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HOUSE BILL 100

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

JERRY W. SANDEL

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; REDUCING PERSONAL INCOME TAX RATES;
INCREASING AND EXPANDING ELIGIBILITY FOR LOW-INCOME TAX
REBATES; PROVIDING A DEDUCTION FROM GROSS RECEIPTS AND
GOVERNMENTAL GROSS RECEIPTS FOR RECEIPTS FROM THE SALE OF
PRESCRIPTION DRUGS; ABOLISHING THE PRESCRIPTION DRUG TAX
CREDIT; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA
1978.

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

Section 1. Section 7-2-7 NMSA 1978 (being Laws 1994,
Chapter 5, Section 20) is amended to read:

"7-2-7. INDIVIDUAL INCOME TAX RATES. --The tax imposed by
Section 7-2-3 NMSA 1978 shall be at the following rates for
any taxable year beginning on or after January 1, [1996] 1998:

A. For married individuals filing separate

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returns:

If the taxable income is:

The tax shall be:

~~[Not over \$4,000] 1.7% of taxable income~~
~~Over \$ 4,000 but not over \$ 8,000 \$ 68.00 plus 3.2% of~~
~~excess over \$ 4,000~~
~~Over \$ 8,000 but not over \$ 12,000 \$ 196 plus 4.7% of~~
~~excess over \$ 8,000~~
~~Over \$ 12,000 but not over \$ 20,000 \$ 384 plus 6.0% of~~
~~excess over \$ 12,000~~
~~Over \$ 20,000 but not over \$ 32,000 \$ 864 plus 7.1% of~~
~~excess over \$ 20,000~~
~~Over \$ 32,000 but not over \$ 50,000 \$ 1,716 plus 7.9% of~~
~~excess over \$ 32,000~~
~~Over \$ 50,000 \$ 3,138 plus 8.5% of~~
~~excess over \$ 50,000]~~

Not over \$4,000 1.6% of taxable income
Over \$ 4,000 but not over \$ 8,000 \$ 64.00 plus 3.1% of
excess over \$ 4,000
Over \$ 8,000 but not over \$ 12,000 \$ 188 plus 4.5% of
excess over \$ 8,000
Over \$ 12,000 but not over \$ 20,000 \$ 368 plus 5.8% of
excess over \$ 12,000
Over \$ 20,000 but not over \$ 32,000 \$ 832 plus 6.8% of
excess over \$ 20,000
Over \$ 32,000 but not over \$ 50,000 \$ 1,648 plus 7.6% of

Underscored material = new
[bracketed material] = delete

1 excess over \$ 32,000
2 Over \$ 50,000 \$ 3,016 plus 7.9% of
3 excess over \$ 50,000.

4 B. For surviving spouses and married individuals
5 filing joint returns:

6 If the taxable income is:	7 The tax shall be:
8 [Not over \$8,000	1.7% of taxable income
9 Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of
10 _____	excess over \$ 8,000
11 Over \$ 16,000 but not over \$ 24,000	\$ 392 plus 4.7% of
12 _____	excess over \$ 16,000
13 Over \$ 24,000 but not over \$ 40,000	\$ 768 plus 6.0% of
14 _____	excess over \$ 24,000
15 Over \$ 40,000 but not over \$ 64,000	\$ 1,728 plus 7.1% of
16 _____	excess over \$ 40,000
17 Over \$ 64,000 but not over \$100,000	\$ 3,432 plus 7.9% of
18 _____	excess over \$ 64,000
19 Over \$100,000	\$ 6,276 plus 8.5% of
_____	excess over \$100,000]

20 <u>Not over \$8,000</u>	<u>1.6% of taxable income</u>
21 <u>Over \$ 8,000 but not over \$ 16,000</u>	<u>\$ 128 plus 3.1% of</u>
22 _____	<u>excess over \$ 8,000</u>
23 <u>Over \$ 16,000 but not over \$ 24,000</u>	<u>\$ 376 plus 4.5% of</u>
24 _____	<u>excess over \$ 16,000</u>
25 <u>Over \$ 24,000 but not over \$ 40,000</u>	<u>\$ 736 plus 5.8% of</u>

Underscored material = new
[bracketed material] = delete

1		<u>excess over \$ 24,000</u>
2	<u>Over \$ 40,000 but not over \$ 64,000</u>	<u>\$ 1,664 plus 6.8% of</u>
3		<u>excess over \$ 40,000</u>
4	<u>Over \$ 64,000 but not over \$100,000</u>	<u>\$ 3,296 plus 7.6% of</u>
5		<u>excess over \$ 64,000</u>
6	<u>Over \$100,000</u>	<u>\$ 6,032 plus 7.9% of</u>
7		<u>excess over \$100,000.</u>

8 C. For single individuals and for estates and
9 trusts:

10	If the taxable income is:	The tax shall be:
11	[Not over \$5,500	1.7% of taxable income
12	Over \$ 5,500 but not over \$ 11,000	\$ 93.50 plus 3.2% of
13	_____	excess over \$ 5,500
14	Over \$ 11,000 but not over \$ 16,000	\$ 269.50 plus 4.7% of
15	_____	excess over \$ 11,000
16	Over \$ 16,000 but not over \$ 26,000	\$ 504.50 plus 6.0% of
17	_____	excess over \$ 16,000
18	Over \$ 26,000 but not over \$ 42,000	\$1,104.50 plus 7.1% of
19	_____	excess over \$ 26,000
20	Over \$ 42,000 but not over \$ 65,000	\$2,240.50 plus 7.9% of
21	_____	excess over \$ 42,000
22	Over \$ 65,000	\$4,057.50 plus 8.5% of
23	_____	excess over \$ 65,000]
24	<u>Not over \$5,500</u>	<u>1.6% of taxable income</u>
25	<u>Over \$ 5,500 but not over \$ 11,000</u>	<u>\$ 88.00 plus 3.1% of</u>

Underscored material = new
[bracketed material] = delete

1		<u>excess over \$ 5,500</u>
2	<u>Over \$ 11,000 but not over \$ 16,000</u>	<u>\$ 258.50 plus 4.5% of</u>
3		<u>excess over \$ 11,000</u>
4	<u>Over \$ 16,000 but not over \$ 26,000</u>	<u>\$ 483.50 plus 5.8% of</u>
5		<u>excess over \$ 16,000</u>
6	<u>Over \$ 26,000 but not over \$ 42,000</u>	<u>\$1,063.50 plus 6.8% of</u>
7		<u>excess over \$ 26,000</u>
8	<u>Over \$ 42,000 but not over \$ 65,000</u>	<u>\$2,151.50 plus 7.6% of</u>
9		<u>excess over \$ 42,000</u>
10	<u>Over \$ 65,000</u>	<u>\$3,899.50 plus 7.9% of</u>
11		<u>excess over \$ 65,000.</u>

D. For heads of household filing returns:

13	If the taxable income is:	The tax shall be:
14	[Not over \$7,000	1.7% of taxable income
15	Over \$ 7,000 but not over \$ 14,000	\$ 119 plus 3.2% of
16	_____	excess over \$ 7,000
17	Over \$ 14,000 but not over \$ 20,000	\$ 343 plus 4.7% of
18	_____	excess over \$ 14,000
19	Over \$ 20,000 but not over \$ 33,000	\$ 625 plus 6.0% of
20	_____	excess over \$ 20,000
21	Over \$ 33,000 but not over \$ 53,000	\$1,405 plus 7.1% of
22	_____	excess over \$ 33,000
23	Over \$ 53,000 but not over \$ 83,000	\$2,825 plus 7.9% of
24	_____	excess over \$ 53,000
25	Over \$ 83,000	\$5,195 plus 8.5% of

Underscored material = new
[bracketed material] = del ete

1	excess over \$ 83,000]
2	<u>Not over \$7,000</u> <u>1.6% of taxable income</u>
3	<u>Over \$ 7,000 but not over \$ 14,000</u> <u>\$ 112 plus 3.1% of</u>
4	<u>excess over \$ 7,000</u>
5	<u>Over \$ 14,000 but not over \$ 20,000</u> <u>\$ 329 plus 4.5% of</u>
6	<u>excess over \$ 14,000</u>
7	<u>Over \$ 20,000 but not over \$ 33,000</u> <u>\$ 599 plus 5.8% of</u>
8	<u>excess over \$ 20,000</u>
9	<u>Over \$ 33,000 but not over \$ 53,000</u> <u>\$1,353 plus 6.8% of</u>
10	<u>excess over \$ 33,000</u>
11	<u>Over \$ 53,000 but not over \$ 83,000</u> <u>\$2,713 plus 7.6% of</u>
12	<u>excess over \$ 53,000</u>
13	<u>Over \$ 83,000</u> <u>\$4,993 plus 7.9% of</u>
14	<u>excess over \$ 83,000.</u>

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

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

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

24 Section 2. Section 7-2-14 NMSA 1978 (being Laws 1972,
25 Chapter 20, Section 2, as amended) is amended to read:

1 "7-2-14. LOW-INCOME COMPREHENSIVE TAX REBATE. --

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

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

20 C. For the purposes of this section, the total
21 number of exemptions for which a tax rebate may be claimed or
22 allowed is determined by adding the number of federal
23 exemptions allowable for federal income tax purposes for each
24 individual included in the return who is domiciled in New
25 Mexico plus two additional exemptions for each individual

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

10 D. The tax rebate provided for in this section may
 11 be claimed in the amount shown in the following table:

12	Modified gross		And the total number					
13	income is:		of exemptions is:					
14		But Not						6 or
15	Over	Over	1	2	3	4	5	More
16	[\$ 0	\$ 500	\$120	\$150	\$175	\$200	\$225	\$320
17	500	1,000	135	185	225	265	300	415
18	1,000	1,500	135	190	235	290	325	435
19	1,500	2,000	135	190	235	290	325	450
20	2,000	2,500	135	190	240	290	325	450
21	2,500	3,000	135	190	240	290	325	450
22	3,000	3,500	135	190	240	290	325	450
23	3,500	4,000	135	190	240	300	335	450
24	4,000	4,500	135	190	240	300	355	450
25	4,500	5,000	115	150	205	300	355	450

Underscored material = new
 [bracketed material] = delete

Underscored material = new
 [bracketed material] = delete

1	5,000	5,500	95	130	165	260	355	430
2	5,500	6,000	75	110	145	220	315	410
3	6,000	6,500	55	90	125	180	275	370
4	6,500	7,000	35	70	105	140	235	330
5	7,000	7,500	15	50	85	120	195	290
6	7,500	8,000	10	20	50	80	130	220
7	8,000	8,500	10	20	30	60	90	180
8	8,500	9,000	10	20	30	40	70	140
9	9,000	9,500	10	20	30	40	60	100
10	9,500	10,000	10	20	30	40	50	80
11	10,000	10,500	10	20	30	40	50	60
12	10,500	11,000	10	20	30	40	50	60
13	11,000	11,500	10	20	30	40	50	60
14	11,500	12,000	5	10	15	20	25	30
15	12,000	12,500	5	10	15	20	25	30
16	12,500	13,000	5	10	15	20	25	30
17	13,000	13,500	5	10	15	20	25	30
18	13,500	14,000	5	10	15	20	25	30]
19	<u>\$ 0</u>	<u>\$ 500</u>	<u>\$ 145</u>	<u>\$ 180</u>	<u>\$ 210</u>	<u>\$ 240</u>	<u>\$ 270</u>	<u>\$ 350</u>
20	<u>500</u>	<u>1,000</u>	<u>165</u>	<u>225</u>	<u>270</u>	<u>320</u>	<u>350</u>	<u>450</u>
21	<u>1,000</u>	<u>1,500</u>	<u>165</u>	<u>230</u>	<u>290</u>	<u>350</u>	<u>390</u>	<u>480</u>
22	<u>1,500</u>	<u>2,000</u>	<u>165</u>	<u>230</u>	<u>290</u>	<u>350</u>	<u>390</u>	<u>495</u>
23	<u>2,000</u>	<u>2,500</u>	<u>165</u>	<u>230</u>	<u>290</u>	<u>350</u>	<u>390</u>	<u>495</u>
24	<u>2,500</u>	<u>3,000</u>	<u>165</u>	<u>230</u>	<u>290</u>	<u>350</u>	<u>390</u>	<u>495</u>
25	<u>3,000</u>	<u>3,500</u>	<u>165</u>	<u>230</u>	<u>290</u>	<u>350</u>	<u>390</u>	<u>495</u>

Underscored material = new
[bracketed material] = delete

1	<u>3,500</u>	<u>4,000</u>	<u>165</u>	<u>230</u>	<u>290</u>	<u>350</u>	<u>390</u>	<u>495</u>
2	<u>4,000</u>	<u>4,500</u>	<u>165</u>	<u>230</u>	<u>290</u>	<u>350</u>	<u>390</u>	<u>495</u>
3	<u>4,500</u>	<u>5,000</u>	<u>140</u>	<u>180</u>	<u>250</u>	<u>330</u>	<u>380</u>	<u>470</u>
4	<u>5,000</u>	<u>5,500</u>	<u>115</u>	<u>160</u>	<u>200</u>	<u>315</u>	<u>370</u>	<u>455</u>
5	<u>5,500</u>	<u>6,000</u>	<u>90</u>	<u>135</u>	<u>175</u>	<u>265</u>	<u>340</u>	<u>435</u>
6	<u>6,000</u>	<u>6,500</u>	<u>80</u>	<u>125</u>	<u>165</u>	<u>240</u>	<u>330</u>	<u>395</u>
7	<u>6,500</u>	<u>7,000</u>	<u>70</u>	<u>110</u>	<u>150</u>	<u>220</u>	<u>300</u>	<u>370</u>
8	<u>7,000</u>	<u>7,500</u>	<u>70</u>	<u>110</u>	<u>150</u>	<u>220</u>	<u>300</u>	<u>370</u>
9	<u>7,500</u>	<u>8,000</u>	<u>55</u>	<u>110</u>	<u>165</u>	<u>220</u>	<u>275</u>	<u>330</u>
10	<u>8,000</u>	<u>8,500</u>	<u>55</u>	<u>110</u>	<u>165</u>	<u>220</u>	<u>275</u>	<u>330</u>
11	<u>8,500</u>	<u>9,000</u>	<u>45</u>	<u>90</u>	<u>135</u>	<u>180</u>	<u>225</u>	<u>270</u>
12	<u>9,000</u>	<u>9,500</u>	<u>40</u>	<u>80</u>	<u>120</u>	<u>160</u>	<u>200</u>	<u>240</u>
13	<u>9,500</u>	<u>10,000</u>	<u>40</u>	<u>80</u>	<u>120</u>	<u>160</u>	<u>200</u>	<u>240</u>
14	<u>10,000</u>	<u>10,500</u>	<u>30</u>	<u>60</u>	<u>90</u>	<u>120</u>	<u>150</u>	<u>180</u>
15	<u>10,500</u>	<u>11,000</u>	<u>30</u>	<u>60</u>	<u>90</u>	<u>120</u>	<u>150</u>	<u>180</u>
16	<u>11,000</u>	<u>11,500</u>	<u>30</u>	<u>60</u>	<u>90</u>	<u>120</u>	<u>150</u>	<u>180</u>
17	<u>11,500</u>	<u>12,000</u>	<u>30</u>	<u>60</u>	<u>90</u>	<u>120</u>	<u>150</u>	<u>180</u>
18	<u>12,000</u>	<u>12,500</u>	<u>25</u>	<u>50</u>	<u>75</u>	<u>100</u>	<u>125</u>	<u>150</u>
19	<u>12,500</u>	<u>13,000</u>	<u>25</u>	<u>50</u>	<u>75</u>	<u>100</u>	<u>125</u>	<u>150</u>
20	<u>13,000</u>	<u>13,500</u>	<u>25</u>	<u>50</u>	<u>75</u>	<u>100</u>	<u>125</u>	<u>150</u>
21	<u>13,500</u>	<u>14,000</u>	<u>25</u>	<u>50</u>	<u>75</u>	<u>100</u>	<u>125</u>	<u>150</u>
22	<u>14,000</u>	<u>14,500</u>	<u>25</u>	<u>50</u>	<u>75</u>	<u>100</u>	<u>125</u>	<u>150</u>
23	<u>14,500</u>	<u>15,000</u>	<u>25</u>	<u>50</u>	<u>75</u>	<u>100</u>	<u>125</u>	<u>150</u>
24	<u>15,000</u>	<u>15,500</u>	<u>20</u>	<u>40</u>	<u>60</u>	<u>80</u>	<u>100</u>	<u>120</u>
25	<u>15,500</u>	<u>16,000</u>	<u>20</u>	<u>40</u>	<u>60</u>	<u>80</u>	<u>100</u>	<u>120</u>

Underscored material = new
[bracketed material] = delete

1	<u>16,000</u>	<u>16,500</u>	<u>20</u>	<u>40</u>	<u>60</u>	<u>80</u>	<u>100</u>	<u>120</u>
2	<u>16,500</u>	<u>17,000</u>	<u>20</u>	<u>40</u>	<u>60</u>	<u>80</u>	<u>100</u>	<u>120</u>
3	<u>17,000</u>	<u>17,500</u>	<u>20</u>	<u>40</u>	<u>60</u>	<u>80</u>	<u>100</u>	<u>120</u>
4	<u>17,500</u>	<u>18,000</u>	<u>20</u>	<u>40</u>	<u>60</u>	<u>80</u>	<u>100</u>	<u>120</u>

5 E. If a taxpayer's modified gross income is zero,
6 the taxpayer may claim a credit in the amount shown in the
7 first row of the table appropriate for the taxpayer's number
8 of exemptions.

9 F. The tax rebates provided for in this section may
10 be deducted from the taxpayer's New Mexico income tax
11 liability for the taxable year. If the tax rebates exceed the
12 taxpayer's income tax liability, the excess shall be refunded
13 to the taxpayer.

14 G. For purposes of this section, "dependent" means
15 "dependent" as defined by Section 152 of the Internal Revenue
16 Code of 1986, as that section may be amended or renumbered,
17 but also includes any minor child or stepchild of the resident
18 who would be a dependent for federal income tax purposes if
19 the public assistance contributing to the support of the child
20 or stepchild was considered to have been contributed by the
21 resident. "

22 Section 3. Section 7-9-3 NMSA 1978 (being Laws 1978,
23 Chapter 46, Section 1, as amended) is amended to read:

24 "7-9-3. DEFINITIONS. --As used in the Gross Receipts and
25 Compensating Tax Act:

Underscored material = new
[bracketed material] = delete

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

5 B. "buying" or "selling" means any transfer of
6 property for consideration or any performance of service for
7 consideration;

8 C. "construction" means building, altering,
9 repairing or demolishing in the ordinary course of business
10 any:

11 (1) road, highway, bridge, parking area or
12 related project;

13 (2) building, stadium or other structure;

14 (3) airport, subway or similar facility;

15 (4) park, trail, athletic field, golf course
16 or similar facility;

17 (5) dam, reservoir, canal, ditch or similar
18 facility;

19 (6) sewerage or water treatment facility,
20 power generating plant, pump station, natural gas compressing
21 station, gas processing plant, coal gasification plant,
22 refinery, distillery or similar facility;

23 (7) sewerage, water, gas or other pipeline;

24 (8) transmission line;

25 (9) radio, television or other tower;

Underscored material = new
[bracketed material] = delete

1 (10) water, oil or other storage tank;
2 (11) shaft, tunnel or other mining
3 appurtenance;

4 (12) microwave station or similar facility;
5 or

6 (13) similar work;

7 "construction" also means:

8 (14) leveling or clearing land;

9 (15) excavating earth;

10 (16) drilling wells of any type, including
11 seismograph shot holes or core drilling; or

12 (17) similar work;

13 D. "financial corporation" means any savings and
14 loan association or any incorporated savings and loan company,
15 trust company, mortgage banking company, consumer finance
16 company or other financial corporation;

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

20 F. "gross receipts" means the total amount of money
21 or the value of other consideration received from selling
22 property in New Mexico, from leasing property employed in New
23 Mexico, from selling services performed outside New Mexico the
24 product of which is initially used in New Mexico or from
25 performing services in New Mexico. In an exchange in which

Underscored material = new
[bracketed material] = delete

1 the money or other consideration received does not represent
2 the value of the property or service exchanged, "gross
3 receipts" means the reasonable value of the property or
4 service exchanged.

5 (1) "Gross receipts" includes:

6 (a) any receipts from sales of tangible
7 personal property handled on consignment;

8 (b) the total commissions or fees
9 derived from the business of buying, selling or promoting the
10 purchase, sale or leasing, as an agent or broker on a
11 commission or fee basis, of any property, service, stock, bond
12 or security;

13 (c) amounts paid by members of any
14 cooperative association or similar organization for sales or
15 leases of personal property or performance of services by such
16 organization; and

17 (d) amounts received from transmitting
18 messages or conversations by persons providing telephone or
19 telegraph services.

20 (2) "Gross receipts" excludes:

21 (a) cash discounts allowed and taken;

22 (b) New Mexico gross receipts tax,
23 governmental gross receipts tax and leased vehicle gross
24 receipts tax payable on transactions for the reporting period;

25 (c) taxes imposed pursuant to the

Underscored material = new
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1 provisions of any local option gross receipts tax that is
2 payable on transactions for the reporting period;

3 (d) any gross receipts or sales taxes
4 imposed by an Indian nation, tribe or pueblo; provided that
5 the tax is approved, if approval is required by federal law or
6 regulation, by the secretary of the interior of the United
7 States; and provided further that the gross receipts or sales
8 tax imposed by the Indian nation, tribe or pueblo provides a
9 reciprocal exclusion for gross receipts, sales or gross
10 receipts-based excise taxes imposed by the state or its
11 political subdivisions;

12 (e) any type of time-price differential;
13 and

14 (f) amounts received solely on behalf of
15 another in a disclosed agency capacity.

16 (3) When the sale of property or service is
17 made under any type of charge, conditional or time-sales
18 contract or the leasing of property is made under a leasing
19 contract, the seller or lessor may elect to treat all
20 receipts, excluding any type of time-price differential, under
21 such contracts as gross receipts as and when the payments are
22 actually received. If the seller or lessor transfers his
23 interest in any such contract to a third person, the seller or
24 lessor shall pay the gross receipts tax upon the full sale or
25 leasing contract amount, excluding any type of time-price

Underscored material = new
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1 differential;

2 G. "manufacturing" means combining or processing
3 components or materials to increase their value for sale in
4 the ordinary course of business, but does not include
5 construction;

6 H. "person" means:

7 (1) any individual, estate, trust, receiver,
8 cooperative association, club, corporation, company, firm,
9 partnership, limited liability company, limited liability
10 partnership, joint venture, syndicate or other entity,
11 including any gas, water or electric utility owned or operated
12 by a county, municipality or other political subdivision of
13 the state; or

14 (2) any national, federal, state, Indian or
15 other governmental unit or subdivision, or any agency,
16 department or instrumentality of any of the foregoing;

17 I. "property" means real property, tangible
18 personal property, licenses, franchises, patents, trademarks
19 and copyrights. Tangible personal property includes
20 electricity and manufactured homes;

21 J. "leasing" means any arrangement whereby, for a
22 consideration, property is employed for or by any person other
23 than the owner of the property, except that the granting of a
24 license to use property is the sale of a license and not a
25 lease;

Underscored material = new
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1 K. "service" means all activities engaged in for
2 other persons for a consideration, which activities involve
3 predominantly the performance of a service as distinguished
4 from selling or leasing property. "Service" includes
5 activities performed by a person for its members or
6 shareholders. In determining what is a service, the intended
7 use, principal objective or ultimate objective of the
8 contracting parties shall not be controlling. "Service"
9 includes construction activities and all tangible personal
10 property that will become an ingredient or component part of a
11 construction project. Such tangible personal property retains
12 its character as tangible personal property until it is
13 installed as an ingredient or component part of a construction
14 project in New Mexico. However, sales of tangible personal
15 property that will become an ingredient or component part of a
16 construction project to persons engaged in the construction
17 business are sales of tangible personal property;

18 L. "use" or "using" includes use, consumption or
19 storage other than storage for subsequent sale in the ordinary
20 course of business or for use solely outside this state;

21 M. "secretary" means the secretary of taxation and
22 revenue or the secretary's delegate;

23 N. "manufactured home" means a [~~moveable~~] movable
24 or portable housing structure for human occupancy that exceeds
25 either a width of eight feet or a length of forty feet

Underscored material = new
[bracketed material] = delete

1 constructed to be towed on its own chassis and designed to be
2 installed with or without a permanent foundation;

3 0. "initial use" or "initially used" means the
4 first employment for the intended purpose and does not include
5 the following activities:

6 (1) observation of tests conducted by the
7 performer of services;

8 (2) participation in progress reviews,
9 briefings, consultations and conferences conducted by the
10 performer of services;

11 (3) review of preliminary drafts, drawings
12 and other materials prepared by the performer of the services;

13 (4) inspection of preliminary prototypes
14 developed by the performer of services; or

15 (5) similar activities;

16 P. "research and development services" means any
17 activity engaged in for other persons for consideration, for
18 one or more of the following purposes:

19 (1) advancing basic knowledge in a
20 recognized field of natural science;

21 (2) advancing technology in a field of
22 technical endeavor;

23 (3) the development of a new or improved
24 product, process or system with new or improved function,
25 performance, reliability or quality, whether or not the new or

Underscored material = new
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1 improved product, process or system is offered for sale, lease
2 or other transfer;

3 (4) the development of new uses or
4 applications for an existing product, process or system,
5 whether or not the new use or application is offered as the
6 rationale for purchase, lease or other transfer of the
7 product, process or system;

8 (5) analytical or survey activities
9 incorporating technology review, application, trade-off study,
10 modeling, simulation, conceptual design or similar activities,
11 whether or not offered for sale, lease or other transfer; or

12 (6) the design and development of prototypes
13 or the integration of systems incorporating advances,
14 developments or improvements included in Paragraphs (1)
15 through (5) of this subsection; [and]

16 Q. "local option gross receipts tax" means a tax
17 authorized to be imposed by a county or municipality upon the
18 taxpayer's gross receipts and required to be collected by the
19 department at the same time and in the same manner as the
20 gross receipts tax; "local option gross receipts tax" includes
21 the taxes imposed pursuant to the Municipal Local Option Gross
22 Receipts Taxes Act, Supplemental Municipal Gross Receipts Tax
23 Act, Special Municipal Gross Receipts Tax Act, County Local
24 Option Gross Receipts Taxes Act, Local Hospital Gross Receipts
25 Tax Act, County Correctional Facility Gross Receipts Tax Act

Underscored material = new
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1 and such other acts as may be enacted authorizing counties or
2 municipalities to impose taxes on gross receipts, which taxes
3 are to be collected by the department; and

4 R. "prescription drugs" means insulin and
5 substances that are:

6 (1) dispensed by or under the supervision of
7 a licensed pharmacist or by a physician or other person
8 authorized under state law to do so;

9 (2) prescribed for a specified person by a
10 person authorized under state law to prescribe the substance;
11 and

12 (3) subject to the restrictions on sale
13 contained in Subparagraph 1 of Subsection (b) of 21 USCA 353. "

14 Section 4. A new section of the Gross Receipts and
15 Compensating Tax Act is enacted to read:

16 "[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS TAX AND
17 GOVERNMENTAL GROSS RECEIPTS TAX--PRESCRIPTION DRUGS.--Receipts
18 from the sale of prescription drugs may be deducted from gross
19 receipts and governmental gross receipts. "

20 Section 5. REPEAL.--Section 7-2-18.3 NMSA 1978 (being
21 Laws 1994, Chapter 5, Section 17) is repealed.

22 Section 6. APPLICABILITY.--

23 A. The provisions of Sections 1 and 2 of this act
24 apply to taxable years beginning on or after January 1, 1998.

25 B. The provisions of Section 5 of this act apply

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to taxable years beginning on or after January 1, 1999.

Section 7. EFFECTIVE DATE. --The effective date of the provisions of Sections 3 and 4 of this act is January 1, 1999.

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS 100, 15, 18 & 175

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

AN ACT

RELATING TO TAXATION; REDUCING PERSONAL INCOME TAX RATES;
INCREASING AND EXPANDING ELIGIBILITY FOR LOW-INCOME TAX
REBATES; PROVIDING A DEDUCTION FROM GROSS RECEIPTS AND
GOVERNMENTAL GROSS RECEIPTS FOR RECEIPTS FROM THE SALE OF
PRESCRIPTION DRUGS; ABOLISHING THE PRESCRIPTION DRUG TAX
CREDIT; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA
1978.

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

Section 1. Section 7-2-7 NMSA 1978 (being Laws 1994,
Chapter 5, Section 20) is amended to read:

"7-2-7. INDIVIDUAL INCOME TAX RATES. --The tax imposed
by Section 7-2-3 NMSA 1978 shall be at the following rates for
any taxable year beginning on or after January 1, 1996:

A. For married individuals filing separate

underscored material = new
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returns:

If the taxable income is: The tax shall be:

1	Not over \$4,000	
2	1.7% of taxable income	
3	Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus
4	3.2% of	
5	excess over \$ 4,000	
6	Over \$ 8,000 but not over \$ 12,000	\$ 196 plus
7	4.7% of	
8	excess over \$ 8,000	
9	Over \$ 12,000 but not over \$ 20,000	\$ 384 plus
10	6.0% of	
11	excess over \$ 12,000	
12	Over \$ 20,000 but not over \$ 32,000	\$ 864 plus
13	7.1% of	
14	excess over \$ 20,000	
15	Over \$ 32,000 but not over \$ 50,000	\$ 1,716 plus
16	7.9% of	
17	excess over \$ 32,000	
18	Over \$ 50,000	\$
19	3,138 plus [8.5%]	
20	<u>8.2%</u> of excess over	
21		\$
22	50,000.	

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

If the taxable income is: The tax

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1 shall be:

2 Not over \$8,000 1.7%

3 of taxable income

4 Over \$ 8,000 but not over \$ 16,000 \$ 136 plus 3.2%

5 of excess

6 over \$ 8,000

7 Over \$ 16,000 but not over \$ 24,000 \$ 392 plus 4.7%

8 of excess

9 over \$ 16,000

10 Over \$ 24,000 but not over \$ 40,000 \$ 768 plus 6.0%

11 of excess

12 over \$ 24,000

13 Over \$ 40,000 but not over \$ 64,000 \$ 1,728 plus 7.1%

14 of

15 excess over \$ 40,000

16 Over \$ 64,000 but not over \$100,000 \$ 3,432 plus 7.9%

17 of

18 excess over \$ 64,000

19 Over \$100,000 \$

20 6,276 plus [~~8.5%~~]

21 8.2%

22 of excess over

23 \$100,0

24 00.

25 C. For single individuals and for estates and

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underscored material = new
[bracketed material] = delete

1	trusts:	
2	If the taxable income is:	The tax
3	shall be:	
4	Not over \$5,500	1.7%
5	of taxable income	
6	Over \$ 5,500 but not over \$ 11,000	\$ 93.50 plus
7	3.2% of	
8	excess over \$ 5,500	
9	Over \$ 11,000 but not over \$ 16,000	\$ 269.50 plus
10	4.7% of	
11	excess over \$ 11,000	
12	Over \$ 16,000 but not over \$ 26,000	\$ 504.50 plus
13	6.0% of	
14	excess over \$ 16,000	
15	Over \$ 26,000 but not over \$ 42,000	\$1,104.50 plus
16	7.1% of	
17	excess over \$ 26,000	
18	Over \$ 42,000 but not over \$ 65,000	\$2,240.50 plus
19	7.9% of	
20	excess over \$ 42,000	
21	Over \$ 65,000	
22	\$4,057.50 plus [8.5%]	
23		<u>8.2%</u>
24	of excess over	
25		\$

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underscored material = new
 [bracketed material] = delete

HTRC/HB 100

1 65,000.

2 **D. For heads of household filing returns:**

3	If the taxable income is:	The tax
4	shall be:	
5	Not over \$7,000	1.7%
6	of taxable income	
7	Over \$ 7,000 but not over \$ 14,000	\$ 119 plus 3.2%
8	of	
9		excess
10	over \$ 7,000	
11	Over \$ 14,000 but not over \$ 20,000	\$ 343 plus 4.7%
12	of	
13		excess
14	over \$ 14,000	
15	Over \$ 20,000 but not over \$ 33,000	\$ 625 plus 6.0%
16	of	
17		excess
18	over \$ 20,000	
19	Over \$ 33,000 but not over \$ 53,000	\$1,405 plus 7.1%
20	of	
21		excess
22	over \$ 33,000	
23	Over \$ 53,000 but not over \$ 83,000	\$2,825 plus 7.9%
24	of	
25		excess

. 123419. 2

underscored material = new
[bracketed material] = delete

1 over \$ 53,000
 2 Over \$ 83,000 \$5,195
 3 plus [~~8.5%~~]
 4 8.2% of excess over
 5 \$
 6 83,000.

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

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

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

15 Section 2. Section 7-2-14 NMSA 1978 (being Laws 1972,
 16 Chapter 20, Section 2, as amended) is amended to read:

17 "7-2-14. LOW-INCOME COMPREHENSIVE TAX REBATE. --

18 A. Except as otherwise provided in Subsection B of
 19 this section, any resident who files an individual New Mexico
 20 income tax return and who is not a dependent of another
 21 individual may claim a tax rebate for a portion of state and
 22 local taxes to which the resident has been subject during the
 23 taxable year for which the return is filed. The tax rebate may
 24 be claimed even though the resident has no income taxable under
 25 the Income Tax Act. A husband and wife who file separate returns

underscored material = new
 [bracketed material] = delete

1 for a taxable year in which they could have filed a joint return
2 may each claim only one-half of the tax rebate that would have
3 been allowed on a joint return.

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

10 C. For the purposes of this section, the total number
11 of exemptions for which a tax rebate may be claimed or allowed is
12 determined by adding the number of federal exemptions allowable
13 for federal income tax purposes for each individual included in
14 the return who is domiciled in New Mexico plus two additional
15 exemptions for each individual domiciled in New Mexico included
16 in the return who is sixty-five years of age or older plus one
17 additional exemption for each individual domiciled in New Mexico
18 included in the return who, for federal income tax purposes, is
19 blind plus one exemption for each minor child or stepchild of the
20 resident who would be a dependent for federal income tax purposes
21 if the public assistance contributing to the support of the child
22 or stepchild was considered to have been contributed by the
23 resident.

24 D. The tax rebate provided for in this section may be
25 claimed in the amount shown in the following table:

. 123419. 2

1	Modified gross		And the total number					
2	income is:		of exemptions is:					
3	But Not		6 or					
4	Over	Over	1	2	3	4	5	More
5	[\$ 0	\$ 500	\$120	\$150	\$175	\$200	\$225	\$320
6	500	1,000	135	185	225	265	300	415
7	1,000	1,500	135	190	235	290	325	435
8	1,500	2,000	135	190	235	290	325	450
9	2,000	2,500	135	190	240	290	325	450
10	2,500	3,000	135	190	240	290	325	450
11	3,000	3,500	135	190	240	290	325	450
12	3,500	4,000	135	190	240	300	335	450
13	4,000	4,500	135	190	240	300	355	450
14	4,500	5,000	115	150	205	300	355	450
15	5,000	5,500	95	130	165	260	355	430
16	5,500	6,000	75	110	145	220	315	410
17	6,000	6,500	55	90	125	180	275	370
18	6,500	7,000	35	70	105	140	235	330
19	7,000	7,500	15	50	85	120	195	290
20	7,500	8,000	10	20	50	80	130	220
21	8,000	8,500	10	20	30	60	90	180
22	8,500	9,000	10	20	30	40	70	140
23	9,000	9,500	10	20	30	40	60	100
24	9,500	10,000	10	20	30	40	50	80
25	10,000	10,500	10	20	30	40	50	60

underscored material = new
 [bracketed material] = delete

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1	10,500	11,000	10	20	30	40	50	60
2	11,000	11,500	10	20	30	40	50	60
3	11,500	12,000	5	10	15	20	25	30
4	12,000	12,500	5	10	15	20	25	30
5	12,500	13,000	5	10	15	20	25	30
6	13,000	13,500	5	10	15	20	25	30
7	13,500	14,000	5	10	15	20	25	30]
8	<u>\$ 0</u>	<u>\$ 500</u>	<u>\$ 120</u>	<u>\$ 160</u>	<u>\$ 200</u>	<u>\$ 240</u>	<u>\$ 280</u>	<u>\$ 320</u>
9	<u>500</u>	<u>1,000</u>	<u>135</u>	<u>195</u>	<u>250</u>	<u>310</u>	<u>350</u>	<u>415</u>
10	<u>1,000</u>	<u>1,500</u>	<u>135</u>	<u>195</u>	<u>250</u>	<u>310</u>	<u>350</u>	<u>435</u>
11	<u>1,500</u>	<u>2,000</u>	<u>135</u>	<u>195</u>	<u>250</u>	<u>310</u>	<u>350</u>	<u>450</u>
12	<u>2,000</u>	<u>2,500</u>	<u>135</u>	<u>195</u>	<u>250</u>	<u>310</u>	<u>350</u>	<u>450</u>
13	<u>2,500</u>	<u>3,000</u>	<u>135</u>	<u>195</u>	<u>250</u>	<u>310</u>	<u>350</u>	<u>450</u>
14	<u>3,000</u>	<u>3,500</u>	<u>135</u>	<u>195</u>	<u>250</u>	<u>310</u>	<u>350</u>	<u>450</u>
15	<u>3,500</u>	<u>4,000</u>	<u>135</u>	<u>195</u>	<u>250</u>	<u>310</u>	<u>355</u>	<u>450</u>
16	<u>4,000</u>	<u>4,500</u>	<u>135</u>	<u>195</u>	<u>250</u>	<u>310</u>	<u>355</u>	<u>450</u>
17	<u>4,500</u>	<u>5,000</u>	<u>125</u>	<u>190</u>	<u>240</u>	<u>305</u>	<u>355</u>	<u>450</u>
18	<u>5,000</u>	<u>5,500</u>	<u>115</u>	<u>175</u>	<u>230</u>	<u>295</u>	<u>355</u>	<u>430</u>
19	<u>5,500</u>	<u>6,000</u>	<u>105</u>	<u>155</u>	<u>210</u>	<u>260</u>	<u>315</u>	<u>410</u>
20	<u>6,000</u>	<u>7,000</u>	<u>90</u>	<u>130</u>	<u>170</u>	<u>220</u>	<u>275</u>	<u>370</u>
21	<u>7,000</u>	<u>8,000</u>	<u>80</u>	<u>115</u>	<u>145</u>	<u>180</u>	<u>225</u>	<u>295</u>
22	<u>8,000</u>	<u>9,000</u>	<u>70</u>	<u>105</u>	<u>135</u>	<u>170</u>	<u>195</u>	<u>240</u>
23	<u>9,000</u>	<u>10,000</u>	<u>65</u>	<u>95</u>	<u>115</u>	<u>145</u>	<u>175</u>	<u>205</u>
24	<u>10,000</u>	<u>11,000</u>	<u>60</u>	<u>80</u>	<u>100</u>	<u>130</u>	<u>155</u>	<u>185</u>
25	<u>11,000</u>	<u>12,000</u>	<u>55</u>	<u>70</u>	<u>90</u>	<u>110</u>	<u>135</u>	<u>160</u>

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1	<u>12, 000</u>	<u>13, 000</u>	<u>50</u>	<u>65</u>	<u>85</u>	<u>100</u>	<u>115</u>	<u>140</u>
2	<u>13, 000</u>	<u>14, 000</u>	<u>50</u>	<u>65</u>	<u>85</u>	<u>100</u>	<u>115</u>	<u>140</u>
3	<u>14, 000</u>	<u>15, 000</u>	<u>45</u>	<u>60</u>	<u>75</u>	<u>90</u>	<u>105</u>	<u>120</u>
4	<u>15, 000</u>	<u>16, 000</u>	<u>40</u>	<u>55</u>	<u>70</u>	<u>85</u>	<u>95</u>	<u>110</u>
5	<u>16, 000</u>	<u>17, 000</u>	<u>35</u>	<u>50</u>	<u>65</u>	<u>80</u>	<u>85</u>	<u>105</u>
6	<u>17, 000</u>	<u>18, 000</u>	<u>30</u>	<u>45</u>	<u>60</u>	<u>70</u>	<u>80</u>	<u>95</u>
7	<u>18, 000</u>	<u>19, 000</u>	<u>25</u>	<u>35</u>	<u>50</u>	<u>60</u>	<u>70</u>	<u>80</u>
8	<u>19, 000</u>	<u>20, 000</u>	<u>20</u>	<u>30</u>	<u>40</u>	<u>50</u>	<u>60</u>	<u>65</u>
9	<u>20, 000</u>	<u>21, 000</u>	<u>15</u>	<u>25</u>	<u>30</u>	<u>40</u>	<u>50</u>	<u>55</u>
10	<u>21, 000</u>	<u>22, 000</u>	<u>10</u>	<u>20</u>	<u>25</u>	<u>35</u>	<u>40</u>	<u>45.</u>

11 E. If a taxpayer's modified gross income is zero,
 12 the taxpayer may claim a credit in the amount shown in the
 13 first row of the table appropriate for the taxpayer's number
 14 of exemptions.

15 F. The tax rebates provided for in this section may
 16 be deducted from the taxpayer's New Mexico income tax
 17 liability for the taxable year. If the tax rebates exceed the
 18 taxpayer's income tax liability, the excess shall be refunded
 19 to the taxpayer.

20 G. For purposes of this section, "dependent" means
 21 "dependent" as defined by Section 152 of the Internal Revenue
 22 Code of 1986, as that section may be amended or renumbered,
 23 but also includes any minor child or stepchild of the resident
 24 who would be a dependent for federal income tax purposes if
 25 the public assistance contributing to the support of the child

underscored material = new
 [bracketed material] = delete

1 or stepchild was considered to have been contributed by the
2 resident. "

3 Section 3. Section 7-9-3 NMSA 1978 (being Laws 1978,
4 Chapter 46, Section 1, as amended) is amended to read:

5 "7-9-3. DEFINITIONS. -- As used in the Gross Receipts and
6 Compensating Tax Act:

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

11 B. "buying" or "selling" means any transfer of
12 property for consideration or any performance of service for
13 consideration;

14 C. "construction" means building, altering,
15 repairing or demolishing in the ordinary course of business
16 any:

17 (1) road, highway, bridge, parking area or
18 related project;

19 (2) building, stadium or other structure;

20 (3) airport, subway or similar facility;

21 (4) park, trail, athletic field, golf course
22 or similar facility;

23 (5) dam, reservoir, canal, ditch or similar
24 facility;

25 (6) sewerage or water treatment facility,

1 power generating plant, pump station, natural gas compressing
2 station, gas processing plant, coal gasification plant,
3 refinery, distillery or similar facility;

4 (7) sewerage, water, gas or other pipeline;

5 (8) transmission line;

6 (9) radio, television or other tower;

7 (10) water, oil or other storage tank;

8 (11) shaft, tunnel or other mining

9 appurtenance;

10 (12) microwave station or similar facility;

11 or

12 (13) similar work;

13 "construction" also means:

14 (14) leveling or clearing land;

15 (15) excavating earth;

16 (16) drilling wells of any type, including
17 seismograph shot holes or core drilling; or

18 (17) similar work;

19 D. "financial corporation" means any savings and
20 loan association or any incorporated savings and loan company,
21 trust company, mortgage banking company, consumer finance
22 company or other financial corporation;

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

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1 F. "gross receipts" means the total amount of
2 money or the value of other consideration received from
3 selling property in New Mexico, from leasing property employed
4 in New Mexico, from selling services performed outside New
5 Mexico the product of which is initially used in New Mexico or
6 from performing services in New Mexico. In an exchange in
7 which the money or other consideration received does not
8 represent the value of the property or service exchanged,
9 "gross receipts" means the reasonable value of the property or
10 service exchanged.

11 (1) "Gross receipts" includes:

12 (a) any receipts from sales of tangible
13 personal property handled on consignment;

14 (b) the total commissions or fees
15 derived from the business of buying, selling or promoting the
16 purchase, sale or leasing, as an agent or broker on a
17 commission or fee basis, of any property, service, stock, bond
18 or security;

19 (c) amounts paid by members of any
20 cooperative association or similar organization for sales or
21 leases of personal property or performance of services by such
22 organization; and

23 (d) amounts received from transmitting
24 messages or conversations by persons providing telephone or
25 telegraph services.

1 (2) "Gross receipts" excludes:

2 (a) cash discounts allowed and taken;

3 (b) New Mexico gross receipts tax,
4 governmental gross receipts tax and leased vehicle gross
5 receipts tax payable on transactions for the reporting period;

6 (c) taxes imposed pursuant to the
7 provisions of any local option gross receipts tax that is
8 payable on transactions for the reporting period;

9 (d) any gross receipts or sales taxes
10 imposed by an Indian nation, tribe or pueblo; provided that
11 the tax is approved, if approval is required by federal law or
12 regulation, by the secretary of the interior of the United
13 States; and provided further that the gross receipts or sales
14 tax imposed by the Indian nation, tribe or pueblo provides a
15 reciprocal exclusion for gross receipts, sales or gross
16 receipts-based excise taxes imposed by the state or its
17 political subdivisions;

18 (e) any type of time-price
19 differential; and

20 (f) amounts received solely on behalf
21 of another in a disclosed agency capacity.

22 (3) When the sale of property or service is
23 made under any type of charge, conditional or time-sales
24 contract or the leasing of property is made under a leasing
25 contract, the seller or lessor may elect to treat all

1 receipts, excluding any type of time-price differential, under
2 such contracts as gross receipts as and when the payments are
3 actually received. If the seller or lessor transfers his
4 interest in any such contract to a third person, the seller or
5 lessor shall pay the gross receipts tax upon the full sale or
6 leasing contract amount, excluding any type of time-price
7 differential;

8 G. "manufacturing" means combining or processing
9 components or materials to increase their value for sale in
10 the ordinary course of business, but does not include
11 construction;

12 H. "person" means:

13 (1) any individual, estate, trust, receiver,
14 cooperative association, club, corporation, company, firm,
15 partnership, limited liability company, limited liability
16 partnership, joint venture, syndicate or other entity,
17 including any gas, water or electric utility owned or operated
18 by a county, municipality or other political subdivision of
19 the state; or

20 (2) any national, federal, state, Indian or
21 other governmental unit or subdivision, or any agency,
22 department or instrumentality of any of the foregoing;

23 I. "property" means real property, tangible
24 personal property, licenses, franchises, patents, trademarks
25 and copyrights. Tangible personal property includes

1 electricity and manufactured homes;

2 J. "leasing" means any arrangement whereby, for a
3 consideration, property is employed for or by any person other
4 than the owner of the property, except that the granting of a
5 license to use property is the sale of a license and not a
6 lease;

7 K. "service" means all activities engaged in for
8 other persons for a consideration, which activities involve
9 predominantly the performance of a service as distinguished
10 from selling or leasing property. "Service" includes
11 activities performed by a person for its members or
12 shareholders. In determining what is a service, the intended
13 use, principal objective or ultimate objective of the
14 contracting parties shall not be controlling. "Service"
15 includes construction activities and all tangible personal
16 property that will become an ingredient or component part of a
17 construction project. Such tangible personal property retains
18 its character as tangible personal property until it is
19 installed as an ingredient or component part of a construction
20 project in New Mexico. However, sales of tangible personal
21 property that will become an ingredient or component part of a
22 construction project to persons engaged in the construction
23 business are sales of tangible personal property;

24 L. "use" or "using" includes use, consumption or
25 storage other than storage for subsequent sale in the ordinary

1 course of business or for use solely outside this state;

2 M "secretary" means the secretary of taxation and
3 revenue or the secretary's delegate;

4 N. "manufactured home" means a [~~moveable~~] movable
5 or portable housing structure for human occupancy that exceeds
6 either a width of eight feet or a length of forty feet
7 constructed to be towed on its own chassis and designed to be
8 installed with or without a permanent foundation;

9 O. "initial use" or "initially used" means the
10 first employment for the intended purpose and does not include
11 the following activities:

12 (1) observation of tests conducted by the
13 performer of services;

14 (2) participation in progress reviews,
15 briefings, consultations and conferences conducted by the
16 performer of services;

17 (3) review of preliminary drafts, drawings
18 and other materials prepared by the performer of the services;

19 (4) inspection of preliminary prototypes
20 developed by the performer of services; or

21 (5) similar activities;

22 P. "research and development services" means any
23 activity engaged in for other persons for consideration, for
24 one or more of the following purposes:

25 (1) advancing basic knowledge in a recognized

1 field of natural science;

2 (2) advancing technology in a field of
3 technical endeavor;

4 (3) the development of a new or improved
5 product, process or system with new or improved function,
6 performance, reliability or quality, whether or not the new or
7 improved product, process or system is offered for sale, lease
8 or other transfer;

9 (4) the development of new uses or
10 applications for an existing product, process or system,
11 whether or not the new use or application is offered as the
12 rationale for purchase, lease or other transfer of the
13 product, process or system;

14 (5) analytical or survey activities
15 incorporating technology review, application, trade-off study,
16 modeling, simulation, conceptual design or similar activities,
17 whether or not offered for sale, lease or other transfer; or

18 (6) the design and development of prototypes
19 or the integration of systems incorporating advances,
20 developments or improvements included in Paragraphs (1)
21 through (5) of this subsection; [~~and~~]

22 Q. "local option gross receipts tax" means a tax
23 authorized to be imposed by a county or municipality upon the
24 taxpayer's gross receipts and required to be collected by the
25 department at the same time and in the same manner as the

1 gross receipts tax; "local option gross receipts tax" includes
2 the taxes imposed pursuant to the Municipal Local Option Gross
3 Receipts Taxes Act, Supplemental Municipal Gross Receipts Tax
4 Act, Special Municipal Gross Receipts Tax Act, County Local
5 Option Gross Receipts Taxes Act, Local Hospital Gross Receipts
6 Tax Act, County Correctional Facility Gross Receipts Tax Act
7 and such other acts as may be enacted authorizing counties or
8 municipalities to impose taxes on gross receipts, which taxes
9 are to be collected by the department; and

10 R. "prescription drugs" means insulin and
11 substances that are:

12 (1) dispensed by or under the supervision of
13 a licensed pharmacist or by a physician or other person
14 authorized under state law to do so;

15 (2) prescribed for a specified person by a
16 person authorized under state law to prescribe the substance;
17 and

18 (3) subject to the restrictions on sale
19 contained in Subparagraph 1 of Subsection (b) of 21 USCA 353. "

20 Section 4. A new section of the Gross Receipts and
21 Compensating Tax Act is enacted to read:

22 "[~~NEW MATERIAL~~] DEDUCTION--GROSS RECEIPTS TAX AND
23 GOVERNMENTAL GROSS RECEIPTS TAX--PRESCRIPTION DRUGS.--Receipts
24 from the sale of prescription drugs may be deducted from gross
25 receipts and governmental gross receipts. "

1 Section 5. REPEAL. -- Section 7-2-18.3 NMSA 1978 (being
2 Laws 1994, Chapter 5, Section 17) is repealed.

3 Section 6. APPLICABILITY. --

4 A. The provisions of Sections 1 and 2 of this act
5 apply to taxable years beginning on or after January 1, 1998.

6 B. The provisions of Section 5 of this act apply
7 to taxable years beginning on or after January 1, 1999.

8 Section 7. EFFECTIVE DATE. -- The effective date of the
9 provisions of Sections 3 and 4 of this act is January 1, 1999.

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1
2 HTRC/HB 100
3

4 FORTY-THIRD LEGISLATURE
5 SECOND SESSION, 1998
6
7

8
9 February 15, 1998
10

11 Mr. Speaker:
12

13 Your TAXATION AND REVENUE COMMITTEE, to whom has
14 been referred

15
16 HOUSE BILLS 100, 15, 18 & 175

17
18 has had it under consideration and reports same with
19 recommendation that they DO NOT PASS, but that

20 HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
21 HOUSE BILLS 100, et al

22
23 DO PASS, and thence referred to the APPROPRIATIONS AND
24 FINANCE COMMITTEE.
25

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1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

3 HTRC/HB 100

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4
5 Respectfully submitted,
6
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8 _____

9
10 Jerry W. Sandel, Chairman
11

12 Adopted _____

Not Adopted _____

13
14 (Chief Clerk)

(Chief Clerk)

15
16 Date _____

17 The roll call vote was 12 For 0 Against

18 Yes: 12

19 Excused: None

20 Absent: LOVEJOY
21

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

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February 16, 1998

8

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Mr. President:

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Your WAYS & MEANS COMMITTEE, to whom has been
referred

11

12

13

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS 100, 15, 18 & 175

14

15

16

has had it under consideration and reports same with
recommendation that it DO PASS.

17

18

Respectfully submitted,

19

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Carlos R. Cisneros, Chairman

25

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FORTY-THIRD LEGISLATURE
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1 HTRC/HB 100

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Adopted _____ Not

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Adopted _____

6

(Chief Clerk)

(Chief Clerk)

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Date _____

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12

The roll call vote was 7 For 0 Against

13

Yes: 7

14

No: 0

15

Excused: McSorley, Nava

16

Absent: None

17

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H0100WM1

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. 123419. 2

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