

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 98

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

AN ACT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (2) whether the spouse had a meaningful

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

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

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

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

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

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

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

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

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

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

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

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

11 J. As used in this section:

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

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

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

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

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

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

25 B. In addition to the property exempt under

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

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

6 (2) an amount each week equal to forty times
7 the ~~[federal]~~ minimum ~~[hourly]~~ wage rate pursuant to Subsection
8 A of Section 50-4-22 NMSA 1978. The superintendent of ~~[the]~~
9 regulation and licensing ~~[department]~~ shall provide a table
10 giving equivalent exemptions for pay periods of other than one
11 week.

12 C. As used in this section,

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

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

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

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

25 A. Except as provided in Subsection C of this

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

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

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

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

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

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

7 D. In the case of failure, with willful intent to
8 evade or defeat a tax, to pay when due the amount of tax
9 required to be paid, there shall be added to the amount fifty
10 percent of the tax or a minimum of twenty-five dollars
11 (\$25.00), whichever is greater, as penalty.

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

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

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1 date the request is received. If a penalty is imposed under
 2 Subsection A of this section with respect to the same
 3 transaction for the same period, no penalty shall be imposed
 4 under this subsection.

5 G. No penalty shall be imposed on:

6 (1) tax due in excess of tax paid in
 7 accordance with an approved estimated basis pursuant to Section
 8 7-1-10 NMSA 1978;

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

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

14 SECTION 6. Section 7-2E-1.1 NMSA 1978 (being Laws 2007,
 15 Chapter 172, Section 2, as amended) is amended to read:

16 "7-2E-1.1. TAX CREDIT--RURAL JOB TAX CREDIT.--

17 A. The tax credit created by this section may be
 18 referred to as the "rural job tax credit". Every eligible
 19 employer may apply for, and the taxation and revenue department
 20 may [~~allow~~] approve, a tax credit for each qualifying job the
 21 employer creates. The maximum tax credit amount with respect
 22 to each qualifying job is equal to:

23 (1) twenty-five percent of the first sixteen
 24 thousand dollars (\$16,000) in wages paid for the qualifying job
 25 if the job is performed or based at a location in a tier one

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1 area; or

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

6 B. The purpose of the rural job tax credit is to
7 encourage businesses to start new businesses or expand existing
8 businesses in rural areas of the state.

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

14 (1) four qualifying periods for each
15 qualifying job performed or based at a location in a tier one
16 area; and

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

19 D. With respect to each qualifying job for which an
20 eligible employer seeks the rural job tax credit, the employer
21 shall certify:

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

24 (2) the number of weeks during the qualifying
25 period the position was occupied; [~~and~~]

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

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

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

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

12 (7) whether the eligible employer has ceased
13 business operations at any of its business locations in New
14 Mexico.

15 E. The economic development department shall
16 determine which employers are eligible employers and shall
17 report the listing of eligible businesses to the taxation and
18 revenue department in a manner and at times the departments
19 shall agree upon.

20 F. To receive a rural job tax credit with respect
21 to any qualifying period, an eligible employer [~~must~~] shall
22 apply to the taxation and revenue department once per calendar
23 year on forms and in the manner the department may prescribe.
24 The annual application shall include a certification made
25 pursuant to Subsection D of this section and contain all

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

21 G. The holder of the tax credit document may
22 [~~apply~~] claim all or a portion of the rural job tax credit
23 granted by the document against the holder's modified combined
24 tax liability, personal income tax liability or corporate
25 income tax liability. Any balance of rural job tax credit

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1 granted by the document may be carried forward for up to three
2 years from the date of issuance of the tax credit document. No
3 amount of rural job tax credit may be applied against a gross
4 receipts tax or compensating tax imposed by a municipality or
5 county.

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

11 I. The secretary of economic development, the
12 secretary of taxation and revenue and the secretary of
13 workforce solutions or their designees shall annually evaluate
14 the effectiveness of the rural job tax credit in stimulating
15 economic development in the rural areas of New Mexico and make
16 a joint report of their findings to each session of the
17 legislature so long as the rural job tax credit is in effect.

18 ~~[J. An eligible employer that creates a qualifying~~
19 ~~job in the period beginning on or after July 1, 2006 but before~~
20 ~~July 1, 2007 or creates a qualifying job, the qualifying period~~
21 ~~of which includes a part of the period between July 1, 2006 and~~
22 ~~July 1, 2007, for which the eligible employer has not received~~
23 ~~a rural job tax credit document pursuant to this section may~~
24 ~~submit an application for, and the taxation and revenue~~
25 ~~department may issue to the eligible employer applying, a~~

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1 ~~document granting a tax credit for the appropriate qualifying~~
2 ~~period. Claims for a rural job tax credit submitted pursuant~~
3 ~~to the provisions of this subsection shall be submitted within~~
4 ~~three years from the date of issuance of the rural job tax~~
5 ~~credit document.~~

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

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

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

13 (3) the job is performed by:

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

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

20 ~~[L.]~~ K. Notwithstanding Subsection ~~[K]~~ J of this
21 section, a qualifying job that was created by another employer
22 and for which the rural job tax credit ~~[claim]~~ application was
23 received by the taxation and revenue department prior to July
24 1, 2013 and is under review or has been approved shall remain
25 eligible for the rural job tax credit for the balance of the

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1 qualifying periods for which the job qualifies by the new
 2 employer that results from a business merger, acquisition or
 3 other change in the organization.

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

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

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

16 ~~[1]~~ (2) "eligible employee" means any
 17 individual other than an individual who:

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

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1 entity;

2 ~~(b) if the employer is an estate or~~
3 ~~trust, is a grantor, beneficiary or fiduciary of the estate or~~
4 ~~trust or is an individual who bears any of the relationships~~
5 ~~described in Paragraphs (1) through (8) of 26 U.S.C. Section~~
6 ~~152(a) to a grantor, beneficiary or fiduciary of the estate or~~
7 ~~trust; or~~

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

18 (a) is a dependent of the employer;

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

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

1 the corporation;

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

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

13 [~~2~~] (3) "eligible employer" means an
 14 employer who is eligible for in-plant training assistance
 15 pursuant to Section 21-19-7 NMSA 1978;

16 [~~3~~] (4) "metropolitan statistical area"
 17 means a metropolitan statistical area in New Mexico as
 18 determined by the United States bureau of the census;

19 [~~4~~] (5) "modified combined tax liability"
 20 means the total liability for the reporting period for the
 21 gross receipts tax imposed by Section 7-9-4 NMSA 1978 together
 22 with any tax collected at the same time and in the same manner
 23 as that gross receipts tax, such as the compensating tax, the
 24 withholding tax, the interstate telecommunications gross
 25 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA

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1 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,
2 minus the amount of any credit other than the rural job tax
3 credit applied against any or all of these taxes or surcharges;
4 but "modified combined tax liability" excludes all amounts
5 collected with respect to [~~local option gross receipts taxes~~] a
6 gross receipts tax or compensating tax imposed by a
7 municipality or county;

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

11 [~~(5)~~] (7) "qualifying job" means a new job
12 that was created after July 1, 2000 and that was not created
13 due to a change in organizational structure established by the
14 employer that is occupied by an eligible employee for at least
15 [~~forty-eight~~] forty-four weeks of a qualifying period;

16 [~~(6)~~] (8) "qualifying period" means the period
17 of twelve months beginning on the day an eligible employee
18 begins working in a qualifying job or the period of twelve
19 months beginning on the anniversary of the day an eligible
20 employee began working in a qualifying job;

21 [~~(7)~~] (9) "rural area" means any part of the
22 state other than:

- 23 (a) an H class county;
24 (b) the state fairgrounds;
25 (c) an incorporated municipality within

1 a metropolitan statistical area if the municipality's
 2 population is thirty thousand or more according to the most
 3 recent federal decennial census; and

4 (d) any area within ten miles of the
 5 exterior boundaries of a municipality described in Subparagraph
 6 (c) of this paragraph;

7 ~~[(8)]~~ (10) "tier one area" means:

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

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

13 ~~[(9)]~~ (11) "tier two area" means any
 14 municipality within the rural area if the municipality's
 15 population according to the most recent federal decennial
 16 census is more than fifteen thousand; and

17 ~~[(10)]~~ (12) "wages" means all compensation
 18 paid by an eligible employer to an eligible employee through
 19 the employer's payroll system, including those wages the
 20 employee elects to defer or redirect, such as the employee's
 21 contribution to 401(k) or cafeteria plan programs, but not
 22 including benefits or the employer's share of payroll taxes."

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

25 "7-8A-9. NOTICE AND PUBLICATION OF LISTS OF ABANDONED

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

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

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

24 C. the telephone number and physical mailing
25 address of the administrator;

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

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

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

13 **SECTION 8.** Section 7-9-3 NMSA 1978 (being Laws 1978,
 14 Chapter 46, Section 1, as amended by Laws 2019, Chapter 270,
 15 Section 23 and by Laws 2019, Chapter 274, Section 11) is
 16 amended to read:

17 "7-9-3. DEFINITIONS.--As used in the Gross Receipts and
 18 Compensating Tax Act:

19 A. "buying" or "selling" means a transfer of
 20 property for consideration or the performance of service for
 21 consideration;

22 B. "department" means the taxation and revenue
 23 department, the secretary of taxation and revenue or an
 24 employee of the department exercising authority lawfully
 25 delegated to that employee by the secretary;

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1 C. "digital good" means a digital product delivered
2 electronically, including software, music, photography, video,
3 reading material, an application and a ringtone;

4 D. "financial corporation" means a savings and loan
5 association or an incorporated savings and loan company, trust
6 company, mortgage banking company, consumer finance company or
7 other financial corporation;

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

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

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

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

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

20 (5) similar activities;

21 F. "lease" or "leasing" means an arrangement
22 whereby, for a consideration, [~~property is employed for or by~~
23 ~~any person other than the owner of the property, except that~~
24 ~~the granting of a license to use property is licensing and is~~
25 ~~not a lease~~] the owner of property grants another person the

1 exclusive right to possess and use the property for a definite
2 term;

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

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

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

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

21 [~~J.~~] K. "marketplace provider" means a person who
22 facilitates the sale, lease or license of tangible personal
23 property or services or licenses for use of real property on a
24 marketplace seller's behalf, or on the marketplace provider's
25 own behalf, by:

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1 (1) listing or advertising the sale, lease or
2 license, by any means, whether physical or electronic,
3 including by catalog, internet website or television or radio
4 broadcast; and

5 (2) either directly or indirectly, through
6 agreements or arrangements with third parties collecting
7 payment from the customer and transmitting that payment to the
8 seller, regardless of whether the marketplace provider receives
9 compensation or other consideration in exchange for the
10 marketplace provider's services;

11 [~~K-~~] L. "marketplace seller" means a person who
12 sells, leases or licenses tangible personal property or
13 services or who licenses the use of real property through a
14 marketplace provider;

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

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

23 (2) a national, federal, state, Indian or
24 other governmental unit or subdivision, or an agency,
25 department or instrumentality of any of the foregoing;

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1 [M-] N. "property" means:

2 (1) real property;

3 (2) tangible personal property, including
4 electricity and manufactured homes;

5 (3) licenses, including licenses of digital
6 goods, but not including the licenses of copyrights, trademarks
7 or patents; and

8 (4) franchises;

9 [N-] O. "research and development services" means
10 an activity engaged in for other persons for consideration, for
11 one or more of the following purposes:

12 (1) advancing basic knowledge in a recognized
13 field of natural science;

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

16 (3) developing a new or improved product,
17 process or system with new or improved function, performance,
18 reliability or quality, whether or not the new or improved
19 product, process or system is offered for sale, lease or other
20 transfer;

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

25 (5) developing analytical or survey activities

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~~[bracketed material] = delete~~

1 incorporating technology review, application, trade-off study,
2 modeling, simulation, conceptual design or similar activities,
3 whether or not offered for sale, lease or other transfer; or

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

8 ~~[P.]~~ P. "secretary" means the secretary of taxation
9 and revenue or the secretary's delegate;

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

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1 business are sales of tangible personal property; and

2 [Q-] R. "use" or "using" includes use, consumption
3 or storage other than storage for subsequent sale in the
4 ordinary course of business or for use solely outside this
5 state."

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

8 "7-9-46. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL
9 GROSS RECEIPTS--SALES TO MANUFACTURERS.--

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

20 B. Receipts from selling tangible personal property
21 that is a consumable and used in such a way that it is consumed
22 in the manufacturing process of a product, provided that the
23 tangible personal property is not a tool or equipment used to
24 create the manufactured product, to a person engaged in the
25 business of manufacturing that product and who delivers a

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1 nontaxable transaction certificate or provides alternative
2 evidence pursuant to Section 7-9-43 NMSA 1978 to the seller may
3 be deducted [~~in the following percentages~~] from gross receipts
4 or from governmental gross receipts.

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

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

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

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

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

15 C. Regarding the deduction allowed pursuant to
16 Subsection B of this section, a nontaxable transaction
17 certificate is required if the seller is a seller of
18 electricity or fuel and is a party to an agreement with the
19 department pursuant to Section 7-1-21.1 NMSA 1978.

20 ~~[E.]~~ D. The purpose of the deductions provided in
21 this section is to encourage manufacturing businesses to locate
22 in New Mexico and to reduce the tax burden, including reducing
23 pyramiding, on the tangible personal property that is consumed
24 in the manufacturing process and that is purchased by
25 manufacturing businesses in New Mexico.

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

7 ~~[E.]~~ F. A taxpayer deducting gross receipts
8 pursuant to this section shall report the amount deducted
9 separately for each deduction provided in this section and
10 attribute the amount of the deduction to the appropriate
11 authorization provided in this section in a manner required by
12 the department that facilitates the evaluation by the
13 legislature of the benefit to the state of these deductions.

14 ~~[F.]~~ G. As used in Subsection B of this section,
15 "consumable" means tangible personal property that is
16 incorporated into, destroyed, depleted or transformed in the
17 process of manufacturing a product:

18 (1) including electricity, fuels, water,
19 manufacturing aids and supplies, chemicals, gases, repair
20 parts, spares and other tangibles used to manufacture a
21 product; but

22 (2) excluding tangible personal property used
23 in:

24 (a) the generation of power;

25 (b) the processing of natural resources,

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1 including hydrocarbons; and

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

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

6 "7-9-47. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL
7 GROSS RECEIPTS TAX--SALE OF TANGIBLE PERSONAL PROPERTY OR
8 LICENSES FOR RESALE.--Receipts from selling tangible personal
9 property or licenses may be deducted from gross receipts or
10 from governmental gross receipts if the sale is made to a
11 person who delivers a nontaxable transaction certificate to the
12 seller or provides alternative evidence pursuant to Section
13 7-9-43 NMSA 1978. The buyer [~~delivering the nontaxable~~
14 ~~transaction certificate~~] must resell the tangible personal
15 property or license either by itself or in combination with
16 other tangible personal property or licenses in the ordinary
17 course of business."

18 SECTION 11. Section 7-9-48 NMSA 1978 (being Laws 1969,
19 Chapter 144, Section 38, as amended) is amended to read:

20 "7-9-48. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL
21 GROSS RECEIPTS--SALE OF A SERVICE FOR RESALE.--Receipts from
22 selling a service for resale may be deducted from gross
23 receipts or from governmental gross receipts if the sale is
24 made to a person who delivers a nontaxable transaction
25 certificate to the seller or provides alternative evidence

1 pursuant to Section 7-9-43 NMSA 1978. The buyer [~~delivering~~
 2 ~~the nontaxable transaction certificate~~] must resell the service
 3 in the ordinary course of business and the resale must be
 4 subject to the gross receipts tax or governmental gross
 5 receipts tax."

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

8 "7-9-49. DEDUCTION--GROSS RECEIPTS TAX--SALE OF TANGIBLE
 9 PERSONAL PROPERTY AND LICENSES FOR LEASING.--

10 A. Except as otherwise provided by Subsection B of
 11 this section, receipts from selling tangible personal property
 12 and licenses may be deducted from gross receipts if the sale is
 13 made to a person who delivers a nontaxable transaction
 14 certificate to the seller or provides alternative evidence
 15 pursuant to Section 7-9-43 NMSA 1978. The buyer [~~delivering~~
 16 ~~the nontaxable transaction certificate~~] shall be engaged in a
 17 business that derives a substantial portion of its receipts
 18 from leasing or selling tangible personal property or licenses
 19 of the type sold. The buyer may not utilize the tangible
 20 personal property or license in any manner other than holding
 21 it for lease or sale or leasing or selling it either by itself
 22 or in combination with other tangible personal property or
 23 licenses in the ordinary course of business.

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

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

4 (2) coin-operated machines; or

5 (3) manufactured homes."

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

8 "7-9-50. DEDUCTION--GROSS RECEIPTS TAX--LEASE FOR
9 SUBSEQUENT LEASE.--

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

19 B. The deduction provided by this section does not
20 apply to receipts from leasing:

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

24 (2) coin-operated machines; or

25 (3) manufactured homes."

1 SECTION 14. Section 7-9-51 NMSA 1978 (being Laws 1969,
2 Chapter 144, Section 41, as amended) is amended to read:

3 "7-9-51. DEDUCTION--GROSS RECEIPTS TAX--SALE OF
4 CONSTRUCTION MATERIAL TO PERSONS ENGAGED IN THE CONSTRUCTION
5 BUSINESS.--

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

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

13 (1) an ingredient or component part of a
14 construction project that is subject to the gross receipts tax
15 upon its completion or upon the completion of the overall
16 construction project of which it is a part;

17 (2) an ingredient or component part of a
18 construction project that is subject to the gross receipts tax
19 upon the sale in the ordinary course of business of the real
20 property upon which it was constructed; or

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

24 SECTION 15. Section 7-9-52 NMSA 1978 (being Laws 1969,
25 Chapter 144, Section 42, as amended) is amended to read:

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1 "7-9-52. DEDUCTION--GROSS RECEIPTS TAX--SALE OF
2 CONSTRUCTION SERVICES AND CONSTRUCTION-RELATED SERVICES TO
3 PERSONS ENGAGED IN THE CONSTRUCTION BUSINESS.--

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

11 B. The buyer [~~delivering the nontaxable transaction~~
12 ~~certificate~~] shall have the construction services or
13 construction-related services directly contracted for or billed
14 to:

15 (1) a construction project that is subject to
16 the gross receipts tax upon its completion or upon the
17 completion of the overall construction project of which it is a
18 part;

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

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

24 SECTION 16. Section 7-9-52.1 NMSA 1978 (being Laws 2012,
25 Chapter 5, Section 6) is amended to read:

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1 "7-9-52.1. DEDUCTION--GROSS RECEIPTS TAX--LEASE OF
2 CONSTRUCTION EQUIPMENT TO PERSONS ENGAGED IN THE CONSTRUCTION
3 BUSINESS.--

4 A. Receipts from leasing construction equipment may
5 be deducted from gross receipts if the construction equipment
6 is leased to a person engaged in the construction business who
7 delivers a nontaxable transaction certificate to the person
8 leasing the construction equipment or provides alternative
9 evidence pursuant to Section 7-9-43 NMSA 1978.

10 B. The lessee [~~delivering the nontaxable~~
11 ~~transaction certificate~~] shall only use the construction
12 equipment at the construction location of:

13 (1) a construction project that is subject to
14 the gross receipts tax upon its completion or upon the
15 completion of the overall construction project of which it is a
16 part;

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

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

22 C. As used in this section, "construction
23 equipment" means equipment used on a construction project,
24 including trash containers, portable toilets, scaffolding and
25 temporary fencing."

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1 SECTION 17. Section 7-9-54.1 NMSA 1978 (being Laws 1992,
2 Chapter 40, Section 1, as amended) is amended to read:

3 "7-9-54.1. DEDUCTION--GROSS RECEIPTS FROM SALE OF
4 AEROSPACE SERVICES TO CERTAIN ORGANIZATIONS.--

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

6 ~~(1) "aerospace services" means research and
7 development services sold to or for resale to an organization
8 for resale by the organization to the United States air force;
9 and~~

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

14 ~~B.]~~ A. Receipts from performing or selling ~~[on or~~
15 ~~after October 1, 1995]~~ an aerospace service for resale may be
16 deducted from gross receipts if the sale is made to a buyer who
17 delivers a nontaxable transaction certificate or provides
18 alternative evidence pursuant to Section 7-9-43 NMSA 1978. The
19 buyer ~~[delivering the nontaxable transaction certificate]~~ shall
20 separately state the value of the aerospace service purchased
21 in the buyer's charge for the aerospace service on its
22 subsequent sale to an organization or, if the buyer is an
23 organization, on the organization's subsequent sale to the
24 United States, and the subsequent sale shall be in the ordinary
25 course of business of selling aerospace services to an

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1 organization or to the United States.

2 ~~[G. A percentage of the receipts from selling~~
 3 ~~aerospace services to or for resale to an organization may be~~
 4 ~~deducted from gross receipts in accordance with the following~~
 5 ~~table:~~

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

12 B. As used in this section:

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

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

21 **SECTION 18.** Section 7-9-56.3 NMSA 1978 (being Laws 2003,
 22 Chapter 232, Section 1, as amended) is amended to read:

23 "7-9-56.3. DEDUCTION--GROSS RECEIPTS--TRADE-SUPPORT
 24 COMPANY IN A BORDER ZONE.--

25 A. The receipts of a trade-support company may be

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underscored material = new
 [bracketed material] = delete

1 deducted from gross receipts if:

2 (1) the trade-support company first locates in
3 New Mexico within twenty miles of a port of entry on New
4 Mexico's border with Mexico on or after July 1, 2003 but before
5 July 1, 2013 or on or after January 1, 2016 but before January
6 1, 2021;

7 (2) the receipts are received by the company
8 within a five-year period beginning on the date the trade-
9 support company locates in New Mexico and the receipts are
10 derived from its business activities and operations at its
11 border zone location; and

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

14 B. A taxpayer allowed a deduction pursuant to this
15 section shall report the amount of the deduction separately in
16 a manner required by the department.

17 C. The department shall compile an annual report on
18 the deduction created pursuant to this section that shall
19 include the number of taxpayers approved by the department to
20 receive the deduction, the aggregate amount of deductions
21 approved and any other information necessary to evaluate the
22 effectiveness of the deduction. Beginning in 2016 and every
23 four years thereafter that the deduction is in effect, the
24 department shall compile and present the annual reports to the
25 revenue stabilization and tax policy committee and the

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1 legislative finance committee with an analysis of the
 2 effectiveness and cost of the deduction.

3 D. As used in this section:

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

7 ~~(1)~~ (2) "employee" means an individual,
 8 other than an individual who:

9 ~~(a) bears any of the relationships~~
 10 ~~described in Paragraphs (1) through (8) of 26 U.S.C. Section~~
 11 ~~152(a) to the employer or, if the employer is a corporation, to~~
 12 ~~an individual who owns, directly or indirectly, more than fifty~~
 13 ~~percent in value of the outstanding stock of the corporation~~
 14 ~~or, if the employer is an entity other than a corporation, to~~
 15 ~~an individual who owns, directly or indirectly, more than fifty~~
 16 ~~percent of the capital and profits interests in the entity;~~

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

23 ~~(c) is a dependent, as that term is~~
 24 ~~described in 26 U.S.C. Section 152(a)(9), of the employer, or,~~
 25 ~~if the taxpayer is a corporation, of an individual who owns,~~

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 [bracketed material] = delete

1 ~~directly or indirectly, more than fifty percent in value of the~~
2 ~~outstanding stock of the corporation or, if the employer is an~~
3 ~~entity other than a corporation, an individual who owns,~~
4 ~~directly or indirectly, more than fifty percent of the capital~~
5 ~~and profits interests in the entity or, if the employer is an~~
6 ~~estate or trust, of a grantor, beneficiary or fiduciary of the~~
7 ~~estate or trust;]~~

8 (a) is a dependent of the employer;

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 a dependent of a grantor, beneficiary or fiduciary
12 of the estate or trust;

13 (c) if the employer is a corporation, is
14 a dependent of an individual who owns, directly or indirectly,
15 more than fifty percent in value of the outstanding stock of
16 the corporation; or

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

21 [~~2~~] (3) "port of entry" means an
22 international port of entry in New Mexico at which customs
23 services are provided by United States customs and border
24 protection; and

25 [~~3~~] (4) "trade-support company" means a

1 customs brokerage firm or a freight forwarder."

2 SECTION 19. Section 7-9-60 NMSA 1978 (being Laws 1970,
3 Chapter 12, Section 4, as amended) is amended to read:

4 "7-9-60. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL
5 GROSS RECEIPTS TAX--SALES TO CERTAIN ORGANIZATIONS.--

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

19 B. The deduction provided by this section does not
20 apply to receipts from selling construction material, excluding
21 tangible personal property, whether removable or non-removable,
22 that is or would be classified for depreciation purposes as
23 three-year property, five-year property, seven-year property or
24 ten-year property, including indirect costs related to the
25 asset basis, by Section 168 of the Internal Revenue Code of

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1 1986, as that section may be amended or renumbered, or from
2 selling metalliferous mineral ore; except that receipts from
3 selling construction material or from selling metalliferous
4 mineral ore to a 501(c)(3) organization that is organized for
5 the purpose of providing homeownership opportunities to low-
6 income families may be deducted from gross receipts. Receipts
7 may be deducted under this subsection only if the buyer
8 delivers a nontaxable transaction certificate to the seller or
9 provides alternative evidence pursuant to Section 7-9-43 NMSA
10 1978. The buyer shall use the property in the conduct of
11 functions described in Section 501(c)(3) of the Internal
12 Revenue Code of 1986, as amended, and shall not employ the
13 tangible personal property in the conduct of an unrelated trade
14 or business, as defined in Section 513 of that code.

15 C. For the purposes of this section, "501(c)(3)
16 organization" means an organization that has been granted
17 exemption from the federal income tax by the United States
18 commissioner of internal revenue as an organization described
19 in Section 501(c)(3) of the United States Internal Revenue Code
20 of 1986, as amended or renumbered."

21 SECTION 20. Section 7-9-77.1 NMSA 1978 (being Laws 1998,
22 Chapter 96, Section 1, as amended) is amended to read:

23 "7-9-77.1. DEDUCTION--GROSS RECEIPTS TAX--CERTAIN MEDICAL
24 AND HEALTH CARE SERVICES.--

25 A. Receipts of a health care practitioner or an

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1 association of health care practitioners from payments by the
2 United States government or any agency thereof for provision of
3 medical and other health services by a health care practitioner
4 or of medical or other health and palliative services by
5 hospices or nursing homes to medicare beneficiaries pursuant to
6 the provisions of Title 18 of the federal Social Security Act
7 may be deducted from gross receipts.

8 B. Receipts of a health care practitioner or an
9 association of health care practitioners from payments by a
10 third-party administrator of the federal TRICARE program for
11 provision of medical and other health services by medical
12 doctors and osteopathic physicians to covered beneficiaries may
13 be deducted from gross receipts.

14 C. Receipts of a health care practitioner or an
15 association of health care practitioners from payments by or on
16 behalf of the Indian health service of the United States
17 department of health and human services for provision of
18 medical and other health services by medical doctors and
19 osteopathic physicians to covered beneficiaries may be deducted
20 from gross receipts.

21 D. Receipts of a clinical laboratory from payments
22 by the United States government or any agency thereof for
23 medical services provided by the clinical laboratory to
24 medicare beneficiaries pursuant to the provisions of Title 18
25 of the federal Social Security Act may be deducted from gross

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1 receipts.

2 E. Receipts of a home health agency from payments
3 by the United States government or any agency thereof for
4 medical, other health and palliative services provided by the
5 home health agency to medicare beneficiaries pursuant to the
6 provisions of Title 18 of the federal Social Security Act may
7 be deducted from gross receipts.

8 F. Prior to July 1, 2024, receipts of a dialysis
9 facility from payments by the United States government or any
10 agency thereof for medical and other health services provided
11 by the dialysis facility to medicare beneficiaries pursuant to
12 the provisions of Title 18 of the federal Social Security Act
13 may be deducted from gross receipts.

14 G. A taxpayer allowed a deduction pursuant to this
15 section shall report the amount of the deduction separately in
16 a manner required by the department. A taxpayer who has
17 receipts that are deductible pursuant to this section and
18 Section 7-9-93 NMSA 1978 shall deduct the receipts under this
19 section prior to calculating the receipts that may be deducted
20 pursuant to Section 7-9-93 NMSA 1978.

21 H. The department shall compile an annual report on
22 the deductions created pursuant to this section that shall
23 include the number of taxpayers approved by the department to
24 receive each deduction, the aggregate amount of deductions
25 approved and any other information necessary to evaluate the

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1 effectiveness of the deductions. The department shall compile
 2 and present the annual reports to the revenue stabilization and
 3 tax policy committee and the legislative finance committee with
 4 an analysis of the effectiveness and cost of the deductions and
 5 whether the deductions are providing a benefit to the state.

6 I. For the purposes of this section:

7 (1) "association of health care practitioners"
 8 means a corporation, unincorporated business entity or other
 9 legal entity organized by, owned by or employing one or more
 10 health care practitioners; provided that the entity is not:

11 (a) an organization granted exemption
 12 from the federal income tax by the United States commissioner
 13 of internal revenue as organizations described in Section
 14 501(c)(3) of the United States Internal Revenue Code of 1986,
 15 as that section may be amended or renumbered; or

16 (b) a health maintenance organization,
 17 hospital, hospice, nursing home or an entity that is solely an
 18 outpatient facility or intermediate care facility licensed
 19 pursuant to the Public Health Act;

20 [~~(1)~~] (2) "clinical laboratory" means a
 21 laboratory accredited pursuant to 42 USCA 263a;

22 [~~(2)~~] (3) "dialysis facility" means an end-
 23 stage renal disease facility as defined pursuant to 42 C.F.R.
 24 405.2102;

25 [~~(3)~~] (4) "health care practitioner" means:

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- 1 (a) an athletic trainer licensed
2 pursuant to the Athletic Trainer Practice Act;
- 3 (b) an audiologist licensed pursuant to
4 the Speech-Language Pathology, Audiology and Hearing Aid
5 Dispensing Practices Act;
- 6 (c) a chiropractic physician licensed
7 pursuant to the Chiropractic Physician Practice Act;
- 8 (d) a counselor or therapist
9 practitioner licensed pursuant to the Counseling and Therapy
10 Practice Act;
- 11 (e) a dentist licensed pursuant to the
12 Dental Health Care Act;
- 13 (f) a doctor of oriental medicine
14 licensed pursuant to the Acupuncture and Oriental Medicine
15 Practice Act;
- 16 (g) an independent social worker
17 licensed pursuant to the Social Work Practice Act;
- 18 (h) a massage therapist licensed
19 pursuant to the Massage Therapy Practice Act;
- 20 (i) a naprapath licensed pursuant to the
21 Naprapathic Practice Act;
- 22 (j) a nutritionist or dietitian licensed
23 pursuant to the Nutrition and Dietetics Practice Act;
- 24 (k) an occupational therapist licensed
25 pursuant to the Occupational Therapy Act;

1 (l) an optometrist licensed pursuant to
 2 the Optometry Act;

3 (m) an osteopathic physician licensed
 4 pursuant to the Osteopathic Medicine Act;

5 (n) a pharmacist licensed pursuant to
 6 the Pharmacy Act;

7 (o) a physical therapist licensed
 8 pursuant to the Physical Therapy Act;

9 (p) a physician licensed pursuant to the
 10 Medical Practice Act;

11 (q) a podiatrist licensed pursuant to
 12 the Podiatry Act;

13 (r) a psychologist licensed pursuant to
 14 the Professional Psychologist Act;

15 (s) a radiologic technologist licensed
 16 pursuant to the Medical Imaging and Radiation Therapy Health
 17 and Safety Act;

18 (t) a registered nurse licensed pursuant
 19 to the Nursing Practice Act;

20 (u) a respiratory care practitioner
 21 licensed pursuant to the Respiratory Care Act; and

22 (v) a speech-language pathologist
 23 licensed pursuant to the Speech-Language Pathology, Audiology
 24 and Hearing Aid Dispensing Practices Act;

25 [~~(4)~~] (5) "home health agency" means a for-

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underscored material = new
 [bracketed material] = delete

1 profit entity that is licensed by the department of health and
2 certified by the federal centers for medicare and medicaid
3 services as a home health agency and certified to provide
4 medicare services;

5 [~~(5)~~] (6) "hospice" means a for-profit entity
6 licensed by the department of health as a hospice and certified
7 to provide medicare services;

8 [~~(6)~~] (7) "nursing home" means a for-profit
9 entity licensed by the department of health as a nursing home
10 and certified to provide medicare services; and

11 [~~(7)~~] (8) "TRICARE program" means the program
12 defined in 10 U.S.C. 1072(7)."

13 SECTION 21. Section 7-9-92 NMSA 1978 (being Laws 2004,
14 Chapter 116, Section 5) is amended to read:

15 "7-9-92. DEDUCTION--GROSS RECEIPTS--SALE OF FOOD AT
16 RETAIL FOOD STORE.--

17 A. Receipts from the sale of food [~~at~~] by a retail
18 food store that are not exempt from gross receipts taxation and
19 are not deductible pursuant to another provision of the Gross
20 Receipts and Compensating Tax Act may be deducted from gross
21 receipts. The deduction provided by this section shall be
22 separately stated by the taxpayer.

23 B. For the purposes of this section:

24 (1) "food" means any food or food product for
25 home consumption that meets the definition of food in 7 USCA

1 [2012(g)(1)] 2012(k)(1) for purposes of the federal [~~food~~
 2 ~~stamp~~] supplemental nutrition assistance program; and

3 (2) "retail food store" means an establishment
 4 that sells food for home preparation and consumption and that
 5 meets the definition of retail food store in 7 USCA

6 [2012(k)(1)] 2012(o)(1) for purposes of the federal [~~food~~
 7 ~~stamp~~] supplemental nutrition assistance program, whether or
 8 not the establishment participates in the [~~food stamp~~]
 9 supplemental nutrition assistance program."

10 SECTION 22. Section 7-9-93 NMSA 1978 (being Laws 2004,
 11 Chapter 116, Section 6, as amended) is amended to read:

12 "7-9-93. DEDUCTION--GROSS RECEIPTS--CERTAIN RECEIPTS FOR
 13 SERVICES PROVIDED BY HEALTH CARE PRACTITIONER OR ASSOCIATION OF
 14 HEALTH CARE PRACTITIONERS.--

15 A. Receipts of a health care practitioner or an
 16 association of health care practitioners for commercial
 17 contract services or medicare part C services paid by a managed
 18 health care provider or health care insurer may be deducted
 19 from gross receipts if the services are within the scope of
 20 practice of the health care practitioner providing the service.
 21 Receipts from fee-for-service payments by a health care insurer
 22 may not be deducted from gross receipts.

23 B. The deduction provided by this section shall be
 24 applied only to gross receipts remaining after all other
 25 allowable deductions available under the Gross Receipts and

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underscored material = new
 [bracketed material] = delete

1 Compensating Tax Act have been taken and shall be separately
2 stated by the taxpayer.

3 C. For the purposes of this section:

4 (1) "association of health care practitioners"
5 means a corporation, unincorporated business entity or other
6 legal entity organized by, owned by or employing one or more
7 health care practitioners; provided that the entity is not:

8 (a) an organization granted exemption
9 from the federal income tax by the United States commissioner
10 of internal revenue as organizations described in Section
11 501(c)(3) of the United States Internal Revenue Code of 1986,
12 as that section may be amended or renumbered; or

13 (b) a health maintenance organization,
14 hospital, hospice, nursing home or an entity that is solely an
15 outpatient facility or intermediate care facility licensed
16 pursuant to the Public Health Act;

17 [~~(1)~~] (2) "commercial contract services" means
18 health care services performed by a health care practitioner
19 pursuant to a contract with a managed health care provider or
20 health care insurer other than those health care services
21 provided for medicare patients pursuant to Title 18 of the
22 federal Social Security Act or for medicaid patients pursuant
23 to Title 19 or Title 21 of the federal Social Security Act;

24 [~~(2)~~] (3) "health care insurer" means a person
25 that:

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

5 (b) contracts to reimburse licensed
6 health care practitioners for providing basic health services
7 to enrollees at negotiated fee rates;

8 [~~3~~] (4) "health care practitioner" means:

9 (a) a chiropractic physician licensed
10 pursuant to the provisions of the Chiropractic Physician
11 Practice Act;

12 (b) a dentist or dental hygienist
13 licensed pursuant to the Dental Health Care Act;

14 (c) a doctor of oriental medicine
15 licensed pursuant to the provisions of the Acupuncture and
16 Oriental Medicine Practice Act;

17 (d) an optometrist licensed pursuant to
18 the provisions of the Optometry Act;

19 (e) an osteopathic physician or an
20 osteopathic [~~physician's~~] physician assistant licensed pursuant
21 to the provisions of the Osteopathic Medicine Act;

22 (f) a physical therapist licensed
23 pursuant to the provisions of the Physical Therapy Act;

24 (g) a physician or physician assistant
25 licensed pursuant to the provisions of the Medical Practice

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1 Act;

2 (h) a podiatrist licensed pursuant to
3 the provisions of the Podiatry Act;

4 (i) a psychologist licensed pursuant to
5 the provisions of the Professional Psychologist Act;

6 (j) a registered lay midwife registered
7 by the department of health;

8 (k) a registered nurse or licensed
9 practical nurse licensed pursuant to the provisions of the
10 Nursing Practice Act;

11 (l) a registered occupational therapist
12 licensed pursuant to the provisions of the Occupational Therapy
13 Act;

14 (m) a respiratory care practitioner
15 licensed pursuant to the provisions of the Respiratory Care
16 Act;

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

20 (o) a professional clinical mental
21 health counselor, marriage and family therapist or professional
22 art therapist licensed pursuant to the provisions of the
23 Counseling and Therapy Practice Act who has obtained a master's
24 degree or a doctorate;

25 (p) an independent social worker

1 licensed pursuant to the provisions of the Social Work Practice
2 Act; and

3 (q) a clinical laboratory that is
4 accredited pursuant to 42 U.S.C. Section 263a but that is not a
5 laboratory in a physician's office or in a hospital defined
6 pursuant to 42 U.S.C. Section 1395x;

7 [~~(4)~~] (5) "managed health care provider" means
8 a person that provides for the delivery of comprehensive basic
9 health care services and medically necessary services to
10 individuals enrolled in a plan through its own employed health
11 care providers or by contracting with selected or participating
12 health care providers. "Managed health care provider" includes
13 only those persons that provide comprehensive basic health care
14 services to enrollees on a contract basis, including the
15 following:

- 16 (a) health maintenance organizations;
17 (b) preferred provider organizations;
18 (c) individual practice associations;
19 (d) competitive medical plans;
20 (e) exclusive provider organizations;
21 (f) integrated delivery systems;
22 (g) independent physician-provider
23 organizations;
24 (h) physician hospital-provider
25 organizations; and

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1 (i) managed care services organizations;
2 and

3 [~~5~~] (6) "medicare part C services" means
4 services performed pursuant to a contract with a managed health
5 care provider for medicare patients pursuant to Title 18 of the
6 federal Social Security Act."

7 SECTION 23. Section 7-9-96.2 NMSA 1978 (being Laws 2007,
8 Chapter 361, Section 8) is amended to read:

9 "7-9-96.2. CREDIT--GROSS RECEIPTS TAX--UNPAID CHARGES FOR
10 SERVICES PROVIDED IN A HOSPITAL.--

11 A. A licensed medical doctor [~~or~~], licensed
12 osteopathic physician or association of licensed medical
13 doctors or osteopathic physicians may claim a credit against
14 gross receipts taxes due in [~~the following amounts:~~

15 (1) ~~from July 1, 2007 through June 30, 2008,~~
16 ~~thirty-three percent of the value of unpaid qualified health~~
17 ~~care services;~~

18 (2) ~~from July 1, 2008 through June 30, 2009,~~
19 ~~sixty-seven percent of the value of unpaid qualified health~~
20 ~~care services; and~~

21 (3) ~~on and after July 1, 2009, one hundred~~
22 ~~percent of] an amount equal to the value of unpaid qualified~~

23 health care services.
24 B. As used in this section:

25 (1) "association of licensed medical doctors

1 or osteopathic physicians" means a corporation, unincorporated
 2 business entity or other legal entity organized by, owned by or
 3 employing one or more licensed medical doctors or osteopathic
 4 physicians; provided that the entity is not:

5 (a) an organization granted exemption
 6 from the federal income tax by the United States commissioner
 7 of internal revenue as organizations described in Section
 8 501(c)(3) of the United States Internal Revenue Code of 1986,
 9 as that section may be amended or renumbered; or

10 (b) a health maintenance organization,
 11 hospital, hospice, nursing home or an entity that is solely an
 12 outpatient facility or intermediate care facility licensed
 13 pursuant to the Public Health Act;

14 [~~1~~] (2) "qualified health care services"
 15 means medical care services provided by a licensed medical
 16 doctor or licensed osteopathic physician while on call to a
 17 hospital; and

18 [~~2~~] (3) "value of unpaid qualified health
 19 care services" means the amount that is charged for qualified
 20 health care services, not to exceed one hundred thirty percent
 21 of the reimbursement rate for the services under the medicaid
 22 program administered by the human services department, that
 23 remains unpaid one year after the date of billing and that the
 24 licensed medical doctor or licensed osteopathic physician has
 25 reason to believe will not be paid because:

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1 (a) at the time the services were
2 provided, the person receiving the services had no health
3 insurance or had health insurance that did not cover the
4 services provided;

5 (b) at the time the services were
6 provided, the person receiving the services was not eligible
7 for medicaid; and

8 (c) the charges are not reimbursable
9 under a program established pursuant to the Indigent Hospital
10 and County Health Care Act."

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

13 "7-9G-1. HIGH-WAGE JOBS TAX CREDIT--QUALIFYING HIGH-WAGE
14 JOBS.--

15 A. A taxpayer that is an eligible employer may
16 apply for, and the department may allow, a tax credit for each
17 new high-wage job. The credit provided in this section may be
18 referred to as the "high-wage jobs tax credit".

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

22 C. The high-wage jobs tax credit may be claimed and
23 allowed in an amount equal to eight and one-half percent of the
24 wages distributed to an eligible employee in a new high-wage
25 job but shall not exceed twelve thousand seven hundred fifty

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1 dollars (\$12,750) per job per qualifying period. The high-wage
2 jobs tax credit may be claimed by an eligible employer for each
3 new high-wage job performed for the year in which the new high-
4 wage job is created and for consecutive qualifying periods.

5 D. To receive a high-wage jobs tax credit, a
6 taxpayer shall file an application for approval of the credit
7 with the department once per calendar year on forms and in the
8 manner prescribed by the department. The annual application
9 shall contain the certification required by Subsection K of
10 this section and shall contain all qualifying periods that
11 closed during the calendar year for which the application is
12 made. Any qualifying period that did not close in the calendar
13 year for which the application is made shall be denied by the
14 department. The application for a calendar year shall be filed
15 no later than December 31 of the following calendar year. If a
16 taxpayer fails to file the annual application within the time
17 limits provided in this section, the application shall be
18 denied by the department. The department shall make a
19 determination on the application within one hundred eighty days
20 of the date on which the application was filed.

21 E. A new high-wage job shall not be eligible for a
22 credit pursuant to this section for the initial qualifying
23 period unless the eligible employer's total number of employees
24 with threshold jobs on the last day of the initial qualifying
25 period at the location at which the job is performed or based

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1 is at least one more than the number of threshold jobs on the
2 day prior to the date the new high-wage job was created. A new
3 high-wage job shall not be eligible for a credit pursuant to
4 this section for a consecutive qualifying period unless the
5 total number of threshold jobs at a location at which the job
6 is performed or based on the last day of that qualifying period
7 is greater than or equal to the number of threshold jobs at
8 that same location on the last day of the initial qualifying
9 period for the new high-wage job.

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

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

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

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

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

24 (a) the person who performed the job or
25 its functional equivalent prior to the business merger or

1 acquisition or other change in business organization; or

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

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

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

25 J. A new high-wage job shall not be eligible for a

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1 credit pursuant to this section if the eligible employer has
2 more than one business location in New Mexico from which it
3 conducts business and the requirements of Subsection E of this
4 section are satisfied solely by moving the job from one
5 business location of the eligible employer in New Mexico to
6 another business location of the eligible employer in New
7 Mexico.

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

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

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

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

20 (4) which qualifying period the application
21 pertains to for each eligible employee;

22 (5) the total number of employees employed by
23 the employer at the job location on the day prior to the
24 qualifying period and on the last day of the qualifying period;

25 (6) the total number of threshold jobs

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1 performed or based at the eligible employer's location on the
2 day prior to the qualifying period and on the last day of the
3 qualifying period;

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

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

13 (9) whether the eligible employer has ceased
14 business operations at any of its business locations in New
15 Mexico; and

16 (10) whether the application is precluded by
17 Subsection O of this section.

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

24 M. Except as provided in Subsection N of this
25 section, an approved high-wage jobs tax credit shall be claimed

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

1 against the taxpayer's modified combined tax liability and
2 shall be filed with the return due immediately following the
3 date of the credit approval. If the credit exceeds the
4 taxpayer's modified combined tax liability, the excess shall be
5 refunded to the taxpayer.

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

15 O. A taxpayer that has received a high-wage jobs
16 tax credit shall not submit a new application for the credit
17 for a minimum of two calendar years from the closing date of
18 the last qualifying period for which the taxpayer received the
19 credit if the taxpayer lost eligibility to claim the credit
20 from a previous application pursuant to Subsection N of this
21 section.

22 P. The economic development department and the
23 taxation and revenue department shall report to the appropriate
24 interim legislative committee each year the cost of the high-
25 wage jobs tax credit to the state and its impact on company

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1 recruitment and job creation.

2 Q. As used in this section:

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

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

13 (3) "department" means the taxation and
14 revenue department;

15 (4) "dependent" means "dependent" as defined
16 in 26 U.S.C. 152(a), as that section may be amended or
17 renumbered;

18 [~~4~~] (5) "domicile" means the sole place
19 where an individual has a true, fixed, permanent home. It is
20 the place where the individual has a voluntary, fixed
21 habitation of self and family with the intention of making a
22 permanent home;

23 [~~5~~] (6) "eligible employee" means an
24 individual who is employed in New Mexico by an eligible
25 employer and who is a resident of New Mexico; "eligible

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1 employee" does not include an individual who:

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

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

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

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

8 (a) is a dependent of the employer;

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 a dependent of a grantor, beneficiary or fiduciary
 12 of the estate or trust;

13 (c) if the employer is a corporation, is
 14 a dependent of an individual who owns, directly or indirectly,
 15 more than fifty percent in value of the outstanding stock of
 16 the corporation; or

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

21 [~~(6)~~] (7) "eligible employer" means an
 22 employer that, during the applicable qualifying period, would
 23 be eligible for development training program assistance under
 24 the fiscal year 2019 policies defining development training
 25 program eligibility developed by the industrial training board

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1 in accordance with Section 21-19-7 NMSA 1978;

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

15 [~~(8)~~] (9) "new high-wage job" means a new job
16 created in New Mexico by an eligible employer on or after July
17 1, 2004 and prior to July 1, 2026 that is occupied for at least
18 forty-four weeks of a qualifying period by an eligible employee
19 who is paid wages calculated for the qualifying period to be at
20 least:

21 (a) for a new high-wage job created
22 prior to July 1, 2015: 1) forty thousand dollars (\$40,000) if
23 the job is performed or based in or within ten miles of the
24 external boundaries of a municipality with a population of
25 sixty thousand or more according to the most recent federal

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1 decennial census or in a class H county; and 2) twenty-eight
2 thousand dollars (\$28,000) if the job is performed or based in
3 a municipality with a population of less than sixty thousand
4 according to the most recent federal decennial census or in the
5 unincorporated area, that is not within ten miles of the
6 external boundaries of a municipality with a population of
7 sixty thousand or more, of a county other than a class H
8 county; and

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

22 [~~(9)~~] (10) "new job" means a job that is
23 occupied by an employee who has not been employed in New Mexico
24 by the eligible employer in the three years prior to the date
25 of hire;

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1 [~~(10)~~] (11) "qualifying period" means the
2 period of twelve months beginning on the day an eligible
3 employee begins working in a new high-wage job or the period of
4 twelve months beginning on the anniversary of the day an
5 eligible employee began working in a new high-wage job;

6 [~~(11)~~] (12) "resident" means a natural person
7 whose domicile is in New Mexico at the time of hire or within
8 one hundred eighty days of the date of hire;

9 [~~(12)~~] (13) "threshold job" means a job that
10 is occupied for at least forty-four weeks of a calendar year by
11 an eligible employee and that meets the wage requirements for a
12 "new high-wage job"; and

13 [~~(13)~~] (14) "wages" means all compensation
14 paid by an eligible employer to an eligible employee through
15 the employer's payroll system, including those wages that the
16 employee elects to defer or redirect or the employee's
17 contribution to a 401(k) or cafeteria plan program, but "wages"
18 does not include benefits or the employer's share of payroll
19 taxes, social security or medicare contributions, federal or
20 state unemployment insurance contributions or workers'
21 compensation."

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

24 "7-29-2. DEFINITIONS.--As used in the Oil and Gas
25 Severance Tax Act:

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

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

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

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

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

22 F. "operator" means any person:

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

25 (2) owning an interest in any product at the

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1 time of severance who receives a portion or all of such product
2 for [~~his~~] the person's interest;

3 G. "primary recovery" means the displacement of oil
4 and of other liquid hydrocarbons removed from natural gas at or
5 near the wellhead from an oil well or pool as classified by the
6 oil conservation division of the energy, minerals and natural
7 resources department pursuant to Paragraph (11) of Subsection B
8 of Section 70-2-12 NMSA 1978 into the wellbore by means of the
9 natural pressure of the oil well or pool, including but not
10 limited to artificial lift;

11 H. "purchaser" means a person who is the first
12 purchaser of a product after severance from a production unit,
13 except as otherwise provided in the Oil and Gas Severance Tax
14 Act;

15 I. "person" means any individual, estate, trust,
16 receiver, business trust, corporation, firm, co-partnership,
17 cooperative, joint venture, association or other group or
18 combination acting as a unit, and the plural as well as the
19 singular number;

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

25 K. "new production natural gas well" means a

1 producing crude oil or natural gas well proration unit that
2 begins its initial natural gas production on or after May 1,
3 1987 as determined by the oil conservation division of the
4 energy, minerals and natural resources department;

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

14 M. "qualified enhanced recovery project", on and
15 after January 1, 1994, means the use or the expanded use of any
16 process approved by the oil conservation division of the
17 energy, minerals and natural resources department pursuant to
18 the Enhanced Oil Recovery Act for the displacement of oil and
19 of other liquid hydrocarbons removed from natural gas at or
20 near the wellhead from an oil well or pool classified by the
21 oil conservation division pursuant to Paragraph (11) of
22 Subsection B of Section 70-2-12 NMSA 1978, other than a primary
23 recovery process; the term includes but is not limited to the
24 use of a pressure maintenance process, a water flooding process
25 and immiscible, miscible, chemical, thermal or biological

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1 process or any other related process;

2 N. "production restoration project" means the use
3 of any process for returning to production a natural gas or oil
4 well that had thirty days or less of production in any period
5 of twenty-four consecutive months beginning on or after January
6 1, 1993, as approved and certified by the oil conservation
7 division of the energy, minerals and natural resources
8 department pursuant to the Natural Gas and Crude Oil Production
9 Incentive Act;

10 O. "well workover project" means any procedure
11 undertaken by the operator of a natural gas or crude oil well
12 that is intended to increase the production from the well and
13 that has been approved and certified by the oil conservation
14 division of the energy, minerals and natural resources
15 department pursuant to the Natural Gas and Crude Oil Production
16 Incentive Act;

17 P. "stripper well property" means a crude oil or
18 natural gas producing property that is assigned a single
19 production unit number by the department and is certified by
20 the oil conservation division of the energy, minerals and
21 natural resources department pursuant to the Natural Gas and
22 Crude Oil Production Incentive Act to have produced in the
23 preceding calendar year:

24 (1) if a crude oil producing property, an
25 average daily production of less than ten barrels of oil per

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1 eligible well per day;

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

5 (3) if a property with wells that produce both
6 crude oil and natural gas, an average daily production of less
7 than ten barrels of oil per eligible well per day, as
8 determined by converting the volume of natural gas produced by
9 the well to barrels of oil by using a ratio of six thousand
10 cubic feet to one barrel of oil;

11 Q. "average annual taxable value" means as
12 applicable:

13 (1) the average of the taxable value per one
14 thousand cubic feet, determined pursuant to Section 7-31-5 NMSA
15 1978, of all natural gas produced in New Mexico for the
16 specified calendar year as determined by the department; or

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

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

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

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

25 and

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

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

6 "7-30-2. DEFINITIONS.--As used in the Oil and Gas
7 Conservation Tax Act:

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

12 B. "production unit" means a unit of property
13 designated by the department from which products of common
14 ownership are severed;

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

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

20 E. "product" or "products" means oil, ~~[natural gas~~
21 ~~or liquid hydrocarbon, individually or any combination thereof,~~
22 ~~uranium, coal, geothermal energy, carbon dioxide, helium or a~~
23 ~~non-hydrocarbon gas]~~ including crude, slop or skim oil and
24 condensate; natural gas; liquid hydrocarbon, including ethane,
25 propane, isobutene, normal butane and pentanes plus,

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1 individually or any combination thereof; and non-hydrocarbon
2 gases, including carbon dioxide and helium;

3 F. "operator" means any person:

4 (1) engaged in the severance of products from
5 a production unit; or

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

9 G. "purchaser" means a person who is the first
10 purchaser of a product after severance from a production unit,
11 except as otherwise provided in the Oil and Gas Conservation
12 Tax Act;

13 H. "person" means any individual, estate, trust,
14 receiver, business trust, corporation, firm, copartnership,
15 cooperative, joint venture, association or other group or
16 combination acting as a unit, and the plural as well as the
17 singular number;

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

23 J. "tax" means the oil and gas conservation tax;
24 and

25 K. "volume" means the quantity of product severed

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1 reported using:

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

3 and

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

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

9 "7-31-2. DEFINITIONS.--As used in the Oil and Gas
10 Emergency School Tax Act:

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

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

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

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

23 E. "product" or "products" means oil, ~~[natural gas~~
24 ~~or liquid hydrocarbon, individually or any combination thereof,~~
25 ~~carbon dioxide, helium or a non-hydrocarbon gas]~~ including

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

6 F. "operator" means any person:

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

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

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

16 H. "person" means any individual, estate, trust,
17 receiver, business trust, corporation, firm, copartnership,
18 cooperative, joint venture, association, limited liability
19 company or other group or combination acting as a unit, and the
20 plural as well as the singular number;

21 I. "interest owner" means a person owning an entire
22 or fractional interest of whatsoever kind or nature in the
23 products at the time of severance from a production unit or who
24 has a right to a monetary payment that is determined by the
25 value of such products;

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

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

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

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

20 K. "average annual taxable value" means as
21 applicable:

22 (1) the average of the taxable value per one
23 thousand cubic feet, determined pursuant to Section 7-31-5 NMSA
24 1978, of all natural gas produced in New Mexico for the
25 specified calendar year as determined by the department; or

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

5 L. "tax" means the oil and gas emergency school
6 tax; and

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

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

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

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

16 "7-32-2. DEFINITIONS.--As used in the Oil and Gas Ad
17 Valorem Production Tax Act:

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

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

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

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1 product in any manner whatsoever;

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

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

13 F. "operator" means any person:

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

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

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

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

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

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

8 J. "assessed value" means the value against which
9 tax rates are applied; ~~and~~

10 K. "tax" means the oil and gas ad valorem
11 production tax; and

12 L. "volume" means the quantity of product severed
13 reported using:

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

15 and

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

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

21 "7-40-2. DEFINITIONS.--As used in the Insurance Premium
22 Tax Act:

23 A. "authorized insurer" means an insurer holding a
24 valid and subsisting certificate of authority to transact
25 insurance in this state;

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

4 C. "department" means the taxation and revenue
5 department;

6 D. "health maintenance organization" means "health
7 maintenance organization" as that term is used in Chapter 59A,
8 Article 46 NMSA 1978;

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

11 F. "insurance" means a contract whereby a person
12 undertakes to pay or indemnify another as to loss from certain
13 specified contingencies or perils, or to pay or grant a
14 specified amount or determinable benefit in connection with
15 ascertainable risk contingencies, or to act as surety;

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

19 H. "nonprofit health care plan" means "health care
20 plan" as that term is used in Chapter 59A, Article 47 NMSA
21 1978;

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

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

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

5 ~~[K.]~~ L. "superintendent" means the superintendent
6 of insurance or the superintendent's duly authorized
7 representative acting in official capacity;

8 ~~[L.]~~ M. "surplus lines broker" means "surplus lines
9 broker" as that term is used in Section 59A, Article 14 NMSA
10 1978;

11 ~~[M.]~~ N. "taxpayer" means:

12 (1) an authorized insurer;

13 (2) an insurer formerly authorized to transact
14 insurance in New Mexico and receiving premiums on policies
15 remaining in force in New Mexico, except an insurer that
16 withdrew from New Mexico prior to March 26, 1955;

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

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

21 (5) an unauthorized insurer that has assumed a
22 contract or policy of insurance directly or indirectly from an
23 authorized or formerly authorized insurer and is receiving
24 premiums on such policies remaining in force in New Mexico;
25 provided that the ceding insurer does not continue to pay the

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1 taxes imposed pursuant to the Insurance Premium Tax Act as to
2 such policy or contract; [~~or~~]

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

6 (7) members of the same bone fide trade or
7 professional association that has been in existence for five
8 years or more and that have entered into agreements to pool the
9 members' liabilities for workers' compensation benefits;
10 provided that an employer that is a public hospital shall
11 segregate the employer's accounting records and investment
12 accounts from those of the other members, in accordance with
13 applicable law; and

14 [~~N.~~] 0. "transact insurance" with respect to an
15 insurance contract or a business of insurance includes any of
16 the following, by mail or otherwise or whether or not for
17 profit:

- 18 (1) solicitation or inducement;
19 (2) negotiation;
20 (3) effectuation of an insurance contract;
21 (4) transaction of matters subsequent to
22 effectuation and arising out of such a contract;
23 (5) maintenance in this state of an office or
24 personnel performing any function in furtherance of an
25 insurer's business of insurance; or

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1 (6) maintenance by an insurer of assets in
 2 trust in this state for the benefit, security or protection of
 3 its policyholders or its policyholders and creditors."

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

6 "7-40-3. IMPOSITION AND RATE OF TAX--DENOMINATION OF
 7 "PREMIUM TAX", ~~[AND]~~ "HEALTH INSURANCE PREMIUM SURTAX" AND
 8 "SELF-INSURED GROUP TAX".--

9 A. ~~[A]~~ The tax imposed pursuant to this subsection
 10 may be referred to as the "premium tax". The premium tax is
 11 imposed at a rate of three and three-thousandths percent of the
 12 gross premiums and membership and policy fees received or
 13 written by a taxpayer ~~[as reported by March 1 of each year to~~
 14 ~~the department in the appropriate schedule, as determined by~~
 15 ~~the department, of the taxpayer's annual financial statement]~~
 16 on insurance or contracts covering risks within the state
 17 during the preceding calendar year. The premium tax shall not
 18 be imposed on self-insured groups or on return premiums,
 19 dividends paid or credited to policyholders or contract holders
 20 and premiums received for reinsurance on New Mexico risks.
 21 ~~[The tax imposed pursuant to this section may be referred to as~~
 22 ~~the "premium tax".]~~

23 B. For a taxpayer that is an insurer lawfully
 24 organized pursuant to the laws of the Republic of Mexico, the
 25 premium tax shall apply solely to the taxpayer's gross premium

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1 receipts from insurance policies issued by the taxpayer in New
2 Mexico that cover residents of New Mexico or property or risks
3 principally domiciled or located in New Mexico.

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

8 D. The premium tax provided in Subsection A of this
9 section is imposed on the gross premiums received of a surplus
10 lines broker, less return premiums, on surplus lines insurance
11 where New Mexico is the home state of the insured transacted
12 under the surplus lines broker's license, as reported by the
13 surplus lines broker to the department on forms and in the
14 manner prescribed by the department. For purposes of this
15 subsection, "gross premiums" shall include any additional
16 amount charged the insured, including policy fees, risk
17 purchasing group fees and inspection fees; but "premiums" shall
18 not include any additional amount charged the insured for
19 local, state or federal taxes; regulatory authority fees; or
20 examination fees, if any. For a surplus lines policy issued to
21 an insured whose home state is New Mexico and where only a
22 portion of the risk is located in New Mexico, the entire
23 premium tax shall be paid in accordance with this section.

24 E. In addition to the premium tax, a health
25 insurance premium surtax is imposed at a rate of one percent of

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

1 the gross health insurance premiums and membership and policy
 2 fees received by the taxpayer on hospital and medical expense
 3 incurred insurance or contracts; nonprofit health care plan
 4 contracts, excluding dental or vision only contracts; and
 5 health maintenance organization subscriber contracts covering
 6 health risks within this state during the preceding calendar
 7 year. The tax shall not apply to return health insurance
 8 premiums, dividends paid or credited to policyholders or
 9 contract holders and health insurance premiums received for
 10 reinsurance on New Mexico risks. The surtax imposed pursuant
 11 to this ~~[section]~~ subsection may be referred to as the "health
 12 insurance premium surtax".

13 F. A tax is imposed at a rate of nine-tenths
 14 percent on the net premiums, as defined in the Group Self-
 15 Insurance Act, received or written by a self-insured group
 16 within the state during the preceding calendar year. The tax
 17 imposed pursuant to this subsection may be referred to as the
 18 "self-insured group tax".

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

21 "7-40-7. DATE PAYMENT DUE.--

22 A. Except as provided in ~~[Subsection B]~~ Subsections
 23 B and C of this section, for each calendar quarter, an
 24 estimated payment of the premium tax and the health insurance
 25 premium surtax shall be made on April 15, July 15, October 15

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

8 B. Within sixty days after expiration of a calendar
9 quarter, a surplus lines broker shall pay the premium tax due
10 on surplus lines insurance where New Mexico is the home state
11 of the insured transacted under the surplus lines broker's
12 license during such calendar quarter, as reported to the
13 department.

14 C. For each calendar quarter, an estimated payment
15 of the self-insured group tax shall be made on April 15, July
16 15, October 15 and the following January 15. The estimated
17 payments shall be equal to at least one-fourth of the payment
18 made during the previous calendar year. The final adjustment
19 for payments due for the prior year shall be made with the
20 return filed on April 15, at which time all taxes for that year
21 are due."

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

24 "9-11-6.4. ELECTRONIC FILING AND PAYMENT.--

25 A. The department is authorized to require where

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1 practical, in lieu of:

2 (1) the filing of paper documents, the filing
 3 by electronic or optical means of any return, application,
 4 report or other document required under any law or program
 5 administered by the department; and

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

9 B. The department, using reasonable criteria, may
 10 require some classes of persons to file returns and remit
 11 payments electronically or optically while not so requiring
 12 others to file returns and remit payments in that manner. The
 13 date of filing or payment shall be the date the return,
 14 application, report, payment or other document is transmitted
 15 to the department in a form able to be processed."

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

18 **SECTION 34. APPLICABILITY.**--The provisions of Section 6
 19 of this act apply to tax returns filed on or after the
 20 effective date of that section:

21 A. for rural job tax credit claims against a
 22 taxpayer's modified combined tax liability, for qualified jobs
 23 created in the calendar quarters beginning on or after July 1,
 24 2022; and

25 B. for rural job tax credit claims against a

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underscoring material = new
 [bracketed material] = delete

1 taxpayer's personal income tax liability or corporate income
2 tax liability, for qualified jobs created in taxable years
3 beginning on or after January 1, 2022.

4 SECTION 35. EFFECTIVE DATE.--

5 A. The effective date of the provisions of Sections
6 1 through 5 and 7 through 33 of this act is July 1, 2021.

7 B. The effective date of the provisions of Section
8 6 of this act is January 1, 2022.

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