecutive qualifying

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periods. The new employer that results from a business merger or acquisition or other change in business organization may only claim the high-wage jobs tax credit for the balance of the consecutive qualifying ~~[period]~~ periods for which the ~~[qualifying]~~ new high-wage economic-based job is otherwise eligible.

~~[H.]~~ I. A new high-wage economic-based job shall not be eligible for a credit pursuant to this section if the job is created due to an eligible employer entering into a contract or becoming a subcontractor to a contract with a governmental entity that replaces one or more entities performing functionally equivalent services for the governmental entity unless the job is a new high-wage economic-based job that was not being performed by an employee of the replaced entity.

J. A new high-wage economic-based job shall not be eligible for a credit pursuant to this section if the eligible employer has more than one business location in New Mexico from which it conducts business and the requirements of Subsection E of this section are satisfied solely by moving the job from one business location of the eligible employer in New Mexico to another business location of the eligible employer in New Mexico.

~~[I.]~~ K. With respect to each ~~[new high-wage economic-based job for which an eligible employer seeks the]~~

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annual application for a high-wage jobs tax credit, the employer shall certify and include:

(1) the amount of wages [~~and benefits~~] paid to each eligible employee in a new high-wage economic-based job during [~~each~~] the qualifying period;

(2) the number of weeks [~~the~~] each position was occupied during the qualifying period;

(3) whether the new high-wage economic-based job was in a municipality with a population of sixty thousand or more or with a population of less than sixty thousand according to the most recent federal decennial census and whether the job was in the unincorporated area of a county; [~~and~~]

(4) whether the application pertains to the first, second, third or fourth qualifying period for each eligible employee;

[~~(4)~~] (5) the total number of employees employed by the employer at the job location on the day prior to the qualifying period and on the last day of the qualifying period;

~~[J. To receive a high-wage jobs tax credit with respect to any qualifying period, an eligible employer shall apply to the taxation and revenue department on forms and in the manner prescribed by the department. The application shall include a certification made pursuant to Subsection I of this~~

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section]

(6) the total number of threshold jobs performed or based at the eligible employer's location on the day prior to the qualifying period and on the last day of the qualifying period;

(7) for an eligible employer that has more than one business location in New Mexico from which it conducts business, the total number of threshold jobs performed or based at each business location of the eligible employer in New Mexico on the day prior to the qualifying period and on the last day of the qualifying period;

(8) whether the eligible employer is receiving or is eligible to receive development training program assistance pursuant to Section 21-19-7 NMSA 1978;

(9) whether the eligible employer has ceased business operations at any of its business locations in New Mexico; and

(10) whether the application is precluded by Subsection O of this section.

L. Any person who willfully submits a false, incorrect or fraudulent certification required pursuant to Subsection K of this section shall be subject to all applicable penalties under the Tax Administration Act, except that the amount on which the penalty is based shall be the total amount of credit requested on the application for approval.

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~~[K. The credit provided in this section may be deducted from the]~~ M. Except as provided in Subsection N of this section, an approved high-wage jobs tax credit shall be claimed against the taxpayer's modified combined tax liability [of a taxpayer] and shall be filed with the return due immediately following the date of the credit approval. If the credit exceeds the taxpayer's modified combined tax liability [of the taxpayer], the excess shall be refunded to the taxpayer.

N. If the taxpayer ceases business operations in New Mexico while an application for credit approval is pending or after an application for credit has been approved for any qualifying period for a new high-wage economic-based job, the department shall not grant an additional high-wage jobs tax credit to that taxpayer, except as provided in Subsection O of this section, and shall extinguish any amount of credit approved for that taxpayer that has not already been claimed against the taxpayer's modified combined tax liability.

O. A taxpayer that has received a high-wage jobs tax credit shall not submit a new application for a credit for a minimum of five calendar years from the closing date of the last qualifying period for which the taxpayer received the credit if the taxpayer:

(1) lost eligibility to claim a tax credit from a previous application pursuant to Subsection E or N of

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this section; or

(2) reduces its total full-time employees in New Mexico by more than five percent after the date on which the last qualifying period on the taxpayer's previous application ends.

[~~E.~~] P. The economic development department and the taxation and revenue department shall report to the appropriate interim legislative committee [~~before November 1 of~~] each year the cost of this tax credit to the state and its impact on company recruitment and job creation.

[~~M.~~] Q. As used in this section:

(1) "benefits" means all remuneration for work performed that is provided to an employee in whole or in part by the employer, other than wages, including the employer's contributions to insurance programs, health care, medical, dental and vision plans, life insurance, employer contributions to pensions, such as a 401(k), and employer-provided services, such as child care, offered by an employer to the employee.

~~["Benefits" does not include the employer's share of payroll taxes, social security or medicare contributions, federal or state unemployment insurance contributions or workers' compensation];~~

(2) "consecutive qualifying periods" means the three qualifying periods successively following the qualifying period in which the new high-wage economic-based job was

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created;

(3) "department" means the taxation and revenue department;

(4) "domicile" means the sole place where an individual has a true, fixed, permanent home. It is the place where the individual has a voluntary, fixed habitation of self and family with the intention of making a permanent home;

[~~2~~] (5) "eligible employee" means an individual who is employed in New Mexico by an eligible employer and who is a resident of New Mexico; "eligible employee" does not include an individual who:

(a) bears any of the relationships described in Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to the employer or, if the employer is a corporation, to an individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, to an individual who owns, directly or indirectly, more than fifty percent of the capital and profits interest in the entity;

(b) if the employer is an estate or trust, is a grantor, beneficiary or fiduciary of the estate or trust or is an individual who bears any of the relationships described in Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to a grantor, beneficiary or fiduciary of the estate or trust;

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(c) is a dependent, as that term is described in 26 U.S.C. Section 152(a)(9), of the employer or, if the taxpayer is a corporation, of an individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, of an individual who owns, directly or indirectly, more than fifty percent of the capital and profits interest in the entity or, if the employer is an estate or trust, of a grantor, beneficiary or fiduciary of the estate or trust; or

(d) is working or has worked as an employee or as an independent contractor for an entity that, directly or indirectly, owns stock in a corporation of the eligible employer or other interest of the eligible employer that represents fifty percent or more of the total voting power of that entity or has a value equal to fifty percent or more of the capital and profits interest in the entity;

[~~(3)~~] (6) "eligible employer" means an employer that:

(a) [~~made~~] sold and delivered more than fifty percent of its [~~sales of~~] goods produced in New Mexico or non-retail services [produced] performed in New Mexico to persons outside New Mexico for use or resale outside New Mexico during the applicable qualifying period; [~~or~~] provided that the fifty percent of those goods or services is measured by the

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eligible employer's gross receipts;

(b) is [~~certified by the economic development department to be~~] receiving or is eligible [for] to receive development training program assistance pursuant to Section 21-19-7 NMSA 1978 during the applicable qualifying period; and

(c) whose principal business activities at the location in New Mexico for which the high-wage jobs tax credit is being claimed consist of manufacturing or performing non-retail services during the applicable qualifying period;

(7) "for use or resale outside New Mexico" means that the person who purchases the eligible employer's goods or services uses or resells the goods or services outside New Mexico or makes initial use of the goods or services outside New Mexico. If the purchaser conducts business in multiple states, goods and services are deemed for use or resale outside New Mexico, unless New Mexico is the primary market for the purchaser's goods or services;

(8) "full-time employee" means an employee who works for the same employer an average of at least thirty-two hours per week for at least forty-eight weeks per year;

(9) "manufacturing" means "manufacturing" as that term is used in Section 7-9A-3 NMSA 1978;

[~~(4)~~] (10) "modified combined tax liability" means the total liability for the reporting period for the

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gross receipts tax imposed by Section 7-9-4 NMSA 1978 together with any tax collected at the same time and in the same manner as the gross receipts tax, such as the compensating tax, the withholding tax, the interstate telecommunications gross receipts tax, the surcharges imposed by Section 63-9D-5 NMSA 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978, minus the amount of any credit other than the high-wage jobs tax credit applied against any or all of these taxes or surcharges; but "modified combined tax liability" excludes all amounts collected with respect to local option gross receipts taxes;

[~~5~~] (11) "new high-wage economic-based job" means a new job created in New Mexico by an eligible employer on or after July 1, 2004 and prior to July 1, 2020 that is occupied for at least forty-eight weeks of a qualifying period by an eligible employee who is paid wages calculated for the qualifying period to be at least:

(a) for a new high-wage economic-based job created prior to July 1, 2015: 1) forty thousand dollars (\$40,000) if the job is performed or based in or within ten miles of the external boundaries of a municipality with a population of sixty thousand or more according to the most recent federal decennial census or in a class H county; and 2) twenty-eight thousand dollars (\$28,000) if the job is performed or based in a municipality with a population of less than sixty

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thousand according to the most recent federal decennial census or in the unincorporated area, that is not within ten miles of the external boundaries of a municipality with a population of sixty thousand or more, of a county other than a class H county; and

(b) for a new high-wage economic-based job created on or after July 1, 2015: 1) sixty thousand dollars (\$60,000) if the job is performed or based in or within ten miles of the external boundaries of a municipality with a population of sixty thousand or more according to the most recent federal decennial census or in a class H county; and 2) forty thousand dollars (\$40,000) if the job is performed or based in a municipality with a population of less than sixty thousand according to the most recent federal decennial census or in the unincorporated area, that is not within ten miles of the external boundaries of a municipality with a population of sixty thousand or more, of a county other than a class H county;

(12) "non-retail service" means a specialized service, excluding a construction service of any type, that is sold to another business or business entity and is used by the business or business entity to develop products for or deliver services to its customers. "Non-retail service" is not provided by direct individual-to-individual interaction and is not offered to the general public by the business or business

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entity. "Non-retail service" includes:

(a) research, development, engineering and testing services performed for a manufacturer that uses the product of the service to develop new or improve existing products;

(b) software and software application development services performed for a business;

(c) data processing and hosting services performed for a business that uses the service to deliver products or service to its own customers;

(d) digital film production services and post-film production services performed for a business that will market the digital product or film;

(e) customer or call center services performed for a business, if those services do not support retail activities of the eligible employer; and

(f) professional services, such as accounting, engineering, legal and information technology services, if the eligible employer does not offer those services for sale to the general public;

(13) "performed in New Mexico" means that the labor, activities, property and equipment necessary to complete, but not to deliver, a service all occur or are utilized within New Mexico;

(14) "produced in New Mexico" means the

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creation, bringing into existence or making available a good or product for commercial sale through the expense of labor or capital, or both, within New Mexico;

[~~(6)~~] (15) "qualifying period" means the period of twelve months beginning on the day an eligible employee begins working in a new high-wage economic-based job or the period of twelve months beginning on the anniversary of the day an eligible employee began working in a new high-wage economic-based job; [~~and~~]

(16) "resident" means a natural person whose domicile is in New Mexico at the time of hire or within one hundred eighty days of the date of hire;

(17) "threshold job" means a job that is occupied for at least forty-eight weeks of a calendar year by an eligible employee and that meets the wage requirements for a "new high-wage economic-based job"; and

[~~(7)~~] (18) "wages" means all compensation paid by an eligible employer to an eligible employee through the employer's payroll system, including those wages that the employee elects to defer or redirect or the employee's contribution to a 401(k) or cafeteria plan program, but "wages" does not include benefits or the employer's share of payroll taxes, social security or medicare contributions, federal or state unemployment insurance contributions or workers' compensation."

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~~SECTION 10. A new Section 7-9G-1.1 NMSA 1978 is enacted to read:~~

~~-----"7-9G-1.1. [NEW MATERIAL] HIGH-WAGE JOBS TAX CREDIT--
AGGREGATE AMOUNT OF CLAIMS ALLOWED PER FISCAL YEAR.--The
aggregate amount of high-wage jobs tax credits that may be
approved for payment in a fiscal year is twenty-four million
dollars (\$24,000,000). A taxpayer that files an application
for a high-wage jobs tax credit that is unable to receive the
credit because the claims for the fiscal year exceed the
limitation in this section shall be placed for the subsequent
fiscal year at the front of a queue of credit claimants
submitting applications in the subsequent fiscal year in the
order of the date on which the credit was approved for
payment."~~

~~SECTION 7. APPROPRIATION.--One million five hundred
thousand dollars (\$1,500,000) is appropriated from the general
fund to the children, youth and families department for
expenditure in fiscal year 2017 and subsequent fiscal years to
support child abuse prevention. Any unexpended or unencumbered
balance remaining at the end of a fiscal year shall not revert
to the general fund.~~

~~SECTION 7. APPROPRIATION.--One million five hundred
thousand dollars (\$1,500,000) is appropriated from the general
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support home visiting services for the prevention of child abuse. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

SECTION ~~118~~. APPLICABILITY.--

~~A.~~ The provisions of Section ~~96~~ of this act apply to applications for a high-wage jobs tax credit for a new high-wage economic-based job filed with the taxation and revenue department on or after January 1, 2017.

~~B. The provisions of Section 10 of this act apply to all applications for a high-wage jobs tax credit filed with the taxation and revenue department on or after the effective date of this act.~~

SECTION ~~129~~. EFFECTIVE DATE.--

A. If this act takes effect on or before October 1, 2016, the effective date of the provisions of Sections ~~4, 7 and 8~~ ~~3 through 5~~ of this act is October 1, 2016.

B. If this act takes effect after October 1, 2016, the effective date of the provisions of Sections ~~4, 7 and 8~~ ~~3 through 5~~ of this act is the first day of the month following the date this act takes effect.

~~C. The effective date of the provisions of Sections 5 and 6 of this act is January 1, 2017.~~

SECTION ~~13~~ ~~10~~. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.