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SENATE BILL 10

**51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014**

INTRODUCED BY

Mary Kay Papen and Nate Gentry

AN ACT

RELATING TO TAXATION; CREATING THE NEW REVENUE INCOME TAX  
CREDIT AND THE NEW REVENUE CORPORATE INCOME TAX CREDIT;  
REDUCING THE AMOUNT OF GROSS RECEIPTS TAX INCREMENTS A TAXING  
ENTITY MAY AGREE TO DEDICATE PURSUANT TO THE TAX INCREMENT FOR  
DEVELOPMENT ACT; REQUIRING CIGARETTE STAMPS TO BE SOLD AT FACE  
VALUE; REMOVING THE IMPOSITION OF THE MOTOR VEHICLE EXCISE TAX  
AND THE EXEMPTION FROM THE GROSS RECEIPTS TAX AND COMPENSATING  
TAX ON ALL-TERRAIN AND RECREATIONAL VEHICLES; REPEALING  
SECTIONS OF THE GROSS RECEIPTS AND COMPENSATING TAX ACT.

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

SECTION 1. A new section of the Income Tax Act is enacted  
to read:

"[NEW MATERIAL] NEW REVENUE INCOME TAX CREDIT.--

A. A taxpayer who is not a dependent of another

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1 individual and who creates new jobs or makes a capital  
2 investment in the state may apply for, and the department may  
3 allow, a credit of thirty percent of new revenue created by the  
4 taxpayer against the taxpayer's tax liability imposed pursuant  
5 to the Income Tax Act. The credit provided in this section may  
6 be referred to as the "new revenue income tax credit".

7 B. The purposes of the new revenue income tax  
8 credit are to:

9 (1) encourage businesses that would not do so  
10 without the new revenue income tax credit to relocate or expand  
11 their operations in New Mexico;

12 (2) encourage businesses to create well-paid  
13 jobs and make capital investments in New Mexico;

14 (3) generate new revenue for the state; and

15 (4) strengthen and diversify the state's  
16 economy.

17 C. The new revenue income tax credit may be claimed  
18 and allowed in an amount equal to thirty percent of new revenue  
19 created by a taxpayer in the taxable year in which a taxpayer's  
20 qualifying period closes. The credit may be claimed for up to  
21 twenty consecutive qualifying periods, beginning in the taxable  
22 year in which a taxpayer first claims a new revenue income tax  
23 credit; provided that a new revenue income tax credit claimed  
24 in subsequent years shall not be allowed for the same new jobs  
25 or capital investment for which a new revenue income tax credit

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1 has previously been claimed and approved.

2 D. That portion of a new revenue income tax credit  
3 approved by the department that exceeds a taxpayer's income tax  
4 liability in the taxable year in which the credit is claimed  
5 shall be refunded to the taxpayer.

6 E. To claim a new revenue income tax credit, a  
7 taxpayer shall apply for approval to the department after the  
8 close of a taxpayer's qualifying period, but not later than  
9 twelve months following the end of the calendar year in which  
10 the taxpayer's qualifying period closes. The application shall  
11 be on forms and in a manner required by the department and  
12 shall include a certificate of eligibility issued by the  
13 economic development department pursuant to Subsection M of  
14 this section and any other information the department may  
15 require to determine the amount of the credit due the taxpayer.

16 F. To be eligible for a new revenue income tax  
17 credit, a taxpayer shall:

18 (1) have created a minimum number of new jobs  
19 in a qualifying period in which a new revenue income tax credit  
20 is claimed, as follows:

21 (a) at least five jobs if the jobs are  
22 performed or based in a municipality with a population of less  
23 than sixty thousand according to the most recent federal  
24 decennial census, or in an unincorporated area that is not  
25 within ten miles of the external boundaries of a municipality

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1 with a population of sixty thousand or more, of a county other  
2 than a class H county; or

3 (b) at least ten jobs if the jobs are  
4 performed or based in or within ten miles of the external  
5 boundaries of a municipality with a population of sixty  
6 thousand or more according to the most recent federal decennial  
7 census or in a class H county; or

8 (2) have made a minimum amount of capital  
9 investment in a qualifying period in which a new revenue income  
10 tax credit is being claimed, as follows:

11 (a) at least two million five hundred  
12 thousand dollars (\$2,500,000) if the capital investment is made  
13 in a municipality with a population of less than sixty thousand  
14 according to the most recent federal decennial census, or in an  
15 unincorporated area that is not within ten miles of the  
16 external boundaries of a municipality with a population of  
17 sixty thousand or more, of a county other than a class H  
18 county; or

19 (b) at least five million dollars  
20 (\$5,000,000) if the capital investment is made in or within ten  
21 miles of the external boundaries of a municipality with a  
22 population of sixty thousand or more according to the most  
23 recent federal decennial census or in a class H county.

24 G. A taxpayer shall not be eligible for a credit  
25 pursuant to Paragraph (1) of Subsection F of this section

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1 unless the taxpayer's total number of new jobs on the last day  
2 of a qualifying period at the location at which the new jobs  
3 are performed or based is at least:

4 (1) five more than the number on the last day  
5 of the prior qualifying period if the taxpayer claims a credit  
6 pursuant to Subparagraph (a) of Paragraph (1) of Subsection F  
7 of this section; and

8 (2) ten more than the number on the last day  
9 of the prior qualifying period if the taxpayer claims a credit  
10 pursuant to Subparagraph (b) of Paragraph (1) of Subsection F  
11 of this section.

12 H. A taxpayer who provides retail sales of goods or  
13 services is not eligible for the new revenue income tax credit  
14 if the taxpayer made less than fifty percent of its sales or  
15 services produced in New Mexico to persons outside New Mexico  
16 during the applicable qualifying period.

17 I. A job shall not be considered a new job pursuant  
18 to this section if:

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

21 (2) the eligible employee was terminated from  
22 employment in New Mexico by another employer involved in the  
23 business merger or acquisition or other change in business  
24 organization with the taxpayer; or

25 (3) the job is performed by:

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1 (a) the person who performed the job or  
2 its functional equivalent prior to the business merger or  
3 acquisition or other change in business organization; or

4 (b) a person replacing the person who  
5 performed the job or its functional equivalent prior to a  
6 business merger or acquisition or other change in business  
7 organization.

8 J. Notwithstanding the provisions of Subsection I  
9 of this section, a new job that was created by another employer  
10 and for which an application for the new revenue income tax  
11 credit was received and is under review by the economic  
12 development department prior to the time of the business merger  
13 or acquisition or other change in business organization shall  
14 remain eligible for the new revenue income tax credit. The new  
15 employer that results from a business merger or acquisition or  
16 other change in business organization may only claim the new  
17 revenue income tax credit for the qualifying period for which  
18 the new job is otherwise eligible.

19 K. A job shall not be considered a new job pursuant  
20 to this section if the job is created due to a taxpayer  
21 entering into a contract or becoming a subcontractor to a  
22 contract with a governmental entity that replaces one or more  
23 entities performing functionally equivalent services for the  
24 governmental entity unless the job is one that was not being  
25 performed by an employee of the replaced entity.

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1           L. A taxpayer seeking a new revenue income tax  
2 credit shall apply for a certificate of eligibility from the  
3 economic development department. An application for the  
4 certificate shall include:

5                   (1) if the taxpayer is seeking a credit based  
6 on requirements pursuant to Paragraph (1) of Subsection F of  
7 this section:

8                           (a) the amount of wages paid to each  
9 eligible employee in a new job during a qualifying period;

10                           (b) the number of weeks the position was  
11 occupied during the qualifying period;

12                           (c) whether the job meets the criteria  
13 described in Subparagraph (a) or (b) of Paragraph (6) of  
14 Subsection W of this section; and

15                           (d) the total number of new jobs created  
16 by the taxpayer at the job location on the day prior to the  
17 qualifying period and on the last day of the qualifying period;

18                   (2) if the taxpayer is seeking a credit based  
19 on requirements pursuant to Paragraph (2) of Subsection F of  
20 this section:

21                           (a) the amount of capital investment in  
22 the qualifying period for which the new revenue income tax  
23 credit is being claimed; and

24                           (b) the county in which the capital  
25 investment was made; and

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1                   (3) certification by the taxpayer that, if not  
2 for the new revenue income tax credit, the taxpayer would not  
3 have created new jobs or made a capital investment as required  
4 by Subsection F of this section.

5                   M. If the economic development department  
6 determines that a taxpayer has met the requirements of this  
7 section and is eligible to receive a new revenue income tax  
8 credit, it shall issue a certificate of eligibility to the  
9 taxpayer.

10                   N. The new revenue income tax credit shall not be  
11 claimed with respect to the same job or capital investment, as  
12 applicable, for which a high-wage jobs tax credit or rural job  
13 tax credit has been claimed, or for which a credit has been  
14 claimed pursuant to the Investment Credit Act or the Technology  
15 Jobs Tax Credit Act.

16                   O. A taxpayer who, in a qualifying period, has  
17 received funds for a development training program pursuant to  
18 Section 21-19-7 NMSA 1978 or has entered into a project  
19 participation agreement pursuant to the Local Economic  
20 Development Act is not eligible for the new revenue income tax  
21 credit for that qualifying period.

22                   P. If an eligible employee who was hired to fill a  
23 new job is terminated by the taxpayer for a reason other than  
24 for good cause within five years of being hired to fill the new  
25 job and the taxpayer's eligibility for the new revenue income

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1 tax credit was based on creating new jobs pursuant to Paragraph  
2 (1) of Subsection F of this section, the taxpayer shall remit  
3 to the department an amount of the new revenue income tax  
4 credit taken by the taxpayer for each terminated employee. The  
5 amount of credit remitted for the terminated employee shall be  
6 calculated as a percentage that the total terminated employee's  
7 job bears to the total number of new jobs created during the  
8 qualifying period in which the terminated employee was hired,  
9 multiplied by the new revenue income tax credit claimed for  
10 that qualifying period.

11 Q. If a taxpayer or a successor in business of the  
12 taxpayer ceases operations in New Mexico for at least one  
13 hundred eighty consecutive days within a two-year period after  
14 the taxpayer has claimed a new revenue income tax credit at a  
15 facility with respect to which the taxpayer has claimed the  
16 credit, the department shall grant no further credit to the  
17 taxpayer with respect to that facility. In addition, any  
18 amount of credit not claimed against the taxpayer's income tax  
19 liability shall be extinguished, and within thirty days after  
20 the one hundred eightieth day of the cessation of operations,  
21 the taxpayer shall pay the amount of any income tax against  
22 which an approved credit was taken. For purposes of this  
23 section, a taxpayer shall not be deemed to have ceased  
24 operations during reasonable periods for maintenance or  
25 retooling or for the repair or replacement of facilities

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1 damaged or destroyed or during the continuance of labor  
2 disputes.

3 R. A husband and wife filing separate returns for a  
4 taxable year for which they could have filed a joint return may  
5 each claim only one-half of the new revenue income tax credit  
6 that would have been claimed on a joint return.

7 S. A taxpayer may be allocated the right to claim a  
8 new revenue income tax credit in proportion to the taxpayer's  
9 ownership interest if the taxpayer owns an interest in a  
10 business entity that is taxed for federal income tax purposes  
11 as a partnership and that business entity has met all of the  
12 requirements to be eligible for the credit. The total credit  
13 claimed by all members of the partnership or limited liability  
14 company shall not exceed the allowable credit pursuant to this  
15 section.

16 T. A taxpayer allowed a credit pursuant to this  
17 section shall report the amount of the credit to the department  
18 in a manner required by the department.

19 U. The department shall compile an annual report on  
20 the new revenue income tax credit that shall include the number  
21 of taxpayers approved by the department to receive the credit,  
22 the aggregate amount of credits approved and any other  
23 information necessary to evaluate the effectiveness of the  
24 credit. Beginning in 2020 and every five years thereafter that  
25 the credit is in effect, the department shall compile and

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1 present the annual reports to the revenue stabilization and tax  
2 policy committee and the legislative finance committee with an  
3 analysis of the effectiveness and cost of the credit and  
4 whether the credit is performing the purposes for which it was  
5 created.

6 V. The department shall promulgate rules to  
7 implement the provisions of this section. The economic  
8 development department shall promulgate rules establishing  
9 procedures to provide a certificate of eligibility for purposes  
10 of obtaining a new revenue income tax credit pursuant to this  
11 section.

12 W. As used in this section:

13 (1) "benefits" means all remuneration for work  
14 performed that is provided to an employee in whole or in part  
15 by the employer, other than wages, including insurance  
16 programs, health care, medical, dental and vision plans, life  
17 insurance, employer contributions to pensions, such as a  
18 401(k), and employer-provided services, such as child care,  
19 offered by an employer to the employee. "Benefits" does not  
20 include the employer's share of payroll taxes, social security  
21 or medicare contributions, federal or state unemployment  
22 insurance contributions or workers' compensation;

23 (2) "capital investment" means capital  
24 investment in equipment, land, buildings or infrastructure, any  
25 of which is necessary to support new or expanding business

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1 activity;

2 (3) "eligible employee" means an individual  
3 who is employed in New Mexico and who is a resident of New  
4 Mexico; "eligible employee" does not include an individual who:

5 (a) bears any of the relationships  
6 described in Subsection (a) of Section 152 of the Internal  
7 Revenue Code to the employer or, if the employer is a  
8 corporation, to an individual who owns, directly or indirectly,  
9 more than fifty percent in value of the outstanding stock of  
10 the corporation or, if the employer is an entity other than a  
11 corporation, to an individual who owns, directly or indirectly,  
12 more than fifty percent of the capital and profits interest in  
13 the entity;

14 (b) if the employer is an estate or  
15 trust, is a grantor, beneficiary or fiduciary of the estate or  
16 trust or is an individual who bears any of the relationships  
17 described in Subsection (a) of Section 152 of the Internal  
18 Revenue Code to a grantor, beneficiary or fiduciary of the  
19 estate or trust; or

20 (c) is working or has worked as an  
21 employee or as an independent contractor for an entity that,  
22 directly or indirectly, owns stock in a corporation of the  
23 eligible employer or other interest of the eligible employer  
24 that represents fifty percent or more of the total voting power  
25 of that entity or has a value equal to fifty percent or more of

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1 the capital and profits interest in the entity;

2 (4) "equipment" means an essential machine,  
3 mechanism or tool, or a component or fitting thereof, used  
4 directly and exclusively in a manufacturing operation and  
5 subject to depreciation for purposes of the Internal Revenue  
6 Code by the taxpayer carrying on the manufacturing operation.  
7 "Equipment" does not include any vehicle that leaves the site  
8 of the manufacturing operation for purposes of transporting  
9 persons or property or any property for which the taxpayer  
10 claims the credit pursuant to Section 7-9-79 NMSA 1978;

11 (5) "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 surcharge 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 or deduction applied against any  
20 or all of these taxes or surcharges; but "modified combined tax  
21 liability" excludes all amounts collected with respect to local  
22 option gross receipts taxes;

23 (6) "new job" means a job created in New  
24 Mexico by a taxpayer that is occupied for at least forty-eight  
25 weeks of a qualifying period by an eligible employee who is

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1 paid wages calculated for the qualifying period to be at least:

2 (a) one hundred twenty-five percent of  
3 the annual average wage for the area if the job is performed or  
4 based in or within ten miles of the external boundaries of a  
5 municipality with a population of sixty thousand or more  
6 according to the most recent federal decennial census or in a  
7 class H county; or

8 (b) one hundred percent of the annual  
9 average wage for the area if the job is performed or based in a  
10 municipality with a population of less than sixty thousand  
11 according to the most recent federal decennial census or in the  
12 unincorporated area, that is not within ten miles of the  
13 external boundaries of a municipality with a population of  
14 sixty thousand or more, of a county other than a class H  
15 county;

16 (7) "new revenue" means the difference  
17 between:

18 (a) the sum of the amount of a  
19 taxpayer's modified combined tax liability and tax liability  
20 pursuant to the Income Tax Act, minus the amount of any income  
21 tax credit or deduction other than the new revenue income tax  
22 credit, in a taxpayer's taxable year; and

23 (b) the sum of the amount of a  
24 taxpayer's modified combined tax liability and tax liability  
25 pursuant to the Income Tax Act, minus the amount of any income

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1 tax credit or deduction other than the new revenue income tax  
2 credit, in the taxable year immediately prior to the taxpayer's  
3 taxable year;

4 (8) "qualifying period" means the period of  
5 twelve months beginning on the day an eligible employee begins  
6 working in a new job or the period of twelve months beginning  
7 on the day the first dollar of a capital investment is made;  
8 and

9 (9) "wages" means all compensation paid by a  
10 taxpayer to an eligible employee through the taxpayer's payroll  
11 system, including those wages that the employee elects to defer  
12 or redirect or the employee's contribution to a 401(k) or  
13 cafeteria plan program, but "wages" does not include benefits  
14 or the employer's share of payroll taxes."

15 SECTION 2. A new section of the Corporate Income and  
16 Franchise Tax Act is enacted to read:

17 "[NEW MATERIAL] NEW REVENUE CORPORATE INCOME TAX CREDIT.--

18 A. A taxpayer that creates new jobs or makes a  
19 capital investment in the state may apply for, and the  
20 department may allow, a credit of thirty percent of new revenue  
21 created by the taxpayer against the taxpayer's tax liability  
22 imposed pursuant to the Corporate Income and Franchise Tax Act.  
23 The credit provided in this section may be referred to as the  
24 "new revenue corporate income tax credit".

25 B. The purposes of the new revenue corporate income

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1 tax credit are to:

2 (1) encourage businesses that would not do so  
3 without the new revenue corporate income tax credit to relocate  
4 or expand their operations in New Mexico;

5 (2) encourage businesses to create well-paid  
6 jobs and make capital investments in New Mexico;

7 (3) generate new revenue for the state; and

8 (4) strengthen and diversify the state's  
9 economy.

10 C. The new revenue corporate income tax credit may  
11 be claimed and allowed in an amount equal to thirty percent of  
12 new revenue created by a taxpayer in the taxable year in which  
13 a taxpayer's qualifying period closes. The credit may be  
14 claimed for up to twenty consecutive qualifying periods,  
15 beginning in the taxable year in which a taxpayer first claims  
16 a new revenue corporate income tax credit; provided that a new  
17 revenue corporate income tax credit claimed in subsequent years  
18 shall not be allowed for the same new jobs or capital  
19 investment for which a new revenue corporate income tax credit  
20 has previously been claimed and approved.

21 D. That portion of a new revenue corporate income  
22 tax credit approved by the department that exceeds a taxpayer's  
23 corporate income and franchise tax liability in the taxable  
24 year in which the credit is claimed shall be refunded to the  
25 taxpayer.



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1           E. To claim a new revenue corporate income tax  
2 credit, a taxpayer shall apply for approval to the department  
3 after the close of a taxpayer's qualifying period, but not  
4 later than twelve months following the end of the calendar year  
5 in which the taxpayer's qualifying period closes. The  
6 application shall be on forms and in a manner required by the  
7 department and shall include a certificate of eligibility  
8 issued by the economic development department pursuant to  
9 Subsection M of this section and any other information the  
10 department may require to determine the amount of the credit  
11 due the taxpayer.

12           F. To be eligible for a new revenue corporate  
13 income tax credit, a taxpayer shall:

14                   (1) have created a minimum number of new jobs  
15 in a qualifying period in which a new revenue corporate income  
16 tax credit is claimed, as follows:

17                           (a) at least five jobs if the jobs are  
18 performed or based in a municipality with a population of less  
19 than sixty thousand according to the most recent federal  
20 decennial census, or in an unincorporated area that is not  
21 within ten miles of the external boundaries of a municipality  
22 with a population of sixty thousand or more, of a county other  
23 than a class H county; or

24                           (b) at least ten jobs if the jobs are  
25 performed or based in or within ten miles of the external

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1 boundaries of a municipality with a population of sixty  
2 thousand or more according to the most recent federal decennial  
3 census or in a class H county; or

4 (2) have made a minimum amount of capital  
5 investment in a qualifying period in which a new revenue income  
6 tax credit is being claimed, as follows:

7 (a) at least two million five hundred  
8 thousand dollars (\$2,500,000) if the capital investment is made  
9 in a municipality with a population of less than sixty thousand  
10 according to the most recent federal decennial census, or in an  
11 unincorporated area that is not within ten miles of the  
12 external boundaries of a municipality with a population of  
13 sixty thousand or more, of a county other than a class H  
14 county; or

15 (b) at least five million dollars  
16 (\$5,000,000) if the capital investment is made in or within ten  
17 miles of the external boundaries of a municipality with a  
18 population of sixty thousand or more according to the most  
19 recent federal decennial census or in a class H county.

20 G. A taxpayer shall not be eligible for a credit  
21 pursuant to Paragraph (1) of Subsection F of this section  
22 unless the taxpayer's total number of new jobs on the last day  
23 of a qualifying period at the location at which the new jobs  
24 are performed or based is at least:

25 (1) five more than the number on the last day

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1 of the prior qualifying period if the taxpayer claims a credit  
2 pursuant to Subparagraph (a) of Paragraph (1) of Subsection F  
3 of this section; and

4 (2) ten more than the number on the last day  
5 of the prior qualifying period if the taxpayer claims a credit  
6 pursuant to Subparagraph (b) of Paragraph (1) of Subsection F  
7 of this section.

8 H. A taxpayer that provides retail sales of goods  
9 or services is not eligible for the new revenue corporate  
10 income tax credit if the taxpayer made less than fifty percent  
11 of its sales or services produced in New Mexico to persons  
12 outside New Mexico during the applicable qualifying period.

13 I. A job shall not be considered a new job pursuant  
14 to this section if:

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

17 (2) the eligible employee was terminated from  
18 employment in New Mexico by another employer involved in the  
19 business merger or acquisition or other change in business  
20 organization with the taxpayer; or

21 (3) the job is performed by:

22 (a) the person who performed the job or  
23 its functional equivalent prior to the business merger or  
24 acquisition or other change in business organization; or

25 (b) a person replacing the person who

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1 performed the job or its functional equivalent prior to a  
2 business merger or acquisition or other change in business  
3 organization.

4 J. Notwithstanding the provisions of Subsection I  
5 of this section, a new job that was created by another employer  
6 and for which an application for the new revenue corporate  
7 income tax credit was received and is under review by the  
8 economic development department prior to the time of the  
9 business merger or acquisition or other change in business  
10 organization shall remain eligible for the new revenue  
11 corporate income tax credit. The new employer that results  
12 from a business merger or acquisition or other change in  
13 business organization may only claim the new revenue corporate  
14 income tax credit for the qualifying period for which the new  
15 job is otherwise eligible.

16 K. A job shall not be considered a new job pursuant  
17 to this section if the job is created due to a taxpayer  
18 entering into a contract or becoming a subcontractor to a  
19 contract with a governmental entity that replaces one or more  
20 entities performing functionally equivalent services for the  
21 governmental entity unless the job is one that was not being  
22 performed by an employee of the replaced entity.

23 L. A taxpayer seeking a new revenue corporate  
24 income tax credit shall apply for a certificate of eligibility  
25 from the economic development department. An application for

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1 the certificate shall include:

2 (1) if the taxpayer is seeking a credit based  
3 on requirements pursuant to Paragraph (1) of Subsection F of  
4 this section:

5 (a) the amount of wages paid to each  
6 eligible employee in a new job during a qualifying period;

7 (b) the number of weeks the position was  
8 occupied during the qualifying period;

9 (c) whether the job meets the criteria  
10 described in Subparagraph (a) or (b) of Paragraph (6) of  
11 Subsection U of this section; and

12 (d) the total number of new jobs created  
13 by the taxpayer at the job location on the day prior to the  
14 qualifying period and on the last day of the qualifying period;

15 (2) if the taxpayer is seeking a credit based  
16 on requirements pursuant to Paragraph (2) of Subsection F of  
17 this section:

18 (a) the amount of capital investment in  
19 the qualifying period for which the new revenue corporate  
20 income tax credit is being claimed; and

21 (b) the county in which the capital  
22 investment was made; and

23 (3) certification by the taxpayer that, if not  
24 for the new revenue corporate income tax credit, the taxpayer  
25 would not have created new jobs or made a capital investment as

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1 required by Subsection F of this section.

2 M. If the economic development department  
3 determines that a taxpayer has met the requirements of this  
4 section and is eligible to receive a new revenue corporate  
5 income tax credit, it shall issue a certificate of eligibility  
6 to the taxpayer.

7 N. The new revenue corporate income tax credit  
8 shall not be claimed with respect to the same job or capital  
9 investment, as applicable, for which a high-wage jobs tax  
10 credit or rural job tax credit has been claimed, or for which a  
11 credit has been claimed pursuant to the Investment Credit Act  
12 or the Technology Jobs Tax Credit Act.

13 O. A taxpayer that, in a qualifying period, has  
14 received funds for a development training program pursuant to  
15 Section 21-19-7 NMSA 1978 or has entered into a project  
16 participation agreement pursuant to the Local Economic  
17 Development Act is not eligible for the new revenue corporate  
18 income tax credit for that qualifying period.

19 P. If an eligible employee who was hired to fill a  
20 new job is terminated by the taxpayer for a reason other than  
21 for good cause within five years of being hired to fill the new  
22 job and the taxpayer's eligibility for the new revenue  
23 corporate income tax credit was based on creating new jobs  
24 pursuant to Paragraph (1) of Subsection F of this section, the  
25 taxpayer shall remit to the department an amount of the new

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1 revenue corporate income tax credit taken by the taxpayer for  
2 each terminated employee. The amount of credit remitted for  
3 the terminated employee shall be calculated as a percentage  
4 that the total terminated employee's job bears to the total  
5 number of new jobs created during the qualifying period in  
6 which the terminated employee was hired, multiplied by the new  
7 revenue corporate income tax credit claimed for that qualifying  
8 period.

9 Q. If a taxpayer or a successor in business of the  
10 taxpayer ceases operations in New Mexico for at least one  
11 hundred eighty consecutive days within a two-year period after  
12 the taxpayer has claimed a new revenue corporate income tax  
13 credit at a facility with respect to which the taxpayer has  
14 claimed the credit, the department shall grant no further  
15 credit to the taxpayer with respect to that facility. In  
16 addition, any amount of credit not claimed against the  
17 taxpayer's income tax liability shall be extinguished, and  
18 within thirty days after the one hundred eightieth day of the  
19 cessation of operations, the taxpayer shall pay the amount of  
20 any income tax against which an approved credit was taken. For  
21 purposes of this section, a taxpayer shall not be deemed to  
22 have ceased operations during reasonable periods for  
23 maintenance or retooling or for the repair or replacement of  
24 facilities damaged or destroyed or during the continuance of  
25 labor disputes.

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1           R. A taxpayer allowed a credit pursuant to this  
2 section shall report the amount of the credit to the department  
3 in a manner required by the department.

4           S. The department shall compile an annual report on  
5 the new revenue corporate income tax credit that shall include  
6 the number of taxpayers approved by the department to receive  
7 the credit, the aggregate amount of credits approved and any  
8 other information necessary to evaluate the effectiveness of  
9 the credit. Beginning in 2020 and every five years thereafter  
10 that the credit is in effect, the department shall compile and  
11 present the annual reports to the revenue stabilization and tax  
12 policy committee and the legislative finance committee with an  
13 analysis of the effectiveness and cost of the credit and  
14 whether the credit is performing the purposes for which it was  
15 created.

16           T. The department shall promulgate rules to  
17 implement the provisions of this section. The economic  
18 development department shall promulgate rules establishing  
19 procedures to provide a certificate of eligibility for purposes  
20 of obtaining a new revenue corporate income tax credit pursuant  
21 to this section.

22           U. As used in this section:

23                   (1) "benefits" means all remuneration for work  
24 performed that is provided to an employee in whole or in part  
25 by the employer, other than wages, including insurance

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1 programs, health care, medical, dental and vision plans, life  
2 insurance, employer contributions to pensions, such as a  
3 401(k), and employer-provided services, such as child care,  
4 offered by an employer to the employee. "Benefits" does not  
5 include the employer's share of payroll taxes, social security  
6 or medicare contributions, federal or state unemployment  
7 insurance contributions or workers' compensation;

8 (2) "capital investment" means capital  
9 investment in equipment, land, buildings or infrastructure, any  
10 of which is necessary to support new or expanding business  
11 activity;

12 (3) "eligible employee" means an individual  
13 who is employed in New Mexico and who is a resident of New  
14 Mexico; "eligible employee" does not include an individual who:

15 (a) bears any of the relationships  
16 described in Subsection (a) of Section 152 of the Internal  
17 Revenue Code to the employer or, if the employer is a  
18 corporation, to an individual who owns, directly or indirectly,  
19 more than fifty percent in value of the outstanding stock of  
20 the corporation or, if the employer is an entity other than a  
21 corporation, to an individual who owns, directly or indirectly,  
22 more than fifty percent of the capital and profits interest in  
23 the entity;

24 (b) if the employer is an estate or  
25 trust, is a grantor, beneficiary or fiduciary of the estate or

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1 trust or is an individual who bears any of the relationships  
2 described in Subsection (a) of Section 152 of the Internal  
3 Revenue Code to a grantor, beneficiary or fiduciary of the  
4 estate or trust; or

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

12 (4) "equipment" means an essential machine,  
13 mechanism or tool, or a component or fitting thereof, used  
14 directly and exclusively in a manufacturing operation and  
15 subject to depreciation for purposes of the Internal Revenue  
16 Code by the taxpayer carrying on the manufacturing operation.  
17 "Equipment" does not include any vehicle that leaves the site  
18 of the manufacturing operation for purposes of transporting  
19 persons or property or any property for which the taxpayer  
20 claims the credit pursuant to Section 7-9-79 NMSA 1978;

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

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

8 (6) "new job" means a job created in New  
9 Mexico by a taxpayer that is occupied for at least forty-eight  
10 weeks of a qualifying period by an eligible employee who is  
11 paid wages calculated for the qualifying period to be at least:

12 (a) one hundred twenty-five percent of  
13 the annual average wage for the area if the job is performed or  
14 based in or within ten miles of the external boundaries of a  
15 municipality with a population of sixty thousand or more  
16 according to the most recent federal decennial census or in a  
17 class H county; or

18 (b) one hundred percent of the annual  
19 average wage for the area if the job is performed or based in a  
20 municipality with a population of less than sixty thousand  
21 according to the most recent federal decennial census or in the  
22 unincorporated area, that is not within ten miles of the  
23 external boundaries of a municipality with a population of  
24 sixty thousand or more, of a county other than a class H  
25 county;

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1 (7) "new revenue" means the difference  
2 between:

3 (a) the sum of the amount of a  
4 taxpayer's modified combined tax liability and tax liability  
5 pursuant to the Income Tax Act, minus the amount of any income  
6 tax credit or deduction other than the new revenue corporate  
7 income tax credit, in a taxpayer's taxable year; and

8 (b) the sum of the amount of a  
9 taxpayer's modified combined tax liability and tax liability  
10 pursuant to the Income Tax Act, minus the amount of any income  
11 tax credit or deduction other than the new revenue corporate  
12 income tax credit, in the taxable year immediately prior to the  
13 taxpayer's taxable year;

14 (8) "qualifying period" means the period of  
15 twelve months beginning on the day an eligible employee begins  
16 working in a new job or the period of twelve months beginning  
17 on the day the first dollar of a capital investment is made;  
18 and

19 (9) "wages" means all compensation paid by a  
20 taxpayer to an eligible employee through the taxpayer's payroll  
21 system, including those wages that the employee elects to defer  
22 or redirect or the employee's contribution to a 401(k) or  
23 cafeteria plan program, but "wages" does not include benefits  
24 or the employer's share of payroll taxes."

25 SECTION 3. Section 5-15-15 NMSA 1978 (being Laws 2006,  
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1 Chapter 75, Section 15, as amended) is amended to read:

2 "5-15-15. TAX INCREMENT FINANCING--GROSS RECEIPTS TAX  
3 INCREMENT.--

4 A. Notwithstanding any law to the contrary, but in  
5 accordance with the provisions of the Tax Increment for  
6 Development Act, a tax increment development plan, as  
7 originally approved or as later modified, may contain a  
8 provision that a portion of certain gross receipts tax  
9 increments collected within the tax increment development area  
10 after the effective date of approval of the tax increment  
11 development plan may be dedicated for the purpose of securing  
12 gross receipts tax increment bonds pursuant to the Tax  
13 Increment for Development Act.

14 B. As to a district formed by a municipality, a  
15 portion of any of the following gross receipts tax increments  
16 may be paid by the state directly into a special fund of the  
17 district to pay the principal of, the interest on and any  
18 premium due in connection with the bonds of, loans or advances  
19 to, or any indebtedness incurred by, whether funded, refunded,  
20 assumed or otherwise, the authority for financing or  
21 refinancing, in whole or in part, a tax increment development  
22 project within the tax increment development area:

23 (1) municipal gross receipts tax authorized  
24 pursuant to the Municipal Local Option Gross Receipts Taxes  
25 Act;

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underscored material = new  
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1                   (2) municipal environmental services gross  
2 receipts tax authorized pursuant to the Municipal Local Option  
3 Gross Receipts Taxes Act;

4                   (3) municipal infrastructure gross receipts  
5 tax authorized pursuant to the Municipal Local Option Gross  
6 Receipts Taxes Act;

7                   (4) municipal capital outlay gross receipts  
8 tax authorized pursuant to the Municipal Local Option Gross  
9 Receipts Taxes Act;

10                   ~~[(5) municipal regional transit gross receipts~~  
11 ~~tax authorized pursuant to the Municipal Local Option Gross~~  
12 ~~Receipts Taxes Act;~~

13                   ~~(6)]~~ (5) an amount distributed to  
14 municipalities pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA  
15 1978; and

16                   ~~[(7)]~~ (6) the state gross receipts tax.

17                   C. As to a district formed by a county, all or a  
18 portion of any of the following gross receipts tax increments  
19 may be paid by the state directly into a special fund of the  
20 district to pay the principal of, the interest on and any  
21 premium due in connection with the bonds of, loans or advances  
22 to or any indebtedness incurred by, whether funded, refunded,  
23 assumed or otherwise, the district for financing or  
24 refinancing, in whole or in part, a tax increment development  
25 project within the tax increment development area:

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underscored material = new  
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1 (1) county gross receipts tax authorized  
2 pursuant to the County Local Option Gross Receipts Taxes Act;

3 (2) county environmental services gross  
4 receipts tax authorized pursuant to the County Local Option  
5 Gross Receipts Taxes Act;

6 (3) county infrastructure gross receipts tax  
7 authorized pursuant to the County Local Option Gross Receipts  
8 Taxes Act;

9 (4) county capital outlay gross receipts tax  
10 authorized pursuant to the County Local Option Gross Receipts  
11 Taxes Act;

12 (5) county regional transit gross receipts tax  
13 authorized pursuant to the County Local Option Gross Receipts  
14 Taxes Act;

15 (6) the amount distributed to counties  
16 pursuant to Section 7-1-6.47 NMSA 1978; and

17 (7) the state gross receipts tax.

18 D. The gross receipts tax increment generated by  
19 the imposition of municipal or county local option gross  
20 receipts taxes specified by statute for particular purposes may  
21 nonetheless be dedicated for the purposes of the Tax Increment  
22 for Development Act if intent to do so is set forth in the tax  
23 increment development plan approved by the governing body, if  
24 the purpose for which the increment is intended to be used is  
25 consistent with the purposes set forth in the statute

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1 authorizing the municipal or county local option gross receipts  
2 tax.

3 E. An imposition of a gross receipts tax increment  
4 attributable to the imposition of a gross receipts tax by a  
5 taxing entity may be dedicated for the purpose of securing  
6 gross receipts tax increment bonds with the agreement of the  
7 taxing entity, evidenced by a resolution adopted by a majority  
8 vote of that taxing entity. A taxing entity shall not agree to  
9 dedicate for the purposes of securing gross receipts tax  
10 increment bonds more than seventy-five percent of its gross  
11 receipts tax increment attributable to the imposition of gross  
12 receipts taxes by the taxing entity. A resolution of the  
13 taxing entity to dedicate a gross receipts tax increment or to  
14 increase the dedication of a gross receipts tax increment shall  
15 become effective only on January 1 or July 1 of the calendar  
16 year.

17 F. An imposition of a gross receipts tax increment  
18 attributable to the imposition of the state gross receipts tax  
19 within a district less the distributions made pursuant to  
20 Section 7-1-6.4 NMSA 1978 may be dedicated for the purpose of  
21 securing gross receipts tax increment bonds with the agreement  
22 of the state board of finance, evidenced by a resolution  
23 adopted by a majority vote of the state board of finance. The  
24 state board of finance shall not agree to dedicate more than  
25 seventy-five percent for a district formed prior to July 1,

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1 2014 or more than thirty percent for a district formed on or  
2 after July 1, 2014 of the gross receipts tax increment  
3 attributable to the imposition of the state gross receipts tax  
4 within the district. The resolution of the state board of  
5 finance shall become effective only on January 1 or July 1 of  
6 the calendar year and shall find that:

7 (1) the state board of finance has reviewed  
8 the request for the use of the state gross receipts tax;

9 (2) based upon review by the state board of  
10 finance of the applicable tax increment development plan, the  
11 dedication by the state board of finance of a portion of the  
12 gross receipts tax increment attributable to the imposition of  
13 the state gross receipts tax within the district for use in  
14 meeting the required goals of the tax increment plan is  
15 reasonable and in the best interest of the state; and

16 (3) the use of the state gross receipts tax is  
17 likely to stimulate the creation of jobs, economic  
18 opportunities and general revenue for the state through the  
19 addition of new businesses to the state and the expansion of  
20 existing businesses within the state.

21 G. The governing body of the jurisdiction in which  
22 a tax increment development district has been established shall  
23 timely notify the assessor of the county in which the district  
24 has been established, the taxation and revenue department and  
25 the local government division of the department of finance and

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underscoring material = new  
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1 administration when:

2 (1) a tax increment development plan has been  
3 approved that contains a provision for the allocation of a  
4 gross receipts tax increment;

5 (2) any outstanding bonds of the district have  
6 been paid off; and

7 (3) the purposes of the district have  
8 otherwise been achieved.

9 H. A law that authorizes the dedication of a gross  
10 receipts tax increment or that affects the dedication of a  
11 gross receipts tax increment, or a law supplemental thereto or  
12 otherwise appertaining thereto, shall not be repealed or  
13 amended or otherwise directly or indirectly modified in such a  
14 manner as to impair adversely any outstanding gross receipts  
15 tax increment bonds that may be secured by a pledge of such  
16 gross receipts tax increment unless the outstanding bonds have  
17 been discharged in full or provision has been fully made  
18 therefor."

19 SECTION 4. Section 7-12-7 NMSA 1978 (being Laws 1971,  
20 Chapter 77, Section 7, as amended) is amended to read:

21 "7-12-7. SALE OF STAMPS--PRICES.--

22 A. Only the department shall sell stamps. Stamps  
23 may be sold by the department only to a distributor.

24 B. Stamps shall display a serial number. Stamps  
25 bearing the same serial number shall not be sold to more than

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1 one distributor. The department shall keep records of the  
2 serial numbers of the stamps provided to each distributor.

3 C. A stamp shall be affixed to a package of  
4 cigarettes in such a manner as to clearly display the serial  
5 number at the point of sale.

6 D. Tax stamps shall be sold at their face value  
7 ~~[with the following discounts:~~

8 ~~(1) fifty-five hundredths percent less than~~  
9 ~~the face value of the first thirty thousand dollars (\$30,000)~~  
10 ~~of stamps purchased in one calendar month;~~

11 ~~(2) forty-four hundredths percent less than~~  
12 ~~the face value of the second thirty thousand dollars (\$30,000)~~  
13 ~~of stamps purchased in one calendar month; and~~

14 ~~(3) twenty-seven hundredths percent less than~~  
15 ~~the face value of stamps purchased in excess of sixty thousand~~  
16 ~~dollars (\$60,000) in one calendar month].~~

17 E. Tax-credit stamps shall be provided only to  
18 distributors and shall be provided free of charge; provided  
19 that the distributor is in full compliance with the reporting  
20 requirements of the Cigarette Tax Act and rules adopted  
21 pursuant to that act.

22 ~~[F. If the face value of tax stamps sold in a~~  
23 ~~single sale is less than one thousand dollars (\$1,000), the~~  
24 ~~discount provided for in this section shall not be allowed.~~

25 ~~G.]~~ F. Payment for tax stamps shall be made on or

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[bracketed material] = delete

1 before the twenty-fifth day of the month following the month in  
2 which the sale of stamps by the department is made.

3 [H.] G. Tax-exempt stamps shall be provided only to  
4 distributors and shall be free of charge; provided that the  
5 distributor is in full compliance with the reporting  
6 requirements of the Cigarette Tax Act and rules adopted  
7 pursuant to that act."

8 SECTION 5. Section 7-14-3 NMSA 1978 (being Laws 1988,  
9 Chapter 73, Section 13, as amended) is amended to read:

10 "7-14-3. IMPOSITION OF MOTOR VEHICLE EXCISE TAX.--

11 A. An excise tax, subject to the credit provided by  
12 Section 7-14-7.1 NMSA 1978, is imposed upon the sale in this  
13 state of every vehicle, except as otherwise provided in Section  
14 7-14-7.1 NMSA 1978 and [~~manufactured homes~~] Subsection B of  
15 this section, required under the Motor Vehicle Code to be  
16 registered in this state. To prevent evasion of the excise tax  
17 imposed by the Motor Vehicle Excise Tax Act and the duty to  
18 collect it, it is presumed that the issuance of every original  
19 and subsequent certificate of title for vehicles of a type  
20 required to be registered under the provisions of the Motor  
21 Vehicle Code constitutes a sale for tax purposes, unless  
22 specifically exempted by the Motor Vehicle Excise Tax Act or  
23 unless there is shown proof satisfactory to the department that  
24 the vehicle for which the certificate of title is sought came  
25 into the possession of the applicant as a voluntary transfer

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1 without consideration or as a transfer by operation of law.  
2 The excise tax imposed by this section shall be known as the  
3 "motor vehicle excise tax".

4 B. The motor vehicle excise tax shall not be  
5 imposed on:

6 (1) a manufactured home;

7 (2) an all-terrain vehicle subject to  
8 registration pursuant to the Off-Highway Motor Vehicle Act  
9 unless the vehicle will be used primarily for work-related  
10 activities; and

11 (3) a recreational vehicle subject to  
12 registration pursuant to the Motor Vehicle Code unless the  
13 vehicle will be used primarily for work-related activities."

14 SECTION 6. REPEAL.--Sections 7-9-56.2 and 7-9-107 NMSA  
15 1978 (being Laws 1998, Chapter 92, Section 2 and Laws 2007,  
16 Chapter 172, Section 9, as amended) are repealed.

17 SECTION 7. APPLICABILITY.--The provisions of Sections 1  
18 and 2 of this act apply to taxable years beginning on or after  
19 January 1, 2015.

20 SECTION 8. EFFECTIVE DATE.--The effective date of the  
21 provisions of this act is July 1, 2014.