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_____ BILL

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

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

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

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

"7-1-4.3. NEW MEXICO TAXPAYER BILL OF RIGHTS--NOTICE TO
THE PUBLIC.--The department shall develop a publication that

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1 states the rights of taxpayers in simple, nontechnical terms
2 and shall disseminate the publication to taxpayers, at a
3 minimum, with [~~the annual income and semiannual combined~~
4 ~~reporting system~~] tax forms periodically issued by the
5 department."

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

8 "7-1-6. RECEIPTS--DISBURSEMENTS--FUNDS CREATED.--

9 A. All money received by the department with
10 respect to laws administered pursuant to the provisions of the
11 Tax Administration Act shall be deposited with the state
12 treasurer before the close of the next succeeding business day
13 after receipt of the money, except that [~~for 1989 and every~~
14 ~~subsequent year~~] money received with respect to the Income Tax
15 Act and the Corporate Income and Franchise Tax Act during the
16 period starting with the fifth day prior to the due date for
17 payment of [~~income tax~~] the taxes for the year and ending on
18 the tenth day following that due date shall be deposited before
19 the close of the tenth business day after receipt of the money.

20 B. Money received or disbursed by the department
21 shall be accounted for by the department as required by law or
22 [~~regulation~~] rule of the secretary of finance and
23 administration.

24 C. Disbursements for tax credits, tax rebates,
25 refunds, the payment of interest, the payment of fees charged

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1 by attorneys or collection agencies for collection of accounts
2 as agent for the department, attorney fees and costs awarded by
3 a court or hearing officer, as the result of oil and gas
4 litigation, the payment of credit card service charges on
5 payments of taxes by use of credit cards, distributions and
6 transfers shall be made by the department of finance and
7 administration upon request and certification of their
8 appropriateness by the secretary or the secretary's delegate.

9 D. There are hereby created in the state treasury
10 the "tax administration suspense fund", the "extraction taxes
11 suspense fund" and the "workers' compensation collections
12 suspense fund" for the purpose of making the disbursements
13 authorized by the Tax Administration Act.

14 E. All revenues collected or received by the
15 department pursuant to the provisions of the taxes and tax acts
16 set forth in Subsection A of Section 7-1-2 NMSA 1978 [~~and,~~
17 ~~through June 30, 2009, federal funds from the temporary~~
18 ~~assistance for needy families program pursuant to an agreement~~
19 ~~that the department and the human services department may enter~~
20 ~~into for the payment of tax refunds, tax rebates and tax~~
21 ~~credits to low-income families with dependent children~~
22 ~~otherwise authorized by state and federal law]~~ shall be
23 credited to the tax administration suspense fund and are
24 appropriated for the purpose of making the disbursements
25 authorized in this section or otherwise authorized or required

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1 by law to be made from the tax administration suspense fund.

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

9 G. All revenues collected or received by the
10 department pursuant to the taxes or tax acts set forth in
11 Subsection C of Section 7-1-2 NMSA 1978 may be credited to the
12 tax administration suspense fund, unless otherwise directed by
13 law to be credited to another fund or agency, and are
14 appropriated for the purpose of making disbursements authorized
15 in this section or otherwise authorized or required by law.

16 H. All revenues collected or received by the
17 department pursuant to the provisions of Section 52-5-19 NMSA
18 1978 shall be credited to the workers' compensation collections
19 suspense fund and are appropriated for the purpose of making
20 the disbursements authorized in this section or otherwise
21 authorized or required by law to be made from the workers'
22 compensation collections suspense fund.

23 I. Disbursements to cover expenditures of the
24 department shall be made only upon approval of the secretary or
25 the secretary's delegate.

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1 J. Miscellaneous receipts from charges made by the
2 department to defray expenses pursuant to the provisions of
3 Section 9-11-6.1 NMSA 1978 and similar charges are appropriated
4 to the department for its use.

5 K. From the tax administration suspense fund, there
6 may be disbursed each month amounts approved by the secretary
7 or the secretary's delegate necessary to maintain a fund hereby
8 created and to be known as the "income tax suspense fund". The
9 income tax suspense fund shall be used for the payment of
10 income tax refunds."

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

13 "7-1-17.1. TAX LIABILITY--SPOUSE OR FORMER SPOUSE.--

14 A. If the secretary or the secretary's delegate
15 determines that, taking into account ~~[all]~~ the facts and
16 circumstances in Subsections F and G of this section, it is
17 inequitable to hold ~~[the]~~ a spouse ~~[or former spouse of a~~
18 ~~taxpayer]~~ liable for payment of all or part of any unpaid tax,
19 assessment or other deficiency for a tax, ~~[administered under~~
20 ~~the Tax Administration Act]~~ the secretary may decline to bring
21 an action or proceeding to collect such taxes ~~[against the~~
22 ~~spouse or former spouse of the taxpayer.~~ B. ~~Nothing in~~
23 ~~Subsection A of this section shall be construed to]~~ from the
24 spouse, including collection from the spouse's interest in
25 community property.

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

8 C. If on review it is determined that the
9 information relied on to make the innocent spouse relief
10 determination was incorrect or fraudulent, the department may
11 rescind the innocent spouse relief and proceed to collect the
12 affected taxes from the spouse.

13 D. Innocent spouse relief does not authorize the
14 abatement of taxes or enforcement of any provisions of the Tax
15 Administration Act against the taxpayer.

16 E. A lien or levy imposed on a spouse or property
17 of a spouse who qualifies for innocent spouse relief may be
18 released as to taxes deemed inequitable to collect pursuant to
19 this section.

20 F. If the federal internal revenue service granted
21 the spouse relief pursuant to 26 U.S.C. Section 6015, the
22 spouse may request similar relief from the department on a form
23 prescribed by the department, regardless of whether the spouse
24 is a joint or separate filer for New Mexico income tax. The
25 spouse shall provide a copy of the federal internal revenue

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1 service's determination with the request that the secretary or
2 the secretary's delegate cease collection activity against the
3 spouse to the extent relief was allowed by the federal internal
4 revenue service. The department shall grant innocent spouse
5 relief for the same tax periods and tax programs granted relief
6 by the federal internal revenue service; provided that the
7 request for relief is submitted on the form prescribed by the
8 department. The secretary or the secretary's delegate may
9 decline to pursue collection activity against a spouse while an
10 application for relief is pending before the federal internal
11 revenue service, but the failure to seek or obtain relief shall
12 not preclude the secretary or secretary's delegate from
13 declining to collect tax from a spouse when collection would be
14 inequitable. An item giving rise to a deficiency on a joint
15 return shall be allocated to an individual filing the return in
16 the same manner as it would have been allocated if the
17 individual had filed separate returns for the taxable year.

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

23 (1) whether the spouse had knowledge of the
24 tax liability at the time the liability arose;

25 (2) whether the spouse had a meaningful

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1 opportunity to contest the assessment of tax at the time the
2 assessment was made;

3 (3) whether the spouse cooperated with the
4 department in collection and compliance efforts, to the extent
5 the spouse had knowledge of collection and compliance efforts;

6 (4) whether the state can protect its
7 interests without pursuing active collection efforts against
8 the spouse, including collection efforts against the taxpayer;

9 (5) whether the spouse benefited from the
10 transfer of income, receipts or significant amounts of property
11 from the taxpayer;

12 (6) whether the spouse participated in the
13 business and financial decisions of the household during the
14 periods when the tax liability arose;

15 (7) whether the spouse participated in
16 operating a business with the taxpayer;

17 (8) whether the spouse had responsibility for
18 the finances of a business for which the spouse participated;

19 (9) whether the spouse had responsibility for
20 payment of taxes for a business for which the spouse
21 participated; and

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

24 H. No one factor contemplated to Subsection G of
25 this section shall be considered determinative in considering

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1 whether tax collection from a spouse would be inequitable.
2 Each factor may be given different relative weight, depending
3 on the facts and circumstances presented; therefore, the
4 presence of a majority of factors considered tending to support
5 innocent spouse relief in a particular case may not necessarily
6 indicate that the spouse in question qualifies for innocent
7 spouse relief for New Mexico tax purposes.

8 [~~G.~~] I. The secretary shall adopt and promulgate
9 regulations as necessary for making the determinations pursuant
10 to this section.

11 J. As used in this section:

12 (1) "innocent spouse relief" means the relief
13 from collection of tax liabilities pursuant to this section;

14 (2) "spouse" means a current or former spouse
15 of a taxpayer; and

16 (3) "taxpayer" means a taxpayer who is or was
17 married to a spouse who is seeking innocent spouse relief
18 pursuant to this section."

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

21 "7-1-36. PROPERTY EXEMPT FROM LEVY.--

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

25 B. In addition to the property exempt under

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1 Subsection A of this section, there shall also be exempt from
2 levy on an employer of the taxpayer the greater of the
3 following portions of the taxpayer's disposable earnings:

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

6 (2) an amount each week equal to [~~forty~~]
7 eighty times the federal minimum hourly wage rate. The
8 superintendent of [~~the~~] regulation and licensing [~~department~~]
9 shall provide a table giving equivalent exemptions for pay
10 periods of other than one week.

11 C. As used in this section:

12 (1) "disposable earnings" means that part of a
13 taxpayer's wages or salary remaining after deducting the
14 amounts that are required by law to be withheld; and

15 (2) "federal minimum hourly wage" means the
16 current highest federal minimum hourly wage rate for an eight-
17 hour day and a forty-hour week. It is immaterial whether the
18 employer is exempt under federal law from paying the federal
19 minimum hourly wage rate."

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

22 "7-1-69. CIVIL PENALTY FOR FAILURE TO PAY TAX OR FILE A
23 RETURN.--

24 A. Except as provided in Subsection C of this
25 section, in the case of failure due to negligence or disregard

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1 of department rules and regulations, but without intent to
2 evade or defeat a tax, to pay when due the amount of tax
3 required to be paid, to pay in accordance with the provisions
4 of Section 7-1-13.1 NMSA 1978 when required to do so or to file
5 by the date required a return regardless of whether a tax is
6 due, there shall be added to the amount assessed a penalty in
7 an amount equal to the greater of:

8 (1) two percent per month or any fraction of a
9 month from the date the tax was due multiplied by the amount of
10 tax due but not paid, not to exceed twenty percent of the tax
11 due but not paid;

12 (2) two percent per month or any fraction of a
13 month from the date the return was required to be filed
14 multiplied by the tax liability established in the late return,
15 not to exceed twenty percent of the tax liability established
16 in the late return; or

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

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

25 C. If a different penalty is specified in a compact

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1 or other interstate agreement to which New Mexico is a party,
2 the penalty provided in the compact or other interstate
3 agreement shall be applied to amounts due under the compact or
4 other interstate agreement at the rate and in the manner
5 prescribed by the compact or other interstate agreement.

6 D. In the case of failure, with willful intent to
7 evade or defeat a tax, to pay when due the amount of tax
8 required to be paid, there shall be added to the amount fifty
9 percent of the tax or a minimum of twenty-five dollars
10 (\$25.00), whichever is greater, as penalty.

11 E. If demand is made for payment of a tax,
12 including penalty imposed pursuant to this section, and if the
13 tax is paid within ten days after the date of such demand, no
14 penalty shall be imposed for the period after the date of the
15 demand with respect to the amount paid.

16 F. If a taxpayer makes electronic payment of a tax
17 but the payment does not include all of the information
18 required by the department pursuant to the provisions of
19 Section 7-1-13.1 NMSA 1978 and if the department does not
20 receive the required information within five business days from
21 the later of the date a request by the department for that
22 information is received by the taxpayer or the due date, the
23 taxpayer shall be subject to a penalty of two percent per month
24 or any fraction of a month from the fifth day following the
25 date the request is received. If a penalty is imposed under

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1 Subsection A of this section with respect to the same
2 transaction for the same period, no penalty shall be imposed
3 under this subsection.

4 G. No penalty shall be imposed on:

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

8 (2) tax due as the result of a managed audit;
9 or

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

13 SECTION 6. Section 7-2-18.13 NMSA 1978 (being Laws 2005,
14 Chapter 267, Section 1) is amended to read:

15 "7-2-18.13. CREDIT--UNREIMBURSED OR UNCOMPENSATED MEDICAL
16 CARE EXPENSES OF INDIVIDUALS SIXTY-FIVE YEARS OF AGE OR
17 OLDER.--

18 A. A taxpayer who is a resident, who files an
19 individual New Mexico income tax return, who is sixty-five
20 years of age or older and who is not a dependent of another
21 taxpayer may claim a credit in an amount equal to two thousand
22 eight hundred dollars (\$2,800) for medical care expenses paid
23 by the taxpayer for that taxpayer or for the taxpayer's spouse
24 or dependent if those expenses equal twenty-eight thousand
25 dollars (\$28,000) or more within a taxable year and if those

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1 expenses are not reimbursed or compensated for by insurance or
2 otherwise.

3 B. ~~[A husband and wife]~~ Married individuals who
4 file separate returns for a taxable year in which they could
5 have filed a joint return may each claim only one-half of the
6 credit provided by this section that would have been allowed on
7 a joint return.

8 C. The credit provided in this section may be
9 deducted from the taxpayer's income tax liability. If the
10 credit exceeds the income tax liability for the taxable year,
11 the excess shall be refunded to the taxpayer.

12 D. As used in this section:

13 (1) "dependent" means "dependent" as defined
14 in Section 152 of the Internal Revenue Code;

15 (2) "health care facility" means a hospital,
16 outpatient facility, diagnostic and treatment center,
17 rehabilitation center, freestanding hospice or other similar
18 facility at which medical care is provided;

19 (3) "medical care" means the diagnosis, cure,
20 mitigation, treatment or prevention of disease or for the
21 purpose of affecting any structure or function of the body;

22 (4) "medical care expenses" means the amounts
23 paid for:

24 (a) the diagnosis, cure, mitigation,
25 treatment or prevention of disease or for the purpose of

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1 affecting any structure or function of the body, if provided by
2 a physician or in a health care facility;

3 (b) prescribed drugs or insulin;

4 (c) qualified long-term care services as
5 defined in Section 7702B(c) of the Internal Revenue Code;

6 (d) insurance covering medical care,
7 including amounts paid as premiums under Part B of Title 18 of
8 the Social Security Act or for a qualified long-term care
9 insurance contract defined in Section 7702B(b) of the Internal
10 Revenue Code, if the insurance or other amount is paid from
11 income included in the taxpayer's adjusted gross income for the
12 taxable year;

13 (e) specialized treatment or the use of
14 special therapeutic devices if the treatment or device is
15 prescribed by a physician and the patient can show that the
16 expense was incurred primarily for the prevention or
17 alleviation of a physical or mental defect or illness; and

18 (f) care in an institution other than a
19 hospital, such as a sanitarium or rest home, if the principal
20 reason for the presence of the person in the institution is to
21 receive the medical care available; provided that if the meals
22 and lodging are furnished as a necessary part of such care, the
23 cost of meals and lodging are "medical care expenses";

24 (5) "physician" means a medical doctor,
25 osteopathic physician, dentist, podiatrist, chiropractic

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1 physician or psychologist licensed or certified to practice in
2 New Mexico; and

3 (6) "prescribed drug" means a drug or
4 biological that requires a prescription of a physician for its
5 use by an individual."

6 SECTION 7. Section 7-2-18.16 NMSA 1978 (being Laws 2007,
7 Chapter 45, Section 10) is amended to read:

8 "7-2-18.16. CREDIT--SPECIAL NEEDS [~~ADOPTED~~] CHILD TAX
9 CREDIT--CREATED--QUALIFICATIONS--DURATION OF CREDIT.--

10 A. A taxpayer who is a resident, who files an
11 individual New Mexico income tax return, who is not a dependent
12 of another individual and who adopts a special needs child on
13 or after January 1, 2007 or has adopted a special needs child
14 prior to January 1, 2007, may claim a credit against the
15 taxpayer's tax liability imposed pursuant to the Income Tax
16 Act. The credit authorized pursuant to this section may be
17 referred to as the "special needs adopted child tax credit".

18 B. A taxpayer may claim and the department may
19 allow a special needs adopted child tax credit in the amount of
20 one thousand dollars (\$1,000) to be claimed against the
21 taxpayer's tax liability for the taxable year imposed pursuant
22 to the Income Tax Act.

23 C. A taxpayer may claim a special needs adopted
24 child tax credit for each year that the child may be claimed as
25 a dependent for federal taxation purposes by the taxpayer.

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1 D. If the amount of the special needs adopted child
2 tax credit due to the taxpayer exceeds the taxpayer's
3 individual income tax liability, the excess shall be refunded
4 to the taxpayer.

5 E. [~~A husband and wife~~] Married individuals who
6 file separate returns for a taxable year in which they could
7 have filed a joint return may each claim only one-half of the
8 special needs adopted child tax credit provided in this section
9 that would have been allowed on a joint return.

10 F. As used in this section, "special needs adopted
11 child" means an individual who may be over eighteen years of
12 age and who is certified by the children, youth and families
13 department or a licensed child placement agency as meeting the
14 definition of a "difficult to place child" pursuant to the
15 Adoption Act; provided, however, if the classification as a
16 "difficult to place child" is based on a physical or mental
17 impairment or an emotional disturbance the physical or mental
18 impairment or emotional disturbance shall be at least
19 moderately disabling."

20 **SECTION 8.** Section 7-2E-1.1 NMSA 1978 (being Laws 2007,
21 Chapter 172, Section 2, as amended) is amended to read:

22 "7-2E-1.1. TAX CREDIT--RURAL JOB TAX CREDIT.--

23 A. The tax credit created by this section may be
24 referred to as the "rural job tax credit". Every eligible
25 employer may apply for, and the taxation and revenue department

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1 may ~~allow~~ approve, a tax credit for each qualifying job the
2 employer creates. The maximum tax credit amount with respect
3 to each qualifying job is equal to:

4 (1) twenty-five percent of the first sixteen
5 thousand dollars (\$16,000) in wages paid for the qualifying job
6 if the job is performed or based at a location in a tier one
7 area; or

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

12 B. The purpose of the rural job tax credit is to
13 encourage businesses to start new businesses or expand existing
14 businesses in rural areas of the state.

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

20 (1) four qualifying periods for each
21 qualifying job performed or based at a location in a tier one
22 area; and

23 (2) two qualifying periods for each qualifying
24 job performed or based at a location in a tier two area.

25 D. With respect to each qualifying job for which an

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1 eligible employer seeks the rural job tax credit, the employer
2 shall certify:

3 (1) the amount of wages paid to each eligible
4 employee during each qualifying period;

5 (2) the number of weeks during the qualifying
6 period the position was occupied; ~~and~~

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

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

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

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

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

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

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

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1 within ten days of the sale, exchange or transfer.

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

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

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

24 ~~[J. An eligible employer that creates a qualifying~~
25 ~~job in the period beginning on or after July 1, 2006 but before~~

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1 ~~July 1, 2007 or creates a qualifying job, the qualifying period~~
2 ~~of which includes a part of the period between July 1, 2006 and~~
3 ~~July 1, 2007, for which the eligible employer has not received~~
4 ~~a rural job tax credit document pursuant to this section may~~
5 ~~submit an application for, and the taxation and revenue~~
6 ~~department may issue to the eligible employer applying, a~~
7 ~~document granting a tax credit for the appropriate qualifying~~
8 ~~period. Claims for a rural job tax credit submitted pursuant~~
9 ~~to the provisions of this subsection shall be submitted within~~
10 ~~three years from the date of issuance of the rural job tax~~
11 ~~credit document.~~

12 ~~K.]~~ J. A qualifying job shall not be eligible for a
13 rural job tax credit pursuant to this section if:

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

16 (2) the eligible employee was terminated from
17 employment in New Mexico by another employer involved in the
18 merger, acquisition or other change in organization; ~~and~~ or

19 (3) the job is performed by:

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

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

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1 ~~[H.]~~ K. Notwithstanding Subsection ~~[K]~~ J of this
2 section, a qualifying job that was created by another employer
3 and for which the rural job tax credit ~~[claim]~~ application was
4 received by the taxation and revenue department prior to July
5 1, 2013 and is under review or has been approved shall remain
6 eligible for the rural job tax credit for the balance of the
7 qualifying periods for which the job qualifies by the new
8 employer that results from a business merger, acquisition or
9 other change in the organization.

10 ~~[M.]~~ L. A job shall not be eligible for a rural job
11 tax credit pursuant to this section if the job is created due
12 to an eligible employer entering into a contract or becoming a
13 subcontractor to a contract with a governmental entity that
14 replaces one or more entities performing functionally
15 equivalent services for the governmental entity in New Mexico
16 unless the job is a qualifying job that was not being performed
17 by an employee of the replaced entity.

18 ~~[N.]~~ M. As used in this section:

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

22 ~~[1]~~ (2) "eligible employee" means any
23 individual other than an individual who:

24 ~~[(a) bears any of the relationships~~
25 ~~described in Paragraphs (1) through (8) of 26 U.S.C. Section~~

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1 ~~152(a) to the employer or, if the employer is a corporation, to~~
2 ~~an individual who owns, directly or indirectly, more than fifty~~
3 ~~percent in value of the outstanding stock of the corporation~~
4 ~~or, if the employer is an entity other than a corporation, to~~
5 ~~any individual who owns, directly or indirectly, more than~~
6 ~~fifty percent of the capital and profits interests in the~~
7 ~~entity;~~

8 ~~(b) if the employer is an estate or~~
9 ~~trust, is a grantor, beneficiary or fiduciary of the estate or~~
10 ~~trust or is an individual who bears any of the relationships~~
11 ~~described in Paragraphs (1) through (8) of 26 U.S.C. Section~~
12 ~~152(a) to a grantor, beneficiary or fiduciary of the estate or~~
13 ~~trust; or~~

14 ~~(c) is a dependent, as that term is~~
15 ~~described in 26 U.S.C. Section 152(a)(9), of the employer or,~~
16 ~~if the taxpayer is a corporation, of an individual who owns,~~
17 ~~directly or indirectly, more than fifty percent in value of the~~
18 ~~outstanding stock of the corporation or, if the employer is an~~
19 ~~entity other than a corporation, of any individual who owns,~~
20 ~~directly or indirectly, more than fifty percent of the capital~~
21 ~~and profits interests in the entity or, if the employer is an~~
22 ~~estate or trust, of a grantor, beneficiary or fiduciary of the~~
23 ~~estate or trust;]~~

24 (a) is a dependent of the employer;

25 (b) if the employer is an estate or

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1 trust, is a grantor, beneficiary or fiduciary of the estate or
2 trust or is a dependent of a grantor, beneficiary or fiduciary
3 of the estate or trust;

4 (c) if the employer is a corporation, is
5 a dependent of an individual who owns, directly or indirectly,
6 more than fifty percent in value of the outstanding stock of
7 the corporation;

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

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

19 [~~(2)~~] (3) "eligible employer" means an
20 employer who is eligible for in-plant training assistance
21 pursuant to Section 21-19-7 NMSA 1978;

22 [~~(3)~~] (4) "metropolitan statistical area"
23 means a metropolitan statistical area in New Mexico as
24 determined by the United States bureau of the census;

25 [~~(4)~~] (5) "modified combined tax liability"

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1 means the total liability for the reporting period for the
2 gross receipts tax imposed by Section 7-9-4 NMSA 1978 together
3 with any tax collected at the same time and in the same manner
4 as that gross receipts tax, such as the compensating tax, the
5 withholding tax, the interstate telecommunications gross
6 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA
7 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,
8 minus the amount of any credit other than the rural job tax
9 credit applied against any or all of these taxes or surcharges;
10 but "modified combined tax liability" excludes all amounts
11 collected with respect to [~~local option gross receipts taxes~~] a
12 gross receipts tax or compensating tax imposed by a
13 municipality or county;

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

17 [~~(5)~~] (7) "qualifying job" means a new job
18 that was created after July 1, 2000 and that was not created
19 due to a change in organizational structure established by the
20 employer that is occupied by an eligible employee for at least
21 [~~forty-eight~~] forty-four weeks of a qualifying period;

22 [~~(6)~~] (8) "qualifying period" means the period
23 of twelve months beginning on the day an eligible employee
24 begins working in a qualifying job or the period of twelve
25 months beginning on the anniversary of the day an eligible

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1 employee began working in a qualifying job;

2 [~~(7)~~] (9) "rural area" means any part of the
3 state other than:

4 (a) an H class county;

5 (b) the state fairgrounds;

6 (c) an incorporated municipality within
7 a metropolitan statistical area if the municipality's
8 population is thirty thousand or more according to the most
9 recent federal decennial census; and

10 (d) any area within ten miles of the
11 exterior boundaries of a municipality described in Subparagraph
12 (c) of this paragraph;

13 [~~(8)~~] (10) "tier one area" means:

14 (a) any municipality within the rural
15 area if the municipality's population according to the most
16 recent federal decennial census is fifteen thousand or less; or

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

19 [~~(9)~~] (11) "tier two area" means any
20 municipality within the rural area if the municipality's
21 population according to the most recent federal decennial
22 census is more than fifteen thousand; and

23 [~~(10)~~] (12) "wages" means all compensation
24 paid by an eligible employer to an eligible employee through
25 the employer's payroll system, including those wages the

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1 employee elects to defer or redirect, such as the employee's
2 contribution to 401(k) or cafeteria plan programs, but not
3 including benefits or the employer's share of payroll taxes."

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

6 "7-8A-9. NOTICE AND PUBLICATION OF LISTS OF ABANDONED
7 PROPERTY.--~~[(a)]~~ The administrator shall publish a notice not
8 later than November 30 of ~~[the]~~ each year ~~[next following the~~
9 ~~year]~~ in which abandoned property has been paid or delivered to
10 the administrator. The notice ~~[must]~~ shall be published in a
11 newspaper of general circulation in ~~[the]~~ each county of this
12 state ~~[in which is located the last known address of any person~~
13 ~~named in the notice. If a holder does not report an address~~
14 ~~for the apparent owner or the address is outside this state,~~
15 ~~the notice must be published in the county in which the holder~~
16 ~~has its principal place of business within this state or~~
17 ~~another county that the administrator reasonably selects]~~. The
18 advertisement must be in a form that, in the judgment of the
19 administrator, is likely to attract the attention of the
20 ~~[apparent owner of the unclaimed property]~~ general public. The
21 ~~[form must]~~ advertisement shall contain:

22 ~~[(1)]~~ A. the ~~[name of each person appearing to be~~
23 ~~the owner of the property, as set forth in the report filed by~~
24 ~~the holder]~~ website on which to search for information about
25 abandoned properties;

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1 ~~[(2)]~~ B. the ~~[last known address or location of~~
2 ~~each person appearing to be the owner of the property, if an~~
3 ~~address or location is set forth in the report filed by the~~
4 ~~holder]~~ email address of the administrator;

5 C. the telephone number and physical mailing
6 address of the administrator;

7 ~~[(3)]~~ D. a statement explaining that property of
8 the owner is presumed to be abandoned and has been taken into
9 the protective custody of the administrator; and

10 ~~[(4)]~~ E. a statement ~~[that]~~ providing information
11 about the property and ~~[its]~~ the return to the property's owner
12 is available to a person having a legal or beneficial interest
13 in the property, upon request to the administrator.

14 ~~[(b) The administrator is not required to advertise~~
15 ~~the name and address or location of an owner of property having~~
16 ~~a total value less than fifty dollars (\$50.00) or information~~
17 ~~concerning a traveler's check, money order or similar~~
18 ~~instrument.]"~~

19 **SECTION 10.** Section 7-9-3 NMSA 1978 (being Laws 1978,
20 Chapter 46, Section 1, as amended by Laws 2019, Chapter 270,
21 Section 23 and by Laws 2019, Chapter 274, Section 11) is
22 amended to read:

23 "7-9-3. DEFINITIONS.--As used in the Gross Receipts and
24 Compensating Tax Act:

25 A. "buying" or "selling" means a transfer of

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1 property for consideration or the performance of service for
2 consideration;

3 B. "department" means the taxation and revenue
4 department, the secretary of taxation and revenue or an
5 employee of the department exercising authority lawfully
6 delegated to that employee by the secretary;

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

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

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

17 (1) observation of tests conducted by the
18 performer of services;

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

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

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

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(5) similar activities;

F. "lease" or "leasing" means an arrangement whereby, for a consideration, ~~[property is employed for or by any person other than the owner of the property, except that the granting of a license to use property is licensing and is not a lease]~~ the owner of property grants another person the exclusive right to possess and use the property for a definite term;

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

~~[G.]~~ H. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon a taxpayer's gross receipts and required to be collected by the department at the same time and in the same manner as the gross receipts tax;

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

~~[I.]~~ J. "manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include

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1 construction;

2 ~~[J-]~~ K. "marketplace provider" means a person who
3 facilitates the sale, lease or license of tangible personal
4 property or services or licenses for use of real property on a
5 marketplace seller's behalf, or on the marketplace provider's
6 own behalf, by:

7 (1) listing or advertising the sale, lease or
8 license, by any means, whether physical or electronic,
9 including by catalog, internet website or television or radio
10 broadcast; and

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

17 ~~[K-]~~ L. "marketplace seller" means a person who
18 sells, leases or licenses tangible personal property or
19 services or who licenses the use of real property through a
20 marketplace provider;

21 ~~[L-]~~ M. "person" means:

22 (1) an individual, estate, trust, receiver,
23 cooperative association, club, corporation, company, firm,
24 partnership, limited liability company, limited liability
25 partnership, joint venture, syndicate or other entity,

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1 including any gas, water or electric utility owned or operated
2 by a county, municipality or other political subdivision of the
3 state; or

4 (2) a national, federal, state, Indian or
5 other governmental unit or subdivision, or an agency,
6 department or instrumentality of any of the foregoing;

7 [~~M.~~] N. "property" means:

8 (1) real property;

9 (2) tangible personal property, including
10 electricity and manufactured homes;

11 (3) licenses, including licenses of digital
12 goods, but not including the licenses of copyrights, trademarks
13 or patents; and

14 (4) franchises;

15 [~~N.~~] O. "research and development services" means
16 an activity engaged in for other persons for consideration, for
17 one or more of the following purposes:

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

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

22 (3) developing a new or improved product,
23 process or system with new or improved function, performance,
24 reliability or quality, whether or not the new or improved
25 product, process or system is offered for sale, lease or other

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1 transfer;

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

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

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

14 ~~[Θ-]~~ P. "secretary" means the secretary of taxation
15 and revenue or the secretary's delegate;

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

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

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

12 SECTION 11. Section 7-9-46 NMSA 1978 (being Laws 1969,
13 Chapter 144, Section 36, as amended) is amended to read:

14 "7-9-46. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL
15 GROSS RECEIPTS--SALES TO MANUFACTURERS.--

16 A. Receipts from selling tangible personal property
17 may be deducted from gross receipts or from governmental gross
18 receipts if the sale is made to a person engaged in the
19 business of manufacturing who delivers a nontaxable transaction
20 certificate to the seller or provides alternative evidence
21 pursuant to Section 7-9-43 NMSA 1978. The buyer [~~delivering~~
22 ~~the nontaxable transaction certificate~~] must incorporate the
23 tangible personal property as an ingredient or component part
24 of the product that the buyer is in the business of
25 manufacturing.

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

11 ~~[(1) twenty percent of receipts received prior~~
12 ~~to January 1, 2014;~~

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

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

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

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

21 C. Regarding the deduction allowed pursuant to
22 Subsection B of this section, a nontaxable transaction
23 certificate is required if the seller is a seller of
24 electricity or fuel and is a party to an agreement with the
25 department pursuant to Section 7-1-21.1 NMSA 1978.

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1 ~~[G-]~~ D. The purpose of the deductions provided in
2 this section is to encourage manufacturing businesses to locate
3 in New Mexico and to reduce the tax burden, including reducing
4 pyramiding, on the tangible personal property that is consumed
5 in the manufacturing process and that is purchased by
6 manufacturing businesses in New Mexico.

7 ~~[D-]~~ E. The department shall annually report to the
8 revenue stabilization and tax policy committee the aggregate
9 amount of deductions taken pursuant to this section, the number
10 of taxpayers claiming each of the deductions and any other
11 information that is necessary to determine that the deductions
12 are performing the purposes for which they are enacted.

13 ~~[E-]~~ F. A taxpayer deducting gross receipts
14 pursuant to this section shall report the amount deducted
15 separately for each deduction provided in this section and
16 attribute the amount of the deduction to the appropriate
17 authorization provided in this section in a manner required by
18 the department that facilitates the evaluation by the
19 legislature of the benefit to the state of these deductions.

20 ~~[F-]~~ G. As used in Subsection B of this section,
21 "consumable" means tangible personal property that is
22 incorporated into, destroyed, depleted or transformed in the
23 process of manufacturing a product:

24 (1) including electricity, fuels, water,
25 manufacturing aids and supplies, chemicals, gases, repair

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1 parts, spares and other tangibles used to manufacture a
2 product; but

3 (2) excluding tangible personal property used
4 in:

- 5 (a) the generation of power;
6 (b) the processing of natural resources,
7 including hydrocarbons; and
8 (c) the preparation of meals for
9 immediate consumption on- or off-premises."

10 SECTION 12. Section 7-9-47 NMSA 1978 (being Laws 1969,
11 Chapter 144, Section 37, as amended) is amended to read:

12 "7-9-47. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL
13 GROSS RECEIPTS TAX--SALE OF TANGIBLE PERSONAL PROPERTY OR
14 LICENSES FOR RESALE.--Receipts from selling tangible personal
15 property or licenses may be deducted from gross receipts or
16 from governmental gross receipts if the sale is made to a
17 person who delivers a nontaxable transaction certificate to the
18 seller or provides alternative evidence pursuant to Section
19 7-9-43 NMSA 1978. The buyer [~~delivering the nontaxable~~
20 ~~transaction certificate~~] must resell the tangible personal
21 property or license either by itself or in combination with
22 other tangible personal property or licenses in the ordinary
23 course of business."

24 SECTION 13. Section 7-9-48 NMSA 1978 (being Laws 1969,
25 Chapter 144, Section 38, as amended) is amended to read:

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1 "7-9-48. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL
2 GROSS RECEIPTS--SALE OF A SERVICE FOR RESALE.--Receipts from
3 selling a service for resale may be deducted from gross
4 receipts or from governmental gross receipts if the sale is
5 made to a person who delivers a nontaxable transaction
6 certificate to the seller or provides alternative evidence
7 pursuant to Section 7-9-43 NMSA 1978. The buyer [~~delivering~~
8 ~~the nontaxable transaction certificate~~] must resell the service
9 in the ordinary course of business and the resale must be
10 subject to the gross receipts tax or governmental gross
11 receipts tax."

12 SECTION 14. Section 7-9-49 NMSA 1978 (being Laws 1969,
13 Chapter 144, Section 39, as amended) is amended to read:

14 "7-9-49. DEDUCTION--GROSS RECEIPTS TAX--SALE OF TANGIBLE
15 PERSONAL PROPERTY AND LICENSES FOR LEASING.--

16 A. Except as otherwise provided by Subsection B of
17 this section, receipts from selling tangible personal property
18 and licenses may be deducted from gross receipts if the sale is
19 made to a person who delivers a nontaxable transaction
20 certificate to the seller or provides alternative evidence
21 pursuant to Section 7-9-43 NMSA 1978. The buyer [~~delivering~~
22 ~~the nontaxable transaction certificate~~] shall be engaged in a
23 business that derives a substantial portion of its receipts
24 from leasing or selling tangible personal property or licenses
25 of the type sold. The buyer may not utilize the tangible

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1 personal property or license in any manner other than holding
2 it for lease or sale or leasing or selling it either by itself
3 or in combination with other tangible personal property or
4 licenses in the ordinary course of business.

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

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

10 (2) coin-operated machines; or

11 (3) manufactured homes."

12 SECTION 15. Section 7-9-50 NMSA 1978 (being Laws 1969,
13 Chapter 144, Section 40, as amended) is amended to read:

14 "7-9-50. DEDUCTION--GROSS RECEIPTS TAX--LEASE FOR
15 SUBSEQUENT LEASE.--

16 A. Except as provided otherwise in Subsection B of
17 this section, receipts from leasing tangible personal property
18 or licenses may be deducted from gross receipts if the lease is
19 made to a lessee who delivers a nontaxable transaction
20 certificate to the lessor or provides alternative evidence
21 pursuant to Section 7-9-43 NMSA 1978. The lessee [~~delivering~~
22 ~~the nontaxable transaction certificate~~] may not use the
23 tangible personal property or license in any manner other than
24 for subsequent lease in the ordinary course of business.

25 B. The deduction provided by this section does not

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1 apply to receipts from leasing:

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

5 (2) coin-operated machines; or

6 (3) manufactured homes."

7 SECTION 16. Section 7-9-51 NMSA 1978 (being Laws 1969,
8 Chapter 144, Section 41, as amended) is amended to read:

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

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

17 B. The buyer [~~delivering the nontaxable transaction~~
18 ~~certificate~~] must incorporate the construction material as:

19 (1) an ingredient or component part of a
20 construction project that is subject to the gross receipts tax
21 upon its completion or upon the completion of the overall
22 construction project of which it is a part;

23 (2) an ingredient or component part of a
24 construction project that is subject to the gross receipts tax
25 upon the sale in the ordinary course of business of the real

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1 property upon which it was constructed; or

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

5 SECTION 17. Section 7-9-52 NMSA 1978 (being Laws 1969,
6 Chapter 144, Section 42, as amended) is amended to read:

7 "7-9-52. DEDUCTION--GROSS RECEIPTS TAX--SALE OF
8 CONSTRUCTION SERVICES AND CONSTRUCTION-RELATED SERVICES TO
9 PERSONS ENGAGED IN THE CONSTRUCTION BUSINESS.--

10 A. Receipts from selling a construction service or
11 a construction-related service may be deducted from gross
12 receipts if the sale is made to a person engaged in the
13 construction business who delivers a nontaxable transaction
14 certificate to the person performing the construction service
15 or a construction-related service or provides alternative
16 evidence pursuant to Section 7-9-43 NMSA 1978.

17 B. The buyer [~~delivering the nontaxable transaction~~
18 ~~certificate~~] shall have the construction services or
19 construction-related services directly contracted for or billed
20 to:

21 (1) a construction project that is subject to
22 the gross receipts tax upon its completion or upon the
23 completion of the overall construction project of which it is a
24 part;

25 (2) a construction project that is subject to

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1 the gross receipts tax upon the sale in the ordinary course of
2 business of the real property upon which it was constructed; or

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

5 SECTION 18. Section 7-9-52.1 NMSA 1978 (being Laws 2012,
6 Chapter 5, Section 6) is amended to read:

7 "7-9-52.1. DEDUCTION--GROSS RECEIPTS TAX--LEASE OF
8 CONSTRUCTION EQUIPMENT TO PERSONS ENGAGED IN THE CONSTRUCTION
9 BUSINESS.--

10 A. Receipts from leasing construction equipment may
11 be deducted from gross receipts if the construction equipment
12 is leased to a person engaged in the construction business who
13 delivers a nontaxable transaction certificate to the person
14 leasing the construction equipment or provides alternative
15 evidence pursuant to Section 7-9-43 NMSA 1978.

16 B. The lessee [~~delivering the nontaxable~~
17 ~~transaction certificate~~] shall only use the construction
18 equipment at the construction location of:

19 (1) a construction project that is subject to
20 the gross receipts tax upon its completion or upon the
21 completion of the overall construction project of which it is a
22 part;

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

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

3 C. As used in this section, "construction
4 equipment" means equipment used on a construction project,
5 including trash containers, portable toilets, scaffolding and
6 temporary fencing."

7 SECTION 19. Section 7-9-54.1 NMSA 1978 (being Laws 1992,
8 Chapter 40, Section 1, as amended) is amended to read:

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

11 [~~A. As used in this section:~~

12 (1) ~~"aerospace services" means research and~~
13 ~~development services sold to or for resale to an organization~~
14 ~~for resale by the organization to the United States air force;~~
15 ~~and~~

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

20 B.] A. Receipts from performing or selling ~~[on or~~
21 ~~after October 1, 1995]~~ an aerospace service for resale may be
22 deducted from gross receipts if the sale is made to a buyer who
23 delivers a nontaxable transaction certificate or provides
24 alternative evidence pursuant to Section 7-9-43 NMSA 1978. The
25 buyer ~~[delivering the nontaxable transaction certificate]~~ shall

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1 separately state the value of the aerospace service purchased
2 in the buyer's charge for the aerospace service on its
3 subsequent sale to an organization or, if the buyer is an
4 organization, on the organization's subsequent sale to the
5 United States, and the subsequent sale shall be in the ordinary
6 course of business of selling aerospace services to an
7 organization or to the United States.

8 ~~[G. A percentage of the receipts from selling~~
9 ~~aerospace services to or for resale to an organization may be~~
10 ~~deducted from gross receipts in accordance with the following~~
11 ~~table:~~

Deductible	
Receipts During the Period	Percentage
October 1, 1995 through September 30, 1996	10%
October 1, 1996 through September 30, 1997	25%
October 1, 1997 through September 30, 1999	50%
October 1, 1999 and thereafter	100%.]

12 B. As used in this section:
13
14 (1) "aerospace services" means research and
15 development services sold to or for resale to an organization
16 for resale by the organization to the United States air force;
17 and

18 (2) "organization" means an organization
19 described in Subsection A of Section 7-9-29 NMSA 1978 other
20 than a prime contractor operating facilities in New Mexico
21

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1 designated as a national laboratory by act of congress."

2 SECTION 20. Section 7-9-56.3 NMSA 1978 (being Laws 2003,
3 Chapter 232, Section 1, as amended) is amended to read:

4 "7-9-56.3. DEDUCTION--GROSS RECEIPTS--TRADE-SUPPORT
5 COMPANY IN A BORDER ZONE.--

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

8 (1) the trade-support company first locates in
9 New Mexico within twenty miles of a port of entry on New
10 Mexico's border with Mexico on or after July 1, 2003 but before
11 July 1, 2013 or on or after January 1, 2016 but before January
12 1, 2021;

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

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

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

23 C. The department shall compile an annual report on
24 the deduction created pursuant to this section that shall
25 include the number of taxpayers approved by the department to

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1 receive the deduction, the aggregate amount of deductions
2 approved and any other information necessary to evaluate the
3 effectiveness of the deduction. Beginning in 2016 and every
4 four years thereafter that the deduction is in effect, the
5 department shall compile and present the annual reports to the
6 revenue stabilization and tax policy committee and the
7 legislative finance committee with an analysis of the
8 effectiveness and cost of the deduction.

9 D. As used in this section:

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

13 [~~(1)~~] (2) "employee" means an individual,
14 other than an individual who:

15 [~~(a)~~] ~~bears any of the relationships~~
16 ~~described in Paragraphs (1) through (8) of 26 U.S.C. Section~~
17 ~~152(a) to the employer or, if the employer is a corporation, to~~
18 ~~an individual who owns, directly or indirectly, more than fifty~~
19 ~~percent in value of the outstanding stock of the corporation~~
20 ~~or, if the employer is an entity other than a corporation, to~~
21 ~~an individual who owns, directly or indirectly, more than fifty~~
22 ~~percent of the capital and profits interests in the entity;~~

23 [~~(b)~~] ~~if the employer is an estate or~~
24 ~~trust, is a grantor, beneficiary or fiduciary of the estate or~~
25 ~~trust or is an individual who bears any of the relationships~~

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1 ~~described in Paragraphs (1) through (8) of 26 U.S.C. Section~~
2 ~~152(a) to a grantor, beneficiary or fiduciary of the estate or~~
3 ~~trust; or~~

4 ~~(c) is a dependent, as that term is~~
5 ~~described in 26 U.S.C. Section 152(a)(9), of the employer, or,~~
6 ~~if the taxpayer is a corporation, of an individual who owns,~~
7 ~~directly or indirectly, more than fifty percent in value of the~~
8 ~~outstanding stock of the corporation or, if the employer is an~~
9 ~~entity other than a corporation, an individual who owns,~~
10 ~~directly or indirectly, more than fifty percent of the capital~~
11 ~~and profits interests in the entity or, if the employer is an~~
12 ~~estate or trust, of a grantor, beneficiary or fiduciary of the~~
13 ~~estate or trust;]~~

14 (a) is a dependent of the employer;

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

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

23 (d) if the employer is an entity other
24 than a corporation, estate or trust, is a dependent of an
25 individual who owns, directly or indirectly, more than fifty

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1 percent of the capital and profits interests in the entity;

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

6 [~~(3)~~] (4) "trade-support company" means a
7 customs brokerage firm or a freight forwarder."

8 SECTION 21. Section 7-9-60 NMSA 1978 (being Laws 1970,
9 Chapter 12, Section 4, as amended) is amended to read:

10 "7-9-60. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL
11 GROSS RECEIPTS TAX--SALES TO CERTAIN ORGANIZATIONS.--

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

25 B. The deduction provided by this section does not

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

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

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1 of 1986, as amended or renumbered."

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

4 "7-9-92. DEDUCTION--GROSS RECEIPTS--SALE OF FOOD AT
5 RETAIL FOOD STORE.--

6 A. Receipts from the sale of food [~~at~~] by a retail
7 food store that are not exempt from gross receipts taxation and
8 are not deductible pursuant to another provision of the Gross
9 Receipts and Compensating Tax Act may be deducted from gross
10 receipts. The deduction provided by this section shall be
11 separately stated by the taxpayer.

12 B. For the purposes of this section:

13 (1) "food" means any food or food product for
14 home consumption that meets the definition of food in 7 USCA
15 [~~2012(g)(1)~~] 2012(k)(1) for purposes of the federal [~~food~~
16 ~~stamp~~] supplemental nutrition assistance program; and

17 (2) "retail food store" means an establishment
18 that sells food for home preparation and consumption and that
19 meets the definition of retail food store in 7 USCA
20 [~~2012(k)(1)~~] 2012(o)(1) for purposes of the federal [~~food~~
21 ~~stamp~~] supplemental nutrition assistance program, whether or
22 not the establishment participates in the [~~food stamp~~]
23 supplemental nutrition assistance program."

24 SECTION 23. Section 7-9-93 NMSA 1978 (being Laws 2004,
25 Chapter 116, Section 6, as amended) is amended to read:

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1 "7-9-93. DEDUCTION--GROSS RECEIPTS--CERTAIN RECEIPTS FOR
2 SERVICES PROVIDED BY HEALTH CARE PRACTITIONER.--

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

10 B. A corporation, unincorporated business
11 association or other legal entity may deduct from gross
12 receipts those receipts from managed health care providers,
13 health care insurers for commercial contract services or
14 medicare part C services provided on the entity's behalf by
15 health care practitioners who own or are employed by the
16 entity; provided that the entity is not:

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

22 (2) a health maintenance organization,
23 hospital, hospice, nursing home or an entity that is solely an
24 outpatient facility or intermediate care facility licensed
25 pursuant to the Public Health Act.

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1 ~~[B-]~~ C. The deduction provided by this section
2 shall be applied only to gross receipts remaining after all
3 other allowable deductions available under the Gross Receipts
4 and Compensating Tax Act have been taken and shall be
5 separately stated by the taxpayer.

6 ~~[G-]~~ D. For the purposes of this section:

7 (1) "commercial contract services" means
8 health care services performed by a health care practitioner
9 pursuant to a contract with a managed health care provider or
10 health care insurer other than those health care services
11 provided for medicare patients pursuant to Title 18 of the
12 federal Social Security Act or for medicaid patients pursuant
13 to Title 19 or Title 21 of the federal Social Security Act;

14 (2) "health care insurer" means a person that:

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

19 (b) contracts to reimburse licensed
20 health care practitioners for providing basic health services
21 to enrollees at negotiated fee rates;

22 (3) "health care practitioner" means:

23 (a) a chiropractic physician licensed
24 pursuant to the provisions of the Chiropractic Physician
25 Practice Act;

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- 1 (b) a dentist or dental hygienist
2 licensed pursuant to the Dental Health Care Act;
- 3 (c) a doctor of oriental medicine
4 licensed pursuant to the provisions of the Acupuncture and
5 Oriental Medicine Practice Act;
- 6 (d) an optometrist licensed pursuant to
7 the provisions of the Optometry Act;
- 8 (e) an osteopathic physician or an
9 osteopathic ~~[physician's]~~ physician assistant licensed pursuant
10 to the provisions of the Osteopathic Medicine Act;
- 11 (f) a physical therapist licensed
12 pursuant to the provisions of the Physical Therapy Act;
- 13 (g) a physician or physician assistant
14 licensed pursuant to the provisions of the Medical Practice
15 Act;
- 16 (h) a podiatrist licensed pursuant to
17 the provisions of the Podiatry Act;
- 18 (i) a psychologist licensed pursuant to
19 the provisions of the Professional Psychologist Act;
- 20 (j) a registered lay midwife registered
21 by the department of health;
- 22 (k) a registered nurse or licensed
23 practical nurse licensed pursuant to the provisions of the
24 Nursing Practice Act;
- 25 (l) a registered occupational therapist

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1 licensed pursuant to the provisions of the Occupational Therapy
2 Act;

3 (m) a respiratory care practitioner
4 licensed pursuant to the provisions of the Respiratory Care
5 Act;

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

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

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

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

21 (4) "managed health care provider" means a
22 person that provides for the delivery of comprehensive basic
23 health care services and medically necessary services to
24 individuals enrolled in a plan through its own employed health
25 care providers or by contracting with selected or participating

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1 health care providers. "Managed health care provider" includes
2 only those persons that provide comprehensive basic health care
3 services to enrollees on a contract basis, including the
4 following:

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

16 and

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

21 SECTION 24. Section 7-9G-1 NMSA 1978 (being Laws 2004,
22 Chapter 15, Section 1, as amended) is amended to read:

23 "7-9G-1. HIGH-WAGE JOBS TAX CREDIT--QUALIFYING HIGH-WAGE
24 JOBS.--

25 A. A taxpayer that is an eligible employer may

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1 apply for, and the department may allow, a tax credit for each
2 new high-wage job. The credit provided in this section may be
3 referred to as the "high-wage jobs tax credit".

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

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

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

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1 taxpayer fails to file the annual application within the time
2 limits provided in this section, the application shall be
3 denied by the department. The department shall make a
4 determination on the application within one hundred eighty days
5 of the date on which the application was filed.

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

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

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

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

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

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

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

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

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

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1 for which the new high-wage job is otherwise eligible.

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

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

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

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

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

25 (3) whether the new high-wage job was in a

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

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

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

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

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

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

23 (9) whether the eligible employer has ceased
24 business operations at any of its business locations in New
25 Mexico; and

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1 (10) whether the application is precluded by
2 Subsection O of this section.

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

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

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

25 O. A taxpayer that has received a high-wage jobs

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1 tax credit shall not submit a new application for the credit
2 for a minimum of two calendar years from the closing date of
3 the last qualifying period for which the taxpayer received the
4 credit if the taxpayer lost eligibility to claim the credit
5 from a previous application pursuant to Subsection N of this
6 section.

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

12 Q. 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 the employer's
16 contributions to insurance programs, health care, medical,
17 dental and vision plans, life insurance, employer contributions
18 to pensions, such as a 401(k), and employer-provided services,
19 such as child care, offered by an employer to the employee;

20 (2) "consecutive qualifying period" means each
21 of the three qualifying periods successively following the
22 qualifying period in which the new high-wage job was created;

23 (3) "department" means the taxation and
24 revenue department;

25 (4) "dependent" means "dependent" as defined

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1 in 26 U.S.C. 152(a), as that section may be amended or
2 renumbered;

3 [~~(4)~~] (5) "domicile" means the sole place
4 where an individual has a true, fixed, permanent home. It is
5 the place where the individual has a voluntary, fixed
6 habitation of self and family with the intention of making a
7 permanent home;

8 [~~(5)~~] (6) "eligible employee" means an
9 individual who is employed in New Mexico by an eligible
10 employer and who is a resident of New Mexico; "eligible
11 employee" does not include an individual who:

12 [~~(a)~~] ~~bears any of the relationships~~
13 ~~described in Paragraphs (1) through (8) of 26 U.S.C. Section~~
14 ~~152(a) to the employer or, if the employer is a corporation, to~~
15 ~~an individual who owns, directly or indirectly, more than fifty~~
16 ~~percent in value of the outstanding stock of the corporation~~
17 ~~or, if the employer is an entity other than a corporation, to~~
18 ~~an individual who owns, directly or indirectly, more than fifty~~
19 ~~percent of the capital and profits interest in the entity;~~

20 (b) ~~if the employer is an estate or~~
21 ~~trust, is a grantor, beneficiary or fiduciary of the estate or~~
22 ~~trust or is an individual who bears any of the relationships~~
23 ~~described in Paragraphs (1) through (8) of 26 U.S.C. Section~~
24 ~~152(a) to a grantor, beneficiary or fiduciary of the estate or~~
25 ~~trust;~~

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1 ~~(c) is a dependent, as that term is~~
2 ~~described in 26 U.S.C. Section 152(a)(9), of the employer or,~~
3 ~~if the taxpayer is a corporation, of an individual who owns,~~
4 ~~directly or indirectly, more than fifty percent in value of the~~
5 ~~outstanding stock of the corporation or, if the employer is an~~
6 ~~entity other than a corporation, of an individual who owns,~~
7 ~~directly or indirectly, more than fifty percent of the capital~~
8 ~~and profits interest in the entity or, if the employer is an~~
9 ~~estate or trust, of a grantor, beneficiary or fiduciary of the~~
10 ~~estate or trust; or~~

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

18 (a) is a dependent of the employer;

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

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

underscored material = new
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1 the corporation; or

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

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

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

25 [~~(8)~~] (9) "new high-wage job" means a new job

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~~[bracketed material] = delete~~

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

6 (a) for a new high-wage job created
7 prior to July 1, 2015: 1) forty thousand dollars (\$40,000) if
8 the job is performed or based in or within ten miles of the
9 external boundaries of a municipality with a population of
10 sixty thousand or more according to the most recent federal
11 decennial census or in a class H county; and 2) twenty-eight
12 thousand dollars (\$28,000) if the job is performed or based in
13 a municipality with a population of less than sixty thousand
14 according to the most recent federal decennial census or in the
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; and

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

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

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

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

16 [~~(11)~~] (12) "resident" means a natural person
17 whose domicile is in New Mexico at the time of hire or within
18 one hundred eighty days of the date of hire;

19 [~~(12)~~] (13) "threshold job" means a job that
20 is occupied for at least forty-four weeks of a calendar year by
21 an eligible employee and that meets the wage requirements for a
22 "new high-wage job"; and

23 [~~(13)~~] (14) "wages" means all compensation
24 paid by an eligible employer to an eligible employee through
25 the employer's payroll system, including those wages that the

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

7 SECTION 25. Section 7-29-2 NMSA 1978 (being Laws 1959,
8 Chapter 52, Section 2, as amended) is amended to read:

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

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

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

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

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

24 E. "product" or "products" means oil, ~~[natural gas~~
25 ~~or liquid hydrocarbon, individually or any combination thereof,~~

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1 ~~carbon dioxide, helium or a non-hydrocarbon gas~~ including
2 crude, slop or skim oil and condensate; natural gas; liquid
3 hydrocarbon, including ethane, propane, isobutene, normal
4 butane and pentanes plus, individually or any combination
5 thereof; and non-hydrocarbon gases, including carbon dioxide
6 and helium;

7 F. "operator" means any person:

8 (1) engaged in the severance of products from
9 a production unit; or

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

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

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

25 I. "person" means any individual, estate, trust,

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1 receiver, business trust, corporation, firm, co-partnership,
2 cooperative, joint venture, association or other group or
3 combination acting as a unit, and the plural as well as the
4 singular number;

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

10 K. "new production natural gas well" means a
11 producing crude oil or natural gas well proration unit that
12 begins its initial natural gas production on or after May 1,
13 1987 as determined by the oil conservation division of the
14 energy, minerals and natural resources department;

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

24 M. "qualified enhanced recovery project", on and
25 after January 1, 1994, means the use or the expanded use of any

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~~[bracketed material]~~ = delete

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

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

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

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1 Incentive Act;

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

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

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

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

21 Q. "average annual taxable value" means as
22 applicable:

23 (1) the average of the taxable value per one
24 thousand cubic feet, determined pursuant to Section 7-31-5 NMSA
25 1978, of all natural gas produced in New Mexico for the

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1 specified calendar year as determined by the department; or

2 (2) the average of the taxable value per
3 barrel, determined pursuant to Section 7-31-5 NMSA 1978, of all
4 oil produced in New Mexico for the specified calendar year as
5 determined by the department; [~~and~~]

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

7 S. "volume" means the quantity of product severed
8 reported using:

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

10 and

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

14 SECTION 26. Section 7-30-2 NMSA 1978 (being Laws 1959,
15 Chapter 53, Section 2, as amended) is amended to read:

16 "7-30-2. DEFINITIONS.--As used in the Oil and Gas
17 Conservation Tax Act:

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

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

25 C. "severance" means the taking from the soil of

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1 any product in any manner whatsoever;

2 D. "value" means the actual price received for
3 products at the production unit, except as otherwise provided
4 in the Oil and Gas Conservation Tax Act;

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

13 F. "operator" means any person:

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

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

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

23 H. "person" means any individual, estate, trust,
24 receiver, business trust, corporation, firm, copartnership,
25 cooperative, joint venture, association or other group or

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[bracketed material] = delete

1 combination acting as a unit, and the plural as well as the
2 singular number;

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

8 J. "tax" means the oil and gas conservation tax;
9 and

10 K. "volume" means the quantity of product severed
11 reported using:

12 (1) oil, condensate and slop oil in barrels;
13 and

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

17 SECTION 27. Section 7-31-2 NMSA 1978 (being Laws 1959,
18 Chapter 54, Section 2, as amended) is amended to read:

19 "7-31-2. DEFINITIONS.--As used in the Oil and Gas
20 Emergency School Tax Act:

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

25 B. "production unit" means a unit of property

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1 designated by the department from which products of common
2 ownership are severed;

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

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

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

16 F. "operator" means any person:

17 (1) engaged in the severance of products from
18 a production unit; or

19 (2) owning an interest in any product at the
20 time of severance who receives a portion or all of such product
21 for ~~[his]~~ the person's interest;

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

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

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

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

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

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

24 (3) if a property with wells that produce both
25 crude oil and natural gas, an average daily production of less

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1 than ten barrels of oil per eligible well per day, as
2 determined by converting the volume of natural gas produced by
3 the well to barrels of oil by using a ratio of six thousand
4 cubic feet to one barrel of oil;

5 K. "average annual taxable value" means as
6 applicable:

7 (1) the average of the taxable value per one
8 thousand cubic feet, determined pursuant to Section 7-31-5 NMSA
9 1978, of all natural gas produced in New Mexico for the
10 specified calendar year as determined by the department; or

11 (2) the average of the taxable value per
12 barrel, determined pursuant to Section 7-31-5 NMSA 1978, of all
13 oil produced in New Mexico for the specified calendar year as
14 determined by the department; ~~and~~

15 L. "tax" means the oil and gas emergency school
16 tax; and

17 M. "volume" means the quantity of product severed
18 reported using:

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

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

24 SECTION 28. Section 7-32-2 NMSA 1978 (being Laws 1959,
25 Chapter 55, Section 2, as amended) is amended to read:

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1 "7-32-2. DEFINITIONS.--As used in the Oil and Gas Ad
2 Valorem Production Tax Act:

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

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

10 C. "severance" means the taking from the soil any
11 product in any manner whatsoever;

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

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

23 F. "operator" means any person:

24 (1) engaged in the severance of products from
25 a production unit; or

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1 (2) owning an interest in any product at the
2 time of severance who receives a portion or all of such product
3 for ~~[his]~~ the person's interest;

4 G. "purchaser" means a person who is the first
5 purchaser of a product after severance from a production unit,
6 except as otherwise provided in the Oil and Gas Ad Valorem
7 Production Tax Act;

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

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

18 J. "assessed value" means the value against which
19 tax rates are applied; ~~[and]~~

20 K. "tax" means the oil and gas ad valorem
21 production tax; and

22 L. "volume" means the quantity of product severed
23 reported using:

24 (1) oil, condensate and slop oil in barrels;
25 and

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

4 SECTION 29. Section 7-40-2 NMSA 1978 (being Laws 2018,
5 Chapter 57, Section 2) is amended to read:

6 "7-40-2. DEFINITIONS.--As used in the Insurance Premium
7 Tax Act:

8 A. "authorized insurer" means an insurer holding a
9 valid and subsisting certificate of authority to transact
10 insurance in this state;

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

14 C. "department" means the taxation and revenue
15 department;

16 D. "health maintenance organization" means "health
17 maintenance organization" as that term is used in Chapter 59A,
18 Article 46 NMSA 1978;

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

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

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

4 H. "nonprofit health care plan" means "health care
5 plan" as that term is used in Chapter 59A, Article 47 NMSA
6 1978;

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

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

11 ~~[J.]~~ K. "state" means, when used in context
12 indicating a jurisdiction other than New Mexico, any state,
13 district, commonwealth, territory or possession of the United
14 States of America;

15 ~~[K.]~~ L. "superintendent" means the superintendent
16 of insurance or the superintendent's duly authorized
17 representative acting in official capacity;

18 ~~[L.]~~ M. "surplus lines broker" means "surplus lines
19 broker" as that term is used in Section 59A, Article 14 NMSA
20 1978;

21 ~~[M.]~~ N. "taxpayer" means:
22 (1) an authorized insurer;
23 (2) an insurer formerly authorized to transact
24 insurance in New Mexico and receiving premiums on policies
25 remaining in force in New Mexico, except an insurer that

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1 withdrew from New Mexico prior to March 26, 1955;

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

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

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

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

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

24 [~~N.~~] O. "transact insurance" with respect to an
25 insurance contract or a business of insurance includes any of

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[bracketed material] = delete

1 the following, by mail or otherwise or whether or not for
2 profit:

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

14 SECTION 30. Section 7-40-3 NMSA 1978 (being Laws 2018,
15 Chapter 57, Section 3) is amended to read:

16 "7-40-3. IMPOSITION AND RATE OF TAX--DENOMINATION OF
17 "PREMIUM TAX", ~~[AND]~~ "HEALTH INSURANCE PREMIUM SURTAX" AND
18 "SELF-INSURED GROUP TAX".--

19 A. [A] The tax imposed pursuant to this subsection
20 may be referred to as the "premium tax". The premium tax is
21 imposed at a rate of three and three-thousandths percent of the
22 gross premiums and membership and policy fees received or
23 written by a taxpayer ~~[as reported by March 1 of each year to~~
24 ~~the department in the appropriate schedule, as determined by~~
25 ~~the department, of the taxpayer's annual financial statement]~~

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1 on insurance or contracts covering risks within the state
2 during the preceding calendar year. The premium tax shall not
3 be imposed on self-insured groups or on return premiums,
4 dividends paid or credited to policyholders or contract holders
5 and premiums received for reinsurance on New Mexico risks.

6 ~~[The tax imposed pursuant to this section may be referred to as~~
7 ~~the "premium tax".]~~

8 B. For a taxpayer that is an insurer lawfully
9 organized pursuant to the laws of the Republic of Mexico, the
10 premium tax shall apply solely to the taxpayer's gross premium
11 receipts from insurance policies issued by the taxpayer in New
12 Mexico that cover residents of New Mexico or property or risks
13 principally domiciled or located in New Mexico.

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

18 D. The premium tax provided in Subsection A of this
19 section is imposed on the gross premiums received of a surplus
20 lines broker, less return premiums, on surplus lines insurance
21 where New Mexico is the home state of the insured transacted
22 under the surplus lines broker's license, as reported by the
23 surplus lines broker to the department on forms and in the
24 manner prescribed by the department. For purposes of this
25 subsection, "gross premiums" shall include any additional

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1 amount charged the insured, including policy fees, risk
2 purchasing group fees and inspection fees; but "premiums" shall
3 not include any additional amount charged the insured for
4 local, state or federal taxes; regulatory authority fees; or
5 examination fees, if any. For a surplus lines policy issued to
6 an insured whose home state is New Mexico and where only a
7 portion of the risk is located in New Mexico, the entire
8 premium tax shall be paid in accordance with this section.

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

23 F. A tax is imposed at a rate of nine-tenths
24 percent on the net premiums, as defined in the Group Self-
25 Insurance Act, received or written by a self-insured group

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1 within the state during the preceding calendar year. The tax
2 imposed pursuant to this subsection may be referred to as the
3 "self-insured group tax"."

4 SECTION 31. Section 7-40-7 NMSA 1978 (being Laws 2018,
5 Chapter 57, Section 7) is amended to read:

6 "7-40-7. DATE PAYMENT DUE.--

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

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

24 C. For each calendar quarter, an estimated payment
25 of the self-insured group tax shall be made on April 15, July

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1 15, October 15 and the following January 15. The estimated
2 payments shall be equal to at least one-fourth of the payment
3 made during the previous calendar year. The final adjustment
4 for payments due for the prior year shall be made with the
5 return filed on April 15, at which time all taxes for that year
6 are due."

7 SECTION 32. Section 9-11-6.4 NMSA 1978 (being Laws 1995,
8 Chapter 31, Section 5) is amended to read:

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

10 A. The department is authorized to require where
11 practical, in lieu of:

12 (1) the filing of paper documents, the filing
13 by electronic or optical means of any return, application,
14 report or other document required under any law or program
15 administered by the department; and

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

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

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underscoring material = new
~~[bracketed material] = delete~~

1 SECTION 33. REPEAL.--Section 52-6-13 NMSA 1978 (being
2 Laws 1986, Chapter 22, Section 87, as amended) is repealed.

3 SECTION 34. APPLICABILITY.--

4 A. The provisions of Sections 6 and 7 of this act
5 apply to taxable years beginning on or after January 1, 2022.

6 B. The provisions of Section 8 of this act apply to
7 tax returns filed on or after the effective date of that
8 section:

9 (1) for rural job tax credit claims against a
10 taxpayer's modified combined tax liability, for qualified jobs
11 created in the calendar quarters beginning on or after July 1,
12 2022; and

13 (2) for rural job tax credit claims against a
14 taxpayer's personal income tax liability or corporate income
15 tax liability, for qualified jobs created in taxable years
16 beginning on or after January 1, 2022.

17 SECTION 35. EFFECTIVE DATE.--

18 A. The effective date of the provisions of Sections
19 1 through 5 and 9 through 34 of this act is July 1, 2021.

20 B. The effective date of the provisions of Sections
21 6 through 8 of this act is January 1, 2022.