AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; OFFSETTING THE EFFECTS OF REVENUE REDUCTIONS FROM DECREASING THE CORPORATE INCOME TAX RATE AND THE USE OF A SINGLE SALES FACTOR BY PHASING OUT CERTAIN LOCAL GOVERNMENT HOLD HARMLESS PROVISIONS OVER A FIFTEEN-YEAR PERIOD AND REQUIRING COMBINED REPORTING; ALLOWING MUNICIPALITIES AND COUNTIES TO IMPOSE A GROSS RECEIPTS TAX; DECREASING CERTAIN CORPORATE INCOME TAX RATES OVER FIVE YEARS; REQUIRING COMBINED REPORTING FOR CERTAIN UNITARY CORPORATIONS WITH A RETAIL FACILITY OF MORE THAN THIRTY THOUSAND SQUARE FEET BUT THAT DO NOT HAVE NONRETAIL FACILITIES THAT EMPLOY AT LEAST SEVEN HUNDRED FIFTY EMPLOYEES; INCREASING THE FILM PRODUCTION TAX CREDIT FOR CERTAIN DIRECT PRODUCTION EXPENDITURES; ALLOWING A MAXIMUM OF TEN MILLION DOLLARS ($10,000,000) OF UNCLAIMED FILM PRODUCTION TAX CREDITS TO BE CARRIED FORWARD FOR THREE FISCAL YEARS; PROVIDING FOR ACCELERATED PAYMENTS OF FUTURE SCHEDULED PAYMENTS OF FILM PRODUCTION TAX CREDITS; PROVIDING FOR ADDITIONAL ELIGIBILITY REQUIREMENTS; CHANGING THE SCOPE OF DIRECT PRODUCTION EXPENDITURES FOR WHICH FILM PRODUCTION TAX CREDITS MAY BE CLAIMED; PHASING IN USE OF A SINGLE SALES FACTOR BY CERTAIN TAXPAYERS IN APPORTIONING CORPORATE INCOME TO THE STATE OVER FIVE YEARS; EXCLUDING CERTAIN SALES FROM BEING APPORTIONED AS SALES IN NEW MEXICO; PROVIDING A DEFINITION OF "CONSUMABLE" FOR PURPOSES OF THE DEDUCTION OF

RECEIPTS FROM SALES TO MANUFACTURERS; CLARIFYING APPLICATION OF THE HIGH-WAGE JOBS TAX CREDIT; DEFINING "BENEFITS" AND "WAGES"; EXTENDING THE CREDIT FOR FIVE YEARS; RECONCILING MULTIPLE AMENDMENTS TO SECTIONS OF LAW IN LAWS 2011; RECONCILING MULTIPLE AMENDMENTS TO SECTIONS OF LAW IN LAWS 2011; RECONCILING CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW BY REPEALING LAWS 2011, CHAPTER 165, SECTION 3.

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

SECTION 1. Section 7-1-6.46 NMSA 1978 (being Laws 2004, Chapter 116, Section 1, as amended) is amended to read:

"7-1-6.46. DISTRIBUTION TO MUNICIPALITIES--OFFSET FOR FOOD DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

A. For a municipality that has not elected to impose a municipal hold harmless gross receipts tax through an ordinance and that has a population of less than ten thousand according to the most recent federal decennial census, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to a municipality in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the sum of:

(1) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied

by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality for the month plus one and two hundred twenty-five thousandths percent; and

(2) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality for the month plus one and two hundred twenty-five thousandths percent.

B. For a municipality not described in Subsection A of this section, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the municipality in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the sum of:

(1) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality on January 1, 2007 plus one and two hundred twenty-five thousandths percent in the following percentages:

(a) prior to July 1, 2015, one hundred percent;

(b) on or after July 1, 2015 and prior to July 1, 2016, ninety-four percent;

(c) on or after July 1, 2016 and prior to July 1, 2017, eighty-eight percent;

(d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;

(e) on or after July 1, 2018 and prior to July 1, 2019, seventy-six percent;

(f) on or after July 1, 2019 and prior to July 1, 2020, seventy percent;

(g) on or after July 1, 2020 and prior to July 1, 2021, sixty-three percent;

(h) on or after July 1, 2021 and prior to July 1, 2022, fifty-six percent;

(i) on or after July 1, 2022 and prior to July 1, 2023, forty-nine percent;

(j) on or after July 1, 2023 and prior to July 1, 2024, forty-two percent;

(k) on or after July 1, 2024 and prior to July 1, 2025, thirty-five percent;

(l) on or after July 1, 2025 and prior to July 1, 2026, twenty-eight percent;

(m) on or after July 1, 2026 and prior to July 1, 2027, twenty-one percent;

(n) on or after July 1, 2027 and prior

to July 1, 2028, fourteen percent; and

(o) on or after July 1, 2028 and prior to July 1, 2029, seven percent; and

(2) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality on January 1, 2007 plus one and two hundred twenty-five thousandths percent in the following percentages:

(a) prior to July 1, 2015, one hundred percent;

(b) on or after July 1, 2015 and prior to July 1, 2016, ninety-four percent;

(c) on or after July 1, 2016 and prior to July 1, 2017, eighty-eight percent;

(d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;

(e) on or after July 1, 2018 and prior to July 1, 2019, seventy-six percent;

(f) on or after July 1, 2019 and prior to July 1, 2020, seventy percent;

(g) on or after July 1, 2020 and prior to July 1, 2021, sixty-three percent;

(h) on or after July 1, 2021 and prior

to July 1, 2022, fifty-six percent;

(i) on or after July 1, 2022 and prior to July 1, 2023, forty-nine percent;

(j) on or after July 1, 2023 and prior to July 1, 2024, forty-two percent;

(k) on or after July 1, 2024 and prior to July 1, 2025, thirty-five percent;

(l) on or after July 1, 2025 and prior to July 1, 2026, twenty-eight percent;

(m) on or after July 1, 2026 and prior to July 1, 2027, twenty-one percent;

(n) on or after July 1, 2027 and prior to July 1, 2028, fourteen percent; and

(o) on or after July 1, 2028 and prior to July 1, 2029, seven percent.

C. The distribution pursuant to Subsections A and B of this section is in lieu of revenue that would have been received by the municipality but for the deductions provided by Sections 7-9-92 and 7-9-93 NMSA 1978. The distribution shall be considered gross receipts tax revenue and shall be used by the municipality in the same manner as gross receipts tax revenue, including payment of gross receipts tax revenue bonds. A distribution pursuant to this section to a municipality not described in Subsection A of this section or to a municipality that has imposed a gross receipts tax

through an ordinance that does not provide a deduction contained in the Gross Receipts and Compensating Tax Act shall not be made on or after July 1, 2029.

D. If the reductions made by this 2013 act to the distributions made pursuant to Subsections A and B of this section impair the ability of a municipality to meet its principal or interest payment obligations for revenue bonds that are outstanding prior to July 1, 2013 and that are secured by the pledge of all or part of the municipality's revenue from the distribution made pursuant to this section, then the amount distributed pursuant to this section to that municipality shall be increased by an amount sufficient to meet the required payment; provided that the total amount distributed to that municipality pursuant to this section does not exceed the amount that would have been due that municipality pursuant to this section as it was in effect on June 30, 2013.

E. For the purposes of this section, "business locations attributable to the municipality" means business locations:

(1) within the municipality;

(2) on land owned by the state, commonly known as the "state fairgrounds", within the exterior boundaries of the municipality;

(3) outside the boundaries of the

municipality on land owned by the municipality; and

(4) on an Indian reservation or pueblo grant in an area that is contiguous to the municipality and in which the municipality performs services pursuant to a contract between the municipality and the Indian tribe or Indian pueblo if:

(a) the contract describes an area in which the municipality is required to perform services and requires the municipality to perform services that are substantially the same as the services the municipality performs for itself; and

(b) the governing body of the municipality has submitted a copy of the contract to the secretary.

F. A distribution pursuant to this section may be adjusted for a distribution made to a tax increment development district with respect to a portion of a gross receipts tax increment dedicated by a municipality pursuant to the Tax Increment for Development Act."

SECTION 2. Section 7-1-6.47 NMSA 1978 (being Laws 2004, Chapter 116, Section 2, as amended) is amended to read:

"7-1-6.47. DISTRIBUTION TO COUNTIES--OFFSET FOR FOOD DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

A. For a county that has not elected to impose a county hold harmless gross receipts tax through an ordinance

and that has a population of less than forty-eight thousand according to the most recent federal decennial census, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to a county in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the sum of:

(1) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed throughout the county;

(2) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations in the county but not within a municipality multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed in the county area not within a municipality;

(3) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed throughout the county; and

(4) the total deductions claimed pursuant to

Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations in the county but not within a municipality multiplied by the combined rate of all county local option gross receipts taxes in effect for the month that are imposed in the county area not within a municipality.

B. For a county not described in Subsection A of this section, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the county in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the sum of:

(1) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect on January 1, 2007 that are imposed throughout the county in the following percentages:

(a) prior to July 1, 2015, one hundred percent;

(b) on or after July 1, 2015 and prior to July 1, 2016, ninety-four percent;

(c) on or after July 1, 2016 and prior to July 1, 2017, eighty-eight percent;

(d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;

(e) on or after July 1, 2018 and prior

to July 1, 2019, seventy-six percent;

(f) on or after July 1, 2019 and prior to July 1, 2020, seventy percent;

(g) on or after July 1, 2020 and prior to July 1, 2021, sixty-three percent;

(h) on or after July 1, 2021 and prior to July 1, 2022, fifty-six percent;

(i) on or after July 1, 2022 and prior to July 1, 2023, forty-nine percent;

(j) on or after July 1, 2023 and prior to July 1, 2024, forty-two percent;

(k) on or after July 1, 2024 and prior to July 1, 2025, thirty-five percent;

(l) on or after July 1, 2025 and prior to July 1, 2026, twenty-eight percent;

(m) on or after July 1, 2026 and prior to July 1, 2027, twenty-one percent;

(n) on or after July 1, 2027 and prior to July 1, 2028, fourteen percent; and

(o) on or after July 1, 2028 and prior to July 1, 2029, seven percent;

(2) the total deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the month by taxpayers from business locations in the county but not within a municipality multiplied by the combined rate of all county local option

gross receipts taxes in effect on January 1, 2007 that are imposed in the county area not within a municipality in the following percentages:

(a) prior to July 1, 2015, one hundred percent;

(b) on or after July 1, 2015 and prior to July 1, 2016, ninety-four percent;

(c) on or after July 1, 2016 and prior to July 1, 2017, eighty-eight percent;

(d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;

(e) on or after July 1, 2018 and prior to July 1, 2019, seventy-six percent;

(f) on or after July 1, 2019 and prior to July 1, 2020, seventy percent;

(g) on or after July 1, 2020 and prior to July 1, 2021, sixty-three percent;

(h) on or after July 1, 2021 and prior to July 1, 2022, fifty-six percent;

(i) on or after July 1, 2022 and prior to July 1, 2023, forty-nine percent;

(j) on or after July 1, 2023 and prior to July 1, 2024, forty-two percent;

(k) on or after July 1, 2024 and prior to July 1, 2025, thirty-five percent;

(l) on or after July 1, 2025 and prior to July 1, 2026, twenty-eight percent;

(m) on or after July 1, 2026 and prior to July 1, 2027, twenty-one percent;

(n) on or after July 1, 2027 and prior to July 1, 2028, fourteen percent; and

(o) on or after July 1, 2028 and prior to July 1, 2029, seven percent;

(3) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect on January 1, 2007 that are imposed throughout the county in the following percentages:

(a) prior to July 1, 2015, one hundred percent;

(b) on or after July 1, 2015 and prior to July 1, 2016, ninety-four percent;

(c) on or after July 1, 2016 and prior to July 1, 2017, eighty-eight percent;

(d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;

(e) on or after July 1, 2018 and prior to July 1, 2019, seventy-six percent;

(f) on or after July 1, 2019 and prior

to July 1, 2020, seventy percent;

(g) on or after July 1, 2020 and prior to July 1, 2021, sixty-three percent;

(h) on or after July 1, 2021 and prior to July 1, 2022, fifty-six percent;

(i) on or after July 1, 2022 and prior to July 1, 2023, forty-nine percent;

(j) on or after July 1, 2023 and prior to July 1, 2024, forty-two percent;

(k) on or after July 1, 2024 and prior to July 1, 2025, thirty-five percent;

(l) on or after July 1, 2025 and prior to July 1, 2026, twenty-eight percent;

(m) on or after July 1, 2026 and prior to July 1, 2027, twenty-one percent;

(n) on or after July 1, 2027 and prior to July 1, 2028, fourteen percent; and

(o) on or after July 1, 2028 and prior to July 1, 2029, seven percent; and

(4) the total deductions claimed pursuant to Section 7-9-93 NMSA 1978 for the month by taxpayers from business locations in the county but not within a municipality multiplied by the combined rate of all county local option gross receipts taxes in effect on January 1, 2007 that are imposed in the county area not within a municipality in the

following percentages:

(a) prior to July 1, 2015, one hundred percent;

(b) on or after July 1, 2015 and prior to July 1, 2016, ninety-four percent;

(c) on or after July 1, 2016 and prior to July 1, 2017, eighty-eight percent;

(d) on or after July 1, 2017 and prior to July 1, 2018, eighty-two percent;

(e) on or after July 1, 2018 and prior to July 1, 2019, seventy-six percent;

(f) on or after July 1, 2019 and prior to July 1, 2020, seventy percent;

(g) on or after July 1, 2020 and prior to July 1, 2021, sixty-three percent;

(h) on or after July 1, 2021 and prior to July 1, 2022, fifty-six percent;

(i) on or after July 1, 2022 and prior to July 1, 2023, forty-nine percent;

(j) on or after July 1, 2023 and prior to July 1, 2024, forty-two percent;

(k) on or after July 1, 2024 and prior to July 1, 2025, thirty-five percent;

(l) on or after July 1, 2025 and prior to July 1, 2026, twenty-eight percent;

(m) on or after July 1, 2026 and prior to July 1, 2027, twenty-one percent;

(n) on or after July 1, 2027 and prior to July 1, 2028, fourteen percent; and

(o) on or after July 1, 2028 and prior to July 1, 2029, seven percent.

C. The distribution pursuant to Subsections A and B of this section is in lieu of revenue that would have been received by the county but for the deductions provided by Sections 7-9-92 and 7-9-93 NMSA 1978. The distribution shall be considered gross receipts tax revenue and shall be used by the county in the same manner as gross receipts tax revenue, including payment of gross receipts tax revenue bonds. A distribution pursuant to this section to a county not described in Subsection A of this section or to a county that has imposed a gross receipts tax through an ordinance that does not provide a deduction contained in the Gross Receipts and Compensating Tax Act shall not be made on or after July 1, 2029.

D. If the reductions made by this 2013 act to the distributions made pursuant to Subsections A and B of this section impair the ability of a county to meet its principal or interest payment obligations for revenue bonds that are outstanding prior to July 1, 2013 and that are secured by the pledge of all or part of the county's revenue from the

distribution made pursuant to this section, then the amount distributed pursuant to this section to that county shall be increased by an amount sufficient to meet the required payment; provided that the total amount distributed to that county pursuant to this section does not exceed the amount that would have been due that county pursuant to this section as it was in effect on June 30, 2013.

E. A distribution pursuant to this section may be adjusted for a distribution made to a tax increment development district with respect to a portion of a gross receipts tax increment dedicated by a county pursuant to the Tax Increment for Development Act."

SECTION 3. Section 7-2A-5 NMSA 1978 (being Laws 1981, Chapter 37, Section 38, as amended) is amended to read:

"7-2A-5. CORPORATE INCOME TAX RATES.--The corporate income tax imposed on corporations by Section 7-2A-3 NMSA 1978 shall be at the rates specified in the following tables:

A. For taxable years beginning prior to January 1, 2014:

If the net income is:	The tax shall be:
Not over $500,000	4.8% of net income
Over $500,000 but not over $1,000,000	$24,000 plus 6.4% of excess over $500,000

Over $1,000,000	$56,000 plus 7.6% of excess over $1,000,000.

B. For taxable years beginning on or after January 1, 2014 and prior to January 1, 2015:

If the net income is:	The tax shall be:
Not over $500,000	4.8% of net income
Over $500,000 but not over $1,000,000	$24,000 plus 6.4% of excess over $500,000
Over $1,000,000	$56,000 plus 7.3% of excess over $1,000,000.

C. For taxable years beginning on or after January 1, 2015 and prior to January 1, 2016:

If the net income is:	The tax shall be:
Not over $500,000	4.8% of net income
Over $500,000 but not over $1,000,000	$24,000 plus 6.4% of excess over $500,000
Over $1,000,000	$56,000 plus 6.9% of excess over $1,000,000.

D. For taxable years beginning on or after January 1, 2016 and prior to January 1, 2017:

If the net income is:	The tax shall be:
Not over $500,000	4.8% of net income
Over $500,000 but not over $1,000,000	$24,000 plus 6.4% of excess over $500,000
Over $1,000,000	$56,000 plus 6.6% of excess over $1,000,000.

E. For taxable years beginning on or after January 1, 2017 and prior to January 1, 2018:

If the net income is:	The tax shall be:
Not over $500,000	4.8% of net income
Over $500,000	$24,000 plus 6.2% of excess over $500,000.

F. For taxable years beginning on or after January 1, 2018:

If the net income is:	The tax shall be:
Not over $500,000	4.8% of net income
Over $500,000	$24,000 plus 5.9% of excess over $500,000."

SECTION 4. Section 7-2A-8.3 NMSA 1978 (being Laws 1983, Chapter 213, Section 12, as amended by Laws 1993, Chapter 307, Section 4 and by Laws 1993, Chapter 309, Section 2) is amended to read:

"7-2A-8.3. COMBINED RETURNS.--

A. A unitary corporation that is subject to taxation under the Corporate Income and Franchise Tax Act and that has not previously filed a combined return pursuant to this section or a consolidated return pursuant to Section 7-2A-8.4 NMSA 1978 may elect to file a combined return with other unitary corporations as though the entire combined net income were that of one corporation; provided, however, that for taxable years beginning on or after January 1, 2014, a unitary corporation that provides retail sales of goods in a facility of more than thirty thousand square feet under one roof in New Mexico shall file a combined return with other unitary corporations as though the entire combined net income were that of one corporation. The return filed under this method of reporting shall include the net income of all the unitary corporations. Transactions among the unitary corporations may be eliminated by applying the appropriate rules for reporting income for a consolidated federal income tax return. Any corporation that has filed an income tax return with New Mexico pursuant to Section 7-2A-8.4 NMSA 1978 shall not file pursuant to this section unless the secretary gives prior

permission to file on a combined return basis.

B. Once corporations have reported net income through a combined return for any taxable year, they shall file combined returns for subsequent taxable years, so long as they remain unitary corporations, unless the corporations elect to file pursuant to Section 7-2A-8.4 NMSA 1978 or unless the secretary grants prior permission for one or more of the corporations to file individually.

C. For taxable years beginning on or after January 1, 1993, no unitary corporation once included in a combined return may elect, or be granted permission by the secretary, for any subsequent taxable year to separately account pursuant to Paragraph (4) of Subsection A of Section 7-2A-8 NMSA 1978.

D. Notwithstanding Subsection A of this section, a unitary corporation shall not be required to file a combined return pursuant to this section if that unitary corporation:

(1) has operations in New Mexico at facilities that do not provide retail sales of goods; and

(2) employs at least seven hundred fifty employees in New Mexico at such facilities."

SECTION 5. Section 7-2F-1 NMSA 1978 (being Laws 2002, Chapter 36, Section 1, as amended by Laws 2011, Chapter 165, Section 1 and by Laws 2011, Chapter 177, Section 2) is amended to read:

"7-2F-1. FILM PRODUCTION TAX CREDIT.--

A. The tax credit created by this section may be referred to as the "film production tax credit". An eligible film production company may apply for, and the taxation and revenue department may allow, subject to the limitation in this section, a tax credit in an amount equal to the percentage specified in Subsection B of this section of:

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

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

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

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

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

(2) postproduction expenditures made in New Mexico that:

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

(b) are for services performed in New Mexico;

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

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

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

B. Except as otherwise provided in this section, the percentage to be applied in calculating the amount of the film production tax credit is twenty-five percent.

C. In addition to the percentage applied pursuant to Subsection B of this section, another five percent shall be applied in calculating the amount of the film production tax credit to direct production expenditures:

(1) on series television productions intended for commercial distribution with an order for at least six episodes in a single season; provided that the budget per

episode is fifty thousand dollars ($50,000) or more; or

(2) that are directly attributable to the wages and fringe benefits paid to a New Mexico resident directly employed in an industry crew position, excluding a performing artist, on a production with a total budget of:

(a) not more than thirty million dollars ($30,000,000) that shoots at least ten principal photography days at a qualified production facility in New Mexico; or

(b) thirty million dollars ($30,000,000) or more that shoots at least fifteen principal photography days at a qualified production facility in New Mexico.

D. With respect to expenditures attributable to a production for which the film production company receives a tax credit pursuant to the federal new markets tax credit program, the percentage to be applied in calculating the film production tax credit is twenty percent.

E. A claim for film production tax credits shall be filed as part of a return filed pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act or an information return filed by a pass-through entity. The date a credit claim is received by the department shall determine the order that a credit claim is authorized for payment by the department. Except as otherwise provided in this section, the aggregate amount of the film production tax credit claims that may be authorized for payment in any fiscal year is fifty

million dollars ($50,000,000) with respect to the direct production expenditures or postproduction expenditures made on film or commercial audiovisual products. A film production company that submits a claim for a film production tax credit that is unable to receive the tax credit because the claims for the fiscal year exceed the limitation in this subsection shall be placed for the subsequent fiscal year at the front of a queue of film production tax credit claimants submitting claims in the subsequent fiscal year in the order of the date on which the credit was authorized for payment.

F. If, in fiscal years 2013 through 2015, the aggregate amount in each fiscal year of the film production tax credit claims authorized for payment is less than fifty million dollars ($50,000,000), then the difference in that fiscal year or ten million dollars ($10,000,000), whichever is less, shall be added to the aggregate amount of the film production tax credit claims that may be authorized for payment pursuant to Subsection E of this section in the immediately following fiscal year.

G. Except as otherwise provided in this section, credit claims authorized for payment pursuant to the Film Production Tax Credit Act shall be paid pursuant to provisions of the Tax Administration Act to the taxpayer as follows:

(1) a credit claim amount of less than two million dollars ($2,000,000) per taxable year shall be paid

immediately upon authorization for payment of the credit claim;

(2) a credit claim amount of two million dollars ($2,000,000) or more but less than five million dollars ($5,000,000) per taxable year shall be divided into two equal payments, with the first payment to be made immediately upon authorization of the payment of the credit claim and the second payment to be made twelve months following the date of the first payment; and

(3) a credit claim amount of five million dollars ($5,000,000) or more per taxable year shall be divided into three equal payments, with the first payment to be made immediately upon authorization of payment of the credit claim, the second payment to be made twelve months following the date of the first payment and the third payment to be made twenty-four months following the date of the first payment.

H. For a fiscal year in which the amount of total credit claims authorized for payment is less than the aggregate amount of the film production tax credit claims that may be authorized for payment pursuant to this section, the next scheduled payments for credit claims authorized for payment pursuant to Subsection G of this section shall be accelerated for payment for that fiscal year and shall be paid to a taxpayer pursuant to the Tax Administration Act and in the order in which outstanding payments are scheduled in the

queue established pursuant to Subsections E and G of this section; provided that the total credit claims authorized for payment shall not exceed the aggregate amount of the film production tax credit claims that may be authorized for payment pursuant to this section. If a partial payment is made pursuant to this subsection, the difference owed shall retain its original position in the queue.

I. Any amount of a credit claim that is carried forward pursuant to Subsection G of this section shall be subject to the limit on the aggregate amount of credit claims that may be authorized for payment pursuant to Subsections E and F of this section in the fiscal year in which that amount is paid.

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

K. For purposes of determining the payment of credit claims pursuant to this section, the secretary of taxation and revenue may require that credit claims of affiliated persons

be combined into one claim if necessary to accurately reflect closely integrated activities of affiliated persons.

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

M. A production for which the film production tax credit is claimed pursuant to Paragraph (1) of Subsection A of this section shall contain an acknowledgment in the end screen credits that the production was filmed in New Mexico, and a state logo provided by the division shall be included in the end screen credits of long-form narrative film productions, unless otherwise agreed upon in writing by the film production company and the division.

N. To be eligible for the film production tax credit, a film production company shall submit to the division information required by the division to demonstrate conformity with the requirements of the Film Production Tax Credit Act, including detailed information on each direct production expenditure and each postproduction expenditure. A film production company shall make reasonable efforts, as determined by the division, to contract with a vendor that provides goods, inventory or services directly related to that vendor's ordinary course of business. A film production

company shall provide to the division a projection of the film production tax credit claim the film production company plans to submit in the fiscal year. In addition, the film production company shall agree in writing:

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

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

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

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

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

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

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

O. The division shall determine the eligibility of the company and shall report this information to the taxation and revenue department in a manner and at times the economic development department and the taxation and revenue department shall agree upon. The division shall also post on its web site all information provided by the film production company that does not reveal revenue, income or other information that may jeopardize the confidentiality of income tax returns, including that the division shall report monthly the projected amount of credit claims for the fiscal year.

P. To provide guidance to film production companies regarding the amount of credit capacity remaining in the fiscal year, the taxation and revenue department shall post monthly on that department's web site the aggregate amount of credits claimed and processed for the fiscal year.

Q. To receive a film production tax credit, a film production company shall apply to the taxation and revenue department on forms and in the manner the department may prescribe. The application shall include a certification of the amount of direct production expenditures or postproduction expenditures made in New Mexico with respect to the film

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

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

S. As applied to direct production expenditures for the services of performing artists, the film production tax

credit authorized by this section shall not exceed five million dollars ($5,000,000) for services rendered by all performing artists in a production for which the film production tax credit is claimed."

SECTION 6. Section 7-2F-2 NMSA 1978 (being Laws 2003, Chapter 127, Section 2, as amended by Laws 2011, Chapter 165, Section 3 and by Laws 2011, Chapter 177, Section 4) is amended to read:

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

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

B. "commercial audiovisual product" means a film or a videogame intended for commercial exploitation;

C. "direct production expenditure":

(1) except as provided in Paragraph (2) of this subsection, means a transaction that is subject to taxation in New Mexico, including:

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

(b) payment for services by a performing artist who is not a New Mexico resident and who is directly employed by the film production company; provided that the film production company deducts and remits, or causes to be deducted and remitted, income tax in New Mexico pursuant to the Withholding Tax Act;

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

(d) any of the following provided by a vendor: 1) the story and scenario to be used for a film; 2) set construction and operations, wardrobe, accessories and related services; 3) photography, sound synchronization, lighting and related services; 4) editing and related services; 5) rental of facilities and equipment; 6) leasing of

vehicles, not including the chartering of aircraft for out-of-state transportation; however, New Mexico-based chartered aircraft for in-state transportation directly attributable to the production shall be considered a direct production expenditure; provided that only the first one hundred dollars ($100) of the daily expense of leasing a vehicle for passenger transportation on roadways in the state may be claimed as a direct production expenditure; 7) food or lodging; provided that only the first one hundred fifty dollars ($150) of lodging per individual per day is eligible to be claimed as a direct production expenditure; 8) commercial airfare if purchased through a New Mexico-based travel agency or travel company for travel to and from New Mexico or within New Mexico that is directly attributable to the production; 9) insurance coverage and bonding if purchased through a New Mexico-based insurance agent, broker or bonding agent; and 10) other direct costs of producing a film in accordance with generally accepted entertainment industry practice; and

(2) does not include an expenditure for:

(a) a gift with a value greater than twenty-five dollars ($25.00);

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

($2,500);

(c) entertainment, amusement or recreation;

(d) subcontracted goods or services provided by a vendor when subcontractors are not subject to state taxation, such as equipment and locations provided by the military, government and religious organizations; or

(e) a service provided by a person who is not a New Mexico resident and employed in an industry crew position, excluding a performing artist, where it is the standard entertainment industry practice for the film production company to employ a person for that industry crew position, except when the person who is not a New Mexico resident is hired or subcontracted by a vendor; and when the film production company, as determined by the division and when applicable in consultation with industry, provides: 1) reasonable efforts to hire resident crew; and 2) financial or in-kind contributions toward education or work force development efforts in New Mexico, including at least one of the following: a pre-approved workshop; on-set shadowing per each approved position; or ten percent of the portion of the tax credit attributable to the payment for services provided by nonresidents employed by the vendor in the approved positions, which equates to two-and-one-half percent of the respective total direct production expenditure and which is allocated to New Mexico public education institutions that

administer at least one industry-recognized film or multimedia program;

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

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

F. "film" means a single medium or multimedia program, excluding advertising messages other than national or regional advertising messages intended for exhibition, that:

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

(2) can be viewed or reproduced;

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

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

G. "film production company" means a person that produces one or more films or any part of a film;

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

I. "New Mexico resident" means an individual who is domiciled in this state during any part of the taxable year or an individual who is physically present in this state for one

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

J. "personal services business" means a business organization that receives payments for the services of a performing artist;

K. "physical presence" means a physical address in New Mexico from which a vendor conducts business, stores inventory or otherwise creates, assembles or offers for sale the product purchased or leased by a film production company;

L. "postproduction expenditure" means an expenditure for editing, Foley recording, automatic dialogue replacement, sound editing, special effects, including computer-generated imagery or other effects, scoring and music editing, beginning and end credits, negative cutting, soundtrack production, dubbing, subtitling or addition of sound or visual effects; but not including an expenditure for advertising, marketing, distribution or expense payments;

M. "qualified production facility" means a building

or complex of buildings and their improvements and associated back-lot facilities in which films are or are intended to be regularly produced and that contain at least one sound stage with contiguous, clear-span floor space of at least seven thousand square feet and a ceiling height of no less than twenty-one feet; and

N. "vendor" means a person selling goods or services that has a physical presence in New Mexico and is subject to gross receipts tax pursuant to the Gross Receipts and Compensating Tax Act and income tax pursuant to the Income Tax Act or corporate income tax pursuant to the Corporate Income and Franchise Tax Act but excludes services provided by nonresidents hired or subcontracted if the tasks and responsibilities are associated with:

(1) the standard industry job position of:

(a) a director;

(b) a writer;

(c) a producer;

(d) an associate producer;

(e) a co-producer;

(f) an executive producer;

(g) a production supervisor;

(h) a director of photography;

(i) a motion picture driver whose sole responsibility is driving;

(j) a production or personal assistant;

(k) a designer;

(l) a still photographer; or

(m) a carpenter and utility technician at an entry level; and

(2) nonstandard industry job positions and personal support services."

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

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

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

B. A taxpayer whose principal business activity is manufacturing may elect to have business income apportioned to this state:

(1) in the taxable year beginning on or after January 1, 2014 and prior to January 1, 2015, by multiplying the income by a fraction, the numerator of which is twice the sales factor plus the property factor plus the payroll factor and the denominator of which is four;

(2) in the taxable year beginning on or after January 1, 2015 and prior to January 1, 2016, by multiplying

the income by a fraction, the numerator of which is three multiplied by the sales factor plus the property factor plus the payroll factor and the denominator of which is five;

(3) in the taxable year beginning on or after January 1, 2016 and prior to January 1, 2017, by multiplying the income by a fraction, the numerator of which is seven multiplied by the sales factor plus one and one-half multiplied by the property factor plus one and one-half multiplied by the payroll factor and the denominator of which is ten;

(4) in the taxable year beginning on or after January 1, 2017 and prior to January 1, 2018, by multiplying the income by a fraction, the numerator of which is eight multiplied by the sales factor plus the property factor plus the payroll factor and the denominator of which is ten; and

(5) in taxable years beginning on or after January 1, 2018, by multiplying the income by a fraction, the numerator of which is the total sales of the taxpayer in New Mexico during the taxable year and the denominator of which is the total sales of the taxpayer from any location within or outside of the state during the taxable year.

C. To elect the method of apportionment provided by Subsection B of this section, the taxpayer shall notify the department of the election, in writing, no later than the date on which the taxpayer files the return for the first taxable

year to which the election will apply. The election will apply to that taxable year and to each taxable year thereafter until the taxpayer notifies the department, in writing, that the election is terminated, except that the taxpayer shall not terminate the election until the method of apportioning business income provided by Subsection B of this section has been used by the taxpayer for at least three consecutive taxable years, including a total of at least thirty-six calendar months.

D. For purposes of this section, "manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include:

(1) construction;

(2) farming;

(3) power generation, except for electricity generation at a facility other than one for which both location approval and a certificate of convenience and necessity are required prior to commencing construction or operation of the facility, pursuant to the Public Utility Act; or

(4) processing natural resources, including hydrocarbons."

SECTION 8. Section 7-4-17 NMSA 1978 (being Laws 1965, Chapter 203, Section 17) is amended to read:

"7-4-17. DETERMINATION OF SALES IN THIS STATE OF TANGIBLE PERSONAL PROPERTY FOR INCLUSION IN SALES FACTOR.--Sales of tangible personal property are in this state if:

A. the property is delivered or shipped to a purchaser other than the United States government within this state regardless of the f. o. b. point or other conditions of the sale; or

B. the property is shipped from an office, store, warehouse, factory or other place of storage in this state and:

(1) the purchaser is the United States government; or

(2) the taxpayer:

(a) is not taxable in the state of the purchaser; and

(b) did not make an election for apportionment of business income pursuant to Subsection B of Section 7-4-10 NMSA 1978."

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

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

A. Receipts from selling tangible personal property may be deducted from gross receipts or from governmental gross receipts if the sale is made to a person engaged in the

business of manufacturing who delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate must incorporate the tangible personal property as an ingredient or component part of the product that the buyer is in the business of manufacturing.

B. Receipts from selling tangible personal property that is a consumable and used in such a way that it is consumed in the manufacturing process of a product, provided that the tangible personal property is not a tool or equipment used to create the manufactured product, to a person engaged in the business of manufacturing that product and who delivers a nontaxable transaction certificate to the seller may be deducted in the following percentages from gross receipts or from governmental gross receipts:

(1) twenty percent of receipts received prior to January 1, 2014;

(2) forty percent of receipts received in calendar year 2014;

(3) sixty percent of receipts received in calendar year 2015;

(4) eighty percent of receipts received in calendar year 2016; and

(5) one hundred percent of receipts received on or after January 1, 2017.

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

D. The department shall annually report to the revenue stabilization and tax policy committee the aggregate amount of deductions taken pursuant to this section, the number of taxpayers claiming each of the deductions and any other information that is necessary to determine that the deductions are performing the purposes for which they are enacted.

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

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

(1) including electricity, fuels, water,

manufacturing aids and supplies, chemicals, gases, repair parts, spares and other tangibles used to manufacture a product; but

(2) excluding tangible personal property used in:

(a) the generation of power;

(b) the processing of natural resources, including hydrocarbons; and

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

SECTION 10. Section 7-9G-1 NMSA 1978 (being Laws 2004, Chapter 15, Section 1, as amended) is amended to read:

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

A. A taxpayer who is an eligible employer may apply for, and the taxation and revenue department may allow, a tax credit for each new high-wage economic-based job. The credit provided in this section may be referred to as the "high-wage jobs tax credit".

B. The purpose of the high-wage jobs tax credit is to provide an incentive for urban and rural businesses to create and fill new high-wage jobs in New Mexico.

C. The high-wage jobs tax credit may be claimed and allowed in an amount equal to ten percent of the wages and benefits distributed to an eligible employee in a new high-

wage economic-based job, but shall not exceed twelve thousand dollars ($12,000) per job per qualifying period.

D. The high-wage jobs tax credit may be claimed by an eligible employer for each new high-wage economic-based job performed for the year in which the new high-wage economic-based job is created and for the three consecutive qualifying periods. A taxpayer shall apply for approval of the credit after the close of a qualifying period, but not later than twelve months following the end of the calendar year in which the taxpayer's final qualifying period closes.

E. A new high-wage economic-based job shall not be eligible for a credit pursuant to this section unless the eligible employer's total number of employees with high-wage economic-based jobs on the last day of the qualifying period at the location at which the job is performed or based is at least one more than the number on the day prior to the date the new high-wage economic-based job was created.

F. A new high-wage economic-based job shall not be eligible for a credit pursuant to this section if:

(1) the new high-wage economic-based job is created due to a business merger or acquisition or other change in business organization;

(2) the eligible employee was terminated from employment in New Mexico by another employer involved in the business merger or acquisition or other change in business

organization with the taxpayer; and

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

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

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

G. Notwithstanding the provisions of Subsection F of this section, a new high-wage economic-based job that was created by another employer and for which an application for the high-wage jobs tax credit was received and is under review by the taxation and revenue department prior to the time of the business merger or acquisition or other change in business organization shall remain eligible for the high-wage jobs tax credit for the balance of the qualifying periods. The new employer that results from a business merger or acquisition or other change in business organization may only claim the high-wage jobs tax credit for the balance of the qualifying period for which the qualifying job is otherwise eligible.

H. A job shall not be eligible for a credit pursuant to this section if the job is created due to an eligible employer entering into a contract or becoming a subcontractor

to a contract with a governmental entity that replaces one or more entities performing functionally equivalent services for the governmental entity unless the job is a new high-wage economic-based job that was not being performed by an employee of the replaced entity.

I. With respect to each new high-wage economic-based job for which an eligible employer seeks the high-wage jobs tax credit, the employer shall certify:

(1) the amount of wages and benefits paid to each eligible employee in a new high-wage economic-based job during each qualifying period;

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

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

(4) the total number of employees employed by the employer at the job location on the day prior to the qualifying period and on the last day of the qualifying period.

J. To receive a high-wage jobs tax credit with respect to any qualifying period, an eligible employer shall

apply to the taxation and revenue department on forms and in the manner prescribed by the department. The application shall include a certification made pursuant to Subsection I of this section.

K. The credit provided in this section may be deducted from the modified combined tax liability of a taxpayer. If the credit exceeds the modified combined tax liability of the taxpayer, the excess shall be refunded to the taxpayer.

L. The economic development department shall report to the appropriate interim legislative committee before November 1 of each year the cost of this tax credit to the state and its impact on company recruitment and job creation.

M. As used in this section:

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

(2) "eligible employee" means an individual who

is employed in New Mexico by an eligible employer and who is a resident of New Mexico; "eligible employee" does not include an individual who:

(a) bears any of the relationships described in Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to the employer or, if the employer is a corporation, to an individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, to an individual who owns, directly or indirectly, more than fifty percent of the capital and profits interest in the entity;

(b) if the employer is an estate or trust, is a grantor, beneficiary or fiduciary of the estate or trust or is an individual who bears any of the relationships described in Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to a grantor, beneficiary or fiduciary of the estate or trust;

(c) is a dependent, as that term is described in 26 U.S.C. Section 152(a)(9), of the employer or, if the taxpayer is a corporation, of an individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, of an individual who owns, directly or indirectly, more than fifty percent of the

capital and profits interest in the entity or, if the employer is an estate or trust, of a grantor, beneficiary or fiduciary of the estate or trust; or

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

(3) "eligible employer" means an employer that:

(a) made more than fifty percent of its sales of goods or services produced in New Mexico to persons outside New Mexico during the applicable qualifying period; or

(b) is certified by the economic development department to be eligible for development training program assistance pursuant to Section 21-19-7 NMSA 1978;

(4) "modified combined tax liability" means the total liability for the reporting period for the gross receipts tax imposed by Section 7-9-4 NMSA 1978 together with any tax collected at the same time and in the same manner as the gross receipts tax, such as the compensating tax, the withholding tax, the interstate telecommunications gross receipts tax, the surcharges imposed by Section 63-9D-5 NMSA 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,

minus the amount of any credit other than the high-wage jobs tax credit applied against any or all of these taxes or surcharges; but "modified combined tax liability" excludes all amounts collected with respect to local option gross receipts taxes;

(5) "new high-wage economic-based job" means a new job created in New Mexico by an eligible employer on or after July 1, 2004 and prior to July 1, 2020 that is occupied for at least forty-eight weeks of a qualifying period by an eligible employee who is paid wages calculated for the qualifying period to be at least:

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

(b) for a new high-wage economic-based

job created on or after July 1, 2015: 1) sixty thousand dollars ($60,000) if the job is performed or based in or within ten miles of the external boundaries of a municipality with a population of sixty thousand or more according to the most recent federal decennial census or in a class H county; and 2) forty thousand dollars ($40,000) if the job is performed or based in a municipality with a population of less than sixty thousand according to the most recent federal decennial census or in the unincorporated area, that is not within ten miles of the external boundaries of a municipality with a population of sixty thousand or more, of a county other than a class H county;

(6) "qualifying period" means the period of twelve months beginning on the day an eligible employee begins working in a new high-wage economic-based job or the period of twelve months beginning on the anniversary of the day an eligible employee began working in a new high-wage economic-based job; and

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

SECTION 11. A new section of the Municipal Local Option Gross Receipts Taxes Act is enacted to read:

"MUNICIPAL HOLD HARMLESS GROSS RECEIPTS TAX.--

A. The majority of the members of the governing body of any municipality may impose by ordinance an excise tax not to exceed a rate of three-eighths percent of the gross receipts of any person engaging in business in the municipality for the privilege of engaging in business in the municipality. A tax imposed pursuant to this section shall be imposed by the enactment of one or more ordinances, each imposing any number of gross receipts tax rate increments, but the total gross receipts tax rate imposed by all ordinances pursuant to this section shall not exceed an aggregate rate of three-eighths percent of the gross receipts of a person engaging in business. Municipalities may impose increments of one-eighth of one percent.

B. The tax imposed pursuant to Subsection A of this section may be referred to as the "municipal hold harmless gross receipts tax". The imposition of a municipal hold harmless gross receipts tax is not subject to referendum.

C. The governing body of a municipality may, at the time of enacting an ordinance imposing the tax authorized in Subsection A of this section, dedicate the revenue for a specific purpose or area of municipal government services, including but not limited to police protection, fire

protection, public transportation or street repair and maintenance. If the governing body proposes to dedicate such revenue, the ordinance and any revenue so dedicated shall be used by the municipality for that purpose unless a subsequent ordinance is adopted to change the purpose to which the revenue is dedicated or to place the revenue in the general fund of the municipality.

D. Any law that imposes or authorizes the imposition of a municipal hold harmless gross receipts tax or that affects the municipal hold harmless gross receipts tax, or any law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of such municipal hold harmless gross receipts tax unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor."

SECTION 12. A new section of the County Local Option Gross Receipts Taxes Act is enacted to read:

"COUNTY HOLD HARMLESS GROSS RECEIPTS TAX.--

A. The majority of the members of the governing body of any county may impose by ordinance an excise tax not to exceed a rate of three-eighths percent of the gross receipts of any person engaging in business in the county for the privilege of engaging in business in the county. A tax

imposed pursuant to this section shall be imposed by the enactment of one or more ordinances, each imposing any number of gross receipts tax rate increments, but the total gross receipts tax rate imposed by all ordinances pursuant to this section shall not exceed an aggregate rate of three-eighths percent of the gross receipts of a person engaging in business. Counties may impose increments of one-eighth of one percent.

B. The tax imposed pursuant to Subsection A of this section may be referred to as the "county hold harmless gross receipts tax". The imposition of a county hold harmless gross receipts tax is not subject to referendum.

C. The governing body of a county may, at the time of enacting an ordinance imposing the tax authorized in Subsection A of this section, dedicate the revenue for a specific purpose or area of county government services, including but not limited to police protection, fire protection, public transportation or street repair and maintenance. If the governing body proposes to dedicate such revenue, the ordinance and any revenue so dedicated shall be used by the county for that purpose unless a subsequent ordinance is adopted to change the purpose to which the revenue is dedicated or to place the revenue in the general fund of the county.

D. Any law that imposes or authorizes the imposition

of a county hold harmless gross receipts tax or that affects the county hold harmless gross receipts tax, or any law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of such county hold harmless gross receipts tax unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor."

SECTION 13. REPEAL.--Laws 2011, Chapter 165, Section 3 is repealed.

SECTION 14. APPLICABILITY.--The provisions of:

A. Sections 3, 4, 7 and 8 of this act apply to taxable years beginning on or after January 1, 2014;

B. Section 5; Subsections A, B and D through N of Section 6; and Paragraph (1) and Subparagraphs (a) through (d) of Paragraph (2) of Subsection C of Section 6 of this act apply to direct production expenditures and postproduction expenditures made on or after April 15, 2013;

C. Subparagraph (e) of Paragraph (2) of Subsection C of Section 6 of this act applies to productions starting principal photography on or after January 1, 2014.

D. Section 9 of this act applies to gross receipts received on or after July 1, 2013; and

E. Section 10 of this act applies to credit claims

received on or after the effective date of Section 10 of this act and to reporting periods beginning on or after that date.

SECTION 15. CONTINGENT EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1, 2, 4, 9, 11 and 12 of this act is July 1, 2013.

B. The effective date of the provisions of Sections 3, 7 and 8 of this act is January 1, 2014; provided that the provisions of Sections 1, 2, 4, 9, 11 and 12 of this act are in effect on July 1, 2013.