

1 AN ACT
2 RELATING TO TAXATION; UPDATING AND DELETING OUTDATED
3 PROVISIONS IN CERTAIN SECTIONS OF CHAPTER 7 NMSA 1978;
4 AMENDING CERTAIN PROVISIONS OF THE METROPOLITAN REDEVELOPMENT
5 CODE AND THE TAX INCREMENT FOR DEVELOPMENT ACT TO CONFORM
6 WITH DESTINATION SOURCING; AMENDING THAT SECTION OF LAW THAT
7 ALLOWS THE TAXATION AND REVENUE DEPARTMENT TO MAKE
8 ADJUSTMENTS OF DISTRIBUTIONS AND TRANSFERS TO POLITICAL
9 SUBDIVISIONS; INCREASING THE AMOUNT AND EXTENDING THE TIME
10 PERIOD THE SECRETARY OF TAXATION AND REVENUE MAY SET TAX
11 REPORTING AND PAYMENT INTERVALS; INCREASING THE AMOUNT A
12 TAXPAYER MAY OWE TO ALLOW QUARTERLY OR SEMIANNUAL FILING;
13 ALLOWING THE SECRETARY OF TAXATION AND REVENUE TO COMPROMISE
14 ASSERTED LIABILITY IN THE CASE OF A DENIAL OF A REFUND OR
15 CREDIT; INCREASING THE AMOUNT OF INSTALLMENT AGREEMENTS,
16 ABATEMENTS, REFUNDS AND CREDITS THAT SHALL BE MADE AVAILABLE
17 FOR PUBLIC INSPECTION; ALLOWING A COMPLETED RETURN TO
18 CONSTITUTE A FILING OF A CLAIM FOR REFUND; REMOVING ATTORNEY
19 GENERAL APPROVAL OF CLOSING AGREEMENTS AND OF REFUNDS OVER
20 TWENTY THOUSAND DOLLARS (\$20,000); AMENDING CERTAIN
21 PROVISIONS REGARDING A LIEN FOR A TAX LIABILITY; AMENDING
22 CERTAIN PROVISIONS ON INTEREST ON DEFICIENCIES; PROVIDING
23 THAT ELECTRONIC FILERS FILE AND PAY WITH THE SAME DEADLINE AS
24 ALL OTHER FILERS; REMOVING CONTINGENT RATES FOR THE PETROLEUM
25 PRODUCTS LOADING FEE; PROVIDING THAT LOCAL OPTION GROSS

1 RECEIPTS AND COMPENSATING TAX RATES SHALL BE EFFECTIVE ON
2 JULY 1 FOLLOWING ELECTION OR ADOPTED ORDINANCE UNLESS AN
3 EMERGENCY OR UNFORESEEN OCCURRENCE OCCURS; STREAMLINING
4 ADVANCE PAYMENTS OF CERTAIN OIL AND GAS TAXES; ALLOWING TAX
5 LIENS TO BE RECORDED WITHOUT A NOTARY SIGNATURE; ALIGNING A
6 WORKERS' COMPENSATION FEE DUE DATE TO THE WITHHOLDING TAX DUE
7 DATE; AMENDING A SECTION OF LAWS 2024, CHAPTER 41; AMENDING
8 AND REPEALING SECTIONS OF THE NMSA 1978.

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

11 SECTION 1. Section 3-60A-21 NMSA 1978 (being Laws 2024,
12 Chapter 62, Section 1) is amended to read:

13 "3-60A-21. PROPERTY AND GROSS RECEIPTS TAX INCREMENTS--
14 PROCEDURES.--

15 A. The procedures to be used in determining a
16 property tax increment are:

17 (1) the local government shall, after
18 approval of a metropolitan redevelopment plan, notify the
19 county assessor of the taxable parcels of property within the
20 metropolitan redevelopment area;

21 (2) upon receipt of the notification, the
22 county assessor shall identify the parcels of property within
23 the metropolitan redevelopment area within their respective
24 jurisdictions and certify to the county treasurer the net
25 taxable value of the property at the time of notification as

1 the base value for the distribution of property tax revenues
2 authorized by the Property Tax Code. If because of
3 acquisition by the local government the property becomes tax
4 exempt, the county assessor shall note that fact on their
5 respective records and so notify the county treasurer, but the
6 county assessor and the county treasurer shall preserve a
7 record of the net taxable value at the time of inclusion of
8 the property within the metropolitan redevelopment area as the
9 base value for the purpose of distribution of property tax
10 revenues when the parcel again becomes taxable. The county
11 assessor is not required by this section to preserve the new
12 taxable value at the time of inclusion of the property within
13 the metropolitan redevelopment area as the base value for the
14 purposes of valuation of the property;

15 (3) if because of acquisition by the local
16 government the property becomes tax exempt, when the parcel
17 again becomes taxable, the local government shall notify the
18 county assessor of the parcels of property that because of
19 their rehabilitation or other improvement are to be revalued
20 for property tax purposes. A new taxable value of this
21 property shall then be determined by the county assessor. If
22 no acquisition by the local government occurs, improvement or
23 rehabilitation of property subject to valuation by the
24 assessor shall be reported to the assessor as required by the
25 Property Tax Code, and the new taxable value shall be

1 determined as of January 1 of the tax year following the year
2 in which the improvement or rehabilitation is completed; and
3 (4) current tax rates shall then be applied
4 to the new taxable value of property included in the
5 metropolitan redevelopment area. The amount by which the
6 revenue received exceeds that which would have been received
7 by application of the same rates to the base value before
8 inclusion in the metropolitan redevelopment area shall be
9 multiplied by the percentage of the increment dedicated by the
10 local government pursuant to Section 3-60A-23 NMSA 1978,
11 credited to the local government and deposited in the
12 metropolitan redevelopment fund. This transfer shall take
13 place only after the county treasurer has been notified to
14 apply the procedures pursuant to this subsection to property
15 included in a metropolitan redevelopment area. Unless the
16 entire metropolitan redevelopment area is specifically
17 included by the local government for purposes of tax increment
18 financing, the payment by the county treasurer to the local
19 government shall be limited to those properties specifically
20 included. The remaining revenue shall be distributed to
21 participating units of government as authorized by the
22 Property Tax Code.

23 B. The procedures to be used in determining a
24 gross receipts tax increment are:

25 (1) the local government shall notify the

1 taxation and revenue department of the geographic boundaries
2 of the metropolitan redevelopment area;

3 (2) by the July 1 following at least ninety
4 days after receipt of the notice of the geographic boundaries,
5 the taxation and revenue department shall designate a
6 reporting location code for the metropolitan redevelopment
7 area pursuant to Section 7-1-14 NMSA 1978;

8 (3) using data from the twelve months of
9 reporting periods following designation of the reporting
10 location code, the taxation and revenue department shall
11 calculate the gross receipts tax revenue for the base year as
12 follows:

13 (a) the amount of the local
14 government's local option gross receipts tax revenue
15 attributable to the gross receipts sourced to the metropolitan
16 redevelopment area pursuant to Section 7-1-14 NMSA 1978 in the
17 previous twelve months; and

18 (b) the amount of state gross receipts
19 tax revenue attributable to gross receipts sourced to the
20 metropolitan redevelopment area pursuant to Section 7-1-14
21 NMSA 1978 in the previous twelve months, less any amount
22 distributed to the municipality pursuant to Section 7-1-6.4
23 NMSA 1978 attributable to gross receipts sourced to the
24 metropolitan redevelopment area; and

25 (4) following making the calculation of the

1 gross receipts tax revenue for the base year:

2 (a) the taxation and revenue department
3 shall compare the amounts of gross receipts tax revenues of
4 the base year with the amounts of gross receipts tax revenues
5 of that following twelve months, using the same calculation
6 methods as provided in Paragraph (3) of this subsection; and

7 (b) if there is an increase between the
8 gross receipts tax revenue of the base year and the gross
9 receipts tax revenue of that following twelve months, the
10 taxation and revenue department shall distribute, pursuant to
11 Section 7-1-6.71 NMSA 1978, the sum of: 1) the product of the
12 total rate of the local government's local option gross
13 receipts tax multiplied by the increased amount of the local
14 government's local option gross receipts tax revenue, further
15 multiplied by the percentage of the gross receipts tax
16 increment dedicated by the local government pursuant to
17 Section 3-60A-23 NMSA 1978; plus 2) the product of the state
18 gross receipts tax rate multiplied by the increased amount of
19 the state gross receipts tax revenue, further multiplied by
20 the percentage of the gross receipts tax increment dedicated
21 by the state board of finance pursuant to Section 3-60A-23
22 NMSA 1978.

23 C. The procedures specified in this section shall
24 be followed annually for a maximum period of twenty years
25 following the date of notification provided by this section.

1 D. The state board of finance shall promulgate
2 rules for implementing the dedication of a state gross
3 receipts tax increment for the purpose of funding a
4 metropolitan redevelopment project and for determining the
5 amount of the increment pursuant to the Metropolitan
6 Redevelopment Code.

7 E. As used in this section:

8 (1) "local option gross receipts tax
9 revenue" means revenue transferred to the local government
10 pursuant to Section 7-1-6.12 or 7-1-6.13 NMSA 1978, as
11 appropriate; and

12 (2) "state gross receipts tax revenue" means
13 revenue received from the gross receipts tax imposed pursuant
14 to Section 7-9-4 NMSA 1978."

15 **SECTION 2.** Section 5-15-3 NMSA 1978 (being Laws 2006,
16 Chapter 75, Section 3, as amended by Laws 2019, Chapter 212,
17 Section 199 and also by Laws 2019, Chapter 275, Section 1) is
18 amended to read:

19 "5-15-3. DEFINITIONS.--As used in the Tax Increment for
20 Development Act:

21 A. "base gross receipts taxes" means:

22 (1) the total amount of gross receipts tax
23 revenue attributable to the gross receipts sourced to a tax
24 increment development district pursuant to Section 7-1-14 NMSA
25 1978, as calculated by the taxation and revenue department, in

1 the base period and designated by the governing body to be
2 available as part of the gross receipts tax increment; and

3 (2) any amount of gross receipts taxes that
4 would have been collected in the base period if any applicable
5 additional gross receipts taxes imposed after that base period
6 had been imposed in that base period;

7 B. "base period" means, unless as revised pursuant
8 to Sections 5-15-25.1 and 5-15-25.2 NMSA 1978:

9 (1) the first twelve months following
10 designation of a new reporting location code by the taxation
11 and revenue department following notice of the formation of a
12 district pursuant to Section 5-15-9 NMSA 1978; or

13 (2) upon request by the governing body
14 forming the district to the secretary, and upon the
15 secretary's approval, the most recent twelve-month period for
16 which gross receipts tax revenue data is available from filed
17 returns;

18 C. "base property taxes" means:

19 (1) the portion of property taxes produced
20 by the total of all property tax levied at the rate fixed each
21 year by each governing body levying a property tax on the
22 assessed value of taxable property within the tax increment
23 development area last certified for the year ending
24 immediately prior to the year in which a tax increment
25 development plan is approved for the tax increment development

1 area, or, when an area is added to an existing tax increment
2 development area, "base property taxes" means that portion of
3 property taxes produced by the total of all property tax
4 levied at the rate fixed each year by each governing body
5 levying a property tax upon the assessed value of taxable
6 property within the tax increment development area on the date
7 of the modification of the tax increment development plan and
8 designated by the governing body to be available as part of
9 the property tax increment; and

10 (2) any amount of property taxes that would
11 have been collected in such year if any applicable additional
12 property taxes imposed after that year had been imposed in
13 that year;

14 D. "county option gross receipts tax" means gross
15 receipts taxes imposed by counties pursuant to the County
16 Local Option Gross Receipts Taxes Act and designated by the
17 governing body of the county to be available as part of the
18 gross receipts tax increment;

19 E. "developer" means the owner or developer who
20 has entered into an agreement pursuant to Subsection A of
21 Section 5-15-4 NMSA 1978 with the governing body that formed
22 the district or the owner's or developer's successors or
23 assigns;

24 F. "district" means a tax increment development
25 district;

1 G. "district board" means a board formed in
2 accordance with the provisions of the Tax Increment for
3 Development Act to govern a tax increment development
4 district;

5 H. "enhanced services" means public services
6 provided by a municipality or county within the district at a
7 higher level or to a greater degree than otherwise available
8 to the land located in the district from the municipality or
9 county, including such services as public safety, fire
10 protection, street or sidewalk cleaning or landscape
11 maintenance in public areas; provided that "enhanced services"
12 does not include the basic operation and maintenance related
13 to infrastructure improvements financed by the district
14 pursuant to the Tax Increment for Development Act;

15 I. "governing body" means the city council or city
16 commission of a city, the board of trustees or council of a
17 town or village or the board of county commissioners of a
18 county;

19 J. "gross receipts tax increment" means the gross
20 receipts taxes sourced to a tax increment development district
21 in excess of the base gross receipts taxes collected in the
22 district;

23 K. "gross receipts tax increment bonds" means
24 bonds issued by a district in accordance with the Tax
25 Increment for Development Act, the pledged revenue for which

1 is a gross receipts tax increment;

2 L. "local government" means a municipality or
3 county;

4 M. "municipal option gross receipts tax" means
5 those gross receipts taxes imposed by municipalities pursuant
6 to the Municipal Local Option Gross Receipts Taxes Act and
7 designated by the governing body of the municipality to be
8 available as part of the gross receipts tax increment;

9 N. "municipality" means an incorporated city, town
10 or village;

11 O. "new full-time economic base job" means a job:

12 (1) that is primarily performed in New
13 Mexico;

14 (2) that is held by an employee who is hired
15 to work an average of at least thirty-two hours per week for
16 at least forty-eight weeks per year;

17 (3) that is:

18 (a) involved, directly or in a
19 supervisory capacity, with the production of: 1) a service;
20 provided that the majority of the revenue generated from the
21 service is from sources outside the state; or 2) tangible or
22 intangible personal property for sale; or

23 (b) held by an employee that is
24 employed at a regional, national or international headquarters
25 operation or at an operation that primarily provides services

1 for other operations of the qualifying entity that are located
2 outside the state; and

3 (4) that is not directly involved with
4 natural resources extraction or processing, on-site services
5 where the customer is typically present for the delivery of
6 the service, call center, retail, construction or agriculture
7 except for value-added processing performed on agricultural
8 products that would then be sold for wholesale or retail
9 consumption;

10 P. "owner" means a person owning real property
11 within the boundaries of a district;

12 Q. "person" means an individual, corporation,
13 association, partnership, limited liability company or other
14 legal entity;

15 R. "project" means a tax increment development
16 project;

17 S. "property tax increment" means all property tax
18 collected on real property within the designated tax increment
19 development area that is in excess of the base property tax
20 until termination of the district and distributed to the
21 district in the same manner as distributions are made under
22 the provisions of the Tax Administration Act;

23 T. "property tax increment bonds" means bonds
24 issued by a district in accordance with the Tax Increment for
25 Development Act, the pledged revenue for which is a property

1 tax increment;

2 U. "public improvements" means on-site
3 improvements and off-site improvements that directly or
4 indirectly benefit a tax increment development district or
5 facilitate development within a tax increment development area
6 and that are dedicated to the governing body in which the
7 district lies. "Public improvements" includes:

8 (1) sanitary sewage systems, including
9 collection, transport, treatment, dispersal, effluent use and
10 discharge;

11 (2) drainage and flood control systems,
12 including collection, transport, storage, treatment,
13 dispersal, effluent use and discharge;

14 (3) water systems for domestic, commercial,
15 office, hotel or motel, industrial, irrigation, municipal or
16 fire protection purposes, including production, collection,
17 storage, treatment, transport, delivery, connection and
18 dispersal;

19 (4) highways, streets, roadways, bridges,
20 crossing structures and parking facilities, including all
21 areas for vehicular use for travel, ingress, egress and
22 parking;

23 (5) trails and areas for pedestrian,
24 equestrian, bicycle or other non-motor vehicle use for travel,
25 ingress, egress and parking;

1 (6) pedestrian and transit facilities,
2 parks, recreational facilities and open space areas for the
3 use of members of the public for entertainment, assembly and
4 recreation;

5 (7) landscaping, including earthworks,
6 structures, plants, trees and related water delivery systems;

7 (8) public buildings, public safety
8 facilities and fire protection and police facilities;

9 (9) electrical generation, transmission and
10 distribution facilities;

11 (10) natural gas distribution facilities;

12 (11) lighting systems;

13 (12) cable or other telecommunications lines
14 and related equipment;

15 (13) traffic control systems and devices,
16 including signals, controls, markings and signage;

17 (14) school sites and facilities with the
18 consent of the governing board of the public school district
19 for which the facility is to be acquired, constructed or
20 renovated;

21 (15) library and other public educational or
22 cultural facilities;

23 (16) equipment, vehicles, furnishings and
24 other personal property related to the items listed in this
25 subsection;

1 (17) inspection, construction management,
2 planning and program management and other professional
3 services costs incidental to the project;

4 (18) workforce housing; and

5 (19) any other improvement that the
6 governing body determines to be for the use or benefit of the
7 public;

8 V. "state gross receipts tax" means the gross
9 receipts tax imposed pursuant to the Gross Receipts and
10 Compensating Tax Act, but does not include that portion
11 distributed to municipalities pursuant to Sections 7-1-6.4 and
12 7-1-6.46 NMSA 1978 or to counties pursuant to Section 7-1-6.47
13 NMSA 1978;

14 W. "sustainable development" means land
15 development that achieves sustainable economic and social
16 goals in ways that can be supported for the long term by
17 conserving resources, protecting the environment and ensuring
18 human health and welfare using mixed-use, pedestrian-oriented,
19 multimodal land use planning;

20 X. "tax increment development area" means the land
21 included within the boundaries of a tax increment development
22 district;

23 Y. "tax increment development district" means a
24 district formed for the purposes of carrying out tax increment
25 development projects;

1 Z. "tax increment development plan" means a plan
2 for the undertaking of a tax increment development project;

3 AA. "tax increment development project" means
4 activities undertaken within a tax increment development area
5 to enhance the sustainability of the local, regional or
6 statewide economy; to support the creation of jobs, schools
7 and workforce housing; and to generate tax revenue for the
8 provision of public improvements and may include:

9 (1) acquisition of land within a designated
10 tax increment development area or a portion of that tax
11 increment development area;

12 (2) demolition and removal of buildings and
13 improvements and installation, construction or reconstruction
14 of streets, utilities, parks, playgrounds and improvements
15 necessary to carry out the objectives of the Tax Increment for
16 Development Act;

17 (3) installation, construction or
18 reconstruction of streets, water utilities, sewer utilities,
19 parks, playgrounds and other public improvements necessary to
20 carry out the objectives of the Tax Increment for Development
21 Act;

22 (4) disposition of property acquired or held
23 by a tax increment development district as part of the
24 undertaking of a tax increment development project at the fair
25 market value of such property for uses in accordance with the

1 Tax Increment for Development Act;

2 (5) payments for professional services
3 contracts necessary to implement a tax increment development
4 plan or project;

5 (6) borrowing to purchase land, buildings or
6 infrastructure in an amount not to exceed the revenue stream
7 that may be derived from the gross receipts tax increment or
8 the property tax increment estimated to be received by a tax
9 increment development district; and

10 (7) grants for public improvements essential
11 to the location or expansion of a business;

12 BB. "taxing entity" means the governing body of a
13 political subdivision of the state, the gross receipts tax
14 increment or property tax increment of which may be used for a
15 tax increment development project; and

16 CC. "workforce housing" means decent, safe and
17 sanitary dwellings, apartments, single-family dwellings or
18 other living accommodations that are affordable for persons or
19 families earning less than eighty percent of the median income
20 within the county in which the tax increment development
21 project is located; provided that an owner-occupied housing
22 unit is affordable to a household if the expected sales price
23 is reasonably anticipated to result in monthly housing costs
24 that do not exceed thirty-three percent of the household's
25 gross monthly income; provided that:

1 (1) determination of mortgage amounts and
2 payments is to be based on down payment rates and interest
3 rates generally available to lower- and moderate-income
4 households; and

5 (2) a renter-occupied housing unit is
6 affordable to a household if the unit's monthly housing costs,
7 including rent and basic utility and energy costs, do not
8 exceed thirty-three percent of the household's gross monthly
9 income."

10 SECTION 3. Section 5-15-9 NMSA 1978 (being Laws 2006,
11 Chapter 75, Section 9, as amended) is amended to read:

12 "5-15-9. FORMATION OF A DISTRICT.--

13 A. If the formation of the tax increment
14 development district is approved in accordance with the
15 provisions of Section 5-15-8 NMSA 1978, the governing body
16 shall deliver a copy of the resolution ordering formation of
17 the tax increment development district to each of the
18 following persons or entities:

19 (1) the county assessor, the county
20 treasurer and the clerk of the county in which the district is
21 located;

22 (2) the school district within which any
23 portion of the property located within a tax increment
24 development area lies;

25 (3) any other taxing entities within which

1 any portion of the property located within a tax increment
2 development area lies;

3 (4) the taxation and revenue department;

4 (5) the local government division of the
5 department of finance and administration; and

6 (6) the director of the legislative finance
7 committee.

8 B. A notice of the formation showing the number
9 and date of the resolution and giving a description of the
10 land included in the district shall be recorded with the clerk
11 of the county in which the district is located.

12 C. A tax increment development district shall be a
13 political subdivision of the state, separate and apart from a
14 municipality or county.

15 D. By the July 1 following at least ninety days
16 after receipt of the notice required by this section, the
17 taxation and revenue department shall designate a reporting
18 location code for the tax increment development district
19 pursuant to Section 7-1-14 NMSA 1978."

20 **SECTION 4.** Section 5-15-15 NMSA 1978 (being Laws 2006,
21 Chapter 75, Section 15, as amended by Laws 2019, Chapter 274,
22 Section 8 and by Laws 2019, Chapter 275, Section 2) is amended
23 to read:

24 "5-15-15. TAX INCREMENT FINANCING--GROSS RECEIPTS TAX
25 INCREMENT TO SECURE BONDS.--

1 A. A tax increment development plan, as originally
2 approved or as later modified, may contain a provision that
3 gross receipts tax increments sourced to the tax increment
4 development area pursuant to Section 7-1-14 NMSA 1978 and
5 distributed to the district pursuant to Section 7-1-6.54 NMSA
6 1978 may be dedicated for the purpose of securing gross
7 receipts tax increment bonds pursuant to the Tax Increment for
8 Development Act.

9 B. A municipality may dedicate a portion of any of
10 the following to pay the principal of, the interest on and any
11 premium due in connection with the bonds of, loans or advances
12 to, or any indebtedness incurred by, whether funded, refunded,
13 assumed or otherwise, the authority for financing or
14 refinancing, in whole or in part, a tax increment development
15 project within the tax increment development area:

16 (1) an increment of a municipal option gross
17 receipts tax that is dedicated by the ordinance imposing the
18 increment to the tax increment development project; and

19 (2) an amount distributed to municipalities
20 pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA 1978.

21 C. A county may dedicate a portion of any of the
22 following to pay the principal of, the interest on and any
23 premium due in connection with the bonds of, loans or advances
24 to, or any indebtedness incurred by, whether funded, refunded,
25 assumed or otherwise, the district for financing or

1 refinancing, in whole or in part, a tax increment development
2 project within the tax increment development area:

3 (1) an increment of a county option gross
4 receipts tax that is dedicated by the ordinance imposing the
5 increment to the tax increment development project; and

6 (2) the amount distributed to counties
7 pursuant to Section 7-1-6.47 NMSA 1978.

8 D. Subject to the provisions of Subsection G of
9 this section, the state board of finance may dedicate a gross
10 receipts tax increment attributable to the state gross
11 receipts tax to pay the financing and refinancing costs, the
12 principal of, the interest on and any premium due in
13 connection with gross receipts tax increment bonds issued to
14 finance a tax increment development project within the tax
15 increment development area; provided that:

16 (1) beginning July 1, 2029 the increment
17 from the state gross receipts tax is no more than the average
18 of:

19 (a) the increment from municipal option
20 gross receipts taxes dedicated by resolution by the
21 municipality, if the district is located in a municipality;
22 and

23 (b) the increment from county option
24 gross receipts taxes dedicated by resolution by the county;

25 (2) the state board of finance has adopted a

1 resolution dedicating an increment attributable to the state
2 gross receipts tax for the purpose of securing gross receipts
3 tax increment bonds pursuant to Subsection G of this section;
4 and

5 (3) the dedication shall be conditioned on
6 the gross receipts tax increment bonds being issued no later
7 than four years after the state board of finance has adopted
8 the resolution dedicating the increment.

9 E. The gross receipts tax increment generated by
10 the imposition of municipal or county option gross receipts
11 taxes specified by statute for particular purposes may
12 nonetheless be dedicated for the purposes of the Tax Increment
13 for Development Act if intent to do so is set forth in the tax
14 increment development plan approved by the governing body, if
15 the purpose for which the increment is intended to be used is
16 consistent with the purposes set forth in the statute
17 authorizing the municipal or county option gross receipts tax.

18 F. An imposition of a gross receipts tax increment
19 attributable to a gross receipts tax by a taxing entity may be
20 dedicated for the purpose of securing gross receipts tax
21 increment bonds with the agreement of the taxing entity,
22 evidenced by a resolution adopted by a majority vote of that
23 taxing entity. A taxing entity shall not agree to dedicate
24 for the purposes of securing gross receipts tax increment
25 bonds more than seventy-five percent of its gross receipts tax

1 increment attributable to gross receipts taxes by the taxing
2 entity. A resolution of the taxing entity to dedicate a gross
3 receipts tax increment or to increase the dedication of a
4 gross receipts tax increment shall become effective only on
5 July 1 of the calendar year pursuant to Subsection A of
6 Section 5-15-3 NMSA 1978 and after base gross receipts taxes
7 have been calculated.

8 G. The state board of finance shall condition a
9 dedication of a gross receipts tax increment attributable to
10 the state gross receipts tax on the approval required pursuant
11 to Section 5-15-21 NMSA 1978, on calculation of base gross
12 receipts taxes and that the initial gross receipts tax
13 increment bonds issuance secured by a portion of the gross
14 receipts tax increment attributable to the state gross
15 receipts tax shall be issued no later than four years after
16 the state board of finance has adopted the resolution making
17 the dedication. Subject to the limitations provided in
18 Subsection D of this section, the state board of finance shall
19 not agree to dedicate more than seventy-five percent of the
20 gross receipts tax increment attributable to the state gross
21 receipts tax within the district. The resolution of the state
22 board of finance shall become effective on July 1 of the
23 calendar year pursuant to Subsection A of Section 5-15-3 NMSA
24 1978 following calculation of base gross receipts taxes and
25 the notification period pursuant to Section 5-15-27 NMSA 1978

1 and shall find that:

2 (1) the state board of finance has reviewed
3 the request for the use of the state gross receipts tax;

4 (2) based upon review by the state board of
5 finance of the applicable tax increment development plan, the
6 dedication by the state board of finance of a portion of the
7 gross receipts tax increment within the district for use in
8 meeting the required goals of the tax increment plan is
9 reasonable and in the best interest of the state; and

10 (3) based upon the review by the state board
11 of finance, the use of the state gross receipts tax is likely
12 to stimulate the creation of jobs, economic opportunities and
13 general revenue for the state through the addition of new
14 businesses to the state and the expansion of existing
15 businesses within the state; provided that, when reviewing the
16 applicable tax increment development plan to create jobs and
17 economic opportunities, the state board of finance shall
18 prioritize in its consideration net, new full-time economic
19 base jobs that would not have occurred on a similar scale and
20 time line but for the use of the state gross receipts tax
21 increment. The benefit to be evaluated is the marginal
22 benefit of the speed-up in time or the incremental change in
23 job creation above expected normal growth and shall exclude
24 retail jobs, call center jobs and service jobs where the
25 customer is typically on site.

1 H. The governing body of the jurisdiction in which
2 a tax increment development district has been established
3 shall timely notify the assessor of the county in which the
4 district has been established, the taxation and revenue
5 department and the local government division of the department
6 of finance and administration when:

7 (1) a tax increment development plan has
8 been approved that contains a provision for the allocation of
9 a gross receipts tax increment;

10 (2) any outstanding bonds of the district
11 have been paid off; and

12 (3) the purposes of the district have
13 otherwise been achieved."

14 **SECTION 5.** Section 5-15-21 NMSA 1978 (being Laws 2006,
15 Chapter 75, Section 21, as amended) is amended to read:

16 "5-15-21. APPROVAL REQUIRED FOR ISSUANCE OF BONDS
17 AGAINST STATE GROSS RECEIPTS TAX INCREMENTS.--

18 A. In addition to all other requirements of the
19 Tax Increment for Development Act, prior to a district board
20 issuing bonds that are issued in whole or in part against a
21 gross receipts tax increment attributable to the state gross
22 receipts tax sourced to a district and before a distribution
23 attributable to the state gross receipts tax is made pursuant
24 to Section 7-1-6.54 NMSA 1978, the New Mexico finance
25 authority shall review the proposed issuance of the bonds and

1 determine that the proceeds of the bonds will be used for a
2 tax increment development project in accordance with the
3 district's tax increment development plan and present the
4 proposed issuance of the bonds to the legislature for
5 approval.

6 B. The issuance of the bonds and the maximum
7 amount of bonds to be issued shall be specifically authorized
8 by law."

9 SECTION 6. Section 5-15-25.1 NMSA 1978 (being Laws
10 2014, Chapter 11, Section 1) is amended to read:

11 "5-15-25.1. BASE PERIOD REVISION--RESOLUTION--COMMENT
12 PERIOD--SUBMISSION OF MATERIALS.--

13 A. A district may revise the base period that the
14 district uses to determine its gross receipts tax increment.
15 To initiate the process of revising its base period, a
16 district board shall:

17 (1) adopt a resolution declaring that
18 intent; and

19 (2) forward copies of the adopted resolution
20 to the secretary of taxation and revenue, the secretary of
21 finance and administration, the developer and the local
22 governments that have dedicated a tax increment to the
23 district.

24 B. The taxation and revenue department, the
25 department of finance and administration, the developer and

1 the local governments that have dedicated a tax increment to
2 the district may submit written comments to the district with
3 copies sent to the state board of finance for fifteen days
4 after receiving a copy of a district board's resolution
5 indicating the board's intent to revise the base period used
6 to determine the district's gross receipts tax increment.

7 C. No more than forty-five days after adopting the
8 resolution declaring the intent to revise the base period that
9 the district uses to determine its gross receipts tax
10 increment, the district board shall submit to the state board
11 of finance and send copies to the developer and any local
12 government that has dedicated a tax increment to the district:

13 (1) a copy of the resolution;

14 (2) all comments on the matter that the
15 district received from the taxation and revenue department,
16 the department of finance and administration, the developer
17 and the local governments that have dedicated a tax increment
18 to the district; and

19 (3) any other related documentation."

20 SECTION 7. Section 5-15-25.2 NMSA 1978 (being Laws
21 2014, Chapter 11, Section 2) is amended to read:

22 "5-15-25.2. BASE PERIOD REVISION--APPROVAL.--

23 A. The state board of finance may approve the
24 revision of the base period used to determine a district's
25 gross receipts tax increment:

1 (1) once during the lifetime of the
2 district;

3 (2) if no gross receipts tax increment bonds
4 attributable to the district have been issued;

5 (3) if there is no unresolved objection to
6 the revision by the developer or by a local government that
7 has dedicated a tax increment to the district; and

8 (4) upon a finding that the revision is
9 reasonable and in the best interest of the state.

10 B. If the state board of finance approves the
11 revision of the base period used to determine a district's
12 gross receipts tax increment, the state board of finance shall
13 notify the district, the secretary of taxation and revenue,
14 the developer and the local governments that have dedicated a
15 tax increment to the district."

16 **SECTION 8.** Section 5-15-25.3 NMSA 1978 (being Laws
17 2014, Chapter 11, Section 3) is amended to read:

18 "5-15-25.3. BASE PERIOD REVISION--EFFECT.--

19 A. Upon notice of the approval of a revision of
20 the base period used to determine a district's gross receipts
21 tax increment, the district shall:

22 (1) return to the taxation and revenue
23 department any gross receipts tax increment credited to the
24 period between the time that the revenue collection began and
25 the end of the revised base period and distributed to the

1 district;

2 (2) update the district tax increment
3 development plan to reflect the revision; and

4 (3) file with the clerk of the governing
5 body that formed the district the revised tax increment
6 development plan.

7 B. Upon receipt of the revenue identified in
8 Paragraph (1) of Subsection A of this section, the taxation
9 and revenue department shall remit to the taxing entities that
10 have dedicated a gross receipts tax increment to the district
11 an amount of that revenue in proportion to the amount of gross
12 receipts tax increment attributable to their dedication."

13 **SECTION 9.** Section 5-15-27 NMSA 1978 (being Laws 2006,
14 Chapter 75, Section 27, as amended) is amended to read:

15 "5-15-27. DEDICATION OF GROSS RECEIPTS TAX INCREMENT--
16 NOTICE TO TAXATION AND REVENUE DEPARTMENT.--

17 A. If the state board of finance or a taxing
18 entity approves a dedication or increase in the dedication of
19 a gross receipts tax increment to a district, the state board
20 of finance or the taxing entity shall notify the taxation and
21 revenue department of that approval at least one hundred
22 twenty days before the date on which the taxation and revenue
23 department is requested to designate a reporting location code
24 pursuant to Section 7-1-14 NMSA 1978 for the district in order
25 to calculate the district's base gross receipts taxes;

1 provided that the effective date of the dedication by the
2 state board of finance is on or after the date base gross
3 receipts taxes have been calculated and the bonds are approved
4 by the legislature pursuant to Section 5-15-21 NMSA 1978.

5 B. In regard to a dedication of a gross receipts
6 tax increment attributable to the state gross receipts tax, if
7 the approval required pursuant to Section 5-15-21 NMSA 1978
8 has not occurred when the notice pursuant to Subsection A of
9 this section is made, the state board of finance shall include
10 in the notice that legislative approval is needed prior to a
11 distribution pursuant to Section 7-1-6.54 NMSA 1978
12 attributable to the state gross receipts tax can be made.
13 Upon approval pursuant to Section 5-15-21 NMSA 1978, the state
14 board of finance shall notify the department of the approval."

15 SECTION 10. Section 7-1-4.4 NMSA 1978 (being Laws 2005,
16 Chapter 138, Section 1) is amended to read:

17 "7-1-4.4. NOTICE OF POTENTIAL ELIGIBILITY REQUIRED.--
18 The department shall include a notice with an income tax
19 refund or other notice sent to a taxpayer whose income is
20 within one hundred thirty percent of federal poverty
21 guidelines as defined by the United States census bureau that
22 the taxpayer may be eligible for supplemental nutrition
23 assistance program benefits. Included in the notice shall be
24 general information about those benefits, such as where to
25 apply for those benefits, based on information received by the

1 department from the health care authority by January 30 of
2 each calendar year."

3 SECTION 11. Section 7-1-6.2 NMSA 1978 (being Laws 1983,
4 Chapter 211, Section 7, as amended) is amended to read:

5 "7-1-6.2. DISTRIBUTION--SMALL CITIES ASSISTANCE FUND.--
6 Subject to any increase or decrease made pursuant to Section
7 7-1-6.15 NMSA 1978, a distribution pursuant to Section 7-1-6.1
8 NMSA 1978 shall be made to the small cities assistance fund in
9 an amount equal to fifteen percent of the net receipts
10 attributable to the compensating tax."

11 SECTION 12. Section 7-1-6.4 NMSA 1978 (being Laws 1983,
12 Chapter 211, Section 9, as amended) is amended to read:

13 "7-1-6.4. DISTRIBUTION--MUNICIPALITY FROM GROSS
14 RECEIPTS TAX.--

15 A. Except as provided in Subsection B of this
16 section, a distribution pursuant to Section 7-1-6.1 NMSA 1978
17 shall be made to each municipality in an amount, subject to
18 any increase or decrease made pursuant to Section 7-1-6.15
19 NMSA 1978, equal to the product of the quotient of one and two
20 hundred twenty-five thousandths percent divided by the tax
21 rate imposed by Section 7-9-4 NMSA 1978 multiplied by the net
22 receipts, except net receipts attributable to a nonprofit
23 hospital licensed by the health care authority, for the month
24 attributable to the gross receipts tax from business
25 locations:

1 (1) within that municipality;

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

5 (3) outside the boundaries of any
6 municipality on land owned by that municipality; and

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

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

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

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

25 C. As used in this section, "nonprofit hospital"

1 means a hospital that has been granted exemption from federal
2 income tax by the United States commissioner of internal
3 revenue as an organization described in Section 501(c)(3) of
4 the Internal Revenue Code."

5 SECTION 13. Section 7-1-6.5 NMSA 1978 (being Laws 1983,
6 Chapter 211, Section 10 and Laws 1983, Chapter 214, Section 6,
7 as amended) is amended to read:

8 "7-1-6.5. DISTRIBUTION--SMALL COUNTIES ASSISTANCE
9 FUND.--Subject to any increase or decrease made pursuant to
10 Section 7-1-6.15 NMSA 1978, a distribution pursuant to Section
11 7-1-6.1 NMSA 1978 shall be made to the small counties
12 assistance fund in an amount equal to ten percent of the net
13 receipts attributable to the compensating tax."

14 SECTION 14. Section 7-1-6.9 NMSA 1978 (being Laws 1991,
15 Chapter 9, Section 11, as amended) is amended to read:

16 "7-1-6.9. DISTRIBUTION OF GASOLINE TAXES TO
17 MUNICIPALITIES AND COUNTIES.--

18 A. A distribution pursuant to Section 7-1-6.1 NMSA
19 1978 shall be made in an amount, subject to any increase or
20 decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to
21 ten and thirty-eight hundredths percent of the net receipts
22 attributable to the taxes, exclusive of penalties and
23 interest, imposed by the Gasoline Tax Act.

24 B. The amount determined in Subsection A of this
25 section shall be distributed as follows:

1 (1) ninety percent of the amount shall be
2 paid to the treasurers of municipalities and H class counties
3 in the proportion that the taxable motor fuel sales in each of
4 the municipalities and H class counties bears to the aggregate
5 taxable motor fuel sales in all of these municipalities and H
6 class counties; and

7 (2) ten percent of the amount shall be paid
8 to the treasurers of the counties, including H class counties,
9 in the proportion that the taxable motor fuel sales outside of
10 incorporated municipalities in each of the counties bears to
11 the aggregate taxable motor fuel sales outside of incorporated
12 municipalities in all of the counties.

13 C. Except as provided in Subsection D of this
14 section, this distribution shall be paid into a separate road
15 fund in the municipal treasury or county road fund for
16 expenditure only for construction, reconstruction, resurfacing
17 or other improvement or maintenance of public roads, streets,
18 alleys or bridges, including right-of-way and materials
19 acquisition. Money distributed pursuant to this section may
20 be used by a municipality or county to provide matching funds
21 for projects subject to cooperative agreements entered into
22 with the department of transportation pursuant to Section
23 67-3-28 NMSA 1978. Any municipality or H class county that
24 has created or that creates a "street improvement fund" to
25 which gasoline tax revenues or distributions are irrevocably

1 pledged under Sections 3-34-1 through 3-34-4 NMSA 1978 or that
2 has pledged all or a portion of gasoline tax revenues or
3 distributions to the payment of bonds shall receive its
4 proportion of the distribution of revenues under this section
5 impressed with and subject to these pledges.

6 D. This distribution may be paid into a separate
7 road fund or the general fund of the municipality or county if
8 the municipality has a population less than three thousand or
9 the county has a population less than four thousand."

10 SECTION 15. Section 7-1-6.15 NMSA 1978 (being Laws
11 1983, Chapter 211, Section 20, as amended) is amended to read:

12 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS.--

13 A. The provisions of this section apply to:

14 (1) any distribution to a municipality
15 pursuant to Section 7-1-6.2, 7-1-6.4, 7-1-6.36 or 7-1-6.46
16 NMSA 1978;

17 (2) any transfer to a municipality with
18 respect to any local option gross receipts tax or municipal
19 compensating tax imposed by that municipality;

20 (3) any transfer to a county with respect to
21 any local option gross receipts tax or county compensating tax
22 imposed by that county;

23 (4) any distribution to a county pursuant to
24 Section 7-1-6.5, 7-1-6.16 or 7-1-6.47 NMSA 1978;

25 (5) any distribution to a municipality or a

1 county of gasoline taxes pursuant to Section 7-1-6.9 NMSA
2 1978;

3 (6) any transfer to a county with respect to
4 any tax imposed in accordance with the Local Liquor Excise Tax
5 Act;

6 (7) any distribution to a county from the
7 county government road fund pursuant to Section 7-1-6.26 NMSA
8 1978;

9 (8) any distribution to a municipality of
10 gasoline taxes pursuant to Section 7-1-6.27 NMSA 1978;

11 (9) any distribution to the state treasurer
12 on behalf of a political subdivision of oil and gas ad valorem
13 production taxes pursuant to Sections 7-32-1 through 7-32-38
14 NMSA 1978;

15 (10) any distribution to a political
16 subdivision of oil and gas production ad valorem equipment tax
17 pursuant to Sections 7-34-1 through 7-34-9 NMSA 1978; and

18 (11) any distribution to a municipality or a
19 county of cannabis excise taxes pursuant to Section 7-1-6.68
20 NMSA 1978.

21 B. Before making a distribution or transfer
22 specified in Subsection A of this section for the month,
23 amounts comprising the net receipts shall be segregated into
24 two mutually exclusive categories. One category shall be for
25 amounts relating to the current month, and the other category

1 shall be for amounts relating to prior periods. The total of
2 each category for a distribution recipient shall be reported
3 each month to the recipient; provided that all negative
4 amounts relating to a period prior to the three calendar years
5 preceding the year of the current month, net of any positive
6 amounts in that same time period for the same taxpayers to
7 which the negative amounts pertain, shall be excluded from the
8 total relating to prior periods; provided further, if the
9 total of the amounts relating to prior periods is less than
10 zero and its absolute value exceeds the greater of one hundred
11 dollars (\$100) or an amount:

12 (1) equal to twenty percent of the average
13 distribution or transfer amount for that recipient, the
14 revised total for prior periods shall be excluded from the
15 distribution or transfers and the net receipts to be
16 distributed or transferred to the recipient shall be equal to
17 the amount for the current month; and provided further that
18 the department shall recover the excluded amount from the
19 recipient; or

20 (2) less than twenty percent of the average
21 distribution or transfer amount for that recipient, the net
22 receipts to be distributed or transferred to the recipient
23 shall be adjusted to equal the amount for the current month
24 plus the revised total for prior periods.

25 C. The department shall recover from a

1 distribution recipient the amount excluded by Paragraph (2) of
2 Subsection B of this section. This amount may be referred to
3 as the "recoverable amount".

4 D. Prior to or concurrently with the distribution
5 or transfer to the distribution recipient of the adjusted net
6 receipts, the department shall notify the recipient whose
7 distribution or transfer has been adjusted pursuant to
8 Paragraph (2) of Subsection B of this section:

9 (1) that the department has made such an
10 adjustment, that the department has determined that a
11 specified amount is recoverable from the recipient and that
12 the department intends to recover that amount from future
13 distributions or transfers to the recipient;

14 (2) that the recipient has ninety days from
15 the date notice is made to enter into a mutually agreeable
16 repayment agreement with the department;

17 (3) that if the recipient takes no action
18 within the ninety-day period, the department will recover the
19 amount from the next six distributions or transfers following
20 the expiration of the ninety days; and

21 (4) that the recipient may inspect, pursuant
22 to Section 7-1-8.9 NMSA 1978, an application for a claim for
23 refund that gave rise to the recoverable amount, exclusive of
24 any amended returns that may be attached to the application.

25 E. No earlier than ninety days from the date

1 notice pursuant to Subsection D of this section is given, the
2 department shall begin recovering the recoverable amount from
3 a distribution recipient as follows:

4 (1) the department may collect the
5 recoverable amount by:

6 (a) decreasing distributions or
7 transfers to the recipient in accordance with a repayment
8 agreement entered into with the recipient; or

9 (b) except as provided in Paragraphs
10 (2) and (3) of this subsection, if the recipient fails to act
11 within the ninety days, decreasing the amount of the next six
12 distributions or transfers to the recipient following
13 expiration of the ninety-day period in increments as nearly
14 equal as practicable and sufficient to recover the amount;

15 (2) if, pursuant to Subsection B of this
16 section, the secretary determines that the recoverable amount
17 is more than fifty percent of the average distribution or
18 transfer of net receipts for that recipient, the secretary:

19 (a) shall recover only up to fifty
20 percent of the average distribution or transfer of net
21 receipts for that recipient; and

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

25 (3) if, after application of a refund claim,

1 audit adjustment, correction of a mistake by the department or
2 other adjustment of a prior period, but prior to any recovery
3 of the department pursuant to this section, the total net
4 receipts of a recipient for the twelve-month period beginning
5 with the current month are reduced or are projected to be
6 reduced to less than fifty percent of the average distribution
7 or transfer of net receipts, the secretary may waive recovery
8 of any portion of the recoverable amount, subject to approval
9 by the state board of finance.

10 F. No later than ninety days from the date notice
11 pursuant to Subsection D of this section is given, the
12 department shall provide the distribution recipient adequate
13 opportunity to review an application for a claim for refund
14 that gave rise to the recoverable amount, exclusive of any
15 amended returns that may be attached to the application,
16 pursuant to Section 7-1-8.9 NMSA 1978.

17 G. On or before September 1 of each year beginning
18 in 2016, the secretary shall report to the state board of
19 finance and the legislative finance committee the total
20 recoverable amount waived pursuant to Subparagraph (b) of
21 Paragraph (2) and Paragraph (3) of Subsection E of this
22 section for each distribution recipient in the prior fiscal
23 year.

24 H. The secretary is authorized to decrease a
25 distribution or transfer to a distribution recipient upon

1 being directed to do so by the secretary of finance and
2 administration pursuant to the State Aid Intercept Act or to
3 redirect a distribution or transfer to the New Mexico finance
4 authority pursuant to an ordinance or a resolution passed by
5 the recipient and a written agreement of the recipient and the
6 New Mexico finance authority. Upon direction to decrease a
7 distribution or transfer or notice to redirect a distribution
8 or transfer to a recipient, the secretary shall decrease or
9 redirect the next designated distribution or transfer, and
10 succeeding distributions or transfers as necessary, by the
11 amount of the state distributions intercept authorized by the
12 secretary of finance and administration pursuant to the State
13 Aid Intercept Act or by the amount of the state distribution
14 intercept authorized pursuant to an ordinance or a resolution
15 passed by the recipient and a written agreement with the New
16 Mexico finance authority. The secretary shall transfer the
17 state distributions intercept amount to the recipient
18 treasurer or other person designated by the secretary of
19 finance and administration or to the New Mexico finance
20 authority pursuant to written agreement to pay the debt
21 service to avoid default on qualified local revenue bonds or
22 meet other local revenue bond, loan or other debt obligations
23 of the recipient to the New Mexico finance authority. A
24 decrease to or redirection of a distribution or transfer
25 pursuant to this subsection that arose:

1 (1) prior to an adjustment of a distribution
2 or transfer of net receipts creating a recoverable amount owed
3 to the department takes precedence over any collection of any
4 recoverable amount pursuant to Paragraph (2) of Subsection B
5 of this section, which may be made only from the net amount of
6 the distribution or transfer remaining after application of
7 the decrease or redirection pursuant to this subsection; and

8 (2) after an adjustment of a distribution or
9 transfer of net receipts creating a recoverable amount owed to
10 the department shall be subordinate to any collection of any
11 recoverable amount pursuant to Paragraph (2) of Subsection B
12 of this section.

13 I. Upon the direction of the secretary of finance
14 and administration pursuant to Section 9-6-5.2 NMSA 1978, the
15 secretary shall temporarily withhold the balance of a
16 distribution to a distribution recipient, net of any decrease
17 or redirected amount pursuant to Subsection H of this section
18 and any recoverable amount pursuant to Paragraph (2) of
19 Subsection B of this section, that has failed to submit an
20 audit report required by the Audit Act or a financial report
21 required by Subsection F of Section 6-6-2 NMSA 1978. The
22 amount to be withheld, the source of the withheld distribution
23 and the number of months that the distribution is to be
24 withheld shall be as directed by the secretary of finance and
25 administration. A distribution withheld pursuant to this

1 subsection shall remain in the tax administration suspense
2 fund until distributed to the distribution recipient and shall
3 not be distributed to the general fund. An amount withheld
4 pursuant to this subsection shall be distributed to the
5 recipient upon direction of the secretary of finance and
6 administration.

7 J. As used in this section:

8 (1) "amounts relating to the current month"
9 means any amounts included in the net receipts of the current
10 month that represent payment of tax due for the current month,
11 correction of amounts processed in the current month that
12 relate to the current month or that otherwise relate to
13 obligations due for the current month;

14 (2) "amounts relating to prior periods"
15 means any amounts processed during the current month that
16 adjust amounts processed in a period or periods prior to the
17 current month regardless of whether the adjustment is a
18 correction of a department error or due to the filing of
19 amended returns, payment of department-issued assessments,
20 filing or approval of claims for refund, audit adjustments or
21 other cause;

22 (3) "average distribution or transfer
23 amount" means the following amounts; provided that a
24 distribution or transfer that is negative shall not be used in
25 calculating the amounts:

1 (a) the annual average of the total
2 amount distributed or transferred to a distribution recipient
3 in each of the three twelve-month periods preceding the
4 current month;

5 (b) if a distribution or transfer to a
6 recipient has been made for less than three years, the total
7 amount distributed or transferred in the year preceding the
8 current month; or

9 (c) if a recipient has not received
10 distributions or transfers of net receipts for twelve or more
11 months, the monthly average of net receipts distributed or
12 transferred to the recipient preceding the current month
13 multiplied by twelve;

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

16 (5) "repayment agreement" means an agreement
17 between the department and a distribution recipient under
18 which the recipient agrees to allow the department to recover
19 an amount determined pursuant to Paragraph (2) of Subsection B
20 of this section by decreasing distributions or transfers to
21 the recipient for up to seventy-two months beginning with the
22 distribution or transfer to be made with respect to a
23 designated month. No interest shall be charged."

24 SECTION 16. Section 7-1-6.16 NMSA 1978 (being Laws
25 1983, Chapter 213, Section 27, as amended) is amended to read:

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

2 A. On September 15 of each year, the department
3 shall distribute to any county that has imposed or continued
4 in effect during the state's preceding fiscal year a county
5 gross receipts tax pursuant to Section 7-20E-9 NMSA 1978 an
6 amount equal to:

7 (1) the product of a fraction, the numerator
8 of which is the county's population and the denominator of
9 which is the state's population, multiplied by the annual sum
10 for the county; less

11 (2) the net receipts received by the
12 department during the report year, including any increase or
13 decrease made pursuant to Section 7-1-6.15 NMSA 1978,
14 attributable to the county gross receipts tax at a rate of
15 one-eighth percent; provided that for any month in the report
16 year, if no county gross receipts tax was in effect in the
17 county in the previous month, the net receipts, for the
18 purposes of this section, for that county for that month shall
19 be zero.

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

23 C. As used in this section:

24 (1) "annual sum" means for each county the
25 sum of the monthly amounts for those months in the report year

1 that follow a month in which the county had in effect a county
2 gross receipts tax;

3 (2) "monthly amount" means an amount equal
4 to the product of:

5 (a) the net receipts received by the
6 department in the month attributable to the state gross
7 receipts tax plus five percent of the total amount of
8 deductions claimed pursuant to Section 7-9-92 NMSA 1978 for
9 the month plus five percent of the total amount of deductions
10 claimed pursuant to Section 7-9-93 NMSA 1978 for the month;
11 and

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

16 (3) "population" means the most recent
17 official census or estimate determined by the United States
18 census bureau for the unit or, if neither is available, the
19 most current estimated population for the unit provided in
20 writing by the bureau of business and economic research at the
21 university of New Mexico; and

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

1 SECTION 17. Section 7-1-6.18 NMSA 1978 (being Laws
2 1987, Chapter 257, Section 1, as amended) is amended to read:

3 "7-1-6.18. DISTRIBUTION--VOLUNTARY TAX REFUND
4 CONTRIBUTIONS.--A distribution pursuant to Section 7-1-6.1
5 NMSA 1978 shall be made to each of the following funds and
6 entities in amounts equal to the money contributed to each
7 purpose pursuant to Subsection C of Section 7-2-24 NMSA 1978:

8 A. to the department of game and fish for the game
9 protection fund;

10 B. to the energy, minerals and natural resources
11 department for the conservation planting revolving fund for
12 the planting of trees in New Mexico;

13 C. to the board of regents of New Mexico state
14 university for support of the New Mexico department of
15 agriculture's healthy soil program;

16 D. to the veterans' services department for the
17 veterans' state cemetery fund after the city of Santa Fe has
18 received the balance of tax refund contributions in the amount
19 of one million seventy thousand dollars (\$1,070,000);

20 E. to the public education department for the
21 substance abuse education fund;

22 F. to the board of regents of the university of
23 New Mexico for the amyotrophic lateral sclerosis research
24 fund;

25 G. to the energy, minerals and natural resources

1 department for the state parks division's kids in parks
2 education program;

3 H. to the department of military affairs to
4 deposit in a temporary suspense account for distribution to
5 members of the New Mexico national guard and to their
6 families;

7 I. to the veterans' services department for the
8 operation, maintenance and improvement of the Vietnam veterans
9 memorial near Angel Fire, New Mexico;

10 J. to the veterans' services department for the
11 veterans' enterprise fund;

12 K. to the higher education department for the
13 lottery tuition fund;

14 L. to the New Mexico livestock board for the
15 equine shelter rescue fund;

16 M. to the aging and long-term services department
17 to enhance or expand senior services;

18 N. to the board of veterinary medicine for the
19 animal care and facility fund;

20 O. to the New Mexico mortgage finance authority
21 for the New Mexico housing trust fund; and

22 P. to the state treasurer to remit within ten days
23 of receipt of the money from the department to each state
24 political party."

25 SECTION 18. Section 7-1-6.26 NMSA 1978 (being Laws

1 1987, Chapter 347, Section 11, as amended) is amended to read:

2 "7-1-6.26. COUNTY GOVERNMENT ROAD FUND--DISTRIBUTION.--

3 A. For the purposes of this section,

4 "distributable amount" means the amount in the county
5 government road fund as of the last day of any month for which
6 a distribution is required to be made pursuant to this
7 section, subject to any increase or decrease made pursuant to
8 Section 7-1-6.15 NMSA 1978, in excess of the balance in that
9 fund as of the last day of the preceding month after reduction
10 for any required distributions for the preceding month.

11 B. The secretary of transportation shall determine
12 and certify on or before July 1 of each year the total miles
13 of public roads maintained by each county pursuant to Section
14 66-6-23 NMSA 1978. For the purposes of this subsection, if
15 the certified mileage of public roads maintained by a county
16 is less than four hundred miles, the state treasurer shall
17 increase the number of miles of public roads maintained by
18 that county by fifty percent and revise the total miles of
19 public roads maintained by all counties accordingly. Except
20 as provided otherwise in Subsection D of this section, each
21 county shall receive an amount equal to its proportionate
22 share of miles of public roads maintained, as the number of
23 miles for the county may have been revised pursuant to this
24 subsection, to the total miles of public roads maintained by
25 all counties, as that total may have been revised pursuant to

1 this subsection, times fifty percent of the distributable
2 amount in the county government road fund.

3 C. Except as provided otherwise in Subsection D of
4 this section, each county shall receive a share of fifty
5 percent of the distributable amount in the county government
6 road fund as determined in this subsection. The amount for
7 each county shall be the greater of:

8 (1) twenty-one cents (\$.21) multiplied by
9 the county's population as shown by the most recent federal
10 decennial census; or

11 (2) the proportionate share that the taxable
12 gallons of gasoline reported for that county for the preceding
13 fiscal year bear to the total taxable gallons of gasoline for
14 all counties in the preceding fiscal year, as determined by
15 the department, multiplied by fifty percent of the
16 distributable amount in the county government road fund.

17 If the sum of the amounts to be distributed pursuant to
18 Paragraphs (1) and (2) of this subsection exceeds fifty
19 percent of the distributable amount in the county government
20 road fund, the excess shall be eliminated by multiplying the
21 amount determined in Paragraphs (1) and (2) of this subsection
22 for each county by a fraction, the numerator of which is fifty
23 percent of the distributable amount in the county government
24 road fund, and the denominator of which is the sum of amounts
25 determined for all counties in Paragraphs (1) and (2) of this

1 subsection.

2 D. If the distribution for a class A county or for
3 an H class county determined pursuant to Subsections B and C
4 of this section exceeds an amount equal to one-twelfth of the
5 product of the total taxable gallons of gasoline reported for
6 the county for the preceding fiscal year times one cent
7 (\$.01), the distribution for that county shall be reduced to
8 an amount equal to one-twelfth of the product of the total
9 taxable gallons of gasoline reported for the county for the
10 preceding fiscal year times one cent (\$.01). Any amount of
11 the reduction shall be shared among the counties whose
12 distribution has not been reduced pursuant to this subsection
13 in the ratio of the amounts computed in Subsections B and C of
14 this section.

15 E. If a county has not made the required mileage
16 certification pursuant to Section 67-3-28.3 NMSA 1978 by April
17 1 of every year of the year for which distribution is being
18 made, the secretary of transportation shall estimate the
19 mileage maintained by those counties for the purpose of making
20 distribution to all counties, and the amount calculated to be
21 distributed each month to those counties not certifying
22 mileage shall be reduced by one-third each month for that
23 fiscal year and that amount not distributed to those counties
24 shall be distributed equally to all counties that have
25 certified mileages.

1 F. Distributions made to counties pursuant to this
2 section shall be deposited in the county road fund to be used
3 for the construction, reconstruction, resurfacing or other
4 improvement or maintenance of the public roads and bridges in
5 the county, including right-of-way and materials acquisition.
6 Money distributed pursuant to this section may be used by the
7 county to provide matching funds for projects subject to
8 cooperative agreements entered into with the department of
9 transportation pursuant to Section 67-3-28 NMSA 1978."

10 SECTION 19. Section 7-1-6.27 NMSA 1978 (being Laws
11 1991, Chapter 9, Section 20, as amended) is amended to read:

12 "7-1-6.27. DISTRIBUTION--MUNICIPAL ROADS.--

13 A. A distribution pursuant to Section 7-1-6.1 NMSA
14 1978 shall be made to municipalities for the purposes and
15 amounts specified in this section in an aggregate amount,
16 subject to any increase or decrease made pursuant to Section
17 7-1-6.15 NMSA 1978, equal to five and seventy-six hundredths
18 percent of the net receipts attributable to the gasoline tax.

19 B. The distribution authorized in this section
20 shall be used for the following purposes:

21 (1) reconstructing, resurfacing,
22 maintaining, repairing or otherwise improving existing alleys,
23 streets, roads or bridges, or any combination of the
24 foregoing; or laying off, opening, constructing or otherwise
25 acquiring new alleys, streets, roads or bridges, or any

1 combination of the foregoing; provided that any of the
2 foregoing improvements may include, but are not limited to,
3 the acquisition of rights of way;

4 (2) to provide matching funds for projects
5 subject to cooperative agreements with the department of
6 transportation pursuant to Section 67-3-28 NMSA 1978; and

7 (3) for expenses of purchasing, maintaining
8 and operating transit operations and facilities, for the
9 operation of a transit authority established by the Municipal
10 Transit Law and for the operation of a vehicle emission
11 inspection program. A municipality may engage in the business
12 of the transportation of passengers and property within the
13 political subdivision by whatever means the municipality may
14 decide and may acquire cars, trucks, motor buses and other
15 equipment necessary for operating the business. A
16 municipality may acquire land, erect buildings and equip the
17 buildings with all the necessary machinery and facilities for
18 the operation, maintenance, modification, repair and storage
19 of the cars, trucks, motor buses and other equipment needed.
20 A municipality may do all things necessary for the acquisition
21 and the conduct of the business of public transportation.

22 C. For the purposes of this section:

23 (1) "computed distribution amount" means the
24 distribution amount calculated for a municipality for a month
25 pursuant to Paragraph (2) of Subsection D of this section

1 prior to any adjustments to the amount due to the provisions
2 of Subsections E and F of this section;

3 (2) "floor amount" means four hundred
4 seventeen dollars (\$417);

5 (3) "floor municipality" means a
6 municipality whose computed distribution amount is less than
7 the floor amount; and

8 (4) "full distribution municipality" means a
9 municipality whose population at the last federal decennial
10 census was at least two hundred thousand.

11 D. Subject to the provisions of Subsections E and
12 F of this section, each municipality shall be distributed a
13 portion of the aggregate amount distributable under this
14 section in an amount equal to the greater of:

15 (1) the floor amount; or

16 (2) eighty-five percent of the aggregate
17 amount distributable under this section times a fraction, the
18 numerator of which is the municipality's reported taxable
19 gallons of gasoline for the immediately preceding state fiscal
20 year and the denominator of which is the reported total
21 taxable gallons for all municipalities for the same period.

22 E. Fifteen percent of the aggregate amount
23 distributable under this section shall be referred to as the
24 "redistribution amount". Beginning in August 1990, and each
25 month thereafter, from the redistribution amount there shall

1 be taken an amount sufficient to increase the computed
2 distribution amount of every floor municipality to the floor
3 amount. In the event that the redistribution amount is
4 insufficient for this purpose, the computed distribution
5 amount for each floor municipality shall be increased by an
6 amount equal to the redistribution amount times a fraction,
7 the numerator of which is the difference between the floor
8 amount and the municipality's computed distribution amount and
9 the denominator of which is the difference between the product
10 of the floor amount multiplied by the number of floor
11 municipalities and the total of the computed distribution
12 amounts for all floor municipalities.

13 F. If a balance remains after the redistribution
14 amount has been reduced pursuant to Subsection E of this
15 section, there shall be added to the computed distribution
16 amount of each municipality that is neither a full
17 distribution municipality nor a floor municipality an amount
18 that equals the balance of the redistribution amount times a
19 fraction, the numerator of which is the computed distribution
20 amount of the municipality and the denominator of which is the
21 sum of the computed distribution amounts of all municipalities
22 that are neither full distribution municipalities nor floor
23 municipalities."

24 SECTION 20. Section 7-1-6.30 NMSA 1978 (being Laws
25 1990, Chapter 6, Section 20, as amended) is amended to read:

1 "7-1-6.30. DISTRIBUTION--RETIREE HEALTH CARE FUND.--A
2 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
3 made to the retiree health care fund in an amount equal to
4 one-twelfth of one hundred twelve percent of the total amount
5 distributed to the retiree health care fund in the previous
6 fiscal year."

7 SECTION 21. Section 7-1-6.46 NMSA 1978 (being Laws
8 2004, Chapter 116, Section 1, as amended) is amended to read:

9 "7-1-6.46. DISTRIBUTION TO MUNICIPALITIES--OFFSET FOR
10 FOOD DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES
11 DEDUCTION.--

12 A. For a municipality that did not have in effect
13 on June 30, 2019 a municipal hold harmless gross receipts tax
14 through an ordinance and that has a population of less than
15 ten thousand according to the most recent federal decennial
16 census, a distribution pursuant to Section 7-1-6.1 NMSA 1978
17 shall be made to the municipality in an amount, subject to any
18 increase or decrease made pursuant to Section 7-1-6.15 NMSA
19 1978, equal to the applicable maximum distribution for the
20 municipality.

21 B. For a municipality that did not have in effect
22 on June 30, 2019 a municipal hold harmless gross receipts tax
23 through an ordinance and has a population of at least ten
24 thousand according to the most recent federal decennial
25 census, a distribution pursuant to Section 7-1-6.1 NMSA 1978

1 shall be made to the municipality in an amount, subject to any
2 increase or decrease made pursuant to Section 7-1-6.15 NMSA
3 1978, equal to the following percentages of the applicable
4 maximum distribution for the municipality:

5 (1) for a municipality that has a municipal
6 poverty level two percentage points or more above the state
7 poverty level, eighty percent;

8 (2) for a municipality that has a poverty
9 level of less than two percentage points above or below the
10 state poverty level, fifty percent; and

11 (3) for a municipality that has a poverty
12 level two percentage points or more below the state poverty
13 level, thirty percent.

14 C. For a municipality not described in Subsection
15 A or B of this section, a distribution pursuant to Section
16 7-1-6.1 NMSA 1978 shall be made to the municipality in an
17 amount, subject to any increase or decrease made pursuant to
18 Section 7-1-6.15 NMSA 1978, equal to the applicable maximum
19 distribution for the municipality multiplied by the following
20 percentages:

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

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

25 (3) on or after July 1, 2027 and prior to

1 July 1, 2028, fourteen percent;

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

4 (5) on and after July 1, 2029, zero percent.

5 D. A distribution pursuant to this section is in
6 lieu of revenue that would have been received by the
7 municipality but for the deductions provided by Sections
8 7-9-92 and 7-9-93 NMSA 1978. The distribution shall be
9 considered gross receipts tax revenue and shall be used by the
10 municipality in the same manner as gross receipts tax revenue,
11 including payment of gross receipts tax revenue bonds.

12 E. If the changes made by Laws 2022, Chapter 47 to
13 the distributions made pursuant to this section impair the
14 ability of a municipality to meet its principal or interest
15 payment obligations for revenue bonds that are outstanding
16 prior to July 1, 2022 and that are secured by the pledge of
17 all or part of the municipality's revenue from the
18 distribution made pursuant to this section, then the amount
19 distributed pursuant to this section to that municipality
20 shall be increased by an amount sufficient to meet the
21 required payment; provided that the total amount distributed
22 to that municipality pursuant to this section does not exceed
23 the amount that would have been due that municipality pursuant
24 to this section as it was in effect on June 30, 2022.

25 F. For the purposes of this section:

1 (1) "business locations attributable to the
2 municipality" means business locations:

3 (a) sourced to the municipality
4 pursuant to Section 7-1-14 NMSA 1978; and

5 (b) sourced to land owned by the state,
6 commonly known as the "state fairgrounds", within the exterior
7 boundaries of the municipality;

8 (2) "maximum distribution" means:

9 (a) for a municipality that did not
10 have in effect on June 30, 2019 a municipal hold harmless
11 gross receipts tax, the total deductions claimed pursuant to
12 Sections 7-9-92 and 7-9-93 NMSA 1978 for the month by
13 taxpayers from business locations attributable to the
14 municipality multiplied by the sum of the combined rate of all
15 municipal local option gross receipts taxes in effect in the
16 municipality for the month plus one and two hundred twenty-
17 five thousandths percent; and

18 (b) for a municipality not described in
19 Subparagraph (a) of this paragraph, the total deductions
20 claimed pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for
21 the month by taxpayers from business locations sourced to the
22 municipality multiplied by the sum of the combined rate of all
23 municipal local option gross receipts taxes in effect in the
24 municipality on January 1, 2007 plus one and two hundred
25 twenty-five thousandths percent; and

1 (3) "poverty level" means the percentage of
2 persons in poverty, according to the most recent five-year
3 American community survey, as published by the United States
4 census bureau. For the purposes of determining the poverty
5 level of a municipality, "poverty level" means the percentage
6 of persons in poverty in a municipality, according to the most
7 recent five-year American community survey, as published by
8 the United States census bureau, that includes adequate data
9 to make a determination as to the poverty level of the
10 municipality.

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

16 SECTION 22. Section 7-1-6.47 NMSA 1978 (being Laws
17 2004, Chapter 116, Section 2, as amended) is amended to read:

18 "7-1-6.47. DISTRIBUTION TO COUNTIES--OFFSET FOR FOOD
19 DEDUCTION AND HEALTH CARE PRACTITIONER SERVICES DEDUCTION.--

20 A. For a county that did not have in effect on
21 June 30, 2019 a county hold harmless gross receipts tax
22 through an ordinance and that has a population of less than
23 forty-eight thousand according to the most recent federal
24 decennial census, a distribution pursuant to Section 7-1-6.1
25 NMSA 1978 shall be made to the county in an amount, subject to

1 any increase or decrease made pursuant to Section 7-1-6.15
2 NMSA 1978, equal to the applicable maximum distribution for
3 the county.

4 B. For a county not described in Subsection A of
5 this section, a distribution pursuant to Section 7-1-6.1 NMSA
6 1978 shall be made to the county in an amount, subject to any
7 increase or decrease made pursuant to Section 7-1-6.15 NMSA
8 1978, equal to the applicable maximum distribution multiplied
9 by the following percentages:

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

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

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

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

18 (5) on and after July 1, 2029, zero percent.

19 C. A distribution pursuant to this section is in
20 lieu of revenue that would have been received by the county
21 but for the deductions provided by Sections 7-9-92 and 7-9-93
22 NMSA 1978. The distribution shall be considered gross
23 receipts tax revenue and shall be used by the county in the
24 same manner as gross receipts tax revenue, including payment
25 of gross receipts tax revenue bonds.

1 D. If the changes made by Laws 2022, Chapter 47 to
2 the distributions made pursuant to this section impair the
3 ability of a county to meet its principal or interest payment
4 obligations for revenue bonds that are outstanding prior to
5 July 1, 2022 and that are secured by the pledge of all or part
6 of the county's revenue from the distribution made pursuant to
7 this section, then the amount distributed pursuant to this
8 section to that county shall be increased by an amount
9 sufficient to meet the required payment; provided that the
10 total amount distributed to that county pursuant to this
11 section does not exceed the amount that would have been due
12 that county pursuant to this section as it was in effect on
13 June 30, 2022.

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

19 F. For the purposes of this section, "maximum
20 distribution" means:

21 (1) for a county that did not have in effect
22 on June 30, 2019 a county hold harmless gross receipts tax and
23 that has a population of less than forty-eight thousand
24 according to the most recent federal decennial census, the sum
25 of:

1 (a) the total deductions claimed
2 pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month
3 by taxpayers from business locations sourced to a municipality
4 in the county pursuant to Section 7-1-14 NMSA 1978 multiplied
5 by the combined rate of all county local option gross receipts
6 taxes in effect for the month that are imposed throughout the
7 county; and

8 (b) the total deductions claimed
9 pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month
10 by taxpayers from business locations sourced to the county but
11 not sourced to a municipality pursuant to Section 7-1-14 NMSA
12 1978 multiplied by the combined rate of all county local
13 option gross receipts taxes in effect for the month that are
14 imposed in the county area not sourced to a municipality
15 pursuant to Section 7-1-14 NMSA 1978; and

16 (2) for a county not described in Paragraph
17 (1) of this subsection, the sum of:

18 (a) the total deductions claimed
19 pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month
20 by taxpayers from business locations sourced to a municipality
21 in the county pursuant to Section 7-1-14 NMSA 1978 multiplied
22 by the combined rate of all county local option gross receipts
23 taxes in effect on January 1, 2007 that are imposed throughout
24 the county; and

25 (b) the total deductions claimed

1 pursuant to Sections 7-9-92 and 7-9-93 NMSA 1978 for the month
2 by taxpayers from business locations sourced to the county but
3 not sourced to a municipality pursuant to Section 7-1-14 NMSA
4 1978 multiplied by the combined rate of all county local
5 option gross receipts taxes in effect on January 1, 2007 that
6 are imposed in the county area not sourced to a municipality
7 pursuant to Section 7-1-14 NMSA 1978."

8 SECTION 23. Section 7-1-6.58 NMSA 1978 (being Laws 2007
9 (1st S.S.), Chapter 2, Section 8) is amended to read:

10 "7-1-6.58. DISTRIBUTION--PUBLIC ELECTION FUND.--A
11 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
12 made to the public election fund from the amount deposited
13 pursuant to the provisions of Section 7-8A-13 NMSA 1978 in the
14 amount of one hundred thousand dollars (\$100,000) per month."

15 SECTION 24. Section 7-1-6.68 NMSA 1978 (being Laws 2021
16 (1st S.S.), Chapter 4, Section 50, as amended) is amended to
17 read:

18 "7-1-6.68. DISTRIBUTION--CANNABIS EXCISE TAX--
19 MUNICIPALITIES AND COUNTIES.--

20 A. A distribution pursuant to Section 7-1-6.1 NMSA
21 1978 shall be made to each municipality, subject to any
22 increase or decrease made pursuant to Section 7-1-6.15 NMSA
23 1978, in an amount equal to thirty-three and thirty-three
24 hundredths percent of the net receipts attributable to the
25 cannabis excise tax from business locations sourced to the

1 municipality as reported pursuant to Section 7-42-4 NMSA 1978.

2 B. A distribution pursuant to Section 7-1-6.1 NMSA
3 1978 shall be made to each county in an amount equal to
4 thirty-three and thirty-three hundredths percent of the net
5 receipts attributable to the cannabis excise tax from business
6 locations sourced to the county area of the county as reported
7 pursuant to Section 7-42-4 NMSA 1978.

8 C. The department may deduct an amount not to
9 exceed three percent of the distributions made pursuant to
10 this section for the reasonable costs for administering the
11 distributions.

12 D. As used in this section, "county area" means
13 that portion of a county located outside the boundaries of any
14 municipality."

15 SECTION 25. Section 7-1-8.9 NMSA 1978 (being Laws 2009,
16 Chapter 243, Section 11, as amended by Laws 2015, Chapter 89,
17 Section 2 and by Laws 2015, Chapter 100, Section 2) is amended
18 to read:

19 "7-1-8.9. INFORMATION THAT MAY BE REVEALED TO LOCAL
20 GOVERNMENTS AND THEIR AGENCIES.--

21 A. An employee of the department may reveal to:

22 (1) the officials or employees of a
23 municipality of this state authorized in a written request by
24 the municipality for a period specified in the request within
25 the twelve months preceding the request; provided that the

1 municipality receiving the information has entered into a
2 written agreement with the department that the information
3 shall be used for tax purposes only and specifying that the
4 municipality is subject to the confidentiality provisions of
5 Section 7-1-8 NMSA 1978 and the penalty provisions of Section
6 7-1-76 NMSA 1978:

7 (a) the names, last four digits of the
8 taxpayer identification numbers and addresses of registered
9 gross receipts taxpayers reporting gross receipts for that
10 municipality under the Gross Receipts and Compensating Tax Act
11 or a local option gross receipts tax imposed by that
12 municipality. The department may also reveal the information
13 described in this subparagraph quarterly or upon such other
14 periodic basis as the secretary and the municipality may agree
15 in writing;

16 (b) a range of taxable gross receipts
17 of registered gross receipts paid by taxpayers from business
18 locations sourced pursuant to Section 7-1-14 NMSA 1978 to that
19 municipality; provided that authorization from the federal
20 internal revenue service to reveal such information has been
21 received. The department may also reveal the information
22 described in this subparagraph quarterly or upon such other
23 periodic basis as the secretary and the municipality may agree
24 in writing; and

25 (c) information indicating whether

1 persons shown on a list of businesses sourced pursuant to
2 Section 7-1-14 NMSA 1978 to that municipality furnished by the
3 municipality have reported gross receipts to the department
4 but have not reported gross receipts for that municipality
5 under the Gross Receipts and Compensating Tax Act or a local
6 option gross receipts tax imposed by that municipality;

7 (2) the officials or employees of a county
8 of this state authorized in a written request by the county
9 for a period specified in the request within the twelve months
10 preceding the request; provided that the county receiving the
11 information has entered into a written agreement with the
12 department that the information shall be used for tax purposes
13 only and specifying that the county is subject to the
14 confidentiality provisions of Section 7-1-8 NMSA 1978 and the
15 penalty provisions of Section 7-1-76 NMSA 1978:

16 (a) the names, last four digits of the
17 taxpayer identification numbers and addresses of registered
18 gross receipts taxpayers reporting gross receipts either for
19 that county in the case of a local option gross receipts tax
20 imposed on a countywide basis or only for the areas of that
21 county outside of any incorporated municipalities within that
22 county in the case of a county local option gross receipts tax
23 imposed only in areas of the county outside of any
24 incorporated municipalities. The department may also reveal
25 the information described in this subparagraph quarterly or

1 upon such other periodic basis as the secretary and the county
2 may agree in writing;

3 (b) a range of taxable gross receipts
4 of registered gross receipts paid by taxpayers from business
5 locations sourced pursuant to Section 7-1-14 NMSA 1978 either
6 to that county in the case of a local option gross receipts
7 tax imposed on a countywide basis or only to the areas of that
8 county outside of any incorporated municipalities within that
9 county in the case of a county local option gross receipts tax
10 imposed only in areas of the county outside of any
11 incorporated municipalities; provided that authorization from
12 the federal internal revenue service to reveal such
13 information has been received. The department may also reveal
14 the information described in this subparagraph quarterly or
15 upon such other periodic basis as the secretary and the county
16 may agree in writing;

17 (c) in the case of a local option gross
18 receipts tax imposed by a county on a countywide basis,
19 information indicating whether persons shown on a list of
20 businesses located within the county furnished by the county
21 have reported gross receipts to the department but have not
22 reported gross receipts for that county under the Gross
23 Receipts and Compensating Tax Act or a local option gross
24 receipts tax imposed by that county on a countywide basis; and

25 (d) in the case of a local option gross

1 receipts tax imposed by a county only on persons engaging in
2 business sourced pursuant to Section 7-1-14 NMSA 1978 to that
3 area of the county outside of incorporated municipalities,
4 information indicating whether persons on a list of businesses
5 located in that county outside of the incorporated
6 municipalities but within that county furnished by the county
7 have reported gross receipts to the department but have not
8 reported gross receipts for that county outside of the
9 incorporated municipalities within that county under the Gross
10 Receipts and Compensating Tax Act or a local option gross
11 receipts tax imposed by the county only on persons engaging in
12 business sourced to that county outside of the incorporated
13 municipalities; and

14 (3) officials or employees of a municipality
15 or county of this state, authorized in a written request of
16 the municipality or county, for purposes of inspection, the
17 records of the department pertaining to an increase or
18 decrease to a distribution or transfer made pursuant to
19 Section 7-1-6.15 NMSA 1978 for the purpose of reviewing the
20 basis for the increase or decrease; provided that the
21 municipality or county receiving the information has entered
22 into a written agreement with the department that the
23 information shall be used for tax purposes only and specifying
24 that the municipality or county is subject to the
25 confidentiality provisions of Section 7-1-8 NMSA 1978 and the

1 penalty provisions of Section 7-1-76 NMSA 1978. The
2 authorized officials or employees may only reveal the
3 information provided in this paragraph to another authorized
4 official or employee, to an employee of the department, or a
5 district court, an appellate court or a federal court in a
6 proceeding relating to a disputed distribution and in which
7 both the state and the municipality or county are parties.

8 B. The department shall require that a municipal
9 or county official or employee satisfactorily complete
10 appropriate training on protecting confidential information
11 prior to receiving the information pursuant to Subsection A of
12 this section."

13 SECTION 26. Section 7-1-13.1 NMSA 1978 (being Laws
14 1988, Chapter 99, Section 3, as amended) is amended to read:

15 "7-1-13.1. METHOD OF PAYMENT OF CERTAIN TAXES DUE.--

16 A. Payment of the taxes, including any applicable
17 penalties and interest, described in Paragraph (1), (2), (3)
18 or (4) of this subsection shall be made on or before the date
19 due in accordance with Subsection B of this section if the
20 taxpayer's average tax payment for the group of taxes during
21 the preceding calendar year equaled or exceeded twenty-five
22 thousand dollars (\$25,000):

23 (1) Group 1: all taxes due under the
24 Withholding Tax Act, the Gross Receipts and Compensating Tax
25 Act, local option gross receipts tax acts, the Interstate

1 Telecommunications Gross Receipts Tax Act and the Leased
2 Vehicle Gross Receipts Tax Act;

3 (2) Group 2: all taxes due under the Oil
4 and Gas Severance Tax Act, the Oil and Gas Conservation Tax
5 Act, the Oil and Gas Emergency School Tax Act and the Oil and
6 Gas Ad Valorem Production Tax Act;

7 (3) Group 3: the tax due under the Natural
8 Gas Processors Tax Act; or

9 (4) Group 4: all taxes and fees due under
10 the Gasoline Tax Act, the Special Fuels Supplier Tax Act and
11 the Petroleum Products Loading Fee Act.

12 B. Taxpayers who are required to make payment in
13 accordance with the provisions of this section shall make
14 payment by electronic payment; provided that a result of the
15 payment is that funds are immediately available to the state
16 of New Mexico on or before the due date.

17 C. If the taxes required to be paid under this
18 section are not paid in accordance with Subsection B of this
19 section, the payment is not timely and is subject to the
20 provisions of Sections 7-1-67 and 7-1-69 NMSA 1978.

21 D. For the purposes of this section, "average tax
22 payment" means the total amount of taxes paid with respect to
23 a group of taxes listed under Subsection A of this section
24 during a calendar year divided by the number of months in that
25 calendar year containing a due date on which the taxpayer was

1 required to pay one or more taxes in the group."

2 SECTION 27. Section 7-1-15 NMSA 1978 (being Laws 1969,
3 Chapter 31, Section 1, as amended) is amended to read:

4 "7-1-15. SECRETARY MAY SET TAX REPORTING AND PAYMENT
5 INTERVALS.--The secretary may, pursuant to rule, allow
6 taxpayers with an anticipated tax liability of less than five
7 hundred dollars (\$500) a month to report and pay taxes at
8 intervals which the secretary may specify. However, unless
9 specifically permitted by law, an interval shall not exceed
10 one year."

11 SECTION 28. Section 7-1-20 NMSA 1978 (being Laws 1965,
12 Chapter 248, Section 22, as amended) is amended to read:

13 "7-1-20. COMPROMISE OF TAXES--CLOSING AGREEMENTS.--

14 A. At any time after the assessment of any tax or
15 the denial of a refund or credit, if the secretary in good
16 faith is in doubt of the correctness of the denial or
17 liability for the payment of an assessment, the secretary may
18 compromise the asserted liability for taxes or the denial by
19 entering with the taxpayer into a written agreement that
20 adequately protects the interests of the state.

21 B. The agreement provided for in this section is
22 to be known as a "closing agreement". If entered into after
23 any court acquires jurisdiction of the matter, the agreement
24 shall be part of a stipulated order or judgment disposing of
25 the case.

1 C. As a condition for entering into a closing
2 agreement, the secretary may require the taxpayer to furnish
3 security for payment of any taxes due according to the terms
4 of the agreement.

5 D. A closing agreement is conclusive as to
6 liability or nonliability for payment of assessed taxes or the
7 denial of a refund or credit relating to the periods referred
8 to in the agreement, and except upon a showing of fraud or
9 malfeasance, or misrepresentation or concealment of a material
10 fact:

11 (1) the agreement shall not be modified by
12 any officer, employee or agent of the state; and

13 (2) in any suit, action or proceeding, the
14 agreement or any determination, assessment, collection,
15 payment, abatement, refund or credit made in accordance
16 therewith shall not be annulled, modified, set aside or
17 disregarded."

18 SECTION 29. Section 7-1-26 NMSA 1978 (being Laws 1965,
19 Chapter 248, Section 28, as amended) is amended to read:

20 "7-1-26. DISPUTING LIABILITIES--CLAIM FOR REBATE OR
21 REFUND.--

22 A. A person who believes that an amount of tax has
23 been paid by or withheld from that person in excess of that
24 for which the person was liable, who has been denied a rebate
25 claimed or who claims a prior right to property in the

1 possession of the department pursuant to a levy made pursuant
2 to the authority of Sections 7-1-31 through 7-1-34 NMSA 1978
3 may claim a refund by directing to the secretary, within the
4 time limitations provided by Subsections F and G of this
5 section, a written claim for refund that, except as provided
6 in Subsection K of this section, includes:

7 (1) the taxpayer's name, address and
8 identification number;

9 (2) the type of tax for which a refund is
10 being claimed, the rebate denied or the property levied upon;

11 (3) the sum of money or other property being
12 claimed;

13 (4) with respect to a refund, the period for
14 which overpayment was made;

15 (5) a brief statement of the facts and the
16 law on which the claim is based, which may be referred to as
17 the "basis for the refund", which may include documentation
18 that substantiates the written claim and supports the
19 taxpayer's basis for the refund; and

20 (6) if applicable, a copy of an amended
21 return for each tax period for which the refund is claimed.

22 B. A claim for refund that meets the requirements
23 of Subsection A of this section and that is filed within the
24 time limitations provided by Subsections F and G of this
25 section is deemed to be properly before the department for

1 consideration, regardless of whether the department requests
2 additional documentation after receipt of the claim for
3 refund.

4 C. If the department requests additional relevant
5 documentation from a taxpayer who has submitted a claim for
6 refund, the claim for refund shall not be considered
7 incomplete provided the taxpayer submits sufficient
8 information for the department to make a determination.

9 D. The secretary or the secretary's delegate may
10 allow the claim in whole or in part or may deny the claim. If
11 the:

12 (1) claim is denied in whole or in part in
13 writing, the person shall not refile the denied claim, but the
14 person, within ninety days after either the mailing or
15 delivery of the denial of all or any part of the claim, may
16 elect to pursue only one of the remedies provided in
17 Subsection E of this section; and

18 (2) department has neither granted nor
19 denied any portion of a complete claim for refund within one
20 hundred eighty days after the claim was mailed or otherwise
21 delivered to the department, the person may elect to treat the
22 claim as denied and elect to pursue only one of the remedies
23 provided in Subsection E of this section.

24 E. A person may elect to pursue only one of the
25 remedies provided in this subsection. A person who timely

1 pursues more than one remedy is deemed to have elected the
2 first. The person may:

3 (1) direct to the secretary, pursuant to the
4 provisions of Section 7-1-24 NMSA 1978, a written protest that
5 sets forth:

6 (a) the circumstances of: 1) an
7 alleged overpayment; 2) a denied rebate; or 3) a denial of a
8 prior right to property levied upon by the department;

9 (b) an allegation that, because of that
10 overpayment or denial, the state is indebted to the taxpayer
11 for a specified amount, including any allowed interest, or for
12 the property;

13 (c) a demand for the refund to the
14 taxpayer of that amount or that property; and

15 (d) a recitation of the facts of the
16 claim for refund; or

17 (2) commence a civil action in the district
18 court for Santa Fe county by filing a complaint setting forth
19 the circumstance of the claimed overpayment, denied rebate or
20 denial of a prior right to property levied upon by the
21 department alleging that on account thereof the state is
22 indebted to the plaintiff in the amount or property stated,
23 together with any interest allowable, demanding the refund to
24 the plaintiff of that amount or property and reciting the
25 facts of the claim for refund. The plaintiff or the secretary

1 may appeal from any final decision or order of the district
2 court to the court of appeals.

3 F. Except as otherwise provided in Subsection G of
4 this section, a refund of any amount of overpaid tax, penalty
5 or interest may be allowed or made to a person if a claim is
6 properly filed:

7 (1) only within three years after the end of
8 the calendar year in which the applicable event occurs:

9 (a) in the case of tax paid with an
10 original or amended state return, the date the related tax was
11 originally due;

12 (b) in the case of tax paid in response
13 to an assessment by the department pursuant to Section 7-1-17
14 NMSA 1978, the date the tax was paid;

15 (c) in the case of tax with respect to
16 which a net-negative federal adjustment, as that term is used
17 in Section 7-1-13 NMSA 1978, relates, the final determination
18 date of that federal adjustment, as provided in Section 7-1-13
19 NMSA 1978;

20 (d) the final determination of value
21 occurs with respect to any overpayment that resulted from a
22 disapproval by any agency of the United States or the state of
23 New Mexico or any court of increase in value of a product
24 subject to taxation pursuant to the Oil and Gas Severance Tax
25 Act, the Oil and Gas Conservation Tax Act, the Oil and Gas

1 Emergency School Tax Act, the Oil and Gas Ad Valorem

2 Production Tax Act or the Natural Gas Processors Tax Act; or

3 (e) in the case of a claim related to
4 property taken by levy, the date the property was levied upon
5 as provided in the Tax Administration Act;

6 (2) in the case of a taxpayer under audit by
7 the department who has signed a waiver of the limitation on
8 assessments pursuant to Subsection F of Section 7-1-18 NMSA
9 1978, only for a refund of the same tax paid for the same
10 period for which the waiver was given, and only until a date
11 one year after the later of the date of the mailing of an
12 assessment issued pursuant to the audit, the date of the
13 mailing of final audit findings to the taxpayer or the date a
14 proceeding is begun in court by the department with respect to
15 the same tax and the same period;

16 (3) in the case of a payment of an amount of
17 tax not made within three years of the end of the calendar
18 year in which the original due date of the tax or date of the
19 assessment of the department occurred, only for a claim for
20 refund of that amount of tax and only within one year of the
21 date on which the tax was paid; or

22 (4) in the case of a taxpayer who has been
23 assessed a tax pursuant to Subsection B, C or D of Section
24 7-1-18 NMSA 1978 and an assessment that applies to a period
25 ending at least three years prior to the beginning of the year

1 in which the assessment was made, only for a refund for the
2 same tax for the period of the assessment or for any period
3 following that period within one year of the date of the
4 assessment unless a longer period for claiming a refund is
5 provided in this section.

6 G. No refund shall be allowed or made to a person
7 claiming a refund of gasoline tax pursuant to Section 7-13-11
8 NMSA 1978 unless notice of the destruction of the gasoline was
9 given to the department within thirty days of the actual
10 destruction and the claim for refund is made within six months
11 of the date of destruction. No refund shall be allowed or
12 made to a person claiming a refund of gasoline tax pursuant to
13 Section 7-13-17 NMSA 1978 unless the refund is claimed within
14 six months of the date of purchase of the gasoline and the
15 gasoline has been used at the time the claim for refund is
16 made.

17 H. If, as a result of an audit by the department
18 or a managed audit covering multiple periods, an overpayment
19 of tax is found in any period under the audit and if the
20 taxpayer files a claim for refund for the overpayments
21 identified in the audit, that overpayment may be credited
22 against an underpayment of the same tax found in another
23 period under audit pursuant to Section 7-1-29 NMSA 1978.

24 I. A refund of tax paid under any tax or tax act
25 administered pursuant to Subsection B of Section 7-1-2 NMSA

1 1978 may be made, at the discretion of the department, in the
2 form of credit against future tax payments if future tax
3 liabilities in an amount at least equal to the credit amount
4 reasonably may be expected to become due.

5 J. For the purposes of this section, "oil and gas
6 tax return" means a return reporting tax due with respect to
7 oil, natural gas, liquid hydrocarbons, carbon dioxide, helium
8 or nonhydrocarbon gas pursuant to the Oil and Gas Severance
9 Tax Act, the Oil and Gas Conservation Tax Act, the Oil and Gas
10 Emergency School Tax Act, the Oil and Gas Ad Valorem
11 Production Tax Act, the Natural Gas Processors Tax Act or the
12 Oil and Gas Production Equipment Ad Valorem Tax Act.

13 K. The filing of a fully completed original income
14 tax return, corporate income tax return, corporate income and
15 franchise tax return, estate tax return or annual insurance
16 premium tax return that shows a balance due the taxpayer or a
17 fully completed amended income tax return, an amended
18 corporate income tax return, an amended corporate income and
19 franchise tax return, an amended estate tax return, an amended
20 oil and gas tax return or an amended insurance premium tax
21 return that shows a lesser tax liability than the original
22 return constitutes the filing of a claim for refund for the
23 difference in tax due shown on the original and amended
24 returns.

25 L. The department may allow a completed return and

1 an amended return to constitute the filing of a claim for
2 refund.

3 M. In no case may a refund be claimed if the
4 related federal adjustment is taken into account by a
5 partnership in the partnership's tax return for the adjustment
6 year and allocated to the partners in a manner similar to
7 other partnership tax items."

8 SECTION 30. Section 7-1-28 NMSA 1978 (being Laws 1965,
9 Chapter 248, Section 30, as amended) is amended to read:

10 "7-1-28. AUTHORITY FOR ABATEMENTS OF ASSESSMENTS OF
11 TAX.--

12 A. The secretary or the secretary's delegate may
13 abate any or part of an assessment determined by the secretary
14 or the secretary's delegate if:

15 (1) a written protest is filed against an
16 assessment, submitted in accordance with the provisions of
17 Section 7-1-24 NMSA 1978, but before any court acquires
18 jurisdiction of the matter;

19 (2) a "notice of assessment of taxes" is
20 incorrect or erroneously made; or

21 (3) a written protest is filed solely
22 against an assessment of penalty and interest totaling not
23 more than fifty dollars (\$50.00).

24 B. Pursuant to the final order of the district
25 court, the court of appeals, the supreme court of New Mexico

1 or any federal court, from which order, appeal or review is
2 not successfully taken by the department, adjudging that any
3 person is not required to pay any portion of tax assessed to
4 that person, the secretary or the secretary's delegate shall
5 cause that amount of the assessment to be abated.

6 C. Pursuant to a compromise of taxes agreed to by
7 the secretary and according to the terms of the closing
8 agreement formalizing the compromise pursuant to Section
9 7-1-20 NMSA 1978, the secretary or the secretary's delegate
10 shall cause the abatement of the appropriate amount of any
11 assessment of tax.

12 D. The secretary or the secretary's delegate shall
13 cause the abatement of the amount of an assessment of tax that
14 is equal to the amount of fee paid to or retained by an out-
15 of-state attorney or collection agency from a judgment or the
16 amount collected by the attorney or collection agency pursuant
17 to Section 7-1-58 NMSA 1978.

18 E. Records of abatements made in excess of twenty
19 thousand dollars (\$20,000) shall be available for inspection
20 by the public. The department shall keep such records for a
21 minimum of three years from the date of the abatement.

22 F. In response to a timely protest pursuant to
23 Section 7-1-24 NMSA 1978 of an assessment by the department
24 and notwithstanding any other provision of the Tax
25 Administration Act, the secretary or the secretary's delegate

1 may abate that portion of an assessment of tax, including
2 applicable penalties and interest, representing the amount of
3 tax previously paid by another person on behalf of the
4 taxpayer on the same transaction; provided that the
5 requirements of equitable recoupment are met. For purposes of
6 this subsection, the protest pursuant to Section 7-1-24 NMSA
7 1978 of the department's assessment may be made by the
8 taxpayer to whom the assessment was issued or by the other
9 person who claims to have previously paid the tax on behalf of
10 the taxpayer."

11 SECTION 31. Section 7-1-29 NMSA 1978 (being Laws 1965,
12 Chapter 248, Section 31, as amended) is amended to read:

13 "7-1-29. AUTHORITY TO MAKE REFUNDS, CREDITS OR
14 REBATES.--

15 A. In response to a claim for refund, credit or
16 rebate made as provided in Section 7-1-26 NMSA 1978, but
17 before a court acquires jurisdiction of the matter, the
18 secretary or the secretary's delegate may authorize payment to
19 a person in the amount of the credit or rebate claimed or
20 refund an overpayment of tax determined by the secretary or
21 the secretary's delegate to have been erroneously made by the
22 person, together with allowable interest.

23 B. Pursuant to the final order of the district
24 court, the court of appeals, the supreme court of New Mexico
25 or a federal court, from which order, appeal or review is not

1 successfully taken, adjudging that a person has properly
2 claimed a credit, rebate or a refund of overpaid tax, the
3 secretary shall authorize the payment to the person of the
4 amount thereof. After a court acquires jurisdiction but
5 before it issues a final order, the secretary may authorize
6 payment of a credit, rebate or refund pursuant to a closing
7 agreement pursuant to Section 7-1-20 NMSA 1978.

8 C. In the discretion of the secretary, any amount
9 of credit or rebate to be paid or tax to be refunded may be
10 offset against any amount of tax for which the person due to
11 receive the credit, rebate payment or refund is liable. The
12 secretary or the secretary's delegate shall give notice to the
13 taxpayer that the credit, rebate payment or refund will be
14 made in this manner, and the taxpayer shall be entitled to
15 interest pursuant to Section 7-1-68 NMSA 1978 until the tax
16 liability is credited with the credit, rebate or refund
17 amount.

18 D. In an audit by the department or a managed
19 audit covering multiple reporting periods in which both
20 underpayments and overpayments of a tax have been made in
21 different reporting periods, the department shall credit the
22 tax overpayments against the underpayments; provided that the
23 taxpayer files a claim for refund of the overpayments. An
24 overpayment shall be applied as a credit first to the earliest
25 underpayment and then to succeeding underpayments. An

1 underpayment of tax to which an overpayment is credited
2 pursuant to this section shall be deemed paid in the period in
3 which the overpayment was made or the period to which the
4 overpayment was credited against an underpayment, whichever is
5 later. If the overpayments credited pursuant to this section
6 exceed the underpayments of a tax, the amount of the net
7 overpayment for the periods covered in the audit shall be
8 refunded to the taxpayer.

9 E. When a taxpayer makes a payment identified to a
10 particular return or assessment, and the department determines
11 that the payment exceeds the amount due pursuant to that
12 return or assessment, the secretary may apply the excess to
13 the taxpayer's other liabilities pursuant to the tax acts to
14 which the return or assessment applies, without requiring the
15 taxpayer to file a claim for a refund. The liability to which
16 an overpayment is applied pursuant to this section shall be
17 deemed paid in the period in which the overpayment was made or
18 the period to which the overpayment was applied, whichever is
19 later.

20 F. If the department determines, upon review of an
21 original or amended income tax return, corporate income and
22 franchise tax return, estate tax return, special fuels excise
23 tax return or oil and gas tax return, that there has been an
24 overpayment of tax for the taxable period to which the return
25 or amended return relates in excess of the amount due to be

1 refunded to the taxpayer pursuant to the provisions of
2 Subsection K of Section 7-1-26 NMSA 1978, the department may
3 refund that excess amount to the taxpayer without requiring
4 the taxpayer to file a refund claim.

5 G. Records of refunds and credits made in excess
6 of twenty thousand dollars (\$20,000) shall be available for
7 inspection by the public. The department shall keep such
8 records for a minimum of three years from the date of the
9 refund or credit.

10 H. In response to a timely refund claim pursuant
11 to Section 7-1-26 NMSA 1978 and notwithstanding any other
12 provision of the Tax Administration Act, the secretary or the
13 secretary's delegate may refund or credit a portion of an
14 assessment of tax paid, including applicable penalties and
15 interest representing the amount of tax previously paid by
16 another person on behalf of the taxpayer on the same
17 transaction; provided that the requirements of equitable
18 recoupment are met. For purposes of this subsection, the
19 refund claim may be filed by the taxpayer to whom the
20 assessment was issued or by another person who claims to have
21 previously paid the tax on behalf of the taxpayer. Prior to
22 granting the refund or credit, the secretary may require a
23 waiver of all rights to claim a refund or credit of the tax
24 previously paid by another person paying a tax on behalf of
25 the taxpayer.

1 I. If, as a result of an audit by the department
2 or a managed audit, a person is determined to owe gross
3 receipts tax on receipts from the sale of property or
4 services, the department may credit against the amount owed an
5 amount of compensating tax paid by the purchaser if the person
6 can demonstrate that the purchaser timely paid the
7 compensating tax on the same property or services. The credit
8 provided by this subsection shall not be denied solely because
9 the purchaser cannot timely file for a refund of the
10 compensating tax paid and, if the credit is to be granted, the
11 department shall require, for the purpose of granting the
12 credit, that the purchaser give up any right to claim a refund
13 of that tax."

14 **SECTION 32.** Section 7-1-37 NMSA 1978 (being Laws 1965,
15 Chapter 248, Section 39, as amended) is amended to read:

16 "7-1-37. ASSESSMENT AS LIEN.--

17 A. If any person liable for any tax neglects or
18 refuses to pay the tax after assessment and demand for payment
19 as provided in Section 7-1-17 NMSA 1978 or if any person
20 liable for tax pursuant to Section 7-1-63 NMSA 1978 neglects
21 or refuses to pay after demand has been made, unless and only
22 so long as such a person is entitled to the protection
23 afforded by a valid order of a United States court entered
24 pursuant to Section 362 or 1301 of Title 11 of the United
25 States Code, as amended or renumbered, the amount of the tax

1 shall be a lien in favor of the state of New Mexico upon all
2 property and rights to property of the person.

3 B. The lien imposed by Subsection A of this
4 section shall arise at the time both assessment and demand, as
5 provided in Section 7-1-17 NMSA 1978, have been made or at the
6 time demand has been made pursuant to Section 7-1-63 NMSA 1978
7 and shall continue until the liability for payment of the
8 amount demanded is satisfied, extinguished or released.

9 C. As against any mortgagee, pledgee, purchaser,
10 judgment creditor, person claiming a lien under Sections
11 48-2-1 through 48-11-9 NMSA 1978, lienor for value or other
12 encumbrancer for value, the lien imposed by Subsection A of
13 this section shall not be considered to have arisen or have
14 any effect whatever until notice of the lien has been filed as
15 provided in Section 7-1-38 NMSA 1978."

16 SECTION 33. Section 7-1-38 NMSA 1978 (being Laws 1965,
17 Chapter 248, Section 40, as amended) is amended to read:

18 "7-1-38. NOTICE OF LIEN.--A notice of the lien provided
19 for in Section 7-1-37 NMSA 1978 may be recorded in any county
20 in the state in the tax lien index established by Sections
21 48-1-1 through 48-1-7 NMSA 1978 or with the office of the
22 secretary of state and a copy thereof shall be sent to the
23 affected taxpayer. The office of the secretary of state or a
24 county clerk to whom the notices are presented shall record
25 them as requested without charge. The notice of lien shall

1 identify the taxpayer whose liability for taxes is sought to
2 be enforced and the date or approximate date on which the tax
3 became due and shall state that New Mexico claims a lien for
4 the entire amount of tax asserted to be due, including
5 applicable interest and penalties. Recording of the notice of
6 lien shall be effective as to all property and rights to
7 property of the taxpayer. Liens may be recorded
8 electronically."

9 SECTION 34. Section 7-1-39 NMSA 1978 (being Laws 1965,
10 Chapter 248, Section 41, as amended) is amended to read:

11 "7-1-39. RELEASE OR EXTINGUISHMENT OF LIEN--LIMITATION
12 ON ACTIONS TO ENFORCE LIEN.--

13 A. When any substantial part of the amount of tax
14 due from a taxpayer is paid, the department shall immediately
15 file, in the same manner in which a notice of lien was filed,
16 and in the same records, a document completely or partially
17 releasing the lien. The official to whom such a document is
18 presented shall record the release of the lien without charge.

19 B. The department may file, in the same manner as
20 the notice of lien was filed, a document releasing or
21 partially releasing any lien filed in accordance with Section
22 7-1-38 NMSA 1978 when the filing of the lien was premature or
23 did not follow requirements of law or when release or partial
24 release would facilitate collection of taxes due. The
25 official to whom the document is presented shall record the

1 release of the lien without charge.

2 C. In all cases when a notice of lien for taxes,
3 penalties and interest has been filed under Section 7-1-38
4 NMSA 1978 and a period of ten years has passed from the date
5 the lien was filed, as shown on the notice of lien, the taxes,
6 penalties and interest for which the lien is claimed shall be
7 conclusively presumed to have been paid and the lien is
8 thereby extinguished, with no further action by the
9 department. No action shall be brought to enforce any lien
10 extinguished in accordance with this subsection."

11 SECTION 35. Section 7-1-79 NMSA 1978 (being Laws 1965,
12 Chapter 248, Section 82, as amended) is amended to read:

13 "7-1-79. ENFORCEMENT OFFICIALS.--Every individual to
14 whom the secretary delegates the function of enforcing any of
15 the provisions of the Tax Administration Act:

16 A. shall be furnished with credentials identifying
17 the secretary's delegate; and

18 B. may request the assistance of any sheriff or
19 deputy sheriff or of the state police in order to perform the
20 delegate's duties, which assistance shall be afforded in
21 appropriate circumstances."

22 SECTION 36. Section 7-2-12 NMSA 1978 (being Laws 1965,
23 Chapter 202, Section 10, as amended) is amended to read:

24 "7-2-12. TAXPAYER RETURNS--PAYMENT OF TAX.--Every
25 resident of this state and every individual deriving income

1 from any business transaction, property or employment within
2 this state and not exempt from tax under the Income Tax Act
3 who is required by the laws of the United States to file a
4 federal income tax return shall file a complete tax return
5 with the department in form and content as prescribed by the
6 secretary. A resident or any individual who is required by
7 the provisions of the Income Tax Act to file a return or pay a
8 tax shall, on or before the due date of the resident's or
9 individual's federal income tax return for the taxable year,
10 file the return and pay the tax imposed for that year."

11 SECTION 37. Section 7-2-12.1 NMSA 1978 (being Laws
12 1990, Chapter 23, Section 1) is amended to read:

13 "7-2-12.1. LIMITATION ON CLAIMING OF CREDITS AND TAX
14 REBATES.--

15 A. Except as provided otherwise in this section, a
16 credit or tax rebate provided in the Income Tax Act that is
17 claimed shall be disallowed if the claim for the credit or tax
18 rebate was first made after the end of the third calendar year
19 following the calendar year in which the return upon which the
20 credit or tax rebate was first claimable was initially due.

21 B. Subsection A of this section does not apply to
22 the credit authorized by Section 7-2-13 NMSA 1978 for income
23 taxes paid another state."

24 SECTION 38. Section 7-2-18.16 NMSA 1978 (being Laws
25 2007, Chapter 45, Section 10, as amended) is amended to read:

1 "7-2-18.16. CREDIT--SPECIAL NEEDS ADOPTED CHILD TAX
2 CREDIT--CREATED--QUALIFICATIONS--DURATION OF CREDIT.--

3 A. A taxpayer who files an individual New Mexico
4 income tax return, who is not a dependent of another taxpayer
5 and who adopts or has adopted a special needs child may claim
6 a credit against the taxpayer's tax liability imposed pursuant
7 to the Income Tax Act. The credit authorized pursuant to this
8 section may be referred to as the "special needs adopted child
9 tax credit".

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

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

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

21 E. Married individuals who file separate returns
22 for a taxable year in which they could have filed a joint
23 return may each claim only one-half of the special needs
24 adopted child tax credit provided in this section that would
25 have been allowed on a joint return.

1 F. A taxpayer allowed a tax credit pursuant to
2 this section shall claim the credit on forms and in a manner
3 required by the department.

4 G. The tax credit provided by this section shall
5 be included in the tax expenditure budget pursuant to Section
6 7-1-84 NMSA 1978, including the annual aggregate cost of the
7 tax credit.

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

18 SECTION 39. Section 7-2-18.17 NMSA 1978 (being Laws
19 2007, Chapter 172, Section 1, as amended) is amended to read:

20 "7-2-18.17. ANGEL INVESTMENT CREDIT.--

21 A. A taxpayer who files a New Mexico income tax
22 return, is not a dependent of another taxpayer, is an
23 accredited investor and makes a qualified investment may apply
24 for, and the department may allow, a claim for a credit in an
25 amount not to exceed twenty-five percent of the qualified

1 investment; provided that a credit for each qualified
2 investment shall not exceed sixty-two thousand five hundred
3 dollars (\$62,500). The tax credit provided in this section
4 shall be known as the "angel investment credit".

5 B. A taxpayer may claim the angel investment
6 credit:

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

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

11 (3) for a qualified investment made on or
12 before December 31, 2030.

13 C. A taxpayer may claim an angel investment credit
14 by submitting a completed application to the department on
15 forms and in a manner required by the department no later than
16 one year following the end of the calendar year in which the
17 qualified investment is made. A taxpayer shall not claim more
18 than one credit for the same qualified investment in the same
19 investment round.

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

24 E. Applications and all subsequent materials
25 submitted to the department related to the application shall

1 also be submitted to the economic development department.

2 F. The department shall allow a maximum annual
3 aggregate of two million dollars (\$2,000,000) in angel
4 investment credits per calendar year. Completed applications
5 shall be considered in the order received. Applications for
6 credits that would have been allowed but for the limit imposed
7 by this subsection shall be allowed in subsequent calendar
8 years.

9 G. The credit provided by this section shall be
10 included in the tax expenditure budget pursuant to Section
11 7-1-84 NMSA 1978, which shall include, at a minimum: the
12 number of accredited investors determined to be eligible for
13 the credit in the previous year; the names of those investors;
14 the amount of credit for which each investor was determined to
15 be eligible; and the number and names of the businesses
16 determined to be qualified businesses for purposes of an
17 investment by an accredited investor.

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

24 I. Married individuals who file separate returns
25 for a taxable year in which they could have filed a joint

1 return may each claim one-half of the credit that would have
2 been allowed on a joint return.

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

8 K. As used in this section:

9 (1) "accredited investor" means a person who
10 is an accredited investor within the meaning of Rule 501
11 issued by the federal securities and exchange commission
12 pursuant to the federal Securities Act of 1933, as amended;

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

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

24 (4) "investment round" means an offer and
25 sale of securities and all other offers and sales of

1 securities that would be integrated with such offer and sale
2 of securities under Regulation D issued by the federal
3 securities and exchange commission pursuant to the federal
4 Securities Act of 1933, as amended;

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

8 (a) construction;

9 (b) farming;

10 (c) processing natural resources,
11 including hydrocarbons; or

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

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

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

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

22 (c) is not primarily engaged in or is
23 not primarily organized as any of the following types of
24 businesses: credit or finance services, including banks,
25 savings and loan associations, credit unions, small loan

1 companies or title loan companies; financial brokering or
2 investment; professional services, including accounting, legal
3 services, engineering and any other service the practice of
4 which requires a license; insurance; real estate; construction
5 or construction contracting; consulting or brokering; mining;
6 wholesale or retail trade; providing utility service,
7 including water, sewerage, electricity, natural gas, propane
8 or butane; publishing, including publishing newspapers or
9 other periodicals; broadcasting; or providing internet
10 operating services;

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

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

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

25 (7) "qualified investment" means a cash

1 investment in a qualified business for equity, but does not
2 include an investment by a taxpayer if the taxpayer, a member
3 of the taxpayer's immediate family or an entity affiliated
4 with the taxpayer receives compensation from the qualified
5 business in exchange for services provided to the qualified
6 business within one year of investment in the qualified
7 business; and

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

11 SECTION 40. Section 7-2-18.22 NMSA 1978 (being Laws
12 2007, Chapter 361, Section 2, as amended) is amended to read:

13 "7-2-18.22. RURAL HEALTH CARE PRACTITIONER TAX
14 CREDIT.--

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

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

25 (1) five thousand dollars (\$5,000) for all

1 physicians, osteopathic physicians, dentists, psychologists,
2 podiatric physicians and optometrists who qualify pursuant to
3 the provisions of this section and have provided health care
4 during a taxable year for at least one thousand five hundred
5 eighty-four hours at a practice site located in an approved
6 rural health care underserved area. Eligible health care
7 practitioners listed in this paragraph who provided health
8 care services for at least seven hundred ninety-two hours but
9 less than one thousand five hundred eighty-four hours at a
10 practice site located in an approved rural health care
11 underserved area during a taxable year are eligible for one-
12 half of the tax credit amount; and

13 (2) three thousand dollars (\$3,000) for all
14 pharmacists, dental hygienists, physician assistants,
15 certified registered nurse anesthetists, certified nurse
16 practitioners, clinical nurse specialists, registered nurses,
17 midwives, licensed clinical social workers, licensed
18 independent social workers, professional mental health
19 counselors, professional clinical mental health counselors,
20 marriage and family therapists, professional art therapists,
21 alcohol and drug abuse counselors and physical therapists who
22 qualify pursuant to the provisions of this section and have
23 provided health care during a taxable year for at least one
24 thousand five hundred eighty-four hours at a practice site
25 located in an approved rural health care underserved area.

1 Eligible health care practitioners listed in this paragraph
2 who provided health care services for at least seven hundred
3 ninety-two hours but less than one thousand five hundred
4 eighty-four hours at a practice site located in an approved
5 rural health care underserved area during a taxable year are
6 eligible for one-half of the tax credit amount.

7 C. Before an eligible health care practitioner may
8 claim the rural health care practitioner tax credit, the
9 practitioner shall submit a completed application to the
10 department of health that describes the practitioner's
11 clinical practice and contains additional information that the
12 department of health may require. The department of health
13 shall determine whether an eligible health care practitioner
14 qualifies for the rural health care practitioner tax credit
15 and shall issue a certificate to each qualifying eligible
16 health care practitioner. The department of health shall
17 provide the taxation and revenue department appropriate
18 information for all eligible health care practitioners to whom
19 certificates are issued in a secure manner on regular
20 intervals agreed upon by both the taxation and revenue
21 department and the department of health.

22 D. A taxpayer claiming the credit provided by this
23 section shall submit a copy of the certificate issued by the
24 department of health with the taxpayer's New Mexico income tax
25 return for the taxable year. If the amount of the credit

1 claimed exceeds a taxpayer's tax liability for the taxable
2 year in which the credit is being claimed, the excess may be
3 carried forward for three consecutive taxable years.

4 E. A taxpayer allowed a tax credit pursuant to
5 this section shall claim the credit on forms and in a manner
6 required by the department.

7 F. The tax credit provided by this section shall
8 be included in the tax expenditure budget pursuant to Section
9 7-1-84 NMSA 1978, including the annual aggregate cost of the
10 tax credit.

11 G. As used in this section:

12 (1) "eligible health care practitioner"
13 means:

14 (a) a dentist or dental hygienist
15 licensed pursuant to the Dental Health Care Act;

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

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

25 (d) an osteopathic physician licensed

1 pursuant to the provisions of the Medical Practice Act;

2 (e) a physician licensed pursuant to
3 the provisions of the Medical Practice Act or a physician
4 assistant licensed pursuant to the provisions of the Physician
5 Assistant Act;

6 (f) a podiatric physician licensed
7 pursuant to the provisions of the Podiatry Act;

8 (g) a psychologist licensed pursuant to
9 the provisions of the Professional Psychologist Act;

10 (h) a registered nurse licensed
11 pursuant to the provisions of the Nursing Practice Act;

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

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

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

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

24 (2) "health care underserved area" means a
25 geographic area or practice location in which it has been

1 determined by the department of health, through the use of
2 indices and other standards set by the department of health,
3 that sufficient health care services are not being provided;

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

8 (4) "rural" means a rural county or an
9 unincorporated area of a partially rural county, as designated
10 by the health resources and services administration of the
11 United States department of health and human services."

12 SECTION 41. Section 7-2-18.24 NMSA 1978 (being Laws
13 2009, Chapter 271, Section 1, as amended) is amended to read:

14 "7-2-18.24. GEOTHERMAL GROUND-COUPLED HEAT PUMP INCOME
15 TAX CREDIT.--

16 A. A taxpayer who files an individual New Mexico
17 income tax return for a taxable year beginning on or after
18 January 1, 2024 and who purchases and installs after May 15,
19 2024 but before December 31, 2034 a geothermal ground-coupled
20 heat pump in a residence, business or agricultural enterprise
21 in New Mexico owned by that taxpayer may apply for, and the
22 department may allow, a tax credit of up to thirty percent of
23 the purchase and installation costs of the system. The credit
24 provided in this section may be referred to as the "geothermal
25 ground-coupled heat pump income tax credit". The total

1 geothermal ground-coupled heat pump income tax credit allowed
2 to a taxpayer shall not exceed nine thousand dollars (\$9,000).
3 The department shall allow a geothermal ground-coupled heat
4 pump income tax credit only for geothermal ground-coupled heat
5 pumps that are certified pursuant to Subsection C of this
6 section and installed by a nationally accredited ground source
7 heat pump installer.

8 B. That portion of a geothermal ground-coupled
9 heat pump income tax credit that exceeds a taxpayer's tax
10 liability in the taxable year in which the credit is claimed
11 shall be refunded to the taxpayer.

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

23 D. The maximum annual aggregate of credits that
24 may be certified in a calendar year by the energy, minerals
25 and natural resources department is four million dollars

1 (\$4,000,000). That department shall not certify a tax credit
2 for which a taxpayer claims a 2021 sustainable building tax
3 credit using a geothermal ground-coupled heat pump as a
4 component of qualification for the rating system certification
5 level used in determining eligibility for that credit.

6 Completed applications for the credit shall be considered in
7 the order received. The energy, minerals and natural
8 resources department shall provide the department appropriate
9 information for all certificates of eligibility in a secure
10 manner on regular intervals agreed upon by both departments.

11 E. A taxpayer who otherwise qualifies and claims a
12 geothermal ground-coupled heat pump income tax credit with
13 respect to property owned by a partnership or other business
14 association of which the taxpayer is a member may claim a
15 credit only in proportion to that taxpayer's interest in the
16 partnership or association. The total credit claimed in the
17 aggregate by all members of the partnership or association
18 with respect to the property shall not exceed the amount of
19 the credit that could have been claimed by a sole owner of the
20 property.

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

25 G. A taxpayer allowed a tax credit pursuant to

1 this section shall claim the credit on forms and in a manner
2 required by the department.

3 H. The credit provided by this section shall be
4 included in the tax expenditure budget pursuant to Section
5 7-1-84 NMSA 1978, including the annual aggregate cost of the
6 tax credit.

7 I. As used in this section, "geothermal ground-
8 coupled heat pump" means a heating and refrigerating system
9 that directly or indirectly utilizes available heat below the
10 surface of the earth for distribution of heating and cooling
11 or domestic hot water and that has either a minimum
12 coefficient of performance of three and four-tenths or an
13 efficiency ratio of sixteen or greater."

14 SECTION 42. Section 7-2-18.26 NMSA 1978 (being Laws
15 2010, Chapter 84, Section 1, as amended) is amended to read:

16 "7-2-18.26. AGRICULTURAL BIOMASS INCOME TAX CREDIT.--

17 A. A taxpayer who owns a dairy or feedlot and who
18 files an individual New Mexico income tax return for a taxable
19 year ending prior to January 1, 2030, may claim, and the
20 department may allow, a tax credit equal to five dollars
21 (\$5.00) per wet ton of agricultural biomass transported from
22 the taxpayer's dairy or feedlot to a facility that uses
23 agricultural biomass to generate electricity or make biocrude
24 or other liquid or gaseous fuel for commercial use. The tax
25 credit created in this section may be referred to as the

1 "agricultural biomass income tax credit".

2 B. Subject to the limitations pursuant to
3 Subsection D of this section, a taxpayer shall apply for
4 certification of eligibility for the agricultural biomass
5 income tax credit from the energy, minerals and natural
6 resources department on forms and in the manner prescribed by
7 that department. Completed applications shall be considered
8 in the order received. A dated certificate of eligibility
9 shall be issued to the taxpayer providing the amount of credit
10 for which the taxpayer is eligible and the taxable year in
11 which the credit may be claimed.

12 C. The energy, minerals and natural resources
13 department shall:

14 (1) adopt rules establishing procedures to
15 provide certification of transportation of agricultural
16 biomass to a qualified facility that uses agricultural biomass
17 to generate electricity or make biocrude or other liquid or
18 gaseous fuel for commercial use for purposes of obtaining an
19 agricultural biomass income tax credit; and

20 (2) provide the department appropriate
21 information for all certificates of eligibility in a secure
22 manner on regular intervals agreed upon by both departments.

23 D. The aggregate amount of agricultural biomass
24 income tax credits and agricultural biomass corporate income
25 tax credits that may be certified is five million dollars

1 (\$5,000,000) per calendar year. Applications for
2 certification received after this limitation shall not be
3 approved. Any amount of credit that remains unused in a
4 taxable year may be available for certification for a maximum
5 of four consecutive taxable years until the credit is fully
6 utilized.

7 E. Any portion of the agricultural biomass income
8 tax credit that exceeds a taxpayer's income tax liability in
9 the taxable year in which the credit is being claimed may be
10 carried forward for up to three consecutive taxable years. A
11 certificate of eligibility for an agricultural biomass income
12 tax credit may be sold, exchanged or otherwise transferred to
13 another taxpayer for the full value of the credit. The
14 parties to such a transaction shall notify the department of
15 the sale, exchange or transfer within ten days of the sale,
16 exchange or transfer.

17 F. A taxpayer who otherwise qualifies and claims
18 an agricultural biomass income tax credit with respect to a
19 dairy or feedlot owned by a partnership or other business
20 association of which the taxpayer is a member may claim the
21 credit only in proportion to that taxpayer's interest in the
22 partnership or business association. The total agricultural
23 biomass income tax credits claimed in the aggregate with
24 respect to the same dairy or feedlot by all members of the
25 partnership or business association shall not exceed the

1 amount of the credit that could have been claimed by a single
2 owner of the dairy or feedlot.

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

7 H. A taxpayer who claims an agricultural biomass
8 income tax credit shall not also claim an agricultural biomass
9 corporate income tax credit for transportation of the same
10 agricultural biomass on which the claim for that agricultural
11 biomass income tax credit is based.

12 I. A taxpayer allowed a tax credit pursuant to
13 this section shall claim the credit on forms and in a manner
14 required by the department.

15 J. The tax credit provided by this section shall
16 be included in the tax expenditure budget pursuant to Section
17 7-1-84 NMSA 1978, including the annual aggregate cost of the
18 tax credit.

19 K. As used in this section:

20 (1) "agricultural biomass" means wet manure
21 meeting specifications established by the energy, minerals and
22 natural resources department from either a dairy or feedlot
23 commercial operation;

24 (2) "biocrude" means a nonfossil form of
25 energy that can be transported and refined using existing

1 petroleum refining facilities and that is made from
2 biologically derived feedstocks and other agricultural
3 biomass;

4 (3) "feedlot" means an operation that
5 fattens livestock for market; and

6 (4) "dairy" means a facility that raises
7 livestock for milk production."

8 SECTION 43. Section 7-2-18.29 NMSA 1978 (being Laws
9 2015, Chapter 130, Section 1, as amended) is amended to read:

10 "7-2-18.29. 2015 SUSTAINABLE BUILDING INCOME TAX
11 CREDIT.--

12 A. The tax credit provided by this section may be
13 referred to as the "2015 sustainable building income tax
14 credit". The 2015 sustainable building income tax credit
15 shall be available for the construction in New Mexico of a
16 sustainable building, the renovation of an existing building
17 in New Mexico into a sustainable building or the permanent
18 installation of manufactured housing, regardless of where the
19 housing is manufactured, that is a sustainable building;
20 provided that the construction, renovation or installation
21 project is completed prior to April 1, 2023. The tax credit
22 provided in this section may not be claimed with respect to
23 the same sustainable building for which the 2015 sustainable
24 building corporate income tax credit, the 2021 sustainable
25 building income tax credit or the 2021 sustainable building

1 corporate income tax credit has been claimed.

2 B. The purpose of the 2015 sustainable building
3 income tax credit is to encourage the construction of
4 sustainable buildings and the renovation of existing buildings
5 into sustainable buildings.

6 C. A taxpayer who files an income tax return may
7 claim a 2015 sustainable building income tax credit if the
8 requirements of this section are met.

9 D. For taxable years ending on or before December
10 31, 2024, the 2015 sustainable building income tax credit may
11 be claimed with respect to a sustainable commercial building.
12 The credit shall be calculated based on the certification
13 level the building has achieved in the LEED green building
14 rating system and the amount of qualified occupied square
15 footage in the building, as indicated on the following chart:

16 LEED Rating Level	17 Qualified 18 Occupied 19 Square Footage	20 Tax Credit 21 per Square 22 Foot
23 LEED-NC Silver	24 First 10,000	\$3.50
	25 Next 40,000	\$1.75
	Over 50,000 up to 500,000	\$0.70
LEED-NC Gold	First 10,000	\$4.75
	Next 40,000	\$2.00
	Over 50,000	

1		up to 500,000	\$1.00
2	LEED-NC Platinum	First 10,000	\$6.25
3		Next 40,000	\$3.25
4		Over 50,000	
5		up to 500,000	\$2.00
6	LEED-EB or CS Silver	First 10,000	\$2.50
7		Next 40,000	\$1.25
8		Over 50,000	
9		up to 500,000	\$0.50
10	LEED-EB or CS Gold	First 10,000	\$3.35
11		Next 40,000	\$1.40
12		Over 50,000	
13		up to 500,000	\$0.70
14	LEED-EB or CS Platinum	First 10,000	\$4.40
15		Next 40,000	\$2.30
16		Over 50,000	
17		up to 500,000	\$1.40
18	LEED-CI Silver	First 10,000	\$1.40
19		Next 40,000	\$0.70
20		Over 50,000	
21		up to 500,000	\$0.30
22	LEED-CI Gold	First 10,000	\$1.90
23		Next 40,000	\$0.80
24		Over 50,000	
25		up to 500,000	\$0.40

1	LEED-CI Platinum	First 10,000	\$2.50
2		Next 40,000	\$1.30
3		Over 50,000	
4		up to 500,000	\$0.80.

5 E. For taxable years ending on or before December
6 31, 2024, the 2015 sustainable building income tax credit may
7 be claimed with respect to a sustainable residential building.
8 The credit shall be calculated based on the amount of
9 qualified occupied square footage, as indicated on the
10 following chart:

11	Rating System/Level	Qualified	Tax Credit
12		Occupied	per Square
13		Square Footage	Foot
14	LEED-H Silver or Build	Up to 2,000	\$3.00
15	Green NM Silver		
16	LEED-H Gold or Build	Up to 2,000	\$4.50
17	Green NM Gold		
18	LEED-H Platinum or Build	Up to 2,000	\$6.50
19	Green NM Emerald		
20	Manufactured Housing	Up to 2,000	\$3.00.

21 F. A person that is a building owner may apply for
22 a certificate of eligibility for the 2015 sustainable building
23 income tax credit from the energy, minerals and natural
24 resources department on forms and in a manner prescribed by
25 that department after the construction, installation or

1 renovation of the sustainable building is complete. Completed
2 applications shall be considered in the order received. If
3 the energy, minerals and natural resources department
4 determines that the building owner meets the requirements of
5 this subsection and that the building with respect to which
6 the tax credit application is made meets the requirements of
7 this section as a sustainable residential building or a
8 sustainable commercial building, the energy, minerals and
9 natural resources department may issue a dated certificate of
10 eligibility to the building owner providing the amount of
11 credit for which the building owner is eligible and the
12 taxable year in which the credit may be claimed, subject to
13 the limitations in Subsection G of this section. The
14 certificate shall include the rating system certification
15 level awarded to the building, the amount of qualified
16 occupied square footage in the building and a calculation of
17 the maximum amount of 2015 sustainable building income tax
18 credit for which the building owner is eligible. The energy,
19 minerals and natural resources department may issue rules
20 governing the procedure for administering the provisions of
21 this subsection.

22 G. Except as provided in Subsection H of this
23 section, the energy, minerals and natural resources department
24 may issue a certificate of eligibility only if the aggregate
25 amount of 2015 sustainable building income tax credits

1 represented by certificates of eligibility issued by the
2 energy, minerals and natural resources department pursuant to
3 this section and Section 7-2A-28 NMSA 1978 shall not exceed in
4 any calendar year an aggregate amount of:

5 (1) one million two hundred fifty thousand
6 dollars (\$1,250,000) with respect to sustainable commercial
7 buildings;

8 (2) three million three hundred seventy-five
9 thousand dollars (\$3,375,000) with respect to sustainable
10 residential buildings that are not manufactured housing; and

11 (3) three hundred seventy-five thousand
12 dollars (\$375,000) with respect to sustainable residential
13 buildings that are manufactured housing.

14 H. For any taxable year that the energy, minerals
15 and natural resources department determines that applications
16 for sustainable building tax credits for any type of
17 sustainable building pursuant to Paragraph (1), (2) or (3) of
18 Subsection G of this section are less than the aggregate limit
19 for that type of sustainable building for that taxable year,
20 the energy, minerals and natural resources department shall
21 allow the difference between the aggregate limit and the
22 applications to be added to the aggregate limit of another
23 type of sustainable building for which applications exceeded
24 the aggregate limit for that taxable year. Any excess not
25 used in a taxable year shall not be carried forward to

1 subsequent taxable years. The energy, minerals and natural
2 resources department shall provide the department appropriate
3 information for all certificates of eligibility in a secure
4 manner on regular intervals agreed upon by both departments.

5 I. Installation of a solar thermal system or a
6 photovoltaic system eligible for the solar market development
7 tax credit pursuant to Section 7-2-18.14 or 7-2-18.31 NMSA
8 1978 may not be used as a component of qualification for the
9 rating system certification level used in determining
10 eligibility for the 2015 sustainable building income tax
11 credit, unless a solar market development tax credit pursuant
12 to Section 7-2-18.14 or 7-2-18.31 NMSA 1978 has not been
13 claimed with respect to that system and the building owner and
14 the taxpayer claiming the 2015 sustainable building income tax
15 credit certify that such a tax credit will not be claimed with
16 respect to that system.

17 J. To claim the 2015 sustainable building income
18 tax credit, the building owner shall provide to the department
19 a certificate of eligibility issued by the energy, minerals
20 and natural resources department pursuant to the requirements
21 of Subsection F of this section and any other information the
22 department may require to determine the amount of the tax
23 credit for which the building owner is eligible.

24 K. Any portion of a 2015 sustainable building
25 income tax credit that exceeds the taxpayer's income tax

1 liability in the taxable year for which the credit is claimed
2 may be carried forward for up to seven consecutive taxable
3 years.

4 L. A taxpayer who otherwise qualifies and claims a
5 2015 sustainable building income tax credit with respect to a
6 sustainable building owned by a partnership or other business
7 association of which the taxpayer is a member may claim a
8 credit only in proportion to that taxpayer's interest in the
9 partnership or association. The total credit claimed in the
10 aggregate by all members of the partnership or association
11 with respect to the sustainable building shall not exceed the
12 amount of the credit that could have been claimed by a sole
13 owner of the property.

14 M. Married individuals who file separate returns
15 for a taxable year in which they could have filed a joint
16 return may each claim only one-half of the 2015 sustainable
17 building income tax credit that would have been allowed on a
18 joint return.

19 N. The tax credit provided by this section shall
20 be included in the tax expenditure budget pursuant to Section
21 7-1-84 NMSA 1978 with an analysis of the effectiveness and
22 cost of the tax credit and whether the tax credit is
23 performing the purpose for which it was created.

24 O. For the purposes of this section:

25 (1) "build green New Mexico rating system"

1 means the certification standards adopted by build green New
2 Mexico in November 2014, which include water conservation
3 standards;

4 (2) "LEED-CI" means the LEED rating system
5 for commercial interiors;

6 (3) "LEED-CS" means the LEED rating system
7 for the core and shell of buildings;

8 (4) "LEED-EB" means the LEED rating system
9 for existing buildings;

10 (5) "LEED gold" means the rating in
11 compliance with, or exceeding, the second-highest rating
12 awarded by the LEED certification process;

13 (6) "LEED" means the most current leadership
14 in energy and environmental design green building rating
15 system guidelines developed and adopted by the United States
16 green building council;

17 (7) "LEED-H" means the LEED rating system
18 for homes;

19 (8) "LEED-NC" means the LEED rating system
20 for new buildings and major renovations;

21 (9) "LEED platinum" means the rating in
22 compliance with, or exceeding, the highest rating awarded by
23 the LEED certification process;

24 (10) "LEED silver" means the rating in
25 compliance with, or exceeding, the third-highest rating

1 awarded by the LEED certification process;

2 (11) "manufactured housing" means a
3 multisectioned home that is:

4 (a) a manufactured home or modular
5 home;

6 (b) a single-family dwelling with a
7 heated area of at least thirty-six feet by twenty-four feet
8 and a total area of at least eight hundred sixty-four square
9 feet;

10 (c) constructed in a factory to the
11 standards of the United States department of housing and urban
12 development, the National Manufactured Housing Construction
13 and Safety Standards Act of 1974 and the Housing and Urban
14 Development Zone Code 2 or New Mexico construction codes up to
15 the date of the unit's construction; and

16 (d) installed consistent with the
17 Manufactured Housing Act and rules adopted pursuant to that
18 act relating to permanent foundations;

19 (12) "qualified occupied square footage"
20 means the occupied spaces of the building as determined by:

21 (a) the United States green building
22 council for those buildings obtaining LEED certification;

23 (b) the administrators of the build
24 green New Mexico rating system for those homes obtaining build
25 green New Mexico certification; and

1 (c) the United States environmental
2 protection agency for ENERGY STAR-certified manufactured
3 homes;

4 (13) "person" does not include state, local
5 government, public school district or tribal agencies;

6 (14) "sustainable building" means either a
7 sustainable commercial building or a sustainable residential
8 building;

9 (15) "sustainable commercial building" means
10 a multifamily dwelling unit, as registered and certified under
11 the LEED-H or build green New Mexico rating system, that is
12 certified by the United States green building council as LEED-
13 H silver or higher or by build green New Mexico as silver or
14 higher and has achieved a home energy rating system index of
15 sixty or lower as developed by the residential energy services
16 network or a building that has been registered and certified
17 under the LEED-NC, LEED-EB, LEED-CS or LEED-CI rating system
18 and that:

19 (a) is certified by the United States
20 green building council at LEED silver or higher;

21 (b) achieves any prerequisite for and
22 at least one point related to commissioning under LEED "energy
23 and atmosphere", if included in the applicable rating system;
24 and

25 (c) has reduced energy consumption

1 beginning January 1, 2012, by sixty percent based on the
2 national average for that building type as published by the
3 United States department of energy as substantiated by the
4 United States environmental protection agency target finder
5 energy performance results form, dated no sooner than the
6 schematic design phase of development;

7 (16) "sustainable residential building"

8 means:

9 (a) a building used as a single-family
10 residence as registered and certified under the build green
11 New Mexico or LEED-H rating system that: 1) is certified by
12 the United States green building council as LEED-H silver or
13 higher or by build green New Mexico as silver or higher; 2)
14 has achieved a home energy rating system index of sixty or
15 lower as developed by the residential energy services network;
16 3) has indoor plumbing fixtures and water-using appliances
17 that, on average, have flow rates equal to or lower than the
18 flow rates required for certification by WaterSense; 4) if
19 landscape area is available at the front of the property, has
20 at least one water line outside the building below the frost
21 line that may be connected to a drip irrigation system; and 5)
22 if landscape area is available at the rear of the property,
23 has at least one water line outside the building below the
24 frost line that may be connected to a drip irrigation system;
25 or

1 (b) manufactured housing that is ENERGY
2 STAR-qualified by the United States environmental protection
3 agency;

4 (17) "tribal" means of, belonging to or
5 created by a federally recognized Indian nation, tribe or
6 pueblo; and

7 (18) "WaterSense" means a program created by
8 the federal environmental protection agency that certifies
9 water-using products that meet the environmental protection
10 agency's criteria for efficiency and performance."

11 SECTION 44. Section 7-2-18.31 NMSA 1978 (being Laws
12 2020, Chapter 13, Section 1, as amended) is amended to read:

13 "7-2-18.31. NEW SOLAR MARKET DEVELOPMENT INCOME TAX
14 CREDIT.--

15 A. For taxable years ending prior to January 1,
16 2032, a taxpayer who is not a dependent of another individual
17 and who, on or after March 1, 2020, purchases and installs a
18 solar thermal system or a photovoltaic system in a residence,
19 business or agricultural enterprise in New Mexico owned by
20 that taxpayer or by a federally recognized Indian nation,
21 tribe or pueblo and held in leasehold by that taxpayer may
22 claim, and the department may allow, a credit against the
23 taxpayer's tax liability imposed pursuant to the Income Tax
24 Act in an amount provided in Subsection C of this section.

25 The tax credit provided by this section may be referred to as

1 the "new solar market development income tax credit".

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

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

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

15 E. Subject to the limitation provided in
16 Subsection F of this section, a taxpayer shall apply for
17 certification of eligibility for the new solar market
18 development income tax credit from the energy, minerals and
19 natural resources department on forms and in the manner
20 prescribed by that department. Completed applications shall
21 be considered in the order received. The application shall
22 include proof of purchase and installation of a solar thermal
23 or photovoltaic system, that the system meets technical
24 specifications and requirements relating to safety, code and
25 standards compliance, solar collector orientation and sun

1 exposure, minimum system sizes, system applications and lists
2 of eligible components and any additional information that the
3 energy, minerals and natural resources department may require
4 to determine eligibility for the credit. A dated certificate
5 of eligibility shall be issued to the taxpayer providing the
6 amount of the new solar market development income tax credit
7 for which the taxpayer is eligible and the taxable year in
8 which the credit may be claimed. A certificate of eligibility
9 for a new solar market development income tax credit may be
10 sold, exchanged or otherwise transferred to another taxpayer
11 for the full value of the credit. The parties to such a
12 transaction shall notify the department of the sale, exchange
13 or transfer within ten days of the sale, exchange or transfer.
14 The energy, minerals and natural resources department shall
15 provide the department appropriate information for all
16 certificates of eligibility in a secure manner on regular
17 intervals agreed upon by both departments.

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

22 (1) for calendar years 2020 through 2023,
23 twelve million dollars (\$12,000,000) for each calendar year;
24 provided that if this limitation has been met for any of those
25 calendar years, an additional total of twenty million dollars

1 (\$20,000,000) in credits may be certified for all of those
2 calendar years; and provided further that credits certified
3 pursuant to this paragraph shall be claimed only for taxable
4 year 2023; and

5 (2) for calendar years 2024 and thereafter,
6 thirty million dollars (\$30,000,000) for each calendar year.

7 G. A taxpayer may claim a new solar market
8 development income tax credit for the taxable year in which
9 the taxpayer purchases and installs a solar thermal or
10 photovoltaic system. To receive a new solar market
11 development income tax credit, a taxpayer shall claim the
12 credit on forms and in the manner prescribed by the department
13 within twelve months following the calendar year in which the
14 system was installed; provided that, for a taxpayer who
15 receives a certificate of eligibility pursuant to Paragraph
16 (1) of Subsection F of this section, the taxpayer shall apply
17 to the department within twelve months following the calendar
18 year in which the certification is made. The claim shall
19 include a certification made pursuant to Subsection E of this
20 section.

21 H. That portion of a new solar market development
22 income tax credit that exceeds a taxpayer's tax liability in
23 the taxable year in which the credit is claimed shall be
24 refunded to the taxpayer.

25 I. Married individuals filing separate returns for

1 a taxable year for which they could have filed a joint return
2 may each claim only one-half of the new solar market
3 development income tax credit that would have been claimed on
4 a joint return.

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

14 K. A taxpayer allowed a tax credit pursuant to
15 this section shall claim the credit on forms and in a manner
16 required by the department.

17 L. The tax credit provided by this section shall
18 be included in the tax expenditure budget pursuant to Section
19 7-1-84 NMSA 1978, including the annual aggregate cost of the
20 tax credit.

21 M. As used in this section:

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

25 (2) "solar thermal system" means an energy

1 system that collects or absorbs solar energy for conversion
2 into heat for the purposes of space heating, space cooling or
3 water heating."

4 SECTION 45. Section 7-2-18.32 NMSA 1978 (being Laws
5 2021, Chapter 84, Section 2, as amended) is amended to read:

6 "7-2-18.32. 2021 SUSTAINABLE BUILDING INCOME TAX
7 CREDIT.--

8 A. The tax credit provided by this section may be
9 referred to as the "2021 sustainable building income tax
10 credit". For taxable years ending prior to January 1, 2028, a
11 taxpayer who is a building owner and files an income tax
12 return may claim a 2021 sustainable building income tax credit
13 if the requirements of this section are met. The 2021
14 sustainable building income tax credit shall be available for
15 the construction in New Mexico of a sustainable building, the
16 renovation of an existing building in New Mexico, the
17 permanent installation of manufactured housing, regardless of
18 where the housing is manufactured, that is a sustainable
19 building or the installation of energy-conserving products to
20 existing buildings in New Mexico, as provided in this section.
21 The tax credit provided in this section may not be claimed
22 with respect to the same sustainable building for which the
23 2021 sustainable building corporate income tax credit, the
24 2015 sustainable building income tax credit or the 2015
25 sustainable building corporate income tax credit has been

1 claimed.

2 B. The amount of a 2021 sustainable building
3 income tax credit shall be determined as follows:

4 (1) for the construction of a new
5 sustainable commercial building that is broadband ready and
6 electric vehicle ready and is completed on or after January 1,
7 2022, the amount of credit shall be calculated:

8 (a) based on the certification level
9 the building has achieved in the rating level and the amount
10 of qualified occupied square footage in the building, as
11 indicated on the following chart:

12 Rating Level	13 Qualified 14 Occupied 15 Square Footage	16 Tax Credit 17 per Square 18 Foot
19 LEED-NC Platinum	20 First 10,000	21 \$5.25
	22 Next 40,000	23 \$2.25
	24 Over 50,000	
	25 Up to 200,000	\$1.00
LEED-EB or CS Platinum	First 10,000	\$3.40
	Next 40,000	\$1.30
	Over 50,000	
	Up to 200,000	\$0.35
LEED-CI Platinum	First 10,000	\$1.50
	Next 40,000	\$0.40
	Over 50,000	

1		Up to 200,000	\$0.30
2	LEED-NC Gold	First 10,000	\$3.00
3		Next 40,000	\$1.00
4		Over 50,000	
5		Up to 200,000	\$0.25
6	LEED-EB or -CS Gold	First 10,000	\$2.00
7		Next 40,000	\$1.00
8		Over 50,000	
9		Up to 200,000	\$0.25
10	LEED-CI Gold	First 10,000	\$0.90
11		Next 40,000	\$0.40
12		Over 50,000	
13		Up to 200,000	\$0.10; and

14 (b) with additional amounts based on
15 the additional criteria and the amount of qualified occupied
16 square footage, as indicated in the following chart:

17	Additional Criteria	Qualified	Tax Credit
18		Occupied	per Square
19		Square Footage	Foot
20	Fully Electric Building	First 50,000	\$1.00
21		Over 50,000	
22		Up to 200,000	\$0.50
23	Zero Carbon, Energy,		
24	Waste or Water Certified	First 50,000	\$0.25
25		Over 50,000	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Up to 200,000 \$0.10;

(2) for the renovation of a commercial building that was built at least ten years prior to the date of the renovation, has twenty thousand square feet or more of space in which temperature is controlled and is broadband ready and electric vehicle ready, the amount of credit shall be calculated by multiplying two dollars twenty-five cents (\$2.25) by the amount of qualified occupied square footage in the building, up to a maximum of one hundred fifty thousand dollars (\$150,000) per renovation; provided that the renovation reduces total energy and power costs by fifty percent when compared to the most current energy standard for buildings except low-rise residential buildings, as developed by the American society of heating, refrigerating and air-conditioning engineers;

(3) for the installation of the following energy-conserving products to an existing commercial building with less than twenty thousand square feet of space in which temperature is controlled that is broadband ready, the amount of credit shall be based on the cost of the product installed, which shall include installation costs, and if the building is affordable housing, per product installed:

Product	Amount of Credit	
	Affordable	Non-Affordable
	Housing	Housing

1	Energy Star Air		
2	Source Heat Pump	\$2,000	\$1,000
3	Energy Star Ground		
4	Source Heat Pump	\$2,000	\$1,000
5	Energy Star		
6	Windows and Doors	100% of product	50% of product
7		cost up to	cost up to
8		\$1,000	\$500
9	Insulation Improvements That		
10	Meet Rules of the		
11	Energy, Minerals and Natural		
12	Resources Department	100% of product	50% of product
13		cost up to	cost up to
14		\$2,000	\$1,000
15	Energy Star Heat Pump Water		
16	Heater	\$700	\$350
17	Electric Vehicle Ready	100% of product	50% of product
18		cost up to	cost up to
19		\$3,000	\$1,500;

(4) for the construction of a new sustainable residential building that is broadband ready and electric vehicle ready and is completed on or after January 1, 2022, the amount of credit shall be calculated:

(a) based on the certification level the building has achieved in the rating level and the amount

1 of qualified occupied square footage in the building, as
2 indicated on the following chart:

3 Rating Level	4 Qualified Occupied	5 Tax Credit per Square Foot
6 LEED-H Platinum	Up to 2,000	\$5.50
7 LEED-H Gold	Up to 2,000	\$3.80
8 Build Green Emerald	Up to 2,000	\$5.50
9 Build Green Gold	Up to 2,000	\$3.80
10 Manufactured Housing	Up to 2,000	\$2.00; and

11 (b) with additional amounts based on
12 the additional criteria and the amount of qualified occupied
13 square footage, as indicated in the following chart:

14 Additional Criteria	15 Qualified Occupied	16 Tax Credit per Square Foot
17 Fully Electric Building	Up to 2,000	\$1.00
18 Zero Carbon, Energy, 19 Waste or Water Certified	Up to 2,000	\$0.25; and

20 (5) for the installation of the following
21 energy-conserving products to an existing residential
22 building, the amount of credit shall be based on the cost of
23 the product installed, which shall include installation costs,
24 and if the building is affordable housing or the taxpayer is a
25 low-income taxpayer, per product installed:

Product	Amount of Credit	
	Affordable Housing and Low-Income	Non-Affordable Housing and Non-Low Income
Energy Star Air Source Heat Pump	\$2,000	\$1,000
Energy Star Ground Source Heat Pump	\$2,000	\$1,000
Energy Star Windows and Doors	100% of product cost up to \$1,000	50% of product cost up to \$500
Insulation Improvements That Meet Rules of the Energy, Minerals and Natural Resources Department	100% of product cost up to \$2,000	50% of product cost up to \$1,000
Energy Star Heat Pump Water Heater	\$700	\$350
Electric Vehicle Ready	\$1,000	\$500.

22 C. A person who is a building owner may apply for
23 a certificate of eligibility for the 2021 sustainable building
24 income tax credit from the energy, minerals and natural
25 resources department on forms and in a manner prescribed by

1 that department after the construction, installation or
2 renovation of the sustainable building or installation of
3 energy-conserving products in an existing building is
4 complete. Completed applications shall be considered in the
5 order received. If the energy, minerals and natural resources
6 department determines that the building owner meets the
7 requirements of this subsection and that the building with
8 respect to which the application is made meets the
9 requirements of this section for a 2021 sustainable building
10 income tax credit, the energy, minerals and natural resources
11 department may issue a dated certificate of eligibility to the
12 building owner, subject to the limitations in Subsection D of
13 this section. The certificate shall include the rating system
14 certification level awarded to the building, the amount of
15 qualified occupied square footage in the building, a
16 calculation of the amount of 2021 sustainable building income
17 tax credit for which the building owner is eligible, the
18 identification number, date of issuance and the first taxable
19 year that the credit shall be claimed. The energy, minerals
20 and natural resources department may issue rules governing the
21 procedure for administering the provisions of this subsection.
22 The energy, minerals and natural resources department may
23 issue a certificate of eligibility to a building owner who is:

24 (1) the owner of the sustainable residential
25 building at the time the certification level for the building

1 is awarded; or

2 (2) the subsequent purchaser of a
3 sustainable residential building with respect to which no tax
4 credit has been previously claimed.

5 D. Except as provided in Subsection E of this
6 section, the energy, minerals and natural resources department
7 may issue a certificate of eligibility only if the aggregate
8 amount of 2021 sustainable building income tax credits
9 represented by certificates of eligibility issued by the
10 energy, minerals and natural resources department pursuant to
11 this section and pursuant to Section 7-2A-28.1 NMSA 1978 shall
12 not exceed in any calendar year an aggregate amount of:

13 (1) one million dollars (\$1,000,000) with
14 respect to the construction of new sustainable commercial
15 buildings;

16 (2) two million dollars (\$2,000,000) with
17 respect to the construction of new sustainable residential
18 buildings that are not manufactured housing;

19 (3) two hundred fifty thousand dollars
20 (\$250,000) with respect to the construction of new sustainable
21 residential buildings that are manufactured housing;

22 (4) one million dollars (\$1,000,000) with
23 respect to the renovation of large commercial buildings; and

24 (5) two million nine hundred thousand
25 dollars (\$2,900,000) with respect to the installation of

1 energy-conserving products in existing commercial buildings
2 pursuant to Paragraph (3) of Subsection B of this section and
3 existing residential buildings pursuant to Paragraph (5) of
4 Subsection B of this section.

5 E. For any taxable year that the energy, minerals
6 and natural resources department determines that applications
7 for sustainable building tax credits for any type of
8 sustainable building pursuant to Subsection D of this section
9 are less than the aggregate limit for that type of sustainable
10 building for that taxable year, the energy, minerals and
11 natural resources department shall allow the difference
12 between the aggregate limit and the applications to be added
13 to the aggregate limit of another type of sustainable building
14 for which applications exceeded the aggregate limit for that
15 taxable year. Any excess not used in a taxable year shall not
16 be carried forward to subsequent taxable years. The energy,
17 minerals and natural resources department shall provide the
18 department appropriate information for all certificates of
19 eligibility in a secure manner on regular intervals agreed
20 upon by both departments.

21 F. Installation of a solar thermal system or a
22 photovoltaic system eligible for the new solar market
23 development tax credit shall not be used as a component of
24 qualification for the rating system certification level used
25 in determining eligibility for the 2021 sustainable building

1 income tax credit, unless a new solar market development tax
2 credit has not been claimed with respect to that system and
3 the building owner and the taxpayer claiming the 2021
4 sustainable building income tax credit certify that such a tax
5 credit will not be claimed with respect to that system.

6 G. A taxpayer allowed a tax credit pursuant to
7 this section shall claim the credit on forms and in a manner
8 required by the department.

9 H. That portion of a 2021 sustainable building
10 income tax credit approved by the department that exceeds the
11 taxpayer's income tax liability for the taxable year in which
12 the credit is claimed may be carried forward for up to seven
13 consecutive taxable years; provided that if the taxpayer is a
14 low-income taxpayer, the excess shall be refunded to the
15 taxpayer. A certificate of eligibility for a 2021 sustainable
16 building income tax credit may be sold, exchanged or otherwise
17 transferred to another taxpayer for the full value of the
18 credit. The parties to such a transaction shall notify the
19 department of the sale, exchange or transfer within ten days
20 of the sale, exchange or transfer.

21 I. A taxpayer who otherwise qualifies and claims a
22 2021 sustainable building income tax credit with respect to a
23 sustainable building owned by a partnership or other business
24 association of which the taxpayer is a member may claim a
25 credit only in proportion to that taxpayer's interest in the

1 partnership or association. The total credit claimed in the
2 aggregate by all members of the partnership or association
3 with respect to the sustainable building shall not exceed the
4 amount of the credit that could have been claimed by a sole
5 owner of the property.

6 J. Married individuals who file separate returns
7 for a taxable year in which they could have filed a joint
8 return may each claim only one-half of the 2021 sustainable
9 building income tax credit that would have been allowed on a
10 joint return.

11 K. The tax credit provided by this section shall
12 be included in the tax expenditure budget pursuant to Section
13 7-1-84 NMSA 1978 with an analysis of the effectiveness and
14 cost of the tax credit.

15 L. For the purposes of this section:

16 (1) "broadband ready" means a building with
17 an internet connection capable of connecting to a broadband
18 provider;

19 (2) "build green emerald" means the emerald
20 level certification standard adopted by build green New
21 Mexico, which includes water conservation standards and uses
22 forty percent less energy than is required by the prescriptive
23 path of the most current residential energy conservation code
24 promulgated by the construction industries division of the
25 regulation and licensing department;

1 (3) "build green gold" means the gold level
2 certification standard adopted by build green New Mexico,
3 which includes water conservation standards and uses thirty
4 percent less energy than is required by the prescriptive path
5 of the most current residential energy conservation code
6 promulgated by the construction industries division of the
7 regulation and licensing department;

8 (4) "building owner" means a person who
9 holds fee simple interest in a property or a person who holds
10 a leasehold interest in land owned by a federally recognized
11 Indian nation, tribe or pueblo;

12 (5) "electric vehicle ready" means a
13 property that for commercial buildings provides at least ten
14 percent of parking spaces and for residential buildings at
15 least one parking space with one forty-ampere, two-hundred-
16 eight-volt or two-hundred-forty-volt dedicated branch circuit
17 for servicing electric vehicles that terminates in a suitable
18 termination point, such as a receptacle or junction box, and
19 is located in reasonably close proximity to the proposed
20 location of the parking spaces;

21 (6) "energy rating system index" means a
22 numerical score given to a building where one hundred is
23 equivalent to the 2006 international energy conservation code
24 and zero is equivalent to a net-zero home. As used in this
25 paragraph, "net-zero home" means an energy-efficient home

1 where, on a source energy basis, the actual annual delivered
2 energy is less than or equal to the on-site renewable exported
3 energy;

4 (7) "Energy Star" means products and devices
5 certified under the energy star program administered by the
6 United States environmental protection agency and United
7 States department of energy that meet the specified
8 performance requirements at the installed locations;

9 (8) "fully electric building" means a
10 building that uses a permanent supply of electricity as the
11 source of energy for all space heating, water heating,
12 including pools and spas, cooking appliances and clothes
13 drying appliances and, in the case of a new building, has no
14 natural gas or propane plumbing installed in the building or,
15 in the case of an existing building, has no connected natural
16 gas or propane plumbing;

17 (9) "LEED" means the most current leadership
18 in energy and environmental design green building rating
19 system guidelines developed and adopted by the United States
20 green building council;

21 (10) "LEED-CI" means the LEED rating system
22 for commercial interiors;

23 (11) "LEED-CS" means the LEED rating system
24 for the core and shell of buildings;

25 (12) "LEED-EB" means the LEED rating system

1 for existing buildings;

2 (13) "LEED gold" means the rating in
3 compliance with, or exceeding, the second-highest rating
4 awarded by the LEED certification process;

5 (14) "LEED-H" means the LEED rating system
6 for homes;

7 (15) "LEED-NC" means the LEED rating system
8 for new buildings and major renovations;

9 (16) "LEED platinum" means the rating in
10 compliance with, or exceeding, the highest rating awarded by
11 the LEED certification process;

12 (17) "low-income taxpayer" means a taxpayer
13 with an annual household adjusted gross income equal to or
14 less than two hundred percent of the federal poverty level
15 guidelines published by the United States department of health
16 and human services;

17 (18) "manufactured housing" means a
18 multisectioned home that is:

19 (a) a manufactured home or modular
20 home;

21 (b) a single-family dwelling with a
22 heated area of at least thirty-six feet by twenty-four feet
23 and a total area of at least eight hundred sixty-four square
24 feet;

25 (c) constructed in a factory to the

1 standards of the United States department of housing and urban
2 development, the National Manufactured Housing Construction
3 and Safety Standards Act of 1974 and the Housing and Urban
4 Development Zone Code 2 or New Mexico construction codes up to
5 the date of the unit's construction; and

6 (d) installed consistent with the
7 Manufactured Housing Act and rules adopted pursuant to that
8 act relating to permanent foundations;

9 (19) "qualified occupied square footage"
10 means the occupied spaces of the building as determined by:

11 (a) the United States green building
12 council for those buildings obtaining LEED certification;

13 (b) the administrators of the build
14 green New Mexico rating system for those homes obtaining build
15 green New Mexico certification; and

16 (c) the United States environmental
17 protection agency for Energy Star-certified manufactured
18 homes;

19 (20) "person" does not include state, local
20 government, public school district or tribal agencies;

21 (21) "sustainable building" means either a
22 sustainable commercial building or a sustainable residential
23 building;

24 (22) "sustainable commercial building"
25 means:

1 (a) a commercial building that is
2 certified as any LEED platinum or gold for commercial
3 buildings;

4 (b) a multifamily dwelling unit that is
5 certified as LEED-H platinum or gold or build green emerald or
6 gold and uses at least thirty percent less energy than is
7 required by the prescriptive path of the most current
8 applicable energy conservation code promulgated by the
9 construction industries division of the regulation and
10 licensing department for build green gold or LEED-H, or uses
11 at least forty percent less energy than is required by the
12 prescriptive path of the most current residential energy
13 conservation code promulgated by the construction industries
14 division of the regulation and licensing department for build
15 green emerald or LEED platinum; or

16 (c) a building that: 1) is certified
17 at LEED-NC, LEED-EB, LEED-CS or LEED-CI platinum or gold
18 levels; 2) achieves any prerequisite for and at least one
19 point related to commissioning under the LEED energy and
20 atmosphere category, if included in the applicable rating
21 system; and 3) has reduced energy consumption beginning
22 January 1, 2012 by forty percent based on the national average
23 for that building type as published by the United States
24 department of energy as substantiated by the United States
25 environmental protection agency target finder energy

1 performance results form, dated no sooner than the schematic
2 design phase of development;

3 (23) "sustainable residential building"

4 means:

5 (a) a building used as a single-family
6 residence that: 1) is certified as LEED-H platinum or gold or
7 build green emerald or gold; 2) uses at least thirty percent
8 less energy than is required by the prescriptive path of the
9 most current residential energy conservation code promulgated
10 by the construction industries division of the regulation and
11 licensing department for build green gold or LEED-H, or uses
12 at least forty percent less energy than is required by the
13 prescriptive path of the most current residential energy
14 conservation code promulgated by the construction industries
15 division of the regulation and licensing department for build
16 green emerald or LEED platinum; 3) has indoor plumbing
17 fixtures and water-using appliances that, on average, have
18 flow rates equal to or lower than the flow rates required for
19 certification by WaterSense; 4) if landscape area is available
20 at the front of the property, has at least one water line
21 outside the building below the frost line that may be
22 connected to a drip irrigation system; and 5) if landscape
23 area is available at the rear of the property, has at least
24 one water line outside the building below the frost line that
25 may be connected to a drip irrigation system; or

1 (b) manufactured housing that is Energy
2 Star-qualified;

3 (24) "tribal" means of, belonging to or
4 created by a federally recognized Indian nation, tribe or
5 pueblo;

6 (25) "WaterSense" means a program created by
7 the federal environmental protection agency that certifies
8 water-using products that meet the environmental protection
9 agency's criteria for efficiency and performance;

10 (26) "zero carbon certified" means a
11 building that is certified as LEED zero carbon by achieving a
12 carbon-dioxide-equivalent balance of zero for the building;

13 (27) "zero energy certified" means a
14 building that is certified as LEED zero energy by achieving a
15 source energy use balance of zero for the building;

16 (28) "zero waste certified" means a building
17 that is certified as LEED zero waste by achieving green
18 building certification incorporated's true zero waste
19 certification at the platinum level; and

20 (29) "zero water certified" means a building
21 that is certified as LEED zero water by achieving a potable
22 water use balance of zero for the building."

23 **SECTION 46.** Section 7-2-18.35 NMSA 1978 (being Laws
24 2024, Chapter 67, Section 9) is amended to read:

25 "7-2-18.35. HOME FIRE RECOVERY INCOME TAX CREDIT.--

1 A. A taxpayer who is not a dependent of another
2 individual and who, beginning on May 15, 2024 and prior to
3 January 1, 2030, incurs qualified home expenditures for a home
4 in New Mexico to replace a prior home of the taxpayer that was
5 destroyed by a wildfire in calendar years 2021 through 2023
6 may claim a tax credit against the taxpayer's tax liability
7 imposed pursuant to the Income Tax Act in an amount equal to
8 the qualified home expenditures incurred by the taxpayer not
9 to exceed fifty thousand dollars (\$50,000) per home. The tax
10 credit provided by this section may be referred to as the
11 "home fire recovery income tax credit".

12 B. A taxpayer who seeks to claim the tax credit
13 shall apply for certification of eligibility from the
14 construction industries division of the regulation and
15 licensing department on forms and in a manner prescribed by
16 that division. The aggregate amount of credits that may be
17 certified as eligible in any calendar year is five million
18 dollars (\$5,000,000). An application for certification shall
19 be made no later than twelve months after the calendar year in
20 which construction of the home is completed. Completed
21 applications shall be considered in the order received. If a
22 taxpayer submits an application for the tax credit and the
23 aggregate amount of certifications has been met for the
24 calendar year, the application shall be placed at the front of
25 a queue for certification in a subsequent calendar year.

1 Except as otherwise provided in Subsections G and H of this
2 section, only one tax credit shall be certified per taxpayer.

3 C. An application for certification of eligibility
4 shall include:

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

8 (2) proof that the taxpayer incurred
9 expenditures for the construction of a home on the same
10 property of the taxpayer's prior, wildfire-destroyed home,
11 including a contract with a builder or manufacturer;

12 (3) a sworn statement by the taxpayer and
13 the builder or manufacturer of the home that the construction
14 of the home has been completed and stating the date of its
15 completion; and

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

20 D. If the construction industries division of the
21 regulation and licensing department determines that the
22 taxpayer meets the requirements of this section, the division
23 shall issue a dated certificate of eligibility to the taxpayer
24 providing the amount of tax credit for which the taxpayer is
25 eligible and the taxable year in which the credit may be

1 claimed. The construction industries division shall provide
2 the department with the certificates of eligibility issued
3 pursuant to this subsection in a secure electronic format at
4 regularly agreed-upon intervals.

5 E. A taxpayer issued a certificate of eligibility
6 shall claim the tax credit on forms and in a manner required
7 by the department within twelve months of being issued the
8 certificate of eligibility.

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

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

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

1 I. The tax credit provided by this section shall
2 be included in the tax expenditure budget pursuant to Section
3 7-1-84 NMSA 1978, including the annual aggregate cost of the
4 tax credit.

5 J. As used in this section:

6 (1) "home" means a dwelling designed for
7 long-term habitation in which the taxpayer resides for a
8 majority of the year and is:

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

12 (b) a manufactured home or modular home
13 that is a single-family dwelling with a heated area of at
14 least thirty-six by twenty-four feet and at least eight
15 hundred sixty-four square feet and constructed in a factory to
16 the standards of the United States department of housing and
17 urban development, the National Manufactured Housing
18 Construction and Safety Standards Act of 1974 and the Housing
19 and Urban Development Zone Code 2 or the Uniform Building
20 Code, as amended to the date of the unit's construction, and
21 installed consistent with the Manufactured Housing Act and
22 with the rules made pursuant thereto relating to permanent
23 foundations; and

24 (2) "qualified home expenditures" means
25 gross expenditures for the construction or manufacture of a

1 home on the same property in New Mexico that a taxpayer's
2 prior home was destroyed by a wildfire in calendar years 2021
3 through 2023, less any compensation related to home
4 construction, manufacture or repair costs received pursuant to
5 the federal Hermit's Peak/Calf Canyon Fire Assistance Act or
6 from insurance or other source of compensation."

7 SECTION 47. Section 7-2-18.38 NMSA 1978 (being Laws
8 2024, Chapter 67, Section 33) is amended to read:

9 "7-2-18.38. GEOTHERMAL ELECTRICITY GENERATION INCOME
10 TAX CREDIT.--

11 A. For taxable years ending prior to January 1,
12 2032, a taxpayer who is not a dependent of another individual
13 and who holds an interest in a geothermal electricity
14 generation facility may apply for, and the department may
15 allow, a credit against the taxpayer's tax liability imposed
16 pursuant to the Income Tax Act. The tax credit provided by
17 this section may be referred to as the "geothermal electricity
18 generation income tax credit".

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

24 C. A taxpayer shall apply for certification of
25 eligibility for the credit provided by this section from the

1 energy, minerals and natural resources department on forms and
2 in the manner prescribed by that department. The total annual
3 aggregate amount of credits that may be certified for
4 geothermal electricity generation income tax credits and
5 geothermal electricity generation corporate income tax credits
6 in any calendar year is five million dollars (\$5,000,000).

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

1 D. A taxpayer may claim a geothermal electricity
2 generation income tax credit for the taxable year in which
3 electricity was generated in New Mexico by a geothermal
4 electricity generation facility in which the taxpayer holds an
5 interest. To receive the credit provided by this section, a
6 taxpayer shall apply to the department on forms and in the
7 manner prescribed by the department. The application shall
8 include a certificate of eligibility issued pursuant to
9 Subsection C of this section.

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

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

18 G. A taxpayer may be allocated the right to claim
19 a credit provided by this section in proportion to the
20 taxpayer's ownership interest if the taxpayer owns an interest
21 in a business entity that is taxed for federal income tax
22 purposes as a partnership or limited liability company and
23 that business entity has met all of the requirements to be
24 eligible for the credit. The total credit claimed by all
25 members of the partnership or limited liability company shall

1 not exceed the maximum amount of the credit allowed pursuant
2 to this section.

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

6 I. The tax credit provided by this section shall
7 be included in the tax expenditure budget pursuant to Section
8 7-1-84 NMSA 1978, including the annual aggregate cost of the
9 tax credit.

10 J. As used in this section:

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

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

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

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

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

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

20 SECTION 48. Section 7-2-24 NMSA 1978 (being Laws 1981,
21 Chapter 343, Section 2, as amended) is amended to read:

22 "7-2-24. OPTIONAL DESIGNATION OF TAX REFUND
23 CONTRIBUTIONS.--

24 A. Except as provided in Subsection C of this
25 section, an individual whose state income tax liability after

1 application of allowable credits and tax rebates in any year
2 is lower than the amount of money held by the department to
3 the credit of such individual for that tax year may designate
4 any portion of the income tax refund due to the individual to
5 be paid to the entities or funds as provided in Subsection B
6 of this section. In the case of a joint return, both
7 individuals must make such designation.

8 B. The department shall provide for the state
9 income tax form to allow the designation of such contributions
10 as follows:

11 (1) to the game protection fund;

12 (2) to the energy, minerals and natural
13 resources department for the conservation planting revolving
14 fund for the planting of trees in New Mexico;

15 (3) to the board of regents of New Mexico
16 state university for the New Mexico department of
17 agriculture's healthy soil program;

18 (4) to the veterans' services department for
19 the veterans' state cemetery fund;

20 (5) to the public education department for
21 the substance abuse education fund to provide substance abuse
22 educational programs in New Mexico schools;

23 (6) to the board of regents of the
24 university of New Mexico for the amyotrophic lateral sclerosis
25 research fund for amyotrophic lateral sclerosis (Lou Gehrig's

1 disease) research;

2 (7) to the state parks division of the
3 energy, minerals and natural resources department for the kids
4 in parks education program;

5 (8) to the department of military affairs
6 for assistance to members of the New Mexico national guard and
7 to their families;

8 (9) to the veterans' services department for
9 the operation, maintenance and improvement of the Vietnam
10 veterans memorial near Angel Fire, New Mexico;

11 (10) to the veterans' services department
12 for the veterans' enterprise fund to carry out the programs,
13 duties or services of the veterans' services department;

14 (11) to the higher education department for
15 the lottery tuition fund to provide tuition assistance for New
16 Mexico resident undergraduates;

17 (12) to the New Mexico livestock board for
18 the equine shelter rescue fund;

19 (13) to the aging and long-term services
20 department to enhance or expand senior services through
21 statewide area agencies on aging grant programs, including
22 senior services provided through the north central New Mexico
23 economic development district as the non-metro area agency on
24 aging, the city of Albuquerque/Bernalillo county area agency
25 on aging, the Indian area agency on aging and the Navajo area

1 agency on aging;

2 (14) to the board of veterinary medicine for
3 the animal care and facility fund to carry out the statewide
4 dog and cat spay and neuter program;

5 (15) to the New Mexico mortgage finance
6 authority for the New Mexico housing trust fund for affordable
7 housing programs; and

8 (16) two dollars (\$2.00) to a state
9 political party of the individual's choosing that on January 1
10 of the taxable year for which the return is filed meets the
11 requirements of Subsection A of Section 1-7-2 NMSA 1978.

12 C. The provisions of this section do not apply to
13 income tax refunds subject to interception under the
14 provisions of the Tax Refund Intercept Program Act and any
15 designation made under the provisions of this section to such
16 refunds is void.

17 D. The department shall disregard a direction on a
18 return to make an optional refund contribution if the amount
19 of refund due on the return is determined by the department to
20 be less than the sum of the amounts directed to be
21 contributed.

22 E. Notwithstanding the provisions of Section
23 7-1-26 NMSA 1978, a taxpayer shall not claim and the
24 department shall not allow a refund with respect to any
25 optional refund contribution that was made by the department

1 at the direction of the taxpayer."

2 SECTION 49. Section 7-2-28.1 NMSA 1978 (being Laws
3 2011, Chapter 42, Section 1, as amended) is amended to read:

4 "7-2-28.1. VETERANS' STATE CEMETERY FUND--CREATED.--The
5 "veterans' state cemetery fund" is created as a nonreverting
6 fund in the state treasury. The fund consists of
7 appropriations, gifts, grants, donations and amounts
8 designated pursuant to Section 7-2-24 NMSA 1978. Money in the
9 fund at the end of a fiscal year shall not revert to any other
10 fund. The veterans' services department shall administer the
11 fund, and money in the fund is appropriated to the veterans'
12 services department."

13 SECTION 50. Section 7-2-31.1 NMSA 1978 (being Laws
14 1999, Chapter 47, Section 5) is amended to read:

15 "7-2-31.1. OPTIONAL REFUND CONTRIBUTION PROVISIONS--
16 CONDITIONAL REPEAL.--

17 A. By August 31 of each year, the secretary shall
18 determine the total amount contributed through the preceding
19 July 31 on returns filed for taxable years ending in the
20 preceding calendar year pursuant to each purpose stated in
21 Section 7-2-24 NMSA 1978.

22 B. If the secretary's determination pursuant to
23 Subsection A of this section regarding an optional refund
24 contribution provision is that the amount contributed is less
25 than ten thousand dollars (\$10,000), the secretary shall

1 certify that fact to the secretary of state. Any optional
2 refund contribution purpose for which a certification is made
3 for three consecutive years is repealed and shall no longer be
4 included on the state income tax form, effective on the
5 January 1 following the third certification."

6 SECTION 51. Section 7-2-39 NMSA 1978 (being Laws 2019,
7 Chapter 270, Section 15) is amended to read:

8 "7-2-39. DEDUCTION FROM NET INCOME FOR CERTAIN
9 DEPENDENTS.--

10 A. As long as the exemption amount pursuant to
11 Section 151 of the Internal Revenue Code means zero, a
12 taxpayer who is not a dependent of another individual and
13 files a return as a head of household or married filing
14 jointly may claim a deduction from net income in an amount
15 equal to the product of four thousand dollars (\$4,000)
16 multiplied by the difference between the number of dependents
17 claimed on the taxpayer's return and one.

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

21 C. The deduction provided by this section shall be
22 included in the tax expenditure budget pursuant to Section
23 7-1-84 NMSA 1978, including the annual aggregate cost of the
24 deduction.

25 D. As used in this section, "dependent" means

1 "dependent" as defined in Section 152 of the Internal Revenue
2 Code."

3 SECTION 52. Section 7-2-40 NMSA 1978 (being Laws 2021,
4 Chapter 7, Section 1) is amended to read:

5 "7-2-40. DEDUCTION--INCOME FROM LEASING A LIQUOR
6 LICENSE.--

7 A. Prior to January 1, 2026, a taxpayer who is a
8 liquor license lessor and who held the license on June 30,
9 2021 may claim a deduction from net income in an amount equal
10 to the gross receipts from sales of alcoholic beverages made
11 by each liquor license lessee in an amount, if the liquor
12 license is a dispenser's license and sales of alcoholic
13 beverages for consumption off premises are less than fifty
14 percent of total alcoholic beverage sales, not to exceed fifty
15 thousand dollars (\$50,000) for each of four taxable years.

16 B. Married individuals filing separate returns for
17 a taxable year for which they could have filed a joint return
18 may each claim only one-half of a deduction provided by this
19 section that would have been claimed on a joint return.

20 C. A taxpayer may claim the deduction provided by
21 this section in proportion to the taxpayer's ownership
22 interest if the taxpayer owns an interest in a business entity
23 that is taxed for federal income tax purposes as a partnership
24 or limited liability company and that business entity has met
25 all of the requirements to be eligible for the deduction. The

1 total deduction claimed in the aggregate by all members of the
2 partnership or association with respect to the deduction shall
3 not exceed the amount of the deduction that could have been
4 claimed by a sole owner of the business.

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

8 E. The deduction provided by this section shall be
9 included in the tax expenditure budget pursuant to Section
10 7-1-84 NMSA 1978, including the annual aggregate cost of the
11 deduction.

12 F. As used in this section:

13 (1) "alcoholic beverage" means alcoholic
14 beverage as defined in the Liquor Control Act;

15 (2) "dispenser's license" means a license
16 issued pursuant to the provisions of the Liquor Control Act
17 allowing the licensee to sell, offer for sale or have in the
18 person's possession with the intent to sell alcoholic
19 beverages both by the drink for consumption on the licensed
20 premises and in unbroken packages, including growlers, for
21 consumption and not for resale off the licensed premises;

22 (3) "growler" means a clean, refillable,
23 resealable container that has a liquid capacity that does not
24 exceed one gallon and that is intended and used for the sale
25 of beer, wine or cider;

1 (4) "liquor license" means a dispenser's
2 license issued pursuant to Section 60-6A-3 NMSA 1978 or a
3 dispenser's license issued pursuant to Section 60-6A-12 NMSA
4 1978 issued prior to July 1, 2021;

5 (5) "liquor license lessee" means a person
6 that leases a liquor license from a liquor license lessor; and

7 (6) "liquor license lessor" means a person
8 that leases a liquor license to a third party."

9 SECTION 53. Section 7-2-41 NMSA 1978 (being Laws 2024,
10 Chapter 67, Section 24) is amended to read:

11 "7-2-41. DEDUCTION--SCHOOL SUPPLIES PURCHASED BY A
12 PUBLIC SCHOOL TEACHER.--

13 A. A taxpayer who is not a dependent of another
14 individual and is a public school teacher may claim a
15 deduction from net income in an amount equal to the costs of
16 school supplies purchased by the public school teacher in a
17 taxable year, not to exceed:

18 (1) for a taxable year beginning on January
19 1, 2024 and prior to January 1, 2025, five hundred dollars
20 (\$500); and

21 (2) for a taxable year beginning on January
22 1, 2025 and prior to January 1, 2029, one thousand dollars
23 (\$1,000).

24 B. To claim a deduction pursuant to this section,
25 a taxpayer shall submit to the department information required

1 by the secretary establishing that the taxpayer is eligible to
2 claim a deduction pursuant to this section.

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

6 D. The deduction provided by this section shall be
7 included in the tax expenditure budget pursuant to Section
8 7-1-84 NMSA 1978, including the annual aggregate cost of the
9 deduction.

10 E. As used in this section:

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

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

25 SECTION 54. Section 7-2A-9 NMSA 1978 (being Laws 1981,

1 Chapter 37, Section 42, as amended) is amended to read:

2 "7-2A-9. TAXPAYER RETURNS--PAYMENT OF TAX.--

3 A. Every corporation deriving income from any
4 business transaction, property or employment within this
5 state, that is not exempt from tax under the Corporate Income
6 and Franchise Tax Act and that is required by the laws of the
7 United States to file a federal income tax return shall file a
8 complete tax return with the department in form and content as
9 prescribed by the secretary. A corporation that is required
10 by the provisions of the Corporate Income and Franchise Tax
11 Act to file a return or pay a tax shall, on or before the due
12 date of the corporation's federal corporate income tax return
13 for the taxable year, file the return and pay the tax imposed
14 for that year.

15 B. Every domestic or foreign corporation that is
16 not exempt from tax under the Corporate Income and Franchise
17 Tax Act, that is employed or engaged in the transaction of
18 business in, into or from this state or that derives any
19 income from property or employment within this state and every
20 domestic or foreign corporation, regardless of whether it is
21 engaged in active business, that has or exercises its
22 corporate franchise in this state and that is not exempt from
23 tax under the Corporate Income and Franchise Tax Act shall
24 file a return in the form and content as prescribed by the
25 secretary and pay the tax levied pursuant to Subsection B of

1 Section 7-2A-3 NMSA 1978 in the amount for each corporation as
2 specified in Section 7-2A-5.1 NMSA 1978. Returns and payment
3 of tax for corporate franchise tax for a taxable year shall be
4 filed and paid on the date specified in Subsection A of this
5 section for payment of corporate income tax for the preceding
6 taxable year."

7 SECTION 55. Section 7-2A-24 NMSA 1978 (being Laws 2009,
8 Chapter 271, Section 2, as amended) is amended to read:

9 "7-2A-24. GEOTHERMAL GROUND-COUPLED HEAT PUMP CORPORATE
10 INCOME TAX CREDIT.--

11 A. A taxpayer that files a New Mexico corporate
12 income tax return for a taxable year beginning on or after
13 January 1, 2024 and that purchases and installs after May 15,
14 2024 but before December 31, 2034 a geothermal ground-coupled
15 heat pump in a property owned by the taxpayer may claim
16 against the taxpayer's corporate income tax liability, and the
17 department may allow, a tax credit of up to thirty percent of
18 the purchase and installation costs of the system. The credit
19 provided in this section may be referred to as the "geothermal
20 ground-coupled heat pump corporate income tax credit". The
21 total geothermal ground-coupled heat pump corporate income tax
22 credit allowed to a taxpayer shall not exceed nine thousand
23 dollars (\$9,000). The department shall allow a geothermal
24 ground-coupled heat pump corporate income tax credit only for
25 geothermal ground-coupled heat pumps that are certified

1 pursuant to Subsection C of this section and installed by a
2 nationally accredited ground source heat pump installer.

3 B. That portion of a geothermal ground-coupled
4 heat pump corporate income tax credit that exceeds a
5 taxpayer's tax liability in the taxable year in which the
6 credit is claimed shall be refunded to the taxpayer.

7 C. The energy, minerals and natural resources
8 department shall adopt rules establishing procedures to
9 provide certification of geothermal ground-coupled heat pumps
10 for purposes of obtaining a geothermal ground-coupled heat
11 pump corporate income tax credit. The rules shall address
12 technical specifications and requirements relating to safety,
13 building code and standards compliance, minimum system sizes,
14 system applications and lists of eligible components. The
15 energy, minerals and natural resources department may modify
16 the specifications and requirements as necessary to maintain a
17 high level of system quality and performance.

18 D. The maximum annual aggregate of credits that
19 may be certified in a calendar year by the energy, minerals
20 and natural resources department is four million dollars
21 (\$4,000,000). That department shall not certify a tax credit
22 for which a taxpayer claims a 2021 sustainable building
23 corporate income tax credit using a geothermal ground-coupled
24 heat pump as a component of qualification for the rating
25 system certification level used in determining eligibility for

1 that credit. Completed applications for the credit shall be
2 considered in the order received. The energy, minerals and
3 natural resources department shall provide the department
4 appropriate information for all certificates of eligibility in
5 a secure manner on regular intervals agreed upon by both
6 departments.

7 E. A taxpayer allowed a tax credit pursuant to
8 this section shall claim the credit on forms and in a manner
9 required by the department.

10 F. The tax credit provided by this section shall
11 be included in the tax expenditure budget pursuant to Section
12 7-1-84 NMSA 1978, including the annual aggregate cost of the
13 tax credit.

14 G. As used in this section, "geothermal ground-
15 coupled heat pump" means a heating and refrigerating system
16 that directly or indirectly utilizes available heat below the
17 surface of the earth for distribution of heating and cooling
18 or domestic hot water and that has either a minimum
19 coefficient of performance of three and four-tenths or an
20 efficiency ratio of sixteen or greater."

21 **SECTION 56.** Section 7-2A-24.1 NMSA 1978 (being Laws
22 2024, Chapter 67, Section 34) is amended to read:

23 "7-2A-24.1. GEOTHERMAL ELECTRICITY GENERATION CORPORATE
24 INCOME TAX CREDIT.--

25 A. For taxable years ending prior to January 1,

1 2032, a taxpayer that holds an interest in a geothermal
2 electricity generation facility may apply for, and the
3 department may allow, a credit against the taxpayer's tax
4 liability imposed pursuant to the Corporate Income and
5 Franchise Tax Act. The tax credit provided by this section
6 may be referred to as the "geothermal electricity generation
7 corporate income tax credit".

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

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

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

15 D. A taxpayer may claim a geothermal electricity
16 generation corporate income tax credit for the taxable year in
17 which electricity was generated in New Mexico by a geothermal
18 electricity generation facility in which the taxpayer holds an
19 interest. To receive the credit provided by this section, a
20 taxpayer shall apply to the department on forms and in the
21 manner prescribed by the department. The application shall
22 include a certificate of eligibility issued pursuant to
23 Subsection C of this section.

24 E. That portion of a credit that exceeds a
25 taxpayer's tax liability in the taxable year in which the

1 credit is claimed may be carried forward for up to three
2 consecutive years.

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

6 G. The tax credit provided by this section shall
7 be included in the tax expenditure budget pursuant to Section
8 7-1-84 NMSA 1978, including the annual aggregate cost of the
9 tax credit.

10 H. As used in this section:

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

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

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

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

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

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

20 SECTION 57. Section 7-2A-26 NMSA 1978 (being Laws 2010,
21 Chapter 84, Section 2, as amended) is amended to read:

22 "7-2A-26. AGRICULTURAL BIOMASS CORPORATE INCOME TAX
23 CREDIT.--

24 A. A taxpayer that files a New Mexico corporate
25 income tax return for a taxable year ending prior to January

1 1, 2030 for a dairy or feedlot owned by the taxpayer may claim
2 against the taxpayer's corporate income and franchise tax
3 liability, and the department may allow, a tax credit equal to
4 five dollars (\$5.00) per wet ton of agricultural biomass
5 transported from the taxpayer's dairy or feedlot to a facility
6 that uses agricultural biomass to generate electricity or make
7 biocrude or other liquid or gaseous fuel for commercial use.
8 The credit provided in this section may be referred to as the
9 "agricultural biomass corporate income tax credit".

10 B. Subject to the limitations of Subsection C of
11 this section, a taxpayer shall apply for certification of
12 eligibility for the agricultural biomass corporate income tax
13 credit from the energy, minerals and natural resources
14 department on forms and in the manner prescribed by that
15 department. Completed applications shall be considered in the
16 order received. A dated certificate of eligibility shall be
17 issued to the taxpayer providing the amount of the
18 agricultural biomass corporate income tax credit for which the
19 taxpayer is eligible and the taxable year in which the credit
20 may be claimed. The energy, minerals and natural resources
21 department shall adopt rules establishing procedures to
22 provide certification of transportation of agricultural
23 biomass to a qualified facility that uses agricultural biomass
24 to generate electricity or make biocrude or other liquid or
25 gaseous fuel for commercial use for purposes of obtaining an

1 agricultural biomass corporate income tax credit.

2 C. The aggregate amount of agricultural biomass
3 income tax credits and agricultural biomass corporate income
4 tax credits that may be certified is five million dollars
5 (\$5,000,000) per calendar year, and applications for
6 certification received after this limitation shall not be
7 approved. Any remaining credits that remain unused in a
8 taxable year may be available for certification for a maximum
9 of four consecutive taxable years until the credits are fully
10 utilized. The energy, minerals and natural resources
11 department shall provide the department appropriate
12 information for all certificates of eligibility in a secure
13 manner on regular intervals agreed upon by both departments.

14 D. Any portion of the agricultural biomass
15 corporate income tax credit that exceeds a taxpayer's
16 corporate income tax liability in the taxable year in which
17 the credit is being claimed may be carried forward for up to
18 three consecutive taxable years. A certificate of eligibility
19 for an agricultural biomass corporate income tax credit may be
20 sold, exchanged or otherwise transferred to another taxpayer
21 for the full value of the credit. The parties to such a
22 transaction shall notify the department of the sale, exchange
23 or transfer within ten days of the sale, exchange or transfer.

24 E. A taxpayer that claims an agricultural biomass
25 corporate income tax credit shall not also claim an

1 agricultural biomass income tax credit for transportation of
2 the same agricultural biomass on which the claim for that
3 agricultural biomass income tax credit is based.

4 F. A taxpayer allowed a tax credit pursuant to
5 this section shall claim the credit on forms and in a manner
6 required by the department.

7 G. The tax credit provided by this section shall
8 be included in the tax expenditure budget pursuant to Section
9 7-1-84 NMSA 1978, including the annual aggregate cost of the
10 tax credit.

11 H. As used in this section:

12 (1) "agricultural biomass" means wet manure
13 meeting specifications established by the energy, minerals and
14 natural resources department from either a dairy or feedlot
15 commercial operation;

16 (2) "biocrude" means a nonfossil form of
17 energy that can be transported and refined using existing
18 petroleum refining facilities and that is made from
19 biologically derived feedstocks and other agricultural
20 biomass;

21 (3) "feedlot" means an operation that
22 fattens livestock for market; and

23 (4) "dairy" means a facility that raises
24 livestock for milk production."

25 SECTION 58. Section 7-2A-28 NMSA 1978 (being Laws 2015,

1 Chapter 130, Section 2, as amended) is amended to read:

2 "7-2A-28. 2015 SUSTAINABLE BUILDING CORPORATE INCOME
3 TAX CREDIT.--

4 A. The tax credit provided by this section may be
5 referred to as the "2015 sustainable building corporate income
6 tax credit". The 2015 sustainable building corporate income
7 tax credit shall be available for the construction in New
8 Mexico of a sustainable building, the renovation of an
9 existing building in New Mexico into a sustainable building or
10 the permanent installation of manufactured housing, regardless
11 of where the housing is manufactured, that is a sustainable
12 building; provided that the construction, renovation or
13 installation project is completed prior to April 1, 2023. The
14 tax credit provided in this section may not be claimed with
15 respect to the same sustainable building for which the 2015
16 sustainable building income tax credit, the 2021 sustainable
17 building income tax credit or the 2021 sustainable building
18 corporate income tax credit has been claimed.

19 B. The purpose of the 2015 sustainable building
20 corporate income tax credit is to encourage the construction
21 of sustainable buildings and the renovation of existing
22 buildings into sustainable buildings.

23 C. A taxpayer that files a corporate income tax
24 return may claim a 2015 sustainable building corporate income
25 tax credit if the requirements of this section are met.

1 D. For taxable years ending on or before December
 2 31, 2024, the 2015 sustainable building corporate income tax
 3 credit may be claimed with respect to a sustainable commercial
 4 building. The credit shall be calculated based on the
 5 certification level the building has achieved in the LEED
 6 green building rating system and the amount of qualified
 7 occupied square footage in the building, as indicated on the
 8 following chart:

9 LEED Rating Level	10 Qualified 11 Occupied 12 Square Footage	13 Tax Credit per 14 Square Foot
15 LEED-NC Silver	16 First 10,000	\$3.50
	17 Next 40,000	\$1.75
	18 Over 50,000 19 up to 500,000	\$0.70
20 LEED-NC Gold	21 First 10,000	\$4.75
	22 Next 40,000	\$2.00
	23 Over 50,000 24 up to 500,000	\$1.00
25 LEED-NC Platinum	First 10,000	\$6.25
	Next 40,000	\$3.25
	Over 50,000 up to 500,000	\$2.00
LEED-EB or CS Silver	First 10,000	\$2.50
	Next 40,000	\$1.25

1		Over 50,000	
2		up to 500,000	\$0.50
3	LEED-EB or CS Gold	First 10,000	\$3.35
4		Next 40,000	\$1.40
5		Over 50,000	
6		up to 500,000	\$0.70
7	LEED-EB or CS		
8	Platinum	First 10,000	\$4.40
9		Next 40,000	\$2.30
10		Over 50,000	
11		up to 500,000	\$1.40
12	LEED-CI Silver	First 10,000	\$1.40
13		Next 40,000	\$0.70
14		Over 50,000	
15		up to 500,000	\$0.30
16	LEED-CI Gold	First 10,000	\$1.90
17		Next 40,000	\$0.80
18		Over 50,000	
19		up to 500,000	\$0.40
20	LEED-CI Platinum	First 10,000	\$2.50
21		Next 40,000	\$1.30
22		Over 50,000	
23		up to 500,000	\$0.80.

24 E. For taxable years ending on or before December
25 31, 2024, the 2015 sustainable building corporate income tax

1 credit may be claimed with respect to a sustainable
 2 residential building. The credit shall be calculated based on
 3 the amount of qualified occupied square footage, as indicated
 4 on the following chart:

5 Rating System/Level	6 Qualified 7 Occupied 8 Square Footage	9 Tax Credit 10 per Square 11 Foot
12 LEED-H Silver or Build 13 Green NM Silver	14 Up to 2,000	15 \$3.00
16 LEED-H Gold or Build 17 Green NM Gold	18 Up to 2,000	19 \$4.50
20 LEED-H Platinum or Build 21 Green NM Emerald	22 Up to 2,000	23 \$6.50
24 Manufactured Housing	25 Up to 2,000	\$3.00.

15 F. A person that is a building owner may apply for
 16 a certificate of eligibility for the 2015 sustainable building
 17 corporate income tax credit from the energy, minerals and
 18 natural resources department after the construction,
 19 installation or renovation of the sustainable building is
 20 complete. Completed applications shall be considered in the
 21 order received. If the energy, minerals and natural resources
 22 department determines that the building owner meets the
 23 requirements of this subsection and that the building with
 24 respect to which the tax credit application is made meets the
 25 requirements of this section as a sustainable residential

1 building or a sustainable commercial building, the energy,
2 minerals and natural resources department may issue a dated
3 certificate of eligibility to the building owner providing the
4 amount of credit for which the building owner is eligible and
5 the taxable year in which the credit may be claimed, subject
6 to the limitations in Subsection G of this section. The
7 certificate shall include the rating system certification
8 level awarded to the building, the amount of qualified
9 occupied square footage in the building and a calculation of
10 the maximum amount of 2015 sustainable building corporate
11 income tax credit for which the building owner would be
12 eligible. The energy, minerals and natural resources
13 department may issue rules governing the procedure for
14 administering the provisions of this subsection.

15 G. Except as provided in Subsection H of this
16 section, the energy, minerals and natural resources department
17 may issue a certificate of eligibility only if the aggregate
18 amount of 2015 sustainable building corporate income tax
19 credits represented by certificates of eligibility issued by
20 the energy, minerals and natural resources department pursuant
21 to this section and Section 7-2-18.29 NMSA 1978 shall not
22 exceed in any calendar year an aggregate amount of:

23 (1) one million two hundred fifty thousand
24 dollars (\$1,250,000) with respect to sustainable commercial
25 buildings;

1 (2) three million three hundred seventy-five
2 thousand dollars (\$3,375,000) with respect to sustainable
3 residential buildings that are not manufactured housing; and

4 (3) three hundred seventy-five thousand
5 dollars (\$375,000) with respect to sustainable residential
6 buildings that are manufactured housing.

7 H. For any taxable year that the energy, minerals
8 and natural resources department determines that applications
9 for sustainable building corporate income tax credits for any
10 type of sustainable building pursuant to Paragraph (1), (2) or
11 (3) of Subsection G of this section are less than the
12 aggregate limit for that type of sustainable building for that
13 taxable year, the energy, minerals and natural resources
14 department shall allow the difference between the aggregate
15 limit and the applications to be added to the aggregate limit
16 of another type of sustainable building for which applications
17 exceeded the aggregate limit for that taxable year. Any
18 excess not used in a taxable year shall not be carried forward
19 to subsequent taxable years. The energy, minerals and natural
20 resources department shall provide the department appropriate
21 information for all certificates of eligibility in a secure
22 manner on regular intervals agreed upon by both departments.

23 I. Installation of a solar thermal system or a
24 photovoltaic system eligible for the solar market development
25 tax credit pursuant to Section 7-2-18.14 or 7-2-18.31 NMSA

1 1978 may not be used as a component of qualification for the
2 rating system certification level used in determining
3 eligibility for the 2015 sustainable building corporate income
4 tax credit, unless a solar market development tax credit
5 pursuant to Section 7-2-18.14 or 7-2-18.31 NMSA 1978 has not
6 been claimed with respect to that system and the building
7 owner and the taxpayer claiming the 2015 sustainable building
8 corporate income tax credit certify that such a tax credit
9 will not be claimed with respect to that system.

10 J. To claim the 2015 sustainable building
11 corporate income tax credit, the building owner shall provide
12 to the department a certificate of eligibility issued by the
13 energy, minerals and natural resources department pursuant to
14 the requirements of Subsection F of this section and any other
15 information the department may require to determine the amount
16 of the tax credit for which the building owner is eligible.

17 K. Any portion of a 2015 sustainable building
18 corporate income tax credit that exceeds the taxpayer's
19 corporate income tax liability for the taxable year in which
20 the credit is claimed may be carried forward for up to seven
21 consecutive taxable years.

22 L. A taxpayer that otherwise qualifies and claims
23 a 2015 sustainable building corporate income tax credit with
24 respect to a sustainable building owned by a partnership or
25 other business association of which the taxpayer is a member

1 may claim a credit only in proportion to that taxpayer's
2 interest in the partnership or association. The total credit
3 claimed in the aggregate by all members of the partnership or
4 association with respect to the sustainable building shall not
5 exceed the amount of the credit that could have been claimed
6 by a sole owner of the property.

7 M. The credit provided by this section shall be
8 included in the tax expenditure budget pursuant to Section
9 7-1-84 NMSA 1978 with an analysis of the effectiveness and
10 cost of the tax credit and whether the tax credit is
11 performing the purpose for which it was created.

12 N. For the purposes of this section:

13 (1) "build green New Mexico rating system"
14 means the certification standards adopted by build green New
15 Mexico in November 2014, which include water conservation
16 standards;

17 (2) "LEED-CI" means the LEED rating system
18 for commercial interiors;

19 (3) "LEED-CS" means the LEED rating system
20 for the core and shell of buildings;

21 (4) "LEED-EB" means the LEED rating system
22 for existing buildings;

23 (5) "LEED gold" means the rating in
24 compliance with, or exceeding, the second-highest rating
25 awarded by the LEED certification process;

1 (6) "LEED" means the most current leadership
2 in energy and environmental design green building rating
3 system guidelines developed and adopted by the United States
4 green building council;

5 (7) "LEED-H" means the LEED rating system
6 for homes;

7 (8) "LEED-NC" means the LEED rating system
8 for new buildings and major renovations;

9 (9) "LEED platinum" means the rating in
10 compliance with, or exceeding, the highest rating awarded by
11 the LEED certification process;

12 (10) "LEED silver" means the rating in
13 compliance with, or exceeding, the third-highest rating
14 awarded by the LEED certification process;

15 (11) "manufactured housing" means a
16 multisectioned home that is:

17 (a) a manufactured home or modular
18 home;

19 (b) a single-family dwelling with a
20 heated area of at least thirty-six feet by twenty-four feet
21 and a total area of at least eight hundred sixty-four square
22 feet;

23 (c) constructed in a factory to the
24 standards of the United States department of housing and urban
25 development, the National Manufactured Housing Construction

1 and Safety Standards Act of 1974 and the Housing and Urban
2 Development Zone Code 2 or New Mexico construction codes up to
3 the date of the unit's construction; and

4 (d) installed consistent with the
5 Manufactured Housing Act and rules adopted pursuant to that
6 act relating to permanent foundations;

7 (12) "qualified occupied square footage"
8 means the occupied spaces of the building as determined by:

9 (a) the United States green building
10 council for those buildings obtaining LEED certification;

11 (b) the administrators of the build
12 green New Mexico rating system for those homes obtaining build
13 green New Mexico certification; and

14 (c) the United States environmental
15 protection agency for ENERGY STAR-certified manufactured
16 homes;

17 (13) "person" does not include state, local
18 government, public school district or tribal agencies;

19 (14) "sustainable building" means either a
20 sustainable commercial building or a sustainable residential
21 building;

22 (15) "sustainable commercial building" means
23 a multifamily dwelling unit, as registered and certified under
24 the LEED-H or build green New Mexico rating system, that is
25 certified by the United States green building council as

1 LEED-H silver or higher or by build green New Mexico as silver
2 or higher and has achieved a home energy rating system index
3 of sixty or lower as developed by the residential energy
4 services network or a building that has been registered and
5 certified under the LEED-NC, LEED-EB, LEED-CS or LEED-CI
6 rating system and that:

7 (a) is certified by the United States
8 green building council at LEED silver or higher;

9 (b) achieves any prerequisite for and
10 at least one point related to commissioning under LEED "energy
11 and atmosphere", if included in the applicable rating system;
12 and

13 (c) has reduced energy consumption
14 beginning January 1, 2012, by sixty percent based on the
15 national average for that building type as published by the
16 United States department of energy as substantiated by the
17 United States environmental protection agency target finder
18 energy performance results form, dated no sooner than the
19 schematic design phase of development;

20 (16) "sustainable residential building"
21 means:

22 (a) a building used as a single-family
23 residence as registered and certified under the build green
24 New Mexico or LEED-H rating systems that: 1) is certified by
25 the United States green building council as LEED-H silver or

1 higher or by build green New Mexico as silver or higher; 2)
2 has achieved a home energy rating system index of sixty or
3 lower as developed by the residential energy services network;
4 3) has indoor plumbing fixtures and water-using appliances
5 that, on average, have flow rates equal to or lower than the
6 flow rates required for certification by WaterSense; 4) if
7 landscape area is available at the front of the property, has
8 at least one water line outside the building below the frost
9 line that may be connected to a drip irrigation system; and 5)
10 if landscape area is available at the rear of the property,
11 has at least one water line outside the building below the
12 frost line that may be connected to a drip irrigation system;
13 or

14 (b) manufactured housing that is ENERGY
15 STAR-qualified by the United States environmental protection
16 agency;

17 (17) "tribal" means of, belonging to or
18 created by a federally recognized Indian nation, tribe or
19 pueblo; and

20 (18) "WaterSense" means a program created by
21 the federal environmental protection agency that certifies
22 water-using products that meet the environmental protection
23 agency's criteria for efficiency and performance."

24 SECTION 59. Section 7-2A-28.1 NMSA 1978 (being Laws
25 2021, Chapter 84, Section 4, as amended) is amended to read:

1 "7-2A-28.1. 2021 SUSTAINABLE BUILDING CORPORATE INCOME
2 TAX CREDIT.--

3 A. The tax credit provided by this section may be
4 referred to as the "2021 sustainable building corporate income
5 tax credit". For taxable years ending prior to January 1,
6 2028, a taxpayer that is a building owner and files a
7 corporate income tax return may claim a 2021 sustainable
8 building corporate income tax credit if the requirements of
9 this section are met. The 2021 sustainable building corporate
10 income tax credit shall be available for the construction in
11 New Mexico of a sustainable building, the renovation of an
12 existing building in New Mexico, the permanent installation of
13 manufactured housing, regardless of where the housing is
14 manufactured, that is a sustainable building or the
15 installation of energy-conserving products to existing
16 buildings in New Mexico, as provided in this section. The tax
17 credit provided in this section may not be claimed with
18 respect to the same sustainable building for which the 2021
19 sustainable building income tax credit, the 2015 sustainable
20 building income tax credit or the 2015 sustainable building
21 corporate income tax credit has been claimed.

22 B. The amount of a 2021 sustainable building
23 corporate income tax credit shall be determined as follows:

24 (1) for the construction of a new
25 sustainable commercial building that is broadband ready and

1 electric vehicle ready and is completed on or after January 1,
2 2022, the amount of credit shall be calculated:

3 (a) based on the certification level
4 the building has achieved in the rating level and the amount
5 of qualified occupied square footage in the building, as
6 indicated on the following chart:

7 Rating Level	8 Qualified 9 Occupied 10 Square Footage	11 Tax Credit 12 Per Square 13 Foot
14 LEED-NC Platinum	15 First 10,000	16 \$5.25
	17 Next 40,000	18 \$2.25
	19 Over 50,000	
	20 up to 200,000	21 \$1.00
22 LEED-EB or CS Platinum	23 First 10,000	24 \$3.40
	25 Next 40,000	\$1.30
	Over 50,000	
	up to 200,000	\$0.35
LEED-CI Platinum	First 10,000	\$1.50
	Next 40,000	\$0.40
	Over 50,000	
	up to 200,000	\$0.30
LEED-NC Gold	First 10,000	\$3.00
	Next 40,000	\$1.00
	Over 50,000	
	up to 200,000	\$0.25

1	LEED-EB or -CS Gold	First 10,000	\$2.00
2		Next 40,000	\$1.00
3		Over 50,000	
4		up to 200,000	\$0.25
5	LEED-CI Gold	First 10,000	\$0.90
6		Next 40,000	\$0.40
7		Over 50,000	
8		up to 200,000	\$0.10; and

9 (b) with additional amounts based on
10 the additional criteria and the amount of qualified occupied
11 square footage, as indicated in the following chart:

12	Additional Criteria	Qualified	Tax Credit
13		Occupied	Per Square
14		Square Footage	Foot
15	Fully Electric Building	First 50,000	\$1.00
16		Over 50,000	
17		up to 200,000	\$0.50
18	Zero Carbon, Energy,		
19	Waste or Water Certified	First 50,000	\$0.25
20		Over 50,000	
21		up to 200,000	\$0.10;

22 (2) for the renovation of a commercial
23 building that was built at least ten years prior to the date
24 of the renovation, has twenty thousand square feet or more of
25 space in which temperature is controlled and is broadband

1 ready and electric vehicle ready, the amount of credit shall
2 be calculated by multiplying two dollars twenty-five cents
3 (\$2.25) by the amount of qualified occupied square footage in
4 the building, up to a maximum of one hundred fifty thousand
5 dollars (\$150,000) per renovation; provided that the
6 renovation reduces total energy and power costs by fifty
7 percent when compared to the most current energy standard for
8 buildings except low-rise residential buildings, as developed
9 by the American society of heating, refrigerating and air-
10 conditioning engineers;

11 (3) for the installation of the following
12 energy-conserving products to an existing commercial building
13 with less than twenty thousand square feet of space in which
14 temperature is controlled that is broadband ready, the amount
15 of credit shall be based on the cost of the product installed,
16 which shall include installation costs, and if the building is
17 affordable housing, per product installed:

18 Product	19 Amount of Credit	
	20 Affordable Housing	21 Non-Affordable Housing
22 Energy Star Air Source Heat Pump	\$2,000	\$1,000
23 Energy Star Ground Source Heat Pump	\$2,000	\$1,000
24 Energy Star		

1	Windows and Doors	100% of product	50% of product
2		cost up to	cost up to
3		\$1,000	\$500
4	Insulation Improvements That		
5	Meet Rules of the		
6	Energy, Minerals and Natural		
7	Resources Department	100% of product	50% of product
8		cost up to	cost up to
9		\$2,000	\$1,000
10	Energy Star Heat Pump Water		
11	Heater	\$700	\$350
12	Electric Vehicle Ready	100% of product	50% of product
13		cost up to	cost up to
14		\$3,000	\$1,500;

(4) for the construction of a new sustainable residential building that is broadband ready and electric vehicle ready and is completed on or after January 1, 2022, the amount of credit shall be calculated:

(a) based on the certification level the building has achieved in the rating level and the amount of qualified occupied square footage in the building, as indicated on the following chart:

23	Rating Level	Qualified	Tax Credit
24		Occupied	Per Square
25		Square Footage	Foot

1	LEED-H Platinum	Up to 2,000	\$5.50
2	LEED-H Gold	Up to 2,000	\$3.80
3	Build Green Emerald	Up to 2,000	\$5.50
4	Build Green Gold	Up to 2,000	\$3.80
5	Manufactured Housing	Up to 2,000	\$2.00; and

6 (b) with additional amounts based on
7 the additional criteria and the amount of qualified occupied
8 square footage, as indicated in the following chart:

9	Additional Criteria	Qualified	Tax Credit
10		Occupied	Per Square
11		Square Footage	Foot
12	Fully Electric Building	Up to 2,000	\$1.00
13	Zero Carbon, Energy,		
14	Waste or Water Certified	Up to 2,000	\$0.25; and

15 (5) for the installation of the following
16 energy-conserving products to an existing residential building,
17 the amount of credit shall be based on the cost of the product
18 installed, which shall include installation costs, and if the
19 building is affordable housing, per product installed:

20	Product	Amount of Credit	
21		Affordable	Non-Affordable
22		Housing	Housing
23	Energy Star Air		
24	Source Heat Pump	\$2,000	\$1,000
25	Energy Star Ground		

1	Source Heat Pump	\$2,000	\$1,000
2	Energy Star		
3	Windows and Doors	100% of product	50% of product
4		cost up to	cost up to
5		\$1,000	\$500
6	Insulation Improvements That		
7	Meet Rules of the		
8	Energy, Minerals and Natural		
9	Resources Department	100% of product	50% of product
10		cost up to	cost up to
11		\$2,000	\$1,000
12	Energy Star Heat Pump Water		
13	Heater	\$700	\$350
14	Electric Vehicle Ready	\$1,000	\$500.

15 C. A person that is a building owner may apply for
16 a certificate of eligibility for the 2021 sustainable building
17 corporate income tax credit from the energy, minerals and
18 natural resources department on forms and in a manner
19 prescribed by that department after the construction,
20 installation or renovation of the sustainable building or
21 installation of energy-conserving products in an existing
22 building is complete. Completed applications shall be
23 considered in the order received. If the energy, minerals and
24 natural resources department determines that the building
25 owner meets the requirements of this subsection and that the

1 building with respect to which the application is made meets
2 the requirements of this section for a 2021 sustainable
3 building corporate income tax credit, the energy, minerals and
4 natural resources department may issue a dated certificate of
5 eligibility to the building owner, subject to the limitations
6 in Subsection D of this section. The certificate shall
7 include the rating system certification level awarded to the
8 building, the amount of qualified occupied square footage in
9 the building, a calculation of the amount of 2021 sustainable
10 building corporate income tax credit for which the building
11 owner is eligible, the identification number, date of issuance
12 and the first taxable year that the credit shall be claimed.
13 The energy, minerals and natural resources department may
14 issue rules governing the procedure for administering the
15 provisions of this subsection. The energy, minerals and
16 natural resources department may issue a certificate of
17 eligibility to a building owner that is:

18 (1) the owner of the sustainable residential
19 building at the time the certification level for the building
20 is awarded; or

21 (2) the subsequent purchaser of a
22 sustainable residential building with respect to which no tax
23 credit has been previously claimed.

24 D. Except as provided in Subsection E of this
25 section, the energy, minerals and natural resources department

1 may issue a certificate of eligibility only if the aggregate
2 amount of 2021 sustainable building corporate income tax
3 credits represented by certificates of eligibility issued by
4 the energy, minerals and natural resources department pursuant
5 to this section and Section 7-2-18.32 NMSA 1978 shall not
6 exceed in any calendar year an aggregate amount of:

7 (1) one million dollars (\$1,000,000) with
8 respect to the construction of new sustainable commercial
9 buildings;

10 (2) two million dollars (\$2,000,000) with
11 respect to the construction of new sustainable residential
12 buildings that are not manufactured housing;

13 (3) two hundred fifty thousand dollars
14 (\$250,000) with respect to the construction of new sustainable
15 residential buildings that are manufactured housing;

16 (4) one million dollars (\$1,000,000) with
17 respect to the renovation of large commercial buildings; and

18 (5) two million nine hundred thousand
19 dollars (\$2,900,000) with respect to the installation of
20 energy-conserving products in existing commercial buildings
21 pursuant to Paragraph (3) of Subsection B of this section and
22 existing residential buildings pursuant to Paragraph (5) of
23 Subsection B of this section.

24 E. For any taxable year that the energy, minerals
25 and natural resources department determines that applications

1 for sustainable building tax credits for any type of
2 sustainable building pursuant to Subsection D of this section
3 are less than the aggregate limit for that type of sustainable
4 building for that taxable year, the energy, minerals and
5 natural resources department shall allow the difference
6 between the aggregate limit and the applications to be added
7 to the aggregate limit of another type of sustainable building
8 for which applications exceeded the aggregate limit for that
9 taxable year. Any excess not used in a taxable year shall not
10 be carried forward to subsequent taxable years. The energy,
11 minerals and natural resources department shall provide the
12 department appropriate information for all certificates of
13 eligibility in a secure manner on regular intervals agreed
14 upon by both departments.

15 F. Installation of a solar thermal system or a
16 photovoltaic system eligible for the new solar market
17 development tax credit shall not be used as a component of
18 qualification for the rating system certification level used
19 in determining eligibility for the 2021 sustainable building
20 corporate income tax credit, unless a new solar market
21 development tax credit has not been claimed with respect to
22 that system and the building owner and the taxpayer claiming
23 the 2021 sustainable building tax credit certify that such a
24 tax credit will not be claimed with respect to that system.

25 G. A taxpayer allowed a tax credit pursuant to

1 this section shall claim the credit on forms and in a manner
2 required by the department.

3 H. That portion of a 2021 sustainable building
4 corporate income tax credit approved by the department that
5 exceeds the taxpayer's corporate income tax liability for the
6 taxable year in which the credit is claimed may be carried
7 forward for up to seven consecutive taxable years. A
8 certificate of eligibility for a 2021 sustainable building
9 corporate income tax credit may be sold, exchanged or
10 otherwise transferred to another taxpayer for the full value
11 of the credit. The parties to such a transaction shall notify
12 the department of the sale, exchange or transfer within ten
13 days of the sale, exchange or transfer.

14 I. A taxpayer that otherwise qualifies and claims
15 a 2021 sustainable building corporate income tax credit with
16 respect to a sustainable building owned by a partnership or
17 other business association of which the taxpayer is a member
18 may claim a credit only in proportion to that taxpayer's
19 interest in the partnership or association. The total credit
20 claimed in the aggregate by all members of the partnership or
21 association with respect to the sustainable building shall not
22 exceed the amount of the credit that could have been claimed
23 by a sole owner of the property.

24 J. The tax credit provided by this section shall
25 be included in the tax expenditure report pursuant to Section

1 7-1-84 NMSA 1978 with an analysis of the effectiveness and
2 cost of the tax credit.

3 K. For the purposes of this section:

4 (1) "broadband ready" means a building with
5 an internet connection capable of connecting to a broadband
6 provider;

7 (2) "build green emerald" means the emerald
8 level certification standard adopted by build green New
9 Mexico, which includes water conservation standards and uses
10 forty percent less energy than is required by the prescriptive
11 path of the most current residential energy conservation code
12 promulgated by the construction industries division of the
13 regulation and licensing department;

14 (3) "build green gold" means the gold level
15 certification standard adopted by build green New Mexico,
16 which includes water conservation standards and uses thirty
17 percent less energy than is required by the prescriptive path
18 of the most current residential energy conservation code
19 promulgated by the construction industries division of the
20 regulation and licensing department;

21 (4) "building owner" means a person who
22 holds fee simple interest in a property or a person who holds
23 a leasehold interest in land owned by a federally recognized
24 Indian nation, tribe or pueblo;

25 (5) "electric vehicle ready" means a

1 property that provides for commercial buildings at least ten
2 percent of parking spaces and for residential buildings at
3 least one parking space with one forty-ampere, two-hundred-
4 eight-volt or two-hundred-forty-volt dedicated branch circuit
5 for servicing electric vehicles that terminates in a suitable
6 termination point, such as a receptacle or junction box, and
7 is located in reasonably close proximity to the proposed
8 location of the parking spaces;

9 (6) "energy rating system index" means a
10 numerical score given to a building where one hundred is
11 equivalent to the 2006 international energy conservation code
12 and zero is equivalent to a net-zero home. As used in this
13 paragraph, "net-zero home" means an energy-efficient home
14 where, on a source energy basis, the actual annual delivered
15 energy is less than or equal to the on-site renewable exported
16 energy;

17 (7) "Energy Star" means products and devices
18 certified under the energy star program administered by the
19 United States environmental protection agency and United
20 States department of energy that meet the specified
21 performance requirements at the installed locations;

22 (8) "fully electric building" means a
23 building that uses a permanent supply of electricity as the
24 source of energy for all space heating, water heating,
25 including pools and spas, cooking appliances and clothes

1 drying appliances and, in the case of a new building, has no
2 natural gas or propane plumbing installed in the building or,
3 in the case of an existing building, has no connected natural
4 gas or propane plumbing;

5 (9) "LEED" means the most current leadership
6 in energy and environmental design green building rating
7 system guidelines developed and adopted by the United States
8 green building council;

9 (10) "LEED-CI" means the LEED rating system
10 for commercial interiors;

11 (11) "LEED-CS" means the LEED rating system
12 for the core and shell of buildings;

13 (12) "LEED-EB" means the LEED rating system
14 for existing buildings;

15 (13) "LEED gold" means the rating in
16 compliance with, or exceeding, the second-highest rating
17 awarded by the LEED certification process;

18 (14) "LEED-H" means the LEED rating system
19 for homes;

20 (15) "LEED-NC" means the LEED rating system
21 for new buildings and major renovations;

22 (16) "LEED platinum" means the rating in
23 compliance with, or exceeding, the highest rating awarded by
24 the LEED certification process;

25 (17) "manufactured housing" means a

1 multisectioned home that is:

2 (a) a manufactured home or modular
3 home;

4 (b) a single-family dwelling with a
5 heated area of at least thirty-six feet by twenty-four feet
6 and a total area of at least eight hundred sixty-four square
7 feet;

8 (c) constructed in a factory to the
9 standards of the United States department of housing and urban
10 development, the National Manufactured Housing Construction
11 and Safety Standards Act of 1974 and the Housing and Urban
12 Development Zone Code 2 or New Mexico construction codes up to
13 the date of the unit's construction; and

14 (d) installed consistent with the
15 Manufactured Housing Act and rules adopted pursuant to that
16 act relating to permanent foundations;

17 (18) "qualified occupied square footage"
18 means the occupied spaces of the building as determined by:

19 (a) the United States green building
20 council for those buildings obtaining LEED certification;

21 (b) the administrators of the build
22 green New Mexico rating system for those homes obtaining build
23 green New Mexico certification; and

24 (c) the United States environmental
25 protection agency for Energy Star-certified manufactured

1 homes;

2 (19) "person" does not include state, local
3 government, public school district or tribal agencies;

4 (20) "sustainable building" means either a
5 sustainable commercial building or a sustainable residential
6 building;

7 (21) "sustainable commercial building"
8 means:

9 (a) a commercial building that is
10 certified as any LEED platinum or gold for commercial
11 buildings;

12 (b) a multifamily dwelling unit that is
13 certified as LEED-H platinum or gold or build green emerald or
14 gold and uses at least thirty percent less energy than is
15 required by the prescriptive path of the most current
16 applicable energy conservation code promulgated by the
17 construction industries division of the regulation and
18 licensing department for build green gold or LEED-H, or uses
19 at least forty percent less energy than is required by the
20 prescriptive path of the most current residential energy
21 conservation code promulgated by the construction industries
22 division of the regulation and licensing department for build
23 green emerald or LEED platinum; or

24 (c) a building that: 1) is certified
25 at LEED-NC, LEED-EB, LEED-CS or LEED-CI platinum or gold

1 levels; 2) achieves any prerequisite for and at least one
2 point related to commissioning under the LEED energy and
3 atmosphere category, if included in the applicable rating
4 system; and 3) has reduced energy consumption beginning
5 January 1, 2012 by forty percent based on the national average
6 for that building type as published by the United States
7 department of energy as substantiated by the United States
8 environmental protection agency target finder energy
9 performance results form, dated no sooner than the schematic
10 design phase of development;

11 (22) "sustainable residential building"

12 means:

13 (a) a building used as a single-family
14 residence that: 1) is certified as LEED-H platinum or gold or
15 build green emerald or gold; 2) uses at least thirty percent
16 less energy than is required by the prescriptive path of the
17 most current residential energy conservation code promulgated
18 by the construction industries division of the regulation and
19 licensing department for build green gold or LEED-H, or uses
20 at least forty percent less energy than is required by the
21 prescriptive path of the most current residential energy
22 conservation code promulgated by the construction industries
23 division of the regulation and licensing department for build
24 green emerald or LEED platinum; 3) has indoor plumbing
25 fixtures and water-using appliances that, on average, have

1 flow rates equal to or lower than the flow rates required for
2 certification by WaterSense; 4) if landscape area is available
3 at the front of the property, has at least one water line
4 outside the building below the frost line that may be
5 connected to a drip irrigation system; and 5) if landscape
6 area is available at the rear of the property, has at least
7 one water line outside the building below the frost line that
8 may be connected to a drip irrigation system; or

9 (b) manufactured housing that is Energy
10 Star-qualified;

11 (23) "tribal" means of, belonging to or
12 created by a federally recognized Indian nation, tribe or
13 pueblo;

14 (24) "WaterSense" means a program created by
15 the federal environmental protection agency that certifies
16 water-using products that meet the environmental protection
17 agency's criteria for efficiency and performance;

18 (25) "zero carbon certified" means a
19 building that is certified as LEED zero carbon by achieving a
20 carbon-dioxide-equivalent balance of zero for the building;

21 (26) "zero energy certified" means a
22 building that is certified as LEED zero energy by achieving a
23 source energy use balance of zero for the building;

24 (27) "zero waste certified" means a building
25 that is certified as LEED zero waste by achieving green

1 building certification incorporated's true zero waste
2 certification at the platinum level; and

3 (28) "zero water certified" means a building
4 that is certified as LEED zero water by achieving a potable
5 water use balance of zero for the building."

6 SECTION 60. Section 7-2A-31 NMSA 1978 (being Laws 2021,
7 Chapter 7, Section 2) is amended to read:

8 "7-2A-31. DEDUCTION--INCOME FROM LEASING A LIQUOR
9 LICENSE.--

10 A. Prior to January 1, 2026, a taxpayer that is a
11 liquor license lessor and that held the license on June 30,
12 2021 may claim a deduction from taxable income in an amount
13 equal to the gross receipts from sales of alcoholic beverages
14 made by each liquor license lessee in an amount, if the liquor
15 license is a dispenser's license and sales of alcoholic
16 beverages for consumption off premises are less than fifty
17 percent of total alcoholic beverage sales, not to exceed fifty
18 thousand dollars (\$50,000) for each of four taxable years.

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

22 C. The deduction provided by this section shall be
23 included in the tax expenditure budget pursuant to Section
24 7-1-84 NMSA 1978, including the annual aggregate cost of the
25 deduction.

1 D. As used in this section:

2 (1) "alcoholic beverage" means alcoholic
3 beverage as defined in the Liquor Control Act;

4 (2) "dispenser's license" means a license
5 issued pursuant to the provisions of the Liquor Control Act
6 allowing the licensee to sell, offer for sale or have in the
7 person's possession with the intent to sell alcoholic
8 beverages both by the drink for consumption on the licensed
9 premises and in unbroken packages, including growlers, for
10 consumption and not for resale off the licensed premises;

11 (3) "growler" means a clean, refillable,
12 resealable container that has a liquid capacity that does not
13 exceed one gallon and that is intended and used for the sale
14 of beer, wine or cider;

15 (4) "liquor license" means a dispenser's
16 license issued pursuant to Section 60-6A-3 NMSA 1978 or a
17 dispenser's license issued pursuant to Section 60-6A-12 NMSA
18 1978 issued prior to July 1, 2021;

19 (5) "liquor license lessee" means a person
20 that leases a liquor license from a liquor license lessor; and

21 (6) "liquor license lessor" means a person
22 that leases a liquor license to a third party."

23 SECTION 61. Section 7-2C-12 NMSA 1978 (being Laws 1985,
24 Chapter 106, Section 12, as amended) is amended to read:

25 "7-2C-12. ADMINISTRATIVE COSTS--CHARGES APPROPRIATED TO

1 DEPARTMENT.--

2 A. The department shall charge claimant agencies
3 an administrative fee of three percent of the debts for the
4 claimant agencies pursuant to the Tax Refund Intercept Program
5 Act.

6 B. Money from the administrative fee authorized
7 pursuant to Subsection A of this section is appropriated to
8 the department for use in administering the Tax Refund
9 Intercept Program Act."

10 SECTION 62. Section 7-2E-1.1 NMSA 1978 (being Laws
11 2007, Chapter 172, Section 2, as amended) is amended to read:

12 "7-2E-1.1. TAX CREDIT--RURAL JOB TAX CREDIT.--

13 A. The tax credit created by this section may be
14 referred to as the "rural job tax credit". Every eligible
15 employer may apply for, and the taxation and revenue
16 department may approve, a tax credit for each qualifying job
17 the employer creates. The maximum tax credit amount with
18 respect to each qualifying job is equal to:

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

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

1 two area.

2 B. The purpose of the rural job tax credit is to
3 encourage businesses to start new businesses or expand
4 existing businesses in rural areas of the state.

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

10 (1) four qualifying periods for each
11 qualifying job performed or based at a location in a tier one
12 area; and

13 (2) two qualifying periods for each
14 qualifying job performed or based at a location in a tier two
15 area.

16 D. With respect to each qualifying job for which
17 an eligible employer seeks the rural job tax credit, the
18 employer shall certify:

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

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

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

25 (4) whether the application pertains to the

1 first, second, third or fourth qualifying period, depending on
2 whether the taxpayer is in a tier one or tier two area;

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

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

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

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

18 F. To receive a rural job tax credit with respect
19 to any qualifying period, an eligible employer shall apply to
20 the taxation and revenue department once per calendar year on
21 forms and in the manner the department may prescribe. The
22 annual application shall include a certification made pursuant
23 to Subsection D of this section and contain all qualifying
24 periods that closed during the calendar year for which the
25 application is made. Any qualifying period that did not close

1 in the calendar year for which the application is made shall
2 be denied by the department. The application for a calendar
3 year shall be filed no later than December 31 of the following
4 calendar year. If a taxpayer fails to file the annual
5 application within the time limits provided in this section,
6 the department shall deny the application. If all the
7 requirements of this section have been complied with, the
8 taxation and revenue department shall issue to the applicant a
9 certificate of eligibility for the appropriate qualifying
10 period. The certificate of eligibility shall be numbered for
11 identification and declare its date of issuance and the amount
12 of rural job tax credit allowed for the respective jobs
13 created. A certificate of eligibility may be sold, exchanged
14 or otherwise transferred to another taxpayer for the full
15 value of the credit. The parties to such a transaction to
16 sell, exchange or transfer a rural job tax credit shall notify
17 the department of the transaction within ten days of the sale,
18 exchange or transfer.

19 G. The person entitled to claim the credit may
20 claim all or a portion of the rural job tax credit against the
21 person's modified combined tax liability, personal income tax
22 liability or corporate income tax liability. Any rural job
23 tax credit that exceeds the person's tax liability may be
24 carried forward for up to three consecutive taxable years from
25 the date of issuance of the certificate of eligibility. No

1 amount of rural job tax credit may be applied against a gross
2 receipts tax or compensating tax imposed by a municipality or
3 county.

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

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

16 J. A qualifying job shall not be eligible for a
17 rural job tax credit pursuant to this section if:

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

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

23 (3) the job is performed by:

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

1 acquisition or other change in organization; or

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

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

13 L. The credit provided by this section shall be
14 included in the tax expenditure budget pursuant to Section
15 7-1-84 NMSA 1978, including the annual aggregate cost of the
16 credit.

17 M. As used in this section:

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

21 (2) "eligible employee" means any individual
22 other than an individual who:

23 (a) is a dependent of the employer;

24 (b) if the employer is an estate or
25 trust, is a grantor, beneficiary or fiduciary of the estate or

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

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

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

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

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

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

24 (5) "modified combined tax liability" means
25 the total liability for the reporting period for the gross

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

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

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

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

1 (9) "rural area" means any part of the state
2 other than:

3 (a) an H class county;
4 (b) the state fairgrounds;
5 (c) an incorporated municipality within
6 a metropolitan statistical area if the municipality's
7 population is thirty thousand or more according to the most
8 recent federal decennial census; and

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

12 (10) "tier one area" means:

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

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

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

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

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

4 SECTION 63. Section 7-3-7 NMSA 1978 (being Laws 1961,
5 Chapter 243, Section 8, as amended) is amended to read:

6 "7-3-7. STATEMENTS OF WITHHOLDING.--

7 A. Every employer shall file with the department
8 an annual statement of withholding for each employee. The
9 statement shall be in an electronic format prescribed by the
10 department. The statement shall be filed with the department
11 on or before the last day of January of the year following
12 that for which the statement is made. It shall include the
13 total compensation paid the employee and the total amount of
14 tax withheld for the calendar year or portion of a calendar
15 year if the employee has worked less than a full calendar
16 year.

17 B. Every payer shall file with the department an
18 annual statement of withholding for each individual from whom
19 some portion of a pension or an annuity has been deducted and
20 withheld by that payer. The statement shall be in an
21 electronic format prescribed by the department. The statement
22 shall be in a form prescribed by the department and shall be
23 filed with the department on or before the last day of January
24 of the year following that for which the statement is made.
25 It shall include the total amount of pension or annuity paid

1 to the individual and the amount of tax withheld for the
2 calendar year.

3 C. Every person required to deduct and withhold
4 tax from a payment of winnings that are subject to withholding
5 shall file with the department an annual statement of
6 withholding for each wagerer from whom some portion of a
7 payment of winnings has been deducted and withheld by that
8 person. The statement shall be filed using a department-
9 approved electronic medium and shall be filed with the
10 department on or before the last day of January of the year
11 following that for which the statement is made. It shall
12 include the total amount of winnings paid to the individual
13 and the amount of tax withheld for the calendar year. The
14 department may also require any person who is required to
15 submit an information return to the internal revenue service
16 regarding the winnings of another person to submit copies of
17 the return to the department."

18 SECTION 64. Section 7-3-13 NMSA 1978 (being Laws 2010,
19 Chapter 53, Section 7) is amended to read:

20 "7-3-13. WITHHOLDING RETURN REQUIRED.--

21 A. An employer or a payor shall file quarterly a
22 withholding return with the department on or before the
23 twenty-fifth day of the month following the close of the
24 calendar quarter when the taxes were required to be withheld.

25 B. The quarterly withholding return required by

1 this section shall contain all information required by the
2 department, including:

3 (1) each employee's or payee's social
4 security number;

5 (2) each employee's or payee's name;

6 (3) each employee's or payee's gross wages,
7 pensions or annuity payments;

8 (4) each employee's or payee's state income
9 tax withheld; and

10 (5) the workers' compensation fees due on
11 behalf of each employee or payee.

12 C. Each quarterly withholding return shall be
13 filed with the department using a department-approved
14 electronic medium."

15 SECTION 65. Section 7-3A-9 NMSA 1978 (being Laws 2003,
16 Chapter 86, Section 12, as amended) is amended to read:

17 "7-3A-9. INTERPRETATION OF ACT--ADMINISTRATION AND
18 ENFORCEMENT OF ACT.--

19 A. The department shall interpret the provisions
20 of the Oil and Gas Proceeds and Pass-Through Entity
21 Withholding Tax Act.

22 B. The department shall administer and enforce the
23 Oil and Gas Proceeds and Pass-Through Entity Withholding Tax
24 Act, and the Tax Administration Act applies to the
25 administration and enforcement of the Oil and Gas Proceeds and

1 Pass-Through Entity Withholding Tax Act."

2 SECTION 66. Section 7-9-9 NMSA 1978 (being Laws 1966,
3 Chapter 47, Section 9, as amended) is amended to read:

4 "7-9-9. LIABILITY OF USER FOR PAYMENT OF COMPENSATING
5 TAX.--Any person in New Mexico initially using property in New
6 Mexico on the value of which compensating tax is payable but
7 has not been paid is liable to the state for payment of the
8 compensating tax, but this liability is discharged if the
9 buyer has paid the compensating tax to the seller for payment
10 over to the department."

11 SECTION 67. Section 7-9-18.1 NMSA 1978 (being Laws
12 1987, Chapter 264, Section 13 and Laws 1987, Chapter 304,
13 Section 1) is amended to read:

14 "7-9-18.1. EXEMPTION--GROSS RECEIPTS TAX--SUPPLEMENTAL
15 NUTRITION ASSISTANCE PROGRAM BENEFITS.--Exempted from the
16 gross receipts tax are the receipts of a taxpayer who is
17 approved for participation in the supplemental nutrition
18 assistance program authorized by U.S.C. Title 7, Chapter 51,
19 as that chapter may be amended or renumbered, from the lawful
20 acceptance and deposit with a financial institution of
21 benefits issued by the United States department of agriculture
22 pursuant to the supplemental nutrition assistance program."

23 SECTION 68. Section 7-9-43 NMSA 1978 (being Laws 1966,
24 Chapter 47, Section 13, as amended) is amended to read:

25 "7-9-43. NONTAXABLE TRANSACTION CERTIFICATES AND OTHER

1 EVIDENCE REQUIRED TO ENTITLE PERSONS TO DEDUCTIONS.--

2 A. Except as provided in Subsection B of this
3 section, a person may establish entitlement to a deduction
4 from gross receipts allowed pursuant to the Gross Receipts and
5 Compensating Tax Act by obtaining in good faith a properly
6 executed nontaxable transaction certificate from the
7 purchaser. Nontaxable transaction certificates shall contain
8 the information and be in a form prescribed by the department.
9 The department by rule may deem to be nontaxable transaction
10 certificates documents issued by other states or the
11 multistate tax commission to taxpayers not required to be
12 registered in New Mexico. Only buyers or lessees who have a
13 registration number or have applied for a registration number
14 and have not been refused one under Subsection C of Section
15 7-1-12 NMSA 1978 shall execute nontaxable transaction
16 certificates issued by the department. If the seller or
17 lessor has been given an identification number for tax
18 purposes by the department, the seller or lessor shall
19 disclose that identification number to the buyer or lessee
20 prior to or upon acceptance of a nontaxable transaction
21 certificate.

22 B. Except as provided in Subsection C of this
23 section, a person who does not comply with Subsection A of
24 this section may establish entitlement to a deduction from
25 gross receipts by presenting alternative evidence that

1 demonstrates the facts necessary to support entitlement to the
2 deduction, but the burden of proof is on that person.

3 Alternative evidence includes:

4 (1) invoices or contracts that identify the
5 nature of the transaction;

6 (2) documentation as to the purchaser's use
7 or disposition of the property or service;

8 (3) a statement from the purchaser
9 indicating that the purchaser sold or intends to resell the
10 property or service purchased from the seller, either by
11 itself or in combination with other property or services, in
12 the ordinary course of business. The statement from the
13 purchaser shall include:

14 (a) the seller's name;

15 (b) the date of the invoice or date of
16 the transaction;

17 (c) the invoice number or a copy of the
18 invoice;

19 (d) a copy of the purchase order, if
20 available;

21 (e) the amount of purchase; and

22 (f) a description of the property or
23 service purchased or leased; or

24 (4) any other evidence that demonstrates the
25 facts necessary to establish entitlement to the deduction.

1 C. Subsection B of this section does not apply to
2 sellers of electricity or fuels that are parties to an
3 agreement with the department pursuant to Section 7-1-21.1
4 NMSA 1978 regarding the deduction pursuant to Subsection B of
5 Section 7-9-46 NMSA 1978.

6 D. When a person accepts in good faith a properly
7 executed nontaxable transaction certificate from the
8 purchaser, the properly executed nontaxable transaction
9 certificate shall be conclusive evidence that the proceeds
10 from the transaction are deductible from the person's gross
11 receipts.

12 E. To exercise the privilege of executing
13 appropriate nontaxable transaction certificates, a buyer or
14 lessee shall apply to the department for permission to execute
15 nontaxable transaction certificates, except with respect to
16 documents issued by other states or the multistate tax
17 commission that the department has deemed to be nontaxable
18 transaction certificates.

19 F. If a person has accepted in good faith a
20 properly executed nontaxable transaction certificate, but the
21 purchaser has not employed the property or service purchased
22 in the nontaxable manner or has provided materially false or
23 inaccurate information on the nontaxable transaction
24 certificate, the purchaser shall be liable for an amount equal
25 to any tax, penalty and interest that the seller would have

1 been required to pay if the seller had not complied with
2 Subsection A of this section.

3 G. Any person who knowingly or willfully provides
4 false or inaccurate information on a nontaxable transaction
5 certificate, to obtain a nontaxable transaction certificate or
6 as alternative evidence provided in support of a claim for a
7 deduction, may be subject to prosecution under Sections 7-1-72
8 and 7-1-73 NMSA 1978."

9 SECTION 69. Section 7-9-46 NMSA 1978 (being Laws 1969,
10 Chapter 144, Section 36, as amended) is amended to read:

11 "7-9-46. DEDUCTION--GROSS RECEIPTS--GOVERNMENTAL GROSS
12 RECEIPTS--SALES TO MANUFACTURERS AND MANUFACTURING SERVICE
13 PROVIDERS.--

14 A. Receipts from selling tangible personal
15 property may be deducted from gross receipts or from
16 governmental gross receipts if the sale is made to a person
17 engaged in the business of manufacturing who delivers a
18 nontaxable transaction certificate to the seller. The buyer
19 must incorporate the tangible personal property as an
20 ingredient or component part of the product that the buyer is
21 in the business of manufacturing.

22 B. Receipts from selling a manufacturing
23 consumable to a manufacturer or a manufacturing service
24 provider may be deducted from gross receipts or from
25 governmental gross receipts if the buyer delivers a nontaxable

1 transaction certificate to the seller or provides alternative
2 evidence pursuant to Section 7-9-43 NMSA 1978; provided that
3 if the seller is a utility company, an agreement with the
4 department pursuant to Section 7-1-21.1 NMSA 1978 and a
5 nontaxable transaction certificate shall be required.

6 C. Receipts from selling or leasing qualified
7 equipment may be deducted from gross receipts if the sale is
8 made to, or the lease is entered into with, a person engaged
9 in the business of manufacturing or a manufacturing service
10 provider who delivers a nontaxable transaction certificate to
11 the seller or provides alternative evidence pursuant to
12 Section 7-9-43 NMSA 1978; provided that a manufacturer or
13 manufacturing service provider delivering a nontaxable
14 transaction certificate or alternative evidence with respect
15 to the qualified equipment shall not claim an investment
16 credit pursuant to the Investment Credit Act for that same
17 equipment.

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

24 E. A taxpayer allowed a deduction pursuant to this
25 section shall report the amount deducted separately for each

1 deduction provided in this section and attribute the amount of
2 the deduction to the appropriate authorization provided in
3 this section in a manner required by the department.

4 F. The deductions provided by this section shall
5 be included in the tax expenditure budget pursuant to Section
6 7-1-84 NMSA 1978, including the annual aggregate cost of the
7 deductions.

8 G. As used in this section:

9 (1) "manufacturing consumable" means
10 tangible personal property, other than qualified equipment or
11 an ingredient or component part of a manufactured product,
12 that is incorporated into, destroyed, depleted or transformed
13 in the process of manufacturing a product, including
14 electricity, fuels, water, manufacturing aids and supplies,
15 chemicals, gases and other tangibles used to manufacture a
16 product;

17 (2) "manufacturing operation" means a plant
18 operated by a manufacturer or manufacturing service provider
19 that employs personnel to perform production tasks to produce
20 goods, in conjunction with machinery and equipment; and

21 (3) "qualified equipment" means machinery,
22 equipment and tools, including component, repair, replacement
23 and spare parts thereof, that are used directly in the
24 manufacturing process of a manufacturing operation.

25 "Qualified equipment" includes computer hardware and software

1 used directly in the manufacturing process of a manufacturing
2 operation but excludes any motor vehicle that is required to
3 be registered in this state pursuant to the Motor Vehicle
4 Code."

5 SECTION 70. Section 7-9-56.3 NMSA 1978 (being Laws
6 2003, Chapter 232, Section 1, as amended) is amended to read:

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

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

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

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

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

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

25 C. The deduction provided by this section shall be

1 included in the tax expenditure budget pursuant to Section
2 7-1-84 NMSA 1978 with an analysis of the effectiveness and
3 cost of the deduction.

4 D. As used in this section:

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

8 (2) "employee" means an individual, other
9 than an individual who:

10 (a) is a dependent of the employer;

11 (b) if the employer is an estate or
12 trust, is a grantor, beneficiary or fiduciary of the estate or
13 trust or is a dependent of a grantor, beneficiary or fiduciary
14 of the estate or trust;

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

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

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

1 (4) "trade-support company" means a customs
2 brokerage firm or a freight forwarder."

3 SECTION 71. Section 7-9-62 NMSA 1978 (being Laws 1969,
4 Chapter 144, Section 52, as amended) is amended to read:

5 "7-9-62. DEDUCTION--GROSS RECEIPTS TAX--AGRICULTURAL
6 IMPLEMENTS--AIRCRAFT MANUFACTURERS--VEHICLES THAT ARE NOT
7 REQUIRED TO BE REGISTERED--AIRCRAFT PARTS AND MAINTENANCE
8 SERVICES--REPORTING REQUIREMENTS.--

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

19 B. Receipts of an aircraft manufacturer or
20 affiliate from selling aircraft or from selling aircraft
21 flight support, pilot training or maintenance training
22 services may be deducted from gross receipts. Any deduction
23 allowed under Section 7-9-71 NMSA 1978 must be taken before
24 the deduction allowed by this subsection is computed.

25 C. Receipts from selling aircraft parts or

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

5 D. A taxpayer allowed a deduction pursuant to this
6 section shall report the amount of the deduction separately in
7 a manner required by the department.

8 E. The deductions provided by this section shall
9 be included in the tax expenditure budget pursuant to Section
10 7-1-84 NMSA 1978 with an analysis of the effectiveness and
11 cost of the deductions.

12 F. As used in this section:

13 (1) "affiliate" means a business entity that
14 directly or indirectly through one or more intermediaries
15 controls, is controlled by or is under common control with the
16 aircraft manufacturer;

17 (2) "agricultural implement" means a tool,
18 utensil or instrument that is depreciable for federal income
19 tax purposes and that is:

20 (a) designed to irrigate agricultural
21 crops above ground or below ground at the place where the crop
22 is grown; or

23 (b) designed primarily for use with a
24 source of motive power, such as a tractor, in planting,
25 growing, cultivating, harvesting or processing agricultural

1 crops at the place where the crop is grown; in raising poultry
2 or livestock; or in obtaining or processing food or fiber,
3 such as eggs, milk, wool or mohair, from living poultry or
4 livestock at the place where the poultry or livestock are kept
5 for this purpose;

6 (3) "aircraft manufacturer" means a business
7 entity that in the ordinary course of business designs and
8 builds private or commercial aircraft certified by the federal
9 aviation administration;

10 (4) "business entity" means a corporation,
11 limited liability company, partnership, limited partnership,
12 limited liability partnership or real estate investment trust,
13 but does not mean an individual or a joint venture;

14 (5) "control" means equity ownership in a
15 business entity that:

16 (a) represents at least fifty percent
17 of the total voting power of that business entity; and

18 (b) has a value equal to at least fifty
19 percent of the total equity of that business entity; and

20 (6) "flight support" means providing
21 navigation data, charts, weather information, online
22 maintenance records and other aircraft or flight-related
23 information and the software needed to access the
24 information."

25 SECTION 72. Section 7-9-62.1 NMSA 1978 (being Laws 2000

1 (2nd S.S.), Chapter 4, Section 2, as amended) is amended to
2 read:

3 "7-9-62.1. DEDUCTION--GROSS RECEIPTS TAX--AIRCRAFT
4 SALES AND SERVICES--REPORTING REQUIREMENTS.--

5 A. Receipts from the sale of or from maintaining,
6 refurbishing, remodeling or otherwise modifying a commercial
7 or military carrier over ten thousand pounds gross landing
8 weight may be deducted from gross receipts.

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

12 C. The deduction provided by this section shall be
13 included in the tax expenditure budget pursuant to Section
14 7-1-84 NMSA 1978 with an analysis of the effectiveness and
15 cost of the deduction."

16 SECTION 73. Section 7-9-73.2 NMSA 1978 (being Laws
17 1998, Chapter 95, Section 2 and Laws 1998, Chapter 99, Section
18 4, as amended) is amended to read:

19 "7-9-73.2. DEDUCTION--GROSS RECEIPTS TAX AND
20 GOVERNMENTAL GROSS RECEIPTS TAX--PRESCRIPTION DRUGS--OXYGEN--
21 CANNABIS.--

22 A. Receipts from the sale of prescription drugs
23 and oxygen and oxygen services provided by a licensed medicare
24 durable medical equipment provider and cannabis products that
25 are sold in accordance with the Lynn and Erin Compassionate

1 Use Act may be deducted from gross receipts and governmental
2 gross receipts.

3 B. A taxpayer allowed a deduction pursuant to this
4 section shall report the amount of the deduction separately in
5 a manner required by the department. The deduction shall be
6 included in the tax expenditure budget pursuant to Section
7 7-1-84 NMSA 1978, including the annual aggregate cost of the
8 deduction.

9 C. For the purposes of this section, "prescription
10 drugs" means insulin and substances that are:

11 (1) dispensed by or under the supervision of
12 a licensed pharmacist or by a physician or other person
13 authorized under state law to do so;

14 (2) prescribed for a specified person by a
15 person authorized under state law to prescribe the substance;
16 and

17 (3) subject to the restrictions on sale
18 contained in Subparagraph 1 of Subsection (b) of 21 USCA 353."

19 **SECTION 74.** Section 7-9-73.3 NMSA 1978 (being Laws
20 2014, Chapter 26, Section 1, as amended) is amended to read:

21 "7-9-73.3. DEDUCTION--GROSS RECEIPTS TAX AND
22 GOVERNMENTAL GROSS RECEIPTS TAX--DURABLE MEDICAL EQUIPMENT--
23 MEDICAL SUPPLIES.--

24 A. Prior to July 1, 2030, receipts from the sale
25 or rental of durable medical equipment and medical supplies

1 may be deducted from gross receipts and governmental gross
2 receipts.

3 B. The purpose of the deduction provided in this
4 section is to help protect jobs and retain businesses in New
5 Mexico that sell or rent durable medical equipment and medical
6 supplies.

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

10 D. The deduction provided in this section shall be
11 taken only by a taxpayer participating in the New Mexico
12 medicaid program whose gross receipts are no less than ninety
13 percent derived from the sale or rental of durable medical
14 equipment, medical supplies or infusion therapy services,
15 including the medications used in infusion therapy services.

16 E. Claiming a deduction provided by this section
17 is authorization by the taxpayer receiving the deduction for
18 the department to reveal return information necessary to
19 comply with the requirements of Section 7-1-84 NMSA 1978.

20 F. The deduction provided by this section shall be
21 included in the tax expenditure budget pursuant to Section
22 7-1-84 NMSA 1978, including the annual aggregate cost of the
23 deduction.

24 G. As used in this section:

25 (1) "durable medical equipment" means a

1 medical assistive device or other equipment that:

2 (a) can withstand repeated use;

3 (b) is primarily and customarily used
4 to serve a medical purpose and is not useful to an individual
5 in the absence of an illness, injury or other medical
6 necessity, including improved functioning of a body part;

7 (c) is appropriate for use at home
8 exclusively by the eligible recipient for whom the durable
9 medical equipment is prescribed; and

10 (d) is prescribed by a physician or
11 other person licensed by the state to prescribe durable
12 medical equipment;

13 (2) "infusion therapy services" means the
14 administration of prescribed medication through a needle or
15 catheter;

16 (3) "medical supplies" means items for a
17 course of medical treatment, including nutritional products,
18 that are:

19 (a) necessary for an ongoing course of
20 medical treatment;

21 (b) disposable and cannot be reused;
22 and

23 (c) prescribed by a physician or other
24 person licensed by the state to prescribe medical supplies;
25 and

1 (4) "prescribe" means to authorize the use
2 of an item or substance for a course of medical treatment."

3 SECTION 75. Section 7-9-77.1 NMSA 1978 (being Laws
4 1998, Chapter 96, Section 1, as amended by Laws 2022, Chapter
5 43, Section 1 and by Laws 2022, Chapter 49, Section 1) is
6 amended to read:

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

9 A. Receipts of a health care practitioner or an
10 association of health care practitioners from payments by the
11 United States government, or any agency thereof, or from a
12 medicare administrative contractor for medical and other
13 health services provided by a health care practitioner to
14 medicare beneficiaries pursuant to the provisions of Title 18
15 of the federal Social Security Act may be deducted from gross
16 receipts.

17 B. Receipts of a hospice or nursing home from
18 payments by the United States government, or any agency
19 thereof, or from a medicare administrative contractor for
20 medical and other health and palliative services provided by
21 the hospice or nursing home to medicare beneficiaries pursuant
22 to the provisions of Title 18 of the federal Social Security
23 Act may be deducted from gross receipts.

24 C. Receipts of a health care practitioner or an
25 association of health care practitioners from payments by a

1 third-party administrator of the federal TRICARE program for
2 medical and other health services provided by physicians and
3 osteopathic physicians to covered beneficiaries may be
4 deducted from gross receipts.

5 D. Receipts of a health care practitioner or an
6 association of health care practitioners from payments by or
7 on behalf of the Indian health service of the United States
8 department of health and human services for medical and other
9 health services provided by physicians and osteopathic
10 physicians to covered beneficiaries may be deducted from gross
11 receipts.

12 E. Receipts of a clinical laboratory from payments
13 by the United States government, or any agency thereof, or
14 from a medicare administrative contractor for medical services
15 provided by the clinical laboratory to medicare beneficiaries
16 pursuant to the provisions of Title 18 of the federal Social
17 Security Act may be deducted from gross receipts.

18 F. Receipts of a home health agency from payments
19 by the United States government, or any agency thereof, or
20 from a medicare administrative contractor for medical, other
21 health and palliative services provided by the home health
22 agency to medicare beneficiaries pursuant to the provisions of
23 Title 18 of the federal Social Security Act may be deducted
24 from gross receipts.

25 G. Prior to July 1, 2032, receipts of a dialysis

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

7 H. A taxpayer allowed a deduction pursuant to this
8 section shall report the amount of the deduction separately in
9 a manner required by the department. A taxpayer who has
10 receipts that are deductible pursuant to this section and
11 Section 7-9-93 NMSA 1978 shall deduct the receipts under this
12 section prior to calculating the receipts that may be deducted
13 pursuant to Section 7-9-93 NMSA 1978.

14 I. The deductions provided by this section shall
15 be included in the tax expenditure budget pursuant to Section
16 7-1-84 NMSA 1978 with an analysis of the effectiveness and
17 cost of the deductions and whether the deductions are
18 providing a benefit to the state.

19 J. For the purposes of this section:

20 (1) "association of health care
21 practitioners" means a corporation, unincorporated business
22 entity or other legal entity organized by, owned by or
23 employing one or more health care practitioners; provided that
24 the entity is not:

25 (a) an organization granted exemption

1 from the federal income tax by the United States commissioner
2 of internal revenue as organizations described in Section
3 501(c)(3) of the United States Internal Revenue Code of 1986,
4 as that section may be amended or renumbered; or

5 (b) a health maintenance organization,
6 hospital, hospice, nursing home or an entity that is solely an
7 outpatient facility or intermediate care facility licensed
8 pursuant to the Health Care Code;

9 (2) "clinical laboratory" means a laboratory
10 accredited pursuant to 42 USCA 263a;

11 (3) "dialysis facility" means a facility
12 that provides outpatient maintenance dialysis services or home
13 dialysis training and support services, including a facility
14 considered by the federal centers for medicare and medicaid
15 services to be an independent or hospital-based facility that
16 includes a self-care dialysis unit that furnishes only self-
17 dialysis services;

18 (4) "health care practitioner" means:

19 (a) an athletic trainer licensed
20 pursuant to the Athletic Trainer Practice Act;

21 (b) an audiologist licensed pursuant to
22 the Speech-Language Pathology, Audiology and Hearing Aid
23 Dispensing Practices Act;

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

1 (d) a counselor or therapist
2 practitioner licensed pursuant to the Counseling and Therapy
3 Practice Act;

4 (e) a dentist licensed pursuant to the
5 Dental Health Care Act;

6 (f) a doctor of oriental medicine
7 licensed pursuant to the Acupuncture and Oriental Medicine
8 Practice Act;

9 (g) an independent social worker
10 licensed pursuant to the Social Work Practice Act;

11 (h) a massage therapist licensed
12 pursuant to the Massage Therapy Practice Act;

13 (i) a naprapath licensed pursuant to
14 the Naprapathic Practice Act;

15 (j) a nutritionist or dietitian
16 licensed pursuant to the Nutrition and Dietetics Practice Act;

17 (k) an occupational therapist licensed
18 pursuant to the Occupational Therapy Act;

19 (l) an optometrist licensed pursuant to
20 the Optometry Act;

21 (m) an osteopathic physician licensed
22 pursuant to the Medical Practice Act;

23 (n) a pharmacist licensed pursuant to
24 the Pharmacy Act;

25 (o) a physical therapist licensed

1 pursuant to the Physical Therapy Act;

2 (p) a physician licensed pursuant to
3 the Medical Practice Act;

4 (q) a podiatric physician licensed
5 pursuant to the Podiatry Act;

6 (r) a psychologist licensed pursuant to
7 the Professional Psychologist Act;

8 (s) a radiologic technologist licensed
9 pursuant to the Medical Imaging and Radiation Therapy Health
10 and Safety Act;

11 (t) a registered nurse licensed
12 pursuant to the Nursing Practice Act;

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

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

18 (5) "home health agency" means a for-profit
19 entity that is licensed by the health care authority and
20 certified by the federal centers for medicare and medicaid
21 services as a home health agency and certified to provide
22 medicare services;

23 (6) "hospice" means a for-profit entity
24 licensed by the health care authority as a hospice and
25 certified to provide medicare services;

1 (7) "medicare administrative contractor"
2 means a third-party administrator operating under contract
3 with the federal centers for medicare and medicaid services to
4 process medicare claims and make medicare fee-for-service
5 payments for medicare fee-for-service beneficiaries;

6 (8) "nursing home" means a for-profit entity
7 licensed by the health care authority as a nursing home and
8 certified to provide medicare services; and

9 (9) "TRICARE program" means the program
10 defined in 10 U.S.C. 1072(7)."

11 SECTION 76. Section 7-9-77.2 NMSA 1978 (being Laws
12 2024, Chapter 67, Section 13) is amended to read:

13 "7-9-77.2. DEDUCTIONS--GROSS RECEIPTS--CHILD CARE
14 ASSISTANCE THROUGH A LICENSED CHILD CARE ASSISTANCE PROGRAM--
15 PRE-KINDERGARTEN SERVICES BY FOR-PROFIT PRE-KINDERGARTEN
16 PROVIDERS.--

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

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

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

4 D. The deductions provided by this section shall
5 be included in the tax expenditure budget pursuant to Section
6 7-1-84 NMSA 1978, including the annual aggregate cost of the
7 deductions.

8 E. As used in this section:

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

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

18 SECTION 77. Section 7-9-83 NMSA 1978 (being Laws 1993,
19 Chapter 364, Section 1, as amended) is amended to read:

20 "7-9-83. DEDUCTION--GROSS RECEIPTS TAX--JET FUEL.--
21 Forty percent of the receipts from the sale of fuel specially
22 prepared and sold for use in turboprop or jet-type engines as
23 determined by the department may be deducted from gross
24 receipts."

25 SECTION 78. Section 7-9-84 NMSA 1978 (being Laws 1993,

1 Chapter 364, Section 2, as amended) is amended to read:

2 "7-9-84. DEDUCTION--COMPENSATING TAX--JET FUEL.--Forty
3 percent of the value of the fuel specially prepared and sold
4 for use in turboprop or jet-type engines as determined by the
5 department may be deducted in computing the compensating tax
6 due."

7 SECTION 79. Section 7-9-90 NMSA 1978 (being Laws 1999,
8 Chapter 231, Section 3, as amended) is amended to read:

9 "7-9-90. DEDUCTIONS--GROSS RECEIPTS TAX--SALES OF
10 URANIUM HEXAFLUORIDE AND ENRICHMENT OF URANIUM.--

11 A. Receipts from selling uranium hexafluoride and
12 from providing the service of enriching uranium may be
13 deducted from gross receipts.

14 B. The deduction provided by this section shall be
15 included in the tax expenditure budget pursuant to Section
16 7-1-84 NMSA 1978, including the annual aggregate cost of the
17 deduction.

18 C. A taxpayer allowed a deduction pursuant to this
19 section shall report the amount deducted separately and
20 attribute the amount of the deduction to the authorization
21 provided in this section in a manner required by the
22 department that facilitates the evaluation by the legislature
23 for the benefit to the state of this deduction."

24 SECTION 80. Section 7-9-91 NMSA 1978 (being Laws 2001,
25 Chapter 135, Section 1) is amended to read:

1 "7-9-91. DEDUCTION--COMPENSATING TAX--CONTRIBUTIONS OF
2 INVENTORY TO CERTAIN ORGANIZATIONS AND GOVERNMENTAL
3 AGENCIES.--

4 A. Except as provided otherwise in Subsection D of
5 this section, the value of tangible personal property that is
6 removed from inventory and contributed to organizations that
7 have been granted exemption from the federal income tax by the
8 United States commissioner of internal revenue as
9 organizations described in Section 501(c)(3) of the Internal
10 Revenue Code of 1986, as amended, may be deducted in computing
11 the compensating tax due, provided that the contribution is
12 deductible for federal income tax purposes by the person from
13 whose inventory the property was withdrawn or, if the person
14 from whose inventory the property was withdrawn is a pass-
15 through entity as that term is defined in Section 7-3A-2 NMSA
16 1978, the contribution is deductible by the owner or owners of
17 the pass-through entity.

18 B. Except as provided otherwise in Subsection D of
19 this section, the value of tangible personal property that is
20 removed from inventory and contributed to the United States or
21 New Mexico or any governmental unit or subdivision, agency,
22 department or instrumentality thereof may be deducted in
23 computing the compensating tax due.

24 C. Except as provided otherwise in Subsection D of
25 this section, the value of tangible personal property that is

1 removed from inventory and contributed to an Indian tribe,
2 nation or pueblo or any governmental subdivision, agency,
3 department or instrumentality thereof for use on that Indian
4 reservation or pueblo grant may be deducted in computing the
5 compensating tax due.

6 D. Unless contrary to federal law, the deduction
7 provided by this section does not apply to:

8 (1) a contribution of metalliferous mineral
9 ore;

10 (2) a contribution of tangible personal
11 property that is or will be incorporated into a metropolitan
12 redevelopment project created under the Metropolitan
13 Redevelopment Code;

14 (3) a contribution of tangible personal
15 property that will become an ingredient or component part of a
16 construction project; or

17 (4) a contribution of tangible personal
18 property utilized or produced in the performance of a service.

19 E. For purposes of this section:

20 (1) "inventory" means tangible personal
21 property held for sale or lease in the ordinary course of
22 business; and

23 (2) "contributed" or "contribution" means a
24 transfer of ownership without consideration. Public
25 acknowledgment of the contribution does not constitute

1 consideration for the purpose of this section."

2 SECTION 81. Section 7-9-93 NMSA 1978 (being Laws 2004,
3 Chapter 116, Section 6, as amended) is amended to read:

4 "7-9-93. DEDUCTION--GROSS RECEIPTS--CERTAIN RECEIPTS
5 FOR SERVICES PROVIDED BY HEALTH CARE PRACTITIONER OR
6 ASSOCIATION OF HEALTH CARE PRACTITIONERS.--

7 A. Receipts of a health care practitioner or an
8 association of health care practitioners for commercial
9 contract services or medicare part C services paid by a
10 managed care organization or health care insurer may be
11 deducted from gross receipts if the services are within the
12 scope of practice of the health care practitioner providing
13 the service. Receipts from fee-for-service payments by a
14 health care insurer may not be deducted from gross receipts.

15 B. Prior to July 1, 2028, receipts from a
16 copayment or deductible paid by an insured or enrollee to a
17 health care practitioner or an association of health care
18 practitioners for commercial contract services pursuant to the
19 terms of the insured's health insurance plan or enrollee's
20 managed care health plan may be deducted from gross receipts
21 if the services are within the scope of practice of the health
22 care practitioner providing the service.

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

1 Compensating Tax Act have been taken.

2 D. A taxpayer allowed a deduction pursuant to this
3 section shall report the amount of the deduction separately in
4 a manner required by the department.

5 E. The deductions provided by this section shall
6 be included in the tax expenditure budget pursuant to Section
7 7-1-84 NMSA 1978 with an analysis of the cost of the
8 deductions.

9 F. As used in this section:

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

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

20 (b) a health maintenance organization,
21 hospital, hospice, nursing home or an entity that is solely an
22 outpatient facility or intermediate care facility licensed
23 pursuant to the Public Health Act;

24 (2) "commercial contract services" means
25 health care services performed by a health care practitioner

1 pursuant to a contract with a managed care organization or
2 health care insurer other than those health care services
3 provided for medicare patients pursuant to Title 18 of the
4 federal Social Security Act or for medicaid patients pursuant
5 to Title 19 or Title 21 of the federal Social Security Act;

6 (3) "copayment" means a fixed dollar amount
7 that a health care insurer or managed care health plan
8 requires an insured or enrollee to pay upon incurring an
9 expense for receiving medical services;

10 (4) "deductible" means the amount of covered
11 charges an insured or enrollee is required to pay in a plan
12 year for commercial contract services before the insured's
13 health insurance plan or enrollee's managed care health plan
14 begins to pay for applicable covered charges;

15 (5) "fee-for-service" means payment for
16 health care services by a health care insurer for covered
17 charges under an indemnity insurance plan;

18 (6) "health care insurer" means a person
19 that:

20 (a) has a valid certificate of
21 authority in good standing pursuant to the New Mexico
22 Insurance Code to act as an insurer, health maintenance
23 organization or nonprofit health care plan or prepaid dental
24 plan; and

25 (b) contracts to reimburse licensed

1 health care practitioners for providing basic health services
2 to enrollees at negotiated fee rates;

3 (7) "health care practitioner" means:

4 (a) a chiropractic physician licensed
5 pursuant to the provisions of the Chiropractic Physician
6 Practice Act;

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

9 (c) a doctor of oriental medicine
10 licensed pursuant to the provisions of the Acupuncture and
11 Oriental Medicine Practice Act;

12 (d) an optometrist licensed pursuant to
13 the provisions of the Optometry Act;

14 (e) an osteopathic physician licensed
15 pursuant to the provisions of the Medical Practice Act;

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

18 (g) a physician or physician assistant
19 licensed pursuant to the provisions of the Medical Practice
20 Act;

21 (h) a podiatric physician licensed
22 pursuant to the provisions of the Podiatry Act;

23 (i) a psychologist licensed pursuant to
24 the provisions of the Professional Psychologist Act;

25 (j) a registered lay midwife registered

1 by the department of health;

2 (k) a registered nurse or licensed
3 practical nurse licensed pursuant to the provisions of the
4 Nursing Practice Act;

5 (l) a registered occupational therapist
6 licensed pursuant to the provisions of the Occupational
7 Therapy Act;

8 (m) a respiratory care practitioner
9 licensed pursuant to the provisions of the Respiratory Care
10 Act;

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

14 (o) a professional clinical mental
15 health counselor, marriage and family therapist or
16 professional art therapist licensed pursuant to the provisions
17 of the Counseling and Therapy Practice Act who has obtained a
18 master's degree or a doctorate;

19 (p) an independent social worker
20 licensed pursuant to the provisions of the Social Work
21 Practice Act; and

22 (q) a clinical laboratory that is
23 accredited pursuant to 42 U.S.C. Section 263a but that is not
24 a laboratory in a physician's office or in a hospital defined
25 pursuant to 42 U.S.C. Section 1395x;

1 (8) "managed care health plan" means a
2 health care plan offered by a managed care organization that
3 provides for the delivery of comprehensive basic health care
4 services and medically necessary services to individuals
5 enrolled in the plan other than those services provided to
6 medicare patients pursuant to Title 18 of the federal Social
7 Security Act or to medicaid patients pursuant to Title 19 or
8 Title 21 of the federal Social Security Act;

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

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

1 (h) physician hospital-provider
2 organizations; and

3 (i) managed care services
4 organizations; and

5 (10) "medicare part C services" means
6 services performed pursuant to a contract with a managed
7 health care provider for medicare patients pursuant to Title
8 18 of the federal Social Security Act."

9 SECTION 82. Section 7-9-94 NMSA 1978 (being Laws 2005,
10 Chapter 104, Section 23, as amended) is amended to read:

11 "7-9-94. DEDUCTION--GROSS RECEIPTS--MILITARY
12 TRANSFORMATIONAL ACQUISITION PROGRAMS.--

13 A. Receipts from transformational acquisition
14 programs performing research and development, test and
15 evaluation at New Mexico major range and test facility bases
16 pursuant to contracts entered into with the United States
17 department of defense may be deducted from gross receipts
18 through June 30, 2025.

19 B. As used in this section, "transformational
20 acquisition program" means a military acquisition program
21 authorized by the office of the secretary of defense force
22 transformation and not physically tested in New Mexico on or
23 before July 1, 2005.

24 C. The deduction provided in this section does not
25 apply to receipts of a prime contractor operating facilities

1 designated as a national laboratory by act of congress and is
2 not applicable to current force programs as of July 1, 2005.

3 D. A taxpayer allowed a deduction pursuant to this
4 section shall report the amount of the deduction separately in
5 a manner required by the department. The deduction shall be
6 included in the tax expenditure budget pursuant to Section
7 7-1-84 NMSA 1978, including the annual aggregate cost of the
8 deduction."

9 SECTION 83. Section 7-9-95 NMSA 1978 (being Laws 2005,
10 Chapter 104, Section 25) is amended to read:

11 "7-9-95. DEDUCTION--GROSS RECEIPTS TAX--SALES OF
12 CERTAIN TANGIBLE PERSONAL PROPERTY--LIMITED PERIOD.--Receipts
13 from the sale at retail of the following types of tangible
14 personal property may be deducted if the sale of the property
15 occurs during the period beginning at 12:01 a.m. on the last
16 Friday in July and ending at midnight on the following Sunday:

17 A. an article of clothing or footwear designed to
18 be worn on or about the human body if the sales price of the
19 article is less than one hundred dollars (\$100) except:

20 (1) any special clothing or footwear that is
21 primarily designed for athletic activity or protective use and
22 that is not normally worn except when used for the athletic
23 activity or protective use for which it is designed; and

24 (2) accessories, including jewelry,
25 handbags, luggage, umbrellas, wallets, watches and similar

1 items worn or carried on or about the human body, without
2 regard to whether worn on the body in a manner characteristic
3 of clothing;

4 B. a desktop, laptop or notebook computer if the
5 sales price of the computer does not exceed one thousand
6 dollars (\$1,000) and any associated monitor, speaker or set of
7 speakers, printer, keyboard, microphone or mouse if the sales
8 price of the device does not exceed five hundred dollars
9 (\$500); and

10 C. school supplies that are items normally used by
11 students in a standard classroom for educational purposes,
12 including notebooks, paper, writing instruments, crayons, art
13 supplies, rulers, book bags, backpacks, handheld calculators,
14 maps and globes, but not including watches, radios, compact
15 disc players, headphones, sporting equipment, portable or
16 desktop telephones, copiers, office equipment, furniture or
17 fixtures."

18 SECTION 84. Section 7-9-103.1 NMSA 1978 (being Laws
19 2012, Chapter 12, Section 2) is amended to read:

20 "7-9-103.1. DEDUCTION--GROSS RECEIPTS TAX--CONVERTING
21 ELECTRICITY.--

22 A. Receipts from the transmission of electricity
23 where voltage source conversion technology is employed to
24 provide such services and from ancillary services may be
25 deducted from gross receipts.

1 B. A taxpayer allowed a deduction pursuant to this
2 section shall report the amount of the deduction separately in
3 a manner required by the department. The deduction shall be
4 included in the tax expenditure budget pursuant to Section
5 7-1-84 NMSA 1978, including the annual aggregate cost of the
6 deduction.

7 C. As used in this section, "ancillary services"
8 means services that are supplied from or in connection with
9 facilities employing voltage source conversion technology and
10 that are used to support or enhance the efficient and reliable
11 operation of the electric system."

12 SECTION 85. Section 7-9-103.2 NMSA 1978 (being Laws
13 2012, Chapter 12, Section 3) is amended to read:

14 "7-9-103.2. DEDUCTION--GROSS RECEIPTS--ELECTRICITY
15 EXCHANGE.--

16 A. Receipts from operating a market or exchange
17 for the sale or trading of electricity, rights to electricity
18 and derivative products and from providing ancillary services
19 may be deducted from gross receipts.

20 B. A taxpayer allowed a deduction pursuant to this
21 section shall report the amount of the deduction separately in
22 a manner required by the department. The deduction shall be
23 included in the tax expenditure budget pursuant to Section
24 7-1-84 NMSA 1978, including the annual aggregate cost of the
25 deduction.

1 C. Claiming a deduction provided by this section
2 is authorization by the taxpayer receiving the deduction for
3 the department to reveal return information necessary to
4 comply with the requirements of Section 7-1-84 NMSA 1978.

5 D. As used in this section, "ancillary services"
6 means services that are supplied from or in connection with
7 facilities employing voltage source conversion technology and
8 that are used to support or enhance the efficient and reliable
9 operation of the electric system."

10 SECTION 86. Section 7-9-110.3 NMSA 1978 (being Laws
11 2011, Chapter 60, Section 3 and Laws 2011, Chapter 61, Section
12 3, as amended) is amended to read:

13 "7-9-110.3. PURPOSE AND REQUIREMENTS OF LOCOMOTIVE FUEL
14 DEDUCTION.--

15 A. The purpose of the deduction on fuel loaded or
16 used by a common carrier in a locomotive engine from gross
17 receipts and from compensating tax is to encourage the
18 construction, renovation, maintenance and operation of
19 railroad locomotive refueling facilities and other railroad
20 capital investments in New Mexico.

21 B. To be eligible for the deduction on fuel loaded
22 or used by a common carrier in a locomotive engine from
23 compensating tax, the fuel shall be used or loaded by a common
24 carrier that:

25 (1) after July 1, 2011, made a capital

1 investment of one hundred million dollars (\$100,000,000) or
2 more in new construction or renovations at the railroad
3 locomotive refueling facility in which the fuel is loaded or
4 used; or

5 (2) on or after July 1, 2012, made a capital
6 investment of fifty million dollars (\$50,000,000) or more in
7 new railroad infrastructure improvements, including railroad
8 facilities, track, signals and supporting railroad network,
9 located in New Mexico; provided that the new railroad
10 infrastructure improvements are not required by a regulatory
11 agency to correct problems, such as regular or preventive
12 maintenance, specifically identified by that agency as
13 requiring necessary corrective action.

14 C. To be eligible for the deduction on fuel loaded
15 or used by a common carrier in a locomotive engine from gross
16 receipts, a common carrier shall deliver an appropriate
17 nontaxable transaction certificate to the seller and the sale
18 shall be made to a common carrier that:

19 (1) after July 1, 2011, made a capital
20 investment of one hundred million dollars (\$100,000,000) or
21 more in new construction or renovations at the railroad
22 locomotive refueling facility in which the fuel is sold; or

23 (2) on or after July 1, 2012, made a capital
24 investment of fifty million dollars (\$50,000,000) or more in
25 new railroad infrastructure improvements, including railroad

1 facilities, track, signals and supporting railroad network,
2 located in New Mexico; provided that the new railroad
3 infrastructure improvements are not required by a regulatory
4 agency to correct problems, such as regular or preventive
5 maintenance, specifically identified by that agency as
6 requiring necessary corrective action.

7 D. The economic development department shall
8 promulgate rules for the issuance of a certificate of
9 eligibility for the purposes of claiming a deduction on fuel
10 loaded or used by a common carrier in a locomotive engine from
11 gross receipts or compensating tax. A common carrier may
12 request a certificate of eligibility from the economic
13 development department to provide to the taxation and revenue
14 department to establish eligibility for a nontaxable
15 transaction certificate for the deduction on fuel loaded or
16 used by a common carrier in a locomotive engine from gross
17 receipts. The taxation and revenue department shall issue
18 nontaxable transaction certificates to a common carrier upon
19 the presentation of a certificate of eligibility obtained from
20 the economic development department pursuant to this
21 subsection.

22 E. The economic development department shall keep
23 a record of temporary and permanent jobs from all railroad
24 activity where a capital investment is made by a common
25 carrier that claims a deduction on fuel loaded or used by a

1 common carrier in a locomotive engine from gross receipts or
2 from compensating tax. The economic development department
3 and the taxation and revenue department shall estimate the
4 amount of state revenue that is attributable to all railroad
5 activity where a capital investment is made by a common
6 carrier that claims a deduction on fuel loaded or used by a
7 common carrier in a locomotive engine from gross receipts or
8 from compensating tax.

9 F. The economic development department shall
10 report the number of jobs created as a result of the deduction
11 and any other information required by the legislature to aid
12 in evaluating the effectiveness of the deduction. A taxpayer
13 who claims a deduction on fuel loaded or used by a common
14 carrier in a locomotive engine from gross receipts or from
15 compensating tax shall provide the economic development
16 department with the information required to compile that
17 report. Notwithstanding any other section of law to the
18 contrary, the economic development department and the taxation
19 and revenue department may disclose the number of taxpayers
20 claiming the deduction, the amount of the deduction claimed,
21 the number of employees of the taxpayer and any other
22 information required by the legislature or the taxation and
23 revenue department to aid in evaluating the effectiveness of
24 the deduction.

25 G. The deduction provided by this section shall be

1 included in the tax expenditure budget pursuant to Section
2 7-1-84 NMSA 1978, including the annual aggregate cost of the
3 deduction."

4 SECTION 87. Section 7-9-112.1 NMSA 1978 (being Laws
5 2024, Chapter 67, Section 39) is amended to read:

6 "7-9-112.1. DEDUCTIONS--GROSS RECEIPTS TAX--
7 COMPENSATING TAX--GEOTHERMAL ELECTRICITY GENERATION-RELATED
8 SALES AND USE.--

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

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

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

24 (3) selling or leasing tangible personal
25 property or selling services that are construction plant

1 costs.

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

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

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

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

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

18 D. The deductions provided by this section shall
19 be included in the tax expenditure budget pursuant to Section
20 7-1-84 NMSA 1978 with an analysis of the effectiveness and
21 cost of the deductions.

22 E. As used in this section:

23 (1) "construction plant costs" means actual
24 expenditures for the development and construction of a
25 geothermal electricity generation facility, including the

1 drilling of wells to at least twelve thousand feet;
2 permitting; site characterization and assessment; engineering;
3 design; site and equipment acquisition; raw materials; and
4 fuel supply development used directly and exclusively in the
5 facility;

6 (2) "geothermal electricity generation
7 facility" means a facility located in New Mexico that
8 generates electricity from geothermal resources and:

9 (a) for a new facility, begins
10 construction on or after January 1, 2025; or

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

15 (3) "geothermal resources" means the natural
16 heat of the earth in excess of two hundred fifty degrees
17 Fahrenheit or the energy, in whatever form, below the surface
18 of the earth present in, resulting from, created by or that
19 may be extracted from this natural heat in excess of two
20 hundred fifty degrees Fahrenheit and all minerals in solution
21 or other products obtained from naturally heated fluids,
22 brines, associated gases and steam, in whatever form, found
23 below the surface of the earth, but excluding oil, hydrocarbon
24 gas and other hydrocarbon substances and excluding the heating
25 and cooling capacity of the earth not resulting from the

1 natural heat of the earth in excess of two hundred fifty
2 degrees Fahrenheit as may be used for the heating and cooling
3 of buildings through an on-site geexchange heat pump or
4 similar on-site system; and

5 (4) "interest in a geothermal electricity
6 generation facility" means title to a geothermal electricity
7 generation facility; a leasehold interest in such facility; an
8 ownership interest in a business or entity that is taxed for
9 federal income tax purposes as a partnership that holds title
10 to or a leasehold interest in such facility; or an ownership
11 interest, through one or more intermediate entities that are
12 each taxed for federal income tax purposes as a partnership,
13 in a business that holds title to or a leasehold interest in
14 such facility."

15 SECTION 88. Section 7-9-115 NMSA 1978 (being Laws 2015
16 (1st S.S.), Chapter 2, Section 9, as amended) is amended to
17 read:

18 "7-9-115. DEDUCTION--GROSS RECEIPTS TAX--GOODS AND
19 SERVICES FOR THE DEPARTMENT OF DEFENSE RELATED TO DIRECTED
20 ENERGY AND SATELLITES.--

21 A. Prior to January 1, 2031, receipts from the
22 sale by a qualified contractor of qualified research and
23 development services and qualified directed energy and
24 satellite-related inputs may be deducted from gross receipts
25 when sold pursuant to a contract with the United States

1 department of defense.

2 B. The purposes of the deduction allowed in this
3 section are to promote new and sophisticated technology,
4 enhance the viability of directed energy and satellite
5 projects, attract new projects and employers to New Mexico and
6 increase high-technology employment opportunities in New
7 Mexico.

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

11 D. The deduction provided by this section shall be
12 included in the tax expenditure budget pursuant to Section
13 7-1-84 NMSA 1978 with an analysis of the effectiveness and
14 cost of the deduction and whether the deduction is performing
15 the purpose for which it was created.

16 E. As used in this section:

17 (1) "directed energy" means a system,
18 including related services, that enables the use of the
19 frequency spectrum, including radio waves, light and x-rays;

20 (2) "inputs" means systems, subsystems,
21 components, prototypes and demonstrators or products and
22 services involving optics, photonics, electronics, advanced
23 materials, nanoelectromechanical and microelectromechanical
24 systems, fabrication materials and test evaluation and
25 computer control systems related to directed energy or

1 satellites;

2 (3) "qualified contractor" means a person
3 other than an organization designated as a national laboratory
4 by act of congress or an operator of national laboratory
5 facilities in New Mexico; provided that the operator may be a
6 qualified contractor with respect to the operator's receipts
7 not connected with operating the national laboratory;

8 (4) "qualified directed energy and
9 satellite-related inputs" means inputs supplied to the
10 department of defense pursuant to a contract with that
11 department entered into on or after January 1, 2016;

12 (5) "qualified research and development
13 services" means research and development services related to
14 directed energy or satellites provided to the department of
15 defense pursuant to a contract with that department entered
16 into on or after January 1, 2016; and

17 (6) "satellite" means composite systems
18 assembled and packaged for use in space, including launch
19 vehicles and related products and services."

20 SECTION 89. Section 7-9-116 NMSA 1978 (being Laws 2018,
21 Chapter 46, Section 1, as amended) is amended to read:

22 "7-9-116. DEDUCTION--GROSS RECEIPTS TAX--RETAIL SALES
23 BY CERTAIN BUSINESSES.--

24 A. Prior to July 1, 2025, receipts from the sale
25 at retail of the following types of tangible personal property

1 may be deducted if the sales price of the property is less
2 than five hundred dollars (\$500) and:

3 (1) the sale occurs during the period
4 beginning at 12:01 a.m. on the first Saturday after
5 Thanksgiving and ending at midnight on the same Saturday;

6 (2) the sale is for:

7 (a) an article of clothing or footwear
8 designed to be worn on or about the human body;

9 (b) accessories, including jewelry,
10 handbags, book bags, backpacks, luggage, wallets, watches and
11 similar items worn or carried on or about the human body,
12 without regard to whether worn on the body in a manner
13 characteristic of clothing;

14 (c) sporting goods and camping
15 equipment;

16 (d) tools used for home improvement,
17 gardening and automotive maintenance and repair;

18 (e) books, journals, paper, writing
19 instruments, art supplies, greeting cards and postcards;

20 (f) works of art, including any
21 painting, drawing, print, photograph, sculpture, pottery or
22 ceramics, carving, textile, basketry, artifact, natural
23 specimen, rare book, authors' papers, objects of historical or
24 technical interest or other article of intrinsic cultural
25 value;

- 1 (g) floral arrangements and indoor
2 plants;
- 3 (h) cosmetics and personal grooming
4 items;
- 5 (i) musical instruments;
6 (j) cookware and small home appliances
7 for residential use;
- 8 (k) bedding, towels and bath
9 accessories;
- 10 (l) furniture;
11 (m) a toy or game that is a physical
12 item, product or object clearly intended and designed to be
13 used by children or families in play;
- 14 (n) a video game or video game console
15 and any associated accessories for the video game console; or
16 (o) home electronics such as computers,
17 phones, tablets, stereo equipment and related electronics
18 accessories; and

19 (3) the sale is made by a seller that
20 carries on a trade or business in New Mexico, maintains its
21 primary place of business in New Mexico, as determined by the
22 department, and employed no more than ten employees at any one
23 time during the previous fiscal year.

24 B. Receipts for sales made by a business that
25 operates under a franchise agreement may not be deducted

1 pursuant to this section.

2 C. The purpose of the deduction provided by this
3 section is to increase sales at small local businesses.

4 D. A taxpayer allowed a deduction pursuant to this
5 section shall report the amount of the deduction separately in
6 a manner required by the department.

7 E. The deduction provided by this section shall be
8 included in the tax expenditure budget pursuant to Section
9 7-1-84 NMSA 1978 with an analysis of the effectiveness and
10 cost of the deduction and whether the deduction is performing
11 the purpose for which it was created."

12 SECTION 90. Section 7-9-119 NMSA 1978 (being Laws 2021,
13 Chapter 7, Section 3) is amended to read:

14 "7-9-119. DEDUCTION--SALES MADE BY DISPENSER'S LICENSE
15 HOLDER.--

16 A. Prior to January 1, 2026, a liquor license
17 holder who held the license on June 30, 2021 may deduct from
18 gross receipts the following receipts, for each dispenser's
19 license for which sales of alcoholic beverages for consumption
20 off premises are less than fifty percent of total alcoholic
21 beverage sales, up to fifty thousand dollars (\$50,000) of
22 receipts from the sale of alcoholic beverages for taxable
23 years 2022 through 2025.

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

1 a manner required by the department.

2 C. The deduction provided by this section shall be
3 included in the tax expenditure budget pursuant to Section
4 7-1-84 NMSA 1978 with an analysis of the cost of the
5 deduction.

6 D. As used in this section:

7 (1) "alcoholic beverage" means alcoholic
8 beverage as defined in the Liquor Control Act;

9 (2) "dispenser's license" means a license
10 issued pursuant to the provisions of the Liquor Control Act
11 allowing the licensee to sell, offer for sale or have in the
12 person's possession with the intent to sell alcoholic
13 beverages both by the drink for consumption on the licensed
14 premises and in unbroken packages, including growlers, for
15 consumption and not for resale off the licensed premises;

16 (3) "growler" means a clean, refillable,
17 resealable container that has a liquid capacity that does not
18 exceed one gallon and that is intended and used for the sale
19 of beer, wine or cider; and

20 (4) "liquor license holder" means a person
21 that holds a retailer's license issued pursuant to Section
22 60-6A-2 NMSA 1978, a special dispenser's license issued
23 pursuant to Section 60-6A-3 NMSA 1978 or a dispenser's license
24 issued pursuant to Section 60-6A-12 NMSA 1978 issued prior to
25 July 1, 2021."

1 SECTION 91. Section 7-9A-5 NMSA 1978 (being Laws 1979,
2 Chapter 347, Section 5, as amended) is amended to read:

3 "7-9A-5. INVESTMENT CREDIT--AMOUNT--CLAIMANT.--

4 A. The investment credit provided for in the
5 Investment Credit Act may be claimed by a taxpayer carrying on
6 a manufacturing operation in New Mexico in an amount equal to:

7 (1) the product of the sum of the
8 compensating tax rate and any municipal or county compensating
9 tax rate multiplied by the value of the qualified equipment;

10 or

11 (2) if the sale is subject to the gross
12 receipts tax, the product of the sum of the state gross
13 receipts tax rate and any municipal or county local option
14 gross receipts tax rates multiplied by the seller's gross
15 receipts from the sale of the qualified equipment.

16 B. If the purchase or the introduction into New
17 Mexico of the qualified equipment is not subject to the gross
18 receipts tax or compensating tax, the rate to determine the
19 amount of the credit shall be equal to the rate of the state
20 gross receipts tax."

21 SECTION 92. Section 7-9C-7 NMSA 1978 (being Laws 1992,
22 Chapter 50, Section 7 and also Laws 1992, Chapter 67, Section
23 7, as amended) is amended to read:

24 "7-9C-7. DEDUCTION--SALE OF A SERVICE FOR RESALE.--

25 Receipts from providing an interstate telecommunications

1 service in this state that will be used by other persons in
2 providing telephone or telegraph services to the final user
3 may be deducted from interstate telecommunications gross
4 receipts if the sale is made to a person who is subject to the
5 interstate telecommunications gross receipts tax or to the
6 gross receipts tax or the compensating tax."

7 SECTION 93. Section 7-9G-1 NMSA 1978 (being Laws 2004,
8 Chapter 15, Section 1, as amended) is amended to read:

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

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

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

18 C. The high-wage jobs tax credit may be claimed
19 and allowed in an amount equal to eight and one-half percent
20 of the wages distributed to an eligible employee in a new
21 high-wage job but shall not exceed twelve thousand seven
22 hundred fifty dollars (\$12,750) per job per qualifying period.
23 The high-wage jobs tax credit may be claimed by an eligible
24 employer for each new high-wage job performed for the year in
25 which the new high-wage job is created and for consecutive

1 qualifying periods.

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

16 E. A new high-wage job shall not be eligible for a
17 credit pursuant to this section for the initial qualifying
18 period unless the eligible employer's total number of
19 employees with threshold jobs on the last day of the initial
20 qualifying period at the location at which the job is
21 performed or based is at least one more than the number of
22 threshold jobs on the day prior to the date the new high-wage
23 job was created. A new high-wage job shall not be eligible
24 for a credit pursuant to this section for a consecutive
25 qualifying period unless the total number of threshold jobs at

1 a location at which the job is performed or based on the last
2 day of that qualifying period is greater than or equal to the
3 number of threshold jobs at that same location on the last day
4 of the initial qualifying period for the new high-wage job.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (4) which qualifying period the application
17 pertains to for each eligible employee;

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

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

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

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

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

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

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

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

1 the date of the credit approval. If the credit exceeds the
2 taxpayer's modified combined tax liability, the excess shall
3 be refunded to the taxpayer.

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

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

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

25 Q. As used in this section:

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

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

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

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

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

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

1 (a) is a dependent of the employer;

2 (b) if the employer is an estate or
3 trust, is a grantor, beneficiary or fiduciary of the estate or
4 trust or is a dependent of a grantor, beneficiary or fiduciary
5 of the estate or trust;

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

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

14 (7) "eligible employer" means an employer
15 that, during the applicable qualifying period, would be
16 eligible for development training program assistance under the
17 fiscal year 2019 policies defining development training
18 program eligibility developed by the industrial training board
19 in accordance with Section 21-19-7 NMSA 1978;

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

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

8 (9) "new high-wage job" means a new job
9 created in New Mexico by an eligible employer on or after July
10 1, 2004 and prior to July 1, 2026 that is occupied for at
11 least forty-four weeks of a qualifying period by an eligible
12 employee who is paid wages calculated for the qualifying
13 period to be at least:

14 (a) sixty thousand dollars (\$60,000) if
15 the job is performed or based in or within ten miles of the
16 external boundaries of a municipality with a population of
17 sixty thousand or more according to the most recent federal
18 decennial census or in a class H county; and

19 (b) forty thousand dollars (\$40,000) if
20 the job is performed or based in a municipality with a
21 population of less than sixty thousand according to the most
22 recent federal decennial census or in the unincorporated area,
23 that is not within ten miles of the external boundaries of a
24 municipality with a population of sixty thousand or more, of a
25 county other than a class H county;

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

5 (11) "qualifying period" means the period of
6 twelve months beginning on the day an eligible employee begins
7 working in a new high-wage job or the period of twelve months
8 beginning on the anniversary of the day an eligible employee
9 began working in a new high-wage job;

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

13 (13) "threshold job" means a job that is
14 occupied for at least forty-four weeks of a calendar year by
15 an eligible employee and that meets the wage requirements for
16 a "new high-wage job"; and

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

1 SECTION 94. Section 7-13-3.5 NMSA 1978 (being Laws
2 1997, Chapter 192, Section 3) is amended to read:

3 "7-13-3.5. BOND REQUIRED OF TAXPAYERS.--

4 A. Except as provided in Subsection H of this
5 section, every taxpayer shall file with the department a bond
6 on a form approved by the attorney general with a surety
7 company authorized by the public regulation commission to
8 transact business in this state as a surety and upon which
9 bond the taxpayer is the principal obligor and the state the
10 obligee. The bond shall be conditioned upon the prompt filing
11 of true reports and the payment by the taxpayer to the
12 department of all taxes levied by the Gasoline Tax Act,
13 together with all applicable penalties and interest thereon.

14 B. In lieu of the bond, the taxpayer may elect to
15 file with the department cash or bonds of the United States or
16 New Mexico or of any political subdivision of the state.

17 C. The total amount of the bond, cash or
18 securities required of any taxpayer shall be fixed by the
19 department and may be increased or reduced by the department
20 at any time, subject to the limitations provided in this
21 section.

22 D. In fixing the total amount of the bond, cash or
23 securities required of any taxpayer required to post bond, the
24 department shall require an equivalent in total amount to at
25 least two times the amount of the department's estimate of the

1 taxpayer's monthly gasoline tax, determined in such manner as
2 the secretary may deem proper; provided, however, the total
3 amount of bond, cash or securities required of a taxpayer
4 shall never be less than one thousand dollars (\$1,000).

5 E. In the event the department decides that the
6 amount of the existing bond, cash or securities is
7 insufficient to insure payment to this state of the amount of
8 the gasoline tax and any penalties and interest for which the
9 taxpayer is or may at any time become liable, the taxpayer,
10 upon written demand of the department mailed to the last known
11 address of the taxpayer as shown on the records of the
12 department, shall file an additional bond, cash or securities
13 in the manner, form and amount determined by the department to
14 be necessary to secure at all times the payment by the
15 taxpayer of all taxes, penalties and interest due under the
16 Gasoline Tax Act.

17 F. A surety on a bond furnished by a taxpayer as
18 required by this section shall be released and discharged from
19 all liability accruing on the bond after the expiration of
20 ninety days from the date upon which the surety files with the
21 department a written request to be released and discharged;
22 provided, however, that such request shall not operate to
23 release or discharge the surety from any liability already
24 accrued or that shall accrue before the expiration of the
25 ninety-day period, unless a new bond is filed during the

1 ninety-day period, in which case the previous bond may be
2 canceled as of the effective date of the new bond. On receipt
3 of notice of such request, the department promptly shall
4 notify the taxpayer who furnished the bond that the taxpayer,
5 on or before the expiration of the ninety-day period, shall
6 file with the department a new bond with a surety satisfactory
7 to the department in the amount and form required in this
8 section.

9 G. The taxpayer required to file bond with or
10 provide cash or securities to the department in accordance
11 with this section and who is required by another state law to
12 file another bond with or provide cash or securities to the
13 department may elect to file a combined bond or provide cash
14 or securities applicable to the provisions of both this
15 section and the other law, with the approval of the secretary.
16 The amount of the combined bond, cash or securities shall be
17 determined by the department and the form of the combined bond
18 shall be approved by the attorney general.

19 H. A taxpayer required to file a bond pursuant to
20 the provisions of this section who, for a twenty-four
21 consecutive month period, has not been a delinquent taxpayer
22 pursuant to the Gasoline Tax Act may request to be exempt from
23 the requirement to file a bond beginning with the first day of
24 the first month following the end of the twenty-four month
25 period. If a taxpayer exempted pursuant to this subsection

1 subsequently becomes a delinquent taxpayer under the Gasoline
2 Tax Act, the department may terminate the exemption and
3 require the filing of a bond in accordance with this section.
4 If the department terminates the exemption, the termination
5 shall not be effective any earlier than ten days after the
6 date the department notifies the taxpayer in writing of the
7 termination."

8 SECTION 95. Section 7-13A-3 NMSA 1978 (being Laws 1990,
9 Chapter 124, Section 16, as amended) is amended to read:

10 "7-13A-3. IMPOSITION AND RATE OF FEE--DENOMINATION AS
11 "PETROLEUM PRODUCTS LOADING FEE".--

12 A. For the privilege of loading gasoline or
13 special fuel from a rack at a refinery or pipeline terminal in
14 this state into a cargo tank, there is imposed a fee on the
15 distributor at a rate of one hundred fifty dollars (\$150) per
16 load on each gallon of gasoline or special fuel loaded in New
17 Mexico on which the petroleum products loading fee has not
18 been previously paid. The fee imposed by this section may be
19 referred to as the "petroleum products loading fee".

20 B. For the privilege of importing gasoline or
21 special fuel into this state for resale or consumption in this
22 state there is imposed a fee as provided in Subsection A of
23 this section on each load of gasoline or special fuel imported
24 into New Mexico for resale or consumption on which the
25 petroleum products loading fee has not been previously paid.

1 For the purposes of this section, "load" means eight thousand
2 gallons of gasoline or special fuel. To determine how many
3 loads a person is to report under the provisions of this
4 section, the person shall divide by eight thousand the total
5 gallons of gasoline reported for the purposes of Section
6 7-13-3 NMSA 1978 as adjusted under the provisions of Section
7 7-13-4 NMSA 1978 and the total gallons of special fuels
8 received in New Mexico less any gallons exempted under Section
9 7-13A-4 NMSA 1978. Loads shall be calculated to the nearest
10 one-hundredth of a load."

11 SECTION 96. Section 7-13A-5 NMSA 1978 (being Laws 1990,
12 Chapter 124, Section 18, as amended) is amended to read:

13 "7-13A-5. DEDUCTION--GASOLINE OR SPECIAL FUELS
14 RETURNED--BIODIESEL FOR SUBSEQUENT BLENDING OR RESALE BY A
15 RACK OPERATOR.--

16 A. Refunds and allowances made to buyers for
17 gasoline or special fuels returned to the refiner, pipeline
18 terminal operator or distributor or amounts of gasoline or
19 special fuels, the payment for which has not been collected
20 and has been determined to be uncollectible pursuant to rules
21 issued by the secretary may be deducted from gallons used to
22 determine loads for the purposes of calculating the petroleum
23 products loading fee. If such a payment is subsequently
24 collected, the gallons represented shall be included in
25 determining loads. The deduction under the provisions of this

1 section shall not be allowed if the petroleum products loading
2 fee has not been paid previously on the petroleum products
3 that were returned to the seller or the sale of which created
4 an uncollectible debt.

5 B. Biodiesel, as defined in the Special Fuels
6 Supplier Tax Act, loaded in or imported into New Mexico and
7 delivered to a rack operator for subsequent blending or resale
8 by a rack operator may be deducted from gallons used to
9 determine loads for the purposes of calculating the petroleum
10 products loading fee.

11 C. A taxpayer that deducts an amount of biodiesel
12 pursuant to Subsection B of this section shall report the
13 deducted amount separately with the taxpayer's return in a
14 manner prescribed by the department.

15 D. The deduction provided by this section shall be
16 included in the tax expenditure budget pursuant to Section
17 7-1-84 NMSA 1978, including the annual aggregate cost of the
18 deduction.

19 E. For purposes of this section, "rack operator"
20 means the operator of a refinery in this state or the owner of
21 special fuel stored at a pipeline terminal in this state."

22 **SECTION 97.** Section 7-16A-9.4 NMSA 1978 (being Laws
23 2013, Chapter 109, Section 3) is amended to read:

24 "7-16A-9.4. REPORTING REQUIREMENTS--SPECIAL FUEL
25 DEDUCTION--BIODIESEL.--

1 A. A taxpayer that deducts an amount of special
2 fuel that is biodiesel from the total amount of special fuel
3 received in New Mexico pursuant to Paragraph (2) of Subsection
4 H of Section 7-16A-10 NMSA 1978 shall report the deducted
5 amount separately with the taxpayer's return in a manner
6 prescribed by the department.

7 B. The deduction provided by this section shall be
8 included in the tax expenditure budget pursuant to Section
9 7-1-84 NMSA 1978, including the annual aggregate cost of the
10 deduction."

11 **SECTION 98.** Section 7-16A-13.1 NMSA 1978 (being Laws
12 2001, Chapter 43, Section 2, as amended by Laws 2006, Chapter
13 73, Section 1 and by Laws 2006, Chapter 74, Section 2) is
14 amended to read:

15 "7-16A-13.1. CLAIM FOR REFUND OF SPECIAL FUEL EXCISE
16 TAX PAID ON SPECIAL FUEL.--

17 A. Upon the submission of proof satisfactory to
18 the department, a user of special fuel may submit and the
19 department may allow a claim for refund of tax paid on special
20 fuel used to propel a vehicle authorized by contract with the
21 public education department or with a public school district
22 as a school bus, to propel a vehicle off-road, to operate
23 auxiliary equipment by a power take-off from the main engine
24 or transmission of a vehicle or to operate a non-automotive
25 apparatus mounted on a vehicle when the special fuel used for

1 such purposes and the special fuel used to propel the vehicle
2 on the highways are drawn from a common supply tank. The
3 vehicle must be registered with the department. The user must
4 be registered with the department for purposes of reporting
5 and paying gross receipts tax.

6 B. No person may submit claims for refund pursuant
7 to the provisions of this section more frequently than
8 quarterly. No claim for refund may be submitted or allowed on
9 less than one hundred gallons.

10 C. The department may prescribe the documents
11 necessary to support a claim for refund pursuant to the
12 provisions of this section. The department may prescribe the
13 use of types of monitoring or measuring equipment."

14 SECTION 99. Section 7-16A-15 NMSA 1978 (being Laws
15 1992, Chapter 51, Section 15, as amended) is amended to read:

16 "7-16A-15. BOND REQUIRED OF SUPPLIER.--

17 A. Except as provided in Subsection H of this
18 section, every supplier shall file with the department a bond
19 on a form approved by the attorney general with a surety
20 company authorized by the public regulation commission to
21 transact business in this state as a surety and upon which
22 bond the supplier is the principal obligor and the state the
23 obligee. The bond shall be conditioned upon the prompt filing
24 of true reports and the payment by the supplier to the
25 department of all taxes levied by the Special Fuels Supplier

1 Tax Act, together with all applicable penalties and interest
2 thereon.

3 B. In lieu of the bond, the supplier may elect to
4 file with the department cash or bonds of the United States or
5 New Mexico or of any political subdivision of the state.

6 C. The total amount of the bond, cash or
7 securities required of any supplier shall be fixed by the
8 department and may be increased or reduced by the department
9 at any time, subject to the limitations provided in this
10 section.

11 D. In fixing the total amount of the bond, cash or
12 securities required of any supplier required to post bond, the
13 department shall require an equivalent in total amount to at
14 least two times the amount of the department's estimate of the
15 supplier's monthly tax, determined in such manner as the
16 secretary may deem proper; provided, however, the total amount
17 of bond, cash or securities required of a supplier shall never
18 be less than one thousand dollars (\$1,000).

19 E. In the event the department decides that the
20 amount of the existing bond, cash or securities is
21 insufficient to insure payment to this state of the amount of
22 the tax and any penalties and interest for which the supplier
23 is or may at any time become liable, the supplier shall, upon
24 written demand of the department mailed to the last known
25 address of the supplier as shown on the records of the

1 department, file an additional bond, cash or securities in the
2 manner, form and amount determined by the department to be
3 necessary to secure at all times the payment by the supplier
4 of all taxes, penalties and interest due pursuant to the
5 Special Fuels Supplier Tax Act.

6 F. Any surety on any bond furnished by any
7 supplier as required by this section shall be released and
8 discharged from all liability accruing on the bond after the
9 expiration of ninety days from the date upon which the surety
10 files with the department a written request to be released and
11 discharged; provided, however, the request shall not operate
12 to release or discharge the surety from any liability already
13 accrued or that shall accrue before the expiration of the
14 ninety-day period, unless a new bond is filed during the
15 ninety-day period, in which case the previous bond may be
16 canceled as of the effective date of the new bond. On receipt
17 of notice of such request, the department shall notify
18 promptly the supplier who furnished the bond that the supplier
19 shall, on or before the expiration of the ninety-day period,
20 file with the department a new bond with a surety satisfactory
21 to the department in the amount and form required in this
22 section.

23 G. The supplier required to file bond with or
24 provide cash or securities to the department in accordance
25 with this section and who is required by any other state law

1 to file another bond with or provide cash or securities to the
2 department may elect to file a combined bond or provide cash
3 or securities applicable to the provisions of both this
4 section and the other law, with the approval of the secretary.
5 The amount of the combined bond, cash or securities shall be
6 determined by the department and the form of the combined bond
7 shall be approved by the attorney general.

8 H. A supplier required to file a bond pursuant to
9 the provisions of this section who, for a twenty-four
10 consecutive month period, has not been a delinquent taxpayer
11 pursuant to the Special Fuels Supplier Tax Act may request to
12 be exempt from the requirement to file a bond beginning with
13 the first day of the first month following the end of the
14 twenty-four month period. If a supplier exempted pursuant to
15 this subsection subsequently becomes a delinquent taxpayer
16 pursuant to the Special Fuels Supplier Tax Act, the department
17 may terminate the exemption and require the filing of a bond
18 in accordance with this section. If the department terminates
19 the exemption, the termination shall not be effective any
20 earlier than ten days after the date the department notifies
21 the supplier in writing of the termination."

22 SECTION 100. Section 7-16B-4 NMSA 1978 (being Laws
23 1995, Chapter 16, Section 4, as amended) is amended to read:

24 "7-16B-4. IMPOSITION AND RATE OF TAX--DENOMINATION AS
25 ALTERNATIVE FUEL EXCISE TAX.--

1 A. For the privilege of distributing alternative
2 fuel in this state, there is imposed an excise tax at a rate
3 provided in Subsection C of this section on each gallon of
4 alternative fuel distributed in New Mexico.

5 B. The tax imposed by this section may be called
6 the "alternative fuel excise tax".

7 C. For each gallon of alternative fuel distributed
8 in New Mexico, the tax imposed by Subsection A of this section
9 shall be:

10 (1) for alternative fuel that is compressed
11 natural gas, thirteen and three-tenths cents (\$.133) per
12 gallon;

13 (2) for alternative fuel that is liquefied
14 natural gas, twenty and six-tenths cents (\$.206) per gallon;
15 and

16 (3) for alternative fuel not described in
17 Paragraph (1) or (2) of this subsection, twelve cents (\$.12)
18 per gallon.

19 D. Alternative fuel purchased for distribution
20 shall not be subject to the alternative fuel excise tax at the
21 time of purchase or acquisition, but the tax shall be due on
22 any alternative fuel at the time it is dispensed or delivered
23 into the supply tank of a motor vehicle that is operated on
24 the highways of this state."

1 1979, Chapter 397, Section 2, as amended) is amended to read:

2 "7-19-11. DEFINITIONS.--As used in the Supplemental
3 Municipal Gross Receipts Tax Act:

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

8 B. "governing body" means the city council or city
9 commission of a municipality;

10 C. "municipality" means any incorporated city,
11 town or village having previously qualified to impose and did
12 impose the tax pursuant to the provisions of the Supplemental
13 Municipal Gross Receipts Tax Act in effect prior to the
14 enactment of Laws 1997, Chapter 219;

15 D. "person" means an individual or any other legal
16 entity;

17 E. "refunding bonds" means bonds issued pursuant
18 to the provisions of the Supplemental Municipal Gross Receipts
19 Tax Act to refund supplemental municipal gross receipts tax
20 bonds issued pursuant to the provisions of that act;

21 F. "state gross receipts tax" means the gross
22 receipts tax imposed under the Gross Receipts and Compensating
23 Tax Act; and

24 G. "supplemental municipal gross receipts tax"
25 means the tax authorized to be imposed under the Supplemental

1 Municipal Gross Receipts Tax Act."

2 SECTION 102. Section 7-19-12 NMSA 1978 (being Laws
3 1979, Chapter 397, Section 3, as amended) is amended to read:

4 "7-19-12. AUTHORIZATION TO IMPOSE SUPPLEMENTAL
5 MUNICIPAL GROSS RECEIPTS TAX--AUTHORIZATION FOR ISSUANCE OF
6 SUPPLEMENTAL MUNICIPAL GROSS RECEIPTS BONDS--ELECTION
7 REQUIRED.--

8 A. The majority of the members elected to the
9 governing body of a municipality may enact an ordinance
10 imposing an excise tax on any person engaging in business in
11 the municipality for the privilege of engaging in business in
12 the municipality. This tax is to be referred to as the
13 "supplemental municipal gross receipts tax". The rate of the
14 tax shall not exceed one percent of the gross receipts of the
15 person engaging in business and shall be imposed in one-fourth
16 percent increments if less than one percent.

17 B. The governing body of a municipality enacting
18 an ordinance imposing the tax authorized in Subsection A of
19 this section shall submit the question of imposing such tax
20 and the question of the issuance of supplemental municipal
21 gross receipts bonds in an amount not to exceed nine million
22 dollars (\$9,000,000), for which the revenue from the
23 supplemental municipal gross receipts tax is dedicated, to the
24 qualified electors of the municipality at a regular or special
25 election.

1 C. The questions referred to in Subsection B of
2 this section shall be submitted to a vote of the qualified
3 electors of the municipality as two separate ballot questions,
4 which shall be substantially in the following form:

5 (1) "Shall the municipality be authorized to
6 issue supplemental municipal gross receipts bonds in an amount
7 of not exceeding _____ dollars for the purpose
8 of constructing and equipping and otherwise acquiring a
9 municipal water supply system?

10 For _____ Against _____"; and

11 (2) "Shall the municipality impose an excise
12 tax for the privilege of engaging in business in the
13 municipality which shall be known as the "supplemental
14 municipal gross receipts tax" and which shall be imposed at a
15 rate of _____ percent of the gross receipts of the person
16 engaging in business, the proceeds of which are dedicated to
17 the payment of supplemental municipal gross receipts bonds?

18 For _____ Against _____".

19 D. Only those voters who are registered electors
20 who reside within the municipality shall be permitted to vote
21 on these two questions. The procedures for conducting the
22 election shall be substantially the same as the applicable
23 provisions in Sections 3-30-1, 3-30-6 and 3-30-7 NMSA 1978
24 relating to municipal debt.

25 E. If at an election called pursuant to this

1 section a majority of the voters voting on each of the two
2 questions votes in the affirmative on each question, the
3 ordinance imposing the supplemental municipal gross receipts
4 tax shall be approved. If at such election a majority of the
5 voters voting on such questions fails to approve any of the
6 questions, the ordinance imposing the tax shall be disapproved
7 and the questions required to be submitted by Subsection B of
8 this section shall not be submitted to the voters for a period
9 of one year from the date of the election.

10 F. Except as provided in Subsection G of this
11 section, any ordinance enacted under the provisions of this
12 section shall include an effective date of the first July 1
13 after the expiration of at least three months from the date of
14 the election. A certified copy of any ordinance imposing a
15 supplemental municipal gross receipts tax shall be mailed to
16 the department within five days after the ordinance is adopted
17 by the approval by the electorate. Any ordinance repealing
18 the imposition of a tax under the provisions of the
19 Supplemental Municipal Gross Receipts Tax Act shall become
20 effective on the first July 1 after the expiration of at least
21 three months from the date the ordinance is repealed by the
22 governing body.

23 G. If the governor declares a state of emergency,
24 or if there is an unforeseen occurrence that would cause a
25 municipality's reserves to drop below the amount required by

1 the local government division of the department of finance and
2 administration, as certified by the division, an ordinance
3 imposing a tax or an increment of a tax may become effective
4 on the first January 1 after the expiration of at least three
5 months after such a declaration or event and notification to
6 the department."

7 SECTION 103. Section 7-19-13 NMSA 1978 (being Laws
8 1979, Chapter 397, Section 4) is amended to read:

9 "7-19-13. ORDINANCE SHALL CONFORM TO CERTAIN PROVISIONS
10 OF THE GROSS RECEIPTS AND COMPENSATING TAX ACT AND
11 REQUIREMENTS OF THE DEPARTMENT.--

12 A. Any ordinance imposing a supplemental municipal
13 gross receipts tax shall adopt by reference the same
14 definitions and the same provisions relating to exemptions and
15 deductions as are contained in the Gross Receipts and
16 Compensating Tax Act then in effect and as it may be amended
17 from time to time.

18 B. The governing body of any municipality imposing
19 or increasing the supplemental municipal gross receipts tax
20 shall adopt the language of the model ordinance furnished to
21 the municipality by the department for the portion of the
22 ordinance relating to the tax."

23 SECTION 104. Section 7-19-14 NMSA 1978 (being Laws
24 1979, Chapter 397, Section 5, as amended) is amended to read:

25 "7-19-14. SPECIFIC EXEMPTIONS.--No supplemental

1 municipal gross receipts tax shall be imposed on the gross
2 receipts arising from a business located outside the
3 boundaries of a municipality on land owned by that
4 municipality for which a gross receipts tax distribution is
5 made pursuant to Section 7-1-6.4 NMSA 1978."

6 SECTION 105. Section 7-19-16 NMSA 1978 (being Laws
7 1979, Chapter 397, Section 7) is amended to read:

8 "7-19-16. INTERPRETATION OF ACT--ADMINISTRATION AND
9 ENFORCEMENT OF TAX.--

10 A. The department shall interpret the provisions
11 of the Supplemental Municipal Gross Receipts Tax Act.

12 B. The department shall administer and enforce the
13 collection of the supplemental municipal gross receipts tax,
14 and the Tax Administration Act applies to the administration
15 and enforcement of the tax."

16 SECTION 106. Section 7-19D-3 NMSA 1978 (being Laws
17 1993, Chapter 346, Section 3) is amended to read:

18 "7-19D-3. EFFECTIVE DATE OF ORDINANCE.--

19 A. Except as provided in Subsection B of this
20 section, an ordinance imposing, amending or repealing a tax or
21 an increment of tax authorized by the Municipal Local Option
22 Gross Receipts and Compensating Taxes Act shall be effective
23 on the first July 1 after the expiration of at least three
24 months from the date the adopted ordinance is mailed or
25 delivered to the department.

1 B. If the governor declares a state of emergency,
2 or if there is an unforeseen occurrence that would cause a
3 municipality's reserves to drop below the amount required by
4 the local government division of the department of finance and
5 administration, as certified by the division, an ordinance
6 imposing a tax or an increment of a tax may become effective
7 on the first January 1 after the expiration of at least three
8 months after such a declaration or event and notification to
9 the department.

10 C. The ordinance imposing, amending or repealing a
11 tax or an increment of tax shall include the effective date."

12 **SECTION 107.** Section 7-19D-5 NMSA 1978 (being Laws
13 1993, Chapter 346, Section 5, as amended) is amended to read:

14 "7-19D-5. SPECIFIC EXEMPTIONS.--No tax authorized by
15 the provisions of the Municipal Local Option Gross Receipts
16 and Compensating Taxes Act shall be imposed on the gross
17 receipts arising from a business located outside the
18 boundaries of a municipality on land owned by that
19 municipality for which a state gross receipts tax distribution
20 is made pursuant to Section 7-1-6.4 NMSA 1978."

21 **SECTION 108.** Section 7-19D-17 NMSA 1978 (being Laws
22 2012, Chapter 58, Section 1, as amended) is amended to read:

23 "7-19D-17. FEDERAL WATER PROJECT GROSS RECEIPTS TAX--
24 AUTHORIZATION--USE OF REVENUE--REFERENDUM.--

25 A. A majority of the members of the governing body

HB 218/a
Page 301

1 of a municipality may enact an ordinance imposing an excise
2 tax on any person engaging in business in the municipality for
3 the privilege of engaging in business. The rate of the tax
4 shall not exceed one-fourth percent of the gross receipts of
5 the person engaging in business. An ordinance enacting the
6 tax authorized by this section is subject to a positive
7 referendum.

8 B. The tax imposed pursuant to this section may be
9 referred to as the "federal water project gross receipts tax".

10 C. The governing body of a municipality, at the
11 time of enacting an ordinance imposing the rate of the tax
12 authorized in this section, shall dedicate the revenue for the
13 repayment of loan obligations to the federal government for
14 the construction, expansion, operation and maintenance of a
15 water delivery system and for the expansion, operation and
16 maintenance of that water delivery system after the loan
17 obligation to the federal government is retired or repaid.
18 The revenue from the federal water project gross receipts tax
19 shall not be dedicated to repay revenue bonds or any other
20 form of bonds.

21 D. An ordinance imposing the federal water project
22 gross receipts tax shall not go into effect until an election
23 is held and a majority of the voters of the municipality
24 voting in the election votes in favor of imposing the tax.
25 The governing body shall adopt a resolution calling for an

1 election within seventy-five days of the date the ordinance is
2 adopted on the question of imposing the tax. The question
3 shall be submitted to the voters of the municipality as a
4 separate question at a regular local election or at a special
5 election called for that purpose by the governing body. An
6 election shall be called, conducted and canvassed as provided
7 in the Local Election Act. If a majority of the voters voting
8 on the question approves the ordinance imposing the federal
9 water project gross receipts tax, then the ordinance shall
10 become effective on July 1 in accordance with the provisions
11 of the Municipal Local Option Gross Receipts and Compensating
12 Taxes Act. If the question of imposing the federal water
13 project gross receipts tax fails, the governing body shall not
14 again propose the imposition of the tax for a period of one
15 year from the date of the election.

16 E. As used in this section, "municipality" means
17 an incorporated municipality that has a population pursuant to
18 the most recent federal decennial census of greater than
19 twenty thousand but less than twenty-five thousand and is
20 located in a class B county."

21 SECTION 109. Section 7-20E-3 NMSA 1978 (being Laws
22 1993, Chapter 354, Section 3, as amended) is amended to read:

23 "7-20E-3. OPTIONAL REFERENDUM SELECTION--EFFECTIVE DATE
24 OF ORDINANCE.--

25 A. The governing body of a county imposing a tax

1 or an increment of tax authorized by the County Local Option
2 Gross Receipts and Compensating Taxes Act or any other county
3 local option gross receipts tax act that is subject to
4 optional referendum selection shall select, when enacting the
5 ordinance imposing the tax, one of the following referendum
6 options:

7 (1) except as provided in Subsection C of
8 this section, the ordinance imposing the tax or increment of
9 tax shall go into effect on July 1 in accordance with the
10 provisions of the County Local Option Gross Receipts and
11 Compensating Taxes Act, but an election may be called in the
12 county on the question of approving or disapproving that
13 ordinance as follows:

14 (a) an election shall be called when:

15 1) in a county having a referendum provision in its charter, a
16 petition requesting such an election is filed pursuant to the
17 requirements of that provision in the charter and signed by
18 the number of registered voters in the county equal to the
19 number of registered voters required in its charter to seek a
20 referendum; and 2) in all other counties, a petition
21 requesting such an election is filed with the county clerk
22 within sixty days of enactment of the ordinance by the
23 governing body and the petition has been signed by a number of
24 registered voters in the county equal to at least five percent
25 of the number of the voters in the county who were registered

1 to vote in the most recent general election;

2 (b) the signatures on the petition
3 requesting an election shall be verified by the county clerk.
4 If the petition is verified by the county clerk as containing
5 the required number of signatures of registered voters, the
6 governing body shall adopt a resolution calling an election on
7 the question of approving or disapproving the ordinance. The
8 election shall be held within sixty days after the date the
9 petition is verified by the county clerk, or it may be held in
10 conjunction with a general election if that election occurs
11 within sixty days after the date of the verification. The
12 election shall be called, held, conducted and canvassed in
13 substantially the same manner as provided by law for general
14 elections; and

15 (c) if a majority of the registered
16 voters voting on the question approves the ordinance, the
17 ordinance shall go into effect on July 1 or January 1 in
18 accordance with the provisions of the County Local Option
19 Gross Receipts and Compensating Taxes Act. If at such an
20 election a majority of the registered voters voting on the
21 question disapproves the ordinance, the ordinance imposing the
22 tax shall be deemed repealed and the question of imposing the
23 tax or increment of tax shall not be considered again by the
24 governing body for a period of one year from the date of the
25 election; or

1 (2) the ordinance imposing the tax or
2 increment of tax shall not go into effect until after an
3 election is held and a simple majority of the registered
4 voters of the county voting on the question votes in favor of
5 imposing the tax or increment of tax. The governing body
6 shall adopt a resolution calling for an election within
7 seventy-five days of the date the ordinance is adopted on the
8 question of imposing the tax or increment of tax. Such
9 question may be submitted to the voters and voted upon as a
10 separate question at any general election or at any special
11 election called for that purpose by the governing body. The
12 election upon the question shall be called, held, conducted
13 and canvassed in substantially the same manner as may be
14 provided by law for general elections. If the question of
15 imposing the tax or increment of tax fails, the governing body
16 shall not again propose the tax or increment of tax for a
17 period of one year after the election.

18 B. Except as provided in Subsection C of this
19 section, an ordinance imposing, amending or repealing a tax or
20 an increment of tax authorized by the County Local Option
21 Gross Receipts and Compensating Taxes Act shall be effective
22 on the first July 1 after the expiration of at least three
23 months from the date the adopted ordinance is mailed or
24 delivered to the department.

25 C. If the governor declares a state of emergency,

1 or if there is an unforeseen occurrence that would cause a
2 county's reserves to drop below the amount required by the
3 local government division of the department of finance and
4 administration, as certified by the division, an ordinance
5 imposing a tax or an increment of a tax may become effective
6 on the first January 1 after the expiration of at least three
7 months after such a declaration or event and notification to
8 the department.

9 D. The ordinance imposing, amending or repealing a
10 tax or an increment of tax shall include the effective date."

11 SECTION 110. Section 7-20E-13 NMSA 1978 (being Laws
12 1987, Chapter 45, Section 3, as amended) is amended to read:

13 "7-20E-13. SPECIAL COUNTY HOSPITAL GROSS RECEIPTS TAX--
14 AUTHORITY TO IMPOSE--ORDINANCE REQUIREMENTS.--

15 A. The majority of the members of the governing
16 body may enact an ordinance imposing an excise tax on any
17 person engaging in business in the county for the privilege of
18 engaging in business. The rate of the tax shall be one-eighth
19 percent of the gross receipts of the person engaging in
20 business. The tax shall be imposed for a period of not more
21 than five years from the effective date of the ordinance
22 imposing the tax. Having once enacted an ordinance under this
23 section, the governing body may enact subsequent ordinances
24 for succeeding periods of not more than five years; provided
25 that each such ordinance meets the requirements of the County

1 Local Option Gross Receipts and Compensating Taxes Act with
2 respect to the tax imposed by this section.

3 B. The tax imposed by this section may be referred
4 to as the "special county hospital gross receipts tax".

5 C. For the purposes of this section, "county"
6 means:

7 (1) a county:

8 (a) having a population of more than
9 ten thousand but less than ten thousand six hundred, according
10 to the last federal decennial census or any subsequent
11 decennial census, and having a net taxable value for
12 rate-setting purposes for the 1986 property tax year or any
13 subsequent year of more than eighty-two million dollars
14 (\$82,000,000) but less than eighty-two million three hundred
15 thousand dollars (\$82,300,000);

16 (b) that has imposed a rate of one
17 dollar fifty cents (\$1.50) to each one thousand dollars
18 (\$1,000) of net taxable value of property as defined in the
19 Property Tax Code for property taxation purposes in the county
20 and to each one thousand dollars (\$1,000) of the assessed
21 value of products severed and sold in the school district as
22 determined under the Oil and Gas Ad Valorem Production Tax Act
23 and the Oil and Gas Production Equipment Ad Valorem Tax Act or
24 has made an appropriation of funds or has imposed another tax
25 that produces an amount not less than the revenue that would

1 be produced by applying a rate of one dollar fifty cents
2 (\$1.50) to each one thousand dollars (\$1,000) of net taxable
3 value of property as defined in the Property Tax Code for
4 property taxation purposes in the school district and to each
5 one thousand dollars (\$1,000) of the assessed value of
6 products severed and sold in the school district as determined
7 under the Oil and Gas Ad Valorem Production Tax Act and the
8 Oil and Gas Production Equipment Ad Valorem Tax Act. The
9 proceeds of any tax imposed or appropriation made shall be
10 dedicated for current operations and maintenance of a hospital
11 owned and operated by the county or operated and maintained by
12 another party pursuant to a lease with the county; and

13 (c) having qualified at any time under
14 this definition shall continue to be qualified as a county and
15 authorized to implement the provisions of this section; and

16 (2) a class B county having a population of
17 more than seventeen thousand five hundred but less than
18 nineteen thousand according to the 1990 federal decennial
19 census and having a net taxable value for property tax rate-
20 setting purposes of under three hundred million dollars
21 (\$300,000,000).

22 D. The governing body of a county described in
23 Paragraph (1) of Subsection C of this section shall, at the
24 time of enacting an ordinance imposing the rate of the tax
25 authorized in Subsection A of this section, dedicate the

1 revenue for current operations and maintenance of a hospital
2 owned and operated by the county or operated and maintained by
3 another party pursuant to a lease with the county, and the use
4 of these proceeds shall be for the care and maintenance of
5 sick and indigent persons and shall be an expenditure for a
6 public purpose. In any election held, the ballot shall
7 clearly state the purpose to which the revenue will be
8 dedicated, and the revenue shall be used by the county for
9 that purpose.

10 E. The governing body of a county described in
11 Paragraph (2) of Subsection C of this section shall, at the
12 time of enacting an ordinance imposing the rate of the tax
13 authorized in Subsection A of this section, dedicate the
14 revenue for county ambulance transport costs or for operation
15 of a rural health clinic. In any election held, the ballot
16 shall clearly state the purposes to which the revenue will be
17 dedicated, and the revenue shall be used by the county for
18 those purposes.

19 F. Any ordinance enacted under the provisions of
20 Subsection A of this section shall include an effective date
21 of July 1 in accordance with the provisions of the County
22 Local Option Gross Receipts and Compensating Taxes Act.

23 G. The ordinance shall not go into effect until
24 after an election is held and a simple majority of the
25 qualified electors of the county voting in the election votes

1 in favor of imposing the special county hospital gross
2 receipts tax. The governing body shall adopt a resolution
3 calling for an election within seventy-five days of the date
4 the ordinance is adopted on the question of imposing the tax.
5 The question may be submitted to the qualified electors and
6 voted upon as a separate question in a general election or in
7 any special election called for that purpose by the governing
8 body. A special election upon the question shall be called,
9 held, conducted and canvassed in substantially the same manner
10 as provided by law for general elections. If the question of
11 imposing a special county hospital gross receipts tax fails,
12 the governing body shall not again propose a special county
13 hospital gross receipts tax for a period of one year after the
14 election. A certified copy of any ordinance imposing a
15 special county hospital gross receipts tax shall be mailed to
16 the department within five days after the ordinance is adopted
17 in any election called for that purpose.

18 H. A single election may be held on the question
19 of imposing a special county hospital gross receipts tax as
20 authorized in this section and on the question of imposing a
21 mill levy pursuant to the Hospital Funding Act."

22 **SECTION 111.** Section 7-20E-18 NMSA 1978 (being Laws
23 1991, Chapter 212, Section 7, as amended) is amended to read:

24 "7-20E-18. COUNTY HEALTH CARE GROSS RECEIPTS TAX--
25 AUTHORITY TO IMPOSE RATE.--

1 A. The majority of the members of the governing
2 body of any county may enact an ordinance imposing an excise
3 tax at a rate of one-sixteenth percent of the gross receipts
4 of any person engaging in business in the county for the
5 privilege of engaging in business in the county. Any
6 ordinance imposing an excise tax pursuant to this section
7 shall not be subject to a referendum. The governing body of a
8 county shall, at the time of enacting an ordinance imposing
9 the tax, dedicate the revenue to the county-supported medicaid
10 fund. This tax is to be referred to as the "county health
11 care gross receipts tax".

12 B. In addition to the imposition of the county
13 health care gross receipts tax authorized by Subsection A of
14 this section, the majority of the members of the governing
15 body of a county having a population of more than five hundred
16 thousand persons according to the most recent federal
17 decennial census may enact an ordinance imposing an additional
18 one-sixteenth percent increment of county health care gross
19 receipts tax; provided that the imposition of the additional
20 increment shall be for a period that ends no later than June
21 30, 2009. To continue an increment after June 30, 2009 or
22 beyond any five-year period for which the increment has been
23 imposed, the members of the governing body shall review the
24 need for the increment and if the majority of the members vote
25 in favor of continuing the increment imposed pursuant to this

1 subsection, the increment shall be imposed for an additional
2 period of five years. The governing body of the county shall,
3 at the time of enacting an ordinance imposing the additional
4 increment of county health care gross receipts tax, dedicate
5 the revenue to the support of indigent patients.

6 C. Any ordinance enacted pursuant to the
7 provisions of Subsection A or B of this section shall include
8 an effective date of July 1 in accordance with the provisions
9 of the County Local Option Gross Receipts and Compensating
10 Taxes Act."

11 SECTION 112. Section 7-20E-26 NMSA 1978 (being Laws
12 2007, Chapter 346, Section 1) is amended to read:

13 "7-20E-26. WATER AND SANITATION GROSS RECEIPTS TAX--
14 AUTHORITY TO IMPOSE--RATE--ELECTION--USE OF REVENUE.--

15 A. An excise tax imposed by a governing body
16 pursuant to this section may be referred to as the "water and
17 sanitation gross receipts tax". The water and sanitation
18 gross receipts tax shall be imposed by a governing body as set
19 forth in this section, contingent upon a majority of the
20 voters voting in an election on the question of whether to
21 impose a water and sanitation gross receipts tax voting in
22 favor of the imposition.

23 B. Upon receipt of a resolution adopted and
24 submitted by the board of directors of a water and sanitation
25 district that requests the governing body to impose a water

1 and sanitation gross receipts tax on behalf of the water and
2 sanitation district, a governing body shall enact an ordinance
3 imposing a water and sanitation gross receipts tax in that
4 water and sanitation district. The ordinance shall impose the
5 tax at a rate of one-fourth percent on a person engaging in
6 business within the area of the county located within the
7 water and sanitation district for the privilege of engaging in
8 business within that water and sanitation district within the
9 county.

10 C. The governing body, at the time of enacting an
11 ordinance imposing a water and sanitation gross receipts tax
12 authorized pursuant to Subsection A of this section, shall
13 dedicate the revenue only for the operation of the water and
14 sanitation district for which the tax is imposed. The tax
15 shall be imposed for six years from the date on which the
16 water and sanitation gross receipts tax goes into effect.

17 D. Within sixty days of the date the ordinance is
18 adopted by the governing body, the governing body shall adopt
19 a resolution calling for an election on the question of
20 whether to impose a water and sanitation gross receipts tax.
21 The question shall be submitted to the voters of the water and
22 sanitation district requesting the county to impose the tax.
23 A special election shall be called, conducted and canvassed in
24 substantially the same manner as provided by law for general
25 elections. If a majority of the voters voting on the question

1 approves the ordinance imposing the water and sanitation gross
2 receipts tax, then the ordinance shall become effective in
3 accordance with the provisions of the County Local Option
4 Gross Receipts and Compensating Taxes Act on the first July 1
5 following the election approving the imposition of the tax,
6 except as provided in Subsection E of this section. If the
7 question of imposing the water and sanitation gross receipts
8 tax fails, a resolution from the board of directors of the
9 water and sanitation district initiating the request to the
10 county to impose a water and sanitation gross receipts tax may
11 not again be submitted to the governing body for a period of
12 one year from the date of the election.

13 E. If the governor declares a state of emergency,
14 or if there is an unforeseen occurrence that would cause a
15 district's reserves to drop below the amount required by the
16 local government division of the department of finance and
17 administration, as certified by the division, an ordinance
18 imposing a tax or an increment of a tax may become effective
19 on the first January 1 after the expiration of at least three
20 months after such a declaration or event and notification to
21 the department.

22 F. The proceeds from the water and sanitation
23 gross receipts tax shall be administered by the governing body
24 and disbursed by the county treasurer to the appropriate water
25 and sanitation district in amounts and for the purposes

1 authorized in this section and as set out in the resolution
2 submitted by the board of directors to the governing body. An
3 agreement shall be entered into between the water and
4 sanitation district and the governing body that sets out the
5 responsibilities of both parties regarding administration,
6 distribution and use of the revenue from the water and
7 sanitation gross receipts tax."

8 SECTION 113. Section 7-26-2 NMSA 1978 (being Laws 1977,
9 Chapter 102, Section 4, as amended) is amended to read:

10 "7-26-2. DEFINITIONS.--As used in the Severance Tax
11 Act:

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

16 B. "natural resource" means timber and any
17 metalliferous or nonmetalliferous mineral product, combination
18 or compound thereof but does not include oil, natural gas,
19 liquid hydrocarbon, individually or any combination thereof,
20 or carbon dioxide;

21 C. "severer" means any person engaging in the
22 business of severing natural resources that the person owns or
23 any person who is the owner of natural resources and has
24 another person perform the severing of such natural resources;

25 D. "severing" means mining, quarrying, extracting,

1 felling or producing any natural resources in New Mexico;

2 E. "owner", when used in connection with the
3 severing of any of the natural resources covered by the
4 Severance Tax Act under any lease or contract with the state
5 or United States, includes any person having the right to
6 sever those resources; and

7 F. "secretary" means the secretary of taxation and
8 revenue."

9 SECTION 114. Section 7-29-2 NMSA 1978 (being Laws 1959,
10 Chapter 52, Section 2, as amended) is amended to read:

11 "7-29-2. DEFINITIONS.--As used in the Oil and Gas
12 Severance Tax Act:

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

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

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

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

25 E. "product" or "products" means oil, including

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

6 F. "operator" means any person:

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

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

12 G. "primary recovery" means the displacement of
13 oil and of other liquid hydrocarbons removed from natural gas
14 at or near the wellhead from an oil well or pool as classified
15 by the oil conservation division of the energy, minerals and
16 natural resources department pursuant to Paragraph (11) of
17 Subsection B of Section 70-2-12 NMSA 1978 into the wellbore by
18 means of the natural pressure of the oil well or pool,
19 including artificial lift;

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

24 I. "person" means any individual, estate, trust,
25 receiver, business trust, corporation, firm, co-partnership,

1 cooperative, joint venture, association or other group or
2 combination acting as a unit, and the plural as well as the
3 singular number;

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

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

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

23 M. "qualified enhanced recovery project", on and
24 after January 1, 1994, means the use or the expanded use of
25 any process approved by the oil conservation division of the

1 energy, minerals and natural resources department pursuant to
2 the Enhanced Oil Recovery Act for the displacement of oil and
3 of other liquid hydrocarbons removed from natural gas at or
4 near the wellhead from an oil well or pool classified by the
5 oil conservation division pursuant to Paragraph (11) of
6 Subsection B of Section 70-2-12 NMSA 1978, other than a
7 primary recovery process; the term includes the use of a
8 pressure maintenance process, a water flooding process and
9 immiscible, miscible, chemical, thermal or biological process
10 or any other related process;

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

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

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

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

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

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

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

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

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

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

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

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

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

14 SECTION 115. Section 7-29-4 NMSA 1978 (being Laws 1980,
15 Chapter 62, Section 5, as amended) is amended to read:

16 "7-29-4. OIL AND GAS SEVERANCE TAX IMPOSED--
17 COLLECTION--INTEREST OWNER'S LIABILITY TO STATE--INDIAN
18 LIABILITY.--

19 A. There is imposed and shall be collected by the
20 department a tax on all products that are severed and sold,
21 except as provided in Subsection B of this section. The
22 measure of the tax and the rates are:

23 (1) on natural gas severed and sold, except
24 as provided in Paragraphs (4), (6) and (7) of this subsection,
25 three and three-fourths percent of the taxable value

1 determined pursuant to Section 7-29-4.1 NMSA 1978;

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

7 (3) on oil and on other liquid hydrocarbons
8 removed from natural gas at or near the wellhead produced from
9 a qualified enhanced recovery project, one and seven-eighths
10 percent of the taxable value determined pursuant to Section
11 7-29-4.1 NMSA 1978, provided that the annual average price of
12 west Texas intermediate crude oil, determined by the
13 department by averaging the posted prices in effect on the
14 last day of each month of the twelve-month period ending on
15 May 31 prior to the fiscal year in which the tax rate is to be
16 imposed, was less than twenty-eight dollars (\$28.00) per
17 barrel;

18 (4) on the natural gas from a well workover
19 project that is certified by the oil conservation division of
20 the energy, minerals and natural resources department in its
21 approval of the well workover project, two and forty-five
22 hundredths percent of the taxable value determined pursuant to
23 Section 7-29-4.1 NMSA 1978, provided that the annual average
24 price of west Texas intermediate crude oil, determined by the
25 department by averaging the posted prices in effect on the

1 last day of each month of the twelve-month period ending on
2 May 31 prior to the fiscal year in which the tax rate is to be
3 imposed, was less than twenty-four dollars (\$24.00) per
4 barrel;

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

18 (6) on the natural gas from a stripper well
19 property, one and seven-eighths percent of the taxable value
20 determined pursuant to Section 7-29-4.1 NMSA 1978, provided
21 the average annual taxable value of natural gas was equal to
22 or less than one dollar fifteen cents (\$1.15) per thousand
23 cubic feet in the calendar year preceding July 1 of the fiscal
24 year in which the tax rate is to be imposed;

25 (7) on the natural gas from a stripper well

1 property, two and thirteen-sixteenths percent of the taxable
2 value determined pursuant to Section 7-29-4.1 NMSA 1978,
3 provided that the average annual taxable value of natural gas
4 was greater than one dollar fifteen cents (\$1.15) per thousand
5 cubic feet but not more than one dollar thirty-five cents
6 (\$1.35) per thousand cubic feet in the calendar year preceding
7 July 1 of the fiscal year in which the tax rate is to be
8 imposed;

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

17 (9) on the oil and on other liquid
18 hydrocarbons removed from natural gas at or near the wellhead
19 from a stripper well property, two and thirteen-sixteenths
20 percent of the taxable value determined pursuant to Section
21 7-29-4.1 NMSA 1978, provided that the average annual taxable
22 value of oil was greater than fifteen dollars (\$15.00) per
23 barrel but not more than eighteen dollars (\$18.00) per barrel
24 in the calendar year preceding July 1 of the fiscal year in
25 which the tax rate is to be imposed; and

1 (10) on carbon dioxide, helium and non-
2 hydrocarbon gases, three and three-fourths percent of the
3 taxable value determined pursuant to Section 7-29-4.1 NMSA
4 1978.

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

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

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

1 C. Every interest owner shall be liable for the
2 tax to the extent of the interest owner's interest in such
3 products. Any Indian tribe, Indian pueblo or Indian shall be
4 liable for the tax to the extent authorized or permitted by
5 law.

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

8 SECTION 116. Section 7-29-5 NMSA 1978 (being Laws 1959,
9 Chapter 52, Section 8) is amended to read:

10 "7-29-5. PRODUCTS ON WHICH TAX HAS BEEN LEVIED--
11 DEPARTMENT RULE.--The tax shall not be levied more than once
12 on the same product. Reporting of products on which the tax
13 has been paid shall be subject to department rule."

14 SECTION 117. Section 7-29-6 NMSA 1978 (being Laws 1959,
15 Chapter 52, Section 9) is amended to read:

16 "7-29-6. OPERATOR OR PURCHASER TO WITHHOLD INTEREST
17 OWNER'S TAX--DEPARTMENT MAY REQUIRE WITHHOLDING OF TAX--TAX
18 WITHHELD TO BE REMITTED TO THE STATE--OPERATOR OR PURCHASER TO
19 BE REIMBURSED.--

20 A. Any operator making a monetary payment to an
21 interest owner for the interest owner's portion of the value
22 of products from a production unit shall withhold from such
23 payment the amount of tax due from the interest owner.

24 B. Any purchaser who, by express or implied
25 agreement with the operator, makes a monetary payment to an

1 interest owner for the interest owner's portion of the value
2 of products from a production unit, shall withhold from such
3 payment the amount of tax due from the interest owner.

4 C. The department may require any purchaser making
5 a monetary payment to an interest owner for the interest
6 owner's portion of the value of products from a production
7 unit to withhold from such payment the amount of tax due from
8 the interest owner.

9 D. Any operator or purchaser who pays any tax due
10 from an interest owner shall be entitled to reimbursement from
11 the interest owner for the tax so paid and may take credit for
12 such amount from any monetary payment to the interest owner
13 for the value of products."

14 SECTION 118. Section 7-29-7 NMSA 1978 (being Laws 1959,
15 Chapter 52, Section 10, as amended) is amended to read:

16 "7-29-7. OPERATOR'S REPORT--TAX REMITTANCE--ADDITIONAL
17 INFORMATION.--Each operator shall, in the form and manner
18 required by the department, file a return with the department
19 showing the total value, volume and kind of products sold from
20 each production unit for each calendar month. All taxes due
21 or to be remitted by the operator shall accompany this return.
22 The return shall be filed on or before the twenty-fifth day of
23 the second month after the calendar month for which the return
24 is required. Any additional report or information the
25 department may deem necessary for the proper administration of

1 the Oil and Gas Severance Tax Act may be required."

2 SECTION 119. Section 7-29-8 NMSA 1978 (being Laws 1959,
3 Chapter 52, Section 11, as amended) is amended to read:

4 "7-29-8. PURCHASER'S REPORT--TAX REMITTANCE--ADDITIONAL
5 INFORMATION.--Each purchaser shall, in the form and manner
6 required by the department, file a return to the department
7 showing the total value, volume and kind of products purchased
8 by the purchaser from each production unit for each calendar
9 month. All taxes due or to be remitted by the purchaser shall
10 accompany this return. The return shall be filed on or before
11 the twenty-fifth day of the second month after the calendar
12 month for which the return is required. Any additional
13 reports or information the department may deem necessary for
14 the proper administration of the Oil and Gas Severance Tax Act
15 may be required."

16 SECTION 120. Section 7-29-23 NMSA 1978 (being Laws
17 1991, Chapter 9, Section 36) is amended to read:

18 "7-29-23. ADVANCE PAYMENT REQUIRED.--

19 A. Any person required to make payment of tax
20 pursuant to Section 7-29-7 or 7-29-8 NMSA 1978 shall make the
21 advance payment required by this section.

22 B. For the purposes of this section:

23 (1) "advance payment" means the payment
24 required to be made by this section in addition to any oil and
25 gas severance tax, penalty or interest due; and

1 (2) "average tax" means the aggregate amount
2 of tax, less any refunds or credits, paid by a person for the
3 twelve-month period ending the last day of February pursuant
4 to the Oil and Gas Severance Tax Act divided by the number of
5 months during that period for which the person made payment.

6 C. Each year, prior to July 1, the department
7 shall compute the advance payment required to be made pursuant
8 to this section, compute the average tax for the filing
9 periods February through January of the subsequent year for
10 each person required to pay tax pursuant to the Oil and Gas
11 Severance Tax Act and provide a tax statement to each person
12 required to pay tax pursuant to the Oil and Gas Severance Tax
13 Act. The average tax calculated for a year shall be used
14 during the twelve-month period beginning with July of that
15 year and ending with June of the following year as the basis
16 for making the advance payments required by Subsection D of
17 this section.

18 D. Annually, by the twenty-fifth of the month in
19 which a person files or amends that person's first return
20 pursuant to the Oil and Gas Severance Tax Act and after
21 receiving the tax statement provided by the department, a
22 person required to pay tax in a month pursuant to the Oil and
23 Gas Severance Tax Act shall pay, in addition to any amount of
24 tax, interest or penalty due, an advance payment in an amount
25 equal to the applicable average tax, except:

1 (1) if the person is making a final return
2 under the Oil and Gas Severance Tax Act, no advance payment
3 pursuant to this subsection is due for that return; and

4 (2) as provided in Subsection F of this
5 section.

6 E. Annually, by the twenty-fifth of the month in
7 which a person files or amends that person's first return
8 pursuant to the Oil and Gas Severance Tax Act and after
9 receiving the tax statement provided by the department, a
10 person required to pay tax pursuant to the Oil and Gas
11 Severance Tax Act may claim a credit equal to the amount of
12 advance payment made in the previous month, except as provided
13 in Subsection F of this section.

14 F. If, in any year, a person is not required to
15 pay tax pursuant to the Oil and Gas Severance Tax Act, that
16 person is not required to pay the advance payment and may not
17 claim a credit pursuant to Subsection E of this section;
18 provided that, in any succeeding year when the person has
19 liability under the Oil and Gas Severance Tax Act, the person
20 may claim a credit for any advance payment made and not
21 credited.

22 G. In the event that the date by which a person is
23 required to pay the tax pursuant to the Oil and Gas Severance
24 Tax Act is accelerated to a date earlier than the twenty-fifth
25 day of the second month following the month of production, the

1 advance payment provision contained in this section is void
2 and any money held as advance payments shall be credited to
3 the taxpayers' accounts."

4 SECTION 121. Section 7-30-9 NMSA 1978 (being Laws 1959,
5 Chapter 53, Section 9, as amended) is amended to read:

6 "7-30-9. OPERATOR OR PURCHASER TO WITHHOLD INTEREST
7 OWNER'S TAX--DEPARTMENT MAY REQUIRE WITHHOLDING OF TAX--TAX
8 WITHHELD TO BE REMITTED TO THE STATE--OPERATOR OR PURCHASER TO
9 BE REIMBURSED.--

10 A. Any operator making a monetary payment to an
11 interest owner for the interest owner's portion of the value
12 of products from a production unit shall withhold from such
13 payment the amount of tax due from the interest owner.

14 B. Any purchaser who, by express or implied
15 agreement with the operator, makes a monetary payment to an
16 interest owner for the interest owner's portion of the value
17 of products from a production unit shall withhold from such
18 payment the amount of tax due from the interest owner.

19 C. The department may require any purchaser making
20 a monetary payment to an interest owner for the interest
21 owner's portion of the value of products from a production
22 unit to withhold from such payment the amount of tax due from
23 the interest owner.

24 D. Any operator or purchaser who pays any tax due
25 from an interest owner shall be entitled to reimbursement from

1 the interest owner for the tax so paid and may take credit for
2 such amount from any monetary payment to the interest owner
3 for the value of products."

4 SECTION 122. Section 7-30-27 NMSA 1978 (being Laws
5 1991, Chapter 9, Section 37) is amended to read:

6 "7-30-27. ADVANCE PAYMENT REQUIRED.--

7 A. Any person required to make payment of tax
8 pursuant to Section 7-30-10 or 7-30-11 NMSA 1978 shall make
9 the advance payment required by this section.

10 B. For the purposes of this section:

11 (1) "advance payment" means the payment
12 required to be made by this section in addition to any oil and
13 gas conservation tax, penalty or interest due; and

14 (2) "average tax" means the aggregate amount
15 of tax, less any refunds or credits, paid by a person for the
16 twelve-month period ending the last day of February pursuant
17 to the Oil and Gas Conservation Tax Act divided by the number
18 of months during that period for which the person made
19 payment.

20 C. Each year, prior to July 1, the department
21 shall compute the advance payment required to be made pursuant
22 to this section, compute the average tax for the filing
23 periods February through January of the subsequent year for
24 each person required to pay tax pursuant to the Oil and Gas
25 Conservation Tax Act and provide a tax statement to each

1 person required to pay tax pursuant to the Oil and Gas
2 Conservation Tax Act. The average tax calculated for a year
3 shall be used during the twelve-month period beginning with
4 July of that year and ending with June of the following year
5 as the basis for making the advance payments required by
6 Subsection D of this section.

7 D. Annually, by the twenty-fifth of the month in
8 which a person files or amends that person's first return
9 pursuant to the Oil and Gas Conservation Tax Act and after
10 receiving the tax statement provided by the department, a
11 person required to pay tax in a month pursuant to the Oil and
12 Gas Conservation Tax Act shall pay, in addition to any amount
13 of tax, interest or penalty due, an advance payment in an
14 amount equal to the applicable average tax, except:

15 (1) if the person is making a final return
16 under the Oil and Gas Conservation Tax Act, no advance payment
17 pursuant to this subsection is due for that return; and

18 (2) as provided in Subsection F of this
19 section.

20 E. Annually, by the twenty-fifth of the month in
21 which a person files or amends that person's first return
22 pursuant to the Oil and Gas Conservation Tax Act and after
23 receiving the tax statement provided by the department, a
24 person required to pay tax pursuant to the Oil and Gas
25 Conservation Tax Act may claim a credit equal to the amount of

1 advance payment made in the previous year, except as provided
2 in Subsection F of this section.

3 F. If, in any year, a person is not required to
4 pay tax pursuant to the Oil and Gas Conservation Tax Act, that
5 person is not required to pay the advance payment and may not
6 claim a credit pursuant to Subsection E of this section;
7 provided that, in any succeeding month when the person has
8 liability under the Oil and Gas Conservation Tax Act, the
9 person may claim a credit for any advance payment made and not
10 credited.

11 G. In the event that the date by which a person is
12 required to pay the tax pursuant to the Oil and Gas
13 Conservation Tax Act is accelerated to a date earlier than the
14 twenty-fifth day of the second month following the month of
15 production, the advance payment provision contained in this
16 section is void and any money held as advance payments shall
17 be credited to the taxpayers' accounts."

18 SECTION 123. Section 7-31-2 NMSA 1978 (being Laws 1959,
19 Chapter 54, Section 2, as amended) is amended to read:

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

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

1 B. "production unit" means a unit of property
2 designated by the department from which products of common
3 ownership are severed;

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

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

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

15 F. "operator" means any person:

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

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

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

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

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

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

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

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

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

23 (3) if a property with wells that produce
24 both crude oil and natural gas, an average daily production of
25 less than ten barrels of oil per eligible well per day, as

1 determined by converting the volume of natural gas produced by
2 the well to barrels of oil by using a ratio of six thousand
3 cubic feet to one barrel of oil;

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

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

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

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

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

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

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

24 SECTION 124. Section 7-31-4 NMSA 1978 (being Laws 1959,
25 Chapter 54, Section 4, as amended) is amended to read:

1 "7-31-4. PRIVILEGE TAX LEVIED--COLLECTED BY
2 DEPARTMENT--RATE--INTEREST OWNER'S LIABILITY TO STATE--INDIAN
3 LIABILITY.--

4 A. There is imposed and shall be collected by the
5 department a privilege tax on all products that are severed
6 and sold. The measure of the tax shall be:

7 (1) on oil and on oil and other liquid
8 hydrocarbons removed from natural gas at or near the wellhead,
9 except as provided in Paragraphs (4) and (5) of this
10 subsection, three and fifteen-hundredths percent of the
11 taxable value determined pursuant to Section 7-31-5 NMSA 1978;

12 (2) on carbon dioxide, helium and non-
13 hydrocarbon gases, three and fifteen-hundredths percent of the
14 taxable value determined pursuant to Section 7-31-5 NMSA 1978;

15 (3) on natural gas, except as provided in
16 Paragraphs (6) and (7) of this subsection, four percent of the
17 taxable value determined pursuant to Section 7-31-5 NMSA 1978;

18 (4) on the oil and on other liquid
19 hydrocarbons removed from natural gas at or near the wellhead
20 from a stripper well property, one and fifty-eight hundredths
21 percent of the taxable value determined pursuant to Section
22 7-31-5 NMSA 1978, provided that the average annual taxable
23 value of oil was equal to or less than fifteen dollars
24 (\$15.00) per barrel in the calendar year preceding July 1 of
25 the fiscal year in which the tax rate is to be imposed;

1 (5) on the oil and on other liquid
2 hydrocarbons removed from natural gas at or near the wellhead
3 from a stripper well property, two and thirty-six hundredths
4 percent of the taxable value determined pursuant to Section
5 7-31-5 NMSA 1978, provided that the average annual taxable
6 value of oil was greater than fifteen dollars (\$15.00) per
7 barrel but not more than eighteen dollars (\$18.00) per barrel
8 in the calendar year preceding July 1 of the fiscal year in
9 which the tax rate is to be imposed;

10 (6) on the natural gas removed from a
11 stripper well property, two percent of the taxable value
12 determined pursuant to Section 7-31-5 NMSA 1978, provided that
13 the average annual taxable value of natural gas was equal to
14 or less than one dollar fifteen cents (\$1.15) per thousand
15 cubic feet in the calendar year preceding July 1 of the fiscal
16 year in which the tax rate is to be imposed; and

17 (7) on the natural gas removed from a
18 stripper well property, three percent of the taxable value
19 determined pursuant to Section 7-31-5 NMSA 1978, provided that
20 the average annual taxable value of natural gas was greater
21 than one dollar fifteen cents (\$1.15) per thousand cubic feet
22 but not more than one dollar thirty-five cents (\$1.35) per
23 thousand cubic feet in the calendar year preceding July 1 of
24 the fiscal year in which the tax rate is to be imposed.

25 B. Every interest owner, for the purpose of

1 levying this tax, is deemed to be in the business of severing
2 products and is liable for this tax to the extent of the
3 owner's interest in the value of the products or to the extent
4 of the owner's interest as may be measured by the value of the
5 products.

6 C. Any Indian tribe, Indian pueblo or Indian is
7 liable for this tax to the extent authorized or permitted by
8 law."

9 SECTION 125. Section 7-31-6 NMSA 1978 (being Laws 1959,
10 Chapter 54, Section 6) is amended to read:

11 "7-31-6. VALUE MAY BE DETERMINED BY DEPARTMENT--
12 STANDARD.--

13 A. The department may determine the value of
14 products severed from a production unit when:

15 (1) the operator and purchaser are
16 affiliated persons;

17 (2) the sale and purchase of products is not
18 an arm's length transaction; or

19 (3) products are severed and removed from a
20 production unit and a value as defined in the Oil and Gas
21 Emergency School Tax Act is not established for such products.

22 B. The value determined by the department shall be
23 commensurate with the actual price received for products of
24 like quality, character and use which are severed in the same
25 field or area."

1 SECTION 126. Section 7-31-8 NMSA 1978 (being Laws 1959,
2 Chapter 54, Section 8) is amended to read:

3 "7-31-8. PRODUCTS ON WHICH TAX HAS BEEN LEVIED--
4 DEPARTMENT RULE.--The tax shall not be levied more than once
5 on the same product. Reporting of products on which the tax
6 has been paid shall be subject to department rule."

7 SECTION 127. Section 7-31-9 NMSA 1978 (being Laws 1959,
8 Chapter 54, Section 9) is amended to read:

9 "7-31-9. OPERATOR OR PURCHASER TO WITHHOLD INTEREST
10 OWNER'S TAX--DEPARTMENT MAY REQUIRE WITHHOLDING OF TAX--TAX
11 WITHHELD TO BE REMITTED TO THE STATE--OPERATOR OR PURCHASER TO
12 BE REIMBURSED.--

13 A. Any operator making a monetary payment to an
14 interest owner for the interest owner's portion of the value
15 of products from a production unit shall withhold from such
16 payment the amount of tax due from any interest owner.

17 B. Any purchaser who, by express or implied
18 agreement with the operator, makes a monetary payment to an
19 interest owner for the interest owner's portion of the value
20 of products from a production unit shall withhold from such
21 payment the amount of tax due from the interest owner.

22 C. The department may require any purchaser making
23 a monetary payment to an interest owner for the interest
24 owner's portion of the value of products from a production
25 unit to withhold from such payment the amount of tax due from

1 the interest owner.

2 D. Any operator or purchaser who pays any tax due
3 from an interest owner shall be entitled to reimbursement from
4 the interest owner for the tax so paid and may take credit for
5 such amount from any monetary payment to the interest owner
6 for the value of products."

7 SECTION 128. Section 7-31-10 NMSA 1978 (being Laws
8 1959, Chapter 54, Section 10, as amended) is amended to read:

9 "7-31-10. OPERATOR'S REPORT--TAX REMITTANCE--ADDITIONAL
10 INFORMATION.--Each operator shall, in the form and manner
11 required by the department, file a return with the department
12 showing the total value, volume and kind of products sold from
13 each production unit for each calendar month. All taxes due
14 or to be remitted by the operator shall accompany this return.
15 The return shall be filed on or before the twenty-fifth day of
16 the second month after the calendar month for which the return
17 is required. Any additional report or information the
18 department may deem necessary for the proper administration of
19 the Oil and Gas Emergency School Tax Act may be required."

20 SECTION 129. Section 7-31-11 NMSA 1978 (being Laws
21 1959, Chapter 54, Section 11, as amended) is amended to read:

22 "7-31-11. PURCHASER'S REPORT--TAX REMITTANCE--
23 ADDITIONAL INFORMATION.--Each purchaser shall, in the form and
24 manner required by the department, file a return to the
25 department showing the total value, volume and kind of

1 products purchased by the purchaser from each production unit
2 for each calendar month. All taxes due or to be remitted by
3 the purchaser shall accompany this return. The return shall
4 be filed on or before the twenty-fifth day of the second month
5 after the calendar month for which the return is required.
6 Any additional reports or information the department may deem
7 necessary for the proper administration of the Oil and Gas
8 Emergency School Tax Act may be required."

9 SECTION 130. Section 7-31-26 NMSA 1978 (being Laws
10 1991, Chapter 9, Section 38) is amended to read:

11 "7-31-26. ADVANCE PAYMENT REQUIRED.--

12 A. Any person required to make payment of tax
13 pursuant to Section 7-31-10 or 7-31-11 NMSA 1978 shall make
14 the advance payment required by this section.

15 B. For the purposes of this section:

16 (1) "advance payment" means the payment
17 required to be made by this section in addition to any oil and
18 gas emergency school tax, penalty or interest due; and

19 (2) "average tax" means the aggregate amount
20 of tax, less any refunds or credits, paid by a person for the
21 twelve-month period ending the last day of February pursuant
22 to the Oil and Gas Emergency School Tax Act divided by the
23 number of months during that period for which the person made
24 payment.

25 C. Each year, prior to July 1, the department

1 shall compute the advance payment required to be made pursuant
2 to this section, compute the average tax for the filing
3 periods February through January of the subsequent year for
4 each person required to pay tax pursuant to the Oil and Gas
5 Emergency School Tax Act and provide a tax statement to each
6 person required to pay tax pursuant to the Oil and Gas
7 Emergency School Tax Act. The average tax calculated for a
8 year shall be used during the twelve-month period beginning
9 with July of that year and ending with June of the following
10 year as the basis for making the advance payments required by
11 Subsection D of this section.

12 D. Annually, by the twenty-fifth of the month in
13 which a person files or amends that person's first return
14 pursuant to the Oil and Gas Emergency School Tax Act and after
15 receiving the tax statement provided by the department, a
16 person required to pay tax in a month pursuant to the Oil and
17 Gas Emergency School Tax Act shall pay, in addition to any
18 amount of tax, interest or penalty due, an advance payment in
19 an amount equal to the applicable average tax, except:

20 (1) if the person is making a final return
21 under the Oil and Gas Emergency School Tax Act, no advance
22 payment pursuant to this subsection is due for that return;
23 and

24 (2) as provided in Subsection F of this
25 section.

1 E. Annually, by the twenty-fifth of the month in
2 which a person files or amends that person's first return
3 pursuant to the Oil and Gas Emergency School Tax Act and after
4 receiving the tax statement provided by the department, a
5 person required to pay tax pursuant to the Oil and Gas
6 Emergency School Tax Act may claim a credit equal to the
7 amount of advance payment made in the previous year, except as
8 provided in Subsection F of this section.

9 F. If, in any year, a person is not required to
10 pay tax pursuant to the Oil and Gas Emergency School Tax Act,
11 that person is not required to pay the advance payment and may
12 not claim a credit pursuant to Subsection E of this section;
13 provided that, in any succeeding month when the person has
14 liability under the Oil and Gas Emergency School Tax Act, the
15 person may claim a credit for any advance payment made and not
16 credited.

17 G. In the event that the date by which a person is
18 required to pay the tax pursuant to the Oil and Gas Emergency
19 School Tax Act is accelerated to a date earlier than the
20 twenty-fifth day of the second month following the month of
21 production, the advance payment provision contained in this
22 section is void and any money held as advance payments shall
23 be credited to the taxpayers' accounts."

24 **SECTION 131.** Section 7-32-2 NMSA 1978 (being Laws 1959,
25 Chapter 55, Section 2, as amended) is amended to read:

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

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

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

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

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

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

21 F. "operator" means any person:

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

24 (2) owning an interest in any product at the
25 time of severance who receives a portion or all of such

1 product for the person's interest;

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

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

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

16 J. "assessed value" means the value against which
17 tax rates are applied;

18 K. "tax" means the oil and gas ad valorem
19 production tax; and

20 L. "volume" means the quantity of product severed
21 reported using:

22 (1) oil, condensate and slop oil in barrels;
23 and

24 (2) natural gas, liquid hydrocarbons, helium
25 and carbon dioxide in thousand cubic feet at a pressure base

1 of fifteen and twenty-five thousandths pounds per square
2 inch."

3 SECTION 132. Section 7-32-4 NMSA 1978 (being Laws 1959,
4 Chapter 55, Section 4, as amended) is amended to read:

5 "7-32-4. AD VALOREM TAX LEVIED--COLLECTED BY
6 DEPARTMENT--RATE--INTEREST OWNER'S LIABILITY TO STATE--INDIAN
7 LIABILITY.--There is levied and shall be collected by the
8 department an ad valorem tax on the assessed value of products
9 which are severed and sold to a purchaser from each production
10 unit at the rate certified to the department by the department
11 of finance and administration under the provisions of Section
12 7-37-7 NMSA 1978. Such rate shall be levied for each month
13 following its certification and shall be levied monthly
14 thereafter until a new rate is certified. Every interest
15 owner shall be liable for this tax to the extent of the
16 interest owner's interest in the value of such products or to
17 the extent of the interest owner's interest as may be measured
18 by the value of such products. Provided, any Indian tribe,
19 Indian pueblo or Indian shall be liable for this tax to the
20 extent authorized or permitted by law."

21 SECTION 133. Section 7-32-6 NMSA 1978 (being Laws 1959,
22 Chapter 55, Section 6) is amended to read:

23 "7-32-6. VALUE MAY BE DETERMINED BY DEPARTMENT--
24 STANDARD.--The department may determine the value of products
25 severed from a production unit when:

1 A. the operator and purchaser are affiliated
2 persons;

3 B. the sale and purchase of products is not an
4 arm's length transaction; or

5 C. products are severed and removed from a
6 production unit and a value as defined in the Oil and Gas Ad
7 Valorem Production Tax Act is not established for such
8 products.

9 The value determined by the department shall be
10 commensurate with the actual price received for products of
11 like quality, character and use which are severed in the same
12 field or area."

13 **SECTION 134.** Section 7-32-8 NMSA 1978 (being Laws 1959,
14 Chapter 55, Section 8) is amended to read:

15 "7-32-8. PRODUCTS ON WHICH TAX HAS BEEN LEVIED--
16 DEPARTMENT RULE.--The tax shall not be levied more than once
17 on the same product. Reporting of products on which the tax
18 has been paid shall be subject to department rule."

19 **SECTION 135.** Section 7-32-9 NMSA 1978 (being Laws 1959,
20 Chapter 55, Section 9) is amended to read:

21 "7-32-9. OPERATOR OR PURCHASER TO WITHHOLD INTEREST
22 OWNER'S TAX--DEPARTMENT MAY REQUIRE WITHHOLDING OF TAX--TAX
23 WITHHELD TO BE REMITTED TO THE STATE--OPERATOR OR PURCHASER TO
24 BE REIMBURSED.--

25 A. Any operator making a monetary payment to an

1 interest owner for the interest owner's portion of the value
2 of products from a production unit shall withhold from such
3 payment the amount of tax due from any interest owner.

4 B. Any purchaser, who by express or implied
5 agreement with the operator, makes a monetary payment to an
6 interest owner for the interest owner's portion of the value
7 of products from a production unit shall withhold from such
8 payment the amount of tax due from the interest owner.

9 C. The department may require any purchaser making
10 a monetary payment to an interest owner for the interest
11 owner's portion of the value of products from a production
12 unit to withhold from such payment the amount of tax due from
13 the interest owner.

14 D. Any operator or purchaser who pays any tax due
15 from an interest owner shall be entitled to reimbursement from
16 the interest owner for the tax so paid and may take credit for
17 such amount from any monetary payment to the interest owner
18 for the value of products."

19 SECTION 136. Section 7-32-10 NMSA 1978 (being Laws
20 1959, Chapter 55, Section 10, as amended) is amended to read:

21 "7-32-10. OPERATOR'S REPORT--TAX REMITTANCE--ADDITIONAL
22 INFORMATION.--Each operator shall, in the form and manner
23 required by the department, file a return with the department
24 showing the total value, volume and kind of products sold from
25 each production unit for each calendar month. All taxes due

1 or to be remitted by the operator shall accompany this return.
2 The return shall be filed on or before the twenty-fifth day of
3 the second month after the calendar month for which the return
4 is required. Any additional report or information the
5 department may deem necessary for the proper administration of
6 the Oil and Gas Ad Valorem Production Tax Act may be
7 required."

8 SECTION 137. Section 7-32-11 NMSA 1978 (being Laws
9 1959, Chapter 55, Section 11, as amended) is amended to read:

10 "7-32-11. PURCHASER'S REPORT--TAX REMITTANCE--
11 ADDITIONAL INFORMATION.--Each purchaser shall, in the form and
12 manner required by the department, file a return to the
13 department showing the total value, volume and kind of
14 products purchased by the purchaser from each production unit
15 for each calendar month. All taxes due or to be remitted by
16 the purchaser shall accompany this return. The return shall
17 be filed on or before the twenty-fifth day of the second month
18 after the calendar month for which the return is required.
19 Any additional reports or information the department may deem
20 necessary for the proper administration of the Oil and Gas Ad
21 Valorem Production Tax Act may be required."

22 SECTION 138. Section 7-32-13 NMSA 1978 (being Laws
23 1959, Chapter 55, Section 13, as amended) is amended to read:

24 "7-32-13. DEPARTMENT SHALL PREPARE SCHEDULES AND
25 FORWARD TO ASSESSORS AND TREASURERS.--By the last day of each

1 month, the department shall prepare and certify a schedule to
2 the respective counties in which production units are located.
3 The schedules shall reflect the accounting of the preceding
4 month and shall list each production unit and by production
5 unit show the assessed value, taxing district, extension of
6 tax levies, tax payments and other information as the
7 department deems appropriate. The schedules shall be
8 forwarded to the assessors and treasurers of the respective
9 counties. Upon receipt, an assessor shall accept them as the
10 assessment of property as required in the Oil and Gas Ad
11 Valorem Production Tax Act and a county treasurer shall accept
12 them as the oil and gas ad valorem schedule for the county."

13 **SECTION 139.** Section 7-32-28 NMSA 1978 (being Laws
14 1991, Chapter 9, Section 39) is amended to read:

15 "7-32-28. ADVANCE PAYMENT REQUIRED.--

16 A. Any person required to make payment of tax
17 pursuant to Section 7-32-10 or 7-32-11 NMSA 1978 shall make
18 the advance payment required by this section.

19 B. For the purposes of this section:

20 (1) "advance payment" means the payment
21 required to be made by this section in addition to any oil and
22 gas ad valorem production tax, penalty or interest due; and

23 (2) "average tax" means the aggregate amount
24 of tax, less any refunds or credits, paid by a person during
25 the twelve-month period ending March 31 pursuant to the Oil

1 and Gas Ad Valorem Production Tax Act divided by the number of
2 months during that period for which the person made payment.

3 C. Each year, prior to July 1, the department
4 shall compute the advance payment required to be made pursuant
5 to this section, compute the average tax for the filing
6 periods February through January of the subsequent year for
7 each person required to pay tax pursuant to the Oil and Gas Ad
8 Valorem Production Tax Act and provide a tax statement to each
9 person required to pay tax pursuant to the Oil and Gas Ad
10 Valorem Production Tax Act. The average tax calculated for a
11 year shall be used during the twelve-month period beginning
12 with July of that year and ending with June of the following
13 year as the basis for making the advance payments required by
14 Subsection D of this section.

15 D. Annually, by the twenty-fifth of the month in
16 which a person files or amends that person's first return
17 pursuant to the Oil and Gas Ad Valorem Production Tax Act and
18 after receiving the tax statement provided by the department,
19 a person required to pay tax in a month pursuant to the Oil
20 and Gas Ad Valorem Production Tax Act shall pay, in addition
21 to any amount of tax, interest or penalty due, an advance
22 payment in an amount equal to the applicable average tax,
23 except:

24 (1) if the person is making a final return
25 under the Oil and Gas Ad Valorem Production Tax Act, no

1 advance payment pursuant to this subsection is due for that
2 return; and

3 (2) as provided in Subsection F of this
4 section.

5 E. Annually, by the twenty-fifth of the month in
6 which a person files or amends that person's first return
7 pursuant to the Oil and Gas Ad Valorem Production Tax Act and
8 after receiving the tax statement provided by the department,
9 a person required to pay tax pursuant to the Oil and Gas Ad
10 Valorem Production Tax Act may claim a credit equal to the
11 amount of advance payment made in the previous year, except as
12 provided in Subsection F of this section.

13 F. If, in any year, a person is not required to
14 pay tax pursuant to the Oil and Gas Ad Valorem Production Tax
15 Act, that person is not required to pay the advance payment
16 and may not claim a credit pursuant to Subsection E of this
17 section; provided that, in any succeeding month when the
18 person has liability under the Oil and Gas Ad Valorem
19 Production Tax Act, the person may claim a credit for any
20 advance payment made and not credited.

21 G. In the event that the date by which a person is
22 required to pay the tax pursuant to the Oil and Gas Ad Valorem
23 Production Tax Act is accelerated to a date earlier than the
24 twenty-fifth day of the second month following the month of
25 production, the advance payment provision contained in this

1 section is void and any money held as advance payments shall
2 be credited to the taxpayers' accounts."

3 SECTION 140. Section 7-33-4 NMSA 1978 (being Laws 1963,
4 Chapter 179, Section 4, as amended) is amended to read:

5 "7-33-4. PRIVILEGE TAX LEVIED--COLLECTED BY
6 DEPARTMENT--RATE.--

7 A. There is levied and shall be collected by the
8 department a privilege tax on processors for the privilege of
9 operating a natural gas processing plant in New Mexico. This
10 tax may be referred to as the "natural gas processors tax".

11 B. The tax shall be imposed on the amount of
12 mmbtus of natural gas delivered to the processor at the inlet
13 of the natural gas processing plant after subtracting the
14 mmbtu deductions authorized in Subsection D of this section.
15 The tax shall be imposed at the rate per mmbtu determined in
16 Subsection C of this section.

17 C. The tax rate shall be determined by multiplying
18 the rate of sixty-five hundredths of one cent (\$.0065) per
19 mmbtu by a fraction, the numerator of which is the annual
20 average taxable value per mcf of natural gas produced in New
21 Mexico during the preceding calendar year and the denominator
22 of which is one dollar thirty-three cents (\$1.33) per mcf.
23 The resulting tax rate shall be rounded to the nearest one-
24 hundredth of one cent per mmbtu.

25 D. A processor may deduct from the amount of

1 mmbtus of natural gas subject to the tax the mmbtus of natural
2 gas that are:

3 (1) used for natural gas processing by the
4 processor;

5 (2) returned to the lease from which they
6 are produced;

7 (3) legally flared by the processor; or

8 (4) lost as a result of natural gas
9 processing plant malfunctions or other incidences of force
10 majeure.

11 E. On or before June 15 of each year, the
12 department shall inform each processor in writing of the tax
13 rate applicable for the succeeding fiscal year.

14 F. Any Indian nation, tribe or pueblo or Indian is
15 liable for the tax to the extent authorized or permitted by
16 law."

17 **SECTION 141.** Section 7-34-2 NMSA 1978 (being Laws 1969,
18 Chapter 119, Section 2, as amended) is amended to read:

19 "7-34-2. DEFINITIONS.--As used in the Oil and Gas
20 Production Equipment Ad Valorem Tax Act:

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

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

1 receiver, business trust, corporation, firm, copartnership,
2 cooperative, joint venture, association or other group or
3 combination acting as a unit;

4 C. "operator" means any person engaged in the
5 severance of products from a production unit;

6 D. "product" means oil, natural gas or liquid
7 hydrocarbon, individually or any combination thereof, carbon
8 dioxide, helium or a non-hydrocarbon gas;

9 E. "severance" means taking any product from the
10 soil in any manner;

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

14 G. "equipment" means wells and nonmobile equipment
15 used at a production unit in connection with severance,
16 treatment or storage of production unit products;

17 H. "value" means the actual price received for
18 products at the production unit as established under the Oil
19 and Gas Ad Valorem Production Tax Act;

20 I. "assessed value" means the value against which
21 tax rates are applied; and

22 J. "tax" means the oil and gas production
23 equipment ad valorem tax."

24 SECTION 142. Section 7-34-3 NMSA 1978 (being Laws 1969,
25 Chapter 119, Section 3, as amended) is amended to read:

1 "7-34-3. METHOD OF DETERMINING ASSESSED VALUE.--

2 A. Annually the department shall compute the value
3 of products of each production unit for the previous calendar
4 year.

5 B. The taxable value of equipment of each
6 production unit is an amount equal to twenty-seven percent of
7 the value of products of each production unit.

8 C. The assessed value of equipment of each
9 production unit shall be determined by applying the uniform
10 assessment ratio to the taxable value of equipment of each
11 production unit."

12 SECTION 143. Section 7-34-4 NMSA 1978 (being Laws 1969,
13 Chapter 119, Section 4, as amended) is amended to read:

14 "7-34-4. AD VALOREM TAX LEVIED.--An ad valorem tax is
15 levied on the assessed value of the equipment at each
16 production unit. The tax shall be at the rate certified to
17 the department by the department of finance and administration
18 under the provisions of Section 7-37-7 NMSA 1978."

19 SECTION 144. Section 7-34-5 NMSA 1978 (being Laws 1969,
20 Chapter 119, Section 5, as amended) is amended to read:

21 "7-34-5. OIL AND GAS PRODUCTION EQUIPMENT AD VALOREM
22 TAX TO BE EXCLUSIVE MEASURE OF AD VALOREM TAX LIABILITY.--The
23 tax levied by Section 7-34-4 NMSA 1978 shall be the full and
24 exclusive measure of ad valorem tax liability for equipment
25 used at a production unit. Any other ad valorem tax on

1 equipment used at a production unit is void."

2 SECTION 145. Section 7-34-6 NMSA 1978 (being Laws 1969,
3 Chapter 119, Section 6) is amended to read:

4 "7-34-6. TAX STATEMENT--TAX DUE DATE.--Annually the
5 department shall compute the assessed value of equipment for
6 each production unit and extend the applicable rates against
7 the assessed value to determine the amount of tax due. The
8 department shall prepare a tax statement for each production
9 unit showing the production unit identification, the taxing
10 district in which it is located, calendar-year value, assessed
11 value, district rates and the amount of tax due. The tax
12 statement shall be sent to the operator on or before November
13 1 and payment shall be made to the department on or before
14 November 30."

15 SECTION 146. Section 7-34-7 NMSA 1978 (being Laws 1969,
16 Chapter 119, Section 7) is amended to read:

17 "7-34-7. DEPARTMENT SHALL REPORT TO COUNTY--TAX
18 SCHEDULE.--On or before December 30, the department shall
19 deliver a tax schedule to each county in which production
20 units are located, identifying each production unit, the
21 taxing district in which it is located, the value, assessed
22 value, district rates and the amount of tax paid."

23 SECTION 147. Section 7-40-5 NMSA 1978 (being Laws 2018,
24 Chapter 57, Section 5) is amended to read:

25 "7-40-5. EXEMPTIONS.--Exempted from the taxes imposed

1 pursuant to the Insurance Premium Tax Act are:

2 A. premiums attributable to insurance or contracts
3 purchased by the state or a political subdivision for the
4 state's or political subdivision's active or retired
5 employees;

6 B. payments received by a health maintenance
7 organization from the federal secretary of health and human
8 services pursuant to a risk-sharing contract issued under the
9 provisions of 42 U.S.C. Section 1395mm(g);

10 C. any business transacted pursuant to the
11 provisions of the Service Contract Regulation Act;

12 D. the money collected and placed in trust
13 pursuant to Section 59A-49-6 NMSA 1978; and

14 E. premiums from supplemental health care plans
15 issued by an insurer that has been granted exemption from the
16 federal income tax by the United States commissioner of
17 internal revenue as an organization described in Section
18 501(c)(3) of the United States Internal Revenue Code of 1986,
19 as amended or renumbered."

20 **SECTION 148.** Section 14-8-4 NMSA 1978 (being Laws 1901,
21 Chapter 62, Section 18, as amended) is amended to read:

22 "14-8-4. ACKNOWLEDGMENT NECESSARY FOR RECORDING--
23 EXCEPTIONS--RECORDING OF DUPLICATES.--

24 A. Any original instrument of writing duly
25 acknowledged may be filed and recorded. Any instrument of

1 writing not duly acknowledged may not be filed and recorded or
2 considered of record, though so entered, unless otherwise
3 provided in this section.

4 B. For purposes of this section, "acknowledged"
5 means notarized by a person empowered to perform notarial acts
6 pursuant to the Revised Uniform Law on Notarial Acts.

7 C. The following documents need not be
8 acknowledged but may be filed and recorded:

9 (1) court-certified copies of a court order,
10 judgment or other judicial decree;

11 (2) court-certified transcripts of any money
12 judgment obtained in a court of New Mexico or, pursuant to
13 Section 14-9-9 NMSA 1978, in the United States district court
14 for the district of New Mexico;

15 (3) land patents and land office receipts;

16 (4) notice of lis pendens filed pursuant to
17 Section 38-1-14 NMSA 1978;

18 (5) provisional orders creating improvement
19 districts pursuant to Section 4-55A-7 NMSA 1978;

20 (6) notices of levy on real estate under
21 execution or writ of attachment when filed by a peace officer
22 pursuant to Section 39-4-4 NMSA 1978;

23 (7) surveys of land that do not create a
24 division of land but only show existing tracts of record when
25 filed by a professional surveyor pursuant to Section

1 61-23-28.2 NMSA 1978;

2 (8) certified copies of foreign wills,
3 marriages or birth certificates duly authenticated;

4 (9) instruments of writing in any manner
5 affecting lands in the state filed pursuant to Section 14-9-7
6 NMSA 1978, when these instruments have been duly executed by
7 an authorized public officer; and

8 (10) notices of lien filed pursuant to
9 Section 7-1-38 NMSA 1978.

10 D. If an original instrument of writing is
11 unavailable but, if it were available, could be filed and
12 recorded in accordance with this section, a duplicate of that
13 instrument shall be accepted for filing and recording if
14 accompanied by an affidavit executed pursuant to this
15 subsection. The affidavit shall:

16 (1) provide the name, telephone number and
17 mailing address of the affiant;

18 (2) provide information regarding the
19 execution of the instrument, consideration paid, delivery or
20 other information establishing that the original instrument,
21 if it were available, would be entitled to be recorded
22 pursuant to Subsection A of this section;

23 (3) specify the reason the duplicate is
24 filed and recorded in place of the original instrument;

25 (4) include a statement that the duplicate

1 is a true and correct copy of the original instrument; and

2 (5) be acknowledged and made under oath
3 confirming that the statements set forth in the affidavit are
4 true and correct and of the personal knowledge of the affiant.

5 E. The filing of a duplicate instrument in
6 accordance with Subsection D of this section shall not incur a
7 fee in addition to the fee, if any, charged for filing an
8 original instrument. When the clerk records the instrument,
9 the grantor and grantee shall be those of the duplicate
10 instrument and the name of the affiant shall be indexed under
11 miscellaneous information.

12 F. Any filing or recording permitted or required
13 under the provisions of the Uniform Commercial Code need not
14 comply with the requirements of this section.

15 G. Instruments acknowledged on behalf of a
16 corporation need not have the corporation's seal affixed
17 thereto in order to be filed and recorded."

18 **SECTION 149.** Section 24A-8-2 NMSA 1978 (being Laws
19 2024, Chapter 41, Section 2) is amended to read:

20 "24A-8-2. DEFINITIONS.--As used in the Health Care
21 Delivery and Access Act:

22 A. "assessed days" means the number of inpatient
23 hospital days exclusive of medicare days for each eligible
24 hospital, with data sources to be defined by the authority and
25 updated no less frequently than every three years;

1 B. "assessed outpatient revenue" means net patient
2 revenue exclusive of medicare outpatient revenue for
3 outpatient services, with data sources to be defined by the
4 authority and updated no less frequently than every three
5 years;

6 C. "assessment" means the health care delivery and
7 access assessment;

8 D. "assessment amount" means the assessment amount
9 owed by an eligible hospital;

10 E. "assessment rate" means the amount per assessed
11 day and the percentage of assessed outpatient revenue
12 calculated by the authority;

13 F. "authority" means the health care authority;

14 G. "average commercial rate" means the average
15 rate paid by commercial insurers as provided by the centers
16 for medicare and medicaid services;

17 H. "centers for medicare and medicaid services"
18 means the centers for medicare and medicaid services of the
19 United States department of health and human services;

20 I. "eligible hospital" means a non-federal
21 facility licensed as a hospital by the authority, excluding a
22 state university teaching hospital or a state-owned special
23 hospital;

24 J. "general acute care hospital" means a hospital
25 other than a special hospital;

1 K. "hospital" means a facility providing emergency
2 or urgent care, inpatient medical care and nursing care for
3 acute illness, injury, surgery or obstetrics. "Hospital"
4 includes a facility licensed by the authority as a critical
5 access hospital, rural emergency hospital, general hospital,
6 long-term acute care hospital, psychiatric hospital,
7 rehabilitation hospital, limited services hospital or special
8 hospital;

9 L. "inpatient hospital services" means services
10 that:

11 (1) are ordinarily furnished in a hospital
12 for the care and treatment of inpatients;

13 (2) are furnished under the direction of a
14 physician, advanced practice clinician or dentist;

15 (3) are furnished in an institution that:

16 (a) is maintained primarily for the
17 care and treatment of patients;

18 (b) is licensed or formally approved as
19 a hospital by an officially designated authority for state
20 standard-setting;

21 (c) meets the requirements for
22 participation in medicare as a hospital; and

23 (d) has in effect a utilization review
24 plan, applicable to all medicaid patients, that meets federal
25 requirements; and

1 (4) are not skilled nursing facility
2 services or immediate care facility services furnished by a
3 hospital with a swing-bed approval;

4 M. "managed care organization" means a person or
5 organization that has entered into a comprehensive risk-based
6 contract with the authority to provide health care services,
7 including inpatient and outpatient hospital services, to
8 medicaid beneficiaries;

9 N. "medicaid" means the medical assistance program
10 established pursuant to Title 19 of the federal Social
11 Security Act and regulations promulgated pursuant to that act;

12 O. "medicaid-directed payment program" means the
13 health care delivery and access medicaid-directed payment
14 program created pursuant to Section 24A-8-5 NMSA 1978
15 providing additional medicaid funding for hospital services
16 provided through medicaid managed care organizations, as
17 directed by the authority and approved by the centers for
18 medicare and medicaid services;

19 P. "medicare days" means the number of inpatient
20 days provided by an eligible hospital during the year to
21 patients covered under Title 18 of the federal Social Security
22 Act;

23 Q. "medicare outpatient revenue" means the amount
24 of net revenue received by an eligible hospital for outpatient
25 hospital services provided to patients covered under Title 18

1 of the federal Social Security Act;

2 R. "net patient revenue" means total net revenue
3 received by a hospital for inpatient and outpatient hospital
4 services in a year, as determined by the authority;

5 S. "New Mexico medicaid program" means the
6 medicaid program established pursuant to Section 27-2-12 NMSA
7 1978;

8 T. "outpatient hospital services" means
9 preventive, diagnostic, therapeutic, rehabilitative or
10 palliative services that are furnished:

11 (1) to outpatients;

12 (2) by or under the direction of a
13 physician, advanced practice clinician or dentist; and

14 (3) by an institution that:

15 (a) is licensed or formally approved as
16 a hospital by an officially designated authority for state
17 standard-setting; and

18 (b) meets the requirements for
19 participation in medicare as a hospital;

20 U. "quality incentive payments" means the portion
21 of the medicaid-directed payment program paid to hospitals
22 based on value-based quality measurements and performance
23 evaluation criteria, as established by the authority pursuant
24 to Section 24A-8-5 NMSA 1978;

25 V. "rehabilitation hospital" means a facility

1 licensed as a rehabilitation hospital by the authority;

2 W. "rural emergency hospital" means a facility
3 licensed as a rural emergency hospital by the authority;

4 X. "rural hospital" means a hospital that is
5 located in a county that has a population of one hundred
6 twenty-five thousand or fewer according to the most recent
7 federal decennial census;

8 Y. "secretary" means the secretary of health care
9 authority;

10 Z. "small urban hospital" means a hospital that is
11 located in a county that has a population greater than one
12 hundred twenty-five thousand and that has fewer than fifteen
13 licensed inpatient beds as of January 1, 2024;

14 AA. "special hospital" means a facility licensed
15 as a special hospital by the authority; and

16 BB. "uniform rate increase" means the portion of
17 the medicaid-directed payment program paid to hospitals as a
18 uniform dollar or percentage increase."

19 **SECTION 150.** Section 24A-8-3 NMSA 1978 (being Laws
20 2024, Chapter 41, Section 3) is amended to read:

21 "24A-8-3. HEALTH CARE DELIVERY AND ACCESS ASSESSMENT--
22 RATE AND CALCULATION--NOTIFICATION.--

23 A. Except as otherwise provided in Subsection C of
24 this section, an assessment is imposed on inpatient hospital
25 services and outpatient hospital services provided by an

1 eligible hospital. The assessment rate and assessment amounts
2 shall be annually calculated by the authority pursuant to
3 Subsection D of this section, and the taxation and revenue
4 department shall collect the assessment. The inpatient
5 assessment shall be based on assessed days and the outpatient
6 assessment shall be based on assessed outpatient revenue. The
7 assessment provided by this section may be referred to as the
8 "health care delivery and access assessment".

9 B. The rate of the health care delivery and access
10 assessment on a rural hospital and special hospital shall be
11 reduced by fifty percent, and the rate of the assessment on a
12 small urban hospital shall be reduced by ninety percent;
13 provided that the amount of the assessment qualifies for a
14 waiver of the uniformity requirement for provider assessment
15 from the centers for medicare and medicaid services. The
16 authority may adjust these percentages and establish
17 eligibility requirements as necessary to qualify for the
18 waiver.

19 C. The health care delivery and access assessment
20 shall not be imposed for any period for which the centers for
21 medicare and medicaid services has not approved a necessary
22 waiver or other applicable authorization required to ensure
23 that the assessment is a permissible source of non-federal
24 funding for medicaid program expenditures, or for which the
25 centers for medicare and medicaid services has not approved

1 the distribution of the medicaid-directed payment program
2 payments.

3 D. The authority shall annually calculate the
4 health care delivery and access assessment amount to be paid
5 by each eligible hospital and shall annually notify the
6 taxation and revenue department and all hospitals of the
7 applicable rates. The authority shall calculate the
8 assessment amount by applying the assessment rate to an
9 eligible hospital's assessed days and assessed outpatient
10 revenue so that total revenue from the assessment will equal
11 the lesser of:

12 (1) the amount needed, in combination with
13 other funds deposited or expected to be deposited in the
14 health care delivery and access fund for the subsequent fiscal
15 year, including unexpended and unencumbered money in the fund,
16 to provide sufficient funding for:

17 (a) the non-federal share of medicaid-
18 directed payment program payments for inpatient and outpatient
19 hospital services for eligible hospitals at a level such that
20 the total reimbursement for medicaid managed care patients,
21 including any other inpatient or outpatient hospital directed
22 payments, is equivalent to the average commercial rate or such
23 other maximum level as may be set by the centers for medicare
24 and medicaid services; and

25 (b) the purposes of the health care

1 delivery and access fund; or

2 (2) the amount specified in Section
3 1903(w)(4)(C)(ii) of the federal Social Security Act, above
4 which an indirect guarantee is determined to exist, with such
5 amount determined each year based on the most recent available
6 net patient revenue data.

7 E. The authority shall notify an eligible hospital
8 and the taxation and revenue department of the health care
9 delivery and access assessment amount for the eligible
10 hospital pursuant to the following schedule:

11 (1) by November 1, 2024 for the period
12 beginning on July 1, 2024 and ending on December 31, 2024;
13 provided that the assessment amount shall be based on assessed
14 days and assessed outpatient revenue for a full year; and

15 (2) by November 1 of the preceding calendar
16 year for each calendar year thereafter.

17 F. The authority may require hospitals, regardless
18 of whether they are eligible hospitals, to report information
19 or data necessary to implement and administer the Health Care
20 Delivery and Access Act. If the authority requires such
21 reporting, it shall specify the frequency and due dates.

22 G. The authority shall determine how the health
23 care delivery and access assessment is applied to newly
24 created hospitals and hospitals that are merged, acquired or
25 closed.

1 H. A hospital shall not specifically list the cost
2 of the health care delivery and access assessment on any
3 invoice, claim or statement sent to a patient, insurer, self-
4 insured employer program or other responsible party."

5 SECTION 151. Section 24A-8-6 NMSA 1978 (being Laws
6 2024, Chapter 41, Section 6) is amended to read:

7 "24A-8-6. DUE DATES--HEALTH CARE DELIVERY AND ACCESS
8 ASSESSMENT--DIRECTED PAYMENTS.--

9 A. Except as provided in Subsection B of this
10 section, a hospital shall pay the health care delivery and
11 access assessment to the taxation and revenue department as
12 follows:

13 (1) for the period from July 1, 2024 through
14 December 31, 2024:

15 (a) sixty percent of the assessment by
16 March 10, 2025; and

17 (b) forty percent of the assessment by
18 May 10, 2025; and

19 (2) for calendar year 2025 and thereafter:

20 (a) fifteen percent of the assessment
21 seventy days after the end of each calendar quarter; and

22 (b) forty percent of the assessment by
23 May 10 of the subsequent year.

24 B. If approval by the centers for medicare and
25 medicaid services of the medicaid-directed payment program for

1 that year has not been received by the health care delivery
2 and access assessment's due date, the due date for the
3 assessment shall be forty-five days after such approval is
4 received.

5 C. In the event that approval by the centers for
6 medicare and medicaid services has not been received in time
7 for a hospital to pay the health care delivery and access
8 assessment by the dates set out in Subsection A of this
9 section, the authority shall notify the taxation and revenue
10 department of the date that such approval is received, of the
11 dates on which the assessments are now due and that no
12 interest or penalty on the assessment shall accrue prior to
13 those due dates.

14 D. The authority shall make directed payments to a
15 managed care organization as follows:

16 (1) for the period beginning on July 1, 2024
17 and ending on December 31, 2024, the authority shall transfer
18 the uniform rate increase funding to a managed care
19 organization in one installment by March 15, 2025 and the
20 quality incentive payment by May 15, 2025; and

21 (2) for calendar years 2025 and thereafter,
22 the authority shall transfer the uniform rate increase funding
23 to the managed care organization on a quarterly basis no later
24 than seventy-five days after the end of the quarter and the
25 quality incentive payment by May 15 of the subsequent calendar

1 year.

2 E. The authority shall require a managed care
3 organization to make directed payments to hospitals no more
4 than fifteen days after receipt of such payments from the
5 authority."

6 SECTION 152. Section 52-5-19 NMSA 1978 (being Laws
7 1987, Chapter 235, Section 52, as amended) is amended to read:

8 "52-5-19. FEE FOR FUNDING ADMINISTRATION--WORKERS'
9 COMPENSATION ADMINISTRATION FUND CREATED.--

10 A. For each calendar quarter, there is assessed
11 against each employer who is required or elects to be covered
12 by the Workers' Compensation Act a fee equal to two dollars
13 thirty cents (\$2.30) multiplied by the number of employees
14 covered by the Workers' Compensation Act that the employer has
15 on the last working day of each quarter. At the same time,
16 there is assessed against each employee covered by the
17 Workers' Compensation Act on the last working day of each
18 quarter a fee of two dollars (\$2.00), which shall be deducted
19 from the wages of the employee by the employer and remitted
20 along with the fee assessed on the employer. The fees shall
21 be remitted on or before the twenty-fifth day of the month
22 following the end of the calendar quarter for which they are
23 due.

24 B. The taxation and revenue department may deduct
25 from the gross fees collected an amount not to exceed five

1 percent of the gross fees collected to reimburse the
2 department for costs of administration.

3 C. The taxation and revenue department shall pay
4 over the net fees collected to the state treasurer to be
5 deposited by the treasurer in a fund hereby created and to be
6 known as the "workers' compensation administration fund".
7 Expenditures shall be made from this fund on vouchers signed
8 by the director for the necessary expenses of the workers'
9 compensation administration; provided that an amount equal to
10 thirty cents (\$.30) per employee of the fee assessed against
11 an employer shall be distributed from the workers'
12 compensation administration fund to the uninsured employers'
13 fund.

14 D. The workers' compensation fee authorized in
15 this section shall be administered and enforced by the
16 taxation and revenue department under the provisions of the
17 Tax Administration Act."

18 SECTION 153. Section 67-3-8.1 NMSA 1978 (being Laws
19 2003, Chapter 150, Section 3, as amended) is amended to read:

20 "67-3-8.1. SECRETARY--AUTHORITY TO ENTER INTO
21 INTERGOVERNMENTAL AGREEMENT--GASOLINE TAX SHARING AGREEMENT--
22 QUALIFIED TRIBE.--

23 A. The secretary may enter into an
24 intergovernmental agreement that may be referred to as a
25 "gasoline tax sharing agreement" with a qualified tribe to

1 receive forty percent of the gasoline tax revenue paid on two
2 million five hundred thousand gallons of gasoline each month
3 in exchange for the qualified tribe's agreement that the
4 qualified tribe or a registered Indian tribal distributor
5 owned by the qualified tribe shall not:

6 (1) distribute gasoline for resale outside
7 of the boundaries of that registered Indian tribal
8 distributor's Indian reservation, pueblo grant or trust land
9 located in New Mexico; and

10 (2) claim all or part of the deduction
11 authorized in Subsection F of Section 7-13-4 NMSA 1978.

12 B. The term of a gasoline tax sharing agreement
13 entered into pursuant to this section shall be for a period of
14 up to twenty years. The secretary and a qualified tribe with
15 a gasoline tax sharing agreement shall report, at the midpoint
16 of the term of the agreement, to the legislative finance
17 committee and to the revenue stabilization and tax policy
18 committee on the status of the agreement.

19 C. A gasoline tax sharing agreement entered into
20 pursuant to this section shall be construed solely as an
21 agreement between the two party governments and shall not
22 alter or affect the government-to-government relations between
23 the state and any other tribe.

24 D. Nothing in this section or in a gasoline tax
25 sharing agreement entered into pursuant to this section shall

1 be construed as creating rights in a third party.

2 E. Copies of gasoline tax sharing agreements shall
3 be promptly transmitted to the secretary of taxation and
4 revenue upon signing by the representatives of the governments
5 that are parties to the agreement.

6 F. As used in this section:

7 (1) "qualified tribe" means the Pueblo of
8 Nambe or the Pueblo of Santo Domingo, as long as it owns one
9 hundred percent of a registered Indian tribal distributor
10 pursuant to the Gasoline Tax Act, that qualifies for a
11 deduction pursuant to Subsection F of Section 7-13-4 NMSA
12 1978; and

13 (2) "tribe" means an Indian nation, tribe or
14 pueblo located in New Mexico."

15 SECTION 154. Laws 2024, Chapter 41, Section 13 is
16 amended to read:

17 "SECTION 13. DELAYED REPEAL.--Sections 1 through 7, 9
18 and 11 of this act are repealed effective July 1, 2030."

19 SECTION 155. REPEAL.--Sections 7-1-6.6, 7-1-6.24,
20 7-1-6.34, 7-1-6.35, 7-1-6.48 through 7-1-6.50, 7-1-6.59,
21 7-1-6.60, 7-1-15.2, 7-2-7.2, 7-2-7.3, 7-2-18.7, 7-2-18.11,
22 7-2-18.14, 7-2-18.19, 7-2-18.23, 7-2-18.30, 7-2-23, 7-2-24.1
23 through 7-2-28, 7-2-29 through 7-2-30.9, 7-2-30.11, 7-2-31,
24 7-2A-14, 7-2A-17.1, 7-2A-21, 7-2A-29, 7-2A-30, 7-2D-1 through
25 7-2D-14, 7-2F-1, 7-2F-2.1, 7-2F-6 through 7-2F-11, 7-2H-1

1 through 7-2H-4, 7-9-10, 7-9-74, 7-9-79.2, 7-9-118, 7-9A-2.1,
2 7-9F-12, 7-9J-1 through 7-9J-8 and 7-13-10 NMSA 1978 (being
3 Laws 1983, Chapter 211, Section 11; Laws 1987, Chapter 265,
4 Section 3; Laws 1992, Chapter 108, Sections 3 and 2; Laws
5 2005, Chapter 56, Section 1; Laws 2005, Chapter 87, Section 1;
6 Laws 2005, Chapter 220, Section 1; Laws 2009, Chapter 175,
7 Section 1; Laws 2010, Chapter 31, Section 2; Laws 1998,
8 Chapter 105, Section 1; Laws 2005 (1st S.S.), Chapter 3,
9 Sections 3 and 4; Laws 2000, Chapter 64, Section 1 and Laws
10 2000, Chapter 78, Section 1; Laws 2003, Chapter 400, Section
11 1; Laws 2006, Chapter 93, Section 1; Laws 2007, Chapter 204,
12 Section 3; Laws 2008 (2nd S.S.), Chapter 3, Section 1; Laws
13 2018, Chapter 36, Section 1; Laws 2019, Chapter 270, Section
14 20; Laws 1981, Chapter 343, Section 1; Laws 1992, Chapter 108,
15 Section 4; Laws 2021, Chapter 90, Section 1; Laws 1987,
16 Chapter 257, Section 3; Laws 1987, Chapter 265, Sections 1 and
17 2; Laws 2005, Chapter 56, Section 2; Laws 2005, Chapter 87,
18 Section 2; Laws 2005, Chapter 220, Section 2; Laws 2009,
19 Chapter 175, Section 2; Laws 2012, Chapter 7, Section 1; Laws
20 2012, Chapter 57, Section 1; Laws 2013, Chapter 49, Section 2;
21 Laws 2015, Chapter 50, Section 1; Laws 2015, Chapter 82,
22 Section 1; Laws 2018, Chapter 51, Section 1; Laws 1992,
23 Chapter 108, Section 1; Laws 1983, Chapter 218, Section 1;
24 Laws 2003, Chapter 400, Section 2; Laws 2007, Chapter 204,
25 Section 4; Laws 2018, Chapter 36, Section 2; Laws 1993,

1 Chapter 313, Sections 1, 2 and 4 through 14; Laws 2002,
2 Chapter 36, Section 1; Laws 2015, Chapter 143, Sections 4
3 through 10; Laws 2008, Chapter 89, Sections 1 through 4; Laws
4 1966, Chapter 47, Section 10; Laws 1971, Chapter 217, Section
5 2; Laws 2007, Chapter 204, Section 9; Laws 2021, Chapter 4,
6 Section 3; Laws 2001, Chapter 57, Section 2 and Laws 2001,
7 Chapter 337, Section 2; Laws 2000 (2nd S.S.), Chapter 22,
8 Section 12; Laws 2007, Chapter 204, Sections 11 through 18;
9 and Laws 1977, Chapter 342, Section 5, as amended) are
10 repealed.

11 SECTION 156. ADDITIONAL REPEAL.--That version of
12 Section 7-2-7 NMSA 1978 (being Laws 2005 (1st S.S.), Chapter
13 3, Section 2) is repealed.

14 SECTION 157. DELAYED REPEAL.--Section 7-1-6.66 NMSA
15 1978 (being Laws 2021, Chapter 4, Section 1) is repealed
16 effective January 1, 2028.

17 SECTION 158. EFFECTIVE DATE.--

18 A. The effective date of the provisions of
19 Sections 1 through 16, 18 through 35, 37, 61, 66 through 119,
20 121, 123 through 129, 131 through 138, 140 through 148, 153,
21 155 and 156 of this act is July 1, 2025.

22 B. The effective date of the provisions of
23 Sections 17, 36, 38 through 60, 62 through 65, 120, 122, 130,
24 139 and 152 of this act is January 1, 2026. _____