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HOUSE BILL 291

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

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AN ACT

RELATING TO TAXATION; ALLOWING ATTORNEY FEES TO BE PAID FROM
REVENUE DISTRIBUTIONS; PREVENTING THE ACCRUAL OF INTEREST WHEN
AN EXTENSION OF TIME TO FILE A RETURN HAS BEEN GRANTED;
AMENDING ROUNDING REQUIREMENTS; CLARIFYING THAT A TAXPAYER WHO
HAS ENTERED INTO AN INSTALLMENT AGREEMENT IS NOT CONSIDERED A
DELINQUENT TAXPAYER FOR PURPOSES OF LICENSE OR PERMIT RENEWAL;
PROVIDING THAT A MINIMUM CIVIL PENALTY OF FIVE DOLLARS (\$5.00)
SHALL NOT APPLY FOR FAILURE TO PAY A TAX LEVIED PURSUANT TO THE
WITHHOLDING TAX ACT, THE OIL AND GAS PROCEEDS AND PASS-THROUGH
ENTITY WITHHOLDING TAX ACT OR THE WORKERS' COMPENSATION FEE;
AMENDING THE FILM PRODUCTION TAX CREDIT ACT; AMENDING
DEFINITIONS IN THE TECHNOLOGY JOBS AND RESEARCH AND DEVELOPMENT
TAX CREDIT ACT; CLARIFYING THE TOBACCO PRODUCTS TAX ON CLOSED
SYSTEM CARTRIDGES; ALLOWING EXCESS PROPERTY TAX AUCTION
PROCEEDS TO BE APPLIED TO OUTSTANDING TAX DEBT; REQUIRING

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1 SPECIFIC EFFECTIVE DATES FOR AN ORDINANCE CHANGING THE
2 IMPOSITION OF TAX IMPOSED BY AN INDIAN NATION, TRIBE OR PUEBLO
3 AND COLLECTED BY THE TAXATION AND REVENUE DEPARTMENT PURSUANT
4 TO A TRIBAL COOPERATIVE AGREEMENT; AMENDING WITH WHOM THE
5 SECRETARY OF TAXATION AND REVENUE MAY ENTER INTO TRIBAL
6 COOPERATIVE AGREEMENTS.

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

11 "7-1-6. RECEIPTS--DISBURSEMENTS--FUNDS CREATED.--

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

23 B. Money received or disbursed by the department
24 shall be accounted for by the department as required by law or
25 rule of the secretary of finance and administration.

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

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

16 E. All revenues collected or received by the
17 department pursuant to the provisions of the taxes and tax acts
18 set forth in Subsection A of Section 7-1-2 NMSA 1978 shall be
19 credited to the tax administration suspense fund and are
20 appropriated for the purpose of making the disbursements
21 authorized in this section or otherwise authorized or required
22 by law to be made from the tax administration suspense fund.

23 F. All revenues collected or received by the
24 department pursuant to the taxes or tax acts set forth in
25 Subsection B of Section 7-1-2 NMSA 1978 shall be credited to

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1 the extraction taxes suspense fund and are appropriated for the
2 purpose of making the disbursements authorized in this section
3 or otherwise authorized or required by law to be made from the
4 extraction taxes suspense fund.

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

12 H. All revenues collected or received by the
13 department pursuant to the provisions of Section 52-5-19 NMSA
14 1978 shall be credited to the workers' compensation collections
15 suspense fund and are appropriated for the purpose of making
16 the disbursements authorized in this section or otherwise
17 authorized or required by law to be made from the workers'
18 compensation collections suspense fund.

19 I. Disbursements to cover expenditures of the
20 department shall be made only upon approval of the secretary or
21 the secretary's delegate.

22 J. Miscellaneous receipts from charges made by the
23 department to defray expenses pursuant to the provisions of
24 Section 9-11-6.1 NMSA 1978 and similar charges are appropriated
25 to the department for its use.

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

7 SECTION 2. Section 7-1-13 NMSA 1978 (being Laws 1965,
8 Chapter 248, Section 18, as amended) is amended to read:

9 "7-1-13. TAXPAYER RETURNS--PAYMENT OF TAXES--EXTENSION OF
10 TIME.--

11 A. Taxpayers are liable for tax at the time of and
12 after the transaction or incident giving rise to tax until
13 payment is made. Taxes are due on and after the date on which
14 their payment is required until payment is made.

15 B. Every taxpayer shall, on or before the date on
16 which payment of any tax is due, complete and file a tax return
17 in a form prescribed and according to the regulations issued by
18 the secretary. Except as provided in Section 7-1-13.1 NMSA
19 1978 or by regulation, ruling, order or instruction of the
20 secretary, the payment of any tax or the filing of any return
21 may be accomplished by mail. When the filing of a tax return
22 or payment of a tax is accomplished by mail, the date of the
23 postmark shall be considered the date of submission of the
24 return or payment.

25 C. Payment of the total amount of all taxes that
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1 are due from the taxpayer shall precede or accompany the
2 return. Delivery to the department of a check or electronic
3 check that is not paid upon presentment does not constitute
4 payment.

5 D. The secretary or the secretary's delegate may,
6 for good cause, extend in favor of a taxpayer or a class of
7 taxpayers, for no more than a total of twelve months, the date
8 on which payment of any tax is required or on which any return
9 required by provision of the Tax Administration Act shall be
10 filed [~~but no extension shall prevent the accrual of interest~~
11 ~~as otherwise provided by law~~]. When an extension of time for
12 income tax has been granted a taxpayer pursuant to the Internal
13 Revenue Code, the extension shall serve to extend the time for
14 filing New Mexico income tax; provided that a copy of the
15 approved federal extension of time is attached to the
16 taxpayer's New Mexico income tax return. The secretary by
17 regulation may also provide for the automatic extension for no
18 more than six months of the date upon which payment of any New
19 Mexico income tax or the filing of any New Mexico income tax
20 return is required. If the secretary or the secretary's
21 delegate believes it necessary to ensure the collection of the
22 tax, the secretary or the secretary's delegate may require, as
23 a condition of granting any extension, that the taxpayer
24 furnish security in accordance with the provisions of Section
25 7-1-54 NMSA 1978.

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1 E. Except as provided in Subsection F of this
2 section, no later than one hundred eighty days after the final
3 determination date, a taxpayer shall file a federal adjustments
4 report with the department and pay any state tax due with
5 respect to final net-positive federal adjustments arising from:

6 (1) an audit or other action by the internal
7 revenue service; or

8 (2) a timely filed amended federal income tax
9 return, including a return or other similar information filed
10 pursuant to Section 6225(c)(2) of the Internal Revenue Code.

11 F. Except for federal adjustments that are required
12 to be reported pursuant to Subsection E of this section,
13 partnerships and partners shall report final net-positive
14 federal adjustments arising from a partnership level audit or
15 an administrative adjustment request and make payments as
16 follows:

17 (1) except for where the partnership or tiered
18 partner makes an election pursuant to Subsection G of this
19 section, the partnership or tiered partner shall:

20 (a) file: 1) a completed federal
21 adjustments report and notify each of its direct partners of
22 their distributive share of the final federal adjustments,
23 including information necessary for reporting state tax due as
24 required by the department; and 2) an amended withholding
25 return for the reviewed year if such return was filed, or would

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1 have been required pursuant to the Withholding Tax Act;

2 (b) in the case of an audited
3 partnership, file the returns required by this paragraph no
4 later than ninety days after the final determination date; and

5 (c) in the case of a tiered partner of
6 an audited partnership, file the returns required by this
7 paragraph no later than ninety days after the time for the
8 audited partnership's filing and furnishing statements to
9 tiered partnerships and their partners as established pursuant
10 to Section 6226 of the Internal Revenue Code and the
11 regulations thereunder; and

12 (2) a partner of a partnership or a tiered
13 partner subject to tax pursuant to Section 7-2-3 or 7-2A-3 NMSA
14 1978 on adjustments to which Paragraph (1) of this subsection
15 applies shall file a federal adjustments report reporting the
16 partner's distributive share of the adjustments and shall pay
17 the additional amount of state tax due, plus any penalty and
18 interest due and less any credit for related amounts paid or
19 withheld and remitted on behalf of the partner pursuant to
20 Paragraph (1) of this subsection as follows:

21 (a) for taxable direct partners of the
22 audited partnership, no later than one hundred eighty days
23 after the final determination date; or

24 (b) for taxable indirect partners of the
25 audited partnership, no later than one hundred eighty days

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1 after the time for the audited partnership's filing and
2 furnishing statements to tiered partnerships and their partners
3 as established pursuant to Section 6226 of the Internal Revenue
4 Code and the regulations thereunder.

5 G. The election provided by this subsection applies
6 only to federal adjustments other than the distributive share
7 of federal adjustments that must be included in the unitary
8 business income of any direct or indirect corporate partner;
9 provided that this can be reasonably determined, or federal
10 adjustments resulting from an administrative adjustment
11 request. A partnership making an election pursuant to this
12 subsection shall:

13 (1) file a completed federal adjustments
14 report and notify the department that it is making the election
15 pursuant to this subsection; and

16 (2) pay an amount, determined as follows, in
17 lieu of taxes owed by its direct and indirect taxable partners:

18 (a) exclude from the total final federal
19 adjustments the distributive share reported to a direct partner
20 that is an exempt partner unless the adjustment represents
21 unrelated business taxable income;

22 (b) include only the portion of the
23 total federal adjustment to distributive shares of partners
24 taken into account pursuant to Section 6225(b)(2) of the
25 Internal Revenue Code;

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1 (c) apportion and allocate the
2 adjustments as provided by the Uniform Division of Income for
3 Tax Purposes Act as applied at the partnership level following
4 any department regulations adopted for this purpose;

5 (d) multiply the resulting amount by the
6 highest tax rate provided by Section 7-2A-5 NMSA 1978; and

7 (e) add to the amount calculated
8 pursuant to Subparagraph (d) of this paragraph an amount of
9 penalty and interest computed pursuant to the Tax
10 Administration Act.

11 H. In any action required or allowed to be taken
12 pursuant to the Tax Administration Act with respect to the
13 reporting of federal adjustments by a partnership, the state
14 partnership representative for the reviewed year shall have the
15 sole authority to act on behalf of the partnership, and the
16 partnership's direct partners and indirect partners shall be
17 bound by those actions. The state partnership representative
18 is the partnership's federal partnership representative for the
19 reviewed year, unless the partnership designates in writing
20 another person as its state partnership representative;
21 provided that the person meets any qualifications established
22 by the department.

23 I. Pursuant to procedures that may be adopted by
24 the department, an audited partnership or tiered partner of
25 that partnership may enter into an agreement with the

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1 department to utilize an alternative reporting and payment
2 method, including applicable time requirements or any other
3 provision pursuant to Subsections E through H of this section,
4 if the audited partnership or tiered partner demonstrates that
5 the requested method will reasonably provide for the reporting
6 and payment of taxes, penalties and interest due pursuant to
7 Subsections E through H of this section. Application for
8 approval of an alternative reporting and payment method must be
9 made by the audited partnership or tiered partner within the
10 time for election as provided in Subsection G of this section,
11 as appropriate.

12 J. An election made pursuant to Subsection G or I
13 of this section is irrevocable, unless the department, in its
14 discretion, determines otherwise. If properly reported and
15 paid by the audited partnership or tiered partner, the amount
16 determined in Paragraph (2) of Subsection G of this section, or
17 similarly under an optional election pursuant to Subsection I
18 of this section, will be treated as paid in lieu of taxes owed
19 by its direct and indirect partners on the same final federal
20 adjustments. The direct or indirect partners of the
21 partnership that pays this in lieu of amount may not claim any
22 deduction, credit or refund with respect to that amount.

23 K. A taxpayer may make estimated payments of state
24 tax expected to result from a pending audit by the internal
25 revenue service prior to the final determination date,

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1 following the process prescribed by the department, and such
2 payments will limit the accrual of further statutory interest
3 on that amount.

4 L. A taxpayer may claim an amount of state tax
5 resulting from final net-negative federal adjustments as
6 provided in Section 7-1-26 NMSA 1978.

7 M. Nothing in Subsections E through L of this
8 section shall prevent the department from assessing direct
9 partners or indirect partners for taxes they owe, using the
10 best information available, in the event that a partnership or
11 tiered partner fails to timely make any report or payment
12 required for any reason.

13 N. As used in this section:

14 (1) "administrative adjustment request" means
15 an administrative adjustment request filed by a partnership
16 pursuant to Section 6227 of the Internal Revenue Code;

17 (2) "audited partnership" means a partnership
18 subject to a partnership level audit resulting in a federal
19 adjustment;

20 (3) "corporate partner" means a partner,
21 direct or indirect, that is subject to tax pursuant to the
22 Corporate Income and Franchise Tax Act;

23 (4) "direct partner" means any partner that
24 holds an interest directly in a partnership or pass-through
25 entity;

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1 (5) "exempt partner" means a partner, direct
2 or indirect, that is exempt from New Mexico income tax except
3 on unrelated business taxable income;

4 (6) "federal adjustment" means a change to an
5 item or amount determined pursuant to the Internal Revenue Code
6 that is used by a taxpayer to compute an amount of state tax
7 owed, whether that change results from action by the internal
8 revenue service, including a partnership level audit, or the
9 filing of an amended federal return, federal refund claim or an
10 administrative adjustment request by a partnership;

11 (7) "federal adjustments report" includes the
12 methods or forms required by the department for use by a
13 taxpayer to report final federal adjustments, including an
14 amended tax return, information return or a uniform multistate
15 report;

16 (8) "final determination date" means:

17 (a) except as provided in Subparagraphs
18 (b), (c) and (d) of this paragraph, if a federal adjustment
19 arises from an audit or other action by the internal revenue
20 service, the final determination date is the first day on which
21 no federal adjustments arising from that audit or other action
22 remain to be finally determined, whether by a decision of the
23 internal revenue service with respect to which all rights of
24 appeal have been waived or exhausted, by agreement, or, if
25 appealed or contested, by a final decision with respect to

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1 which all rights of appeal have been waived or exhausted. For
2 agreements required to be signed by the internal revenue
3 service and the taxpayer, the final determination date is the
4 date on which the last party signed the agreement;

5 (b) for federal adjustments arising from
6 an internal revenue service audit or other action by the
7 internal revenue service, if the taxpayer filed as a member of
8 a filing group pursuant to the Corporate Income and Franchise
9 Tax Act, the final determination date means the first day on
10 which no related federal adjustments arising from that audit
11 remain to be finally determined, as described in Subparagraph
12 (a) of this paragraph, for the entire group;

13 (c) except as provided in Subparagraph
14 (d) of this paragraph, if the federal adjustment results from
15 filing an amended federal return, a federal refund claim or an
16 administrative adjustment request, or if it is a federal
17 adjustment reported on an amended federal return or other
18 similar report filed pursuant to Section 6225(c) of the
19 Internal Revenue Code, the final determination date means the
20 day on which the amended return, refund claim, administrative
21 adjustment request or other similar report was filed; and

22 (d) for adjustments resulting from a
23 partnership level audit or an administrative adjustment request
24 for which the final determination date pursuant to Subparagraph
25 (a) or (c) of this paragraph is determined to be a date

1 occurring prior to ~~[the effective date of this 2021 act]~~ June
2 18, 2021, the final determination date shall be July 1, 2021;

3 (9) "final federal adjustments" means
4 adjustments for which the final determination date has passed,
5 including final net-positive federal adjustments and final net-
6 negative federal adjustments;

7 (10) "indirect partner" means a partner in a
8 partnership or pass-through entity in which the partner holds
9 an interest directly, or through another indirect partner, in a
10 partnership or pass-through entity;

11 (11) "net-negative federal adjustments" means
12 federal adjustments relating to the same tax period, whether
13 made by the taxpayer or the internal revenue service, the net
14 effect of which is to decrease state tax due as compared to tax
15 originally reported for that period;

16 (12) "net-positive federal adjustments" means
17 federal adjustments relating to the same tax period, whether
18 made by the taxpayer or the internal revenue service, the net
19 effect of which is to increase state tax due as compared to tax
20 originally reported for that period;

21 (13) "partner" means a person that holds an
22 interest directly or indirectly in a partnership or other
23 pass-through entity;

24 (14) "partnership" means an entity subject to
25 taxation pursuant to Subchapter K of the Internal Revenue Code;

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1 (15) "partnership level audit" means an
2 examination by the internal revenue service at the partnership
3 level pursuant to Subchapter C or Subtitle F, Chapter 63 of the
4 Internal Revenue Code [~~which~~] that results in federal
5 adjustments;

6 (16) "pass-through entity" means an entity,
7 other than a partnership, that is not subject to tax pursuant
8 to the Corporate Income and Franchise Tax Act;

9 (17) "reviewed year" means the taxable year of
10 a partnership that is subject to a partnership level audit from
11 which federal adjustments arise;

12 (18) "taxpayer" means a taxpayer, including a
13 partnership subject to a partnership level audit or a
14 partnership that has made an administrative adjustment request,
15 as well as a tiered partner of that partnership, unless the
16 context indicates otherwise;

17 (19) "tiered partner" means any partner that
18 is a partnership or pass-through entity; and

19 (20) "unrelated business taxable income" means
20 "unrelated business taxable income" as used in Section 512 of
21 the Internal Revenue Code."

22 SECTION 3. Section 7-1-15.1 NMSA 1978 (being Laws 1987,
23 Chapter 169, Section 4) is amended to read:

24 "7-1-15.1. SECRETARY MAY PERMIT OR REQUIRE ROUNDING.--By
25 regulation or instruction, the secretary may permit or require
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1 rounding to the nearest whole dollar of [~~tax due; provided that~~
2 ~~for any tax or tax act the revenues from which are required by~~
3 ~~the provisions of the Tax Administration Act to be distributed~~
4 ~~or transferred partly to local governments and partly to state~~
5 ~~funds, the gain or loss due to rounding shall be attributed to~~
6 ~~the state funds] an amount due pursuant to the Income Tax Act
7 or the Corporate Income and Franchise Tax Act, and to the
8 nearest five cents (\$.05) of an amount due pursuant to all
9 other taxes administered by the department pursuant to Section
10 7-1-2 NMSA 1978."~~

11 SECTION 4. Section 7-1-16 NMSA 1978 (being Laws 1965,
12 Chapter 248, Section 19, as amended) is amended to read:

13 "7-1-16. DELINQUENT TAXPAYER.--

14 A. Except as provided in [~~Subsection~~] Subsections D
15 and E of this section, any taxpayer to whom taxes have been
16 assessed as provided in Section 7-1-17 NMSA 1978 or upon whom
17 demand for payment has been made as provided in Section 7-1-63
18 NMSA 1978 who does not within ninety days after the date of
19 assessment or demand for payment make payment of the undisputed
20 amount, protest the assessment or demand for payment as
21 provided by Section 7-1-24 NMSA 1978 or furnish security for
22 payment as provided by Section 7-1-54 NMSA 1978 becomes a
23 delinquent taxpayer and remains such until:

24 (1) payment of the total amount of all such
25 taxes is made;

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1 (2) security is furnished for payment; or
2 (3) no part of the assessment remains
3 unabated.

4 B. Any taxpayer who fails to provide security as
5 required by Subsection D of Section 7-1-54 NMSA 1978 shall be
6 deemed to be a delinquent taxpayer.

7 C. If a taxpayer files a protest as provided in
8 Section 7-1-24 NMSA 1978, the taxpayer nevertheless becomes a
9 delinquent taxpayer upon failure of the taxpayer to appear, in
10 person or by authorized representative, at the hearing set or
11 upon failure to perfect an appeal from any decision or part
12 thereof adverse to the taxpayer to the next higher appellate
13 level, as provided in that section, unless the taxpayer makes
14 payment of the total amount of all taxes assessed and remaining
15 unabated or furnishes security for payment.

16 D. A taxpayer does not become a delinquent taxpayer
17 if the taxpayer has been issued an assessment as a result of a
18 managed audit but is still within the allowed time period to
19 pay the tax due as specified in Paragraph (4) of Subsection A
20 of Section 7-1-67 NMSA 1978.

21 E. For the purposes of license or permit renewal, a
22 taxpayer shall not be considered a delinquent taxpayer if the
23 taxpayer has entered into an installment agreement pursuant to
24 Section 7-1-21 NMSA 1978 that is in good standing with the
25 department and the taxpayer has not failed to meet the

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1 conditions of the installment agreement with the department
2 during the five calendar years immediately preceding the
3 current calendar year. If an installment agreement is relied
4 on for purposes of license or permit renewal, it shall be
5 secured with a payment of a minimum of twenty percent of the
6 taxpayer's delinquent tax amount for the tax programs required
7 for renewal."

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

10 "7-1-69. CIVIL PENALTY FOR FAILURE TO PAY TAX OR FILE A
11 RETURN.--

12 A. Except as provided in Subsection C of this
13 section, in the case of failure due to negligence or disregard
14 of department rules and regulations, but without intent to
15 evade or defeat a tax, to pay when due the amount of tax
16 required to be paid, to pay in accordance with the provisions
17 of Section 7-1-13.1 NMSA 1978 when required to do so or to file
18 by the date required a return regardless of whether a tax is
19 due, there shall be added to the amount assessed a penalty in
20 an amount equal to the greater of:

21 (1) two percent per month or any fraction of a
22 month from the date the tax was due multiplied by the amount of
23 tax due but not paid, not to exceed twenty percent of the tax
24 due but not paid;

25 (2) two percent per month or any fraction of a
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1 month from the date the return was required to be filed
2 multiplied by the tax liability established in the late return,
3 not to exceed twenty percent of the tax liability established
4 in the late return; or

5 (3) a minimum of five dollars (\$5.00), but the
6 five-dollar (\$5.00) minimum penalty shall not apply to taxes
7 levied under the Income Tax Act, Corporate Income and Franchise
8 Tax Act, Withholding Tax Act, Oil and Gas Proceeds and Pass-
9 Through Entity Withholding Tax Act, workers' compensation fee
10 authorized by Section 52-5-19 NMSA 1978 or taxes administered
11 by the department pursuant to Subsection B of Section 7-1-2
12 NMSA 1978.

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

16 C. If a different penalty is specified in a compact
17 or other interstate agreement to which New Mexico is a party,
18 the penalty provided in the compact or other interstate
19 agreement shall be applied to amounts due under the compact or
20 other interstate agreement at the rate and in the manner
21 prescribed by the compact or other interstate agreement.

22 D. In the case of failure, with willful intent to
23 evade or defeat a tax, to pay when due the amount of tax
24 required to be paid, there shall be added to the amount fifty
25 percent of the tax or a minimum of twenty-five dollars

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1 (\$25.00), whichever is greater, as penalty.

2 E. If demand is made for payment of a tax,
3 including penalty imposed pursuant to this section, and if the
4 tax is paid within ten days after the date of such demand, no
5 penalty shall be imposed for the period after the date of the
6 demand with respect to the amount paid.

7 F. If a taxpayer makes electronic payment of a tax
8 but the payment does not include all of the information
9 required by the department pursuant to the provisions of
10 Section 7-1-13.1 NMSA 1978 and if the department does not
11 receive the required information within five business days from
12 the later of the date a request by the department for that
13 information is received by the taxpayer or the due date, the
14 taxpayer shall be subject to a penalty of two percent per month
15 or any fraction of a month from the fifth day following the
16 date the request is received. If a penalty is imposed under
17 Subsection A of this section with respect to the same
18 transaction for the same period, no penalty shall be imposed
19 under this subsection.

20 G. No penalty shall be imposed on:

21 (1) tax due in excess of tax paid in
22 accordance with an approved estimated basis pursuant to Section
23 7-1-10 NMSA 1978;

24 (2) tax due as the result of a managed audit;
25 or

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

4 SECTION 6. Section 7-2F-2 NMSA 1978 (being Laws 2003,
5 Chapter 127, Section 2, as amended) is amended to read:

6 "7-2F-2. DEFINITIONS.--As used in the Film Production Tax
7 Credit Act:

8 A. "affiliated person" means a person who directly
9 or indirectly owns or controls, is owned or controlled by or is
10 under common ownership or control with another person through
11 ownership of voting securities or other ownership interests
12 representing a majority of the total voting power of the
13 entity;

14 B. "background artist" means a person who is not a
15 performing artist but is a person of atmospheric business whose
16 work includes atmospheric noise, normal actions, gestures and
17 facial expressions of that person's assignment; or a person of
18 atmospheric business whose work includes special abilities that
19 are not stunts; or a substitute for another actor, whether
20 photographed as a double or acting as a stand-in;

21 C. "below-the-line crew" means a person in a
22 position that is off-camera and who provides technical services
23 during the physical production of a film. "Below-the-line
24 crew" does not include a person who is a writer, director,
25 producer or background artist or performing artist for the

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1 film;

2 D. "commercial audiovisual product" means a film or
3 a video game intended for commercial exploitation;

4 E. "direct production expenditure" means a
5 transaction that is subject to taxation in New Mexico, except
6 as provided in Subparagraph (f) of Paragraph (1) of this
7 subsection, and is certified pursuant to Subsection A of
8 Section 7-2F-12 NMSA 1978:

9 (1) including an expenditure for:

10 (a) payment of wages, fringe benefits or
11 fees for talent, management or labor to a person who is a New
12 Mexico resident;

13 (b) payment for standard industry craft
14 inventory when provided by a below-the-line crew that is a New
15 Mexico resident in addition to its below-the-line crew
16 services;

17 (c) payment for wages and per diem for a
18 performing artist who is not a New Mexico resident and who is
19 directly employed by the film production company; provided that
20 the film production company deducts and remits, or causes to be
21 deducted and remitted, income tax from the first day of
22 services rendered in New Mexico at the maximum rate pursuant to
23 the Withholding Tax Act;

24 (d) payment to a personal services
25 business for the services of a performing artist if: 1) the
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1 personal services business pays gross receipts tax in New
2 Mexico on the portion of those payments qualifying for the tax
3 credit; and 2) the film production company deducts and remits,
4 or causes to be deducted and remitted, income tax at the
5 maximum rate in New Mexico pursuant to Subsection H of Section
6 7-3A-3 NMSA 1978 on the portion of those payments qualifying
7 for the tax credit paid to a personal services business where
8 the performing artist is a full or part owner of that business
9 or subcontracts with a personal services business where the
10 performing artist is a full or part owner of that business;
11 [~~and~~]

12 (e) any of the following provided by a
13 vendor: 1) the story and scenario to be used for a film; 2)
14 set construction and operations, wardrobe, accessories and
15 related services; 3) photography, sound synchronization,
16 lighting and related services; 4) editing and related services;
17 5) rental of facilities and equipment; 6) the first one hundred
18 fifty dollars (\$150) of the daily expense of leasing of
19 vehicles, not including the chartering of aircraft for out-of-
20 state transportation; however, New Mexico-based chartered
21 aircraft for in-state transportation directly attributable to
22 the production shall be considered a direct production
23 expenditure; 7) food; 8) the first three hundred dollars (\$300)
24 of lodging per individual, per day; 9) commercial airfare if
25 purchased through a New Mexico-based travel agency or travel

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1 company for travel to and from New Mexico or within New Mexico
2 that is directly attributable to the production; 10) insurance
3 coverage and bonding if purchased through a New Mexico-based
4 insurance agent, broker or bonding agent; 11) subcontracted
5 goods and services from businesses; provided that the ordinary
6 course of business of the vendor procuring the goods and
7 services from the subcontractor directly relates to standard
8 film industry goods and services; and 12) other direct costs of
9 producing a film in accordance with generally accepted
10 entertainment industry practice; and

11 (f) payments for the lease or rental of
12 facilities and equipment located on, or purchases from
13 businesses located on, a federally recognized Indian nation,
14 tribe or pueblo located in New Mexico and those payments and
15 purchases are exempt from taxation in New Mexico; and

16 (2) does not include an expenditure for:

17 (a) a gift with a value greater than one
18 hundred dollars (\$100);

19 (b) artwork or jewelry, except that a
20 work of art or a piece of jewelry may be a direct production
21 expenditure if: 1) it is used in the film production; and 2)
22 the expenditure is less than two thousand five hundred dollars
23 (\$2,500);

24 (c) entertainment, amusement or
25 recreation;

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1 (d) subcontracted goods or services
2 provided by a vendor when the subcontractors providing those
3 goods or services to the vendor are not subject to state
4 taxation, such as equipment and locations provided by the
5 military, government and organizations that demonstrate to the
6 taxation and revenue department that they have been granted
7 exemption from the federal income tax by the United States
8 commissioner of internal revenue as organizations described in
9 Section 501(c)(3) of the United States Internal Revenue Code of
10 1986, as amended or renumbered;

11 (e) subcontracted services provided by a
12 vendor when the subcontracted services are provided by a person
13 who is below-the-line crew and is not a New Mexico resident;

14 (f) hidden or other indirect service
15 fees, costs, commissions or other remuneration received by
16 third parties and that are not directly paid by the film
17 production company or expressly enumerated on a film production
18 company's filing to claim a new film production tax credit;

19 (g) wages for a person who is not a New
20 Mexico resident and who falsely claims to be a New Mexico
21 resident. The wages of such person shall not be considered an
22 eligible expense for two years from the date in which the
23 person is determined by the taxation and revenue department as
24 having made a false claim, regardless of whether the person
25 becomes a New Mexico resident within that time frame; or

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1 (h) which the film production company
2 receives funding pursuant to Section 21-19-7.1 NMSA 1978;

3 F. "division" means the New Mexico film division of
4 the economic development department;

5 G. "federal new markets tax credit program" means
6 the tax credit program codified as Section 45D of the United
7 States Internal Revenue Code of 1986, as amended;

8 H. "film" means a single medium or multimedia
9 program, including television programs but excluding
10 advertising messages other than national or regional
11 advertising messages intended for exhibition, that:

12 (1) is fixed on film, a digital medium,
13 videotape, computer disc, laser disc or other similar delivery
14 medium;

15 (2) can be viewed or reproduced;

16 (3) is not intended to and does not violate a
17 provision of Chapter 30, Article 37 NMSA 1978; and

18 (4) is intended for reasonable commercial
19 exploitation for the delivery medium used;

20 I. "film production company" means a person that
21 produces one or more films or commercial audiovisual products
22 or any part of a film or commercial audiovisual product;

23 J. "fiscal year" means the state fiscal year
24 beginning on July 1;

25 K. "New Mexico film partner" means a film

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1 production company that has made a commitment to produce films
2 or commercial audiovisual products in New Mexico and has
3 purchased or executed a ten-year contract to lease a qualified
4 production facility;

5 L. "New Mexico film partner production" means a
6 film or commercial audiovisual product in New Mexico for which
7 a New Mexico film partner:

8 (1) owns at least fifty percent of the
9 production for which the budget is certified pursuant to
10 Subsection A of Section 7-2F-12 NMSA 1978 for at least one year
11 from the date of the last direct production expenditure or
12 postproduction expenditure in New Mexico;

13 (2) owns or controls underlying intellectual
14 property resulting from the production for at least five years
15 from the date of the last direct production expenditure or
16 postproduction expenditure in New Mexico; or

17 (3) has funded at least fifty percent of the
18 production budget certified pursuant to Subsection A of Section
19 7-2F-12 NMSA 1978;

20 ~~[L.]~~ M. "New Mexico resident" means an individual
21 who is domiciled in this state during any part of the taxable
22 year or an individual who is physically present in this state
23 for one hundred eighty-five days or more during the taxable
24 year; but any individual, other than someone who was physically
25 present in the state for one hundred eighty-five days or more

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1 during the taxable year and who, on or before the last day of
2 the taxable year, changed the individual's place of abode to a
3 place without this state with the bona fide intention of
4 continuing actually to abide permanently without this state is
5 not a resident for the purposes of the Film Production Tax
6 Credit Act for periods after that change of abode;

7 [M.] N. "performing artist" means an actor, on-
8 camera stuntperson, puppeteer, pilot who is a stuntperson or
9 actor, specialty foreground performer or narrator; and who
10 speaks a line of dialogue, is identified with the product or
11 reacts to narration as assigned. "Performing artist" does not
12 include a background artist;

13 [N.] O. "personal services business" means a
14 business organization, with or without physical presence, that
15 receives payments pursuant to the Film Production Tax Credit
16 Act for the services of a performing artist;

17 [O.] P. "physical presence" means a physical
18 address in New Mexico from which a vendor conducts business,
19 stores inventory or otherwise creates, assembles or offers for
20 sale the product purchased or leased by a film production
21 company and the vendor or an employee of the vendor is a
22 resident;

23 [P.] Q. "postproduction expenditure" means an
24 expenditure, certified pursuant to Subsection A of Section
25 7-2F-12 NMSA 1978, for editing, Foley recording, automatic
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1 dialogue replacement, sound editing, special effects, including
2 computer-generated imagery or other effects, scoring and music
3 editing, beginning and end credits, negative cutting,
4 soundtrack production, dubbing, subtitling or addition of sound
5 or visual effects; but not including an expenditure for
6 advertising, marketing, distribution or expense payments;

7 [Q-] R. "principal photography" means the
8 production of a film during which the main visual elements are
9 created;

10 [R-] S. "qualified production facility" means a
11 building, or complex of buildings, building improvements and
12 associated back-lot facilities in which films are or are
13 intended to be regularly produced and that contain at least
14 one:

15 (1) sound stage with contiguous floor space of
16 at least seven thousand square feet and a ceiling height of no
17 less than eighteen feet; or

18 (2) standing set that includes at least one
19 interior, and at least five exteriors, built or re-purposed for
20 film production use on a continual basis and is located on at
21 least fifty acres of contiguous space designated for film
22 production use; and

23 [S-] T. "vendor" means a person who sells or leases
24 goods or services that are related to standard industry craft
25 inventory, who has a physical presence in New Mexico and is

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1 subject to gross receipts tax pursuant to the Gross Receipts
2 and Compensating Tax Act or income tax pursuant to the Income
3 Tax Act or corporate income tax pursuant to the Corporate
4 Income and Franchise Tax Act but excludes a personal services
5 business and services provided by nonresidents hired or
6 subcontracted if the tasks and responsibilities are associated
7 with the standard industry job position of director, writer or
8 producer."

9 SECTION 7. Section 7-2F-12 NMSA 1978 (being Laws 2019,
10 Chapter 87, Section 6, as amended) is amended to read:

11 "7-2F-12. CREDIT CLAIMS--CERTIFICATION OF DIRECT
12 PRODUCTION AND POSTPRODUCTION EXPENDITURES--AGGREGATE AMOUNT OF
13 CLAIMS ALLOWED--EXCEPTION.--

14 A. The division shall certify a film production
15 company's budget for direct production expenditures and
16 postproduction expenditures during a preproduction meeting with
17 the division; provided that the division is prohibited from
18 certifying a film production company's budget if the total
19 expected claims in excess of the aggregate amount of claims
20 that may be authorized for payment pursuant to Subsection B of
21 this section would exceed one hundred million dollars
22 (\$100,000,000) in any fiscal year; and provided further that
23 the limitation in this subsection shall not apply to
24 certification of a budget for a New Mexico film partner
25 production.

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1 B. ~~[Except as provided in Laws 2019, Chapter 87,~~
2 ~~Section 10]~~ The aggregate amount of claims for a credit
3 provided by the Film Production Tax Credit Act that may be
4 authorized in any fiscal year with respect to the direct
5 production expenditures or postproduction expenditures made on
6 film or commercial audiovisual products shall be in the
7 following amounts; provided that direct production expenditures
8 and postproduction expenditures made ~~[by]~~ for a New Mexico film
9 partner production shall not be subject to the aggregate amount
10 of claims provided by this subsection:

11 (1) prior to fiscal year 2024, one hundred ten
12 million dollars (\$110,000,000);

13 (2) from fiscal year 2024 through fiscal year
14 2028, the amount provided in Paragraph (1) of this subsection
15 shall be increased by ten million dollars (\$10,000,000) in each
16 of those fiscal years; and

17 (3) for fiscal year 2029 and subsequent fiscal
18 years, one hundred sixty million dollars (\$160,000,000).

19 C. If a film production company submits a claim to
20 the taxation and revenue department for a credit pursuant to
21 the Film Production Tax Credit Act and the aggregate amount of
22 claims pursuant to Subsection B of this section has been met
23 for the fiscal year, the claim shall be placed at the front of
24 a queue for payment in a subsequent fiscal year. Claims shall
25 be placed in order of the date on which the completed return in

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1 which the credit is claimed is filed. Claims authorized for
2 payment shall be paid pursuant to the Tax Administration Act.

3 D. To provide guidance to film production companies
4 regarding the amount of credit capacity remaining in the fiscal
5 year, the taxation and revenue department shall post monthly on
6 that department's website the aggregate amount of credits
7 claimed and paid for the fiscal year. In addition, the
8 division shall post monthly on the division's website the
9 aggregate amount of claims certified pursuant to Subsection A
10 of this section for the fiscal year or any subsequent fiscal
11 year."

12 SECTION 8. Section 7-2F-13 NMSA 1978 (being Laws 2019,
13 Chapter 87, Section 7, as amended) is amended to read:

14 "7-2F-13. NEW FILM PRODUCTION TAX CREDIT.--

15 A. The tax credit created by this section may be
16 referred to as the "new film production tax credit".

17 B. A film production company that meets the
18 requirements of the Film Production Tax Credit Act may apply
19 for, and the taxation and revenue department may allow, a tax
20 credit in an amount equal to twenty-five percent of:

21 (1) direct production expenditures made in New
22 Mexico that:

23 (a) are directly attributable to the
24 production in New Mexico of a film or commercial audiovisual
25 product;

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1 (b) are: 1) subject to taxation by the
2 state of New Mexico; or 2) payments for the lease or rental of
3 facilities and equipment located on, or purchases from
4 businesses located on, a federally recognized Indian nation,
5 tribe or pueblo located in New Mexico, and those payments and
6 purchases are subject to taxation by that Indian nation, tribe
7 or pueblo;

8 (c) exclude direct production
9 expenditures for which another taxpayer claims the new film
10 production tax credit; and

11 (d) do not exceed the usual and
12 customary cost of the goods or services acquired when purchased
13 by unrelated parties. The secretary of taxation and revenue
14 may determine the value of the goods or services for purposes
15 of this section when the buyer and seller are affiliated
16 persons or the sale or purchase is not an arm's length
17 transaction; and

18 (2) postproduction expenditures made in New
19 Mexico that:

20 (a) are directly attributable to the
21 production of a commercial film or audiovisual product;

22 (b) are for services performed in New
23 Mexico;

24 (c) are: 1) subject to taxation by the
25 state of New Mexico; or 2) for services performed by businesses

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1 located on a federally recognized Indian nation, tribe or
2 pueblo located in New Mexico, and those services are subject to
3 taxation by that Indian nation, tribe or pueblo;

4 (d) exclude postproduction expenditures
5 for which another taxpayer claims the new film production tax
6 credit; and

7 (e) do not exceed the usual and
8 customary cost of the goods or services acquired when purchased
9 by unrelated parties. The secretary of taxation and revenue
10 may determine the value of the goods or services for purposes
11 of this section when the buyer and seller are affiliated
12 persons or the sale or purchase is not an arm's length
13 transaction.

14 C. With respect to expenditures attributable to a
15 production for which the film production company receives a tax
16 credit pursuant to the federal new markets tax credit program,
17 the percentage to be applied in calculating the amount of
18 credit allowed pursuant to the Film Production Tax Credit Act
19 is twenty percent.

20 D. A claim for new film production tax credits
21 shall be filed as part of a return filed pursuant to the Income
22 Tax Act or the Corporate Income and Franchise Tax Act [~~or an~~
23 ~~information return filed by an entity assigned payment of an~~
24 ~~authorized credit pursuant to Section 7-2F-5 NMSA 1978]~~. A
25 credit that has been assigned pursuant to Section 7-2F-5 NMSA

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1 1978 shall not be authorized for payment unless the assignee
2 files a return pursuant to the Income Tax Act or the Corporate
3 Income and Franchise Tax Act. If the assignee is a pass-
4 through entity with no New-Mexico-sourced income, the taxation
5 and revenue department may allow a credit to be claimed on a
6 pass-through entity return. The date a complete credit claim
7 is received by the taxation and revenue department shall
8 determine the order that a credit claim is authorized for
9 payment by the department. The film production company may
10 apply all or a portion of the new film production tax credit
11 granted against personal income tax liability or corporate
12 income tax liability. If the amount of the credit claimed
13 exceeds the film production company's tax liability for the
14 taxable year in which the credit is being claimed, the excess
15 shall be refunded.

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

24 ~~[E.]~~ F. A credit claim shall only be considered
25 received by the taxation and revenue department if the credit

1 claim is made on a complete return filed after the close of the
2 taxable year. ~~[All direct production expenditures and~~
3 ~~postproduction expenditures incurred during the taxable year by~~
4 ~~a film production company shall be submitted as part of the~~
5 ~~same income tax return and paid pursuant to this section]~~ A
6 credit shall be claimed on the return for the taxable year in
7 which the direct production expenditures or postproduction
8 expenditures were incurred. If a certificate of eligibility
9 includes expenditures that cross multiple taxable years, the
10 taxpayer may elect to claim the entire credit on the return for
11 either taxable year. A credit claim shall not be divided and
12 submitted with multiple returns or in multiple years.

13 ~~[F.]~~ G. For purposes of determining the payment of
14 credit claims pursuant to this section, the secretary of
15 taxation and revenue may require that credit claims of
16 affiliated persons be combined into one claim if necessary to
17 accurately reflect closely integrated activities of affiliated
18 persons.

19 ~~[G.]~~ H. The new film production tax credit shall
20 not be claimed with respect to direct production expenditures
21 or postproduction expenditures for which the film production
22 company has delivered a nontaxable transaction certificate
23 ~~[pursuant to Section 7-9-86 NMSA 1978]~~ or alternative evidence
24 pursuant to Section 7-9-43 NMSA 1978.

25 ~~[H.]~~ I. A production for which the new film

1 production tax credit is claimed pursuant to Paragraph (1) of
2 Subsection B of this section shall contain an acknowledgment to
3 the state of New Mexico. Unless otherwise agreed upon in
4 writing by the film production company and the division, the
5 acknowledgment shall be in the end screen credits that the
6 production was filmed in New Mexico and a three-second static
7 or animated state logo provided by the division shall be
8 included and embedded in the following:

9 (1) end screen credits before the below-the-
10 line crew crawl for the life of the project of long-form
11 narrative film productions; and

12 (2) body of the program for the life of
13 television episodes, the placement of which shall be:

14 (a) in the opening sequence;

15 (b) as a bumper into or out of a
16 commercial break; or

17 (c) in a prominent position in each
18 single project's end credits with no less than a half screen
19 exposure, but not covering content.

20 ~~[F.]~~ J. To be eligible for the new film production
21 tax credit, a film production company shall submit to the
22 division information required by the division to demonstrate
23 conformity with the requirements of the Film Production Tax
24 Credit Act, including production data deemed necessary by the
25 division and the economic development department to determine

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1 the effectiveness of the credit, and a projection of the new
2 film production tax credit claim the film production company
3 plans to submit. In addition, the film production company
4 shall agree in writing:

5 (1) to pay all obligations the film production
6 company has incurred in New Mexico;

7 (2) to post a notice at completion of
8 principal photography on the website of the division that:

9 (a) contains production company
10 information, including the name of the production and contact
11 information that includes a working phone number and email
12 address for both the local production office and the permanent
13 production office to notify the public of the need to file
14 creditor claims against the film production company; and

15 (b) remains posted on the website until
16 all financial obligations incurred in the state by the film
17 production company have been paid;

18 (3) that outstanding obligations are not
19 waived should a creditor fail to file;

20 (4) to delay filing of a claim for the new
21 film production tax credit until the division delivers written
22 notification to the taxation and revenue department that the
23 film production company has fulfilled all requirements for the
24 credit; and

25 (5) to submit a completed application for the

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1 new film production tax credit and supporting documentation to
2 the division within one year of ~~[making]~~ incurring the final
3 qualified expenditures in New Mexico ~~[that were incurred]~~ for
4 the registered project and that are included in the credit
5 claim.

6 ~~[J.]~~ K. The division, in consultation with the
7 taxation and revenue department, shall determine the
8 eligibility of the film production company and shall report
9 this information to the taxation and revenue department in a
10 manner and at times the economic development department and the
11 taxation and revenue department shall agree upon. The division
12 shall also post on its website all information provided by the
13 film production company that does not reveal revenue, income or
14 other information that may jeopardize the confidentiality of
15 income tax returns.

16 ~~[K.]~~ L. To receive a new film production tax
17 credit, a film production company shall apply to the taxation
18 and revenue department on forms and in the manner the taxation
19 and revenue department may prescribe. The application shall
20 include a certification of the amount of direct production
21 expenditures or postproduction expenditures made in New Mexico
22 with respect to the film production for which the film
23 production company is seeking the credit; provided that ~~[for]~~
24 to receive the credit, the application shall be submitted to
25 the division within one year of the date of the last direct

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1 production expenditure in New Mexico or that the last
2 postproduction expenditure in New Mexico was incurred. If the
3 amount of the requested tax credit exceeds five million dollars
4 (\$5,000,000), the application shall also include the results of
5 an audit, conducted by a certified public accountant licensed
6 or otherwise eligible to practice in New Mexico, verifying that
7 the expenditures have been made in compliance with the
8 requirements of this section. If the requirements of this
9 section have been complied with, the taxation and revenue
10 department shall approve the credit and issue a ~~[document~~
11 ~~granting the credit]~~ dated certificate of eligibility to the
12 taxpayer providing the amount of the credit that the taxpayer
13 may claim.

14 ~~[L.]~~ M. Except as provided in Subsection ~~[M]~~ N of
15 this section, that amount of a new film production tax credit
16 for total payments as applied to direct production expenditures
17 for the services of performing artists shall not exceed five
18 million dollars (\$5,000,000) for services rendered by
19 nonresident performing artists in a production. This
20 limitation shall not apply to the services of background
21 artists or resident performing artists cast in industry
22 standard feature performing roles.

23 ~~[M.]~~ N. In addition to the amount of payments
24 allowed pursuant to Subsection ~~[L]~~ M of this section, that
25 amount of a new film production tax credit for total payments

1 as applied to direct production expenditures made ~~[by]~~ for a
2 New Mexico film partner production for the services of
3 nonresident performing artists, directors, producers,
4 screenwriters and editors shall not exceed ten million dollars
5 (\$10,000,000) for services rendered for each production;
6 provided that the total payments allowed pursuant to this
7 subsection shall not exceed an annual aggregate maximum of
8 forty million dollars (\$40,000,000) for all productions in a
9 fiscal year. If the aggregate amount of payments made in a
10 fiscal year is less than the annual aggregate maximum, then the
11 difference in that fiscal year shall be added to the annual
12 aggregate maximum allowed in the following fiscal year."

13 SECTION 9. Section 7-2F-15 NMSA 1978 (being Laws 2019,
14 Chapter 87, Section 9, as amended) is amended to read:

15 "7-2F-15. NONRESIDENT BELOW-THE-LINE CREW CREDIT.--A film
16 production company may apply for, and the taxation and revenue
17 department may allow, a tax credit, which may be referred to as
18 the "nonresident below-the-line crew credit", in an amount
19 equal to fifteen percent of the payment of wages for below-the-
20 line crew who are not New Mexico residents, that are directly
21 attributable to the production in New Mexico of a film or
22 commercial audiovisual product for which the film production
23 company is claiming a new film production tax credit; provided
24 that:

25 A. the service for which payment is made is

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1 rendered in New Mexico;

2 B. the payment of wages excludes payments:

3 (1) for below-the-line crew who are producers,
4 directors, screenwriters, cast and production assistants; and

5 (2) made to a personal services business;

6 C. prior to July 1, 2028, for ~~[a film production~~
7 ~~company that is]~~ a New Mexico film partner production, the
8 total amount of wages applied toward the additional credit
9 allowed pursuant to this section may be up to one hundred
10 percent of the amount of wages of resident below-the-line wages
11 claimed; provided that the film production company provides a
12 seventy-two-hour notice of the opportunity to be hired to
13 resident below-the-line crew, which may be through a collective
14 bargaining unit that represents resident below-the-line crew;
15 and

16 D. for a film ~~[production company]~~ or commercial
17 audiovisual product that is not a New Mexico film partner
18 production and, beginning July 1, 2028, for ~~[a film production~~
19 ~~company that is]~~ a New Mexico film partner production:

20 (1) the total eligible wages for below-the-
21 line crew who are not New Mexico residents are not more than
22 fifteen percent of the production's total New Mexico budget for
23 below-the-line crew wages; and

24 (2) the film production company may claim the
25 nonresident below-the-line crew credit for employing up to the

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1 following numbers of nonresident below-the-line crew in New
2 Mexico and shall be as calculated by the division upon
3 application for certification pursuant to Subsection A of
4 Section 7-2F-12 NMSA 1978; provided that the total number shall
5 not exceed twenty positions:

6 (a) five positions if the production's
7 final New Mexico budget is up to two million seven hundred
8 fifty thousand dollars (\$2,750,000);

9 (b) ten positions if the production's
10 final New Mexico budget is greater than two million seven
11 hundred fifty thousand dollars (\$2,750,000) and up to seven
12 million five hundred thousand dollars (\$7,500,000);

13 (c) fifteen positions if the
14 production's final New Mexico budget is greater than seven
15 million five hundred thousand dollars (\$7,500,000) and up to
16 eleven million dollars (\$11,000,000);

17 (d) one position in addition to the
18 number of positions provided in Subparagraph (c) of this
19 paragraph for every ten million dollars (\$10,000,000) over
20 eleven million dollars (\$11,000,000) of the production's final
21 New Mexico budget; and

22 (e) five positions in addition to the
23 number of positions provided in Subparagraphs (a) through (d)
24 of this paragraph for a television pilot episode that has been
25 ordered to series; provided that the film production company

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1 certifies to the division that the series is intended to be
2 produced in New Mexico."

3 SECTION 10. Section 7-9-40 NMSA 1978 (being Laws 1970,
4 Chapter 60, Section 2, as amended) is amended to read:

5 "7-9-40. EXEMPTION--GROSS RECEIPTS TAX--PURSES AND JOCKEY
6 REMUNERATION AT NEW MEXICO RACETRACKS--RECEIPTS FROM GROSS
7 AMOUNTS WAGERED.--

8 A. Exempted from the gross receipts tax are the
9 receipts of horsemen, jockeys and trainers from race purses at
10 New Mexico horse racetracks subject to the jurisdiction of the
11 state racing commission.

12 B. Exempted from the gross receipts tax are the
13 receipts of a racetrack from the commissions and other amounts
14 authorized by Section ~~[60-1-10]~~ 60-1A-19 NMSA 1978 to be
15 retained by a racetrack conducting horse races under the
16 authority of a license from the state racing commission."

17 SECTION 11. Section 7-9F-3 NMSA 1978 (being Laws 2000
18 (2nd S.S.), Chapter 22, Section 3, as amended by Laws 2019,
19 Chapter 270, Section 38 and by Laws 2019, Chapter 274, Section
20 12) is amended to read:

21 "7-9F-3. DEFINITIONS.--As used in the Technology Jobs and
22 Research and Development Tax Credit Act:

23 A. "affiliate" means a person who directly or
24 indirectly owns or controls, is owned or controlled by or is
25 under common ownership or control with another person through

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1 ownership of voting securities or other ownership interests
2 representing a majority of the total voting power of the
3 entity;

4 B. "annual payroll expense" means the wages paid or
5 payable to employees in the state by the taxpayer in the
6 taxable year for which the taxpayer applies for an additional
7 credit pursuant to the Technology Jobs and Research and
8 Development Tax Credit Act;

9 C. "base payroll expense" means the wages paid or
10 payable by the taxpayer in the taxable year prior to the
11 taxable year for which the taxpayer applies for an additional
12 credit pursuant to the Technology Jobs and Research and
13 Development Tax Credit Act, adjusted for any increase from the
14 preceding taxable year in the consumer price index for the
15 United States for all items as published by the United States
16 department of labor in the taxable year for which the
17 additional credit is claimed. In a taxable year during which a
18 taxpayer has been part of a business merger or acquisition or
19 other change in business organization, the taxpayer's base
20 payroll expense shall include the payroll expense of all
21 entities included in the reorganization for all positions that
22 are included in the business entity resulting from the
23 reorganization;

24 D. "department" means the taxation and revenue
25 department, the secretary of taxation and revenue or any

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1 employee of the department exercising authority lawfully
2 delegated to that employee by the secretary;

3 E. "facility" means a factory, mill, plant,
4 refinery, warehouse, dairy, feedlot, building or complex of
5 buildings located within the state, including the land on which
6 it is located and all machinery, equipment and other real and
7 tangible personal property located at or within it and used in
8 connection with its operation;

9 F. "local option gross receipts tax" means a tax
10 authorized to be imposed by a county or municipality upon a
11 taxpayer's gross receipts, as that term is defined in the Gross
12 Receipts and Compensating Tax Act, and required to be collected
13 by the department at the same time and in the same manner as
14 the gross receipts tax;

15 G. "qualified expenditure" means an expenditure or
16 an allocated portion of an expenditure by a taxpayer in direct
17 connection with qualified research, essential for conducting
18 qualified research at a qualified facility, including
19 expenditures for depletable land and rent paid or incurred for
20 land, improvements, the allowable amount paid or incurred to
21 operate or maintain a facility, buildings, equipment, computer
22 software, computer software upgrades, consultants and
23 contractors performing work in New Mexico, ~~[payroll]~~ wages paid
24 for employees conducting qualified research in New Mexico at a
25 qualified facility, technical books and manuals and test

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1 materials, but not including any expenditure on property that
2 is owned by a municipality or county in connection with an
3 industrial revenue bond project, property for which the
4 taxpayer has received any credit pursuant to the Investment
5 Credit Act, property that was owned by the taxpayer or an
6 affiliate before July 3, 2000 or research and development
7 expenditures reimbursed by a person who is not an affiliate of
8 the taxpayer. If a "qualified expenditure" is an allocation of
9 an expenditure, the cost accounting methodology used for the
10 allocation of the expenditure shall be the same cost accounting
11 methodology used by the taxpayer in its other business
12 activities;

13 H. "qualified facility" means a facility in New
14 Mexico at which qualified research is conducted other than a
15 facility operated by a taxpayer for the United States or any
16 agency, department or instrumentality thereof;

17 I. "qualified research" means "qualified research"
18 [~~(1) that is undertaken for the purpose of discovering~~
19 ~~information:~~

20 ~~(a) that is technological in nature; and~~
21 ~~(b) the application of which is intended~~
22 ~~to be useful in the development of a new or improved business~~
23 ~~component of the taxpayer; and~~

24 ~~(2) substantially all of the activities of~~
25 ~~which constitute elements of a process of experimentation~~

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1 ~~related to a new or improved function, performance, reliability~~
2 ~~or quality, but not related to style, taste or cosmetic or~~
3 ~~seasonal design factors]~~ as defined by Section 41(d) of the
4 United States Internal Revenue Code of 1986;

5 J. "qualified research and development small
6 business" means a taxpayer that:

7 (1) employed no more than fifty employees as
8 determined by the number of employees for which the taxpayer
9 was liable for unemployment insurance coverage in the taxable
10 year for which an additional credit is claimed;

11 (2) had total qualified expenditures of no
12 more than five million dollars (\$5,000,000) in the taxable year
13 for which an additional credit is claimed; and

14 (3) did not have more than fifty percent of
15 its voting securities or other equity interest with the right
16 to designate or elect the board of directors or other governing
17 body of the business owned directly or indirectly by another
18 business;

19 K. "rural area" means any area of the state other
20 than the state fairgrounds, an incorporated municipality with a
21 population of thirty thousand or more according to the most
22 recent federal decennial census and any area within three miles
23 of the external boundaries of an incorporated municipality with
24 a population of thirty thousand or more according to the most
25 recent federal decennial census;

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1 L. "taxpayer" means any of the following persons,
2 other than a federal, state or other governmental unit or
3 subdivision or an agency, department, institution or
4 instrumentality thereof:

5 (1) a person liable for payment of any tax;

6 (2) a person responsible for withholding and
7 payment or collection and payment of any tax;

8 (3) a person to whom an assessment has been
9 made if the assessment remains unabated or the assessed amount
10 has not been paid; or

11 (4) for purposes of the additional credit
12 against the taxpayer's income tax pursuant to the Technology
13 Jobs and Research and Development Tax Credit Act and to the
14 extent of their respective interest in that entity, the
15 shareholders, members, partners or other owners of:

16 (a) a small business corporation that
17 has elected to be treated as an S corporation for federal
18 income tax purposes; or

19 (b) an entity treated as a partnership
20 or disregarded entity for federal income tax purposes; and

21 M. "wages" means remuneration for services
22 performed by an employee in New Mexico for an employer, not to
23 exceed a maximum annual wage of five hundred thousand dollars
24 (\$500,000) per employee."

25 SECTION 12. Section 7-12A-2 NMSA 1978 (being Laws 1986,
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Chapter 112, Section 3, as amended) is amended to read:

"7-12A-2. DEFINITIONS.--As used in the Tobacco Products Tax Act:

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

B. "cigar" means a roll for smoking made wholly or in part of tobacco and weighing greater than four and one-half pounds per thousand;

C. "distribute" means to sell or to give;

D. "closed system cartridge" means a single-use, pre-filled disposable cartridge containing ~~[five milliliters or less of]~~ e-liquid for use in an e-cigarette;

E. "e-cigarette" means any electronic oral device, whether composed of a heating element and battery or an electronic circuit, that provides a vapor of nicotine or any other substance the use or inhalation of which simulates smoking and includes any such device, or any part thereof, whether manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe or any other product, name or descriptor. "E-cigarette" does not include any product regulated as a drug or device by the United States food and drug administration under the Federal Food, Drug, and Cosmetic Act;

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1 F. "e-liquid" means liquid or other substance
2 intended for use in an e-cigarette, not including any substance
3 containing cannabis or oil derived from cannabis;

4 G. "engaging in business" means carrying on or
5 causing to be carried on any activity with the purpose of
6 direct or indirect benefit;

7 H. "first purchaser" means a person engaging in
8 business in New Mexico that manufactures tobacco products or
9 that purchases or receives on consignment tobacco products from
10 any person outside of New Mexico, which tobacco products are to
11 be distributed in New Mexico in the ordinary course of
12 business;

13 I. "little cigar" means a roll for smoking made
14 wholly or in part of tobacco, using an integrated cellulose
15 acetate or other similar filter, and weighing not more than
16 four and one-half pounds per thousand;

17 J. "person" means any individual, estate, trust,
18 receiver, cooperative association, club, corporation, company,
19 firm, partnership, joint venture, syndicate, limited liability
20 company, limited liability partnership, other association or
21 gas, water or electric utility owned or operated by a county or
22 municipality or other entity of the state; "person" also means,
23 to the extent permitted by law, a federal, state or other
24 governmental unit or subdivision or an agency, department or
25 instrumentality;

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1 K. "product value" means the amount paid, net of
2 any discounts taken and allowed, for tobacco products or, in
3 the case of tobacco products received on consignment, the value
4 of the tobacco products received or, in the case of tobacco
5 products manufactured and sold in New Mexico, the proceeds from
6 the sale by the manufacturer of the tobacco products; and

7 L. "tobacco product" means:

8 (1) any product, other than cigarettes, cigars
9 and little cigars, made from or containing tobacco;

10 (2) e-liquid;

11 (3) e-cigarettes; and

12 (4) closed system cartridges."

13 SECTION 13. Section 7-12A-3 NMSA 1978 (being Laws 1986,
14 Chapter 112, Section 4, as amended) is amended to read:

15 "7-12A-3. IMPOSITION AND RATES OF TAX--REDUCTION OF RATE
16 FOR CERTAIN TOBACCO PRODUCTS--DENOMINATION AS "TOBACCO PRODUCTS
17 TAX"--DATE PAYMENT OF TAX DUE.--

18 A. For the manufacture or acquisition of tobacco
19 products in New Mexico, not including cigars, little cigars,
20 e-liquid, e-cigarettes or closed system cartridges, to be
21 distributed in the ordinary course of business and for the
22 consumption of tobacco products in New Mexico, there is imposed
23 an excise tax at the rate of twenty-five percent of the product
24 value of the tobacco products.

25 B. For the manufacture or acquisition of cigars in
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1 New Mexico to be distributed in the ordinary course of business
2 and for the consumption of cigars in New Mexico, there is
3 imposed an excise tax at a rate equal to twenty-five percent of
4 the product value of the cigar, not to exceed fifty cents
5 (\$.50) per cigar.

6 C. For the manufacture or acquisition of little
7 cigars in New Mexico to be distributed in the ordinary course
8 of business and for the consumption of little cigars in New
9 Mexico, there is imposed an excise tax at a rate equal to the
10 rate imposed on cigarettes pursuant to Section 7-12-3 NMSA 1978
11 per package of little cigars.

12 D. For the manufacture or acquisition of e-liquid
13 or closed system cartridges containing more than five
14 milliliters of e-liquid in New Mexico to be distributed in the
15 ordinary course of business and for the consumption of e-liquid
16 in New Mexico, there is imposed an excise tax at a rate equal
17 to twelve and one-half percent of the product value of the
18 e-liquid.

19 E. For the manufacture or acquisition of closed
20 system cartridges containing five milliliters or less of e-
21 liquid in New Mexico to be distributed in the ordinary course
22 of business, there is imposed an excise tax at a rate of fifty
23 cents (\$.50) per closed system cartridge.

24 [H.] F. The taxes imposed by this section may be
25 referred to as the "tobacco products tax".

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1 [~~F.~~] G. The tobacco products tax shall be paid by
2 the first purchaser on or before the twenty-fifth day of the
3 month following the month in which the taxable event occurs."

4 SECTION 14. Section 7-38-38 NMSA 1978 (being Laws 1973,
5 Chapter 258, Section 78, as amended) is amended to read:

6 "7-38-38. PAYMENT OF PROPERTY TAXES--INSTALLMENT DUE
7 DATES--REFUND IN CASES OF OVERPAYMENTS--ROUNDING.--

8 A. Unless otherwise provided in the Property Tax
9 Code, property taxes in the amount of ten dollars (\$10.00) or
10 over are payable to the county treasurer in two equal
11 installments due on November 10 of the year in which the tax
12 bill was prepared and mailed and on April 10 of the following
13 year. A board of county commissioners may, by ordinance,
14 provide that property taxes under ten dollars (\$10.00) are due
15 and payable in a single payment on November 10 of the year in
16 which the tax bill was prepared and mailed. No demand for
17 payment of property taxes is necessary.

18 B. If a taxpayer remits an amount in payment of
19 [~~his~~] the taxpayer's property taxes that exceeds the total
20 property tax liability shown on the property tax bill, together
21 with any applicable penalty and interest computed to the date
22 payment is received by the county treasurer, a refund of the
23 amount in excess shall be made to the taxpayer if either of the
24 following conditions are met:

25 (1) a written request for the refund is made

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1 by the taxpayer and received by the county treasurer within
2 sixty days of the date the excess payment is received by the
3 county treasurer; or

4 (2) the county treasurer on ~~[his]~~ the county
5 treasurer's own initiative determines by June 30 of the year
6 following the year for which taxes are imposed that an excess
7 payment has been made.

8 C. The secretary may by rule permit or require
9 rounding to the nearest five cents (\$.05) of any amount due
10 pursuant to the Property Tax Code."

11 **SECTION 15.** Section 7-38-71 NMSA 1978 (being Laws 1973,
12 Chapter 258, Section 111, as amended) is amended to read:

13 "7-38-71. DISTRIBUTION OF AMOUNTS RECEIVED FROM SALE OF
14 PROPERTY.--

15 A. Money received by the department from the sale
16 of real or personal property for delinquent property taxes
17 shall be deposited in a suspense fund and distributed as
18 follows in the order provided:

19 (1) first, that portion equal to the costs
20 shall be retained by the department for use, subject to
21 appropriation by the legislature, in administration of the
22 Property Tax Code;

23 (2) second, that portion equal to the
24 penalties and interest due shall be retained by the department
25 for use, subject to appropriation by the legislature, by the

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1 department in administration of the Property Tax Code;

2 (3) third, that portion equal to the
3 delinquent taxes due shall be remitted by the department to the
4 appropriate county treasurer for distribution by the treasurer
5 to the governmental units in accordance with the law and the
6 regulations of the department of finance and administration;
7 [~~and~~]

8 (4) fourth, if the former owner of the
9 property sold is a delinquent taxpayer pursuant to Section
10 7-1-16 NMSA 1978, that portion equal to any delinquent amount
11 for any tax program administered by the department pursuant to
12 Section 7-1-2 NMSA 1978 shall be retained by the department to
13 satisfy the delinquent amount; and

14 [~~(4)~~] (5) fifth, the balance shall be paid to
15 the former owner of the property sold or to any other person
16 designated by order directed to the department by a court of
17 competent jurisdiction, provided that the department may first
18 apply all or any portion of the balance to be paid against the
19 amount of any property tax, including any penalty and interest
20 related thereto, owed by the person to whom the balance would
21 otherwise be paid.

22 B. As a condition precedent to payment of the
23 balance of the sale amount received to the former owner of the
24 property, the department may require any person claiming to be
25 entitled to that payment to present sufficient evidence of

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1 proof of former ownership of the property to the department.

2 The department shall adopt regulations providing for the
3 procedures to be followed by persons claiming sale proceeds as
4 former owners in those instances where conflicting claims exist
5 or the department requires proof of ownership.

6 C. If no person claims the balance of sale proceeds
7 ~~[whether the property was sold under the provisions of the~~
8 ~~Property Tax Code or prior law]~~ as the former owner of the
9 property within two years of the date of the sale and after a
10 reasonable search to determine the former owner is made by the
11 department and no former owner is found, the balance of the
12 sale proceeds shall be considered abandoned property and
13 deposited in accordance with the provisions of the Uniform
14 Unclaimed Property Act (1995).

15 D. If the balance of proceeds from the sale after
16 paying a higher priority claim under Subsection A of this
17 section is insufficient to pay all of the next priority claim,
18 then the complete balance shall be applied to that next
19 priority claim as partial payment."

20 SECTION 16. Section 9-11-12.1 NMSA 1978 (being Laws 1997,
21 Chapter 64, Section 1, as amended) is amended to read:

22 "9-11-12.1. TRIBAL COOPERATIVE AGREEMENTS.--

23 A. The secretary may enter into cooperative
24 agreements with the Pueblos of Acoma, Cochiti, Jemez, Isleta,
25 Laguna, Nambe, Ohkay Owingeh, Picuris, Pojoaque, Sandia, San
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1 Felipe, San Ildefonso, [~~San Juan~~] Santa Ana, Santa Clara, Santo
2 Domingo, Taos, Tesuque, Zia and Zuni; the Jicarilla Apache
3 Nation; the Navajo Nation; the Mescalero Apache Tribe; and the
4 nineteen pueblos acting collectively for the exchange of
5 information and the reciprocal, joint or common enforcement,
6 administration, collection, remittance and audit of gross
7 receipts tax and cannabis excise tax revenues of the party
8 jurisdictions.

9 B. Money collected by the department on behalf of a
10 tribe in accordance with an agreement entered into pursuant to
11 this section is not money of this state and shall be collected
12 and disbursed in accordance with the terms of the agreement,
13 notwithstanding any other provision of law.

14 C. The secretary is empowered to promulgate such
15 rules and to establish such procedures as the secretary deems
16 appropriate for the collection and disbursement of funds due a
17 tribe and for the receipt of money collected by a tribe for the
18 account of this state under the terms of a cooperative
19 agreement entered into under the authority of this section,
20 including procedures for identification of taxpayers or
21 transactions that are subject only to the taxing authority of
22 the tribe, [~~taxpayers or transactions that are subject only to~~
23 ~~the taxing authority~~] of this state and [~~taxpayers or~~
24 ~~transactions that are subject to the taxing authority~~] of both
25 party jurisdictions.

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1 D. Nothing in an agreement entered into pursuant to
2 this section shall be construed as authorizing this state or a
3 tribe to tax a person or transaction that federal law prohibits
4 that government from taxing, authorizing a state or tribal
5 court to assert jurisdiction over a person who is not otherwise
6 subject to that court's jurisdiction or affecting any issue of
7 the respective civil or criminal jurisdictions of this state or
8 the tribe. Nothing in an agreement entered into pursuant to
9 this section shall be construed as an assertion or an admission
10 by either this state or a tribe that the taxes of one have
11 precedence over the taxes of the other when a person or
12 transaction is subject to the taxing authority of both
13 governments. An agreement entered into pursuant to this
14 section shall be construed solely as an agreement between the
15 two party governments and shall not alter or affect the
16 government-to-government relations between this state and any
17 other tribe.

18 E. Except as provided in Subsection F of this
19 section, any ordinance of a tribe imposing, amending or
20 repealing a tax administered by the department pursuant to this
21 section shall include an effective date of the first July 1
22 after the expiration of at least three months from the date
23 that the adopted ordinance is mailed or delivered to the
24 secretary.

25 F. If the governor of New Mexico declares a state

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1 of emergency, or if there is an unforeseen occurrence that
2 would cause an undue hardship for a tribe, an ordinance
3 changing the imposition of a tax shall become effective on the
4 first January 1 after the expiration of at least three months
5 after such a declaration or event and notification to the
6 department.

7 [E.] G. As used in this section:

8 (1) "tribal" means of or pertaining to a
9 tribe; and

10 (2) "tribe" means an Indian nation, tribe or
11 pueblo located entirely in New Mexico or the Navajo Nation."

12 SECTION 17. A new section of the Motor Vehicle Code,
13 Section 66-2-19 NMSA 1978, is enacted to read:

14 "66-2-19. [NEW MATERIAL] ROUNDING.--The secretary may by
15 rule permit or require rounding to the nearest five cents
16 (\$.05) of any amount due pursuant to the Motor Vehicle Code."

17 SECTION 18. APPLICABILITY.--The provisions of Sections 6
18 through 9 of this act apply to taxable years beginning on or
19 after January 1, 2027.

20 SECTION 19. EFFECTIVE DATE.--

21 A. The effective date of the provisions of Sections
22 1 through 5 and 10 through 17 of this act is July 1, 2026.

23 B. The effective date of the provisions of Sections
24 6 through 9 of this act is January 1, 2027.