

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 547

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

Note: This AIC includes only those amendments approved by the  
Conference Committees.

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
AMENDING INCOME TAX BRACKETS PURSUANT TO THE INCOME TAX ACT;  
PROVIDING FOR THE INDEXING OF MODIFIED GROSS INCOME FOR  
PURPOSES OF DETERMINING THE AMOUNT OF THE LOW-INCOME  
COMPREHENSIVE TAX REBATE; EXTENDING THE SUNSET DATE FOR AN  
INCOME TAX EXEMPTION FOR ARMED FORCES RETIREMENT PAY hf12→AND

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**EXTENDING THE EXEMPTION TO SURVIVING SPOUSES OF ARMED FORCES**

**RETIREEES**←Hf12; AMENDING PROVISIONS OF THE RURAL HEALTH CARE PRACTITIONER TAX CREDIT; INCREASING AND INDEXING THE AMOUNT OF THE CHILD INCOME TAX CREDIT FOR CERTAIN TAXPAYERS; LIMITING THE CAPITAL GAINS DEDUCTION FROM NET INCOME; PROVIDING ADDITIONAL 2021 INCOME TAX REBATES; CREATING THE ELECTRIC VEHICLE INCOME TAX CREDIT; CREATING THE ELECTRIC VEHICLE CHARGING UNIT INCOME TAX CREDIT; CREATING THE ENERGY STORAGE SYSTEM INCOME TAX CREDIT; CREATING A FLAT CORPORATE INCOME TAX RATE; CC→**REQUIRING**  
~~ALL BUSINESS INCOME TO BE APPORTIONED BY THE SINGLE SALES FACTOR; PROVIDING A TEMPORARY EXCEPTION TO THE NEW APPORTIONMENT REQUIREMENTS;~~←CC REDUCING THE RATES OF THE GROSS RECEIPTS TAX AND THE COMPENSATING TAX; CREATING GROSS RECEIPTS TAX DEDUCTIONS FOR THE SALE OF CHILD CARE ASSISTANCE THROUGH A LICENSED CHILD CARE ASSISTANCE PROGRAM AND PRE-KINDERGARTEN SERVICES BY FOR-PROFIT PRE-KINDERGARTEN PROVIDERS; CREATING A GROSS RECEIPTS TAX DEDUCTION FOR ENVIRONMENTAL MODIFICATION SERVICES MADE TO THE HOMES OF MEDICAID RECIPIENTS; AMENDING THE INDUSTRIAL REVENUE BOND ACT AND THE COUNTY INDUSTRIAL REVENUE BOND ACT TO INCLUDE CERTAIN ELECTRIC ENERGY STORAGE FACILITIES AS ELIGIBLE PROJECTS; REQUIRING MUNICIPALITIES AND COUNTIES THAT ACQUIRE ENERGY STORAGE FACILITY PRO JECTS TO PROVIDE PAYMENT-IN-LIEU-OF TAXES PAYMENTS TO SCHOOL DISTRICTS; AMENDING DISTRIBUTIONS OF THE MOTOR VEHICLE EXCISE TAX; INCREASING THE LIQUOR EXCISE TAX RATE

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ON CERTAIN ALCOHOLIC BEVERAGES; DISTRIBUTING A PORTION OF THE REVENUE FROM THE LIQUOR EXCISE TAX TO A NEW ALCOHOL HARMS ALLEVIATION FUND; CC→~~INCREASING THE TOBACCO PRODUCTS TAX ON CIGARS~~←CC CC→PROVIDING FOR THE INDEXING OF ADJUSTED GROSS INCOME FOR A SOCIAL SECURITY INCOME TAX EXEMPTION PURSUANT TO THE INCOME TAX ACT; INCREASING THE AMOUNT OF THE SPECIAL NEEDS ADOPTED CHILD TAX CREDIT; PROVIDING AN INCOME TAX DEDUCTION FOR SCHOOL SUPPLIES PURCHASED BY A PUBLIC SCHOOL TEACHER; CREATING THE GEOTHERMAL ELECTRICITY GENERATION INCOME TAX CREDIT, THE GEOTHERMAL ELECTRICITY GENERATION CORPORATE INCOME TAX CREDIT AND GROSS RECEIPTS TAX AND COMPENSATING TAX DEDUCTIONS FOR GEOTHERMAL ELECTRICITY GENERATION FACILITY CONSTRUCTION COSTS; EXTENDING THE GEOTHERMAL GROUND-COUPLED HEAT PUMP TAX CREDITS PURSUANT TO THE INCOME TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT, INCREASING THE ANNUAL AGGREGATE CAPS OF THE CREDITS, MAKING THE CREDIT PURSUANT TO THE INCOME TAX ACT REFUNDABLE AND AMENDING THE DEFINITION OF "GEOTHERMAL GROUND-COUPLED HEAT PUMP" FOR THE CREDIT PURSUANT TO THE CORPORATE INCOME AND FRANCHISE TAX ACT; INCREASING THE ANNUAL AGGREGATE CAP AND ADDITIONAL AMOUNTS OF TAX CREDITS PURSUANT TO THE FILM PRODUCTION TAX CREDIT ACT; AMENDING CERTAIN REQUIREMENTS TO BE ELIGIBLE FOR THE CREDITS; EXPANDING A GROSS RECEIPTS TAX DEDUCTION FOR HEALTH CARE PRACTITIONERS AND ASSOCIATIONS OF HEALTH CARE PRACTITIONERS TO INCLUDE RECEIPTS FOR THE PAYMENT OF COPAYMENTS AND DEDUCTIBLES; PROVIDING GROSS RECEIPTS AND COMPENSATING TAX DEDUCTIONS FOR DYED DIESEL USED FOR AGRICULTURAL PURPOSES; INCREASING THE RATE OF TAX ON TOBACCO

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PRODUCTS ON CIGARS, AMENDING DEFINITIONS IN THE TOBACCO PRODUCTS TAX ACT AND DISTRIBUTING A PORTION OF THE TAX TO THE TOBACCO SETTLEMENT PERMANENT FUND; REQUIRING THE BUSINESS INCOME OF MOST CORPORATIONS TO BE APPORTIONED TO THIS STATE BY THE SALES FACTOR BUT PROVIDING A TEMPORARY EXCEPTION←CC.

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

SECTION 1. Section 3-32-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-31-1, as amended) is amended to read:

"3-32-1. INDUSTRIAL REVENUE BOND ACT--DEFINITIONS.--

Wherever used in the Industrial Revenue Bond Act unless a different meaning clearly appears in the context, the following terms whether used in the singular or plural shall be given the following respective interpretations:

A. "municipality" means a city, town or village in New Mexico;

B. "project" means any land and building or other improvements thereon, the acquisition by or for a New Mexico corporation of the assets or stock of an existing business or corporation located outside the state to be relocated within or near the municipality in the state and all real and personal properties deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for use by the following or by any combination of two or more thereof:

- (1) an industry for the manufacturing,

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processing or assembling of agricultural or manufactured products;

(2) a commercial enterprise in storing, warehousing, distributing or selling products of agriculture, mining or industry but does not include a facility designed for the sale of goods or commodities at retail or distribution to the public of electricity, gas, water or telephone or other services commonly classified as public utilities;

(3) a business in which all or part of the activities of the business involve the supplying of services to the general public or to governmental agencies or to a specific industry or customer but does not include an establishment primarily engaged in the sale of goods or commodities at retail;

(4) a water distribution or irrigation system, including without limitation, pumps, distribution lines, transmission lines, towers, dams and similar facilities and equipment, designed to provide water to a vineyard or winery;

(5) an electric generation or transmission facility, other than one for which both location approval and a certificate of convenience and necessity are required prior to commencing construction or operation of the facility, pursuant to the Public Utility Act; [~~and~~]

(6) an energy storage facility, which is a facility that uses mechanical, chemical, thermal, kinetic or

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other processes to store energy from a zero carbon emission resource for release at a later time; and

[~~(6)~~] (7) a 501(c)(3) corporation;

C. "governing body" means the board or body in which the legislative powers of the municipality are vested;

D. "property" means any land, improvements thereon, buildings and any improvements thereto, machinery and equipment of any and all kinds necessary to the project, operating capital and any other personal properties deemed necessary in connection with the project;

E. "mortgage" means a mortgage or a mortgage and deed of trust or the pledge and hypothecation of any assets as collateral security;

F. "health care service" means the diagnosis or treatment of sick or injured persons or medical research and includes the ownership, operation, maintenance, leasing and disposition of health care facilities such as hospitals, clinics, laboratories, x-ray centers and pharmacies and, for any small municipality only, office facilities for physicians;

G. "refinance a hospital or 501(c)(3) corporation project" means the issuance of bonds by a municipality and the use of all or substantially all of the proceeds to liquidate any obligations previously incurred to finance or aid in financing a project of a nonprofit corporation engaged in health care

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services, including nursing homes, or of a 501(c)(3) corporation, which would constitute a project under the Industrial Revenue Bond Act had it been originally undertaken and financed by a municipality pursuant to the Industrial Revenue Bond Act; and

H. "501(c)(3) corporation" means a corporation that demonstrates to the taxation and revenue department that it has been granted exemption from the federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended or renumbered."

SECTION 2. Section 3-32-6 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-31-3, as amended) is amended to read:

"3-32-6. ADDITIONAL POWERS CONFERRED ON MUNICIPALITIES.-- In addition to any other powers that it may now have, a municipality shall have the following powers:

A. to acquire, whether by construction, purchase, gift or lease, one or more projects that shall be located within this state and may be located within or without the municipality or partially within or partially without the municipality, but which shall not be located more than fifteen miles outside of the corporate limits of the municipality; provided that:

(1) urban transit buses qualifying as a project pursuant to Subsection B of Section 3-32-3 NMSA 1978 need not be continuously located within this state, but the

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commercial enterprise using the urban transit buses for leasing shall meet the location requirement of this subsection; and

(2) a municipality shall not acquire any electricity generation, ~~[or]~~ transmission or energy storage facility project unless the school districts within the municipality in which the project is located receive annual in-lieu tax payments; provided that the annual in-lieu tax payments required by this paragraph shall be:

(a) payable to the school districts for the period the municipality owns and leases the project;

(b) in an aggregate amount equal to the amount received by the municipality multiplied by the percentage determined by dividing the average of the operating, capital improvement and bond mills imposed by the school districts in the municipality and state debt service mills as of the date of issuance of the bonds by the average of the mills imposed by all entities levying taxes on property in the municipality as of such date;

(c) shared among the school districts located within the municipality equally, if there is more than one school district in such municipality; and

(d) not be less than the amount due to the school districts in the tax year immediately preceding the issuance of the bonds from the property included in a project,

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had such project not been created;

B. to sell or lease or otherwise dispose of any or all of its projects upon such terms and conditions as the governing body may deem advisable and as shall not conflict with the provisions of the Industrial Revenue Bond Act;

C. to issue revenue bonds for the purpose of defraying the cost of acquiring by construction and purchase, or either, any project and to secure the payment of such bonds, all as provided in the Industrial Revenue Bond Act. No municipality shall have the power to operate any project as a business or in any manner except as lessor;

D. to refinance one or more hospital or 501(c)(3) corporation projects and to acquire any such hospital or 501(c)(3) corporation project whether by construction, purchase, gift or lease, which hospital or 501(c)(3) corporation project shall be located within this state and may be located within or without the municipality or partially within or partially without the municipality, but which shall not be located more than fifteen miles outside of the corporate limits of the municipality, and to issue revenue bonds to refinance and acquire a hospital or 501(c)(3) corporation project and to secure the payment of such bonds, all as provided in the Industrial Revenue Bond Act. A municipality shall not have the power to operate a hospital or 501(c)(3) corporation project as

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a business or in any manner except as lessor; and

E. to refinance one or more projects of any private institution of higher education and to acquire any such project, whether by construction, purchase, gift or lease; provided that the project shall be located within this state and may be located within or without the municipality or partially within or partially without the municipality, but the project shall not be located more than fifteen miles outside of the corporate limits of the municipality, and to issue revenue bonds to refinance and acquire any project of any private institution of higher education and to secure the payment of such bonds. A municipality shall not have the power to operate a project of a private institution of higher education as a business or in any manner except as lessor."

SECTION 3. Section 4-59-2 NMSA 1978 (being Laws 1975, Chapter 286, Section 2, as amended) is amended to read:

"4-59-2. DEFINITIONS.--As used in the County Industrial Revenue Bond Act, unless the context clearly indicates otherwise:

- A. "commission" means the governing body of a county;
- B. "county" means a county organized or incorporated in New Mexico;
- C. "501(c)(3) corporation" means a corporation that

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demonstrates to the taxation and revenue department that it has been granted exemption from the federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended or renumbered;

D. "health care service" means the diagnosis or treatment of sick or injured persons or medical research and includes the ownership, operation, maintenance, leasing and disposition of health care facilities, such as hospitals, clinics, laboratories, x-ray centers and pharmacies;

E. "mortgage" means a mortgage or a mortgage and deed of trust or the pledge and hypothecation of any assets as collateral security;

F. "project" means any land and building or other improvements thereon, the acquisition by or for a New Mexico corporation of the assets or stock of an existing business or corporation located outside the state to be relocated within a county but, except as provided in Paragraph (1) of Subsection A of Section 4-59-4 NMSA 1978, not within the boundaries of any incorporated municipality in the state, and all real and personal properties deemed necessary in connection therewith, whether or not now in existence, that shall be suitable for use by the following or by any combination of two or more thereof:

(1) an industry for the manufacturing, processing or assembling of agricultural or manufactured

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products;

(2) a commercial enterprise that has received a permit from the energy, minerals and natural resources department for a mine that has not been in operation prior to the issuance of bonds for the project for which the enterprise will be involved;

(3) a commercial enterprise that has received any necessary state permit for a refinery, treatment plant or processing plant of energy products that was not in operation prior to the issuance of bonds for the project for which the enterprise will be involved;

(4) a commercial enterprise in storing, warehousing, distributing or selling products of agriculture, mining or industry, but does not include a facility designed for the sale or distribution to the public of electricity, gas, telephone or other services commonly classified as public utilities, except for:

(a) water utilities; [~~and~~]

(b) [~~any~~] an electric generation or transmission facility, other than one for which both location approval and a certificate of convenience and necessity are required prior to commencing construction or operation of the facility, pursuant to the Public Utility Act; and

(c) an energy storage facility, which is

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a facility that uses mechanical, chemical, thermal, kinetic or other processes to store energy from a zero carbon emission resource for release at a later time;

(5) a business in which all or part of the activities of the business involve the supplying of services to the general public or to governmental agencies or to a specific industry or customer;

(6) a nonprofit corporation engaged in health care services;

(7) a mass transit or other transportation activity involving the movement of passengers, an industrial park, an office headquarters and a research facility;

(8) a water distribution or irrigation system, including without limitation, pumps, distribution lines, transmission lines, towers, dams and similar facilities and equipment; and

(9) a 501(c)(3) corporation; and

G. "property" means any land, improvements thereon, buildings and any improvements thereto, machinery and equipment of any and all kinds necessary to the project, operating capital and any other personal properties deemed necessary in connection with the project."

SECTION 4. Section 4-59-4 NMSA 1978 (being Laws 1975, Chapter 286, Section 4, as amended) is amended to read:

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"4-59-4. ADDITIONAL POWERS CONFERRED ON COUNTIES.--In addition to any other powers that it may now have, each county shall have the following powers:

A. to acquire, whether by construction, purchase, gift or lease, one or more projects, which shall be located within this state and shall be located within the county outside the boundaries of any incorporated municipality; provided, however, that:

(1) a class A county with a population of more than three hundred thousand may acquire projects located anywhere in the county; and

(2) a county shall not acquire any electricity generation, ~~[or]~~ transmission or energy storage facility project unless the school districts within the county in which the project is located receive annual in-lieu tax payments; provided that the annual in-lieu tax payments required by this paragraph shall be:

(a) payable to the school districts for the period the county owns and leases the project;

(b) in an aggregate amount equal to the amount received by the county multiplied by the percentage determined by dividing the average of the operating, capital improvement and bond mills imposed by the school districts in the county and state debt service mills as of the date of

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issuance of the bonds by the average of the mills imposed by all entities levying taxes on property in the county as of such date;

(c) shared among the school districts located within the county equally; and

(d) not be less than the amount due to the school districts in the tax year immediately preceding the issuance of the bonds from the property included in a project, had such project not been created;

B. to sell or lease or otherwise dispose of any or all of its projects upon such terms and conditions as the commission may deem advisable and as shall not conflict with the provisions of the County Industrial Revenue Bond Act; and

C. to issue revenue bonds for the purpose of defraying the cost of acquiring, by construction and purchase or either, any project and to secure the payment of such bonds, all as provided in the County Industrial Revenue Bond Act. No county shall have the power to operate any project as a business or in any manner except as lessor thereof."

STBTC → ~~SECTION 5. Section 7-1-6.40 NMSA 1978 (being Laws 1997, Chapter 182, Section 1, as amended) is amended to read:~~

~~"7-1-6.40. DISTRIBUTION OF LIQUOR EXCISE TAX--LOCAL DWI GRANT FUND--CERTAIN MUNICIPALITIES--DRUG COURT FUND--ALCOHOL HARMS ALLEVIATION FUND.--"~~

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~~A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to [forty-five] thirty-seven and one-fourth percent of the net receipts attributable to the liquor excise tax shall be made to the local DWI grant fund.~~

~~B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 of [twenty thousand seven hundred fifty dollars (\$20,750) monthly from] one-half percent of the net receipts attributable to the liquor excise tax shall be made to a municipality that is located in a class A county and that has a population according to the most recent federal decennial census of more than thirty thousand but less than sixty thousand and shall be used by the municipality only for the provision of alcohol treatment and rehabilitation services for street inebriates.~~

~~C. [Beginning July 1, 2019] A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to [five] four and one-fourth percent of the net receipts attributable to the liquor excise tax shall be made to the drug court fund.~~

~~D. A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to fifty-eight percent of the net receipts attributable to the liquor excise tax shall be made to the alcohol harms alleviation fund."←STBTC~~

SECTION CC→~~6.~~←CC CC→~~5.~~←CC Section 7-2-5.13 NMSA 1978 (being Laws 2022, Chapter 47, Section 6) is amended to read:

"7-2-5.13. EXEMPTION--ARMED FORCES RETIREMENT PAY.--

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A. An individual who is an armed forces retiree  
Hf12→**or the surviving spouse of an armed forces retiree** ←Hf12  
may claim an exemption in the following amounts of military  
retirement pay includable, except for this exemption, in net  
income:

(1) for taxable year 2022, ten thousand  
dollars (\$10,000);

(2) for taxable year 2023, twenty thousand  
dollars (\$20,000); and

(3) for taxable years 2024 CC→**through**←CC  
[2026] CC→**2031**←CC CC→**and thereafter**←CC, thirty thousand  
dollars (\$30,000).

B. As used in this section, "armed forces retiree"  
means a former member of the armed forces of the United States  
who has qualified by years of service or disability to separate  
from military service with lifetime benefits."

Hf11→~~SECTION 7. Section 7-2-7 NMSA 1978 (being Laws 2005,  
Chapter 104, Section 4, as amended) is amended to read:~~

~~"7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed by  
Section 7-2-3 NMSA 1978 shall be at the following rates for any  
taxable year beginning on or after January 1, [2021] 2024:~~

~~[A. For married individuals filing separate returns:~~

<del>If the taxable income is:</del>	<del>The tax shall be:</del>
<del>Not over \$4,000</del>	<del>1.7% of taxable income</del>

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<del>Over \$4,000 but not over \$8,000</del>	<del>\$68.00 plus 3.2% of excess over \$4,000</del>
<del>Over \$8,000 but not over \$12,000</del>	<del>\$196 plus 4.7% of excess over \$8,000</del>
<del>Over \$12,000 but not over \$157,500</del>	<del>\$384 plus 4.9% of excess over \$12,000</del>
<del>Over \$157,500</del>	<del>\$7,513.50 plus 5.9% of excess over \$157,500.</del>

~~B. For heads of household, surviving spouses and  
married individuals filing joint returns:~~

<del>If the taxable income is:</del>	<del>The tax shall be:</del>
<del>Not over \$8,000</del>	<del>1.7% of taxable income</del>
<del>Over \$8,000 but not over \$16,000</del>	<del>\$136 plus 3.2% of excess over \$8,000</del>
<del>Over \$16,000 but not over \$24,000</del>	<del>\$392 plus 4.7% of excess over \$16,000</del>
<del>Over \$24,000 but not over \$315,000</del>	<del>\$768 plus 4.9% of excess over \$24,000</del>
<del>Over \$315,000</del>	<del>\$15,027 plus 5.9% of excess over \$315,000.</del>

~~C. For single individuals and for estates and  
trusts:~~

<del>If the taxable income is:</del>	<del>The tax shall be:</del>
<del>Not over \$5,500</del>	<del>1.7% of taxable income</del>

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<del>Over \$5,500 but not over \$11,000</del>	<del>\$93.50 plus 3.2% of excess over \$5,500</del>
<del>Over \$11,000 but not over \$16,000</del>	<del>\$269.50 plus 4.7% of excess over \$11,000</del>
<del>Over \$16,000 but not over \$210,000</del>	<del>\$504.50 plus 4.9% of excess over \$16,000</del>
<del>Over \$210,000</del>	<del>\$10,010.50 plus 5.9% of excess over \$210,000.]</del>

~~A. For married individuals filing joint returns, heads of household and surviving spouses:~~

<del>For taxable income:</del>	<del>The tax shall be:</del>
<del>Not over \$8,000</del>	<del>1.5% of taxable income</del>
<del>Over \$8,000 but not over \$25,000</del>	<del>\$120 plus 3.2% of excess over \$8,000</del>
<del>Over \$25,000 but not over \$50,000</del>	<del>\$664 plus 4.3% of excess over \$25,000</del>
<del>Over \$50,000 but not over \$100,000</del>	<del>\$1,739 plus 4.7% of excess over \$50,000</del>
<del>Over \$100,000 but not over \$200,000</del>	<del>\$4,089 plus 4.9% of excess over \$100,000</del>
<del>Over \$200,000 but not over \$500,000</del>	<del>\$8,989 plus 6.5% of excess over \$200,000</del>
<del>Over \$500,000</del>	<del>\$28,489 plus 6.9% of excess over \$500,000.</del>

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~~B. For single individuals and for estates and trusts:~~

<del>For taxable income:</del>	<del>The tax shall be:</del>
<del>Not over \$5,500</del>	<del>1.5% of taxable income</del>
<del>Over \$5,500 but not over \$16,500</del>	<del>\$82.50 plus 3.2% of excess over \$5,500</del>
<del>Over \$16,500 but not over \$33,500</del>	<del>\$434.50 plus 4.3% of excess over \$16,500</del>
<del>Over \$33,500 but not over \$66,500</del>	<del>\$1,165.50 plus 4.7% of excess over \$33,500</del>
<del>Over \$66,500 but not over \$133,500</del>	<del>\$2,716.50 plus 4.9% of excess over \$66,500</del>
<del>Over \$133,500 but not over \$333,500</del>	<del>\$5,999.50 plus 6.5% of excess over \$133,500</del>
<del>Over \$333,500</del>	<del>\$18,999.50 plus 6.9% of excess over \$333,500.</del>

~~C. For married individuals filing separate returns:~~

<del>For taxable income:</del>	<del>The tax shall be:</del>
<del>Not over \$4,000</del>	<del>1.5% of taxable income</del>
<del>Over \$4,000 but not over \$12,500</del>	<del>\$60.00 plus 3.2% of excess over \$4,000</del>
<del>Over \$12,500 but not over \$25,000</del>	<del>\$332 plus 4.3% of excess over \$12,500</del>
<del>Over \$25,000 but not over \$50,000</del>	<del>\$869.50 plus 4.7% of</del>

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	<del>excess over \$25,000</del>
<del>Over \$50,000 but not over \$100,000</del>	<del>\$2,044.50 plus 4.9% of</del>
	<del>excess over \$50,000</del>
<del>Over \$100,000 but not over \$250,000</del>	<del>\$4,494.50 plus 6.5% of</del>
	<del>excess over \$100,000</del>
<del>Over \$250,000</del>	<del>\$14,244.50 plus 6.9% of</del>
	<del>excess over \$250,000.</del>

~~D. The tax on the sum of any lump-sum amounts included in net income is an amount equal to five multiplied by the difference between:~~

~~(1) the amount of tax due on the taxpayer's taxable income; and~~

~~(2) the amount of tax that would be due on an amount equal to the taxpayer's taxable income and twenty percent of the taxpayer's lump-sum amounts included in net income."~~ ←Hf11

Hf11 → SECTION CC → 7. ← CC CC → 6. ← CC Section 7-2-7 NMSA 1978 (being Laws 2005, Chapter 104, Section 4, as amended) is amended to read:

"7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed by Section 7-2-3 NMSA 1978 shall be at the following rates for any taxable year beginning on or after January 1, [2021] 2024:

<del>[A. For married individuals filing separate returns:</del>	
<del>If the taxable income is:</del>	<del>The tax shall be:</del>
<del>Not over \$4,000</del>	<del>1.7% of taxable income</del>

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<del>Over \$4,000 but not over \$8,000</del>	<del>\$68.00 plus 3.2% of excess over \$4,000</del>
<del>Over \$8,000 but not over \$12,000</del>	<del>\$196 plus 4.7% of excess over \$8,000</del>
<del>Over \$12,000 but not over \$157,500</del>	<del>\$384 plus 4.9% of excess over \$12,000</del>
<del>Over \$157,500</del>	<del>\$7,513.50 plus 5.9% of excess over \$157,500.</del>

~~B. For heads of household, surviving spouses and  
married individuals filing joint returns:~~

<del>If the taxable income is:</del>	<del>The tax shall be:</del>
<del>Not over \$8,000</del>	<del>1.7% of taxable income</del>
<del>Over \$8,000 but not over \$16,000</del>	<del>\$136 plus 3.2% of excess over \$8,000</del>
<del>Over \$16,000 but not over \$24,000</del>	<del>\$392 plus 4.7% of excess over \$16,000</del>
<del>Over \$24,000 but not over \$315,000</del>	<del>\$768 plus 4.9% of excess over \$24,000</del>
<del>Over \$315,000</del>	<del>\$15,027 plus 5.9% of excess over \$315,000.</del>

~~C. For single individuals and for estates and trusts:~~

<del>If the taxable income is:</del>	<del>The tax shall be:</del>
<del>Not over \$5,500</del>	<del>1.7% of taxable income</del>
<del>Over \$5,500 but not over \$11,000</del>	<del>\$93.50 plus 3.2% of excess over \$5,500</del>
<del>Over \$11,000 but not over \$16,000</del>	<del>\$269.50 plus 4.7% of excess over \$11,000</del>

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<del>Over \$16,000 but not over \$210,000</del>	<del>\$504.50 plus 4.9% of</del>
	<del>excess over \$16,000</del>
<del>Over \$210,000</del>	<del>\$10,010.50 plus 5.9% of</del>
	<del>excess over \$210,000.]</del>

A. For married individuals filing joint returns, heads of household and surviving spouses:

<u>For taxable income:</u>	<u>The tax shall be:</u>
<u>Not over \$8,000</u>	<u>1.5% of taxable income</u>
<u>Over \$8,000 but not over \$25,000</u>	<u>\$120 plus 3.2% of excess over \$8,000</u>
<u>Over \$25,000 but not over \$50,000</u>	<u>\$664 plus 4.3% of excess over \$25,000</u>
<u>Over \$50,000 but not over \$100,000</u>	<u>\$1,739 plus 4.7% of excess over \$50,000</u>
<u>Over \$100,000 but not over \$315,000</u>	<u>\$4,089 plus 4.9% of excess over \$100,000</u>
<u>Over \$315,000</u>	<u>\$14,624 plus 5.9% of excess over \$315,000.</u>

B. For single individuals and for estates and trusts:

<u>For taxable income:</u>	<u>The tax shall be:</u>
<u>Not over \$5,500</u>	<u>1.5% of taxable income</u>
<u>Over \$5,500 but not over \$16,500</u>	<u>\$82.50 plus 3.2% of excess over \$5,500</u>
<u>Over \$16,500 but not over \$33,500</u>	<u>\$434.50 plus 4.3% of excess over \$16,500</u>
<u>Over \$33,500 but not over \$66,500</u>	<u>\$1,165.50 plus 4.7% of excess over \$33,500</u>

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<u>Over \$66,500 but not over \$210,000</u>	<u>\$2,716.50 plus 4.9% of</u>
	<u>excess over \$66,500</u>
<u>Over \$210,000</u>	<u>\$9,748 plus 5.9% of</u>
	<u>excess over \$210,000.</u>

C. For married individuals filing separate returns:

<u>For taxable income:</u>	<u>The tax shall be:</u>
<u>Not over \$4,000</u>	<u>1.5% of taxable income</u>
<u>Over \$4,000 but not over \$12,500</u>	<u>\$60.00 plus 3.2% of</u>
	<u>excess over \$4,000</u>
<u>Over \$12,500 but not over \$25,000</u>	<u>\$332 plus 4.3% of excess</u>
	<u>over \$12,500</u>
<u>Over \$25,000 but not over \$50,000</u>	<u>\$869.50 plus 4.7% of</u>
	<u>excess over \$25,000</u>
<u>Over \$50,000 but not over \$157,500</u>	<u>\$2,044.50 plus 4.9% of</u>
	<u>excess over \$50,000</u>
<u>Over \$157,500</u>	<u>\$7,312 plus 5.9% of</u>
	<u>excess over \$157,500.</u>

D. The tax on the sum of any lump-sum amounts

included in net income is an amount equal to five multiplied by the difference between:

- (1) the amount of tax due on the taxpayer's taxable income; and
- (2) the amount of tax that would be due on an amount equal to the taxpayer's taxable income and twenty percent of the taxpayer's lump-sum amounts included in net income." ←Hf11

SECTION CC→~~8.~~←CC CC→~~7.~~←CC Section 7-2-14 NMSA 1978

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(being Laws 1972, Chapter 20, Section 2, as amended) is amended to read:

"7-2-14. LOW-INCOME COMPREHENSIVE TAX REBATE.--

A. Except as otherwise provided in Subsection B of this section, any resident who files an individual New Mexico income tax return and who is not a dependent of another individual may claim a tax rebate for a portion of state and local taxes to which the resident has been subject during the taxable year for which the return is filed. The tax rebate may be claimed even though the resident has no income taxable under the Income Tax Act. Married individuals who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax rebate that would have been allowed on a joint return.

B. No claim for the tax rebate provided in this section shall be filed by a resident who was an inmate of a public institution for more than six months during the taxable year for which the tax rebate could be claimed or who was not physically present in New Mexico for at least six months during the taxable year for which the tax rebate could be claimed.

C. For the purposes of this section, the total number of exemptions for which a tax rebate may be claimed or allowed is determined by adding the number of federal exemptions allowable for federal income tax purposes for each individual

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included in the return who is domiciled in New Mexico plus two additional exemptions for each individual domiciled in New Mexico included in the return who is sixty-five years of age or older plus one additional exemption for each individual domiciled in New Mexico included in the return who, for federal income tax purposes, is blind plus one exemption for each minor child or stepchild of the resident who would be a dependent for federal income tax purposes if the public assistance contributing to the support of the child or stepchild was considered to have been contributed by the resident.

D. Except as provided in [~~Subsection F~~] Subsections F and G of this section, the tax rebate provided for in this section may be claimed in the amount shown in the following table:

Modified gross income is:	And the total number of exemptions is:						
	But Not						6 or
Over	Over	1	2	3	4	5	More
[\$ 0	<del>\$ 1,000</del>	<del>\$ 195</del>	<del>\$ 260</del>	<del>\$ 325</del>	<del>\$ 390</del>	<del>\$ 455</del>	<del>\$ 520</del>
1,000	1,500	220	315	405	505	570	675
1,500	2,500	220	315	405	505	570	705
2,500	7,500	220	315	405	505	570	730
7,500	8,000	205	310	390	495	575	730
8,000	9,000	185	285	375	480	575	700

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9,000	10,000	170	250	340	425	510	665
10,000	11,500	145	210	275	360	445	600
11,500	13,000	130	185	235	295	365	480
13,000	14,500	115	170	220	275	315	390
14,500	16,500	105	155	185	235	285	335
16,500	18,000	100	130	165	210	250	300
18,000	19,500	90	115	145	180	220	260
19,500	21,000	80	105	140	165	185	230
21,000	23,000	80	105	140	165	185	230
23,000	24,500	75	100	120	145	170	195
24,500	26,000	65	90	115	140	155	180
26,000	27,500	55	80	105	130	140	170
27,500	29,500	50	75	100	115	130	155
29,500	31,000	40	55	80	100	115	130
31,000	32,500	35	50	65	80	100	105
32,500	34,000	25	40	50	65	80	90
34,000	36,000	15	35	40	55	65	75]
<u>\$ 0</u>	<u>\$ 1,000</u>	<u>\$ 210</u>	<u>\$ 280</u>	<u>\$ 350</u>	<u>\$ 420</u>	<u>\$ 490</u>	<u>\$ 560</u>
<u>1,000</u>	<u>1,500</u>	<u>240</u>	<u>340</u>	<u>435</u>	<u>545</u>	<u>615</u>	<u>730</u>
<u>1,500</u>	<u>2,500</u>	<u>240</u>	<u>340</u>	<u>435</u>	<u>545</u>	<u>615</u>	<u>760</u>
<u>2,500</u>	<u>8,000</u>	<u>240</u>	<u>340</u>	<u>435</u>	<u>545</u>	<u>615</u>	<u>790</u>
<u>8,000</u>	<u>8,500</u>	<u>220</u>	<u>335</u>	<u>420</u>	<u>535</u>	<u>620</u>	<u>790</u>
<u>8,500</u>	<u>9,500</u>	<u>200</u>	<u>310</u>	<u>405</u>	<u>520</u>	<u>620</u>	<u>755</u>
<u>9,500</u>	<u>11,000</u>	<u>185</u>	<u>270</u>	<u>365</u>	<u>460</u>	<u>550</u>	<u>720</u>

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<u>11,000</u>	<u>12,500</u>	<u>155</u>	<u>225</u>	<u>295</u>	<u>390</u>	<u>480</u>	<u>650</u>
<u>12,500</u>	<u>14,000</u>	<u>140</u>	<u>200</u>	<u>255</u>	<u>320</u>	<u>395</u>	<u>520</u>
<u>14,000</u>	<u>15,500</u>	<u>125</u>	<u>185</u>	<u>240</u>	<u>295</u>	<u>340</u>	<u>420</u>
<u>15,500</u>	<u>18,000</u>	<u>115</u>	<u>165</u>	<u>200</u>	<u>255</u>	<u>310</u>	<u>360</u>
<u>18,000</u>	<u>19,500</u>	<u>110</u>	<u>140</u>	<u>180</u>	<u>225</u>	<u>270</u>	<u>325</u>
<u>19,500</u>	<u>21,000</u>	<u>95</u>	<u>125</u>	<u>155</u>	<u>195</u>	<u>240</u>	<u>280</u>
<u>21,000</u>	<u>22,500</u>	<u>85</u>	<u>115</u>	<u>150</u>	<u>180</u>	<u>200</u>	<u>250</u>
<u>22,500</u>	<u>25,000</u>	<u>85</u>	<u>115</u>	<u>150</u>	<u>180</u>	<u>200</u>	<u>250</u>
<u>25,000</u>	<u>26,500</u>	<u>80</u>	<u>110</u>	<u>130</u>	<u>155</u>	<u>185</u>	<u>210</u>
<u>26,500</u>	<u>28,000</u>	<u>70</u>	<u>95</u>	<u>125</u>	<u>150</u>	<u>165</u>	<u>195</u>
<u>28,000</u>	<u>29,500</u>	<u>60</u>	<u>85</u>	<u>115</u>	<u>140</u>	<u>150</u>	<u>185</u>
<u>29,500</u>	<u>32,000</u>	<u>55</u>	<u>80</u>	<u>110</u>	<u>125</u>	<u>140</u>	<u>165</u>
<u>32,000</u>	<u>33,500</u>	<u>45</u>	<u>60</u>	<u>85</u>	<u>110</u>	<u>125</u>	<u>140</u>
<u>33,500</u>	<u>35,000</u>	<u>40</u>	<u>55</u>	<u>70</u>	<u>85</u>	<u>110</u>	<u>115</u>
<u>35,000</u>	<u>36,500</u>	<u>25</u>	<u>45</u>	<u>55</u>	<u>70</u>	<u>85</u>	<u>95</u>
<u>36,500</u>	<u>39,000</u>	<u>15</u>	<u>40</u>	<u>45</u>	<u>60</u>	<u>70</u>	<u>80.</u>

E. If a taxpayer's modified gross income is zero, the taxpayer may claim a credit in the amount shown in the first row of the table appropriate for the taxpayer's number of exemptions as adjusted by the provisions of Subsection F of this section.

F. For the [2022] 2024 taxable year and each subsequent taxable year, the amount of rebate shown in the table in Subsection D of this section shall be adjusted to account for

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inflation. The department shall make the adjustment by multiplying each amount of rebate by a fraction, the numerator of which is the consumer price index ending during the prior taxable year and the denominator of which is the consumer price index ending in tax year ~~[2021]~~ 2022. The result of the multiplication shall be rounded down to the nearest one dollar (\$1.00), except that if the result would be an amount less than the corresponding amount for the preceding taxable year, then no adjustment shall be made.

G. For the 2024 taxable year and each subsequent taxable year, the amount of modified gross income shown in the table in Subsection D of this section shall be adjusted to account for inflation. The department shall make the adjustment by multiplying each amount of modified gross income by a fraction, the numerator of which is the consumer price index ending during the prior taxable year and the denominator of which is the consumer price index ending in tax year 2022. The result of the multiplication shall be rounded down to the nearest one hundred dollars (\$100), except that if the result would be an amount less than the corresponding amount for the preceding taxable year, then no adjustment shall be made.

~~[G.]~~ H. The tax rebates provided for in this section may be deducted from the taxpayer's New Mexico income tax liability for the taxable year. If the tax rebates exceed the

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taxpayer's income tax liability, the excess shall be refunded to the taxpayer.

[H.] I. For purposes of this section:

(1) "consumer price index" means the consumer price index for all urban consumers published by the United States department of labor for the month ending September 30; and

(2) "dependent" means "dependent" as defined by Section 152 of the Internal Revenue Code of 1986, as that section may be amended or renumbered, but also includes any minor child or stepchild of the resident who would be a dependent for federal income tax purposes if the public assistance contributing to the support of the child or stepchild was considered to have been contributed by the resident."

SECTION CC→9.←CC CC→8.←CC Section 7-2-18.22 NMSA 1978 (being Laws 2007, Chapter 361, Section 2) is amended to read:

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

A. A taxpayer who files an individual New Mexico tax return, who is not a dependent of another individual, who is an eligible health care practitioner and who has provided health care services in New Mexico in a rural health care underserved area in a taxable year may claim a credit against the tax liability imposed by the Income Tax Act. The credit provided in

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this section may be referred to as the "rural health care practitioner tax credit".

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

(1) five thousand dollars (\$5,000) for ~~[all]~~ eligible health care practitioners who are physicians, osteopathic physicians, dentists, clinical psychologists, podiatrists and optometrists who qualify pursuant to the provisions of this section ~~[except the credit shall not exceed];~~ and

(2) three thousand dollars (\$3,000) for ~~[all]~~ eligible health care practitioners who are pharmacists, dental hygienists, physician assistants, ~~[certified nurse-midwives]~~ certified registered nurse anesthetists, certified nurse practitioners, ~~[and]~~ clinical nurse specialists, registered nurses, midwives, licensed clinical social workers, licensed independent social workers, professional mental health counselors, professional clinical mental health counselors, marriage and family therapists, professional art therapists, alcohol and drug abuse counselors and physical therapists who qualify pursuant to the provisions of this section.

C. To qualify for the rural health care practitioner tax credit, an eligible health care practitioner shall have provided health care during ~~[a]~~ the taxable year for which the

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credit is claimed for at least [~~two thousand eighty~~] one thousand five hundred eighty-four hours at a practice site located in an approved rural health care underserved area. An eligible rural health care practitioner who provided health care services for at least [~~one thousand forty~~] seven hundred ninety-two hours but less than [~~two thousand eighty~~] one thousand five hundred eighty-four hours at a practice site located in an approved rural health care underserved area during [a] the taxable year for which the credit is claimed is eligible for one-half of the credit amount.

D. Before an eligible health care practitioner may claim the rural health care practitioner tax credit, the practitioner shall submit an application to the department of health that describes the practitioner's clinical practice and contains additional information that the department of health may require. The department of health shall determine whether an eligible health care practitioner qualifies for the rural health care practitioner tax credit and shall issue a certificate to each qualifying eligible health care practitioner. The department of health shall provide the taxation and revenue department appropriate information for all eligible health care practitioners to whom certificates are issued.

E. A taxpayer claiming the credit provided by this

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section shall submit a copy of the certificate issued by the department of health with the taxpayer's New Mexico income tax return for the taxable year. If the amount of the credit claimed exceeds a taxpayer's tax liability for the taxable year in which the credit is being claimed, the excess may be carried forward for three consecutive taxable years.

F. A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the department in a manner required by the department.

G. The department shall compile an annual report on the tax credit provided by this section that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the credit. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.

~~[F.]~~ H. As used in this section:

(1) "eligible health care practitioner" means:

~~[(a) a certified nurse-midwife licensed by the board of nursing as a registered nurse and licensed by the public health division of the department of health to practice nurse-midwifery as a certified nurse-midwife;~~

~~(b)]~~ (a) a dentist or dental hygienist

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licensed pursuant to the Dental Health Care Act;

(b) a midwife licensed by the department of health;

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

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

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

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

(g) a clinical psychologist licensed pursuant to the provisions of the Professional Psychologist Act; [and]

(h) a registered nurse [~~in advanced practice who has been prepared through additional formal education as provided in Sections 61-3-23.2 through 61-3-23.4 NMSA 1978 to function beyond the scope of practice of professional registered nursing, including certified nurse practitioners, certified registered nurse anesthetists and~~

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clinical nurse specialists] licensed pursuant to the provisions of the Nursing Practice Act;

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

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

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

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

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

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

(4) "rural" means ~~[an area or location~~

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~~identified by the department of health as falling outside of an urban area]~~ a rural county or an unincorporated area of a partially rural county, as designated by the health resources and services administration of the United States department of health and human services."

SECTION ~~CC~~<sup>10.</sup>~~CC~~ ~~CC~~<sup>9.</sup>~~CC~~ Section 7-2-18.34 NMSA 1978 (being Laws 2022, Chapter 47, Section 5) is amended to read:

"7-2-18.34. CHILD INCOME TAX CREDIT.--

A. For taxable years [~~beginning January 1, 2023 and~~] prior to January 1, 2032, a taxpayer who is a resident and is not a dependent of another individual may apply for, and the department may allow, a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act for each qualifying child of the taxpayer. The tax credit provided by this section may be referred to as the "child income tax credit".

B. Except as provided in Subsection D of this section, the child income tax credit may be claimed as shown in the following table:

Adjusted gross income is		Amount of credit per
Over	But not over	qualifying child is
\$ 0	\$ 25,000	[ <del>\$175</del> ] <u>\$600</u>
25,000	50,000	[ <del>±50</del> ] <u>400</u>
50,000	75,000	[ <del>±25</del> ] <u>200</u>

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75,000	100,000	100
100,000	200,000	75
200,000	350,000	50
350,000		25.

C. If a taxpayer's adjusted gross income is less than zero, the taxpayer may claim a tax credit in the amount shown in the first row of the table provided in Subsection B of this section.

D. For the 2024 taxable year and each subsequent taxable year, the amount of credit shown in the table in Subsection B of this section shall be adjusted to account for inflation. The department shall make the adjustment by multiplying each amount of credit by a fraction, the numerator of which is the consumer price index ending during the prior taxable year and the denominator of which is the consumer price index ending in tax year 2022. The result of the multiplication shall be rounded down to the nearest one dollar (\$1.00), except that if the result would be an amount less than the corresponding amount for the preceding taxable year, then no adjustment shall be made.

~~[D-]~~ E. To receive a child income tax credit, a taxpayer shall apply to the department on forms and in the manner prescribed by the department.

~~[E-]~~ F. That portion of a child income tax credit

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that exceeds a taxpayer's tax liability in the taxable year in which the credit is claimed shall be refunded.

[F-] G. Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of the child income tax credit that would have been claimed on a joint return.

[G-] H. A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the department in a manner required by the department.

[H-] I. The department shall compile an annual report on the child income tax credit that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the effectiveness of the credit. The department shall compile and present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.

[I-] J. As used in this section:

(1) "consumer price index" means the consumer price index for all urban consumers published by the United States department of labor for the month ending September 30;  
and

(2) "qualifying child" means "qualifying

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child" as defined by Section 152(c) of the Internal Revenue Code, as that section may be amended or renumbered, but includes any minor child or stepchild of the taxpayer who would be a qualifying child for federal income tax purposes if the public assistance contributing to the support of the child or stepchild was considered to have been contributed by the taxpayer."

SECTION ~~CC~~ ~~11~~. ~~CC~~ ~~10~~. ~~CC~~ Section 7-2-34 NMSA 1978 (being Laws 1999, Chapter 205, Section 1, as amended) is amended to read:

"7-2-34. DEDUCTION--NET CAPITAL GAIN INCOME.--

A. Except as provided in Subsection C of this section, a taxpayer may claim a deduction from net income in an amount equal to the greater of:

(1) the taxpayer's net capital gain income for the taxable year for which the deduction is being claimed, but not to exceed [~~one thousand dollars (\$1,000)~~] two thousand five hundred dollars (\$2,500); or

(2) forty percent of up to ~~CC~~ ~~three hundred thousand dollars (\$300,000)~~ ~~CC~~ ~~one million dollars (\$1,000,000)~~ ~~CC~~ of the taxpayer's net capital gain income from the sale of a business that is allocated or apportioned to New Mexico pursuant to Section 7-2-11 NMSA 1978 for the taxable year for which the deduction is being claimed.

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B. Married individuals who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the deduction provided by this section that would have been allowed on the joint return.

C. A taxpayer may not claim the deduction provided in Subsection A of this section if the taxpayer has claimed the credit provided in Section 7-2D-8.1 NMSA 1978.

D. As used in this section, "net capital gain" means "net capital gain" as defined in Section 1222 (11) of the Internal Revenue Code."

SECTION ~~CC-12.~~ CC-11. CC A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] ADDITIONAL 2021 INCOME TAX REBATES.--

A. A resident who files an individual New Mexico income tax return for taxable year 2021 and who is not a dependent of another individual is eligible for a tax rebate pursuant to this section in the following amounts:

(1) Hf11 ~~→ six hundred dollars (\$600) ←~~ Hf11

Hf11 → one thousand dollars (\$1,000) ← Hf11 for heads of household, surviving spouses and married individuals filing joint returns; and

(2) Hf11 ~~→ three hundred dollars (\$300) ←~~ Hf11

Hf11 → five hundred dollars (\$500) ← Hf11 for single individuals

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and married individuals filing separate returns.

B. The rebates shall be made as soon as practicable after a return is received; provided that a rebate shall not be allowed for a return filed after May 31, 2024.

C. The rebates provided by this section may be deducted from the taxpayer's New Mexico income tax liability for taxable year 2021. If the amount of rebate exceeds the taxpayer's income tax liability, the excess shall be refunded to the taxpayer.

D. The department may require a taxpayer to claim a rebate provided by this section on forms and in a manner required by the department."

SECTION CC→13.←CC CC→12.←CC A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] ELECTRIC VEHICLE INCOME TAX CREDIT.--

A. A taxpayer who is not a dependent of another individual and who, beginning on the effective date of this section and prior to January 1, 2028, purchases an electric vehicle or enters into a new lease of at least three years for an electric vehicle may claim a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act in an amount provided in Subsection B of this section. The tax credit provided by this section may be referred to as the "electric vehicle income tax credit".

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B. The electric vehicle income tax credit shall be in an amount equal to two thousand five hundred dollars (\$2,500), except that the amount of credit shall be in an amount equal to four thousand dollars (\$4,000) for a taxpayer with an annual household adjusted gross income equal to or less than two hundred percent of the federal poverty level guidelines published by the United States department of health and human services.

C. A taxpayer shall apply for certification of eligibility for the electric vehicle income tax credit from the department on forms and in the manner prescribed by the department. Except as provided in Subsection H of this section, only one electric vehicle income tax credit shall be allowed for each electric vehicle purchased or leased. The application shall include proof of purchase or lease, the electric vehicle's registration or application for registration and any additional information that the department may require to determine eligibility for the credit. The department shall issue a dated certificate of eligibility to the taxpayer providing the amount of the electric vehicle income tax credit for which the taxpayer is eligible and the taxable year in which the credit may be claimed for an electric vehicle that was purchased or leased.

D. The aggregate amount of electric vehicle income

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tax credit claims that may be authorized for payment in any calendar year is ten million dollars (\$10,000,000). If a taxpayer submits a claim for a tax credit but is unable to receive the tax credit because the claims for the calendar year exceed the limitation provided in this subsection, the taxpayer's claim shall be placed at the front of a queue of credit claimants for the subsequent calendar year in the order of the date on which the credit was authorized for payment. Completed applications for the tax credit shall be considered in the order received by the department.

E. Applications for certification of an electric vehicle income tax credit shall be made no later than one calendar year from the date in which the electric vehicle is purchased or the lease is entered into.

F. A certificate of eligibility for an electric vehicle income tax credit may be sold, exchanged or otherwise transferred to another taxpayer for the full value of the credit. The parties to such a transaction shall notify the department of the sale, exchange or transfer within ten days of the sale, exchange or transfer.

G. That portion of an approved electric vehicle income tax credit claimed by a taxpayer that exceeds the taxpayer's income tax liability in the taxable year in which an electric vehicle income tax credit is claimed shall be refunded

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to the taxpayer.

H. Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of the electric vehicle income tax credit that would have been claimed on a joint return.

I. A taxpayer may be allocated the right to claim the electric vehicle income tax credit in proportion to the taxpayer's ownership interest if the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership or limited liability company and that business entity has met all of the requirements to be eligible for the credit. The total credit claimed by all members of the partnership or limited liability company shall not exceed the allowable credit pursuant to this section.

J. A taxpayer shall submit to the department information required by the department with respect to the purchase or lease of an electric vehicle by the taxpayer during the taxable year for which the electric vehicle income tax credit is claimed.

K. The department shall compile an annual report on the electric vehicle income tax credit that shall include the number of taxpayers approved by the department to receive the tax credit, the aggregate amount of tax credits approved and any other information necessary to evaluate the tax credit.

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The department shall compile and present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.

L. As used in this section:

(1) "electric vehicle" means a new motor vehicle registered or purchased in New Mexico that derives all or part of the vehicle's power from electricity stored in a battery that:

(a) has a capacity of not less than six kilowatt-hours;

(b) is capable of powering the vehicle for a range of at least thirty miles; and

(c) is capable of being recharged from an external source of electricity; and

(2) "motor vehicle" means a vehicle with four wheels that:

(a) is required under the Motor Vehicle Code to be registered in this state;

(b) is made by a manufacturer;

(c) has a base manufacturer suggested retail price, before options and destination charges, of fifty-five thousand dollars (\$55,000) or less, before any taxes are imposed;

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(d) is manufactured primarily for use on public streets, roads or highways;

(e) has not been modified from the original manufacturer specifications;

(f) is rated at not less than two thousand two hundred pounds unloaded base weight and not more than nine thousand seven hundred fifty pounds unloaded base weight; and

(g) has a maximum speed capability of at least sixty-five miles per hour."

SECTION ~~CC~~<sup>14.</sup>~~CC~~ ~~CC~~<sup>13.</sup>~~CC~~ A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] ELECTRIC VEHICLE CHARGING UNIT INCOME TAX CREDIT.--

A. A taxpayer who is not a dependent of another individual and who, beginning on the effective date of this section and prior to January 1, 2028, purchases and installs an electric vehicle charging unit may claim a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act. The tax credit provided by this section may be referred to as the "electric vehicle charging unit income tax credit".

B. The electric vehicle charging unit income tax credit shall not exceed three hundred dollars (\$300) or the cost to purchase and install an electric vehicle charging unit,

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whichever is less.

C. A taxpayer shall apply for certification of eligibility for the electric vehicle charging unit income tax credit from the department on forms and in the manner prescribed by the department. The aggregate amount of electric vehicle charging unit income tax credits that may be certified as eligible in any calendar year is one million dollars (\$1,000,000). Completed applications shall be considered in the order received. If a taxpayer submits a claim for a tax credit but is unable to receive the tax credit because the claims for the calendar year exceed the limitation provided in this subsection, the taxpayer's claim shall be placed at the front of a queue of credit claimants for the subsequent calendar year in the order of the date on which the credit was authorized for payment.

D. An application for certification of eligibility shall include a receipt for the purchase of the electric vehicle charging unit, a copy of the data sheet that specifies the connector type, plug type, voltage and current of the electric vehicle charging unit and any additional information that the department may require to determine eligibility for the credit. The department shall issue a dated certificate of eligibility to the taxpayer providing the amount of the electric vehicle charging unit income tax credit for which the

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taxpayer is eligible and the taxable year in which the credit may be claimed.

E. Applications for certification of an electric vehicle charging unit income tax credit shall be made no later than one calendar year from the date in which the electric vehicle charging unit for which the credit is claimed is purchased and installed.

F. That portion of an electric vehicle charging unit income tax credit that exceeds a taxpayer's income tax liability in the taxable year in which an electric vehicle charging unit income tax credit is claimed shall be refunded to the taxpayer.

G. Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of the electric vehicle charging unit income tax credit that would have been claimed on a joint return.

H. A taxpayer may be allocated the right to claim the electric vehicle charging unit income tax credit in proportion to the taxpayer's ownership interest if the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership or limited liability company and that business entity has met all of the requirements to be eligible for the credit. The total credit

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claimed by all members of the partnership or limited liability company shall not exceed the allowable credit pursuant to this section.

I. A taxpayer allowed a tax credit pursuant to this section shall report the amount of the tax credit to the department in a manner required by the department.

J. The department shall compile an annual report on the electric vehicle charging unit income tax credit that shall include the number of taxpayers approved by the department to receive the tax credit, the aggregate amount of tax credits approved and any other information necessary to evaluate the effectiveness of the tax credit. The department shall present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the tax credit and whether the tax credit is performing the purpose for which it was created.

K. As used in this section:

(1) "electric vehicle" means a motor vehicle subject to the registration fee pursuant to Section 66-6-2 or 66-6-4 NMSA 1978 that derives all or part of the vehicle's power from electricity stored in a battery that:

(a) has a capacity of not less than six kilowatt-hours;

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(b) is capable of powering the vehicle for a range of at least thirty miles; and

(c) is capable of being recharged from an external source of electricity; and

(2) "electric vehicle charging unit" means a device that:

(a) is used to provide electricity to an electric vehicle;

(b) is designed to create a connection between an electricity source and the electric vehicle;

(c) uses the electric vehicle's control system to ensure that electricity flows at an appropriate voltage and current level; and

(d) is installed on residential property located in the state."

SECTION ~~CC~~15.~~←~~CC ~~CC~~14.~~←~~CC A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] ENERGY STORAGE SYSTEM INCOME TAX CREDIT.--

A. For taxable years prior to January 1, 2028, a taxpayer who is not a dependent of another individual and who, on or after March 1, 2023, purchases and installs an energy storage system on the taxpayer's residence or commercial or agricultural property in New Mexico may apply for, and the

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department may allow, a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act. The tax credit provided by this section may be referred to as the "energy storage system income tax credit".

B. The department may allow an energy storage system income tax credit of forty percent of the purchase and installation costs of an energy storage system certified pursuant to Subsection C of this section, up to a maximum amount of credit of five thousand dollars (\$5,000) for a system installed on residential property and one hundred fifty thousand dollars (\$150,000) for a system installed on commercial or agricultural property; provided that no more than one system per property shall be eligible for the credit. Costs related to equipment or installation costs for energy generation shall not be eligible.

C. A taxpayer shall apply for certification of eligibility for an energy storage system income tax credit from the energy, minerals and natural resources department on forms and in the manner prescribed by that department. The aggregate amount of credits that may be certified as eligible in any calendar year is four million dollars (\$4,000,000). Completed applications shall be considered in the order received. If the annual aggregate amount has been met before certification of a taxpayer's application can be made, the application shall be

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placed in a queue to be issued in a subsequent calendar year. The application shall include proof of purchase and installation of an energy storage system, that the system meets technical specifications and requirements relating to safety, code and standards compliance, lists of eligible components and any additional information that the energy, minerals and natural resources department may require to determine eligibility for the credit. A dated certificate of eligibility shall be issued to the taxpayer providing the amount of credit for which the taxpayer is eligible and the taxable year in which the credit may be claimed. STBTC→A certificate of eligibility for the credit may be sold, exchanged or otherwise transferred to another taxpayer for the full value of the credit. The parties to such a transaction shall notify the department of the sale, exchange or transfer within ten days of the sale, exchange or transfer.←STBTC

D. A taxpayer may claim an energy storage system income tax credit for the taxable year in which the taxpayer purchases and installs the system. To receive the tax credit, a taxpayer shall apply to the department on forms and in the manner prescribed by the department within twelve months following the calendar year in which the system was installed. The application shall include a certification made pursuant to Subsection C of this section.

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E. For that portion of an energy storage system income tax credit that exceeds a taxpayer's tax liability in the taxable year in which the credit is claimed, the excess shall STBTC→~~not~~←STBTC be refunded to the taxpayer STBTC→~~but~~ **may be carried forward for five consecutive years until the credit amount is expired**←STBTC.

F. Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of the energy storage system income tax credit that would have been claimed on a joint return.

G. A taxpayer may be allocated the right to claim an energy storage system income tax credit in proportion to the taxpayer's ownership interest if the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership or limited liability company and that business entity has met all of the requirements to be eligible for the credit. The total credit claimed by all members of the partnership or limited liability company shall not exceed the allowable credit pursuant to this section.

H. A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the taxation and revenue department in a manner required by that department.

I. The taxation and revenue department shall

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compile an annual report on the energy storage system income tax credit that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the credit. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.

J. As used in this section, "energy storage system" means a stationary, commercially available, customer-sited system, including a battery and a battery paired with on-site generation, that is capable of retaining, storing and delivering electrical energy by chemical, thermal, mechanical or other means and:

(1) is installed as a stand-alone energy storage system or is grid-tied; provided that if the system is grid-tied, the system has the capability to provide grid services and control and communication infrastructure exists with the service provider;

(2) has been tested and certified by a nationally recognized testing laboratory;

(3) has a rating of four kilowatts or greater with a minimum of two hours of storage; and

(4) is installed for use with a new or

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existing photovoltaic system."

SECTION ~~CC~~→16.←CC CC→15.←CC Section 7-2A-5 NMSA 1978 (being Laws 1981, Chapter 37, Section 38, as amended) is amended to read:

"7-2A-5. CORPORATE INCOME TAX [RATES] RATE.--The corporate income tax imposed on corporations by Section 7-2A-3 NMSA 1978 shall be

<del>If the taxable income is:</del>	<del>The tax shall be:</del>
<del>Not over \$500,000</del>	<del>4.8% of taxable income</del>
<del>Over \$500,000</del>	<del>\$24,000 plus 5.9% of excess over \$500,000]</del>

five and nine-tenths percent of taxable income."

~~STBTC~~→~~SECTION 17. Section 7-4-10 NMSA 1978 (being Laws 1993, Chapter 153, Section 1, as amended) is amended to read:~~

~~"7-4-10. APPORTIONMENT OF BUSINESS INCOME.--~~

~~A. Except as provided in [Subsections] Subsection B [and C] of this section, all business income shall be apportioned to this state by multiplying the income by [a fraction, the numerator of which is the property factor plus the payroll factor plus] the sales factor. [and the denominator of which is three.~~

~~B. If eighty percent or more of the New Mexico numerators of the property and payroll factors for a filing group, or for a taxpayer that is not a member of a filing~~

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~~group, are employed in manufacturing or operating a computer processing facility, the filing group or the taxpayer may elect to have business income apportioned to this state by multiplying the income by the sales factor for the taxable year.~~

~~C. If a filing group, or a taxpayer that is not a member of a filing group, has a headquarters operation in New Mexico, the filing group or the taxpayer may elect to have business income apportioned to this state by multiplying the income by the sales factor for the taxable year.~~

~~D. To elect the method of apportionment provided by Subsection B or C of this section, the taxpayer shall notify the department of the election, in writing, no later than the date on which the taxpayer files the return for the first taxable year to which the election will apply. The election shall apply as follows:~~

~~(1) if the election is made for taxable years beginning prior to January 1, 2020, to the taxable year in which the election is made and to each taxable year thereafter for three years, or until the taxable year ending prior to January 1, 2020, whichever is earlier;~~

~~(2) if the election is made for a taxable year beginning on or after January 1, 2020, to the taxable year in which the election is made and to each taxable year thereafter~~

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~~until the taxpayer notifies the department, in writing, that the election is terminated, except that the taxpayer shall not terminate the election until the method of apportioning business income provided by Subsection B or C of this section has been used by the taxpayer for at least three consecutive taxable years, including a total of at least thirty-six calendar months; and~~

~~(3) if the election is made by a qualifying filing group, the election shall apply to the members of the filing group properly included pursuant to Section 7-2A-8.3 NMSA 1978.~~

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

~~(1) "filing group" means "filing group" as that term is defined in the Corporate Income and Franchise Tax Act;~~

~~(2) "headquarters operation" means:~~

~~(a) the center of operations of a business: 1) where corporate staff employees are physically employed; 2) where the centralized functions are primarily performed, including administrative, planning, managerial, human resources, purchasing, information technology and accounting, but not including operating a call center; 3) the function and purpose of which is to manage and direct most aspects and functions of the business operations within a~~

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~~subdivided area of the United States; 4) from which final authority over regional or subregional offices, operating facilities and any other offices of the business are issued; and 5) including national and regional headquarters if the national headquarters is subordinate only to the ownership of the business or its representatives and the regional headquarters is subordinate to the national headquarters; or~~

~~(b) the center of operations of a business: 1) the function and purpose of which is to manage and direct most aspects of one or more centralized functions; and 2) from which final authority over one or more centralized functions is issued;~~

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

~~(a) construction;~~

~~(b) farming;~~

~~(c) power generation; provided that for taxable years beginning prior to January 1, 2024,~~

~~"manufacturing" includes electricity generation at a facility that does not require location approval and a certificate of convenience and necessity prior to commencing construction or operation of the facility pursuant to the Public Utility Act;~~

~~(d) processing natural resources,~~

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~~including hydrocarbons; or~~

~~(e) processing or preparation of meals for immediate consumption; and~~

~~(4) "operating a computer processing facility" means managing the necessary and ancillary activities for the operation of a facility primarily used to process data or information, but does not include managing the operation of facilities that are predominantly used to support sales of tangible property or the provision of banking, financial or professional services.]~~

~~B. For a taxable year prior to January 1, 2027, all business income of a taxpayer that is a railroad shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three."~~ ←STBTC

SECTION CC→18.←CC CC→16.←CC Section 7-9-4 NMSA 1978

(being Laws 1966, Chapter 47, Section 4, as amended) is amended to read:

"7-9-4. IMPOSITION AND RATE OF TAX--DENOMINATION AS "GROSS RECEIPTS TAX".--

A. For the privilege of engaging in business, an excise tax equal to the following percentages of gross receipts is imposed on any person engaging in business in New Mexico:

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CC→(1) ~~prior to July 1, [2023, five] 2024,~~  
~~four and one-half percent; and~~

(2) ~~beginning July 1, [2023, four and seven-~~  
~~eighths] 2024, four and three-eighths percent, except as~~  
~~provided in Subsection C of this section.~~←CC

CC→(1) prior to July 1, 2024, four and  
three-fourths percent;

(2) beginning July 1, 2024 and prior to July  
1, 2025, four and five-eighths percent;

(3) beginning July 1, 2025 and prior to July 1,  
2026, four and one-half percent; and

(4) beginning July 1, 2026, four and  
three-eighths percent, except as provided in Subsection C of  
this section.←CC

B. The tax imposed by this section shall be  
referred to as the "gross receipts tax".

C. If, for any single fiscal year occurring after  
fiscal year CC→2025←CC CC→2027←CC and prior to fiscal year  
CC→2030←CC, CC→2037←CC gross receipts tax revenues are less  
than ninety-five percent of the gross receipts tax revenues for  
the previous fiscal year, as determined by the secretary of  
finance and administration, the rate of the gross receipts tax  
shall be [five and one-eighth] CC→~~four and three-fourths~~←CC  
CC→four and seven-eighths percent←CC beginning on the July 1  
following the determination made by the secretary of finance

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and administration.

D. On or before February 1 of each year, until the rate of the gross receipts tax is adjusted to [~~five and one-eighth~~] CC→~~four and three-fourths~~←CC CC→~~four and seven-eighths~~←CC percent pursuant to Subsection C of this section, the secretary of finance and administration shall make a determination for the purposes of Subsection C of this section. If the rate of tax is adjusted pursuant to that subsection, the secretary shall certify to the secretary of taxation and revenue that the rate of the gross receipts tax shall be [~~five and one-eighth~~] CC→~~four and three-fourths~~←CC CC→~~four and seven-eighths~~←CC percent, effective on the following July 1.

E. As used in this section, "gross receipts tax revenues" means the net receipts attributable to the gross receipts tax and distributed to the general fund."

SECTION CC→~~19.~~←CC CC→~~17.~~←CC Section 7-9-7 NMSA 1978 (being Laws 1966, Chapter 47, Section 7, as amended) is amended to read:

"7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS "COMPENSATING TAX".--

A. For the privilege of making taxable use of tangible personal property in New Mexico, there is imposed on the person using the property an excise tax equal to [~~five]~~

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CC→~~four and one-half percent prior to July 1, [2023] 2024 and four and [seven-eighths] three-eighths percent beginning July 1, [2023] 2025~~←CC CC→four and three-fourths percent prior to July 1, 2024; beginning July 1, 2024 and prior to July 1, 2025, four and five-eighths percent; beginning July 1, 2025 and prior to July 1, 2026, four and one-half percent; and beginning July 1, 2026, four and three-eighths percent←CC , except as provided in Subsection G of this section, of the value of tangible property that was:

- (1) manufactured by the person using the property in the state; or
- (2) acquired in a transaction for which the seller's receipts were not subject to the gross receipts tax.

B. For the purpose of Subsection A of this section, value of tangible personal property shall be the adjusted basis of the property for federal income tax purposes determined as of the time of acquisition or introduction into this state or of conversion of the property to taxable use, whichever is later. If no adjusted basis for federal income tax purposes is established for the property, a reasonable value of the property shall be used.

C. For the privilege of making taxable use of a license or franchise in New Mexico, there is imposed on the person using the license or franchise an excise tax equal to the rate provided in Subsection A or G of this section, as

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applicable, against the value of the license or franchise in its use in this state. The department by rule, ruling or instruction shall fairly apportion, where appropriate, the value of a license or franchise to its value in use in New Mexico. The tax shall apply only to the value of a license or franchise used in New Mexico where the license or franchise was acquired in a transaction the receipts from which were not subject to the gross receipts tax.

D. For the privilege of making taxable use of services in New Mexico, there is imposed on the person using the services an excise tax equal to the rate provided in Subsection A or G of this section, as applicable, against the value of the services at the time the services were performed or the product of the service was acquired. For use of services to be a taxable use pursuant to this subsection, the services shall have been acquired in a transaction the receipts from which were not subject to the gross receipts tax.

E. For purposes of this section, receipts are not subject to the gross receipts tax if the person responsible for the gross receipts tax on those receipts lacked nexus in New Mexico or the receipts were exempt or allowed to be deducted pursuant to the Gross Receipts and Compensating Tax Act.

F. The tax imposed by this section shall be referred to as the "compensating tax".

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G. If the gross receipts tax is increased to [~~five and one-eighth~~] CC→~~four and three-fourths~~←CC CC→~~four and seven-eighths~~←CC percent pursuant to Subsection C of Section 7-9-4 NMSA 1978, the rate of the compensating tax shall be [~~five and one-eighth~~] CC~~four and three-fourths~~←CC CC→~~four and seven-eighths~~←CC percent.

H. As used in this section, "taxable use" means use by a person who acquires tangible personal property, a license, a franchise or a service, and the use of which would not have qualified for an exemption or deduction pursuant to the Gross Receipts and Compensating Tax Act."

SECTION CC→~~20.~~←CC CC→~~18.~~←CC A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"[NEW MATERIAL] DEDUCTIONS--GROSS RECEIPTS--CHILD CARE ASSISTANCE THROUGH A LICENSED CHILD CARE ASSISTANCE PROGRAM--PRE-KINDERGARTEN SERVICES BY FOR-PROFIT PRE-KINDERGARTEN PROVIDERS.--

A. Prior to July 1, 2033, receipts from the sale of child care assistance services by a taxpayer pursuant to a contract or grant with the early childhood education and care department to provide such services through a licensed child care assistance program may be deducted from gross receipts.

B. Prior to July 1, 2033, receipts of for-profit pre-kindergarten providers for the sale of pre-kindergarten

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services pursuant to the Pre-Kindergarten Act may be deducted from gross receipts.

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

D. The department shall compile an annual report on the deductions provided by this section that shall include the number of taxpayers that claimed each deduction, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deductions. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the deductions.

E. As used in this section:

(1) "child care assistance" means "child care assistance" or "early childhood care assistance", as those terms are defined in the Early Childhood Care Accountability Act; and

(2) "licensed child care assistance program" means "licensed child care program", "licensed early childhood care program" or "licensed exempt child care program", as those terms are defined in the Early Childhood Care Accountability Act."

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SECTION CC→21.←CC CC→19.←CC A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS TAX-- ENVIRONMENTAL MODIFICATIONS FOR MEDICAID RECIPIENTS.--

A. Prior to July 1, 2033, receipts of an eligible provider for environmental modification services reimbursed by the medical assistance division may be deducted from gross receipts.

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

C. The department shall compile an annual report on the deductions provided by this section that shall include the number of taxpayers that claimed each deduction, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deductions. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the deductions.

D. As used in this section:

(1) "eligible provider" means a provider who meets requirements of the medical assistance division to provide environmental modifications pursuant to a waiver

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granted by the federal department of health and human services to provide home and community-based services to recipients;

(2) "environmental modifications" include the purchasing and installing of equipment or making physical adaptations to a recipient's residence that are necessary to ensure the health, welfare and safety of the recipient or enhance the recipient's access to the home environment and increase the recipient's ability to act independently;

(3) "medicaid" means the medical assistance program established pursuant to Title 19 of the federal Social Security Act and regulations issued pursuant to that act;

(4) "medical assistance division" means the medical assistance division of the human services department; and

(5) "recipient" means a person whom the department has determined to be eligible to receive medicaid-related services and who meets the financial and medical level of care criteria to receive medical assistance division services through one of the division's waiver programs granted by the federal department of health and human services."

STBTC → ~~SECTION 22. Section 7-12A-3 NMSA 1978 (being Laws 1986, Chapter 112, Section 4, as amended) is amended to read:~~

~~"7-12A-3. IMPOSITION AND RATES OF TAX--REDUCTION OF RATE FOR CERTAIN TOBACCO PRODUCTS--DENOMINATION AS "TOBACCO PRODUCTS~~

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~~TAX"---DATE PAYMENT OF TAX DUE.---~~

~~A. For the manufacture or acquisition of [tobacco] certain products in New Mexico [not including cigars, little cigars, e-liquid, e-cigarettes or closed system cartridges] to be distributed in the ordinary course of business and for the consumption of [tobacco] certain products in New Mexico, there is imposed an excise tax at the [rate of twenty-five percent of the product value of the tobacco products~~

~~B. For the manufacture or acquisition of] following rates:~~

~~(1) for cigars, [in New Mexico to be distributed in the ordinary course of business and for the consumption of cigars in New Mexico, there is imposed an excise tax at a rate equal to] twenty-five percent of the product value of the cigar; [not to exceed fifty cents (\$.50) per cigar~~

~~C. For the manufacture or acquisition of]~~

~~(2) for little cigars, [in New Mexico to be distributed in the ordinary course of business and for the consumption of little cigars in New Mexico, there is imposed an excise tax at] a rate equal to the rate imposed on cigarettes pursuant to Section 7-12-3 NMSA 1978 per package of little cigars;~~

~~[D. For the manufacture or acquisition of]~~

~~(3) for e-liquid, [in New Mexico to be~~

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~~distributed in the ordinary course of business and for the consumption of e-liquid in New Mexico, there is imposed an excise tax at a rate equal to} twelve and one-half percent of the product value of the e-liquid;~~

~~{E. For the manufacture or acquisition of}~~

~~{4} for closed system cartridges, {in New Mexico to be distributed in the ordinary course of business, there is imposed an excise tax at a rate of} fifty cents (\$.50) per closed system cartridge; and~~

~~{5} for all other tobacco products, twenty-five percent of the value of the tobacco product.~~

~~{H.} B. The taxes imposed by this section may be referred to as the "tobacco products tax".~~

~~{I.} C. The tobacco products tax shall be paid by the first purchaser on or before the twenty-fifth day of the month following the month in which the taxable event occurs."~~

~~SECTION 23. Section 7-14-10 NMSA 1978 (being Laws 1988, Chapter 73, Section 20, as amended) is amended to read:~~

~~"7-14-10. DISTRIBUTION OF PROCEEDS.--The receipts from the tax and any associated interest and penalties shall be deposited in the "motor vehicle suspense fund", hereby created in the state treasury. As of the end of each month, the net receipts attributable to the tax and associated penalties and interest shall be distributed as follows:~~

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~~A. [fifty-nine and thirty-nine hundredths] prior to July 1, 2024:~~

~~(1) fifty-three and fourteen hundredths percent to the general fund;~~

~~[B.] (2) twenty-one and eighty-six hundredths percent to the state road fund; and~~

~~[C. eighteen and seventy-five hundredths]~~

~~(3) twenty-five percent to the transportation project fund; and~~

~~B. beginning July 1, 2024:~~

~~(1) seventy-five percent to the state road fund; and~~

~~(2) twenty-five percent to the transportation project fund."~~

~~SECTION 24. Section 7-17-5 NMSA 1978 (being Laws 1993, Chapter 65, Section 8, as amended) is amended to read:~~

~~"7-17-5. IMPOSITION AND RATE OF LIQUOR EXCISE TAX.--~~

~~A. There is imposed on a wholesaler who sells alcoholic beverages on which the tax imposed by this section has not been paid an excise tax, to be referred to as the "liquor excise tax", at the [following] rates provided in Subsections B through F of this section on alcoholic beverages sold.~~

~~[(1) on spirituous liquors, except as provided~~

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~~in Paragraph (9) of this subsection, one dollar sixty cents (\$1.60) per liter;~~

~~(2) on beer, except as provided in Paragraph (5) of this subsection, forty-one cents (\$.41) per gallon;~~

~~(3) on wine, except as provided in Paragraphs (4) and (6) of this subsection, forty-five cents (\$.45) per liter;~~

~~(4) on fortified wine, one dollar fifty cents (\$1.50) per liter;~~

~~(5) on beer manufactured or produced by a microbrewer and sold in this state, provided that proof is furnished to the department that the beer was manufactured or produced by a microbrewer, eight cents (\$.08) per gallon on the first thirty thousand barrels sold, twenty-eight cents (\$.28) per gallon for all barrels sold over thirty thousand barrels but less than sixty thousand barrels and forty-one cents (\$.41) per gallon for sixty thousand or more barrels sold;~~

~~(6) on wine manufactured or produced by a small winegrower and sold in this state, provided that proof is furnished to the department that the wine was manufactured or produced by a small winegrower:~~

~~(a) ten cents (\$.10) per liter on the first eighty thousand liters sold;~~

~~(b) twenty cents (\$.20) per liter on~~

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~~each liter sold over eighty thousand liters but not over nine hundred fifty thousand liters; and~~

~~(c) thirty cents (\$.30) per liter on each liter sold over nine hundred fifty thousand liters but not over one million five hundred thousand liters;~~

~~(7) on cider, except as provided in Paragraph (8) of this subsection, forty-one cents (\$.41) per gallon;~~

~~(8) on cider manufactured or produced by a small winegrower and sold in this state, provided that proof is furnished to the department that the cider was manufactured or produced by a small winegrower, eight cents (\$.08) per gallon on the first thirty thousand barrels sold, twenty-eight cents (\$.28) per gallon for all barrels sold over thirty thousand barrels but less than sixty thousand barrels and forty-one cents (\$.41) per gallon for sixty thousand or more barrels sold; and~~

~~(9) on spirituous liquors manufactured or produced by a craft distiller licensed pursuant to Section 60-6A-6.1 NMSA 1978, provided that proof is provided to the department that the spirituous liquors were manufactured or produced by a craft distiller, for products up to ten percent alcohol by volume, eight cents (\$.08) per liter for the first two hundred fifty thousand liters sold and twenty-eight cents (\$.28) per liter for the next two hundred fifty thousand liters~~

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~~sold and for products over ten percent alcohol by volume, thirty-two cents (\$.32) per liter on the first one hundred seventy-five thousand liters sold and sixty-five cents (\$.65) per liter on the next two hundred thousand liters sold.]~~

~~B. The liquor excise tax imposed on spirituous liquors is:~~

~~(1) if manufactured or produced by a craft distiller licensed pursuant to Section 60-6A-6.1 NMSA 1978; provided that proof is provided to the department that the spirituous liquors were manufactured or produced by a craft distiller:~~

~~(a) for products up to ten percent alcohol by volume: 1) eight cents (\$.08) per liter for the first two hundred fifty thousand liters sold; and 2) twenty-eight cents (\$.28) per liter for the next two hundred fifty thousand liters sold; and~~

~~(b) for products over ten percent alcohol by volume: 1) thirty-two cents (\$.32) per liter on the first one hundred seventy-five thousand liters sold; and 2) sixty-five cents (\$.65) per liter on the next two hundred thousand liters sold; and~~

~~(2) for all other manufacturers and producers, one dollar seventy-five cents (\$1.75) per liter sold.~~

~~G. The liquor excise tax imposed on beer is:~~

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~~(1) if manufactured or produced by a microbrewer and sold in this state; provided that proof is furnished to the department that the beer was manufactured or produced by a microbrewer:~~

~~(a) eight cents (\$.08) per gallon on the first thirty thousand barrels sold;~~

~~(b) twenty-eight cents (\$.28) per gallon for all barrels sold over thirty thousand barrels but less than sixty thousand barrels sold; and~~

~~(c) forty-one cents (\$.41) per gallon for sixty thousand or more barrels sold; and~~

~~(2) for all other manufacturers or producers, fifty-six cents (\$.56) per gallon sold.~~

~~D. The liquor excise tax imposed on cider is:~~

~~(1) if manufactured or produced by a small winegrower and sold in this state; provided that proof is furnished to the department that the cider was manufactured or produced by a small winegrower:~~

~~(a) eight cents (\$.08) per gallon on the first thirty thousand barrels sold;~~

~~(b) twenty-eight cents (\$.28) per gallon for all barrels sold over thirty thousand barrels but less than sixty thousand barrels sold; and~~

~~(c) forty-one cents (\$.41) per gallon~~

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~~for sixty thousand or more barrels sold; and~~

~~(2) for all other manufacturers or producers, fifty-six cents (\$.56) per gallon sold.~~

~~E. The liquor excise tax imposed on wine is:~~

~~(1) if manufactured or produced by a small winegrower and sold in this state; provided that proof is furnished to the department that the wine was manufactured or produced by a small winegrower:~~

~~(a) ten cents (\$.10) per liter on the first eighty thousand liters sold;~~

~~(b) twenty cents (\$.20) per liter on each liter sold over eighty thousand liters but not over nine hundred fifty thousand liters sold; and~~

~~(c) thirty cents (\$.30) per liter on each liter sold over nine hundred fifty thousand liters but not over one million five hundred thousand liters sold; and~~

~~(2) for all other manufacturers and producers, sixty cents (\$.60) per liter sold.~~

~~F. The liquor excise tax imposed on fortified wine is one dollar sixty-five cents (\$1.65) per liter sold.~~

~~[B.] G. The volume of wine transferred from one winegrower to another winegrower for processing, bottling or storage and subsequent return to the transferor shall be excluded pursuant to Section 7-17-6 NMSA 1978 from the taxable~~

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~~volume of wine of the transferee. Wine transferred from an initial winegrower to a second winegrower remains a tax liability of the transferor, provided that if the wine is transferred to the transferee for the transferee's use or for resale, the transferee then assumes the liability for the tax due pursuant to this section.~~

~~[C.] H. A transfer of wine from a winegrower to a wholesaler for distribution of the wine transfers the liability for payment of the liquor excise tax to the wholesaler upon the sale of the wine by the wholesaler."~~ ←STBTC

SECTION CC→25.←CC CC→20.←CC [NEW MATERIAL] ALCOHOL HARMS ALLEVIATION FUND.--

A. The "alcohol harms alleviation fund" is created as a reverting fund in the state treasury. The fund consists of appropriations, distributions, gifts, grants, donations and bequests made to the fund and income from investment of the fund. The department of finance and administration shall administer the fund, and money in the fund is subject to appropriation by the legislature to the human services department, department of health, early childhood education and care department, public education department and higher education department for:

- (1) alcohol harms prevention, treatment and recovery services;

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(2) behavioral health treatment for justice-involved populations and others not covered by the state medicaid program or other health insurance;

(3) addressing social determinants of health related to alcohol misuse;

(4) support for victims of alcohol-related crimes, including domestic violence and sexual assault; and

(5) prevention and reduction of alcohol harms on lands of Indian nations, tribes and pueblos.

B. Money in the fund shall be expended by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary or the secretary's authorized representative.

~~CC→SECTION 26. APPLICABILITY.--~~

~~A. The provisions of Sections 8 through 10 and 13 through 15 of this act apply to taxable years beginning on or after January 1, 2023.~~

~~B. The provisions of Sections 11, 16 and 17 of this act apply to taxable years beginning on or after January 1, 2024.~~

~~SECTION 27. EFFECTIVE DATE.--~~

~~A. The effective date of the provisions of Section 12 of this act is April 1, 2023.~~

~~B. The effective date of the provisions of Sections~~

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~~1 through 4 and 18 through 23 of this act is July 1, 2023.~~

~~G. The effective date of the provisions of Sections 7, 11, 16 and 17 of this act is January 1, 2024.~~

~~D. The effective date of the provisions of Sections 5, 24 and 25 of this act is July 1, 2024.~~ ←CC

CC→SECTION 21. Section 7-1-6.40 NMSA 1978 (being Laws 1997, Chapter 182, Section 1, as amended) is amended to read:

"7-1-6.40. DISTRIBUTION OF LIQUOR EXCISE TAX--LOCAL DWI GRANT FUND--CERTAIN MUNICIPALITIES--DRUG COURT FUND--ALCOHOL HARMS ALLEVIATION FUND.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to ~~[forty-five]~~ forty percent of the net receipts attributable to the liquor excise tax shall be made to the local DWI grant fund.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 ~~[of twenty thousand seven hundred fifty dollars (\$20,750) monthly from]~~ in an amount equal to one percent of the net receipts attributable to the liquor excise tax shall be made to a municipality that is located in a class A county and that has a population according to the most recent federal decennial census of more than thirty thousand but less than sixty thousand and shall be used by the municipality only for the provision of alcohol treatment and rehabilitation services for street inebriates.

C. ~~[Beginning July 1, 2019]~~ A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to ~~[five]~~ six

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percent of the net receipts attributable to the liquor excise tax shall be made to the drug court fund.

D. A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to fifty-three percent of the net receipts attributable to the liquor excise tax shall be made to the alcohol harms alleviation fund."

SECTION 22. Section 7-17-5 NMSA 1978 (being Laws 1993, Chapter 65, Section 8, as amended) is amended to read:

"7-17-5. IMPOSITION AND RATE OF LIQUOR EXCISE TAX.--

A. There is imposed on a wholesaler who sells alcoholic beverages on which the tax imposed by this section has not been paid an excise tax, to be referred to as the "liquor excise tax", at the [following] rates provided in Subsections B through F of this section on alcoholic beverages sold.

~~(1) on spirituous liquors, except as provided in Paragraph (9) of this subsection, one dollar sixty cents (\$1.60) per liter;~~

~~(2) on beer, except as provided in Paragraph (5) of this subsection, forty one cents (\$.41) per gallon;~~

~~(3) on wine, except as provided in Paragraphs (4) and (6) of this subsection, forty five cents (\$.45) per liter;~~

~~(4) on fortified wine, one dollar fifty cents (\$1.50) per liter;~~

~~(5) on beer manufactured or produced by a microbrewer and sold in this state, provided that proof is~~

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~~furnished to the department that the beer was manufactured or produced by a microbrewer, eight cents (\$.08) per gallon on the first thirty thousand barrels sold, twenty-eight cents (\$.28) per gallon for all barrels sold over thirty thousand barrels but less than sixty thousand barrels and forty one cents (\$.41) per gallon for sixty thousand or more barrels sold;~~

~~(6) on wine manufactured or produced by a small winegrower and sold in this state, provided that proof is furnished to the department that the wine was manufactured or produced by a small winegrower:~~

~~(a) ten cents (\$.10) per liter on the first eighty thousand liters sold;~~

~~(b) twenty cents (\$.20) per liter on each liter sold over eighty thousand liters but not over nine hundred fifty thousand liters; and~~

~~(c) thirty cents (\$.30) per liter on each liter sold over nine hundred fifty thousand liters but not over one million five hundred thousand liters;~~

~~(7) on cider, except as provided in Paragraph (8) of this subsection, forty one cents (\$.41) per gallon;~~

~~(8) on cider manufactured or produced by a small winegrower and sold in this state, provided that proof is furnished to the department that the cider was manufactured or produced by a small winegrower, eight cents (\$.08) per gallon on the first thirty thousand barrels sold, twenty-eight cents (\$.28) per gallon for all barrels sold over thirty thousand barrels but less than sixty thousand barrels and forty one~~

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~~cents (\$.41) per gallon for sixty thousand or more barrels sold; and~~

~~(9) on spirituous liquors manufactured or produced by a craft distiller licensed pursuant to Section 60-6A-6.1 NMSA 1978, provided that proof is provided to the department that the spirituous liquors were manufactured or produced by a craft distiller, for products up to ten percent alcohol by volume, eight cents (\$.08) per liter for the first two hundred fifty thousand liters sold and twenty-eight cents (\$.28) per liter for the next two hundred fifty thousand liters sold and for products over ten percent alcohol by volume, thirty-two cents (\$.32) per liter on the first one hundred seventy-five thousand liters sold and sixty-five cents (\$.65) per liter on the next two hundred thousand liters sold.]~~

B. The liquor excise tax imposed on spirituous liquors is:

(1) if manufactured or produced by a craft distiller licensed pursuant to Section 60-6A-6.1 NMSA 1978; provided that proof is provided to the department that the spirituous liquors were manufactured or produced by a craft distiller:

(a) for products up to ten percent alcohol by volume: 1) eight cents (\$.08) per liter for the first two hundred fifty thousand liters sold; and 2) twenty-eight cents (\$.28) per liter over two hundred fifty thousand liters sold; and

(b) for products over ten percent

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alcohol by volume: 1) thirty-two cents (\$.32) per liter on the first one hundred seventy-five thousand liters sold; and 2) sixty-five cents (\$.65) per liter over two hundred thousand liters sold; and

(2) for all other manufacturers and producers, one dollar ninety-two cents (\$1.92) per liter sold.

C. The liquor excise tax imposed on beer is:

(1) if manufactured or produced by a microbrewer and sold in this state; provided that proof is furnished to the department that the beer was manufactured or produced by a microbrewer:

(a) eight cents (\$.08) per gallon on the first thirty thousand barrels sold;

(b) twenty-eight cents (\$.28) per gallon for all barrels sold over thirty thousand barrels but less than sixty thousand barrels sold; and

(c) forty-one cents (\$.41) per gallon for sixty thousand or more barrels sold; and

(2) for all other manufacturers or producers, forty-nine cents (\$.49) per gallon sold.

D. The liquor excise tax imposed on cider is:

(1) if manufactured or produced by a small winegrower and sold in this state; provided that proof is furnished to the department that the cider was manufactured or produced by a small winegrower:

(a) eight cents (\$.08) per gallon on the first thirty thousand barrels sold;

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(b) twenty-eight cents (\$.28) per gallon for all barrels sold over thirty thousand barrels but less than sixty thousand barrels sold; and

(c) forty-one cents (\$.41) per gallon for sixty thousand or more barrels sold; and

(2) for all other manufacturers and producers, forty-nine cents (\$.49) per gallon sold.

E. The liquor excise tax imposed on wine is:

(1) if manufactured or produced by a small winegrower and sold in this state; provided that proof is furnished to the department that the wine was manufactured or produced by a small winegrower:

(a) ten cents (\$.10) per liter on the first eighty thousand liters sold;

(b) twenty cents (\$.20) per liter on each liter sold over eighty thousand liters but not over nine hundred fifty thousand liters sold; and

(c) thirty cents (\$.30) per liter on each liter sold over nine hundred fifty thousand liters but not over one million five hundred thousand liters sold; and

(2) for all other manufacturers and producers, fifty-four cents (\$.54) per liter sold.

F. The liquor excise tax imposed on fortified wine is one dollar eighty cents (\$1.80) per liter sold.

[B-] G. The volume of wine transferred from one winegrower to another winegrower for processing, bottling or storage and subsequent return to the transferor shall be

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excluded pursuant to Section 7-17-6 NMSA 1978 from the taxable volume of wine of the transferee. Wine transferred from an initial winegrower to a second winegrower remains a tax liability of the transferor, provided that if the wine is transferred to the transferee for the transferee's use or for resale, the transferee then assumes the liability for the tax due pursuant to this section.

[C-] H. A transfer of wine from a winegrower to a wholesaler for distribution of the wine transfers the liability for payment of the liquor excise tax to the wholesaler upon the sale of the wine by the wholesaler."

SECTION 23. Section 7-2-5.14 NMSA 1978 (being Laws 2022, Chapter 47, Section 7) is amended to read:

"7-2-5.14. EXEMPTION--SOCIAL SECURITY INCOME.--

A. An individual may claim an exemption in an amount equal to the amount included in adjusted gross income pursuant to Section 86 of the Internal Revenue Code, as that section may be amended or renumbered, of income includable except for this exemption in net income; provided that the individual's adjusted gross income shall not exceed the following amounts, except as provided in Subsection B of this section:

[A-] (1) seventy-five thousand dollars (\$75,000) for married individuals filing separate returns;

[B-] (2) one hundred fifty thousand dollars (\$150,000) for heads of household, surviving spouses and married individuals filing joint returns; and

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~~[-]~~ (3) one hundred thousand dollars (\$100,000) for single individuals.

B. For the 2024 taxable year and each subsequent taxable year, the amounts of adjusted gross income provided in Subsection A of this section shall be adjusted to account for inflation. The department shall make the adjustment by multiplying each amount of adjusted gross income by a fraction, the numerator of which is the consumer price index ending during the prior taxable year and the denominator of which is the consumer price index ending in taxable year 2022. The result of the multiplication shall be rounded down to the nearest one hundred dollars (\$100), except that if the result would be an amount less than the corresponding amount for the preceding taxable year, then no adjustment shall be made.

C. For purposes of this section, "consumer price index" means the consumer price index for all urban consumers published by the United States department of labor for the month ending September 30."

SECTION 24. Section 7-2-18.16 NMSA 1978 (being Laws 2007, Chapter 45, Section 10) is amended to read:

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

A. A taxpayer who files an individual New Mexico income tax return, who is not a dependent of another individual and who adopts a special needs child on or after January 1, 2007 or has adopted a special needs child prior to January 1, 2007, may claim a credit against the taxpayer's tax liability

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imposed pursuant to the Income Tax Act. The credit authorized pursuant to this section may be referred to as the "special needs adopted child tax credit".

B. A taxpayer may claim and the department may allow a special needs adopted child tax credit in the amount of ~~one thousand dollars (\$1,000)~~ one thousand five hundred dollars (\$1,500) to be claimed against the taxpayer's tax liability for the taxable year imposed pursuant to the Income Tax Act.

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

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

E. ~~[A husband and wife]~~ Married individuals who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the special needs adopted child tax credit provided in this section that would have been allowed on a joint return.

F. A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the department in a manner required by the department.

G. The department shall compile an annual report on the credit provided by this section that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other

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information necessary to evaluate the credit. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.

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

SECTION 25. A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] DEDUCTION--SCHOOL SUPPLIES PURCHASED BY A PUBLIC SCHOOL TEACHER.--

A. A taxpayer who is not a dependent of another individual and is a public school teacher may claim a deduction from net income in an amount equal to the costs of school supplies purchased by the public school teacher in a taxable year, not to exceed:

(1) for a taxable year beginning on January 1, 2023 and prior to January 1, 2024, five hundred dollars (\$500); and

(2) for a taxable year beginning on January 1,

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2024 and prior to January 1, 2028, one thousand dollars (\$1,000).

B. To claim a deduction pursuant to this section, a taxpayer shall submit to the department information required by the secretary establishing that the taxpayer is eligible to claim a deduction pursuant to this section.

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

D. The department shall compile an annual report on the deduction provided by this section that shall include the number of taxpayers approved by the department to receive the deduction, the aggregate amount of deductions approved and any other information necessary to evaluate the deduction. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the deduction.

E. As used in this section:

(1) "public school teacher" means a person who is licensed as a teacher pursuant to the Public School Code and who teaches at a public school; and

(2) "school supplies" means items purchased by public school teacher and used by the students of the teacher in the teacher's classroom for educational purposes, including notebooks, paper, writing instruments, crayons, art supplies, rulers, maps and globes, but not including computers or other

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similar digital devices, watches, radios, digital music players, headphones, sporting equipment, portable or desktop telephones, cellular telephones or other electronic communication devices, copiers, office equipment, furniture or fixtures."

SECTION 26. A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] GEOTHERMAL ELECTRICITY GENERATION INCOME TAX CREDIT.--

A. For taxable years prior to January 1, 2028, a taxpayer who is not a dependent of another individual and who holds an interest in a geothermal electricity generation facility may apply for, and the department may allow, a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act. The tax credit provided by this section may be referred to as the "geothermal electricity generation income tax credit".

B. The amount of a tax credit allowed pursuant to this section shall be an amount equal to one and one-half cents (\$.015) per kilowatt-hour of electricity generated in New Mexico in a taxable year by the geothermal electricity generation facility for which the taxpayer holds an interest.

C. A taxpayer shall apply for certification of eligibility for the credit provided by this section from the energy, minerals and natural resources department on forms and in the manner prescribed by that department. The aggregate amount of credits that may be certified pursuant to this

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section and Section 27 of this 2023 act in any calendar year is five million dollars (\$5,000,000). Completed applications shall be considered in the order received. Applications for certification received after this limitation has been met in a calendar year shall not be approved. For taxpayers eligible to receive the credit, the energy, minerals and natural resources department shall issue a certificate of eligibility stating the amount of credit to which the taxpayer is entitled for the taxable year. The certificate of eligibility shall be numbered for identification and declare the date of issuance and the amount of the tax credit allowed.

D. To receive the credit provided by this section, a taxpayer shall apply to the department on forms and in the manner prescribed by the department. The application shall include a certification made pursuant to Subsection C of this section.

E. That portion of a credit that exceeds a taxpayer's tax liability in the taxable year in which the credit is claimed may be carried forward for up to seven consecutive years; provided the total credits claimed pursuant to this section shall not exceed the annual aggregate amount pursuant to Subsection C of this section.

F. Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of the credit that would have been claimed on a joint return.

G. A taxpayer may be allocated the right to claim a

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credit provided by this section in proportion to the taxpayer's ownership interest if the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership or limited liability company and that business entity has met all of the requirements to be eligible for the credit. The total credit claimed by all members of the partnership or limited liability company shall not exceed the maximum amount of the credit allowed pursuant to this section.

H. A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the department in a manner required by the department.

I. The department shall compile an annual report on the credit provided by this section that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the credit. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.

J. As used in this section:

(1) "geothermal electricity generation facility" means a facility located in New Mexico that generates electricity from geothermal resources and:

(a) for new facilities, begins construction on or after July 1, 2023; or

(b) for existing facilities, on or after July 1, 2023, increases the amount of electricity generated

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from geothermal resources the facility generated prior to that date by at least one hundred percent;

(2) "geothermal resources" means the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit or the energy, in whatever form, below the surface of the earth present in, resulting from, created by or that may be extracted from this natural heat in excess of two hundred fifty degrees Fahrenheit and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases and steam, in whatever form, found below the surface of the earth, but excluding oil, hydrocarbon gas and other hydrocarbon substances and excluding the heating and cooling capacity of the earth not resulting from the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit as may be used for the heating and cooling of buildings through an on-site geexchange heat pump or similar on-site system; and

(3) "interest in a geothermal electricity generation facility" means title to a geothermal electricity generation facility; a leasehold interest in such facility; an ownership interest in a business or entity that is taxed for federal income tax purposes as a partnership that holds title to or a leasehold interest in such facility; or an ownership interest, through one or more intermediate entities that are each taxed for federal income tax purposes as a partnership, in a business that holds title to or a leasehold interest in such facility."

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SECTION 27. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"[NEW MATERIAL] GEOTHERMAL ELECTRICITY GENERATION CORPORATE INCOME TAX CREDIT.--

A. For taxable years prior to January 1, 2028, a taxpayer that holds an interest in a geothermal electricity generation facility may apply for, and the department may allow, a credit against the taxpayer's tax liability imposed pursuant to the Corporate Income and Franchise Tax Act. The tax credit provided by this section may be referred to as the "geothermal electricity generation corporate income tax credit".

B. The amount of a tax credit allowed pursuant to this section shall be an amount equal to one and one-half cents (\$0.015) per kilowatt-hour of electricity generated in New Mexico in a taxable year by the geothermal electricity generation facility for which the taxpayer holds an interest.

C. A taxpayer shall apply for certification of eligibility for the credit provided by this section from the energy, minerals and natural resources department on forms and in the manner prescribed by that department. The aggregate amount of credits that may be certified pursuant to this section and Section 26 of this 2023 act in any calendar year is five million dollars (\$5,000,000). Completed applications shall be considered in the order received. Applications for certification received after this limitation has been met in a calendar year shall not be approved. For taxpayers eligible to

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receive the credit, the energy, minerals and natural resources department shall issue a certificate of eligibility stating the amount of credit to which the taxpayer is entitled for the taxable year. The certificate of eligibility shall be numbered for identification and declare the date of issuance and the amount of the tax credit allowed.

D. To receive the credit provided by this section, a taxpayer shall apply to the department on forms and in the manner prescribed by the department. The application shall include a certification made pursuant to Subsection C of this section.

E. That portion of a credit that exceeds a taxpayer's tax liability in the taxable year in which the credit is claimed may be carried forward for up to seven consecutive years; provided the total credits claimed pursuant to this section shall not exceed the annual aggregate amount pursuant to Subsection C of this section.

F. A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the department in a manner required by that department.

G. The department shall compile an annual report on the credit provided by this section that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the credit. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an

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analysis of the cost of the tax credit.

H. As used in this section:

(1) "geothermal electricity generation facility" means a facility located in New Mexico that generates electricity from geothermal resources and:

(a) for new facilities, begins construction on or after July 1, 2023; or

(b) for existing facilities, on or after July 1, 2023, increases the amount of electricity generated from geothermal resources the facility generated prior to that date by at least one hundred percent;

(2) "geothermal resources" means the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit or the energy, in whatever form, below the surface of the earth present in, resulting from, created by or that may be extracted from this natural heat in excess of two hundred fifty degrees Fahrenheit and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases and steam, in whatever form, found below the surface of the earth, but excluding oil, hydrocarbon gas and other hydrocarbon substances and excluding the heating and cooling capacity of the earth not resulting from the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit as may be used for the heating and cooling of buildings through an on-site geexchange heat pump or similar on-site system; and

(3) "interest in a geothermal electricity

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generation facility" means title to a geothermal electricity generation facility; a leasehold interest in such facility; an ownership interest in a business or entity that is taxed for federal income tax purposes as a partnership that holds title to or a leasehold interest in such facility; or an ownership interest, through one or more intermediate entities that are each taxed for federal income tax purposes as a partnership, in a business that holds title to or a leasehold interest in such facility."

SECTION 28. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"~~[NEW MATERIAL]~~ DEDUCTIONS--GROSS RECEIPTS TAX-- COMPENSATING TAX--GEOTHERMAL ELECTRICITY GENERATION-RELATED SALES AND USE.--

A. Prior to July 1, 2028, receipts from:

(1) selling tangible personal property installed as part of, or services rendered in connection with, constructing and equipping a geothermal electricity generation facility may be deducted from gross receipts;

(2) selling tangible personal property installed as part of a system used for the distribution of electricity generated from a geothermal electricity generation facility may be deducted from gross receipts; and

(3) selling or leasing tangible personal property or selling services that are construction plant costs to a person who holds an interest in a geothermal electricity generation facility may be deducted from gross receipts if the

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holder of the interest delivers an appropriate nontaxable transaction certificate to the seller or lessor or provides alternative evidence pursuant to Section 7-9-43 NMSA 1978.

B. Prior to July 1, 2028, the value of:

(1) tangible personal property installed as part of, or services rendered in connection with, constructing and equipping a geothermal electricity generation facility may be deducted in computing compensating tax due;

(2) tangible personal property installed as part of a system used for the distribution of electricity generated from a geothermal electricity generation facility may be deducted in computing compensating tax due; and

(3) construction plant costs purchased by a person who holds an interest in a geothermal electricity generation facility may be deducted in computing the compensating tax due.

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

D. The department and the energy, minerals and natural resources department shall compile an annual report on the deductions provided by this section that shall include the number of taxpayers that claimed the deductions, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deductions. The departments shall present the annual report to the revenue stabilization and tax policy committee and the legislative

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finance committee with an analysis of the effectiveness and cost of the deductions.

E. As used in this section:

(1) "construction plant costs" means actual expenditures for the development and construction of a geothermal electricity generation facility, including the drilling of wells to at least twelve thousand feet; permitting; site characterization and assessment; engineering; design; site and equipment acquisition; raw materials; and fuel supply development used directly and exclusively in the facility;

(2) "geothermal electricity generation facility" means a facility located in New Mexico that generates electricity from geothermal resources and:

(a) for a new facility, begins construction on or after July 1, 2023; or

(b) for an existing facility, on or after July 1, 2023, increases the amount of electricity generated from geothermal resources the facility generated prior to that date by at least one hundred percent;

(3) "geothermal resources" means the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit or the energy, in whatever form, below the surface of the earth present in, resulting from, created by or that may be extracted from this natural heat in excess of two hundred fifty degrees Fahrenheit and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases and steam, in whatever form, found below the

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surface of the earth, but excluding oil, hydrocarbon gas and other hydrocarbon substances and excluding the heating and cooling capacity of the earth not resulting from the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit as may be used for the heating and cooling of buildings through an on-site geexchange heat pump or similar on-site system; and

(4) "interest in a geothermal electricity generation facility" means title to a geothermal electricity generation facility; a leasehold interest in such facility; an ownership interest in a business or entity that is taxed for federal income tax purposes as a partnership that holds title to or a leasehold interest in such facility; or an ownership interest, through one or more intermediate entities that are each taxed for federal income tax purposes as a partnership, in a business that holds title to or a leasehold interest in such facility."

SECTION 29. Section 7-2-18.24 NMSA 1978 (being Laws 2009, Chapter 271, Section 1) is amended to read:

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

A. A taxpayer who files an individual New Mexico income tax return for a taxable year beginning on or after January 1, [2010] 2023 and who purchases and installs after January 1, [2010] 2023 but before December 31, [2020] 2028 a geothermal ground-coupled heat pump in a residence, business or agricultural enterprise in New Mexico owned by that taxpayer

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may apply for, and the department may allow, a tax credit of up to thirty percent of the purchase and installation costs of the system. The credit provided in this section may be referred to as the "geothermal ground-coupled heat pump tax credit". The total geothermal ground-coupled heat pump tax credit allowed to a taxpayer shall not exceed nine thousand dollars (\$9,000). The department shall allow a geothermal ground-coupled heat pump tax credit only for geothermal ground-coupled heat pumps certified by the energy, minerals and natural resources department.

B. ~~[A]~~ That portion of [the] a geothermal ground-coupled heat pump tax credit that [remains unused in a] exceeds a taxpayer's tax liability in the taxable year [may be carried forward for a maximum of ten consecutive taxable years following the taxable year in which the credit originates until the credit is fully expended] in which the credit is claimed shall be refunded to the taxpayer.

C. ~~[Prior to July 1, 2010]~~ The energy, minerals and natural resources department shall adopt rules establishing procedures to provide certification of geothermal ground-coupled heat pumps for purposes of obtaining a geothermal ground-coupled heat pump tax credit. The rules shall address technical specifications and requirements relating to safety, building code and standards compliance, minimum system sizes, system applications and lists of eligible components. The energy, minerals and natural resources department may modify the specifications and requirements as necessary to

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maintain a high level of system quality and performance.

D. The department may allow a maximum annual aggregate of ~~[two million dollars (\$2,000,000)]~~ four million dollars (\$4,000,000) in geothermal ground-coupled heat pump tax credits. Applications for the credit shall be considered in the order received by the department.

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

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

G. A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the department in a manner required by the department.

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

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shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.

[G-] I. As used in this section, "geothermal ground-coupled heat pump" means a system that uses energy from the ground, water or, ultimately, the sun for distribution of heating, cooling or domestic hot water; that has either a minimum coefficient of performance of three and four-tenths or an efficiency ratio of sixteen or greater; and that is installed by an accredited installer certified by the international ground source heat pump association."

SECTION 30. Section 7-2A-24 NMSA 1978 (being Laws 2009, Chapter 271, Section 2) is amended to read:

"7-2A-24. GEOTHERMAL GROUND-COUPLED HEAT PUMP TAX CREDIT.--

A. A taxpayer that files a New Mexico corporate income tax return for a taxable year beginning on or after January 1, [2010] 2023 and that purchases and installs after January 1, [2010] 2023 but before December 31, [2020] 2028 a geothermal ground-coupled heat pump in a property owned by the taxpayer may claim against the taxpayer's corporate income tax liability, and the department may allow, a tax credit of up to thirty percent of the purchase and installation costs of the system. The credit provided in this section may be referred to as the "geothermal ground-coupled heat pump tax credit". The total geothermal ground-coupled heat pump tax credit allowed to a taxpayer shall not exceed nine thousand dollars (\$9,000). The

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department shall allow a geothermal ground-coupled heat pump tax credit only for geothermal ground-coupled heat pumps certified by the energy, minerals and natural resources department.

B. A portion of the geothermal ground-coupled heat pump tax credit that remains unused in a taxable year may be carried forward for a maximum of ten consecutive taxable years following the taxable year in which the credit originates until the credit is fully expended.

C. ~~[Prior to July 1, 2010]~~ The energy, minerals and natural resources department shall adopt rules establishing procedures to provide certification of geothermal ground-coupled heat pumps for purposes of obtaining a geothermal ground-coupled heat pump tax credit. The rules shall address technical specifications and requirements relating to safety, building code and standards compliance, minimum system sizes, system applications and lists of eligible components. The energy, minerals and natural resources department may modify the specifications and requirements as necessary to maintain a high level of system quality and performance.

D. The department may allow a maximum annual aggregate of ~~[two million dollars (\$2,000,000)]~~ four million dollars (\$4,000,000) in geothermal ground-coupled heat pump tax credits. Applications for the credit shall be considered in the order received by the department.

E. A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the department

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in a manner required by the department.

F. The department shall compile an annual report on the tax credit provided by this section that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the credit. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.

[E-] G. As used in this section, "geothermal ground-coupled heat pump" means a ~~reversible refrigerator device~~ refrigeration system that provides space heating, space cooling, domestic hot water, processed hot water, processed chilled water or any other application where hot air, cool air, hot water or chilled water is required and that utilizes the ground ~~water~~ or water circulating through pipes buried in the ground as a condenser in the cooling mode ~~and~~ or an evaporator in the heating mode."

SECTION 31. Section 7-2F-2 NMSA 1978 (being Laws 2003, Chapter 127, Section 2, as amended) is amended to read:

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

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

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entity;

B. "background artist" means a person who is not a performing artist but is a person of atmospheric business whose work includes atmospheric noise, normal actions, gestures and facial expressions of that person's assignment; or a person of atmospheric business whose work includes special abilities that are not stunts; or a substitute for another actor, whether photographed as a double or acting as a stand-in;

C. "below-the-line crew" means a person in a position that is off-camera and who provides technical services during the physical production of a film. "Below-the-line crew" does not include a person who is a writer, director, producer or background artist or performing artist for the film;

D. "commercial audiovisual product" means a film or a video game intended for commercial exploitation;

E. "direct production expenditure" means a transaction that is subject to taxation in New Mexico and is certified pursuant to Subsection A of Section 7-2F-12 NMSA 1978:

(1) including an expenditure for:

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

(b) payment for standard industry craft inventory when provided by a below-the-line crew that is a New Mexico resident in addition to its below-the-line crew

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services;

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

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

(e) any of the following provided by a vendor: 1) the story and scenario to be used for a film; 2) set construction and operations, wardrobe, accessories and related services; 3) photography, sound synchronization, lighting and related services; 4) editing and related services; 5) rental of facilities and equipment; 6) the first one hundred fifty dollars (\$150) of the daily expense of leasing of

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vehicles, not including the chartering of aircraft for out-of-state transportation; however, New Mexico-based chartered aircraft for in-state transportation directly attributable to the production shall be considered a direct production expenditure; 7) food; 8) the first three hundred dollars (\$300) of lodging per individual, per day; 9) commercial airfare if purchased through a New Mexico-based travel agency or travel company for travel to and from New Mexico or within New Mexico that is directly attributable to the production; 10) insurance coverage and bonding if purchased through a New Mexico-based insurance agent, broker or bonding agent; 11) subcontracted goods and services from businesses; provided that the ordinary course of business of the vendor procuring the goods and services from the subcontractor directly relates to standard film industry goods and services; and 12) other direct costs of producing a film in accordance with generally accepted entertainment industry practice; and

(2) does not include an expenditure for:

(a) a gift with a value greater than one hundred dollars (\$100);

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

(c) entertainment, amusement or recreation;

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(d) subcontracted goods or services provided by a vendor when the subcontractors providing those goods or services to the vendor are not subject to state taxation, such as equipment and locations provided by the military, government and organizations that demonstrate to the taxation and revenue department that they have been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended or renumbered;

(e) subcontracted services provided by a vendor when the subcontracted services are provided by a person who is below-the-line crew and is not a New Mexico resident;

(f) hidden or other indirect service fees, costs, commissions or other remuneration received by third parties and that are not directly paid by the film production company or expressly enumerated on a film production company's filing to claim a new film production tax credit;

(g) wages for a person who is not a New Mexico resident and who falsely claims to be a New Mexico resident. The wages of such person shall not be considered an eligible expense for two years from the date in which the person is determined by the taxation and revenue department as having made a false claim, regardless of whether the person becomes a New Mexico resident within that time frame; or

(h) which the film production company receives funding pursuant to Section 21-19-7.1 NMSA 1978;

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F. "division" means the New Mexico film division of the economic development department;

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

H. "film" means a single medium or multimedia program, including television programs but excluding advertising messages other than national or regional advertising messages intended for exhibition, that:

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

(2) can be viewed or reproduced;

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

(4) is intended for reasonable commercial exploitation for the delivery medium used;

I. "film production company" means a person that produces one or more films or commercial audiovisual products or any part of a film or commercial audiovisual product;

J. "fiscal year" means the state fiscal year beginning on July 1;

K. "New Mexico film partner" means a film production company that has made a commitment to produce films or commercial audiovisual products in New Mexico and has purchased or executed a ten-year contract to lease a qualified production facility;

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[K-] L. "New Mexico resident" means an individual who is domiciled in this state during any part of the taxable year or an individual who is physically present in this state for one hundred eighty-five days or more during the taxable year; but any individual, other than someone who was physically present in the state for one hundred eighty-five days or more during the taxable year and who, on or before the last day of the taxable year, changed the individual's place of abode to a place without this state with the bona fide intention of continuing actually to abide permanently without this state is not a resident for the purposes of the Film Production Tax Credit Act for periods after that change of abode;

[H-] M. "performing artist" means an actor, on-camera stuntperson, puppeteer, pilot who is a stuntperson or actor, specialty foreground performer or narrator; and who speaks a line of dialogue, is identified with the product or reacts to narration as assigned. "Performing artist" does not include a background artist;

[M-] N. "personal services business" means a business organization, with or without physical presence, that receives payments pursuant to the Film Production Tax Credit Act for the services of a performing artist;

[N-] O. "physical presence" means a physical address in New Mexico from which a vendor conducts business, stores inventory or otherwise creates, assembles or offers for sale the product purchased or leased by a film production company and the vendor or an employee of the vendor is a

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resident;

[~~Q-~~] P. "postproduction expenditure" means an expenditure, certified pursuant to Subsection A of Section 7-2F-12 NMSA 1978, for editing, Foley recording, automatic dialogue replacement, sound editing, special effects, including computer-generated imagery or other effects, scoring and music editing, beginning and end credits, negative cutting, soundtrack production, dubbing, subtitling or addition of sound or visual effects; but not including an expenditure for advertising, marketing, distribution or expense payments;

[~~P-~~] Q. "principal photography" means the production of a film during which the main visual elements are created;

[~~Q-~~] R. "qualified production facility" means a building, or complex of buildings, building improvements and associated back-lot facilities in which films are or are intended to be regularly produced and that contain at least one:

(1) sound stage with contiguous floor space of at least seven thousand square feet and a ceiling height of no less than eighteen feet; or

(2) standing set that includes at least one interior, and at least five exteriors, built or re-purposed for film production use on a continual basis and is located on at least fifty acres of contiguous space designated for film production use; and

[~~R-~~] S. "vendor" means a person who sells or leases

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goods or services that are related to standard industry craft inventory, who has a physical presence in New Mexico and is subject to gross receipts tax pursuant to the Gross Receipts and Compensating Tax Act or income tax pursuant to the Income Tax Act or corporate income tax pursuant to the Corporate Income and Franchise Tax Act but excludes a personal services business and services provided by nonresidents hired or subcontracted if the tasks and responsibilities are associated with the standard industry job position of director, writer or producer."

SECTION 32. Section 7-2F-12 NMSA 1978 (being Laws 2019, Chapter 87, Section 6) is amended to read:

"7-2F-12. CREDIT CLAIMS--CERTIFICATION OF DIRECT PRODUCTION AND POSTPRODUCTION EXPENDITURES--AGGREGATE AMOUNT OF CLAIMS ALLOWED--EXCEPTION.--

A. The division shall certify a film production company's budget for direct production expenditures and postproduction expenditures during a preproduction meeting with the division; provided that the division is prohibited from certifying a film production company's budget if the total expected claims in excess of the aggregate amount of claims that may be authorized for payment pursuant to Subsection B of this section would exceed one hundred million dollars (\$100,000,000) in any fiscal year; and provided further that the limitation in this subsection shall not apply to certification of a budget for a New Mexico film partner.

B. Except as provided in ~~[Section 10 of this 2019~~

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act] Laws 2019, Chapter 87, Section 10, the aggregate amount of claims for a credit provided by the Film Production Tax Credit Act that may be authorized [for payment] in any fiscal year [is ~~one hundred ten million dollars (\$110,000,000)~~] with respect to the direct production expenditures or postproduction expenditures made on film or commercial audiovisual products shall be in the following amounts; provided that direct production expenditures and postproduction expenditures made by a New Mexico film partner shall not be subject to the aggregate amount of claims provided by this subsection:

(1) prior to fiscal year 2024, one hundred ten million dollars (\$110,000,000);

(2) from fiscal year 2024 through fiscal year 2028, the amount provided in Paragraph (1) of this subsection shall be increased by ten million dollars (\$10,000,000) in each of those fiscal years; and

(3) for fiscal year 2029 and subsequent fiscal years, one hundred sixty million dollars (\$160,000,000).

C. If a film production company submits a claim for a credit pursuant to the Film Production Tax Credit Act and the aggregate amount of claims pursuant to Subsection B of this section has been met for the fiscal year, the claim shall be placed at the front of a queue for payment in a subsequent fiscal year. Claims shall be placed in order of the date on which the completed return in which the credit is claimed is filed. Claims authorized for payment shall be paid pursuant to the Tax Administration Act.

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~~[D. If, in fiscal years 2020 through 2022, the aggregate amount of claims authorized for payment is less than one hundred ten million dollars (\$110,000,000), excluding claims by a New Mexico film partner, then the difference in that fiscal year or twenty million dollars (\$20,000,000), whichever is less, shall be added to the aggregate amount of claims that may be authorized for payment pursuant to Subsection B of this section in the immediately following fiscal year.]~~

~~E.] D.~~ To provide guidance to film production companies regarding the amount of credit capacity remaining in the fiscal year, the taxation and revenue department shall post monthly on that department's website the aggregate amount of credits claimed and paid for the fiscal year. In addition, the division shall post monthly on the division's website the aggregate amount of claims certified pursuant to Subsection A of this section for the fiscal year or any subsequent fiscal year.

~~[F. As used in this section, "New Mexico film partner" means a film production company that has made a commitment to produce films or commercial audiovisual products in New Mexico and has purchased or executed a ten-year contract to lease a qualified production facility.]~~

SECTION 33. Section 7-2F-13 NMSA 1978 (being Laws 2019, Chapter 87, Section 7) is amended to read:

"7-2F-13. NEW FILM PRODUCTION TAX CREDIT.--

A. The tax credit created by this section may be

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referred to as the "new film production tax credit".

B. A film production company that meets the requirements of the Film Production Tax Credit Act may apply for, and the taxation and revenue department may allow, a tax credit in an amount equal to twenty-five percent of:

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

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

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

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

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

(2) postproduction expenditures made in New Mexico that:

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

(b) are for services performed in New Mexico;

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

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

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

C. With respect to expenditures attributable to a production for which the film production company receives a tax credit pursuant to the federal new markets tax credit program, the percentage to be applied in calculating the amount of credit allowed pursuant to the Film Production Tax Credit Act is twenty percent.

D. A claim for new film production tax credits shall be filed as part of a return filed pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act or an information return filed by an entity assigned payment of an authorized credit pursuant to Section 7-2F-5 NMSA 1978. The date a complete credit claim is received by the taxation and revenue department shall determine the order that a credit claim is authorized for payment by the department. The film production company may apply all or a portion of the new film

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production tax credit granted against personal income tax liability or corporate income tax liability. If the amount of the credit claimed exceeds the film production company's tax liability for the taxable year in which the credit is being claimed, the excess shall be refunded.

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

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

G. The new film production tax credit shall not be claimed with respect to direct production expenditures or postproduction expenditures for which the film production company has delivered a nontaxable transaction certificate pursuant to Section 7-9-86 NMSA 1978 or alternative evidence pursuant to Section 7-9-43 NMSA 1978.

H. A production for which the new film production tax credit is claimed pursuant to Paragraph (1) of Subsection B

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of this section shall contain an acknowledgment to the state of New Mexico. Unless otherwise agreed upon in writing by the film production company and the division, the acknowledgment shall be in the end screen credits that the production was filmed in New Mexico and a three-second static or animated state logo provided by the division shall be included and embedded in the following:

(1) end screen credits before the below-the-line crew crawl for the life of the project of long-form narrative film productions; and

(2) body of the program for the life of television episodes, the placement of which shall be:

(a) in the opening sequence;

(b) as a bumper into or out of a commercial break; or

(c) in a prominent position in each single project's end credits with no less than a half screen exposure, but not covering content.

I. To be eligible for the new film production tax credit, a film production company shall submit to the division information required by the division to demonstrate conformity with the requirements of the Film Production Tax Credit Act, including production data deemed necessary by the division and the economic development department to determine the effectiveness of the credit, and a projection of the new film production tax credit claim the film production company plans to submit. In addition, the film production company shall

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agree in writing:

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

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

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

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

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

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

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

J. The division, in consultation with the taxation and revenue department, shall determine the eligibility of the

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film production company and shall report this information to the taxation and revenue department in a manner and at times the economic development department and the taxation and revenue department shall agree upon. The division shall also post on its website all information provided by the film production company that does not reveal revenue, income or other information that may jeopardize the confidentiality of income tax returns.

K. To receive a new film production tax credit, a film production company shall apply to the taxation and revenue department on forms and in the manner the department may prescribe. The application shall include a certification of the amount of direct production expenditures or postproduction expenditures made in New Mexico with respect to the film production for which the film production company is seeking the credit; provided that for the credit, the application shall be submitted within one year of the date of the last direct production expenditure in New Mexico or the last postproduction expenditure in New Mexico. If the amount of the requested tax credit exceeds five million dollars (\$5,000,000), the application shall also include the results of an audit, conducted by a certified public accountant licensed to practice in New Mexico, verifying that the expenditures have been made in compliance with the requirements of this section. If the requirements of this section have been complied with, the taxation and revenue department shall approve the credit and issue a document granting the credit.

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L. Except as provided in Subsection M of this section, that amount of a new film production tax credit for total payments as applied to direct production expenditures for the services of performing artists shall not exceed five million dollars (\$5,000,000) for services rendered by nonresident performing artists [~~and resident principal performing artists~~] in a production. This limitation shall not apply to the services of background artists or resident performing artists cast in industry standard feature performing roles.

M. In addition to the amount of payments allowed pursuant to Subsection L of this section, that amount of a new film production tax credit for total payments as applied to direct production expenditures made by a New Mexico film partner for the services of nonresident performing artists, directors, producers, screenwriters and editors shall not exceed ten million dollars (\$10,000,000) for services rendered for each production; provided that the total payments allowed pursuant to this subsection shall not exceed an annual aggregate maximum of forty million dollars (\$40,000,000) for all productions in a fiscal year. If the aggregate amount of payments made in a fiscal year is less than the annual aggregate maximum, then the difference in that fiscal year shall be added to the annual aggregate maximum allowed in the following fiscal year."

SECTION 34. Section 7-2F-14 NMSA 1978 (being Laws 2019, Chapter 87, Section 8) is amended to read:

"7-2F-14. ADDITIONAL AMOUNTS TO BE APPLIED IN

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CALCULATING CREDIT AMOUNTS--EXPENDITURES MADE IN CERTAIN AREAS  
OF THE STATE--TELEVISION PILOTS AND SERIES.--

A. In addition to the percentage of direct production expenditures and postproduction expenditures calculated pursuant to Section ~~[7 of this 2019 act]~~ 7-2F-13 NMSA 1978, an additional ~~[five percent]~~ percentage shall be applied for payments for direct production expenditures and postproduction expenditures, as follows:

(1) ten percent for work, services or items provided on location for a production of a film or commercial audiovisual product that is located in New Mexico ~~[but]~~ at least sixty miles [outside of the exterior boundaries] from the city hall of the county seat of certain counties; and

(2) five percent for either of the following:

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

(b) on a production in a qualified production facility.

B. As used in this section, "certain counties" ~~[includes]~~ means class A counties with a net taxable value of property for property taxation purposes of greater than ~~[six billion dollars (\$6,000,000,000)]~~ seven billion five hundred million dollars (\$7,500,000,000)."

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SECTION 35. Section 7-2F-15 NMSA 1978 (being Laws 2019, Chapter 87, Section 9) is amended to read:

"7-2F-15. NONRESIDENT BELOW-THE-LINE CREW CREDIT.-- ~~[A.]~~ A film production company may apply for, and the taxation and revenue department may allow, a tax credit, which may be referred to as the "nonresident below-the-line crew credit", in an amount equal to fifteen percent of the payment of wages for below-the line crew who are not New Mexico residents, that are directly attributable to the production in New Mexico of a film or commercial audiovisual product for which the film production company is claiming a new film production tax credit; provided that:

~~[(1)]~~ A. the service for which payment is made is rendered in New Mexico;

~~[(2)]~~ B. the payment of wages excludes payments:

(1) for below-the-line crew who are producers, directors, screenwriters, cast and production assistants; and

(2) made to a personal services business;

C. prior to July 1, 2028, for a film production company that is a New Mexico film partner, the total amount of wages applied toward the additional credit allowed pursuant to this section may be up to one hundred percent of the amount of wages of resident below-the-line wages claimed; provided that the film production company provides a seventy-two-hour notice of the opportunity to be hired to resident below-the-line crew, which may be through a collective bargaining unit that represents resident below-the-line crew; and

D. for a film production company that is not a New

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Mexico film partner and, beginning July 1, 2028, for a film production company that is a New Mexico film partner:

(1) the total eligible wages for below-the-line crew who are not New Mexico residents are [(a)] not more than fifteen percent of the production's total New Mexico budget for below-the-line crew wages [or

(b) as determined by the division, up to twenty percent of the production's total New Mexico budget for below the line crew wages; provided that sufficient and qualified below the line crew who are New Mexico residents are not available. A film production company that is approved for the additional credit by meeting the requirements of this paragraph shall make a financial or promotional contribution toward educational, media related nonprofit or workforce development efforts in New Mexico, as determined by the division; and

(3) the film production company makes financial or promotional contributions toward educational or workforce development efforts in New Mexico as determined by the division, including:

(a) a payment to a New Mexico educational institution that administers at least one industry-recognized film or multimedia program, as determined by the division, equal to at least two and one-half percent of the direct production expenditures for the payment of wages, fringe benefits and per diem for nonresident industry crew made by the film production company to nonresident industry crew; or

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~~(b) promotion of the New Mexico film industry by directors, actors or producers affiliated with the film production company's project through: 1) social media that is managed by the state; 2) radio interviews facilitated by the division; 3) enhanced screen credit acknowledgments; or 4) related events that are facilitated, conducted or sponsored by the division.~~

~~B. The credit provided by this section may be referred to as the "nonresidential below the line crew credit"; and~~

~~(2) the film production company may claim the nonresident below-the-line crew credit for employing up to the following numbers of nonresident below-the-line crew in New Mexico and shall be as calculated by the division upon application for certification pursuant to Subsection A of Section 7-2F-12 NMSA 1978; provided that the total number shall not exceed twenty positions:~~

~~(a) five positions if the production's final New Mexico budget is up to two million seven hundred fifty thousand dollars (\$2,750,000);~~

~~(b) ten positions if the production's final New Mexico budget is greater than two million seven hundred fifty thousand dollars (\$2,750,000) and up to seven million five hundred thousand dollars (\$7,500,000);~~

~~(c) fifteen positions if the production's final New Mexico budget is greater than seven million five hundred thousand dollars (\$7,500,000) and up to eleven million dollars (\$11,000,000);~~

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(d) one position in addition to the number of positions provided in Subparagraph (c) of this paragraph for every ten million dollars (\$10,000,000) over eleven million dollars (\$11,000,000) of the production's final New Mexico budget; and

(e) five positions in addition to the number of positions provided in Subparagraphs (a) through (d) of this paragraph for a television pilot episode that has been ordered to series; provided that the film production company certifies to the division that the series is intended to be produced in New Mexico."

SECTION 36. Section 7-9-93 NMSA 1978 (being Laws 2004, Chapter 116, Section 6, as amended) is amended to read:

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

A. Receipts of a health care practitioner or an association of health care practitioners for commercial contract services or medicare part C services paid by a managed [health] care [provider] organization or health care insurer may be deducted from gross receipts if the services are within the scope of practice of the health care practitioner providing the service. Receipts from fee-for-service payments by a health care insurer may not be deducted from gross receipts.

B. Prior to July 1, 2028, receipts from a copayment or deductible paid by an insured or enrollee to a health care practitioner or an association of health care practitioners for

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commercial contract services pursuant to the terms of the insured's health insurance plan or enrollee's managed care health plan may be deducted from gross receipts.

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

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

E. The department shall compile an annual report on the deductions provided by this section that shall include the number of taxpayers that claimed the deductions, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deductions. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the deductions.

~~[C. For the purposes of]~~ F. As used in this section:

(1) "association of health care practitioners" means a corporation, unincorporated business entity or other legal entity organized by, owned by or employing one or more health care practitioners; provided that the entity is not:

(a) an organization granted exemption from the federal income tax by the United States commissioner

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of internal revenue as organizations described in Section 501(c) (3) of the United States Internal Revenue Code of 1986, as that section may be amended or renumbered; or

(b) a health maintenance organization, hospital, hospice, nursing home or an entity that is solely an outpatient facility or intermediate care facility licensed pursuant to the Public Health Act;

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

(3) "copayment or deductible" means the amount of covered charges an insured or enrollee is required to pay in a plan year for commercial contract services before the insured's health insurance plan or enrollee's managed care health plan begins to pay for applicable covered charges;

(4) "fee-for-service" means payment for health care services by a health care insurer for covered charges under an indemnity insurance plan;

~~(3)~~ (5) "health care insurer" means a person that:

(a) has a valid certificate of authority in good standing pursuant to the New Mexico Insurance Code to

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act as an insurer, health maintenance organization or nonprofit health care plan or prepaid dental plan; and

(b) contracts to reimburse licensed health care practitioners for providing basic health services to enrollees at negotiated fee rates;

~~[-(4)]~~ (6) "health care practitioner" means:

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

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

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

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

(e) an osteopathic physician ~~[or an osteopathic physician assistant]~~ licensed pursuant to the provisions of the ~~[Osteopathic Medicine]~~ Medical Practice Act;

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

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

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

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

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

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

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

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

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

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

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

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

(7) "managed care health plan" means a health

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care plan offered by a managed care organization that provides for the delivery of comprehensive basic health care services and medically necessary services to individuals enrolled in the plan other than those services provided to medicare patients pursuant to Title 18 of the federal Social Security Act or to medicaid patients pursuant to Title 19 or Title 21 of the federal Social Security Act;

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

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

organizations;

- (h) physician hospital-provider

organizations; and

- (i) managed care services organizations;

and

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~~[(6)]~~ (9) "medicare part C services" means services performed pursuant to a contract with a managed health care provider for medicare patients pursuant to Title 18 of the federal Social Security Act."

SECTION 37. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"~~[NEW MATERIAL]~~ DEDUCTION--GROSS RECEIPTS TAX--COMPENSATING TAX--DYED DIESEL USED FOR AGRICULTURAL PURPOSES.--

A. Prior to July 1, 2028, receipts from selling and the use of special fuel dyed in accordance with federal regulations and used for agricultural purposes may be deducted from gross receipts.

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

C. The department shall compile an annual report on the deduction provided by this section that shall include the number of taxpayers that claimed the deduction, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deduction. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the deduction."

SECTION 38. Section 7-12A-2 NMSA 1978 (being Laws 1986, Chapter 112, Section 3, as amended) is amended to read:

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"7-12A-2. DEFINITIONS.--As used in the Tobacco Products

Tax Act:

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

B. "cigar" means a roll for smoking made wholly or in part of tobacco and weighing greater than four and one-half pounds per thousand;

C. "distribute" means to sell or to give;

D. "closed system cartridge" means a single-use, pre-filled disposable cartridge containing five milliliters or less of e-liquid for use in an e-cigarette;

E. "e-cigarette" means any ~~[electronic oral device, whether composed of a heating element and battery or an electronic circuit, that provides a vapor of nicotine or any other substance the use or inhalation of which simulates smoking and includes any such device, or any part thereof, whether manufactured, distributed, marketed or sold as an e-cigarette, e cigar, e pipe or any other product, name or descriptor; "Ecigarette" does not include any product regulated as a drug or device by the United States food and drug administration under the Federal Food, Drug, and Cosmetic Act]~~ device that can be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device and includes any component, part or accessory of such a device that is used during the operation of the device but does not include a battery or battery charger;

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F. "e-liquid" means liquid or other substance intended for use in an e-cigarette [not including any substance containing cannabis or oil derived from cannabis];

G. "engaging in business" means carrying on or causing to be carried on any activity with the purpose of direct or indirect benefit;

H. "first purchaser" means a person engaging in business in New Mexico that manufactures tobacco products or that purchases or receives on consignment tobacco products from any person outside of New Mexico, which tobacco products are to be distributed in New Mexico in the ordinary course of business;

I. "little cigar" means a roll for smoking made wholly or in part of tobacco, using an integrated cellulose acetate or other similar filter, and weighing not more than four and one-half pounds per thousand;

J. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, limited liability company, limited liability partnership, other association or gas, water or electric utility owned or operated by a county or municipality or other entity of the state; "person" also means, to the extent permitted by law, a federal, state or other governmental unit or subdivision or an agency, department or instrumentality;

K. "product value" means the amount paid, net of any discounts taken and allowed, for tobacco products or, in

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the case of tobacco products received on consignment, the value of the tobacco products received or, in the case of tobacco products manufactured and sold in New Mexico, the proceeds from the sale by the manufacturer of the tobacco products; and

L. "tobacco product":

(1) means:

~~[(1)]~~ (a) any product, other than cigarettes, ~~[cigars and little cigars]~~ made from or containing tobacco or nicotine, whether natural or synthetic, that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved or inhaled;

~~[(2)]~~ (b) e-liquid;

~~[(3)]~~ (c) e-cigarettes; and

~~[(4)]~~ (d) closed system cartridges; and

(2) does not mean any product regulated as a drug or device by the United States food and drug administration pursuant to the Federal Food, Drug, and Cosmetic Act."

SECTION 39. Section 7-12A-3 NMSA 1978 (being Laws 1986, Chapter 112, Section 4, as amended) is amended to read:

"7-12A-3. IMPOSITION AND RATES OF TAX--REDUCTION OF RATE FOR CERTAIN TOBACCO PRODUCTS--DENOMINATION AS "TOBACCO PRODUCTS TAX"--DATE PAYMENT OF TAX DUE.--

A. For the manufacture or acquisition of tobacco products in New Mexico ~~[not including cigars, little cigars, e-liquid, e-cigarettes or closed system cartridges]~~ to be distributed in the ordinary course of business and for the consumption of tobacco products in New Mexico, there is imposed

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~~an excise tax at the [rate of twenty-five percent of the product value of the tobacco products~~

~~B. For the manufacture or acquisition of] following rates:~~

~~(1) for cigars, [in New Mexico to be distributed in the ordinary course of business and for the consumption of cigars in New Mexico, there is imposed an excise tax at a rate equal to] twenty-five percent of the product value of the cigar; [not to exceed fifty cents (\$.50) per cigar~~

~~C. For the manufacture or acquisition of]~~

~~(2) for little cigars, [in New Mexico to be distributed in the ordinary course of business and for the consumption of little cigars in New Mexico, there is imposed an excise tax at] a rate equal to the rate imposed on cigarettes pursuant to Section 7-12-3 NMSA 1978 per package of little cigars;~~

~~[D. For the manufacture or acquisition of]~~

~~(3) for e-liquid, [in New Mexico to be distributed in the ordinary course of business and for the consumption of e-liquid in New Mexico, there is imposed an excise tax at a rate equal to] twelve and one-half percent of the product value of the e-liquid;~~

~~[E. For the manufacture or acquisition of]~~

~~(4) for closed system cartridges, [in New Mexico to be distributed in the ordinary course of business, there is imposed an excise tax at a rate of] fifty cents (\$.50) per closed system cartridge; and~~

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(5) for all other tobacco products, twenty-five percent of the product value of the tobacco product.

~~[H-]~~ B. The taxes imposed by this section may be referred to as the "tobacco products tax".

~~[F-]~~ C. The tobacco products tax shall be paid by the first purchaser on or before the twenty-fifth day of the month following the month in which the taxable event occurs."

SECTION 40. A new section of the Tax Administration Act is enacted to read:

"[NEW MATERIAL] DISTRIBUTION--TOBACCO PRODUCTS TAX--TOBACCO SETTLEMENT PERMANENT FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the tobacco settlement permanent fund in an amount equal to thirteen percent of the net receipts attributable to the tobacco products tax."

SECTION 41. Section 7-14-10 NMSA 1978 (being Laws 1988, Chapter 73, Section 20, as amended) is amended to read:

"7-14-10. DISTRIBUTION OF PROCEEDS.--

A. The receipts from the tax and any associated interest and penalties shall be deposited in the "motor vehicle suspense fund", hereby created in the state treasury. As of the end of each month, the net receipts attributable to the tax and associated penalties and interest shall be distributed as follows:

(1) beginning July 1, 2023 and prior to July 1, 2025:

(a) thirty-two percent to the general

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fund;

(b) forty-nine and one-fourth percent to the state road fund; and

(c) eighteen and three-fourths percent to the transportation project fund;

(2) beginning July 1, 2025, except as provided in Paragraph (3) of this subsection:

(a) seventy-five percent to the state road fund; and

(b) twenty-five percent to the transportation project fund; and

(3) if, for any single fiscal year occurring after fiscal year 2027 and prior to fiscal year 2037, gross receipts tax revenues are less than ninety-five percent of the gross receipts tax revenues for the previous fiscal year, as determined by the secretary of finance and administration, beginning on the July 1 following the determination made by the secretary of finance and administration:

[A-] (a) fifty-nine and thirty-nine hundredths percent to the general fund;

[B-] (b) twenty-one and eighty-six hundredths percent to the state road fund; and

[C-] (c) eighteen and seventy-five hundredths percent to the transportation project fund.

B. Between fifty and seventy-five percent of the amount distributed to the state road fund pursuant to this section shall be used for maintenance of transportation

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infrastructure."

SECTION 42. Section 7-4-10 NMSA 1978 (being Laws 1993, Chapter 153, Section 1, as amended) is amended to read:

"7-4-10. APPORTIONMENT OF BUSINESS INCOME.--

A. Except as provided in Subsections B and C of this section, all business income shall be apportioned to this state by multiplying the income by the sales factor.

B. For a taxable year prior to January 1, 2027, all business income of a taxpayer that is a railroad shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three.

C. Except as provided in Subsection D of this section, the business income of a qualifying entity shall be apportioned by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three.

~~[B. If eighty percent or more of the New Mexico numerators of the property and payroll factors for a filing group, or for a taxpayer that is not a member of a filing group, are employed in manufacturing or operating a computer processing facility, the filing group or the taxpayer may elect to have business income apportioned to this state by multiplying the income by the sales factor for the taxable year.~~

~~C. If a filing group, or a taxpayer that is not a~~

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~~member of a filing group, has a headquarters operation in New Mexico, the filing group or the taxpayer may elect to have business income apportioned to this state by multiplying the income by the sales factor; for the taxable year]~~

D. A qualifying entity may elect to have business income apportioned by multiplying the income by the sales factor; provided that, once the election is made, the qualifying entity shall apportion business income in that manner for each taxable year thereafter; and provided further that, for taxable years beginning on or after January 1, 2029, the qualifying entity shall apportion business income by the single sales factor pursuant to Subsection A of this section.

~~[D-] E. To elect the method of apportionment provided by Subsection [B-or-C] D of this section, [the taxpayer] a qualifying entity shall notify the department of the election, in writing, no later than the date on which the [taxpayer] qualifying entity files the return for the first taxable year to which the election will apply. [The election shall apply as follows:~~

~~(1) if the election is made for taxable years beginning prior to January 1, 2020, to the taxable year in which the election is made and to each taxable year thereafter for three years, or until the taxable year ending prior to January 1, 2020, whichever is earlier;~~

~~(2) if the election is made for a taxable year beginning on or after January 1, 2020, to the taxable year in which the election is made and to each taxable year thereafter~~

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~~until the taxpayer notifies the department, in writing, that the election is terminated, except that the taxpayer shall not terminate the election until the method of apportioning business income provided by Subsection B or C of this section has been used by the taxpayer for at least three consecutive taxable years, including a total of at least thirty-six calendar months; and~~

~~(3) if the election is made by a qualifying filing group, the election shall apply to the members of the filing group properly included pursuant to Section 7-2A-8.3 NMSA 1978.]~~

~~[E.] F.~~ For purposes of this section:

~~(1) "filing group" means "filing group" as that term is defined in the Corporate Income and Franchise Tax Act; and~~

~~[(2) "headquarters operation" means:~~

~~(a) the center of operations of a business: 1) where corporate staff employees are physically employed; 2) where the centralized functions are primarily performed, including administrative, planning, managerial, human resources, purchasing, information technology and accounting, but not including operating a call center; 3) the function and purpose of which is to manage and direct most aspects and functions of the business operations within a subdivided area of the United States; 4) from which final authority over regional or subregional offices, operating facilities and any other offices of the business are issued; and 5) including national and regional headquarters if the~~

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~~national headquarters is subordinate only to the ownership of the business or its representatives and the regional headquarters is subordinate to the national headquarters; or~~

~~(b) the center of operations of a business: 1) the function and purpose of which is to manage and direct most aspects of one or more centralized functions; and 2) from which final authority over one or more centralized functions is issued;~~

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

~~(a) construction;~~

~~(b) farming;~~

~~(c) power generation; provided that for taxable years beginning prior to January 1, 2024,~~

~~"manufacturing" includes electricity generation at a facility that does not require location approval and a certificate of convenience and necessity prior to commencing construction or operation of the facility pursuant to the Public Utility Act;~~

~~(d) processing natural resources, including hydrocarbons; or~~

~~(e) processing or preparation of meals for immediate consumption; and~~

~~(4) "operating a computer processing facility" means managing the necessary and ancillary activities for the operation of a facility primarily used to process data or information, but does not include managing the operation of~~

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~~facilities that are predominantly used to support sales of tangible property or the provision of banking, financial or professional services]~~

(2) "qualifying entity" means the presence of a business unit of a corporation or a group of corporations in a combined filing group:

(a) with one hundred or more employees for whom wages are withheld pursuant to the Withholding Tax Act. The employee measurement date is the first day of the taxable year immediately prior to the taxable year for which the election is made, and shall be certified by audit; and

(b) with a cumulative investment in property in New Mexico exceeding fifty million dollars (\$50,000,000). Property owned by the qualifying entity shall be valued at the property's original cost, which shall be deemed to be the basis of the property for federal income tax purposes, prior to any federal adjustments, at the time of acquisition by the qualifying entity and adjusted by subsequent capital additions or improvements thereto and partial disposition thereof, by reason of sale, exchange or abandonment. For purposes of this subparagraph, "cumulative investment in property in New Mexico" means the average value of the taxpayer's real and tangible personal property owned or rented and used in New Mexico during the tax period."

**SECTION 43. APPLICABILITY.--**

**A. The provisions of Sections 5, 7 through 9, 12 through 14, 23 through 27, 29 and 30 of this act apply to taxable years beginning on or after January 1, 2023.**

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B. The provisions of Sections 31 through 35 of this act apply to film production companies that commence principal photography for a film or commercial audiovisual product on or after July 1, 2023.

C. The provisions of Sections 6, 10, 15 and 42 of this act apply to taxable years beginning on or after January 1, 2024.

SECTION 44. EFFECTIVE DATE.--

A. The effective date of the provisions of Section 11 of this act is April 1, 2023.

B. The effective date of the provisions of Sections 1 through 4, 16 through 19, 28 and 36 through 41 of this act is July 1, 2023.

C. The effective date of the provisions of Sections 6, 10, 15, 20 through 22 and 42 of this act is January 1, 2024. ←CC

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