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SENATE BILL 41

**44TH LEGISLATURE - STATE OF NEW MEXICO - 2ND SPECIAL SESSION, 2000**

INTRODUCED BY

Carlos R. Cisneros

AN ACT

RELATING TO TAXATION; REDUCING INCOME TAX RATES.

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

Section 1. Section 7-2-2 NMSA 1978 (being Laws 1986, Chapter 20, Section 26, as amended) is amended to read:

"7-2-2. DEFINITIONS.--For the purpose of the Income Tax Act and unless the context requires otherwise:

A. "adjusted gross income" means adjusted gross income as defined in Section 62 of the Internal Revenue Code, as that section may be amended or renumbered;

B. "base income":

(1) means, for estates and trusts, that part of the estate's or trust's income defined as taxable income and upon which the federal income tax is calculated in the Internal Revenue Code for income tax purposes plus, for taxable years beginning on or after January 1, 1991, the amount of the net operating loss deduction allowed by Section

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1 172(a) of the Internal Revenue Code, as that section may be  
2 amended or renumbered, and taken by the taxpayer for that  
3 year;

4 (2) means, for taxpayers other than estates  
5 or trusts, that part of the taxpayer's income defined as  
6 adjusted gross income plus, for taxable years beginning on or  
7 after January 1, 1991, the amount of the net operating loss  
8 deduction allowed by Section 172(a) of the Internal Revenue  
9 Code, as that section may be amended or renumbered, and taken  
10 by the taxpayer for that year; and

11 (3) includes, for all taxpayers, any other  
12 income of the taxpayer not included in adjusted gross income  
13 but upon which a federal tax is calculated pursuant to the  
14 Internal Revenue Code for income tax purposes, except amounts  
15 for which a calculation of tax is made pursuant to Section 55  
16 of the Internal Revenue Code, as that section may be amended  
17 or renumbered; "base income" also includes interest received  
18 on a state or local bond;

19 C. "compensation" means wages, salaries,  
20 commissions and any other form of remuneration paid to  
21 employees for personal services;

22 D. "department" means the taxation and revenue  
23 department, the secretary of taxation and revenue or any  
24 employee of the department exercising authority lawfully  
25 delegated to that employee by the secretary;

E. "fiduciary" means a guardian, trustee,  
executor, administrator, committee, conservator, receiver,

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1 individual or corporation acting in any fiduciary capacity;

2 F. "filing status" means "married filing joint  
3 returns", "married filing separate returns", "head of  
4 household", "surviving spouse" and "single", as those terms  
5 are generally defined for federal tax purposes;

6 G. "fiscal year" means any accounting period of  
7 twelve months ending on the last day of any month other than  
8 December;

9 H. "head of household" means "head of household"  
10 as generally defined for federal income tax purposes;

11 I. "individual" means a natural person, an estate,  
12 a trust or a fiduciary acting for a natural person, trust or  
13 estate;

14 J. "Internal Revenue Code" means the United States  
15 Internal Revenue Code of 1986, as amended;

16 K. "lump-sum amount" means an amount that, for the  
17 purpose of determining liability for federal income tax, was  
18 not included in adjusted gross income but upon which the  
19 five-year-averaging or the ten-year-averaging method of tax  
20 computation provided in Section 402 of the Internal Revenue  
21 Code, as that section may be amended or renumbered, was  
22 applied;

23 L. "modified gross income" means all income of the  
24 taxpayer and, if any, the taxpayer's spouse and dependents,  
25 undiminished by losses and from whatever source derived,  
including:

(1) compensation;

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- 1 (2) net profit derived from business;
- 2 (3) gains derived from dealings in property;
- 3 (4) interest;
- 4 (5) net rents;
- 5 (6) royalties;
- 6 (7) dividends;
- 7 (8) alimony and separate maintenance
- 8 payments;
- 9 (9) annuities;
- 10 (10) income from life insurance and
- 11 endowment contracts;
- 12 (11) pensions;
- 13 (12) discharge of indebtedness;
- 14 (13) distributive share of partnership
- 15 income;
- 16 (14) income in respect of a decedent;
- 17 (15) income from an interest in an estate or
- 18 trust;
- 19 (16) social security benefits;
- 20 (17) unemployment compensation benefits;
- 21 (18) workers' compensation benefits;
- 22 (19) public assistance and welfare benefits;
- 23 (20) cost-of-living allowances; and
- 24 (21) gifts;
- 25

M. "modified gross income" does not include:

- (1) payments for hospital, dental, medical or drug expenses whether made to or on behalf of the

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1 taxpayer;

2 (2) the value of room and board provided by  
3 federal, state or local governments or by private individuals  
4 or agencies based upon financial need and not as a form of  
5 compensation;

6 (3) payments made pursuant to a federal,  
7 state or local government program directly or indirectly to a  
8 third party on behalf of the taxpayer when identified to a  
9 particular use or invoice by the payer; or

10 (4) payments made pursuant to Sections  
11 7-2-14, [~~7-2-14.1~~] 7-2-18, 7-2-18.1 and 7-3-9 NMSA 1978;

12 N. "net income" means, for estates and trusts,  
13 base income adjusted to exclude amounts that the state is  
14 prohibited from taxing because of the laws or constitution of  
15 this state or the United States and means, for taxpayers  
16 other than estates or trusts, base income adjusted to  
17 exclude:

18 (1) an amount equal to the standard  
19 deduction allowed the taxpayer for the taxpayer's taxable  
20 year by Section 63 of the Internal Revenue Code, as that  
21 section may be amended or renumbered;

22 (2) an amount equal to the itemized  
23 deductions, as defined in Section 63 of the Internal Revenue  
24 Code, as that section may be amended or renumbered, allowed  
25 the taxpayer for the taxpayer's taxable year less the amount  
excluded pursuant to Paragraph (1) of this subsection;

(3) an amount equal to the product of the

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1 exemption amount allowed for the taxpayer's taxable year by  
2 Section 151 of the Internal Revenue Code, as that section may  
3 be amended or renumbered, multiplied by the number of  
4 personal exemptions allowed for federal income tax purposes;

5 (4) income from obligations of the United  
6 States of America less expenses incurred to earn that income;

7 (5) other amounts that the state is  
8 prohibited from taxing because of the laws or constitution of  
9 this state or the United States;

10 (6) for taxable years that began prior to  
11 January 1, 1991, an amount equal to the sum of:

12 (a) net operating loss carryback  
13 deductions to that year from taxable years beginning prior to  
14 January 1, 1991 claimed and allowed, as provided by the  
15 Internal Revenue Code; and

16 (b) net operating loss carryover  
17 deductions to that year claimed and allowed; and

18 (7) for taxable years beginning on or after  
19 January 1, 1991, an amount equal to the sum of any net  
20 operating loss carryover deductions to that year claimed and  
21 allowed, provided that the amount of any net operating loss  
22 carryover from a taxable year beginning on or after January  
23 1, 1991 may be excluded only as follows:

24 (a) in the case of a timely filed  
25 return, in the taxable year immediately following the taxable  
year for which the return is filed; or

(b) in the case of amended returns or

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1 original returns not timely filed, in the first taxable year  
2 beginning after the date on which the return or amended  
3 return establishing the net operating loss is filed; and

4 (c) in either case, if the net  
5 operating loss carryover exceeds the amount of net income  
6 exclusive of the net operating loss carryover for the taxable  
7 year to which the exclusion first applies, in the next four  
8 succeeding taxable years in turn until the net operating loss  
9 carryover is exhausted; in no event shall a net operating  
10 loss carryover be excluded in any taxable year after the  
11 fourth taxable year beginning after the taxable year to which  
12 the exclusion first applies;

13 O. "net operating loss" means any net operating  
14 loss, as defined by Section 172(c) of the Internal Revenue  
15 Code, as that section may be amended or renumbered, for a  
16 taxable year as further increased by the income, if any, from  
17 obligations of the United States for that year less related  
18 expenses;

19 P. "net operating loss carryover" means the  
20 amount, or any portion of the amount, of a net operating loss  
21 for any taxable year that, pursuant to Paragraph (6) or (7)  
22 of Subsection N of this section, may be excluded from base  
23 income;

24 Q. "nonresident" means every individual not a  
25 resident of this state;

R. "person" means any individual, estate, trust,  
receiver, cooperative association, club, corporation,

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1 company, firm, partnership, limited liability company, joint  
2 venture, syndicate or other association; "person" also means,  
3 to the extent permitted by law, any federal, state or other  
4 governmental unit or subdivision or agency, department or  
5 instrumentality thereof;

6 S. "resident" means an individual who is domiciled  
7 in this state during any part of the taxable year; but any  
8 individual who, on or before the last day of the taxable  
9 year, changed his place of abode to a place without this  
10 state with the bona fide intention of continuing actually to  
11 abide permanently without this state is not a resident for  
12 the purposes of the Income Tax Act;

13 T. "secretary" means the secretary of taxation and  
14 revenue or the secretary's delegate;

15 U. "state" means any state of the United States,  
16 the District of Columbia, the commonwealth of Puerto Rico,  
17 any territory or possession of the United States or any  
18 political subdivision of a foreign country;

19 V. "state or local bond" means a bond issued by a  
20 state other than New Mexico or by a local government other  
21 than one of New Mexico's political subdivisions, the interest  
22 from which is excluded from income for federal income tax  
23 purposes under Section 103 of the Internal Revenue Code, as  
24 that section may be amended or renumbered;

25 W. "surviving spouse" means "surviving spouse" as  
generally defined for federal income tax purposes;

X. "taxable income" means net income less any



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1 lump-sum amount;

2 Y. "taxable year" means the calendar year or  
3 fiscal year upon the basis of which the net income is  
4 computed under the Income Tax Act and includes, in the case  
5 of the return made for a fractional part of a year under the  
6 provisions of the Income Tax Act, the period for which the  
7 return is made; ~~and~~

8 Z. "taxpayer" means any individual subject to the  
9 tax imposed by the Income Tax Act; and

10 AA. "zero bracket amount" means the maximum amount  
11 of taxable income in the first bracket of the tax rate table  
12 for a filing status, for which bracket the amount of tax due  
13 is zero."

14 Section 2. Section 7-2-7 NMSA 1978 (being Laws 1994,  
15 Chapter 5, Section 20, as amended) is amended to read:

16 "7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed by  
17 Section 7-2-3 NMSA 1978 shall be at the following rates for  
18 any taxable year beginning ~~[on or after January 1, 1998]~~ in  
19 2000:

20 A. For married individuals filing separate returns:

| 21 If the taxable income is:                        | The tax shall be:                 |
|---|-----------------------------------|
| 22 <del>[Not over \$4,000</del>                     | <del>1.7% of taxable income</del> |
| 23 <del>Over \$ 4,000 but not over \$ 8,000</del>   | <del>\$ 68.00 plus 3.2% of</del>  |
|   | <del>excess over \$ 4,000</del>   |
| 24 <del>Over \$ 8,000 but not over \$ 12,000</del>  | <del>\$ 196 plus 4.7% of</del>    |
|   | <del>excess over \$ 8,000</del>   |
| 25 <del>Over \$ 12,000 but not over \$ 20,000</del> | <del>\$ 384 plus 6.0% of</del>    |

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1 ~~excess over \$ 12,000~~  
2 ~~Over \$ 20,000 but not over \$ 32,000 \$ 864 plus 7.1% of~~  
3 ~~excess over \$ 20,000~~  
4 ~~Over \$ 32,000 but not over \$ 50,000 \$ 1,716 plus 7.9% of~~  
5 ~~excess over \$ 32,000~~  
6 ~~Over \$ 50,000 \$ 3,138 plus 8.2% of~~  
7 ~~excess over \$ 50,000.]~~  
8 Not over \$1,200 \$ 0  
9 Over \$1,200 but not over \$4,000 2.0% of excess over  
10 \$1,200  
11 Over \$4,000 but not over \$8,000 \$ 56.00 plus 3.2% of  
12 excess over \$4,000  
13 Over \$8,000 but not over \$12,000 \$184 plus 4.7% of  
14 excess over \$8,000  
15 Over \$12,000 but not over \$20,000 \$ 372 plus 6.0% of  
16 excess over \$12,000  
17 Over \$20,000 but not over \$32,000 \$ 852 plus 7.1% of  
18 excess over \$20,000  
19 Over \$32,000 but not over \$50,000 \$1,704 plus 7.9% of  
20 excess over \$32,000  
21 Over \$50,000 \$3,126 plus 8.2% of  
22 excess over \$50,000.

23 B. For surviving spouses and married individuals  
24 filing joint returns:

25 If the taxable income is: The tax shall be:  
~~[Not over \$8,000 1.7% of taxable income~~  
~~Over \$ 8,000 but not over \$ 16,000 \$ 136 plus 3.2% of~~

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1 ~~excess over \$ 8,000~~  
2 ~~Over \$ 16,000 but not over \$ 24,000 \$ 392 plus 4.7% of~~  
3 ~~excess over \$ 16,000~~  
4 ~~Over \$ 24,000 but not over \$ 40,000 \$ 768 plus 6.0% of~~  
5 ~~excess over \$ 24,000~~  
6 ~~Over \$ 40,000 but not over \$ 64,000 \$ 1,728 plus 7.1% of~~  
7 ~~excess over \$ 40,000~~  
8 ~~Over \$ 64,000 but not over \$100,000 \$ 3,432 plus 7.9% of~~  
9 ~~excess over \$ 64,000~~  
10 ~~Over \$100,000 \$ 6,276 plus 8.2% of~~  
11 ~~excess over \$100,000.]~~  
12 Not over \$2,400 \$ 0  
13 Over \$2,400 but not over \$8,000 2.0% of excess over  
14 \$2,400  
15 Over \$8,000 but not over \$16,000 \$ 112 plus 3.2% of  
16 excess over \$8,000  
17 Over \$16,000 but not over \$24,000 \$ 368 plus 4.7% of  
18 excess over \$16,000  
19 Over \$24,000 but not over \$40,000 \$ 744 plus 6.0% of  
20 excess over \$24,000  
21 Over \$40,000 but not over \$64,000 \$1,704 plus 7.1% of  
22 excess over \$40,000  
23 Over \$64,000 but not over \$100,000 \$3,408 plus 7.9% of  
24 excess over \$64,000  
25 Over \$100,000 \$6,252 plus 8.2% of  
excess over \$100,000.

C. For single individuals and for estates and

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trusts:

| If the taxable income is:                        | The tax shall be:                  |
|--|------------------------------------|
| <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</del>   |
|  | <del>excess over \$ 5,500</del>    |
| <del>Over \$ 11,000 but not over \$ 16,000</del> | <del>\$ 269.50 plus 4.7% of</del>  |
|  | <del>excess over \$ 11,000</del>   |
| <del>Over \$ 16,000 but not over \$ 26,000</del> | <del>\$ 504.50 plus 6.0% of</del>  |
|  | <del>excess over \$ 16,000</del>   |
| <del>Over \$ 26,000 but not over \$ 42,000</del> | <del>\$1,104.50 plus 7.1% of</del> |
|  | <del>excess over \$ 26,000</del>   |
| <del>Over \$ 42,000 but not over \$ 65,000</del> | <del>\$2,240.50 plus 7.9% of</del> |
|  | <del>excess over \$ 42,000</del>   |
| <del>Over \$ 65,000</del>                        | <del>\$4,057.50 plus 8.2% of</del> |
|  | <del>excess over \$ 65,000.]</del> |
| <u>Not over \$1,200</u>                          | <u>\$ 0</u>                        |
| <u>Over \$1,200 but not over \$5,500</u>         | <u>2.0% of excess over</u>         |
|  | <u>\$1,200</u>                     |
| <u>Over \$5,500 but not over \$11,000</u>        | <u>\$ 86.00 plus 3.2% of</u>       |
|  | <u>excess over \$5,500</u>         |
| <u>Over \$11,000 but not over \$16,000</u>       | <u>\$ 262 plus 4.7% of</u>         |
|  | <u>excess over \$11,000</u>        |
| <u>Over \$16,000 but not over \$26,000</u>       | <u>\$ 497 plus 6.0% of</u>         |
|  | <u>excess over \$16,000</u>        |
| <u>Over \$26,000 but not over \$42,000</u>       | <u>\$1,097 plus 7.1% of</u>        |
|  | <u>excess over \$26,000</u>        |
| <u>Over \$42,000 but not over \$65,000</u>       | <u>\$2,233 plus 7.9% of</u>        |

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1 excess over \$42,000  
2 Over \$65,000 \$4,050 plus 8.2% of  
3 excess over \$65,000.

4 D. For heads of household filing returns:

5 If the taxable income is: The tax shall be:

6 [~~Not over \$7,000~~ ~~1.7% of taxable income~~  
7 ~~Over \$ 7,000 but not over \$ 14,000~~ ~~\$ 119 plus 3.2% of~~  
8 ~~excess over \$ 7,000~~  
9 ~~Over \$ 14,000 but not over \$ 20,000~~ ~~\$ 343 plus 4.7% of~~  
10 ~~excess over \$ 14,000~~  
11 ~~Over \$ 20,000 but not over \$ 33,000~~ ~~\$ 625 plus 6.0% of~~  
12 ~~excess over \$ 20,000~~  
13 ~~Over \$ 33,000 but not over \$ 53,000~~ ~~\$1,405 plus 7.1% of~~  
14 ~~excess over \$ 33,000~~  
15 ~~Over \$ 53,000 but not over \$ 83,000~~ ~~\$2,825 plus 7.9% of~~  
16 ~~excess over \$ 53,000~~  
17 ~~Over \$ 83,000~~ ~~\$5,195 plus 8.2% of~~  
18 ~~excess over \$ 83,000.]~~

19 Not over \$1,900 \$ 0  
20 Over \$1,900 but not over \$7,000 2.0% of excess over  
21 \$1,900  
22 Over \$7,000 but not over \$14,000 \$ 102 plus 3.2% of  
23 excess over \$7,000  
24 Over \$14,000 but not over \$20,000 \$ 326 plus 4.7% of  
25 excess over \$14,000  
Over \$20,000 but not over \$33,000 \$ 608 plus 6.0% of  
excess over \$20,000

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|---|--|------------------------------|
| 1 | <u>Over \$33,000 but not over \$53,000</u> | <u>\$1,388 plus 7.1% of</u>  |
| 2 |  | <u>excess over \$33,000</u>  |
| 3 | <u>Over \$53,000 but not over \$83,000</u> | <u>\$2,808 plus 7.9% of</u>  |
| 4 |  | <u>excess over \$53,000</u>  |
| 5 | <u>Over \$83,000</u>                       | <u>\$5,178 plus 8.2% of</u>  |
| 6 |  | <u>excess over \$83,000.</u> |

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

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

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

16 Section 3. A new section of the Income Tax Act,  
17 Section 7-2-7.2 NMSA 1978, is enacted to read:

18 "7-2-7.2. [NEW MATERIAL] INDEXING OF TAX RATE  
19 TABLES.--For taxable years beginning on or after January 1,  
20 2000, the tax rate schedules in Subsections A through D of  
21 Section 7-2-7 NMSA 1978 shall be adjusted to account for  
22 inflation. The department shall make the adjustments by  
23 multiplying the minimum and maximum bracket amounts by a  
24 fraction, the numerator of which is the consumer price  
25 index ending during the calendar year in which the taxable  
years begin and the denominator of which is the consumer  
price index ending in calendar year 1999. The result of

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1 the multiplication shall be rounded down to the nearest one  
2 hundred dollars (\$100) except that, if the result would be  
3 a minimum or maximum bracket amount less than the  
4 corresponding amount for the preceding year, then no  
5 adjustment shall be made. The department shall adjust the  
6 tax due shown for the minimum bracket amounts accordingly.  
7 For the purposes of this section, "consumer price index"  
8 means the average of the consumer price index for all urban  
9 consumers published by the United States department of  
10 labor for the twelve-month period ending July 31 of the  
11 calendar year."

12 Section 4. Section 7-2-12 NMSA 1978 (being Laws 1965,  
13 Chapter 202, Section 10, as amended) is amended to read:

14 "7-2-12. TAXPAYER RETURNS--PAYMENT OF TAX.--

15 A. Every resident of this state and every  
16 individual deriving income from any business transaction,  
17 property or employment within this state and not exempt  
18 from tax under the Income Tax Act ~~[who]~~ shall file a  
19 complete tax return with the department in form and content  
20 as prescribed by the secretary if the individual:

21 (1) is required by the laws of the United  
22 States to file a federal income tax return ~~[shall file a~~  
23 ~~complete tax return with the department in form and content~~  
24 ~~as prescribed by the secretary]~~ or files a federal income  
25 tax return; and

(2) the taxpayer's taxable income exceeds  
the zero bracket amount for the taxpayer's filing status.

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B. Unless otherwise required under the Income Tax Act or prescription of the secretary, in completing a return for a taxable year, the taxpayer shall declare the same filing status and number of personal exemptions as the taxpayer declared for federal income tax purposes for that same taxable year or, if the taxpayer was not required to file a federal income tax return for the taxable year, the filing status and number of personal exemptions that would have been required or allowed for that taxpayer by the Internal Revenue Code and regulations pursuant to the code for that taxable year.

C. The return required and the tax imposed on individuals under the Income Tax Act are due and payment is required on or before the fifteenth day of the fourth month following the end of the taxable year."

Section 5. APPLICABILITY.--The provisions of this act are applicable to taxable years beginning on or after January 1, 2000.