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AN ACT

RELATING TO TAXATION; AMENDING PROVISIONS OF THE TAX ADMINISTRATION ACT, THE INCOME TAX ACT, THE CORPORATE INCOME AND FRANCHISE TAX ACT, THE RURAL JOB TAX CREDIT, THE UNIFORM UNCLAIMED PROPERTY ACT (1995), THE GROSS RECEIPTS AND COMPENSATING TAX ACT, THE OIL AND GAS SEVERANCE TAX ACT, THE OIL AND GAS CONSERVATION TAX ACT, THE OIL AND GAS EMERGENCY SCHOOL TAX ACT, THE OIL AND GAS AD VALOREM PRODUCTION TAX ACT, THE INSURANCE PREMIUM TAX ACT AND THE TAXATION AND REVENUE DEPARTMENT ACT; REPEALING SECTION 52-6-13 NMSA 1978 (BEING LAWS 1986, CHAPTER 22, SECTION 87, AS AMENDED).

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

SECTION 1. Section 7-1-4.3 NMSA 1978 (being Laws 2003, Chapter 398, Section 3) is amended to read:

"7-1-4.3. NEW MEXICO TAXPAYER BILL OF RIGHTS--NOTICE TO THE PUBLIC.--The department shall develop a publication that states the rights of taxpayers in simple, nontechnical terms and shall disseminate the publication to taxpayers, at a minimum, with tax forms periodically issued by the department."

SECTION 2. Section 7-1-6 NMSA 1978 (being Laws 1978, Chapter 55, Section 1, as amended) is amended to read:

"7-1-6. RECEIPTS--DISBURSEMENTS--FUNDS CREATED.--

A. All money received by the department with

1 respect to laws administered pursuant to the provisions of  
2 the Tax Administration Act shall be deposited with the state  
3 treasurer before the close of the next succeeding business  
4 day after receipt of the money, except that money received  
5 with respect to the Income Tax Act and the Corporate Income  
6 and Franchise Tax Act during the period starting with the  
7 fifth day prior to the due date for payment of the taxes for  
8 the year and ending on the tenth day following that due date  
9 shall be deposited before the close of the tenth business day  
10 after receipt of the money.

11 B. Money received or disbursed by the department  
12 shall be accounted for by the department as required by law  
13 or rule of the secretary of finance and administration.

14 C. Disbursements for tax credits, tax rebates,  
15 refunds, the payment of interest, the payment of fees charged  
16 by attorneys or collection agencies for collection of  
17 accounts as agent for the department, attorney fees and costs  
18 awarded by a court or hearing officer, as the result of oil  
19 and gas litigation, the payment of credit card service  
20 charges on payments of taxes by use of credit cards,  
21 distributions and transfers shall be made by the department  
22 of finance and administration upon request and certification  
23 of their appropriateness by the secretary or the secretary's  
24 delegate.

25 D. There are hereby created in the state treasury

1 the "tax administration suspense fund", the "extraction taxes  
2 suspense fund" and the "workers' compensation collections  
3 suspense fund" for the purpose of making the disbursements  
4 authorized by the Tax Administration Act.

5 E. All revenues collected or received by the  
6 department pursuant to the provisions of the taxes and tax  
7 acts set forth in Subsection A of Section 7-1-2 NMSA 1978  
8 shall be credited to the tax administration suspense fund and  
9 are appropriated for the purpose of making the disbursements  
10 authorized in this section or otherwise authorized or  
11 required by law to be made from the tax administration  
12 suspense fund.

13 F. All revenues collected or received by the  
14 department pursuant to the taxes or tax acts set forth in  
15 Subsection B of Section 7-1-2 NMSA 1978 shall be credited to  
16 the extraction taxes suspense fund and are appropriated for  
17 the purpose of making the disbursements authorized in this  
18 section or otherwise authorized or required by law to be made  
19 from the extraction taxes suspense fund.

20 G. All revenues collected or received by the  
21 department pursuant to the taxes or tax acts set forth in  
22 Subsection C of Section 7-1-2 NMSA 1978 may be credited to  
23 the tax administration suspense fund, unless otherwise  
24 directed by law to be credited to another fund or agency, and  
25 are appropriated for the purpose of making disbursements

1 authorized in this section or otherwise authorized or  
2 required by law.

3 H. All revenues collected or received by the  
4 department pursuant to the provisions of Section 52-5-19 NMSA  
5 1978 shall be credited to the workers' compensation  
6 collections suspense fund and are appropriated for the  
7 purpose of making the disbursements authorized in this  
8 section or otherwise authorized or required by law to be made  
9 from the workers' compensation collections suspense fund.

10 I. Disbursements to cover expenditures of the  
11 department shall be made only upon approval of the secretary  
12 or the secretary's delegate.

13 J. Miscellaneous receipts from charges made by the  
14 department to defray expenses pursuant to the provisions of  
15 Section 9-11-6.1 NMSA 1978 and similar charges are  
16 appropriated to the department for its use.

17 K. From the tax administration suspense fund,  
18 there may be disbursed each month amounts approved by the  
19 secretary or the secretary's delegate necessary to maintain a  
20 fund hereby created and to be known as the "income tax  
21 suspense fund". The income tax suspense fund shall be used  
22 for the payment of income tax refunds."

23 SECTION 3. Section 7-1-17.1 NMSA 1978 (being Laws 2003,  
24 Chapter 398, Section 15) is amended to read:

25 "7-1-17.1. TAX LIABILITY--SPOUSE OR FORMER SPOUSE.--

1           A. If the secretary or the secretary's delegate  
2 determines that, taking into account the facts and  
3 circumstances in Subsections F and G of this section, it is  
4 inequitable to hold a spouse liable for payment of all or  
5 part of any unpaid tax, assessment or other deficiency for a  
6 tax, the secretary may decline to bring an action or  
7 proceeding to collect such taxes from the spouse, including  
8 collection from the spouse's interest in community property.

9           B. The secretary or the secretary's delegate may  
10 grant innocent spouse relief to a spouse who files a joint  
11 tax return and all or part of the spouse's portion of any  
12 overpayment was, or is expected to be, applied to the tax  
13 liability for which the spouse is not liable because the  
14 liability is determined to be separate debt, as defined in  
15 Subsection A of Section 40-3-9 NMSA 1978.

16           C. If on review it is determined that the  
17 information relied on to make the innocent spouse relief  
18 determination was incorrect or fraudulent, the department may  
19 rescind the innocent spouse relief and proceed to collect the  
20 affected taxes from the spouse.

21           D. Innocent spouse relief does not authorize the  
22 abatement of taxes or enforcement of any provisions of the  
23 Tax Administration Act against the taxpayer.

24           E. A lien or levy imposed on a spouse or property  
25 of a spouse who qualifies for innocent spouse relief may be

1 released as to taxes deemed inequitable to collect pursuant  
2 to this section.

3 F. If the federal internal revenue service granted  
4 the spouse relief pursuant to 26 U.S.C. Section 6015, the  
5 spouse may request similar relief from the department on a  
6 form prescribed by the department, regardless of whether the  
7 spouse is a joint or separate filer for New Mexico income  
8 tax. The spouse shall provide a copy of the federal internal  
9 revenue service's determination with the request that the  
10 secretary or the secretary's delegate cease collection  
11 activity against the spouse to the extent relief was allowed  
12 by the federal internal revenue service. The department  
13 shall grant innocent spouse relief for the same tax periods  
14 and tax programs granted relief by the federal internal  
15 revenue service; provided that the request for relief is  
16 submitted on the form prescribed by the department. The  
17 secretary or the secretary's delegate may decline to pursue  
18 collection activity against a spouse while an application for  
19 relief is pending before the federal internal revenue  
20 service, but the failure to seek or obtain relief shall not  
21 preclude the secretary or secretary's delegate from declining  
22 to collect tax from a spouse when collection would be  
23 inequitable. An item giving rise to a deficiency on a joint  
24 return shall be allocated to an individual filing the return  
25 in the same manner as it would have been allocated if the

1 individual had filed separate returns for the taxable year.

2 G. The secretary or the secretary's delegate shall  
3 consider at least the following facts and circumstances when  
4 determining whether to grant innocent spouse relief if the  
5 federal internal revenue service has not granted the spouse  
6 personal income tax relief pursuant to 26 U.S.C. Section  
7 6015:

8 (1) whether the spouse had knowledge of the  
9 tax liability at the time the liability arose;

10 (2) whether the spouse had a meaningful  
11 opportunity to contest the assessment of tax at the time the  
12 assessment was made;

13 (3) whether the spouse cooperated with the  
14 department in collection and compliance efforts, to the  
15 extent the spouse had knowledge of collection and compliance  
16 efforts;

17 (4) whether the state can protect its  
18 interests without pursuing active collection efforts against  
19 the spouse, including collection efforts against the  
20 taxpayer;

21 (5) whether the spouse benefited from the  
22 transfer of income, receipts or significant amounts of  
23 property from the taxpayer;

24 (6) whether the spouse participated in the  
25 business and financial decisions of the household during the

1 periods when the tax liability arose;

2 (7) whether the spouse participated in  
3 operating a business with the taxpayer;

4 (8) whether the spouse had responsibility  
5 for the finances of a business for which the spouse  
6 participated;

7 (9) whether the spouse had responsibility  
8 for payment of taxes for a business for which the spouse  
9 participated; and

10 (10) whether the spouse knew that the  
11 taxpayer engaged in business.

12 H. No one factor contemplated to Subsection G of  
13 this section shall be considered determinative in considering  
14 whether tax collection from a spouse would be inequitable.

15 Each factor may be given different relative weight, depending  
16 on the facts and circumstances presented; therefore, the  
17 presence of a majority of factors considered tending to  
18 support innocent spouse relief in a particular case may not  
19 necessarily indicate that the spouse in question qualifies  
20 for innocent spouse relief for New Mexico tax purposes.

21 I. The secretary shall adopt and promulgate  
22 regulations as necessary for making the determinations  
23 pursuant to this section.

24 J. As used in this section:

25 (1) "innocent spouse relief" means the

1 relief from collection of tax liabilities pursuant to this  
2 section;

3 (2) "spouse" means a current or former  
4 spouse of a taxpayer; and

5 (3) "taxpayer" means a taxpayer who is or  
6 was married to a spouse who is seeking innocent spouse relief  
7 pursuant to this section."

8 SECTION 4. Section 7-1-36 NMSA 1978 (being Laws 1965,  
9 Chapter 248, Section 38, as amended) is amended to read:

10 "7-1-36. PROPERTY EXEMPT FROM LEVY.--

11 A. There shall be exempt from levy the money or  
12 property of a delinquent taxpayer in a total amount or value  
13 not in excess of one thousand dollars (\$1,000).

14 B. In addition to the property exempt under  
15 Subsection A of this section, there shall also be exempt from  
16 levy on an employer of the taxpayer the greater of the  
17 following portions of the taxpayer's disposable earnings:

18 (1) seventy-five percent of the taxpayer's  
19 disposable earnings for any pay period; or

20 (2) an amount each week equal to forty times  
21 the minimum wage rate pursuant to Subsection A of Section  
22 50-4-22 NMSA 1978. The superintendent of regulation and  
23 licensing shall provide a table giving equivalent exemptions  
24 for pay periods of other than one week.

25 C. As used in this section, "disposable earnings"

1 means that part of a taxpayer's wages or salary remaining  
2 after deducting the amounts that are required by law to be  
3 withheld."

4 SECTION 5. Section 7-1-69 NMSA 1978 (being Laws 1965,  
5 Chapter 248, Section 70, as amended) is amended to read:

6 "7-1-69. CIVIL PENALTY FOR FAILURE TO PAY TAX OR FILE A  
7 RETURN.--

8 A. Except as provided in Subsection C of this  
9 section, in the case of failure due to negligence or  
10 disregard of department rules and regulations, but without  
11 intent to evade or defeat a tax, to pay when due the amount  
12 of tax required to be paid, to pay in accordance with the  
13 provisions of Section 7-1-13.1 NMSA 1978 when required to do  
14 so or to file by the date required a return regardless of  
15 whether a tax is due, there shall be added to the amount  
16 assessed a penalty in an amount equal to the greater of:

17 (1) two percent per month or any fraction of  
18 a month from the date the tax was due multiplied by the  
19 amount of tax due but not paid, not to exceed twenty percent  
20 of the tax due but not paid;

21 (2) two percent per month or any fraction of  
22 a month from the date the return was required to be filed  
23 multiplied by the tax liability established in the late  
24 return, not to exceed twenty percent of the tax liability  
25 established in the late return; or

1                   (3) a minimum of five dollars (\$5.00), but  
2 the five-dollar (\$5.00) minimum penalty shall not apply to  
3 taxes levied under the Income Tax Act, Corporate Income and  
4 Franchise Tax Act or taxes administered by the department  
5 pursuant to Subsection B of Section 7-1-2 NMSA 1978.

6                   B. No penalty shall be assessed against a taxpayer  
7 if the failure to pay an amount of tax when due results from  
8 a mistake of law made in good faith and on reasonable  
9 grounds.

10                  C. If a different penalty is specified in a  
11 compact or other interstate agreement to which New Mexico is  
12 a party, the penalty provided in the compact or other  
13 interstate agreement shall be applied to amounts due under  
14 the compact or other interstate agreement at the rate and in  
15 the manner prescribed by the compact or other interstate  
16 agreement.

17                  D. In the case of failure, with willful intent to  
18 evade or defeat a tax, to pay when due the amount of tax  
19 required to be paid, there shall be added to the amount fifty  
20 percent of the tax or a minimum of twenty-five dollars  
21 (\$25.00), whichever is greater, as penalty.

22                  E. If demand is made for payment of a tax,  
23 including penalty imposed pursuant to this section, and if  
24 the tax is paid within ten days after the date of such  
25 demand, no penalty shall be imposed for the period after the

1 date of the demand with respect to the amount paid.

2 F. If a taxpayer makes electronic payment of a tax  
3 but the payment does not include all of the information  
4 required by the department pursuant to the provisions of  
5 Section 7-1-13.1 NMSA 1978 and if the department does not  
6 receive the required information within five business days  
7 from the later of the date a request by the department for  
8 that information is received by the taxpayer or the due date,  
9 the taxpayer shall be subject to a penalty of two percent per  
10 month or any fraction of a month from the fifth day following  
11 the date the request is received. If a penalty is imposed  
12 under Subsection A of this section with respect to the same  
13 transaction for the same period, no penalty shall be imposed  
14 under this subsection.

15 G. No penalty shall be imposed on:

16 (1) tax due in excess of tax paid in  
17 accordance with an approved estimated basis pursuant to  
18 Section 7-1-10 NMSA 1978;

19 (2) tax due as the result of a managed  
20 audit; or

21 (3) tax that is deemed paid by crediting  
22 overpayments found in an audit or managed audit of multiple  
23 periods pursuant to Section 7-1-29 NMSA 1978."

24 SECTION 6. Section 7-2-18.18 NMSA 1978 (being Laws  
25 2007, Chapter 204, Section 2) is amended to read:

1 "7-2-18.18. RENEWABLE ENERGY PRODUCTION TAX CREDIT.--

2 A. The tax credit provided in this section may be  
3 referred to as the "renewable energy production tax credit".  
4 The tax credit provided in this section may not be claimed  
5 with respect to the same electricity production for which a  
6 tax credit pursuant to Section 7-2A-19 NMSA 1978 has been  
7 claimed.

8 B. A taxpayer who files an individual New Mexico  
9 income tax return and who is not a dependent of another  
10 taxpayer is eligible for the renewable energy production tax  
11 credit if the taxpayer:

12 (1) holds title to a qualified energy  
13 generator that first produced electricity on or before  
14 January 1, 2018; or

15 (2) leases property upon which a qualified  
16 energy generator operates from a county or municipality under  
17 authority of an industrial revenue bond and if the qualified  
18 energy generator first produced electricity on or before  
19 January 1, 2018.

20 C. The amount of the tax credit shall equal one  
21 cent (\$.01) per kilowatt-hour of the first four hundred  
22 thousand megawatt-hours of electricity produced by the  
23 qualified energy generator in the taxable year using a wind-  
24 or biomass-derived qualified energy resource; provided that  
25 the total amount of tax credits claimed by all taxpayers for

1 a single qualified energy generator using a wind- or  
2 biomass-derived qualified energy resource shall not exceed  
3 one cent (\$.01) per kilowatt-hour of the first four hundred  
4 thousand megawatt-hours of electricity produced by the  
5 qualified energy generator in a taxable year.

6 D. The amount of the tax credit for electricity  
7 produced by a qualified energy generator in the taxable year  
8 using a solar-light-derived or solar-heat-derived qualified  
9 energy resource shall be at the amounts specified in  
10 Paragraphs (1) through (11) of this subsection; provided that  
11 the total amount of tax credits claimed by all taxpayers in a  
12 taxable year for a single qualified energy generator using a  
13 solar-light-derived or solar-heat-derived qualified energy  
14 resource shall be limited to the first two hundred thousand  
15 megawatt-hours of electricity produced by the qualified  
16 energy generator in the taxable year:

17 (1) one and one-half cents (\$.015) per  
18 kilowatt-hour in the first taxable year in which the  
19 qualified energy generator produces electricity using a  
20 solar-light-derived or solar-heat-derived qualified energy  
21 resource;

22 (2) two cents (\$.02) per kilowatt-hour in  
23 the second taxable year in which the qualified energy  
24 generator produces electricity using a solar-light-derived or  
25 solar-heat-derived qualified energy resource;

1                   (3) two and one-half cents (\$.025) per  
2 kilowatt-hour in the third taxable year in which the  
3 qualified energy generator produces electricity using a  
4 solar-light-derived or solar-heat-derived qualified energy  
5 resource;

6                   (4) three cents (\$.03) per kilowatt-hour in  
7 the fourth taxable year in which the qualified energy  
8 generator produces electricity using a solar-light-derived or  
9 solar-heat-derived qualified energy resource;

10                   (5) three and one-half cents (\$.035) per  
11 kilowatt-hour in the fifth taxable year in which the  
12 qualified energy generator produces electricity using a  
13 solar-light-derived or solar-heat-derived qualified energy  
14 resource;

15                   (6) four cents (\$.04) per kilowatt-hour in  
16 the sixth taxable year in which the qualified energy  
17 generator produces electricity using a solar-light-derived or  
18 solar-heat-derived qualified energy resource;

19                   (7) three and one-half cents (\$.035) per  
20 kilowatt-hour in the seventh taxable year in which the  
21 qualified energy generator produces electricity using a  
22 solar-light-derived or solar-heat-derived qualified energy  
23 resource;

24                   (8) three cents (\$.03) per kilowatt-hour in  
25 the eighth taxable year in which the qualified energy

1 generator produces electricity using a solar-light-derived or  
2 solar-heat-derived qualified energy resource;

3 (9) two and one-half cents (\$.025) per  
4 kilowatt-hour in the ninth taxable year in which the  
5 qualified energy generator produces electricity using a  
6 solar-light-derived or solar-heat-derived qualified energy  
7 resource;

8 (10) two cents (\$.02) per kilowatt-hour in  
9 the tenth taxable year in which the qualified energy  
10 generator produces electricity using a solar-light-derived or  
11 solar-heat-derived qualified energy resource; and

12 (11) one and one-half cents (\$.015) per  
13 kilowatt-hour in the eleventh taxable year in which the  
14 qualified energy generator produces electricity using a  
15 solar-light-derived or solar-heat-derived qualified energy  
16 resource.

17 E. A taxpayer eligible for a renewable energy  
18 production tax credit pursuant to Subsection B of this  
19 section shall be eligible for the renewable energy production  
20 tax credit for one hundred twenty consecutive months,  
21 beginning on the date the qualified energy generator begins  
22 producing electricity.

23 F. As used in this section:

24 (1) "biomass" means organic material that is  
25 available on a renewable or recurring basis, including:

1 (a) forest-related materials, including  
2 mill residues, logging residues, forest thinnings, slash,  
3 brush, low-commercial-value materials or undesirable species,  
4 salt cedar and other phreatophyte or woody vegetation removed  
5 from river basins or watersheds and woody material harvested  
6 for the purpose of forest fire fuel reduction or forest  
7 health and watershed improvement;

8 (b) agricultural-related materials,  
9 including orchard trees, vineyard, grain or crop residues,  
10 including straws and stover, aquatic plants and agricultural  
11 processed co-products and waste products, including fats,  
12 oils, greases, whey and lactose;

13 (c) animal waste, including manure and  
14 slaughterhouse and other processing waste;

15 (d) solid woody waste materials,  
16 including landscape or right-of-way tree trimmings, rangeland  
17 maintenance residues, waste pallets, crates and  
18 manufacturing, construction and demolition wood wastes,  
19 excluding pressure-treated, chemically treated or painted  
20 wood wastes and wood contaminated with plastic;

21 (e) crops and trees planted for the  
22 purpose of being used to produce energy;

23 (f) landfill gas, wastewater treatment  
24 gas and biosolids, including organic waste byproducts  
25 generated during the wastewater treatment process; and

1 (g) segregated municipal solid waste,  
2 excluding tires and medical and hazardous waste;

3 (2) "qualified energy generator" means an  
4 electric generating facility with at least one megawatt  
5 generating capacity located in New Mexico that produces  
6 electricity using a qualified energy resource and the  
7 electricity produced is sold to an unrelated person; and

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

14 (a) solar light;

15 (b) solar heat;

16 (c) wind; or

17 (d) biomass.

18 G. A person that holds title to a facility  
19 generating electricity from a qualified energy resource or a  
20 person that leases such a facility from a county or  
21 municipality pursuant to an industrial revenue bond may  
22 request certification of eligibility for the renewable energy  
23 production tax credit from the energy, minerals and natural  
24 resources department, which shall determine if the facility  
25 is a qualified energy generator. The energy, minerals and

1 natural resources department may certify the eligibility of  
2 an energy generator only if the total amount of electricity  
3 that may be produced annually by all qualified energy  
4 generators that are certified pursuant to this section and  
5 pursuant to Section 7-2A-19 NMSA 1978 will not exceed a total  
6 of two million megawatt-hours plus an additional five hundred  
7 thousand megawatt-hours produced by qualified energy  
8 generators using a solar-light-derived or solar-heat-derived  
9 qualified energy resource. Applications shall be considered  
10 in the order received. The energy, minerals and natural  
11 resources department may estimate the annual power-generating  
12 potential of a generating facility for the purposes of this  
13 section. The energy, minerals and natural resources  
14 department shall issue a certificate to the applicant stating  
15 whether the facility is an eligible qualified energy  
16 generator and the estimated annual production potential of  
17 the generating facility, which shall be the limit of that  
18 facility's energy production eligible for the tax credit for  
19 the taxable year. The energy, minerals and natural resources  
20 department may issue rules governing the procedure for  
21 administering the provisions of this subsection and shall  
22 report annually to the appropriate interim legislative  
23 committee information that will allow the legislative  
24 committee to analyze the effectiveness of the renewable  
25 energy production tax credit, including the identity of

1 qualified energy generators, the energy production means  
2 used, the amount of energy produced by those qualified energy  
3 generators and whether any applications could not be approved  
4 due to program limits.

5 H. A taxpayer may be allocated all or a portion of  
6 the right to claim a renewable energy production tax credit  
7 without regard to proportional ownership interest if:

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

11 (2) the business entity:

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

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

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

25 (3) the taxpayer and all other taxpayers

1 allocated a right to claim the renewable energy production  
2 tax credit pursuant to this subsection own collectively at  
3 least a five percent interest in a qualified energy  
4 generator;

5 (4) the business entity provides notice of  
6 the allocation and the taxpayer's interest to the energy,  
7 minerals and natural resources department on forms prescribed  
8 by that department for the taxable year to be claimed; and

9 (5) the energy, minerals and natural  
10 resources department certifies the allocation for the taxable  
11 year to be claimed in writing to the taxpayer.

12 I. Upon receipt of notice of an allocation of the  
13 right to claim all or a portion of the renewable energy  
14 production tax credit, the energy, minerals and natural  
15 resources department shall promptly certify the allocation in  
16 writing to the recipient of the allocation.

17 J. Married individuals who file separate returns  
18 for a taxable year in which they could have filed a joint  
19 return may each claim only one-half of the credit that would  
20 have been allowed on a joint return.

21 K. A taxpayer may claim the renewable energy  
22 production tax credit by submitting to the taxation and  
23 revenue department the certificate issued by the energy,  
24 minerals and natural resources department, pursuant to  
25 Subsection G or H of this section, documentation showing the

1 taxpayer's interest in the facility, documentation of the  
2 amount of electricity produced by the facility in the taxable  
3 year and any other information the taxation and revenue  
4 department may require to determine the amount of the tax  
5 credit due the taxpayer.

6 L. If the requirements of this section have been  
7 complied with, the department shall approve payment of the  
8 renewable energy production tax credit. The credit may be  
9 deducted from a taxpayer's New Mexico income tax liability  
10 for the taxable year for which the credit is claimed. If the  
11 amount of tax credit exceeds the taxpayer's income tax  
12 liability for the taxable year:

13 (1) the excess may be carried forward for a  
14 period of five taxable years; or

15 (2) if the tax credit was issued with  
16 respect to a qualified energy generator that first produced  
17 electricity using a qualified energy resource on or after  
18 October 1, 2007, the excess shall be refunded to the  
19 taxpayer.

20 M. Once a taxpayer has been granted a renewable  
21 energy production tax credit for a given facility, that  
22 taxpayer shall be allowed to retain the facility's original  
23 date of application for tax credits for that facility until  
24 either the facility goes out of production for more than six  
25 consecutive months in a year or until the facility's ten-year

1 eligibility has expired."

2 SECTION 7. Section 7-2A-19 NMSA 1978 (being Laws 2002,  
3 Chapter 59, Section 1, as amended) is amended to read:

4 "7-2A-19. RENEWABLE ENERGY PRODUCTION TAX CREDIT--  
5 LIMITATIONS--DEFINITIONS--CLAIMING THE CREDIT.--

6 A. The tax credit provided in this section may be  
7 referred to as the "renewable energy production tax credit".  
8 The tax credit provided in this section may not be claimed  
9 with respect to the same electricity production for which the  
10 renewable energy production tax credit provided in the Income  
11 Tax Act has been claimed.

12 B. A person is eligible for the renewable energy  
13 production tax credit if the person:

14 (1) holds title to a qualified energy  
15 generator that first produced electricity on or before  
16 January 1, 2018; or

17 (2) leases property upon which a qualified  
18 energy generator operates from a county or municipality under  
19 authority of an industrial revenue bond and if the qualified  
20 energy generator first produced electricity on or before  
21 January 1, 2018.

22 C. The amount of the tax credit shall equal one  
23 cent (\$.01) per kilowatt-hour of the first four hundred  
24 thousand megawatt-hours of electricity produced by the  
25 qualified energy generator in the taxable year using a wind-

1 or biomass-derived qualified energy resource; provided that  
2 the total amount of tax credits claimed by all taxpayers for  
3 a single qualified energy generator using a wind- or  
4 biomass-derived qualified energy resource shall not exceed  
5 one cent (\$.01) per kilowatt-hour of the first four hundred  
6 thousand megawatt-hours of electricity produced by the  
7 qualified energy generator in a taxable year.

8 D. The amount of the tax credit for electricity  
9 produced by a qualified energy generator in the taxable year  
10 using a solar-light-derived or solar-heat-derived qualified  
11 energy resource shall be at the amounts specified in  
12 Paragraphs (1) through (11) of this subsection; provided that  
13 the total amount of tax credits claimed by all taxpayers in a  
14 taxable year for a single qualified energy generator using a  
15 solar-light-derived or solar-heat-derived qualified energy  
16 resource shall be limited to the first two hundred thousand  
17 megawatt-hours of electricity produced by the qualified  
18 energy generator in the taxable year:

19 (1) one and one-half cents (\$.015) per  
20 kilowatt-hour in the first taxable year in which the  
21 qualified energy generator produces electricity using a  
22 solar-light-derived or solar-heat-derived qualified energy  
23 resource;

24 (2) two cents (\$.02) per kilowatt-hour in  
25 the second taxable year in which the qualified energy

1 generator produces electricity using a solar-light-derived or  
2 solar-heat-derived qualified energy resource;

3 (3) two and one-half cents (\$.025) per  
4 kilowatt-hour in the third taxable year in which the  
5 qualified energy generator produces electricity using a  
6 solar-light-derived or solar-heat-derived qualified energy  
7 resource;

8 (4) three cents (\$.03) per kilowatt-hour in  
9 the fourth taxable year in which the qualified energy  
10 generator produces electricity using a solar-light-derived or  
11 solar-heat-derived qualified energy resource;

12 (5) three and one-half cents (\$.035) per  
13 kilowatt-hour in the fifth taxable year in which the  
14 qualified energy generator produces electricity using a  
15 solar-light-derived or solar-heat-derived qualified energy  
16 resource;

17 (6) four cents (\$.04) per kilowatt-hour in  
18 the sixth taxable year in which the qualified energy  
19 generator produces electricity using a solar-light-derived or  
20 solar-heat-derived qualified energy resource;

21 (7) three and one-half cents (\$.035) per  
22 kilowatt-hour in the seventh taxable year in which the  
23 qualified energy generator produces electricity using a  
24 solar-light-derived or solar-heat-derived qualified energy  
25 resource;

1                   (8) three cents (\$.03) per kilowatt-hour in  
2 the eighth taxable year in which the qualified energy  
3 generator produces electricity using a solar-light-derived or  
4 solar-heat-derived qualified energy resource;

5                   (9) two and one-half cents (\$.025) per  
6 kilowatt-hour in the ninth taxable year in which the  
7 qualified energy generator produces electricity using a  
8 solar-light-derived or solar-heat-derived qualified energy  
9 resource;

10                   (10) two cents (\$.02) per kilowatt-hour in  
11 the tenth taxable year in which the qualified energy  
12 generator produces electricity using a solar-light-derived or  
13 solar-heat-derived qualified energy resource; and

14                   (11) one and one-half cents (\$.015) per  
15 kilowatt-hour in the eleventh taxable year in which the  
16 qualified energy generator produces electricity using a  
17 solar-light-derived or solar-heat-derived qualified energy  
18 resource.

19                   E. A taxpayer eligible for a renewable energy  
20 production tax credit pursuant to Subsection B of this  
21 section shall be eligible for the renewable energy production  
22 tax credit for one hundred twenty consecutive months,  
23 beginning on the date the qualified energy generator begins  
24 producing electricity.

25                   F. As used in this section:

1                   (1) "biomass" means organic material that is  
2 available on a renewable or recurring basis, including:

3                   (a) forest-related materials, including  
4 mill residues, logging residues, forest thinnings, slash,  
5 brush, low-commercial-value materials or undesirable species,  
6 salt cedar and other phreatophyte or woody vegetation removed  
7 from river basins or watersheds and woody material harvested  
8 for the purpose of forest fire fuel reduction or forest  
9 health and watershed improvement;

10                   (b) agricultural-related materials,  
11 including orchard trees, vineyard, grain or crop residues,  
12 including straws and stover, aquatic plants and agricultural  
13 processed co-products and waste products, including fats,  
14 oils, greases, whey and lactose;

15                   (c) animal waste, including manure and  
16 slaughterhouse and other processing waste;

17                   (d) solid woody waste materials,  
18 including landscape or right-of-way tree trimmings, rangeland  
19 maintenance residues, waste pallets, crates and  
20 manufacturing, construction and demolition wood wastes,  
21 excluding pressure-treated, chemically treated or painted  
22 wood wastes and wood contaminated with plastic;

23                   (e) crops and trees planted for the  
24 purpose of being used to produce energy;

25                   (f) landfill gas, wastewater treatment

1 gas and biosolids, including organic waste byproducts  
2 generated during the wastewater treatment process; and

3 (g) segregated municipal solid waste,  
4 excluding tires and medical and hazardous waste;

5 (2) "qualified energy generator" means an  
6 electric generating facility with at least one megawatt  
7 generating capacity located in New Mexico that produces  
8 electricity using a qualified energy resource and the  
9 electricity produced is sold to an unrelated person; and

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

16 (a) solar light;

17 (b) solar heat;

18 (c) wind; or

19 (d) biomass.

20 G. A person that holds title to a facility  
21 generating electricity from a qualified energy resource or a  
22 person that leases such a facility from a county or  
23 municipality pursuant to an industrial revenue bond may  
24 request certification of eligibility for the renewable energy  
25 production tax credit from the energy, minerals and natural

1 resources department, which shall determine if the facility  
2 is a qualified energy generator. The energy, minerals and  
3 natural resources department may certify the eligibility of  
4 an energy generator only if the total amount of electricity  
5 that may be produced annually by all qualified energy  
6 generators that are certified pursuant to this section and  
7 pursuant to the Income Tax Act will not exceed a total of two  
8 million megawatt-hours plus an additional five hundred  
9 thousand megawatt-hours produced by qualified energy  
10 generators using a solar-light-derived or solar-heat-derived  
11 qualified energy resource. Applications shall be considered  
12 in the order received. The energy, minerals and natural  
13 resources department may estimate the annual power-generating  
14 potential of a generating facility for the purposes of this  
15 section. The energy, minerals and natural resources  
16 department shall issue a certificate to the applicant stating  
17 whether the facility is an eligible qualified energy  
18 generator and the estimated annual production potential of  
19 the generating facility, which shall be the limit of that  
20 facility's energy production eligible for the tax credit for  
21 the taxable year. The energy, minerals and natural resources  
22 department may issue rules governing the procedure for  
23 administering the provisions of this subsection and shall  
24 report annually to the appropriate interim legislative  
25 committee information that will allow the legislative

1 committee to analyze the effectiveness of the renewable  
2 energy production tax credit, including the identity of  
3 qualified energy generators, the energy production means  
4 used, the amount of energy produced by those qualified energy  
5 generators and whether any applications could not be approved  
6 due to program limits.

7 H. A taxpayer may be allocated all or a portion of  
8 the right to claim a renewable energy production tax credit  
9 without regard to proportional ownership interest if:

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

13 (2) the business entity:

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

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

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

1 paragraph;

2 (3) the taxpayer and all other taxpayers  
3 allocated a right to claim the renewable energy production  
4 tax credit pursuant to this subsection own collectively at  
5 least a five percent interest in a qualified energy  
6 generator;

7 (4) the business entity provides notice of  
8 the allocation and the taxpayer's interest to the energy,  
9 minerals and natural resources department on forms prescribed  
10 by that department for the taxable year to be claimed; and

11 (5) the energy, minerals and natural  
12 resources department certifies the allocation for the taxable  
13 year to be claimed in writing to the taxpayer.

14 I. Upon receipt of notice of an allocation of the  
15 right to claim all or a portion of the renewable energy  
16 production tax credit, the energy, minerals and natural  
17 resources department shall promptly certify the allocation in  
18 writing to the recipient of the allocation.

19 J. A taxpayer may claim the renewable energy  
20 production tax credit by submitting to the taxation and  
21 revenue department the certificate issued by the energy,  
22 minerals and natural resources department, pursuant to  
23 Subsection G or H of this section, documentation showing the  
24 taxpayer's interest in the facility, documentation of the  
25 amount of electricity produced by the facility in the taxable

1 year and any other information the taxation and revenue  
2 department may require to determine the amount of the tax  
3 credit due the taxpayer.

4 K. If the requirements of this section have been  
5 complied with, the department shall approve payment of the  
6 renewable energy production tax credit. The credit may be  
7 deducted from a taxpayer's New Mexico corporate income tax  
8 liability for the taxable year for which the credit is  
9 claimed. If the amount of tax credit exceeds the taxpayer's  
10 corporate income tax liability for the taxable year:

11 (1) the excess may be carried forward for a  
12 period of five taxable years; or

13 (2) if the tax credit was issued with  
14 respect to a qualified energy generator that first produced  
15 electricity using a qualified energy resource on or after  
16 October 1, 2007, the excess shall be refunded to the  
17 taxpayer.

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

25 SECTION 8. Section 7-2A-30 NMSA 1978 (being Laws 2019,

1 Chapter 270, Section 20) is amended to read:

2 "7-2A-30. DEDUCTION TO OFFSET MATERIAL FINANCIAL EFFECTS  
3 OF CHANGES IN DEFERRED TAX AMOUNTS DUE TO CERTAIN CHANGES  
4 MADE TO SECTIONS 7-2A-2, 7-2A-3, 7-2A-8.3, 7-4-10 AND 7-4-18  
5 NMSA 1978.--

6 A. For each of ten consecutive taxable years  
7 beginning on or after January 1, 2026, a filing group subject  
8 to the corporate income tax whose members are part of a  
9 publicly traded company may claim a deduction, as provided by  
10 Subsection B of this section, from taxable income before net  
11 operating losses are deducted.

12 B. The deduction for each taxable year shall not  
13 exceed one-tenth of the amount necessary to offset the  
14 aggregate increase in net deferred tax liabilities, the  
15 aggregate decrease in net deferred tax assets or an aggregate  
16 change from a net deferred tax asset to a net deferred tax  
17 liability, as measured under generally accepted accounting  
18 principles, that resulted from the changes to Sections  
19 7-2A-2, 7-2A-3, 7-2A-8.3, 7-4-10 and 7-4-18 NMSA 1978 made by  
20 this 2019 act; provided that:

21 (1) the amount of the aggregate change in  
22 deferred tax assets and deferred tax liabilities is properly  
23 included in the calculation of the deferred tax asset or  
24 deferred tax liability reported as part of the consolidated  
25 financial statements, as required by the federal Securities

1 Exchange Act of 1934, for the first reporting period affected  
2 by the changes to Sections 7-2A-2, 7-2A-3, 7-2A-8.3, 7-4-10  
3 and 7-4-18 NMSA 1978 made by this 2019 act but for the  
4 deduction provided by this section; and

5 (2) if the deduction provided by this  
6 section is greater than the taxpayer's net income, any excess  
7 amount shall be carried forward and applied as a deduction to  
8 the taxpayer's net income in future income years until fully  
9 utilized.

10 C. A filing group shall not claim a deduction  
11 pursuant to this section unless the filing group files a  
12 preliminary notice with the secretary prior to January 1,  
13 2023 and provides necessary information to show the  
14 calculation of the deduction expected to be claimed, as the  
15 secretary may require."

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

18 "7-2E-1.1. TAX CREDIT--RURAL JOB TAX CREDIT.--

19 A. The tax credit created by this section may be  
20 referred to as the "rural job tax credit". Every eligible  
21 employer may apply for, and the taxation and revenue  
22 department may approve, a tax credit for each qualifying job  
23 the employer creates. The maximum tax credit amount with  
24 respect to each qualifying job is equal to:

25 (1) twenty-five percent of the first sixteen

1 thousand dollars (\$16,000) in wages paid for the qualifying  
2 job if the job is performed or based at a location in a tier  
3 one area; or

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

8 B. The purpose of the rural job tax credit is to  
9 encourage businesses to start new businesses or expand  
10 existing businesses in rural areas of the state.

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

16 (1) four qualifying periods for each  
17 qualifying job performed or based at a location in a tier one  
18 area; and

19 (2) two qualifying periods for each  
20 qualifying job performed or based at a location in a tier two  
21 area.

22 D. With respect to each qualifying job for which  
23 an eligible employer seeks the rural job tax credit, the  
24 employer shall certify:

25 (1) the amount of wages paid to each

1 eligible employee during each qualifying period;

2 (2) the number of weeks during the  
3 qualifying period the position was occupied;

4 (3) whether the qualifying job was in a tier  
5 one or tier two area;

6 (4) whether the application pertains to the  
7 first, second, third or fourth qualifying period, depending  
8 on whether the taxpayer is in a tier one or tier two area;

9 (5) the total number of employees employed  
10 by the employer at the job location on the day prior to the  
11 qualifying period and on the last day of the qualifying  
12 period;

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

16 (7) whether the eligible employer has ceased  
17 business operations at any of its business locations in New  
18 Mexico.

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

24 F. To receive a rural job tax credit with respect  
25 to any qualifying period, an eligible employer shall apply to

1 the taxation and revenue department once per calendar year on  
2 forms and in the manner the department may prescribe. The  
3 annual application shall include a certification made  
4 pursuant to Subsection D of this section and contain all  
5 qualifying periods that closed during the calendar year for  
6 which the application is made. Any qualifying period that  
7 did not close in the calendar year for which the application  
8 is made shall be denied by the department. The application  
9 for a calendar year shall be filed no later than December 31  
10 of the following calendar year. If a taxpayer fails to file  
11 the annual application within the time limits provided in  
12 this section, the department shall deny the application. If  
13 all the requirements of this section have been complied with,  
14 the taxation and revenue department shall issue to the  
15 applicant a document granting a tax credit for the  
16 appropriate qualifying period. The tax credit document shall  
17 be numbered for identification and declare its date of  
18 issuance and the amount of rural job tax credit allowed for  
19 the respective jobs created. The tax credit documents may be  
20 sold, exchanged or otherwise transferred and may be carried  
21 forward for a period of three years from the date of  
22 issuance. The parties to such a transaction to sell,  
23 exchange or transfer a rural job tax credit document shall  
24 notify the department of the transaction within ten days of  
25 the sale, exchange or transfer.

1           G. The holder of the tax credit document may claim  
2 all or a portion of the rural job tax credit granted by the  
3 document against the holder's modified combined tax  
4 liability, personal income tax liability or corporate income  
5 tax liability. Any balance of rural job tax credit granted  
6 by the document may be carried forward for up to three years  
7 from the date of issuance of the tax credit document. No  
8 amount of rural job tax credit may be applied against a gross  
9 receipts tax or compensating tax imposed by a municipality or  
10 county.

11           H. Notwithstanding the provisions of Section 7-1-8  
12 NMSA 1978, the taxation and revenue department may disclose  
13 to any person the balance of rural job tax credit remaining  
14 on any tax credit document and the balance of credit  
15 remaining on that document for any period.

16           I. The secretary of economic development, the  
17 secretary of taxation and revenue and the secretary of  
18 workforce solutions or their designees shall annually  
19 evaluate the effectiveness of the rural job tax credit in  
20 stimulating economic development in the rural areas of New  
21 Mexico and make a joint report of their findings to each  
22 session of the legislature so long as the rural job tax  
23 credit is in effect.

24           J. A qualifying job shall not be eligible for a  
25 rural job tax credit pursuant to this section if:

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

3 (2) the eligible employee was terminated  
4 from employment in New Mexico by another employer involved in  
5 the merger, acquisition or other change in organization; or

6 (3) the job is performed by:

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

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

13 K. Notwithstanding Subsection J of this section, a  
14 qualifying job that was created by another employer and for  
15 which the rural job tax credit application was received by  
16 the taxation and revenue department prior to July 1, 2013 and  
17 is under review or has been approved shall remain eligible  
18 for the rural job tax credit for the balance of the  
19 qualifying periods for which the job qualifies by the new  
20 employer that results from a business merger, acquisition or  
21 other change in the organization.

22 L. A job shall not be eligible for a rural job tax  
23 credit pursuant to this section if the job is created due to  
24 an eligible employer entering into a contract or becoming a  
25 subcontractor to a contract with a governmental entity that

1 replaces one or more entities performing functionally  
2 equivalent services for the governmental entity in New Mexico  
3 unless the job is a qualifying job that was not being  
4 performed by an employee of the replaced entity.

5 M. As used in this section:

6 (1) "dependent" means "dependent" as defined  
7 in 26 U.S.C. 152(a), as that section may be amended or  
8 renumbered;

9 (2) "eligible employee" means any individual  
10 other than an individual who:

11 (a) is a dependent of the employer;

12 (b) if the employer is an estate or  
13 trust, is a grantor, beneficiary or fiduciary of the estate  
14 or trust or is a dependent of a grantor, beneficiary or  
15 fiduciary of the estate or trust;

16 (c) if the employer is a corporation,  
17 is a dependent of an individual who owns, directly or  
18 indirectly, more than fifty percent in value of the  
19 outstanding stock of the corporation;

20 (d) if the employer is an entity other  
21 than a corporation, estate or trust, is a dependent of an  
22 individual who owns, directly or indirectly, more than fifty  
23 percent of the capital and profits interests in the entity;  
24 or

25 (e) is working or has worked as an

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

7 (3) "eligible employer" means an employer  
8 who is eligible for in-plant training assistance pursuant to  
9 Section 21-19-7 NMSA 1978;

10 (4) "metropolitan statistical area" means a  
11 metropolitan statistical area in New Mexico as determined by  
12 the United States bureau of the census;

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

1 (6) "new job" means a job that is occupied  
2 by an employee who has not been employed in New Mexico by the  
3 eligible employer in the three years prior to the date of  
4 hire;

5 (7) "qualifying job" means a new job that  
6 was created after July 1, 2000 and that was not created due  
7 to a change in organizational structure established by the  
8 employer that is occupied by an eligible employee for at  
9 least forty-four weeks of a qualifying period;

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

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

17 (a) an H class county;

18 (b) the state fairgrounds;

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

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

1 (10) "tier one area" means:

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

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

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

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

18 SECTION 10. Section 7-8A-9 NMSA 1978 (being Laws 1997,  
19 Chapter 25, Section 9) is amended to read:

20 "7-8A-9. NOTICE AND PUBLICATION OF LISTS OF ABANDONED  
21 PROPERTY.--The administrator shall publish a notice not later  
22 than November 30 of each year in which abandoned property has  
23 been paid or delivered to the administrator. The notice  
24 shall be published in a newspaper of general circulation in  
25 each county of this state. The advertisement must be in a

1 form that, in the judgment of the administrator, is likely to  
2 attract the attention of the general public. The  
3 advertisement shall contain:

4 A. the website on which to search for information  
5 about abandoned properties;

6 B. the email address of the administrator;

7 C. the telephone number and physical mailing  
8 address of the administrator;

9 D. a statement explaining that property of the  
10 owner is presumed to be abandoned and has been taken into the  
11 protective custody of the administrator; and

12 E. a statement providing information about the  
13 property and the return to the property's owner is available  
14 to a person having a legal or beneficial interest in the  
15 property, upon request to the administrator."

16 SECTION 11. Section 7-9-3 NMSA 1978 (being Laws 1978,  
17 Chapter 46, Section 1, as amended by Laws 2019, Chapter 270,  
18 Section 23 and by Laws 2019, Chapter 274, Section 11) is  
19 amended to read:

20 "7-9-3. DEFINITIONS.--As used in the Gross Receipts and  
21 Compensating Tax Act:

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

25 B. "department" means the taxation and revenue

1 department, the secretary of taxation and revenue or an  
2 employee of the department exercising authority lawfully  
3 delegated to that employee by the secretary;

4 C. "digital good" means a digital product  
5 delivered electronically, including software, music,  
6 photography, video, reading material, an application and a  
7 ringtone;

8 D. "financial corporation" means a savings and  
9 loan association or an incorporated savings and loan company,  
10 trust company, mortgage banking company, consumer finance  
11 company or other financial corporation;

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

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

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

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

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

25 (5) similar activities;

1           F. "lease" or "leasing" means an arrangement  
2 whereby, for a consideration, the owner of property grants  
3 another person the exclusive right to possess and use the  
4 property for a definite term;

5           G. "licensing" or "license" means an arrangement  
6 whereby, for a consideration, the owner of property grants  
7 another person a revocable, non-exclusive right to use the  
8 property;

9           H. "local option gross receipts tax" means a tax  
10 authorized to be imposed by a county or municipality upon a  
11 taxpayer's gross receipts and required to be collected by the  
12 department at the same time and in the same manner as the  
13 gross receipts tax;

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

19           J. "manufacturing" means combining or processing  
20 components or materials to increase their value for sale in  
21 the ordinary course of business, but does not include  
22 construction;

23           K. "marketplace provider" means a person who  
24 facilitates the sale, lease or license of tangible personal  
25 property or services or licenses for use of real property on

1 a marketplace seller's behalf, or on the marketplace  
2 provider's own behalf, by:

3 (1) listing or advertising the sale, lease  
4 or license, by any means, whether physical or electronic,  
5 including by catalog, internet website or television or radio  
6 broadcast; and

7 (2) either directly or indirectly, through  
8 agreements or arrangements with third parties collecting  
9 payment from the customer and transmitting that payment to  
10 the seller, regardless of whether the marketplace provider  
11 receives compensation or other consideration in exchange for  
12 the marketplace provider's services;

13 L. "marketplace seller" means a person who sells,  
14 leases or licenses tangible personal property or services or  
15 who licenses the use of real property through a marketplace  
16 provider;

17 M. "person" means:

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

25 (2) a national, federal, state, Indian or

1 other governmental unit or subdivision, or an agency,  
2 department or instrumentality of any of the foregoing;

3 N. "property" means:

- 4 (1) real property;
- 5 (2) tangible personal property, including  
6 electricity and manufactured homes;
- 7 (3) licenses, including licenses of digital  
8 goods, but not including the licenses of copyrights,  
9 trademarks or patents; and
- 10 (4) franchises;

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

- 14 (1) advancing basic knowledge in a  
15 recognized field of natural science;
- 16 (2) advancing technology in a field of  
17 technical endeavor;
- 18 (3) developing a new or improved product,  
19 process or system with new or improved function, performance,  
20 reliability or quality, whether or not the new or improved  
21 product, process or system is offered for sale, lease or  
22 other transfer;
- 23 (4) developing new uses or applications for  
24 an existing product, process or system, whether or not the  
25 new use or application is offered as the rationale for

1 purchase, lease or other transfer of the product, process or  
2 system;

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

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

12 P. "secretary" means the secretary of taxation and  
13 revenue or the secretary's delegate;

14 Q. "service" means all activities engaged in for  
15 other persons for a consideration, which activities involve  
16 predominantly the performance of a service as distinguished  
17 from selling or leasing property. "Service" includes  
18 activities performed by a person for its members or  
19 shareholders. In determining what is a service, the intended  
20 use, principal objective or ultimate objective of the  
21 contracting parties shall not be controlling. "Service"  
22 includes construction activities and all tangible personal  
23 property that will become an ingredient or component part of  
24 a construction project. That tangible personal property  
25 retains its character as tangible personal property until it

1 is installed as an ingredient or component part of a  
2 construction project in New Mexico. Sales of tangible  
3 personal property that will become an ingredient or component  
4 part of a construction project to persons engaged in the  
5 construction business are sales of tangible personal  
6 property; and

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

11 SECTION 12. Section 7-9-7 NMSA 1978 (being Laws 1966,  
12 Chapter 47, Section 7, as amended) is amended to read:

13 "7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
14 "COMPENSATING TAX".--

15 A. For the privilege of making taxable use of  
16 tangible personal property in New Mexico, there is imposed on  
17 the person using the property an excise tax equal to five and  
18 one-eighth percent of the value of tangible property that  
19 was:

20 (1) manufactured by the person using the  
21 property in the state; or

22 (2) acquired in a transaction for which the  
23 seller's receipts were not subject to the gross receipts tax.

24 B. For the purpose of Subsection A of this  
25 section, value of tangible personal property shall be the

1 adjusted basis of the property for federal income tax  
2 purposes determined as of the time of acquisition or  
3 introduction into this state or of conversion of the property  
4 to taxable use, whichever is later. If no adjusted basis for  
5 federal income tax purposes is established for the property,  
6 a reasonable value of the property shall be used.

7 C. For the privilege of making taxable use of a  
8 license or franchise in New Mexico, there is imposed on the  
9 person using the license or franchise an excise tax equal to  
10 the rate provided in Subsection A of this section against the  
11 value of the license or franchise in its use in this state.  
12 The department by rule, ruling or instruction shall fairly  
13 apportion, where appropriate, the value of a license or  
14 franchise to its value in use in New Mexico. The tax shall  
15 apply only to the value of a license or franchise used in New  
16 Mexico where the license or franchise was acquired in a  
17 transaction the receipts from which were not subject to the  
18 gross receipts tax.

19 D. For the privilege of making taxable use of  
20 services in New Mexico, there is imposed on the person using  
21 the services an excise tax equal to the rate provided in  
22 Subsection A of this section against the value of the  
23 services at the time the services were performed or the  
24 product of the service was acquired. For use of services to  
25 be a taxable use pursuant to this subsection, the services

1 shall have been acquired in a transaction the receipts from  
2 which were not subject to the gross receipts tax.

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

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

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

16 SECTION 13. Section 7-9-46 NMSA 1978 (being Laws 1969,  
17 Chapter 144, Section 36, as amended) is amended to read:

18 "7-9-46. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL  
19 GROSS RECEIPTS--SALES TO MANUFACTURERS.--

20 A. Receipts from selling tangible personal  
21 property may be deducted from gross receipts or from  
22 governmental gross receipts if the sale is made to a person  
23 engaged in the business of manufacturing who delivers a  
24 nontaxable transaction certificate to the seller or provides  
25 alternative evidence pursuant to Section 7-9-43 NMSA 1978.

1 The buyer must incorporate the tangible personal property as  
2 an ingredient or component part of the product that the buyer  
3 is in the business of manufacturing.

4 B. Receipts from selling tangible personal  
5 property that is a consumable and used in such a way that it  
6 is consumed in the manufacturing process of a product,  
7 provided that the tangible personal property is not a tool or  
8 equipment used to create the manufactured product, to a  
9 person engaged in the business of manufacturing that product  
10 and who delivers a nontaxable transaction certificate or  
11 provides alternative evidence pursuant to Section 7-9-43 NMSA  
12 1978 to the seller may be deducted from gross receipts or  
13 from governmental gross receipts.

14 C. Regarding the deduction allowed pursuant to  
15 Subsection B of this section, a nontaxable transaction  
16 certificate is required if the seller is a seller of  
17 electricity or fuel and is a party to an agreement with the  
18 department pursuant to Section 7-1-21.1 NMSA 1978.

19 D. The purpose of the deductions provided in this  
20 section is to encourage manufacturing businesses to locate in  
21 New Mexico and to reduce the tax burden, including reducing  
22 pyramiding, on the tangible personal property that is  
23 consumed in the manufacturing process and that is purchased  
24 by manufacturing businesses in New Mexico.

25 E. The department shall annually report to the

1 revenue stabilization and tax policy committee the aggregate  
2 amount of deductions taken pursuant to this section, the  
3 number of taxpayers claiming each of the deductions and any  
4 other information that is necessary to determine that the  
5 deductions are performing the purposes for which they are  
6 enacted.

7 F. A taxpayer deducting gross receipts pursuant to  
8 this section shall report the amount deducted separately for  
9 each deduction provided in this section and attribute the  
10 amount of the deduction to the appropriate authorization  
11 provided in this section in a manner required by the  
12 department that facilitates the evaluation by the legislature  
13 of the benefit to the state of these deductions.

14 G. As used in Subsection B of this section,  
15 "consumable" means tangible personal property that is  
16 incorporated into, destroyed, depleted or transformed in the  
17 process of manufacturing a product:

18 (1) including electricity, fuels, water,  
19 manufacturing aids and supplies, chemicals, gases, repair  
20 parts, spares and other tangibles used to manufacture a  
21 product; but

22 (2) excluding tangible personal property  
23 used in:

24 (a) the generation of power;

25 (b) the processing of natural

1 resources, including hydrocarbons; and

2 (c) the preparation of meals for  
3 immediate consumption on- or off-premises."

4 SECTION 14. Section 7-9-47 NMSA 1978 (being Laws 1969,  
5 Chapter 144, Section 37, as amended) is amended to read:

6 "7-9-47. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL  
7 GROSS RECEIPTS TAX--SALE OF TANGIBLE PERSONAL PROPERTY OR  
8 LICENSES FOR RESALE.--Receipts from selling tangible personal  
9 property or licenses may be deducted from gross receipts or  
10 from governmental gross receipts if the sale is made to a  
11 person who delivers a nontaxable transaction certificate to  
12 the seller or provides alternative evidence pursuant to  
13 Section 7-9-43 NMSA 1978. The buyer must resell the tangible  
14 personal property or license either by itself or in  
15 combination with other tangible personal property or licenses  
16 in the ordinary course of business."

17 SECTION 15. Section 7-9-48 NMSA 1978 (being Laws 1969,  
18 Chapter 144, Section 38, as amended) is amended to read:

19 "7-9-48. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL  
20 GROSS RECEIPTS--SALE OF A SERVICE FOR RESALE.--Receipts from  
21 selling a service for resale may be deducted from gross  
22 receipts or from governmental gross receipts if the sale is  
23 made to a person who delivers a nontaxable transaction  
24 certificate to the seller or provides alternative evidence  
25 pursuant to Section 7-9-43 NMSA 1978. The buyer must resell

1 the service in the ordinary course of business and the resale  
2 must be subject to the gross receipts tax or governmental  
3 gross receipts tax."

4 SECTION 16. Section 7-9-49 NMSA 1978 (being Laws 1969,  
5 Chapter 144, Section 39, as amended) is amended to read:

6 "7-9-49. DEDUCTION--GROSS RECEIPTS TAX--SALE OF  
7 TANGIBLE PERSONAL PROPERTY AND LICENSES FOR LEASING.--

8 A. Except as otherwise provided by Subsection B of  
9 this section, receipts from selling tangible personal  
10 property and licenses may be deducted from gross receipts if  
11 the sale is made to a person who delivers a nontaxable  
12 transaction certificate to the seller or provides alternative  
13 evidence pursuant to Section 7-9-43 NMSA 1978. The buyer  
14 shall be engaged in a business that derives a substantial  
15 portion of its receipts from leasing or selling tangible  
16 personal property or licenses of the type sold. The buyer  
17 may not utilize the tangible personal property or license in  
18 any manner other than holding it for lease or sale or leasing  
19 or selling it either by itself or in combination with other  
20 tangible personal property or licenses in the ordinary course  
21 of business.

22 B. The deduction provided by this section shall  
23 not apply to receipts from selling:

24 (1) furniture or appliances, the receipts  
25 from the rental or lease of which are deductible under

1 Subsection C of Section 7-9-53 NMSA 1978;

2 (2) coin-operated machines; or

3 (3) manufactured homes."

4 SECTION 17. Section 7-9-50 NMSA 1978 (being Laws 1969,  
5 Chapter 144, Section 40, as amended) is amended to read:

6 "7-9-50. DEDUCTION--GROSS RECEIPTS TAX--LEASE FOR  
7 SUBSEQUENT LEASE.--

8 A. Except as provided otherwise in Subsection B of  
9 this section, receipts from leasing tangible personal  
10 property or licenses may be deducted from gross receipts if  
11 the lease is made to a lessee who delivers a nontaxable  
12 transaction certificate to the lessor or provides alternative  
13 evidence pursuant to Section 7-9-43 NMSA 1978. The lessee  
14 may not use the tangible personal property or license in any  
15 manner other than for subsequent lease in the ordinary course  
16 of business.

17 B. The deduction provided by this section does not  
18 apply to receipts from leasing:

19 (1) furniture or appliances, the receipts  
20 from the rental or lease of which are deductible under  
21 Subsection C of Section 7-9-53 NMSA 1978;

22 (2) coin-operated machines; or

23 (3) manufactured homes."

24 SECTION 18. Section 7-9-51 NMSA 1978 (being Laws 1969,  
25 Chapter 144, Section 41, as amended) is amended to read:

1 "7-9-51. DEDUCTION--GROSS RECEIPTS TAX--SALE OF  
2 CONSTRUCTION MATERIAL TO PERSONS ENGAGED IN THE CONSTRUCTION  
3 BUSINESS.--

4 A. Receipts from selling construction material may  
5 be deducted from gross receipts if the sale is made to a  
6 person engaged in the construction business who delivers a  
7 nontaxable transaction certificate to the seller or provides  
8 alternative evidence pursuant to Section 7-9-43 NMSA 1978.

9 B. The buyer must incorporate the construction  
10 material as:

11 (1) an ingredient or component part of a  
12 construction project that is subject to the gross receipts  
13 tax upon its completion or upon the completion of the overall  
14 construction project of which it is a part;

15 (2) an ingredient or component part of a  
16 construction project that is subject to the gross receipts  
17 tax upon the sale in the ordinary course of business of the  
18 real property upon which it was constructed; or

19 (3) an ingredient or component part of a  
20 construction project that is located on the tribal territory  
21 of an Indian nation, tribe or pueblo."

22 SECTION 19. Section 7-9-52 NMSA 1978 (being Laws 1969,  
23 Chapter 144, Section 42, as amended) is amended to read:

24 "7-9-52. DEDUCTION--GROSS RECEIPTS TAX--SALE OF  
25 CONSTRUCTION SERVICES AND CONSTRUCTION-RELATED SERVICES TO

1 PERSONS ENGAGED IN THE CONSTRUCTION BUSINESS.--

2 A. Receipts from selling a construction service or  
3 a construction-related service may be deducted from gross  
4 receipts if the sale is made to a person engaged in the  
5 construction business who delivers a nontaxable transaction  
6 certificate to the person performing the construction service  
7 or a construction-related service or provides alternative  
8 evidence pursuant to Section 7-9-43 NMSA 1978.

9 B. The buyer shall have the construction services  
10 or construction-related services directly contracted for or  
11 billed to:

12 (1) a construction project that is subject  
13 to the gross receipts tax upon its completion or upon the  
14 completion of the overall construction project of which it is  
15 a part;

16 (2) a construction project that is subject  
17 to the gross receipts tax upon the sale in the ordinary  
18 course of business of the real property upon which it was  
19 constructed; or

20 (3) a construction project that is located  
21 on the tribal territory of an Indian nation, tribe or  
22 pueblo."

23 SECTION 20. Section 7-9-52.1 NMSA 1978 (being Laws  
24 2012, Chapter 5, Section 6) is amended to read:

25 "7-9-52.1. DEDUCTION--GROSS RECEIPTS TAX--LEASE OF

1 CONSTRUCTION EQUIPMENT TO PERSONS ENGAGED IN THE CONSTRUCTION  
2 BUSINESS.--

3 A. Receipts from leasing construction equipment  
4 may be deducted from gross receipts if the construction  
5 equipment is leased to a person engaged in the construction  
6 business who delivers a nontaxable transaction certificate to  
7 the person leasing the construction equipment or provides  
8 alternative evidence pursuant to Section 7-9-43 NMSA 1978.

9 B. The lessee shall only use the construction  
10 equipment at the construction location of:

11 (1) a construction project that is subject  
12 to the gross receipts tax upon its completion or upon the  
13 completion of the overall construction project of which it is  
14 a part;

15 (2) a construction project that is subject  
16 to the gross receipts tax upon the sale in the ordinary  
17 course of business of the real property upon which it was  
18 constructed; or

19 (3) a construction project that is located  
20 on the tribal territory of an Indian nation, tribe or pueblo.

21 C. As used in this section, "construction  
22 equipment" means equipment used on a construction project,  
23 including trash containers, portable toilets, scaffolding and  
24 temporary fencing."

25 SECTION 21. Section 7-9-54.1 NMSA 1978 (being Laws

1 1992, Chapter 40, Section 1, as amended) is amended to read:

2 "7-9-54.1. DEDUCTION--GROSS RECEIPTS FROM SALE OF  
3 AEROSPACE SERVICES TO CERTAIN ORGANIZATIONS.--

4 A. Receipts from performing or selling an  
5 aerospace service for resale may be deducted from gross  
6 receipts if the sale is made to a buyer who delivers a  
7 nontaxable transaction certificate or provides alternative  
8 evidence pursuant to Section 7-9-43 NMSA 1978. The buyer  
9 shall separately state the value of the aerospace service  
10 purchased in the buyer's charge for the aerospace service on  
11 its subsequent sale to an organization or, if the buyer is an  
12 organization, on the organization's subsequent sale to the  
13 United States, and the subsequent sale shall be in the  
14 ordinary course of business of selling aerospace services to  
15 an organization or to the United States.

16 B. As used in this section:

17 (1) "aerospace services" means research and  
18 development services sold to or for resale to an organization  
19 for resale by the organization to the United States air  
20 force; and

21 (2) "organization" means an organization  
22 described in Subsection A of Section 7-9-29 NMSA 1978 other  
23 than a prime contractor operating facilities in New Mexico  
24 designated as a national laboratory by act of congress."

25 SECTION 22. Section 7-9-56.3 NMSA 1978 (being Laws

1 2003, Chapter 232, Section 1, as amended) is amended to read:

2 "7-9-56.3. DEDUCTION--GROSS RECEIPTS--TRADE-SUPPORT  
3 COMPANY IN A BORDER ZONE.--

4 A. The receipts of a trade-support company may be  
5 deducted from gross receipts if:

6 (1) the trade-support company first locates  
7 in New Mexico within twenty miles of a port of entry on New  
8 Mexico's border with Mexico on or after July 1, 2003 but  
9 before July 1, 2013 or on or after January 1, 2016 but before  
10 January 1, 2021;

11 (2) the receipts are received by the company  
12 within a five-year period beginning on the date the trade-  
13 support company locates in New Mexico and the receipts are  
14 derived from its business activities and operations at its  
15 border zone location; and

16 (3) the trade-support company employs at  
17 least two employees in New Mexico.

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

21 C. The department shall compile an annual report  
22 on the deduction created pursuant to this section that shall  
23 include the number of taxpayers approved by the department to  
24 receive the deduction, the aggregate amount of deductions  
25 approved and any other information necessary to evaluate the

1 effectiveness of the deduction. Beginning in 2016 and every  
2 four years thereafter that the deduction is in effect, the  
3 department shall compile and present the annual reports to  
4 the revenue stabilization and tax policy committee and the  
5 legislative finance committee with an analysis of the  
6 effectiveness and cost of the deduction.

7 D. As used in this section:

8 (1) "dependent" means "dependent" as defined  
9 in 26 U.S.C. 152(a), as that section may be amended or  
10 renumbered;

11 (2) "employee" means an individual, other  
12 than an individual who:

13 (a) is a dependent of the employer;

14 (b) if the employer is an estate or  
15 trust, is a grantor, beneficiary or fiduciary of the estate  
16 or trust or is a dependent of a grantor, beneficiary or  
17 fiduciary of the estate or trust;

18 (c) if the employer is a corporation,  
19 is a dependent of an individual who owns, directly or  
20 indirectly, more than fifty percent in value of the  
21 outstanding stock of the corporation; or

22 (d) if the employer is an entity other  
23 than a corporation, estate or trust, is a dependent of an  
24 individual who owns, directly or indirectly, more than fifty  
25 percent of the capital and profits interests in the entity;

1 (3) "port of entry" means an international  
2 port of entry in New Mexico at which customs services are  
3 provided by United States customs and border protection; and

4 (4) "trade-support company" means a customs  
5 brokerage firm or a freight forwarder."

6 SECTION 23. Section 7-9-60 NMSA 1978 (being Laws 1970,  
7 Chapter 12, Section 4, as amended) is amended to read:

8 "7-9-60. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL  
9 GROSS RECEIPTS TAX--SALES TO CERTAIN ORGANIZATIONS.--

10 A. Except as provided otherwise in Subsection B of  
11 this section, receipts from selling tangible personal  
12 property to 501(c)(3) organizations may be deducted from  
13 gross receipts or from governmental gross receipts if the  
14 sale is made to an organization that delivers a nontaxable  
15 transaction certificate to the seller or provides alternative  
16 evidence pursuant to Section 7-9-43 NMSA 1978. The buyer  
17 shall employ the tangible personal property in the conduct of  
18 functions described in Section 501(c)(3) and shall not employ  
19 the tangible personal property in the conduct of an unrelated  
20 trade or business as defined in Section 513 of the United  
21 States Internal Revenue Code of 1986, as amended or  
22 renumbered.

23 B. The deduction provided by this section does not  
24 apply to receipts from selling construction material,  
25 excluding tangible personal property, whether removable or

1 non-removable, that is or would be classified for  
2 depreciation purposes as three-year property, five-year  
3 property, seven-year property or ten-year property, including  
4 indirect costs related to the asset basis, by Section 168 of  
5 the Internal Revenue Code of 1986, as that section may be  
6 amended or renumbered, or from selling metalliferous mineral  
7 ore; except that receipts from selling construction material  
8 or from selling metalliferous mineral ore to a 501(c)(3)  
9 organization that is organized for the purpose of providing  
10 homeownership opportunities to low-income families may be  
11 deducted from gross receipts. Receipts may be deducted under  
12 this subsection only if the buyer delivers a nontaxable  
13 transaction certificate to the seller or provides alternative  
14 evidence pursuant to Section 7-9-43 NMSA 1978. The buyer  
15 shall use the property in the conduct of functions described  
16 in Section 501(c)(3) of the Internal Revenue Code of 1986, as  
17 amended, and shall not employ the tangible personal property  
18 in the conduct of an unrelated trade or business, as defined  
19 in Section 513 of that code.

20 C. For the purposes of this section, "501(c)(3)  
21 organization" means an organization that has been granted  
22 exemption from the federal income tax by the United States  
23 commissioner of internal revenue as an organization described  
24 in Section 501(c)(3) of the United States Internal Revenue  
25 Code of 1986, as amended or renumbered."

1           SECTION 24. Section 7-9-77.1 NMSA 1978 (being Laws  
2 1998, Chapter 96, Section 1, as amended) is amended to read:

3           "7-9-77.1. DEDUCTION--GROSS RECEIPTS TAX--CERTAIN  
4 MEDICAL AND HEALTH CARE SERVICES.--

5           A. Receipts of a health care practitioner or an  
6 association of health care practitioners from payments by the  
7 United States government or any agency thereof for provision  
8 of medical and other health services by a health care  
9 practitioner or of medical or other health and palliative  
10 services by hospices or nursing homes to medicare  
11 beneficiaries pursuant to the provisions of Title 18 of the  
12 federal Social Security Act may be deducted from gross  
13 receipts.

14           B. Receipts of a health care practitioner or an  
15 association of health care practitioners from payments by a  
16 third-party administrator of the federal TRICARE program for  
17 provision of medical and other health services by medical  
18 doctors and osteopathic physicians to covered beneficiaries  
19 may be deducted from gross receipts.

20           C. Receipts of a health care practitioner or an  
21 association of health care practitioners from payments by or  
22 on behalf of the Indian health service of the United States  
23 department of health and human services for provision of  
24 medical and other health services by medical doctors and  
25 osteopathic physicians to covered beneficiaries may be

1 deducted from gross receipts.

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

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

14 F. Prior to July 1, 2024, receipts of a dialysis  
15 facility from payments by the United States government or any  
16 agency thereof for medical and other health services provided  
17 by the dialysis facility to medicare beneficiaries pursuant  
18 to the provisions of Title 18 of the federal Social Security  
19 Act may be deducted from gross receipts.

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

1 deducted pursuant to Section 7-9-93 NMSA 1978.

2 H. The department shall compile an annual report  
3 on the deductions created pursuant to this section that shall  
4 include the number of taxpayers approved by the department to  
5 receive each deduction, the aggregate amount of deductions  
6 approved and any other information necessary to evaluate the  
7 effectiveness of the deductions. The department shall  
8 compile and present the annual reports to the revenue  
9 stabilization and tax policy committee and the legislative  
10 finance committee with an analysis of the effectiveness and  
11 cost of the deductions and whether the deductions are  
12 providing a benefit to the state.

13 I. For the purposes of this section:

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

19 (a) an organization granted exemption  
20 from the federal income tax by the United States commissioner  
21 of internal revenue as organizations described in Section  
22 501(c)(3) of the United States Internal Revenue Code of 1986,  
23 as that section may be amended or renumbered; or

24 (b) a health maintenance organization,  
25 hospital, hospice, nursing home or an entity that is solely

1 an outpatient facility or intermediate care facility licensed  
2 pursuant to the Public Health Act;

3 (2) "clinical laboratory" means a laboratory  
4 accredited pursuant to 42 USCA 263a;

5 (3) "dialysis facility" means an end-stage  
6 renal disease facility as defined pursuant to 42 C.F.R.  
7 405.2102;

8 (4) "health care practitioner" means:

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

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

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

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

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

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

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

1 (h) a massage therapist licensed  
2 pursuant to the Massage Therapy Practice Act;

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

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

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

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

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

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

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

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

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

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

24 (s) a radiologic technologist licensed  
25 pursuant to the Medical Imaging and Radiation Therapy Health

1 and Safety Act;

2 (t) a registered nurse licensed  
3 pursuant to the Nursing Practice Act;

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

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

9 (5) "home health agency" means a for-profit  
10 entity that is licensed by the department of health and  
11 certified by the federal centers for medicare and medicaid  
12 services as a home health agency and certified to provide  
13 medicare services;

14 (6) "hospice" means a for-profit entity  
15 licensed by the department of health as a hospice and  
16 certified to provide medicare services;

17 (7) "nursing home" means a for-profit entity  
18 licensed by the department of health as a nursing home and  
19 certified to provide medicare services; and

20 (8) "TRICARE program" means the program  
21 defined in 10 U.S.C. 1072(7)."

22 SECTION 25. Section 7-9-79 NMSA 1978 (being Laws 1966,  
23 Chapter 47, Section 16, as amended) is amended to read:

24 "7-9-79. CREDIT--COMPENSATING TAX.--

25 A. If, on property or services bought outside this HTRC/HB 98/a  
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1 state, a gross receipts, sales, compensating or similar tax  
2 has been levied by another state or political subdivision  
3 thereof on the transaction by which the person using the  
4 property or services in New Mexico acquired the property or a  
5 compensating, use or similar tax has been levied by another  
6 state on the use of the property subsequent to its  
7 acquisition by the person using the property or services in  
8 New Mexico and such tax has been paid, the amount of such tax  
9 paid may be credited against any compensating tax due this  
10 state on the same property. The credit allowed pursuant to  
11 this subsection shall not exceed the compensating tax due on  
12 the property or services used in New Mexico.

13 B. When the receipts from the sale of real  
14 property constructed by a person in the ordinary course of  
15 the person's construction business are subject to the gross  
16 receipts tax, the amount of compensating tax previously paid  
17 by the person on materials that became an ingredient or  
18 component part of the construction project and on  
19 construction services performed upon the construction project  
20 may be credited against the gross receipts tax due on the  
21 sale."

22 SECTION 26. Section 7-9-92 NMSA 1978 (being Laws 2004,  
23 Chapter 116, Section 5) is amended to read:

24 "7-9-92. DEDUCTION--GROSS RECEIPTS--SALE OF FOOD AT  
25 RETAIL FOOD STORE.--

1           A. Receipts from the sale of food by a retail food  
2 store that are not exempt from gross receipts taxation and  
3 are not deductible pursuant to another provision of the Gross  
4 Receipts and Compensating Tax Act may be deducted from gross  
5 receipts. The deduction provided by this section shall be  
6 separately stated by the taxpayer.

7           B. For the purposes of this section:

8                   (1) "food" means any food or food product  
9 for home consumption that meets the definition of food in 7  
10 USCA 2012(k)(1) for purposes of the federal supplemental  
11 nutrition assistance program; and

12                   (2) "retail food store" means an  
13 establishment that sells food for home preparation and  
14 consumption and that meets the definition of retail food  
15 store in 7 USCA 2012(o)(1) for purposes of the federal  
16 supplemental nutrition assistance program, whether or not the  
17 establishment participates in the supplemental nutrition  
18 assistance program."

19           **SECTION 27.** Section 7-9-93 NMSA 1978 (being Laws 2004,  
20 Chapter 116, Section 6, as amended) is amended to read:

21           "7-9-93. DEDUCTION--GROSS RECEIPTS--CERTAIN RECEIPTS  
22 FOR SERVICES PROVIDED BY HEALTH CARE PRACTITIONER OR  
23 ASSOCIATION OF HEALTH CARE PRACTITIONERS.--

24           A. Receipts of a health care practitioner or an  
25 association of health care practitioners for commercial

1 contract services or medicare part C services paid by a  
2 managed health care provider or health care insurer may be  
3 deducted from gross receipts if the services are within the  
4 scope of practice of the health care practitioner providing  
5 the service. Receipts from fee-for-service payments by a  
6 health care insurer may not be deducted from gross receipts.

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

12 C. For the purposes of this section:

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

18 (a) an organization granted exemption  
19 from the federal income tax by the United States commissioner  
20 of internal revenue as organizations described in Section  
21 501(c)(3) of the United States Internal Revenue Code of 1986,  
22 as that section may be amended or renumbered; or

23 (b) a health maintenance organization,  
24 hospital, hospice, nursing home or an entity that is solely  
25 an outpatient facility or intermediate care facility licensed

1 pursuant to the Public Health Act;

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

9 (3) "health care insurer" means a person  
10 that:

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

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

19 (4) "health care practitioner" means:

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

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

25 (c) a doctor of oriental medicine

1 licensed pursuant to the provisions of the Acupuncture and  
2 Oriental Medicine Practice Act;

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

5 (e) an osteopathic physician or an  
6 osteopathic physician assistant licensed pursuant to the  
7 provisions of the Osteopathic Medicine Act;

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

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

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

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

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

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

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

25 (m) a respiratory care practitioner

1 licensed pursuant to the provisions of the Respiratory Care  
2 Act;

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

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

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

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

19 (5) "managed health care provider" means a  
20 person that provides for the delivery of comprehensive basic  
21 health care services and medically necessary services to  
22 individuals enrolled in a plan through its own employed  
23 health care providers or by contracting with selected or  
24 participating health care providers. "Managed health care  
25 provider" includes only those persons that provide

1 comprehensive basic health care services to enrollees on a  
2 contract basis, including the following:

- 3 (a) health maintenance organizations;
- 4 (b) preferred provider organizations;
- 5 (c) individual practice associations;
- 6 (d) competitive medical plans;
- 7 (e) exclusive provider organizations;
- 8 (f) integrated delivery systems;
- 9 (g) independent physician-provider  
10 organizations;
- 11 (h) physician hospital-provider  
12 organizations; and
- 13 (i) managed care services  
14 organizations; and

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

19 **SECTION 28.** Section 7-9-96.2 NMSA 1978 (being Laws  
20 2007, Chapter 361, Section 8) is amended to read:

21 "7-9-96.2. CREDIT--GROSS RECEIPTS TAX--UNPAID CHARGES  
22 FOR SERVICES PROVIDED IN A HOSPITAL.--

23 A. A licensed medical doctor, licensed osteopathic  
24 physician or association of licensed medical doctors or  
25 osteopathic physicians may claim a credit against gross

1 receipts taxes due in an amount equal to the value of unpaid  
2 qualified health care services.

3 B. As used in this section:

4 (1) "association of licensed medical doctors  
5 or osteopathic physicians" means a corporation,  
6 unincorporated business entity or other legal entity  
7 organized by, owned by or employing one or more licensed  
8 medical doctors or osteopathic physicians; provided that the  
9 entity is not:

10 (a) an organization granted exemption  
11 from the federal income tax by the United States commissioner  
12 of internal revenue as organizations described in Section  
13 501(c)(3) of the United States Internal Revenue Code of 1986,  
14 as that section may be amended or renumbered; or

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

19 (2) "qualified health care services" means  
20 medical care services provided by a licensed medical doctor  
21 or licensed osteopathic physician while on call to a  
22 hospital; and

23 (3) "value of unpaid qualified health care  
24 services" means the amount that is charged for qualified  
25 health care services, not to exceed one hundred thirty

1 percent of the reimbursement rate for the services under the  
2 medicaid program administered by the human services  
3 department, that remains unpaid one year after the date of  
4 billing and that the licensed medical doctor or licensed  
5 osteopathic physician has reason to believe will not be paid  
6 because:

7 (a) at the time the services were  
8 provided, the person receiving the services had no health  
9 insurance or had health insurance that did not cover the  
10 services provided;

11 (b) at the time the services were  
12 provided, the person receiving the services was not eligible  
13 for medicaid; and

14 (c) the charges are not reimbursable  
15 under a program established pursuant to the Indigent Hospital  
16 and County Health Care Act."

17 SECTION 29. Section 7-9G-1 NMSA 1978 (being Laws 2004,  
18 Chapter 15, Section 1, as amended) is amended to read:

19 "7-9G-1. HIGH-WAGE JOBS TAX CREDIT--QUALIFYING HIGH-  
20 WAGE JOBS.--

21 A. A taxpayer that is an eligible employer may  
22 apply for, and the department may allow, a tax credit for  
23 each new high-wage job. The credit provided in this section  
24 may be referred to as the "high-wage jobs tax credit".

25 B. The purpose of the high-wage jobs tax credit is HTRC/HB 98/a  
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1 to provide an incentive for urban and rural businesses to  
2 create and fill new high-wage jobs in New Mexico.

3 C. The high-wage jobs tax credit may be claimed  
4 and allowed in an amount equal to eight and one-half percent  
5 of the wages distributed to an eligible employee in a new  
6 high-wage job but shall not exceed twelve thousand seven  
7 hundred fifty dollars (\$12,750) per job per qualifying  
8 period. The high-wage jobs tax credit may be claimed by an  
9 eligible employer for each new high-wage job performed for  
10 the year in which the new high-wage job is created and for  
11 consecutive qualifying periods.

12 D. To receive a high-wage jobs tax credit, a  
13 taxpayer shall file an application for approval of the credit  
14 with the department once per calendar year on forms and in  
15 the manner prescribed by the department. The annual  
16 application shall contain the certification required by  
17 Subsection K of this section and shall contain all qualifying  
18 periods that closed during the calendar year for which the  
19 application is made. Any qualifying period that did not  
20 close in the calendar year for which the application is made  
21 shall be denied by the department. The application for a  
22 calendar year shall be filed no later than December 31 of the  
23 following calendar year. If a taxpayer fails to file the  
24 annual application within the time limits provided in this  
25 section, the application shall be denied by the department.

1 The department shall make a determination on the application  
2 within one hundred eighty days of the date on which the  
3 application was filed.

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

19 F. If a consecutive qualifying period for a new  
20 high-wage job does not meet the wage, occupancy and residency  
21 requirements, then the qualifying period is ineligible.

22 G. Except as provided in Subsection H of this  
23 section, a new high-wage job shall not be eligible for a  
24 credit pursuant to this section if:

- 25 (1) the new high-wage job is created due to

1 a business merger or acquisition or other change in business  
2 organization;

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

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

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

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

15 H. A new high-wage job that was created by another  
16 employer and for which an application for the high-wage jobs  
17 tax credit was received and is under review by the department  
18 prior to the time of the business merger or acquisition or  
19 other change in business organization shall remain eligible  
20 for the high-wage jobs tax credit for the balance of the  
21 consecutive qualifying periods. The new employer that  
22 results from a business merger or acquisition or other change  
23 in business organization may only claim the high-wage jobs  
24 tax credit for the balance of the consecutive qualifying  
25 periods for which the new high-wage job is otherwise

1 eligible.

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

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

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

21 (1) the amount of wages paid to each  
22 eligible employee in a new high-wage job during the  
23 qualifying period;

24 (2) the number of weeks each position was  
25 occupied during the qualifying period;

1                   (3) whether the new high-wage job was in a  
2 municipality with a population of sixty thousand or more or  
3 with a population of less than sixty thousand according to  
4 the most recent federal decennial census and whether the job  
5 was in the unincorporated area of a county;

6                   (4) which qualifying period the application  
7 pertains to for each eligible employee;

8                   (5) the total number of employees employed  
9 by the employer at the job location on the day prior to the  
10 qualifying period and on the last day of the qualifying  
11 period;

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

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

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

25                   (9) whether the eligible employer has ceased

1 business operations at any of its business locations in New  
2 Mexico; and

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

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

12 M. Except as provided in Subsection N of this  
13 section, an approved high-wage jobs tax credit shall be  
14 claimed against the taxpayer's modified combined tax  
15 liability and shall be filed with the return due immediately  
16 following the date of the credit approval. If the credit  
17 exceeds the taxpayer's modified combined tax liability, the  
18 excess shall be refunded to the taxpayer.

19 N. If the taxpayer ceases business operations in  
20 New Mexico while an application for credit approval is  
21 pending or after an application for credit has been approved  
22 for any qualifying period for a new high-wage job, the  
23 department shall not grant an additional high-wage jobs tax  
24 credit to that taxpayer except as provided in Subsection O of  
25 this section and shall extinguish any amount of credit

1 approved for that taxpayer that has not already been claimed  
2 against the taxpayer's modified combined tax liability.

3 O. A taxpayer that has received a high-wage jobs  
4 tax credit shall not submit a new application for the credit  
5 for a minimum of two calendar years from the closing date of  
6 the last qualifying period for which the taxpayer received  
7 the credit if the taxpayer lost eligibility to claim the  
8 credit from a previous application pursuant to Subsection N  
9 of this section.

10 P. The economic development department and the  
11 taxation and revenue department shall report to the  
12 appropriate interim legislative committee each year the cost  
13 of the high-wage jobs tax credit to the state and its impact  
14 on company recruitment and job creation.

15 Q. As used in this section:

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

24 (2) "consecutive qualifying period" means  
25 each of the three qualifying periods successively following

1 the qualifying period in which the new high-wage job was  
2 created;

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

5 (4) "dependent" means "dependent" as defined  
6 in 26 U.S.C. 152(a), as that section may be amended or  
7 renumbered;

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

13 (6) "eligible employee" means an individual  
14 who is employed in New Mexico by an eligible employer and who  
15 is a resident of New Mexico; "eligible employee" does not  
16 include an individual who:

17 (a) is a dependent of the employer;

18 (b) if the employer is an estate or  
19 trust, is a grantor, beneficiary or fiduciary of the estate  
20 or trust or is a dependent of a grantor, beneficiary or  
21 fiduciary of the estate or trust;

22 (c) if the employer is a corporation,  
23 is a dependent of an individual who owns, directly or  
24 indirectly, more than fifty percent in value of the  
25 outstanding stock of the corporation; or

1 (d) if the employer is an entity other  
2 than a corporation, estate or trust, is a dependent of an  
3 individual who owns, directly or indirectly, more than fifty  
4 percent of the capital and profits interests in the entity;

5 (7) "eligible employer" means an employer  
6 that, during the applicable qualifying period, would be  
7 eligible for development training program assistance under  
8 the fiscal year 2019 policies defining development training  
9 program eligibility developed by the industrial training  
10 board in accordance with Section 21-19-7 NMSA 1978;

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

24 (9) "new high-wage job" means a new job  
25 created in New Mexico by an eligible employer on or after

1 July 1, 2004 and prior to July 1, 2026 that is occupied for  
2 at least forty-four weeks of a qualifying period by an  
3 eligible employee who is paid wages calculated for the  
4 qualifying period to be at least:

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

18 (b) for a new high-wage job created on  
19 or after July 1, 2015: 1) sixty thousand dollars (\$60,000)  
20 if the job is performed or based in or within ten miles of  
21 the external boundaries of a municipality with a population  
22 of sixty thousand or more according to the most recent  
23 federal decennial census or in a class H county; and 2) forty  
24 thousand dollars (\$40,000) if the job is performed or based  
25 in a municipality with a population of less than sixty

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

6 (10) "new job" means a job that is occupied  
7 by an employee who has not been employed in New Mexico by the  
8 eligible employer in the three years prior to the date of  
9 hire;

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

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

18 (13) "threshold job" means a job that is  
19 occupied for at least forty-four weeks of a calendar year by  
20 an eligible employee and that meets the wage requirements for  
21 a "new high-wage job"; and

22 (14) "wages" means all compensation paid by  
23 an eligible employer to an eligible employee through the  
24 employer's payroll system, including those wages that the  
25 employee elects to defer or redirect or the employee's

1 contribution to a 401(k) or cafeteria plan program, but  
2 "wages" does not include benefits or the employer's share of  
3 payroll taxes, social security or medicare contributions,  
4 federal or state unemployment insurance contributions or  
5 workers' compensation."

6 SECTION 30. Section 7-29-2 NMSA 1978 (being Laws 1959,  
7 Chapter 52, Section 2, as amended) is amended to read:

8 "7-29-2. DEFINITIONS.--As used in the Oil and Gas  
9 Severance Tax Act:

10 A. "commission", "department", "division" or "oil  
11 and gas accounting division" means the taxation and revenue  
12 department, the secretary of taxation and revenue or any  
13 employee of the department exercising authority lawfully  
14 delegated to that employee by the secretary;

15 B. "production unit" means a unit of property  
16 designated by the department from which products of common  
17 ownership are severed;

18 C. "severance" means the taking from the soil of  
19 any product in any manner whatsoever;

20 D. "value" means the actual price received for  
21 products at the production unit, except as otherwise provided  
22 in the Oil and Gas Severance Tax Act;

23 E. "product" or "products" means oil, including  
24 crude, slop or skim oil and condensate; natural gas; liquid  
25 hydrocarbon, including ethane, propane, isobutene, normal

1 butane and pentanes plus, individually or any combination  
2 thereof; and non-hydrocarbon gases, including carbon dioxide  
3 and helium;

4 F. "operator" means any person:

5 (1) engaged in the severance of products  
6 from a production unit; or

7 (2) owning an interest in any product at the  
8 time of severance who receives a portion or all of such  
9 product for the person's interest;

10 G. "primary recovery" means the displacement of  
11 oil and of other liquid hydrocarbons removed from natural gas  
12 at or near the wellhead from an oil well or pool as  
13 classified by the oil conservation division of the energy,  
14 minerals and natural resources department pursuant to  
15 Paragraph (11) of Subsection B of Section 70-2-12 NMSA 1978  
16 into the wellbore by means of the natural pressure of the oil  
17 well or pool, including but not limited to artificial lift;

18 H. "purchaser" means a person who is the first  
19 purchaser of a product after severance from a production  
20 unit, except as otherwise provided in the Oil and Gas  
21 Severance Tax Act;

22 I. "person" means any individual, estate, trust,  
23 receiver, business trust, corporation, firm, co-partnership,  
24 cooperative, joint venture, association or other group or  
25 combination acting as a unit, and the plural as well as the

1 singular number;

2 J. "interest owner" means a person owning an  
3 entire or fractional interest of whatsoever kind or nature in  
4 the products at the time of severance from a production unit,  
5 or who has a right to a monetary payment that is determined  
6 by the value of such products;

7 K. "new production natural gas well" means a  
8 producing crude oil or natural gas well proration unit that  
9 begins its initial natural gas production on or after May 1,  
10 1987 as determined by the oil conservation division of the  
11 energy, minerals and natural resources department;

12 L. "qualified enhanced recovery project", prior to  
13 January 1, 1994, means the use or the expanded use of carbon  
14 dioxide, when approved by the oil conservation division of  
15 the energy, minerals and natural resources department  
16 pursuant to the Enhanced Oil Recovery Act, for the  
17 displacement of oil and of other liquid hydrocarbons removed  
18 from natural gas at or near the wellhead from an oil well or  
19 pool classified by the oil conservation division pursuant to  
20 Paragraph (11) of Subsection B of Section 70-2-12 NMSA 1978;

21 M. "qualified enhanced recovery project", on and  
22 after January 1, 1994, means the use or the expanded use of  
23 any process approved by the oil conservation division of the  
24 energy, minerals and natural resources department pursuant to  
25 the Enhanced Oil Recovery Act for the displacement of oil and

1 of other liquid hydrocarbons removed from natural gas at or  
2 near the wellhead from an oil well or pool classified by the  
3 oil conservation division pursuant to Paragraph (11) of  
4 Subsection B of Section 70-2-12 NMSA 1978, other than a  
5 primary recovery process; the term includes but is not  
6 limited to the use of a pressure maintenance process, a water  
7 flooding process and immiscible, miscible, chemical, thermal  
8 or biological process or any other related process;

9 N. "production restoration project" means the use  
10 of any process for returning to production a natural gas or  
11 oil well that had thirty days or less of production in any  
12 period of twenty-four consecutive months beginning on or  
13 after January 1, 1993, as approved and certified by the oil  
14 conservation division of the energy, minerals and natural  
15 resources department pursuant to the Natural Gas and Crude  
16 Oil Production Incentive Act;

17 O. "well workover project" means any procedure  
18 undertaken by the operator of a natural gas or crude oil well  
19 that is intended to increase the production from the well and  
20 that has been approved and certified by the oil conservation  
21 division of the energy, minerals and natural resources  
22 department pursuant to the Natural Gas and Crude Oil  
23 Production Incentive Act;

24 P. "stripper well property" means a crude oil or  
25 natural gas producing property that is assigned a single

1 production unit number by the department and is certified by  
2 the oil conservation division of the energy, minerals and  
3 natural resources department pursuant to the Natural Gas and  
4 Crude Oil Production Incentive Act to have produced in the  
5 preceding calendar year:

6 (1) if a crude oil producing property, an  
7 average daily production of less than ten barrels of oil per  
8 eligible well per day;

9 (2) if a natural gas producing property, an  
10 average daily production of less than sixty thousand cubic  
11 feet of natural gas per eligible well per day; or

12 (3) if a property with wells that produce  
13 both crude oil and natural gas, an average daily production  
14 of less than ten barrels of oil per eligible well per day, as  
15 determined by converting the volume of natural gas produced  
16 by the well to barrels of oil by using a ratio of six  
17 thousand cubic feet to one barrel of oil;

18 Q. "average annual taxable value" means as  
19 applicable:

20 (1) the average of the taxable value per one  
21 thousand cubic feet, determined pursuant to Section 7-31-5  
22 NMSA 1978, of all natural gas produced in New Mexico for the  
23 specified calendar year as determined by the department; or

24 (2) the average of the taxable value per  
25 barrel, determined pursuant to Section 7-31-5 NMSA 1978, of

1 all oil produced in New Mexico for the specified calendar  
2 year as determined by the department;

3 R. "tax" means the oil and gas severance tax; and

4 S. "volume" means the quantity of product severed  
5 reported using:

6 (1) oil, condensate and slop oil in barrels;  
7 and

8 (2) natural gas, liquid hydrocarbons, helium  
9 and carbon dioxide in thousand cubic feet at a pressure base  
10 of fifteen and twenty-five thousandths pounds per square  
11 inch."

12 SECTION 31. Section 7-30-2 NMSA 1978 (being Laws 1959,  
13 Chapter 53, Section 2, as amended) is amended to read:

14 "7-30-2. DEFINITIONS.--As used in the Oil and Gas  
15 Conservation Tax Act:

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

20 B. "production unit" means a unit of property  
21 designated by the department from which products of common  
22 ownership are severed;

23 C. "severance" means the taking from the soil of  
24 any product in any manner whatsoever;

25 D. "value" means the actual price received for

1 products at the production unit, except as otherwise provided  
2 in the Oil and Gas Conservation Tax Act;

3 E. "product" or "products" means oil, including  
4 crude, slop or skim oil and condensate; natural gas; liquid  
5 hydrocarbon, including ethane, propane, isobutene, normal  
6 butane and pentanes plus, individually or any combination  
7 thereof; and non-hydrocarbon gases, including carbon dioxide  
8 and helium;

9 F. "operator" means any person:

10 (1) engaged in the severance of products  
11 from a production unit; or

12 (2) owning an interest in any product at the  
13 time of severance who receives a portion or all of such  
14 product for the person's interest;

15 G. "purchaser" means a person who is the first  
16 purchaser of a product after severance from a production  
17 unit, except as otherwise provided in the Oil and Gas  
18 Conservation Tax Act;

19 H. "person" means any individual, estate, trust,  
20 receiver, business trust, corporation, firm, copartnership,  
21 cooperative, joint venture, association or other group or  
22 combination acting as a unit, and the plural as well as the  
23 singular number;

24 I. "interest owner" means a person owning an  
25 entire or fractional interest of whatsoever kind or nature in

1 the products at the time of severance from a production unit  
2 or who has a right to a monetary payment that is determined  
3 by the value of such products;

4 J. "tax" means the oil and gas conservation tax;  
5 and

6 K. "volume" means the quantity of product severed  
7 reported using:

8 (1) oil, condensate and slop oil in barrels;  
9 and

10 (2) natural gas, liquid hydrocarbons, helium  
11 and carbon dioxide in thousand cubic feet at a pressure base  
12 of fifteen and twenty-five thousandths pounds per square  
13 inch."

14 SECTION 32. Section 7-31-2 NMSA 1978 (being Laws 1959,  
15 Chapter 54, Section 2, as amended) is amended to read:

16 "7-31-2. DEFINITIONS.--As used in the Oil and Gas  
17 Emergency School Tax Act:

18 A. "commission", "department" or "division" means  
19 the taxation and revenue department, the secretary of  
20 taxation and revenue or any employee of the department  
21 exercising authority lawfully delegated to that employee by  
22 the secretary;

23 B. "production unit" means a unit of property  
24 designated by the department from which products of common  
25 ownership are severed;

1           C. "severance" means the taking from the soil of  
2 any product in any manner whatsoever;

3           D. "value" means the actual price received from  
4 products at the production unit, except as otherwise provided  
5 in the Oil and Gas Emergency School Tax Act;

6           E. "product" or "products" means oil, including  
7 crude, slop or skim oil and condensate; natural gas; liquid  
8 hydrocarbon, including ethane, propane, isobutene, normal  
9 butane and pentanes plus, individually or any combination  
10 thereof; and non-hydrocarbon gases, including carbon dioxide  
11 and helium;

12           F. "operator" means any person:

13                 (1) engaged in the severance of products  
14 from a production unit; or

15                 (2) owning an interest in any product at the  
16 time of severance who receives a portion or all of such  
17 product for the person's interest;

18           G. "purchaser" means a person who is the first  
19 purchaser of a product after severance from a production  
20 unit, except as otherwise provided in the Oil and Gas  
21 Emergency School Tax Act;

22           H. "person" means any individual, estate, trust,  
23 receiver, business trust, corporation, firm, copartnership,  
24 cooperative, joint venture, association, limited liability  
25 company or other group or combination acting as a unit, and

1 the plural as well as the singular number;

2 I. "interest owner" means a person owning an  
3 entire or fractional interest of whatsoever kind or nature in  
4 the products at the time of severance from a production unit  
5 or who has a right to a monetary payment that is determined  
6 by the value of such products;

7 J. "stripper well property" means a crude oil or  
8 natural gas producing property that is assigned a single  
9 production unit number by the department and is certified by  
10 the oil conservation division of the energy, minerals and  
11 natural resources department pursuant to the Natural Gas and  
12 Crude Oil Production Incentive Act to have produced in the  
13 preceding calendar year:

14 (1) if a crude oil producing property, an  
15 average daily production of less than ten barrels of oil per  
16 eligible well per day;

17 (2) if a natural gas producing property, an  
18 average daily production of less than sixty thousand cubic  
19 feet of natural gas per eligible well per day; or

20 (3) if a property with wells that produce  
21 both crude oil and natural gas, an average daily production  
22 of less than ten barrels of oil per eligible well per day, as  
23 determined by converting the volume of natural gas produced  
24 by the well to barrels of oil by using a ratio of six  
25 thousand cubic feet to one barrel of oil;

1           K. "average annual taxable value" means as  
2 applicable:

3                 (1) the average of the taxable value per one  
4 thousand cubic feet, determined pursuant to Section 7-31-5  
5 NMSA 1978, of all natural gas produced in New Mexico for the  
6 specified calendar year as determined by the department; or

7                 (2) the average of the taxable value per  
8 barrel, determined pursuant to Section 7-31-5 NMSA 1978, of  
9 all oil produced in New Mexico for the specified calendar  
10 year as determined by the department;

11           L. "tax" means the oil and gas emergency school  
12 tax; and

13           M. "volume" means the quantity of product severed  
14 reported using:

15                 (1) oil, condensate and slop oil in barrels;  
16 and

17                 (2) natural gas, liquid hydrocarbons, helium  
18 and carbon dioxide in thousand cubic feet at a pressure base  
19 of fifteen and twenty-five thousandths pounds per square  
20 inch."

21           **SECTION 33.** Section 7-32-2 NMSA 1978 (being Laws 1959,  
22 Chapter 55, Section 2, as amended) is amended to read:

23                 "7-32-2. DEFINITIONS.--As used in the Oil and Gas Ad  
24 Valorem Production Tax Act:

25                 A. "commission", "department" or "division" means

1 the taxation and revenue department, the secretary of  
2 taxation and revenue or any employee of the department  
3 exercising authority lawfully delegated to that employee by  
4 the secretary;

5 B. "production unit" means a unit of property  
6 designated by the department from which products of common  
7 ownership are severed;

8 C. "severance" means the taking from the soil any  
9 product in any manner whatsoever;

10 D. "value" means the actual price received for  
11 products at the production unit, except as otherwise provided  
12 in the Oil and Gas Ad Valorem Production Tax Act;

13 E. "product" or "products" means oil, including  
14 crude, slop or skim oil and condensate; natural gas; liquid  
15 hydrocarbon, including ethane, propane, isobutene, normal  
16 butane and pentanes plus, individually or any combination  
17 thereof; and non-hydrocarbon gases, including carbon dioxide  
18 and helium;

19 F. "operator" means any person:

20 (1) engaged in the severance of products  
21 from a production unit; or

22 (2) owning an interest in any product at the  
23 time of severance who receives a portion or all of such  
24 product for the person's interest;

25 G. "purchaser" means a person who is the first

1 purchaser of a product after severance from a production  
2 unit, except as otherwise provided in the Oil and Gas Ad  
3 Valorem Production Tax Act;

4 H. "person" means any individual, estate, trust,  
5 receiver, business trust, corporation, firm, copartnership,  
6 cooperative, joint venture, association or other group or  
7 combination acting as a unit, and the plural as well as the  
8 singular number;

9 I. "interest owner" means a person owning an  
10 entire or fractional interest of whatsoever kind or nature in  
11 the products at the time of severance from a production unit  
12 or who has a right to a monetary payment that is determined  
13 by the value of such products;

14 J. "assessed value" means the value against which  
15 tax rates are applied;

16 K. "tax" means the oil and gas ad valorem  
17 production tax; and

18 L. "volume" means the quantity of product severed  
19 reported using:

20 (1) oil, condensate and slop oil in barrels;

21 and

22 (2) natural gas, liquid hydrocarbons, helium  
23 and carbon dioxide in thousand cubic feet at a pressure base  
24 of fifteen and twenty-five thousandths pounds per square  
25 inch."

1           SECTION 34. Section 7-40-2 NMSA 1978 (being Laws 2018,  
2 Chapter 57, Section 2) is amended to read:

3           "7-40-2. DEFINITIONS.--As used in the Insurance Premium  
4 Tax Act:

5           A. "authorized insurer" means an insurer holding a  
6 valid and subsisting certificate of authority to transact  
7 insurance in this state;

8           B. "certificate of authority" means the  
9 certificate of authority required to transact insurance in  
10 this state pursuant to Section 59A-5-10 NMSA 1978;

11           C. "department" means the taxation and revenue  
12 department;

13           D. "health maintenance organization" means "health  
14 maintenance organization" as that term is used in Chapter  
15 59A, Article 46 NMSA 1978;

16           E. "home state" means "home state" as that term is  
17 used in Chapter 59A, Article 14 NMSA 1978;

18           F. "insurance" means a contract whereby a person  
19 undertakes to pay or indemnify another as to loss from  
20 certain specified contingencies or perils, or to pay or grant  
21 a specified amount or determinable benefit in connection with  
22 ascertainable risk contingencies, or to act as surety;

23           G. "insurer" includes every person engaged as  
24 principal and as indemnitor, surety or contractor in the  
25 business of entering into contracts of insurance;

1           H. "nonprofit health care plan" means "health care  
2 plan" as that term is used in Chapter 59A, Article 47 NMSA  
3 1978;

4           I. "secretary" means the secretary of taxation and  
5 revenue or the secretary's authorized designee;

6           J. "self-insured group" means "group" as that term  
7 is used in Chapter 52, Article 6 NMSA 1978;

8           K. "state" means, when used in context indicating  
9 a jurisdiction other than New Mexico, any state, district,  
10 commonwealth, territory or possession of the United States of  
11 America;

12           L. "superintendent" means the superintendent of  
13 insurance or the superintendent's duly authorized  
14 representative acting in official capacity;

15           M. "surplus lines broker" means "surplus lines  
16 broker" as that term is used in Section 59A, Article 14 NMSA  
17 1978;

18           N. "taxpayer" means:

19               (1) an authorized insurer;

20               (2) an insurer formerly authorized to  
21 transact insurance in New Mexico and receiving premiums on  
22 policies remaining in force in New Mexico, except an insurer  
23 that withdrew from New Mexico prior to March 26, 1955;

24               (3) a plan operating under provisions of  
25 Chapter 59A, Articles 46 through 49 NMSA 1978;

1 (4) a property bondsman, as that person is  
2 defined in Section 59A-51-2 NMSA 1978;

3 (5) an unauthorized insurer that has assumed  
4 a contract or policy of insurance, directly or indirectly,  
5 from an authorized or formerly authorized insurer and is  
6 receiving premiums on such policies remaining in force in New  
7 Mexico; provided that the ceding insurer does not continue to  
8 pay the taxes imposed pursuant to the Insurance Premium Tax  
9 Act as to such policy or contract;

10 (6) an insured who in this state procures,  
11 continues or renews insurance with a nonadmitted insurer  
12 pursuant to Section 59A-15-4 NMSA 1978; or

13 (7) members of the same bone fide trade or  
14 professional association that has been in existence for five  
15 years or more and that have entered into agreements to pool  
16 the members' liabilities for workers' compensation benefits;  
17 provided that an employer that is a public hospital shall  
18 segregate the employer's accounting records and investment  
19 accounts from those of the other members, in accordance with  
20 applicable law; and

21 O. "transact insurance" with respect to an  
22 insurance contract or a business of insurance includes any of  
23 the following, by mail or otherwise or whether or not for  
24 profit:

25 (1) solicitation or inducement;

- 1 (2) negotiation;
- 2 (3) effectuation of an insurance contract;
- 3 (4) transaction of matters subsequent to
- 4 effectuation and arising out of such a contract;
- 5 (5) maintenance in this state of an office
- 6 or personnel performing any function in furtherance of an
- 7 insurer's business of insurance; or
- 8 (6) maintenance by an insurer of assets in
- 9 trust in this state for the benefit, security or protection
- 10 of its policyholders or its policyholders and creditors."

11 SECTION 35. Section 7-40-3 NMSA 1978 (being Laws 2018,  
12 Chapter 57, Section 3) is amended to read:

13 "7-40-3. IMPOSITION AND RATE OF TAX--DENOMINATION OF  
14 "PREMIUM TAX", "HEALTH INSURANCE PREMIUM SURTAX" AND "SELF-  
15 INSURED GROUP TAX".--

16 A. The tax imposed pursuant to this subsection may  
17 be referred to as the "premium tax". The premium tax is  
18 imposed at a rate of three and three-thousandths percent of  
19 the gross premiums and membership and policy fees received or  
20 written by a taxpayer on insurance or contracts covering  
21 risks within the state during the preceding calendar year.  
22 The premium tax shall not be imposed on self-insured groups  
23 or on return premiums, dividends paid or credited to  
24 policyholders or contract holders and premiums received for  
25 reinsurance on New Mexico risks.

1           B. For a taxpayer that is an insurer lawfully  
2 organized pursuant to the laws of the Republic of Mexico, the  
3 premium tax shall apply solely to the taxpayer's gross  
4 premium receipts from insurance policies issued by the  
5 taxpayer in New Mexico that cover residents of New Mexico or  
6 property or risks principally domiciled or located in New  
7 Mexico.

8           C. With respect to a taxpayer that is a property  
9 bondsman, "gross premiums" shall be considered any  
10 consideration received as security or surety for a bail bond  
11 in connection with a judicial proceeding.

12           D. The premium tax provided in Subsection A of  
13 this section is imposed on the gross premiums received of a  
14 surplus lines broker, less return premiums, on surplus lines  
15 insurance where New Mexico is the home state of the insured  
16 transacted under the surplus lines broker's license, as  
17 reported by the surplus lines broker to the department on  
18 forms and in the manner prescribed by the department. For  
19 purposes of this subsection, "gross premiums" shall include  
20 any additional amount charged the insured, including policy  
21 fees, risk purchasing group fees and inspection fees; but  
22 "premiums" shall not include any additional amount charged  
23 the insured for local, state or federal taxes; regulatory  
24 authority fees; or examination fees, if any. For a surplus  
25 lines policy issued to an insured whose home state is New

1 Mexico and where only a portion of the risk is located in New  
2 Mexico, the entire premium tax shall be paid in accordance  
3 with this section.

4 E. In addition to the premium tax, a health  
5 insurance premium surtax is imposed at a rate of one percent  
6 of the gross health insurance premiums and membership and  
7 policy fees received by the taxpayer on hospital and medical  
8 expense incurred insurance or contracts; nonprofit health  
9 care plan contracts, excluding dental or vision only  
10 contracts; and health maintenance organization subscriber  
11 contracts covering health risks within this state during the  
12 preceding calendar year. The tax shall not apply to return  
13 health insurance premiums, dividends paid or credited to  
14 policyholders or contract holders and health insurance  
15 premiums received for reinsurance on New Mexico risks. The  
16 surtax imposed pursuant to this subsection may be referred to  
17 as the "health insurance premium surtax".

18 F. A tax is imposed at a rate of nine-tenths  
19 percent on the net premiums, as defined in the Group Self-  
20 Insurance Act, received or written by a self-insured group  
21 within the state during the preceding calendar year. The tax  
22 imposed pursuant to this subsection may be referred to as the  
23 "self-insured group tax".

24 **SECTION 36.** Section 7-40-7 NMSA 1978 (being Laws 2018,  
25 Chapter 57, Section 7) is amended to read:

1 "7-40-7. DATE PAYMENT DUE.--

2 A. Except as provided in Subsections B and C of  
3 this section, for each calendar quarter, an estimated payment  
4 of the premium tax and the health insurance premium surtax  
5 shall be made on April 15, July 15, October 15 and the  
6 following January 15. The estimated payments shall be equal  
7 to at least one-fourth of the payment made during the  
8 previous calendar year or one-fifth of the actual payment due  
9 for the current calendar year, whichever is greater. The  
10 final adjustment for payments due for the prior year shall be  
11 made with the return filed on April 15, at which time all  
12 taxes for that year are due.

13 B. Within sixty days after expiration of a  
14 calendar quarter, a surplus lines broker shall pay the  
15 premium tax due on surplus lines insurance where New Mexico  
16 is the home state of the insured transacted under the surplus  
17 lines broker's license during such calendar quarter, as  
18 reported to the department.

19 C. For each calendar quarter, an estimated payment  
20 of the self-insured group tax shall be made on April 15, July  
21 15, October 15 and the following January 15. The estimated  
22 payments shall be equal to at least one-fourth of the payment  
23 made during the previous calendar year. The final adjustment  
24 for payments due for the prior year shall be made with the  
25 return filed on April 15, at which time all taxes for that

1 year are due."

2           **SECTION 37.** Section 9-11-6.4 NMSA 1978 (being Laws  
3 1995, Chapter 31, Section 5) is amended to read:

4           "9-11-6.4. ELECTRONIC FILING AND PAYMENT.--

5           A. The department is authorized to require where  
6 practical, in lieu of:

7                   (1) the filing of paper documents, the  
8 filing by electronic or optical means of any return,  
9 application, report or other document required under any law  
10 or program administered by the department; and

11                   (2) a paper check or cash payment, the  
12 remittance by electronic means of any payment required under  
13 any law or program administered by the department.

14           B. The department, using reasonable criteria, may  
15 require some classes of persons to file returns and remit  
16 payments electronically or optically while not so requiring  
17 others to file returns and remit payments in that manner.  
18 The date of filing or payment shall be the date the return,  
19 application, report, payment or other document is transmitted  
20 to the department in a form able to be processed."

21           **SECTION 38. REPEAL.--**Section 52-6-13 NMSA 1978 (being  
22 Laws 1986, Chapter 22, Section 87, as amended) is repealed.

23           **SECTION 39. APPLICABILITY.--**The provisions of Section 9  
24 of this act apply to tax returns filed on or after the  
25 effective date of that section:

