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HOUSE BILL 485

**53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

INTRODUCED BY

Monica Youngblood and Paul C. Bandy

AN ACT

RELATING TO EXECUTIVE REORGANIZATION; ENACTING THE ECONOMIC DEVELOPMENT AND TOURISM DEPARTMENT ACT; COMBINING THE ECONOMIC DEVELOPMENT DEPARTMENT AND THE TOURISM DEPARTMENT; PROVIDING FOR TRANSFER OF FUNCTIONS, MONEY, APPROPRIATIONS, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES; MAKING AN APPROPRIATION; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

**SECTION 1.** Section 3-60B-4 NMSA 1978 (being Laws 1985, Chapter 88, Section 4, as amended by Laws 2013, Chapter 60, Section 2 and by Laws 2013, Chapter 62, Section 2) is amended to read:

"3-60B-4. MAIN STREET PROGRAM--CREATED--COORDINATOR-- POWERS AND DUTIES.--

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1           A. There is created the "main street program" in  
2 the economic development and tourism department. The secretary  
3 of economic development and tourism shall employ a coordinator  
4 to oversee the program.

5           B. The coordinator shall:

6                   (1) carry out state responsibilities pursuant  
7 to contract with the national main street center of the  
8 national trust for historic preservation;

9                   (2) coordinate activities of the program in  
10 consultation with the historic preservation division of the  
11 cultural affairs department;

12                   (3) advise the New Mexico community  
13 development council on the development of criteria for requests  
14 for proposals and selection of local government grantees for  
15 the program to be funded through community development block  
16 grants;

17                   (4) monitor the progress of main street  
18 projects;

19                   (5) assist local main street project managers;

20                   (6) assist in the development of the frontier  
21 communities program; and

22                   (7) perform other duties necessary to carry  
23 out the provisions of the Main Street Act."

24           SECTION 2. Section 4-36-7 NMSA 1978 (being Laws 1991,  
25 Chapter 154, Section 1) is amended to read:

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1           "4-36-7. FOREIGN TRADE ZONES.--The board of county  
2 commissioners of any county, pursuant to the federal Foreign  
3 Trade Zones Act, as may be amended from time to time, and  
4 regulations adopted pursuant thereto, may:

5           A. with the prior written approval of the  
6 economic development and tourism department, apply for and  
7 accept a grant of authority to establish, operate and  
8 maintain a foreign trade zone;

9           B. provide such facilities and services as may be  
10 necessary or desirable in establishing a foreign trade zone;  
11 and

12           C. exercise such other powers as may be necessary  
13 or desirable to establish, operate and maintain a foreign  
14 trade zone."

15           **SECTION 3.** Section 5-9-9 NMSA 1978 (being Laws 1993,  
16 Chapter 33, Section 9) is amended to read:

17           "5-9-9. STATE AGENCY COOPERATION--BUSINESS  
18 INCENTIVES.--

19           A. State agencies shall cooperate with, assist  
20 and, where possible, give preference in selection to a  
21 business located within an enterprise zone for any  
22 statutorily authorized state-administered grant and loan  
23 programs, including, but not limited to, investments and  
24 loans through the severance tax permanent fund at market  
25 rates, in-plant training program instruction and job training

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1 through the federal Job Training Partnership Act, matching  
2 funds through community development block grants and such  
3 other incentives that are or become available through the  
4 economic development and tourism department or through any  
5 other sources at the state level.

6 B. The economic development and tourism  
7 department shall conduct workshops throughout the state for  
8 the purpose of explaining the provisions of the Enterprise  
9 Zone Act to local governments."

10 SECTION 4. Section 5-10-3 NMSA 1978 (being Laws 1993,  
11 Chapter 297, Section 3, as amended) is amended to read:

12 "5-10-3. DEFINITIONS.--As used in the Local Economic  
13 Development Act:

14 A. "arts and cultural district" means a developed  
15 district of public and private uses that is created pursuant  
16 to the Arts and Cultural District Act;

17 B. "cultural facility" means a facility that is  
18 owned by the state, a county, a municipality or a qualifying  
19 entity that serves the public through preserving, educating  
20 and promoting the arts and culture of a particular locale,  
21 including theaters, museums, libraries, galleries, cultural  
22 compounds, educational organizations, performing arts venues  
23 and organizations, fine arts organizations, studios and media  
24 laboratories and live-work housing facilities;

25 C. "department" means the economic development

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1 and tourism department;

2 D. "economic development project" or "project"  
3 means the provision of direct or indirect assistance to a  
4 qualifying entity by a local or regional government and  
5 includes the purchase, lease, grant, construction,  
6 reconstruction, improvement or other acquisition or  
7 conveyance of land, buildings or other infrastructure; public  
8 works improvements essential to the location or expansion of  
9 a qualifying entity; payments for professional services  
10 contracts necessary for local or regional governments to  
11 implement a plan or project; the provision of direct loans or  
12 grants for land, buildings or infrastructure; technical  
13 assistance to cultural facilities; loan guarantees securing  
14 the cost of land, buildings or infrastructure in an amount  
15 not to exceed the revenue that may be derived from the  
16 municipal infrastructure gross receipts tax or the county  
17 infrastructure gross receipts tax; grants for public works  
18 infrastructure improvements essential to the location or  
19 expansion of a qualifying entity; grants or subsidies to  
20 cultural facilities; purchase of land for a publicly held  
21 industrial park or a publicly owned cultural facility; and  
22 the construction of a building for use by a qualifying  
23 entity;

24 E. "governing body" means the city council, city  
25 commission or board of trustees of a municipality or the

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1 board of county commissioners of a county;

2 F. "local government" means a municipality or  
3 county;

4 G. "municipality" means an incorporated city,  
5 town or village;

6 H. "person" means an individual, corporation,  
7 association, partnership or other legal entity;

8 I. "qualifying entity" means a corporation,  
9 limited liability company, partnership, joint venture,  
10 syndicate, association or other person that is one or a  
11 combination of two or more of the following:

12 (1) an industry for the manufacturing,  
13 processing or assembling of agricultural or manufactured  
14 products;

15 (2) a commercial enterprise for storing,  
16 warehousing, distributing or selling products of agriculture,  
17 mining or industry, but, other than as provided in Paragraph  
18 (5), (6) or (9) of this subsection, not including any  
19 enterprise for sale of goods or commodities at retail or for  
20 distribution to the public of electricity, gas, water or  
21 telephone or other services commonly classified as public  
22 utilities;

23 (3) a business, including a restaurant or  
24 lodging establishment, in which all or part of the activities  
25 of the business involves the supplying of services to the

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1 general public or to governmental agencies or to a specific  
2 industry or customer, but, other than as provided in  
3 Paragraph (5) or (9) of this subsection, not including  
4 businesses primarily engaged in the sale of goods or  
5 commodities at retail;

6 (4) an Indian nation, tribe or pueblo or a  
7 federally chartered tribal corporation;

8 (5) a telecommunications sales enterprise  
9 that makes the majority of its sales to persons outside  
10 New Mexico;

11 (6) a facility for the direct sales by  
12 growers of agricultural products, commonly known as farmers'  
13 markets;

14 (7) a business that is the developer of a  
15 metropolitan redevelopment project;

16 (8) a cultural facility; and

17 (9) a retail business;

18 J. "regional government" means any combination of  
19 municipalities and counties that enter into a joint powers  
20 agreement to provide for economic development projects  
21 pursuant to a plan adopted by all parties to the joint powers  
22 agreement; and

23 K. "retail business" means a business that is  
24 primarily engaged in the sale of goods or commodities at  
25 retail and that is located in a municipality with a

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1 population, according to the most recent federal decennial  
2 census, of:

3 (1) ten thousand or less; or

4 (2) more than ten thousand but less than  
5 thirty-five thousand if:

6 (a) the economic development project  
7 is not funded or financed with state government revenues; and

8 (b) the business created through the  
9 project will not directly compete with an existing business  
10 that is: 1) in the municipality; and 2) engaged in the sale  
11 of the same or similar goods or commodities at retail."

12 SECTION 5. Section 5-10-5 NMSA 1978 (being Laws 1993,  
13 Chapter 297, Section 5, as amended) is amended to read:

14 "5-10-5. ECONOMIC DEVELOPMENT AND TOURISM DEPARTMENT--  
15 TECHNICAL ASSISTANCE.--At the request of a local or regional  
16 government, the department shall provide technical assistance  
17 in the development of an economic development plan or  
18 economic development project or technical assistance to  
19 cultural facilities with respect to economic development  
20 projects."

21 SECTION 6. Section 6-25-2 NMSA 1978 (being Laws 2003,  
22 Chapter 349, Section 2, as amended) is amended to read:

23 "6-25-2. FINDINGS AND PURPOSE.--

24 A. The legislature finds that:

25 (1) it is important for government to

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1 promote, support and assist in developing a thriving economic  
2 base within the state; increase opportunities for gainful  
3 employment and improved living conditions; assist in  
4 promoting a balanced and productive economy; encourage the  
5 flow of private capital for investment in productive  
6 enterprises; and otherwise improve the prosperity, health and  
7 general welfare of the people of the state;

8 (2) in order to attract and encourage  
9 established businesses to locate in New Mexico, to retain and  
10 expand existing New Mexico businesses and to provide an  
11 environment that supports new and emerging businesses within  
12 the state, New Mexico communities must be able to provide  
13 basic infrastructure and educational, cultural and  
14 recreational facilities that require substantial financial  
15 resources beyond those of many New Mexico communities;

16 (3) other states have agencies dedicated to  
17 providing financing for economic development projects, which  
18 agencies work directly with the state, municipalities,  
19 counties and regional economic development agencies to  
20 provide the necessary financing related to retaining and  
21 attracting businesses and to provide financing to qualified  
22 nonprofit corporations that provide community housing,  
23 education, health care and cultural facilities;

24 (4) it is necessary to provide coordinated  
25 planning and financing resources to address community and

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1 cultural infrastructure needs; and

2 (5) the combined expertise and resources of  
3 the economic development and tourism department and the New  
4 Mexico finance authority should be used:

5 (a) for the effective promotion of  
6 economic development within the state;

7 (b) to increase the gainful employment  
8 of the citizens and decrease the cost of social services and  
9 unemployment compensation;

10 (c) to increase the tax base of the  
11 state; and

12 (d) to improve the prosperity, health  
13 and welfare of the people of the state.

14 B. The purpose of the Statewide Economic  
15 Development Finance Act is to:

16 (1) stimulate economic development with  
17 needed programs in the public interest that serve necessary  
18 and valid public purposes; and

19 (2) provide one method of implementing the  
20 economic development assistance provisions of Subsection D of  
21 Article 9, Section 14 of the constitution of New Mexico for  
22 state projects."

23 SECTION 7. Section 6-25-3 NMSA 1978 (being Laws 2003,  
24 Chapter 349, Section 3, as amended) is amended to read:

25 "6-25-3. DEFINITIONS.--As used in the Statewide

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1 Economic Development Finance Act:

2 A. "authority" means the New Mexico finance  
3 authority;

4 B. "department" means the economic development  
5 and tourism department;

6 C. "community development entity" means an entity  
7 designed to take advantage of the federal new markets tax  
8 credit program;

9 D. "economic development assistance provisions"  
10 means the economic development assistance provisions of  
11 Subsection D of Article 9, Section 14 of the constitution of  
12 New Mexico;

13 E. "project revenue bonds" means bonds, notes or  
14 other instruments authorized in Section 6-25-7 NMSA 1978 and  
15 issued by the authority pursuant to the Statewide Economic  
16 Development Finance Act on behalf of eligible entities;

17 F. "economic development goal" means:

18 (1) assistance to rural and underserved  
19 areas designed to increase business activity;

20 (2) retention and expansion of existing  
21 business enterprises;

22 (3) attraction of new business enterprises;

23 or

24 (4) creation and promotion of an environment  
25 suitable for the support of start-up and emerging business

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1 enterprises within the state;

2 G. "economic development revolving fund bonds"  
3 means bonds, notes or other instruments payable from the fund  
4 and issued by the authority pursuant to the Statewide  
5 Economic Development Finance Act;

6 H. "eligible entity" means a for-profit or not-  
7 for-profit business enterprise, including a corporation,  
8 limited liability company, partnership or other entity,  
9 determined by the department to be engaged in an enterprise  
10 that serves an economic development goal and is suitable for  
11 financing assistance;

12 I. "federal new markets tax credit program" means  
13 the tax credit program codified as Section 45D of the  
14 Internal Revenue Code, as that section may be amended or  
15 renumbered, and regulations issued pursuant to that section;

16 J. "financing assistance" means project revenue  
17 bonds, loans, loan participations or loan guarantees provided  
18 by the authority to or for eligible entities pursuant to the  
19 Statewide Economic Development Finance Act;

20 K. "fund" means the economic development  
21 revolving fund;

22 L. "mortgage" means a mortgage, deed of trust or  
23 pledge of any assets as a collateral security;

24 M. "opt-in agreement" means an agreement entered  
25 into between the department and a qualifying county, a school

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1 district and, if applicable, a qualifying municipality that  
2 provides for county, school district and, if applicable,  
3 municipal approval of a project, subject to compliance with  
4 all local zoning, permitting and other land use rules, and  
5 for payments in lieu of taxes to the qualifying county,  
6 school district and, if applicable, qualifying municipality  
7 as provided by the Statewide Economic Development Finance  
8 Act;

9 N. "payment in lieu of taxes" means the total  
10 annual payment, including any state in-lieu payment, paid as  
11 compensation for the tax impact of a project, in an amount  
12 negotiated and determined in the opt-in agreement between the  
13 department and the qualifying county, the school district  
14 and, if applicable, the qualifying municipality, which  
15 payment shall be distributed to the county, municipality and  
16 school district in the same proportion as property tax  
17 revenues are normally distributed to those recipients;

18 O. "standard project" means land, buildings,  
19 improvements, machinery and equipment, operating capital and  
20 other personal property for which financing assistance is  
21 provided for adequate consideration, taking into account the  
22 anticipated quantifiable benefits of the standard project,  
23 for use by an eligible entity as:

- 24 (1) industrial or manufacturing facilities;  
25 (2) commercial facilities, including

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1 facilities for wholesale sales and services;

2 (3) health care facilities, including  
3 hospitals, clinics, laboratory facilities and related office  
4 facilities;

5 (4) educational facilities, including  
6 schools;

7 (5) arts, entertainment or cultural  
8 facilities, including museums, theaters, arenas or assembly  
9 halls; and

10 (6) recreational and tourism facilities,  
11 including parks, pools, trails, open space and equestrian  
12 facilities;

13 P. "project" means a standard project or a state  
14 project;

15 Q. "qualifying municipality or county" means a  
16 municipality or county that enters into an opt-in agreement;

17 R. "quantifiable benefits" means a project's  
18 advancement of an economic development goal as measured by a  
19 variety of factors, including:

20 (1) the benefits an eligible entity  
21 contracts to provide, such as local hiring quotas, job  
22 training commitments and installation of public facilities or  
23 infrastructure; and

24 (2) other benefits, such as the total number  
25 of direct and indirect jobs created by the project, total

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1 amount of annual salaries to be paid as a result of the  
2 project, total gross receipts and occupancy tax collections,  
3 total property tax collections, total state corporate and  
4 personal income tax collections and other fee and revenue  
5 collections resulting from the project;

6 S. "school district" means a school district  
7 where a project is located that is exempt from property taxes  
8 pursuant to the Statewide Economic Development Finance Act;

9 T. "state in-lieu payment" means an annual  
10 payment, in an amount determined by the department, that will  
11 be distributed to a qualifying county, a school district and,  
12 if applicable, a qualifying municipality in the same  
13 proportion as property tax revenues are normally distributed  
14 to those recipients;

15 U. "state project" means land, buildings or  
16 infrastructure for facilities to support new or expanding  
17 eligible entities for which financing assistance is provided  
18 pursuant to the economic development assistance provisions;  
19 and

20 V. "tax impact of a project" means the annual  
21 reduction in property tax revenue to affected property tax  
22 revenue recipients directly resulting from the conveyance of  
23 a project to the department."

24 SECTION 8. Section 6-25-4 NMSA 1978 (being Laws 2003,  
25 Chapter 349, Section 4, as amended) is amended to read:

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1 "6-25-4. ECONOMIC DEVELOPMENT AND TOURISM DEPARTMENT--  
2 ADDITIONAL POWERS.--Consistent with the provisions of the  
3 Statewide Economic Development Finance Act, the department  
4 may:

5 A. acquire, whether by construction, purchase,  
6 gift or lease, and hold fee simple title to or other interest  
7 in any project;

8 B. enter into a lease of property in connection  
9 with any project;

10 C. sell, lease or otherwise dispose of any  
11 project;

12 D. assign lease payments, rents and any other  
13 revenues derived from a project to the authority pursuant to  
14 leases, mortgages or indentures securing payment of the  
15 principal of, interest on and any other charges and expenses  
16 relating to project revenue bonds issued by the authority;

17 E. make state in-lieu payments to a qualifying  
18 county, a school district and, if applicable, a qualifying  
19 municipality to offset the tax impact of a project; and

20 F. coordinate with the authority:

21 (1) for the authority's provision of  
22 staffing support and assistance in carrying out the  
23 department's responsibilities under the Statewide Economic  
24 Development Finance Act; and

25 (2) to enter into memoranda of understanding

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1 or such other agreements as the department and authority  
2 determine to be appropriate for such purposes."

3 SECTION 9. Section 6-25-5 NMSA 1978 (being Laws 2003,  
4 Chapter 349, Section 5, as amended) is amended to read:

5 "6-25-5. ADDITIONAL DUTIES OF THE ECONOMIC DEVELOPMENT  
6 AND TOURISM DEPARTMENT AND THE NEW MEXICO FINANCE AUTHORITY--  
7 OPT-IN AGREEMENTS.--

8 A. For the purpose of recommending projects to  
9 the authority for financing assistance, the department and  
10 the authority shall coordinate to:

11 (1) survey potential eligible entities and  
12 projects and provide outreach services to local governments  
13 and eligible entities, for the purpose of identifying and  
14 recommending projects to the authority for financing  
15 assistance;

16 (2) evaluate potential projects for  
17 suitability for financing assistance;

18 (3) formulate recommendations of projects  
19 that are suitable for financing assistance; and

20 (4) obtain input and information relevant to  
21 the establishment and implementation of criteria for  
22 evaluating potential projects.

23 B. The department, with such staffing and other  
24 assistance from the authority as the department may request,  
25 shall propose to enter into opt-in agreements with counties,

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1 school districts and municipalities for the purpose of  
2 facilitating local government approvals necessary to permit  
3 projects to proceed. Opt-in agreements shall provide:

4 (1) for project compliance with all  
5 applicable local land use regulations;

6 (2) for payments in lieu of taxes to  
7 qualifying counties, school districts and, if applicable,  
8 qualifying municipalities to mitigate the tax impact of a  
9 project;

10 (3) that financing assistance is conditioned  
11 upon compliance with:

12 (a) all applicable ordinances,  
13 regulations and codes of a local government concerning  
14 planning, zoning and development permitting; and

15 (b) such other requirements as the  
16 department and the county, school district and municipality  
17 may agree to include;

18 (4) that the payments in lieu of taxes shall  
19 be distributed in a manner and in amounts calculated in  
20 accordance with the provisions of Section 6-25-14 NMSA 1978;  
21 and

22 (5) that the county, school district or  
23 municipality reserves the right to withdraw from the  
24 agreement if it determines that the project subject to the  
25 agreement does not satisfy the requirements enumerated in the

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1 opt-in agreement.

2 C. The department shall adopt rules for the  
3 exercise of its powers and responsibilities pursuant to the  
4 Statewide Economic Development Finance Act."

5 SECTION 10. Section 6-31-3 NMSA 1978 (being Laws 2014,  
6 Chapter 58, Section 3) is amended to read:

7 "6-31-3. DEFINITIONS.--As used in the Economic  
8 Development Grant Act:

9 A. "commission" means the economic development  
10 commission; and

11 B. "department" means the economic development  
12 and tourism department."

13 SECTION 11. Section 7-2-18.17 NMSA 1978 (being Laws  
14 2007, Chapter 172, Section 1, as amended) is amended to read:

15 "7-2-18.17. ANGEL INVESTMENT CREDIT.--

16 A. A taxpayer who files a New Mexico income tax  
17 return, is not a dependent of another taxpayer, is an  
18 accredited investor and makes a qualified investment may  
19 claim a credit in an amount not to exceed twenty-five percent  
20 of the qualified investment; provided that a credit for each  
21 qualified investment shall not exceed sixty-two thousand five  
22 hundred dollars (\$62,500). The tax credit provided in this  
23 section shall be known as the "angel investment credit".

24 B. A taxpayer may claim the angel investment  
25 credit for not more than one qualified investment per

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1 investment round. A taxpayer may claim the angel investment  
2 credit for qualified investments in no more than five  
3 qualified businesses per taxable year.

4 C. A taxpayer may claim the angel investment  
5 credit no later than one year following the end of the  
6 calendar year in which the qualified investment was made;  
7 provided that a claim for the credit may not be made or  
8 allowed with respect to any investment made after December  
9 31, 2025.

10 D. A taxpayer shall apply for certification of  
11 eligibility for the angel investment credit from the economic  
12 development and tourism department. Completed applications  
13 shall be considered in the order received. If the economic  
14 development and tourism department determines that the  
15 taxpayer is an accredited investor and the investment is a  
16 qualified investment, it shall issue a certificate of  
17 eligibility to the taxpayer, subject to the limitation in  
18 Subsection E of this section. The certificate shall be dated  
19 and shall include a calculation of the amount of the angel  
20 investment credit for which the taxpayer is eligible. The  
21 economic development and tourism department may issue rules  
22 governing the procedure for administering the provisions of  
23 this subsection.

24 E. The economic development and tourism  
25 department may issue a certificate of eligibility pursuant to

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1 Subsection D of this section only if the total amount of  
2 angel investment credits represented by certificates of  
3 eligibility issued by the economic development and tourism  
4 department in any calendar year will not exceed two million  
5 dollars (\$2,000,000). If the applications for certificates  
6 of eligibility for angel investment credits represent an  
7 aggregate amount exceeding two million dollars (\$2,000,000)  
8 for any calendar year, certificates shall be issued in the  
9 order that completed applications were received. The excess  
10 applications that would have been certified, but for the  
11 limit imposed by this subsection, shall be certified, subject  
12 to the same limit, in subsequent calendar years.

13 F. The economic development and tourism  
14 department shall report annually to the legislative finance  
15 committee on the utilization and effectiveness of the angel  
16 investment credit. The report shall include, at a minimum:  
17 the number of accredited investors to whom certificates of  
18 eligibility were issued by the economic development and  
19 tourism department in the previous year; the names of those  
20 investors; the amount of angel investment credit for which  
21 each investor was certified eligible; and the number and  
22 names of the businesses that the economic development and  
23 tourism department has determined are qualified businesses  
24 for purposes of an investment by an accredited investor. The  
25 report shall also include an evaluation of the success of the

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1 angel investment credit as an incubator of new businesses in  
2 New Mexico and of the continued viability and operation in  
3 New Mexico of businesses in which investments eligible for  
4 the angel investment credit have been made.

5 G. To claim the angel investment credit, the  
6 taxpayer must provide to the taxation and revenue department  
7 a certificate of eligibility issued by the economic  
8 development and tourism department pursuant to Subsection D  
9 of this section and any other information the taxation and  
10 revenue department may require to determine the amount of the  
11 tax credit due the taxpayer. If the requirements of this  
12 section have been complied with, the taxation and revenue  
13 department shall approve the claim for the credit.

14 H. A taxpayer who otherwise qualifies for and  
15 claims a credit pursuant to this section for a qualified  
16 investment made by a partnership or other business  
17 association of which the taxpayer is a member may claim a  
18 credit only in proportion to the taxpayer's interest in the  
19 partnership or business association.

20 I. [~~A husband and wife~~] Married individuals who  
21 file separate returns for a taxable year in which they could  
22 have filed a joint return may each claim one-half of the  
23 credit that would have been allowed on a joint return.

24 J. The angel investment credit may only be  
25 deducted from the taxpayer's income tax liability. Any

1 portion of the tax credit provided by this section that  
2 remains unused at the end of the taxpayer's taxable year may  
3 be carried forward for five consecutive years.

4 K. As used in this section:

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

9 (2) "business" means a corporation, general  
10 partnership, limited partnership, limited liability company  
11 or other similar entity, but excludes an entity that is a  
12 government or a nonprofit organization designated as such by  
13 the federal government or any state;

14 (3) "equity" means common or preferred stock  
15 of a corporation, a partnership interest in a limited  
16 partnership or a membership interest in a limited liability  
17 company, including debt subject to an option in favor of the  
18 creditor to convert the debt into common or preferred stock,  
19 a partnership interest or a membership interest;

20 (4) "investment round" means an offer and  
21 sale of securities and all other offers and sales of  
22 securities that would be integrated with such offer and sale  
23 of securities under Regulation D issued by the federal  
24 securities and exchange commission pursuant to the federal  
25 Securities Act of 1933, as amended;

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

- 5                               (a) construction;
- 6                               (b) farming;
- 7                               (c) processing natural resources,  
8 including hydrocarbons; or
- 9                               (d) preparing meals for immediate  
10 consumption, on- or off-premises;

11                   (6) "qualified business" means a business  
12 that:

13                               (a) maintains its principal place of  
14 business and employs a majority of its full-time employees,  
15 if any, in New Mexico and a majority of its tangible assets,  
16 if any, are located in New Mexico;

17                               (b) engages in qualified research or  
18 manufacturing activities in New Mexico;

19                               (c) is not primarily engaged in or is  
20 not primarily organized as any of the following types of  
21 businesses: credit or finance services, including banks,  
22 savings and loan associations, credit unions, small loan  
23 companies or title loan companies; financial brokering or  
24 investment; professional services, including accounting,  
25 legal services, engineering and any other service the

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1 practice of which requires a license; insurance; real estate;  
2 construction or construction contracting; consulting or  
3 brokering; mining; wholesale or retail trade; providing  
4 utility service, including water, sewerage, electricity,  
5 natural gas, propane or butane; publishing, including  
6 publishing newspapers or other periodicals; broadcasting; or  
7 providing internet operating services;

8 (d) has not issued securities  
9 registered pursuant to Section 6 of the federal Securities  
10 Act of 1933, as amended; has not issued securities traded on  
11 a national securities exchange; is not subject to reporting  
12 requirements of the federal Securities Exchange Act of 1934,  
13 as amended; and is not registered pursuant to the federal  
14 Investment Company Act of 1940, as amended, at the time of  
15 the investment;

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

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

22 (7) "qualified investment" means a cash  
23 investment in a qualified business for equity, but does not  
24 include an investment by a taxpayer if the taxpayer, a member  
25 of the taxpayer's immediate family or an entity affiliated

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1 with the taxpayer receives compensation from the qualified  
2 business in exchange for services provided to the qualified  
3 business within one year of investment in the qualified  
4 business; and

5 (8) "qualified research" means "qualified  
6 research" as defined by Section 41 of the Internal Revenue  
7 Code."

8 SECTION 12. Section 7-2E-1.1 NMSA 1978 (being Laws  
9 2007, Chapter 172, Section 2, as amended) is amended to read:

10 "7-2E-1.1. TAX CREDIT--RURAL JOB TAX CREDIT.--

11 A. The tax credit created by this section may be  
12 referred to as the "rural job tax credit". Every eligible  
13 employer may apply for, and the taxation and revenue  
14 department may allow, a tax credit for each qualifying job  
15 the employer creates. The maximum tax credit amount with  
16 respect to each qualifying job is equal to:

17 (1) twenty-five percent of the first sixteen  
18 thousand dollars (\$16,000) in wages paid for the qualifying  
19 job if the job is performed or based at a location in a tier  
20 one area; or

21 (2) twelve and one-half percent of the first  
22 sixteen thousand dollars (\$16,000) in wages paid if the  
23 qualifying job is performed or based at a location in a tier  
24 two area.

25 B. The purpose of the rural job tax credit is to

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1 encourage businesses to start new businesses in rural areas  
2 of the state.

3 C. The amount of the rural job tax credit shall  
4 be six and one-fourth percent of the first sixteen thousand  
5 dollars (\$16,000) in wages paid for the qualifying job in a  
6 qualifying period. The rural job tax credit may be claimed  
7 for each qualifying job for a maximum of:

8 (1) four qualifying periods for each  
9 qualifying job performed or based at a location in a tier one  
10 area; and

11 (2) two qualifying periods for each  
12 qualifying job performed or based at a location in a tier two  
13 area.

14 D. With respect to each qualifying job for which  
15 an eligible employer seeks the rural job tax credit, the  
16 employer shall certify the amount of wages paid to each  
17 eligible employee during each qualifying period, the number  
18 of weeks during the qualifying period the position was  
19 occupied and whether the qualifying job was in a tier one or  
20 tier two area.

21 E. The economic development and tourism  
22 department shall determine which employers are eligible  
23 employers and shall report the listing of eligible businesses  
24 to the taxation and revenue department in a manner and at  
25 times the departments shall agree upon.

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1           F. To receive a rural job tax credit with respect  
2 to any qualifying period, an eligible employer must apply to  
3 the taxation and revenue department on forms and in the  
4 manner the department may prescribe. The application shall  
5 include a certification made pursuant to Subsection D of this  
6 section. If all the requirements of this section have been  
7 complied with, the taxation and revenue department may issue  
8 to the applicant a document granting a tax credit for the  
9 appropriate qualifying period. The tax credit document shall  
10 be numbered for identification and declare its date of  
11 issuance and the amount of rural job tax credit allowed for  
12 the respective jobs created. The tax credit documents may be  
13 sold, exchanged or otherwise transferred and may be carried  
14 forward for a period of three years from the date of  
15 issuance. The parties to such a transaction to sell,  
16 exchange or transfer a rural job tax credit document shall  
17 notify the department of the transaction within ten days of  
18 the sale, exchange or transfer.

19           G. The holder of the tax credit document may  
20 apply all or a portion of the rural job tax credit granted by  
21 the document against the holder's modified combined tax  
22 liability, personal income tax liability or corporate income  
23 tax liability. Any balance of rural job tax credit granted  
24 by the document may be carried forward for up to three years  
25 from the date of issuance of the tax credit document. No

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1 amount of rural job tax credit may be applied against a gross  
2 receipts tax imposed by a municipality or county.

3 H. Notwithstanding the provisions of Section  
4 7-1-8 NMSA 1978, the taxation and revenue department may  
5 disclose to any person the balance of rural job tax credit  
6 remaining on any tax credit document and the balance of  
7 credit remaining on that document for any period.

8 I. The secretary of economic development and  
9 tourism, the secretary of taxation and revenue and the  
10 secretary of workforce solutions or their designees shall  
11 annually evaluate the effectiveness of the rural job tax  
12 credit in stimulating economic development in the rural areas  
13 of New Mexico and make a joint report of their findings to  
14 each session of the legislature so long as the rural job tax  
15 credit is in effect.

16 J. An eligible employer that creates a qualifying  
17 job in the period beginning on or after July 1, 2006 but  
18 before July 1, 2007 or creates a qualifying job, the  
19 qualifying period of which includes a part of the period  
20 between July 1, 2006 and July 1, 2007, for which the eligible  
21 employer has not received a rural job tax credit document  
22 pursuant to this section may submit an application for, and  
23 the taxation and revenue department may issue to the eligible  
24 employer applying, a document granting a tax credit for the  
25 appropriate qualifying period. Claims for a rural job tax

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1 credit submitted pursuant to the provisions of this  
2 subsection shall be submitted within three years from the  
3 date of issuance of the rural job tax credit document.

4 K. A qualifying job shall not be eligible for a  
5 rural job credit pursuant to this section if:

6 (1) the job is created due to a business  
7 merger, acquisition or other change in organization;

8 (2) the eligible employee was terminated  
9 from employment in New Mexico by another employer involved in  
10 the merger, acquisition or other change in organization; and

11 (3) the job is performed by:

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

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

18 L. Notwithstanding Subsection K of this section,  
19 a qualifying job that was created by another employer and for  
20 which the rural job tax credit claim was received by the  
21 taxation and revenue department prior to July 1, 2013 and is  
22 under review or has been approved shall remain eligible for  
23 the rural job tax credit for the balance of the qualifying  
24 periods for which the job qualifies by the new employer that  
25 results from a business merger, acquisition or other change

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1 in the organization.

2 M. A job shall not be eligible for a rural job  
3 tax credit pursuant to this section if the job is created due  
4 to an eligible employer entering into a contract or becoming  
5 a subcontractor to a contract with a governmental entity that  
6 replaces one or more entities performing functionally  
7 equivalent services for the governmental entity in New Mexico  
8 unless the job is a qualifying job that was not being  
9 performed by an employee of the replaced entity.

10 N. As used in this section:

11 (1) "eligible employee" means any individual  
12 other than an individual who:

13 (a) bears any of the relationships  
14 described in Paragraphs (1) through (8) of 26 U.S.C. Section  
15 152(a) to the employer or, if the employer is a corporation,  
16 to an individual who owns, directly or indirectly, more than  
17 fifty percent in value of the outstanding stock of the  
18 corporation or, if the employer is an entity other than a  
19 corporation, to any individual who owns, directly or  
20 indirectly, more than fifty percent of the capital and  
21 profits interests in the entity;

22 (b) if the employer is an estate or  
23 trust, is a grantor, beneficiary or fiduciary of the estate  
24 or trust or is an individual who bears any of the  
25 relationships described in Paragraphs (1) through (8) of 26

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1 U.S.C. Section 152(a) to a grantor, beneficiary or fiduciary  
2 of the estate or trust; or

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

13 (2) "eligible employer" means an employer  
14 who is eligible for in-plant training assistance pursuant to  
15 Section 21-19-7 NMSA 1978;

16 (3) "metropolitan statistical area" means a  
17 metropolitan statistical area in New Mexico as determined by  
18 the United States census bureau [~~of the census~~];

19 (4) "modified combined tax liability" means  
20 the total liability for the reporting period for the gross  
21 receipts tax imposed by Section 7-9-4 NMSA 1978 together with  
22 any tax collected at the same time and in the same manner as  
23 that gross receipts tax, such as the compensating tax, the  
24 withholding tax, the interstate telecommunications gross  
25 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA

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1 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,  
2 minus the amount of any credit other than the rural job tax  
3 credit applied against any or all of these taxes or  
4 surcharges; but "modified combined tax liability" excludes  
5 all amounts collected with respect to local option gross  
6 receipts taxes;

7 (5) "qualifying job" means a job established  
8 by the employer that is occupied by an eligible employee for  
9 at least forty-eight weeks of a qualifying period;

10 (6) "qualifying period" means the period of  
11 twelve months beginning on the day an eligible employee  
12 begins working in a qualifying job or the period of twelve  
13 months beginning on the anniversary of the day an eligible  
14 employee began working in a qualifying job;

15 (7) "rural area" means any part of the state  
16 other than:

17 (a) an H class county;  
18 (b) the state fairgrounds;  
19 (c) an incorporated municipality  
20 within a metropolitan statistical area if the municipality's  
21 population is thirty thousand or more according to the most  
22 recent federal decennial census; and

23 (d) any area within ten miles of the  
24 exterior boundaries of a municipality described in  
25 Subparagraph (c) of this paragraph;

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1 (8) "tier one area" means:

2 (a) any municipality within the rural  
3 area if the municipality's population according to the most  
4 recent federal decennial census is fifteen thousand or less;  
5 or

6 (b) any part of the rural area that is  
7 not within the exterior boundaries of a municipality;

8 (9) "tier two area" means any municipality  
9 within the rural area if the municipality's population  
10 according to the most recent federal decennial census is more  
11 than fifteen thousand; and

12 (10) "wages" means all compensation paid by  
13 an eligible employer to an eligible employee through the  
14 employer's payroll system, including those wages the employee  
15 elects to defer or redirect, such as the employee's  
16 contribution to 401(k) or cafeteria plan programs, but not  
17 including benefits or the employer's share of payroll taxes."

18 SECTION 13. Section 7-2F-1 NMSA 1978 (being Laws 2002,  
19 Chapter 36, Section 1, as amended) is amended to read:

20 "7-2F-1. FILM PRODUCTION TAX CREDIT--FILM PRODUCTION  
21 COMPANIES THAT COMMENCE PRINCIPAL PHOTOGRAPHY PRIOR TO  
22 JANUARY 1, 2016.--

23 A. The tax credit created by this section may be  
24 referred to as the "film production tax credit".

25 B. Except as otherwise provided in this section,

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1 an eligible film production company may apply for, and the  
2 taxation and revenue department may allow, subject to the  
3 limitation in this section, a tax credit in an amount equal  
4 to twenty-five percent of:

5 (1) direct production expenditures made in  
6 New Mexico that:

7 (a) are directly attributable to the  
8 production in New Mexico of a film or commercial audiovisual  
9 product;

10 (b) are subject to taxation by the  
11 state of New Mexico;

12 (c) exclude direct production  
13 expenditures for which another taxpayer claims the film  
14 production tax credit; and

15 (d) do not exceed the usual and  
16 customary cost of the goods or services acquired when  
17 purchased by unrelated parties. The secretary of taxation  
18 and revenue may determine the value of the goods or services  
19 for purposes of this section when the buyer and seller are  
20 affiliated persons or the sale or purchase is not an arm's  
21 length transaction; and

22 (2) postproduction expenditures made in  
23 New Mexico that:

24 (a) are directly attributable to the  
25 production of a commercial film or audiovisual product;

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1 (b) are for services performed in New  
2 Mexico;

3 (c) are subject to taxation by the  
4 state of New Mexico;

5 (d) exclude postproduction  
6 expenditures for which another taxpayer claims the film  
7 production tax credit; and

8 (e) do not exceed the usual and  
9 customary cost of the goods or services acquired when  
10 purchased by unrelated parties. The secretary of taxation  
11 and revenue may determine the value of the goods or services  
12 for purposes of this section when the buyer and seller are  
13 affiliated persons or the sale or purchase is not an arm's  
14 length transaction.

15 C. In addition to the percentage applied pursuant  
16 to Subsection B of this section, another five percent shall  
17 be applied in calculating the amount of the film production  
18 tax credit to direct production expenditures:

19 (1) on a standalone pilot intended for  
20 series television in New Mexico or on series television  
21 productions intended for commercial distribution with an  
22 order for at least six episodes in a single season; provided  
23 that the New Mexico budget for each of those six episodes is  
24 fifty thousand dollars (\$50,000) or more; or

25 (2) on a production with a total New Mexico

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1 budget of the following amounts; provided that the  
2 expenditures are directly attributable and paid to a New  
3 Mexico resident who is hired as industry crew, or who is  
4 hired as a producer, writer or director working directly with  
5 the physical production and has filed a New Mexico income tax  
6 return as a resident in the two previous taxable years:

7 (a) not more than thirty million  
8 dollars (\$30,000,000) that shoots at least ten principal  
9 photography days in New Mexico at a qualified production  
10 facility; provided that a film production company in  
11 principal photography on or after April 10, 2015 shall: 1)  
12 shoot at least seven of those days at a sound stage that is a  
13 qualified production facility and the remaining number of  
14 required days, if any, at a standing set that is a qualified  
15 production facility; and 2) for each of the ten days, include  
16 industry crew working on the premises of those facilities for  
17 a minimum of eight hours within a twenty-four-hour period; or

18 (b) thirty million dollars  
19 (\$30,000,000) or more that shoots at least fifteen principal  
20 photography days in New Mexico at a qualified production  
21 facility; provided that a film production company in  
22 principal photography on or after April 10, 2015 shall: 1)  
23 shoot at least ten of those days at a sound stage that is a  
24 qualified production facility and the remaining number of  
25 required days, if any, at a standing set that is a qualified

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1 production facility; and 2) for each day of the fifteen days,  
2 include industry crew working on the premises of the facility  
3 for a minimum of eight hours within a twenty-four-hour  
4 period.

5 D. With respect to expenditures attributable to a  
6 production for which the film production company receives a  
7 tax credit pursuant to the federal new markets tax credit  
8 program, the percentage to be applied in calculating the film  
9 production tax credit is twenty percent.

10 E. A claim for film production tax credits shall  
11 be filed as part of a return filed pursuant to the Income Tax  
12 Act or the Corporate Income and Franchise Tax Act or an  
13 information return filed by a pass-through entity. The date  
14 a credit claim is received by the department shall determine  
15 the order that a credit claim is authorized for payment by  
16 the department. Except as otherwise provided in this  
17 section, the aggregate amount of claims for a credit provided  
18 by the Film Production Tax Credit Act that may be authorized  
19 for payment in any fiscal year is fifty million dollars  
20 (\$50,000,000) with respect to the direct production  
21 expenditures or postproduction expenditures made on film or  
22 commercial audiovisual products. A film production company  
23 that submits a claim for a film production tax credit that is  
24 unable to receive the tax credit because the claims for the  
25 fiscal year exceed the limitation in this subsection shall be

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1 placed for the subsequent fiscal year at the front of a queue  
2 of credit claimants submitting claims in the subsequent  
3 fiscal year in the order of the date on which the credit was  
4 authorized for payment.

5 F. If, in fiscal years 2013 through 2015, the  
6 aggregate amount in each fiscal year of the film production  
7 tax credit claims authorized for payment is less than fifty  
8 million dollars (\$50,000,000), then the difference in that  
9 fiscal year or ten million dollars (\$10,000,000), whichever  
10 is less, shall be added to the aggregate amount of the film  
11 production tax credit claims that may be authorized for  
12 payment pursuant to Subsection E of this section in the  
13 immediately following fiscal year.

14 G. Except as otherwise provided in this section,  
15 credit claims authorized for payment pursuant to the Film  
16 Production Tax Credit Act shall be paid pursuant to  
17 provisions of the Tax Administration Act to the taxpayer as  
18 follows:

19 (1) a credit claim amount of less than two  
20 million dollars (\$2,000,000) per taxable year shall be paid  
21 immediately upon authorization for payment of the credit  
22 claim;

23 (2) a credit claim amount of two million  
24 dollars (\$2,000,000) or more but less than five million  
25 dollars (\$5,000,000) per taxable year shall be divided into

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1 two equal payments, with the first payment to be made  
2 immediately upon authorization of the payment of the credit  
3 claim and the second payment to be made twelve months  
4 following the date of the first payment; and

5 (3) a credit claim amount of five million  
6 dollars (\$5,000,000) or more per taxable year shall be  
7 divided into three equal payments, with the first payment to  
8 be made immediately upon authorization of payment of the  
9 credit claim, the second payment to be made twelve months  
10 following the date of the first payment and the third payment  
11 to be made twenty-four months following the date of the first  
12 payment.

13 H. For a fiscal year in which the amount of total  
14 credit claims authorized for payment is less than the  
15 aggregate amount of credit claims that may be authorized for  
16 payment pursuant to this section, the next scheduled payments  
17 for credit claims authorized for payment pursuant to  
18 Subsection G of this section shall be accelerated for payment  
19 for that fiscal year and shall be paid to a taxpayer pursuant  
20 to the Tax Administration Act and in the order in which  
21 outstanding payments are scheduled in the queue established  
22 pursuant to Subsections E and G of this section; provided  
23 that the total credit claims authorized for payment shall not  
24 exceed the aggregate amount of credit claims that may be  
25 authorized for payment pursuant to this section. If a

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1 partial payment is made pursuant to this subsection, the  
2 difference owed shall retain its original position in the  
3 queue.

4 I. Any amount of a credit claim that is carried  
5 forward pursuant to Subsection G of this section shall be  
6 subject to the limit on the aggregate amount of credit claims  
7 that may be authorized for payment pursuant to Subsections E  
8 and F of this section in the fiscal year in which that amount  
9 is paid.

10 J. A credit claim shall only be considered  
11 received by the department if the credit claim is made on a  
12 complete return filed after the close of the taxable year.  
13 All direct production expenditures and postproduction  
14 expenditures incurred during the taxable year by a film  
15 production company shall be submitted as part of the same  
16 income tax return and paid pursuant to this section. A  
17 credit claim shall not be divided and submitted with multiple  
18 returns or in multiple years.

19 K. For purposes of determining the payment of  
20 credit claims pursuant to this section, the secretary of  
21 taxation and revenue may require that credit claims of  
22 affiliated persons be combined into one claim if necessary to  
23 accurately reflect closely integrated activities of  
24 affiliated persons.

25 L. The film production tax credit shall not be

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1 claimed with respect to direct production expenditures or  
2 postproduction expenditures for which the film production  
3 company has delivered a nontaxable transaction certificate  
4 pursuant to Section 7-9-86 NMSA 1978.

5 M. A production for which the film production tax  
6 credit is claimed pursuant to Paragraph (1) of Subsection B  
7 of this section shall contain an acknowledgment to the state  
8 of New Mexico in the end screen credits that the production  
9 was filmed in New Mexico, and a state logo provided by the  
10 division shall be included and embedded in the end screen  
11 credits of long-form narrative film productions and  
12 television episodes, unless otherwise agreed upon in writing  
13 by the film production company and the division.

14 N. To be eligible for the film production tax  
15 credit, a film production company shall submit to the  
16 division information required by the division to demonstrate  
17 conformity with the requirements of the Film Production Tax  
18 Credit Act, including detailed information on each direct  
19 production expenditure and each postproduction expenditure.  
20 A film production company shall make reasonable efforts, as  
21 determined by the division, to contract with a specialized  
22 vendor that provides goods and services, inventory or  
23 services directly related to that vendor's ordinary course of  
24 business. A film production company shall provide to the  
25 division a projection of the film production tax credit claim

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1 the film production company plans to submit in the fiscal  
2 year. In addition, the film production company shall agree  
3 in writing:

4 (1) to pay all obligations the film  
5 production company has incurred in New Mexico;

6 (2) to post a notice at completion of  
7 principal photography on the [~~web site~~] website of the  
8 division that:

9 (a) contains production company  
10 information, including the name of the production, the  
11 address of the production company and contact information  
12 that includes a working phone number, fax number and email  
13 address for both the local production office and the  
14 permanent production office to notify the public of the need  
15 to file creditor claims against the film production company;  
16 and

17 (b) remains posted on the [~~web site~~]  
18 website until all financial obligations incurred in the state  
19 by the film production company have been paid;

20 (3) that outstanding obligations are not  
21 waived should a creditor fail to file;

22 (4) to delay filing of a claim for the film  
23 production tax credit until the division delivers written  
24 notification to the taxation and revenue department that the  
25 film production company has fulfilled all requirements for

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1 the credit; and

2 (5) to submit a completed application for  
3 the film production tax credit and supporting documentation  
4 to the division within one year of making the final  
5 expenditures in New Mexico that were incurred for the  
6 registered project and that are included in the credit claim.

7 O. The division shall determine the eligibility  
8 of the company and shall report this information to the  
9 taxation and revenue department in a manner and at times the  
10 economic development and tourism department and the taxation  
11 and revenue department shall agree upon. The division shall  
12 also post on its [~~web site~~] website all information provided  
13 by the film production company that does not reveal revenue,  
14 income or other information that may jeopardize the  
15 confidentiality of income tax returns, including that the  
16 division shall report quarterly the projected amount of  
17 credit claims for the fiscal year.

18 P. To provide guidance to film production  
19 companies regarding the amount of credit capacity remaining  
20 in the fiscal year, the taxation and revenue department shall  
21 post monthly on that department's [~~web site~~] website the  
22 aggregate amount of credits claimed and processed for the  
23 fiscal year.

24 Q. To receive a film production tax credit, a  
25 film production company shall apply to the taxation and

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1 revenue department on forms and in the manner the department  
2 may prescribe. The application shall include a certification  
3 of the amount of direct production expenditures or  
4 postproduction expenditures made in New Mexico with respect  
5 to the film production for which the film production company  
6 is seeking the film production tax credit; provided that for  
7 the film production tax credit, the application shall be  
8 submitted within one year of the date of the last direct  
9 production expenditure in New Mexico or the last  
10 postproduction expenditure in New Mexico. If the amount of  
11 the requested tax credit exceeds five million dollars  
12 (\$5,000,000), the application shall also include the results  
13 of an audit, conducted by a certified public accountant  
14 licensed to practice in New Mexico, verifying that the  
15 expenditures have been made in compliance with the  
16 requirements of this section. If the requirements of this  
17 section have been complied with, subject to the provisions of  
18 Subsection E of this section, the taxation and revenue  
19 department shall approve the film production tax credit and  
20 issue a document granting the tax credit.

21 R. The film production company may apply all or a  
22 portion of the film production tax credit granted against  
23 personal income tax liability or corporate income tax  
24 liability. If the amount of the film production tax credit  
25 claimed exceeds the film production company's tax liability

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1 for the taxable year in which the credit is being claimed,  
2 the excess shall be refunded.

3 S. That amount of a film production tax credit  
4 for total payments as applied to direct production  
5 expenditures for the services of performing artists shall not  
6 exceed five million dollars (\$5,000,000) for services  
7 rendered by nonresident performing artists and featured  
8 resident principal performing artists in a production. This  
9 limitation shall not apply to the services of background  
10 artists and resident performing artists who are not cast in  
11 industry standard featured principal performer roles.

12 T. As used in this section, "direct production  
13 expenditure":

14 (1) except as provided in Paragraph (2) of  
15 this subsection, means a transaction that is subject to  
16 taxation in New Mexico, including:

17 (a) payment of wages, fringe benefits  
18 or fees for talent, management or labor to a person who is a  
19 New Mexico resident;

20 (b) payment for wages and per diem for  
21 a performing artist who is not a New Mexico resident and who  
22 is directly employed by the film production company; provided  
23 that the film production company deducts and remits, or  
24 causes to be deducted and remitted, income tax from the first  
25 day of services rendered in New Mexico at the maximum rate

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1 pursuant to the Withholding Tax Act;

2 (c) payment to a personal services  
3 business for the services of a performing artist if: 1) the  
4 personal services business pays gross receipts tax in New  
5 Mexico on the portion of those payments qualifying for the  
6 tax credit; and 2) the film production company deducts and  
7 remits, or causes to be deducted and remitted, income tax at  
8 the maximum rate in New Mexico pursuant to Subsection H of  
9 Section 7-3A-3 NMSA 1978 on the portion of those payments  
10 qualifying for the tax credit paid to a personal services  
11 business where the performing artist is a full or part owner  
12 of that business or subcontracts with a personal services  
13 business where the performing artist is a full or part owner  
14 of that business; and

15 (d) any of the following provided by a  
16 vendor: 1) the story and scenario to be used for a film; 2)  
17 set construction and operations, wardrobe, accessories and  
18 related services; 3) photography, sound synchronization,  
19 lighting and related services; 4) editing and related  
20 services; 5) rental of facilities and equipment; 6) leasing  
21 of vehicles, not including the chartering of aircraft for  
22 out-of-state transportation; however, New Mexico-based  
23 chartered aircraft for in-state transportation directly  
24 attributable to the production shall be considered a direct  
25 production expenditure; provided that only the first one

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1 hundred dollars (\$100) of the daily expense of leasing a  
2 vehicle for passenger transportation on roadways in the state  
3 may be claimed as a direct production expenditure; 7) food or  
4 lodging; provided that only the first one hundred fifty  
5 dollars (\$150) of lodging per individual per day is eligible  
6 to be claimed as a direct production expenditure; 8)  
7 commercial airfare if purchased through a New Mexico-based  
8 travel agency or travel company for travel to and from New  
9 Mexico or within New Mexico that is directly attributable to  
10 the production; 9) insurance coverage and bonding if  
11 purchased through a New Mexico-based insurance agent, broker  
12 or bonding agent; 10) services for an external audit upon  
13 submission of an application for a film production tax credit  
14 by an accounting firm that submits the application pursuant  
15 to this section; and 11) other direct costs of producing a  
16 film in accordance with generally accepted entertainment  
17 industry practice; and

18 (2) does not include an expenditure for:

19 (a) a gift with a value greater than  
20 twenty-five dollars (\$25.00);

21 (b) artwork or jewelry, except that a  
22 work of art or a piece of jewelry may be a direct production  
23 expenditure if: 1) it is used in the film production; and 2)  
24 the expenditure is less than two thousand five hundred  
25 dollars (\$2,500);

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1 (c) entertainment, amusement or  
2 recreation;

3 (d) subcontracted goods or services  
4 provided by a vendor when subcontractors are not subject to  
5 state taxation, such as equipment and locations provided by  
6 the military, government and religious organizations; or

7 (e) a service provided by a person who  
8 is not a New Mexico resident and employed in an industry crew  
9 position, excluding a performing artist, where it is the  
10 standard entertainment industry practice for the film  
11 production company to employ a person for that industry crew  
12 position, except when the person who is not a New Mexico  
13 resident is hired or subcontracted by a vendor; and when the  
14 film production company, as determined by the division and  
15 when applicable in consultation with industry, provides: 1)  
16 reasonable efforts to hire resident crew; and 2) financial or  
17 promotional contributions toward education or ~~[work force]~~  
18 workforce development efforts in New Mexico, including at  
19 least one of the following: a payment to a New Mexico public  
20 education institution that administers at least one industry-  
21 recognized film or multimedia program, as determined by the  
22 division, in an amount equal to two and one-half percent of  
23 payments made to nonresidents in approved positions employed  
24 by the vendor; promotion of the New Mexico film industry by  
25 directors, actors or executive producers affiliated with the

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1 production company's project through social media that is  
2 managed by the state; radio interviews facilitated by the  
3 division; enhanced screen credit acknowledgments; or related  
4 events that are facilitated, conducted or sponsored by the  
5 division.

6 U. As used in this section, "film production  
7 company" means a person that produces one or more films or  
8 any part of a film and that commences principal photography  
9 prior to January 1, 2016.

10 V. As used in this section, "vendor" means a  
11 person who sells or leases goods or services that are related  
12 to standard industry craft inventory, who has a physical  
13 presence in New Mexico and is subject to gross receipts tax  
14 pursuant to the Gross Receipts and Compensating Tax Act and  
15 income tax pursuant to the Income Tax Act or corporate income  
16 tax pursuant to the Corporate Income and Franchise Tax Act  
17 but excludes a personal services business and services  
18 provided by nonresidents hired or subcontracted if the tasks  
19 and responsibilities are associated with:

- 20 (1) the standard industry job position of:  
21 (a) a director;  
22 (b) a writer;  
23 (c) a producer;  
24 (d) an associate producer;  
25 (e) a co-producer;

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- 1 (f) an executive producer;
- 2 (g) a production supervisor;
- 3 (h) a director of photography;
- 4 (i) a motion picture driver whose sole
- 5 responsibility is driving;
- 6 (j) a production or personal
- 7 assistant;
- 8 (k) a designer;
- 9 (l) a still photographer; or
- 10 (m) a carpenter and utility technician
- 11 at an entry level; and

12 (2) nonstandard industry job positions and  
13 personal support services."

14 SECTION 14. Section 7-2F-2 NMSA 1978 (being Laws 2003,  
15 Chapter 127, Section 2, as amended) is amended to read:

16 "7-2F-2. DEFINITIONS.--As used in the Film Production  
17 Tax Credit Act:

18 A. "affiliated person" means a person who  
19 directly or indirectly owns or controls, is owned or  
20 controlled by or is under common ownership or control with  
21 another person through ownership of voting securities or  
22 other ownership interests representing a majority of the  
23 total voting power of the entity;

24 B. "background artist" means a person who is not  
25 a performing artist but is a person of atmospheric business

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1 whose work includes atmospheric noise, normal actions,  
2 gestures and facial expressions of that person's assignment;  
3 or a person of atmospheric business whose work includes  
4 special abilities that are not stunts; or a substitute for  
5 another actor, whether photographed as a double or acting as  
6 a stand-in;

7 C. "commercial audiovisual product" means a film  
8 or a [~~videogame~~] video game intended for commercial  
9 exploitation;

10 D. "division" means the New Mexico film division  
11 of the economic development and tourism department;

12 E. "federal new markets tax credit program" means  
13 the tax credit program codified as Section 45D of the United  
14 States Internal Revenue Code of 1986, as amended;

15 F. "film" means a single medium or multimedia  
16 program, excluding advertising messages other than national  
17 or regional advertising messages intended for exhibition,  
18 that:

19 (1) is fixed on film, a digital medium,  
20 videotape, computer disc, laser disc or other similar  
21 delivery medium;

22 (2) can be viewed or reproduced;

23 (3) is not intended to and does not violate  
24 a provision of Chapter 30, Article 37 NMSA 1978; and

25 (4) is intended for reasonable commercial

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1 exploitation for the delivery medium used;

2 G. "fiscal year" means the state fiscal year  
3 beginning on July 1;

4 H. "industry crew" means a person in a position  
5 that is off-camera and who provides technical services during  
6 the physical production of a film. "Industry crew" does not  
7 include a writer, director, producer, background artist or  
8 performing artist;

9 I. "New Mexico resident" means an individual who  
10 is domiciled in this state during any part of the taxable  
11 year or an individual who is physically present in this state  
12 for one hundred eighty-five days or more during the taxable  
13 year; but any individual, other than someone who was  
14 physically present in the state for one hundred eighty-five  
15 days or more during the taxable year and who, on or before  
16 the last day of the taxable year, changed the individual's  
17 place of abode to a place without this state with the bona  
18 fide intention of continuing actually to abide permanently  
19 without this state is not a resident for the purposes of the  
20 Film Production Tax Credit Act for periods after that change  
21 of abode;

22 J. "performing artist" means an actor, on-camera  
23 stuntperson, puppeteer, pilot who is a stuntperson or actor,  
24 specialty foreground performer or narrator; and who speaks a  
25 line of dialogue, is identified with the product or reacts to

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1 narration as assigned. "Performing artist" does not include  
2 a background artist;

3 K. "personal services business" means a business  
4 organization, with or without physical presence, that  
5 receives payments pursuant to the Film Production Tax Credit  
6 Act for the services of a performing artist;

7 L. "physical presence" means a physical address  
8 in New Mexico from which a vendor conducts business, stores  
9 inventory or otherwise creates, assembles or offers for sale  
10 the product purchased or leased by a film production company  
11 and the business owner or an employee of the business is a  
12 resident;

13 M. "postproduction expenditure" means an  
14 expenditure for editing, Foley recording, automatic dialogue  
15 replacement, sound editing, special effects, including  
16 computer-generated imagery or other effects, scoring and  
17 music editing, beginning and end credits, negative cutting,  
18 soundtrack production, dubbing, subtitling or addition of  
19 sound or visual effects; but not including an expenditure for  
20 advertising, marketing, distribution or expense payments;

21 N. "principal photography" means the production  
22 of a film during which the main visual elements are created;  
23 and

24 O. "qualified production facility" means a  
25 building, or complex of buildings, building improvements and

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1 associated back-lot facilities in which films are or are  
2 intended to be regularly produced and that contain at least  
3 one:

4 (1) sound stage with contiguous, clear-span  
5 floor space of at least seven thousand square feet and a  
6 ceiling height of no less than twenty-one feet; or

7 (2) standing set that includes at least one  
8 interior, and at least five exteriors, built or [~~re-purposed~~]  
9 repurposed for film production use on a continual basis and  
10 is located on at least fifty acres of contiguous space  
11 designated for film production use."

12 SECTION 15. Section 7-2F-4 NMSA 1978 (being Laws 2011,  
13 Chapter 165, Section 5, as amended) is amended to read:

14 "7-2F-4. REPORTING--ACCOUNTABILITY.--

15 A. The economic development and tourism  
16 department shall:

17 (1) collect data to be used in an  
18 econometric tool that objectively assesses the effectiveness  
19 of the credits provided by the Film Production Tax Credit  
20 Act;

21 (2) track the direct expenditures for the  
22 credits;

23 (3) with the support and assistance of the  
24 legislative finance committee staff and the taxation and  
25 revenue department, review and assess the analysis developed

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1 in Paragraph (1) of this subsection and create a report for  
2 presentation to the revenue stabilization and tax policy  
3 committee and the legislative finance committee that provides  
4 an objective assessment of the effectiveness of the credits;  
5 and

6 (4) report annually to the revenue  
7 stabilization and tax policy committee and the legislative  
8 finance committee on aggregate approved tax credits made  
9 pursuant to the Film Production Tax Credit Act.

10 B. The division shall develop a form on which the  
11 taxpayer claiming a credit pursuant to the Film Production  
12 Tax Credit Act shall submit a report to accompany the  
13 taxpayer's application for that credit.

14 C. With respect to the production on which the  
15 application for a credit is based, the film production  
16 company shall report to the division at a minimum the  
17 following information:

18 (1) the total aggregate wages of the members  
19 of the New Mexico resident crew;

20 (2) the number of New Mexico residents  
21 employed;

22 (3) the total amount of gross receipts taxes  
23 paid;

24 (4) the total number of hours worked by New  
25 Mexico residents;

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1 (5) the total expenditures made in New  
2 Mexico that do not qualify for the credit;

3 (6) the aggregate wages paid to the members  
4 of the nonresident crew while working in New Mexico; and

5 (7) other information deemed necessary by  
6 the division and economic development and tourism department  
7 to determine the effectiveness of the credit.

8 D. For purposes of assessing the effectiveness of  
9 a credit, the inability of the economic development and  
10 tourism department to aggregate data due to sample size shall  
11 not relieve the department of the requirement to report all  
12 relevant data to the legislature. The division shall provide  
13 notice to a film production company applying for a credit  
14 that information provided to the division may be revealed by  
15 the department in reports to the legislature."

16 SECTION 16. Section 7-2F-6 NMSA 1978 (being Laws 2015,  
17 Chapter 143, Section 5, as amended) is amended to read:

18 "7-2F-6. FILM AND TELEVISION TAX CREDIT--FILM  
19 PRODUCTION COMPANIES THAT COMMENCE PRINCIPAL PHOTOGRAPHY ON  
20 OR AFTER JANUARY 1, 2016.--

21 A. The tax credit created by this section may be  
22 referred to as the "film and television tax credit".

23 B. An eligible film production company may apply  
24 for, and the taxation and revenue department may allow,  
25 subject to the limitation in Section 7-2F-12 NMSA 1978, a tax

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1 credit in an amount equal to twenty-five percent of:

2 (1) direct production expenditures made in  
3 New Mexico that:

4 (a) are directly attributable to the  
5 production in New Mexico of a film or commercial audiovisual  
6 product;

7 (b) are subject to taxation by the  
8 state of New Mexico;

9 (c) exclude direct production  
10 expenditures for which another taxpayer claims the film and  
11 television tax credit; and

12 (d) do not exceed the usual and  
13 customary cost of the goods or services acquired when  
14 purchased by unrelated parties. The secretary of taxation  
15 and revenue may determine the value of the goods or services  
16 for purposes of this section when the buyer and seller are  
17 affiliated persons or the sale or purchase is not an arm's  
18 length transaction; and

19 (2) postproduction expenditures made in New  
20 Mexico that:

21 (a) are directly attributable to the  
22 production of a commercial film or audiovisual product;

23 (b) are for postproduction services  
24 performed in New Mexico;

25 (c) are subject to taxation by the

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1 state of New Mexico;

2 (d) exclude postproduction  
3 expenditures for which another taxpayer claims the film and  
4 television tax credit; and

5 (e) do not exceed the usual and  
6 customary cost of the goods or services acquired when  
7 purchased by unrelated parties. The secretary of taxation  
8 and revenue may determine the value of the goods or services  
9 for purposes of this section when the buyer and seller are  
10 affiliated persons or the sale or purchase is not an arm's  
11 length transaction.

12 C. With respect to expenditures attributable to a  
13 production for which the film production company receives a  
14 tax credit pursuant to the federal new markets tax credit  
15 program, the percentage to be applied in calculating the film  
16 and television tax credit is twenty percent.

17 D. The film and television tax credit shall not  
18 be claimed with respect to direct production expenditures or  
19 postproduction expenditures for which the film production  
20 company has delivered a nontaxable transaction certificate  
21 pursuant to Section 7-9-86 NMSA 1978.

22 E. A production for which the film and television  
23 tax credit is claimed pursuant to Paragraph (1) of Subsection  
24 B of this section shall contain an acknowledgment to the  
25 state of New Mexico in the end screen credits that the

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1 production was filmed in New Mexico, and a state logo  
2 provided by the division shall be included and embedded in  
3 the end screen credits of long-form narrative film  
4 productions and television episodes, unless otherwise agreed  
5 upon in writing by the film production company and the  
6 division.

7 F. To be eligible for the film and television tax  
8 credit, a film production company shall submit to the  
9 division information required by the division to demonstrate  
10 conformity with the requirements of the Film Production Tax  
11 Credit Act, including detailed information on each direct  
12 production expenditure and each postproduction expenditure.  
13 A film production company shall provide to the division a  
14 projection of the film and television tax credit claim the  
15 film production company plans to submit in the fiscal year.  
16 In addition, the film production company shall agree in  
17 writing:

18 (1) to pay all obligations the film  
19 production company has incurred in New Mexico;

20 (2) to post a notice at completion of  
21 principal photography on the website of the division that:

22 (a) contains production company  
23 information, including the name of the production, the  
24 address of the production company and contact information  
25 that includes a working phone number, fax number and email

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1 address for both the local production office and the  
2 permanent production office to notify the public of the need  
3 to file creditor claims against the film production company;  
4 and

5 (b) remains posted on the website  
6 until all financial obligations incurred in the state by the  
7 film production company have been paid;

8 (3) that outstanding obligations are not  
9 waived should a creditor fail to file;

10 (4) to delay filing of a claim for the film  
11 and television tax credit until the division delivers written  
12 notification to the taxation and revenue department that the  
13 film production company has fulfilled all requirements for  
14 the credit; and

15 (5) to submit a completed application for  
16 the film and television tax credit and supporting  
17 documentation to the division within one year of the close of  
18 the film production company's taxable year in which the  
19 expenditures in New Mexico were incurred for the registered  
20 project and that are included in the credit claim.

21 G. The division shall determine the eligibility  
22 of the company and shall report this information to the  
23 taxation and revenue department in a manner and at times the  
24 economic development and tourism department and the taxation  
25 and revenue department shall agree upon. The division shall

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1 also post on its website all information provided by the film  
2 production company that does not reveal revenue, income or  
3 other information that may jeopardize the confidentiality of  
4 income tax returns, including that the division shall report  
5 quarterly the projected amount of credit claims for the  
6 fiscal year.

7 H. To provide guidance to film production  
8 companies regarding the amount of credit capacity remaining  
9 in the fiscal year, the taxation and revenue department shall  
10 post monthly on that department's website the aggregate  
11 amount of credits claimed and processed for the fiscal year.

12 I. To receive a film and television tax credit, a  
13 film production company shall apply to the taxation and  
14 revenue department on forms and in the manner the department  
15 may prescribe. The application shall include a certification  
16 of the amount of direct production expenditures or  
17 postproduction expenditures made in New Mexico with respect  
18 to the film production for which the film production company  
19 is seeking the film and television tax credit; provided that  
20 for the film and television tax credit, the application shall  
21 be submitted within one year of the date of the last direct  
22 production expenditure in New Mexico or the last  
23 postproduction expenditure in New Mexico incurred within the  
24 film production company's taxable year. If the amount of the  
25 requested tax credit exceeds five million dollars

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1 (\$5,000,000), the application shall also include the results  
2 of an audit, conducted by a certified public accountant  
3 licensed to practice in New Mexico, verifying that the  
4 expenditures have been made in compliance with the  
5 requirements of this section. If the requirements of this  
6 section have been complied with, subject to the provisions of  
7 Section 7-2F-12 NMSA 1978, the taxation and revenue  
8 department shall approve the film and television tax credit  
9 and issue a document granting the tax credit.

10 J. The film production company may apply all or a  
11 portion of the film and television tax credit granted against  
12 personal income tax liability or corporate income tax  
13 liability. If the amount of the film and television tax  
14 credit claimed exceeds the film production company's tax  
15 liability for the taxable year in which the credit is being  
16 claimed, the excess shall be refunded."

17 SECTION 17. Section 7-9-86 NMSA 1978 (being Laws 1995,  
18 Chapter 80, Section 1, as amended) is amended to read:

19 "7-9-86. DEDUCTION--GROSS RECEIPTS TAX--SALES TO  
20 QUALIFIED FILM PRODUCTION COMPANY.--

21 A. Receipts from selling or leasing property and  
22 from performing services may be deducted from gross receipts  
23 or from governmental gross receipts if the sale, lease or  
24 performance is made to a qualified production company that  
25 delivers a nontaxable transaction certificate to the seller,

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1 lessor or performer.

2 B. For the purposes of this section:

3 (1) "film" means a single ~~[media]~~ medium or  
4 multimedia program, including an advertising message, that:

5 (a) is fixed on film, digital medium,  
6 videotape, computer disc, laser disc or other similar  
7 delivery medium;

8 (b) can be viewed or reproduced;

9 (c) is not intended to and does not  
10 violate a provision of Chapter 30, Article 37 NMSA 1978; and

11 (d) is intended for reasonable  
12 commercial exploitation for the delivery medium used;

13 (2) "production company" means a person that  
14 produces one or more films for exhibition in theaters, on  
15 television or elsewhere;

16 (3) "production costs" means the costs of  
17 the following:

18 (a) a story and scenario to be used  
19 for a film;

20 (b) salaries of talent, management and  
21 labor, including payments to personal services corporations  
22 for the services of a performing artist;

23 (c) set construction and operations,  
24 wardrobe, accessories and related services;

25 (d) photography, sound

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1       synchronization, lighting and related services;

2                               (e) editing and related services;

3                               (f) rental of facilities and

4       equipment; or

5                               (g) other direct costs of producing  
6       the film in accordance with generally accepted entertainment  
7       industry practice; and

8                               (4) "qualified production company" means a  
9       production company that meets the provisions of this section  
10      and has registered or will register with the New Mexico film  
11      division of the economic development and tourism department.

12                              C. A qualified production company may deliver the  
13      nontaxable transaction certificates authorized by this  
14      section only with respect to production costs."

15                              SECTION 18. Section 7-9-110.3 NMSA 1978 (being Laws  
16      2011, Chapter 60, Section 3 and Laws 2011, Chapter 61,  
17      Section 3, as amended) is amended to read:

18                              "7-9-110.3. PURPOSE AND REQUIREMENTS OF LOCOMOTIVE FUEL  
19      DEDUCTION.--

20                              A. The purpose of the deduction on fuel loaded or  
21      used by a common carrier in a locomotive engine from gross  
22      receipts and from compensating tax is to encourage the  
23      construction, renovation, maintenance and operation of  
24      railroad locomotive refueling facilities and other railroad  
25      capital investments in New Mexico.

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1           B. To be eligible for the deduction on fuel  
2 loaded or used by a common carrier in a locomotive engine  
3 from compensating tax, the fuel shall be used or loaded by a  
4 common carrier that:

5                   (1) after July 1, 2011, made a capital  
6 investment of one hundred million dollars (\$100,000,000) or  
7 more in new construction or renovations at the railroad  
8 locomotive refueling facility in which the fuel is loaded or  
9 used; or

10                   (2) on or after July 1, 2012, made a capital  
11 investment of fifty million dollars (\$50,000,000) or more in  
12 new railroad infrastructure improvements, including railroad  
13 facilities, track, signals and supporting railroad network,  
14 located in New Mexico; provided that the new railroad  
15 infrastructure improvements are not required by a regulatory  
16 agency to correct problems, such as regular or preventive  
17 maintenance, specifically identified by that agency as  
18 requiring necessary corrective action.

19           C. To be eligible for the deduction on fuel  
20 loaded or used by a common carrier in a locomotive engine  
21 from gross receipts, a common carrier shall deliver an  
22 appropriate nontaxable transaction certificate to the seller  
23 and the sale shall be made to a common carrier that:

24                   (1) after July 1, 2011, made a capital  
25 investment of one hundred million dollars (\$100,000,000) or

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1 more in new construction or renovations at the railroad  
2 locomotive refueling facility in which the fuel is sold; or  
3 (2) on or after July 1, 2012, made a capital  
4 investment of fifty million dollars (\$50,000,000) or more in  
5 new railroad infrastructure improvements, including railroad  
6 facilities, track, signals and supporting railroad network,  
7 located in New Mexico; provided that the new railroad  
8 infrastructure improvements are not required by a regulatory  
9 agency to correct problems, such as regular or [~~preventative~~]  
10 preventive maintenance, specifically identified by that  
11 agency as requiring necessary corrective action.

12 D. The economic development and tourism  
13 department shall promulgate rules for the issuance of a  
14 certificate of eligibility for the purposes of claiming a  
15 deduction on fuel loaded or used by a common carrier in a  
16 locomotive engine from gross receipts or compensating tax. A  
17 common carrier may request a certificate of eligibility from  
18 the economic development and tourism department to provide to  
19 the taxation and revenue department to establish eligibility  
20 for a nontaxable transaction certificate for the deduction on  
21 fuel loaded or used by a common carrier in a locomotive  
22 engine from gross receipts. The taxation and revenue  
23 department shall issue nontaxable transaction certificates to  
24 a common carrier upon the presentation of a certificate of  
25 eligibility obtained from the economic development and

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1 tourism department pursuant to this subsection.

2 E. The economic development and tourism  
3 department shall keep a record of temporary and permanent  
4 jobs from all railroad activity where a capital investment is  
5 made by a common carrier that claims a deduction on fuel  
6 loaded or used by a common carrier in a locomotive engine  
7 from gross receipts or from compensating tax. The economic  
8 development and tourism department and the taxation and  
9 revenue department shall estimate the amount of state revenue  
10 that is attributable to all railroad activity where a capital  
11 investment is made by a common carrier that claims a  
12 deduction on fuel loaded or used by a common carrier in a  
13 locomotive engine from gross receipts or from compensating  
14 tax.

15 F. The economic development and tourism  
16 department and the taxation and revenue department shall  
17 compile an annual report with the number of taxpayers who  
18 claim the deduction on fuel loaded or used by a common  
19 carrier in a locomotive engine from gross receipts and from  
20 compensating tax, the number of jobs created as a result of  
21 that deduction, the amount of that deduction approved, the  
22 net revenue to the state as a result of that deduction and  
23 any other information required by the legislature to aid in  
24 evaluating the effectiveness of that deduction. A taxpayer  
25 who claims a deduction on fuel loaded or used by a common

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1 carrier in a locomotive engine from gross receipts or from  
2 compensating tax shall provide the economic development and  
3 tourism department and the taxation and revenue department  
4 with the information required to compile that report. The  
5 economic development and tourism department and the taxation  
6 and revenue department shall present that report before the  
7 legislative interim revenue stabilization and tax policy  
8 committee and the legislative finance committee by November  
9 of each year. Notwithstanding any other section of law to  
10 the contrary, the economic development and tourism department  
11 and the taxation and revenue department may disclose the  
12 number of applicants for the deduction on fuel loaded or used  
13 by a common carrier in a locomotive engine from gross  
14 receipts and from compensating tax, the amount of the  
15 deduction approved, the number of employees of the taxpayer  
16 and any other information required by the legislature or the  
17 taxation and revenue department to aid in evaluating the  
18 effectiveness of that deduction.

19 G. An appropriate legislative committee shall  
20 review the effectiveness of the deduction for each taxpayer  
21 who claims the deduction on fuel loaded or used by a common  
22 carrier in a locomotive engine from gross receipts and from  
23 compensating tax every six years beginning in 2019."

24 SECTION 19. Section 7-9-114 NMSA 1978 (being Laws 2010,  
25 Chapter 77, Section 1 and Laws 2010, Chapter 78, Section 1,  
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1 as amended) is amended to read:

2 "7-9-114. ADVANCED ENERGY DEDUCTION--GROSS RECEIPTS AND  
3 COMPENSATING TAXES.--

4 A. Receipts from selling or leasing tangible  
5 personal property or services that are eligible generation  
6 plant costs to a person that holds an interest in a qualified  
7 generating facility may be deducted from gross receipts if  
8 the holder of the interest delivers an appropriate nontaxable  
9 transaction certificate to the seller or lessor. The  
10 department shall issue nontaxable transaction certificates to  
11 a person that holds an interest in a qualified generating  
12 facility upon presentation to the department of a certificate  
13 of eligibility obtained from the department of environment  
14 pursuant to Subsection G of this section for the deduction  
15 created in this section or a certificate of eligibility  
16 pursuant to Section 7-2-18.25, 7-2A-25 or 7-9G-2 NMSA 1978.  
17 The deduction created in this section may be referred to as  
18 the "advanced energy deduction".

19 B. The purpose of the advanced energy deduction  
20 is to encourage the construction and development of qualified  
21 generating facilities in New Mexico and to sequester or  
22 control carbon dioxide emissions.

23 C. The value of eligible generation plant costs  
24 from the sale or lease of tangible personal property to a  
25 person that holds an interest in a qualified generating

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1 facility for which the department of environment has issued a  
2 certificate of eligibility pursuant to Subsection G of this  
3 section may be deducted in computing the compensating tax  
4 due.

5 D. The maximum tax benefit allowed for all  
6 eligible generation plant costs from a qualified generating  
7 facility shall be sixty million dollars (\$60,000,000) total  
8 for eligible generation plant costs deducted or claimed  
9 pursuant to this section or Section 7-2-18.25, 7-2A-25 or  
10 7-9G-2 NMSA 1978.

11 E. Deductions taken pursuant to this section  
12 shall be reported separately on a form approved by the  
13 department. The nontaxable transaction certificates used to  
14 obtain tax-deductible tangible personal property or services  
15 shall display clearly a notice to the taxpayer that the  
16 deduction shall be reported separately from any other  
17 deductions claimed from gross receipts. A taxpayer deducting  
18 eligible generation plant costs from the costs on which  
19 compensating tax is imposed shall report those eligible  
20 generation plant costs that are being deducted.

21 F. The deductions allowed for a qualified  
22 generating facility pursuant to this section shall be  
23 available for a ten-year period for purchases and a twenty-  
24 five-year period for leases from the year development of the  
25 qualified generating facility begins and expenditures are

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1 made for which nontaxable transaction certificates authorized  
2 pursuant to this section are submitted to sellers or lessors  
3 for eligible generation plant costs or deductions from the  
4 costs on which compensating tax [~~are~~] is calculated are first  
5 taken for eligible generation plant costs.

6 G. An entity that holds an interest in a  
7 qualified generating facility may request a certificate of  
8 eligibility from the department of environment to enable the  
9 requester to obtain a nontaxable transaction certificate for  
10 the advanced energy deduction. The department of environment  
11 shall:

12 (1) determine if the facility is a qualified  
13 generating facility;

14 (2) require that the requester provide the  
15 department of environment with the information necessary to  
16 assess whether the requester's facility meets the criteria to  
17 be a qualified generating facility;

18 (3) issue a certificate from sequentially  
19 numbered certificates to the requester stating that the  
20 facility is or is not a qualified generating facility within  
21 one hundred eighty days after receiving all information  
22 necessary to make a determination;

23 (4) issue:

24 (a) rules governing the procedures for  
25 administering the provisions of this subsection; and

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1 (b) a schedule of fees in which no fee  
2 exceeds one hundred fifty thousand dollars (\$150,000);

3 (5) deposit fees collected pursuant to this  
4 subsection in the state air quality permit fund created  
5 pursuant to Section 74-2-15 NMSA 1978; and

6 (6) report annually to the appropriate  
7 interim legislative committee information that will allow the  
8 legislative committee to analyze the effectiveness of the  
9 advanced energy deduction, including the identity of  
10 qualified generating facilities, the energy production means  
11 used, the amount of emissions identified in this section  
12 reduced and removed by those qualified generating facilities  
13 and whether any requests for certificates of eligibility  
14 could not be approved due to program limits.

15 H. The economic development and tourism  
16 department shall keep a record of temporary and permanent  
17 jobs at all qualified generating facilities in New Mexico.  
18 The economic development and tourism department and the  
19 taxation and revenue department shall measure the amount of  
20 state revenue that is attributable to activity at each  
21 qualified generating facility in New Mexico. The economic  
22 development and tourism department shall coordinate with the  
23 department of environment to report annually to the  
24 appropriate interim legislative committee on the  
25 effectiveness of the advanced energy deduction. A taxpayer

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1 who claims an advanced energy deduction shall provide the  
2 economic development and tourism department, the department  
3 of environment and the taxation and revenue department with  
4 the information required to compile the report required by  
5 this section. Notwithstanding any other section of law to  
6 the contrary, the economic development and tourism  
7 department, the department of environment and the taxation  
8 and revenue department may disclose the number of applicants  
9 for the advanced energy deduction, the amount of the  
10 deduction approved, the number of employees of the taxpayer  
11 and any other information required by the legislature or the  
12 taxation and revenue department to aid in evaluating the  
13 effectiveness of that deduction.

14 I. If the department of environment issues a  
15 certificate of eligibility to a taxpayer stating that the  
16 taxpayer holds an interest in a qualified generating facility  
17 and the taxpayer does not sequester or control carbon dioxide  
18 emissions to the extent required by this section by the later  
19 of January 1, 2017 or eighteen months after the commercial  
20 operation date of the qualified generating facility, the  
21 taxpayer's certification as a qualified generating facility  
22 shall be revoked by the department of environment and the  
23 taxpayer shall repay to the state tax deductions granted  
24 pursuant to this section; provided that, if the taxpayer  
25 demonstrates to the department of environment that the

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1 taxpayer made every effort to sequester or control carbon  
2 dioxide emissions to the extent feasible and the facility's  
3 inability to meet the sequestration requirements of a  
4 qualified generating facility was beyond the facility's  
5 control, the department of environment shall determine, after  
6 a public hearing, the amount of tax deduction that should be  
7 repaid to the state. The department of environment, in its  
8 determination, shall consider the environmental performance  
9 of the facility and the extent to which the inability to meet  
10 the sequestration requirements of a qualified generating  
11 facility was in the control of the taxpayer. The repayment  
12 as determined by the department of environment shall be paid  
13 within one hundred eighty days following a final order by the  
14 department of environment.

15 J. The advanced energy deduction allowed pursuant  
16 to this section shall not be claimed for the same qualified  
17 expenses for which a taxpayer claims a credit pursuant to  
18 Section 7-2-18.25, 7-2A-25 or 7-9G-2 NMSA 1978 or a deduction  
19 pursuant to Section 7-9-54.3 NMSA 1978.

20 K. An appropriate legislative committee shall  
21 review the effectiveness of the advanced energy deduction  
22 every four years beginning in 2015.

23 L. As used in this section:

24 (1) "coal-based electric generating  
25 facility" means a new or repowered generating facility and an

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1 associated coal gasification facility, if any, that uses coal  
2 to generate electricity and that meets the following  
3 specifications:

4 (a) emits the lesser of: 1) what is  
5 achievable with the best available control technology; or 2)  
6 thirty-five thousandths pound per million British thermal  
7 units of sulfur dioxide, twenty-five thousandths pound per  
8 million British thermal units of oxides of nitrogen and one  
9 hundredth pound per million British thermal units of total  
10 particulate in the flue gas;

11 (b) removes the greater of: 1) what  
12 is achievable with the best available control technology; or  
13 2) ninety percent of the mercury from the input fuel;

14 (c) captures and sequesters or  
15 controls carbon dioxide emissions so that by the later of  
16 January 1, 2017 or eighteen months after the commercial  
17 operation date of the coal-based electric generating  
18 facility, no more than one thousand one hundred pounds per  
19 megawatt-hour of carbon dioxide is emitted into the  
20 atmosphere;

21 (d) all infrastructure required for  
22 sequestration is in place by the later of January 1, 2017 or  
23 eighteen months after the commercial operation date of the  
24 coal-based electric generating facility;

25 (e) includes methods and procedures to

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1 monitor the disposition of the carbon dioxide captured and  
2 sequestered from the coal-based electric generating facility;  
3 and

4 (f) does not exceed a name-plate  
5 capacity of seven hundred net megawatts;

6 (2) "eligible generation plant costs" means  
7 expenditures for the development and construction of a  
8 qualified generating facility, including permitting; lease  
9 payments; site characterization and assessment; engineering;  
10 design; carbon dioxide capture, treatment, compression,  
11 transportation and sequestration; site and equipment  
12 acquisition; and fuel supply development used directly and  
13 exclusively in a qualified generating facility;

14 (3) "entity" means an individual, estate,  
15 trust, receiver, cooperative association, club, corporation,  
16 company, firm, partnership, limited liability company,  
17 limited liability partnership, joint venture, syndicate or  
18 other association or a gas, water or electric utility owned  
19 or operated by a county or municipality;

20 (4) "geothermal electric generating  
21 facility" means a facility with a name-plate capacity of one  
22 megawatt or more that uses geothermal energy to generate  
23 electricity, including a facility that captures and provides  
24 geothermal energy to a preexisting electric generating  
25 facility using other fuels in part;

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1 (5) "interest in a qualified generating  
2 facility" means title to a qualified generating facility; a  
3 lessee's interest in a qualified generating facility; and a  
4 county or municipality's interest in a qualified generating  
5 facility when the county or municipality issues an industrial  
6 revenue bond for construction of the qualified generating  
7 facility;

8 (6) "name-plate capacity" means the maximum  
9 rated output of the facility measured as alternating current  
10 or the equivalent direct current measurement;

11 (7) "qualified generating facility" means a  
12 facility that begins construction not later than December 31,  
13 2015 and is:

14 (a) a solar thermal electric  
15 generating facility that begins construction on or after July  
16 1, 2010 and that may include an associated renewable energy  
17 storage facility;

18 (b) a solar photovoltaic electric  
19 generating facility that begins construction on or after July  
20 1, 2010 and that may include an associated renewable energy  
21 storage facility;

22 (c) a geothermal electric generating  
23 facility that begins construction on or after July 1, 2010;

24 (d) a recycled energy project if that  
25 facility begins construction on or after July 1, 2010; or

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1 (e) a new or repowered coal-based  
2 electric generating facility and an associated coal  
3 gasification facility;

4 (8) "recycled energy" means energy produced  
5 by a generation unit with a name-plate capacity of not more  
6 than fifteen megawatts that converts the otherwise lost  
7 energy from the exhaust stacks or pipes to electricity  
8 without combustion of additional fossil fuel;

9 (9) "sequester" means to store, or  
10 chemically convert, carbon dioxide in a manner that prevents  
11 its release into the atmosphere and may include the use of  
12 geologic formations and enhanced oil, coaled methane or  
13 natural gas recovery techniques;

14 (10) "solar photovoltaic electric generating  
15 facility" means an electric generating facility with a name-  
16 plate capacity of one megawatt or more that uses solar  
17 photovoltaic energy to generate electricity; and

18 (11) "solar thermal electric generating  
19 facility" means an electric generating facility with a name-  
20 plate capacity of one megawatt or more that uses solar  
21 thermal energy to generate electricity, including a facility  
22 that captures and provides solar thermal energy to a  
23 preexisting electric generating facility using other fuels in  
24 part."

25 SECTION 20. Section 7-9-115 NMSA 1978 (being Laws 2015  
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1 (1st S.S.), Chapter 2, Section 9) is amended to read:

2 "7-9-115. DEDUCTION--GROSS RECEIPTS TAX--GOODS AND  
3 SERVICES FOR THE DEPARTMENT OF DEFENSE RELATED TO DIRECTED  
4 ENERGY AND SATELLITES.--

5 A. Prior to January 1, 2021, receipts from the  
6 sale by a qualified contractor of qualified research and  
7 development services and qualified directed energy and  
8 satellite-related inputs may be deducted from gross receipts  
9 when sold pursuant to a contract with the United States  
10 department of defense.

11 B. The purposes of the deduction allowed in this  
12 section are to promote new and sophisticated technology,  
13 enhance the viability of directed energy and satellite  
14 projects, attract new projects and employers to New Mexico  
15 and increase high-technology employment opportunities in New  
16 Mexico.

17 C. A taxpayer allowed a deduction pursuant to  
18 this section shall report the amount of the deduction  
19 separately in a manner required by the department.

20 D. The department shall compile an annual report  
21 on the deduction provided by this section that shall include  
22 the number of taxpayers that claimed the deduction, the  
23 aggregate amount of deductions claimed and any other  
24 information necessary to evaluate the effectiveness of the  
25 deduction. Beginning in 2017 and each year thereafter that

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1 the deduction is in effect, the department and the economic  
2 development and tourism department shall present the annual  
3 report to the revenue stabilization and tax policy committee  
4 and the legislative finance committee with an analysis of the  
5 effectiveness and cost of the deduction and whether the  
6 deduction is performing the purpose for which it was created.

7 E. As used in this section:

8 (1) "directed energy" means a system,  
9 including related services, that enables the use of the  
10 frequency spectrum, including radio waves, light and x-rays;

11 (2) "inputs" means systems, subsystems,  
12 components, prototypes and demonstrators or products and  
13 services involving optics, photonics, electronics, advanced  
14 materials, nanoelectromechanical and microelectromechanical  
15 systems, fabrication materials and test evaluation and  
16 computer control systems related to directed energy or  
17 satellites;

18 (3) "qualified contractor" means a person  
19 other than an organization designated as a national  
20 laboratory by act of congress or an operator of national  
21 laboratory facilities in New Mexico; provided that the  
22 operator may be a qualified contractor with respect to the  
23 operator's receipts not connected with operating the national  
24 laboratory;

25 (4) "qualified directed energy and

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1 satellite-related inputs" means inputs supplied to the  
2 department of defense pursuant to a contract with that  
3 department entered into on or after January 1, 2016;

4 (5) "qualified research and development  
5 services" means research and development services related to  
6 directed energy or satellites provided to the department of  
7 defense pursuant to a contract with that department entered  
8 into on or after January 1, 2016; and

9 (6) "satellite" means composite systems  
10 assembled and packaged for use in space, including launch  
11 vehicles and related products and services."

12 SECTION 21. Section 7-9E-11 NMSA 1978 (being Laws 2007,  
13 Chapter 172, Section 20) is amended to read:

14 "7-9E-11. REPORTING.--

15 A. By October 15 of each year, a national  
16 laboratory that has claimed a tax credit pursuant to the  
17 Laboratory Partnership with Small Business Tax Credit Act for  
18 the previous calendar year shall submit an annual report in  
19 writing to the department, the economic development and  
20 tourism department and an appropriate legislative interim  
21 committee.

22 B. If more than one national laboratory claims a  
23 tax credit pursuant to the Laboratory Partnership with Small  
24 Business Tax Credit Act for the previous calendar year, those  
25 laboratories shall jointly submit an annual report to the

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1 department, the economic development and tourism department  
2 and an appropriate legislative interim committee no later  
3 than October 15 following the calendar year in which the  
4 small business assistance was provided.

5 C. An annual report shall summarize activities  
6 related to and the results of the small business assistance  
7 programs that were provided by one or more national  
8 laboratories and shall include:

9 (1) a summary of the program results and the  
10 number of small businesses assisted in each county;

11 (2) a description of the projects involving  
12 multiple small businesses;

13 (3) results of surveys of small businesses  
14 to which small business assistance is provided;

15 (4) the total amount of the tax credits  
16 claimed pursuant to the Laboratory Partnership with Small  
17 Business Tax Credit Act for the year on which the report is  
18 based; and

19 (5) an economic impact study of jobs  
20 created, jobs retained, cost savings and increased sales  
21 generated by small businesses for which small business  
22 assistance is provided.

23 D. At any time after receipt of an annual report  
24 required pursuant to this section from one or more national  
25 laboratories eligible for tax credits authorized pursuant to

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1 the Laboratory Partnership with Small Business Tax Credit  
2 Act, the department or the economic development and tourism  
3 department may provide written instructions to a national  
4 laboratory identifying future improvements in the  
5 laboratory's small business assistance program for which it  
6 receives that tax credit."

7 SECTION 22. Section 7-9G-1 NMSA 1978 (being Laws 2004,  
8 Chapter 15, Section 1, as amended) is amended to read:

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

11 A. A taxpayer who is an eligible employer may  
12 apply for, and the department may allow, a tax credit for  
13 each new high-wage economic-based job. The credit provided  
14 in this section may be referred to as the "high-wage jobs tax  
15 credit".

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

20 C. The high-wage jobs tax credit may be claimed  
21 and allowed in an amount equal to ten percent of the wages  
22 distributed to an eligible employee in a new high-wage  
23 economic-based job, but shall not exceed twelve thousand  
24 dollars (\$12,000) per job per qualifying period. The high-  
25 wage jobs tax credit may be claimed by an eligible employer

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1 for each new high-wage economic-based job performed for the  
2 year in which the new high-wage economic-based job is created  
3 and for the three consecutive qualifying periods as provided  
4 in this section.

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

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

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1 initial qualifying period unless the eligible employer's  
2 total number of employees with threshold jobs on the last day  
3 of the initial qualifying period at the location at which the  
4 job is performed or based is at least one more than the  
5 number of threshold jobs on the day prior to the date the new  
6 high-wage economic-based job was created. A new high-wage  
7 economic-based job shall not be eligible for a credit  
8 pursuant to this section for a consecutive qualifying period  
9 unless the total number of threshold jobs at a location at  
10 which the job is performed or based on the last day of that  
11 qualifying period is greater than or equal to the number of  
12 threshold jobs at that same location on the last day of the  
13 initial qualifying period for the new high-wage economic-  
14 based job.

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

25 G. Except as provided in Subsection H of this

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1 section, a new high-wage economic-based job shall not be  
2 eligible for a credit pursuant to this section if:

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

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

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

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

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

19 H. A new high-wage economic-based job that was  
20 created by another employer and for which an application for  
21 the high-wage jobs tax credit was received and is under  
22 review by the department prior to the time of the business  
23 merger or acquisition or other change in business  
24 organization shall remain eligible for the high-wage jobs tax  
25 credit for the balance of the consecutive qualifying periods.

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

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

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

23 K. With respect to each annual application for a  
24 high-wage jobs tax credit, the employer shall certify and  
25 include:

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1 (1) the amount of wages paid to each  
2 eligible employee in a new high-wage economic-based job  
3 during the qualifying period;

4 (2) the number of weeks each position was  
5 occupied during the qualifying period;

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

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

14 (5) the total number of employees employed  
15 by the employer at the job location on the day prior to the  
16 qualifying period and on the last day of the qualifying  
17 period;

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

22 (7) for an eligible employer that has more  
23 than one business location in New Mexico from which it  
24 conducts business, the total number of threshold jobs  
25 performed or based at each business location of the eligible

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1 employer in New Mexico on the day prior to the qualifying  
2 period and on the last day of the qualifying period;

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

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

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

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

18 M. Except as provided in Subsection N of this  
19 section, an approved high-wage jobs tax credit shall be  
20 claimed against the taxpayer's modified combined tax  
21 liability and shall be filed with the return due immediately  
22 following the date of the credit approval. If the credit  
23 exceeds the taxpayer's modified combined tax liability, the  
24 excess shall be refunded to the taxpayer.

25 N. If the taxpayer ceases business operations in

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

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

15 (1) lost eligibility to claim a tax credit  
16 from a previous application pursuant to Subsection E or N of  
17 this section; or

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

22 P. The economic development and tourism  
23 department and the taxation and revenue department shall  
24 report to the appropriate interim legislative committee each  
25 year the cost of this tax credit to the state and its impact

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1 on company recruitment and job creation.

2 Q. As used in this section:

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

11 (2) "consecutive qualifying periods" means  
12 the three qualifying periods successively following the  
13 qualifying period in which the new high-wage economic-based  
14 job was created;

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

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

22 (5) "eligible employee" means an individual  
23 who is employed in New Mexico by an eligible employer and who  
24 is a resident of New Mexico; "eligible employee" does not  
25 include an individual who:

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1 (a) bears any of the relationships  
2 described in Paragraphs (1) through (8) of 26 U.S.C. Section  
3 152(a) to the employer or, if the employer is a corporation,  
4 to an individual who owns, directly or indirectly, more than  
5 fifty percent in value of the outstanding stock of the  
6 corporation or, if the employer is an entity other than a  
7 corporation, to an individual who owns, directly or  
8 indirectly, more than fifty percent of the capital and  
9 profits interest in the entity;

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

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

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

8 (6) "eligible employer" means an employer  
9 that:

10 (a) sold and delivered more than fifty  
11 percent of its goods produced in New Mexico or non-retail  
12 services performed in New Mexico to persons outside New  
13 Mexico for use or resale outside New Mexico during the  
14 applicable qualifying period; provided that the fifty percent  
15 of those goods or services is measured by the eligible  
16 employer's gross receipts;

17 (b) is receiving or is eligible to  
18 receive development training program assistance pursuant to  
19 Section 21-19-7 NMSA 1978 during the applicable qualifying  
20 period; and

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

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

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

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

15                   (10) "modified combined tax liability" means  
16 the total liability for the reporting period for the gross  
17 receipts tax imposed by Section 7-9-4 NMSA 1978 together with  
18 any tax collected at the same time and in the same manner as  
19 the gross receipts tax, such as the compensating tax, the  
20 withholding tax, the interstate telecommunications gross  
21 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA  
22 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,  
23 minus the amount of any credit other than the high-wage jobs  
24 tax credit applied against any or all of these taxes or  
25 surcharges; but "modified combined tax liability" excludes

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1 all amounts collected with respect to local option gross  
2 receipts taxes;

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

9 (a) for a new high-wage economic-based  
10 job created prior to July 1, 2015: 1) forty thousand dollars  
11 (\$40,000) if the job is performed or based in or within ten  
12 miles of the external boundaries of a municipality with a  
13 population of sixty thousand or more according to the most  
14 recent federal decennial census or in a class H county; and  
15 2) twenty-eight thousand dollars (\$28,000) if the job is  
16 performed or based in a municipality with a population of  
17 less than sixty thousand according to the most recent federal  
18 decennial census or in the unincorporated area, that is not  
19 within ten miles of the external boundaries of a municipality  
20 with a population of sixty thousand or more, of a county  
21 other than a class H county; and

22 (b) for a new high-wage economic-based  
23 job created on or after July 1, 2015: 1) sixty thousand  
24 dollars (\$60,000) if the job is performed or based in or  
25 within ten miles of the external boundaries of a municipality

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1 with a population of sixty thousand or more according to the  
2 most recent federal decennial census or in a class H county;  
3 and 2) forty thousand dollars (\$40,000) if the job is  
4 performed or based in a municipality with a population of  
5 less than sixty thousand according to the most recent federal  
6 decennial census or in the unincorporated area, that is not  
7 within ten miles of the external boundaries of a municipality  
8 with a population of sixty thousand or more, of a county  
9 other than a class H county;

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

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

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

25 (c) data processing and hosting

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1 services performed for a business that uses the service to  
2 deliver products or service to its own customers;

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

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

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

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

17 (14) "produced in New Mexico" means the  
18 creation, bringing into existence or making available a good  
19 or product for commercial sale through the expense of labor  
20 or capital, or both, within New Mexico;

21 (15) "qualifying period" means the period of  
22 twelve months beginning on the day an eligible employee  
23 begins working in a new high-wage economic-based job or the  
24 period of twelve months beginning on the anniversary of the  
25 day an eligible employee began working in a new high-wage

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1 economic-based job;

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

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

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

18 SECTION 23. Section 7-27-5.26 NMSA 1978 (being Laws  
19 2000 (2nd S.S.), Chapter 6, Section 2, as amended) is amended  
20 to read:

21 "7-27-5.26. INVESTMENT IN FILMS TO BE PRODUCED IN  
22 NEW MEXICO.--

23 A. No more than six percent of the market value  
24 of the severance tax permanent fund may be invested in New  
25 Mexico film private equity funds or a New Mexico film project

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1 under this section.

2 B. If an investment is made under this section,  
3 not more than fifteen million dollars (\$15,000,000) of the  
4 amount authorized for investment pursuant to Subsection A of  
5 this section shall be invested in any one New Mexico film  
6 private equity fund or any one New Mexico film project.

7 C. The state investment officer shall make  
8 investments pursuant to this section only upon approval of  
9 the council after a review by the New Mexico film division of  
10 the economic development and tourism department. The state  
11 investment officer may make debt or equity investments  
12 pursuant to this section only in New Mexico film projects or  
13 New Mexico film private equity funds that invest only in film  
14 projects that:

15 (1) are filmed wholly or substantially in  
16 New Mexico;

17 (2) have shown to the satisfaction of the  
18 New Mexico film division that a distribution contract is in  
19 place with a reputable distribution company;

20 (3) have agreed that, while filming in New  
21 Mexico, a majority of the production crew will be New Mexico  
22 residents;

23 (4) have posted a completion bond that has  
24 been approved by the New Mexico film division; provided that  
25 a completion bond shall not be required if the fund or

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1 project is guaranteed pursuant to Paragraph (5) of this  
2 subsection; and

3 (5) have obtained a full, unconditional and  
4 irrevocable guarantee of repayment of the invested amount in  
5 favor of the severance tax permanent fund:

6 (a) from an entity that has a credit  
7 rating of not less than Baa or BBB by a national rating  
8 agency;

9 (b) from a substantial subsidiary of  
10 an entity that has a credit rating of not less than Baa or  
11 BBB by a national rating agency;

12 (c) by providing a full, unconditional  
13 and irrevocable letter of credit from a United States  
14 incorporated bank with a credit rating of not less than A by  
15 a national rating agency; or

16 (d) from a substantial and solvent  
17 entity as determined by the council in accordance with its  
18 standards and practices; or

19 (6) if not guaranteed pursuant to Paragraph  
20 (5) of this subsection, have obtained no less than one-third  
21 of the estimated total production costs from other sources as  
22 approved by the state investment officer.

23 D. The state investment officer may loan at a  
24 market rate of interest, with respect to an eligible New  
25 Mexico film project, up to eighty percent of an expected and

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1 estimated film production tax credit available to a film  
2 production company pursuant to the provisions of Section  
3 7-2F-1 NMSA 1978; provided that the film production company  
4 agrees to name the state investment officer as its agent for  
5 the purpose of filing an application for the film production  
6 tax credit to which the company is entitled if the company  
7 does not apply for the film production tax credit. The New  
8 Mexico film division of the economic development and tourism  
9 department shall determine the estimated amount of a film  
10 production tax credit. The council shall establish  
11 guidelines for the state investment officer's initiation of a  
12 loan and the terms of the loan.

13 E. As used in this section:

14 (1) "film project" means a single [~~media~~  
15 medium or multimedia program, including advertising messages,  
16 fixed on film, videotape, computer disc, laser disc or other  
17 similar delivery medium from which the program can be viewed  
18 or reproduced and that is intended to be exhibited in  
19 theaters; licensed for exhibition by individual television  
20 stations, groups of stations, networks, cable television  
21 stations or other means or licensed for the home viewing  
22 market; and

23 (2) "New Mexico film private equity fund"  
24 means any limited partnership, limited liability company or  
25 corporation organized and operating in the United States

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1 that:

2 (a) has as its primary business  
3 activity the investment of funds in return for equity in film  
4 projects produced wholly or partly in New Mexico;

5 (b) holds out the prospects for  
6 capital appreciation from such investments; and

7 (c) accepts investments only from  
8 accredited investors as that term is defined in Section 2 of  
9 the federal Securities Act of 1933, as amended, and rules  
10 promulgated pursuant to that section."

11 SECTION 24. Section 9-15-1 NMSA 1978 (being Laws 1983,  
12 Chapter 297, Section 1, as amended) is amended to read:

13 "9-15-1. SHORT TITLE.--Sections 9-15-1 through  
14 [~~9-15-15~~] 9-15-36 NMSA 1978 may be cited as the "Economic  
15 Development and Tourism Department Act"."

16 SECTION 25. Section 9-15-2 NMSA 1978 (being Laws 1983,  
17 Chapter 297, Section 2, as amended) is amended to read:

18 "9-15-2. FINDINGS AND PURPOSE.--

19 A. The legislature finds that a need exists for  
20 economic diversification in the state in order to protect  
21 against dramatic changes in the state's economy and to  
22 increase revenues to help state government finance the  
23 various services it provides to the state's communities and  
24 citizens.

25 B. The legislature further finds that the goal of

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1 economic development and diversification can best be  
2 accomplished by creating a cabinet-level department [~~which~~]  
3 that will be concerned solely with the areas of economic  
4 development and diversification and business recruitment,  
5 expansion and retention.

6 C. The purpose of the Economic Development and  
7 Tourism Department Act is to create a cabinet-level  
8 department in order to:

9 (1) provide a coordinated statewide  
10 perspective with regard to economic development activities;

11 (2) promote tourism;

12 [~~(2)~~] (3) provide a database for local and  
13 regional economic development groups and serve as a  
14 comprehensive source of information and assistance to  
15 businesses wishing to locate or expand in New Mexico;

16 [~~(3)~~] (4) actively encourage new economic  
17 enterprises to locate in New Mexico and assist existing  
18 businesses to expand;

19 [~~(4)~~] (5) monitor the progress of state-  
20 supported economic development activities and prepare annual  
21 reports of such activities, their status and their impact;

22 [~~(5)~~] (6) create and encourage methods  
23 designed to provide rapid economic diversification  
24 development that will create new employment opportunities for  
25 the citizens of the state, including the issuance of grants

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1 and loans to municipalities and counties for economic  
2 enhancement projects;

3 [~~(6)~~] (7) provide for technology  
4 commercialization projects as an incentive to industry  
5 locating or expanding in the state;

6 [~~(7)~~] (8) support technology transfer  
7 programs;

8 [~~(8)~~] (9) promote New Mexico as a technology  
9 conference center;

10 [~~(9)~~] (10) promote and market federal and  
11 state technology commercialization programs;

12 [~~(10)~~] (11) develop and implement enhanced  
13 statewide procurement programs; and

14 [~~(11)~~] (12) provide support and assistance  
15 in the creation and operation of development finance  
16 mechanisms such as business development corporations and the  
17 industrial and agricultural finance authorities in order to  
18 [~~insure~~] ensure capital availability for business expansion  
19 and economic diversification."

20 SECTION 26. Section 9-15-3 NMSA 1978 (being Laws 1983,  
21 Chapter 297, Section 3, as amended) is amended to read:

22 "9-15-3. DEFINITIONS.--As used in the Economic  
23 Development and Tourism Department Act:

24 A. "commission" means the economic development  
25 commission;

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1           B. "department" means the economic development  
2 and tourism department; and

3           C. "secretary" means the secretary of economic  
4 development and tourism."

5           SECTION 27. Section 9-15-4 NMSA 1978 (being Laws 1983,  
6 Chapter 297, Section 4, as amended) is amended to read:

7           "9-15-4. DEPARTMENT ESTABLISHED.--There is created in  
8 the executive branch the "economic development and tourism  
9 department". The department shall be a cabinet department  
10 and shall consist of, but not be limited to, [~~five~~] six  
11 divisions as follows:

- 12           A. the administrative services division;
- 13           B. the economic development division;
- 14           C. the New Mexico film division;
- 15           D. the technology enterprise division; [~~and~~]
- 16           E. the trade and Mexican affairs division; and
- 17           F. the tourism division."

18           SECTION 28. Section 9-15-5 NMSA 1978 (being Laws 1983,  
19 Chapter 297, Section 5, as amended) is amended to read:

20           "9-15-5. SECRETARY [~~OF THE ECONOMIC DEVELOPMENT~~  
21 ~~DEPARTMENT~~]~~--APPOINTMENT.~~--The chief executive and  
22 administrative officer of the department is the "secretary of  
23 economic development and tourism". The secretary shall be  
24 appointed by the governor with the consent of the senate.  
25 The secretary shall hold that office at the pleasure of the

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1 governor and shall serve in the executive cabinet; provided,  
2 however, that the secretary appointed to serve as the  
3 secretary of economic development and tourism and whose  
4 appointment has been confirmed by the senate may serve as the  
5 secretary of [~~the~~] economic development [~~department~~] and  
6 tourism at the pleasure of the governor and without further  
7 confirmation."

8 SECTION 29. Section 9-15-6 NMSA 1978 (being Laws 1983,  
9 Chapter 297, Section 6, as amended) is amended to read:

10 "9-15-6. SECRETARY--DUTIES AND GENERAL POWERS.--

11 A. The secretary is responsible to the governor  
12 for the operation of the department. It is [~~his~~] the  
13 secretary's duty to manage all operations of the department  
14 and to administer and enforce the laws with which [~~he~~] the  
15 secretary or the department is charged.

16 B. To perform [~~his~~] the secretary's duties, the  
17 secretary has every power expressly enumerated in the laws,  
18 whether granted to the secretary or the department or any  
19 division of the department, except where authority conferred  
20 upon any division is explicitly exempted from the secretary's  
21 authority by statute. In accordance with these provisions,  
22 the secretary shall:

23 (1) except as otherwise provided in the  
24 Economic Development and Tourism Department Act, exercise  
25 general supervisory and appointing authority over all

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1 department employees, subject to any applicable personnel  
2 laws and [~~regulations~~] rules;

3 (2) delegate authority to subordinates as  
4 [~~he~~] the secretary deems necessary and appropriate, clearly  
5 delineating such delegated authority and the limitations  
6 thereto;

7 (3) organize the department into those  
8 organizational units [~~he~~] the secretary deems will enable it  
9 to function most efficiently;

10 (4) within the limitations of available  
11 appropriations and applicable laws, employ and fix the  
12 compensation of those persons necessary to discharge [~~his~~]  
13 the secretary's duties;

14 (5) take administrative action by issuing  
15 orders and instructions, not inconsistent with the law, to  
16 assure implementation of and compliance with the provisions  
17 of law for whose administration or execution [~~he~~] the  
18 secretary is responsible and to enforce those orders and  
19 instructions by appropriate administrative action in the  
20 courts;

21 (6) conduct research and studies that will  
22 improve the operations of the department and the provision of  
23 services to the citizens of the state;

24 (7) provide for courses of instruction and  
25 practical training for employees of the department and other

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1 persons involved in the administration of programs, with the  
2 objective of improving the operations and efficiency of  
3 administration;

4 (8) prepare an annual budget of the  
5 department based upon the five-year economic development and  
6 tourism plan approved by the commission. The economic  
7 development and tourism plan shall be updated and approved  
8 annually by the commission;

9 (9) provide cooperation, at the request of  
10 heads of administratively attached agencies, in order to:

11 (a) minimize or eliminate duplication  
12 of services;

13 (b) coordinate activities and resolve  
14 problems of mutual concern; and

15 (c) resolve by agreement the manner  
16 and extent to which the department shall provide budgeting,  
17 [~~record-keeping~~] recordkeeping and related clerical  
18 assistance to administratively attached agencies;

19 (10) appoint a "director" for each division.  
20 These appointed positions are exempt from the provisions of  
21 the Personnel Act. Persons appointed to these positions  
22 shall serve at the pleasure of the secretary;

23 (11) give bond in the penal sum of twenty-  
24 five thousand dollars (\$25,000) and require directors to each  
25 give bond in the penal sum of ten thousand dollars (\$10,000)

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1 conditioned upon the faithful performance of duties, as  
2 provided in the Surety Bond Act. The department shall pay  
3 the costs of these bonds; and

4 (12) require performance bonds of such  
5 department employees and officers as ~~[he]~~ the secretary deems  
6 necessary, as provided in the Surety Bond Act. The  
7 department shall pay the costs of these bonds.

8 C. The secretary may apply for and receive in the  
9 name of the department any public or private funds, including  
10 but not limited to United States government funds, available  
11 to the department to carry out its programs, duties or  
12 services.

13 D. The secretary may make and adopt such  
14 reasonable ~~[and]~~ procedural rules ~~[and regulations]~~ as may be  
15 necessary to carry out the duties of the department and its  
16 divisions. No rule ~~[or regulation]~~ promulgated by the  
17 director of any division in carrying out the functions and  
18 duties of the division shall be effective until approved by  
19 the secretary unless otherwise provided by statute. Unless  
20 otherwise provided by statute, no ~~[regulation]~~ rule affecting  
21 any person or agency outside the department shall be adopted,  
22 amended or repealed without a public hearing on the proposed  
23 action before the secretary or a hearing officer designated  
24 by ~~[him]~~ the secretary. The public hearing shall be held in  
25 Santa Fe unless otherwise permitted by statute. Notice of

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1 the subject matter of the [~~regulation~~] rule, the action  
2 proposed to be taken, the time and place of the hearing, the  
3 manner in which interested persons may present their views  
4 and the method by which copies of the proposed [~~regulation~~]  
5 rule or proposed amendment or repeal of an existing  
6 [~~regulation~~] rule may be obtained shall be published once at  
7 least thirty days prior to the hearing date in a newspaper of  
8 general circulation and mailed at least thirty days prior to  
9 the hearing date to all persons who have made a written  
10 request for advance notice of hearing. All rules [~~and~~  
11 ~~regulations~~] shall be filed in accordance with the State  
12 Rules Act."

13 SECTION 30. Section 9-15-7 NMSA 1978 (being Laws 1983,  
14 Chapter 297, Section 7, as amended) is amended to read:

15 "9-15-7. SECRETARY--ADDITIONAL DUTIES.--In addition to  
16 the secretary's responsibility for the overall supervision of  
17 the department's operation in support of the purposes of the  
18 Economic Development and Tourism Department Act, the  
19 secretary shall:

20 A. work with and provide staff support to the  
21 commission in formulating and implementing the state's five-  
22 year economic development plan;

23 B. advise the commission of proposed rules,  
24 regulations, projects and contractual arrangements;

25 C. enter into contracts with state, federal or

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1 private entities, apply for and accept any state, federal or  
2 private funds or grants for such projects and accept similar  
3 donations and bequests from any source;

4 D. maintain and update records on the status of  
5 all completed and ongoing projects of the department;

6 E. develop, maintain and provide economic and  
7 demographic information; and

8 F. perform such other duties as requested by the  
9 commission in order to further the purposes of the Economic  
10 Development and Tourism Department Act."

11 SECTION 31. Section 9-15-12 NMSA 1978 (being Laws 1983,  
12 Chapter 297, Section 12, as amended) is amended to read:

13 "9-15-12. COMMISSION--POWERS AND DUTIES.--The  
14 commission shall:

15 A. develop and recommend policies and provide  
16 policy and program guidance for the department;

17 B. review, modify and approve annual updates to  
18 the state's five-year economic development and tourism plan  
19 generated by the department;

20 C. advise, assist and promote the department on  
21 matters relating to technology, technology-based new business  
22 development and technology commercialization projects;

23 D. review federal technology-based programs  
24 requiring state matching funds and authorize any expenditure  
25 or pledge of the state match fund for such programs; and

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1           E. establish such rules and regulations for its  
2 own operations as are necessary to achieve the purposes of  
3 the Economic Development and Tourism Department Act. Rules  
4 and regulations of the commission shall be adopted in the  
5 same procedural manner as rules and regulations of the  
6 department are adopted and shall be filed in accordance with  
7 the State Rules Act."

8           SECTION 32. Section 9-15-16 NMSA 1978 (being Laws 1991,  
9 Chapter 21, Section 21) is amended to read:

10           "9-15-16. TECHNOLOGY ENTERPRISE DIVISION CREATED.--The  
11 "technology enterprise division" is created as a division of  
12 the economic development and tourism department. The  
13 division shall:

14           A. enhance the business climate to encourage the  
15 start-up, relocation, development and growth of technology-  
16 based industry in New Mexico;

17           B. promote an expanded, diversified technology-  
18 based economy, emphasizing areas that:

19                   (1) derive from the state's technological  
20 strengths;

21                   (2) provide a commercial advantage;

22                   (3) lend themselves to a distributed  
23 technology-based industry network; and

24                   (4) utilize imaginative state, federal and  
25 private partnerships; and

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1 C. attain sufficient levels of human, financial  
2 and physical resources to support in-state industries and  
3 attract new industries to New Mexico."

4 SECTION 33. Section 9-15-19.1 NMSA 1978 (being Laws  
5 1994, Chapter 113, Section 2) is amended to read:

6 "9-15-19.1. STATE MATCH FUND CREATED.--

7 A. The "state match fund" is created in the state  
8 treasury. Money in the fund is appropriated to the economic  
9 development and tourism department for the purpose of  
10 providing a pool of matching funds for technology-based  
11 proposals submitted to the federal government on behalf of  
12 the state. Money in the fund shall only be expended upon  
13 review and approval of the economic development commission.

14 B. No money in the fund appropriated to it or  
15 accruing to it in any manner shall be transferred to another  
16 fund or encumbered or dispersed in any manner except for the  
17 purposes set forth in this section; provided that money in  
18 the fund may be invested by the state treasurer in the manner  
19 provided for other state funds. Money in the fund shall  
20 revert at the end of the fiscal year.

21 C. Disbursements from the fund shall only be made  
22 upon warrant drawn by the secretary of finance and  
23 administration pursuant to vouchers signed by the secretary  
24 of economic development and tourism or [~~his~~] the secretary's  
25 designee."

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1           SECTION 34. Section 9-15-19.2 NMSA 1978 (being Laws  
2 2011, Chapter 79, Section 1) is amended to read:

3           "9-15-19.2. NEW MEXICO 9000 PROGRAM ENTERPRISE FUND--  
4 CREATED--PURPOSE.--The "New Mexico 9000 program enterprise  
5 fund" is created in the state treasury. The fund consists of  
6 fees paid by participants for the New Mexico 9000 program,  
7 appropriations, gifts, grants and donations. Interest earned  
8 on balances in the fund shall be credited to the fund. Money  
9 in the fund at the end of a fiscal year shall not revert to  
10 the general fund. The economic development and tourism  
11 department shall administer the fund, and money in the fund  
12 is appropriated to the economic development and tourism  
13 department for the purpose of implementing and maintaining  
14 the New Mexico 9000 program. The fund is to be used for  
15 expenses associated with the delivery of training, auditing  
16 and certification, as well as expenses associated with  
17 administering the program and supporting participating New  
18 Mexico businesses in obtaining and maintaining international  
19 organization for standardization certification.  
20 Disbursements from the fund shall be made by warrant of the  
21 secretary of finance and administration pursuant to vouchers  
22 signed by the secretary of economic development and tourism  
23 or the [~~secretary of economic development's~~] secretary's  
24 designee."

25           SECTION 35. Section 9-15-29 NMSA 1978 (being Laws 1988,  
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1 Chapter 80, Section 3, as amended) is amended to read:

2 "9-15-29. DEFINITIONS.--As used in Sections [~~9-15-28~~]  
3 9-15-29 through 9-15-34 NMSA 1978:

4 A. "department" means the economic development  
5 and tourism department;

6 B. "director" means the director of the trade and  
7 Mexican affairs division of the economic development and  
8 tourism department; and

9 C. "secretary" means the secretary of economic  
10 development and tourism."

11 SECTION 36. Section 9-15-30 NMSA 1978 (being Laws 1988,  
12 Chapter 80, Section 4, as amended) is amended to read:

13 "9-15-30. MEXICAN AFFAIRS DIVISION CREATED--DUTIES.--

14 A. The "Mexican affairs division" is created as a  
15 division of the department.

16 B. The division shall be responsible for  
17 conducting and coordinating the state's relations with the  
18 Republic of Mexico and the state of Chihuahua and shall  
19 promote New Mexico products and services in Mexico. The  
20 division is created to coordinate activities of the  
21 department, [~~the tourism department~~] the cultural affairs  
22 department, the department of transportation, the department  
23 of health, the department of environment, the department of  
24 public safety, the New Mexico-Chihuahua commission, the  
25 border authority and the joint border research institute at

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1 New Mexico state university as those activities relate to  
2 improving New Mexico-Mexico relations and trade and  
3 encouraging or funding appropriate border development.

4 C. The division shall provide periodic reports to  
5 the New Mexico finance authority oversight committee on its  
6 activities and the activities of the state pertaining to New  
7 Mexico-Mexico relations, trade and border development."

8 SECTION 37. Section 9-15-30.1 NMSA 1978 (being Laws  
9 2005, Chapter 57, Section 1) is amended to read:

10 "9-15-30.1. DIVISION OF INTERNATIONAL TRADE CREATED--  
11 DUTIES.--

12 A. The "division of international trade" is  
13 created in the economic development and tourism department.

14 B. The division shall be responsible for  
15 conducting and coordinating the state's relations with other  
16 countries and shall promote New Mexico and its products and  
17 services. The division is created to:

18 (1) coordinate activities of the department  
19 and other state agencies as those activities relate to  
20 improving New Mexico's relations and trade with other  
21 countries;

22 (2) promote New Mexico to international  
23 investors;

24 (3) promote New Mexico products and services  
25 to potential international consumers;

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1 (4) establish a central registry for New  
2 Mexico products and services;

3 (5) develop, maintain and use a database of  
4 potential domestic and international investors and consumers  
5 for New Mexico and its products and services; and

6 (6) foster, coordinate and support the  
7 efforts of individuals and organizations involved in the  
8 promotion of New Mexico and its businesses, products and  
9 services to consumers in other countries.

10 C. The division shall provide periodic reports to  
11 the legislature on its activities and the activities of the  
12 state pertaining to New Mexico's international relations and  
13 trade."

14 SECTION 38. Section 9-15-32 NMSA 1978 (being Laws 1989,  
15 Chapter 205, Section 1, as amended) is amended to read:

16 "9-15-32. OFFICE ESTABLISHED.--There is established the  
17 "office of enterprise development" in the economic  
18 development and tourism department."

19 SECTION 39. Section 9-15-34 NMSA 1978 (being Laws 1989,  
20 Chapter 205, Section 3, as amended) is amended to read:

21 "9-15-34. DUTIES OF THE DEPARTMENT.--

22 A. [~~The economic development department shall~~  
23 ~~establish the office of enterprise development.~~] Within the  
24 office of enterprise development, the department shall:

25 (1) develop and maintain a comprehensive

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1 statewide business information [~~data base~~] database and  
2 referral service;

3 (2) establish a mechanism for advertising  
4 the existence of the office and its referral service;

5 (3) provide professional assistance and  
6 information regarding licensing, permitting and taxation  
7 procedures; and

8 (4) establish a reporting procedure to  
9 monitor the success of the referral service.

10 B. The department shall develop a budget and hire  
11 a staff to operate the office of enterprise development."

12 SECTION 40. Section 9-15-34.1 NMSA 1978 (being Laws  
13 2005, Chapter 67, Section 1) is amended to read:

14 "9-15-34.1. BUSINESS INCUBATORS--CONDITIONS FOR STATE  
15 EXPENDITURES.--Business incubators receiving state funds  
16 shall be required to pass a state incubator certification  
17 program administered by the economic development and tourism  
18 department. The department shall certify business incubators  
19 that submit documentation to the department that the  
20 incubator has:

21 A. a mission statement that defines the  
22 incubator's role to assist entrepreneurs and support the  
23 growth of businesses;

24 B. for incubators established after [~~the~~  
25 ~~effective date of this section~~] June 17, 2005, a formal

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1 feasibility study indicating an appropriate market and local  
2 community support or, for incubators established prior to  
3 [~~the effective date of this section~~] June 17, 2005, a  
4 business plan;

5 C. an effective governing board or an appropriate  
6 oversight advisory board committed to the incubator's  
7 mission;

8 D. qualified management and staff to achieve the  
9 mission of the incubator and to help businesses;

10 E. an ongoing business assistance program that  
11 places the greatest value on client assistance and adds value  
12 to client businesses by developing programs and coordinating  
13 activities such as:

14 (1) technical assistance and consulting;

15 (2) coaching and mentoring, business  
16 training workshops and seminars;

17 (3) providing marketing assistance;

18 (4) fostering networking opportunities and  
19 links with other business service providers; and

20 (5) providing assistance in obtaining  
21 financing;

22 F. a facility that encourages innovation and  
23 provides dedicated space for incubator client [~~firms~~]  
24 businesses with flexible leases and that includes a common  
25 area meeting space and business equipment;

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1 G. a process for client businesses that involves  
2 a screening and selection process and graduation policy for  
3 client ~~[companies]~~ businesses;

4 H. a system for program evaluation;

5 I. all applicable required licenses and permits  
6 and a functional accounting system; and

7 J. membership in the national business incubation  
8 association."

9 SECTION 41. Section 9-15-38 NMSA 1978 (being Laws 1993,  
10 Chapter 211, Section 2 and also Laws 1993, Chapter 216,  
11 Section 2) is amended to read:

12 "9-15-38. PURPOSE.--The purpose of the Defense  
13 Conversion and Technology Act is to designate the ~~[economic~~  
14 ~~development]~~ department as the lead agency to promote defense  
15 conversion technology, coordinate the transfer of defense  
16 technology and other technology from federal, state and local  
17 government facilities to private sector industries and  
18 promote private-public partnership and business development  
19 programs."

20 SECTION 42. Section 9-15-39 NMSA 1978 (being Laws 1993,  
21 Chapter 211, Section 3 and also Laws 1993, Chapter 216,  
22 Section 3) is amended to read:

23 "9-15-39. DEFINITIONS.--As used in the Defense  
24 Conversion and Technology Act:

25 A. "commission" means the economic development

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1 [and tourism] commission or any successor commission created  
2 in Chapter 9, Article 15 NMSA 1978 to provide program and  
3 policy guidance to the department; and

4 B. "department" means the economic development  
5 and tourism department."

6 SECTION 43. Section 9-15-48 NMSA 1978 (being Laws 2003,  
7 Chapter 166, Section 1 and Laws 2003, Chapter 170, Section 1,  
8 as amended) is amended to read:

9 "9-15-48. OFFICE OF MILITARY BASE PLANNING AND SUPPORT  
10 CREATED--DUTIES.--

11 A. The "office of military base planning and  
12 support" is created, which is administratively attached to  
13 the economic development and tourism department. The  
14 department shall provide administrative services to the  
15 office.

16 B. The governor shall appoint a director of the  
17 office of military base planning and support.

18 C. The director of the office of military base  
19 planning and support shall:

20 (1) employ, under the authorization of the  
21 governor's chief of staff, the staff necessary to carry out  
22 the work of the office of military base planning and support  
23 and the military base planning commission;

24 (2) support the commission;

25 (3) inform the governor and the governor's

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1 chief of staff about issues impacting the military bases in  
2 the state, including infrastructure requirements,  
3 environmental needs, military force structure possibilities,  
4 tax implications, property considerations and issues  
5 requiring coordination and support from other state agencies;

6 (4) serve as a liaison with the community  
7 organizations whose purpose is to support the long-term  
8 viability of the military bases;

9 (5) communicate with the staff of the  
10 state's congressional delegation; and

11 (6) identify issues, prepare information and  
12 provide for presentations necessary for the commission to  
13 carry out its duties."

14 SECTION 44. Section 9-15-49 NMSA 1978 (being Laws 2003,  
15 Chapter 166, Section 2 and Laws 2003, Chapter 170, Section 2,  
16 as amended) is amended to read:

17 "9-15-49. MILITARY BASE PLANNING COMMISSION CREATED--  
18 COMPOSITION.--

19 A. The "military base planning commission" is  
20 created, which is administratively attached to the economic  
21 development and tourism department. The department shall  
22 provide administrative services to the commission.

23 B. The commission consists of twelve members,  
24 eleven of whom are appointed by the governor with the advice  
25 and consent of the senate. The commission shall include the

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1 lieutenant governor and nine appropriate representatives from  
2 the counties, or adjoining counties, in which military bases  
3 are located. Two additional members shall be appointed at  
4 large from other counties.

5 C. The governor shall appoint a chair from among  
6 the members of the commission. The commission shall meet at  
7 the call of the chair and shall meet not less than quarterly.  
8 Members of the commission shall not be paid but shall receive  
9 per diem and mileage expenses as provided in the Per Diem and  
10 Mileage Act.

11 D. Notwithstanding the provisions of the Open  
12 Meetings Act, meetings of the commission shall be closed to  
13 the public when proprietary alternative New Mexico military  
14 base realignment or closure strategies or any information  
15 regarding relocation of military units is discussed.

16 E. Information developed or obtained by the  
17 commission that pertains to proprietary commission strategies  
18 or related to the relocation of military units shall be  
19 confidential and not subject to inspection pursuant to the  
20 Inspection of Public Records Act."

21 SECTION 45. Section 9-15-53 NMSA 1978 (being Laws 2007,  
22 Chapter 180, Section 2) is amended to read:

23 "9-15-53. DEFINITIONS.--As used in the Minority  
24 Business Assistance Act:

25 A. "department" means the economic development

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1 and tourism department; and

2 B. "minority business" means a business with its  
3 principal place of business in New Mexico:

4 (1) the majority ownership of which is held  
5 by individuals who are residents of New Mexico and African  
6 Americans, Hispanic Americans, Asian Americans or Native  
7 Americans; and

8 (2) that employs twenty or fewer people."

9 SECTION 46. Section 9-15-56 NMSA 1978 (being Laws 2010,  
10 Chapter 87, Section 1) is amended to read:

11 "9-15-56. ECONOMIC DEVELOPMENT TAX INCENTIVES--  
12 GUIDELINES.--

13 A. An economic development tax incentive shall  
14 include in the enabling statute the following minimum  
15 provisions:

16 (1) a statement of purpose;

17 (2) the designation of a responsible agency  
18 to establish measurable policy goals, track state  
19 expenditures, quantify the state's return on investment and  
20 report regularly to the interim revenue stabilization and tax  
21 policy committee and the legislative finance committee;

22 (3) a requirement that the economic  
23 development and tourism department track job creation;

24 (4) specific standards for the taxpayer to  
25 qualify for the incentive;

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1 (5) reporting requirements for the taxpayer;

2 (6) a description of the financial  
3 obligation of the taxpayer if the specific standards are not  
4 met; and

5 (7) a mandatory review of the incentive no  
6 more than every seven years.

7 B. The economic development and tourism  
8 department shall publish annually an aggregate list of the  
9 economic development tax incentives used by each taxpayer.

10 C. For the purposes of this section, "economic  
11 development tax incentive" means a credit, deduction, rebate,  
12 exemption or other tax benefit for the primary purpose of  
13 promoting economic development or offering an advantage to a  
14 particular industry or type of business to do business in  
15 New Mexico.

16 D. Nothing in this section shall be construed to  
17 conflict with current confidentiality rules or statutes."

18 **SECTION 47.** Section 9-15-57 NMSA 1978 (being Laws 2016,  
19 Chapter 57, Section 1) is amended to read:

20 "9-15-57. SOLO-WORKER PROGRAM.--

21 A. As used in this section:

22 (1) "economic-base job" means a job in which  
23 sixty percent or more of the revenue generated from the goods  
24 or services produced derives from outside the state;

25 (2) "program agency" means a certified

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1 business incubator, a community college or an organization  
2 whose purpose is to create jobs and promote economic  
3 development; and

4 (3) "solo worker" means a person who is  
5 engaged in full-time employment and whose employer, if any,  
6 does not supply the office space or amenities used to perform  
7 the person's work.

8 B. The "solo-worker program" is created in the  
9 economic development and tourism department. The purpose of  
10 the solo-worker program is to improve the state's rural and  
11 urban economies by creating and sustaining economic-base jobs  
12 and expanding businesses owned and operated by solo workers  
13 engaged in economic-base jobs.

14 C. To carry out the purpose of the solo-worker  
15 program, the department shall provide matching funding, if  
16 other funds become available, to program agencies for  
17 advancing initiatives that:

18 (1) create opportunities for New Mexico  
19 residents to become solo workers engaged in economic-base  
20 jobs;

21 (2) support the continued employment and  
22 business expansion of existing solo workers engaged in  
23 economic-base jobs;

24 (3) recruit from outside of the state solo  
25 workers engaged in economic-base jobs; and

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1 (4) make the state and its local communities  
2 more competitive for creating, attracting and retaining solo-  
3 worker jobs."

4 SECTION 48. A new section of the Economic Development  
5 and Tourism Department Act is enacted to read:

6 "[NEW MATERIAL] TOURISM DIVISION CREATED.--

7 A. The "tourism division" is created in the  
8 economic development and tourism department. The division  
9 shall consist of, but not be limited to, three bureaus as  
10 follows:

- 11 (1) the marketing and promotion bureau;
- 12 (2) the New Mexico magazine bureau; and
- 13 (3) the tourism development bureau.

14 B. The purpose of the tourism division is to:

- 15 (1) provide a coordinated statewide  
16 perspective with regard to tourism activities;
- 17 (2) provide a resource for local and  
18 regional tourism groups and serve as a comprehensive source  
19 of information and assistance to tourism-related businesses  
20 wishing to locate, expand or do business in New Mexico; and
- 21 (3) monitor the progress of state-supported  
22 tourism activities and prepare annual reports of such  
23 activities, their status and their impact."

24 SECTION 49. A new section of the Economic Development  
25 and Tourism Department Act is enacted to read:

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1           "[NEW MATERIAL] TOURISM ENTERPRISE FUND CREATED--FUND  
2       ADMINISTRATION.--

3           A. The "tourism enterprise fund" is created in  
4       the state treasury. Money appropriated to the fund or  
5       accruing to it through sales of souvenirs and sundries at  
6       visitor centers, website-related sales, television special  
7       program rights, gifts, grants, fees, penalties, bequests or  
8       any other source shall be delivered to the state treasurer  
9       and deposited in the fund. Money in the fund is appropriated  
10      to the economic development and tourism department for the  
11      purpose of growing and promoting tourism. Money in the fund  
12      shall not revert to the general fund at the end of a fiscal  
13      year.

14          B. The fund shall be administered by the economic  
15      development and tourism department. Disbursements from the  
16      fund shall be made only upon warrant drawn by the secretary  
17      of finance and administration pursuant to vouchers signed by  
18      the secretary of economic development and tourism."

19           **SECTION 50.** A new section of the Economic Development  
20      and Tourism Department Act is enacted to read:

21           "[NEW MATERIAL] SECRETARY--ADDITIONAL DUTIES.--In  
22      addition to the secretary's responsibility for the overall  
23      supervision of the department's operation in support of the  
24      purposes of the Economic Development and Tourism Department  
25      Act, the secretary shall:

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1           A. work with and provide staff support to the  
2 tourism commission in formulating and implementing the  
3 state's five-year tourism plan;

4           B. advise the tourism commission of proposed  
5 rules, regulations, projects and contractual arrangements;

6           C. maintain and update records on the status of  
7 all completed and ongoing projects of the department;

8           D. perform such other duties as requested by the  
9 tourism commission in order to further the purposes of the  
10 Economic Development and Tourism Department Act;

11           E. encourage the preservation and development of  
12 Indian arts and crafts among the Indian tribes and pueblos of  
13 the state;

14           F. encourage the preservation of traditional  
15 rites and ceremonials of Indian tribes and pueblos to  
16 increase knowledge and appreciation of those arts, crafts,  
17 rites and ceremonials; and

18           G. promote the intertribal Indian ceremonial."

19           **SECTION 51.** A new section of the Economic Development  
20 and Tourism Department Act is enacted to read:

21           "[NEW MATERIAL] TOURISM COMMISSION CREATED--MEMBERSHIP--  
22 ADMINISTRATIVELY ATTACHED TO THE DEPARTMENT.--

23           A. The "tourism commission" is created. The  
24 tourism commission shall be a planning commission  
25 administratively attached to the department. The tourism

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1 commission shall provide advice to the department on policy  
2 matters. The tourism commission shall be responsible for the  
3 annual approval and update of the state's five-year tourism  
4 plan. The tourism commission shall consist of seven members  
5 who shall be qualified electors of the state, no more than  
6 four of whom at the time of their appointment shall be  
7 members of the same political party and at least one of whom  
8 shall be Native American. Members shall be appointed by the  
9 governor and confirmed by the senate. Two members shall be  
10 appointed from each of the three congressional districts.  
11 One member shall be appointed from the state at large.

12 B. Appointments shall be made for seven-year  
13 terms expiring on January 1 of the appropriate year. Tourism  
14 commission members shall serve staggered terms as determined  
15 by the governor at the time of their initial appointment.  
16 Annually, the governor shall designate a chair of the tourism  
17 commission from among the members.

18 C. The tourism commission shall meet at the call  
19 of the chair not less than once each quarter and shall invite  
20 representatives of appropriate legislative committees, other  
21 state agencies and interested persons to its meetings for the  
22 purpose of information exchange and coordination.

23 D. Tourism commission members shall not vote by  
24 proxy. A majority of the members constitutes a quorum for  
25 the conduct of business.

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1           E. Members of the tourism commission shall not be  
2 removed except for incompetence, neglect of duty or  
3 malfeasance in office; provided, however, that no removal  
4 shall be made without notice of hearing and an opportunity to  
5 be heard having first been given the member being removed.  
6 The senate has exclusive original jurisdiction over  
7 proceedings to remove members of the tourism commission under  
8 such rules as the senate may promulgate. The senate's  
9 decision in connection with such matters shall be final. A  
10 vacancy in the membership of the tourism commission occurring  
11 other than by expiration of term shall be filled in the same  
12 manner as the original appointment, but for the unexpired  
13 term only.

14           F. Tourism commission members shall not be paid  
15 but shall receive per diem and mileage as provided in the Per  
16 Diem and Mileage Act.

17           G. The tourism commission shall:

18                   (1) develop and recommend policies and  
19 provide policy and program guidance for the tourism division;

20                   (2) review, modify and approve annual  
21 updates to the state's five-year tourism plan generated by  
22 the tourism division; and

23                   (3) establish such rules and regulations for  
24 its own operations as are necessary to achieve the purposes  
25 of the tourism division. Rules and regulations of the

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1 tourism commission shall be adopted in the same procedural  
2 manner as rules and regulations of the department are adopted  
3 and shall be filed in accordance with the State Rules Act."

4 SECTION 52. Section 9-15C-2 NMSA 1978 (being Laws 2005,  
5 Chapter 219, Section 2, as amended) is amended to read:

6 "9-15C-2. DEFINITIONS.--As used in the Intertribal  
7 Ceremonial Act:

8 A. "department" means the economic development  
9 and tourism department;

10 B. "director" means the director of the  
11 intertribal ceremonial office;

12 C. "fund" means the intertribal ceremonial fund;

13 D. "office" means the intertribal ceremonial  
14 office; and

15 E. "secretary" means the secretary of economic  
16 development and tourism."

17 SECTION 53. Section 12-13A-4 NMSA 1978 (being Laws  
18 2003, Chapter 9, Section 4) is amended to read:

19 "12-13A-4. NEW MEXICO-CHIHUAHUA COMMISSION CREATED--  
20 MEMBERS--ADMINISTRATION.--

21 A. The "New Mexico-Chihuahua commission" is  
22 created and is administratively attached to the economic  
23 development and tourism department.

24 B. The members of the commission representing New  
25 Mexico shall be:

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- 1 (1) the governor of New Mexico;  
2 (2) the secretary of economic development  
3 and tourism;  
4 [~~(3)~~ ~~the secretary of tourism~~;  
5 ~~(4)~~] (3) other state officials as assigned  
6 by the governor; and  
7 [~~(5)~~] (4) no more than ten members of the  
8 public appointed by the governor of New Mexico.

9 C. The members of the commission representing  
10 Chihuahua shall be appointed or assigned according to the  
11 customary procedure of the executive branch of the government  
12 of that state.

13 D. The economic development and tourism  
14 department shall provide administrative assistance to the  
15 commission as needed.

16 E. The economic development and tourism  
17 department shall keep records of commission proceedings.

18 F. The co-chairs of the commission shall be the  
19 governors of New Mexico and Chihuahua.

20 G. Meetings of the commission shall be at the  
21 call of the co-chairs or pursuant to the request of a  
22 majority of the members of the commission.

23 H. Terms for public members of the commission  
24 appointed by the governor of New Mexico shall be for two  
25 years with reappointment to additional terms at the

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1 discretion of the governor.

2 I. A vacancy in a term of a commission member  
3 representing New Mexico shall be filled by appointment by the  
4 governor of New Mexico for the remainder of the term of the  
5 position vacated.

6 J. The public members of the commission appointed  
7 by the governor of New Mexico shall receive per diem and  
8 mileage pursuant to the Per Diem and Mileage Act for  
9 performance of official duties required by the commission and  
10 shall receive no other compensation, perquisite or  
11 allowance."

12 SECTION 54. Section 12-13B-3 NMSA 1978 (being Laws  
13 2009, Chapter 108, Section 3) is amended to read:

14 "12-13B-3. NEW MEXICO-SONORA COMMISSION CREATED--  
15 MEMBERS--ADMINISTRATION.--

16 A. The "New Mexico-Sonora commission" is created  
17 and is administratively attached to the economic development  
18 and tourism department.

19 B. The members of the commission representing New  
20 Mexico shall be:

- 21 (1) the governor of New Mexico;
- 22 (2) the secretary of economic development  
23 and tourism;
- 24 [~~(3)~~ ~~the secretary of tourism~~;
- 25 ~~(4)~~] (3) other state officials as assigned

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1 by the governor; and

2 [~~(5)~~] (4) no more than nine members of the  
3 public appointed by the governor of New Mexico.

4 C. The members of the commission representing  
5 Sonora shall be appointed or assigned according to  
6 regulations and procedures governing commissions in that  
7 state.

8 D. The economic development and tourism  
9 department shall provide administrative assistance to the  
10 commission as needed.

11 E. The economic development and tourism  
12 department shall keep a record of commission proceedings.

13 F. The co-chairs of the commission shall be the  
14 governors of New Mexico and Sonora.

15 G. Meetings of the commission shall be at the  
16 call of the co-chairs or pursuant to the request of a  
17 majority of the members of the commission.

18 H. Terms for public members of the commission  
19 appointed by the governor of New Mexico shall be for two  
20 years with reappointment to additional terms at the  
21 discretion of the governor.

22 I. A vacancy in a term of a commission member  
23 representing New Mexico shall be filled by appointment by the  
24 governor of New Mexico for the remainder of the term of the  
25 position vacated.

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1           J. The public members of the commission appointed  
2 by the governor of New Mexico shall receive per diem and  
3 mileage pursuant to the Per Diem and Mileage Act for  
4 performance of official duties required by the commission and  
5 shall receive no other compensation, perquisite or  
6 allowance."

7           **SECTION 55.** Section 13-1-98 NMSA 1978 (being Laws 1984,  
8 Chapter 65, Section 71, as amended) is amended to read:

9           "13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The  
10 provisions of the Procurement Code shall not apply to:

11           A. procurement of items of tangible personal  
12 property or services by a state agency or a local public body  
13 from a state agency, a local public body or external  
14 procurement unit except as otherwise provided in Sections  
15 13-1-135 through 13-1-137 NMSA 1978;

16           B. procurement of tangible personal property or  
17 services for the governor's mansion and grounds;

18           C. printing and duplicating contracts involving  
19 materials that are required to be filed in connection with  
20 proceedings before administrative agencies or state or  
21 federal courts;

22           D. purchases of publicly provided or publicly  
23 regulated gas, electricity, water, sewer and refuse  
24 collection services;

25           E. purchases of books, periodicals and training

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1 materials in printed or electronic format from the publishers  
2 or copyright holders thereof;

3 F. travel or shipping by common carrier or by  
4 private conveyance or to meals and lodging;

5 G. purchase of livestock at auction rings or to  
6 the procurement of animals to be used for research and  
7 experimentation or exhibit;

8 H. contracts with businesses for public school  
9 transportation services;

10 I. procurement of tangible personal property or  
11 services, as defined by Sections 13-1-87 and 13-1-93 NMSA  
12 1978, by the corrections industries division of the  
13 corrections department pursuant to rules adopted by the  
14 corrections industries commission, which shall be reviewed  
15 by the purchasing division of the general services department  
16 prior to adoption;

17 J. purchases not exceeding ten thousand dollars  
18 (\$10,000) consisting of magazine subscriptions, web-based or  
19 electronic subscriptions, conference registration fees and  
20 other similar purchases where prepayments are required;

21 K. municipalities having adopted home rule  
22 charters and having enacted their own purchasing ordinances;

23 L. the issuance, sale and delivery of public  
24 securities pursuant to the applicable authorizing statute,  
25 with the exception of bond attorneys and general financial

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1 consultants;

2 M. contracts entered into by a local public body  
3 with a private independent contractor for the operation, or  
4 provision and operation, of a jail pursuant to Sections  
5 33-3-26 and 33-3-27 NMSA 1978;

6 N. contracts for maintenance of grounds and  
7 facilities at highway rest stops and other employment  
8 opportunities, excluding those intended for the direct care  
9 and support of persons with handicaps, entered into by state  
10 agencies with private, nonprofit, independent contractors who  
11 provide services to persons with handicaps;

12 O. contracts and expenditures for services or  
13 items of tangible personal property to be paid or compensated  
14 by money or other property transferred to New Mexico law  
15 enforcement agencies by the United States department of  
16 justice drug enforcement administration;

17 P. contracts for retirement and other benefits  
18 pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

19 Q. contracts with professional entertainers;

20 R. contracts and expenditures for legal  
21 subscription and research services and litigation expenses in  
22 connection with proceedings before administrative agencies or  
23 state or federal courts, including experts, mediators, court  
24 reporters, process servers and witness fees, but not  
25 including attorney contracts;

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1           S. contracts for service relating to the design,  
2 engineering, financing, construction and acquisition of  
3 public improvements undertaken in improvement districts  
4 pursuant to Subsection L of Section 3-33-14.1 NMSA 1978 and  
5 in county improvement districts pursuant to Subsection L of  
6 Section 4-55A-12.1 NMSA 1978;

7           T. works of art for museums or for display in  
8 public buildings or places;

9           U. contracts entered into by a local public body  
10 with a person, firm, organization, corporation or association  
11 or a state educational institution named in Article 12,  
12 Section 11 of the constitution of New Mexico for the  
13 operation and maintenance of a hospital pursuant to Chapter  
14 3, Article 44 NMSA 1978, lease or operation of a county  
15 hospital pursuant to the Hospital Funding Act or operation  
16 and maintenance of a hospital pursuant to the Special  
17 Hospital District Act;

18           V. purchases of advertising in all media,  
19 including radio, television, print and electronic;

20           W. purchases of promotional goods intended for  
21 resale by the economic development and tourism department;

22           X. procurement of printing services for materials  
23 produced and intended for resale by the cultural affairs  
24 department;

25           Y. procurement by or through the public education

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1 department from the federal department of education relating  
2 to parent training and information centers designed to  
3 increase parent participation, projects and initiatives  
4 designed to improve outcomes for students with disabilities  
5 and other projects and initiatives relating to the  
6 administration of improvement strategy programs pursuant to  
7 the federal Individuals with Disabilities Education Act;  
8 provided that the exemption applies only to procurement of  
9 services not to exceed two hundred thousand dollars  
10 (\$200,000);

11 Z. procurement of services from community  
12 rehabilitation programs or qualified individuals pursuant to  
13 the State Use Act;

14 AA. purchases of products or services for  
15 eligible persons with disabilities pursuant to the federal  
16 Rehabilitation Act of 1973;

17 BB. procurement, by either the department of  
18 health or Grant county or both, of tangible personal  
19 property, services or construction that are exempt from the  
20 Procurement Code pursuant to Section 9-7-6.5 NMSA 1978;

21 CC. contracts for investment advisory services,  
22 investment management services or other investment-related  
23 services entered into by the educational retirement board,  
24 the state investment officer or the retirement board created  
25 pursuant to the Public Employees Retirement Act;

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1 DD. the purchase for resale by the state fair  
2 commission of feed and other items necessary for the upkeep  
3 of livestock;

4 EE. contracts entered into by the crime victims  
5 reparation commission to distribute federal grants to assist  
6 victims of crime, including grants from the federal Victims  
7 of Crime Act of 1984 and the federal Violence Against Women  
8 Act of 1994;

9 FF. procurement by or through the children, youth  
10 and families department of pre-kindergarten services  
11 purchased pursuant to the Pre-Kindergarten Act;

12 GG. procurement of services of commissioned  
13 advertising sales representatives for New Mexico magazine;  
14 and

15 HH. procurements exempt from the Procurement Code  
16 as otherwise provided by law."

17 SECTION 56. Section 13-6-2 NMSA 1978 (being Laws 1979,  
18 Chapter 195, Section 3, as amended) is amended to read:

19 "13-6-2. SALE OF PROPERTY BY STATE AGENCIES OR LOCAL  
20 PUBLIC BODIES--AUTHORITY TO SELL OR DISPOSE OF PROPERTY--  
21 APPROVAL OF APPROPRIATE APPROVAL AUTHORITY.--

22 A. Providing a written determination has been  
23 made, a state agency, local public body, school district or  
24 state educational institution may sell or otherwise dispose  
25 of real or tangible personal property belonging to the state

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1 agency, local public body, school district or state  
2 educational institution.

3 B. A state agency, local public body, school  
4 district or state educational institution may sell or  
5 otherwise dispose of real property:

6 (1) by negotiated sale or donation to an  
7 Indian nation, tribe or pueblo located wholly or partially in  
8 New Mexico, or to a governmental unit of an Indian nation,  
9 tribe or pueblo in New Mexico, that is authorized to purchase  
10 land and control activities on its land by an act of congress  
11 or to purchase land on behalf of the Indian nation, tribe or  
12 pueblo;

13 (2) by negotiated sale or donation to other  
14 state agencies, local public bodies, school districts or  
15 state educational institutions;

16 (3) through the central purchasing office of  
17 the state agency, local public body, school district or state  
18 educational institution by means of competitive sealed bid,  
19 public auction or negotiated sale to a private person or to  
20 an Indian nation, tribe or pueblo in New Mexico; or

21 (4) if a state agency, through the surplus  
22 property bureau of the transportation services division of  
23 the general services department.

24 C. A state agency shall give the surplus property  
25 bureau of the transportation services division of the general

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1 services department the right of first refusal to dispose of  
2 tangible personal property of the state agency. A school  
3 district may give the surplus property bureau the right of  
4 first refusal to dispose of tangible personal property of the  
5 school district.

6 D. Except as provided in Section 13-6-2.1 NMSA  
7 1978 requiring state board of finance approval for certain  
8 transactions, sale or disposition of real or tangible  
9 personal property having a current resale value of more than  
10 five thousand dollars (\$5,000) may be made by a state agency,  
11 local public body, school district or state educational  
12 institution if the sale or disposition has been approved by  
13 the state budget division of the department of finance and  
14 administration for state agencies, the local government  
15 division of the department of finance and administration for  
16 local public bodies, the public education department for  
17 school districts and the higher education department for  
18 state educational institutions.

19 E. Prior approval of the appropriate approval  
20 authority is not required if the tangible personal property  
21 is to be used as a trade-in or exchange pursuant to the  
22 provisions of the Procurement Code.

23 F. The appropriate approval authority may  
24 condition the approval of the sale or other disposition of  
25 real or tangible personal property upon the property being

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1 offered for sale or donation to a state agency, local public  
2 body, school district or state educational institution.

3 G. The appropriate approval authority may credit  
4 a payment received from the sale of such real or tangible  
5 personal property to the governmental body making the sale.

6 The state agency, local public body, school district or state  
7 educational institution may convey all or any interest in the  
8 real or tangible personal property without warranty.

9 H. This section does not apply to:

10 (1) computer software of a state agency;

11 (2) those institutions specifically  
12 enumerated in Article 12, Section 11 of the constitution of  
13 New Mexico;

14 (3) the New Mexico state police division of  
15 the department of public safety;

16 (4) the state land office or the department  
17 of transportation;

18 (5) property acquired by a museum through  
19 abandonment procedures pursuant to the Abandoned Cultural  
20 Properties Act;

21 (6) leases of county hospitals with any  
22 person pursuant to the Hospital Funding Act;

23 (7) property acquired by the economic  
24 development and tourism department pursuant to the Statewide  
25 Economic Development Finance Act; and

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1 (8) the state parks division of the energy,  
2 minerals and natural resources department."

3 SECTION 57. Section 13-6-2.1 NMSA 1978 (being Laws  
4 1989, Chapter 380, Section 1, as amended) is amended to read:

5 "13-6-2.1. SALES, TRADES OR LEASES--STATE BOARD OF  
6 FINANCE APPROVAL.--

7 A. Except as provided in Section 13-6-3 NMSA  
8 1978, for state agencies, any sale, trade or lease for a  
9 period of more than five years of real property belonging to  
10 a state agency, local public body or school district or any  
11 sale, trade or lease of such real property for a  
12 consideration of more than twenty-five thousand dollars  
13 (\$25,000) shall not be valid unless it is approved prior to  
14 its effective date by the state board of finance.

15 B. The provisions of this section shall not be  
16 applicable to:

17 (1) those institutions specifically  
18 enumerated in Article 12, Section 11 of the constitution of  
19 New Mexico;

20 (2) the state land office;

21 (3) the state transportation commission;

22 (4) the economic development and tourism  
23 department when disposing of property acquired pursuant to  
24 the Statewide Economic Development Finance Act; or

25 (5) a school district when leasing

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1 facilities to a locally chartered or state-chartered charter  
2 school."

3 SECTION 58. Section 13-6-3 NMSA 1978 (being Laws 1961,  
4 Chapter 41, Section 1, as amended by Laws 2003, Chapter 142,  
5 Section 4 and by Laws 2003, Chapter 349, Section 23) is  
6 amended to read:

7 "13-6-3. SALE, TRADE OR LEASE OF REAL PROPERTY BY STATE  
8 AGENCIES--APPROVAL OF LEGISLATURE--EXCEPTIONS.--

9 A. Any sale, trade or lease for a period  
10 exceeding twenty-five years in duration of real property  
11 belonging to any state agency, which sale, trade or lease  
12 shall be for a consideration of one hundred thousand dollars  
13 (\$100,000) or more, shall be subject to the ratification and  
14 approval of the state legislature prior to the sale, trade or  
15 lease becoming effective. The provision specified in Section  
16 13-6-2 NMSA 1978 requiring approval of the state budget  
17 division of the department of finance and administration as a  
18 prerequisite to consummating such sales or dispositions of  
19 realty shall not be applicable in instances wherein the  
20 consideration for the sale, trade or lease shall be for a  
21 consideration of one hundred thousand dollars (\$100,000) or  
22 more and wherein a state agency not specifically excepted by  
23 Subsection B of this section is a contracting party, and, in  
24 every such instance, the legislature shall specify its  
25 approval prior to the sale, trade or lease becoming

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1 effective.

2 B. The provisions of this section shall not be  
3 applicable as to those institutions specifically enumerated  
4 in Article 12, Section 11 of the constitution of New Mexico,  
5 the state land office, the state transportation commission or  
6 the economic development and tourism department when  
7 disposing of property acquired pursuant to the Statewide  
8 Economic Development Finance Act."

9 SECTION 59. Section 14-4A-5 NMSA 1978 (being Laws 2005,  
10 Chapter 244, Section 5) is amended to read:

11 "14-4A-5. SMALL BUSINESS REGULATORY ADVISORY COMMISSION  
12 CREATED--MEMBERSHIP--POWERS AND DUTIES.--

13 A. The "small business regulatory advisory  
14 commission" is created. The commission shall consist of nine  
15 members who are current or former small business owners, five  
16 appointed by the governor and two each appointed by the  
17 speaker of the house of representatives and the president pro  
18 tempore of the senate. Each member shall be from a different  
19 geographic region of the state. Members shall serve two-year  
20 terms. A member shall not serve more than three consecutive  
21 terms. Members shall name the [~~chairperson~~] chair of the  
22 commission. The commission shall meet at the call of the  
23 [~~chairperson~~] chair. A majority of the members constitutes a  
24 quorum for the conduct of business. Members are entitled to  
25 per diem and mileage as provided in the Per Diem and Mileage

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1 Act and shall receive no other compensation, perquisite or  
2 allowance.

3 B. The commission is administratively attached to  
4 the economic development and tourism department, and staff  
5 for the commission shall be provided by the department.

6 C. The commission may:

7 (1) provide state agencies with input  
8 regarding proposed rules that may adversely affect small  
9 business;

10 (2) consider requests from small business  
11 owners to review rules adopted by an agency;

12 (3) review rules promulgated by an agency to  
13 determine whether a rule places an unnecessary burden on  
14 small business and make recommendations to the agency to  
15 mitigate the adverse effects; and

16 (4) provide an annual evaluation report to  
17 the governor and the legislature, including recommendations  
18 and evaluations of agencies regarding regulatory fairness for  
19 small businesses.

20 D. The commission does not have authority to:

21 (1) interfere with, modify, prevent or delay  
22 an agency or administrative enforcement action;

23 (2) intervene in legal actions; or

24 (3) subpoena witnesses to testify or to  
25 produce documents, but it may request witnesses to

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1 voluntarily testify or produce documents."

2 SECTION 60. Section 15-3-6.1 NMSA 1978 (being Laws  
3 2001, Chapter 195, Section 1, as amended) is amended to read:

4 "15-3-6.1. STATE PENITENTIARY--LEASE FOR MOTION  
5 PICTURES.--The corrections department, the facilities  
6 management division of the general services department and  
7 the New Mexico film division of the economic development and  
8 tourism department shall enter into a joint powers agreement  
9 to make the old state penitentiary at Santa Fe available for  
10 use by the motion picture industry. The property and  
11 structures that fall within the existing security perimeter  
12 fence at the old state penitentiary at Santa Fe and any  
13 building not used by the corrections department that is  
14 within three hundred yards of the outside of the security  
15 perimeter fence of the old state penitentiary at Santa Fe  
16 shall be made available for lease at reasonable market rates  
17 to the motion picture industry for economic development."

18 SECTION 61. Section 15-3B-2 NMSA 1978 (being Laws 1972,  
19 Chapter 74, Section 2, as amended) is amended to read:

20 "15-3B-2. DEFINITIONS.--As used in the Property Control  
21 Act:

22 A. "capital outlay project" means the  
23 acquisition, improvement, alteration or reconstruction of  
24 assets of a long-term character that are intended to continue  
25 to be held or used, including land, buildings, machinery,

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1 furniture and equipment. A "capital outlay project" includes  
2 all proposed expenditures related to the entire undertaking;

3 B. "department" means the general services  
4 department;

5 C. "director" means the director of the division;

6 D. "division" means the facilities management  
7 division of the department;

8 E. "jurisdiction" means all state buildings and  
9 land except those under the control and management of the  
10 state armory board, the border authority, the cultural  
11 affairs department, the state fair commission, the department  
12 of game and fish, the department of transportation, the  
13 commissioner of public lands, the state parks division of the  
14 energy, minerals and natural resources department, the state  
15 institutions of higher learning, regional education  
16 cooperatives, the New Mexico school for the deaf, the New  
17 Mexico school for the blind and visually impaired, the  
18 judicial branch, the legislative branch, property acquired by  
19 the economic development and tourism department pursuant to  
20 the Statewide Economic Development Finance Act and property  
21 acquired by the public school facilities authority pursuant  
22 to the Public School Capital Outlay Act; and

23 F. "secretary" means the secretary of general  
24 services."

25 SECTION 62. Section 15-10-2 NMSA 1978 (being Laws 2009,

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1 Chapter 19, Section 2) is amended to read:

2 "15-10-2. CAPITOL BUILDINGS PLANNING COMMISSION--REVIEW  
3 OF LEASE-PURCHASE AGREEMENTS.--

4 A. Before submitting a proposed lease-purchase  
5 agreement to the legislature for ratification and approval  
6 pursuant to Section 15-3-35 NMSA 1978, the proposed lessee  
7 shall notify the commission. The commission shall review a  
8 proposed lease-purchase agreement if:

9 (1) the total lease revenues to be generated  
10 during the term of the lease-purchase agreement, including  
11 any possible extensions or renewals, exceed five million  
12 dollars (\$5,000,000); or

13 (2) pursuant to criteria adopted by the  
14 commission, the commission selects the lease-purchase  
15 agreement for review.

16 B. A review conducted pursuant to this section  
17 shall include findings by the commission as to whether:

18 (1) the leasehold property and the term of  
19 the lease-purchase agreement are sufficient to meet the  
20 identified needs of the state agency that will occupy the  
21 leasehold property;

22 (2) the payment of all lease revenues due  
23 pursuant to a lease-purchase agreement will be sufficient, at  
24 the end of the term of the lease-purchase agreement, to  
25 acquire ownership of the leasehold property;

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1 (3) the lease-purchase agreement provides  
2 that there is no legal obligation for the state or state  
3 agency to continue the lease-purchase agreement from year to  
4 year or to purchase the leasehold property and that the  
5 lease-purchase agreement shall be terminated if sufficient  
6 appropriations are not available to meet the current lease  
7 payments; and

8 (4) the lease-purchase agreement is the most  
9 cost-effective alternative for acquiring the leasehold  
10 property, taking into account currently available alternative  
11 lease arrangements, lease-purchase agreements or other  
12 financing arrangements permitted by law.

13 C. After a review pursuant to this section, the  
14 commission shall submit its findings and recommendations to  
15 the legislature.

16 D. As used in this section:

17 (1) "commission" means the capitol buildings  
18 planning commission;

19 (2) "facilities" means buildings and the  
20 appurtenances and improvements associated therewith,  
21 including the real estate upon which a building is  
22 constructed; suitable parking for use of the building;  
23 utilities, access roads and other infrastructure; and related  
24 real estate. "Facilities" can also mean undeveloped or  
25 developed real estate that is transferred or leased with the

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1 intent that a new building or improvement be constructed  
2 thereon;

3 (3) "lease-purchase agreement" means a  
4 financing agreement for the leasing of facilities by the  
5 state or a state agency from a public or private entity with  
6 an option to purchase the leasehold property for a price that  
7 is reduced according to the payments made pursuant to the  
8 financing agreement;

9 (4) "leasehold property" means facilities  
10 that are subject to a lease-purchase agreement;

11 (5) "lease revenues" means the amounts  
12 payable pursuant to a lease-purchase agreement; and

13 (6) "state agency" means any department,  
14 branch, institution, board, officer, bureau, instrumentality,  
15 commission, district or committee of government of the state  
16 of New Mexico except:

17 (a) the state armory board;

18 (b) the commissioner of public lands;

19 (c) state institutions under the  
20 jurisdiction of the higher education department;

21 (d) the economic development and  
22 tourism department when the department is acquiring property  
23 pursuant to the Statewide Economic Development Finance Act;

24 (e) the public school facilities  
25 authority when the authority is acquiring property pursuant

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1 to the Public School Capital Outlay Act; and

2 (f) a state-chartered charter school."

3 SECTION 63. Section 16-6-5 NMSA 1978 (being Laws 1977,  
4 Chapter 245, Section 18, as amended) is amended to read:

5 "16-6-5. STATE FAIR COMMISSION ADMINISTRATIVELY  
6 ATTACHED TO ECONOMIC DEVELOPMENT AND TOURISM DEPARTMENT.--The  
7 state fair commission is administratively attached, as  
8 defined in the Executive Reorganization Act, to the economic  
9 development and tourism department."

10 SECTION 64. Section 18-14-4 NMSA 1978 (being Laws 2003,  
11 Chapter 250, Section 4, as amended) is amended to read:

12 "18-14-4. BOARD--APPOINTMENT--TERMS--OFFICERS.--

13 A. The board of trustees of the museum is  
14 created.

15 B. The board shall consist of eleven members who  
16 are residents of New Mexico, appointed by the governor with  
17 the advice and consent of the senate. In making the  
18 appointments, the governor shall give due consideration to  
19 the geographic distribution of the members' places of  
20 residence. The members shall be persons who have expertise  
21 or have demonstrated a continuing interest in the fields of  
22 film, filmmaking or museums; provided that one of the members  
23 shall be the director of the New Mexico film division of the  
24 economic development and tourism department or the director's  
25 designee.

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1           C. The board members shall be appointed for terms  
2 of four years or less so that all terms are coterminous with  
3 the current term of the governor who appointed them. The  
4 board members shall serve at the pleasure of the governor.

5           D. The secretary of cultural affairs or the  
6 secretary's designee shall be an ex-officio nonvoting member  
7 of the board.

8           E. The president of the board shall be designated  
9 by the governor and shall serve in that capacity at the  
10 pleasure of the governor. Other officers shall be elected  
11 annually by the board at its first scheduled meeting after  
12 July 1 of each year."

13           **SECTION 65.** Section 21-2-6 NMSA 1978 (being Laws 1978,  
14 Chapter 54, Section 1, as amended) is amended to read:

15           "21-2-6. STATEWIDE PLANNING--PARTICIPATING AGENCIES AND  
16 PERSONS.--

17           A. The state commission in carrying out its  
18 planning activities for post-secondary education shall  
19 consult with and invite the active participation of:

20                   (1) representatives of post-secondary  
21 educational institutions of the several types enumerated in  
22 Paragraph (2) of Subsection A of Section 21-2-2 NMSA 1978;

23                   (2) the public education commission;

24                   (3) the public education department;

25                   (4) representatives of public and private

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1 elementary and secondary schools;

2 (5) the secretary of [~~labor~~] workforce  
3 solutions;

4 [~~(6) the tourism department~~;

5 ~~(7)]~~ (6) the apprenticeship council;

6 [~~(8)]~~ (7) the economic development and  
7 tourism department;

8 [~~(9) the state advisory council on~~  
9 ~~vocational education~~;

10 ~~(10)]~~ (8) the secretary of finance and  
11 administration or the secretary's designee;

12 [~~(11)]~~ (9) persons familiar with the  
13 education needs of persons with a disability and persons  
14 disadvantaged by economic, racial or ethnic status;

15 [~~(12)]~~ (10) representatives of business,  
16 industry, organized labor and agriculture;

17 [~~(13)]~~ (11) the general public; and

18 [~~(14)]~~ (12) private in-state post-secondary  
19 institutions.

20 B. Whenever the planning activities carried out  
21 under the provisions of Section 21-2-5 NMSA 1978 are  
22 concerned with the types of post-secondary education  
23 enumerated in Subparagraphs (a) through (e) of Paragraph (1)  
24 of Subsection A of Section 21-2-2 NMSA 1978, the state  
25 commission shall directly involve the public education

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1 commission and the public education department in all  
2 planning activities."

3 SECTION 66. Section 21-19-7 NMSA 1978 (being Laws 1983,  
4 Chapter 299, Section 1, as amended) is amended to read:

5 "21-19-7. DEVELOPMENT TRAINING.--

6 A. The economic development and tourism  
7 department shall establish a development training program  
8 that provides quick-response classroom training, in-plant  
9 training and skill-enhancement training to furnish qualified  
10 [~~manpower~~] workforce resources for new or expanding  
11 industries, nonretail service sector businesses and film and  
12 multimedia production companies in New Mexico that have  
13 business or production procedures that require skills unique  
14 to those industries. Training shall be custom designed for,  
15 and based on the special requirements of, each company or  
16 preemployment training program for the film and multimedia  
17 industry. The program shall be operated on a statewide basis  
18 and shall be designed to assist any area in becoming more  
19 competitive economically.

20 B. There is created the "industrial training  
21 board" composed of:

22 (1) the director of the economic development  
23 division of the economic development and tourism department;

24 (2) the director of the instructional  
25 support and vocational education division of the public

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1 education department;

2 (3) the [~~director of the governor's office~~  
3 ~~of workforce training and development~~] secretary of workforce  
4 solutions or the secretary's designee;

5 (4) the [~~executive director of the~~  
6 ~~commission on~~] secretary of higher education;

7 (5) an employee of the workforce solutions  
8 department [~~of labor~~];

9 (6) one member from organized labor  
10 appointed by the governor; and

11 (7) one public member from the business  
12 community appointed by the governor.

13 C. The industrial training board shall establish  
14 policies and promulgate rules for the administration of  
15 appropriated funds and shall provide review and oversight to  
16 assure that funds expended from the development training fund  
17 will generate business activity and give measurable growth to  
18 the economic base of New Mexico within the legal limits while  
19 preserving the ecological state of New Mexico and its people.

20 D. Subject to the approval of the industrial  
21 training board, the economic development division of the  
22 economic development and tourism department shall:

23 (1) administer all funds allocated or  
24 appropriated for industrial development training purposes;

25 (2) provide designated training services;

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1 (3) regulate, control and abandon any  
2 training program established under the provisions of this  
3 section;

4 (4) assist companies requesting training in  
5 the development of a training proposal to meet the companies'  
6 [~~manpower~~] workforce needs;

7 (5) contract for the implementation of all  
8 training programs;

9 (6) provide for training by educational  
10 institutions or by a company through in-plant training, at  
11 that company's request; and

12 (7) evaluate training efforts on a basis of  
13 performance standards set forth by the industrial training  
14 board.

15 E. The instructional support and vocational  
16 education division of the public education department shall  
17 provide technical assistance to the economic development and  
18 tourism department concerning the development of agreements,  
19 the determination of the most appropriate instructional  
20 training to be provided and the review of training program  
21 implementation.

22 F. Except as provided in Section 21-19-7.1 NMSA  
23 1978 for film and multimedia production companies and  
24 preemployment training programs for that industry, the state  
25 shall contract with a company or an educational institution

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1 to provide training or instructional services in accordance  
2 with the approved training proposal and within the following  
3 limitations:

4 (1) payment shall not be made for training  
5 in excess of one thousand forty hours of training per trainee  
6 for the total duration of training;

7 (2) training applicants shall have resided  
8 within the state for a minimum of one year at any time prior  
9 to the commencement of the training program and be of legal  
10 status for employment;

11 (3) payment for institutional classroom  
12 training shall be made pursuant to any accepted training  
13 contract for a qualified training program;

14 (4) payment shall not be made pursuant to  
15 any accepted training contract for rental of facilities  
16 unless facilities are not available on site or at the  
17 educational institution;

18 (5) all applicants shall be eligible under  
19 the federal Fair Labor Standards Act of 1938, as amended, and  
20 shall not have terminated a public school program within the  
21 past three months except by graduation;

22 (6) trainees shall be guaranteed full-time  
23 employment with the contracted company upon successful  
24 completion of the training;

25 (7) persons employed to provide the

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1 instructional services shall be exempt from the minimum  
2 requirements established in the state plan for other state  
3 vocational programs;

4 (8) payment shall not be made for training  
5 programs or production of Indian jewelry or imitation Indian  
6 jewelry unless a majority of those involved in the training  
7 program or production are of Indian descent; and

8 (9) if a company hires twenty or more  
9 trainees, payment shall not be made for training in a  
10 municipality having a population of more than forty thousand  
11 according to the most recent decennial census or a class A  
12 county unless the company:

13 (a) offers its employees and their  
14 dependents health insurance coverage that is in compliance  
15 with the New Mexico Insurance Code; and

16 (b) contributes not less than fifty  
17 percent of the premium for the health insurance for those  
18 employees who choose to enroll; provided that the fifty  
19 percent employer contribution shall not be a requirement for  
20 the dependent coverage that is offered."

21 SECTION 67. Section 21-19-7.1 NMSA 1978 (being Laws  
22 2003, Chapter 353, Section 2, as amended) is amended to read:

23 "21-19-7.1. DEVELOPMENT TRAINING FOR FILM AND  
24 MULTIMEDIA PRODUCTION COMPANIES.--

25 A. After consulting with the New Mexico film

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1 division of the economic development and tourism department,  
2 the industrial training board shall promulgate rules for  
3 development funding for film and multimedia production  
4 companies. The rules shall provide:

5 (1) for preapproval by the New Mexico film  
6 division of personnel who:

7 (a) are New Mexico residents;

8 (b) have participated in on-the-job  
9 training or attended a training course sponsored in part by  
10 an accredited educational institution in New Mexico or by the  
11 New Mexico film division; and

12 (c) have been certified as film and  
13 multimedia trainees by the New Mexico film division;

14 (2) for submission to the New Mexico film  
15 division of the economic development and tourism department  
16 by a film or multimedia production company, after completing  
17 production in New Mexico, of employment, salary and related  
18 information concerning those personnel who have been:

19 (a) approved by the New Mexico film  
20 division pursuant to Subsection A of this section; and

21 (b) employed by the production company  
22 in a film or multimedia production in New Mexico;

23 (3) after approval by the New Mexico film  
24 division, for reimbursement from the development training  
25 fund to the production company of fifty percent of the

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1 salaries paid to the personnel for whom information is  
2 submitted pursuant to Paragraph (2) of this subsection; and

3 (4) that the reimbursement shall be made by  
4 the New Mexico film division without further action or  
5 approval of the industrial training board.

6 B. The New Mexico film division of the economic  
7 development and tourism department shall establish a film and  
8 multimedia preemployment training program to furnish  
9 qualified [~~manpower~~] workforce resources for the film and  
10 multimedia industry. The New Mexico film division shall  
11 adopt rules implementing the preemployment training program."

12 SECTION 68. Section 21-19-10 NMSA 1978 (being Laws  
13 1983, Chapter 299, Section 4, as amended) is amended to read:

14 "21-19-10. COMMUNITY DEVELOPMENT ASSISTANCE.--The  
15 economic development and tourism department shall provide  
16 assistance to political subdivisions of the state so that  
17 they can construct or implement projects necessary to provide  
18 services that will encourage the location of industry in the  
19 political subdivisions. The department shall, for this  
20 purpose, make low-interest loans to political subdivisions of  
21 the state with the approval of the economic development [~~and~~  
22 ~~tourism~~] commission and after coordination with the local  
23 government division of the department of finance and  
24 administration pursuant to the New Mexico Community  
25 Assistance Act."

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1           SECTION 69. Section 21-19-11 NMSA 1978 (being Laws  
2 1983, Chapter 299, Section 5, as amended) is amended to read:

3           "21-19-11. FUNDS CREATED.--

4           A. There is created in the state treasury the  
5 "development training fund". Money appropriated to the fund  
6 or accruing to it through gifts, grants, repayments or  
7 bequests shall not be transferred to any other fund or be  
8 encumbered or disbursed in any manner except as provided in  
9 Section 21-19-7 NMSA 1978. Money in the fund shall not  
10 revert at the end of any fiscal year. Money in the fund is  
11 appropriated to the economic development and tourism  
12 department. Money in the fund shall be expended upon warrant  
13 drawn by the secretary of finance and administration pursuant  
14 to vouchers signed by the secretary of economic development  
15 and tourism or ~~[his]~~ the secretary's authorized  
16 representative to carry out the purposes specified in Section  
17 21-19-7 NMSA 1978.

18           B. There is created in the state treasury the  
19 "development fund". Money appropriated to the fund or  
20 accruing to it through gifts, grants, repayments or bequests  
21 shall not be transferred to any other fund or be encumbered  
22 or disbursed in any manner except as provided in this  
23 subsection. Money in the fund shall not revert at the end of  
24 any fiscal year. Money in the fund shall be administered by  
25 the economic development and tourism department or its

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1 successor for the purpose of making low-interest loans to  
2 political subdivisions of the state so that they can  
3 construct or implement projects necessary to provide services  
4 that will encourage the location of industry in the political  
5 subdivisions. The economic development and tourism  
6 department shall coordinate these loans with the local  
7 government division of the department of finance and  
8 administration pursuant to the New Mexico Community  
9 Assistance Act. Money in the fund shall be expended as  
10 provided in Section 21-19-10 NMSA 1978."

11 SECTION 70. Section 21-19-12 NMSA 1978 (being Laws  
12 1997, Chapter 71, Section 3) is amended to read:

13 "21-19-12. TEMPORARY PROVISION--APPROPRIATION OF FUND  
14 BALANCES.--The economic development and tourism department  
15 may expend money in the development training fund in the 1997  
16 and subsequent fiscal years that was appropriated in prior  
17 fiscal years to carry out the purposes of Section [~~21-9-7~~  
18 21-19-7 NMSA 1978."

19 SECTION 71. Section 21-19-13 NMSA 1978 (being Laws  
20 2005, Chapter 102, Section 3, as amended) is amended to read:

21 "21-19-13. DISTRIBUTIONS OF DEVELOPMENT TRAINING  
22 FUNDS.--

23 A. Of appropriations made in any fiscal year for  
24 development training, up to two-thirds shall be expended in  
25 urban communities in the state. At least one-third of the

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1 appropriations made in any fiscal year for development  
2 training shall be expended in nonurban communities.

3 B. Of money available in the development training  
4 fund, the economic development and tourism department may use  
5 in any fiscal year:

6 (1) up to fifty thousand dollars (\$50,000)  
7 to generally administer the development training program; and

8 (2) in addition to the general  
9 administration funding allowed in Paragraph (1) of this  
10 subsection, up to fifty thousand dollars (\$50,000) to  
11 administer the provisions of Section 21-19-7.1 NMSA 1978.

12 C. Up to two million dollars (\$2,000,000) of  
13 development training funds may be used to reimburse film and  
14 multimedia production companies and to provide preemployment  
15 training for that industry pursuant to the provisions of  
16 Section 21-19-7.1 NMSA 1978.

17 D. Up to one million dollars (\$1,000,000)  
18 disbursed annually from the development training program may  
19 be dedicated to development training in green industries.

20 E. As used in this section:

21 (1) "green industries" means industries that  
22 contribute directly to preserving or enhancing environmental  
23 quality by reducing waste and pollution or by producing  
24 sustainable products using sustainable processes and  
25 materials. Green industries provide opportunities for

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1 advancement along a career track of increasing skills and  
2 wages. Green industries include:

3 (a) energy system retrofits to  
4 increase energy efficiency and conservation;

5 (b) production and distribution of  
6 biofuels and vehicle retrofits for biofuels;

7 (c) building design and construction  
8 that meet the equivalent of best available technology in  
9 energy and environmental design standards;

10 (d) organic and community food  
11 production;

12 (e) manufacture of products from  
13 non-toxic, environmentally certified or recycled materials;

14 (f) manufacture and production of  
15 sustainable technologies, including solar panels, wind  
16 turbines and fuel cells;

17 (g) solar technology installation and  
18 maintenance;

19 (h) recycling, green composting and  
20 large-scale reuse of construction and demolition materials  
21 and debris; and

22 (i) water system retrofits to increase  
23 water efficiency and conservation;

24 (2) "nonurban community" means a  
25 municipality that is not an urban community or is the

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1 unincorporated area of a county; and

2 (3) "urban community" means a municipality  
3 with a population of forty thousand or more according to the  
4 most recent federal decennial census."

5 SECTION 72. Section 50-14-4 NMSA 1978 (being Laws  
6 1999, Chapter 260, Section 4, as amended) is amended to read:

7 "50-14-4. DUTIES OF THE BOARD.--

8 A. The board shall assist the governor in:

9 (1) developing a five-year state plan that  
10 shall be updated annually and revised in accordance with the  
11 requirements of the federal Workforce Investment Act of 1998;

12 (2) developing and improving the statewide  
13 activities funded pursuant to the workforce investment system  
14 and the one-stop delivery system, including development of  
15 linkages to ensure coordination and nonduplication among the  
16 programs and activities described in the federal Workforce  
17 Investment Act of 1998;

18 (3) reviewing local plans;

19 (4) commenting annually on the measures  
20 taken pursuant to Section 113(b)(14) of the federal Carl D.  
21 Perkins Vocational and Applied Technology Education Act;

22 (5) developing allocation formulas for adult  
23 and youth employment training program funds to local areas in  
24 accordance with the federal Workforce Investment Act of 1998;

25 (6) developing comprehensive state

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1 performance measures to assess the effectiveness of workforce  
2 investment activities pursuant to the federal Workforce  
3 Investment Act of 1998;

4 (7) designating local workforce development  
5 areas;

6 (8) developing the statewide employment  
7 statistics system; and

8 (9) preparing reports and applications  
9 required for submission to the federal government.

10 B. The board shall also:

11 (1) review, evaluate and report annually on  
12 the performance of all workforce development activities  
13 administered by state agencies involved with workforce  
14 development;

15 (2) develop linkages with the public  
16 education department and the [~~commission on~~ higher education  
17 department to ensure coordination and nonduplication of  
18 vocational education, apprenticeship, adult education,  
19 employment training programs and vocational rehabilitation  
20 programs with other workforce development and training  
21 programs; and

22 (3) provide policy advice regarding the  
23 application of federal or state law that pertains to  
24 workforce development.

25 C. To assist the board in fulfilling its duties,

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1 it is authorized to establish committees, one of which shall  
2 be a "coordination oversight committee". Except as provided  
3 for the coordination oversight committee in Subsections D and  
4 E of this section, the board shall appoint committee members  
5 and assign duties to committees as the board deems  
6 appropriate. The chair of the board shall appoint committee  
7 chairs from among members of the board.

8 D. The coordination oversight committee shall  
9 consist of the secretaries of economic development and  
10 tourism, human services, [~~labor and~~] workforce solutions,  
11 public education and higher education; a representative from  
12 community colleges; [~~a representative from the commission on~~  
13 ~~higher education~~] a representative of labor; two legislators  
14 from different political parties, one from the senate and one  
15 from the house of representatives; the director of the  
16 office; and the committee chair.

17 E. The duties of the coordination oversight  
18 committee include the following:

19 (1) the secretaries of economic development  
20 [~~labor~~] and tourism, workforce solutions and human services  
21 shall propose five-, ten- and fifteen-year regional and  
22 statewide strategic plans for employment growth and training  
23 in New Mexico for the committee's consideration and possible  
24 recommendation for approval to the board as part of the state  
25 plan;

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1 (2) the [~~secretary~~] secretaries of public  
2 education and [~~the representative from the commission on~~]  
3 higher education shall propose appropriate education plans  
4 for secondary education that address the strategic plans  
5 proposed by the secretaries of economic development and  
6 tourism, human services and [~~labor~~] workforce solutions for  
7 the committee's consideration and possible recommendation for  
8 approval to the board as part of the state plan;

9 (3) the committee's proposals to the board  
10 shall facilitate a career pathways culture and, at a minimum,  
11 include reference to foundation skills as developed by the  
12 United States secretary of labor's commission on achieving  
13 necessary skills, a job analysis that the economic  
14 development and tourism department shall produce after  
15 consultation with incumbent workers and employers, an  
16 available skills assessment and training targets;

17 (4) the board member from the community  
18 colleges shall solicit input from the community college  
19 constituency and work with regional and statewide businesses  
20 and other partners and the economic development and tourism  
21 department to create career pathways and align curriculum and  
22 facilitate plans with the economic development and tourism  
23 department, human services department and [~~labor~~] workforce  
24 solutions department strategic plans;

25 (5) the committee shall, after consultation

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1 with the [~~state chief~~] secretary of information [~~officer~~]  
2 technology, develop and propose strategies for coordination  
3 of information technology for the purposes of providing  
4 participants access to all appropriate state services;  
5 collecting and managing data to allow reporting and analysis  
6 of uniform performance data related to all appropriate  
7 employment training programs; and sharing and integrating  
8 appropriate workforce data across agencies and appropriate  
9 nongovernmental partners for identifying needs, setting  
10 policy and coordinating strategies;

11 (6) the committee shall recommend for the  
12 board's approval the coordination of program designs to avoid  
13 duplication or unproductive segmentation of services; and

14 (7) the committee shall recommend for the  
15 board's approval the coordination of state agency efforts to  
16 progress toward comprehensive, customer-driven one-stop  
17 centers through co-location of mandatory and recommended  
18 partner service delivery points for workforce development.

19 F. All state agencies involved in workforce  
20 development activities shall annually submit to the board for  
21 its review and potential inclusion in the five-year plan  
22 their goals, objectives and policies. The plan shall include  
23 recommendations to the legislature on the modification,  
24 consolidation, initiation or elimination of workforce  
25 training and education programs in the state."

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1           **SECTION 73.** Section 50-14A-4 NMSA 1978 (being Laws  
2 2016, Chapter 23, Section 4) is amended to read:

3           "50-14A-4. RAPID WORKFORCE DEVELOPMENT BOARD CREATED--  
4 MEMBERSHIP.--The "rapid workforce development board" is  
5 created. The board is administratively attached to the  
6 economic development and tourism department and consists of  
7 the:

8           A. secretary of economic development and tourism  
9 or the secretary's designee;

10           B. secretary of higher education or the  
11 secretary's designee; and

12           C. secretary of workforce solutions or the  
13 secretary's designee."

14           **SECTION 74.** Section 50-14A-5 NMSA 1978 (being Laws  
15 2016, Chapter 23, Section 5) is amended to read:

16           "50-14A-5. RAPID WORKFORCE DEVELOPMENT FUND  
17 CREATED.--The "rapid workforce development fund" is created  
18 in the state treasury. The fund consists of appropriations  
19 and money otherwise accruing to the fund. Money in the fund  
20 is subject to appropriation by the legislature to the  
21 economic development and tourism department for use as  
22 provided in Section [~~6 of the Rapid Workforce Development~~  
23 ~~Act]~~ 50-14A-6 NMSA 1978. Money in the fund shall be  
24 disbursed on warrants signed by the secretary of finance and  
25 administration pursuant to vouchers signed by the secretary

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1 of economic development and tourism or the secretary's  
2 authorized representative. Any balance remaining in the fund  
3 at the end of a fiscal year shall not revert to the general  
4 fund."

5 SECTION 75. Section 53-7B-1 NMSA 1978 (being Laws  
6 2009, Chapter 66, Section 1) is amended to read:

7 "53-7B-1. SHORT TITLE.--~~[Sections 1 through 10 of this~~  
8 ~~act]~~ Chapter 53, Article 7B NMSA 1978 may be cited as the  
9 "New Mexico Research Applications Act"."

10 SECTION 76. Section 53-7B-3 NMSA 1978 (being Laws  
11 2009, Chapter 66, Section 3) is amended to read:

12 "53-7B-3. DEFINITIONS.--As used in the New Mexico  
13 Research Applications Act:

14 A. "board" means the board of directors of the  
15 research applications center;

16 B. "department" means the economic development  
17 and tourism department;

18 C. "research applications center" means the  
19 nonprofit corporation created pursuant to the Nonprofit  
20 Corporation Act and the New Mexico Research Applications Act;

21 D. "technological innovations" includes research,  
22 development, prototype assembly, manufacturing, patenting,  
23 licensing, marketing and sale of inventions, ideas,  
24 practices, applications, processes, machines and technology  
25 and related property rights of all kinds; and

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1 E. "university" means:

2 (1) a New Mexico educational institution  
3 named in Article 12, Section 11 of the constitution of New  
4 Mexico;

5 (2) a community college organized pursuant  
6 to the Community College Act; or

7 (3) a technical and vocational institute  
8 organized pursuant to the Technical and Vocational Institute  
9 Act."

10 SECTION 77. Section 57-3C-2 NMSA 1978 (being Laws  
11 2001, Chapter 346, Section 2) is amended to read:

12 "57-3C-2. DEFINITIONS.--As used in the Patent and  
13 Copyright Act:

14 A. "department" means the economic development  
15 and tourism department;

16 B. "patent" means the grant of certain property  
17 rights in an invention, as defined in federal patent laws, to  
18 an inventor that includes the right to exclude others from  
19 making, using, offering for sale, selling or importing the  
20 invention; and

21 C. "copyright" means the property rights, as  
22 defined in federal copyright laws, in original works of  
23 authorship."

24 SECTION 78. Section 57-3C-5 NMSA 1978 (being Laws  
25 2001, Chapter 346, Section 5) is amended to read:

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1 "57-3C-5. FUND CREATED.--The "patent and copyright  
2 fund" is created in the state treasury. Income received by  
3 the state pursuant to the Patent and Copyright Act shall be  
4 deposited in the patent and copyright fund. Money in the  
5 patent and copyright fund is appropriated to the economic  
6 development and tourism department to carry out the  
7 provisions of the Patent and Copyright Act. Any unexpended  
8 or unencumbered balance remaining in the fund at the end of a  
9 fiscal year shall not revert to the general fund."

10 SECTION 79. Section 58-27-4 NMSA 1978 (being Laws  
11 1991, Chapter 131, Section 4, as amended) is amended to read:

12 "58-27-4. BORDER AUTHORITY CREATED--MEMBERSHIP.--

13 A. The "border authority" is created. The  
14 authority is a state agency and is administratively attached  
15 to the economic development and tourism department.

16 B. The authority consists of seven voting  
17 members, six of whom shall be appointed by the governor. No  
18 more than three of those appointed shall belong to the same  
19 political party. The seventh member shall be the secretary  
20 of economic development and tourism or the secretary's  
21 designee. The voting members appointed by the governor shall  
22 be confirmed by the senate. The lieutenant governor shall  
23 serve as a nonvoting ex-officio member. The chair may  
24 appoint a nonvoting advisory committee to provide advice and  
25 recommendations on authority matters.

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1           C. The six voting members of the authority  
2 appointed by the governor shall be citizens of the state and  
3 shall serve for terms of four years except for the initial  
4 appointees, who shall be appointed so that the terms are  
5 staggered after initial appointment. Initial appointees  
6 shall serve terms as follows: two members for two years, two  
7 members for three years and two members for four years."

8           **SECTION 80.** Section 58-31-1 NMSA 1978 (being Laws  
9 2005, Chapter 128, Section 1) is amended to read:

10           "58-31-1. SHORT TITLE.--~~[This act]~~ Chapter 58, Article  
11 31 NMSA 1978 may be cited as the "Spaceport Development  
12 Act"."

13           **SECTION 81.** Section 58-31-4 NMSA 1978 (being Laws  
14 2005, Chapter 128, Section 4) is amended to read:

15           "58-31-4. SPACEPORT AUTHORITY CREATED--MEMBERSHIP.--

16           A. The "spaceport authority" is created. The  
17 authority is a state agency and is administratively attached  
18 to the economic development and tourism department.

19           B. The authority shall consist of seven voting  
20 and two nonvoting members, six of whom shall be appointed by  
21 the governor with the consent of the senate; provided that  
22 one of the appointed members shall be a resident of Sierra  
23 county. No more than three appointed members shall belong to  
24 the same political party. The seventh member shall be the  
25 secretary of economic development and tourism or the

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1 secretary's designee. The lieutenant governor shall serve as  
2 a nonvoting ex-officio member. The executive director of the  
3 authority shall serve as a nonvoting member. The chair may  
4 appoint a nonvoting advisory committee to provide advice and  
5 recommendations on authority matters.

6 C. The members appointed by the governor shall be  
7 residents of the state and shall serve for terms of four  
8 years, except for the initial appointees who shall be  
9 appointed so that the terms are staggered after initial  
10 appointment. Initial appointees shall serve terms as  
11 follows: two members for two years, two members for three  
12 years and two members for four years.

13 D. Appointed voting members of the authority  
14 shall be reimbursed for per diem and mileage in accordance  
15 with the provisions of the Per Diem and Mileage Act that  
16 apply to nonsalaried public officers, unless a different  
17 provision of that act applies to a specific member, in which  
18 case that member shall be paid under the applicable  
19 provision. Members and advisors shall receive no other  
20 compensation, perquisite or allowance for serving as a member  
21 of or advisor to the authority.

22 E. The secretary of economic development and  
23 tourism or the secretary's designee shall serve as the chair  
24 of the authority. Authority members shall elect any other  
25 officers from the membership that the authority determines

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1 appropriate.

2 F. The chair, four other authority voting members  
3 appointed by the chair and the executive director of the  
4 authority shall constitute the spaceport authority executive  
5 committee. The committee shall have powers and duties as  
6 delegated to it by the authority.

7 G. If a vacancy occurs among the appointed voting  
8 members of the authority, the governor shall appoint a  
9 replacement to serve out the term of the former member. If  
10 an appointed member's term expires, the member shall continue  
11 to serve until the member is reappointed or another person is  
12 appointed and confirmed by the senate to replace the member.

13 H. The authority shall meet at the call of the  
14 chair and shall meet in regular session at least once every  
15 three months.

16 I. The authority shall maintain written minutes  
17 of all meetings of the authority and maintain other  
18 appropriate records, including financial transaction records  
19 in compliance with law and adequate to provide an accurate  
20 record for audit purposes pursuant to the Audit Act."

21 **SECTION 82.** Section 60-1A-3 NMSA 1978 (being Laws  
22 2007, Chapter 39, Section 3) is amended to read:

23 "60-1A-3. COMMISSION CREATED--APPOINTMENT OF MEMBERS--  
24 TERMS OF OFFICE.--

25 A. The "state racing commission" is created and  
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1 is administratively attached to the economic development and  
2 tourism department.

3 B. The commission shall consist of five members,  
4 no more than three of whom shall be members of the same  
5 political party. The commission members shall be appointed  
6 by the governor and be confirmed by the senate. All members  
7 of the commission shall hold at-large positions on the  
8 commission.

9 C. At least three of the members of the  
10 commission shall be practical breeders of racehorses within  
11 New Mexico.

12 D. A commission member shall have primary  
13 residence in New Mexico and shall be of high character and  
14 reputation so that public confidence in the administration of  
15 horse racing is maintained.

16 E. The term of each member of the commission  
17 shall be six years from the date of the member's appointment.  
18 The member shall serve until a successor is appointed. In  
19 the case of a vacancy in the membership of the commission,  
20 the governor shall fill the vacancy by appointment for the  
21 unexpired term.

22 F. A person shall not be eligible for appointment  
23 as a member of the commission who is an officer, official or  
24 director in a corporation conducting horse racing within the  
25 state.

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1           G. Members of the commission shall receive no  
2 salary, but each member of the commission shall receive per  
3 diem and mileage pursuant to the Per Diem and Mileage Act.

4           H. The commission may appoint an executive  
5 director and establish the executive director's duties and  
6 compensation."

7           **SECTION 83.** Section 60-6A-18 NMSA 1978 (being Laws  
8 1981, Chapter 39, Section 35, as amended) is amended to read:

9           "60-6A-18. LIMITATION ON NUMBER OF LICENSES--  
10 EXCEPTIONS.--

11           A. The maximum number of licenses to be issued  
12 under the provisions of Sections 60-6A-2 and 60-6A-3 NMSA  
13 1978 shall be as follows:

14                   (1) in incorporated municipalities, not more  
15 than one dispenser's or one retailer's license, including  
16 canopy licenses [~~which~~] that are replaced by dispenser's  
17 licenses as provided in Section 60-6B-16 NMSA 1978, for each  
18 two thousand inhabitants or major fraction thereof; and

19                   (2) in unincorporated areas of each county,  
20 not more than one dispenser's or one retailer's license,  
21 including canopy licenses [~~which~~] that are replaced by  
22 dispenser's licenses as provided in Section 60-6B-16 NMSA  
23 1978, for each two thousand inhabitants or major fraction  
24 thereof, excluding the population of incorporated  
25 municipalities within the county.

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1           B. For the purpose of this section, the number of  
2 inhabitants of a local option district shall be determined by  
3 annual population estimates published by the economic  
4 development and tourism department.

5           C. Subsection A of this section shall not be  
6 construed to prevent ~~[any]~~ a licensee holding a valid license  
7 issued under the Liquor Control Act, or ~~[his]~~ the licensee's  
8 transferee, from continuing the licensed business or from  
9 renewing ~~[his]~~ the license, subject to compliance with the  
10 Liquor Control Act and department regulations,  
11 notwithstanding that the continuance or renewal may result in  
12 an excess over the maximum number of licenses permitted in  
13 Subsection A of this section."

14           **SECTION 84.** Section 67-3-17 NMSA 1978 (being Laws  
15 1967, Chapter 20, Section 2, as amended) is amended to read:

16           "67-3-17. SNOW REMOVAL FROM DESIGNATED SKIING AREA  
17 PARKING FACILITIES.--The state transportation commission is  
18 hereby authorized and empowered to remove any snow that it  
19 deems to be an obstacle to the parking of motor vehicles at  
20 any parking area that serves a skiing area. If the parking  
21 area is on lands owned by or leased from the state,  
22 municipal, county or federal government, the cost of snow  
23 removal shall be borne by the state as in the case of road  
24 maintenance. If the parking facilities are on private lands,  
25 the person in control of the skiing area shall be liable for

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1 the payment of such sum, not less than actual cost, as the  
2 state transportation commission decides to be the reasonable  
3 value of such snow removal. For the purposes of this  
4 section, the phrase "skiing area" shall mean any lands or  
5 areas used for the sport of skiing and recognized by the  
6 economic development and tourism department as a tourist  
7 attraction."

8 SECTION 85. Section 67-16-3 NMSA 1978 (being Laws  
9 1985, Chapter 23, Section 3, as amended) is amended to read:

10 "67-16-3. DEFINITIONS.--As used in the Litter Control  
11 and Beautification Act:

12 A. "keep America beautiful system" means a  
13 comprehensive program to improve waste handling practices and  
14 the control of litter;

15 B. "keep New Mexico beautiful, incorporated" is  
16 the statewide organization that is the official clearinghouse  
17 for beautification projects in the state;

18 C. "council" means the litter control council;

19 D. "department" means the economic development  
20 and tourism department;

21 E. "litter" means weeds, graffiti and all waste  
22 material, including disposable packages or containers, but  
23 not including the waste of the primary processes of mining,  
24 logging, sawmilling or farming;

25 F. "person" means an individual, corporation,

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1 partnership, association, firm, receiver, guardian, trustee,  
2 executor, administrator, fiduciary or representative or group  
3 of individuals or entities of any kind;

4 G. "public place" means an area that is used or  
5 held out for use by the public, whether owned or operated by  
6 public or private interests; and

7 H. "recycling" means the collection, separation  
8 or processing and return to the economic mainstream of raw  
9 materials or products that would otherwise become solid  
10 waste."

11 SECTION 86. Section 67-9-8 NMSA 1978 (being Laws 1999,  
12 Chapter 194, Section 2) is amended to read:

13 "67-9-8. TEMPORARY PROVISION--HIGHWAYS--UNITED STATES  
14 ROUTE 66--SIGNS.--The [~~state highway and transportation~~]  
15 department of transportation shall conduct an inventory of  
16 all current New Mexico state highway designation signs on  
17 former United States route 66 and add a second designation  
18 sign reading "New Mexico Route 66", contingent upon funding  
19 pursuant to the federal Transportation Equity Act for the  
20 21st Century, the national scenic byways program and other  
21 sources. The [~~state highway and transportation~~] department  
22 of transportation, working with the New Mexico route 66  
23 association and the New Mexico route 66 scenic byway  
24 coordinator in the economic development and tourism  
25 department, shall add the secondary designation "New Mexico  
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1 Route 66" to all official maps of the state of New Mexico and  
2 shall complete its survey and addition of all signs prior to  
3 January 1, 2001 in celebration of the seventy-fifth  
4 anniversary of United States route 66."

5 SECTION 87. Section 69-10-3 NMSA 1978 (being Laws  
6 1967, Chapter 254, Section 3, as amended) is amended to read:

7 "69-10-3. TECHNOLOGICAL STUDIES--ECONOMIST.--The New  
8 Mexico institute of mining and technology is directed to use  
9 its mineral resource economist to undertake studies aimed at  
10 developing technology [~~which~~] that will make possible the  
11 profitable exploitation of New Mexico's mineral resources.  
12 This effort should be aimed initially at those minerals  
13 development opportunities [~~which~~] that offer the best hope of  
14 successful exploitation and the creation of the greatest  
15 number of jobs. When a profit opportunity has been  
16 developed, the mineral resource economist shall make this  
17 information available to the secretary of [~~the~~] economic  
18 development [~~department~~] and tourism."

19 SECTION 88. Section 70-11-8 NMSA 1978 (being Laws  
20 2003, Chapter 196, Section 2) is amended to read:

21 "70-11-8. NATURAL GAS PIPELINE STUDY--ADDITIONAL  
22 DUTIES.--

23 A. The energy, minerals and natural resources  
24 department and the economic development and tourism  
25 department shall jointly study the need for additional

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1 natural gas pipelines to transport natural gas produced in  
2 New Mexico to additional markets. The study shall include:

3 (1) the economic feasibility of the proposed  
4 pipeline;

5 (2) the necessity of the proposed pipeline;

6 and

7 (3) alternatives to the proposed pipeline  
8 and the environmental or economic benefit of the  
9 alternatives.

10 B. If, at any time, the study concludes that an  
11 additional natural gas pipeline is necessary, the energy,  
12 minerals and natural resources department shall give notice  
13 to all persons the department finds, in its sole discretion,  
14 to be interested in or affected by the pipeline. If, after  
15 six months from the notice, the department finds that the  
16 need still exists and persons capable of meeting the need for  
17 the pipeline have not acted or proposed to act in a manner  
18 capable of meeting the need, the energy, minerals and natural  
19 resources department and the economic development and tourism  
20 department shall report to the legislature on funding  
21 alternatives for the pipeline.

22 C. The energy, minerals and natural resources  
23 department and the economic development and tourism  
24 department shall annually report to the legislature on the  
25 results of the study required by Subsection A of this section

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1 and on any activities conducted pursuant to this section."

2 SECTION 89. Section 71-7-7 NMSA 1978 (being Laws 2004,  
3 Chapter 55, Section 7) is amended to read:

4 "71-7-7. HYDROGEN AND FUEL CELL TECHNOLOGIES  
5 DEVELOPMENT PROGRAM.--

6 A. The secretary of economic development and  
7 tourism, in collaboration with the department, shall  
8 establish a hydrogen and fuel cell technologies development  
9 program for the purpose of fostering the development of  
10 hydrogen and fuel cell-related commercialization and economic  
11 development in the state. The program shall include:

12 (1) establishing a public-private  
13 partnership between the state, national laboratories,  
14 nonprofit organizations and the hydrogen and fuel cell  
15 technologies industry sector to provide guidance and support  
16 for hydrogen and fuel cell initiatives;

17 (2) supporting activities to adopt uniform  
18 hydrogen safety codes and standards and provide education and  
19 training to communicate these codes and standards to the  
20 appropriate fire and regulatory entities;

21 (3) developing demonstration projects by  
22 pursuing federal funds and other available funds to augment  
23 state resources, advancing public education about hydrogen  
24 and fuel cell technology and building the necessary  
25 infrastructure to support commercial use and adoption of

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1 hydrogen and fuel cell technologies; and

2 (4) coordinating and supporting research and  
3 education activities in hydrogen and fuel cells between state  
4 universities and federally funded research and development  
5 organizations in the state to promote closer cooperation and  
6 advance the state's overall capabilities and programs in  
7 hydrogen and fuel cell technologies.

8 B. The economic development and tourism  
9 department shall report on the status and progress of the  
10 hydrogen and fuel cell technologies development program to  
11 the legislative finance committee prior to each regular  
12 legislative session. The report shall include the type and  
13 amount of expenditures made pursuant to the appropriation in  
14 this section."

15 SECTION 90. Section 74-9-14 NMSA 1978 (being Laws  
16 1990, Chapter 99, Section 14, as amended) is amended to read:

17 "74-9-14. DIVISION--POWERS AND DUTIES.--The division  
18 is responsible for the enforcement and implementation of the  
19 regulations adopted by the board pursuant to the Solid Waste  
20 Act. In addition to its other powers and duties under the  
21 Solid Waste Act and other laws, the division, through its  
22 director and in accordance with [~~his~~] the director's  
23 delegation of authority, shall:

24 A. develop and implement, in consultation with  
25 local governments, the private sector and members of the

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1 public, the comprehensive solid waste management program  
2 defined in Section 74-9-12 NMSA 1978 and update the program  
3 at least every three years;

4 B. provide technical assistance on solid waste  
5 management matters to counties, municipalities and other  
6 persons and cooperate with appropriate federal agencies and  
7 private organizations in carrying out the provisions of the  
8 Solid Waste Act;

9 C. promote the planning and application of source  
10 reduction, recycling and solid waste facility siting systems  
11 that preserve and enhance the quality of the air, water and  
12 other natural resources of the state;

13 D. assist in and encourage, where appropriate,  
14 the development of regional solid waste management;

15 E. provide the economic development and tourism  
16 department with technical assistance to enable it to  
17 encourage and support the development within the state of  
18 commercial enterprises that:

19 (1) produce a minimum of solid waste;  
20 (2) engage in source reduction and recycling  
21 activities; or

22 (3) promote market activity and develop  
23 products made of recycled materials;

24 F. using the state institutions of higher  
25 education, solid waste management personnel from local

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1 governments, the private sector and other organizations,  
2 conduct research, and solicit public input in the research  
3 process, on alternative, economically feasible, cost-  
4 effective and environmentally safe solid waste management  
5 methods;

6 G. develop information, in consultation with the  
7 economic development and tourism department, [~~state highway~~  
8 ~~and~~] department of transportation [~~department~~] and any other  
9 appropriate state agencies, on markets and strategies for  
10 market development and expansion for recyclable materials;  
11 maintain a directory of recycling businesses operating in the  
12 state; and serve as a coordinator to match recycled materials  
13 with markets;

14 H. in cooperation and coordination with the  
15 general services department, develop and manage a program of  
16 grants for source reduction and recycling programs;

17 I. cooperate with the [~~state highway and~~  
18 department of transportation [~~department~~] and private  
19 organizations engaged in beautification programs in the  
20 development of a litter control program;

21 J. advise the board about ground water protection  
22 devices, air quality monitoring devices and other devices or  
23 measures that may be required as a result of solid waste  
24 management operations;

25 K. increase public education and public awareness

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1 of solid waste issues by developing and promoting statewide  
2 programs of litter control, recycling, source reduction and  
3 proper methods of solid waste management;

4 L. encourage public participation in [~~rule-~~  
5 ~~making~~] rulemaking processes regarding solid waste  
6 management;

7 M. determine monitoring requirements for solid  
8 waste facilities;

9 N. contract with private sector entities or the  
10 state institutions of higher education for implementation of  
11 appropriate parts of the solid waste management program  
12 described in Section 74-9-12 NMSA 1978;

13 O. enter into contracts appropriate and necessary  
14 to fulfill its responsibilities under the Solid Waste Act;

15 P. receive funds and accept, receive and  
16 administer grants or other funds or gifts from public or  
17 private sources, including the state and federal governments,  
18 for the purpose of carrying out the provisions of the Solid  
19 Waste Act; and

20 Q. participate in interstate and national  
21 initiatives to adopt uniform state laws when practicable and  
22 to enter into compacts between the state and other states for  
23 the improved management, recycling and source reduction of  
24 solid waste."

25 SECTION 91. TEMPORARY PROVISION--TRANSFERS.--On the

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1 effective date of this act:

2 A. all functions, personnel, money,  
3 appropriations, records, files, furniture, equipment and  
4 other property of the economic development department shall  
5 be transferred to the economic development and tourism  
6 department;

7 B. all functions, personnel, money,  
8 appropriations, records, files, furniture, equipment and  
9 other property of the tourism department shall be transferred  
10 to the economic development and tourism department;

11 C. all contractual obligations of the economic  
12 development department shall be binding on the economic  
13 development and tourism department;

14 D. all contractual obligations of the tourism  
15 department shall be binding on the economic development and  
16 tourism department;

17 E. all statutory references to the economic  
18 development department shall be deemed to be references to  
19 the economic development and tourism department; and

20 F. all statutory references to the tourism  
21 department shall be deemed to be references to the economic  
22 development and tourism department.

23 **SECTION 92. REPEAL.**--Sections 9-15A-1 through 9-15A-11  
24 NMSA 1978 (being Laws 1991, Chapter 21, Sections 1 through 4;  
25 Laws 2003, Chapter 299, Section 1; Laws 1991, Chapter 21,  
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1 Sections 5 through 7; Laws 1996, Chapter 25, Section 1; Laws  
2 1993, Chapter 101, Sections 10 and 11; and Laws 2007, Chapter  
3 286, Sections 2 and 3 and Laws 2007, Chapter 287, Sections 2  
4 and 3, as amended) are repealed.

5 SECTION 93. EFFECTIVE DATE.--The effective date of the  
6 provisions of this act is July 1, 2017.