

SENATE FINANCE COMMITTEE SUBSTITUTE FOR  
SENATE BILL 496

**53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
ENACTING THE GROSS RECEIPTS TAX ON FOOD ACT; DISTRIBUTING THE  
REVENUE FROM THE TAX TO MUNICIPALITIES AND COUNTIES; ENDING THE  
HOLD HARMLESS DISTRIBUTION TO MUNICIPALITIES AND COUNTIES THAT  
OFFSET THE DEDUCTIONS FROM THE GROSS RECEIPTS FOR THE SALE OF  
FOOD AND HEALTH CARE PRACTITIONER SERVICES; REQUIRING A LOCAL  
GOVERNMENT THAT HAS IMPOSED A HOLD HARMLESS GROSS RECEIPTS TAX  
TO REPEAL ALL INCREMENTS OF THE TAX EFFECTIVE JULY 1, 2018;  
AMENDING AND REPEALING CERTAIN DEDUCTIONS AND CREDITS THAT CAN  
BE TAKEN AGAINST TAX LIABILITIES PURSUANT TO THE INCOME TAX  
ACT, CORPORATE INCOME AND FRANCHISE TAX ACT AND GROSS RECEIPTS  
AND COMPENSATING TAX ACT.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1

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1 through 5 of this act may be cited as the "Gross Receipts Tax  
2 on Food Act".

3 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the  
4 Gross Receipts Tax on Food Act:

5 A. "engaging in business" means carrying on or  
6 causing to be carried on the selling of food at a retail food  
7 store with the purpose of direct or indirect benefit;

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

12 C. "food gross receipts" means the total amount of  
13 money or the value of other consideration received from selling  
14 food at a retail food store in New Mexico, or, if in an  
15 exchange in which the money or other consideration received  
16 does not represent the value of the food, "food gross receipts"  
17 means the reasonable value of the food. "Food gross receipts"  
18 excludes:

- 19 (1) cash discounts allowed and taken;  
20 (2) gross receipts tax on food payable on  
21 transactions for the reporting period;  
22 (3) gross receipts tax payable pursuant to the  
23 Gross Receipts and Compensating Tax Act on transactions for the  
24 reporting period;  
25 (4) taxes imposed pursuant to the provisions

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1 of any local option gross receipts tax, as that term is defined  
 2 in the Tax Administration Act, that is payable for the  
 3 reporting period;

4 (5) a time-price differential; and

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

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

19 **SECTION 3. [NEW MATERIAL] GROSS RECEIPTS TAX ON FOOD.--**  
 20 For the privilege of engaging in business, an excise tax of  
 21 four percent of gross receipts on the sale of food at a retail  
 22 food store is imposed on any person engaging in business in New  
 23 Mexico. The tax imposed by this section may be cited as the  
 24 "gross receipts tax on food".

25 **SECTION 4. [NEW MATERIAL] EXEMPTIONS.--**Exempted from the

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1 gross receipts tax on food are all receipts that are exempt  
2 from the gross receipts tax or may be deducted from gross  
3 receipts pursuant to the Gross Receipts and Compensating Tax  
4 Act except receipts that may be deducted pursuant to Section  
5 7-9-92 NMSA 1978.

6 SECTION 5. [NEW MATERIAL] DATE PAYMENT DUE.--The tax  
7 imposed by the Gross Receipts Tax on Food Act is to be paid on  
8 or before the twenty-fifth day of the month following the month  
9 in which the taxable event occurs.

10 SECTION 6. Section 7-1-2 NMSA 1978 (being Laws 1965,  
11 Chapter 248, Section 2, as amended) is amended to read:

12 "7-1-2. APPLICABILITY.--The Tax Administration Act  
13 applies to and governs:

14 A. the administration and enforcement of the  
15 following taxes or tax acts as they now exist or may hereafter  
16 be amended:

- 17 (1) Income Tax Act;  
18 (2) Withholding Tax Act;  
19 (3) Venture Capital Investment Act;  
20 (4) Gross Receipts and Compensating Tax Act  
21 and any state gross receipts tax;  
22 (5) Liquor Excise Tax Act;  
23 (6) Local Liquor Excise Tax Act;  
24 (7) any municipal local option gross receipts  
25 tax;

1 (8) any county local option gross receipts  
2 tax;

3 (9) Special Fuels Supplier Tax Act;

4 (10) Gasoline Tax Act;

5 (11) petroleum products loading fee, which fee  
6 shall be considered a tax for the purpose of the Tax  
7 Administration Act;

8 (12) Alternative Fuel Tax Act;

9 (13) Cigarette Tax Act;

10 (14) Estate Tax Act;

11 (15) Railroad Car Company Tax Act;

12 (16) Investment Credit Act, rural job tax  
13 credit, Laboratory Partnership with Small Business Tax Credit  
14 Act, Technology Jobs and Research and Development Tax Credit  
15 Act, Film Production Tax Credit Act, Affordable Housing Tax  
16 Credit Act and high-wage jobs tax credit;

17 (17) Corporate Income and Franchise Tax Act;

18 (18) Uniform Division of Income for Tax  
19 Purposes Act;

20 (19) Multistate Tax Compact;

21 (20) Tobacco Products Tax Act; ~~and~~

22 (21) the telecommunications relay service  
23 surcharge imposed by Section 63-9F-11 NMSA 1978, which  
24 surcharge shall be considered a tax for the purposes of the Tax  
25 Administration Act; and

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1                                   (22) the Gross Receipts Tax on Food Act;

2                   B. the administration and enforcement of the  
3 following taxes, surtaxes, advanced payments or tax acts as  
4 they now exist or may hereafter be amended:

- 5                                   (1) Resources Excise Tax Act;
- 6                                   (2) Severance Tax Act;
- 7                                   (3) any severance surtax;
- 8                                   (4) Oil and Gas Severance Tax Act;
- 9                                   (5) Oil and Gas Conservation Tax Act;
- 10                                  (6) Oil and Gas Emergency School Tax Act;
- 11                                  (7) Oil and Gas Ad Valorem Production Tax Act;
- 12                                  (8) Natural Gas Processors Tax Act;
- 13                                  (9) Oil and Gas Production Equipment Ad

14 Valorem Tax Act;

15                                  (10) Copper Production Ad Valorem Tax Act;

16                                  (11) any advance payment required to be made  
17 by any act specified in this subsection, which advance payment  
18 shall be considered a tax for the purposes of the Tax  
19 Administration Act;

20                                  (12) Enhanced Oil Recovery Act;

21                                  (13) Natural Gas and Crude Oil Production  
22 Incentive Act; and

23                                  (14) intergovernmental production tax credit  
24 and intergovernmental production equipment tax credit;

25                   C. the administration and enforcement of the

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1 following taxes, surcharges, fees or acts as they now exist or  
2 may hereafter be amended:

3 (1) Weight Distance Tax Act;

4 (2) the workers' compensation fee authorized  
5 by Section 52-5-19 NMSA 1978, which fee shall be considered a  
6 tax for purposes of the Tax Administration Act;

7 (3) Uniform Unclaimed Property Act (1995);

8 (4) 911 emergency surcharge and the network  
9 and database surcharge, which surcharges shall be considered  
10 taxes for purposes of the Tax Administration Act;

11 (5) the solid waste assessment fee authorized  
12 by the Solid Waste Act, which fee shall be considered a tax for  
13 purposes of the Tax Administration Act;

14 (6) the water conservation fee imposed by  
15 Section 74-1-13 NMSA 1978, which fee shall be considered a tax  
16 for the purposes of the Tax Administration Act; and

17 (7) the gaming tax imposed pursuant to the  
18 Gaming Control Act; and

19 D. the administration and enforcement of all other  
20 laws, with respect to which the department is charged with  
21 responsibilities pursuant to the Tax Administration Act, but  
22 only to the extent that the other laws do not conflict with the  
23 Tax Administration Act."

24 **SECTION 7.** Section 7-1-6.15 NMSA 1978 (being Laws 1983,  
25 Chapter 211, Section 20, as amended by Laws 2015, Chapter 89,

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1 Section 1 and by Laws 2015, Chapter 100, Section 1) is amended  
2 to read:

3 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO  
4 MUNICIPALITIES OR COUNTIES.--

5 A. The provisions of this section apply to:

6 (1) any distribution to a municipality  
7 pursuant to Section 7-1-6.4, 7-1-6.36 or 7-1-6.46 NMSA 1978;

8 (2) any transfer to a municipality with  
9 respect to any local option gross receipts tax imposed by that  
10 municipality;

11 (3) any transfer to a county with respect to  
12 any local option gross receipts tax imposed by that county;

13 (4) any distribution to a county pursuant to  
14 Section 7-1-6.16 or 7-1-6.47 NMSA 1978;

15 (5) any distribution to a municipality or a  
16 county of gasoline taxes pursuant to Section 7-1-6.9 NMSA 1978;

17 (6) any transfer to a county with respect to  
18 any tax imposed in accordance with the Local Liquor Excise Tax  
19 Act;

20 (7) any distribution to a county from the  
21 county government road fund pursuant to Section 7-1-6.26 NMSA  
22 1978;

23 (8) any distribution to a municipality of  
24 gasoline taxes pursuant to Section 7-1-6.27 NMSA 1978; ~~and~~

25 (9) any distribution to a municipality of

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1 compensating taxes pursuant to Section 7-1-6.55 NMSA 1978; and  
2 (10) any distribution to a municipality or  
3 county pursuant to Section 11 of this 2017 act.

4 B. Before making a distribution or transfer  
5 specified in Subsection A of this section to a municipality or  
6 county for the month, amounts comprising the net receipts shall  
7 be segregated into two mutually exclusive categories. One  
8 category shall be for amounts relating to the current month,  
9 and the other category shall be for amounts relating to prior  
10 periods. The total of each category for a municipality or  
11 county shall be reported each month to that municipality or  
12 county. If the total of the amounts relating to prior periods  
13 is less than zero and its absolute value exceeds the greater of  
14 one hundred dollars (\$100) or an amount equal to twenty percent  
15 of the average distribution or transfer amount for that  
16 municipality or county, then the following procedures shall be  
17 carried out:

18 (1) all negative amounts relating to any  
19 period prior to the three calendar years preceding the year of  
20 the current month, net of any positive amounts in that same  
21 time period for the same taxpayers to which the negative  
22 amounts pertain, shall be excluded from the total relating to  
23 prior periods. Except as provided in Paragraph (2) of this  
24 subsection, the net receipts to be distributed or transferred  
25 to the municipality or county shall be adjusted to equal the

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1 amount for the current month plus the revised total for prior  
2 periods; and

3 (2) if the revised total for prior periods  
4 determined pursuant to Paragraph (1) of this subsection is  
5 negative and its absolute value exceeds the greater of one  
6 hundred dollars (\$100) or an amount equal to twenty percent of  
7 the average distribution or transfer amount for that  
8 municipality or county, the revised total for prior periods  
9 shall be excluded from the distribution or transfers and the  
10 net receipts to be distributed or transferred to the  
11 municipality or county shall be equal to the amount for the  
12 current month.

13 C. The department shall recover from a municipality  
14 or county the amount excluded by Paragraph (2) of Subsection B  
15 of this section. This amount may be referred to as the  
16 "recoverable amount".

17 D. Prior to or concurrently with the distribution  
18 or transfer to the municipality or county of the adjusted net  
19 receipts, the department shall notify the municipality or  
20 county whose distribution or transfer has been adjusted  
21 pursuant to Paragraph (2) of Subsection B of this section:

22 (1) that the department has made such an  
23 adjustment, that the department has determined that a specified  
24 amount is recoverable from the municipality or county and that  
25 the department intends to recover that amount from future

1 distributions or transfers to the municipality or county;

2 (2) that the municipality or county has ninety  
3 days from the date notice is made to enter into a mutually  
4 agreeable repayment agreement with the department;

5 (3) that if the municipality or county takes  
6 no action within the ninety-day period, the department will  
7 recover the amount from the next six distributions or transfers  
8 following the expiration of the ninety days; and

9 (4) that the municipality or county may  
10 inspect, pursuant to Section 7-1-8.9 NMSA 1978, an application  
11 for a claim for refund that gave rise to the recoverable  
12 amount, exclusive of any amended returns that may be attached  
13 to the application.

14 E. No earlier than ninety days from the date notice  
15 pursuant to Subsection D of this section is given, the  
16 department shall begin recovering the recoverable amount from a  
17 municipality or county as follows:

18 (1) the department may collect the recoverable  
19 amount by:

20 (a) decreasing distributions or  
21 transfers to the municipality or county in accordance with a  
22 repayment agreement entered into with the municipality or  
23 county; or

24 (b) except as provided in Paragraphs (2)  
25 and (3) of this subsection, if the municipality or county fails

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1 to act within the ninety days, decreasing the amount of the  
2 next six distributions or transfers to the municipality or  
3 county following expiration of the ninety-day period in  
4 increments as nearly equal as practicable and sufficient to  
5 recover the amount;

6 (2) if, pursuant to Subsection B of this  
7 section, the secretary determines that the recoverable amount  
8 is more than fifty percent of the average distribution or  
9 transfer of net receipts for that municipality or county, the  
10 secretary:

11 (a) shall recover only up to fifty  
12 percent of the average distribution or transfer of net receipts  
13 for that municipality or county; and

14 (b) may, in the secretary's discretion,  
15 waive recovery of any portion of the recoverable amount,  
16 subject to approval by the state board of finance; and

17 (3) if, after application of a refund claim,  
18 audit adjustment, correction of a mistake by the department or  
19 other adjustment of a prior period, but prior to any recovery  
20 of the department pursuant to this section, the total net  
21 receipts of a municipality or county for the twelve-month  
22 period beginning with the current month are reduced or are  
23 projected to be reduced to less than fifty percent of the  
24 average distribution or transfer of net receipts, the secretary  
25 may waive recovery of any portion of the recoverable amount,

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1 subject to approval by the state board of finance.

2 F. No later than ninety days from the date notice  
3 pursuant to Subsection D of this section is given, the  
4 department shall provide the municipality or county adequate  
5 opportunity to review an application for a claim for refund  
6 that gave rise to the recoverable amount, exclusive of any  
7 amended returns that may be attached to the application,  
8 pursuant to Section 7-1-8.9 NMSA 1978.

9 G. On or before September 1 of each year beginning  
10 in 2016, the secretary shall report to the state board of  
11 finance and the legislative finance committee the total  
12 recoverable amount waived pursuant to Subparagraph (b) of  
13 Paragraph (2) and Paragraph (3) of Subsection E of this section  
14 for each municipality and county in the prior fiscal year.

15 H. The secretary is authorized to decrease a  
16 distribution or transfer to a municipality or county upon being  
17 directed to do so by the secretary of finance and  
18 administration pursuant to the State Aid Intercept Act or to  
19 redirect a distribution or transfer to the New Mexico finance  
20 authority pursuant to an ordinance or a resolution passed by  
21 the county or municipality and a written agreement of the  
22 municipality or county and the New Mexico finance authority.  
23 Upon direction to decrease a distribution or transfer or notice  
24 to redirect a distribution or transfer to a municipality or  
25 county, the secretary shall decrease or redirect the next

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1 designated distribution or transfer, and succeeding  
2 distributions or transfers as necessary, by the amount of the  
3 state distributions intercept authorized by the secretary of  
4 finance and administration pursuant to the State Aid Intercept  
5 Act or by the amount of the state distribution intercept  
6 authorized pursuant to an ordinance or a resolution passed by  
7 the county or municipality and a written agreement with the New  
8 Mexico finance authority. The secretary shall transfer the  
9 state distributions intercept amount to the municipal or county  
10 treasurer or other person designated by the secretary of  
11 finance and administration or to the New Mexico finance  
12 authority pursuant to written agreement to pay the debt service  
13 to avoid default on qualified local revenue bonds or meet other  
14 local revenue bond, loan or other debt obligations of the  
15 municipality or county to the New Mexico finance authority. A  
16 decrease to or redirection of a distribution or transfer  
17 pursuant to this subsection that arose:

18 (1) prior to an adjustment of a distribution  
19 or transfer of net receipts creating a recoverable amount owed  
20 to the department takes precedence over any collection of any  
21 recoverable amount pursuant to Paragraph (2) of Subsection B of  
22 this section, which may be made only from the net amount of the  
23 distribution or transfer remaining after application of the  
24 decrease or redirection pursuant to this subsection; and

25 (2) after an adjustment of a distribution or

1 transfer of net receipts creating a recoverable amount owed to  
2 the department shall be subordinate to any collection of any  
3 recoverable amount pursuant to Paragraph (2) of Subsection B of  
4 this section.

5 I. Upon the direction of the secretary of finance  
6 and administration pursuant to Section 9-6-5.2 NMSA 1978, the  
7 secretary shall temporarily withhold the balance of a  
8 distribution to a municipality or county, net of any decrease  
9 or redirected amount pursuant to Subsection H of this section  
10 and any recoverable amount pursuant to Paragraph (2) of  
11 Subsection B of this section, that has failed to submit an  
12 audit report required by the Audit Act or a financial report  
13 required by Subsection F of Section 6-6-2 NMSA 1978. The  
14 amount to be withheld, the source of the withheld distribution  
15 and the number of months that the distribution is to be  
16 withheld shall be as directed by the secretary of finance and  
17 administration. A distribution withheld pursuant to this  
18 subsection shall remain in the tax administration suspense fund  
19 until distributed to the municipality or county and shall not  
20 be distributed to the general fund. An amount withheld  
21 pursuant to this subsection shall be distributed to the  
22 municipality or county upon direction of the secretary of  
23 finance and administration.

24 J. As used in this section:

25 (1) "amounts relating to the current month"

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1 means any amounts included in the net receipts of the current  
2 month that represent payment of tax due for the current month,  
3 correction of amounts processed in the current month that  
4 relate to the current month or that otherwise relate to  
5 obligations due for the current month;

6 (2) "amounts relating to prior periods" means  
7 any amounts processed during the current month that adjust  
8 amounts processed in a period or periods prior to the current  
9 month regardless of whether the adjustment is a correction of a  
10 department error or due to the filing of amended returns,  
11 payment of department-issued assessments, filing or approval of  
12 claims for refund, audit adjustments or other cause;

13 (3) "average distribution or transfer amount"  
14 means the following amounts; provided that a distribution or  
15 transfer that is negative shall not be used in calculating the  
16 amounts:

17 (a) the annual average of the total  
18 amount distributed or transferred to a municipality or county  
19 in each of the three twelve-month periods preceding the current  
20 month;

21 (b) if a distribution or transfer to a  
22 municipality or county has been made for less than three years,  
23 the total amount distributed or transferred in the year  
24 preceding the current month; or

25 (c) if a municipality or county has not

1 received distributions or transfers of net receipts for twelve  
 2 or more months, the monthly average of net receipts distributed  
 3 or transferred to the municipality or county preceding the  
 4 current month multiplied by twelve;

5 (4) "current month" means the month for which  
 6 the distribution or transfer is being prepared; and

7 (5) "repayment agreement" means an agreement  
 8 between the department and a municipality or county under which  
 9 the municipality or county agrees to allow the department to  
 10 recover an amount determined pursuant to Paragraph (2) of  
 11 Subsection B of this section by decreasing distributions or  
 12 transfers to the municipality or county for one or more months  
 13 beginning with the distribution or transfer to be made with  
 14 respect to a designated month. No interest shall be charged."

15 SECTION 8. Section 7-1-6.16 NMSA 1978 (being Laws 1983,  
 16 Chapter 213, Section 27, as amended) is amended to read:

17 "7-1-6.16. COUNTY EQUALIZATION DISTRIBUTION.--

18 A. Beginning on September 15, 1989 and on September  
 19 15 of each year thereafter, the department shall distribute to  
 20 any county that has imposed or continued in effect during the  
 21 state's preceding fiscal year a county gross receipts tax  
 22 pursuant to Section 7-20E-9 NMSA 1978 an amount equal to:

23 (1) the product of a fraction, the numerator  
 24 of which is the county's population and the denominator of  
 25 which is the state's population, multiplied by the annual sum

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1 for the county; less

2 (2) the net receipts received by the  
3 department during the report year, including any increase or  
4 decrease made pursuant to Section 7-1-6.15 NMSA 1978,  
5 attributable to the county gross receipts tax at a rate of one-  
6 eighth percent; provided that for any month in the report year,  
7 if no county gross receipts tax was in effect in the county in  
8 the previous month, the net receipts, for the purposes of this  
9 section, for that county for that month shall be zero.

10 B. If the amount determined by the calculation in  
11 Subsection A of this section is zero or a negative number for a  
12 county, no distribution shall be made to that county.

13 C. As used in this section:

14 (1) "annual sum" means for each county the sum  
15 of the monthly amounts for those months in the report year that  
16 follow a month in which the county had in effect a county gross  
17 receipts tax;

18 (2) "monthly amount" means an amount equal to  
19 the product of:

20 (a) the net receipts received by the  
21 department in the month attributable to the state gross  
22 receipts tax [~~plus five percent of the total amount of~~  
23 ~~deductions claimed pursuant to Section 7-9-92 NMSA 1978 for the~~  
24 ~~month plus five percent of the total amount of deductions~~  
25 ~~claimed pursuant to Section 7-9-93 NMSA 1978 for the month];~~

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1 and

2 (b) a fraction, the numerator of which  
3 is one-eighth percent and the denominator of which is the tax  
4 rate imposed by Section 7-9-4 NMSA 1978 in effect on the last  
5 day of the previous month;

6 (3) "population" means the most recent  
7 official census or estimate determined by the United States  
8 census bureau for the unit or, if neither is available, the  
9 most current estimated population for the unit provided in  
10 writing by the bureau of business and economic research at the  
11 university of New Mexico; and

12 (4) "report year" means the twelve-month  
13 period ending on the July 31 immediately preceding the date  
14 upon which a distribution pursuant to this section is required  
15 to be made."

16 SECTION 9. Section 7-1-6.46 NMSA 1978 (being Laws 2004,  
17 Chapter 116, Section 1, as amended) is amended to read:

18 "7-1-6.46. DISTRIBUTION TO MUNICIPALITIES--OFFSET FOR  
19 FOOD DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES  
20 DEDUCTION.--

21 A. Prior to July 1, 2017, for a municipality that  
22 [~~has not elected to impose~~] does not have in effect a municipal  
23 hold harmless gross receipts tax through an ordinance and that  
24 has a population of less than ten thousand according to the  
25 most recent federal decennial census, a distribution pursuant

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1 to Section 7-1-6.1 NMSA 1978 shall be made to a municipality in  
2 an amount, subject to any increase or decrease made pursuant to  
3 Section 7-1-6.15 NMSA 1978, equal to [~~the sum of:~~

4 ~~(1) the total deductions claimed pursuant to~~  
5 ~~Section 7-9-92 NMSA 1978 for the month by taxpayers from~~  
6 ~~business locations attributable to the municipality multiplied~~  
7 ~~by the sum of the combined rate of all municipal local option~~  
8 ~~gross receipts taxes in effect in the municipality for the~~  
9 ~~month plus one and two hundred twenty five thousandths percent;~~  
10 ~~and~~

11 ~~(2)]~~ the total deductions claimed pursuant to  
12 [~~Section]~~ Sections 7-9-92 and 7-9-93 NMSA 1978 for the month by  
13 taxpayers from business locations attributable to the  
14 municipality multiplied by the sum of the combined rate of all  
15 municipal local option gross receipts taxes in effect in the  
16 municipality for the month plus one and two hundred twenty-five  
17 thousandths percent.

18 B. For a municipality not described in Subsection A  
19 of this section, a distribution pursuant to Section 7-1-6.1  
20 NMSA 1978 shall be made to the municipality in an amount,  
21 subject to any increase or decrease made pursuant to Section  
22 7-1-6.15 NMSA 1978, equal to [~~the sum of:~~

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

1 ~~by the sum of the combined rate of all municipal local option~~  
2 ~~gross receipts taxes in effect in the municipality on January~~  
3 ~~1, 2007 plus one and two hundred twenty-five thousandths~~  
4 ~~percent in the following percentages:~~

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

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

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

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

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

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

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

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

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

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

25 ~~(k) on or after July 1, 2024 and prior~~

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1 ~~to July 1, 2025, thirty-five percent;~~

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

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

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

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

10 ~~(2)]~~ the total deductions claimed pursuant to  
11 ~~[Section]~~ Sections 7-9-92 and 7-9-93 NMSA 1978 for the month by  
12 taxpayers from business locations attributable to the  
13 municipality multiplied by the sum of the combined rate of all  
14 municipal local option gross receipts taxes in effect in the  
15 municipality on January 1, 2007 plus one and two hundred  
16 twenty-five thousandths percent in the following percentages:

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

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

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

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

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

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1 ~~to July 1, 2019, seventy-six percent;~~

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

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

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

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

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

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

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

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

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

20 ~~(o) on or after July 1, 2028 and prior~~  
21 ~~to July 1, 2029, seven] zero percent.~~

22 C. The distribution pursuant to [~~Subsections A and~~  
23 ~~B of~~] this section is in lieu of revenue that would have been  
24 received by the municipality but for the deductions provided by  
25 Sections 7-9-92 and 7-9-93 NMSA 1978. The distribution shall

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1 be considered gross receipts tax revenue and shall be used by  
2 the municipality in the same manner as gross receipts tax  
3 revenue, including payment of gross receipts tax revenue bonds.

4 ~~[A distribution pursuant to this section to a municipality not~~  
5 ~~described in Subsection A of this section or to a municipality~~  
6 ~~that has imposed a gross receipts tax through an ordinance that~~  
7 ~~does not provide a deduction contained in the Gross Receipts~~  
8 ~~and Compensating Tax Act shall not be made on or after July 1,~~  
9 ~~2029.]~~

10 D. If the reductions made by this ~~[2013]~~ 2017 act  
11 to the distributions made pursuant to ~~[Subsections A and B of]~~  
12 this section impair the ability of a municipality to meet its  
13 principal or interest payment obligations for revenue bonds  
14 that are outstanding prior to July 1, ~~[2013]~~ 2017 and that are  
15 secured by the pledge of all or part of the municipality's  
16 revenue from the distribution made pursuant to this section,  
17 then the amount distributed pursuant to this section to that  
18 municipality shall be increased by an amount sufficient to meet  
19 the required payment; provided that the total amount  
20 distributed to that municipality pursuant to this section does  
21 not exceed the amount that would have been due that  
22 municipality pursuant to this section as it was in effect on  
23 June 30, ~~[2013]~~ 2017.

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

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1 locations:

2 (1) within the municipality;

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

6 (3) outside the boundaries of the municipality  
7 on land owned by the municipality; and

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

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

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

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

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1           SECTION 10. Section 7-1-6.47 NMSA 1978 (being Laws 2004,  
2 Chapter 116, Section 2, as amended) is amended to read:

3           "7-1-6.47. DISTRIBUTION TO COUNTIES--OFFSET FOR FOOD  
4 DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

5           A. Prior to July 1, 2017, for a county that has not  
6 elected to impose a county hold harmless gross receipts tax  
7 through an ordinance and that has a population of less than  
8 forty-eight thousand according to the most recent federal  
9 decennial census, a distribution pursuant to Section 7-1-6.1  
10 NMSA 1978 shall be made to a county in an amount, subject to  
11 any increase or decrease made pursuant to Section 7-1-6.15 NMSA  
12 1978, equal to: [~~the sum of:~~

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

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

25                   ~~(3)]~~ (1) the total deductions claimed pursuant

1 to ~~[Section]~~ Sections 7-9-92 and 7-9-93 NMSA 1978 for the month  
 2 by taxpayers from business locations within a municipality in  
 3 the county multiplied by the combined rate of all county local  
 4 option gross receipts taxes in effect for the month that are  
 5 imposed throughout the county; and

6 ~~[(4)]~~ (2) the total deductions claimed  
 7 pursuant to ~~[Section]~~ Sections 7-9-92 and 7-9-93 NMSA 1978 for  
 8 the month by taxpayers from business locations in the county  
 9 but not within a municipality multiplied by the combined rate  
 10 of all county local option gross receipts taxes in effect for  
 11 the month that are imposed in the county area not within a  
 12 municipality.

13 B. For a county not described in Subsection A of  
 14 this section, a distribution pursuant to Section 7-1-6.1 NMSA  
 15 1978 shall be made to the county in an amount, subject to any  
 16 increase or decrease made pursuant to Section 7-1-6.15 NMSA  
 17 1978, equal to: ~~[the sum of:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 ~~to July 1, 2028, fourteen percent; and~~

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

4 ~~(2) the total deductions claimed pursuant to~~  
5 ~~Section 7-9-92 NMSA 1978 for the month by taxpayers from~~  
6 ~~business locations in the county but not within a municipality~~  
7 ~~multiplied by the combined rate of all county local option~~  
8 ~~gross receipts taxes in effect on January 1, 2007 that are~~  
9 ~~imposed in the county area not within a municipality in the~~  
10 ~~following percentages:~~

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

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

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

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

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

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

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

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

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1 to July 1, 2022, ~~fifty-six percent;~~

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

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

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

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

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

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

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

16 ~~(3)]~~ (1) the total deductions claimed pursuant  
17 to ~~[Section]~~ Sections 7-9-92 and 7-9-93 NMSA 1978 for the month  
18 by taxpayers from business locations within a municipality in  
19 the county multiplied by the combined rate of all county local  
20 option gross receipts taxes in effect on January 1, 2007 that  
21 are imposed throughout the county in the following percentages:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 ~~(o) on or after July 1, 2028 and prior~~

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1 to July 1, 2029, ~~seven~~] zero percent; and

2                                    [(4)] (2) the total deductions claimed  
3 pursuant to [~~Section~~] Sections 7-9-92 and 7-9-93 NMSA 1978 for  
4 the month by taxpayers from business locations in the county  
5 but not within a municipality multiplied by the combined rate  
6 of all county local option gross receipts taxes in effect on  
7 January 1, 2007 that are imposed in the county area not within  
8 a municipality in the following percentages:

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

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

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

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

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

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

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

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

25                                    ~~(i) on or after July 1, 2022 and prior~~

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1 ~~to July 1, 2023, forty-nine percent;~~

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

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

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

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

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

12 ~~(o) on or after July 1, 2028 and prior~~  
13 ~~to July 1, 2029, seven] zero percent.~~

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

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1           D. If the reductions made by this ~~[2013]~~ 2017 act  
2 to the distributions made pursuant to ~~[Subsections A and B of]~~  
3 this section impair the ability of a county to meet its  
4 principal or interest payment obligations for revenue bonds  
5 that are outstanding prior to July 1, ~~[2013]~~ 2017 and that are  
6 secured by the pledge of all or part of the county's revenue  
7 from the distribution made pursuant to this section, then the  
8 amount distributed pursuant to this section to that county  
9 shall be increased by an amount sufficient to meet the required  
10 payment; provided that the total amount distributed to that  
11 county pursuant to this section does not exceed the amount that  
12 would have been due that county pursuant to this section as it  
13 was in effect on June 30, ~~[2013]~~ 2017.

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

19           **SECTION 11.** A new section of the Tax Administration Act  
20 is enacted to read:

21           "[NEW MATERIAL] DISTRIBUTION--GROSS RECEIPTS TAX ON FOOD--  
22 MUNICIPALITIES AND COUNTIES.--

23           A. A distribution pursuant to Section 7-1-6.1 NMSA  
24 1978 shall be made to each municipality in an amount equal to  
25 eighty-four and thirty-seven hundredths percent of the net

1 receipts attributable to the gross receipts tax on food sold in  
2 the municipality.

3 B. A distribution pursuant to Section 7-1-6.1 NMSA  
4 1978 shall be made to each county in an amount equal to fifteen  
5 and sixty-three hundredths percent of the net receipts  
6 attributable to the gross receipts tax on food sold in that  
7 portion of a county that is located inside the boundaries of a  
8 municipality.

9 C. A distribution pursuant to Section 7-1-6.1 NMSA  
10 1978 shall be made to each county in an amount equal to the net  
11 receipts attributable to the gross receipts tax on food sold in  
12 that portion of a county located outside the boundaries of a  
13 municipality.

14 D. The distribution amounts made pursuant to this  
15 section shall be subject to any increase or decrease made  
16 pursuant to Section 7-1-6.15 NMSA 1978."

17 SECTION 12. Section 7-2F-12 NMSA 1978 (being Laws 2015,  
18 Chapter 143, Section 11) is amended to read:

19 "7-2F-12. CREDIT CLAIMS--AGGREGATE AMOUNT OF CLAIMS  
20 ALLOWED.--

21 A. A claim for a film and television tax credit  
22 shall be filed as part of a return filed pursuant to the Income  
23 Tax Act or the Corporate Income and Franchise Tax Act or an  
24 information return filed by a pass-through entity. The date a  
25 credit claim is received by the department shall determine the

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1 order that a credit claim is authorized for payment by the  
2 department. The aggregate amount of claims for a credit  
3 provided by the Film Production Tax Credit Act that may be  
4 authorized for payment in any fiscal year is [~~fifty million~~  
5 ~~dollars (\$50,000,000)] forty-five million dollars (\$45,000,000)  
6 with respect to the direct production expenditures or  
7 postproduction expenditures made on film or commercial  
8 audiovisual products. A film production company that submits a  
9 claim for a film and television tax credit that is unable to  
10 receive the tax credit because the claims for the fiscal year  
11 exceed the limitation in this subsection shall be placed for  
12 the subsequent fiscal year at the front of a queue of credit  
13 claimants submitting claims in the subsequent fiscal year in  
14 the order of the date on which the credit was authorized for  
15 payment.~~

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

20 (1) a credit claim amount of less than two  
21 million dollars (\$2,000,000) per taxable year shall be paid  
22 immediately upon authorization for payment of the credit claim;

23 (2) a credit claim amount of two million  
24 dollars (\$2,000,000) or more but less than five million dollars  
25 (\$5,000,000) per taxable year shall be divided into two equal

1 payments, with the first payment to be made immediately upon  
2 authorization of the payment of the credit claim and the second  
3 payment to be made twelve months following the date of the  
4 first payment; and

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

12 C. For a fiscal year in which the amount of total  
13 credit claims authorized for payment is less than the aggregate  
14 amount of credit claims that may be authorized for payment  
15 pursuant to this section, the next scheduled payments for  
16 credit claims authorized for payment pursuant to Subsection B  
17 of this section shall be accelerated for payment for that  
18 fiscal year and shall be paid to a taxpayer pursuant to the Tax  
19 Administration Act and in the order in which outstanding  
20 payments are scheduled in the queue established pursuant to  
21 Subsections A and B of this section; provided that the total  
22 credit claims authorized for payment shall not exceed the  
23 aggregate amount of credit claims that may be authorized for  
24 payment pursuant to this section. If a partial payment is made  
25 pursuant to this subsection, the difference owed shall retain

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1 its original position in the queue.

2 D. Any amount of a credit claim that is carried  
3 forward pursuant to Subsection B of this section shall be  
4 subject to the limit on the aggregate amount of credit claims  
5 that may be authorized for payment pursuant to Subsection A of  
6 this section in the fiscal year in which that amount is paid.

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

16 F. For purposes of determining the payment of  
17 credit claims pursuant to this section, the secretary of  
18 taxation and revenue may require that credit claims of  
19 affiliated persons be combined into one claim if necessary to  
20 accurately reflect closely integrated activities of affiliated  
21 persons."

22 SECTION 13. Section 7-9-3.5 NMSA 1978 (being Laws 2003,  
23 Chapter 272, Section 3, as amended) is amended to read:

24 "7-9-3.5. DEFINITION--GROSS RECEIPTS.--

25 A. As used in the Gross Receipts and Compensating

1 Tax Act:

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

13 (2) "gross receipts" includes:

14 (a) any receipts from sales of tangible  
15 personal property handled on consignment;

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

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

25 (d) amounts received from transmitting

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1 messages or conversations by persons providing telephone or  
2 telegraph services;

3 (e) amounts received by a New Mexico  
4 florist from the sale of flowers, plants or other products that  
5 are customarily sold by florists where the sale is made  
6 pursuant to orders placed with the New Mexico florist that are  
7 filled and delivered outside New Mexico by an out-of-state  
8 florist; and

9 (f) the receipts of a home service  
10 provider from providing mobile telecommunications services to  
11 customers whose place of primary use is in New Mexico if: 1)  
12 the mobile telecommunications services originate and terminate  
13 in the same state, regardless of where the services originate,  
14 terminate or pass through; and 2) the charges for mobile  
15 telecommunications services are billed by or for a customer's  
16 home service provider and are deemed provided by the home  
17 service provider. For the purposes of this section, "home  
18 service provider", "mobile telecommunications services",  
19 "customer" and "place of primary use" have the meanings given  
20 in the federal Mobile Telecommunications Sourcing Act; and

21 (3) "gross receipts" excludes:

22 (a) cash discounts allowed and taken;  
23 (b) New Mexico gross receipts tax,  
24 governmental gross receipts tax, ~~and~~ leased vehicle gross  
25 receipts tax and the gross receipts tax on food payable on

1 transactions for the reporting period;

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

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

14 (e) any type of time-price differential;

15 (f) amounts received solely on behalf of  
16 another in a disclosed agency capacity; and

17 (g) amounts received by a New Mexico  
18 florist from the sale of flowers, plants or other products that  
19 are customarily sold by florists where the sale is made  
20 pursuant to orders placed with an out-of-state florist for  
21 filling and delivery in New Mexico by a New Mexico florist.

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

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

8 SECTION 14. Section 7-9-62 NMSA 1978 (being Laws 1969,  
9 Chapter 144, Section 52, as amended) is amended to read:

10 "7-9-62. DEDUCTION--GROSS RECEIPTS TAX--AGRICULTURAL  
11 IMPLEMENTS--~~[AIRCRAFT MANUFACTURERS--VEHICLES THAT ARE NOT~~  
12 ~~REQUIRED TO BE REGISTERED--AIRCRAFT PARTS AND MAINTENANCE~~  
13 ~~SERVICES]~~ FARM TRACTORS--REPORTING REQUIREMENTS.--

14 A. ~~[Except for receipts deductible under Subsection~~  
15 ~~B of this section]~~ Fifty percent of the receipts from selling  
16 agricultural implements or farm tractors ~~[aircraft or vehicles~~  
17 ~~that are not required to be registered under the Motor Vehicle~~  
18 ~~Code]~~ may be deducted from gross receipts; provided that, with  
19 respect to agricultural implements, the sale is made to a  
20 person who states in writing that the person is regularly  
21 engaged in the business of farming or ranching. Any deduction  
22 allowed under Section 7-9-71 NMSA 1978 must be taken before the  
23 deduction allowed by this subsection is computed.

24 ~~[B. Receipts of an aircraft manufacturer or~~  
25 ~~affiliate from selling aircraft or from selling aircraft flight~~

1 ~~support, pilot training or maintenance training services may be~~  
2 ~~deducted from gross receipts. Any deduction allowed under~~  
3 ~~Section 7-9-71 NMSA 1978 must be taken before the deduction~~  
4 ~~allowed by this subsection is computed.~~

5 ~~C. Receipts from selling aircraft parts or~~  
6 ~~maintenance services for aircraft or aircraft parts may be~~  
7 ~~deducted from gross receipts. Any deduction allowed under~~  
8 ~~Section 7-9-71 NMSA 1978 must be taken before the deduction~~  
9 ~~allowed by this subsection is computed.~~

10 ~~D.]~~ B. A taxpayer allowed a deduction pursuant to  
11 this section shall report the amount of the deduction  
12 separately in a manner required by the department.

13 ~~[E.]~~ C. The department shall compile an annual  
14 report on the deductions provided by this section that shall  
15 include the number of taxpayers approved by the department to  
16 receive the deductions, the aggregate amount of deductions  
17 approved and any other information necessary to evaluate the  
18 effectiveness of the deductions. Beginning in 2019 and every  
19 five years thereafter that the deductions are in effect, the  
20 department shall compile and present the annual reports to the  
21 revenue stabilization and tax policy committee and the  
22 legislative finance committee with an analysis of the  
23 effectiveness and cost of the deductions.

24 ~~[F.]~~ D. As used in this section,

25 ~~[(1) "affiliate" means a business entity that~~

1 ~~directly or indirectly through one or more intermediaries~~  
2 ~~controls, is controlled by or is under common control with the~~  
3 ~~aircraft manufacturer;~~

4           ~~(2)~~] "agricultural implement" means a tool,  
5 utensil or instrument that is depreciable for federal income  
6 tax purposes and that is:

7           ~~[(a)]~~ (1) designed to irrigate agricultural  
8 crops above ground or below ground at the place where the crop  
9 is grown; or

10           ~~[(b)]~~ (2) designed primarily for use with a  
11 source of motive power, such as a tractor, in planting,  
12 growing, cultivating, harvesting or processing agricultural  
13 crops at the place where the crop is grown; in raising poultry  
14 or livestock; or in obtaining or processing food or fiber, such  
15 as eggs, milk, wool or mohair, from living poultry or livestock  
16 at the place where the poultry or livestock are kept for this  
17 purpose.

18           ~~[(3)]~~ ~~"aircraft manufacturer" means a business~~  
19 ~~entity that in the ordinary course of business designs and~~  
20 ~~builds private or commercial aircraft certified by the federal~~  
21 ~~aviation administration;~~

22           ~~(4)~~ ~~"business entity" means a corporation,~~  
23 ~~limited liability company, partnership, limited partnership,~~  
24 ~~limited liability partnership or real estate investment trust,~~  
25 ~~but does not mean an individual or a joint venture;~~

1                   ~~(5) "control" means equity ownership in a~~  
2 ~~business entity that:~~  
3                   ~~(a) represents at least fifty percent of~~  
4 ~~the total voting power of that business entity; and~~  
5                   ~~(b) has a value equal to at least fifty~~  
6 ~~percent of the total equity of that business entity; and~~  
7                   ~~(6) "flight support" means providing~~  
8 ~~navigation data, charts, weather information, online~~  
9 ~~maintenance records and other aircraft or flight-related~~  
10 ~~information and the software needed to access the~~  
11 ~~information.]"~~

12           SECTION 15. Section 7-9-77 NMSA 1978 (being Laws 1966,  
13 Chapter 47, Section 15, as amended) is amended to read:

14           "7-9-77. DEDUCTIONS--COMPENSATING TAX--AGRICULTURAL  
15 IMPLEMENTS AND FARM TRACTORS.--

16           A. Fifty percent of the value of agricultural  
17 implements or farm tractors [~~aircraft not exempted under~~  
18 ~~Section 7-9-30 NMSA 1978 or vehicles that are not required to~~  
19 ~~be registered under the Motor Vehicle Code]~~ may be deducted  
20 from the value in computing the compensating tax due; provided  
21 that, with respect to use of agricultural implements, the  
22 person using the property is regularly engaged in the business  
23 of farming or ranching. Any deduction allowed under Subsection  
24 B of this section is to be taken before the deduction allowed  
25 by this subsection is computed. As used in this subsection,

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1 "agricultural implement" means a tool, utensil or instrument  
2 that is:

3 (1) designed primarily for use with a source  
4 of motive power, such as a tractor, in planting, growing,  
5 cultivating, harvesting or processing agricultural produce at  
6 the place where the produce is grown; in raising poultry or  
7 livestock; or in obtaining or processing food or fiber, such as  
8 eggs, milk, wool or mohair, from living poultry or livestock at  
9 the place where the poultry or livestock are kept for this  
10 purpose; and

11 (2) depreciable for federal income tax  
12 purposes.

13 B. That portion of the value of tangible personal  
14 property on which an allowance was granted to the buyer for a  
15 trade-in of tangible personal property of the same type that  
16 was bought may be deducted from the value in computing the  
17 compensating tax due."

18 SECTION 16. Section 7-9-83 NMSA 1978 (being Laws 1993,  
19 Chapter 364, Section 1, as amended) is amended to read:

20 "7-9-83. DEDUCTION--GROSS RECEIPTS TAX--JET FUEL.--

21 [~~A. From July 1, 2003 through June 30, 2017,~~  
22 ~~fifty-five percent of the receipts from the sale of fuel~~  
23 ~~specially prepared and sold for use in turboprop or jet-type~~  
24 ~~engines as determined by the department may be deducted from~~  
25 ~~gross receipts.~~

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1           ~~B. After June 30, 2017, forty]~~ Thirty percent of  
 2 the receipts from the sale of fuel specially prepared and sold  
 3 for use in turboprop or jet-type engines as determined by the  
 4 department may be deducted from gross receipts."

5           SECTION 17. Section 7-9-84 NMSA 1978 (being Laws 1993,  
 6 Chapter 364, Section 2, as amended) is amended to read:

7           "7-9-84. DEDUCTION--COMPENSATING TAX--JET FUEL.--

8           ~~[A. From July 1, 2003 through June 30, 2017, fifty-~~  
 9 ~~five percent of the value of the fuel specially prepared and~~  
 10 ~~sold for use in turboprop or jet-type engines as determined by~~  
 11 ~~the department may be deducted in computing the compensating~~  
 12 ~~tax due.~~

13           ~~B. After June 30, 2017, forty]~~ Thirty percent of  
 14 the value of the fuel specially prepared and sold for use in  
 15 turboprop or jet-type engines as determined by the department  
 16 may be deducted in computing the compensating tax due."

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

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

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

25           B. The purpose of the high-wage jobs tax credit is

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underscored material = new  
 [bracketed material] = delete

1 to provide an incentive for urban and rural businesses to  
2 create and fill new high-wage economic-based jobs in New  
3 Mexico.

4 C. The high-wage jobs tax credit may be claimed and  
5 allowed in an amount equal to [~~ten~~] eight percent of the wages  
6 distributed to an eligible employee in a new high-wage  
7 economic-based job, but shall not exceed [~~twelve thousand~~  
8 ~~dollars (\$12,000)~~] nine thousand six hundred dollars (\$9,600)  
9 per job per qualifying period. The high-wage jobs tax credit  
10 may be claimed by an eligible employer for each new high-wage  
11 economic-based job performed for the year in which the new  
12 high-wage economic-based job is created and for the three  
13 consecutive qualifying periods as provided in this section.

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

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1 limits provided in this section, the application shall be  
2 denied by the department. The department shall make a  
3 determination on the application within one hundred eighty days  
4 of the date on which the application was filed; provided that  
5 the one-hundred-eighty-day period shall not begin until the  
6 application is complete, as determined by the department.

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

22 F. Any consecutive qualifying period for a new  
23 high-wage economic-based job shall not be eligible for a credit  
24 pursuant to this section unless the wage, the forty-eight-week  
25 occupancy and the residency requirements for a new high-wage

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1 economic-based job are met for each consecutive qualifying  
2 period. If any consecutive qualifying period for a new  
3 high-wage economic-based job does not meet the wage, the forty-  
4 eight-week occupancy and the residency requirements, all  
5 subsequent qualifying periods are ineligible.

6 G. Except as provided in Subsection H of this  
7 section, a new high-wage economic-based job shall not be  
8 eligible for a credit pursuant to this section if:

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

12 (2) the eligible employee was terminated from  
13 employment in New Mexico by another employer involved in the  
14 business merger or acquisition or other change in business  
15 organization with the taxpayer; and

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

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

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

25 H. A new high-wage economic-based job that was

1 created by another employer and for which an application for  
2 the high-wage jobs tax credit was received and is under review  
3 by the department prior to the time of the business merger or  
4 acquisition or other change in business organization shall  
5 remain eligible for the high-wage jobs tax credit for the  
6 balance of the consecutive qualifying periods. The new  
7 employer that results from a business merger or acquisition or  
8 other change in business organization may only claim the high-  
9 wage jobs tax credit for the balance of the consecutive  
10 qualifying periods for which the new high-wage economic-based  
11 job is otherwise eligible.

12 I. A new high-wage economic-based job shall not be  
13 eligible for a credit pursuant to this section if the job is  
14 created due to an eligible employer entering into a contract or  
15 becoming a subcontractor to a contract with a governmental  
16 entity that replaces one or more entities performing  
17 functionally equivalent services for the governmental entity  
18 unless the job is a new high-wage economic-based job that was  
19 not being performed by an employee of the replaced entity.

20 J. A new high-wage economic-based job shall not be  
21 eligible for a credit pursuant to this section if the eligible  
22 employer has more than one business location in New Mexico from  
23 which it conducts business and the requirements of Subsection E  
24 of this section are satisfied solely by moving the job from one  
25 business location of the eligible employer in New Mexico to

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1 another business location of the eligible employer in New  
2 Mexico.

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

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

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

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

16 (4) whether the application pertains to the  
17 first, second, third or fourth qualifying period for each  
18 eligible employee;

19 (5) the total number of employees employed by  
20 the employer at the job location on the day prior to the  
21 qualifying period and on the last day of the qualifying period;

22 (6) the total number of threshold jobs  
23 performed or based at the eligible employer's location on the  
24 day prior to the qualifying period and on the last day of the  
25 qualifying period;

1 (7) for an eligible employer that has more  
2 than one business location in New Mexico from which it conducts  
3 business, the total number of threshold jobs performed or based  
4 at each business location of the eligible employer in New  
5 Mexico on the day prior to the qualifying period and on the  
6 last day of the qualifying period;

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

10 (9) whether the eligible employer has ceased  
11 business operations at any of its business locations in New  
12 Mexico; and

13 (10) whether the application is precluded by  
14 Subsection O of this section.

15 L. Any person who willfully submits a false,  
16 incorrect or fraudulent certification required pursuant to  
17 Subsection K of this section shall be subject to all applicable  
18 penalties under the Tax Administration Act, except that the  
19 amount on which the penalty is based shall be the total amount  
20 of credit requested on the application for approval.

21 M. Except as provided in Subsection N of this  
22 section, an approved high-wage jobs tax credit shall be claimed  
23 against the taxpayer's modified combined tax liability and  
24 shall be filed with the return due immediately following the  
25 date of the credit approval. If the credit exceeds the

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1 taxpayer's modified combined tax liability, the excess shall be  
2 refunded to the taxpayer.

3 N. If the taxpayer ceases business operations in  
4 New Mexico while an application for credit approval is pending  
5 or after an application for credit has been approved for any  
6 qualifying period for a new high-wage economic-based job, the  
7 department shall not grant an additional high-wage jobs tax  
8 credit to that taxpayer, except as provided in Subsection O of  
9 this section, and shall extinguish any amount of credit  
10 approved for that taxpayer that has not already been claimed  
11 against the taxpayer's modified combined tax liability.

12 O. A taxpayer that has received a high-wage jobs  
13 tax credit shall not submit a new application for a credit for  
14 a minimum of five calendar years from the closing date of the  
15 last qualifying period for which the taxpayer received the  
16 credit if the taxpayer:

17 (1) lost eligibility to claim a tax credit  
18 from a previous application pursuant to Subsection E or N of  
19 this section; or

20 (2) reduces its total full-time employees in  
21 New Mexico by more than five percent after the date on which  
22 the last qualifying period on the taxpayer's previous  
23 application ends.

24 P. The economic development department and the  
25 taxation and revenue department shall report to the appropriate

1 interim legislative committee each year the cost of this tax  
2 credit to the state and its impact on company recruitment and  
3 job creation.

4 Q. As used in this section:

5 (1) "benefits" means all remuneration for work  
6 performed that is provided to an employee in whole or in part  
7 by the employer, other than wages, including the employer's  
8 contributions to insurance programs, health care, medical,  
9 dental and vision plans, life insurance, employer contributions  
10 to pensions, such as a 401(k), and employer-provided services,  
11 such as child care, offered by an employer to the employee;

12 (2) "consecutive qualifying periods" means the  
13 three qualifying periods successively following the qualifying  
14 period in which the new high-wage economic-based job was  
15 created;

16 (3) "department" means the taxation and  
17 revenue department;

18 (4) "domicile" means the sole place where an  
19 individual has a true, fixed, permanent home. It is the place  
20 where the individual has a voluntary, fixed habitation of self  
21 and family with the intention of making a permanent home;

22 (5) "eligible employee" means an individual  
23 who is employed in New Mexico by an eligible employer and who  
24 is a resident of New Mexico; "eligible employee" does not  
25 include an individual who:

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1 (a) bears any of the relationships  
2 described in Paragraphs (1) through (8) of 26 U.S.C. Section  
3 152(a) to the employer or, if the employer is a corporation, to  
4 an individual who owns, directly or indirectly, more than fifty  
5 percent in value of the outstanding stock of the corporation  
6 or, if the employer is an entity other than a corporation, to  
7 an individual who owns, directly or indirectly, more than fifty  
8 percent of the capital and profits interest in the entity;

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

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

25 (d) is working or has worked as an

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

7 (6) "eligible employer" means an employer  
8 that:

9 (a) sold and delivered more than fifty  
10 percent of its goods produced in New Mexico or non-retail  
11 services performed in New Mexico to persons outside New Mexico  
12 for use or resale outside New Mexico during the applicable  
13 qualifying period; provided that the fifty percent of those  
14 goods or services is measured by the eligible employer's gross  
15 receipts;

16 (b) is receiving or is eligible to  
17 receive development training program assistance pursuant to  
18 Section 21-19-7 NMSA 1978 during the applicable qualifying  
19 period; and

20 (c) whose principal business activities  
21 at the location in New Mexico for which the high-wage jobs tax  
22 credit is being claimed consist of manufacturing or performing  
23 non-retail services during the applicable qualifying period;

24 (7) "for use or resale outside New Mexico"  
25 means that the person who purchases the eligible employer's

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1 goods or services uses or resells the goods or services outside  
2 New Mexico or makes initial use of the goods or services  
3 outside New Mexico. If the purchaser conducts business in  
4 multiple states, goods and services are deemed for use or  
5 resale outside New Mexico, unless New Mexico is the primary  
6 market for the purchaser's goods or services;

7 (8) "full-time employee" means an employee who  
8 works for the same employer an average of at least thirty-two  
9 hours per week for at least forty-eight weeks per year;

10 (9) "manufacturing" means "manufacturing" as  
11 that term is used in Section 7-9A-3 NMSA 1978;

12 (10) "modified combined tax liability" means  
13 the total liability for the reporting period for the gross  
14 receipts tax imposed by Section 7-9-4 NMSA 1978 together with  
15 any tax collected at the same time and in the same manner as  
16 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 (11) "new high-wage economic-based job" means

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

6 (a) for a new high-wage economic-based  
7 job created prior to July 1, 2015: 1) forty thousand dollars  
8 (\$40,000) if the job is performed or based in or within ten  
9 miles of the external boundaries of a municipality with a  
10 population of sixty thousand or more according to the most  
11 recent federal decennial census or in a class H county; and 2)  
12 twenty-eight thousand dollars (\$28,000) if the job is performed  
13 or based in a municipality with a population of less than sixty  
14 thousand according to the most recent federal decennial census  
15 or in the unincorporated area, that is not within ten miles of  
16 the 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 economic-based  
20 job created on or after July 1, 2015: 1) sixty thousand  
21 dollars (\$60,000) if the job is performed or based in or within  
22 ten miles of the external boundaries of a municipality with a  
23 population of sixty thousand or more according to the most  
24 recent federal decennial census or in a class H county; and 2)  
25 forty thousand dollars (\$40,000) if the job is performed or

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1 based in a municipality with a population of less than sixty  
2 thousand according to the most recent federal decennial census  
3 or in the unincorporated area, that is not within ten miles of  
4 the 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 (12) "non-retail service" means a specialized  
8 service, excluding a construction service of any type, that is  
9 sold to another business or business entity and is used by the  
10 business or business entity to develop products for or deliver  
11 services to its customers. "Non-retail service" is not  
12 provided by direct individual-to-individual interaction and is  
13 not offered to the general public by the business or business  
14 entity. "Non-retail service" includes:

15 (a) research, development, engineering  
16 and testing services performed for a manufacturer that uses the  
17 product of the service to develop new or improve existing  
18 products;

19 (b) software and software application  
20 development services performed for a business;

21 (c) data processing and hosting services  
22 performed for a business that uses the service to deliver  
23 products or service to its own customers;

24 (d) digital film production services and  
25 post-film production services performed for a business that

1 will market the digital product or film;

2 (e) customer or call center services  
3 performed for a business, if those services do not support  
4 retail activities of the eligible employer; and

5 (f) professional services, such as  
6 accounting, engineering, legal and information technology  
7 services, if the eligible employer does not offer those  
8 services for sale to the general public;

9 (13) "performed in New Mexico" means that the  
10 labor, activities, property and equipment necessary to  
11 complete, but not to deliver, a service all occur or are  
12 utilized within New Mexico;

13 (14) "produced in New Mexico" means the  
14 creation, bringing into existence or making available a good or  
15 product for commercial sale through the expense of labor or  
16 capital, or both, within New Mexico;

17 (15) "qualifying period" means the period of  
18 twelve months beginning on the day an eligible employee begins  
19 working in a new high-wage economic-based job or the period of  
20 twelve months beginning on the anniversary of the day an  
21 eligible employee began working in a new high-wage economic-  
22 based job;

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

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1 (17) "threshold job" means a job that is  
2 occupied for at least forty-eight weeks of a calendar year by  
3 an eligible employee and that meets the wage requirements for a  
4 "new high-wage economic-based job"; and

5 (18) "wages" means all compensation paid by an  
6 eligible employer to an eligible employee through the  
7 employer's payroll system, including those wages that the  
8 employee elects to defer or redirect or the employee's  
9 contribution to a 401(k) or cafeteria plan program, but "wages"  
10 does not include benefits or the employer's share of payroll  
11 taxes, social security or medicare contributions, federal or  
12 state unemployment insurance contributions or workers'  
13 compensation."

14 SECTION 19. Section 7-19D-18 NMSA 1978 (being Laws 2013,  
15 Chapter 160, Section 11) is amended to read:

16 "7-19D-18. MUNICIPAL HOLD HARMLESS GROSS RECEIPTS TAX.--

17 A. Except as provided in Subsection B of this  
18 section, the majority of the members of the governing body of  
19 any municipality may impose by ordinance an excise tax not to  
20 exceed a rate of three-eighths percent of the gross receipts of  
21 any person engaging in business in the municipality for the  
22 privilege of engaging in business in the municipality. A tax  
23 imposed pursuant to this section shall be imposed by the  
24 enactment of one or more ordinances each imposing any number of  
25 gross receipts tax rate increments [~~but the total gross~~

1 ~~receipts tax rate imposed by all ordinances pursuant to this~~  
 2 ~~section shall not exceed an aggregate rate of three-eighths~~  
 3 ~~percent of the gross receipts of a person engaging in business.~~  
 4 ~~Municipalities may impose increments] of one-eighth [of one]~~  
 5 percent.

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

10 B. Except as provided in Subsections D and E of  
 11 this section, if a municipality has or will have in effect a  
 12 municipal hold harmless gross receipts tax on January 1, 2018,  
 13 the municipality shall repeal all increments of the tax by  
 14 ordinance to be effective January 1, 2018.

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

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1 municipality.

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

12 E. If the reduction to the rate of tax made by this  
13 2017 act impairs the ability of a municipality to meet its  
14 principal or interest payment obligations for revenue bonds  
15 that are outstanding prior to July 1, 2017 and that are secured  
16 by the pledge of all or part of the municipality's revenue from  
17 a municipal hold harmless gross receipts tax, the ordinance  
18 imposing the municipal hold harmless gross receipts tax shall  
19 not be deemed repealed until the outstanding revenue bonds have  
20 been discharged in full or provision has been fully made  
21 therefor."

22 SECTION 20. Section 7-20E-28 NMSA 1978 (being Laws 2013,  
23 Chapter 160, Section 12) is amended to read:

24 "7-20E-28. COUNTY HOLD HARMLESS GROSS RECEIPTS TAX.--

25 A. Except as provided in Subsection B of this

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1 section, the majority of the members of the governing body of  
2 any county may impose by ordinance an excise tax not to exceed  
3 a rate of three-eighths percent of the gross receipts of any  
4 person engaging in business in the county for the privilege of  
5 engaging in business in the county. A tax imposed pursuant to  
6 this section shall be imposed by the enactment of one or more  
7 ordinances, each imposing any number of gross receipts tax rate  
8 increments [~~but the total gross receipts tax rate imposed by~~  
9 ~~all ordinances pursuant to this section shall not exceed an~~  
10 ~~aggregate rate of three-eighths percent of the gross receipts~~  
11 ~~of a person engaging in business. Counties may impose~~  
12 increments] of one-eighth [~~of one]~~ percent.

13 [B.] The tax imposed [~~pursuant to Subsection A of~~  
14 by this section may be referred to as the "county hold harmless  
15 gross receipts tax". The imposition of a county hold harmless  
16 gross receipts tax is not subject to referendum.

17 B. Except as provided in Subsections D and E of  
18 this section, if a county has or will have in effect a county  
19 hold harmless gross receipts tax on January 1, 2018, the county  
20 shall repeal all increments of the tax by ordinance to be  
21 effective January 1, 2018.

22 C. The governing body of a county may, at the time  
23 of enacting an ordinance imposing the tax authorized in  
24 Subsection A of this section, dedicate the revenue for a  
25 specific purpose or area of county government services,

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1 including but not limited to police protection, fire  
2 protection, public transportation or street repair and  
3 maintenance. If the governing body proposes to dedicate such  
4 revenue, the ordinance and any revenue so dedicated shall be  
5 used by the county for that purpose unless a subsequent  
6 ordinance is adopted to change the purpose to which the revenue  
7 is dedicated or to place the revenue in the general fund of the  
8 county.

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

19 E. If the reduction to the rate of tax made by this  
20 2017 act impairs the ability of a county to meet its principal  
21 or interest payment obligations for revenue bonds that are  
22 outstanding prior to July 1, 2017 and that are secured by the  
23 pledge of all or part of the county's revenue from a county  
24 hold harmless gross receipts tax, the ordinance imposing the  
25 county hold harmless gross receipts tax shall not be deemed

1 repealed until the outstanding revenue bonds have been  
 2 discharged in full or provision has been fully made therefor."

3           **SECTION 21. REPEAL.--**Sections 7-2-18.18, 7-2-18.19,  
 4 7-2-18.21, 7-2-18.25, 7-2-18.29, 7-2A-19, 7-2A-21, 7-2A-23,  
 5 7-2A-25 and 7-2A-28 NMSA 1978 (being Laws 2007, Chapter 204,  
 6 Sections 2, 3 and 7, Laws 2009, Chapter 279, Section 1, Laws  
 7 2015, Chapter 130, Section 1, Laws 2002, Chapter 59, Section 1,  
 8 Laws 2007, Chapter 204, Sections 4 and 8, Laws 2009, Chapter  
 9 279, Section 2 and Laws 2015, Chapter 130, Section 2, as  
 10 amended) are repealed.

11           **SECTION 22. ADDITIONAL REPEAL.--**Sections 7-9-57.2,  
 12 7-9-63, 7-9-64, 7-9-95, 7-9-112, 7-9A-1 through 7-9A-9, 7-9A-11  
 13 and 7-9G-2 NMSA 1978 (being Laws 2002, Chapter 10, Section 1;  
 14 Laws 1969, Chapter 144, Sections 53 and 54; Laws 2005, Chapter  
 15 104, Section 25; Laws 2007, Chapter 204, Section 10; Laws 1979,  
 16 Chapter 347, Sections 1 and 2; Laws 2001, Chapter 57, Section 2  
 17 and Laws 2001, Chapter 337, Section 2; Laws 1979, Chapter 347,  
 18 Sections 3 through 7; Laws 1983, Chapter 206, Section 6; Laws  
 19 1979, Chapter 347, Sections 8 and 9; Laws 1997, Chapter 62,  
 20 Section 2; and Laws 2007, Chapter 229, Section 1, as amended)  
 21 are repealed.

22           **SECTION 23. APPLICABILITY.--**

23           A. The provisions of Section 18 of this act apply  
 24 to credit claims received on or after July 1, 2017.

25           B. The provisions of Section 21 of this act apply

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1 to taxable years beginning on or after January 1, 2018.

2 SECTION 24. EFFECTIVE DATE.--

3 A. The effective date of the provisions of Section  
4 21 of this act is January 1, 2018.

5 B. The effective date of the provisions of Sections  
6 1 through 20 and 22 of this act is July 1, 2017.

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