

Tax Code Clean Up Proposals for the 2025 Legislative Session

Presented to the
Revenue Stabilization and Tax Policy
Committee

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Tax Code Clean Up Bill Summary - Color Key

Remove January 1 local GRT and compensating tax rate changes

TIDD changes for destination sourcing of GRT - 12 months data collection to set baseline, move definition of developer

Allow TRD to reveal confidential taxpayer info necessary to produce the annual Tax Expenditure Budget

Remove attorney general approval of certain TRD actions

Allow electronic filing of liens and filing with SOS, not only county clerks in person, no notary required

Clean up tax credit language, remove reporting language since tax expenditure report is required in 7-1-84

Inflation adjustments in Tax Code

Clean up to reflect destination sourcing

Clarify taxation of skim oil, slop and sediment

Other

Minor clean up

Summary of Main Tax Code Cleanup - 228781.3SA

Bill Section	Section Amended	Summary of Amendments	Fiscal Impact	Admin Impacts	Effective Date
1	3-60A-21	Remove January 1 local GRT and comp tax rate changes, retain July 1 tax rate change date		TRD savings	7/1/2025
2	5-15-3	TIDD changes for destination sourcing of GRT, 12 months data collection to set baseline, move definition of developer		TRD savings	7/1/2025
3	5-15-9	TIDD changes for destination sourcing of GRT, 12 months data collection to set baseline, remove January 1 distribution effective date		TRD savings	7/1/2025
4	5-15-15	TIDD changes for destination sourcing of GRT, 12 months data collection to set baseline, remove January 1 distribution effective date of local tax rate changes		TRD savings	7/1/2025
5	5-15-21	TIDD changes for destination sourcing		TRD savings	7/1/2025
6	5-15-25.1	TIDD changes for data collection to set baseline, move definition of developer to definitions section 5-15-3		TRD savings	7/1/2025
7	5-15-25.2	TIDD changes for data collection to set baseline, move definition of developer to definitions section 5-15-3		TRD savings	7/1/2025
8	5-15-25.3	TIDD changes for data collection to set baseline		TRD savings	7/1/2025
9	5-15-27	TIDD changes for data collection to set baseline		TRD savings	7/1/2025
10	7-1-2	Minor clean up - health care delivery and access act - permanently add assessment to tax administration act			
11	7-1-4.4	Minor clean up - change food stamps to SNAP, change HSD to HCA			7/1/2025
12	7-1-6.4	Minor clean up - delete obsolete language related to municipal bonds issued prior to July 1, 1991			7/1/2025
13	7-1-6.9	Minor clean up reflecting current language in 7-1-6.15 - local gas tax distributions are already subject to adjustment			7/1/2025
14	7-1-6.15	Give Tax & Rev ability to adjust local distributions of oil and gas production and equipment ad valorem taxes when taxpayers amend returns or audits occur. Currently, these tax program distributions cannot be adjusted			7/1/2025
15	7-1-6.16	Minor clean up - remove obsolete 1989 language			7/1/2025
16	7-1-6.18	Minor clean up - move about 16 distributions of voluntary PIT refund contributions into one single section to reduce repetitive sections			1/1/2026
17	7-1-6.26	Minor clean up reflecting current language in 7-1-6.15 - county government road fund distributions are already subject to adjustment			7/1/2025
18	7-1-6.27	Minor clean up reflecting current language in 7-1-6.15 - municipal road distributions are already subject to adjustment. Change SHDT to DOT.			7/1/2025
19	7-1-6.30	Minor clean up - delete obsolete language that applied only from 2017 to 2019			7/1/2025
20	7-1-6.46	Minor clean up - reflect destination sourcing of GRT receipts and remove hold harmless phase out schedule for completed fiscal years			7/1/2025
21	7-1-6.47	Minor clean up - reflect destination sourcing of GRT receipts and remove hold harmless phase out schedule for completed fiscal years			7/1/2025
22	7-1-6.58	Minor clean up - remove "during fiscal year 2008 and subsequent fiscal years"			7/1/2025
23	7-1-6.68	Minor clean up - reflect destination sourcing of cannabis excise tax			7/1/2025
24	7-1-8.8	Minor clean up - health care delivery and access act - permanently add distribution of assessment			
25	7-1-8.9	Minor clean up - reflect destination sourcing in GRT reports locals may request from TRD. Limit taxpayer ID numbers Tax & Rev will provide to locals to last 4 digits			7/1/2025
26	7-1-13.1	Taxpayers that owe over \$25,000 will be required to pay electronically, no longer cash or check. TRD reviewing if section can just be repealed because 9-11-6.4 already allows TRD to require electronic payment		TRD savings	7/1/2025
27	7-1-15	Increase the maximum a taxpayer may owe and still file/pay less than monthly from \$200 to \$500 to adjust for inflation since 1991. This will allow more small taxpayers to file/pay quarterly or semi-annually		TRD savings, taxpayer savings	7/1/2025
28	7-1-20	Remove attorney general approval of closing agreements between TRD and taxpayers settling tax disputes. Make clear closing agreement can settle a denial of a refund or credit, not just an assessment (to match current practice)		TRD savins, DOJ savings	7/1/2025

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29	7-1-26	Allows an amended return that shows overpayment of tax to constitute a refund claim for ANY tax program allowed by TRD - saves taxpayers the step of separately submitting a refund request. Removes "credit" language as it conflicts with 7-1-29.2 as amended in 2023		TRD savings, taxpayer savings	7/1/2025
30	7-1-28	Remove attorney general approval of refunds over \$20,000. Increase amount of abatements available for public inspection from \$10,000 to \$20,000 to adjust for inflation since 2006. Allow Tax & Rev Secretary to abate protests solely for penalty and interest less than \$50 - often a taxpayer pays the tax due and protests only the small penalty and interest.		TRD savins, DOJ savings	7/1/2025
31	7-1-29	Remove attorney general approval of abatements over \$20,000. Increase amount of refunds and credits available for public inspection from \$10,000 to \$20,000 to adjust for inflation since 2006.		TRD savins, DOJ savings	7/1/2025
32	7-1-37	Minor clean up related to TRD liens - liens can be both "extinguished" and "released"			7/1/2025
33	7-1-38	Allow Tax & Rev liens to be filed with the Secretary of State, in addition to current practice of filing liens with county clerks. Allow liens to be recorded electronically		TRD savings	7/1/2025
34	7-1-39	Minor changes to reflect proposed changes to 7-1-38 (electronic Tax & Rev lien filing, filing with Secretary of State)		TRD savings	7/1/2025
35	7-1-67	No longer impose interest on delinquent tax unless the taxpayer was negligent or disregarded Tax & Rev rules and regulations	Slight negative	TRD savings, taxpayer savings	1/1/2026
36	7-1-79	Minor clean up - gender neutral language, change director to secretary			7/1/2025
37	7-2-12	Remove April 30 extended PIT deadline for taxpayers who electronically file and e-pay - returns will be due April 15		TRD savings, tax software vendor savings	1/1/2026
38	7-2-12.1	No claims for the credit since FY2012. 3 taxpayers claimed from FY08-FY11			7/1/2025
39	7-2-18.16	Clean up and standardize tax credit language - special needs adopted child - remove reporting language since tax expenditure report is required in 7-1-84			1/1/2026
40	7-2-18.17	Clean up and standardize tax credit language - angel investment credit - remove reporting language since tax expenditure report is required in 7-1-84			1/1/2026
41	7-2-18.22	Clean up and standardize tax credit language - rural health care practitioner credit - remove reporting language since tax expenditure report is required in 7-1-84			1/1/2026
42	7-2-18.24	Clean up and standardize tax credit language - geothermal ground-coupled heat pump credit- remove reporting language since tax expenditure report is required in 7-1-84			1/1/2026
43	7-2-18.26	Clean up and standardize tax credit language - agricultural biomass credit- remove reporting language since tax expenditure report is required in 7-1-84			1/1/2026
44	7-2-18.29	Clean up and standardize tax credit language - 2015 sustainable building credit- remove reporting language since tax expenditure report is required in 7-1-84. Remove inordinate complexity around cap being carried forward vs refunded based on credit amount - make it all carried forward up to 7 years			1/1/2026
45	7-2-18.31	Clean up and standardize tax credit language - new solar market credit- remove reporting language since tax expenditure report is required in 7-1-84			1/1/2026
46	7-2-18.32	Clean up and standardize tax credit language - 2021 sustainable building credit- remove reporting language since tax expenditure report is required in 7-1-84. Remove inordinate complexity around cap being carried forward vs refunded based on credit amount - make it all carried forward up to 7 years. Allow those with leasehold on tribal land to qualify for the credit			1/1/2026
47	7-2-18.35	Clean up and standardize tax credit language - home fire recovery credit- remove reporting language since tax expenditure report is required in 7-1-84			1/1/2026
48	7-2-18.38	Clean up and standardize tax credit language - geothermal electricity generation credit - remove reporting language since tax expenditure report is required in 7-1-84			1/1/2026

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49	7-2-24	Minor clean up - consolidate about 16 voluntary PIT refund contributions into one single section to reduce repetitive sections			1/1/2026
50	7-2-28.1	Minor clean up - voluntary PIT contributions - update reference to 7-2-24			1/1/2026
51	7-2-31.1	Increase threshold from \$5,000 to \$10,000 for conditional repeal of any voluntary PIT contribution to reflect inflation since 1999		TRD savings	1/1/2026
52	7-2-39	Remove reporting language since tax expenditure report is required in 7-1-84			1/1/2026
53	7-2-40	Remove reporting language since tax expenditure report is required in 7-1-84			1/1/2026
54	7-2-41	Remove reporting language since tax expenditure report is required in 7-1-84			1/1/2026
55	7-2A-9	Remove March 30 extended CIT deadline for taxpayers who electronically file and electronically pay - returns will be due March 15		TRD savings, tax software vendor savings	1/1/2026
56	7-2A-24	Clean up tax credit language - geothermal ground-coupled heat pump credit- remove reporting language since tax expenditure report is required in 7-1-84			1/1/2026
57	7-2A-24.1	Clean up tax credit language - geothermal electricity generation credit - remove reporting language since tax expenditure report is required in 7-1-84			1/1/2026
58	7-2A-26	Clean up tax credit language - agricultural biomass credit- remove reporting language since tax expenditure report is required in 7-1-84			1/1/2026
59	7-2A-28	Clean up tax credit language - 2015 sustainable building credit- remove reporting language since tax expenditure report is required in 7-1-84. Remove complexity around cap being carried forward vs refunded based on credit amount - make it all carried forward up to 7 years			1/1/2026
60	7-2A-28.1	Clean up tax credit language - 2021 sustainable building credit- remove reporting language since tax expenditure report is required in 7-1-84. Remove complexity around cap being carried forward vs refunded based on credit amount - make it all carried forward up to 7 years. Allow those with leasehold on tribal land to qualify for the credit. Remove "low-income taxpayer" since that can't apply to a Corporation (CIT credit)		TRD savings, EMNRD savings	1/1/2026
61	7-2A-31	Remove reporting language since tax expenditure report is required in 7-1-84			1/1/2026
62	7-2C-12	Minor clean up - delete obsolete language related to NMFA bonds that were fully discharged long ago			7/1/2025
63	7-2E-1.1	Clean up tax credit language - rural job tax credit			1/1/2026
64	7-3-6	Change withholding tax from monthly to quarterly due dates, align quarterly due date with workers comp fee in 52-5-19		TRD savings, taxpayer savings	1/1/2026
65	7-3-7	All annual withholding statements to be filed electronically, not just for employers with 25 or more employees		TRD savings	1/1/2026
66	7-3-13	All employers to file a quarterly withholding tax return regardless of number of employees, remove specific penalty because regular TAA penalty will apply		TRD savings	1/1/2026
67	7-3A-9	Remove reporting language since tax expenditure report is required in 7-1-84			1/1/2026
68	7-9-9	Minor clean up for destination sourcing			7/1/2025
69	7-9-18.1	Minor clean up - food stamps now SNAP. HSD is now HCA			7/1/2025
70	7-9-43	Clean up reflecting NM Supreme Court decision on CCA prison operator tax protest. Makes clear a taxpayer does not receive safe harbor of a non-taxable transaction certificate entitling them to a GRT deduction if they obtain the NTTC in bad faith.	Possible positive, may preserve future revenue	TRD savings	7/1/2025
71	7-9-46	Remove reporting language since tax expenditure report is required in 7-1-84. Minor cleanup			7/1/2025

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72	7-9-56.3	Border zone trade deduction. Require that if a taxpayer claims the deduction they consent to Tax & Rev reporting the amount of the deduction in annual tax expenditure report. Since fewer than 3 taxpayers claim the deduction, under current law Tax & Rev cannot report the amount of revenue foregone due. Remove reporting language since tax expenditure report is required in 7-1-84. Minor cleanup			7/1/2025
73	7-9-62	Remove reporting language since tax expenditure report is required in 7-1-84			7/1/2025
74	7-9-62.1	Remove reporting language since tax expenditure report is required in 7-1-84			7/1/2025
75	7-9-73.3	Remove reporting language since tax expenditure report is required in 7-1-84. Minor cleanup			7/1/2025
76	7-9-77.1	Remove reporting language since tax expenditure report is required in 7-1-84			7/1/2025
77	7-9-77.2	Remove reporting language since tax expenditure report is required in 7-1-84			7/1/2025
78	7-9-83	Minor clean up - remove obsolete language that applied from 2003 to 2017			7/1/2025
79	7-9-84	Minor clean up - remove obsolete language that applied from 2003 to 2017			7/1/2025
80	7-9-90	Uranium GRT deduction. Require that if a taxpayer claims the deduction they consent to Tax & Rev reporting the amount of the deduction in annual tax expenditure report. Since fewer than 3 taxpayers claim the deduction, under current law Tax & Rev cannot report the amount of revenue foregone due. Remove reporting language since tax expenditure report is required in 7-1-84			7/1/2025
81	7-9-93	Remove reporting language since tax expenditure report is required in 7-1-84, minor fix to "copayment" definition			7/1/2025
82	7-9-94	Remove reporting language since tax expenditure report is required in 7-1-84			7/1/2025
83	7-9-95	Move back to school GRT holiday one week earlier reflecting earlier school start dates			7/1/2025
84	7-9-103.1	Remove reporting language since tax expenditure report is required in 7-1-84			7/1/2025
85	7-9-103.2	Electricity exchange GRT deduction. Remove reporting language since tax expenditure report is required in 7-1-84. Require that if a taxpayer claims the deduction they consent to Tax & Rev reporting the amount of the deduction in annual tax expenditure report. Since fewer than 3 taxpayers claim the deduction, under current law Tax & Rev cannot report the amount of revenue foregone due.			7/1/2025
86	7-9-110.3	Remove reporting language since tax expenditure report is required in 7-1-84			7/1/2025
87	7-9-112.1	Remove reporting language since tax expenditure report is required in 7-1-84			7/1/2025
88	7-9-115	Remove reporting language since tax expenditure report is required in 7-1-84			7/1/2025
89	7-9-116	Remove reporting language since tax expenditure report is required in 7-1-84			7/1/2025
90	7-9-119	Remove reporting language since tax expenditure report is required in 7-1-84			7/1/2025
91	7-9A-5	Minor clean up - reflect new GRT rate in Investment Credit	Positive, reflects decreased State GRT		7/1/2025
92	7-9C-7	Minor clean up - remove obsolete language that applied from 1998 to 2000			7/1/2025
93	7-9G-1	Remove reporting language since tax expenditure report is required in 7-1-84. Remove obsolete language that applied prior to 2015. Remove 180 day application determination by TRD as that's covered in Tax Administration Act			7/1/2025
94	7-13-3.5	Minor clean up - change State Corporation Commission to PRC. Remove obsolete language that applied until 1994			7/1/2025
95	7-13A-3	Remove tiered and complicated contingent rate of petroleum products loading fee currently based on balance of NMED's corrective action fund. Fee will remain a flat \$150 as it has for decades, eliminating the need for an annual certification		TRD savings, NMED savings	7/1/2025
96	7-13A-5	Remove reporting language since tax expenditure report is required in 7-1-84			7/1/2025
97	7-16A-9.4	Remove reporting language since tax expenditure report is required in 7-1-84			7/1/2025
98	7-16A-13.1	Minor clean up - remove obsolete language that applied prior to 2005			7/1/2025
99	7-16A-15	Minor clean up - change State Corporation Commission to PRC. Remove obsolete language that applied until 1994			7/1/2025
100	7-16B-4	Minor clean up - remove tax rates that applied from 1996 to 2014			7/1/2025

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101	7-19-11	Minor clean up - remove reference to the "division" - only the "department"			7/1/2025
102	7-19-12	Remove January 1 local GRT and comp tax rate changes, retain July 1 tax rate change date		TRD savings	7/1/2025
103	7-19-13	Minor clean up - change "division" to "department" referencing TRD			7/1/2025
104	7-19-16	Minor clean up - change "division" to "department" referencing TRD			7/1/2025
105	7-19D-3	Remove January 1 local GRT and comp tax rate changes, retain July 1 tax rate change date		TRD savings	7/1/2025
106	7-19D-17	Remove January 1 local GRT and comp tax rate changes, retain July 1 tax rate change date		TRD savings	7/1/2025
107	7-20E-3	Remove January 1 local GRT and comp tax rate changes, retain July 1 tax rate change date		TRD savings	7/1/2025
108	7-20E-13	Remove January 1 local GRT and comp tax rate changes, retain July 1 tax rate change date		TRD savings	7/1/2025
109	7-20E-18	Remove January 1 local GRT and comp tax rate changes, retain July 1 tax rate change date		TRD savings	7/1/2025
110	7-20E-26	Remove January 1 local GRT and comp tax rate changes, retain July 1 tax rate change date		TRD savings	7/1/2025
111	7-26-2	Minor clean up - remove "reference to "director" - only "secretary" referencing TRD			7/1/2025
112	7-29-2	Clarify taxation of skim oil, slop and sediment. Minor clean up - remove references to "commission" and "division" - only the "department"	May preserve or increase revenue		7/1/2025
113	7-29-4	Clarify taxation of skim oil, slop and sediment. Minor clean up - remove references to "commission" and "division" - only the "department"	May preserve or increase revenue		7/1/2025
114	7-29-5	Minor clean up - remove references to "commission" - only the "department"			7/1/2025
115	7-29-6	Minor clean up - remove references to "commission" - only the "department". Gender neutral language			7/1/2025
116	7-29-7	Minor clean up - remove references to "division" - only the "department"			7/1/2025
117	7-29-8	Minor clean up - remove references to "division" - only the "department". Gender neutral language			7/1/2025
118	7-29-23	Streamline advanced payments for oil and gas severance tax - reflect current process in which department (not taxpayer) calculates and payments are collected annually not monthly			1/1/2026
119	7-30-2	Clarify taxation of skim oil, slop and sediment	May preserve or increase revenue		7/1/2025
120	7-30-4	Clarify taxation of skim oil, slop and sediment	May preserve or increase revenue		7/1/2025
121	7-30-9	Minor clean up			7/1/2025
122	7-30-27	Streamline advanced payments for oil and gas conservation tax - reflect current process in which department (not taxpayer) calculates and payments are collected annually not monthly			1/1/2026
123	7-31-2	Clarify taxation of skim oil, slop and sediment. Minor clean up - delete "division" and "commission" - just department	May preserve or increase revenue		7/1/2025
124	7-31-4	Clarify taxation of skim oil, slop and sediment	May preserve or increase revenue		7/1/2025
125	7-31-6	Minor clean up - replace "commission" with "department"			7/1/2025
126	7-31-8	Minor clean up - replace "commission" with "department"			7/1/2025
127	7-31-9	Minor clean up - replace "commission" with "department". Gender neutral language			7/1/2025
128	7-31-10	Minor clean up - replace "division" with "department"			7/1/2025
129	7-31-11	Minor clean up - replace "division" with "department"			7/1/2025
130	7-31-26	Streamline advanced payments for oil and gas emergency school tax - reflect current process in which department (not taxpayer) calculates and payments are collected annually not monthly			1/1/2026

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131	7-32-2	Clarify taxation of skim oil, slop and sediment. Minor clean up - remove references to "commission" and "division" - only the "department"	May preserve or increase revenue		7/1/2025
132	7-32-4	Clarify taxation of skim oil, slop and sediment. Minor clean up - replace "division" with "department", gender neutral language	May preserve or increase revenue		7/1/2025
133	7-32-6	Minor clean up - replace "commission" with "department"			7/1/2025
134	7-32-8	Minor clean up - replace "commission" with "department"			7/1/2025
135	7-32-9	Minor clean up - replace "commission" with "department", gender neutral language			7/1/2025
136	7-32-10	Minor clean up - replace "division" with "department"			7/1/2025
137	7-32-11	Minor clean up - replace "commission" with "department". Gender neutral language			7/1/2025
138	7-32-13	Minor clean up. Streamline county assessor and treasurer receipt of annual ad valorem tax information			7/1/2025
139	7-32-28	Streamline advanced payments for oil and gas ad valorem production tax - reflect current process in which department (not taxpayer) calculates and payments are collected annually not monthly			1/1/2026
140	7-33-4	Minor clean up - remove obsolete language applicable prior to 1999			7/1/2025
141	7-34-2	Minor clean up - replace "commission with "department"			7/1/2025
142	7-34-3	Minor clean up - replace "commission with "department"			7/1/2025
143	7-34-4	Minor clean up - replace "division" with "department"			7/1/2025
144	7-34-5	Minor clean up - remove obsolete language applicable prior to 1969			7/1/2025
145	7-34-6	Minor clean up - replace "commission" with "department". Adjust deadline for TRD to send annual tax statement to operators from October 15 to November 1			7/1/2025
146	7-34-7	Minor clean up - replace "commission" with "department"			7/1/2025
147	7-40-5	Clarify insurance premium tax not due on supplemental health care plans issued by nonprofit insurers to match current practice			7/1/2025
148	14-8-4	Allow TRD lien notices to be filed and recorded without notary signature			7/1/2025
149	24A-8-2	Minor clean up - health care delivery and access act - correct name of health care authority			
150	24A-8-3	Minor clean up - health care delivery and access act - TRD to receive necessary notifications from HCA			
151	24A-8-6	Minor clean up - health care delivery and access act - hospitals pay assessment to TRD; uniform rate increases and quality incentive payments are what is paid from HCA to hospitals. Language adding flexibility to deal with CMS approval date unknown and ensure hospitals will not owe penalty and interest through no fault of their own			
152	52-5-19	Align deadline for workers comp fee to wage withholding tax, along with proposed amendment to 7-3-6. Minor clean up - delete obsolete language from prior to 2004. Gender neutral language			1/1/2026
153	67-3-8.1	Minor clean up - Signatories to tribal gas tax revenue sharing agreements are DOT Secretary and tribe, TRD secretary receives a copy but is not a signatory			7/1/2025
154		Minor clean up - health care delivery and access act - repeal tax administration and distribution sections - they are replaced in this bill			7/1/2025
155		Minor clean up - health care delivery and access act - repeal tax administration and distribution sections - they are replaced in this bill			7/1/2025

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156	REPEAL	Sections 7-1-6.6, 7-1-6.24, 7-1-6.34, 7-1-6.35, 7-1-6.48, 7-1-6.49, 7-1-6.50, 7-1-6.59, 7-1-6.60, 7-1-15.2, 7-2-7, 7-2-7.2, 7-2-7.3, 7-2-18.7, 7-2-18.11, 7-2-18.14, 7-2-18.19, 7-2-18.23, 7-2-18.30, 7-2-23, 7-2-24.1, 7-2-24.2, 7-2-28, 7-2-29, 7-2-30, 7-2-30.1, 7-2-30.2, 7-2-30.3, 7-2-30.4, 7-2-30.5, 7-2-30.6, 7-2-30.7, 7-2-30.8, 7-2-30.9, 7-2-30.11, 7-2-31, 7-2A-14, 7-2A-17.1, 7-2A-21, 7-2A-29, 7-2D-1 through 7-2D-14, 7-2F-1, 7-2F-2.1, 7-2F-6 through 7-2F-11, 7-2H-1 through 7-2H-4, 7-9-10, 7-9-74, 7-9-79.2, 7-9-118, 7-9A-2.1, 7-9F-12, 7-9J-1 through 7-9J-8, and 7-13-10 NMSA 1978 are repealed			7/1/2025
157	ADDITIONAL REPEAL	Minor clean up - obsolete PIT rate tables repealed			7/1/2025
158	DELAYED REPEAL	Section 7-1-6.66 is repealed effective January 1, 2028 - distribution section related to the 2021 4-month restaurant and bar GRT holiday			1/1/2028
159	EFFECTIVE DATES				
160	APPLICABILITY DATE				

Taxation & Revenue Department 2025 Tax Code Clean Up: Sections Proposed for Repeal

Section to Repeal	Details	Rationale for Repeal
7-1-6.6	Distribution of voluntary income tax contributions to game protection fund	Consolidate all voluntary refund distributions into 7-1-6.18
7-1-6.24	Distribution of voluntary income tax contributions to substance abuse education fund	
7-1-6.34	Distribution of voluntary income tax contributions to conservation planting revolving fund	
7-1-6.35	Distribution of voluntary income tax contributions to state political parties	
7-1-6.48	Distribution of voluntary income tax contributions to amyotrophic lateral sclerosis research	
7-1-6.49	Distribution of voluntary income tax contributions to state parks division	
7-1-6.50	Distribution of voluntary income tax contributions to national guard member and family assistance	
7-1-6.59	Distribution of voluntary income tax contributions to vietnam veterans memorial operations, maintenance, improvement	
7-1-6.60	Distribution to counties that imposed a county business retention GRT	No longer applicable after 2019 de-earmarking legislation
7-1-6.66	Hold harmless distribution for 4-month food and beverage establishment GRT deduction from March 1, 2021 to June 30, 2021	Delayed repeal on January 1, 2028 after statute of limitations to amend returns to claim the deduction and after audit adjustments may be made
7-1-15.2	Department may enter agreements with direct markets to collect compensating tax	Not applicable, especially after 2019's HB6
7-2-7	Personal income tax rate tables for 2006 and 2007	No longer applicable
7-2-7.2	Personal income tax rate tables for 2005	No longer applicable
7-2-7.3	2005 tax year rebate is exempt from PIT	No longer applicable
7-2-18.7	Tax year 2000 veteran property tax rebate	No longer applicable
7-2-18.11	Job mentorship PIT credit	Credit has been claimed only a handful of times. Last claims totaled \$8,000 in FY2021, \$14,000 in FY2018
7-2-18.14	Previous solar market tax credit	No longer applicable - applied to solar installations before December 31, 2016
7-2-18.19	Previous sustainable building tax credit	No longer applicable - applied to taxable years ending on or before December 31, 2016
7-2-18.23	2007 tax year refundable credit	No longer applicable
7-2-18.30	Foster youth employment PIT credit	Credit has never been claimed since created in 2018
7-2-23	Finding related to voluntary refund contribution for wildlife	

Taxation & Revenue Department 2025 Tax Code Clean Up: Sections Proposed for Repeal

Section to Repeal	Details	Rationale for Repeal
7-2-24.1	Voluntary refund contribution to tree plantings	Consolidate all voluntary refund contributions to 7-2-24
7-2-24.2	Voluntary refund contribution to healthy soil program	
7-2-28	Voluntary refund contribution to veterans' cemetery fund	
7-2-29	Finding related to voluntary refund contribution for substance abuse education	
7-2-30	Voluntary refund contribution to substance abuse education fund	
7-2-30.1	Voluntary refund contribution to amyotrophic lateral sclerosis	
7-2-30.2	Voluntary refund contribution to state parks	
7-2-30.3	Voluntary refund contribution to national guard members and family assistance	
7-2-30.4	Voluntary refund contribution to Vietnam veterans memorial	
7-2-30.5	Voluntary refund contribution to veterans' enterprise fund	
7-2-30.6	Voluntary refund contribution to lottery tuition fund	
7-2-30.7	Voluntary refund contribution to equine shelter rescue fund	
7-2-30.8	Voluntary refund contribution to senior services	
7-2-30.9	Voluntary refund contribution to animal care and facility fund	
7-2-30.11	Voluntary refund contribution to NM housing trust fund	
7-2-31	Voluntary refund contribution to state political party	
7-2A-14	Corporate-supported child care CIT credit	No claims for the credit since FY2012. 3 taxpayers claimed from FY08-FY11
7-2A-17.1	Job mentorship CIT credit	PIT and CIT credit claimed only a handful of times. Last claims totaled \$8,000 in FY2021, \$14,000 in FY2018
7-2A-21	Previous sustainable building tax credit	No longer applicable - applied to taxable years ending on or before December 31, 2016
7-2A-29	Foster youth employment CIT credit	Credit has never been claimed since created in 2018
7-2D-1 to 7-2D-14	Previous venture capital investment credit definitions	The credit was previously repealed, this will repeal the remaining obsolete definitions for the credit
7-2F-1	Previous film production tax credit	No longer applicable - applied to productions that commenced principal photography prior to 2016
7-2F-2.1	Previous film production tax credit	
7-2F-6 to 7-2F-11	Previous film production tax credit	
7-2H-1 through 7-2H-4	Native American service member settlements	No longer applicable - no claims since 2015; will allow about \$25,000 to revert to general fund

Taxation & Revenue Department 2025 Tax Code Clean Up: Sections Proposed for Repeal

Section to Repeal	Details	Rationale for Repeal
7-9-10	Collection of compensating tax through agents	No longer applicable after 2019 HB6, destination sourcing and allowing TRD to enforce comp tax
7-9-74	GRT deduction for tangible personal property sold to person using it to manufacture jewelry	Not necessary since 7-9-46 provides a deduction for selling tangible personal property to a person engaged in any manufacturing (including jewelry)
7-9-79.2	Biodiesel blending facility tax credit	Credit has been claimed once in 17 years in FY20
7-9-118	4-month restaurant GRT deduction	No longer applicable - applied to receipts from March 1, 2021 to June 30, 2021
7-9A-2.1	RSTP review of investment tax credit in 2025 interim	No longer applicable - applied to 2005 only
7-9F-12	Tax & Rev report to interim committees on Technology Jobs Tax Credit Act	Not necessary since 7-1-84 now requires Tax & Rev to produce annual tax expenditure budget
7-9J-1 through 7-9J-8	Alternative energy production manufacturers tax credit	Credit is not frequently claimed and potentially overlaps with investment tax credit
7-13-10	Bond impairment language related to Laws 1971	No longer necessary - applied to bonds issued more than 53 years ago

**TAX & REV TAX CODE CLEAN UP 228781.3SA
PROPOSED REPEALS**

7-1-6.6. Distribution; game protection fund.

A distribution pursuant to Section [7-1-6.1](#) NMSA 1978 shall be made to the game protection fund of all amounts designated as contributions to that fund under the provisions of Section [7-2-24](#) NMSA 1978.

7-1-6.24. Distribution; substance abuse education fund.

A distribution pursuant to Section [7-1-6.1](#) NMSA 1978 shall be made to the substance abuse education fund of the amounts designated pursuant to Section [7-2-30](#) NMSA 1978 as contributions to that fund.

7-1-6.34. Distribution; conservation planting revolving fund.

A distribution pursuant to Section [7-1-6.1](#) NMSA 1978 shall be made to the conservation planting revolving fund of all amounts designated as contributions to that fund under the provisions of Section [7-2-24.1](#) NMSA 1978.

7-1-6.35. Distribution; contributions to state political party.

A distribution pursuant to Section [7-1-6.1](#) NMSA 1978 shall be made to the state treasurer in an amount equal to the money designated pursuant to Section [7-2-31](#) NMSA 1978 as contributions to a state political party, as that term is defined in Section [7-2-31](#) NMSA 1978. The state treasurer within ten days of receipt of the money from the department shall remit the amount designated for each state political party to that party.

7-1-6.48. Distribution; contributions to department of health; amyotrophic lateral sclerosis research.

A distribution pursuant to Section [7-1-6.1](#) NMSA 1978 shall be made to the amyotrophic lateral sclerosis research fund in an amount equal to the money designated pursuant to Section [7-2-30.1](#) NMSA 1978 as contributions to the amyotrophic lateral sclerosis research fund.

7-1-6.49. Distribution; contributions to the state parks division.

A distribution pursuant to Section [7-1-6.1](#) NMSA 1978 shall be made to the energy, minerals and natural resources department in an amount equal to the money designated pursuant to Section [7-2-30.2](#) NMSA 1978 as contributions to the state parks division of the energy, minerals and natural resources department for the kids in parks education program. The energy, minerals and natural resources department shall remit the amount designated for the state parks division to the state parks division for expenditure for the kids in parks education program.

7-1-6.50. Distribution; contributions for national guard member and family assistance.

A distribution pursuant to Section [7-1-6.1](#) NMSA 1978 shall be made to the department of military affairs in an amount equal to the money designated pursuant to Section [7-2-30.3](#) NMSA 1978 as contributions for assistance to members of the New Mexico national guard and to their families. The department of military affairs shall deposit the money in a temporary suspense account for distribution to members of the New Mexico national guard and to their families.

7-1-6.59. Distribution; Vietnam veterans memorial operation, maintenance and improvement.

A distribution pursuant to Section [7-1-6.1](#) NMSA 1978 shall be made to the veterans' services department in an amount equal to the money designated pursuant to Section [7-2-30.4](#) NMSA 1978 as contributions to the veterans' services department for the operation, maintenance and improvement of the Vietnam veterans memorial near Angel Fire, New Mexico. **7-1-6.60.**

Distribution; county business retention gross receipts tax.

Beginning September 1, 2011, an annual distribution pursuant to Section [7-1-6.1](#) NMSA 1978 shall be made to a county that has imposed and the electors have approved a county business retention gross receipts tax. The distribution shall be in an amount equal to the balance of the net receipts attributable to that tax collected in the prior fiscal year, exclusive of penalties and interest, after the state has deducted an amount for deposit to the general fund equal to the reduction in gaming tax revenue from the gaming operator licensees that are racetracks located in that county resulting from county gaming tax credits allowed in the immediately prior fiscal year for gaming operator licensees located in that county. The total receipts from any county transferred to the general fund in any fiscal year shall not exceed seven hundred fifty thousand dollars (\$750,000) or the total amount of the decrease in gaming tax revenue calculated for the county pursuant to this section, whichever is less.

7-1-6.66. Distribution; offset for food and beverage establishments deduction.

A. A distribution pursuant to Section [7-1-6.1](#) NMSA 1978 shall be made to a municipality in an amount, subject to any increase or decrease made pursuant to Section [7-1-6.15](#) NMSA 1978, equal to the sum of the deductions claimed pursuant to Section 3 [[7-9-118](#) NMSA 1978] of this 2021 act for the month by taxpayers from business locations attributable to the municipality multiplied by the sum of the combined rate of all municipal local option gross receipts taxes in effect in the municipality on January 1, 2021 plus one and two hundred twenty-five thousandths percent.

B. A distribution pursuant to Section [7-1-6.1](#) NMSA 1978 shall be made to a county in an amount, subject to any increase or decrease made pursuant to Section [7-1-6.15](#) NMSA 1978, equal to the sum of the total deductions claimed pursuant to Section 3 of this 2021 act for the month by taxpayers from business locations:

(1) within a municipality in the county multiplied by the combined rate of all county local option gross receipts taxes in effect on January 1, 2021 that are imposed in the county; and

(2) in the county but not within a municipality multiplied by the combined rate of all county local option gross receipts taxes in effect on January 1, 2021 that are imposed in the county area not within a municipality.

C. A distribution pursuant to this section may be adjusted for a distribution made to a tax increment development district with respect to a portion of a gross receipts tax increment dedicated by a municipality pursuant to the Tax Increment for Development Act [Chapter [5](#), Article [15](#) NMSA 1978].

D. For the purposes of this section, "business locations attributable to the municipality" means business locations:

(1) within the municipality;

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

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

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

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

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

7-1-15.2. Agreements; collection of compensating tax.

The department may enter into agreements with direct marketers for purposes of enforcing collection of the compensating tax.

7-2-7 Tax Rates from 2006-2007:

The tax imposed by Section 7-2-3 NMSA 1978 shall be at the following rates for taxable years beginning in 2006 or 2007:

A. For married individuals filing separate returns:

If the taxable income is: The tax shall be:

Not over \$4,000 1.7% of taxable income

Over \$ 4,000 but not over \$ 8,000 \$ 68.00 plus 3.2% of excess over \$ 4,000

Over \$ 8,000 but not over \$ 12,000 \$ 196 plus 4.7% of excess over \$ 8,000

Over \$ 12,000 \$ 384 plus 5.3% of excess over \$ 12,000.

B. For heads of household, surviving spouses and married individuals filing joint returns:

If the taxable income is: The tax shall be:

Not over \$8,000 1.7% of taxable income

Over \$ 8,000 but not over \$ 16,000 \$ 136 plus 3.2% of excess over \$ 8,000

Over \$ 16,000 but not over \$ 24,000 \$ 392 plus 4.7% of excess over \$ 16,000

Over \$ 24,000 \$ 768 plus 5.3% of excess over \$ 24,000.

C. For single individuals and for estates and trusts:

If the taxable income is: The tax shall be:

Not over \$5,500 1.7% of taxable income

Over \$ 5,500 but not over \$ 11,000 \$ 93.50 plus 3.2% of excess over \$ 5,500

Over \$ 11,000 but not over \$ 16,000 \$ 269.50 plus 4.7% of excess over \$ 11,000

Over \$ 16,000 \$ 504.50 plus 5.3% of excess over \$ 16,000.

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

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

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

7-2-7.2 2005 Tax Rebate

A. Except as otherwise provided in this section, any resident who files an individual New Mexico income tax return and who is not a dependent of another individual is entitled to a tax rebate during the 2005 taxable year for a portion of state and local taxes to which the person has been subject during the 2005 taxable year, even if the resident has no income taxable pursuant to the Income Tax Act.

B. For the purposes of this section, the total number of exemptions for which a tax rebate may be claimed or allowed is determined by adding the number of federal exemptions allowable for federal income tax purposes for each individual; provided that, in the case of a husband and wife who have filed a joint return where only one individual is a New Mexico resident, the number of exemptions shall be reduced by one.

C. Except as otherwise provided in Subsection D of this section, the tax rebate provided for in this section is allowed for the amount shown in the following table:

Adjusted Income is: Over	Gross And the total number of exemptions is: But Not Over						
		1	2	3	4	5	6 or more
\$0	\$10,000	\$139	\$179	\$214	\$244	\$289	
10,000	20,000	124	164	189	214	234	249
20,000	35,000	109	139	164	184	199	209
35,000	45,000	94	119	139	154	164	169
45,000	60,000	79	104	124	139	149	154
60,000		64	84	99	109	114	119.

D. If a resident's adjusted gross income is less than or equal to zero, the resident is entitled to a rebate in the amount shown in the first row of the table appropriate for the resident's number of exemptions.

E. Except as otherwise provided in this section, the secretary shall make an advance payment of the tax rebate provided for in this section not later than November 15, 2005 to each resident who filed a 2004 New Mexico personal income tax return. Advance payment amounts shall be based on the number of federal exemptions allowable for federal income tax purposes on the 2004 New Mexico personal income tax return of the resident for whom a rebate is allowed pursuant to this section and on the federal adjusted gross income reported by that resident on the same return. A resident who does not receive an advance payment may claim the tax rebate provided for in this section on that resident's 2005 New Mexico personal income tax return based on the federal adjusted gross income and on the number of federal exemptions allowable for federal income tax purposes reported on that return.

F. The department shall not make an advance payment of the tax rebate provided for in this section to a person who:

- (1) was an inmate of a public institution for more than six months during the 2004 taxable year; or
- (2) was not a resident of New Mexico on the last day of the 2004 taxable year.

G. The department shall not allow a tax rebate provided in this section to a person who claims the rebate on that person's 2005 personal income tax return, but:

(1) was an inmate of a public institution for more than six months during the 2005 taxable year; or

(2) was not a resident of New Mexico on the last day of the 2005 taxable year.

H. The secretary may adopt regulations necessary to administer the provisions of this section.

I. For purposes of this section, "dependent" means "dependent" as defined by Section 152 of the Internal Revenue Code, but also includes any minor child or stepchild of the resident who would be a dependent for federal income tax purposes if the public assistance contributing to the support of the child or stepchild was considered to have been contributed by the resident.

7-2-7.3 – Exemption; 2005 taxable year rebate

The tax rebate made for the 2005 taxable year pursuant to this 2005 act is exempt from state income tax.

7-2-18.7. Tax rebate of property tax paid on property eligible for disabled veteran exemption; refund; limitation.

A. Any resident who files an individual New Mexico income tax return and paid property tax for the 1999 property tax year on property eligible for the property tax exemption authorized by Article 8, Section 15 of the constitution of New Mexico may claim a tax rebate for the amount of property tax paid.

B. The tax rebate provided for in this section may be deducted from the taxpayer's New Mexico income tax liability for taxable year 2000. If the tax rebate exceeds the taxpayer's income tax liability, the excess shall be refunded to the taxpayer.

C. The rebate provided for in this section may be claimed only on a return filed for taxable year 2000.

D. A husband and wife who file separate returns for taxable year 2000 and could have filed a joint return for taxable year 2000 may each claim only one-half of the tax rebate that would have been allowed on the joint return.

7-2-18.11. Job mentorship tax credit.

A. To encourage New Mexico businesses to hire youth participating in career preparation education programs, a taxpayer who files an individual New Mexico income tax return, who is not a dependent of another individual and who is an owner of a New Mexico business may claim a credit in an amount equal to fifty percent of gross wages paid to qualified students who are employed by the business during the taxable year for which the return is filed. The tax credit provided by this section may be referred to as the "job mentorship tax credit".

B. A taxpayer who is an owner of a New Mexico business may claim the job mentorship tax credit for each taxable year in which the business employs one or more qualified students. The maximum aggregate credit allowable shall not exceed fifty percent of the gross wages paid to not more than ten qualified students employed by the business for up to three hundred twenty hours of employment of each qualified student in each taxable year for a maximum of three taxable years for each qualified student. In no event shall a taxpayer claim a credit in excess of twelve thousand dollars (\$12,000) in any taxable year. The taxpayer shall certify that hiring the qualified student does not displace or replace a current employee.

C. The department shall issue job mentorship tax credit certificates upon request to any accredited New Mexico secondary school that has a school-sanctioned career preparation education program. The maximum number of certificates that may be issued in a school year to any one school is equal to the number of qualified students in the school-sanctioned career preparation education program on October 15 of that school year, as certified by the school principal.

D. A job mentorship tax credit certificate may be executed by a school principal with respect to a qualified student, and the executed certificate may be transferred to a New Mexico business that employs that student. By executing the certificate with respect to a student, the school principal certifies that the school has a school-sanctioned career preparation education program and the student is a qualified student.

E. To claim the job mentorship tax credit, the taxpayer must submit with respect to each employee for whom the credit is claimed:

- (1) a properly executed job mentorship tax credit certificate;
- (2) information required by the secretary with respect to the employee's employment by the business during the taxable year for which the credit is claimed; and
- (3) information required by the secretary that the employee was not also employed in the same taxable year by another New Mexico business qualifying for and claiming a job mentorship tax credit for that employee pursuant to this section or the Corporate Income and Franchise Tax Act [Chapter 7, Article 2A NMSA 1978].

F. The job mentorship tax credit may only be deducted from the taxpayer's New Mexico income tax liability for the taxable year. Any portion of the maximum credit provided by this section that remains unused at the end of the taxpayer's taxable year may be carried forward for three consecutive taxable years; provided the total credits claimed under this section shall not exceed the maximum allowable pursuant to Subsection B of this section.

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

H. A taxpayer who otherwise qualifies for and claims a job mentorship tax credit for employment of qualified students by a partnership, limited partnership, limited liability company, S corporation or other business association of which the taxpayer is a member may claim a credit only in proportion to his interest in the partnership, limited partnership, limited liability company, S corporation or association. The total credit claimed by all members of the business shall not exceed the maximum credit allowable pursuant to Subsection B of this section.

I. As used in this section:

- (1) "career preparation education program" means a work-based learning or school-to-career program designed for secondary school students to create academic and career goals and objectives and find employment in a job meeting those goals and objectives;
- (2) "New Mexico business" means a partnership, limited partnership, limited liability company treated as a partnership for federal income tax purposes, S corporation or sole proprietorship that carries on a trade or business in New Mexico and that employs in New Mexico fewer than three hundred full-time employees at any one time during the taxable year; and
- (3) "qualified student" means an individual who is at least fourteen years of age but not more than twenty-one years of age who is attending full time an accredited New Mexico secondary school and who is a participant in a career preparation education program sanctioned by the secondary school.

7-2-18.14. Solar market development tax credit; residential and small business solar thermal and photovoltaic market development tax credit.

A. Except as provided in Subsection C of this section, a taxpayer who files an individual New Mexico income tax return for a taxable year beginning on or after January 1, 2006 and who purchases and installs after January 1, 2006 but before December 31, 2016 a solar thermal system or a photovoltaic system in a residence, business or agricultural enterprise in New Mexico owned by that taxpayer may apply for, and the department may allow, a solar market development tax credit of up to ten percent of the purchase and installation costs of the system.

B. The total solar market development tax credit allowed for either a photovoltaic system or a solar thermal system shall not exceed nine thousand dollars (\$9,000). The department shall allow solar market development tax credits only for solar thermal systems and photovoltaic systems certified by the energy, minerals and natural resources department.

C. Solar market development tax credits may not be claimed or allowed for:

(1) a heating system for a swimming pool or a hot tub; or
(2) a commercial or industrial photovoltaic system other than an agricultural photovoltaic system on a farm or ranch that is not connected to an electric utility transmission or distribution system.

D. The department may allow a maximum annual aggregate of:

(1) two million dollars (\$2,000,000) in solar market development tax credits for solar thermal systems; and
(2) three million dollars (\$3,000,000) in solar market development tax credits for photovoltaic systems.

E. A portion of the solar market development tax credit that remains unused in a taxable year may be carried forward for a maximum of ten consecutive taxable years following the taxable year in which the credit originates until fully expended.

F. Prior to July 1, 2006, the energy, minerals and natural resources department shall adopt rules establishing procedures to provide certification of solar thermal systems and photovoltaic systems for purposes of obtaining a solar market development tax credit. The rules shall address technical specifications and requirements relating to safety, code and standards compliance, solar collector orientation and sun exposure, minimum system sizes, system applications and lists of eligible components. The energy, minerals and natural resources department may modify the specifications and requirements as necessary to maintain a high level of system quality and performance.

G. As used in this section:

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

7-2-18.19. Sustainable building tax credit.

A. The tax credit provided by this section may be referred to as the "sustainable building tax credit". The sustainable building tax credit shall be available for the construction in New Mexico of a sustainable building, the renovation of an existing building in New Mexico into a sustainable building or the permanent installation of manufactured housing, regardless of where

the housing is manufactured, that is a sustainable building. The tax credit provided in this section may not be claimed with respect to the same sustainable building for which the sustainable building tax credit provided in the Corporate Income and Franchise Tax Act [Chapter 7, Article 2A NMSA 1978] has been claimed.

B. The purpose of the sustainable building tax credit is to encourage the construction of sustainable buildings and the renovation of existing buildings into sustainable buildings.

C. A taxpayer who files an income tax return is eligible to be granted a sustainable building tax credit by the department if the taxpayer submits a document issued pursuant to Subsection J of this section with the taxpayer's income tax return.

D. For taxable years ending on or before December 31, 2016, the sustainable building tax credit may be claimed with respect to a sustainable commercial building. The credit shall be calculated based on the certification level the building has achieved in the LEED green building rating system and the amount of qualified occupied square footage in the building, as indicated on the following chart:

LEED Rating Level	Qualified Occupied Square Footage	Tax per Foot	Credit Square
LEED-NC Silver	First	10,000	\$3.50
	Next	40,000	\$1.75
	Over	50,000	
	up to 500,000		\$.70
LEED-NC Gold	First	10,000	\$4.75
	Next	40,000	\$2.00
	Over	50,000	
	up to 500,000		\$1.00
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
	Over	50,000	
	up to 500,000		\$.50
LEED-EB or CS Gold	First	10,000	\$3.35
	Next	40,000	\$1.40
	Over	50,000	
	up to 500,000		\$.70
LEED-EB or CS Platinum	First	10,000	\$4.40
	Next	40,000	\$2.30

	Over	50,000	
	up to 500,000		\$1.40
LEED-CI Silver	First	10,000	\$1.40
	Next	40,000	\$.70
	Over	50,000	
	up to 500,000		\$.30
LEED-CI Gold	First	10,000	\$1.90
	Next	40,000	\$.80
	Over	50,000	
	up to 500,000		\$.40
LEED-CI Platinum	First	10,000	\$2.50
	Next	40,000	\$1.30
	Over	50,000	
	up to 500,000		\$.80

E. For taxable years ending on or before December 31, 2016, the sustainable building tax credit may be claimed with respect to a sustainable residential building. The credit shall be calculated based on the amount of qualified occupied square footage, as indicated on the following chart:

			Qualified Occupied Square Footage	Tax per Foot	Credit Square
LEED-H	Silver	or	Build First	2,000	\$5.00
Green	NM		Silver Next	1,000	\$2.50
LEED-H	Gold	or	Build First	2,000	\$6.85
Green	NM		Gold Next	1,000	\$3.40
LEED-H	Platinum	or	Build First	2,000	\$9.00
Green	NM		Emerald Next	1,000	\$4.45
EPA	ENERGY		STAR		
Manufactured Housing			Up to 3,000		\$3.00.

F. A person that is a building owner may apply for 1a certificate of eligibility for the sustainable building tax credit from the energy, minerals and natural resources department after the construction, installation or renovation of the sustainable building is complete. Applications shall be considered in the order received. If the energy, minerals and natural resources department determines that the building owner meets the requirements of this subsection and that the building with respect to which the tax credit application is made meets the requirements of this section as a sustainable residential building or a sustainable commercial building, the energy, minerals and natural resources department may issue a certificate of eligibility to the building owner, subject to the limitation in Subsection G of this section. The certificate shall include the rating system certification level awarded to the building, the amount of qualified occupied square footage in the building and a calculation of the maximum amount of sustainable building tax credit for which the building owner would be eligible. The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection. If the

certification level for the sustainable residential building is awarded on or after January 1, 2007, the energy, minerals and natural resources department may issue a certificate of eligibility to a building owner who is:

(1) the owner of the sustainable residential building at the time the certification level for the building is awarded; or

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

G. The energy, minerals and natural resources department may issue a certificate of eligibility only if the total amount of sustainable building tax credits represented by certificates of eligibility issued by the energy, minerals and natural resources department pursuant to this section and pursuant to the Corporate Income and Franchise Tax Act shall not exceed in any calendar year an aggregate amount of one million dollars (\$1,000,000) with respect to sustainable commercial buildings and an aggregate amount of four million dollars (\$4,000,000) with respect to sustainable residential buildings; provided that no more than one million two hundred fifty thousand dollars (\$1,250,000) of the aggregate amount with respect to sustainable residential buildings shall be for manufactured housing. If for any taxable year the energy, minerals and natural resources department determines that the applications for sustainable building tax credits with respect to sustainable residential buildings for that taxable year exceed the aggregate limit set in this section, the energy, minerals and natural resources department may issue certificates of eligibility under the aggregate annual limit for sustainable commercial buildings to owners of sustainable residential buildings that meet the requirements of the energy, minerals and natural resources department and of this section; provided that applications for sustainable building credits for other sustainable commercial buildings total less than the full amount allocated for tax credits for sustainable commercial buildings.

H. Installation of a solar thermal system or a photovoltaic system eligible for the solar market development tax credit pursuant to Section [7-2-18.14](#) NMSA 1978 may not be used as a component of qualification for the rating system certification level used in determining eligibility for the sustainable building tax credit, unless a solar market development tax credit pursuant to Section [7-2-18.14](#) NMSA 1978 has not been claimed with respect to that system and the building owner and the taxpayer claiming the sustainable building tax credit certify that such a tax credit will not be claimed with respect to that system.

I. To be eligible for the sustainable building tax credit, the building owner shall provide to the taxation and revenue department a certificate of eligibility issued by the energy, minerals and natural resources department pursuant to the requirements of Subsection F of this section and any other information the taxation and revenue department may require to determine the amount of the tax credit for which the building owner is eligible.

J. If the requirements of this section have been complied with, the department shall issue to the building owner a document granting a sustainable building tax credit. The document shall be numbered for identification and declare its date of issuance and the amount of the tax credit allowed pursuant to this section. The document may be submitted by the building owner with that taxpayer's income tax return, if applicable, or may be sold, exchanged or otherwise transferred to another taxpayer. The parties to such a transaction shall notify the department of the sale, exchange or transfer within ten days of the sale, exchange or transfer.

K. If the total approved amount of all sustainable building tax credits for a taxpayer in a taxable year represented by the documents issued pursuant to Subsection J of this section is:

(1) less than one hundred thousand dollars (\$100,000), a maximum of twenty-five thousand dollars (\$25,000) shall be applied against the taxpayer's income tax liability for the taxable year for which the credit is approved and the next three subsequent taxable years as needed depending on the amount of credit; or

(2) one hundred thousand dollars (\$100,000) or more, increments of twenty-five percent of the total credit amount in each of the four taxable years, including the taxable year for which the credit is approved and the three subsequent taxable years, shall be applied against the taxpayer's income tax liability.

L. If the sum of all sustainable building tax credits that can be applied to a taxable year for a taxpayer, calculated according to Paragraph (1) or (2) of Subsection K of this section, exceeds the taxpayer's income tax liability for that taxable year, the excess may be carried forward for a period of up to seven years.

M. A taxpayer who otherwise qualifies and claims a sustainable building tax credit with respect to a sustainable building owned by a partnership or other business association of which the taxpayer is a member may claim a credit only in proportion to that taxpayer's interest in the partnership or association. The total credit claimed in the aggregate by all members of the partnership or association with respect to the sustainable building shall not exceed the amount of the credit that could have been claimed by a sole owner of the property.

N. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the sustainable building tax credit that would have been allowed on a joint return.

O. The department shall compile an annual report on the sustainable building tax credit created pursuant to this section that shall include the number of taxpayers approved by the department to receive the tax credit, the aggregate amount of tax credits approved and any other information necessary to evaluate the effectiveness of the tax credit. Beginning in 2015 and every five years thereafter, the department shall compile and present the annual reports to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the tax credit and whether the tax credit is performing the purpose for which it was created.

P. For the purposes of this section:

(1) "build green New Mexico rating system" means the certification standards adopted by the homebuilders association of central New Mexico;

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

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

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

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

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

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

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

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

(10) "LEED silver" means the rating in compliance with, or exceeding, the third-highest rating awarded by the LEED certification process;

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

(a) a manufactured home or modular home;

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

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

(d) installed consistent with the Manufactured Housing Act [Chapter 60, Article 14 NMSA 1978] and rules adopted pursuant to that act relating to permanent foundations;

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

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

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

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

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

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

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

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

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

(c) has reduced energy consumption, as follows: 1) through 2011, a fifty percent energy reduction will be required based on the national average for that building type as published by the United States department of energy; and beginning January 1, 2012, a sixty percent energy reduction will be required based on the national average for that building type as published by the United States department of energy; and 2) is substantiated by the United States environmental protection agency target finder energy performance results form, dated no sooner than the schematic design phase of development;

(16) "sustainable residential building" means:

(a) a building used as a single-family residence as registered and certified under the build green New Mexico or LEED-H rating system that: 1) is certified by the United States green building council as LEED-H silver or higher or by build green New Mexico as silver

or higher; and 2) has achieved a home energy rating system index of sixty or lower as developed by the residential energy services network; or

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

(17) "tribal" means of, belonging to or created by a federally recognized Indian nation, tribe or pueblo.

7-2-18.23. Refundable credit; 2007 taxable year.

A. Except as otherwise provided in Subsection B of this section, a taxpayer who for the 2007 taxable year files a New Mexico income tax return, is a full-year or first-year resident of New Mexico and is not a trust, estate or a dependent of another taxpayer is allowed a credit in the amount determined under Subsection C of this section. The credit may be allowed even though the taxpayer has no income taxable under the Income Tax Act for the 2007 taxable year.

B. A claim for the refundable tax credit provided in this section is not allowed for a resident who was an inmate of a public institution for more than six months during the 2007 taxable year.

C. The tax credit allowed in this section shall be in the amount determined from the following tables for:

(1) married taxpayers filing jointly:

Adjusted Gross Income		Credit for and Spouse	Amount Taxpayer Dependent	Credit for Each
Over	Not Over			
0	\$30,000	\$100	\$50.00	
\$30,000	\$50,000	\$ 80.00	\$40.00	
\$50,000	\$70,000	\$ 50.00	\$25.00	
\$70,000		\$ 0.00	\$ 0.00; or	

(2) taxpayers filing as single, head of household, married filing separately or as a surviving spouse:

Adjusted Gross Income		Credit for Taxpayer	Additional Amount Credit for Dependent	Amount for Each
Over	Not Over			
0	\$30,000	\$50.00	\$50.00	
\$30,000	\$50,000	\$40.00	\$40.00	
\$50,000	\$70,000	\$25.00	\$25.00	
\$70,000		\$ 0.00	\$ 0.00.	

D. The tax credit allowed in this section may be credited by the department against the taxpayer's New Mexico income tax liability. If the taxpayer is liable for interest and penalties on the taxpayer's income tax liability for the 2007 taxable year prior to the effective date of this section, the amount of interest and penalties shall not be recomputed due to the credit provided by this section but may be satisfied by applying the credit to the penalty or interest due. Notwithstanding the provisions of Section 7-1-68 NMSA 1978, interest in the amount established by Subsection B of Section 7-1-68 NMSA 1978 shall only be allowed and paid on the amount to be refunded under Subsection E of this section if not refunded or credited within one hundred twenty days after the

effective date of this section or the applicable period established in Subsection D of Section 7-1-68 NMSA 1978, whichever is later.

E. If the tax credit exceeds the taxpayer's income tax liability, the excess shall be refunded to the taxpayer.

F. For purposes of this section, "dependent" means "dependent" as defined by Section 152 of the Internal Revenue Code.

7-2-18.30. Foster youth employment income tax credit.

A. A taxpayer who is not a dependent of another individual and who employs a qualified foster youth in New Mexico is eligible for a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act in an amount up to one thousand dollars (\$1,000) of the gross wages paid to each qualified foster youth by the taxpayer during the taxable year for which the return is filed. A taxpayer who employs a qualified foster youth for less than the full taxable year is eligible for a credit amount equal to one thousand dollars (\$1,000) multiplied by the fraction of a full year for which the qualified foster youth was employed. The tax credit provided by this section may be referred to as the "foster youth employment income tax credit".

B. The purpose of the foster youth employment income tax credit is to encourage the employment of individuals who as youth were adjudicated as abused or neglected or who were in the legal custody of the children, youth and families department under the Children's Code [Chapter 32A NMSA 1978] or in the legal custody of a New Mexico Indian nation, tribe or pueblo or the United States department of the interior bureau of Indian affairs division of human services.

C. A taxpayer may claim the foster youth employment income tax credit provided in this section for each taxable year in which the taxpayer employs one or more qualified foster youths; provided that the taxpayer may not claim the foster youth employment income tax credit for any individual qualified foster youth for more than one calendar year from the date of hire.

D. That portion of a foster youth employment income tax credit approved by the department that exceeds a taxpayer's income tax liability in the taxable year in which the foster youth employment income tax credit is claimed shall not be refunded to the taxpayer but may be carried forward for up to three years. The foster youth employment income tax credit shall not be transferred to another taxpayer.

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

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

G. The taxpayer shall submit to the department with respect to each employee for whom the foster youth employment income tax credit is claimed information required by the department with respect to the qualified foster youth's employment by the taxpayer during the taxable year for which the foster youth employment income tax credit is claimed, including information establishing that the employee is a qualified foster youth that can be used to determine that the employee was not also employed in the same taxable year by another taxpayer claiming a foster

youth employment income or corporate income tax credit for that employee pursuant to this section or the Corporate Income and Franchise Tax Act [Chapter 7, Article 2A NMSA 1978].

H. The department shall:

(1) adopt rules establishing procedures to certify that an employee is a qualified foster youth for purposes of obtaining a foster youth employment income tax credit. The rules shall ensure that not more than one foster youth employment income tax credit per qualified foster youth shall be allowed in a taxable year and that the credits allowed per qualified foster youth are limited to a maximum of one year's employment; and

(2) collaborate with the children, youth and families department, the New Mexico Indian nations, tribes and pueblos and the United States department of the interior bureau of Indian affairs division of human services to establish the certification procedures.

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

J. The department shall compile an annual report on the foster youth employment income tax credit that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the effectiveness of the credit. The department shall present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the tax credit and whether the tax credit is performing the purpose for which it was created.

~~K.~~ As used in this section, "qualified foster youth" means an individual:

(1) who:

(a) is currently in the legal custody of the children, youth and families department pursuant to the Children's Code or in the legal custody of a New Mexico Indian nation, tribe or pueblo or the United States department of the interior bureau of Indian affairs division of human services; or

(b) within the seven years prior to the taxable year for which the tax credit is claimed, was aged fourteen years or older and was in the legal custody of the children, youth and families department pursuant to the Children's Code or in the legal custody of a New Mexico Indian nation, tribe or pueblo or the United States department of the interior bureau of Indian affairs division of human services;

(2) who works at least twenty hours per week during the taxable year for which the foster youth employment income tax credit is claimed; and

(3) who was not previously employed by the taxpayer prior to the taxable year for which the foster youth employment income tax credit is claimed.

7-2-23. Finding[; wildlife funds].

The legislature finds that it is in the public interest to provide additional wildlife funds to perpetuate the renewable wildlife resource of New Mexico that gives so much pleasure and recreation to all New Mexicans. This act [7-2-23 to 7-2-25 NMSA 1978] provides a means by which additional wildlife funds may be provided from a voluntary check-off designation of tax refunds due the taxpayer on the state income tax form. It is the intent of the legislature that this program of income tax refund check-off is supplemental to any other funding and is in no way intended to take the place of the funding that would otherwise be appropriated for this purpose.

7-2-24.1. Optional designation of tax refund contribution for tree plantings.

A. Except as otherwise provided in Subsection C of this section, any individual whose state income tax liability after application of allowable credits and tax rebates in any year is lower than the amount of money held by the department to the credit of such individual for that tax year may designate any portion of the income tax refund due him to be paid into the conservation planting revolving fund. In the case of a joint return, both individuals must make such designation.

B. The department shall revise the state income tax form to allow the designation of such contributions in substantially the following form:

"Conservation Planting Revolving Fund - Check if you wish to [] contribute a part or all of your tax refund to the Conservation Planting Revolving Fund to pay for the planting of trees in New Mexico. Enter here \$ _____ the amount of your contribution."

C. The provisions of this section do not apply to income tax refunds subject to interception under the provisions of the Tax Refund Intercept Program Act [Chapter 7, Article 2C NMSA 1978] and any designation made under the provisions of this section to such refunds is void.

7-2-24.2. Optional designation of tax refund contribution; healthy soil program.

A. An individual whose state income tax liability after application of allowable credits and tax rebates in a year is lower than the amount of money held by the department to the credit of such individual for that tax year may designate a portion of the income tax refund due to the individual to be paid to the board of regents of New Mexico state university for support of the healthy soil program in the New Mexico department of agriculture. In the case of a joint return, both individuals must make such a designation.

B. The department shall revise the state income tax form to allow the designation of such contributions in the following form:

"Healthy Soil Program - Check [] if you wish to contribute a part or all of your tax refund for the support of the healthy soil program in the New Mexico department of agriculture. Enter here \$ _____ the amount of your contribution."

C. The provisions of this section do not apply to income tax refunds subject to interception under the provisions of the Tax Refund Intercept Program Act, and any designation made under the provisions of this section to such refunds is void.

7-2-28. Optional designation of tax refund contribution.

A. Any individual whose state income tax liability in any year is lower than the amount of money held by the department to the credit of such individual for that tax year may designate any portion of the income tax refund due to be paid into the veterans' state cemetery fund. In the case of a joint return, both individuals must make such designation.

B. The secretary shall revise the state income tax form to allow the designation by individual taxpayers of such contributions in substantially the following form:

"New Mexico Veterans' State Cemetery Fund – Check [] if you wish to contribute a part or all of your tax refund to the Veterans' State Cemetery Fund. Enter here \$ _____ the amount of your contribution."

C. The provisions of this section do not apply to refund amounts intercepted under the Tax Refund Intercept Program Act [Chapter 7, Article 2C NMSA 1978], and any designation under the provisions of this section with respect to such intercepted refunds is void.

7-2-29. Finding.

The legislature finds that it is in the public interest to provide additional funds to ensure that substance abuse educational programs are provided in New Mexico schools. This act provides a means by which additional substance abuse education funds may be provided from a voluntary check-off designation of tax refunds due the taxpayer on the state income tax form. It is the intent of the legislature that this program of income tax refund check-off is supplemental to any other funding and is in no way intended to take the place of the funding that would otherwise be appropriated for this purpose.

7-2-30. Optional designation of tax refund contribution [; substance abuse education fund].

A. Any individual whose state income tax liability in any year is lower than the amount of money held by the taxation and revenue department to the credit of such individual for that tax year may designate any portion of the income tax refund due him to be paid into the substance abuse education fund. In the case of a joint return, both individuals must make such designation.

B. The secretary of the department shall revise the state income tax form to allow the designation by individual taxpayers of such contributions in substantially the following form:

"New Mexico Substance Abuse Education Fund - Check []

if you wish to contribute a part or all

of your tax refund to the Substance Abuse

Education Fund. Enter here \$ _____ the amount of your contribution."

C. The provisions of this section do not apply to refund amounts intercepted under the tax refund intercept program and any designation under the provisions of this section with respect to such intercepted refunds is void.

7-2-30.1. Optional designation of tax refund contribution; amyotrophic lateral sclerosis research fund.

A. Except as otherwise provided in Subsection C of this section, any individual whose state income tax liability after application of allowable credits and tax rebates in any year is lower than the amount of money held by the department to the credit of such individual for that tax year may designate any portion of the income tax refund due to the individual to be paid to the amyotrophic lateral sclerosis research fund. In the case of a joint return, both individuals must make such a designation.

B. The department shall revise the state income tax form to allow the designation of such contributions in the following form:

"Amyotrophic Lateral Sclerosis Research Fund -

Check [] if you wish to contribute a part or all of your tax refund to the amyotrophic lateral sclerosis research fund for amyotrophic lateral sclerosis (Lou Gehrig's disease) research. Enter here \$ _____ the amount of your contribution."

C. The provisions of this section do not apply to income tax refunds subject to interception under the provisions of the Tax Refund Intercept Program Act [Chapter 7, Article 2C NMSA 1978], and any designation made under the provisions of this section to such refunds is void.

7-2-30.2. Optional designation of tax refund contribution; energy, minerals and natural resources department; state parks division.

A. Except as otherwise provided in Subsection C of this section, an individual whose state income tax liability after application of allowable credits and tax rebates in a year is lower than the amount of money held by the department to the credit of such individual for that tax year may designate a

portion of the income tax refund due to the individual to be paid to the state parks division of the energy, minerals and natural resources department for the kids in parks education program. In the case of a joint return, both individuals must make such designation.

B. The department shall revise the state income tax form to allow the designation of such contributions in the following form:

"State Parks Division – Check if you wish to contribute a part or all [] of your tax refund to the state parks division of the energy, minerals and natural resources department for the kids in parks education program.

Enter here \$ _____ the amount of your contribution."

C. The provisions of this section do not apply to income tax refunds subject to interception under the provisions of the Tax Refund Intercept Program Act [Chapter 7, Article 2C NMSA 1978], and any designation made under the provisions of this section to such refunds is void.

7-2-30.3. Optional designation of tax refund contribution; national guard member and family assistance.

A. Except as otherwise provided in Subsection C of this section, an individual whose state income tax liability after application of allowable credits and tax rebates in a year is lower than the amount of money held by the department to the credit of the individual for that tax year may designate a portion of the income tax refund due to the individual to be contributed for assistance to members of the New Mexico national guard and to their families. In the case of a joint return, both individuals must make such a designation.

B. The department shall revise the state income tax form to allow the designation of such contributions in the following form:

"National Guard Member and Family Assistance – Check [] if you wish to contribute a part or all of your tax refund for assistance to members of the New Mexico national guard and to their families. Enter here \$ _____ the amount of your contribution."

C. The provisions of this section do not apply to income tax refunds subject to interception under the provisions of the Tax Refund Intercept Program Act [Chapter 7, Article 2C NMSA 1978], and any designation made under the provisions of this section to such refunds is void.

7-2-30.4. Optional designation of tax refund contribution; Vietnam veterans memorial.

A. Except as otherwise provided in Subsection C of this section, any individual whose state income tax liability after application of allowable credits and tax rebates in any year is lower than the amount of money held by the taxation and revenue department to the credit of such individual for that tax year may designate any portion of the income tax refund due to the individual to be paid to the veterans' services department for the operation, maintenance and improvement of the Vietnam veterans memorial near Angel Fire, New Mexico. In the case of a joint return, both individuals must make such a designation.

B. The department shall revise the state income tax form to allow the designation of such contributions in the following form:

"Vietnam Veterans Memorial - Check [] if you wish to contribute a part or all of your tax refund to the veterans' services department for the operation, maintenance and improvement of the Vietnam Veterans Memorial near Angel Fire, New Mexico. Enter here \$ _____ the amount of your contribution."

C. The provisions of this section do not apply to income tax refunds subject to interception under the provisions of the Tax Refund Intercept Program Act [Chapter 7, Article 2C NMSA 1978], and any designation made under the provisions of this section to such refunds is void.

7-2-30.5. Optional designation of tax refund contribution; veterans' enterprise fund.

A. Except as otherwise provided in Subsection C of this section, any individual whose state income tax liability after application of allowable credits and tax rebates in any year is lower than the amount of money held by the department to the credit of such individual for that tax year may designate any portion of the income tax refund due to the individual to be paid to the veterans' enterprise fund. In the case of a joint return, both individuals must make such a designation.

B. The department shall revise the state income tax form to allow the designation of such contributions in the following form:

"Veterans' Enterprise Fund - Check [] if you wish to contribute a part or all of your tax refund to the veterans' enterprise fund to carry out the programs, duties or services of the veterans' services department. Enter here \$ _____ the amount of your contribution."

C. The provisions of this section do not apply to income tax refunds subject to interception under the provisions of the Tax Refund Intercept Program Act [Chapter 7, Article 2C NMSA 1978], and any designation made under the provisions of this section to such refunds is void.

7-2-30.6. Optional designation of tax refund contribution; lottery tuition fund.

A. Except as otherwise provided in Subsection C of this section, any individual whose state income tax liability after application of allowable credits and tax rebates in any year is lower than the amount of money held by the department to the credit of such individual for that tax year may designate any portion of the income tax refund due to the individual to be paid to the lottery tuition fund. In the case of a joint return, both individuals must make such a designation.

B. The department shall revise the state income tax form to allow the designation of such contributions in the following form:

"Lottery Tuition Fund - Check [] if you wish to contribute a part or all of your tax refund to the lottery tuition fund to provide tuition assistance for New Mexico resident undergraduates. Enter here \$ _____ the amount of your contribution."

C. The provisions of this section do not apply to income tax refunds subject to interception under the provisions of the Tax Refund Intercept Program Act [Chapter 7, Article 2C NMSA 1978], and any designation made under the provisions of this section to such refunds is void.

7-2-30.7. Optional designation of tax refund contribution; equine shelter rescue fund.

A. Any individual whose state income tax liability after application of allowable credits and tax rebates in any year is lower than the amount of money held by the department to the credit of such individual for that tax year may designate any portion of the income tax refund due to the individual to be paid to the equine shelter rescue fund. In the case of a joint return, both individuals must make such a designation.

B. The department shall revise the state income tax form to allow the designation of such contributions in the following form:

"Equine Shelter Rescue Fund - Check [] if you wish to contribute a part or all of your tax refund to the equine shelter rescue fund. Enter here \$ _____ the amount of your contribution."

C. The provisions of this section do not apply to income tax refunds subject to interception under the provisions of the Tax Refund Intercept Program Act [Chapter 7, Article 2C NMSA 1978], and any designation made under the provisions of this section to such refunds is void.

7-2-30.8. Finding; optional designation of tax refund contribution; senior services.

A. The legislature finds that it is in the public interest to provide additional money to enhance or expand vital services to New Mexico's elderly population. This section provides a means by which individuals may donate all or a portion of their income tax refund, through a voluntary check-off designation, to provide supplemental funding through the non-metro area agency on aging to senior service providers throughout the state. It is the intent of the legislature that this program of income tax refund check-off is supplemental to any other funding and is in no way intended to take the place of the funding that would otherwise be appropriated for this purpose.

B. Except as otherwise provided in Subsection D of this section, an individual whose state income tax liability after application of allowable credits and tax rebates in a year is lower than the amount of money held by the department to the credit of such individual for that tax year may designate a portion of the income tax refund due to the individual to be paid to the aging and long-term services department for distribution statewide through the area agencies on aging for the provision of supplemental senior services throughout the state, including senior services provided through the north central New Mexico economic development district as the non-metro area agency on aging, the city of Albuquerque/Bernalillo county area agency on aging, the Indian area agency on aging and the Navajo area agency on aging. In the case of a joint return, both individuals must make the designation.

C. The department shall revise the state income tax form to allow the designation of such contributions in the following form:

"Supplemental Senior Services – Check[]
if you wish to contribute a part or all of your tax
refund to provide supplemental funding to enhance or
expand senior services throughout the state.
Enter here \$ _____ the amount of your contribution."

D. The provisions of this section do not apply to income tax refunds subject to interception under the provisions of the Tax Refund Intercept Program Act [Chapter 7, Article 2C NMSA 1978], and any designation made under the provisions of this section to such refunds is void.

E. The department shall distribute one hundred percent of the tax refund contributions pursuant to this section to the aging and long-term services department for distribution statewide through the area agencies on aging. The agencies on aging shall cooperatively establish a grant program based on need that is available to all senior service providers in the state that meet the requirements of the program. The agencies shall seek input from senior service providers in developing the grant program.

7-2-30.9. Optional designation of tax refund contribution; animal care and facility fund.

A. An individual whose state income tax liability after application of allowable credits and tax rebates in any year is lower than the amount of money held by the department to the credit of that individual for that tax year may designate a portion of the income tax refund due to the individual to be paid to the animal care and facility fund to carry out the statewide dog and cat spay and neuter program. In the case of a joint return, both individuals must make that designation.

B. The department shall revise the state income tax form to allow the designation of a contribution in the following form:

"Statewide Dog and Cat Spay and Neuter Program - Check [] if you wish to contribute a part or all of your tax refund to the Animal Care and Facility Fund to carry out the statewide dog and cat spay and neuter program. Enter here \$ _____ the amount of your contribution."

C. The provisions of this section do not apply to an income tax refund subject to interception under the provisions of the Tax Refund Intercept Program Act [Chapter 7, Article 2C NMSA 1978], and a designation made pursuant to the provisions of this section to that refund is void.

7-2-30.11. Optional designation of tax refund contribution; New Mexico housing trust fund.

A. Any individual whose state income tax liability after application of allowable credits and tax rebates in any year is lower than the amount of money held by the department to the credit of such individual for that tax year may designate any portion of the income tax refund due to the individual to be paid to the New Mexico housing trust fund. In the case of a joint return, both individuals must make such a designation.

B. The department shall revise the state income tax form to allow the designation of such contributions in the following form:

"New Mexico Housing Trust Fund - Check [] if you wish to contribute a part or all of your tax refund to the New Mexico Housing Trust Fund for affordable housing programs. Enter here \$ _____ the amount of your contribution."

C. The provisions of this section do not apply to income tax refunds subject to interception under the provisions of the Tax Refund Intercept Program Act [Chapter 7, Article 2C NMSA 1978], and any designation made under the provisions of this section to such refunds is void.

7-2-31. Optional designation of tax refund contribution.

A. Any individual whose state income tax liability in any year is lower than the amount of money held by the taxation and revenue department to the credit of that individual for that tax year may designate two dollars (\$2.00) of the income tax refund due the individual to be paid to a state political party. "State political party", for the purposes of this section, means those parties that on January 1 of the taxable year for which the return is filed meet the requirements of Section 1-7-2(A) NMSA 1978. In the case of a joint return, each individual may make a designation.

B. The secretary of taxation and revenue shall revise the state income tax form to allow on the face of the form the designation by individual taxpayers of contributions to state political parties in substantially the following form:

"New Mexico Political Party Income Tax Refund Check-Off - Check if you wish to contribute two dollars (\$2.00) of your income tax refund to a state political party that qualifies as such under Section 1-7-2 NMSA 1978. My contribution should be made to the _____ party."(name of state political party)

C. The secretary of taxation and revenue shall provide a list on the state income tax form of the qualified state political parties to which the taxpayer may make a contribution.

D. The provisions of this section do not apply to income tax refunds subject to interception under the provisions of the Tax Refund Intercept Program Act [Chapter 7, Article 2C NMSA 1978], and any designation made under the provisions of this section to such refunds is void.

7-2A-14. Corporate-supported child care; credits allowed.

A. A taxpayer that pays for child care services in New Mexico for dependent children of an employee of the taxpayer during the employee's hours of employment may claim a credit against the corporate income tax imposed pursuant to the Corporate Income and Franchise Tax Act in an amount equal to thirty percent of the total expenses, net of any reimbursements, for child care services incurred and paid by the taxpayer in the taxable year.

B. A taxpayer that operates a child care facility in New Mexico used primarily by the dependent children of the taxpayer's employees may also claim a credit against the corporate income tax imposed pursuant to the Corporate Income and Franchise Tax Act in an amount equal to thirty percent of the net cost of operating the child care facility for the taxable year. If two or more taxpayers share in the cost of operating a child care facility primarily for the dependent children of the taxpayers' employees, each taxpayer shall be allowed a credit in relation to the taxpayer's share of the cost of operating the child care facility. Each taxpayer's share of the tax credit shall be determined by dividing the employer's share of the net cost of operating the child care facility by the number of children served and multiplying the result by the number of the taxpayer's employees' children served. The credit allowed pursuant to this subsection may be taken only if the child care facility is operated under the authority of a license issued pursuant to the Public Health Act [Chapter 24, Article 1 NMSA 1978] and is operated without profit by the taxpayer. For the purposes of this section, the term "net cost" means the cost of operating a child care facility less any amounts collected as fees for use of the facility, any federal tax credits with respect to the facility or its operation and any other payment or reimbursement from any other source other than the credit provided by this section.

C. For the purposes of this section, "dependent children" means children under twelve years of age.

D. The credits provided for by Subsections A and B of this section may only be deducted from the taxpayer's corporate income tax liability for the taxable year in which the expenditures occurred. The credit may not exceed thirty thousand dollars (\$30,000) in any taxable year. If the credit amount exceeds the corporate income tax liability, the excess may be carried forward for three consecutive years; provided that in no event shall the annual credit amount exceed thirty thousand dollars (\$30,000).

7-2A-17.1. Job mentorship tax credit.

A. To encourage New Mexico businesses to hire youth participating in career preparation education programs, a taxpayer that is a New Mexico business and that files a corporate income tax return may claim a credit in an amount equal to fifty percent of gross wages paid to qualified students who are employed by the taxpayer during the taxable year for which the return is filed. The tax credit provided by this section may be referred to as the "job mentorship tax credit".

B. A taxpayer may claim the job mentorship tax credit provided in this section for each taxable year in which the taxpayer employs one or more qualified students. The maximum aggregate credit allowable shall not exceed fifty percent of the gross wages paid to not more than ten qualified students employed by the taxpayer for up to three hundred twenty hours of employment of each qualified student in each taxable year for a maximum of three taxable years for each qualified student. In no event shall a taxpayer claim a credit in excess of twelve thousand dollars (\$12,000) in any taxable year. The employer shall certify that hiring the qualified student does not displace or replace a current employee.

C. The department shall issue job mentorship tax credit certificates upon request to any accredited New Mexico secondary school that has a school-sanctioned career preparation education program. The maximum number of certificates that may be issued in a school year to any one school is equal to the number of qualified students in the school-sanctioned career preparation education program on October 15 of that school year, as certified by the school principal.

D. A job mentorship tax credit certificate may be executed by a school principal with respect to a qualified student, and the executed certificate may be transferred to a New Mexico business that employs that student. By executing the certificate with respect to a student, the school principal certifies that the school has a school-sanctioned career preparation education program and the student is a qualified student.

E. To claim the job mentorship tax credit, the taxpayer must submit with respect to each employee for whom the credit is claimed:

- (1) a properly executed job mentorship tax credit certificate;
- (2) information required by the secretary with respect to the employee's employment by the taxpayer during the taxable year for which the credit is claimed; and
- (3) information required by the secretary that the employee was not also employed in the same taxable year by another New Mexico business qualifying for and claiming a job mentorship tax credit for that employee pursuant to this section or the Income Tax Act [Chapter 7, Article 2 NMSA 1978].

F. The job mentorship tax credit may only be deducted from the taxpayer's corporate income tax liability for the taxable year. Any portion of the maximum credit provided by this section that remains unused at the end of the taxpayer's taxable year may be carried forward for three consecutive taxable years; provided the total credits claimed pursuant to this section shall not exceed the maximum allowable under Subsection B of this section.

G. As used in this section:

- (1) "career preparation education program" means a work-based learning or school-to-career program designed for secondary school students to create academic and career goals and objectives and find employment in a job meeting those goals and objectives;
- (2) "New Mexico business" means a corporation that carries on a trade or business in New Mexico and that employs in New Mexico fewer than three hundred full-time employees during the taxable year; and
- (3) "qualified student" means an individual who is at least fourteen years of age but not more than twenty-one years of age who is attending full time an accredited New Mexico secondary school and who is a participant in a career preparation education program sanctioned by the secondary school.

7-2A-21. Sustainable building tax credit.

A. The tax credit provided by this section may be referred to as the "sustainable building tax credit". The sustainable building tax credit shall be available for the construction in New Mexico of a sustainable building, the renovation of an existing building in New Mexico into a sustainable building or the permanent installation of manufactured housing, regardless of where the housing is manufactured, that is a sustainable building. The tax credit provided in this section may not be claimed with respect to the same sustainable building for which the sustainable building tax credit provided in the Income Tax Act [Chapter 7, Article 2 NMSA 1978] has been claimed.

B. The purpose of the sustainable building tax credit is to encourage the construction of sustainable buildings and the renovation of existing buildings into sustainable buildings.

C. A taxpayer that files a corporate income tax return is eligible to be granted a sustainable building tax credit by the department if the taxpayer submits a document issued pursuant to Subsection J of this section with the taxpayer's corporate income tax return.

D. For taxable years ending on or before December 31, 2016, the sustainable building tax credit may be claimed with respect to a sustainable commercial building. The credit shall be calculated based on the certification level the building has achieved in the LEED green building rating system and the amount of qualified occupied square footage in the building, as indicated on the following chart:

LEED Rating Level	Qualified Occupied Square Footage	Tax Credit per Square Foot
LEED-NC Silver	First	10,000 \$3.50
	Next	40,000 \$1.75
	Over	50,000
	up to 500,000	\$.70
LEED-NC Gold	First	10,000 \$4.75
	Next	40,000 \$2.00
	Over	50,000
	up to 500,000	\$1.00
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
	Over	50,000
	up to 500,000	\$.50
LEED-EB or CS Gold	First	10,000 \$3.35
	Next	40,000 \$1.40
	Over	50,000
	up to 500,000	\$.70
LEED-EB or CS Platinum	First	10,000 \$4.40
	Next	40,000 \$2.30
	Over	50,000
	up to 500,000	\$1.40
LEED-CI Silver	First	10,000 \$1.40
	Next	40,000 \$.70

	Over up to 500,000	50,000 \$.30
LEED-CI Gold	First	10,000 \$1.90
	Next	40,000 \$.80
	Over up to 500,000	50,000 \$.40
LEED-CI Platinum	First	10,000 \$2.50
	Next	40,000 \$1.30
	Over up to 500,000	50,000 \$.80

E. For taxable years ending on or before December 31, 2016, the sustainable building tax credit may be claimed with respect to a sustainable residential building. The credit shall be calculated based on the amount of qualified occupied square footage, as indicated on the following chart:

	Qualified Occupied Square Footage	Tax per Foot	Credit Square
LEED-H Green	Silver or NM Build First	2,000	\$5.00
LEED-H Green	Gold or NM Silver Next	1,000	\$2.50
LEED-H Green	Gold or NM Build First	2,000	\$6.85
LEED-H Green	Platinum or NM Gold Next	1,000	\$3.40
LEED-H Green	Platinum or NM Build First	2,000	\$9.00
EPA ENERGY STAR	Emerald Next	1,000	\$4.45
Manufactured Housing	Up to 3,000		\$3.00.

F. A person that is a building owner may apply for a certificate of eligibility for the sustainable building tax credit from the energy, minerals and natural resources department after the construction, installation or renovation of the sustainable building is complete. Applications shall be considered in the order received. If the energy, minerals and natural resources department determines that the building owner meets the requirements of this subsection and that the building with respect to which the tax credit application is made meets the requirements of this section as a sustainable residential building or a sustainable commercial building, the energy, minerals and natural resources department may issue a certificate of eligibility to the building owner, subject to the limitation in Subsection G of this section. The certificate shall include the rating system certification level awarded to the building, the amount of qualified occupied square footage in the building and a calculation of the maximum amount of sustainable building tax credit for which the building owner would be eligible. The energy, minerals and natural resources department may issue rules governing the procedure for administering the provisions of this subsection. If the certification level for the sustainable residential building is awarded on or after January 1, 2007, the energy, minerals and natural resources department may issue a certificate of eligibility to a building owner who is:

(1) the owner of the sustainable residential building at the time the certification level for the building is awarded; or

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

G. The energy, minerals and natural resources department may issue a certificate of eligibility only if the total amount of sustainable building tax credits represented by certificates of eligibility issued by the energy, minerals and natural resources department pursuant to this section and pursuant to the Income Tax Act shall not exceed in any calendar year an aggregate amount of one million dollars (\$1,000,000) with respect to sustainable commercial buildings and an aggregate amount of four million dollars (\$4,000,000) with respect to sustainable residential buildings; provided that no more than one million two hundred fifty thousand dollars (\$1,250,000) of the aggregate amount with respect to sustainable residential buildings shall be for manufactured housing. If for any taxable year the energy, minerals and natural resources department determines that the applications for sustainable building tax credits with respect to sustainable residential buildings for that taxable year exceed the aggregate limit set in this section, the energy, minerals and natural resources department may issue certificates of eligibility under the aggregate annual limit for sustainable commercial buildings to owners of sustainable residential buildings that meet the requirements of the energy, minerals and natural resources department and of this section; provided that applications for sustainable building credits for other sustainable commercial buildings total less than the full amount allocated for tax credits for sustainable commercial buildings.

H. Installation of a solar thermal system or a photovoltaic system eligible for the solar market development tax credit pursuant to Section [7-2-18.14](#) NMSA 1978 may not be used as a component of qualification for the rating system certification level used in determining eligibility for the sustainable building tax credit, unless a solar market development tax credit pursuant to Section [7-2-18.14](#) NMSA 1978 has not been claimed with respect to that system and the building owner and the taxpayer claiming the sustainable building tax credit certify that such a tax credit will not be claimed with respect to that system.

I. To be eligible for the sustainable building tax credit, the building owner shall provide to the taxation and revenue department a certificate of eligibility issued by the energy, minerals and natural resources department pursuant to the requirements of Subsection F of this section and any other information the taxation and revenue department may require to determine the amount of the tax credit for which the building owner is eligible.

J. If the requirements of this section have been complied with, the department shall issue to the building owner a document granting a sustainable building tax credit. The document shall be numbered for identification and declare its date of issuance and the amount of the tax credit allowed pursuant to this section. The document may be submitted by the building owner with that taxpayer's income tax return, if applicable, or may be sold, exchanged or otherwise transferred to another taxpayer. The parties to such a transaction shall notify the department of the sale, exchange or transfer within ten days of the sale, exchange or transfer.

K. If the total approved amount of all sustainable building tax credits for a taxpayer in a taxable year represented by the documents issued pursuant to Subsection J of this section is:

(1) less than one hundred thousand dollars (\$100,000), a maximum of twenty-five thousand dollars (\$25,000) shall be applied against the taxpayer's corporate income tax liability for the taxable year for which the credit is approved and the next three subsequent taxable years as needed depending on the amount of credit; or

(2) one hundred thousand dollars (\$100,000) or more, increments of twenty-five percent of the total credit amount in each of the four taxable years, including the taxable year for which the credit is approved and the three subsequent taxable years, shall be applied against the taxpayer's corporate income tax liability.

L. If the sum of all sustainable building tax credits that can be applied to a taxable year for a taxpayer, calculated according to Paragraph (1) or (2) of Subsection K of this section, exceeds the taxpayer's corporate income tax liability for that taxable year, the excess may be carried forward for a period of up to seven years.

M. A taxpayer that otherwise qualifies and claims a sustainable building tax credit with respect to a sustainable building owned by a partnership or other business association of which the taxpayer is a member may claim a credit only in proportion to that taxpayer's interest in the partnership or association. The total credit claimed in the aggregate by all members of the partnership or association with respect to the sustainable building shall not exceed the amount of the credit that could have been claimed by a sole owner of the property.

N. The department shall compile an annual report on the sustainable building tax credit created pursuant to this section that shall include the number of taxpayers approved by the department to receive the tax credit, the aggregate amount of tax credits approved and any other information necessary to evaluate the effectiveness of the tax credit. Beginning in 2015 and every five years thereafter, the department shall compile and present the annual reports to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the tax credit and whether the tax credit is performing the purpose for which it was created.

O. For the purposes of this section:

- (1) "build green New Mexico rating system" means the certification standards adopted by the homebuilders association of central New Mexico;
- (2) "LEED-CI" means the LEED rating system for commercial interiors;
- (3) "LEED-CS" means the LEED rating system for the core and shell of buildings;
- (4) "LEED-EB" means the LEED rating system for existing buildings;
- (5) "LEED gold" means the rating in compliance with, or exceeding, the second-highest rating awarded by the LEED certification process;
- (6) "LEED" means the most current leadership in energy and environmental design green building rating system guidelines developed and adopted by the United States green building council;
- (7) "LEED-H" means the LEED rating system for homes;
- (8) "LEED-NC" means the LEED rating system for new buildings and major renovations;
- (9) "LEED platinum" means the rating in compliance with, or exceeding, the highest rating awarded by the LEED certification process;
- (10) "LEED silver" means the rating in compliance with, or exceeding, the third-highest rating awarded by the LEED certification process;
- (11) "manufactured housing" means a multisectioned home that is:
 - (a) a manufactured home or modular home;
 - (b) a single-family dwelling with a heated area of at least thirty-six feet by twenty-four feet and a total area of at least eight hundred sixty-four square feet;

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

(d) installed consistent with the Manufactured Housing Act [Chapter 60, Article 14 NMSA 1978] and rules adopted pursuant to that act relating to permanent foundations;

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

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

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

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

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

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

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

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

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

(c) has reduced energy consumption, as follows: 1) through 2011, a fifty percent energy reduction will be required based on the national average for that building type as published by the United States department of energy; and beginning January 1, 2012, a sixty percent energy reduction will be required based on the national average for that building type as published by the United States department of energy; and 2) is substantiated by the United States environmental protection agency target finder energy performance results form, dated no sooner than the schematic design phase of development;

(16) "sustainable residential building" means:

(a) a building used as a single-family residence as registered and certified under the build green New Mexico or LEED-H rating systems that: 1) is certified by the United States green building council as LEED-H silver or higher or by build green New Mexico as silver or higher; and 2) has achieved a home energy rating system index of sixty or lower as developed by the residential energy services network; or

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

(17) "tribal" means of, belonging to or created by a federally recognized Indian nation, tribe or pueblo.

7-2A-29. Foster youth employment corporate income tax credit.

A. A taxpayer that employs a qualified foster youth in New Mexico is eligible for a credit against the taxpayer's tax liability imposed pursuant to the Corporate Income and Franchise Tax Act in an amount up to one thousand dollars (\$1,000) of the gross wages paid to each qualified foster youth by the taxpayer during the taxable year for which the return is filed. A taxpayer that employs a qualified foster youth for less than the full taxable year is eligible for a credit amount equal to one thousand dollars (\$1,000) multiplied by the fraction of a full year for which the qualified foster youth was employed. The tax credit provided by this section may be referred to as the "foster youth employment corporate income tax credit".

B. The purpose of the foster youth employment corporate income tax credit is to encourage the employment of individuals who as youth were adjudicated as abused or neglected or who were in the legal custody of the children, youth and families department under the Children's Code [Chapter 32A NMSA 1978] or in the legal custody of a New Mexico Indian nation, tribe or pueblo or the United States department of the interior bureau of Indian affairs division of human services.

C. A taxpayer may claim the foster youth employment corporate income tax credit provided in this section for each taxable year in which the taxpayer employs one or more qualified foster youths; provided that the taxpayer may not claim the foster youth employment corporate income tax credit for any individual qualified foster youth for more than one calendar year from the date of hire.

D. That portion of a foster youth employment corporate income tax credit approved by the department that exceeds a taxpayer's corporate income tax liability in the taxable year in which the foster youth employment corporate income tax credit is claimed shall not be refunded to the taxpayer but may be carried forward for up to three consecutive taxable years. The foster youth employment corporate income tax credit shall not be transferred to another taxpayer.

E. The taxpayer shall submit to the department with respect to each employee for whom the foster youth employment corporate income tax credit is claimed information required by the department with respect to the qualified foster youth's employment by the taxpayer during the taxable year for which the foster youth employment corporate income tax credit is claimed, including information establishing that the employee is a qualified foster youth that can be used to determine that the employee was not also employed in the same taxable year by another taxpayer claiming a foster youth employment income or corporate income tax credit for that employee pursuant to this section or the Income Tax Act [Chapter 7, Article 2 NMSA 1978].

F. The department shall:

(1) adopt rules establishing procedures to certify that an employee is a qualified foster youth for purposes of obtaining a foster youth employment corporate income tax credit. The rules shall ensure that not more than one foster youth employment corporate income tax credit per qualified foster youth shall be allowed in a taxable year and that the credits allowed per qualified foster youth are limited to a maximum of one year's employment; and

(2) collaborate with the children, youth and families department, the New Mexico Indian nations, tribes and pueblos and the United States department of the interior bureau of Indian affairs division of human services to establish the certification procedures.

G. A taxpayer allowed a tax credit pursuant to this section shall ~~report the amount of~~ claim the credit ~~[to the department]~~ on forms and in a manner required by the department.

~~[H. The department shall compile an annual report on the foster youth employment corporate income tax credit that shall include the number of taxpayers approved by the department to receive~~

~~the credit, the aggregate amount of credits approved and any other information necessary to evaluate the effectiveness of the credit. The department shall present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the tax credit and whether the tax credit is performing the purpose for which it was created.]~~

[~~+~~] H. As used in this section, "qualified foster youth" means an individual:

(1) who:

(a) is currently in the legal custody of the children, youth and families department pursuant to the Children's Code or in the legal custody of a New Mexico Indian nation, tribe or pueblo or the United States department of the interior bureau of Indian affairs division of human services; or

(b) within the seven years prior to the taxable year for which the tax credit is claimed, was aged fourteen years or older and was in the legal custody of the children, youth and families department pursuant to the Children's Code or in the legal custody of a New Mexico Indian nation, tribe or pueblo or the United States department of the interior bureau of Indian affairs division of human services;

(2) who works at least twenty hours per week during the taxable year for which the foster youth employment corporate income tax credit is claimed; and

(3) who was not previously employed by the taxpayer prior to the taxable year for which the foster youth employment corporate income tax credit is claimed.

7-2D-1. Short title.

Chapter 7, Article 2D NMSA 1978 may be cited as the "Venture Capital Investment Act".

7-2D-2. Definitions.

As used in the Venture Capital Investment Act:

A. "capital gain tax differential" equals either:

(1) an amount equal to fifty percent of the federal income tax paid by the taxpayer on qualified diversifying business net capital gains; or

(2) in the event that the taxpayer makes an election pursuant to Section 7-2D-13 NMSA 1978, and the taxpayer has not previously paid federal income tax on the qualified diversifying business net capital gain that accrued prior to that election, then an amount equal to fifty percent of the federal income tax paid by the taxpayer on the gain on the sale of that qualified diversifying business stock times the percentage derived by dividing the gain on such stock accruing since the election by the total gain on the stock accruing since its original acquisition without regard to the election;

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

C. "Internal Revenue Code" means the federal Internal Revenue Code of 1986, as amended or renumbered;

D. "manufacturing business" means the manufacture of, and the business activities related to the manufacture of, all nondurable and durable goods;

E. "New Mexico income tax" means the tax imposed pursuant to the Income Tax Act [Chapter 7, Article 2 NMSA 1978];

F. "qualified diversifying business net capital gain" means the net capital gain for the taxable year determined under the Internal Revenue Code by taking into account only gains or losses from sales or exchanges of qualified diversifying business stock with a holding period of more than five years at the time of the sale or exchange;

G. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

H. "taxpayer" means any individual subject to the tax imposed pursuant to the Income Tax Act; and

I. "testing period" means the five-year period a stock is held by a taxpayer, beginning with the first day of the taxpayer's holding period for the stock.

7-2D-4. Additional definition; qualified diversifying business stock.

A. For purposes of the Venture Capital Investment Act, "qualified diversifying business stock" means, except as otherwise provided in Section 7-2D-13 NMSA 1978, any stock in a corporation that is originally issued after June 30, 1994 but before July 1, 2001, if:

(1) on the date of issuance the corporation is a qualified diversifying business;

(2) except as otherwise provided in Subsection B of this section and in Sections 7-2D-9 and 7-2D-10 NMSA 1978, the stock is acquired by the taxpayer at its original issue, either:

(a) in exchange for money or other property, not including stock; or

(b) as compensation for services, other than services performed as an underwriter of such stock; and

(3) the corporation throughout the testing period is an active manufacturing business and a New Mexico business and at the end of the testing period is a successful business.

B. For purposes of Paragraph (2) of Subsection A of this section, stock shall not be treated as acquired by the taxpayer at its original issue if:

(1) it is issued directly or indirectly in redemption of, or otherwise in exchange for, stock that is not qualified diversifying business stock; or

(2) it is issued in an exchange described in Section 351 of the Internal Revenue Code in exchange for property other than qualified diversifying business stock if, immediately after the exchange, both the issuer and transferee of the stock are members of the same controlled group of corporations as defined in Section 1563 of the Internal Revenue Code.

7-2D-5. Additional definition; qualified diversifying business.

A. For purposes of the Venture Capital Investment Act, "qualified diversifying business" means, except as otherwise provided in Section 7-2D-13 NMSA 1978, any domestic corporation that has its commercial domicile in New Mexico and with respect to which the aggregate amount of money, other property and services received by the corporation for stock, as a contribution to capital and as paid-in surplus, plus the accumulated earnings and profits of the corporation, does not exceed twenty-five million dollars (\$25,000,000); provided:

(1) the aggregate amount shall be determined at the time of issuance and shall include amounts received in the issuance and all prior issuances; and

(2) in the case of stock issued in a calendar year after 1993, the aggregate amount shall not exceed an amount equal to twenty-five million dollars (\$25,000,000) multiplied by the cost-of-living adjustment determined under Section 1 (f)(3) of the Internal Revenue Code for that calendar year by substituting "1992" for "1987" in Subparagraph (B) of that section.

B. For the purpose of determining the aggregate amount in Subsection A of this section:

- (1) the amount taken into account with respect to any property other than money shall be an amount equal to the adjusted basis of that property for determining capital gain:
 - (a) reduced to not below zero by any liability to which the property was subject or that was assumed by the corporation; and
 - (b) determined at the time the property was received by the corporation; and
- (2) the amount taken into account with respect to stock issued for services shall be the value of those services.

7-2D-6. Additional definition; active manufacturing business.

A. Except as otherwise provided in this section, for the purposes of the Venture Capital Investment Act, "active manufacturing business" means a corporation that throughout the testing period:

- (1) either:
 - (a) is engaged in the active conduct of a manufacturing business; and
 - (b) uses substantially all of its assets in the active conduct of a manufacturing trade or business; provided, rights to computer software that produce income described in Section 543(d) of the Internal Revenue Code and any assets that are held for investment and are to be used to finance future research and experimentation or working capital needs of the corporation shall be treated as assets used in the active conduct of a manufacturing business; or
- (2) is engaged in any of the following activities, whether or not the corporation has any gross income from such activities at the time of the determination:
 - (a) start-up activities described in Section 195(c)(1)(A) of the Internal Revenue Code;
 - (b) activities resulting in the payment or incurring of expenditures that may be treated as research and experimental expenditures under Section 174 of the Internal Revenue Code; or
 - (c) activities with respect to in-house research expenses described in Section 41(b)(4) of the Internal Revenue Code.

B. A corporation shall not be considered an active manufacturing business if at any time during the testing period:

- (1) more than ten percent of the value of its assets in excess of liabilities consists of stock in other corporations that are not subsidiaries of that corporation; provided:
 - (a) for purposes of this section, stock and debt in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets and to conduct its ratable share of the subsidiary's activities; and
 - (b) a corporation shall be considered a subsidiary if the parent owns at least fifty percent of the combined voting power of all classes of stock entitled to vote or at least fifty percent in value of all outstanding stock of that corporation; or
- (2) more than ten percent of the total value of its assets is real property that is not used in the active conduct of a manufacturing business. The ownership of, dealing in or renting of real property shall not be treated as the active conduct of a manufacturing business.

7-2D-7. Additional definition; New Mexico business.

For the purposes of the Venture Capital Investment Act, "New Mexico business" means a corporation that throughout the testing period meets these conditions:

A. the corporation has its commercial domicile in New Mexico and all of its corporate directors who are also employees of the corporation are full-time residents of New Mexico;

B. at least two-thirds of all of the corporation's employees, at least two-thirds of its employees who perform research, development or design activities and at least two-thirds of its employees who perform manufacturing activities are full-time residents of New Mexico;

C. the corporation maintains an employee stock purchase plan, incentive stock option plan or similar plan pursuant to which employees of the corporation have the opportunity to acquire equity ownership in the corporation; and

D. the corporation employs on a full-time basis an average of at least fifty full-time New Mexico residents.

7-2D-8. Additional definition; successful business.

For the purposes of the Venture Capital Investment Act, "successful business" means a corporation that, at the end of the taxpayer's holding period, has experienced a net increase in valuation of at least fifteen million dollars (\$15,000,000); provided:

A. the increase in valuation shall be calculated by subtracting the valuation of the corporation at the time it was determined to be a qualified diversifying business from the current valuation of the corporation at the time of the transfer giving rise to the qualified diversifying business net capital gain;

B. the current valuation of the corporation at the time of the transfer giving rise to the qualified diversifying business net capital gain equals the per-share value of the money and property received by the taxpayer on the transfer multiplied by the outstanding shares of the corporation, as calculated using the number of shares that would be outstanding if all outstanding convertible securities were fully converted and all outstanding options and warrants were fully exercised; and

C. in the case of any stock issued in a calendar year after 1994, the net increase in valuation required shall be an amount equal to fifteen million dollars (\$15,000,000) multiplied by the cost-of-living adjustment determined under Section 1(f)(3) of the Internal Revenue Code for that calendar year by substituting "1992" for "1987" in Subparagraph (B) of that section.

7-2D-9. Special rules for options, warrants and certain convertible investments.

A. In the case of stock that is acquired by the taxpayer through the exercise of a nontransferable option or warrant issued in exchange for the performance of services for the corporation issuing it, through the conversion of convertible debt or in exchange for securities of the corporation in a transaction described in Section 368 of the Internal Revenue Code:

(1) the stock shall be treated as acquired by the taxpayer at original issue; and

(2) the stock shall be treated as having been held during the period that the option, warrant or debt was held or that the security was outstanding.

B. For purposes of Subsection A of Section 7-2D-5 NMSA 1978 and notwithstanding Subsection B of that section, in the case of a debt instrument converted to stock or stock issued in exchange for securities in a transaction described in Section 368 of the Internal Revenue Code, such stock shall be treated as issued for an amount equal to the sum of:

(1) the principal amount of the debt or security at the time of the conversion or exchange; and

(2) accrued but unpaid interest on that loan or security.

7-2D-10. Certain tax-free and other transfers.

A. This section applies to the following transfers of stock:

- (1) by gift;
- (2) at death;
- (3) to the extent that the basis of the property in the hands of the transferee is determined by reference to the basis of the property in the hands of the transferor by reason of Sections 334(b), 723 or 732 of the Internal Revenue Code; and
- (4) of qualified diversifying business stock for other qualified diversifying business stock in a transaction described in Section 351 of the Internal Revenue Code or a reorganization described in Section 368 of the Internal Revenue Code.

B. In the case of a transfer of stock to which this section applies, the transferee shall be treated as having acquired the stock in the same manner as the transferor and as having held such stock during any continuous period immediately preceding the transfer during which it was held or treated as held under this section by the transferor.

C. In the case of a transaction described in Section 351 of the Internal Revenue Code or a reorganization described in Section 368 of the Internal Revenue Code, if a qualified diversifying business stock is transferred for other stock that is not qualified diversifying business stock, the transfer shall be treated as a transfer to which this section applies solely with respect to the person receiving such other stock.

D. This section applies to the sale or exchange of stock treated as qualified diversifying business stock by reason of Subsection C of this section only to the extent of the gain, if any, that would have been recognized at the time of the transfer described in Subsection C of this section if Section 351 or 368 of the Internal Revenue Code had not applied at that time.

E. For purposes of this subsection, stock treated as qualified diversifying business stock under Subsection C of this section shall be so treated for subsequent transactions or reorganizations, except that the limitation of Subsection D of this section shall be applied as of the time of the first transfer to which Subsection C of this section applied.

F. Except in the case of a transaction described in Section 368 of the Internal Revenue Code, this section applies only if, immediately after the transaction, the corporation issuing the stock owns, directly or indirectly, stock representing control, within the meaning of Section 368(c) of the Internal Revenue Code, of the corporation whose stock was transferred.

7-2D-11. Stock exchanged for property.

For purposes of the Venture Capital Investment Act, in the case where the taxpayer transfers property other than money or stock to a corporation in exchange for stock in that corporation:

- A. the stock shall be treated as having been acquired by the taxpayer on the date of that exchange; and
- B. the basis of the stock in the hands of the taxpayer shall be treated as equal to the fair market value of the property exchanged.

7-2D-12. Pass-thru entities.

For purposes of the Venture Capital Investment Act, any gain or loss of a pass-thru entity that is treated for purposes of that act as a gain or loss of any person holding an interest in that entity shall retain its character as qualified diversifying business capital gain or loss in the hands of that person.

7-2D-13. Election.

A. On any date after June 30, 1993, a taxpayer who holds any stock of a corporation that has its commercial domicile in New Mexico and meets the requirements of this section may elect to have the stock treated as a qualified diversifying business stock in accordance with the provisions of this section for purposes of claiming the tax credit pursuant to the Venture Capital Investment Act.

B. On any date after June 30, 1994, if a taxpayer holds any stock of a corporation that has its commercial domicile in New Mexico on that date and which stock, at the time it was issued, would have been treated as qualified diversifying business stock pursuant to the Venture Capital Investment Act but for the facts that the stock was issued on or before June 30, 1994 and that the stock was issued by a corporation that at the time did not have its commercial domicile in New Mexico and the value of such stock on that date exceeds its adjusted basis, the taxpayer may elect to set that date as the election date and treat the stock as having been sold on that date for an amount equal to its value on that date and as having been reacquired on that date for an amount equal to such value.

C. For purposes of determining the tax credit pursuant to Section 7-2D-8.1 NMSA 1978 and whether or not the taxpayer actually incurs federal or New Mexico income tax liability, the gain from sales determined in Subsection B of this section shall be treated as received or accrued and the holding period of the reacquired stock shall be treated as beginning on that election date. Such stock shall be treated after such reacquisition as acquired in the same manner and at the same time as the original acquisition. Neither the requirement of Subsection A of Section 7-2D-4 NMSA 1978 that the stock must have been issued after June 30, 1994 nor the requirement of Subsection A of Section 7-2D-5 NMSA 1978 that the issuing corporation have its commercial domicile in New Mexico shall apply.

D. An election under this section with respect to any stock shall be made in the manner the secretary prescribes. Such an election, once made with respect to any stock, is irrevocable.

E. Notwithstanding the provisions of this section, no credit shall be allowed or claimed on any qualified diversifying business net capital gain arising from the sale of stock prior to July 1, 1998.

7-2D-14. Administration of act.

The Venture Capital Investment Act shall be administered pursuant to the provisions of the Tax Administration Act [Chapter 7, Article 1 NMSA 1978].

7-2F-1. Film production tax credit; film production companies that commence principal photography prior to January 1, 2016.

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

B. Except as otherwise provided in this section, an eligible film production company may apply for, and the taxation and revenue department may allow, subject to the limitation in this section, a tax credit in an amount equal to twenty-five percent of:

- (1) direct production expenditures made in New Mexico that:
 - (a) are directly attributable to the production in New Mexico of a film or commercial audiovisual product;
 - (b) are subject to taxation by the state of New Mexico;
 - (c) exclude direct production expenditures for which another taxpayer claims the film production tax credit; and

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

(2) postproduction expenditures made in New Mexico that:

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

(b) are for services performed in New Mexico;

(c) are subject to taxation by the state of New Mexico;

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

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

C. In addition to the percentage applied pursuant to Subsection B of this section, another five percent shall be applied in calculating the amount of the film production tax credit to direct production expenditures:

(1) on a standalone pilot intended for series television in New Mexico or on series television productions intended for commercial distribution with an order for at least six episodes in a single season; provided that the New Mexico budget for each of those six episodes is fifty thousand dollars (\$50,000) or more; or

(2) on a production with a total New Mexico budget of the following amounts; provided that the expenditures are directly attributable and paid to a New Mexico resident who is hired as industry crew, or who is hired as a producer, writer or director working directly with the physical production and has filed a New Mexico income tax return as a resident in the two previous taxable years:

(a) not more than thirty million dollars (\$30,000,000) that shoots at least ten principal photography days in New Mexico at a qualified production facility; provided that a film production company in principal photography on or after April 10, 2015 shall: 1) shoot at least seven of those days at a sound stage that is a qualified production facility and the remaining number of required days, if any, at a standing set that is a qualified production facility; and 2) for each of the ten days, include industry crew working on the premises of those facilities for a minimum of eight hours within a twenty-four-hour period; or

(b) thirty million dollars (\$30,000,000) or more that shoots at least fifteen principal photography days in New Mexico at a qualified production facility; provided that a film production company in principal photography on or after April 10, 2015 shall: 1) shoot at least ten of those days at a sound stage that is a qualified production facility and the remaining number of required days, if any, at a standing set that is a qualified production facility; and 2) for each day of the fifteen days, include industry crew working on the premises of the facility for a minimum of eight hours within a twenty-four-hour period.

D. With respect to expenditures attributable to a production for which the film production company receives a tax credit pursuant to the federal new markets tax credit program, the percentage to be applied in calculating the film production tax credit is twenty percent.

E. A claim for film production tax credits shall be filed as part of a return filed pursuant to the Income Tax Act [Chapter 7, Article 2 NMSA 1978] or the Corporate Income and

Franchise Tax Act [Chapter [7](#), Article [2A](#) NMSA 1978]. The date a credit claim is received by the taxation and revenue department shall determine the order that a credit claim is authorized for payment by the department.

F. Except as otherwise provided in this section and Section 10 of this 2019 act, credit claims authorized for payment pursuant to the Film Production Tax Credit Act shall be paid pursuant to provisions of the Tax Administration Act [Chapter [7](#), Article [1](#) NMSA 1978] to the taxpayer as follows:

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

(2) a credit claim amount of two million dollars (\$2,000,000) or more but less than five million dollars (\$5,000,000) per taxable year shall be divided into two equal payments, with the first payment to be made immediately upon authorization of the payment of the credit claim and the second payment to be made twelve months following the date of the first payment; and

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

G. For a fiscal year in which the amount of total credit claims authorized for payment is less than the aggregate amount of credit claims that may be authorized for payment pursuant to Section [7-2F-12](#) NMSA 1978, the next scheduled payments for credit claims authorized for payment pursuant to Subsection F of this section shall be accelerated for payment for that fiscal year and shall be paid to a taxpayer pursuant to the Tax Administration Act and in the order in which outstanding payments are scheduled in the queue established pursuant to Section [7-2F-12](#) NMSA 1978; provided that the total credit claims authorized for payment shall not exceed the aggregate amount of credit claims that may be authorized for payment pursuant to this section. If a partial payment is made pursuant to this subsection, the difference owed shall retain its original position in the queue.

H. Any amount of a credit claim that is carried forward pursuant to Subsection F of this section shall be subject to the limit on the aggregate amount of credit claims that may be authorized for payment pursuant to Section [7-2F-12](#) NMSA 1978.

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

J. For purposes of determining the payment of credit claims pursuant to this section, the secretary of taxation and revenue may require that credit claims of affiliated persons be combined into one claim if necessary to accurately reflect closely integrated activities of affiliated persons.

K. The film production tax credit shall not be claimed with respect to direct production expenditures or postproduction expenditures for which the film production company has delivered a nontaxable transaction certificate pursuant to Section [7-9-86](#) NMSA 1978.

L. A production for which the film production tax credit is claimed pursuant to Paragraph (1) of Subsection B of this section shall contain an acknowledgment to the state of New Mexico in the end screen credits that the production was filmed in New Mexico, and a state logo provided by the division shall be included and embedded in the end screen credits of long-form narrative film productions and television episodes, unless otherwise agreed upon in writing by the film production company and the division.

M. To be eligible for the film production tax credit, a film production company shall submit to the division information required by the division to demonstrate conformity with the requirements of the Film Production Tax Credit Act, including detailed information on each direct production expenditure and each postproduction expenditure. A film production company shall make reasonable efforts, as determined by the division, to contract with a specialized vendor that provides goods and services, inventory or services directly related to that vendor's ordinary course of business. A film production company shall provide to the division a projection of the film production tax credit claim the film production company plans to submit in the fiscal year. In addition, the film production company shall agree in writing:

- (1) to pay all obligations the film production company has incurred in New Mexico;
- (2) to post a notice at completion of principal photography on the website of the division that:
 - (a) contains production company information, including the name of the production, the address of the production company and contact information that includes a working phone number, fax number and email address for both the local production office and the permanent production office to notify the public of the need to file creditor claims against the film production company; and
 - (b) remains posted on the website until all financial obligations incurred in the state by the film production company have been paid;
- (3) that outstanding obligations are not waived should a creditor fail to file;
- (4) to delay filing of a claim for the film production tax credit until the division delivers written notification to the taxation and revenue department that the film production company has fulfilled all requirements for the credit; and
- (5) to submit a completed application for the film production tax credit and supporting documentation to the division within one year of making the final expenditures in New Mexico that were incurred for the registered project and that are included in the credit claim.

N. The division shall determine the eligibility of the company and shall report this information to the taxation and revenue department in a manner and at times the economic development department and the taxation and revenue department shall agree upon. The division shall also post on its website all information provided by the film production company that does not reveal revenue, income or other information that may jeopardize the confidentiality of income tax returns, including that the division shall report quarterly the projected amount of credit claims for the fiscal year.

O. To provide guidance to film production companies regarding the amount of credit capacity remaining in the fiscal year, the taxation and revenue department shall post monthly on that department's website the aggregate amount of credits claimed and processed for the fiscal year.

P. To receive a film production tax credit, a film production company shall apply to the taxation and revenue department on forms and in the manner the department may prescribe. The application shall include a certification of the amount of direct production expenditures or postproduction expenditures made in New Mexico with respect to the film production for which the film production company is seeking the film production tax credit; provided that for the film production tax credit, the application shall be submitted within one year of the date of the last direct production expenditure in New Mexico or the last postproduction expenditure in New Mexico. If the amount of the requested tax credit exceeds five million dollars (\$5,000,000), the application shall also include the results of an audit, conducted by a certified public accountant licensed to practice in New Mexico, verifying that the expenditures have been made in compliance with the requirements of this section. If the requirements of this section have been complied with, the taxation and revenue department shall approve the film production tax credit and issue a document granting the tax credit.

Q. The film production company may apply all or a portion of the film production tax credit granted against personal income tax liability or corporate income tax liability. If the amount of the film production tax credit claimed exceeds the film production company's tax liability for the taxable year in which the credit is being claimed, the excess shall be refunded.

R. That amount of a film production tax credit for total payments as applied to direct production expenditures for the services of performing artists shall not exceed five million dollars (\$5,000,000) for services rendered by nonresident performing artists and featured resident principal performing artists in a production. This limitation shall not apply to the services of background artists and resident performing artists who are not cast in industry standard featured principal performer roles.

S. As used in this section, "direct production expenditure" means a transaction that is subject to taxation in New Mexico:

- (1) including an expenditure for:
 - (a) payment of wages, fringe benefits or fees for talent, management or labor to a person who is a New Mexico resident;
 - (b) payment for wages and per diem for a performing artist who is not a New Mexico resident and who is directly employed by the film production company; provided that the film production company deducts and remits, or causes to be deducted and remitted, income tax from the first day of services rendered in New Mexico at the maximum rate pursuant to the Withholding Tax Act [Chapter 7, Article 3 NMSA 1978];
 - (c) payment to a personal services business for the services of a performing artist if: 1) the personal services business pays gross receipts tax in New Mexico on the portion of those payments qualifying for the tax credit; and 2) the film production company deducts and remits, or causes to be deducted and remitted, income tax at the maximum rate in New Mexico pursuant to Subsection H of Section 7-3A-3 NMSA 1978 on the portion of those payments qualifying for the tax credit paid to a personal services business where the performing artist is a full or part owner of that business or subcontracts with a personal services business where the performing artist is a full or part owner of that business; and
 - (d) any of the following provided by a vendor: 1) the story and scenario to be used for a film; 2) set construction and operations, wardrobe, accessories and related services; 3) photography, sound synchronization, lighting and related services; 4) editing and related services; 5) rental of facilities and equipment; 6) leasing of vehicles, not including the chartering of aircraft for out-of-state transportation; however, New Mexico-based chartered aircraft for in-

state transportation directly attributable to the production shall be considered a direct production expenditure; provided that only the first one hundred dollars (\$100) of the daily expense of leasing a vehicle for passenger transportation on roadways in the state may be claimed as a direct production expenditure; 7) food or lodging; provided that only the first one hundred fifty dollars (\$150) of lodging per individual per day is eligible to be claimed as a direct production expenditure; 8) commercial airfare if purchased through a New Mexico-based travel agency or travel company for travel to and from New Mexico or within New Mexico that is directly attributable to the production; 9) insurance coverage and bonding if purchased through a New Mexico-based insurance agent, broker or bonding agent; 10) services for an external audit upon submission of an application for a film production tax credit by an accounting firm that submits the application pursuant to this section; and 11) other direct costs of producing a film in accordance with generally accepted entertainment industry practice; and

(2) does not include an expenditure for:

(a) a gift with a value greater than twenty-five dollars (\$25.00);

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

(c) entertainment, amusement or recreation;

(d) subcontracted goods or services provided by a vendor when subcontractors are not subject to state taxation, such as equipment and locations provided by the military, government and religious organizations; or

(e) a service provided by a person who is not a New Mexico resident and employed in an industry crew position, excluding a performing artist, where it is the standard entertainment industry practice for the film production company to employ a person for that industry crew position, except when the person who is not a New Mexico resident is hired or subcontracted by a vendor; and when the film production company, as determined by the division and when applicable in consultation with industry, provides: 1) reasonable efforts to hire resident crew; and 2) financial or promotional contributions toward education or workforce development efforts in New Mexico, including at least one of the following: a payment to a New Mexico public education institution that administers at least one industry-recognized film or multimedia program, as determined by the division, in an amount equal to two and one-half percent of payments made to nonresidents in approved positions employed by the vendor; promotion of the New Mexico film industry by directors, actors or executive producers affiliated with the production company's project through social media that is managed by the state; radio interviews facilitated by the division; enhanced screen credit acknowledgments; or related events that are facilitated, conducted or sponsored by the division.

T. As used in this section, "film production company" means a person that produces one or more films or any part of a film and that commences principal photography prior to January 1, 2016.

U. As used in this section, "vendor" means a person who sells or leases goods or services that are related to standard industry craft inventory, who has a physical presence in New Mexico and is subject to gross receipts tax pursuant to the Gross Receipts and Compensating Tax Act [Chapter 7, Article 9 NMSA 1978] and income tax pursuant to the Income Tax Act [Chapter 7, Article 2 NMSA 1978] or corporate income tax pursuant to the Corporate Income and Franchise Tax Act [Chapter 7, Article 2A NMSA 1978] but excludes a personal services business and

services provided by nonresidents hired or subcontracted if the tasks and responsibilities are associated with:

- (1) the standard industry job position of:
 - (a) a director;
 - (b) a writer;
 - (c) a producer;
 - (d) an associate producer;
 - (e) a co-producer;
 - (f) an executive producer;
 - (g) a production supervisor;
 - (h) a director of photography;
 - (i) a motion picture driver whose sole responsibility is driving;
 - (j) a production or personal assistant;
 - (k) a designer;
 - (l) a still photographer; or
 - (m) a carpenter and utility technician at an entry level; and
- (2) nonstandard industry job positions and personal support services.

7-2F-2.1. Additional definitions.

As used in Sections [7-2F-6](#) through [7-2F-12](#) NMSA 1978:

A. "direct production expenditure":

(1) except as provided in Paragraph (2) of this subsection, means a transaction that is subject to taxation in New Mexico, including:

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

(b) payment for standard industry craft inventory when provided by a resident industry crew in addition to its industry crew services;

(c) payment for wages and per diem for a performing artist who is not a New Mexico resident and who is directly employed by a film production company; provided that the film production company deducts and remits, or causes to be deducted and remitted, income tax from the first day of services rendered in New Mexico at the maximum rate pursuant to the Withholding Tax Act [Chapter [7](#), Article [3](#) NMSA 1978];

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

(e) any of the following provided by a vendor: 1) the story and scenario to be used for a film; 2) set construction and operations, wardrobe, accessories and related services; 3) photography, sound synchronization, lighting and related services; 4) editing and related services; 5) rental of facilities and equipment; 6) leasing of vehicles, not including the chartering of aircraft for out-of-state transportation; however, New Mexico-based chartered aircraft for in-

state transportation directly attributable to the production shall be considered a direct production expenditure; provided that only the first one hundred dollars (\$100) of the daily expense of leasing a vehicle for passenger transportation on roadways in the state may be claimed as a direct production expenditure; 7) food or lodging; provided that only the first one hundred fifty dollars (\$150) of lodging per individual per day is eligible to be claimed as a direct production expenditure; 8) commercial airfare if purchased through a New Mexico-based travel agency or travel company for travel to and from New Mexico or within New Mexico that is directly attributable to the production; 9) insurance coverage and bonding if purchased through a New Mexico-based insurance agent, broker or bonding agent; 10) services for an external audit upon submission of an application for a film production tax credit by an accounting firm that submits the application pursuant to Subsection I of Section [7-2F-6](#) NMSA 1978; and 11) other direct costs of producing a film in accordance with generally accepted entertainment industry practice; and

(2) does not include an expenditure for:

(a) a gift with a value greater than twenty-five dollars (\$25.00);

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

(c) entertainment, amusement or recreation; or

(d) subcontracted goods or services provided by a vendor when subcontractors are not subject to state taxation, such as equipment and locations provided by the military, government and religious organizations;

B. "film production company" means a person that produces one or more films or any part of a film and that commences principal photography on or after January 1, 2016; and

C. "vendor" means a person who sells or leases goods or services that are related to standard industry craft inventory, who has a physical presence in New Mexico and is subject to gross receipts tax pursuant to the Gross Receipts and Compensating Tax Act [Chapter [7](#), Article [9](#) NMSA 1978] and income tax pursuant to the Income Tax Act [Chapter [7](#), Article [2](#) NMSA 1978] or corporate income tax pursuant to the Corporate Income and Franchise Tax Act [Chapter [7](#), Article [2A](#) NMSA 1978] but excludes a personal services business.

7-2F-6. Film and television tax credit; film production companies that commence principal photography on or after January 1, 2016.

A. The tax credit created by this section may be referred to as the "film and television tax credit".

B. An eligible film production company may apply for, and the taxation and revenue department may allow, subject to the limitation in Section [7-2F-12](#) NMSA 1978, a tax credit in an amount equal to twenty-five percent of:

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

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

(b) are subject to taxation by the state of New Mexico;

(c) exclude direct production expenditures for which another taxpayer claims the film and television tax credit; and

(d) do not exceed the usual and customary cost of the goods or services acquired when purchased by unrelated parties. The secretary of taxation and revenue may

determine the value of the goods or services for purposes of this section when the buyer and seller are affiliated persons or the sale or purchase is not an arm's length transaction; and

(2) postproduction expenditures made in New Mexico that:

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

(b) are for postproduction services performed in New Mexico;

(c) are subject to taxation by the state of New Mexico;

(d) exclude postproduction expenditures for which another taxpayer claims the film and television tax credit; and

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

C. With respect to expenditures attributable to a production for which the film production company receives a tax credit pursuant to the federal new markets tax credit program, the percentage to be applied in calculating the film and television tax credit is twenty percent.

D. The film and television tax credit shall not be claimed with respect to direct production expenditures or postproduction expenditures for which the film production company has delivered a nontaxable transaction certificate pursuant to Section [7-9-86](#) NMSA 1978.

E. A production for which the film and television [television] tax credit is claimed pursuant to Paragraph (1) of Subsection B of this section shall contain an acknowledgment to the state of New Mexico in the end screen credits that the production was filmed in New Mexico, and a state logo provided by the division shall be included and embedded in the end screen credits of long-form narrative film productions and television episodes, unless otherwise agreed upon in writing by the film production company and the division.

F. To be eligible for the film and television tax credit, a film production company shall submit to the division information required by the division to demonstrate conformity with the requirements of the Film Production Tax Credit Act, including detailed information on each direct production expenditure and each postproduction expenditure. A film production company shall provide to the division a projection of the film and television tax credit claim the film production company plans to submit in the fiscal year. In addition, the film production company shall agree in writing:

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

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

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

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

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

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

(5) to submit a completed application for the film and television tax credit and supporting documentation to the division within one year of the close of the film production company's taxable year in which the expenditures in New Mexico were incurred for the registered project and that are included in the credit claim.

G. The division shall determine the eligibility of the company and shall report this information to the taxation and revenue department in a manner and at times the economic development department and the taxation and revenue department shall agree upon. The division shall also post on its website all information provided by the film production company that does not reveal revenue, income or other information that may jeopardize the confidentiality of income tax returns, including that the division shall report quarterly the projected amount of credit claims for the fiscal year.

H. To provide guidance to film production companies regarding the amount of credit capacity remaining in the fiscal year, the taxation and revenue department shall post monthly on that department's website the aggregate amount of credits claimed and processed for the fiscal year.

I. To receive a film and television tax credit, a film production company shall apply to the taxation and revenue department on forms and in the manner the department may prescribe. The application shall include a certification of the amount of direct production expenditures or postproduction expenditures made in New Mexico with respect to the film production for which the film production company is seeking the film and television tax credit; provided that for the film and television tax credit, the application shall be submitted within one year of the date of the last direct production expenditure in New Mexico or the last postproduction expenditure in New Mexico incurred within the film production company's taxable year. If the amount of the requested tax credit exceeds five million dollars (\$5,000,000), the application shall also include the results of an audit, conducted by a certified public accountant licensed to practice in New Mexico, verifying that the expenditures have been made in compliance with the requirements of this section. If the requirements of this section have been complied with, subject to the provisions of Section [7-2F-12](#) NMSA 1978, the taxation and revenue department shall approve the film and television tax credit and issue a document granting the tax credit.

J. The film production company may apply all or a portion of the film and television tax credit granted against personal income tax liability or corporate income tax liability. If the amount of the film and television tax credit claimed exceeds the film production company's tax liability for the taxable year in which the credit is being claimed, the excess shall be refunded.

7-2F-7. Additional credit; television pilots and series.

A. In addition to the credit provided by Section [7-2F-6](#) NMSA 1978, an additional five percent shall be applied in calculating the amount of the film and television tax credit to direct production expenditures, except as provided in Subsections C and D of this section, on:

- (1) a standalone pilot intended for series television in New Mexico; and
- (2) series television productions intended for commercial distribution with an order for at least six episodes in a single season; provided that the New Mexico budget for each of those six episodes is fifty thousand dollars (\$50,000) or more.

B. A film production company applying for an additional credit pursuant to this section shall not be eligible for the additional credit pursuant to Section [7-2F-8](#) NMSA 1978.

C. Direct production expenditures that are payments to a nonresident performing artist in a standalone pilot shall not be eligible for the additional credit pursuant to this section.

D. Payments to a nonresident performing artist for a television series may be eligible for the additional credit pursuant to this section; provided that:

(1) a television series completes at least one season of the scheduled episodes for that series in New Mexico;

(2) the film production company certifies the intention to produce a subsequent season to the series described in Paragraph (1) of this subsection in New Mexico; and

(3) the film production company, or its parent company, produces or begins production of an additional eligible television series in New Mexico during the same film production company's taxable year as the television series. Payments to a nonresident performing artist for the additional television series may also be eligible for the additional credit pursuant to this section.

7-2F-8. Additional credit; qualified production facilities.

A. In addition to the credit provided by Section [7-2F-6](#) NMSA 1978, an additional five percent shall be applied in calculating the amount of the film and television tax credit to direct production expenditures that are directly attributable and paid to a New Mexico resident who is hired as industry crew, or who is hired as a producer, writer or director working directly with the physical production and has filed a New Mexico income tax return as a resident in the two previous taxable years. The direct production expenditures shall be on a production with a total new budget of:

(1) not more than thirty million dollars (\$30,000,000) that shoots at least ten principal photography days in New Mexico at a qualified production facility; provided that a film production company shall:

(a) shoot at least seven of those days at a sound stage that is a qualified production facility and the remaining number of required days, if any, at a standing set that is a qualified production facility; and

(b) for each of the ten days, include industry crew working on the premises of those facilities for a minimum of eight hours within a twenty-four-hour period; or

(2) thirty million dollars (\$30,000,000) or more that shoots at least fifteen principal photography days in New Mexico at a qualified production facility; provided that a film production company shall:

(a) shoot at least ten of those days at a sound stage that is a qualified production facility and the remaining number of required days, if any, at a standing set that is a qualified production facility; and

(b) for each day of the fifteen days, include industry crew working on the premises of the facility for a minimum of eight hours within a twenty-four-hour period.

B. A film production company that receives an additional credit pursuant to Section [7-2F-7](#) NMSA 1978 shall not be eligible for the additional credit pursuant to this section.

7-2F-9. Additional credit; nonresident industry crew.

A film production company may apply for, and the taxation and revenue department may allow, subject to the limitation in this section, a tax credit in an amount equal to fifteen percent of the payment of wages, fringe benefits and per diem for nonresident industry crew; provided that:

A. the service for which payment is made is rendered in New Mexico;

B. payments for nonresident industry crew exclude payments for production designer, director of photography, line producer, costume designer, still unit photographer and driver whose sole responsibility is driving;

C. the number of nonresident industry crew shall be employed by the film production company in New Mexico, and shall be, as calculated by the division upon receipt of the first application for a film production tax credit and review of the project's New Mexico budget:

(1) four positions for up to two million dollars (\$2,000,000) of the final New Mexico budget;

(2) one additional position for each additional one million dollars (\$1,000,000) of the project's final New Mexico budget of at least two million dollars (\$2,000,000) up to ten million dollars (\$10,000,000);

(3) one additional position for each additional five million dollars (\$5,000,000) of the project's final New Mexico budget of at least ten million dollars (\$10,000,000) up to fifty million dollars (\$50,000,000);

(4) one additional position for every additional ten million dollars (\$10,000,000) of the project's final New Mexico budget of at least fifty million dollars (\$50,000,000) and thereafter;

(5) eight additional positions, above the number of positions described in this subsection, for a television pilot episode that has not been ordered to series at the time of New Mexico production; provided that the film production company certifies to the division that the series is intended to be produced in New Mexico if the pilot is ordered to series; and

(6) no more than thirty positions; provided that, at the discretion of the division, up to and including ten additional positions may be permitted if five other films are being produced in New Mexico at the time of the film production company's production; and

D. the film production company makes financial or promotional contributions toward educational or work force development efforts in New Mexico as determined by the division, including:

(1) a payment to a New Mexico educational institution that administers at least one industry-recognized film or multimedia program, as determined by the division, equal to at least two and one-half percent of the direct production expenditures for the payment of wages, fringe benefits and per diem for nonresident industry crew made by the film production company to nonresident industry crew; or

(2) promotion of the New Mexico film industry by directors, actors or producers affiliated with the film production company's project through:

(a) social media that is managed by the state;

(b) radio interviews facilitated by the division;

(c) enhanced screen credit acknowledgments; or

(d) related events that are facilitated, conducted or sponsored by the

division.

7-2F-10. Payments for performing artists; credit limitation.

That amount of a film and television tax credit for the total payments of direct production expenditures for the services of performing artists shall not exceed five million dollars (\$5,000,000) for services rendered by nonresident performing artists and featured resident principal performing artists in a production. This limitation shall not apply to the services of background artists and resident performing artists who are not cast in industry standard featured principal performer roles.

7-2F-11. Requirements to contract with certain vendors.

A. A film production company shall make reasonable efforts, as determined by the division, to contract with a specialized vendor whose ordinary course of business directly relates to a standard industry craft inventory and that:

- (1) provides services;
- (2) provides inventory, for sale or lease, that is maintained in New Mexico and represented by the specialized vendor; or
- (3) subcontracts similar standard industry craft inventory from other businesses with or without physical presence.

B. If a film production company does not contract with a specialized vendor, but contracts with a vendor that provides services, does not sell or lease standard industry craft inventory and outsources inventory from out-of-state businesses for a film production company, the film production company shall provide documentation of reasonable efforts made to find a specialized vendor.

7-2H-1. Legislative findings.

A. Native Americans have had a long history of serving their country through active duty in the armed forces of the United States during periods of both war and peace and have made great sacrifices in serving their country through active duty in the military during periods of war and peace.

B. Native American veterans domiciled within the boundaries of their tribal lands or their spouse's tribal lands during their periods of active military service may have been exempt from paying state personal income taxes on their military income, but may have had state personal income taxes withheld from their military income.

C. Native American veterans now are barred by the state statute of limitations from claiming refunds of state personal income taxes that may have been withheld from their military income when they were domiciled within the boundaries of their tribal lands or their spouse's tribal lands during the period of their active military duty, and even if not barred by the statute of limitations, the passage of time extending to decades will make it difficult for many Native American veterans to meet strict standards of proof that they are entitled to a refund of withheld state personal income taxes.

D. It is incumbent upon the state to ensure that it was not unjustly enriched by the withholding of state personal income taxes from Native American veterans who were domiciled within the boundaries of their tribal lands or their spouse's tribal lands during the period of their active military duty, and the state should implement a feasible means of refunding to Native American veterans any state personal income taxes that were withheld from military income while they were domiciled within the boundaries of their tribal lands or their spouse's tribal lands during the period of their active military duty.

7-2H-2. Definition.

As used in Chapter 7, Article 2H NMSA 1978, "fund" means the Native American veterans' income tax settlement fund.

7-2H-3. Native American veterans' income tax settlement fund; created; purpose; appropriations.

A. The "Native American veterans' income tax settlement fund" is created as a nonreverting fund in the state treasury and shall be administered by the taxation and revenue department. The fund shall consist of money that is appropriated or donated or that otherwise accrues to the fund.

B. The taxation and revenue department shall establish procedures and adopt rules as required to administer the fund and to make settlement payments from the fund as approved by the secretary of taxation and revenue.

C. Money in the fund is appropriated to the taxation and revenue department to make settlement payments to Native American veterans who were domiciled within the boundaries of their tribal lands or their spouse's tribal lands during the period of their active military duty and had state personal income taxes withheld from their military income, or to their heirs pursuant to applicable law. Settlement payments shall include the amount of state personal income taxes withheld from eligible Native American veterans that have not been previously refunded to the veterans and interest on the amount withheld from the date of withholding computed on a daily basis at the rate specified for individuals pursuant to Section 6621 of the Internal Revenue Code of 1986. No settlement payments shall be made for any taxable year for which a refund claim may be timely filed with the taxation and revenue department. Money shall be disbursed from the fund only on warrant of the secretary of finance and administration upon vouchers signed by the secretary of taxation and revenue or the secretary's authorized representative. Any unexpended or unencumbered balance remaining in the fund at the end of a fiscal year shall not revert to the general fund.

D. Beginning in fiscal year 2010 and in subsequent fiscal years, not more than five percent of the fund is appropriated from the fund to the taxation and revenue department for expenditure in the fiscal year in which it is appropriated to administer the fund. Any unexpended or unencumbered balance remaining at the end of any fiscal year shall revert to the Native American veterans' income tax settlement fund.

E. Beginning in fiscal year 2010 and in subsequent fiscal years, not more than five percent of the fund is appropriated from the fund to the veterans' services department for expenditure in the fiscal year in which it is appropriated to assist in outreach and public relations and in determining eligibility for settlement payments. Any unexpended or unencumbered balance remaining at the end of any fiscal year shall revert to the Native American veterans' income tax settlement fund.

7-2H-4. Duties of the secretary.

A. The secretary of veterans' services shall conduct a study in cooperation with the taxation and revenue department to determine whether Native American veterans who were domiciled within the boundaries of their tribal lands or their spouse's tribal lands during the period of their active military duty had state personal income taxes withheld from their military income and if so, to determine the amount of such state personal income taxes withheld and the number and identity of Native American veterans or their survivors affected by the withholding of such state personal income taxes.

B. The secretary of taxation and revenue and the secretary of veterans' services shall promulgate rules for a state program to compensate Native American veterans or their survivors for state personal income taxes withheld from military income while on active military duty and domiciled within the boundaries of the veteran's or the veteran's spouse's tribal lands.

C. The secretary of taxation and revenue shall report to the appropriate interim legislative committee no later than October 1 of each year regarding estimates of the amount of state personal income taxes withheld from the military income of Native American veterans domiciled on their respective tribal lands, the number of Native American veterans or their survivors affected by such withholding of state personal income taxes, total expenditures from the fund for the previous fiscal year and the anticipated appropriations to the fund needed to pay for settlements to be entered into for the next fiscal year.

7-9-10. Agents for collection of compensating tax; duties.

A. Every person carrying on or causing to be carried on any activity within this state attempting to exploit New Mexico's markets who sells property or sells property and service for use in this state and who is not subject to the gross receipts tax on receipts from these sales shall collect the compensating tax from the buyer and pay the tax collected to the department. "Activity", for the purposes of this section, includes but is not limited to engaging in any of the following in New Mexico: maintaining an office or other place of business; soliciting orders through employees or independent contractors; soliciting orders through advertisements placed in newspapers or magazines published in New Mexico or advertisements broadcast by New Mexico radio or television stations, soliciting orders through programs broadcast by New Mexico radio or television stations or transmitted by cable systems in New Mexico; canvassing, demonstrating, collecting money, warehousing or storing merchandise or delivering or distributing products as a consequence of an advertising or other sales program directed at potential customers. "Activity", for the purposes of this section, does not include having a world wide web site as a third-party provider on a computer physically located in New Mexico but owned by another nonaffiliated person, and "activity" does not include using a nonaffiliated third-party call center to accept and process telephone or electronic orders of tangible personal property or licenses primarily from non-New Mexico buyers, which orders are forwarded to a location outside New Mexico for filling, or to provide services primarily to non-New Mexico customers.

B. To ensure orderly and efficient collection of the public revenue, if any application of this section is held invalid, the section's application to other situations or persons shall not be affected.

7-9-74. Deduction; gross receipts tax; sale of property used in the manufacture of jewelry.

Receipts from selling tangible personal property may be deducted from gross receipts if the sale is made to a person who states in writing that he will use the property so purchased in manufacturing jewelry. The buyer must incorporate the tangible personal property as an ingredient or component part of the jewelry that he is in the business of manufacturing. The deduction allowed a seller under this section shall not exceed five thousand dollars (\$5,000) during any twelve-month period attributable to purchases by a single purchaser.

7-9-79.2. Gross receipts tax; compensating tax; biodiesel blending facility tax credit.

A. A taxpayer who is a rack operator as defined in the Special Fuels Supplier Tax Act [Chapter 7, Article 16A NMSA 1978] and who installs biodiesel blending equipment in property owned by the taxpayer for the purpose of establishing or expanding a facility to produce blended

biodiesel fuel is eligible to claim a credit against gross receipts tax or compensating tax. The credit shall be an amount equal to thirty percent of the purchase cost of the equipment plus thirty percent of the cost of installing that equipment. The credit provided by this section may be referred to as the "biodiesel blending facility tax credit".

B. The biodiesel blending facility tax credit shall not exceed fifty thousand dollars (\$50,000) with respect to equipment installed at any one facility.

C. Upon application from a taxpayer wishing to claim the biodiesel blending facility tax credit, the energy, minerals and natural resources department shall determine if the equipment for which the tax credit will be claimed meets the requirements of this section and if purchase and installation costs reported by the taxpayer are legitimate. Upon these determinations being made in favor of the taxpayer, the energy, minerals and natural resources department shall issue a dated certificate of eligibility containing this information and an estimate of the amount of the biodiesel blending facility tax credit for which the taxpayer is eligible.

D. To claim the biodiesel blending facility tax credit, the taxpayer shall provide to the taxation and revenue department the certificate of eligibility from the energy, minerals and natural resources department. Upon receipt of the certificate, the taxation and revenue department shall approve the claim for the credit if the total cumulative amount of approved claims for the credit for all taxpayers for the calendar year does not exceed one million dollars (\$1,000,000). The department shall maintain a record of the cumulative amount of claims for the credit that have been approved and when it determines that this cumulative amount has reached one million dollars (\$1,000,000), it shall cease approving any additional claims for the biodiesel blending facility tax credit.

E. If a taxpayer who has received the biodiesel blending facility tax credit ceases biodiesel blending without completing at least one hundred eighty days of availability of the facility within the first three hundred sixty-five days after the issuance of the certificate of eligibility from the energy, minerals and natural resources department, any amount of approved credit not applied against the taxpayer's gross receipts tax or compensating tax liability shall be extinguished. The taxpayer must amend the taxpayer's return, self-assess the tax owed and return any biodiesel blending facility tax credit received within four hundred twenty-five days of the date of issuance of the certificate of eligibility.

F. The tax credit provided by this section may only be applied against the taxpayer's gross receipts tax liability or compensating tax liability. If the credit exceeds the taxpayer's tax liability in the reporting period for which it is granted, the credit may be carried forward for four years from the date of the certificate of eligibility.

G. For the purposes of this section:

(1) "biodiesel" means renewable, biodegradable, monoalkyl ester combustible liquid fuel that is derived from agricultural plant oils or animal fats and that meets American society for testing and materials D 6751 standard specification for biodiesel B100 blend stock for distillate fuels;

(2) "biodiesel blending equipment" means equipment necessary for the process of blending biodiesel with diesel fuel to produce blended biodiesel fuel;

(3) "blended biodiesel fuel" means a diesel fuel that contains at least two percent biodiesel; and

(4) "diesel fuel" means any diesel-engine fuel used for the generation of power to propel a motor vehicle."

7-9-118 – 2021 four-month restaurant GRT deduction

A. Beginning March 1, 2021 and prior to July 1, 2021, receipts of a food or beverage establishment from the sale of prepared food or non-packaged beverages that are served or picked up at the food or beverage establishment by or delivered to customers for immediate consumption may be deducted from gross receipts.

B. The deduction provided by this section shall be applied only to gross receipts remaining after all other allowable deductions available under the Gross Receipts and Compensating Tax Act have been taken and shall be separately stated by the taxpayer.

C. As used in this section:

(1) "craft distiller" means an establishment owned or managed by person issued a craft distiller's license pursuant to Section 60-6A-6.1 NMSA 1978 that is in good standing;

(2) "dispenser" means an establishment that is held out to the public as a place where alcoholic beverages are prepared and served for on-premises consumption to the general public in consideration of payment and that has the facilities and employees necessary for preparing and serving alcoholic beverages; provided that the dispenser has been issued a license pursuant to the Liquor Control Act [60-3A-1 NMSA 1978] as a dispenser;

(3) "food or beverage establishment" means a craft distiller; dispenser; mobile food service establishment; restaurant; small brewer; or winegrower;

(4) "mobile food service establishment" means a mobile establishment where meals are prepared for sale to or consumption by the general public either on or off the premises and has been issued a permit pursuant to Section 25-1-7 NMSA 1978 that is in good standing;

(5) "restaurant" means an establishment that is held out to the public as a place where meals and beverages are prepared and primarily intended to be served for on-premises consumption to the general public in consideration of payment and that has a dining room, a kitchen and the employees necessary for preparing, cooking and serving meals; provided the restaurant has been issued a permit pursuant to Section 25-1-7 NMSA 1978 that is in good standing and, if the restaurant serves alcoholic beverages, has been issued a license pursuant to Section 60-6A-4 NMSA 1978. "Restaurant" does not include an establishment commonly known as a fast food restaurant that dispenses food intended to be ordered, prepared and served quickly, with minimal or no table service, and prepared in quantity by a standardized method for consumption on and off premises, and that tends to have any of the following characteristics:

(a) a menu consisting primarily of pre-cooked items or items prepared in advance and heated quickly;

(b) placement of orders at a fast serve drive-through or walk-up window;

(c) service of food solely in disposable wrapping or containers; or

(d) a menu that exclusively sells hamburgers, sandwiches, salads and other fast foods;

(6) "small brewer" means an establishment owned or managed by a person issued a small brewer's license pursuant to Section 60-6A-26.1 NMSA 1978 that is in good standing; and

(7) "winegrower" means an establishment owned or managed by a person issued a winegrower's license pursuant to Section 60-6A-11 NMSA 1978 that is in good standing.

7-9A-2.1 – RSTP review of investment tax credit during 2005 interim

The interim revenue stabilization and tax policy committee during the 2005 interim shall conduct a review of the use of the investment credit and the effectiveness of the credit in meeting the state's economic development and tax policy objectives. Following the study, the committee shall

determine whether changes are necessary in the Investment Credit Act and report its findings and recommendations to the second session of the forty-seventh legislature.

7-9F-12. Department report.

In October 2003 and each year thereafter, the department shall report to the legislative finance committee and the revenue stabilization and tax policy committee on the fiscal and economic impacts of the Technology Jobs Tax Credit Act [Technology Jobs and Research and Development Tax Credit Act] using the most recently available data for the two prior fiscal years. The report shall include the number of taxpayers who have received basic credits or additional credits under the Technology Jobs Tax Credit Act [Technology Jobs and Research and Development Tax Credit Act], the amounts of the basic credits and additional credits, the geographic locations of the qualified facilities and the payroll increases of taxpayers related to additional credits, subject to the confidentiality provisions of Section [7-1-8](#) NMSA 1978.

7-9J-1. Short title.

Sections 11 through 18 of this act [[7-9J-1](#) to [7-9J-8](#) NMSA 1978] may be cited as the "Alternative Energy Product Manufacturers Tax Credit Act".

7-9J-2. Definitions.

As used in the Alternative Energy Product Manufacturers Tax Credit Act:

A. "alternative energy product" means an alternative energy vehicle, fuel cell system, renewable energy system or any component of an alternative energy vehicle, fuel cell system or renewable energy system; components for integrated gasification combined cycle coal facilities and equipment related to the sequestration of carbon from integrated gasification combined cycle plants; or, beginning in taxable year 2011 and ending in taxable year 2019, a product extracted from or secreted by a single cell photosynthetic organism;

B. "alternative energy vehicle" means a motor vehicle manufactured by an original equipment manufacturer that fully warrants and certifies that the motor vehicle meets the federal motor vehicle safety standards and is designed to be propelled in whole or in part by electricity; "alternative energy vehicle" includes a gasoline-electric hybrid motor vehicle exempt from the motor vehicle excise tax pursuant to Subsection G of Section [7-14-6](#) NMSA 1978;

C. "component" means a part, assembly of parts, material, ingredient or supply that is incorporated directly into an end product;

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

E. "fuel cell system" means a system that converts hydrogen, natural gas or waste gas to electricity without combustion, including:

(1) a fuel cell or a system used to generate or reform hydrogen for use in a fuel cell;

or

(2) a system used to generate or reform hydrogen for use in a fuel cell, including:

(a) electrolyzers that use renewable energy; and

(b) reformers that use natural gas as the feedstock;

F. "manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but "manufacturing" does not include construction, farming, power generation or processing natural resources;

G. "manufacturing equipment" means an essential machine, mechanism or tool or a component of an essential machine, mechanism or tool used directly and exclusively in a taxpayer's manufacturing operation and that is subject to depreciation pursuant to the Internal Revenue Code of 1986 by the taxpayer carrying on the manufacturing; provided that "manufacturing equipment" does not include a vehicle that leaves the site of a manufacturing operation for the purpose of transporting persons or property, including property for which the taxpayer claims a credit pursuant to Section 7-9-79 NMSA 1978;

H. "manufacturing operation" means a plant employing personnel to perform production tasks, in conjunction with manufacturing equipment not previously existing at the site, to produce alternative energy products;

I. "modified combined tax liability" means the total liability for the reporting period for the gross receipts tax imposed by Section 7-9-4 NMSA 1978 together with any tax collected at the same time and in the same manner as that gross receipts tax, such as the compensating tax, the withholding tax, the interstate telecommunications gross receipts tax, the surcharge imposed by Section 63-9D-5 NMSA 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978, minus the amount of any credit other than the alternative energy product manufacturers tax credit applied against any or all of those taxes or surcharges; provided that "modified combined tax liability" excludes all amounts collected with respect to local option gross receipts taxes;

J. "pass-through entity" means a business association other than:

- (1) a sole proprietorship;
- (2) an estate or trust;
- (3) a corporation, limited liability company, partnership or other entity that is not a sole proprietorship taxed as a corporation for federal income tax purposes for the taxable year;

or

(4) a partnership that is organized as an investment partnership in which the partner's income is derived solely from interest, dividends and sales of securities;

K. "qualified expenditure" means an expenditure for the purchase of manufacturing equipment made after July 1, 2006 by a taxpayer approved by the department;

L. "renewable energy" means energy from solar heat, solar light, wind, geothermal energy, landfill gas or biomass either singly or in combination that produces low or zero emissions and has substantial long-term production potential;

M. "renewable energy system" means a system using only renewable energy to produce hydrogen or to generate electricity, including related cogeneration systems that create mechanical energy or that produce heat or steam for space or water heating and agricultural or small industrial processes and includes a:

- (1) photovoltaic energy system;
- (2) solar-thermal energy system;
- (3) biomass energy system;
- (4) wind energy system;
- (5) hydrogen production system; or
- (6) battery cell energy system; and

N. "taxpayer" means a person, including a shareholder, member, partner or other owner of a pass-through entity, that is liable for payment of a tax or to whom an assessment has been made if the assessment remains unabated or the amount thereof has not been paid.

7-9J-3. Administration.

The department shall administer the Alternative Energy Product Manufacturers Tax Credit Act pursuant to the Tax Administration Act [Chapter 7, Article 1 NMSA 1978].

7-9J-4. Alternative energy product manufacturers tax credit.

A. A tax credit to be known as the "alternative energy product manufacturers tax credit" may be claimed by a taxpayer in an amount:

- (1) for which the taxpayer has been granted approval by the department pursuant to the Alternative Energy Product Manufacturers Tax Credit Act; and
- (2) not to exceed five percent of the taxpayer's qualified expenditures.

B. The alternative energy product manufacturers tax credit may only be deducted from the taxpayer's modified combined tax liability. Any portion of the alternative energy product manufacturers tax credit that remains unused at the end of the taxpayer's reporting period may be carried forward for five years.

7-9J-5. Eligibility requirements; employment.

To be eligible to claim a credit pursuant to the Alternative Energy Product Manufacturers Tax Credit Act, the taxpayer shall employ a number of full-time employees equal to one full-time employee in addition to the number of full-time employees employed one year prior to the day on which the taxpayer applies for the credit for every:

A. five hundred thousand dollars (\$500,000), or a portion of that amount, of qualified expenditures claimed by the taxpayer in a taxable year in the same claim, up to a value of thirty million dollars (\$30,000,000); and

B. one million dollars (\$1,000,000), or a portion of that amount, in value of qualified expenditures over thirty million dollars (\$30,000,000) claimed by the taxpayer in a taxable year in the same claim.

7-9J-6. Approval of credit; issuance and denial; application; deadlines.

A. The department shall issue or deny approval for an alternative energy product manufacturers tax credit in response to a taxpayer's application for approval for the credit. The department shall issue approval for a credit claimed by a taxpayer who satisfies the requirements of the Alternative Energy Product Manufacturers Tax Credit Act.

B. The department may require a taxpayer who claims an alternative energy product manufacturers tax credit to produce evidence of the taxpayer's compliance with the Alternative Energy Product Manufacturers Tax Credit Act.

C. A taxpayer may apply for approval of an alternative energy product manufacturers tax credit on or before the last day of the year following the end of the calendar year in which the qualified expenditure is made. The department shall not issue approval for the alternative energy product manufacturers tax credit if the taxpayer applies for approval after the last day of the year following the end of the calendar year in which the qualified expenditure is made.

7-9J-7. Recapture.

If the taxpayer or a successor in the business of the taxpayer ceases operations at a facility in New Mexico for at least one hundred eighty consecutive days within a two-year period after the taxpayer has claimed an alternative energy product manufacturers tax credit, the department shall not grant additional alternative energy product manufacturers tax credits with respect to that facility. Any amount of the approved credit with respect to that facility that is not claimed

against the taxpayer's modified combined tax liability shall be extinguished, and within thirty days after the one hundred eightieth day of cessation of operations, the taxpayer shall pay the modified income tax liability against which an approved credit was taken. For the purposes of this section, a taxpayer shall not be deemed to have ceased operations during reasonable periods for maintenance or retooling, for the repair or replacement of facilities damaged or destroyed or during labor disputes.

7-9J-8. Credit claim forms.

The department shall provide credit claim forms and instructions. A credit claim form shall accompany any return in which the taxpayer claims a credit, and the claim shall specify the amount of credit intended to apply to each return.

7-13-10. Validation of pledges.

All prior pledges of any amounts distributed to municipalities and counties pursuant to Section 64-26-19 NMSA 1953 (being Laws 1967, Chapter 170, Section 8 repealed by Laws 1971, Chapter 207, Section 16) which heretofore have been made to the payment of bonds of municipalities and counties pursuant to Sections [3-31-1](#), [3-33-24](#), [3-34-1](#) through [3-34-4](#) or [3-39-12](#) NMSA 1978 or any other statute, and all action of the governing bodies of such municipalities and counties preliminary to and in the authorization of such pledges are validated, ratified, approved and confirmed.

Summary of Tax Code Cleanup for Judiciary Referral Bill 228782.2SA

Bill Section	Section Amended	Summary	Fiscal Impact	Admin Impacts	Effective Date
1	7-1-21	Increase amount of delinquent tax installment agreements available for public inspection from \$1,000 to \$10,000 to adjust for inflation since 1979			7/1/2025
2	7-1-67	Increase minimum amount of interest taxpayers will owe to TRD from \$1 to \$10 to adjust for inflation since 1982	Slight negative	TRD savings, taxpayer savings	1/1/2026
3	7-1-68	Increase minimum amount of interest TRD will pay to taxpayer from \$1 to \$10 to adjust for inflation since 1971	Slight positive	TRD savings	1/1/2026
4	7-1-69	Increase civil penalty for failure to pay from a \$5 minimum to a \$15 minimum. Where there is willful intent to evade tax, increase minimum penalty from \$25 to \$75. These are inflation adjustments since 1970	Slight positive		1/1/2026
5	7-1-71.3	Increase maximum fine for willful failure to collect and pay taxes from \$5,000 to \$10,000 to adjust for inflation since 2005	Slight positive		1/1/2026
6	7-1-71.4	Increase penalty on tax preparers who prepare over 25 returns per year who do not e-file the returns from \$5 to \$10 to adjust for inflation since 2007	Slight positive		1/1/2026
7	7-1-72	Increase criminal tax fraud and evasion fine from a range of \$1,000 - 10,000 instead to a range of \$10,000 - \$50,000 to adjust for inflation since 1965. This is particularly important to get DAs to prosecute tax fraud and evasion that Tax & Rev investigates	Slight positive		1/1/2026
8	7-1-73	Increase tax owed thresholds for criminal tax fraud sentencing. Increase each sentencing threshold by 100% for inflation since 2006			1/1/2026
9	7-1-74	Increase fine for obstruction of tax laws for inflation since 1965. The range would increase from \$250 - \$10,000 to \$1,000 - \$25,000	Slight positive		1/1/2026
10	7-1-75	Increase fine for assault or battery on a Tax & Rev employee for inflation since 1965. Increase range of fine from \$100 - \$500 to \$1,000 - \$5,000	Slight positive		1/1/2026
11	7-1-76	Increase fine for revealing confidential taxpayer information from \$1,000 to \$5,000 to adjust for inflation since 1965	Slight positive		1/1/2026
12	EFFECTIVE DATES				