HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 252

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO TAXATION; AMENDING THE INDUSTRIAL REVENUE BOND ACT AND THE COUNTY INDUSTRIAL REVENUE BOND ACT TO INCLUDE CERTAIN ELECTRIC ENERGY STORAGE FACILITIES AS ELIGIBLE PROJECTS; REQUIRING THE PROVISION OF PAYMENT-IN-LIEU-OF-TAXES PAYMENTS TO SCHOOL DISTRICTS IF A MUNICIPALITY OR COUNTY ACQUIRES ENERGY STORAGE FACILITY PROJECTS; ADJUSTING INDIVIDUAL INCOME TAX BRACKETS AND RATES; EXTENDING THE AMOUNT OF TIME TO MAKE A QUALIFIED INVESTMENT AND BE ELIGIBLE FOR THE ANGEL INVESTMENT

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CREDIT; ADDING CERTAIN HEALTH CARE PROVIDERS TO THE RURAL HEALTH CARE PRACTITIONER TAX CREDIT; MODIFYING THE REQUIREMENTS FOR RECEIVING THE TAX CREDIT; REQUIRING REPORTING OF THE TAX CREDIT; LIMITING THE CAPITAL GAINS DEDUCTION PURSUANT TO THE INCOME TAX ACT; CREATING THE HOME FIRE RECOVERY INCOME TAX CREDIT; CREATING A FLAT CORPORATE INCOME TAX RATE; STBTC→~~REQUIRING ALL BUSINESS INCOME TO BE APPORTIONED BY THE SINGLE SALES FACTOR;~~←STBTC CREATING A GROSS RECEIPTS TAX DEDUCTION FOR ENVIRONMENTAL MODIFICATION SERVICES MADE TO THE HOMES OF MEDICAID RECIPIENTS; CREATING GROSS RECEIPTS TAX DEDUCTIONS FOR THE SALE OF CHILD CARE ASSISTANCE THROUGH A LICENSED CHILD CARE ASSISTANCE PROGRAM AND PRE-KINDERGARTEN SERVICES BY FOR-PROFIT PRE-KINDERGARTEN PROVIDERS; PROVIDING A GROSS RECEIPTS TAX DEDUCTION FOR SALES OF ENERGY STORAGE EQUIPMENT TO A GOVERNMENT FOR THE PURPOSE OF INSTALLING AN ENERGY STORAGE FACILITY; STBTC→~~REPEALING SECTIONS OF THE UNIFORM DIVISION OF INCOME FOR TAX PURPOSES ACT.~~←STBTC STBTC→INCREASING THE AMOUNT OF THE SPECIAL NEEDS ADOPTED CHILD TAX CREDIT; PROVIDING AN INCOME TAX DEDUCTION FOR SCHOOL SUPPLIES PURCHASED BY A PUBLIC SCHOOL TEACHER; EXTENDING THE GEOTHERMAL GROUND-COUPLED HEAT PUMP TAX CREDITS PURSUANT TO THE INCOME TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT, INCREASING THE ANNUAL AGGREGATE CAP FOR EACH CREDIT, MAKING THE CREDIT REFUNDABLE AND AMENDING THE DEFINITION OF "GEOTHERMAL GROUND-COUPLED HEAT PUMP"; CREATING THE CLEAN CAR INCOME TAX

CREDIT, THE CLEAN CAR CHARGING UNIT INCOME TAX CREDIT, THE CLEAN CAR CORPORATE INCOME TAX CREDIT AND THE CLEAN CAR CHARGING UNIT CORPORATE INCOME TAX CREDIT; REMOVING A SUNSET DATE TO ALLOW A TAXPAYER ENGAGED IN CERTAIN ELECTRICITY GENERATION TO APPORTION BUSINESS INCOME BY THE SINGLE SALES FACTOR PERMANENTLY; REQUIRING CERTAIN RECEIPTS FOR SERVICES PROVIDED BY A HEALTH CARE PRACTITIONER THAT ARE DEDUCTIBLE FROM GROSS RECEIPTS TO BE WITHIN THE SCOPE OF PRACTICE OF THE PRACTITIONER AND DEFINING "COPAYMENT" IN THE DEDUCTION; CREATING A GROSS RECEIPTS TAX CREDIT FOR LEGAL SERVICES FOR WILDFIRE COMPENSATION RECOVERY; CREATING A GROSS RECEIPTS TAX CREDIT FOR DYED DIESEL USED FOR AGRICULTURAL PURPOSES; PROVIDING AN OIL AND GAS SEVERANCE TAX EXEMPTION FOR THE SEVERANCE OF OIL AND NATURAL GAS FROM A PRODUCTION COMPLIANCE PROJECT COMPLETED TO COMPLY WITH CERTAIN AGENCY RULES; REMOVING THE SUNSET DATE OF AN INCOME TAX EXEMPTION FOR ARMED FORCES RETIREMENT PAY AND EXTENDING THE EXEMPTION TO THE SURVIVING SPOUSE OF AN ARMED FORCES RETIREE; CREATING THE GEOTHERMAL ELECTRICITY GENERATION INCOME TAX CREDIT AND THE GEOTHERMAL ELECTRICITY GENERATION CORPORATE INCOME TAX CREDIT; CREATING THE ADVANCED ENERGY EQUIPMENT INCOME TAX CREDIT AND THE ADVANCED ENERGY EQUIPMENT CORPORATE INCOME TAX CREDIT; RESTORING CERTAIN INCOME IN THE AMOUNT OF INCOME USED TO DETERMINE CORPORATE INCOME TAX LIABILITY, CLARIFYING AN AMOUNT

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OF CERTAIN INTANGIBLE INCOME USED TO DETERMINE THAT LIABILITY AND INCLUDING CORPORATIONS THAT HAVE TWENTY PERCENT OR MORE OF THEIR PROPERTY, PAYROLL AND SALES SOURCED TO LOCATIONS WITHIN THE UNITED STATES OR ITS POSSESSIONS OR TERRITORIES IN A WATER'S EDGE GROUP; AMENDING OWNERSHIP ELIGIBILITY REQUIREMENTS FOR THE NEW SOLAR MARKET DEVELOPMENT INCOME TAX CREDIT AND INCREASING THE ANNUAL AGGREGATE AMOUNT OF CREDITS THAT MAY BE CERTIFIED IN CERTAIN CALENDAR YEARS; CREATING GROSS RECEIPTS TAX AND COMPENSATING TAX DEDUCTIONS FOR GEOTHERMAL ELECTRICITY GENERATION FACILITY CONSTRUCTION COSTS; PROVIDING DELAYED REPEALS.←STBTC

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

SECTION 1. Section 3-32-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-31-1, as amended) is amended to read:

"3-32-1. INDUSTRIAL REVENUE BOND ACT--DEFINITIONS.--Wherever used in the Industrial Revenue Bond Act unless a different meaning clearly appears in the context, the following terms whether used in the singular or plural shall be given the following respective interpretations:

A. "municipality" means a city, town or village in New Mexico;

B. "project" means any land and building or other improvements thereon, the acquisition by or for a New Mexico

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corporation of the assets or stock of an existing business or corporation located outside the state to be relocated within or near the municipality in the state and all real and personal properties deemed necessary in connection therewith, whether or not now in existence, which shall be suitable for use by the following or by any combination of two or more thereof:

(1) an industry for the manufacturing, processing or assembling of agricultural or manufactured products;

(2) a commercial enterprise in storing, warehousing, distributing or selling products of agriculture, mining or industry but does not include a facility designed for the sale of goods or commodities at retail or distribution to the public of electricity, gas, water or telephone or other services commonly classified as public utilities;

(3) a business in which all or part of the activities of the business involve the supplying of services to the general public or to governmental agencies or to a specific industry or customer but does not include an establishment primarily engaged in the sale of goods or commodities at retail;

(4) a water distribution or irrigation system, including without limitation, pumps, distribution lines, transmission lines, towers, dams and similar facilities and

equipment, designed to provide water to a vineyard or winery;

(5) an electric generation or transmission facility, other than one for which both location approval and a certificate of convenience and necessity are required prior to commencing construction or operation of the facility, pursuant to the Public Utility Act; [~~and~~]

(6) an energy storage facility, which is a facility that uses mechanical, chemical, thermal, kinetic or other processes to store energy for release at a later time to integrate energy supply associated with renewable generation across the electric grid; and

[~~(6)~~] (7) a 501(c)(3) corporation;

C. "governing body" means the board or body in which the legislative powers of the municipality are vested;

D. "property" means any land, improvements thereon, buildings and any improvements thereto, machinery and equipment of any and all kinds necessary to the project, operating capital and any other personal properties deemed necessary in connection with the project;

E. "mortgage" means a mortgage or a mortgage and deed of trust or the pledge and hypothecation of any assets as collateral security;

F. "health care service" means the diagnosis or treatment of sick or injured persons or medical research and

includes the ownership, operation, maintenance, leasing and disposition of health care facilities such as hospitals, clinics, laboratories, x-ray centers and pharmacies and, for any small municipality only, office facilities for physicians;

G. "refinance a hospital or 501(c)(3) corporation project" means the issuance of bonds by a municipality and the use of all or substantially all of the proceeds to liquidate any obligations previously incurred to finance or aid in financing a project of a nonprofit corporation engaged in health care services, including nursing homes, or of a 501(c)(3) corporation, which would constitute a project under the Industrial Revenue Bond Act had it been originally undertaken and financed by a municipality pursuant to the Industrial Revenue Bond Act; and

H. "501(c)(3) corporation" means a corporation that demonstrates to the taxation and revenue department that it has been granted exemption from the federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended or renumbered."

SECTION 2. Section 3-32-6 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-31-3, as amended) is amended to read:

"3-32-6. ADDITIONAL POWERS CONFERRED ON MUNICIPALITIES.--In addition to any other powers that it may now have, a municipality shall have the following powers:

A. to acquire, whether by construction, purchase, gift or lease, one or more projects that shall be located within this state and may be located within or without the municipality or partially within or partially without the municipality, but which shall not be located more than fifteen miles outside of the corporate limits of the municipality; provided that:

(1) urban transit buses qualifying as a project pursuant to Subsection B of Section 3-32-3 NMSA 1978 need not be continuously located within this state, but the commercial enterprise using the urban transit buses for leasing shall meet the location requirement of this subsection; and

(2) a municipality shall not acquire any electricity generation [~~or~~] facility, transmission facility or energy storage facility project unless the school districts within the municipality in which the project is located receive annual in-lieu tax payments; provided that the annual in-lieu tax payments required by this paragraph shall be:

(a) payable to the school districts for the period the municipality owns and leases the project;

(b) in an aggregate amount equal to the amount received by the municipality multiplied by the percentage determined by dividing the average of mills imposed by the school districts within the municipality plus state debt

service mills as of the date of issuance of the bonds by the average of the mills imposed by all entities levying taxes on property in the municipality as of such date;

(c) divided among the school districts located within the municipality, if there is more than one school district in such municipality, and the in-lieu payment shall be allocated as follows: 1) fifty percent allocated equally among all school districts in which the project is located; 2) forty percent allocated to the school districts within the municipality in proportion to the area of each school district within the municipality; and 3) ten percent allocated to the school districts in proportion to the average of each school district's student membership pursuant to the Public School Code reported on the second and third reporting dates for the most recent school year for which data is available as of the date of issuance of the bonds; and

(d) for each individual school district located within the municipality, no less than the amount due to the school district in the tax year immediately preceding the issuance of the bonds from the property included in a project, had such project not been created;

B. to sell or lease or otherwise dispose of any or all of its projects upon such terms and conditions as the governing body may deem advisable and as shall not conflict

with the provisions of the Industrial Revenue Bond Act;

C. to issue revenue bonds for the purpose of defraying the cost of acquiring by construction and purchase, or either, any project and to secure the payment of such bonds, all as provided in the Industrial Revenue Bond Act. No municipality shall have the power to operate any project as a business or in any manner except as lessor;

D. to refinance one or more hospital or 501(c)(3) corporation projects and to acquire any such hospital or 501(c)(3) corporation project whether by construction, purchase, gift or lease, which hospital or 501(c)(3) corporation project shall be located within this state and may be located within or without the municipality or partially within or partially without the municipality, but which shall not be located more than fifteen miles outside of the corporate limits of the municipality, and to issue revenue bonds to refinance and acquire a hospital or 501(c)(3) corporation project and to secure the payment of such bonds, all as provided in the Industrial Revenue Bond Act. A municipality shall not have the power to operate a hospital or 501(c)(3) corporation project as a business or in any manner except as lessor; and

E. to refinance one or more projects of any private institution of higher education and to acquire any such

project, whether by construction, purchase, gift or lease; provided that the project shall be located within this state and may be located within or without the municipality or partially within or partially without the municipality, but the project shall not be located more than fifteen miles outside of the corporate limits of the municipality, and to issue revenue bonds to refinance and acquire any project of any private institution of higher education and to secure the payment of such bonds. A municipality shall not have the power to operate a project of a private institution of higher education as a business or in any manner except as lessor."

SECTION 3. Section 4-59-2 NMSA 1978 (being Laws 1975, Chapter 286, Section 2, as amended) is amended to read:

"4-59-2. DEFINITIONS.--As used in the County Industrial Revenue Bond Act, unless the context clearly indicates otherwise:

A. "commission" means the governing body of a county;

B. "county" means a county organized or incorporated in New Mexico;

C. "501(c)(3) corporation" means a corporation that demonstrates to the taxation and revenue department that it has been granted exemption from the federal income tax as an organization described in Section 501(c)(3) of the Internal

Revenue Code of 1986, as amended or renumbered;

D. "health care service" means the diagnosis or treatment of sick or injured persons or medical research and includes the ownership, operation, maintenance, leasing and disposition of health care facilities, such as hospitals, clinics, laboratories, x-ray centers and pharmacies;

E. "mortgage" means a mortgage or a mortgage and deed of trust or the pledge and hypothecation of any assets as collateral security;

F. "project" means any land and building or other improvements thereon, the acquisition by or for a New Mexico corporation of the assets or stock of an existing business or corporation located outside the state to be relocated within a county but, except as provided in Paragraph (1) of Subsection A of Section 4-59-4 NMSA 1978, not within the boundaries of any incorporated municipality in the state, and all real and personal properties deemed necessary in connection therewith, whether or not now in existence, that shall be suitable for use by the following or by any combination of two or more thereof:

(1) an industry for the manufacturing, processing or assembling of agricultural or manufactured products;

(2) a commercial enterprise that has received a permit from the energy, minerals and natural resources

department for a mine that has not been in operation prior to the issuance of bonds for the project for which the enterprise will be involved;

(3) a commercial enterprise that has received any necessary state permit for a refinery, treatment plant or processing plant of energy products that was not in operation prior to the issuance of bonds for the project for which the enterprise will be involved;

(4) a commercial enterprise in storing, warehousing, distributing or selling products of agriculture, mining or industry, but does not include a facility designed for the sale or distribution to the public of electricity, gas, telephone or other services commonly classified as public utilities, except for:

(a) water utilities; [~~and~~]

(b) [~~any~~] an electric generation or transmission facility, other than one for which both location approval and a certificate of convenience and necessity are required prior to commencing construction or operation of the facility, pursuant to the Public Utility Act; and

(c) an energy storage facility, which is a facility that uses mechanical, chemical, thermal, kinetic or other processes to store energy for release at a later time to integrate energy supply associated with renewable generation

across the electric grid;

(5) a business in which all or part of the activities of the business involve the supplying of services to the general public or to governmental agencies or to a specific industry or customer;

(6) a nonprofit corporation engaged in health care services;

(7) a mass transit or other transportation activity involving the movement of passengers, an industrial park, an office headquarters and a research facility;

(8) a water distribution or irrigation system, including without limitation, pumps, distribution lines, transmission lines, towers, dams and similar facilities and equipment; and

(9) a 501(c)(3) corporation; and

G. "property" means any land, improvements thereon, buildings and any improvements thereto, machinery and equipment of any and all kinds necessary to the project, operating capital and any other personal properties deemed necessary in connection with the project."

SECTION 4. Section 4-59-4 NMSA 1978 (being Laws 1975, Chapter 286, Section 4, as amended) is amended to read:

"4-59-4. ADDITIONAL POWERS CONFERRED ON COUNTIES.--In addition to any other powers that it may now have, each county

shall have the following powers:

A. to acquire, whether by construction, purchase, gift or lease, one or more projects, which shall be located within this state and shall be located within the county outside the boundaries of any incorporated municipality; provided, however, that:

(1) a class A county with a population of more than three hundred thousand may acquire projects located anywhere in the county; and

(2) a county shall not acquire any electricity generation [~~or~~] facility, transmission facility or energy storage facility project unless the school districts within the county in which the project is located receive annual in-lieu tax payments; provided that the annual in-lieu tax payments required by this paragraph shall be:

(a) payable to the school districts for the period the county owns and leases the project;

(b) in an aggregate amount equal to the amount received by the county multiplied by the percentage determined by dividing the average of all of the mills imposed by the school districts in the county, including the operating, capital improvement, building improvement, education technology and bond mills imposed by the school districts in the county plus state debt service mills as of the date of issuance of the

bonds by the average of the mills imposed by all entities levying taxes on property in the county as of such date;

(c) divided among the school districts located within the county, and if there is more than one school district in such county, the in-lieu payment shall be allocated as follows: 1) fifty percent allocated equally among all school districts in which the project is located; 2) forty percent allocated to the school districts within the county in proportion to the area of each school district within the county; and 3) ten percent allocated to the school districts in proportion to the average of each school district's student membership pursuant to the Public School Code reported on the second and third reporting dates for the most recent school year for which data is available as of the date of issuance of the bonds; and

(d) for each individual school district located within the county, no less than the amount due to the school district in the tax year immediately preceding the issuance of the bonds from the property included in a project, had such project not been created;

B. to sell or lease or otherwise dispose of any or all of its projects upon such terms and conditions as the commission may deem advisable and as shall not conflict with the provisions of the County Industrial Revenue Bond Act; and

C. to issue revenue bonds for the purpose of defraying the cost of acquiring, by construction and purchase or either, any project and to secure the payment of such bonds, all as provided in the County Industrial Revenue Bond Act. No county shall have the power to operate any project as a business or in any manner except as lessor thereof."

SECTION 5. Section 7-2-7 NMSA 1978 (being Laws 2005, Chapter 104, Section 4, as amended) is amended to read:

"7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed by Section 7-2-3 NMSA 1978 shall be at the following rates for any taxable year beginning on or after January 1, [~~2021~~] 2025:

[~~A. For married individuals filing separate returns:~~

~~If the taxable income is:~~	~~The tax shall be:~~
~~Not over $4,000~~	~~1.7% of taxable income~~
~~Over $4,000 but not over $8,000~~	~~$68.00 plus 3.2% of excess over $4,000~~
~~Over $8,000 but not over $12,000~~	~~$196 plus 4.7% of excess over $8,000~~
~~Over $12,000 but not over $157,500~~	~~$384 plus 4.9% of excess over $12,000~~
~~Over $157,500~~	~~$7,513.50 plus 5.9% of excess over $157,500.~~

~~B. For heads of household, surviving spouses and~~

~~married individuals filing joint returns:~~

~~If the taxable income is:~~	~~The tax shall be:~~
~~Not over $8,000~~	~~1.7% of taxable income~~
~~Over $8,000 but not over $16,000~~	~~$136 plus 3.2% of excess over $8,000~~
~~Over $16,000 but not over $24,000~~	~~$392 plus 4.7% of excess over $16,000~~
~~Over $24,000 but not over $315,000~~	~~$768 plus 4.9% of excess over $24,000~~
~~Over $315,000~~	~~$15,027 plus 5.9% of excess over $315,000.~~

~~C. For single individuals and for estates and trusts:~~

~~If the taxable income is:~~	~~The tax shall be:~~
~~Not over $5,500~~	~~1.7% of taxable income~~
~~Over $5,500 but not over $11,000~~	~~$93.50 plus 3.2% of excess over $5,500~~
~~Over $11,000 but not over $16,000~~	~~$269.50 plus 4.7% of excess over $11,000~~
~~Over $16,000 but not over $210,000~~	~~$504.50 plus 4.9% of excess over $16,000~~
~~Over $210,000~~	~~$10,010.50 plus 5.9% of excess over $210,000.~~]

A. For married individuals filing joint returns,

heads of household and surviving spouses:

For taxable income:	The tax shall be:
Not over $8,000	1.5% of taxable income
Over $8,000 but not over $25,000	$120 plus 3.2% of excess over $8,000
Over $25,000 but not over $50,000	$664 plus 4.3% of excess over $25,000
Over $50,000 but not over $100,000	$1,739 plus 4.7% of excess over $50,000
Over $100,000 but not over $315,000	$4,089 plus 4.9% of excess over $100,000
Over $315,000	$14,624 plus 5.9% of excess over $315,000.

B. For single individuals and for estates and trusts:

For taxable income:	The tax shall be:
Not over $5,500	1.5% of taxable income
Over $5,500 but not over $16,500	$82.50 plus 3.2% of excess over $5,500
Over $16,500 but not over $33,500	$434.50 plus 4.3% of excess over $16,500
Over $33,500 but not over $66,500	$1,165.50 plus 4.7% of excess over $33,500
Over $66,500 but not over $210,000	$2,716.50 plus 4.9% of

	excess over $66,500
Over $210,000	$9,748 plus 5.9% of excess over $210,000.

C. For married individuals filing separate returns:

For taxable income:	The tax shall be:
Not over $4,000	1.5% of taxable income
Over $4,000 but not over $12,500	$60.00 plus 3.2% of excess over $4,000
Over $12,500 but not over $25,000	$332 plus 4.3% of excess over $12,500
Over $25,000 but not over $50,000	$869.50 plus 4.7% of excess over $25,000
Over $50,000 but not over $157,500	$2,044.50 plus 4.9% of excess over $50,000
Over $157,500	$7,312 plus 5.9% of excess over $157,500.

D. The tax on the sum of any lump-sum amounts included in net income is an amount equal to five multiplied by the difference between:

(1) the amount of tax due on the taxpayer's taxable income; and

(2) the amount of tax that would be due on an amount equal to the taxpayer's taxable income and twenty percent of the taxpayer's lump-sum amounts included in net

income."

SECTION 6. Section 7-2-18.17 NMSA 1978 (being Laws 2007, Chapter 172, Section 1, as amended) is amended to read:

"7-2-18.17. ANGEL INVESTMENT CREDIT.--

A. A taxpayer who files a New Mexico income tax return, is not a dependent of another taxpayer, is an accredited investor and makes a qualified investment may apply for, and the department may allow, a claim for a credit in an amount not to exceed twenty-five percent of the qualified investment; provided that a credit for each qualified investment shall not exceed sixty-two thousand five hundred dollars ($62,500). The tax credit provided in this section shall be known as the "angel investment credit".

B. A taxpayer may claim the angel investment credit:

(1) for not more than one qualified investment per investment round;

(2) for qualified investments in no more than five qualified businesses per taxable year; and

(3) for a qualified investment made on or before December 31, [~~2025~~] 2030.

C. A taxpayer may apply for an angel investment credit by submitting a completed application to the [~~taxation and revenue~~] department on forms and in a manner required by

the department no later than one year following the end of the calendar year in which the qualified investment is made. A taxpayer shall not apply for more than one credit for the same qualified investment in the same investment round.

D. Except as provided in Subsection J of this section, a taxpayer shall claim the angel investment credit no later than one year following the date the completed application for the credit is approved by the department.

E. Applications and all subsequent materials submitted to the [~~taxation and revenue~~] department related to the application shall also be submitted to the economic development department.

F. The [~~taxation and revenue~~] department shall allow a maximum annual aggregate of two million dollars ($2,000,000) in angel investment credits per calendar year. Completed applications shall be considered in the order received. Applications for credits that would have been allowed but for the limit imposed by this subsection shall be allowed in subsequent calendar years.

G. The [~~taxation and revenue~~] department shall report annually to the revenue stabilization and tax policy committee and the legislative finance committee on the utilization and effectiveness of the angel investment credit. The report shall include, at a minimum: the number of

accredited investors determined to be eligible for the credit in the previous year; the names of those investors; the amount of credit for which each investor was determined to be eligible; and the number and names of the businesses determined to be qualified businesses for purposes of an investment by an accredited investor.

H. A taxpayer who otherwise qualifies for and claims a credit pursuant to this section for a qualified investment made by a partnership or other business association of which the taxpayer is a member may claim a credit only in proportion to the taxpayer's interest in the partnership or business association.

I. Married individuals who file separate returns for a taxable year in which they could have filed a joint return may each claim one-half of the credit that would have been allowed on a joint return.

J. The angel investment credit may only be deducted from the taxpayer's income tax liability. Any portion of the tax credit provided by this section that remains unused at the end of the taxpayer's taxable year may be carried forward for five consecutive years.

K. As used in this section:

(1) "accredited investor" means a person who is an accredited investor within the meaning of Rule 501 issued

by the federal securities and exchange commission pursuant to the federal Securities Act of 1933, as amended;

(2) "business" means a corporation, general partnership, limited partnership, limited liability company or other similar entity, but excludes an entity that is a government or a nonprofit organization designated as such by the federal government or any state;

(3) "equity" means common or preferred stock of a corporation, a partnership interest in a limited partnership or a membership interest in a limited liability company, including debt subject to an option in favor of the creditor to convert the debt into common or preferred stock, a partnership interest or a membership interest;

(4) "investment round" means an offer and sale of securities and all other offers and sales of securities that would be integrated with such offer and sale of securities under Regulation D issued by the federal securities and exchange commission pursuant to the federal Securities Act of 1933, as amended;

(5) "manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include:

(a) construction;

(b) farming;

(c) processing natural resources, including hydrocarbons; or

(d) preparing meals for immediate consumption, on- or off-premises;

(6) "qualified business" means a business that:

(a) maintains its principal place of business and employs a majority of its full-time employees, if any, in New Mexico and a majority of its tangible assets, if any, are located in New Mexico;

(b) engages in qualified research or manufacturing activities in New Mexico;

(c) is not primarily engaged in or is not primarily organized as any of the following types of businesses: credit or finance services, including banks, savings and loan associations, credit unions, small loan companies or title loan companies; financial brokering or investment; professional services, including accounting, legal services, engineering and any other service the practice of which requires a license; insurance; real estate; construction or construction contracting; consulting or brokering; mining; wholesale or retail trade; providing utility service, including water, sewerage, electricity, natural gas, propane or butane; publishing, including publishing newspapers or other

periodicals; broadcasting; or providing internet operating services;

(d) has not issued securities registered pursuant to Section 6 of the federal Securities Act of 1933, as amended; has not issued securities traded on a national securities exchange; is not subject to reporting requirements of the federal Securities Exchange Act of 1934, as amended; and is not registered pursuant to the federal Investment Company Act of 1940, as amended, at the time of the investment;

(e) has one hundred or fewer employees calculated on a full-time-equivalent basis in the taxable year in which the investment was made; and

(f) has not had gross revenues in excess of five million dollars ($5,000,000) in any fiscal year ending on or before the date of the investment;

(7) "qualified investment" means a cash investment in a qualified business for equity, but does not include an investment by a taxpayer if the taxpayer, a member of the taxpayer's immediate family or an entity affiliated with the taxpayer receives compensation from the qualified business in exchange for services provided to the qualified business within one year of investment in the qualified business; and

(8) "qualified research" means "qualified research" as defined by Section 41 of the Internal Revenue

Code."

SECTION 7. Section 7-2-18.22 NMSA 1978 (being Laws 2007, Chapter 361, Section 2) is amended to read:

"7-2-18.22. [~~TAX CREDIT~~] RURAL HEALTH CARE PRACTITIONER TAX CREDIT.--

A. A taxpayer who files an individual New Mexico tax return, who is not a dependent of another individual, who is an eligible health care practitioner and who has provided health care services in New Mexico in a rural health care underserved area in a taxable year may claim a credit against the tax liability imposed by the Income Tax Act. The credit provided in this section may be referred to as the "rural health care practitioner tax credit".

B. The rural health care practitioner tax credit may be claimed and allowed in an amount that shall not exceed:

(1) five thousand dollars ($5,000) for all [~~eligible~~] physicians, osteopathic physicians, dentists, [~~clinical~~] psychologists, [~~podiatrists~~] podiatric physicians and optometrists who qualify pursuant to the provisions of this section [~~except the credit shall not exceed~~] and have provided health care during a taxable year for at least one thousand five hundred eighty-four hours at a practice site located in an approved rural health care underserved area. Eligible health care practitioners listed in this paragraph who provided health

care services for at least seven hundred ninety-two hours but less than one thousand five hundred eighty-four hours at a practice site located in an approved rural health care underserved area during a taxable year are eligible for one-half of the tax credit amount; and

(2) three thousand dollars ($3,000) for all [~~eligible~~] pharmacists, dental hygienists, physician assistants, [~~certified nurse-midwives~~] certified registered nurse anesthetists, certified nurse practitioners, [~~and~~] clinical nurse specialists, registered nurses, midwives, licensed clinical social workers, licensed independent social workers, professional mental health counselors, professional clinical mental health counselors, marriage and family therapists, professional art therapists, alcohol and drug abuse counselors and physical therapists who qualify pursuant to the provisions of this section and have provided health care during a taxable year for at least one thousand five hundred eighty-four hours at a practice site located in an approved rural health care underserved area. Eligible health care practitioners listed in this paragraph who provided health care services for at least seven hundred ninety-two hours but less than one thousand five hundred eighty-four hours at a practice site located in an approved rural health care underserved area during a taxable year are eligible for one-half of the tax

credit amount.

[~~C. To qualify for the rural health care practitioner tax credit, an eligible health care practitioner shall have provided health care during a taxable year for at least two thousand eighty hours at a practice site located in an approved rural health care underserved area. An eligible rural health care practitioner who provided health care services for at least one thousand forty hours but less than two thousand eighty hours at a practice site located in an approved rural health care underserved area during a taxable year is eligible for one-half of the credit amount.~~

~~D.~~] C. Before an eligible health care practitioner may claim the rural health care practitioner tax credit, the practitioner shall submit an application to the department of health that describes the practitioner's clinical practice and contains additional information that the department of health may require. The department of health shall determine whether an eligible health care practitioner qualifies for the rural health care practitioner tax credit and shall issue a certificate to each qualifying eligible health care practitioner. The department of health shall provide the taxation and revenue department appropriate information for all eligible health care practitioners to whom certificates are issued in a secure manner on regular intervals agreed upon by

both the taxation and revenue department and the department of health.

[~~E.~~] D. A taxpayer claiming the credit provided by this section shall submit a copy of the certificate issued by the department of health with the taxpayer's New Mexico income tax return for the taxable year. If the amount of the credit claimed exceeds a taxpayer's tax liability for the taxable year in which the credit is being claimed, the excess may be carried forward for three consecutive taxable years.

E. A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the department in a manner required by the department.

F. The department shall compile an annual report on the tax credit provided by this section that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the credit. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.

[~~F.~~] G. As used in this section:

(1) "eligible health care practitioner" means:

[~~(a) a certified nurse-midwife licensed by the board of nursing as a registered nurse and licensed by~~

~~the public health division of the department of health to practice nurse-midwifery as a certified nurse-midwife;~~

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

(b) a midwife that is a: 1) certified nurse-midwife licensed by the board of nursing as a registered nurse and licensed by the public health division of the department of health to practice nurse-midwifery as a certified nurse-midwife; or 2) licensed midwife licensed by the public health division of the department of health to practice licensed midwifery;

(c) an optometrist licensed pursuant to the provisions of the Optometry Act;

(d) an osteopathic physician [~~licensed pursuant to the provisions of Chapter 61, Article 10 NMSA 1978 or an osteopathic physician assistant~~] licensed pursuant to the provisions of the [~~Osteopathic Physicians' Assistants~~] Medical Practice Act;

(e) a physician [~~or physician assistant~~] licensed pursuant to the provisions of [~~Chapter 61, Article 6 NMSA 1978~~] the Medical Practice Act or a physician assistant licensed pursuant to the provisions of the Physician Assistant Act;

(f) a [~~podiatrist~~] podiatric physician

licensed pursuant to the provisions of the Podiatry Act;

(g) a [~~clinical~~] psychologist licensed pursuant to the provisions of the Professional Psychologist Act; [~~and~~]

(h) a registered nurse [~~in advanced practice who has been prepared through additional formal education as provided in Sections 61-3-23.2 through 61-3-23.4 NMSA 1978 to function beyond the scope of practice of professional registered nursing, including certified nurse practitioners, certified registered nurse anesthetists and clinical nurse specialists~~] licensed pursuant to the provisions of the Nursing Practice Act;

(i) a pharmacist licensed pursuant to the provisions of the Pharmacy Act;

(j) a licensed clinical social worker or a licensed independent social worker licensed pursuant to the provisions of the Social Work Practice Act;

(k) a professional mental health counselor, a professional clinical mental health counselor, a marriage and family therapist, an alcohol and drug abuse counselor or a professional art therapist licensed pursuant to the provisions of the Counseling and Therapy Practice Act; and

(l) a physical therapist licensed pursuant to the provisions of the Physical Therapy Act;

(2) "health care underserved area" means a geographic area or practice location in which it has been determined by the department of health, through the use of indices and other standards set by the department of health, that sufficient health care services are not being provided;

(3) "practice site" means a private practice, public health clinic, hospital, public or private nonprofit primary care clinic or other health care service location in a health care underserved area; and

(4) "rural" means [~~an area or location identified by the department of health as falling outside of an urban area~~] a rural county or an unincorporated area of a partially rural county, as designated by the health resources and services administration of the United States department of health and human services."

SECTION 8. Section 7-2-34 NMSA 1978 (being Laws 1999, Chapter 205, Section 1, as amended) is amended to read:

"7-2-34. DEDUCTION--NET CAPITAL GAIN INCOME.--

A. [~~Except as provided in Subsection C of this section~~] A taxpayer may claim a deduction from net income in an amount equal to the greater of:

(1) the taxpayer's net capital gain income for the taxable year for which the deduction is being claimed, but not to exceed [~~one thousand dollars ($1,000)~~] two thousand five

hundred dollars ($2,500); or

(2) forty percent of up to one million dollars ($1,000,000) of the taxpayer's net capital gain income from the sale of a business that is allocated or apportioned to New Mexico pursuant to Section 7-2-11 NMSA 1978 for the taxable year for which the deduction is being claimed.

B. Married individuals who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the deduction provided by this section that would have been allowed on the joint return.

[~~C. A taxpayer may not claim the deduction provided in Subsection A of this section if the taxpayer has claimed the credit provided in Section 7-2D-8.1 NMSA 1978.~~

~~D.~~] C. As used in this section, "net capital gain" means "net capital gain" as defined in Section 1222 (11) of the Internal Revenue Code."

SECTION 9. A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] HOME FIRE RECOVERY INCOME TAX CREDIT.--

A. A taxpayer who is not a dependent of another individual and who, beginning on the effective date of this section and prior to January 1, 2030, incurs qualified **STBTC**→~~site-built~~←**STBTC** home expenditures for a home in New

Mexico to replace a prior home of the taxpayer that was destroyed by a wildfire in calendar years 2021 through 2023 may claim a tax credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act in an amount equal to the qualified **STBTC→~~site-built~~←STBTC** home expenditures incurred by the taxpayer not to exceed fifty thousand dollars ($50,000) per home. The tax credit provided by this section may be referred to as the "home fire recovery income tax credit".

B. A taxpayer who seeks to claim the tax credit shall apply for certification of eligibility from the construction industries division of the regulation and licensing department on forms and in a manner prescribed by that division. The aggregate amount of credits that may be certified as eligible in any calendar year is five million dollars ($5,000,000). An application for certification shall be made no later than twelve months after the calendar year in which construction of the **STBTC→~~site-built~~←STBTC** home is completed. Completed applications shall be considered in the order received. If a taxpayer submits an application for the tax credit and the aggregate amount of certifications has been met for the calendar year, the application shall be placed at the front of a queue for certification in a subsequent calendar year. Except as otherwise provided in Subsections F and G of this section, only one tax credit shall be certified per

taxpayer.

C. An application for certification of eligibility shall include:

(1) proof that the taxpayer's prior home was destroyed by wildfire in calendar years 2021 through 2023, including a sworn statement by the taxpayer;

(2) proof that the taxpayer incurred expenditures for the construction of a **STBTC→~~site-built~~←STBTC** home on the same property of the taxpayer's prior, wildfire-destroyed home, including a contract with a builder **STBTC→or manufacturer←STBTC** ;

(3) a sworn statement by the taxpayer and the builder **STBTC→~~of the site-built home that the construction of a new site-built~~←STBTC STBTC→or manufacturer of the home that the construction of the←STBTC** home has been completed and stating the date of its completion; and

(4) any additional information the construction industries division of the regulation and licensing department may require to determine eligibility for the tax credit.

D. If the construction industries division of the regulation and licensing department determines that the taxpayer meets the requirements of this section, the division shall issue a dated certificate of eligibility to the taxpayer

providing the amount of tax credit for which the taxpayer is eligible and the taxable year in which the credit may be claimed. The construction industries division shall provide the department with the certificates of eligibility issued pursuant to this subsection in an electronic format at regularly agreed-upon intervals.

E. A taxpayer issued a certificate of eligibility shall claim the tax credit in a manner required by the department within twelve months of being issued the certificate of eligibility.

F. That portion of the tax credit that exceeds a taxpayer's tax liability in the taxable year in which the tax credit is claimed shall not be refunded but may be carried forward for a maximum of three consecutive taxable years.

G. Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of the tax credit that would have been claimed on a joint return.

H. A taxpayer may be allocated the right to claim the tax credit in proportion to the taxpayer's ownership interest if the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership or limited liability company and that business entity has met all of the requirements to be eligible for the credit. The

total credit claimed by all members of the partnership or limited liability company shall not exceed the allowable credit pursuant to this section.

I. The department shall compile an annual report on the tax credit that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the credit. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.

J. As used in this section:

(1) "home" means a dwelling designed for long-term habitation in which the taxpayer resides for a majority of the year **STBTC➔;←STBTC STBTC➔and is:**

(a) constructed permanently on a taxpayer's property with a foundation and that cannot be moved; or

(b) a manufactured home or modular home that is a single-family dwelling with a heated area of at least thirty-six by twenty-four feet and at least eight hundred sixty-four square feet and constructed in a factory to the standards of the United States department of housing and urban development, the National Manufactured Housing Construction and

Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or the Uniform Building Code, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act and with the rules made pursuant thereto relating to permanent foundations; and←STBTC

(2) "qualified STBTC→~~site-built~~←STBTC home expenditures" means gross expenditures for the construction STBTC→~~of a site-built~~←STBTC STBTC→or manufacture of a←STBTC home on the same property in New Mexico that a taxpayer's prior home was destroyed by a wildfire in calendar years 2021 through 2023, less any compensation related to home construction STBTC→, manufacture←STBTC or repair costs received pursuant to the federal Hermit's Peak/Calf Canyon Fire Assistance Act STBTC→~~; and~~

~~(3) "site-built home" means a home that is constructed permanently on a taxpayer's property with a foundation and that cannot be moved, and excludes a manufactured or mobile home~~←STBTC STBTC→or from insurance or other source of compensation←STBTC ."

SECTION 10. Section 7-2A-5 NMSA 1978 (being Laws 1981, Chapter 37, Section 38, as amended) is amended to read:

"7-2A-5. CORPORATE INCOME TAX RATES.--The corporate income tax imposed on corporations by Section 7-2A-3 NMSA 1978

shall be

[~~If the taxable income is:~~ ~~The tax shall be:~~

~~Not over $500,000~~ ~~4.8% of taxable income~~

~~Over $500,000~~ ~~$24,000 plus 5.9% of excess over $500,000~~]

five and nine-tenths percent of taxable income."

STBTC➡~~SECTION 11. Section 7-4-10 NMSA 1978 (being Laws 1993, Chapter 153, Section 1, as amended) is amended to read:~~

~~"7-4-10. APPORTIONMENT OF BUSINESS INCOME.--[A. Except as provided in Subsections B and C of this section] All business income shall be apportioned to this state by multiplying the income by [a fraction, the numerator of which is the property factor plus the payroll factor plus] the sales factor [and the denominator of which is three.~~

~~B. If eighty percent or more of the New Mexico numerators of the property and payroll factors for a filing group, or for a taxpayer that is not a member of a filing group, are employed in manufacturing or operating a computer processing facility, the filing group or the taxpayer may elect to have business income apportioned to this state by multiplying the income by the sales factor for the taxable year.~~

~~C. If a filing group, or a taxpayer that is not a member of a filing group, has a headquarters operation in New~~

~~Mexico, the filing group or the taxpayer may elect to have business income apportioned to this state by multiplying the income by the sales factor for the taxable year.~~

~~D. To elect the method of apportionment provided by Subsection B or C of this section, the taxpayer shall notify the department of the election, in writing, no later than the date on which the taxpayer files the return for the first taxable year to which the election will apply. The election shall apply as follows:~~

~~(1) if the election is made for taxable years beginning prior to January 1, 2020, to the taxable year in which the election is made and to each taxable year thereafter for three years, or until the taxable year ending prior to January 1, 2020, whichever is earlier;~~

~~(2) if the election is made for a taxable year beginning on or after January 1, 2020, to the taxable year in which the election is made and to each taxable year thereafter until the taxpayer notifies the department, in writing, that the election is terminated, except that the taxpayer shall not terminate the election until the method of apportioning business income provided by Subsection B or C of this section has been used by the taxpayer for at least three consecutive taxable years, including a total of at least thirty-six calendar months; and~~

~~(3) if the election is made by a qualifying filing group, the election shall apply to the members of the filing group properly included pursuant to Section 7-2A-8.3 NMSA 1978.~~

~~E. For purposes of this section:~~

~~(1) "filing group" means "filing group" as that term is defined in the Corporate Income and Franchise Tax Act;~~

~~(2) "headquarters operation" means:~~

~~(a) the center of operations of a business: 1) where corporate staff employees are physically employed; 2) where the centralized functions are primarily performed, including administrative, planning, managerial, human resources, purchasing, information technology and accounting, but not including operating a call center; 3) the function and purpose of which is to manage and direct most aspects and functions of the business operations within a subdivided area of the United States; 4) from which final authority over regional or subregional offices, operating facilities and any other offices of the business are issued; and 5) including national and regional headquarters if the national headquarters is subordinate only to the ownership of the business or its representatives and the regional headquarters is subordinate to the national headquarters; or~~

~~(b) the center of operations of a business: 1) the function and purpose of which is to manage and direct most aspects of one or more centralized functions; and 2) from which final authority over one or more centralized functions is issued;~~

~~(3) "manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include:~~

~~(a) construction;~~

~~(b) farming;~~

~~(c) power generation; provided that for taxable years beginning prior to January 1, 2024, "manufacturing" includes electricity generation at a facility that does not require location approval and a certificate of convenience and necessity prior to commencing construction or operation of the facility pursuant to the Public Utility Act;~~

~~(d) processing natural resources, including hydrocarbons; or~~

~~(e) processing or preparation of meals for immediate consumption; and~~

~~(4) "operating a computer processing facility" means managing the necessary and ancillary activities for the operation of a facility primarily used to process data or information, but does not include managing the operation of~~

~~facilities that are predominantly used to support sales of tangible property or the provision of banking, financial or professional services].~~"

~~SECTION 12. Section 7-4-19 NMSA 1978 (being Laws 1965, Chapter 203, Section 19, as amended) is amended to read:~~

~~"7-4-19. EQUITABLE ADJUSTMENT OF STANDARD ALLOCATION OR APPORTIONMENT.--If the allocation and apportionment provisions of the Uniform Division of Income for Tax Purposes Act do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for, or the department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:~~

~~A. separate accounting;~~

~~[B. the exclusion of any one or more of the factors;~~

~~C. the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state] or~~

~~[D.]~~ B. ~~the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income."~~←STBTC

SECTION STBTC→~~13.~~←STBTC STBTC→11.←STBTC Section 7-9-54.3 NMSA 1978 (being Laws 2002, Chapter 37, Section 8, as amended by Laws 2010, Chapter 77, Section 2 and by Laws 2010,

Chapter 78, Section 2) is amended to read:

"7-9-54.3. DEDUCTION--GROSS RECEIPTS TAX--WIND AND SOLAR GENERATION EQUIPMENT--ENERGY STORAGE EQUIPMENT--SALES TO GOVERNMENTS.--

A. Prior to July 1, 2034, receipts from selling wind generation equipment or solar generation equipment to a government for the purpose of installing a wind or solar electric generation facility may be deducted from gross receipts.

B. [~~The deduction allowed pursuant to this section shall not be claimed for receipts from an expenditure for which a taxpayer claims a credit pursuant to Section 7-2-18.25, 7-2A-25 or 7-9G-2 NMSA 1978~~] Prior to July 1, 2034, receipts from selling energy storage equipment or related equipment to a government for the purpose of installing an energy storage facility may be deducted from gross receipts.

C. As used in this section:

(1) "energy storage equipment" means equipment that is installed for the purpose of storing electric energy in an energy storage facility that uses mechanical, chemical, thermal, kinetic or other processes to store energy for release at a later time to integrate energy supply associated with renewable generation across the electric grid;

[~~(1)~~] (2) "government" means the United States

or the state or a governmental unit or a subdivision, agency, department or instrumentality of the federal government or the state;

[~~(2)~~] (3) "related equipment" means transformers, power conversion equipment, circuit breakers and switching and metering equipment used to connect:

(a) a wind or solar electric generation plant to the electric grid; or

(b) an energy storage facility to the electric grid or to a wind or solar electric generation plant;

[~~(3)~~] (4) "solar generation equipment" means solar thermal energy collection, concentration and heat transfer and conversion equipment; solar tracking hardware and software; photovoltaic panels and inverters; support structures; turbines and associated electrical generating equipment used to generate electricity from solar thermal energy; and related equipment; and

[~~(4)~~] (5) "wind generation equipment" means wind generation turbines, blades, nacelles, rotors and supporting structures used to generate electricity from wind and related equipment."

SECTION STBTC→~~14.~~←STBTC STBTC→12.←STBTC A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS TAX--ENVIRONMENTAL MODIFICATIONS FOR MEDICAID RECIPIENTS.--

A. Prior to July 1, 2034, receipts of an eligible provider for environmental STBTC→~~modification services~~←STBTC STBTC→modifications←STBTC reimbursed by the medical assistance division may be deducted from gross receipts.

B. As used in this section:

(1) "eligible provider" means a provider who meets requirements of the medical assistance division to provide environmental modifications pursuant to a waiver granted by the federal department of health and human services to provide home and community-based services to recipients;

(2) "environmental modifications" include the purchasing and installing of equipment or making physical adaptions to a recipient's residence that are necessary to ensure the health, welfare and safety of the recipient or enhance the recipient's access to the home environment and increase the recipient's ability to act independently;

(3) "medicaid" means the medical assistance program established pursuant to Title 19 of the federal Social Security Act and regulations issued pursuant to that act;

(4) "medical assistance division" means the medical assistance division of the health care authority department; and

(5) "recipient" means a person whom the medical assistance division has determined to be eligible to receive medicaid-related services and who meets the financial and medical level of care criteria to receive medical assistance division services through one of the division's waiver programs granted by the federal department of health and human services."

SECTION STBTC→~~15.~~←STBTC STBTC→13.←STBTC A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"[NEW MATERIAL] DEDUCTIONS--GROSS RECEIPTS--CHILD CARE ASSISTANCE THROUGH A LICENSED CHILD CARE ASSISTANCE PROGRAM--PRE-KINDERGARTEN SERVICES BY FOR-PROFIT PRE-KINDERGARTEN PROVIDERS.--

A. Receipts from the sale of child care assistance services by a taxpayer pursuant to a contract or grant with the early childhood education and care department to provide such services through a licensed child care assistance program may be deducted from gross receipts.

B. Receipts of for-profit pre-kindergarten providers for the sale of pre-kindergarten services pursuant to the Pre-Kindergarten Act may be deducted from gross receipts.

C. A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction separately in

a manner required by the department.

D. The department shall compile an annual report on the deductions provided by this section that shall include the number of taxpayers that claimed each deduction, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deductions. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the deductions.

E. As used in this section:

(1) "child care assistance" means "child care assistance" or "early childhood care assistance", as those terms are defined in the Early Childhood Care Accountability Act; and

(2) "licensed child care assistance program" means "licensed child care program", "licensed early childhood care program" or "licensed exempt child care program", as those terms are defined in the Early Childhood Care Accountability Act."

STBTC➜~~SECTION 16. REPEAL.--Sections 7-4-11 through 7-4-15 NMSA 1978 (being Laws 1965, Chapter 203, Sections 11 through 15, as amended) are repealed effective January 1, 2025.~~

~~SECTION 17. APPLICABILITY.--~~

~~A. The provisions of Sections 7 and 9 of this act apply to taxable years beginning on or after January 1, 2024.~~

~~B. The provisions of Sections 5, 8 and 10 through 12 of this act apply to taxable years beginning on or after January 1, 2025.~~

~~SECTION 18. EFFECTIVE DATE.--~~

~~A. The effective date of the provisions of Sections 1 through 4 and 13 through 15 of this act is July 1, 2024.~~

~~B. The effective date of the provisions of Sections 5, 8 and 10 through 12 of this act is January 1, 2025.~~←STBTC

STBTC→SECTION 14. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"[NEW MATERIAL] CREDIT--GROSS RECEIPTS TAX--LEGAL SERVICES FOR WILDFIRE COMPENSATION RECOVERY.--

A. A taxpayer who sells legal services to and at the request of a person eligible to receive compensation pursuant to the federal Hermit's Peak/Calf Canyon Fire Assistance Act may claim a tax credit against gross receipts taxes due in an amount equal to the amount of gross receipts tax due on the receipt for the sale; provided that:

(1) the legal services are directly related to recovering the compensation;

(2) the taxpayer did not pass the amount of gross receipts tax on to the person eligible to receive the

underscored material = new
[~~bracketed material~~] = delete
Amendments: new = →bold, blue, highlight←
delete = →~~bold, red, highlight, strikethrough~~←

federal compensation; and

(3) the legal services were sold to a person who states in writing in a manner that the department may require that the person is eligible to receive the federal compensation, the services were directly related to recovering the compensation and the gross receipts tax was not passed on to the person.

B. A taxpayer may claim the tax credit for the taxable period in which the legal services are provided. To receive the credit, the taxpayer shall apply to the department on forms and in a manner prescribed by the department. The maximum aggregate amount of tax credits that may be allowed in a fiscal year is five million dollars ($5,000,000). Completed applications shall be considered in the order received. Applications received after the aggregate amount has been met shall not be approved.

C. That portion of the tax credit claimed by a taxpayer that exceeds the taxpayer's gross receipts tax liability in the taxable period in which the credit is claimed shall not be refunded to the taxpayer but may be carried forward for thirty-six consecutive taxable periods.

D. As used in this section, "legal services" means services performed by a licensed attorney for a client, regardless of the attorney's form of business entity or whether

the services are prepaid, including legal representation before courts or administrative agencies; drafting legal documents, such as contracts or patent applications; legal research; advising and counseling; arbitration; mediation; and notary public and other ancillary legal services performed for a client in conjunction with a licensed attorney. "Legal services" does not include lobbying or government relations services, title insurance agent services, licensing or selling legal software or legal document templates, insurance investigation services or any legal representation involving financial crimes or tax evasion in New Mexico."

SECTION 15. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"[NEW MATERIAL] CREDIT--GROSS RECEIPTS TAX--SALE OF DYED SPECIAL FUEL USED FOR AGRICULTURAL PURPOSES.--

A. Prior to July 1, 2029, a taxpayer who sells special fuel dyed in accordance with federal regulations may claim a tax credit against gross receipts taxes due in an amount equal to the amount of any gross receipts tax due on the receipt for sale; provided that:

(1) the taxpayer did not pass the amount of gross receipts tax on to the person purchasing the special fuel; and

(2) the special fuel is sold to a person who

states in writing in a manner that the department may require that the person will use the special fuel primarily for agricultural purposes and the gross receipts tax was not passed on to the person.

B. A taxpayer may claim the tax credit for the taxable period in which the special fuel is sold. To receive the credit, the taxpayer shall apply to the department on forms and in a manner prescribed by the department. The maximum aggregate amount of tax credits that may be allowed in a fiscal year is ten million dollars ($10,000,000). Completed applications shall be considered in the order received. Applications received after the aggregate amount has been met shall not be approved.

C. That portion of the tax credit claimed by a taxpayer that exceeds the taxpayer's gross receipts tax liability in the taxable period in which the credit is claimed shall not be refunded to the taxpayer but may be carried forward for thirty-six consecutive taxable periods."

SECTION 16. Section 7-29-4 NMSA 1978 (being Laws 1980, Chapter 62, Section 5, as amended) is amended to read:

"7-29-4. OIL AND GAS SEVERANCE TAX IMPOSED--COLLECTION--INTEREST OWNER'S LIABILITY TO STATE--INDIAN LIABILITY--EXCLUSIONS.--

A. There is imposed and shall be collected by the

department a tax on all products that are severed and sold, except as provided in Subsection B of this section. The measure of the tax and the rates are:

(1) on natural gas severed and sold, except as provided in Paragraphs (4), (6) and (7) of this subsection, three and three-fourths percent of the taxable value determined pursuant to Section 7-29-4.1 NMSA 1978;

(2) on oil and on other liquid hydrocarbons removed from natural gas at or near the wellhead, except as provided in Paragraphs (3), (5), (8) and (9) of this subsection, three and three-fourths percent of taxable value determined pursuant to Section 7-29-4.1 NMSA 1978;

(3) on oil and on other liquid hydrocarbons removed from natural gas at or near the wellhead produced from a qualified enhanced recovery project, one and seven-eighths percent of the taxable value determined pursuant to Section 7-29-4.1 NMSA 1978, provided that the annual average price of west Texas intermediate crude oil, determined by the department by averaging the posted prices in effect on the last day of each month of the twelve-month period ending on May 31 prior to the fiscal year in which the tax rate is to be imposed, was less than twenty-eight dollars ($28.00) per barrel;

(4) on the natural gas from a well workover project that is certified by the oil conservation division of

the energy, minerals and natural resources department in its approval of the well workover project, two and forty-five hundredths percent of the taxable value determined pursuant to Section 7-29-4.1 NMSA 1978, provided that the annual average price of west Texas intermediate crude oil, determined by the department by averaging the posted prices in effect on the last day of each month of the twelve-month period ending on May 31 prior to the fiscal year in which the tax rate is to be imposed, was less than twenty-four dollars ($24.00) per barrel;

(5) on the oil and on other liquid hydrocarbons removed from natural gas at or near the wellhead from a well workover project that is certified by the oil conservation division of the energy, minerals and natural resources department in its approval of the well workover project, two and forty-five hundredths percent of the taxable value determined pursuant to Section 7-29-4.1 NMSA 1978, provided that the annual average price of west Texas intermediate crude oil, determined by the department by averaging the posted prices in effect on the last day of each month of the twelve-month period ending on May 31 prior to the fiscal year in which the tax rate is to be imposed, was less than twenty-four dollars ($24.00) per barrel;

(6) on the natural gas from a stripper well property, one and seven-eighths percent of the taxable value

determined pursuant to Section 7-29-4.1 NMSA 1978, provided the average annual taxable value of natural gas was equal to or less than one dollar fifteen cents ($1.15) per thousand cubic feet in the calendar year preceding July 1 of the fiscal year in which the tax rate is to be imposed;

(7) on the natural gas from a stripper well property, two and thirteen-sixteenths percent of the taxable value determined pursuant to Section 7-29-4.1 NMSA 1978, provided that the average annual taxable value of natural gas was greater than one dollar fifteen cents ($1.15) per thousand cubic feet but not more than one dollar thirty-five cents ($1.35) per thousand cubic feet in the calendar year preceding July 1 of the fiscal year in which the tax rate is to be imposed;

(8) on the oil and on other liquid hydrocarbons removed from natural gas at or near the wellhead from a stripper well property, one and seven-eighths percent of the taxable value determined pursuant to Section 7-29-4.1 NMSA 1978, provided that the average annual taxable value of oil was equal to or less than fifteen dollars ($15.00) per barrel in the calendar year preceding July 1 of the fiscal year in which the tax rate is to be imposed;

(9) on the oil and on other liquid hydrocarbons removed from natural gas at or near the wellhead

from a stripper well property, two and thirteen-sixteenths percent of the taxable value determined pursuant to Section 7-29-4.1 NMSA 1978, provided that the average annual taxable value of oil was greater than fifteen dollars ($15.00) per barrel but not more than eighteen dollars ($18.00) per barrel in the calendar year preceding July 1 of the fiscal year in which the tax rate is to be imposed; and

(10) on carbon dioxide, helium and non-hydrocarbon gases, three and three-fourths percent of the taxable value determined pursuant to Section 7-29-4.1 NMSA 1978.

B. The tax imposed in Subsection A of this section shall not be imposed on:

(1) natural gas severed and sold from a production restoration project during the first ten years of production following the restoration of production, provided that the annual average price of west Texas intermediate crude oil, determined by the department by averaging the posted prices in effect on the last day of each month of the twelve-month period ending on May 31 prior to each fiscal year in which the tax exemption is to be effective, was less than twenty-four dollars ($24.00) per barrel;

(2) beginning July 1, 2024, natural gas severed from a stripper well property and sold from a

production compliance project during the first ten years of production following the completion of the project or until the date the total amount of tax that would have been imposed but for this subsection equals the cost of the production compliance project, whichever occurs first;

(3) beginning July 1, 2024, oil and other liquid hydrocarbons removed from natural gas at or near the wellhead from a stripper well property production compliance project during the first ten years of production following the completion of the project or until the date the total amount of tax that would have been imposed but for this subsection equals the cost of the production compliance project, whichever occurs first; and

[~~(2)~~] (4) oil and other liquid hydrocarbons removed from natural gas at or near the wellhead from a production restoration project during the first ten years of production following the restoration of production, provided that the annual average price of west Texas intermediate crude oil, determined by the department by averaging the posted prices in effect on the last day of each month of the twelve-month period ending on May 31 prior to each fiscal year in which the tax exemption is to be effective, was less than twenty-four dollars ($24.00) per barrel.

C. Every interest owner shall be liable for the tax

to the extent of [~~his~~] the interest owner's interest in such products. Any Indian tribe, Indian pueblo or Indian shall be liable for the tax to the extent authorized or permitted by law.

D. The tax imposed by this section may be referred to as the "oil and gas severance tax".

E. As used in this section, "production compliance project" means a procedure undertaken by the operator of a natural gas or crude oil well that, in order to continue production from the well, is required by rules promulgated on or after May 25, 2021 by the oil conservation commission to reduce the venting and flaring of natural gas from wells and production equipment and facilities and of natural gas from natural gas gathering systems or by the environmental improvement board to reduce ambient ozone concentrations."

SECTION 17. Section 7-29B-1 NMSA 1978 (being Laws 1995, Chapter 15, Section 1) is amended to read:

"7-29B-1. SHORT TITLE.--[~~Sections 1 through 6 of this act~~] Chapter 7, Article 29B NMSA 1978 may be cited as the "Natural Gas and Crude Oil Production Incentive Act"."

SECTION 18. Section 7-29B-2 NMSA 1978 (being Laws 1995, Chapter 15, Section 2, as amended by Laws 1999, Chapter 7, Section 2 and as further amended by Laws 1999, Chapter 256, Section 3) is amended to read:

"7-29B-2. DEFINITIONS.--As used in the Natural Gas and Crude Oil Production Incentive Act:

A. "average annual taxable value" means the average of the taxable value per barrel, determined pursuant to Section 7-31-5 NMSA 1978, of all oil produced in New Mexico for the specified calendar year as determined by the department;

B. "average daily production" means, for any crude oil or natural gas property assigned a single production number by the department, the number derived by dividing the total volume of crude oil or natural gas production from the property reported to the division during a calendar year by the sum of the number of days each eligible well within the property produced or injected during that calendar year;

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

D. "division" means the oil conservation division of the energy, minerals and natural resources department;

E. "eligible well" means a crude oil or natural gas well that produces or an injection well that injects and is integral to production for any period of time during the preceding calendar year;

F. "natural gas" means any combustible vapor composed chiefly of hydrocarbons occurring naturally;

G. "operator" means the person responsible for the

actual physical operation of a natural gas or oil well;

H. "person" means any individual or other legal entity, including any group or combination of individuals or other legal entities acting as a unit;

I. "production compliance project" means a procedure undertaken by the operator of a natural gas or crude oil well that, in order to continue production from the well, is required by rules promulgated on or after May 25, 2021 by the oil conservation commission to reduce the venting and flaring of natural gas from wells and production equipment and facilities and of natural gas from natural gas gathering systems or by the environmental improvement board to reduce ambient ozone concentrations;

[~~I.~~] J. "production restoration incentive tax exemption" means the tax exemption set forth in Subsection B of Section 7-29-4 NMSA 1978 for natural gas or oil produced from a production restoration project;

[~~J.~~] K. "production restoration project" means the use of any process for returning to production a natural gas or oil well that had thirty days or less of production in any period of twenty-four consecutive months beginning on or after January 1, 1993 as approved and certified by the division;

[~~K.~~] L. "severance" means the taking from the soil of any product in any manner whatsoever;

[~~L.~~] M. "stripper well property" means a crude oil or natural gas producing property that is assigned a single production unit number by the department and:

(1) if a crude oil producing property, produced an average daily production of less than ten barrels of oil per eligible well per day for the preceding calendar year;

(2) if a natural gas producing property, produced an average daily production of less than sixty thousand cubic feet of natural gas per eligible well per day during the preceding calendar year; or

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

[~~M.~~] N. "stripper well incentive tax rates" means the tax rates set forth in Paragraphs (6) through (9) of Subsection A of Section 7-29-4 NMSA 1978 and in Paragraphs (4) through (7) of Subsection A of Section 7-31-4 NMSA 1978 for natural gas or oil produced from a well within a stripper well property;

[~~N.~~] O. "well workover incentive tax rate" means

the tax rate set forth in Paragraphs (4) and (5) of Subsection A of Section 7-29-4 NMSA 1978 on the natural gas or oil produced from a well workover project; and

[~~O.~~] P. "well workover project" means any procedure undertaken by the operator of a natural gas or oil well that is intended to increase the production from the well and that has been approved and certified by the division."

SECTION 19. Section 7-29B-3 NMSA 1978 (being Laws 1995, Chapter 15, Section 3, as amended by Laws 1999, Chapter 7, Section 3 and as further amended by Laws 1999, Chapter 256, Section 4) is amended to read:

"7-29B-3. APPROVAL OF PRODUCTION RESTORATION PROJECTS, PRODUCTION COMPLIANCE PROJECTS, WELL WORKOVER PROJECTS AND STRIPPER WELL PROPERTIES.--

A. A natural gas or oil well shall be approved by the division as a production restoration project if:

(1) the operator of the well makes application to the division in accordance with the provisions of the Natural Gas and Crude Oil Production Incentive Act and rules adopted pursuant to that act for approval of a production restoration project and the application is made within twelve months of the completion of the production restoration project; and

(2) the division records show that the well

had thirty days or less of production in any period of twenty-four consecutive months beginning on or after January 1, 1993.

B. A natural gas or crude oil well shall be approved by the division as a production compliance project if:

(1) the operator of the well makes an application to the division in accordance with the provisions of the Natural Gas and Crude Oil Production Incentive Act and rules adopted pursuant to that act for approval of a production compliance project and the application is made within twelve months of the completion of the production compliance project;

(2) in order to continue production, the production compliance project was required by rules promulgated on or after May 25, 2021 by the oil conservation commission to reduce the venting and flaring of natural gas from wells and production equipment and facilities and of natural gas from natural gas gathering systems or by the environmental improvement board to reduce ambient ozone concentrations;

(3) the well is approved and certified by the division as a stripper well property;

(4) the operator of the well has total production in New Mexico of not more than one thousand barrels of oil equivalent per day; and

(5) the production compliance project was implemented to install, upgrade or replace the following well

equipment, as approved by the division:

(a) tank controls;

(b) pneumatic devices;

(c) actuators;

(d) vapor recovery units;

(e) forward-looking infrared cameras; and

(f) smokeless combustion chambers.

[~~B.~~] C. A natural gas or oil well shall be approved by the division as a well workover project if:

(1) the operator of the well makes application to the division in accordance with the provisions of the Natural Gas and Crude Oil Production Incentive Act and rules adopted pursuant to that act for approval of a well workover project;

(2) the division determines that the procedure performed by the operator of the well is a procedure to increase the production from the well, but is not routine maintenance performed by a prudent operator to maintain the well in operation. Such procedures may include, but are not limited to:

(a) re-entry into the well to drill deeper, to sidetrack to a different location or to recomplete for production;

(b) recompletion by reperforation of a zone from which natural gas or oil has been produced or by perforation of a different zone;

(c) repair or replacement of faulty or damaged casing or related downhole equipment;

(d) fracturing, acidizing or installing compression equipment; or

(e) squeezing, cementing or installing equipment necessary for removal of excessive water, brine or condensate from the well bore in order to establish, continue or increase production from the well; and

(3) the operator of the well submits to the division evidence of a positive production increase over the production rate of the well prior to the workover. The operator must submit a production curve or tabulation made up of at least twelve months' production prior to the workover and at least three months' production following the workover that reflects a positive production increase from the workover. The production curve or tabulation must be certified by the operator as that of the well on which a workover was performed.

[~~C.~~] D. A natural gas or crude oil producing property shall be approved and certified by the division as a stripper well property if the division records show that the property is assigned a single production unit number by the

department and:

(1) if a crude oil producing property, produced an average daily production of less than ten barrels of oil per eligible well per day for the preceding calendar year;

(2) if a natural gas producing property, produced an average daily production of less than sixty thousand cubic feet of natural gas per eligible well per day during the preceding calendar year; or

(3) if a property with wells that produce both crude oil and natural gas, produced an average daily production of less than ten barrels of oil per eligible well per day for the preceding calendar year, as determined by converting the volume of natural gas produced by the well to barrels of oil by using a ratio of six thousand cubic feet to one barrel of oil."

SECTION 20. Section 7-29B-4 NMSA 1978 (being Laws 1995, Chapter 15, Section 4, as amended) is amended to read:

"7-29B-4. APPLICATION PROCEDURES--CERTIFICATION OF APPROVAL--RULES--ADMINISTRATION.--

A. The operator of a proposed production restoration project, production compliance project or well workover project shall apply to the division for approval of a production restoration project, production compliance project or a well workover project in the form and manner prescribed by

the division and shall provide any relevant material and information the division requires for that approval.

B. Upon a determination that the project complies with the provisions of the Natural Gas and Crude Oil Production Incentive Act and rules adopted pursuant to that act, the division shall approve the application and shall issue a certification of approval to the operator and designate the natural gas or oil well as a production restoration project, production compliance project or well workover project, as applicable.

C. In addition to the powers enumerated in Section 70-2-12 NMSA 1978, the division shall adopt, promulgate and enforce rules to carry out the provisions of the Natural Gas and Crude Oil Production Incentive Act.

D. The division shall consider and approve applications for approval of a production restoration project, production compliance project or well workover project without holding hearings on the applications. If the division denies approval of an application pursuant to such a process, the division, upon the request of the applicant, shall set a hearing of the application before an examiner appointed by the division to conduct the hearing. The hearing shall be conducted in accordance with the provisions of the Oil and Gas Act for such hearings."

SECTION 21. Section 7-29B-5 NMSA 1978 (being Laws 1995, Chapter 15, Section 5, as amended) is amended to read:

"7-29B-5. NOTICE TO SECRETARY OF TAXATION AND REVENUE.--The division shall notify immediately the secretary of taxation and revenue upon:

A. adoption of rules pursuant to the provisions of the Natural Gas and Crude Oil Production Incentive Act;

B. certification of the date that production has been restored on a production restoration project;

C. certification of the date that a production compliance project has been completed;

[~~C.~~] D. certification of the date that a well workover project has been completed; and

[~~D.~~] E. certification of the stripper well properties for the fiscal year."

SECTION 22. Section 7-29B-6 NMSA 1978 (being Laws 1995, Chapter 15, Section 6, as amended) is amended to read:

"7-29B-6. QUALIFICATION FOR PRODUCTION RESTORATION INCENTIVE TAX EXEMPTION, PRODUCTION COMPLIANCE PROJECT TAX EXEMPTION AND WELL WORKOVER AND STRIPPER WELL PROPERTY INCENTIVE TAX RATE--SECRETARY OF TAXATION AND REVENUE APPROVAL--REFUND.--

A. The person responsible for paying the oil and gas severance tax on natural gas or oil produced from a

production restoration project shall qualify to receive a ten-year production restoration incentive tax exemption upon:

(1) application to the department in the form and manner prescribed by the department for approval for the ten-year production restoration incentive tax exemption;

(2) submission of the certification of approval from the division and designation of the natural gas or oil well as a production restoration project; and

(3) submission of any other relevant material that the secretary of taxation and revenue deems necessary to administer the applicable provisions of the Natural Gas and Crude Oil Production Incentive Act.

B. The person responsible for paying the oil and gas severance tax on natural gas or oil produced from a production compliance project shall qualify to receive a production compliance project tax exemption upon:

(1) application to the department in the form and manner prescribed by the department for approval of the production compliance project tax exemption;

(2) submission of the certification of approval from the division and designation of the natural gas or oil well as a production compliance project;

(3) submission to the department of verifiable total costs of compliance for the production compliance project

for payout purposes; and

(4) submission of any other relevant material that the department deems necessary to administer the applicable provisions of the Natural Gas and Crude Oil Production Incentive Act.

[~~B.~~] C. The person responsible for payment of the oil and gas severance tax on natural gas or oil produced from a well workover project shall qualify for the well workover incentive tax rate on all the natural gas or oil produced by that project upon:

(1) application to the department in the form and manner prescribed by the department for approval to apply the well workover incentive tax rate to the natural gas or oil produced from a well workover project;

(2) submission of the certification from the division of approval and designation of the natural gas or oil well as a well workover project; and

(3) any other relevant material that the department considers necessary to administer the applicable provisions of the Natural Gas and Crude Oil Production Incentive Act.

[~~C.~~] D. The person responsible for paying the oil and gas severance tax and the oil and gas emergency school tax on natural gas and crude oil produced from a stripper well

property shall qualify to receive the stripper well property incentive tax rate for the fiscal year following certification by the division in the form and manner agreed to by the division and the department designating the property as a stripper well property. The division shall certify stripper well properties for calendar year 1998 no later than June 30, 1999 and no later than June 1 of each succeeding year for the preceding calendar year.

[~~D.~~] E. The production restoration incentive tax exemption shall apply to natural gas or oil produced from a production restoration project beginning the first day of the month following the date the division certifies that production has been restored and ending the last day of the tenth year of production following that date. The well workover incentive tax rate applies to the natural gas or oil produced from a well workover project beginning the first day of the month following the date the division certifies that the well workover project has been completed. The stripper well property incentive tax rates apply to the natural gas or oil produced from a stripper well property in the twelve months beginning May 1 prior to July 1 of the fiscal year to which the certification of the property as a stripper well property applies.

[~~E.~~] F. The person responsible for payment of the oil and gas severance tax on natural gas or oil production from

an approved well workover project may file a claim for credit against current tax liability or for refund in accordance with Section 7-1-26 NMSA 1978 for taxes paid in excess of the amount due using the well workover incentive tax rate. Notwithstanding the provisions of Subsection E of Section 7-1-26 NMSA 1978, any such refund granted shall be made in the form of a credit against any future oil and gas severance tax liabilities incurred by the taxpayer.

[~~F.~~] G. Well workover projects certified prior to July 1, 1999 shall be deemed to be approved and certified in accordance with the provisions of this 1999 act and natural gas or oil produced from those projects shall be eligible for the well workover incentive tax rate effective beginning July 1, 1999.

[~~G.~~] H. The secretary of taxation and revenue may adopt and promulgate rules to enforce the provisions of this section."

SECTION 23. Section 7-2-18.16 NMSA 1978 (being Laws 2007, Chapter 45, Section 10) is amended to read:

"7-2-18.16. CREDIT--SPECIAL NEEDS ADOPTED CHILD TAX CREDIT--CREATED--QUALIFICATIONS--DURATION OF CREDIT.--

A. A taxpayer who files an individual New Mexico income tax return, who is not a dependent of another individual and who adopts a special needs child on or after January 1,

2007 or has adopted a special needs child prior to January 1, 2007, may claim a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act. The credit authorized pursuant to this section may be referred to as the "special needs adopted child tax credit".

B. A taxpayer may claim and the department may allow a special needs adopted child tax credit in the amount of [~~one thousand dollars ($1,000)~~] one thousand five hundred dollars ($1,500) to be claimed against the taxpayer's tax liability for the taxable year imposed pursuant to the Income Tax Act.

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

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

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

F. A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the department

in a manner required by the department.

G. The department shall compile an annual report on the credit provided by this section that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the credit. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.

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

SECTION 24. A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] DEDUCTION--SCHOOL SUPPLIES PURCHASED BY A PUBLIC SCHOOL TEACHER.--

A. A taxpayer who is not a dependent of another

individual and is a public school teacher may claim a deduction from net income in an amount equal to the costs of school supplies purchased by the public school teacher in a taxable year, not to exceed:

(1) for a taxable year beginning on January 1, 2024 and prior to January 1, 2025, five hundred dollars ($500); and

(2) for a taxable year beginning on January 1, 2025 and prior to January 1, 2029, one thousand dollars ($1,000).

B. To claim a deduction pursuant to this section, a taxpayer shall submit to the department information required by the secretary establishing that the taxpayer is eligible to claim a deduction pursuant to this section.

C. A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction to the department in a manner required by the department.

D. The department shall compile an annual report on the deduction provided by this section that shall include the number of taxpayers approved by the department to receive the deduction, the aggregate amount of deductions approved and any other information necessary to evaluate the deduction. The department shall present the report to the revenue stabilization and tax policy committee and the legislative

finance committee with an analysis of the cost of the deduction.

E. As used in this section:

(1) "public school teacher" means a person who is licensed as a teacher pursuant to the Public School Code and who teaches at a public school, as that term is defined in the Public School Code; and

(2) "school supplies" means items purchased by a public school teacher and used by the students of the teacher in the teacher's classroom for educational purposes, including notebooks, paper, writing instruments, crayons, art supplies, rulers, maps and globes, but not including computers or other similar digital devices, watches, radios, digital music players, headphones, sporting equipment, portable or desktop telephones, cellular telephones or other electronic communication devices, copiers, office equipment, furniture or fixtures."

SECTION 25. Section 7-2-18.24 NMSA 1978 (being Laws 2009, Chapter 271, Section 1) is amended to read:

"7-2-18.24. GEOTHERMAL GROUND-COUPLED HEAT PUMP INCOME TAX CREDIT.--

A. A taxpayer who files an individual New Mexico income tax return for a taxable year beginning on or after January 1, [~~2010~~] 2024 and who purchases and installs after

[~~January 1, 2010~~] the effective date of this section but before December 31, [~~2020~~] 2034 a geothermal ground-coupled heat pump in a residence, business or agricultural enterprise in New Mexico owned by that taxpayer may apply for, and the department may allow, a tax credit of up to thirty percent of the purchase and installation costs of the system. The credit provided in this section may be referred to as the "geothermal ground-coupled heat pump income tax credit". The total geothermal ground-coupled heat pump income tax credit allowed to a taxpayer shall not exceed nine thousand dollars ($9,000). The department shall allow a geothermal ground-coupled heat pump income tax credit only for geothermal ground-coupled heat pumps that are installed by a nationally accredited ground source heat pump installer certified by the energy, minerals and natural resources department.

B. [~~A~~] That portion of [~~the~~] a geothermal ground-coupled heat pump income tax credit that [~~remains unused in a~~] exceeds a taxpayer's tax liability in the taxable year [~~may be carried forward for a maximum of ten consecutive taxable years following the taxable year in which the credit originates until the credit is fully expended~~] in which the credit is claimed shall be refunded to the taxpayer.

C. [~~Prior to July 1, 2010~~] The energy, minerals and natural resources department shall adopt rules establishing

procedures to provide certification of geothermal ground-coupled heat pumps for purposes of obtaining a geothermal ground-coupled heat pump income tax credit. The rules shall address technical specifications and requirements relating to safety, building code and standards compliance, minimum system sizes, system applications and lists of eligible components. The energy, minerals and natural resources department may modify the specifications and requirements as necessary to maintain a high level of system quality and performance.

D. The [~~department may allow a~~] maximum annual aggregate of [~~two million dollars ($2,000,000) in geothermal ground-coupled heat pump tax~~] credits that may be certified in a calendar year by the energy, minerals and natural resources department is four million dollars ($4,000,000). That department shall not certify a tax credit for which a taxpayer claims a 2021 sustainable building tax credit using a geothermal ground-coupled heat pump as a component of qualification for the rating system certification level used in determining eligibility for that credit. Applications for the credit shall be considered in the order received by the department.

E. A taxpayer who otherwise qualifies and claims a geothermal ground-coupled heat pump income tax credit with respect to property owned by a partnership or other business

association of which the taxpayer is a member may claim a credit only in proportion to that taxpayer's interest in the partnership or association. The total credit claimed in the aggregate by all members of the partnership or association with respect to the property shall not exceed the amount of the credit that could have been claimed by a sole owner of the property.

F. [~~A husband and wife~~] Married individuals who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the credit that would have been allowed on a joint return.

G. A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the department in a manner required by the department.

H. The department shall compile an annual report on the tax credit provided by this section that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the credit. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.

[~~G.~~] I. As used in this section, "geothermal ground-coupled heat pump" means a [~~system that uses energy from~~

~~the ground, water or, ultimately, the sun for distribution of heating, cooling or domestic hot water~~] heating and refrigerating system that directly or indirectly utilizes available heat below the surface of the earth for distribution of heating and cooling or domestic hot water and that has either a minimum coefficient of performance of three and four-tenths or an efficiency ratio of sixteen or greater [~~and that is installed by an accredited installer certified by the international ground source heat pump association~~]."

SECTION 26. Section 7-2A-24 NMSA 1978 (being Laws 2009, Chapter 271, Section 2) is amended to read:

"7-2A-24. GEOTHERMAL GROUND-COUPLED HEAT PUMP CORPORATE INCOME TAX CREDIT.--

A. A taxpayer that files a New Mexico corporate income tax return for a taxable year beginning on or after January 1, [~~2010~~] 2024 and that purchases and installs after [~~January 1, 2010~~] the effective date of this section but before December 31, [~~2020~~] 2034 a geothermal ground-coupled heat pump in a property owned by the taxpayer may claim against the taxpayer's corporate income tax liability, and the department may allow, a tax credit of up to thirty percent of the purchase and installation costs of the system. The credit provided in this section may be referred to as the "geothermal ground-coupled heat pump corporate income tax credit". The total

geothermal ground-coupled heat pump corporate income tax credit allowed to a taxpayer shall not exceed nine thousand dollars ($9,000). The department shall allow a geothermal ground-coupled heat pump corporate income tax credit only for geothermal ground-coupled heat pumps that are installed by a nationally accredited ground source heat pump installer certified by the energy, minerals and natural resources department.

B. [A] That portion of [~~the~~] a geothermal ground-coupled heat pump corporate income tax credit that [~~remains unused in a~~] exceeds a taxpayer's tax liability in the taxable year [~~may be carried forward for a maximum of ten consecutive taxable years following the taxable year in which the credit originates until the credit is fully expended~~] in which the credit is claimed shall be refunded to the taxpayer.

C. [~~Prior to July 1, 2010~~] The energy, minerals and natural resources department shall adopt rules establishing procedures to provide certification of geothermal ground-coupled heat pumps for purposes of obtaining a geothermal ground-coupled heat pump corporate income tax credit. The rules shall address technical specifications and requirements relating to safety, building code and standards compliance, minimum system sizes, system applications and lists of eligible components. The energy, minerals and natural resources

department may modify the specifications and requirements as necessary to maintain a high level of system quality and performance.

D. The [~~department may allow a~~] maximum annual aggregate of [~~two million dollars ($2,000,000) in geothermal ground-coupled heat pump tax~~] credits that may be certified in a calendar year by the energy, minerals and natural resources department is four million dollars ($4,000,000). That department shall not certify a tax credit for which a taxpayer claims a 2021 sustainable building tax credit using a geothermal ground-coupled heat pump as a component of qualification for the rating system certification level used in determining eligibility for that credit. Applications for the credit shall be considered in the order received by the department.

E. A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the department in a manner required by the department.

F. The department shall compile an annual report on the tax credit provided by this section that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the credit. The department shall present the report to the revenue stabilization and tax

policy committee and the legislative finance committee with an analysis of the cost of the tax credit.

[~~E.~~] G. As used in this section, "geothermal ground-coupled heat pump" means a [~~reversible refrigerator device that provides space heating, space cooling, domestic hot water, processed hot water, processed chilled water or any other application where hot air, cool air, hot water or chilled water is required and that utilizes ground water or water circulating through pipes buried in the ground as a condenser in the cooling mode and an evaporator in the heating mode~~] heating and refrigerating system that directly or indirectly utilizes available heat below the surface of the earth for distribution of heating and cooling or domestic hot water and that has either a minimum coefficient of performance of three and four-tenths or an efficiency ratio of sixteen or greater."

SECTION 27. A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] CLEAN CAR INCOME TAX CREDIT.--

A. A taxpayer who is not a dependent of another individual and who, beginning on the effective date of this section and prior to January 1, 2030, purchases an electric vehicle, plug-in hybrid electric vehicle or fuel cell vehicle or enters into a new lease of at least three years for one of these vehicles may claim a tax credit against the taxpayer's

tax liability imposed pursuant to the Income Tax Act in an amount provided in Subsection B of this section. The tax credit provided by this section may be referred to as the "clean car income tax credit".

B. The amount of the tax credit shall be in an amount equal to:

(1) for taxable years beginning January 1, 2024 and prior to January 1, 2027:

(a) three thousand dollars ($3,000) for a new electric vehicle;

(b) two thousand five hundred dollars ($2,500) for a new plug-in hybrid electric vehicle or fuel cell vehicle;

(c) two thousand five hundred dollars ($2,500) for a previously owned electric vehicle; and

(d) two thousand dollars ($2,000) for a previously owned plug-in hybrid electric vehicle or fuel cell vehicle;

(2) for a taxable year beginning January 1, 2027 and prior to January 1, 2028:

(a) two thousand two hundred twenty dollars ($2,220) for a new electric vehicle;

(b) one thousand eight hundred fifty dollars ($1,850) for a new plug-in hybrid electric vehicle or

fuel cell vehicle;

(c) one thousand eight hundred fifty dollars ($1,850) for a previously owned electric vehicle; and

(d) one thousand four hundred eighty dollars ($1,480) for a previously owned plug-in hybrid electric vehicle or fuel cell vehicle;

(3) for a taxable year beginning on January 1, 2028 and prior to January 1, 2029:

(a) one thousand four hundred seventy dollars ($1,470) for a new electric vehicle;

(b) one thousand two hundred twenty-five dollars ($1,225) for a new plug-in hybrid electric vehicle or fuel cell vehicle;

(c) one thousand two hundred twenty-five dollars ($1,225) for a previously owned electric vehicle; and

(d) nine hundred eighty dollars ($980) for a previously owned plug-in hybrid electric vehicle or fuel cell vehicle; and

(4) for the taxable year beginning January 1, 2029:

(a) nine hundred sixty dollars ($960) for a new electric vehicle;

(b) eight hundred dollars ($800) for a new plug-in hybrid electric vehicle or fuel cell vehicle;

(c) eight hundred dollars ($800) for a previously owned electric vehicle; and

(d) six hundred forty dollars ($640) for a previously owned plug-in hybrid electric vehicle or fuel cell vehicle.

C. For a previously owned motor vehicle to be eligible for the tax credit, the vehicle shall have a model year that is at least two years prior to the calendar year in which the taxpayer purchased or leased the vehicle.

D. A taxpayer shall apply for certification of eligibility for the tax credit from the energy, minerals and natural resources department on forms and in the manner prescribed by that department. Except as provided in Subsections I and J of this section, only one tax credit shall be certified per taxpayer per taxable year, and only one tax credit shall be certified per previously owned motor vehicle. The energy, minerals and natural resources department may promulgate rules governing the procedure for administering the provisions of this subsection.

E. An application for certification of eligibility shall include proof of vehicle purchase from or lease through a dealer licensed by the motor vehicle division of the department pursuant to Section 66-4-2 NMSA 1978 or a dealer located on tribal land within New Mexico, the vehicle's registration or

application for title and registration in New Mexico and any additional information the energy, minerals and natural resources department may require to determine eligibility for the credit. If the energy, minerals and natural resources department determines that the taxpayer meets the requirements of this section, that department shall issue a dated certificate of eligibility to the taxpayer providing the amount of tax credit for which the taxpayer is eligible and the taxable years in which the credit may be claimed. The energy, minerals and natural resources department shall provide the department with the certificates of eligibility issued pursuant to this subsection in an electronic format at regularly agreed upon intervals.

F. Applications for certification of the tax credit shall be made no later than one year from the date on which the vehicle is purchased or the lease is entered into.

G. A certificate of eligibility for the tax credit may be sold, exchanged or otherwise transferred to another taxpayer for the full value of the credit. The parties to such a transaction shall notify the department of the sale, exchange or transfer within ten days of the sale, exchange or transfer in an electronic format prescribed by the department.

H. That portion of the tax credit claimed by a taxpayer that exceeds the taxpayer's income tax liability in

the taxable year in which a clean car income tax credit is claimed shall be refunded to the taxpayer.

I. Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of the tax credit that would have been claimed on a joint return.

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

K. A taxpayer allowed to claim the tax credit shall claim the tax credit in a manner required by the department. The credit shall be claimed within three taxable years of the end of the year in which the energy, minerals and natural resources department certifies the credit.

L. As used in this section:

(1) "electric vehicle" means a motor vehicle that derives all of the vehicle's power from electricity stored in a battery that:

(a) has a capacity of not less than twenty-five kilowatt-hours;

(b) is capable of powering the vehicle for a range of at least one hundred miles; and

(c) is capable of being recharged from an external source of electricity;

(2) "fuel cell vehicle" means a motor vehicle that:

(a) uses a fuel cell to produce electricity that is used to drive an electric motor; and

(b) is capable of powering the vehicle for a range of at least one hundred miles;

(3) "motor vehicle" means a vehicle with four wheels that:

(a) is required under the Motor Vehicle Code to be registered in this state and that is registered in this state;

(b) is made by a manufacturer;

(c) is manufactured primarily for use on public streets, roads or highways;

(d) has not been modified from the original manufacturer specifications;

(e) is rated at not less than two thousand two hundred pounds unloaded base weight and not more

than nine thousand seven hundred fifty pounds unloaded base weight;

(f) has a maximum speed capability of at least sixty-five miles per hour; and

(g) is purchased from or leased through a dealer licensed by the motor vehicle division of the department pursuant to Section 66-4-2 NMSA 1978 or a dealer located on tribal land within New Mexico;

(4) "new" means a motor vehicle that has a base manufacturer suggested retail price, before options and destination charges and before any taxes are imposed, of fifty-five thousand dollars ($55,000) or less;

(5) "plug-in hybrid electric vehicle" means a motor vehicle that derives part of the vehicle's power from electricity stored in a battery that:

(a) has a capacity of not less than six kilowatt-hours;

(b) is capable of powering a vehicle for a range of at least thirty miles; and

(c) is capable of being recharged from an external source of electricity;

(6) "previously owned" means a motor vehicle that is not new, that has a market value of twenty-five thousand dollars ($25,000) or less, that is certified by the

dealer selling the motor vehicle and for which the dealer provides at least a one-year extended manufacturer's warranty against defects and repairs; and

(7) "tribal land" means all land owned by a tribe and located within the exterior boundaries of the tribe's reservation or grant and all land held by the United States in trust for the tribe."

SECTION 28. A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] CLEAN CAR CHARGING UNIT INCOME TAX CREDIT.--

A. A taxpayer who is not a dependent of another individual and who, beginning on the effective date of this section and prior to January 1, 2030, purchases and installs an electric vehicle charging unit or fuel cell charging unit in New Mexico may claim a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act in an amount provided in Subsection B of this section. The tax credit provided by this section may be referred to as the "clean car charging unit income tax credit".

B. The amount of tax credit shall be in an amount equal to:

(1) for a direct current fast charger or fuel cell charging unit, twenty-five thousand dollars ($25,000) or

the cost to purchase and install the direct current fast charger or fuel cell charging unit, whichever is less; and

(2) for all other electric vehicle charging units, four hundred dollars ($400) or the cost to purchase and install the electric vehicle charging unit, whichever is less.

C. A taxpayer shall apply for certification of eligibility for the tax credit from the energy, minerals and natural resources department on forms and in the manner prescribed by that department. Except as provided in Subsections H and I of this section, only one tax credit shall be certified for a direct current fast charger or a fuel cell charging unit per taxpayer per taxable year. The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection.

D. An application for certification of eligibility shall include:

(1) a receipt for the purchase and installation of the electric vehicle charging unit or fuel cell charging unit;

(2) for electric vehicle charging units, a copy of the data sheet that specifies the connector type, plug type, voltage and current of the electric vehicle charging unit;

(3) for a fuel cell charging unit, technical specifications on the fuel dispensing unit and fuel storage system, including information about operational pressures of the fuel cell charging unit; and

(4) any other information the energy, minerals and natural resources department may require to evaluate eligibility for the credit.

E. If the energy, minerals and natural resources department determines that the taxpayer meets the requirements of this section, that department shall issue a dated certificate of eligibility to the taxpayer providing the amount of tax credit for which the taxpayer is eligible and the taxable years in which the credit may be claimed. The energy, minerals and natural resources department shall provide the department certificates of eligibility issued in an electronic format at regularly agreed upon intervals.

F. An application for certification of the tax credit shall be made no later than one year from the date in which the electric vehicle charging unit or fuel cell charging unit for which the credit is claimed is purchased and installed.

G. That portion of tax credit that exceeds a taxpayer's income tax liability in the taxable year in which the credit is claimed shall be refunded to the taxpayer.

H. Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of the tax credit that would have been claimed on a joint return.

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

J. A taxpayer allowed to claim a tax credit pursuant to this section shall claim the tax credit in a manner required by the department. The credit shall be claimed within three taxable years of the end of the year in which the energy, minerals and natural resources department certifies the credit.

K. A taxpayer who claims the 2021 sustainable building tax credit for expenses of purchasing or installing an electric vehicle charging unit or fuel cell charging unit shall not be eligible to claim the tax credit provided by this section.

L. As used in this section:

(1) "direct current fast charger" means an electric vehicle charging unit that provides at least fifty kilowatts of direct current electrical power for charging an electric vehicle through a connector based on fast charging equipment standards and that is approved for installation for that purpose under the National Electrical Code through an underwriters laboratories certification or an equivalent certifying organization;

(2) "electric vehicle" means a motor vehicle subject to the registration fee pursuant to Section 66-6-2 or 66-6-4 NMSA 1978 that derives all of the vehicle's power from electricity stored in a battery that:

(a) has a capacity of not less than twenty-five kilowatt-hours;

(b) is capable of powering the vehicle for a range of at least one hundred miles; and

(c) is capable of being recharged from an external source of electricity;

(3) "electric vehicle charging unit" means a device that:

(a) is used to provide electricity to an electric vehicle or plug-in hybrid electric vehicle;

(b) is designed to create a connection between an electricity source and the electric vehicle or

plug-in hybrid electric vehicle; and

(c) uses the electric vehicle's or plug-in hybrid electric vehicle's control system to ensure that electricity flows at an appropriate voltage and current level;

(4) "fuel cell charging unit" means a facility or unit that dispenses liquefied or compressed hydrogen for fuel cell vehicle refueling and that is approved for installation for that purpose under applicable codes and compliant with requirements of applicable certifying organizations;

(5) "fuel cell vehicle" means a motor vehicle subject to the registration fee pursuant to Section 66-6-2 or 66-6-4 NMSA 1978 that:

(a) uses a fuel cell to produce electricity that is used to drive an electric motor; and

(b) is capable of powering the vehicle for a range of at least one hundred miles; and

(6) "plug-in hybrid electric vehicle" means a motor vehicle subject to the registration fee pursuant to Section 66-6-2 or 66-6-4 NMSA 1978 that derives part of the vehicle's power from electricity stored in a battery that:

(a) has a capacity of not less than six kilowatt-hours;

(b) is capable of powering a vehicle for

a range of at least thirty miles; and

(c) is capable of being recharged from an external source of electricity."

SECTION 29. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"[NEW MATERIAL] CLEAN CAR CORPORATE INCOME TAX CREDIT.--

A. A taxpayer that, beginning on the effective date of this section and prior to January 1, 2030, purchases an electric vehicle, plug-in hybrid electric vehicle or fuel cell vehicle or enters into a new lease of at least three years for one of these vehicles may claim a tax credit against the taxpayer's tax liability imposed pursuant to the Corporate Income and Franchise Tax Act in an amount provided in Subsection B of this section. The tax credit provided by this section may be referred to as the "clean car corporate income tax credit".

B. The amount of the tax credit shall be in an amount equal to:

(1) for taxable years beginning January 1, 2024 and prior to January 1, 2027:

(a) three thousand dollars ($3,000) for a new electric vehicle;

(b) two thousand five hundred dollars ($2,500) for a new plug-in hybrid electric vehicle or fuel cell

vehicle;

(c) two thousand five hundred dollars ($2,500) for a previously owned electric vehicle; and

(d) two thousand dollars ($2,000) for a previously owned plug-in hybrid electric vehicle or fuel cell vehicle;

(2) for a taxable year beginning January 1, 2027 and prior to January 1, 2028:

(a) two thousand two hundred twenty dollars ($2,220) for a new electric vehicle;

(b) one thousand eight hundred fifty dollars ($1,850) for a new plug-in hybrid electric vehicle or fuel cell vehicle;

(c) one thousand eight hundred fifty dollars ($1,850) for a previously owned electric vehicle; and

(d) one thousand four hundred eighty dollars ($1,480) for a previously owned plug-in hybrid electric vehicle or fuel cell vehicle;

(3) for a taxable year beginning on January 1, 2028 and prior to January 1, 2029:

(a) one thousand four hundred seventy dollars ($1,470) for a new electric vehicle;

(b) one thousand two hundred twenty-five dollars ($1,225) for a new plug-in hybrid electric vehicle or

fuel cell vehicle;

(c) one thousand two hundred twenty-five dollars ($1,225) for a previously owned electric vehicle; and

(d) nine hundred eighty dollars ($980) for a previously owned plug-in hybrid electric vehicle or fuel cell vehicle; and

(4) for the taxable year beginning January 1, 2029:

(a) nine hundred sixty dollars ($960) for a new electric vehicle;

(b) eight hundred dollars ($800) for a new plug-in hybrid electric vehicle or fuel cell vehicle;

(c) eight hundred dollars ($800) for a previously owned electric vehicle; and

(d) six hundred forty dollars ($640) for a previously owned plug-in hybrid electric vehicle or fuel cell vehicle.

C. For a previously owned vehicle to be eligible for the tax credit, the vehicle shall have a model year that is at least two years prior to the calendar year in which the taxpayer purchased or leased the vehicle.

D. A taxpayer shall apply for certification of eligibility for the tax credit from the energy, minerals and natural resources department on forms and in the manner

prescribed by that department. Only one tax credit shall be certified per taxpayer per taxable year. The energy, minerals and natural resources department may promulgate rules governing the procedure for administering the provisions of this subsection.

E. An application for certification of eligibility shall include proof of vehicle purchase from or lease through a dealer licensed by the motor vehicle division of the department pursuant to Section 66-4-2 NMSA 1978 or a dealer located on tribal land within New Mexico, the vehicle's registration or application for title and registration in New Mexico and any additional information the energy, minerals and natural resources department may require to determine eligibility for the credit. If the energy, minerals and natural resources department determines that the taxpayer meets the requirements of this section, that department shall issue a dated certificate of eligibility to the taxpayer providing the amount of tax credit for which the taxpayer is eligible and the taxable years in which the credit may be claimed. The energy, minerals and natural resources department shall provide the department with the certificates of eligibility issued pursuant to this subsection in an electronic format at regularly agreed upon intervals.

F. Applications for certification of the tax credit

shall be made no later than one year from the date on which the vehicle is purchased or the lease is entered into.

G. A certificate of eligibility for the tax credit may be sold, exchanged or otherwise transferred to another taxpayer for the full value of the credit. The parties to such a transaction shall notify the department of the sale, exchange or transfer within ten days of the sale, exchange or transfer in an electronic format prescribed by the department.

H. That portion of the tax credit claimed by a taxpayer that exceeds the taxpayer's income tax liability in the taxable year in which a clean car corporate income tax credit is claimed shall be refunded to the taxpayer.

I. A taxpayer allowed to claim the tax credit shall claim the tax credit in a manner required by the department. The credit shall be claimed within three taxable years of the end of the year in which the energy, minerals and natural resources department certifies the credit.

J. As used in this section:

(1) "electric vehicle" means a motor vehicle that derives all of the vehicle's power from electricity stored in a battery that:

(a) has a capacity of not less than twenty-five kilowatt-hours;

(b) is capable of powering the vehicle

for a range of at least one hundred miles; and

(c) is capable of being recharged from an external source of electricity;

(2) "fuel cell vehicle" means a motor vehicle that:

(a) uses a fuel cell to produce electricity that is used to drive an electric motor; and

(b) is capable of powering the vehicle for a range of at least one hundred miles;

(3) "motor vehicle" means a vehicle with four wheels that:

(a) is required under the Motor Vehicle Code to be registered in this state and that is registered in this state;

(b) is made by a manufacturer;

(c) is manufactured primarily for use on public streets, roads or highways;

(d) has not been modified from the original manufacturer specifications;

(e) is rated at not less than two thousand two hundred pounds unloaded base weight and not more than nine thousand seven hundred fifty pounds unloaded base weight;

(f) has a maximum speed capability of at

least sixty-five miles per hour; and

(g) is purchased from or leased through a dealer licensed by the motor vehicle division of the department pursuant to Section 66-4-2 NMSA 1978 or a dealer located on tribal land within New Mexico;

(4) "new" means a motor vehicle that has a base manufacturer suggested retail price, before options and destination charges and before any taxes are imposed, of fifty-five thousand dollars ($55,000) or less;

(5) "plug-in hybrid electric vehicle" means a motor vehicle that derives part of the vehicle's power from electricity stored in a battery that:

(a) has a capacity of not less than six kilowatt-hours;

(b) is capable of powering a vehicle for a range of at least thirty miles; and

(c) is capable of being recharged from an external source of electricity;

(6) "previously owned" means a motor vehicle that is not new and that has a market value of twenty-five thousand dollars ($25,000) or less; and

(7) "tribal land" means all land owned by a tribe and located within the exterior boundaries of the tribe's reservation or grant and all land held by the United States in

trust for the tribe."

SECTION 30. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"[NEW MATERIAL] CLEAN CAR CHARGING UNIT CORPORATE INCOME TAX CREDIT.--

A. A taxpayer that, beginning on the effective date of this section and prior to January 1, 2030, purchases and installs an electric vehicle charging unit or fuel cell charging unit in New Mexico may claim a credit against the taxpayer's tax liability imposed pursuant to the Corporate Income and Franchise Tax Act in an amount provided in Subsection B of this section. The tax credit provided by this section may be referred to as the "clean car charging unit corporate income tax credit".

B. The amount of tax credit shall be in an amount equal to:

(1) for a direct current fast charger or fuel cell charging unit, twenty-five thousand dollars ($25,000) or the cost to purchase and install the direct current fast charger or fuel cell charging unit, whichever is less; and

(2) for all other electric vehicle charging units, four hundred dollars ($400) or the cost to purchase and install the electric vehicle charging unit, whichever is less.

C. A taxpayer shall apply for certification of

eligibility for the tax credit from the energy, minerals and natural resources department on forms and in the manner prescribed by that department. Only one tax credit shall be certified for a direct current fast charger or a fuel cell charging unit per taxpayer per taxable year. The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection.

D. An application for certification of eligibility shall include:

(1) a receipt for the purchase and installation of the electric vehicle charging unit or fuel cell charging unit;

(2) for electric vehicle charging units, a copy of the data sheet that specifies the connector type, plug type, voltage and current of the electric vehicle charging unit;

(3) for a fuel cell charging unit, technical specifications on the fuel dispensing unit and fuel storage system, including information about operational pressures of the fuel cell charging unit; and

(4) any other information the energy, minerals and natural resources department may require to evaluate eligibility for the credit.

E. If the energy, minerals and natural resources department determines that the taxpayer meets the requirements of this section, that department shall issue a dated certificate of eligibility to the taxpayer providing the amount of tax credit for which the taxpayer is eligible and the taxable years in which the credit may be claimed. The energy, minerals and natural resources department shall provide the department certificates of eligibility issued in an electronic format at regularly agreed upon intervals.

F. An application for certification of the tax credit shall be made no later than one year from the date in which the electric vehicle charging unit or fuel cell charging unit for which the credit is claimed is purchased and installed.

G. That portion of tax credit that exceeds a taxpayer's income tax liability in the taxable year in which the credit is claimed shall be refunded to the taxpayer.

H. A taxpayer allowed to claim a tax credit pursuant to this section shall claim the tax credit in a manner required by the department. The credit shall be claimed within three taxable years of the end of the year in which the energy, minerals and natural resources department certifies the credit.

I. A taxpayer that claims the 2021 sustainable building tax credit for expenses of purchasing or installing an

electric vehicle charging unit or fuel cell charging unit shall not be eligible to claim the tax credit provided by this section.

J. As used in this section:

(1) "direct current fast charger" means an electric vehicle charging unit that provides at least fifty kilowatts of direct current electrical power for charging an electric vehicle through a connector based on fast charging equipment standards and that is approved for installation for that purpose under the National Electrical Code through an underwriters laboratories certification or an equivalent certifying organization;

(2) "electric vehicle" means a motor vehicle subject to the registration fee pursuant to Section 66-6-2 or 66-6-4 NMSA 1978 that derives all of the vehicle's power from electricity stored in a battery that:

(a) has a capacity of not less than twenty-five kilowatt-hours;

(b) is capable of powering the vehicle for a range of at least one hundred miles; and

(c) is capable of being recharged from an external source of electricity;

(3) "electric vehicle charging unit" means a device that:

(a) is used to provide electricity to an electric vehicle or plug-in hybrid electric vehicle;

(b) is designed to create a connection between an electricity source and the electric vehicle or plug-in hybrid electric vehicle; and

(c) uses the electric vehicle's or plug-in hybrid electric vehicle's control system to ensure that electricity flows at an appropriate voltage and current level;

(4) "fuel cell charging unit" means a facility or unit that dispenses liquefied or compressed hydrogen for fuel cell vehicle refueling and that is approved for installation for that purpose under applicable codes and compliant with requirements of applicable certifying organizations;

(5) "fuel cell vehicle" means a motor vehicle subject to the registration fee pursuant to Section 66-6-2 or 66-6-4 NMSA 1978 that:

(a) uses a fuel cell to produce electricity that is used to drive an electric motor; and

(b) is capable of powering the vehicle for a range of at least one hundred miles; and

(6) "plug-in hybrid electric vehicle" means a motor vehicle subject to the registration fee pursuant to Section 66-6-2 or 66-6-4 NMSA 1978 that derives part of the

vehicle's power from electricity stored in a battery that:

(a) has a capacity of not less than six kilowatt-hours;

(b) is capable of powering a vehicle for a range of at least thirty miles; and

(c) is capable of being recharged from an external source of electricity."

SECTION 31. Section 7-4-10 NMSA 1978 (being Laws 1993, Chapter 153, Section 1, as amended) is amended to read:

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

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

B. If eighty percent or more of the New Mexico numerators of the property and payroll factors for a filing group, or for a taxpayer that is not a member of a filing group, are employed in manufacturing or operating a computer processing facility, the filing group or the taxpayer may elect to have business income apportioned to this state by multiplying the income by the sales factor for the taxable year.

C. If a filing group, or a taxpayer that is not a

member of a filing group, has a headquarters operation in New Mexico, the filing group or the taxpayer may elect to have business income apportioned to this state by multiplying the income by the sales factor for the taxable year.

D. To elect the method of apportionment provided by Subsection B or C of this section, the taxpayer shall notify the department of the election, in writing, no later than the date on which the taxpayer files the return for the first taxable year to which the election will apply. The election shall apply as follows:

(1) if the election is made for taxable years beginning prior to January 1, 2020, to the taxable year in which the election is made and to each taxable year thereafter for three years, or until the taxable year ending prior to January 1, 2020, whichever is earlier;

(2) if the election is made for a taxable year beginning on or after January 1, 2020, to the taxable year in which the election is made and to each taxable year thereafter until the taxpayer notifies the department, in writing, that the election is terminated, except that the taxpayer shall not terminate the election until the method of apportioning business income provided by Subsection B or C of this section has been used by the taxpayer for at least three consecutive taxable years, including a total of at least thirty-six

calendar months; and

(3) if the election is made by a qualifying filing group, the election shall apply to the members of the filing group properly included pursuant to Section 7-2A-8.3 NMSA 1978.

E. For purposes of this section:

(1) "filing group" means "filing group" as that term is defined in the Corporate Income and Franchise Tax Act;

(2) "headquarters operation" means:

(a) the center of operations of a business: 1) where corporate staff employees are physically employed; 2) where the centralized functions are primarily performed, including administrative, planning, managerial, human resources, purchasing, information technology and accounting, but not including operating a call center; 3) the function and purpose of which is to manage and direct most aspects and functions of the business operations within a subdivided area of the United States; 4) from which final authority over regional or subregional offices, operating facilities and any other offices of the business are issued; and 5) including national and regional headquarters if the national headquarters is subordinate only to the ownership of the business or its representatives and the regional

headquarters is subordinate to the national headquarters; or

(b) the center of operations of a business: 1) the function and purpose of which is to manage and direct most aspects of one or more centralized functions; and 2) from which final authority over one or more centralized functions is issued;

(3) "manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include:

(a) construction;

(b) farming;

(c) power generation; provided that [~~for taxable years beginning prior to January 1, 2024~~] "manufacturing" includes electricity generation at a facility that does not require location approval and a certificate of convenience and necessity prior to commencing construction or operation of the facility pursuant to the Public Utility Act;

(d) processing natural resources, including hydrocarbons; or

(e) processing or preparation of meals for immediate consumption; and

(4) "operating a computer processing facility" means managing the necessary and ancillary activities for the operation of a facility primarily used to process data or

information, but does not include managing the operation of facilities that are predominantly used to support sales of tangible property or the provision of banking, financial or professional services."

SECTION 32. Section 7-2-5.13 NMSA 1978 (being Laws 2022, Chapter 47, Section 6) is amended to read:

"7-2-5.13. EXEMPTION--ARMED FORCES RETIREMENT PAY.--

A. An individual who is an armed forces retiree or the surviving spouse of an armed forces retiree may claim an exemption in [~~the following amounts~~] an amount equal to thirty thousand dollars ($30,000) of [~~military~~] armed forces retirement pay includable, except for this exemption, in net income

[~~(1) for taxable year 2022, ten thousand dollars ($10,000);~~

~~(2) for taxable year 2023, twenty thousand dollars ($20,000); and~~

~~(3) for taxable years 2024 through 2026, thirty thousand dollars ($30,000)~~].

B. As used in this section, "armed forces retiree" means a former member of the armed forces of the United States who has qualified by years of service or disability to separate from military service with lifetime benefits."

SECTION 33. A new section of the Income Tax Act is

enacted to read:

"[NEW MATERIAL] GEOTHERMAL ELECTRICITY GENERATION INCOME TAX CREDIT.--

A. For taxable years prior to January 1, 2032, a taxpayer who is not a dependent of another individual and who holds an interest in a geothermal electricity generation facility may apply for, and the department may allow, a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act. The tax credit provided by this section may be referred to as the "geothermal electricity generation income tax credit".

B. The amount of a tax credit allowed pursuant to this section shall be an amount equal to one and one-half cents ($0.015) per kilowatt-hour of electricity generated in New Mexico in a taxable year by the geothermal electricity generation facility in which the taxpayer holds an interest.

C. A taxpayer shall apply for certification of eligibility for the credit provided by this section from the energy, minerals and natural resources department on forms and in the manner prescribed by that department. The total annual aggregate amount of credits that may be certified for geothermal electricity generation income tax credits and geothermal electricity generation corporate income tax credits in any calendar year is five million dollars ($5,000,000).

Completed applications shall be considered in the order received. Applications for certification received after this limitation has been met in a calendar year shall not be approved for that calendar year, but shall be considered for certification in the following calendar year. The application shall include proof that the taxpayer is eligible for certification, including that the geothermal electricity generation facility that produced the energy for which the taxpayer is claiming credit, the geothermal resources used by the geothermal electricity generation facility and the taxpayer's interest in the geothermal electricity generation facility are in accordance with the definitions set forth in this section. For taxpayers approved to receive the credit, the energy, minerals and natural resources department shall issue a certificate of eligibility stating the amount of credit to which the taxpayer is entitled and the taxable year in which the credit may be claimed. The certificate of eligibility shall be numbered for identification and declare the date of issuance and the amount of the tax credit allowed.

D. A taxpayer may claim a geothermal electricity generation income tax credit for the taxable year in which electricity was generated in New Mexico by a geothermal electricity generation facility in which the taxpayer holds an interest. To receive the credit provided by this section, a

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

E. That portion of a credit that exceeds a taxpayer's tax liability in the taxable year in which the credit is claimed may be carried forward for up to three consecutive years.

F. Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of the credit that would have been claimed on a joint return.

G. A taxpayer may be allocated the right to claim a credit provided by this section in proportion to the taxpayer's ownership interest if the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership or limited liability company and that business entity has met all of the requirements to be eligible for the credit. The total credit claimed by all members of the partnership or limited liability company shall not exceed the maximum amount of the credit allowed pursuant to this section.

H. A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the department in a manner required by the department.

I. The department shall compile an annual report on the credit provided by this section that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the credit. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.

J. As used in this section:

(1) "geothermal electricity generation facility" means a facility located in New Mexico that generates electricity from geothermal resources and:

(a) for new facilities, begins construction on or after January 1, 2025; or

(b) for existing facilities, on or after January 1, 2025, increases the amount of electricity generated from geothermal resources the facility generated prior to that date by at least one hundred percent;

(2) "geothermal resources" means the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit or the energy, in whatever form, below the surface of the earth present in, resulting from, created by or that may be extracted from this natural heat in excess of two hundred fifty degrees Fahrenheit and all minerals in solution or other

products obtained from naturally heated fluids, brines, associated gases and steam, in whatever form, found below the surface of the earth, but excluding oil, hydrocarbon gas and other hydrocarbon substances and excluding the heating and cooling capacity of the earth not resulting from the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit as may be used for the heating and cooling of buildings through an on-site geoexchange heat pump or similar on-site system; and

(3) "interest in a geothermal electricity generation facility" means title to a geothermal electricity generation facility; a leasehold interest in such facility; an ownership interest in a business or entity that is taxed for federal income tax purposes as a partnership that holds title to or a leasehold interest in such facility; or an ownership interest, through one or more intermediate entities that are each taxed for federal income tax purposes as a partnership, in a business that holds title to or a leasehold interest in such facility."

SECTION 34. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"[NEW MATERIAL] GEOTHERMAL ELECTRICITY GENERATION CORPORATE INCOME TAX CREDIT.--

A. For taxable years prior to January 1, 2032, a

taxpayer that holds an interest in a geothermal electricity generation facility may apply for, and the department may allow, a credit against the taxpayer's tax liability imposed pursuant to the Corporate Income and Franchise Tax Act. The tax credit provided by this section may be referred to as the "geothermal electricity generation corporate income tax credit".

B. The amount of a tax credit allowed pursuant to this section shall be an amount equal to one and one-half cents ($0.015) per kilowatt-hour of electricity generated in New Mexico in a taxable year by the geothermal electricity generation facility in which the taxpayer holds an interest.

C. A taxpayer shall apply for certification of eligibility for the credit provided by this section from the energy, minerals and natural resources department on forms and in the manner prescribed by that department. The total annual aggregate amount of geothermal electricity generation corporate income tax credits and geothermal electricity generation income tax credits that may be certified in any calendar year is five million dollars ($5,000,000). Completed applications shall be considered in the order received. Applications for certification received after this limitation has been met in a calendar year shall not be approved for that calendar year, but shall be considered for certification in the following calendar

year. The application shall include proof that the taxpayer is eligible for certification, including that the geothermal electricity generation facility that produced the energy for which the taxpayer is claiming credit, the geothermal resources used by the geothermal electricity generation facility and the taxpayer's interest in the geothermal electricity generation facility are in accordance with the definitions set forth in this section. For taxpayers approved to receive the credit, the energy, minerals and natural resources department shall issue a certificate of eligibility stating the amount of credit to which the taxpayer is entitled and the taxable year in which the credit may be claimed. The certificate of eligibility shall be numbered for identification and declare the date of issuance and the amount of the tax credit allowed.

D. A taxpayer may claim a geothermal electricity generation corporate income tax credit for the taxable year in which electricity was generated in New Mexico by a geothermal electricity generation facility in which the taxpayer holds an interest. To receive the credit provided by this section, a taxpayer shall apply to the department on forms and in the manner prescribed by the department. The application shall include a certification made pursuant to Subsection C of this section.

E. That portion of a credit that exceeds a

taxpayer's tax liability in the taxable year in which the credit is claimed may be carried forward for up to three consecutive years.

F. A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the department in a manner required by that department.

G. The department shall compile an annual report on the credit provided by this section that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the credit. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.

H. As used in this section:

(1) "geothermal electricity generation facility" means a facility located in New Mexico that generates electricity from geothermal resources and:

(a) for new facilities, begins construction on or after January 1, 2025; or

(b) for existing facilities, on or after January 1, 2025, increases the amount of electricity generated from geothermal resources the facility generated prior to that date by at least one hundred percent;

(2) "geothermal resources" means the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit or the energy, in whatever form, below the surface of the earth present in, resulting from, created by or that may be extracted from this natural heat in excess of two hundred fifty degrees Fahrenheit and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases and steam, in whatever form, found below the surface of the earth, but excluding oil, hydrocarbon gas and other hydrocarbon substances and excluding the heating and cooling capacity of the earth not resulting from the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit as may be used for the heating and cooling of buildings through an on-site geoexchange heat pump or similar on-site system; and

(3) "interest in a geothermal electricity generation facility" means title to a geothermal electricity generation facility; a leasehold interest in such facility; an ownership interest in a business or entity that is taxed for federal income tax purposes as a partnership that holds title to or a leasehold interest in such facility; or an ownership interest, through one or more intermediate entities that are each taxed for federal income tax purposes as a partnership, in a business that holds title to or a leasehold interest in such

facility."

SECTION 35. A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] ADVANCED ENERGY EQUIPMENT INCOME TAX CREDIT.--

A. The tax credit provided by this section may be referred to as the "advanced energy equipment income tax credit". A taxpayer who is not a dependent of another individual, who makes qualified expenditures for a qualified manufacturing facility located in New Mexico and who files an individual New Mexico income tax return for a taxable year beginning on or after January 1, 2025, and prior to January 1, 2033, may claim the tax credit in the amount provided in Subsection B of this section.

B. The amount of the tax credit shall be in an amount equal to the lesser of twenty percent of the amount of the qualified expenditures made by the taxpayer for a qualified manufacturing facility or twenty-five million dollars ($25,000,000).

C. Prior to incurring a qualified expenditure, a taxpayer shall apply for preliminary certification of eligibility for the tax credit from the energy, minerals and natural resources department on forms and in the manner prescribed by that department. Such preliminary certification

shall be made in consultation with the economic development department and shall be limited to confirming that the qualified expenditures proposed to be made by the taxpayer will in whole or in part be used to produce advanced energy products and providing an estimate of the amount of tax credit for which the taxpayer may be eligible. Only one certificate of eligibility shall be issued for all activities performed at a qualified manufacturing facility, regardless of ownership of the facility.

D. Within twelve months of commencement of production of any advanced energy product, the taxpayer shall seek final certification from the energy, minerals and natural resources department. The total annual aggregate amount of advanced energy equipment income tax credits and advanced energy equipment corporate income tax credits that may be certified in a calendar year shall not exceed twenty-five million dollars ($25,000,000). An application for final certification shall include information required by the energy, minerals and natural resources department to determine eligibility for the tax credit, including information substantiating qualified expenditures. If, after consultation with the economic development department, the energy, minerals and natural resources department determines that the taxpayer meets the requirements of this section, the energy, minerals

and natural resources department shall issue a dated certificate of eligibility to the taxpayer providing the amount of tax credit for which the taxpayer is eligible and the taxable years in which the credit may be claimed. The energy, minerals and natural resources department shall provide the department with the certificates of eligibility issued pursuant to this subsection in an electronic format at regularly agreed-upon intervals. A certificate of eligibility for the tax credit may be sold, exchanged or otherwise transferred to another taxpayer in increments of not less than one million dollars ($1,000,000); provided that if the total amount certified is less than one million dollars ($1,000,000), the certificate of the entire amount of the credit may be transferred. The parties to such a transaction shall notify the department of the sale, exchange or transfer within ten days of the sale, exchange or transfer in an electronic format prescribed by the department.

E. A taxpayer allowed to claim the tax credit shall claim the credit in a manner required by the department. The tax credit shall be claimed within one year of receiving final certification from the energy, minerals and natural resources department. The taxpayer shall claim the amount certified and approved against the taxpayer's income tax liabilities. Any amount of credit that exceeds the taxpayer's income tax

liabilities may be carried forward for five consecutive taxable years. A taxpayer who claims the tax credit shall report to the department and the energy, minerals and natural resources department on the continued operations of the qualified manufacturing facility.

F. Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of the tax credit that would have been claimed on a joint return.

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

H. If the taxpayer or a successor in the business of the taxpayer ceases operations at the qualifying manufacturing facility or ceases to produce advanced energy products for at least one hundred eighty days within a two-year period after the taxpayer has claimed the tax credit, any amount of credit that received final certification with respect

to that facility that is not claimed against a taxpayer's tax liability shall be extinguished, and within thirty days after the one hundred eightieth day of cessation of operations, the taxpayer who received final certification pursuant to Subsection D of this section shall pay to the department the tax liability against which the certified credit was claimed. For the purposes of this section, a taxpayer shall not be deemed to have ceased operations during reasonable periods for maintenance or retooling, for the repair or replacement of facilities damaged or destroyed or during labor disputes.

I. As used in this section:

(1) "advanced energy product" means a technology, product, system or component eligible for a federal tax credit under Section 45X of the Internal Revenue Code;

(2) "essential" means directly necessary to the production of an advanced energy products;

(3) "manufacturing equipment" means an essential machine, mechanism or tool or a component of an essential machine, mechanism or tool used directly and exclusively in a taxpayer's qualified manufacturing facility and that is subject to depreciation pursuant to the Internal Revenue Code by the taxpayer carrying on the manufacturing. "Manufacturing equipment" does not include a vehicle that leaves the site of a manufacturing operation for the purpose of

transporting persons or property, including property for which the taxpayer claims a credit pursuant to Section 7-9-79 NMSA 1978;

(4) "qualified expenditure" means an expenditure made on or after January 1, 2025 and prior to January 1, 2033 for the purchase of that portion of the costs of manufacturing equipment dedicated to manufacturing advanced energy products; and

(5) "qualified manufacturing facility" means a facility located in New Mexico, including any connected, associated or subsidiary facilities, that employs personnel to perform production tasks with manufacturing equipment not previously existing at the facility to produce advanced energy products."

SECTION 36. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"[NEW MATERIAL] ADVANCED ENERGY EQUIPMENT CORPORATE INCOME TAX CREDIT.--

A. The tax credit provided by this section may be referred to as the "advanced energy equipment corporate income tax credit". A taxpayer that makes qualified expenditures for a qualified manufacturing facility located in New Mexico and that files a corporate income tax return for a taxable year beginning on or after January 1, 2025, and prior to January 1,

2033, may claim the tax credit in the amount provided in Subsection B of this section.

B. The amount of the tax credit shall be in an amount equal to the lesser of twenty percent of the amount of the qualified expenditures made by the taxpayer for a qualified manufacturing facility or twenty-five million dollars ($25,000,000).

C. Prior to incurring a qualified expenditure, a taxpayer shall apply for preliminary certification of eligibility for the tax credit from the energy, minerals and natural resources department on forms and in the manner prescribed by that department. Such preliminary certification shall be made in consultation with the economic development department and shall be limited to confirming that the qualified expenditures proposed to be made by the taxpayer will in whole or in part be used to produce advanced energy products and providing an estimate of the amount of tax credit for which the taxpayer may be eligible. Only one certificate of eligibility shall be issued for all activities performed at a qualified manufacturing facility, regardless of ownership of the facility.

D. Within twelve months of commencement of production of any advanced energy product, the taxpayer shall seek final certification from the energy, minerals and natural

resources department. The total annual aggregate amount of advanced energy equipment corporate income tax credits and advanced energy equipment income tax credits that may be certified in a calendar year shall not exceed twenty-five million dollars ($25,000,000). An application for final certification shall include information required by the energy, minerals and natural resources department to determine eligibility for the tax credit, including information substantiating qualified expenditures. If, after consultation with the economic development department, the energy, minerals and natural resources department determines that the taxpayer meets the requirements of this section, the energy, minerals and natural resources department shall issue a dated certificate of eligibility to the taxpayer providing the amount of tax credit for which the taxpayer is eligible and the taxable years in which the credit may be claimed. The energy, minerals and natural resources department shall provide the department with the certificates of eligibility issued pursuant to this subsection in an electronic format at regularly agreed-upon intervals. A certificate of eligibility for the tax credit may be sold, exchanged or otherwise transferred to another taxpayer in increments of not less than one million dollars ($1,000,000); provided that if the total amount certified is less than one million dollars ($1,000,000), a

certificate of the entire amount of the credit may be transferred. The parties to such a transaction shall notify the department of the sale, exchange or transfer within ten days of the sale, exchange or transfer in an electronic format prescribed by the department.

E. A taxpayer allowed to claim the tax credit shall claim the credit in a manner required by the department. The tax credit shall be claimed within one year of receiving final certification from the energy, minerals and natural resources department. The taxpayer shall claim the amount certified and approved against the taxpayer's corporate income tax liabilities. Any amount of credit that exceeds the taxpayer's corporate income tax liabilities may be carried forward for five consecutive taxable years. A taxpayer that claims the tax credit shall report to the department and the energy, minerals and natural resources department on the continued operations of the qualified manufacturing facility.

F. If the taxpayer or a successor in the business of the taxpayer ceases operations at the qualifying manufacturing facility or ceases to produce advanced energy products for at least one hundred eighty days within a two-year period after the taxpayer has claimed the tax credit, any amount of credit that received final certification with respect to that facility that is not claimed against a taxpayer's tax

liability shall be extinguished, and within thirty days after the one hundred eightieth day of cessation of operations, the taxpayer that received final certification pursuant to Subsection D of this section shall pay to the department the tax liability against which the certified credit was claimed. For the purposes of this section, a taxpayer shall not be deemed to have ceased operations during reasonable periods for maintenance or retooling, for the repair or replacement of facilities damaged or destroyed or during labor disputes.

G. As used in this section:

(1) "advanced energy product" means a technology, product, system or component eligible for a federal tax credit under Section 45X of the Internal Revenue Code;

(2) "essential" means directly necessary to the production of an advanced energy products;

(3) "manufacturing equipment" means an essential machine, mechanism or tool or a component of an essential machine, mechanism or tool used directly and exclusively in a taxpayer's qualified manufacturing facility and that is subject to depreciation pursuant to the Internal Revenue Code by the taxpayer carrying on the manufacturing. "Manufacturing equipment" does not include a vehicle that leaves the site of a manufacturing operation for the purpose of transporting persons or property, including property for which

the taxpayer claims a credit pursuant to Section 7-9-79 NMSA 1978;

(4) "qualified expenditure" means an expenditure made on or after January 1, 2025 and prior to January 1, 2033 for the purchase of that portion of the costs of manufacturing equipment dedicated to manufacturing advanced energy products; and

(5) "qualified manufacturing facility" means a facility located in New Mexico, including any connected, associated or subsidiary facilities, that employs personnel to perform production tasks with manufacturing equipment not previously existing at the facility to produce advanced energy products."

SECTION 37. Section 7-2A-2 NMSA 1978 (being Laws 1986, Chapter 20, Section 33, as amended) is amended to read:

"7-2A-2. DEFINITIONS.--For the purpose of the Corporate Income and Franchise Tax Act and unless the context requires otherwise:

A. "bank" means any national bank, national banking association, state bank or bank holding company;

B. "apportioned net income" or "apportioned net loss" means net income allocated and apportioned to New Mexico pursuant to the provisions of the Corporate Income and Franchise Tax Act or the Uniform Division of Income for Tax

Purposes Act, but excluding from the sales factor any sales that represent intercompany transactions between members of the filing group;

C. "base income" means the federal taxable income or the federal net operating loss of a corporation for the taxable year calculated pursuant to the Internal Revenue Code, after special deductions provided in Sections 241 through 249 of the Internal Revenue Code but without any deduction for net operating losses, as if the corporation filed a federal tax return as a separate domestic entity, modified as follows:

(1) adding to that income:

(a) interest received on a state or local bond exempt under the Internal Revenue Code;

(b) the amount of any deduction claimed in calculating taxable income for all expenses and costs directly or indirectly paid, accrued or incurred to a captive real estate investment trust;

(c) the amount of any deduction, other than for premiums, for amounts paid directly or indirectly to a commonly controlled entity that is exempt from corporate income tax pursuant to Section 7-2A-4 NMSA 1978; and

(d) for taxable years beginning on or after January 1, 2023, an amount equal to the amount of credit claimed and allowed for that year pursuant to Section 7-3A-10

NMSA 1978 with respect to the distributed net income of a pass-through entity;

(2) subtracting from that income:

(a) income from obligations of the United States net of expenses incurred to earn that income;

(b) other amounts that the state is prohibited from taking because of the laws or constitution of this state or the United States net of any related expenses; and

[~~(c) an amount equal to one hundred percent of the subpart F income, as that term is defined in Section 952 of the Internal Revenue Code, as that section may be amended or renumbered, included in the income of the corporation; and~~

~~(d)~~] (c) an amount equal to one hundred percent of the income of the corporation under Section 951A of the Internal Revenue Code, [~~after allowing the deduction provided in~~] less the amount deducted pursuant to Section 250 of the Internal Revenue Code;

(3) making other adjustments deemed necessary to properly reflect income of the unitary group, including attribution of income or expense related to unitary assets held by related corporations that are not part of the filing group; and

(4) for a taxpayer that conducts a lawful business pursuant to the laws of this state, excludes an amount equal to any expenditure that is eligible to be claimed as a federal income tax deduction but is disallowed pursuant to Section 280E of the Internal Revenue Code, as that section may be amended or renumbered;

D. "captive real estate investment trust" means a corporation, trust or association taxed as a real estate investment trust pursuant to Section 857 of the Internal Revenue Code, the shares or beneficial interests of which are not regularly traded on an established securities market; provided that more than fifty percent of any class of beneficial interests or shares of the real estate investment trust are owned directly, indirectly or constructively by the taxpayer during all or a part of the taxpayer's taxable year;

E. "common ownership" means the direct or indirect control or ownership of more than fifty percent of the outstanding voting stock, ownership of which is determined pursuant to Section 1563 of the Internal Revenue Code, as that section may be amended or renumbered, of:

(1) a parent-subsidiary controlled group as defined in Section 1563 of the Internal Revenue Code, except that fifty percent shall be substituted for eighty percent;

(2) a brother-sister controlled group as

defined in Section 1563 of the Internal Revenue Code; or

(3) three or more corporations each of which is a member of a group of corporations described in Paragraph (1) or (2) of this subsection, and one of which is:

(a) a common parent corporation included in a group of corporations described in Paragraph (1) of this subsection; and

(b) included in a group of corporations described in Paragraph (2) of this subsection;

F. "consolidated group" means the group of entities properly filing a federal consolidated return under the Internal Revenue Code for the taxable year;

G. "corporation" means corporations, joint stock companies, real estate trusts organized and operated under the Real Estate Trust Act, financial corporations and banks, other business associations and, for corporate income tax purposes, partnerships and limited liability companies taxed as corporations under the Internal Revenue Code;

H. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

I. "filing group" means a group of corporations properly included in a return pursuant to Section 7-2A-8.3 NMSA

1978 for a particular taxable year;

J. "fiscal year" means any accounting period of twelve months ending on the last day of any month other than December;

K. "grandfathered net operating loss carryover" means:

(1) the amount of net loss properly reported to New Mexico for taxable years beginning January 1, 2013 and prior to January 1, 2020 as part of a timely filed original return, or an amended return for those taxable years filed prior to January 1, 2020, to the extent such loss can be attributed to one or more corporations that are properly included in the taxpayer's return for the first taxable year beginning on or after January 1, 2020;

(2) reduced by:

(a) adding back deductions that were taken by the corporation or corporations for royalties or interest paid to one or more related corporations, but only to the extent that such adjustment would not create a net loss for such related corporations; and

(b) the amount of net operating loss deductions taken prior to January 1, 2020 that would be charged against those losses consistent with the Internal Revenue Code and provisions of the Corporate Income and Franchise Tax Act

applicable to the year of the deduction; and

(3) apportioned to New Mexico using the apportionment factors that can properly be attributed to the corporation or corporations for the year of the net loss;

L. "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended;

M. "net income" means:

(1) the base income of a corporation properly filing a tax return as a separate entity; or

(2) the combined base income and losses of corporations that are part of a filing group that is computed after eliminating intercompany income and expense in a manner consistent with the consolidated filing requirements of the Internal Revenue Code and the Corporate Income and Franchise Tax Act;

N. "net operating loss carryover" means the apportioned net loss properly reported on an original or amended tax return for taxable years beginning on or after January 1, 2020 by the taxpayer:

(1) plus:

(a) the portion of an apportioned net loss properly reported to New Mexico for a taxable year beginning on or after January 1, 2020, on a separate year return, to the extent the taxpayer would have been entitled to

include the portion of such apportioned net loss in the taxpayer's consolidated net operating loss carryforward under the Internal Revenue Code if the taxpayer filed a consolidated federal return; and

(b) the taxpayer's grandfathered net operating loss carryover; and

(2) minus:

(a) the amount of the net operating loss carryover attributed to an entity that has left the filing group, computed in a manner consistent with the consolidated filing requirements of the Internal Revenue Code and applicable regulations, as if the taxpayer were filing a consolidated return; and

(b) the amount of net operating loss deductions properly taken by the taxpayer;

O. "net operating loss deduction" means the portion of the net operating loss carryover that may be deducted from the taxpayer's apportioned net income under the Internal Revenue Code as of January 1, 2018 for the taxable year in which the deduction is taken, including the eighty percent limitation of Section 172(a) of the Internal Revenue Code as of January 1, 2018 calculated on the basis of the taxpayer's apportioned net income;

P. "person" means any individual, estate, trust,

receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, joint venture, syndicate or other association; "person" also means, to the extent permitted by law, any federal, state or other governmental unit or subdivision or agency, department or instrumentality thereof;

Q. "real estate investment trust" has the meaning ascribed to the term in Section 856 of the Internal Revenue Code, as that section may be amended or renumbered;

R. "related corporation" means a corporation that is under common ownership with one or more corporations but that is not included in the same tax return;

S. "return" means any tax or information return, including a water's-edge or worldwide combined return, a consolidated return, a declaration of estimated tax or a claim for refund, including any amendments or supplements to the return, required or permitted pursuant to a law subject to administration and enforcement pursuant to the Tax Administration Act and filed with the department by or on behalf of any person;

T. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

U. "separate year return" means a properly filed original or amended return for a taxable year beginning on or

after January 1, 2020 by a taxpayer reporting a loss, a portion of which is claimed as part of the net operating loss carryover by another taxpayer in a subsequent return period;

V. "state" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico, any territory or possession of the United States or political subdivision thereof or any political subdivision of a foreign country;

W. "state or local bond" means a bond issued by a state other than New Mexico or by a local government other than one of New Mexico's political subdivisions, the interest from which is excluded from income for federal income tax purposes under Section 103 of the Internal Revenue Code, as that section may be amended or renumbered;

X. "taxable income" means a taxpayer's apportioned net income minus the net operating loss deduction for the taxable year;

Y. "taxable year" means the calendar year or fiscal year upon the basis of which the net income is computed under the Corporate Income and Franchise Tax Act and includes, in the case of the return made for a fractional part of a year under the provisions of that act, the period for which the return is made;

Z. "taxpayer" means any corporation or group of

corporations filing a return pursuant to Section 7-2A-8.3 NMSA 1978 subject to the taxes imposed by the Corporate Income and Franchise Tax Act;

AA. "unitary group" means a group of two or more corporations, including a captive real estate investment trust, but not including an S corporation, an insurance company subject to the provisions of the New Mexico Insurance Code, an insurance company that would be subject to the New Mexico Insurance Code if the insurance company engaged in business in this state or a real estate investment trust that is not a captive real estate investment trust, that are:

(1) related through common ownership; and

(2) economically interdependent with one another as demonstrated by the following factors:

(a) centralized management;

(b) functional integration; and

(c) economies of scale;

BB. "water's-edge group" means all corporations that are part of a unitary group, except:

(1) corporations that are exempt from corporate income tax pursuant to Section 7-2A-4 NMSA 1978; and

(2) corporations [~~wherever~~] organized or incorporated outside the United States or its possessions or territories that have less than twenty percent of their

property, payroll and sales sourced to locations within the United States, following the sourcing rules of the Uniform Division of Income for Tax Purposes Act; and

CC. "worldwide combined group" means all members of a unitary group, except members that are exempt from corporate income tax pursuant to Section 7-2A-4 NMSA 1978, irrespective of the country in which the corporations are incorporated or conduct business activity."

SECTION 38. Section 7-2-18.31 NMSA 1978 (being Laws 2020, Chapter 13, Section 1, as amended) is amended to read:

"7-2-18.31. NEW SOLAR MARKET DEVELOPMENT INCOME TAX CREDIT.--

A. For taxable years prior to January 1, 2032, a taxpayer who is not a dependent of another individual and who, on or after March 1, 2020, purchases and installs a solar thermal system or a photovoltaic system in a residence, business or agricultural enterprise in New Mexico owned by that taxpayer or by a federally recognized Indian nation, tribe or pueblo and held in leasehold by that taxpayer may apply for, and the department may allow, a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act in an amount provided in Subsection C of this section. The tax credit provided by this section may be referred to as the "new solar market development income tax credit".

B. The purpose of the new solar market development income tax credit is to encourage the installation of solar thermal and photovoltaic systems in residences, businesses and agricultural enterprises.

C. The department may allow a new solar market development income tax credit of ten percent of the purchase and installation costs of a solar thermal or photovoltaic system.

D. The new solar market development income tax credit shall not exceed six thousand dollars ($6,000) per taxpayer per taxable year. The department shall allow a tax credit only for solar thermal and photovoltaic systems certified pursuant to Subsection E of this section.

E. Subject to the limitation provided in Subsection F of this section, a taxpayer shall apply for certification of eligibility for the new solar market development income tax credit from the energy, minerals and natural resources department on forms and in the manner prescribed by that department. [~~The aggregate amount of credits that may be certified as eligible in any calendar year is twelve million dollars ($12,000,000).~~] Completed applications shall be considered in the order received. [~~Applications for certification received after this limitation has been met in a calendar year shall not be approved.~~] The application shall

include proof of purchase and installation of a solar thermal or photovoltaic system, that the system meets technical specifications and requirements relating to safety, code and standards compliance, solar collector orientation and sun exposure, minimum system sizes, system applications and lists of eligible components and any additional information that the energy, minerals and natural resources department may require to determine eligibility for the credit. A dated certificate of eligibility shall be issued to the taxpayer providing the amount of the new solar market development income tax credit for which the taxpayer is eligible and the taxable year in which the credit may be claimed. A certificate of eligibility for a new solar market development income tax credit may be sold, exchanged or otherwise transferred to another taxpayer for the full value of the credit. The parties to such a transaction shall notify the department of the sale, exchange or transfer within ten days of the sale, exchange or transfer.

F. The aggregate amount of credits that may be certified pursuant to Subsection E of this section is as follows, and applications for certification received after these limitations have been met shall not be approved:

(1) for calendar years 2020 through 2023, twelve million dollars ($12,000,000) for each calendar year; provided that if this limitation has been met for any of those

calendar years, an additional total of twenty million dollars ($20,000,000) in credits may be certified for all of those calendar years; and provided further that credits certified pursuant to this paragraph shall be claimed only for taxable year 2023; and

(2) for calendar years 2024 and thereafter, thirty million dollars ($30,000,000).

[~~F.~~] G. A taxpayer may claim a new solar market development income tax credit for the taxable year in which the taxpayer purchases and installs a solar thermal or photovoltaic system. To receive a new solar market development income tax credit, a taxpayer shall apply to the department on forms and in the manner prescribed by the department within twelve months following the calendar year in which the system was installed; provided that, for a taxpayer who receives a certificate of eligibility pursuant to Paragraph (1) of Subsection F of this section, the taxpayer shall apply to the department within twelve months following the calendar year in which the certification is made. The application shall include a certification made pursuant to Subsection E of this section.

[~~G.~~] H. That portion of a new solar market development income tax credit that exceeds a taxpayer's tax liability in the taxable year in which the credit is claimed shall be refunded to the taxpayer.

[~~H.~~] I. Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of the new solar market development income tax credit that would have been claimed on a joint return.

[~~I.~~] J. A taxpayer may be allocated the right to claim a new solar market development income tax credit in proportion to the taxpayer's ownership interest if the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership or limited liability company and that business entity has met all of the requirements to be eligible for the credit. The total credit claimed by all members of the partnership or limited liability company shall not exceed the allowable credit pursuant to this section.

[~~J.~~] K. A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the taxation and revenue department in a manner required by that department.

[~~K.~~] L. The taxation and revenue department shall compile an annual report on the new solar market development income tax credit that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary

to evaluate the credit. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.

[~~L.~~] M. As used in this section:

(1) "photovoltaic system" means an energy system that collects or absorbs sunlight for conversion into electricity; and

(2) "solar thermal system" means an energy system that collects or absorbs solar energy for conversion into heat for the purposes of space heating, space cooling or water heating."

SECTION 39. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"[NEW MATERIAL] DEDUCTIONS--GROSS RECEIPTS TAX--COMPENSATING TAX--GEOTHERMAL ELECTRICITY GENERATION-RELATED SALES AND USE.--

A. Prior to July 1, 2032, receipts from the following sales may be deducted from gross receipts; provided that the sale is made to a person who holds an interest in a geothermal electricity generation facility and the person delivers an appropriate nontaxable transaction certificate to the seller or lessor or provides alternative evidence pursuant to Section 7-9-43 NMSA 1978:

(1) selling tangible personal property installed as part of, or services rendered in connection with, constructing and equipping a geothermal electricity generation facility;

(2) selling tangible personal property installed as part of a system used for the distribution of electricity generated from a geothermal electricity generation facility; and

(3) selling or leasing tangible personal property or selling services that are construction plant costs.

B. Prior to July 1, 2032, the value of:

(1) tangible personal property installed as part of, or services rendered in connection with, constructing and equipping a geothermal electricity generation facility may be deducted in computing compensating tax due;

(2) tangible personal property installed as part of a system used for the distribution of electricity generated from a geothermal electricity generation facility may be deducted in computing compensating tax due; and

(3) construction plant costs purchased by a person who holds an interest in a geothermal electricity generation facility may be deducted in computing compensating tax due.

C. A taxpayer allowed a deduction pursuant to this

section shall report the amount of the deduction separately in a manner required by the department.

D. The department shall compile an annual report on the deductions provided by this section that shall include the number of taxpayers that claimed the deductions, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deductions. The department shall present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the deductions.

E. As used in this section:

(1) "construction plant costs" means actual expenditures for the development and construction of a geothermal electricity generation facility, including the drilling of wells to at least twelve thousand feet; permitting; site characterization and assessment; engineering; design; site and equipment acquisition; raw materials; and fuel supply development used directly and exclusively in the facility;

(2) "geothermal electricity generation facility" means a facility located in New Mexico that generates electricity from geothermal resources and:

(a) for a new facility, begins construction on or after January 1, 2025; or

(b) for an existing facility, on or after January 1, 2025, increases the amount of electricity generated from geothermal resources the facility generated prior to that date by at least one hundred percent;

(3) "geothermal resources" means the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit or the energy, in whatever form, below the surface of the earth present in, resulting from, created by or that may be extracted from this natural heat in excess of two hundred fifty degrees Fahrenheit and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases and steam, in whatever form, found below the surface of the earth, but excluding oil, hydrocarbon gas and other hydrocarbon substances and excluding the heating and cooling capacity of the earth not resulting from the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit as may be used for the heating and cooling of buildings through an on-site geoexchange heat pump or similar on-site system; and

(4) "interest in a geothermal electricity generation facility" means title to a geothermal electricity generation facility; a leasehold interest in such facility; an ownership interest in a business or entity that is taxed for federal income tax purposes as a partnership that holds title

to or a leasehold interest in such facility; or an ownership interest, through one or more intermediate entities that are each taxed for federal income tax purposes as a partnership, in a business that holds title to or a leasehold interest in such facility."

SECTION 40. Section 7-9-93 NMSA 1978 (being Laws 2004, Chapter 116, Section 6, as amended) is amended to read:

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

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

B. Prior to July 1, 2028, receipts from a copayment or deductible paid by an insured or enrollee to a health care practitioner or an association of health care practitioners for commercial contract services pursuant to the terms of the insured's health insurance plan or enrollee's managed care health plan may be deducted from gross receipts if the services

are within the scope of practice of the health care practitioner providing the service.

C. The deductions provided by this section shall be applied only to gross receipts remaining after all other allowable deductions available under the Gross Receipts and Compensating Tax Act have been taken.

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

E. The department shall compile an annual report on the deductions provided by this section that shall include the number of taxpayers that claimed the deductions, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deductions. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the deductions.

F. As used in this section:

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

(a) an organization granted exemption

from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as that section may be amended or renumbered; or

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

(2) "commercial contract services" means health care services performed by a health care practitioner pursuant to a contract with a managed care organization or health care insurer other than those health care services provided for medicare patients pursuant to Title 18 of the federal Social Security Act or for medicaid patients pursuant to Title 19 or Title 21 of the federal Social Security Act;

(3) "copayment" means a fixed dollar amount that a health care insurer or managed care health plan requires an insured or enrollee to pay upon incurring an expense for receiving medical services;

[~~(3)~~] (4) "[~~copayment or~~] deductible" means the amount of covered charges an insured or enrollee is required to pay in a plan year for commercial contract services before the insured's health insurance plan or enrollee's managed care health plan begins to pay for applicable covered

charges;

[~~(4)~~] (5) "fee-for-service" means payment for health care services by a health care insurer for covered charges under an indemnity insurance plan;

[~~(5)~~] (6) "health care insurer" means a person that:

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

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

[~~(6)~~] (7) "health care practitioner" means:

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

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

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

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

(e) an osteopathic physician licensed pursuant to the provisions of the Medical Practice Act;

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

(g) a physician or physician assistant licensed pursuant to the provisions of the Medical Practice Act;

(h) a [~~podiatrist~~] podiatric physician licensed pursuant to the provisions of the Podiatry Act;

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

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

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

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

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

(n) a speech-language pathologist or audiologist licensed pursuant to the Speech-Language Pathology,

Audiology and Hearing Aid Dispensing Practices Act;

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

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

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

[~~(7)~~] (8) "managed care health plan" means a health care plan offered by a managed care organization that provides for the delivery of comprehensive basic health care services and medically necessary services to individuals enrolled in the plan other than those services provided to medicare patients pursuant to Title 18 of the federal Social Security Act or to medicaid patients pursuant to Title 19 or Title 21 of the federal Social Security Act;

[~~(8)~~] (9) "managed care organization" means a person that provides for the delivery of comprehensive basic health care services and medically necessary services to

individuals enrolled in a plan through its own employed health care providers or by contracting with selected or participating health care providers. "Managed care organization" includes only those persons that provide comprehensive basic health care services to enrollees on a contract basis, including the following:

(a) health maintenance organizations;

(b) preferred provider organizations;

(c) individual practice associations;

(d) competitive medical plans;

(e) exclusive provider organizations;

(f) integrated delivery systems;

(g) independent physician-provider organizations;

(h) physician hospital-provider organizations; and

(i) managed care services organizations; and

[~~(9)~~] (10) "medicare part C services" means services performed pursuant to a contract with a managed health care provider for medicare patients pursuant to Title 18 of the federal Social Security Act."

SECTION 41. DELAYED REPEAL.--

A. Sections 27 through 30 of this act are repealed

effective January 1, 2031.

B. Sections 35 and 36 of this act are repealed effective January 1, 2034.

SECTION 42. APPLICABILITY.--

A. The provisions of Sections 7, 9 and 23 through 31 of this act apply to taxable years beginning on or after January 1, 2024.

B. The provisions of Sections 5, 8, 10 and 32 through 37 of this act apply to taxable years beginning on or after January 1, 2025.

SECTION 43. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 4 and 11 through 22 of this act is July 1, 2024.

B. The effective date of the provisions of Sections 5, 8, 10, 32 through 37 and 39 of this act is January 1, 2025.←STBTC