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BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; PROVIDING FOR USE OF A SINGLE SALES
FACTOR BY CERTAIN TAXPAYERS IN APPORTIONING CORPORATE INCOME TO
THE STATE; PROVIDING FOR COMBINED REPORTING OF CORPORATE INCOME
FOR UNITARY CORPORATIONS; REPEALING CERTAIN TAX CREDITS.

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

SECTION 1. Section 7-2A-8.3 NMSA 1978 (being Laws 1983,
Chapter 213, Section 12, as amended by Laws 1993, Chapter 307,
Section 4 and by Laws 1993, Chapter 309, Section 2) is amended
to read:

"7-2A-8.3. COMBINED RETURNS.--

A. A unitary corporation that is subject to
taxation under the Corporate Income and Franchise Tax Act and
that has not previously filed a combined return pursuant to
this section or a consolidated return pursuant to Section

.190421.2

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1 7-2A-8.4 NMSA 1978 [~~may elect to~~] shall file a combined return
2 with other unitary corporations as though the entire combined
3 net income were that of one corporation. The return filed
4 under this method of reporting shall include the net income of
5 all the unitary corporations. Transactions among the unitary
6 corporations may be eliminated by applying the appropriate
7 rules for reporting income for a consolidated federal income
8 tax return. Any corporation that has filed an income tax
9 return with New Mexico pursuant to Section 7-2A-8.4 NMSA 1978
10 shall not file pursuant to this section unless the secretary
11 gives prior permission to file on a combined return basis.

12 B. Once corporations have reported net income
13 through a combined return for any taxable year, they shall file
14 combined returns for subsequent taxable years, so long as they
15 remain unitary corporations, unless the corporations elect to
16 file pursuant to Section 7-2A-8.4 NMSA 1978. [~~or unless the~~
17 ~~secretary grants prior permission for one or more of the~~
18 ~~corporations to file individually.~~

19 ~~C. For taxable years beginning on or after January~~
20 ~~1, 1993, no unitary corporation once included in a combined~~
21 ~~return may elect, or be granted permission by the secretary,~~
22 ~~for any subsequent taxable year to separately account pursuant~~
23 ~~to Paragraph (4) of Subsection A of Section 7-2A-8 NMSA 1978.]"~~

24 SECTION 2. Section 7-4-10 NMSA 1978 (being Laws 1993,
25 Chapter 153, Section 1, as amended) is amended to read:

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1 "7-4-10. APPORTIONMENT OF BUSINESS INCOME.--

2 A. Except as provided in [~~Subsection~~] Subsections B
3 and C of this section, all business income shall be apportioned
4 to this state by multiplying the income by a fraction, the
5 numerator of which is the property factor plus the payroll
6 factor plus the sales factor and the denominator of which is
7 three.

8 B. For taxable years beginning prior to January 1,
9 2020, a taxpayer whose principal business activity is
10 manufacturing may elect to have business income apportioned to
11 this state by multiplying the income by a fraction, the
12 numerator of which is the property factor plus the payroll
13 factor plus twice the sales factor and the denominator of which
14 is four. To elect the method of apportionment provided by this
15 subsection, the taxpayer shall notify the department of the
16 election, in writing, no later than the date on which the
17 taxpayer files the return for the first taxable year to which
18 the election will apply. The election will apply to that
19 taxable year and to each taxable year thereafter until the
20 taxpayer notifies the department, in writing, that the election
21 is terminated, except that the taxpayer shall not terminate the
22 election until the method of apportioning business income
23 provided by this subsection has been used by the taxpayer for
24 at least three consecutive taxable years, including a total of
25 at least thirty-six calendar months. Notwithstanding any

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underscored material = new
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1 provisions of this subsection to the contrary, the taxpayer
2 shall use the method of apportionment provided by Subsection A
3 of this section for the taxable year unless:

4 (1) the taxpayer's corporate income tax
5 liability for the taxable year, computed by the same method of
6 apportionment used in the preceding taxable year, exceeds the
7 corporate income tax liability for the taxpayer's immediately
8 preceding taxable year; or

9 (2) the sum of the taxpayer's payroll factor
10 and property factor for the taxable year exceeds the sum of the
11 taxpayer's payroll factor and property factor for the
12 taxpayer's base year. For purposes of this paragraph, "base
13 year" means the taxpayer's first taxable year beginning on or
14 after January 1, 1991.

15 C. A taxpayer whose principal business activity is
16 manufacturing may elect to have business income apportioned to
17 this state beginning in the taxable year following the taxable
18 year in which investments are made as described in this
19 subsection by multiplying the income by a fraction, the
20 numerator of which is the total sales of the taxpayer in New
21 Mexico during the taxable year and the denominator of which is
22 the total sales of the taxpayer from any location within or
23 outside of the state during the taxable year if:

24 (1) the taxpayer has invested in New Mexico in
25 a taxable year beginning on or after January 1, 2014 but not on

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underscored material = new
[bracketed material] = delete

1 or after January 1, 2023, at least one billion dollars
2 (\$1,000,000,000) in capital equipment and facility construction
3 or renovation;

4 (2) the taxpayer has invested in New Mexico in
5 a taxable year beginning on or after January 1, 2014 but not on
6 or after January 1, 2023, at least five hundred million dollars
7 (\$500,000,000) in capital equipment and facility construction
8 or renovation; or

9 (3) the taxpayer has invested in New Mexico in
10 a taxable year beginning on or after January 1, 2014 but not on
11 or after January 1, 2023, at least two hundred fifty million
12 dollars (\$250,000,000) in capital equipment or facility
13 construction or renovation.

14 D. A taxpayer electing to have business income
15 apportioned pursuant to Subsection C of this section may
16 continue that election for a period not to exceed:

17 (1) eight consecutive taxable years from the
18 taxable year an election pursuant to Paragraph (1) of
19 Subsection C of this section is first claimed and approved;

20 (2) four consecutive taxable years from the
21 taxable year an election pursuant to Paragraph (2) of
22 Subsection C of this section is first claimed and approved; or

23 (3) two consecutive taxable years from the
24 taxable year an election pursuant to Paragraph (3) of
25 Subsection C of this section is first claimed and approved.

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underscored material = new
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1 E. A taxpayer electing to have business income
2 apportioned pursuant to Subsection C of this section shall not
3 in the same taxable years for the same capital equipment claim
4 a credit pursuant to the Investment Credit Act.

5 ~~[G.]~~ F. For purposes of this section:

6 (1) "capital equipment" means equipment that
7 is a depreciable asset pursuant to Section 179 of the Internal
8 Revenue Code;

9 (2) "facility construction or renovation"
10 means construction of a new facility specifically to house a
11 manufacturing business activity or expansion or a significant
12 remodeling of an existing facility for manufacturing; and

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

- 16 ~~[(1)]~~ (a) construction;
- 17 ~~[(2)]~~ (b) farming;
- 18 ~~[(3)]~~ (c) power generation, except for
19 electricity generation at a facility other than one for which
20 both location approval and a certificate of convenience and
21 necessity are required prior to commencing construction or
22 operation of the facility, pursuant to the Public Utility Act;
23 or

24 ~~[(4)]~~ (d) processing natural resources,
25 including hydrocarbons."

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BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; PROVIDING FOR USE OF A SINGLE SALES
FACTOR BY CERTAIN TAXPAYERS IN APPORTIONING CORPORATE INCOME TO
THE STATE.

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

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

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

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

~~[B. For taxable years beginning prior to January 1,
2020, a taxpayer whose principal business activity is~~

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underscored material = new
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[bracketed material] = delete

1 ~~manufacturing may elect to have business income apportioned to~~
2 ~~this state by multiplying the income by a fraction, the~~
3 ~~numerator of which is the property factor plus the payroll~~
4 ~~factor plus twice the sales factor and the denominator of which~~
5 ~~is four. To elect the method of apportionment provided by this~~
6 ~~subsection, the taxpayer shall notify the department of the~~
7 ~~election, in writing, no later than the date on which the~~
8 ~~taxpayer files the return for the first taxable year to which~~
9 ~~the election will apply. The election will apply to that~~
10 ~~taxable year and to each taxable year thereafter until the~~
11 ~~taxpayer notifies the department, in writing, that the election~~
12 ~~is terminated, except that the taxpayer shall not terminate the~~
13 ~~election until the method of apportioning business income~~
14 ~~provided by this subsection has been used by the taxpayer for~~
15 ~~at least three consecutive taxable years, including a total of~~
16 ~~at least thirty-six calendar months. Notwithstanding any~~
17 ~~provisions of this subsection to the contrary, the taxpayer~~
18 ~~shall use the method of apportionment provided by Subsection A~~
19 ~~of this section for the taxable year unless:~~

20 ~~(1) the taxpayer's corporate income tax~~
21 ~~liability for the taxable year, computed by the same method of~~
22 ~~apportionment used in the preceding taxable year, exceeds the~~
23 ~~corporate income tax liability for the taxpayer's immediately~~
24 ~~preceding taxable year; or~~

25 ~~(2) the sum of the taxpayer's payroll factor~~

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1 ~~and property factor for the taxable year exceeds the sum of the~~
2 ~~taxpayer's payroll factor and property factor for the~~
3 ~~taxpayer's base year. For purposes of this paragraph, "base~~
4 ~~year" means the taxpayer's first taxable year beginning on or~~
5 ~~after January 1, 1991.]~~

6 B. A taxpayer may elect to have business income
7 apportioned to this state in the taxable year by multiplying
8 the income by a fraction, the numerator of which is the total
9 sales of the taxpayer in New Mexico during the taxable year and
10 the denominator of which is the total sales of the taxpayer
11 from any location within or outside of the state during the
12 taxable year.

13 C. A taxpayer electing to have business income
14 apportioned pursuant to Subsection B of this section shall not
15 elect another formula to apportion income for any subsequent
16 taxable year unless the taxpayer requests and the secretary
17 grants prior permission.

18 [~~G.~~] D. For purposes of this section,
19 "manufacturing" means combining or processing components or
20 materials to increase their value for sale in the ordinary
21 course of business, but does not include:
22 (1) construction;
23 (2) farming;
24 (3) power generation, except for electricity
25 generation at a facility other than one for which both location

underscored material = new
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1 approval and a certificate of convenience and necessity are
2 required prior to commencing construction or operation of the
3 facility, pursuant to the Public Utility Act; or

4 (4) processing natural resources, including
5 hydrocarbons."

6 SECTION 2. Section 7-4-17 NMSA 1978 (being Laws 1965,
7 Chapter 203, Section 17) is amended to read:

8 "7-4-17. DETERMINATION OF SALES IN THIS STATE OF TANGIBLE
9 PERSONAL PROPERTY FOR INCLUSION IN SALES FACTOR.--Sales of
10 tangible personal property are in this state if:

11 A. the property is delivered or shipped to a
12 purchaser other than the United States government within this
13 state regardless of the f. o. b. point or other conditions of
14 the sale; or

15 B. the property is shipped from an office, store,
16 warehouse, factory or other place of storage in this state and:

17 (1) the purchaser is the United States
18 government; or

19 (2) the taxpayer:
20 (a) is not taxable in the state of the
21 purchaser; and

22
23 (b) did not make an election for
24 apportionment of business income pursuant to Subsection B of
25 Section 7-4-10 NMSA 1978."

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SECTION 3. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2014.

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2014.

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HOUSE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; DECREASING CERTAIN CORPORATE INCOME TAX RATES; PROVIDING FOR COMBINED REPORTING OF CORPORATE INCOME FOR UNITARY CORPORATIONS; REPEALING CERTAIN TAX CREDITS.

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

SECTION 1. Section 7-2A-5 NMSA 1978 (being Laws 1981, Chapter 37, Section 38, as amended) is amended to read:

"7-2A-5. CORPORATE INCOME TAX RATES.--The corporate income tax imposed on corporations by Section 7-2A-3 NMSA 1978 shall be at the rates specified in the following table:

If the net income is:	The tax shall be:
Not over \$500,000	4.8% of net income
Over \$500,000 [but not	
over \$1,000,000]	\$24,000 plus
	6.4% of excess

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1 over \$500,000
2 [~~Over \$1,000,000~~ \$56,000
3 plus 7.6% of excess
4 over \$1,000,000]."

5 SECTION 2. Section 7-2A-8.3 NMSA 1978 (being Laws 1983,
6 Chapter 213, Section 12, as amended by Laws 1993, Chapter 307,
7 Section 4 and by Laws 1993, Chapter 309, Section 2) is amended
8 to read:

9 "7-2A-8.3. COMBINED RETURNS.--

10 A. A unitary corporation that is subject to taxation
11 under the Corporate Income and Franchise Tax Act and that has
12 not previously filed a combined return pursuant to this section
13 or a consolidated return pursuant to Section 7-2A-8.4 NMSA 1978
14 [~~may elect to~~] shall file a combined return with other unitary
15 corporations as though the entire combined net income were that
16 of one corporation. The return filed under this method of
17 reporting shall include the net income of all the unitary
18 corporations. Transactions among the unitary corporations may
19 be eliminated by applying the appropriate rules for reporting
20 income for a consolidated federal income tax return. Any
21 corporation that has filed an income tax return with New Mexico
22 pursuant to Section 7-2A-8.4 NMSA 1978 shall not file pursuant
23 to this section unless the secretary gives prior permission to
24 file on a combined return basis.

25 B. Once corporations have reported net income through

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1 a combined return for any taxable year, they shall file
2 combined returns for subsequent taxable years, so long as they
3 remain unitary corporations, unless the corporations elect to
4 file pursuant to Section 7-2A-8.4 NMSA 1978. [~~or unless the~~
5 ~~secretary grants prior permission for one or more of the~~
6 ~~corporations to file individually.~~

7 ~~G. For taxable years beginning on or after January 1,~~
8 ~~1993, no unitary corporation once included in a combined return~~
9 ~~may elect, or be granted permission by the secretary, for any~~
10 ~~subsequent taxable year to separately account pursuant to~~
11 ~~Paragraph (4) of Subsection A of Section 7-2A-8 NMSA 1978.]"~~

12 SECTION 3. REPEAL.--Sections 7-2E-1.1, 7-9A-1 through
13 7-9A-11, 7-9F-1 through 7-9F-12, 7-9G-1 and 7-9H-1 through
14 7-9H-6 NMSA 1978 (being Laws 2007, Chapter 172, Section 2, Laws
15 1979, Chapter 347, Sections 1 and 2, Laws 2001, Chapter 57,
16 Section 2 and Laws 2001, Chapter 337, Section 2, Laws 1979,
17 Chapter 347, Sections 3 through 7, Laws 1983, Chapter 206,
18 Section 6, Laws 1979, Chapter 347, Sections 8 and 9, Laws 1997,
19 Chapter 67, Section 2, Laws 2000 (2nd S.S.), Chapter 22,
20 Sections 1 through 12, Laws 2004, Chapter 15, Section 1 and
21 Laws 2005, Chapter 104, Sections 11 through 16, as amended) are
22 repealed.

23 SECTION 4. APPLICABILITY.--The provisions of this act
24 apply to taxable years beginning on or after January 1, 2014.

25 SECTION 5. EFFECTIVE DATE.--The effective date of the

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1 provisions of this act is January 1, 2014.

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; DECREASING CERTAIN CORPORATE INCOME TAX RATES.

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

SECTION 1. Section 7-2A-5 NMSA 1978 (being Laws 1981, Chapter 37, Section 38, as amended) is amended to read:

"7-2A-5. CORPORATE INCOME TAX RATES.--The corporate income tax imposed on corporations by Section 7-2A-3 NMSA 1978 shall be at the rates specified in the following table:

If the net income is:	The tax shall be:
Not over \$500,000	4.8% of net income
Over \$500,000 [but not	
over \$1,000,000]	\$24,000 plus
	[6.4%] <u>4.9%</u> of excess
	over \$500,000

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; CLARIFYING APPLICATION OF THE HIGH-WAGE JOBS TAX CREDIT; DEFINING "BENEFITS" AND "WAGES"; EXTENDING THE CREDIT FOR THREE YEARS; DECLARING AN EMERGENCY.

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

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

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

A. A taxpayer who is an eligible employer may apply for, and the taxation and revenue department may allow, a tax credit for each new high-wage economic-based job. The credit provided in this section may be referred to as the "high-wage jobs tax credit".

B. The purpose of the high-wage jobs tax credit is

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1 to provide an incentive for urban and rural businesses to
2 create and fill new high-wage jobs in New Mexico.

3 ~~[B-]~~ C. The high-wage jobs tax credit may be
4 claimed and allowed in an amount equal to ten percent of the
5 wages and benefits distributed to an eligible employee in a new
6 high-wage economic-based job, but shall not exceed twelve
7 thousand dollars (\$12,000) per job per year.

8 ~~[G-]~~ D. The high-wage jobs tax credit may be
9 claimed by an eligible employer for each new high-wage
10 economic-based job performed for the calendar year in which the
11 new high-wage economic-based job is created and for the three
12 following qualifying periods. A taxpayer shall apply for
13 approval for the credit within one year following the end of
14 the calendar year in which the qualifying period closes.

15 ~~[D-]~~ E. A new high-wage economic-based job shall
16 not be eligible for a credit pursuant to this section unless
17 the eligible employer's total number of employees [~~with new~~
18 ~~high-wage economic-based jobs~~] on the last day of the
19 qualifying period at the location at which the job is performed
20 or based is at least one more than the number on the day prior
21 to the date the new high-wage economic-based job was created.

22 F. A new high-wage economic-based job shall not be
23 eligible for a credit pursuant to this section if:

24 (1) the new high-wage economic-based job is
25 created due to a business merger or acquisition or other change

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1 in business organization;

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

6 (3) the new high-wage economic-based job is
7 performed by:

8 (a) the person who performed the job or
9 its functional equivalent prior to the business merger or
10 acquisition or other change in business organization; or

11 (b) a person replacing the person who
12 performed the job or its functional equivalent prior to a
13 business merger or acquisition or other change in business
14 organization.

15 G. Notwithstanding the provisions of Subsection F
16 of this section, a new high-wage economic-based job that was
17 created by another employer and for which an application for
18 the high-wage jobs tax credit was received and is under review
19 by the taxation and revenue department prior to the time of the
20 business merger or acquisition or other change in business
21 organization shall remain eligible for the high-wage jobs tax
22 credit for the balance of the qualifying periods. The new
23 employer that results from a business merger or acquisition or
24 other change in business organization may only claim the high-
25 wage jobs tax credit for the balance of the qualifying period

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1 for which the qualifying job is otherwise eligible.

2 H. A job shall not be eligible for a credit
3 pursuant to this section if the job is created due to an
4 eligible employer entering into a contract or becoming a
5 subcontractor to a contract with a governmental entity that
6 replaces one or more entities performing functionally
7 equivalent services for the governmental entity unless the job
8 is a new high-wage economic-based job that was not being
9 performed by an employee of the replaced entity.

10 ~~[E.]~~ I. With respect to each new high-wage
11 economic-based job for which an eligible employer seeks the
12 high-wage jobs tax credit, the employer shall certify:

13 (1) the amount of wages and benefits paid to
14 each eligible employee in a new high-wage economic-based job
15 during each qualifying period;

16 (2) the number of weeks the position was
17 occupied during the qualifying period;

18 (3) whether the new high-wage economic-based
19 job was in a municipality with a population of forty thousand
20 or more or with a population of less than forty thousand
21 according to the most recent federal decennial census and
22 whether the job was in the unincorporated area of a county; and

23 (4) the total number of employees employed by
24 the employer at the job location on the day prior to the
25 qualifying period and on the last day of the qualifying period.

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underscored material = new
[bracketed material] = delete

1 ~~[F.]~~ J. To receive a high-wage jobs tax credit with
2 respect to any qualifying period, an eligible employer shall
3 apply to the taxation and revenue department on forms and in
4 the manner prescribed by the department. The application shall
5 include a certification made pursuant to Subsection ~~[E]~~ I of
6 this section. Applications for the high-wage jobs tax credit
7 shall be considered in the order received by the taxation and
8 revenue department.

9 ~~[G.]~~ K. The credit provided in this section may be
10 deducted from the modified combined tax liability of a
11 taxpayer. If the credit exceeds the modified combined tax
12 liability of the taxpayer, the excess shall be refunded to the
13 taxpayer.

14 ~~[H.]~~ L. The economic development department shall
15 report to the appropriate interim legislative committee before
16 November 1 of each year the cost of this tax credit to the
17 state and its impact on company recruitment and job creation.

18 ~~[I.]~~ M. As used in this section:

19 ~~[(1) "benefits" means any employee benefit~~
20 ~~plan as defined in Title 1, Section 3 of the federal Employee~~
21 ~~Retirement Income Security Act of 1974, 29 U.S.C. 1002;]~~

22 (1) "benefits" means all remuneration for work
23 performed that is provided to an employee in whole or in part
24 by the employer, other than wages, including insurance
25 programs, health care, medical, dental and vision plans, life

underscored material = new
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1 insurance, employer contributions to pensions, such as a 401k,
2 and employer-provided services, such as child care, offered by
3 an employer to the employee. "Benefits" does not include the
4 employer's share of payroll taxes, social security or medicare
5 contributions, federal or state unemployment insurance
6 contributions or workers' compensation;

7 (2) "eligible employee" means an individual
8 who is employed in New Mexico by an eligible employer and who
9 is a resident of New Mexico; "eligible employee" does not
10 include an individual who:

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

19 (b) if the employer is an estate or
20 trust, is a grantor, beneficiary or fiduciary of the estate or
21 trust or is an individual who bears any of the relationships
22 described in Paragraphs (1) through (8) of 26 U.S.C. Section
23 152(a) to a grantor, beneficiary or fiduciary of the estate or
24 trust;

25 (c) is a dependent, as that term is

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underscored material = new
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1 described in 26 U.S.C. Section 152(a)(9), of the employer or,
2 if the taxpayer is a corporation, of an individual who owns,
3 directly or indirectly, more than fifty percent in value of the
4 outstanding stock of the corporation or, if the employer is an
5 entity other than a corporation, of an individual who owns,
6 directly or indirectly, more than fifty percent of the capital
7 and profits interest in the entity or, if the employer is an
8 estate or trust, of a grantor, beneficiary or fiduciary of the
9 estate or trust; or

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

17 (3) "eligible employer" means an employer that
18 [~~(a) made more than fifty percent of its~~
19 ~~sales to persons outside New Mexico during the most recent~~
20 ~~twelve months of the employer's modified combined tax liability~~
21 ~~reporting periods ending prior to claiming a high-wage jobs tax~~
22 ~~credit; or~~

23 (b)] is certified by the economic
24 development department to be eligible for development training
25 program assistance pursuant to Section 21-19-7 NMSA 1978;

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

14 (5) "new high-wage economic-based job" means a
15 new job created in New Mexico by an eligible employer on or
16 after July 1, 2004 and prior to July 1, [~~2015~~] 2020 that is
17 occupied for at least forty-eight weeks of a qualifying period
18 by an eligible employee who is paid wages calculated for the
19 qualifying period to be at least:

20 (a) forty thousand dollars (\$40,000) if
21 the job is performed or based: 1) in or within ten miles of
22 the external boundaries of a municipality with a population of
23 [~~forty thousand~~] sixty thousand or more according to the most
24 recent federal decennial census; or 2) in a class H county; and

25 (b) twenty-eight thousand dollars

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1 (\$28,000) if the job is performed or based in: 1) a
2 municipality with a population of less than forty thousand
3 according to the most recent federal decennial census; or 2) in
4 the unincorporated area of a county other than a class H county;

5 (6) "qualifying period" means the period of
6 twelve months beginning on the day an eligible employee begins
7 working in a new high-wage economic-based job or the period of
8 twelve months beginning on the anniversary of the day an
9 eligible employee began working in a new high-wage economic-
10 based job; and

11 (7) "wages" means [~~wages as defined in~~
12 ~~Paragraphs (1), (2) and (3) of 26 U.S.C. Section 51(e)~~] all
13 compensation paid by an eligible employer to an eligible
14 employee through the employer's payroll system, including
15 those wages that the employee elects to defer or redirect or
16 the employee's contribution to a 401(k) or cafeteria plan
17 program, but "wages" does not include benefits or the
18 employer's share of payroll taxes."

19 SECTION 2. APPLICABILITY.--The provisions of this act
20 apply to taxable years beginning on or after January 1, 2013.

21 SECTION 3. EMERGENCY.--It is necessary for the public
22 peace, health and safety that this act take effect
23 immediately.

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; CLARIFYING APPLICATION OF THE HIGH-WAGE JOBS TAX CREDIT; REQUIRING ANNUAL REPORTING ON THE EFFECTIVENESS OF THE HIGH-WAGE JOBS TAX CREDIT; DEFINING "BENEFITS" AND "WAGES"; INCREASING WAGES AND POPULATION TO QUALIFY FOR A HIGH-WAGE JOBS TAX CREDIT; PROVIDING FOR AN ANNUAL MAXIMUM AGGREGATE OF FIFTY MILLION DOLLARS (\$50,000,000) IN HIGH-WAGE JOBS TAX CREDITS.

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

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

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

A. A taxpayer who is an eligible employer may apply for, and the taxation and revenue department may allow, a tax

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1 credit for each new high-wage economic-based job. The credit
2 provided in this section may be referred to as the "high-wage
3 jobs tax credit".

4 B. The high-wage jobs tax credit may be claimed and
5 allowed in an amount equal to ten percent of the wages and
6 benefits distributed to an eligible employee in a new high-wage
7 economic-based job, but shall not exceed twelve thousand
8 dollars (\$12,000).

9 C. The high-wage jobs tax credit may be claimed by
10 an eligible employer for each new high-wage economic-based job
11 performed for the year in which the new high-wage economic-
12 based job is created and for the three following qualifying
13 periods. A taxpayer shall apply for approval for the credit
14 within one year following the end of the calendar year in which
15 the qualifying period closes.

16 D. A new high-wage economic-based job shall not be
17 eligible for a credit pursuant to this section unless the
18 eligible employer's total number of employees with new high-
19 wage economic-based jobs on the last day of the qualifying
20 period at the location at which the job is performed or based
21 is at least one more than the number on the day prior to the
22 date the job was created.

23 E. A new high-wage economic-based job shall not be
24 eligible for a credit pursuant to this section if:

25 (1) the new high-wage economic-based job is

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1 created due to a business merger or acquisition or other change
2 in business organization;

3 (2) the eligible employee was terminated from
4 employment in New Mexico by another employer involved in the
5 business merger or acquisition or other change in business
6 organization with the taxpayer;

7 (3) the new high-wage economic-based job is
8 performed by:

9 (a) the person who performed the job or
10 its functional equivalent prior to the business merger or
11 acquisition or other change in business organization; or

12 (b) a person replacing the person who
13 performed the job or its functional equivalent prior to a
14 business merger or acquisition or other change in business
15 organization; and

16 (4) the new high-wage economic-based job or
17 its functional equivalent previously qualified for the high-
18 wage jobs tax credit but the employer, prior to a business
19 merger or acquisition or other change in business organization,
20 was not approved for the credit.

21 F. Notwithstanding the provisions of Subsection E
22 of this section, a new high-wage economic-based job that was
23 created by another employer and for which an application for
24 the high-wage jobs tax credit was received and is under review
25 by the taxation and revenue department prior to the time of the

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1 business merger or acquisition or other change in business
2 organization shall remain eligible for the high-wage jobs tax
3 credit for the balance of the qualifying periods. The new
4 employer that results from a business merger or acquisition or
5 other change in business organization may only claim the high-
6 wage jobs tax credit for the balance of the qualifying periods
7 for which the qualifying job is otherwise eligible.

8 G. A job shall not be eligible for a credit
9 pursuant to this section if the job is created due to an
10 eligible employer entering into a contract or becoming a
11 subcontractor to a contract with a governmental entity that
12 replaces one or more entities performing functionally
13 equivalent services for the governmental entity unless the job
14 is a new high-wage economic-based job that was not being
15 performed by an employee of the replaced entity.

16 [~~E.~~] H. With respect to each new high-wage
17 economic-based job for which an eligible employer seeks the
18 high-wage jobs tax credit, the employer shall certify:

19 (1) the amount of wages and benefits paid to
20 each eligible employee in a new high-wage economic-based job
21 during each qualifying period;

22 (2) the number of weeks the position was
23 occupied during the qualifying period;

24 (3) [~~whether the new high-wage economic-based~~
25 ~~job was in a municipality with a population of forty thousand~~

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1 ~~or more or with a population of less than forty thousand~~ the
2 population of the municipality, according to the most recent
3 federal decennial census, where the new high-wage economic-
4 based job was located and whether the job was in the
5 unincorporated area of a county; and

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

9 ~~[F-]~~ I. To receive a high-wage jobs tax credit with
10 respect to any qualifying period, an eligible employer shall
11 apply to the taxation and revenue department on forms and in
12 the manner prescribed by the department. The application shall
13 include a certification made pursuant to Subsection ~~[E]~~ H of
14 this section. Applications for the high-wage jobs tax credit
15 shall be considered in the order received by the taxation and
16 revenue department.

17 J. The taxation and revenue department may allow a
18 maximum aggregate in a calendar year of fifty million dollars
19 (\$50,000,000) in high-wage jobs tax credits provided by this
20 section. A taxpayer who submits a claim for a high-wage jobs
21 tax credit who is unable to receive the tax credit because the
22 claims for the year exceed the aggregate limitation in this
23 subsection shall be placed for the subsequent calendar year at
24 the front of a queue of high-wage jobs tax credit claimants
25 submitting claims in the subsequent year in the order of the

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1 date on which the department received the application.

2 ~~[G.]~~ K. The credit provided in this section may be
3 deducted from the modified combined tax liability of a
4 taxpayer. If the credit exceeds the modified combined tax
5 liability of the taxpayer, the excess shall be refunded to the
6 taxpayer.

7 L. A taxpayer allowed a high-wage jobs tax credit
8 shall report annually by June 30 to the taxation and revenue
9 department on the activities of the taxpayer in the preceding
10 calendar year on a form developed by the department.

11 Acceptance of a taxpayer of a high-wage jobs tax credit
12 pursuant to this section is authorization by the taxpayer
13 receiving the tax credit for the department to reveal
14 information to the legislative finance committee and the
15 interim revenue stabilization and tax policy committee
16 necessary to analyze the effectiveness of the high-wage jobs
17 tax credit pursuant to this section.

18 M. The taxation and revenue department shall
19 compile an annual report that includes the number of taxpayers
20 approved by the department to receive a high-wage jobs tax
21 credit, the number of applicants for the high-wage jobs tax
22 credit, the amount of each credit approved, the number of
23 eligible employees hired, cost of the tax credit to the state
24 and any other information required by the legislature or the
25 taxation and revenue department to aid in evaluating the

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1 effectiveness of the high-wage jobs tax credit. The report
2 shall be presented to the legislative finance committee and the
3 interim revenue stabilization and tax policy committee.

4 [H.] N. The economic development department shall
5 report to the appropriate interim legislative committee before
6 November 1 of each year the [~~cost of this tax credit to the~~
7 ~~state and its~~] impact of the tax credit on company recruitment
8 and job creation.

9 [F.] O. As used in this section:

10 [~~(1) "benefits" means any employee benefit~~
11 ~~plan as defined in Title 1, Section 3 of the federal Employee~~
12 ~~Retirement Income Security Act of 1974, 29 U.S.C. 1002;~~]

13 (1) "benefits" means all remuneration for work
14 performed that is provided to an employee in whole or in part
15 by the employer, other than wages, including insurance
16 programs, health care, medical, dental and vision plans, life
17 insurance, employer contributions to pensions, such as a 401k,
18 and employer-provided services, such as child care, offered by
19 an employer to the employee;

20 (2) "eligible employee" means an individual
21 who is employed in New Mexico by an eligible employer and who
22 is a resident of New Mexico; "eligible employee" does not
23 include an individual who:

24 (a) bears any of the relationships
25 described in Paragraphs (1) through (8) of 26 U.S.C. Section

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1 152(a) to the employer or, if the employer is a corporation, to
2 an individual who owns, directly or indirectly, more than fifty
3 percent in value of the outstanding stock of the corporation
4 or, if the employer is an entity other than a corporation, to
5 an individual who owns, directly or indirectly, more than fifty
6 percent of the capital and profits interest in the entity;

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

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

23 (d) is working or has worked as an
24 employee or as an independent contractor for an entity that
25 directly or indirectly owns stock in a corporation of the

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1 eligible employer or other interest of the eligible employer
2 that represents fifty percent or more of the total voting power
3 of that entity or has a value equal to fifty percent or more of
4 the capital and profits interest in the entity;

5 (3) "eligible employer" means an employer that

6 ~~[(a) made more than fifty percent of its~~
7 ~~sales to persons outside New Mexico during the most recent~~
8 ~~twelve months of the employer's modified combined tax liability~~
9 ~~reporting periods ending prior to claiming a jobs tax credit;~~
10 ~~or~~

11 ~~(b)]~~ is certified by the economic
12 development department to be eligible for development training
13 program assistance pursuant to Section 21-19-7 NMSA 1978;

14 (4) "modified combined tax liability" means

15 the total liability for the reporting period for the gross
16 receipts tax imposed by Section 7-9-4 NMSA 1978 together with
17 any tax collected at the same time and in the same manner as
18 the gross receipts tax, such as the compensating tax, the
19 withholding tax, the interstate telecommunications gross
20 receipts tax, the surcharges imposed by Section 63-9D-5 NMSA
21 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978,
22 minus the amount of any credit other than the high-wage jobs
23 tax credit applied against any or all of these taxes or
24 surcharges; but "modified combined tax liability" excludes all
25 amounts collected with respect to local option gross receipts

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1 taxes;

2 (5) "new high-wage economic-based job" means a
3 new job created in New Mexico by an eligible employer on or
4 after July 1, 2004 and prior to July 1, 2015 that is occupied
5 for at least forty-eight weeks of a qualifying period by an
6 eligible employee who:

7 (a) for a new high-wage economic-based
8 job created prior to January 1, 2013 is paid wages calculated
9 for the qualifying period to be at least: [~~(a)~~] 1) forty
10 thousand dollars (\$40,000) if the job is performed or based in
11 a municipality with a population of forty thousand or more
12 according to the most recent federal decennial census; and
13 [~~(b)~~] 2) twenty-eight thousand dollars (\$28,000) if the job is
14 performed or based in a municipality with a population of less
15 than forty thousand according to the most recent federal
16 decennial census or in the unincorporated area of a county; and

17 (b) for a new high-wage economic-based
18 job created on or after January 1, 2013 is paid wages
19 calculated for the qualifying period to be at least: 1)
20 sixty-five thousand dollars (\$65,000) if the job is performed
21 or based in a municipality with a population of sixty thousand
22 or more according to the most recent federal decennial census;
23 and 2) forty thousand dollars (\$40,000) if the job is performed
24 or based in a municipality with a population of less than sixty
25 thousand according to the most recent federal decennial census

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1 or in the unincorporated area of a county;

2 (6) "qualifying period" means the period of
3 twelve months beginning on the day an eligible employee begins
4 working in a new high-wage economic-based job or the period of
5 twelve months beginning on the anniversary of the day an
6 eligible employee began working in a new high-wage economic-
7 based job; and

8 (7) "wages" means [~~wages as defined in~~
9 ~~Paragraphs (1), (2) and (3) of 26 U.S.C. Section 51(c)] all
10 gross wages and other compensation, before any payroll
11 deductions, paid for services rendered by an individual,
12 including commissions, cost-of-living allowances, overtime
13 pay, hazardous-duty pay, incentive pay, on-call pay, shift
14 differentials and bonuses, but "wages" does not include
15 benefits."~~

16 SECTION 2. APPLICABILITY.--The provisions of this act
17 apply to taxable years beginning on or after January 1, 2013.

18 SECTION 3. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is July 1, 2013.

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAX ADMINISTRATION; PROVIDING FOR INDEPENDENT HEARING OFFICERS FOR PROTEST OF TAX ASSESSMENTS; CREATING THE OFFICE OF TAX PROTEST AND HEARINGS.

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

SECTION 1. OFFICE OF TAX PROTEST AND HEARINGS--DUTIES--
INDEPENDENT TAX HEARING OFFICERS.--

A. The "office of tax protest and hearings" is created. The office is attached to the taxation and revenue department for administrative purposes only in accordance with the Executive Reorganization Act. The office shall retain decision-making and policymaking autonomy separate from the taxation and revenue department.

B. The chief executive and administrative officer of the office is the "chief hearing officer". The chief

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1 hearing officer shall be appointed by the governor with the
2 consent of the senate. The chief hearing officer shall hold
3 that office at the pleasure of the governor.

4 C. The office shall:

5 (1) handle formal protests filed by a taxpayer
6 who disputes tax liabilities, refund denials, failure to grant
7 or deny refund claims or other actions taken by the taxation
8 and revenue department pursuant to the Tax Administration Act
9 or other tax statutes;

10 (2) hold all administrative hearings pursuant
11 to the Tax Administration Act and other tax statutes; and

12 (3) provide independent and impartial hearing
13 officers;

14 D. The chief hearing officer and hearing officers
15 shall:

16 (1) be active members in good standing of the
17 New Mexico state bar;

18 (2) have five years' experience as an attorney
19 in tax law; and

20 (3) complete an appropriate course of
21 instruction or training for hearing officers.

22 SECTION 2. TEMPORARY PROVISION--TRANSFER OF PERSONNEL,
23 PROPERTY AND CONTRACTS.--On July 1, 2013:

24 A. all personnel, appropriations, money, records,
25 equipment, supplies and other property of the protest office

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1 and the hearings bureau of the taxation and revenue department
2 relating to hearings and actions of the department pursuant to
3 the Tax Administration Act and other tax statutes shall be
4 transferred to the office of tax protest and hearings; and

5 B. all contracts of the protest office and the
6 hearings bureau of the taxation and revenue department relating
7 to hearings and actions of the department pursuant to the Tax
8 Administration Act and other tax statutes shall be binding and
9 effective on the office of tax protest and hearings.

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HOUSE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; LOWERING THE TAX RATE IMPOSED ON GROSS RECEIPTS; CHANGING CERTAIN GROSS RECEIPTS EXEMPTIONS TO DEDUCTIONS; PHASING OUT CERTAIN GROSS RECEIPTS CREDITS AND DEDUCTIONS RELATED TO HEALTH CARE.

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

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

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

A. Except as provided in Subsection [B] C of this section, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to each municipality in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the product of the quotient [~~of one and two~~ .190423.1

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1 ~~hundred twenty-five thousandths percent divided by the tax rate~~
2 ~~imposed by Section 7-9-4 NMSA 1978]~~ provided for in Subsection
3 B of this section multiplied by the net receipts for the month
4 attributable to the gross receipts tax from business locations:

- 5 (1) within that municipality;
- 6 (2) on land owned by the state, commonly known
7 as the "state fairgrounds", within the exterior boundaries of
8 that municipality;
- 9 (3) outside the boundaries of any municipality
10 on land owned by that municipality; and
- 11 (4) on an Indian reservation or pueblo grant
12 in an area that is contiguous to that municipality and in which
13 the municipality performs services pursuant to a contract
14 between the municipality and the Indian tribe or Indian pueblo
15 if:

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

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

24 B. The quotient required in Subsection A of this
25 section shall be:

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1 (1) one and two hundred twenty-five
2 thousandths percent divided by the tax rate imposed by Section
3 7-9-4 NMSA 1978 prior to July 1, 2015;

4 (2) one and one hundred ninety-five
5 thousandths percent divided by the tax rate imposed by Section
6 7-9-4 NMSA 1978 from July 1, 2015 through June 30, 2016;

7 (3) one and one hundred sixty-five thousandths
8 percent divided by the tax rate imposed by Section 7-9-4 NMSA
9 1978 from July 1, 2016 through June 30, 2017;

10 (4) one and one hundred thirty-five
11 thousandths percent divided by the tax rate imposed by Section
12 7-9-4 NMSA 1978 from July 1, 2017 through June 30, 2018;

13 (5) one and one hundred five thousandths
14 percent divided by the tax rate imposed by Section 7-9-4 NMSA
15 1978 from July 1, 2018 through June 30, 2019; and

16 (6) one and seventy-six thousandths percent
17 divided by the tax rate imposed by Section 7-9-4 NMSA 1978 on
18 or after July 1, 2019.

19 [~~B-~~] C. If the reduction made by Laws 1991, Chapter
20 9, Section 9 to the distribution under this section impairs the
21 ability of a municipality to meet its principal or interest
22 payment obligations for revenue bonds outstanding prior to July
23 1, 1991 that are secured by the pledge of all or part of the
24 municipality's revenue from the distribution made under this
25 section, then the amount distributed pursuant to this section

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underscored material = new
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1 to that municipality shall be increased by an amount sufficient
2 to meet any required payment, provided that the distribution
3 amount does not exceed the amount that would have been due that
4 municipality under this section as it was in effect on June 30,
5 1992.

6 [G-] D. A distribution pursuant to this section may
7 be adjusted for a distribution made to a tax increment
8 development district with respect to a portion of a gross
9 receipts tax increment dedicated by a municipality pursuant to
10 the Tax Increment for Development Act."

11 SECTION 2. Section 7-9-4 NMSA 1978 (being Laws 1966,
12 Chapter 47, Section 4, as amended) is amended to read:

13 "7-9-4. IMPOSITION AND RATE OF TAX--DENOMINATION AS
14 "GROSS RECEIPTS TAX".--

15 A. For the privilege of engaging in business, an
16 excise tax [~~equal to five and one-eighth percent of gross~~
17 ~~receipts~~] is imposed on the gross receipts of any person
18 engaging in business in New Mexico. The rate of the excise tax
19 imposed shall be equal to:

20 (1) five and one-eighth percent of gross
21 receipts received prior to July 1, 2015;

22 (2) five percent of gross receipts received
23 from July 1, 2015 through June 30, 2016;

24 (3) four and seven-eighths percent of gross
25 receipts received from July 1, 2016 through June 30, 2017;

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underscored material = new
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1 (4) four and three-fourths percent of gross
2 receipts received from July 1, 2017 through June 30, 2018;

3 (5) four and five-eighths percent of gross
4 receipts received from July 1, 2018 through June 30, 2019; and

5 (6) four and one-half percent of gross
6 receipts received on or after July 1, 2019.

7 B. The tax imposed by this section shall be
8 referred to as the "gross receipts tax".

9 SECTION 3. Section 7-9-7 NMSA 1978 (being Laws 1966,
10 Chapter 47, Section 7, as amended) is amended to read:

11 "7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS
12 "COMPENSATING TAX".--

13 A. For the privilege of using tangible property in
14 New Mexico, there is imposed on the person using the property
15 an excise tax equal to: ~~[five and one-eighth percent of the~~
16 ~~value of tangible property that was:~~

17 ~~(1) manufactured by the person using the~~
18 ~~property in the state;~~

19 ~~(2) acquired inside or outside of this state~~
20 ~~as the result of a transaction with a person located outside~~
21 ~~this state that would have been subject to the gross receipts~~
22 ~~tax had the tangible personal property been acquired from a~~
23 ~~person with nexus with New Mexico; or~~

24 ~~(3) acquired as the result of a transaction~~
25 ~~that was not initially subject to the compensating tax imposed~~

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1 ~~by Paragraph (2) of this subsection or the gross receipts tax~~
2 ~~but which transaction, because of the buyer's subsequent use of~~
3 ~~the property, should have been subject to the compensating tax~~
4 ~~imposed by Paragraph (2) of this subsection or the gross~~
5 ~~receipts tax]~~

6 (1) five and one-eighth percent of the value
7 of tangible property used prior to July 1, 2015;

8 (2) five percent of the value of tangible
9 property used from July 1, 2015 through June 30, 2016;

10 (3) four and seven-eighths percent of the
11 value of tangible property used from July 1, 2016 through June
12 30, 2017;

13 (4) four and three-fourths percent of the
14 value of tangible property used from July 1, 2017 through June
15 30, 2018;

16 (5) four and five-eighths percent of the value
17 of tangible property used from July 1, 2018 through June 30,
18 2019; and

19 (6) four and one-half percent of the value of
20 tangible property used on or after July 1, 2020.

21 B. For the purpose of Subsection A of this section,
22 value of tangible property shall be the adjusted basis of the
23 property for federal income tax purposes determined as of the
24 time of acquisition or introduction into this state or of
25 conversion to use, whichever is later. If no adjusted basis

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1 for federal income tax purposes is established for the
2 property, a reasonable value of the property shall be used.

3 C. For the privilege of using services rendered in
4 New Mexico, there is imposed on the person using such services
5 an excise tax [~~equal to five percent of the value of the~~
6 ~~services at the time they were rendered~~]. The services, to be
7 taxable under this subsection, must have been rendered as the
8 result of a transaction that was not initially subject to the
9 gross receipts tax but which transaction, because of the
10 buyer's subsequent use of the services, should have been
11 subject to the gross receipts tax. The rate of the excise tax
12 imposed by this subsection shall be equal to:

13 (1) five and one-eighth percent of the value
14 of the services, valued at the time rendered, for services
15 rendered prior to July 1, 2015;

16 (2) five percent of the value of the services,
17 valued at the time rendered, for services rendered from July 1,
18 2015 through June 30, 2016;

19 (3) four and seven-eighths percent of the
20 value of the services, valued at the time rendered, for
21 services rendered from July 1, 2016 through June 30, 2017;

22 (4) four and three-fourths percent of the
23 value of the services, valued at the time rendered, for
24 services rendered from July 1, 2017 through June 30, 2018;

25 (5) four and five-eighths percent of the value

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1 of the services, valued at the time rendered, for services
2 rendered from July 1, 2018 through June 30, 2019; and

3 (6) four and one-half percent of the value of
4 the services, valued at the time rendered, for services
5 rendered on or after July 1, 2020.

6 D. The tax imposed by this section shall be
7 referred to as the "compensating tax".

8 E. As used in this section, "tangible property"
9 means tangible property that was:

10 (1) manufactured by the person using the
11 property in the state;

12 (2) acquired inside or outside of this state
13 as the result of a transaction with a person located outside of
14 this state that would have been subject to the gross receipts
15 tax had the tangible personal property been acquired from a
16 person with nexus in New Mexico; or

17 (3) acquired as the result of a transaction
18 that was not initially subject to the compensating tax imposed
19 by Paragraph (2) of this subsection or the gross receipts tax
20 but which transaction, because of the buyer's subsequent use of
21 the property, should have been subject to the compensating tax
22 imposed by Paragraph (2) of this subsection or the gross
23 receipts tax."

24 SECTION 4. Section 7-9-16 NMSA 1978 (being Laws 1969,
25 Chapter 144, Section 9, as amended) is amended to read:

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1 "7-9-16. [~~EXEMPTION~~] DEDUCTION--GROSS RECEIPTS TAX--
2 CERTAIN NONPROFIT FACILITIES.-- [~~Exempted from the gross~~
3 ~~receipts tax are the~~] Receipts of nonprofit entities from the
4 operation of facilities designed and used for providing
5 accommodations for retired elderly persons may only be deducted
6 from gross receipts in the percentages and during the dates
7 that follow:

8 A. one hundred percent of receipts received prior
9 to July 1, 2015;

10 B. eighty percent of receipts received from July 1,
11 2015 through June 30, 2016;

12 C. sixty percent of receipts received from July 1,
13 2016 through June 30, 2017;

14 D. forty percent of receipts received from July 1,
15 2017 through June 30, 2018; and

16 E. twenty percent of receipts received from July 1,
17 2018 through June 30, 2019."

18 SECTION 5. Section 7-9-29 NMSA 1978 (being Laws 1970,
19 Chapter 12, Section 3, as amended) is amended to read:

20 "7-9-29. [~~EXEMPTION~~] DEDUCTION--GROSS RECEIPTS TAX--
21 CERTAIN ORGANIZATIONS.--

22 A. [~~Exempted from the gross receipts tax are the~~]
23 Except as otherwise provided in Subsection B of this section,
24 receipts of organizations that demonstrate to the department
25 that they have been granted exemption from the federal income

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1 tax by the United States commissioner of internal revenue as
2 organizations described in Section 501(c)(3) of the United
3 States Internal Revenue Code of [~~1954~~] 1986, as amended or
4 renumbered may be deducted from gross receipts.

5 B. [~~Exempted from the gross receipts tax are the~~]
6 Receipts of organizations that demonstrate to the department
7 that they have been granted exemption from the federal income
8 tax by the United States commissioner of internal revenue as
9 organizations described in Section 501(c)(3) of the United
10 States Internal Revenue Code of 1986, as amended or renumbered,
11 from the operation of health care facilities or providing
12 health care services may only be deducted from gross receipts
13 in the percentages and during the dates that follow:

14 (1) one hundred percent of receipts received
15 prior to July 1, 2015;

16 (2) eighty percent of receipts received from
17 July 1, 2015 through June 30, 2016;

18 (3) sixty percent of receipts received from
19 July 1, 2016 through June 30, 2017;

20 (4) forty percent of receipts received from
21 July 1, 2017 through June 30, 2018; and

22 (5) twenty percent of receipts received from
23 July 1, 2018 through June 30, 2019.

24 C. Receipts from carrying on chamber of commerce,
25 visitor bureau and convention bureau functions of organizations

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1 that demonstrate to the department that they have been granted
2 exemption from the federal income tax by the United States
3 commissioner of internal revenue as organizations described in
4 Section 501(c)(6) of the United States Internal Revenue Code of
5 [~~1954~~] 1986, as amended or renumbered, may be deducted from
6 gross receipts.

7 [~~G.~~] D. This section does not apply to receipts
8 derived from an unrelated trade or business as defined in
9 Section 513 of the United States Internal Revenue Code of
10 [~~1954~~] 1986, as amended or renumbered."

11 **SECTION 6.** Section 7-9-73 NMSA 1978 (being Laws 1970,
12 Chapter 78, Section 2, as amended) is amended to read:

13 "7-9-73. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL
14 GROSS RECEIPTS--SALE OF PROSTHETIC DEVICES.--

15 A. Receipts from selling prosthetic devices may be
16 deducted as provided for in Subsection B of this section from
17 gross receipts or from governmental gross receipts if the sale
18 is made to a person who is licensed to practice medicine,
19 osteopathic medicine, dentistry, podiatry, optometry,
20 chiropractic or professional nursing and who delivers a
21 nontaxable transaction certificate to the seller. The buyer
22 delivering the nontaxable transaction certificate must deliver
23 the prosthetic device incidental to the performance of a
24 service and must include the value of the prosthetic device in
25 [~~his~~] the charge for the service.

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1 B. The receipts described in Subsection A of this
2 section may only be deducted from gross receipts in the
3 percentages and during the dates that follow:

4 (1) one hundred percent of receipts received
5 prior to July 1, 2015;

6 (2) eighty percent of receipts received from
7 July 1, 2015 through June 30, 2016;

8 (3) sixty percent of receipts received from
9 July 1, 2016 through June 30, 2017;

10 (4) forty percent of receipts received from
11 July 1, 2017 through June 30, 2018; and

12 (5) twenty percent of receipts received from
13 July 1, 2018 through June 30, 2019."

14 SECTION 7. Section 7-9-73.1 NMSA 1978 (being Laws 1991,
15 Chapter 8, Section 3, as amended) is amended to read:

16 "7-9-73.1. DEDUCTION--GROSS RECEIPTS--HOSPITALS.--~~[Fifty~~
17 ~~percent of the]~~

18 A. Receipts of hospitals licensed by the department
19 of health may be deducted as provided for in Subsection B of
20 this section from gross receipts; provided this deduction may
21 be applied only to the taxable gross receipts remaining after
22 all other appropriate deductions have been taken.

23 B. The receipts described in Subsection A of this
24 section may only be deducted from gross receipts in the
25 percentages and during the dates that follow:

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1 (1) one hundred percent of receipts received
2 prior to July 1, 2015;

3 (2) eighty percent of receipts received from
4 July 1, 2015 through June 30, 2016;

5 (3) sixty percent of receipts received from
6 July 1, 2016 through June 30, 2017;

7 (4) forty percent of receipts received from
8 July 1, 2017 through June 30, 2018; and

9 (5) twenty percent of receipts received from
10 July 1, 2018 through June 30, 2019."

11 SECTION 8. Section 7-9-73.2 NMSA 1978 (being Laws 1998,
12 Chapter 95, Section 2 and Laws 1998, Chapter 99, Section 4, as
13 amended) is amended to read:

14 "7-9-73.2. DEDUCTION--GROSS RECEIPTS TAX AND GOVERNMENTAL
15 GROSS RECEIPTS TAX--PRESCRIPTION DRUGS--OXYGEN.--

16 A. Receipts from the sale of prescription drugs and
17 oxygen and oxygen services provided by a licensed medicare
18 durable medical equipment provider may only be deducted from
19 gross receipts and governmental gross receipts in the
20 percentages and during the dates that follow:

21 (1) one hundred percent of receipts received
22 prior to July 1, 2015;

23 (2) eighty percent of receipts received from
24 July 1, 2015 through June 30, 2016;

25 (3) sixty percent of receipts received from

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1 July 1, 2016 through June 30, 2017;

2 (4) forty percent of receipts received from
3 July 1, 2017 through June 30, 2018; and

4 (5) twenty percent of receipts received from
5 July 1, 2018 through June 30, 2019.

6 B. For the purposes of this section, "prescription
7 drugs" means insulin and substances that are:

8 (1) dispensed by or under the supervision of a
9 licensed pharmacist or by a physician or other person
10 authorized under state law to do so;

11 (2) prescribed for a specified person by a
12 person authorized under state law to prescribe the substance;
13 and

14 (3) subject to the restrictions on sale
15 contained in Subparagraph 1 of Subsection (b) of 21 USCA 353."

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

18 "7-9-77.1. DEDUCTION--GROSS RECEIPTS TAX--CERTAIN MEDICAL
19 AND HEALTH CARE SERVICES.--

20 A. Receipts from payments by the United States
21 government or any agency thereof for provision of medical and
22 other health services by medical doctors, osteopathic
23 physicians, doctors of oriental medicine, athletic trainers,
24 chiropractic physicians, counselor and therapist practitioners,
25 dentists, massage therapists, naprapaths, nurses,

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1 nutritionists, dietitians, occupational therapists,
2 optometrists, pharmacists, physical therapists, psychologists,
3 radiologic technologists, respiratory care practitioners,
4 audiologists, speech-language pathologists, social workers and
5 podiatrists or of medical, other health and palliative services
6 by hospices or nursing homes to medicare beneficiaries pursuant
7 to the provisions of Title 18 of the federal Social Security
8 Act may be deducted as provided for in Subsection F of this
9 section from gross receipts.

10 B. Receipts from payments by a third-party
11 administrator of the federal TRICARE program for provision of
12 medical and other health services by medical doctors and
13 osteopathic physicians to covered beneficiaries may be deducted
14 as provided for in Subsection F of this section from gross
15 receipts.

16 C. Receipts from payments by or on behalf of the
17 Indian health service of the United States department of health
18 and human services for provision of medical and other health
19 services by medical doctors and osteopathic physicians to
20 covered beneficiaries may be deducted as provided for in
21 Subsection F of this section from gross receipts.

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

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1 may be deducted as provided for in Subsection F of this section
2 from gross receipts.

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

9 F. The receipts described in this section may only
10 be deducted from gross receipts in the percentages and during
11 the dates that follow:

12 (1) one hundred percent of receipts received
13 prior to July 1, 2015;

14 (2) eighty percent of receipts received from
15 July 1, 2015 to June 30, 2016;

16 (3) sixty percent of receipts received from
17 July 1, 2016 through June 30, 2017;

18 (4) forty percent of receipts received from
19 July 1, 2017 through June 30, 2018; and

20 (5) twenty percent of receipts received from
21 July 1, 2018 through June 30, 2019.

22 [~~F.~~] G. For the purposes of this section:

23 (1) "athletic trainer" means a person licensed
24 as an athletic trainer pursuant to the provisions of Chapter
25 61, Article 14D NMSA 1978;

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1 (2) "chiropractic physician" means a person
2 who practices chiropractic as defined in the Chiropractic
3 Physician Practice Act;

4 (3) "clinical laboratory" means a laboratory
5 accredited pursuant to 42 USCA 263a;

6 (4) "counselor and therapist practitioner"
7 means a person licensed to practice as a counselor or therapist
8 pursuant to the provisions of Chapter 61, Article 9A NMSA 1978;

9 (5) "dentist" means a person licensed to
10 practice as a dentist pursuant to the provisions of Chapter 61,
11 Article 5A NMSA 1978;

12 (6) "doctor of oriental medicine" means a
13 person licensed as a physician to practice acupuncture or
14 oriental medicine pursuant to the provisions of Chapter 61,
15 Article 14A NMSA 1978;

16 (7) "home health agency" means a for-profit
17 entity that is licensed by the department of health and
18 certified by the federal centers for medicare and medicaid
19 services as a home health agency and certified to provide
20 medicare services;

21 (8) "hospice" means a for-profit entity
22 licensed by the department of health as a hospice and certified
23 to provide medicare services;

24 (9) "massage therapist" means a person
25 licensed to practice massage therapy pursuant to the provisions

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1 of Chapter 61, Article 12C NMSA 1978;

2 (10) "medical doctor" means a person licensed
3 as a physician to practice medicine pursuant to the provisions
4 of the Medical Practice Act;

5 (11) "naprapath" means a person licensed as a
6 naprapath pursuant to the provisions of Chapter 61, Article
7 [~~12E~~] 12F NMSA 1978;

8 (12) "nurse" means a person licensed as a
9 registered nurse pursuant to the provisions of Chapter 61,
10 Article 3 NMSA 1978;

11 (13) "nursing home" means a for-profit entity
12 licensed by the department of health as a nursing home and
13 certified to provide medicare services;

14 (14) "nutritionist" or "dietitian" means a
15 person licensed as a nutritionist or dietitian pursuant to the
16 provisions of Chapter 61, Article 7A NMSA 1978;

17 (15) "occupational therapist" means a person
18 licensed as an occupational therapist pursuant to the
19 provisions of Chapter 61, Article 12A NMSA 1978;

20 (16) "osteopathic physician" means a person
21 licensed as an osteopathic physician pursuant to the provisions
22 of Chapter 61, Article 10 NMSA 1978;

23 (17) "optometrist" means a person licensed to
24 practice optometry pursuant to the provisions of Chapter 61,
25 Article 2 NMSA 1978;

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1 (18) "pharmacist" means a person licensed as a
2 pharmacist pursuant to the provisions of Chapter 61, Article 11
3 NMSA 1978;

4 (19) "physical therapist" means a person
5 licensed as a physical therapist pursuant to the provisions of
6 Chapter 61, Article 12D NMSA 1978;

7 (20) "podiatrist" means a person licensed as a
8 podiatrist pursuant to the provisions of the Podiatry Act;

9 (21) "psychologist" means a person licensed as
10 a psychologist pursuant to the provisions of Chapter 61,
11 Article 9 NMSA 1978;

12 (22) "radiologic technologist" means a person
13 licensed as a radiologic technologist pursuant to the
14 provisions of Chapter 61, Article 14E NMSA 1978;

15 (23) "respiratory care practitioner" means a
16 person licensed as a respiratory care practitioner pursuant to
17 the provisions of Chapter 61, Article 12B NMSA 1978;

18 (24) "social worker" means a person licensed
19 as an independent social worker pursuant to the provisions of
20 Chapter 61, Article 31 NMSA 1978;

21 (25) "speech-language pathologist" means a
22 person licensed as a speech-language pathologist pursuant to
23 the provisions of Chapter 61, Article 14B NMSA 1978; and

24 (26) "TRICARE program" means the program
25 defined in 10 U.S.C. 1072(7)."

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

3 "7-9-93. DEDUCTION--GROSS RECEIPTS--CERTAIN RECEIPTS FOR
4 SERVICES PROVIDED BY HEALTH CARE PRACTITIONER.--

5 A. Receipts from payments by a managed health care
6 provider or health care insurer for commercial contract
7 services or medicare part C services provided by a health care
8 practitioner that are not otherwise deductible pursuant to
9 another provision of the Gross Receipts and Compensating Tax
10 Act may be deducted as provided for in Subsection B of this
11 section from gross receipts, provided that the services are
12 within the scope of practice of the person providing the
13 service. Receipts from fee-for-service payments by a health
14 care insurer may not be deducted from gross receipts. The
15 deduction provided by this section shall be separately stated
16 by the taxpayer.

17 B. The receipts described in Subsection A of this
18 section may only be deducted from gross receipts in the
19 percentages and during the dates that follow:

20 (1) one hundred percent of receipts received
21 prior to July 1, 2015;

22 (2) eighty percent of receipts received from
23 July 1, 2015 through June 30, 2016;

24 (3) sixty percent of receipts received from
25 July 1, 2016 through June 30, 2017;

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1 (4) forty percent of receipts received from
2 July 1, 2017 through June 30, 2018; and

3 (5) twenty percent of receipts received from
4 July 1, 2018 through June 30, 2019.

5 [~~B-~~] C. For the purposes of this section:

6 (1) "commercial contract services" means
7 health care services performed by a health care practitioner
8 pursuant to a contract with a managed health care provider or
9 health care insurer other than those health care services
10 provided for medicare patients pursuant to Title 18 of the
11 federal Social Security Act or for medicaid patients pursuant
12 to Title 19 or Title 21 of the federal Social Security Act;

13 (2) "health care insurer" means a person that:

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

18 (b) contracts to reimburse licensed
19 health care practitioners for providing basic health services
20 to enrollees at negotiated fee rates;

21 (3) "health care practitioner" means:

22 (a) a chiropractic physician licensed
23 pursuant to the provisions of the Chiropractic Physician
24 Practice Act;

25 (b) a dentist or dental hygienist

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1 licensed pursuant to the Dental Health Care Act;

2 (c) a doctor of oriental medicine
3 licensed pursuant to the provisions of the Acupuncture and
4 Oriental Medicine Practice Act;

5 (d) an optometrist licensed pursuant to
6 the provisions of the Optometry Act;

7 (e) an osteopathic physician licensed
8 pursuant to the provisions of Chapter 61, Article 10 NMSA 1978
9 or an osteopathic physician's assistant licensed pursuant to
10 the provisions of the Osteopathic Physicians' Assistants Act;

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

13 (g) a physician or physician assistant
14 licensed pursuant to the provisions of Chapter 61, Article 6
15 NMSA 1978;

16 (h) a podiatrist licensed pursuant to
17 the provisions of the Podiatry Act;

18 (i) a psychologist licensed pursuant to
19 the provisions of the Professional Psychologist Act;

20 (j) a registered lay midwife registered
21 by the department of health;

22 (k) a registered nurse or licensed
23 practical nurse licensed pursuant to the provisions of the
24 Nursing Practice Act;

25 (l) a registered occupational therapist

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1 licensed pursuant to the provisions of the Occupational Therapy
2 Act;

3 (m) a respiratory care practitioner
4 licensed pursuant to the provisions of the Respiratory Care
5 Act;

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

9 (o) a professional clinical mental
10 health counselor, marriage and family therapist or professional
11 art therapist licensed pursuant to the provisions of the
12 Counseling and Therapy Practice Act who has obtained a master's
13 degree or a doctorate;

14 (p) an independent social worker
15 licensed pursuant to the provisions of the Social Work Practice
16 Act; and

17 (q) a clinical laboratory that is
18 accredited pursuant to 42 U.S.C. Section 263a but that is not a
19 laboratory in a physician's office or in a hospital defined
20 pursuant to 42 U.S.C. Section 1395x;

21 (4) "managed health care provider" means a
22 person that provides for the delivery of comprehensive basic
23 health care services and medically necessary services to
24 individuals enrolled in a plan through its own employed health
25 care providers or by contracting with selected or participating

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1 health care providers. "Managed health care provider" includes
2 only those persons that provide comprehensive basic health care
3 services to enrollees on a contract basis, including the
4 following:

- 5 (a) health maintenance organizations;
- 6 (b) preferred provider organizations;
- 7 (c) individual practice associations;
- 8 (d) competitive medical plans;
- 9 (e) exclusive provider organizations;
- 10 (f) integrated delivery systems;
- 11 (g) independent physician-provider
12 organizations;
- 13 (h) physician hospital-provider
14 organizations; and
- 15 (i) managed care services organizations;

16 and

17 (5) "medicare part C services" means services
18 performed pursuant to a contract with a managed health care
19 provider for medicare patients pursuant to Title 18 of the
20 federal Social Security Act."

21 SECTION 11. Section 7-9-96.1 NMSA 1978 (being Laws 2007,
22 Chapter 361, Section 7) is amended to read:

23 "7-9-96.1. CREDIT--GROSS RECEIPTS TAX--RECEIPTS OF
24 CERTAIN HOSPITALS.--

25 A. A hospital licensed by the department of health

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1 may claim a credit for each reporting period against the gross
2 receipts tax due for that reporting period as follows:

3 (1) for a hospital located in a municipality:

4 (a) on or after July 1, 2007 but before
5 July 1, 2008, in an amount equal to seven hundred fifty-five
6 thousandths percent of the hospital's taxable gross receipts
7 for that reporting period after all applicable deductions have
8 been taken;

9 (b) on or after July 1, 2008 but before
10 July 1, 2009, in an amount equal to one and fifty-one
11 hundredths percent of the hospital's taxable gross receipts for
12 that reporting period after all applicable deductions have been
13 taken;

14 (c) on or after July 1, 2009 but before
15 July 1, 2010, in an amount equal to two and two hundred sixty-
16 five thousandths percent of the hospital's taxable gross
17 receipts for that reporting period after all applicable
18 deductions have been taken;

19 (d) on or after July 1, 2010 but before
20 July 1, 2011, in an amount equal to three and two hundredths
21 percent of the hospital's taxable gross receipts for that
22 reporting period after all applicable deductions have been
23 taken; ~~and~~

24 (e) on or after July 1, 2011, but before
25 July 1, 2015 in an amount equal to three and seven hundred

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1 seventy-five thousandths percent of the hospital's taxable
2 gross receipts for that reporting period after all applicable
3 deductions have been taken;

4 (f) on or after July 1, 2015 but before
5 July 1, 2016, in an amount equal to three and two hundredths
6 percent of the hospital's taxable gross receipts for that
7 reporting period after all applicable deductions have been
8 taken;

9 (g) on or after July 1, 2016 but before
10 July 1, 2017, in an amount equal to two and two hundred sixty-
11 five thousandths percent of the hospital's taxable gross
12 receipts for that reporting period after all applicable
13 deductions have been taken;

14 (h) on or after July 1, 2017 but before
15 July 1, 2018, in an amount equal to one and fifty-one
16 hundredths percent of the hospital's taxable gross receipts for
17 that reporting period after all applicable deductions have been
18 taken; and

19 (i) on or after July 1, 2018 but before
20 July 1, 2019, in an amount equal to seven hundred fifty-five
21 thousandths percent of the hospital's taxable gross receipts
22 for that reporting period after all applicable deductions have
23 been taken; and

24 (2) for a hospital located in the
25 unincorporated area of a county:

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1 (a) on or after July 1, 2007 but before
2 July 1, 2008, in an amount equal to one percent of the
3 hospital's taxable gross receipts for that reporting period
4 after all applicable deductions have been taken;

5 (b) on or after July 1, 2008, but before
6 July 1, 2009, in an amount equal to two percent of the
7 hospital's taxable gross receipts for that reporting period
8 after all applicable deductions have been taken;

9 (c) on or after July 1, 2009 but before
10 July 1, 2010, in an amount equal to three percent of the
11 hospital's taxable gross receipts for that reporting period
12 after all applicable deductions have been taken;

13 (d) on or after July 1, 2010 but before
14 July 1, 2011, in an amount equal to four percent of the
15 hospital's taxable gross receipts for that reporting period
16 after all applicable deductions have been taken; ~~and~~

17 (e) on or after July 1, 2011 but before
18 July 1, 2015, in an amount equal to five percent of the
19 hospital's taxable gross receipts for that reporting period
20 after all applicable deductions have been taken;

21 (f) on or after July 1, 2015 but before
22 July 1, 2016, in an amount equal to four percent of the
23 hospital's taxable gross receipts for that reporting period
24 after all applicable deductions have been taken;

25 (g) on or after July 1, 2016 but before

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1 July 1, 2017, in an amount equal to three percent of the
2 hospital's taxable gross receipts for that reporting period
3 after all applicable deductions have been taken;

4 (h) on or after July 1, 2017 but before
5 July 1, 2018, in an amount equal to two percent of the
6 hospital's taxable gross receipts for that reporting period
7 after all applicable deductions have been taken; and

8 (i) on or after July 1, 2018 but before
9 July 1, 2019, in an amount equal to one percent of the
10 hospital's taxable gross receipts for that reporting period
11 after all applicable deductions have been taken.

12 B. A hospital shall not claim the credit provided
13 for in this section on or after July 1, 2019.

14 ~~[B-]~~ C. For the purposes of this section,
15 "hospital" means a facility providing emergency or urgent care,
16 inpatient medical care and nursing care for acute illness,
17 injury, surgery or obstetrics and includes a facility licensed
18 by the department of health as a critical access hospital,
19 general hospital, long-term acute care hospital, psychiatric
20 hospital, rehabilitation hospital, limited services hospital
21 and special hospital."

22 SECTION 12. Section 7-9-96.2 NMSA 1978 (being Laws 2007,
23 Chapter 361, Section 8) is amended to read:

24 "7-9-96.2. CREDIT--GROSS RECEIPTS TAX--UNPAID CHARGES FOR
25 SERVICES PROVIDED IN A HOSPITAL.--

.190423.1

underscored material = new
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1 A. A licensed medical doctor or licensed osteopathic
2 physician may claim a credit against gross receipts taxes due
3 in the following amounts:

4 (1) from July 1, 2007 through June 30, 2008,
5 thirty-three percent of the value of unpaid qualified health
6 care services;

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

10 (3) ~~[on and after]~~ from July 1, 2009 through
11 June 30, 2015, one hundred percent of the value of unpaid
12 qualified health care services;

13 (4) from July 1, 2015 through June 30, 2016,
14 eighty percent of the value of unpaid qualified health care
15 services;

16 (5) from July 1, 2016 through June 30, 2017,
17 sixty percent of the value of unpaid qualified health care
18 services;

19 (6) from July 1, 2017 through June 30, 2018,
20 forty percent of the value of unpaid qualified health care
21 services; and

22 (7) from July 1, 2018 through June 30, 2019,
23 twenty percent of the value of unpaid qualified health care
24 services.

25 B. A taxpayer shall not claim the credit provided

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1 for in this section on or after July 1, 2019.

2 ~~[B-]~~ C. As used in this section:

3 (1) "qualified health care services" means
4 medical care services provided by a licensed medical doctor or
5 licensed osteopathic physician while on call to a hospital; and

6 (2) "value of unpaid qualified health care
7 services" means the amount that is charged for qualified health
8 care services, not to exceed one hundred thirty percent of the
9 reimbursement rate for the services under the medicaid program
10 administered by the human services department, that remains
11 unpaid one year after the date of billing and that the licensed
12 medical doctor or licensed osteopathic physician has reason to
13 believe will not be paid because:

14 (a) at the time the services were
15 provided, the person receiving the services had no health
16 insurance or had health insurance that did not cover the
17 services provided;

18 (b) at the time the services were
19 provided, the person receiving the services was not eligible
20 for medicaid; and

21 (c) the charges are not reimbursable
22 under a program established pursuant to the Indigent Hospital
23 and County Health Care Act."

24 SECTION 13. Section 7-9-99 NMSA 1978 (being Laws 2006,
25 Chapter 35, Section 1) is amended to read:

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underscored material = new
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1 "7-9-99. DEDUCTION--GROSS RECEIPTS TAX--SALE OF
2 ENGINEERING, ARCHITECTURAL AND NEW FACILITY CONSTRUCTION
3 SERVICES USED IN CONSTRUCTION OF CERTAIN PUBLIC HEALTH CARE
4 FACILITIES.--

5 A. Receipts from selling an engineering,
6 architectural or construction service used in the new facility
7 construction of a sole community provider hospital that is
8 located in a federally designated health professional shortage
9 area may be deducted as provided for in Subsection B of this
10 section from gross receipts if the sale of the engineering,
11 architectural or construction service is made to a foundation
12 or a nonprofit organization that:

13 [~~A-~~] (1) has entered into a written agreement
14 with a county to pay at least ninety-five percent of the costs
15 of new facility construction of that sole community provider
16 hospital; and

17 [~~B-~~] (2) delivers to the seller of the
18 engineering, architectural or construction service either an
19 appropriate nontaxable transaction certificate or other
20 evidence acceptable to the secretary of a written agreement
21 made in accordance with [~~Subsection A of this section~~]
22 Paragraph (1) of the subsection.

23 B. The receipts described in Subsection A of this
24 section may only be deducted from gross receipts in the
25 percentages and during the dates that follow:

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- 1 (1) one hundred percent of receipts received
- 2 prior to July 1, 2015;
- 3 (2) eighty percent of receipts received from
- 4 July 1, 2015 through June 30, 2016;
- 5 (3) sixty percent of receipts received from
- 6 July 1, 2016 through June 30, 2017;
- 7 (4) forty percent of receipts received from
- 8 July 1, 2017 through June 30, 2018; and
- 9 (5) twenty percent of receipts received from
- 10 July 1, 2018 through June 30, 2019."

11 SECTION 14. Section 7-9-100 NMSA 1978 (being Laws 2006,
12 Chapter 35, Section 2) is amended to read:

13 "7-9-100. DEDUCTION--GROSS RECEIPTS TAX--SALE OF
14 CONSTRUCTION EQUIPMENT AND CONSTRUCTION MATERIALS USED IN NEW
15 FACILITY CONSTRUCTION OF A SOLE COMMUNITY PROVIDER HOSPITAL
16 THAT IS LOCATED IN A FEDERALLY DESIGNATED HEALTH PROFESSIONAL
17 SHORTAGE AREA.--

18 A. Receipts from selling construction equipment or
19 construction materials used in the new facility construction of
20 a sole community provider hospital that is located in a
21 federally designated health professional shortage area may be
22 deducted as provided for in Subsection B of this section from
23 gross receipts if the sale of the construction equipment or
24 construction materials is made to a foundation or a nonprofit
25 organization that:

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1 ~~[A.]~~ (1) has entered into a written agreement
2 with a county to pay at least ninety-five percent of the costs
3 of new facility construction of that sole community provider
4 hospital; and

5 ~~[B.]~~ (2) delivers to the seller either an
6 appropriate nontaxable transaction certificate or other
7 evidence acceptable to the secretary of a written agreement
8 made in accordance with ~~[Subsection A of this section]~~
9 Paragraph (1) of this subsection.

10 B. The receipts described in Subsection A of this
11 section may only be deducted from gross receipts in the
12 percentages and during the dates that follow:

13 (1) one hundred percent of receipts received
14 prior to July 1, 2015;

15 (2) eighty percent of receipts received from
16 July 1, 2015 through June 30, 2016;

17 (3) sixty percent of receipts received from
18 July 1, 2016 through June 30, 2017;

19 (4) forty percent of receipts received from
20 July 1, 2017 through June 30, 2018; and

21 (5) twenty percent of receipts received from
22 July 1, 2018 through June 30, 2019."

23 SECTION 15. APPLICABILITY.--The provisions of this act
24 apply to gross receipts received on or after July 1, 2013.

25 SECTION 16. EFFECTIVE DATE.--The effective date of the

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1 provisions of this act is July 1, 2013.

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

FOR THE SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE

AN ACT

RELATING TO TAXATION; ENACTING NEW SECTIONS OF THE INCOME TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT; CREATING THE STATE GRADUATE EMPLOYMENT TAX CREDIT.

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

SECTION 1. A new section of the Income Tax Act is enacted to read:

"[NEW MATERIAL] STATE GRADUATE EMPLOYMENT TAX CREDIT.--

A. A taxpayer who files an individual New Mexico income tax return, who is not a dependent of another individual and who is the owner of a New Mexico sole proprietorship, partnership or limited liability company may claim a credit in an amount equal to five thousand dollars (\$5,000) of the gross wages paid to each qualified state graduate who is employed full time in New Mexico by the taxpayer for at least seven

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1 months during the first taxable year for which the return is
2 filed and for twelve months during the second taxable year for
3 which the return is filed. A taxpayer shall not be eligible
4 for a credit provided in this section if the qualified state
5 graduate upon which the credit is predicated is replacing or
6 performing the job or functional equivalent of a previous
7 qualified state graduate who is no longer employed by the
8 taxpayer. The tax credit provided by this section may be
9 referred to as the "state graduate employment tax credit".

10 B. The purpose of the state graduate employment tax
11 credit is to encourage the full-time employment of qualified
12 state graduates within eighteen months of graduation from one
13 of the state educational institutions enumerated in Article 12,
14 Section 11 of the constitution of New Mexico.

15 C. A taxpayer who is the owner of a New Mexico sole
16 proprietorship, partnership or limited liability company may
17 claim the state graduate employment tax credit provided in this
18 section for each taxable year in which the taxpayer employs one
19 or more qualified state graduates; provided that the taxpayer
20 may not claim the state graduate employment tax credit for any
21 individual qualified state graduate for more than two taxable
22 years or if the qualified state graduate upon whom the credit
23 is predicated is replacing or performing the job or functional
24 equivalent of a previous qualified state graduate who is no
25 longer employed by the taxpayer. A taxpayer shall apply for

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1 approval for a credit within one year following the end of the
2 calendar year in which the taxpayer employs the qualified state
3 graduate upon whom the credit is predicated.

4 D. That portion of a state graduate employment tax
5 credit approved by the department that exceeds a taxpayer's
6 income tax liability in the taxable year in which the state
7 graduate employment tax credit is claimed shall not be refunded
8 to the taxpayer. The state graduate employment tax credit
9 shall not be carried forward or transferred to another
10 taxpayer.

11 E. A husband and wife filing separate returns for a
12 taxable year for which they could have filed a joint return may
13 each claim only one-half of the state graduate employment tax
14 credit that would have been claimed on a joint return.

15 F. A taxpayer who otherwise qualifies and claims a
16 state graduate employment tax credit in New Mexico that may be
17 claimed by a partnership or limited liability company of which
18 the taxpayer is a member may claim a credit only in proportion
19 to the taxpayer's interest in the partnership or limited
20 liability company. The total credit claimed by all members of
21 the partnership or limited liability company shall not exceed
22 the allowable credit pursuant to Subsection A of this section.

23 G. The taxpayer shall submit to the higher
24 education department with respect to each employee for whom the
25 state graduate employment tax credit is claimed:

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1 (1) information required by the secretary of
2 higher education with respect to the employee's employment by
3 the taxpayer during the taxable year for which the state
4 graduate employment tax credit is claimed; and

5 (2) information required by the secretary of
6 higher education establishing that the employee is a qualified
7 state graduate and was not also employed in the same taxable
8 year by another taxpayer claiming a state graduate employment
9 tax credit for that employee pursuant to this section or the
10 Corporate Income and Franchise Tax Act.

11 H. The higher education department, with the
12 cooperation of the taxation and revenue department, shall adopt
13 rules establishing procedures to certify qualified state
14 graduates for purposes of obtaining a state graduate employment
15 tax credit. The rules shall ensure that not more than one
16 state graduate employment tax credit per qualified state
17 graduate shall be allowed in a taxable year and that the
18 credits allowed per qualified state graduate are limited to a
19 maximum of two years. The higher education department shall
20 issue a dated certificate of eligibility containing a list of
21 the qualified state graduates employed by the taxpayer claiming
22 the state graduate employment tax credit, including identifying
23 information such as the social security number of the employee,
24 the date of graduation and the name of the state educational
25 institution from which the employee graduated, the date of

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1 employment of the employee by the taxpayer and the number of
2 hours worked per week by the employee. All certificates of
3 eligibility issued pursuant to this subsection shall be
4 sequentially numbered, and an account of all certificates
5 issued or destroyed shall be maintained by the higher education
6 department. The taxation and revenue department shall audit
7 the records of the state graduate employment tax credit
8 maintained by the higher education department on a periodic
9 basis to ensure effective administration of the state graduate
10 employment tax credit and compliance with the Tax
11 Administration Act and this section.

12 I. To claim a state graduate employment tax credit,
13 the taxpayer shall provide to the taxation and revenue
14 department the certificate of eligibility issued by the higher
15 education department pursuant to this section to the taxpayer
16 for the taxable year for which the state graduate employment
17 tax credit is claimed.

18 J. A taxpayer who claims and is granted approval
19 for the state graduate employment tax credit shall not apply
20 for or be granted approval for the rural job tax credit, the
21 high-wage jobs tax credit or the additional credit pursuant to
22 the Technology Jobs Tax Credit Act based on the same job upon
23 which the state graduate employment tax credit is predicated.

24 K. The department may allow a maximum annual
25 aggregate of two million dollars (\$2,000,000) in state graduate

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~~[bracketed material] = delete~~

1 employment tax credits provided by this section and the
2 Corporate Income and Franchise Tax Act. Applications for the
3 state graduate employment tax credit shall be considered in the
4 order received by the department. A taxpayer who submits a
5 claim for a state graduate employment tax credit and who is
6 unable to receive the tax credit because the claims exceed the
7 annual aggregate limitation in this subsection shall be placed
8 for the subsequent year ahead of the other state graduate
9 employment tax credit claimants submitting claims in the
10 subsequent year in the order of the date on which the
11 department received the application.

12 L. The taxation and revenue department shall
13 compile an annual report that includes the number of taxpayers
14 approved by the department to receive a state graduate
15 employment tax credit. Notwithstanding any other section of
16 law to the contrary, the taxation and revenue department and
17 the higher education department may disclose the number of
18 applicants for the state graduate employment tax credit, the
19 amount of each credit approved, the number of qualified state
20 graduates hired, the length of time that the qualified state
21 graduate is employed while the taxpayer received the state
22 graduate employment tax credit and any other information
23 required by the legislature or the taxation and revenue
24 department to aid in evaluating the effectiveness of the state
25 graduate employment tax credit.

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1 M. An appropriate legislative committee shall
2 review the effectiveness of the state graduate employment tax
3 credit every four years beginning in 2017.

4 N. As used in this section:

5 (1) "benefits" means any employee benefit plan
6 as defined in Title 1, Section 3 of the federal Employee
7 Retirement Income Security Act of 1974, 29 U.S.C. 1002; and

8 (2) "qualified state graduate" means an
9 individual who:

10 (a) is a New Mexico resident;

11 (b) files an individual New Mexico
12 income tax return;

13 (c) is hired prior to June 1, 2018 and
14 within eighteen months of graduation from one of the state
15 educational institutions of higher learning enumerated in
16 Article 12, Section 11 of the constitution of New Mexico;

17 (d) completed a post-baccalaureate
18 graduate master's or professional degree within three years or,
19 if part-time, within the credit equivalent, or a doctoral
20 degree within six years or, if part-time, within the credit
21 equivalent, in the discipline of physical or life sciences,
22 technology, engineering, mathematics or a health-related field;
23 and

24 (e) receives benefits and works at least
25 forty hours per week for at least seven months during the first

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1 taxable year and for twelve months during the second taxable
2 year for which the state graduate employment tax credit is
3 claimed."

4 SECTION 2. A new section of the Corporate Income and
5 Franchise Tax Act is enacted to read:

6 "[NEW MATERIAL] STATE GRADUATE EMPLOYMENT TAX CREDIT.--

7 A. A taxpayer that is a New Mexico corporation and
8 that files a corporate income tax return may claim a credit in
9 an amount equal to five thousand dollars (\$5,000) of the gross
10 wages paid to each qualified state graduate who is employed
11 full time in New Mexico by the taxpayer for at least seven
12 months during the first taxable year for which the return is
13 filed and for twelve months during the second taxable year for
14 which the return is filed. A taxpayer shall not be eligible
15 for a credit provided in this section if the qualified state
16 graduate upon which the credit is predicated is replacing or
17 performing the job or functional equivalent of a previous
18 qualified state graduate who is no longer employed by the
19 taxpayer. The tax credit provided by this section may be
20 referred to as the "state graduate employment tax credit".

21 B. The purpose of the state graduate employment tax
22 credit is to encourage the full-time employment of qualified
23 state graduates within eighteen months of graduation from one
24 of the state educational institutions enumerated in Article 12,
25 Section 11 of the constitution of New Mexico.

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1 C. A taxpayer may claim the state graduate
2 employment tax credit provided in this section for each taxable
3 year in which the taxpayer employs one or more qualified state
4 graduates; provided that the taxpayer may not claim the state
5 graduate employment tax credit for any individual qualified
6 state graduate for more than two calendar years from the date
7 of hire or if the qualified state graduate upon whom the credit
8 is predicated is replacing or performing the job or functional
9 equivalent of a previous qualified state graduate who is no
10 longer employed by the taxpayer. A taxpayer shall apply for
11 approval for a credit within one year following the end of the
12 calendar year in which the taxpayer employs the qualified state
13 graduate upon whom the credit is predicated.

14 D. That portion of a state graduate employment tax
15 credit approved by the department that exceeds a taxpayer's
16 corporate income tax liability in the taxable year in which the
17 credit is claimed shall not be refunded to the taxpayer. The
18 state graduate employment tax credit shall not be carried
19 forward or transferred to another taxpayer.

20 E. The taxpayer shall submit to the higher
21 education department with respect to each employee for whom the
22 state graduate employment tax credit is claimed:

23 (1) information required by the secretary of
24 higher education with respect to the employee's employment by
25 the taxpayer during the taxable year for which the state

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

1 graduate employment tax credit is claimed; and

2 (2) information required by the secretary of
3 higher education establishing that the employee is a qualified
4 state graduate and was not also employed in the same taxable
5 year by another taxpayer claiming a state graduate employment
6 tax credit for that employee pursuant to this section or the
7 Income Tax Act.

8 F. The higher education department, with the
9 cooperation of the taxation and revenue department, shall adopt
10 rules establishing procedures to certify qualified state
11 graduates for purposes of obtaining a state graduate employment
12 tax credit. The rules shall ensure that not more than one
13 state graduate employment tax credit per qualified state
14 graduate shall be allowed in a taxable year and that the
15 credits allowed per qualified state graduate are limited to a
16 maximum of two years. The higher education department shall
17 issue a dated certificate of eligibility containing a list of
18 the qualified state graduates employed by the taxpayer claiming
19 the state graduate employment tax credit, including identifying
20 information such as the social security number of the employee,
21 the date of graduation and the name of the state educational
22 institution from which the employee graduated, the date of
23 employment of the employee by the taxpayer and the number of
24 hours worked per week by the employee. All certificates of
25 eligibility issued pursuant to this subsection shall be

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underscored material = new
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1 sequentially numbered, and an account of all certificates
2 issued or destroyed shall be maintained by the higher education
3 department. The taxation and revenue department shall audit
4 the records of the state graduate employment tax credit
5 maintained by the higher education department on a periodic
6 basis to ensure effective administration of the state graduate
7 employment tax credit and compliance with the Tax
8 Administration Act and this section.

9 G. To claim a state graduate employment tax credit,
10 the taxpayer shall provide to the taxation and revenue
11 department the certificate of eligibility issued by the higher
12 education department pursuant to this section to the taxpayer
13 for the taxable year for which the state graduate employment
14 tax credit is claimed.

15 H. A taxpayer that claims and is granted approval
16 for the state graduate employment tax credit shall not apply
17 for or be granted approval for the rural job tax credit, the
18 high-wage jobs tax credit or the additional credit pursuant to
19 the Technology Jobs Tax Credit Act based on the same job upon
20 which the state graduate employment tax credit is predicated.

21 I. The department may allow a maximum annual
22 aggregate of two million dollars (\$2,000,000) in state graduate
23 employment tax credits provided by this section and the Income
24 Tax Act. Applications for the state graduate employment tax
25 credit shall be considered in the order received by the

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underscoring material = new
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1 department. A taxpayer that submits a claim for a state
2 graduate employment tax credit and that is unable to receive
3 the tax credit because the claims exceed the annual aggregate
4 limitation in this subsection shall be placed for the
5 subsequent year ahead of state graduate employment tax credit
6 claimants submitting claims in the subsequent year in the order
7 of the date on which the department received the application.

8 J. The taxation and revenue department shall
9 compile an annual report that includes the number of taxpayers
10 approved by the department to receive a state graduate
11 employment tax credit. Notwithstanding any other section of
12 law to the contrary, the taxation and revenue department and
13 the higher education department may disclose the number of
14 applicants for the state graduate employment tax credit, the
15 amount of each credit approved, the number of qualified state
16 graduates hired, the length of time that the qualified state
17 graduate is employed while the taxpayer received the tax credit
18 and any other information required by the legislature or the
19 taxation and revenue department to aid in evaluating the
20 effectiveness of the state graduate employment tax credit.

21 K. An appropriate legislative committee shall
22 review the effectiveness of the state graduate employment tax
23 credit every four years beginning in 2017.

24 L. As used in this section:

25 (1) "benefits" means any employee benefit plan

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underscoring material = new
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1 as defined in Title 1, Section 3 of the federal Employee
2 Retirement Income Security Act of 1974, 29 U.S.C. 1002; and

3 (2) "qualified state graduate" means an
4 individual who:

5 (a) is a New Mexico resident;

6 (b) files an individual New Mexico
7 income tax return;

8 (c) is hired prior to June 1, 2018 and
9 within eighteen months of graduation from one of the state
10 educational institutions of higher learning enumerated in
11 Article 12, Section 11 of the constitution of New Mexico;

12 (d) completed a post-baccalaureate
13 graduate master's or professional degree within three years or,
14 if part-time, within the credit equivalent, or a doctoral
15 degree within six years or, if part-time, within the credit
16 equivalent, in the discipline of physical or life sciences,
17 technology, engineering, mathematics or a health-related field;
18 and

19 (e) receives benefits and works at least
20 forty hours per week for at least seven months during the first
21 taxable year and twelve months during the second taxable year
22 for which the state graduate employment tax credit is claimed."

23 **SECTION 3. APPLICABILITY.**--The provisions of this act
24 apply to taxable years beginning on or after January 1, 2013.

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

FOR THE SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE

AN ACT

RELATING TO TAXATION; PROVIDING FOR A DEDUCTION OF GROSS RECEIPTS OF SALES TO A PERSON ENGAGED IN TECHNOLOGY TRANSFER.

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

SECTION 1. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"~~[NEW MATERIAL]~~ DEDUCTION--GROSS RECEIPTS TAX--SALES TO PERSONS ENGAGED IN TECHNOLOGY TRANSFERS.--

A. Receipts from selling tangible personal property that is used in converting scientific and technological advances into marketable goods or services may be deducted from gross receipts if the sale is made to a person who is engaged in the business of transferring technology during the first three years of operations and who delivers a nontaxable transaction certificate to the seller. The buyer delivering

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1 the nontaxable transaction certificate must use the tangible
2 personal property to begin operations to develop or create or
3 in the development or creation of a product.

4 B. The purpose of the deduction provided in this
5 section is to encourage businesses in the technology
6 commercialization industry to locate and expand in New Mexico.

7 C. The department shall annually report to the
8 revenue stabilization and tax policy committee the aggregate
9 amount of deductions taken pursuant to this section, the number
10 of taxpayers claiming the deduction and any other information
11 that is necessary to determine that the deduction is performing
12 the purpose for which it was enacted.

13 D. A taxpayer deducting gross receipts pursuant to
14 this section shall report the amount deducted separately for
15 each deduction provided in this section and shall attribute the
16 amount of the deduction to the appropriate authorization
17 provided in this section in a manner required by the department
18 that facilitates the evaluation by the legislature of the
19 benefit to the state of these deductions."

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

FOR THE SCIENCE, TECHNOLOGY AND TELECOMMUNICATIONS COMMITTEE

AN ACT

RELATING TO TAXATION; PROVIDING FOR A CREDIT OF GROSS RECEIPTS
TAX DUE EQUAL TO FIFTY PERCENT OF CONTRIBUTIONS TO AN ELIGIBLE
ENDOWMENT FUND OF A FOUR-YEAR PUBLIC POST-SECONDARY EDUCATIONAL
INSTITUTION.

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

SECTION 1. A new section of the Gross Receipts and
Compensating Tax Act is enacted to read:

"[NEW MATERIAL] CREDIT--GROSS RECEIPTS TAX--TECHNOLOGY
COMMERCIALIZATION FUNDING.--

A. A taxpayer may claim a credit against gross
receipts tax due in an amount equal to fifty percent of a
contribution made to an eligible endowment fund of a New Mexico
four-year public post-secondary educational institution that
promotes the commercialization of licensed technology conceived

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1 in a New Mexico four-year public post-secondary educational
2 institution or federal scientific and engineering laboratory or
3 test facility located in New Mexico.

4 B. A taxpayer eligible for the tax credit pursuant
5 to this section may claim the amount of each tax credit by
6 crediting that amount against gross receipts taxes otherwise
7 due pursuant to the Gross Receipts and Compensating Tax Act.
8 The total amount of the tax credit shall be divided by twelve
9 and taken on each monthly gross receipts tax return filed by
10 the taxpayer against gross receipts taxes due the state for
11 twelve consecutive months after the date of contribution. In
12 no event shall the tax credits taken by an individual taxpayer
13 exceed five hundred thousand dollars (\$500,000) in a given
14 calendar year. The department may allow a maximum annual
15 aggregate of two million dollars (\$2,000,000) in tax credits
16 provided pursuant to this section. Claims for the tax credit
17 shall be considered in the order received by the department. A
18 taxpayer who submits a claim for a tax credit and who is unable
19 to receive the tax credit because the claims exceed the annual
20 aggregate limitation in this subsection shall be placed for the
21 subsequent year ahead of the other taxpayers submitting claims
22 in the subsequent year in the order of the date on which the
23 department received the claim.

24 C. An educational institution that receives a
25 contribution to an eligible endowment fund shall certify to the

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underscoring material = new
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1 department the use of money in the fund, the amount of
2 contribution to the fund and the taxpayer who made the
3 contribution. The department shall administer the credit
4 provided pursuant to this section.

5 D. The purpose of the tax credit provided by this
6 section is to provide an incentive for the technology
7 commercialization industry to locate and expand in New Mexico.

8 E. On an annual basis starting in fiscal year 2018,
9 an educational institution that receives a contribution to an
10 eligible endowment fund shall report to the legislative finance
11 committee, which shall evaluate and report to the appropriate
12 legislative interim committee, on the uses of and expenditures
13 from the fund, including:

14 (1) the number of faculty recruited and
15 retained;

16 (2) a description of any collaboration among
17 the universities and between the universities funded by the
18 fund and other institutions, agencies, entities or persons;

19 (3) a description of current and projected
20 technology research, development and commercialization and
21 patent applications, and their economic impact;

22 (4) an analysis of current and projected job
23 creation and industry incubation and growth; and

24 (5) any other information that the legislative
25 finance committee deems appropriate or as requested by the

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1 appropriate legislative interim committee.

2 F. As used in this section, "eligible endowment
3 fund" means an endowment fund of a New Mexico four-year public
4 post-secondary educational institution for which money in the
5 fund is primarily used to:

6 (1) develop and maintain collaboration
7 agreements with universities or federal laboratories or
8 research, development, testing and evaluating facilities to
9 facilitate the transfer and commercialization of technology
10 licensed or conceived in a New Mexico four-year public
11 post-secondary educational institution or federal scientific
12 and engineering laboratory or test facility located in New
13 Mexico;

14 (2) promote and market federal and state
15 technology commercialization programs;

16 (3) advise, assist, promote and develop
17 business relating to technology commercialization or
18 technology-based new business; or

19 (4) develop early market demand that will
20 advance the commercialization and widespread application of
21 technology licensed or conceived in a New Mexico four-year
22 public post-secondary educational institution or federal
23 scientific and engineering laboratory or test facility located
24 in New Mexico."

25 SECTION 2. APPLICABILITY.--The provisions of this act

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1 apply to contributions made on or after July 1, 2013 and
2 applied to gross receipts tax returns filed on or after August
3 1, 2013.

4 SECTION 3. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2013.

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; CREATING THE NEW COMMERCIAL ACTIVITY CORPORATE INCOME TAX CREDIT; REQUIRING AN INCREMENTAL INCREASE IN EMPLOYMENT TO QUALIFY FOR THE TAX CREDIT; PROVIDING LIMITS AND QUALIFICATIONS; PROVIDING FOR POST-PERFORMANCE ASSESSMENT OF PERFORMANCE OF A TAXPAYER SEEKING A TAX CREDIT.

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

SECTION 1. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"NEW MATERIAL NEW COMMERCIAL ACTIVITY CORPORATE INCOME TAX CREDIT.--

A. A taxpayer that files a New Mexico corporate income tax return for a taxable year beginning on or after January 1, 2014 but before January 1, 2024 that is a new business or an expanded business that creates additional

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1 economic-based jobs in New Mexico may claim, and the department
2 may allow, a tax credit against the taxpayer's corporate income
3 tax liability of fifty percent of the excess above taxes paid
4 to New Mexico in the base year pursuant to the Corporate Income
5 and Franchise Tax Act and the Gross Receipts and Compensating
6 Tax Act. The credit provided in this section may be referred
7 to as the "new commercial activity corporate income tax
8 credit". The department shall allow a new commercial activity
9 corporate income tax credit for a taxpayer that is issued a
10 certificate of eligibility by the economic development
11 department.

12 B. The purposes of the new commercial activity
13 corporate income tax credit are to:

14 (1) encourage corporations to start up in or
15 expand in New Mexico and invest significant amounts of capital
16 in the state to start up, relocate or expand;

17 (2) increase the number of economic-based jobs
18 available to New Mexico residents in New Mexico; and

19 (3) generate new state revenue from
20 construction, employment and business activity developed in New
21 Mexico.

22 C. The new commercial activity corporate income tax
23 credit may be claimed for ten consecutive years beginning with
24 the first taxable year in which the taxpayer is eligible to claim
25 that credit.

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1 D. The department shall recapture the entire amount
2 of new commercial activity corporate income tax credits allowed a
3 taxpayer if the taxpayer fails to remain in business for at least
4 five consecutive years from the first taxable year in which the
5 taxpayer is allowed the credit.

6 E. A taxpayer may be allowed by the department a
7 maximum aggregate amount of new commercial activity corporate
8 income tax credits for the ten-year period for which the taxpayer
9 is able to claim the credits not to exceed thirty percent of the
10 increase in state revenue above the first base year for which the
11 taxpayer has claimed a new commercial activity corporate income
12 tax credit.

13 F. Prior to January 1, 2014, the taxation and revenue
14 department and the economic development department shall each
15 adopt rules to implement the provisions of this section for which
16 that department is responsible.

17 G. A corporation claiming a new commercial activity
18 corporate income tax credit shall apply to the economic
19 development department for a certificate of eligibility that
20 states that the taxpayer qualifies for the credit on a form and
21 in a manner authorized by the economic development department.

22 H. A certificate of eligibility is valid for only the
23 taxpayer that is found eligible by the economic development
24 department to receive a new commercial activity corporate income
25 tax credit and may not be transferred to another taxpayer.

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1 I. The economic development department shall provide
2 a certificate of eligibility to each taxpayer that has applied
3 for and been found to qualify to receive a new commercial
4 activity corporate income tax credit. The economic development
5 department shall maintain records of the certificates of
6 eligibility issued pursuant to this section.

7 J. To be eligible to receive a new commercial
8 activity corporate income tax credit, a taxpayer shall provide
9 the economic development department with:

10 (1) evidence of expenditures to establish a new
11 business located in New Mexico or the expenditures for an
12 expanded business within the immediately preceding four years but
13 not before July 1, 2013;

14 (2) evidence of one full year of operation in
15 New Mexico using the capital improvements that are reported to
16 the economic development department to support the taxpayer's
17 eligibility for the credit, including evidence of paying eligible
18 employees within the taxable year for which the credit is to be
19 claimed;

20 (3) evidence of payment of taxes by the business
21 to the state of New Mexico in the taxable year pursuant to the
22 Corporate Income and Franchise Tax Act and the Gross Receipts and
23 Compensating Tax Act;

24 (4) evidence that the business has capital,
25 credit or income potential necessary to continue operation for at

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1 least a five-year period from the first taxable year in which the
2 taxpayer applies to the economic development department for a
3 certificate of eligibility; and

4 (5) statements signed by the taxpayer:

5 (a) authorizing the economic development
6 department and the taxation and revenue department to reveal to
7 the legislature and its agencies information from the taxpayer's
8 tax returns needed to evaluate the effectiveness of the credit in
9 fulfilling its purposes; and

10 (b) creating a first priority lien, in
11 favor of the state, on the assets and property of the taxpayer
12 equal to the aggregate amount of the credits allowed the taxpayer
13 by the department and claimed pursuant to this section if the
14 taxpayer ceases operation within the five consecutive years
15 following the first taxable year for which the taxpayer was
16 allowed a new commercial activity corporate income tax credit.

17 K. To claim the new commercial activity corporate
18 income tax credit, a taxpayer shall submit with the taxpayer's
19 New Mexico corporate income tax return a certificate of
20 eligibility issued by the economic development department
21 pursuant to this section, individually identifiable and
22 displaying the date on which the certificate of eligibility is
23 issued. The certificate of eligibility shall state:

24 (1) the details that make the taxpayer eligible
25 to receive the credit;

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1 (2) the number of eligible employees employed by
2 the taxpayer in the base year;

3 (3) the total wages paid by the taxpayer in the
4 base year to employees of the business for which the credit is
5 being claimed; and

6 (4) the amount of the taxpayer's investment to
7 create, relocate or expand the taxpayer's business.

8 L. The taxation and revenue department shall provide
9 a credit claim form on which a taxpayer may claim a new
10 commercial activity corporate income tax credit. A credit claim
11 form shall accompany a return filed pursuant to the Corporate
12 Income and Franchise Tax Act in which the taxpayer is applying
13 for the credit. The taxation and revenue department shall
14 determine the amount of the credit that is allowed the taxpayer
15 for the taxable year.

16 M. The amount of the new commercial activity
17 corporate income tax credit shall be determined by subtracting
18 the tax liability of the taxpayer paid for the base year from the
19 tax liability of the taxpayer for the taxable year for which the
20 taxpayer is claiming the credit and multiplying the difference by
21 fifty percent. If the difference is zero or a negative number,
22 the credit for that year shall be zero.

23 N. Any amount of the new commercial activity
24 corporate income tax credit that the taxpayer is approved to
25 claim that exceeds the tax liability of the taxpayer for the

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1 taxable year, up to the maximum allowable aggregate credit, shall
2 be refunded to the taxpayer.

3 O. A taxpayer claiming the new commercial activity
4 corporate income tax credit pursuant to this section is
5 ineligible for a high-wage jobs tax credit or a rural jobs tax
6 credit.

7 P. The department shall compile an annual report
8 pertaining to the new commercial activity corporate income tax
9 credit that includes the following information regarding the last
10 fiscal year:

11 (1) the number of taxpayers approved by the
12 department to receive the credit;

13 (2) the aggregate amount of the credits allowed
14 in the fiscal year;

15 (3) the number of economic-based jobs created in
16 the fiscal year by taxpayers claiming the credit;

17 (4) the increase in wages paid by taxpayers
18 claiming the credit in the fiscal year;

19 (5) the number of taxpayers whose businesses
20 have failed to complete the five-year operational period;

21 (6) the amount of revenue that the state has
22 been able to recapture from businesses that did not complete the
23 five-year operational period; and

24 (7) any other information that the department,
25 the legislative finance committee or the revenue stabilization

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1 and tax policy committee deems necessary to evaluate the
2 effectiveness of the credit in fulfilling its purposes.
3 Beginning in 2016, the department shall present to the revenue
4 stabilization and tax policy committee an analysis of whether the
5 credit is fulfilling the purposes for which it was created.
6 Recommendations for amending or repealing the credit based on the
7 analysis shall be included in the report.

8 Q. As used in this section:

9 (1) "average wage" means the annual average wage
10 amount by county as stated on the web site of the bureau of
11 business and economic research at the university of New Mexico as
12 the average annual covered wages by major sector and county found
13 in the economic data tables for the most recent year published
14 for the county in which a taxpayer has established a new business
15 or expanded a business;

16 (2) "base year" means the fiscal year
17 immediately prior to the fiscal year in which the new commercial
18 activity corporate income tax credit is being claimed;

19 (3) "business" means a for-profit corporation
20 that is required to pay corporate and franchise taxes pursuant to
21 the Corporate Income and Franchise Tax Act;

22 (4) "corporate tax liability" means a taxpayer's
23 corporate tax liability pursuant to the Corporate Income and
24 Franchise Tax Act;

25 (5) "economic-based job" means a job that is

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1 occupied for at least forty-eight consecutive weeks by an
2 eligible employee;

3 (6) "eligible employee" means an individual who
4 is a resident of New Mexico for purposes of the Income Tax Act,
5 is employed by the taxpayer claiming a new commercial activity
6 corporate income tax credit and is paid a wage in the qualifying
7 period that is at least one hundred percent of the average wage
8 in the county in which the employee is employed;

9 (7) "expanded business" means a business to
10 which capital improvements have been made to business facilities
11 or capital equipment that enable the business to increase its
12 output and hire at least five additional full-time employees;
13 provided that the expanded business:

14 (a) is located in New Mexico;

15 (b) is required to pay tax pursuant to the
16 Corporate Income and Franchise Tax Act and the Gross Receipts and
17 Compensating Tax Act; and

18 (c) was in operation on or before July 1,
19 2007 or at least five years prior to the taxable year in which
20 the new commercial activity corporate income tax credit is first
21 claimed but began capital improvements within the two years prior
22 to the date on which the taxpayer first seeks a certificate of
23 eligibility pursuant to this section;

24 (8) "five-year operational period" means the
25 five-year period beginning with the taxable year in which a

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1 taxpayer is issued a certificate of eligibility;

2 (9) "new business" means a corporation:

3 (a) that operates a business in New
4 Mexico, that owns or leases real property as a physical address
5 for the business in New Mexico and that employs personnel at that
6 physical address;

7 (b) that is required to pay tax pursuant
8 to the Corporate Income and Franchise Tax Act and the Gross
9 Receipts and Compensating Tax Act;

10 (c) that began business operations on or
11 after July 1, 2013; and

12 (d) in which the taxpayer has invested
13 more than twenty-five million dollars (\$25,000,000);

14 (10) "qualifying period" means the period of
15 twelve months beginning on the day an eligible employee begins
16 working in an economic-based job; and

17 (11) "wages" means all remuneration in cash and
18 the cash value of remuneration paid in any other form for
19 services performed by an employee for an employer; "wages"
20 includes the value of benefits."

21 **SECTION 2. APPLICABILITY.**--The provisions of this act apply
22 to taxable years beginning on or after January 1, 2014.

23 **SECTION 3. EFFECTIVE DATE.**--The effective date of the
24 provisions of this act is January 1, 2014.

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; PROVIDING A MOTOR VEHICLE EXCISE TAX
EXEMPTION FOR QUALIFIED PLUG-IN ELECTRIC DRIVE VEHICLES UNTIL
2018; DEFINING "QUALIFIED PLUG-IN ELECTRIC DRIVE VEHICLE" FOR
PURPOSES OF CERTAIN TAX ACTS; PROVIDING GROSS RECEIPTS TAX AND
COMPENSATING TAX EXEMPTIONS FOR QUALIFIED PLUG-IN ELECTRIC
DRIVE VEHICLES.

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

SECTION 1. Section 7-9-22 NMSA 1978 (being Laws 1969,
Chapter 144, Section 15, as amended) is amended to read:

"7-9-22. EXEMPTION--GROSS RECEIPTS TAX--VEHICLES.--

Exempted from the gross receipts tax are the receipts from
selling vehicles on which a tax is imposed by the Motor Vehicle
Excise Tax Act, vehicles subject to registration under Section
66-3-16 NMSA 1978 and vehicles exempt from the motor vehicle

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1 excise tax pursuant to [~~Subsection~~] Subsections F and G of
2 Section 7-14-6 NMSA 1978."

3 SECTION 2. Section 7-9-23 NMSA 1978 (being Laws 1969,
4 Chapter 144, Section 16, as amended) is amended to read:

5 "7-9-23. EXEMPTION--COMPENSATING TAX--VEHICLES.--Exempted
6 from the compensating tax [~~is~~] are the use of vehicles on which
7 the tax imposed by the Motor Vehicle Excise Tax Act has been
8 paid, the use of vehicles subject to registration under Section
9 66-3-16 NMSA 1978 and the use of vehicles exempt from the motor
10 vehicle excise tax pursuant to [~~Subsection~~] Subsections F and G
11 of Section 7-14-6 NMSA 1978."

12 SECTION 3. Section 7-9J-1 NMSA 1978 (being Laws 2007,
13 Chapter 204, Section 11) is amended to read:

14 "7-9J-1. SHORT TITLE.--~~[Sections 11 through 18 of this~~
15 ~~act]~~ Chapter 7, Article 9J NMSA 1978 may be cited as the
16 "Alternative Energy Product Manufacturers Tax Credit Act"."

17 SECTION 4. Section 7-9J-2 NMSA 1978 (being Laws 2007,
18 Chapter 204, Section 12, as amended) is amended to read:

19 "7-9J-2. DEFINITIONS.--As used in the Alternative Energy
20 Product Manufacturers Tax Credit Act:

21 A. "alternative energy product" means an
22 alternative energy vehicle, fuel cell system, renewable energy
23 system or any component of an alternative energy vehicle, fuel
24 cell system or renewable energy system; components for
25 integrated gasification combined cycle coal facilities and

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1 equipment related to the sequestration of carbon from
2 integrated gasification combined cycle plants; or, beginning in
3 taxable year 2011 and ending in taxable year 2019, a product
4 extracted from or secreted by a single cell photosynthetic
5 organism;

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

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

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

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

25 (1) a fuel cell or a system used to generate

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1 or reform hydrogen for use in a fuel cell; or

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

4 (a) electrolyzers that use renewable
5 energy; and

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

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

13 G. "manufacturing equipment" means an essential
14 machine, mechanism or tool or a component of an essential
15 machine, mechanism or tool used directly and exclusively in a
16 taxpayer's manufacturing operation and that is subject to
17 depreciation pursuant to the Internal Revenue Code of 1986 by
18 the taxpayer carrying on the manufacturing; provided that
19 "manufacturing equipment" does not include a vehicle that
20 leaves the site of a manufacturing operation for the purpose of
21 transporting persons or property, including property for which
22 the taxpayer claims a credit pursuant to Section 7-9-79 NMSA
23 1978;

24 H. "manufacturing operation" means a plant
25 employing personnel to perform production tasks, in conjunction

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1 with manufacturing equipment not previously existing at the
2 site, to produce alternative energy products;

3 I. "modified combined tax liability" means the
4 total liability of the taxpayer for the reporting period for
5 the gross receipts tax imposed ~~[by]~~ pursuant to Section 7-9-4
6 NMSA 1978 ~~[together with any tax collected at the same time and~~
7 ~~in the same manner as that gross receipts tax, such as],~~ the
8 compensating tax imposed pursuant to Section 7-9-7 NMSA 1978
9 and the withholding tax ~~[the interstate telecommunications~~
10 ~~gross receipts tax, the surcharge imposed by Section 63-9D-5~~
11 ~~NMSA 1978 and the surcharge imposed by Section 63-9F-11 NMSA~~
12 ~~1978, minus the amount of any credit other than the alternative~~
13 ~~energy product manufacturers tax credit applied against any or~~
14 ~~all of those taxes or surcharges]~~ imposed on wages pursuant to
15 Section 7-3-3 NMSA 1978, notwithstanding any distribution or
16 transfer pursuant to the Tax Administration Act with respect to
17 net receipts from those liabilities, minus the amount of a
18 credit or deduction other than the alternative energy product
19 manufacturers tax credit applied against those taxes; provided
20 that "modified combined tax liability" excludes ~~[all amounts~~
21 ~~collected with respect to]~~ any liability resulting from a local
22 option gross receipts ~~[taxes]~~ tax;

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

25 (1) a sole proprietorship;

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underscored material = new
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1 (2) an estate or trust;

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

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

9 K. "qualified expenditure" means an expenditure
10 for the purchase of manufacturing equipment made after July 1,
11 2006 by a taxpayer approved by the department;

12 L. "qualified plug-in electric drive vehicle"
13 means a motor vehicle with four wheels that:

14 (1) is made by a manufacturer;

15 (2) is manufactured primarily for use on
16 public streets, roads or highways;

17 (3) has not been modified from the original
18 manufacturer specifications;

19 (4) is acquired for use or lease by a
20 consumer and is not for resale;

21 (5) is rated at not less than two thousand
22 two hundred pounds unloaded base weight and not more than
23 eight thousand five hundred pounds unloaded base weight;

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

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1 (7) is propelled to a significant extent by
2 an electric motor that draws electricity from a battery that:

3 (a) has a capacity of not less than
4 four kilowatt-hours; and

5 (b) is capable of being recharged from
6 an external source of electricity;

7 ~~[L-]~~ M. "renewable energy" means energy from solar
8 heat, solar light, wind, geothermal energy, landfill gas or
9 biomass either singly or in combination that produces low or
10 zero emissions and has substantial long-term production
11 potential;

12 ~~[M-]~~ N. "renewable energy system" means a system
13 using only renewable energy to produce hydrogen or to generate
14 electricity, including related cogeneration systems that
15 create mechanical energy or that produce heat or steam for
16 space or water heating and agricultural or small industrial
17 processes and includes a:

- 18 (1) photovoltaic energy system;
- 19 (2) solar-thermal energy system;
- 20 (3) biomass energy system;
- 21 (4) wind energy system;
- 22 (5) hydrogen production system; or
- 23 (6) battery cell energy system; ~~and~~

24 ~~N-]~~ O. "taxpayer" means a person, including a
25 shareholder, member, partner or other owner of a pass-through

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1 entity, that is liable for payment of a tax or to whom an
2 assessment has been made if the assessment remains unabated or
3 the amount thereof has not been paid; and

4 P. "unloaded base weight" means the weight of a
5 vehicle without passengers or cargo."

6 SECTION 5. Section 7-14-6 NMSA 1978 (being Laws 1988,
7 Chapter 73, Section 16, as amended) is amended to read:

8 "7-14-6. EXEMPTIONS FROM TAX.--

9 A. A person who acquires a vehicle out of state
10 thirty or more days before establishing a domicile in this
11 state is exempt from the tax if the vehicle was acquired for
12 personal use.

13 B. A person applying for a certificate of title
14 for a vehicle registered in another state is exempt from the
15 tax if the person has previously registered and titled the
16 vehicle in New Mexico and has owned the vehicle continuously
17 since that time.

18 C. A vehicle with a certificate of title owned by
19 this state or any political subdivision is exempt from the
20 tax.

21 D. A person is exempt from the tax if the person
22 has a disability at the time the person purchases a vehicle
23 and can prove to the motor vehicle division of the department
24 or its agent that modifications have been made to the vehicle
25 that are:

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underscored material = new
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- 1 (1) due to that person's disability; and
- 2 (2) necessary to enable that person to drive
- 3 that vehicle or be transported in that vehicle.

4 E. A person is exempt from the tax if the person
5 is a bona fide resident of New Mexico who served in the armed
6 forces of the United States and who suffered, while serving in
7 the armed forces or from a service-connected cause, the loss
8 or complete and total loss of use of:

- 9 (1) one or both legs at or above the ankle;
- 10 or
- 11 (2) one or both arms at or above the wrist.

12 F. A person who acquires a vehicle for subsequent
13 lease shall be exempt from the tax if:

- 14 (1) the person does not use the vehicle in
- 15 any manner other than holding it for lease or sale or leasing
- 16 or selling it in the ordinary course of business;
- 17 (2) the lease is for a term of more than six
- 18 months;
- 19 (3) the receipts from the subsequent lease
- 20 are subject to the gross receipts tax; and
- 21 (4) the vehicle does not have a gross
- 22 vehicle weight of over twenty-six thousand pounds.

23 G. From July 1, [2004] 2013 through June 30,
24 [2009] 2018, vehicles that are [~~gasoline-electric hybrid~~
25 ~~vehicles with a United States environmental protection agency~~

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1 ~~fuel economy rating of at least twenty-seven and one-half~~
2 ~~miles per gallon]~~ qualified plug-in electric drive vehicles
3 are eligible for a one-time exemption from the tax at the time
4 of the issuance of the original certificate of title for the
5 vehicle.

6 H. As used in this section:

7 (1) "qualified plug-in electric drive
8 vehicle" means a motor vehicle with four wheels that:

9 (a) is made by a manufacturer;

10 (b) is manufactured primarily for use
11 on public streets, roads or highways;

12 (c) has not been modified from the
13 original manufacturer specifications;

14 (d) is acquired for use or lease by a
15 consumer and is not for resale;

16 (e) is rated at not less than two
17 thousand two hundred pounds unloaded base weight and not more
18 than eight thousand five hundred pounds unloaded base weight;

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

21 (g) is propelled to a significant
22 extent by an electric motor that draws electricity from a
23 battery that: 1) has a capacity of not less than four
24 kilowatt-hours; and 2) is capable of being recharged from an
25 external source of electricity; and

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(2) "unloaded base weight" means the weight of a vehicle without passengers or cargo."

SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.

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HOUSE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; PROVIDING THAT THE COUNTY REGIONAL TRANSIT GROSS RECEIPTS TAX BE DISTRIBUTED BY THE TAXATION AND REVENUE DEPARTMENT TO THE REGIONAL TRANSIT DISTRICT.

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

SECTION 1. Section 7-1-6.13 NMSA 1978 (being Laws 1983, Chapter 211, Section 18, as amended) is amended to read:

"7-1-6.13. TRANSFER--REVENUES FROM COUNTY LOCAL OPTION GROSS RECEIPTS TAXES.--

A. Except as provided in Subsections B [~~and~~], C and D of this section, a transfer pursuant to Section 7-1-6.1 NMSA 1978 shall be made to each county for which the department is collecting a local option gross receipts tax imposed by that county in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the net

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1 receipts attributable to the local option gross receipts tax
2 imposed by that county, less any deduction for administrative
3 cost determined and made by the department pursuant to the
4 provisions of the act authorizing imposition by that county of
5 the local option gross receipts tax and any additional
6 administrative fee withheld pursuant to Subsection C of Section
7 7-1-6.41 NMSA 1978.

8 B. A transfer pursuant to this section may be
9 adjusted for a distribution made to a tax increment development
10 district with respect to a portion of a gross receipts tax
11 increment dedicated by a county pursuant to the Tax Increment
12 for Development Act.

13 C. Through June 30, 2009, a distribution pursuant
14 to Section 7-1-6.1 NMSA 1978 shall be made to the sole
15 community provider fund from revenue attributable to the county
16 gross receipts tax imposed by a county pursuant to Section
17 7-20E-9 NMSA 1978, subject to the approval of the board of
18 county commissioners of that county. The distribution shall be
19 in an amount equal to one-twelfth of the county's annual
20 approved contribution for support of sole community provider
21 payments. Revenue in excess of the amount required for the
22 contribution shall be transferred to the county pursuant to the
23 provisions of Subsection A of this section.

24 D. The department shall transfer the amount of the
25 county regional transit gross receipts tax collected, less the

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1 administrative fee withheld pursuant to Subsection C of Section
2 7-1-6.41 NMSA 1978 and less any disbursements for tax credits,
3 refunds and the payment of interest applicable to the tax, to
4 the regional transit district for which the county regional
5 transit gross receipts tax is imposed pursuant to the
6 provisions of the County Local Option Gross Receipts Taxes Act.
7 The transfer to a regional transit district shall be made by
8 the twenty-fifth day of the month following the month in which
9 the tax is collected."

10 SECTION 2. Section 7-20E-7 NMSA 1978 (being Laws 1993,
11 Chapter 354, Section 7, as amended) is amended to read:

12 "7-20E-7. COLLECTION BY DEPARTMENT--TRANSFER OF
13 PROCEEDS--DEDUCTIONS.--

14 A. The department shall collect each tax imposed
15 pursuant to the provisions of the County Local Option Gross
16 Receipts Taxes Act in the same manner and at the same time it
17 collects the state gross receipts tax.

18 B. The department shall withhold an administrative
19 fee pursuant to Section 7-1-6.41 NMSA 1978. Except as provided
20 in [~~Subsection~~] Subsections C and D of this section, the
21 department shall transfer to each county for which it is
22 collecting a tax pursuant to the provisions of the County Local
23 Option Gross Receipts Taxes Act the amount of each tax
24 collected for that county, less the administrative fee withheld
25 and less any disbursements for tax credits, refunds and the

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1 payment of interest applicable to the tax. The transfer to the
2 county shall be made within the month following the month in
3 which the tax is collected.

4 C. Through June 30, 2009, with respect to revenue
5 attributable to imposition by a county of the county gross
6 receipts tax pursuant to Section 7-20E-9 NMSA 1978, the
7 department shall, subject to the approval of the board of
8 county commissioners of that county, distribute monthly to the
9 sole community provider fund an amount equal to one-twelfth of
10 the county's approved annual contribution for support of sole
11 community provider payments. Revenue in excess of the amount
12 required for the contribution shall be transferred to the
13 county pursuant to the provisions of Subsection B of this
14 section.

15 D. The department shall transfer the amount of the
16 county regional transit gross receipts tax collected, less the
17 administrative fee withheld pursuant to Subsection C of Section
18 7-1-6.41 NMSA 1978 and less any disbursements for tax credits,
19 refunds and the payment of interest applicable to the tax, to
20 the regional transit district for which the county regional
21 transit gross receipts tax is imposed pursuant to the
22 provisions of the County Local Option Gross Receipts Taxes Act.
23 The transfer to a regional transit district shall be made
24 within the month following the month in which the tax is
25 collected."

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1 **SECTION 3.** Section 7-20E-23 NMSA 1978 (being Laws 2004,
2 Chapter 17, Section 2, as amended) is amended to read:

3 "7-20E-23. COUNTY REGIONAL TRANSIT GROSS RECEIPTS TAX--
4 AUTHORITY TO IMPOSE--RATE--ELECTION REQUIRED.--

5 A. Upon a request by resolution of the board of
6 directors of a regional transit district, a majority of the
7 members of the governing body of each county that is within the
8 district shall impose by identical ordinances an excise tax at
9 the rate specified in the resolution, but not to exceed one-
10 half percent of the gross receipts of any person engaging in
11 business in the district for the privilege of engaging in
12 business. A tax imposed pursuant to this section may be
13 imposed by one or more ordinances, each imposing any number of
14 tax rate increments, but an increment shall not be less than
15 one-sixteenth percent of the gross receipts of any person
16 engaging in business in the district and the aggregate of all
17 rates shall not exceed one-half percent of the gross receipts
18 of any person engaging in business in the district. The tax
19 may be referred to as the "county regional transit gross
20 receipts tax".

21 B. Each governing body, at the time of enacting an
22 ordinance imposing the tax authorized in Subsection A of this
23 section, shall dedicate the revenue for the purposes authorized
24 by the Regional Transit District Act.

25 C. An ordinance imposing a county regional transit

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1 gross receipts tax shall not go into effect until after a joint
2 election is held by all counties within the district and a
3 majority of the voters of the district voting in the election
4 votes in favor of imposing the tax. Each governing body shall
5 adopt an ordinance calling for a joint election within seventy-
6 five days of the date the resolution is adopted on the question
7 of imposing the tax. The question shall be submitted to the
8 voters of the district as a separate question at a general
9 election or at a joint special election called for that purpose
10 by each governing body. A joint special election shall be
11 called, conducted and canvassed substantially in the same
12 manner as provided by law for general elections. If a majority
13 of the voters in the district voting on the question approves
14 the ordinance imposing the county regional transit gross
15 receipts tax, the ordinance shall become effective in
16 accordance with the provisions of the County Local Option Gross
17 Receipts Taxes Act. If the question of imposing the county
18 regional transit gross receipts tax fails, the governing bodies
19 shall not again propose the imposition of any increment of the
20 tax for a period of one year from the date of the election.

21 D. The ~~[governing body of a county imposing a~~
22 ~~county regional transit gross receipts tax]~~ department shall
23 withhold an administrative fee pursuant to Section 7-1-6.41
24 NMSA 1978 and shall transfer [all proceeds] the net receipts
25 from the tax to the regional transit district for the purposes

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1 specified in the ordinance and in accordance with the
2 provisions of the Regional Transit District Act.

3 E. As used in this section, "county within the
4 district" means a county within which lies any portion of a
5 regional transit district."

6 SECTION 4. APPLICABILITY.--The provisions of this act
7 apply to receipts from the county regional transit gross
8 receipts tax collected from sales occurring on or after July 1,
9 2013.

10 SECTION 5. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2013.

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; INCREASING THE VOLUME LIMIT FOR
MICROBREWERS FOR PURPOSES OF LIQUOR EXCISE TAX.

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

SECTION 1. Section 7-17-2 NMSA 1978 (being Laws 1966,
Chapter 49, Section 2, as amended) is amended to read:

"7-17-2. DEFINITIONS.--As used in the Liquor Excise Tax
Act:

A. "alcoholic beverages" means distilled or
rectified spirits, potable alcohol, brandy, whiskey, rum, gin,
aromatic bitters or any similar beverage, including blended or
fermented beverages, dilutions or mixtures of one or more of
the foregoing containing more than one-half of one percent
alcohol by volume, but "alcoholic beverages" does not include
medicinal bitters;

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1 B. "beer" means an alcoholic beverage obtained by
2 the fermentation of any infusion or decoction of barley, malt
3 and hops or other cereals in water and includes porter, beer,
4 ale and stout;

5 C. "cider" means an alcoholic beverage made from
6 the normal alcoholic fermentation of the juice of sound, ripe
7 apples that contains not less than one-half of one percent of
8 alcohol by volume and not more than seven percent of alcohol by
9 volume;

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

14 E. "fortified wine" means wine containing more than
15 fourteen percent alcohol by volume when bottled or packaged by
16 the manufacturer, but "fortified wine" does not include:

17 (1) wine that is sealed or capped by cork
18 closure and aged two years or more;

19 (2) wine that contains more than fourteen
20 percent alcohol by volume solely as a result of the natural
21 fermentation process and that has not been produced with the
22 addition of wine spirits, brandy or alcohol; or

23 (3) vermouth and sherry;

24 F. "microbrewer" means a person who produces fewer
25 than [~~five~~] fifteen thousand barrels of beer in a year;

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1 G. "person" includes, to the extent permitted by
2 law, a federal, state or other governmental unit or subdivision
3 or an agency, department, institution or instrumentality
4 thereof;

5 H. "small winegrower" means a winegrower who
6 produces fewer than nine hundred fifty thousand liters of wine
7 in a year;

8 I. "spirituous liquor" means alcoholic beverages,
9 except fermented beverages such as wine, beer, cider and ale;

10 J. "wholesaler" means a person holding a license
11 issued under Section 60-6A-1 NMSA 1978 or a person selling
12 alcoholic beverages that were not purchased from a person
13 holding a license issued under Section 60-6A-1 NMSA 1978;

14 K. "wine" means an alcoholic beverage other than
15 cider that is obtained by the fermentation of the natural sugar
16 contained in fruit or other agricultural products, with or
17 without the addition of sugar or other products, and that does
18 not contain more than twenty-one percent alcohol by volume; and

19 L. "winegrower" means a person licensed pursuant to
20 Section 60-6A-11 NMSA 1978."

21 **SECTION 2. EFFECTIVE DATE.**--The effective date of the
22 provisions of this act is July 1, 2013.

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BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; INCREASING THE VOLUME LIMIT FOR SMALL WINE GROWERS; INCREASING THE LIQUOR EXCISE TAX RATE FOR SMALL WINEGROWERS PRODUCING OVER A CERTAIN AMOUNT OF WINE.

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

SECTION 1. Section 7-17-2 NMSA 1978 (being Laws 1966, Chapter 49, Section 2, as amended) is amended to read:

"7-17-2. DEFINITIONS.--As used in the Liquor Excise Tax Act:

A. "alcoholic beverages" means distilled or rectified spirits, potable alcohol, brandy, whiskey, rum, gin, aromatic bitters or any similar beverage, including blended or fermented beverages, dilutions or mixtures of one or more of the foregoing containing more than one-half of one percent alcohol by volume, but "alcoholic beverages" does not include

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underscored material = new
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1 medicinal bitters;

2 B. "beer" means an alcoholic beverage obtained by
3 the fermentation of any infusion or decoction of barley, malt
4 and hops or other cereals in water and includes porter, beer,
5 ale and stout;

6 C. "cider" means an alcoholic beverage made from
7 the normal alcoholic fermentation of the juice of sound, ripe
8 apples that contains not less than one-half of one percent of
9 alcohol by volume and not more than seven percent of alcohol by
10 volume;

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

15 E. "fortified wine" means wine containing more than
16 fourteen percent alcohol by volume when bottled or packaged by
17 the manufacturer, but "fortified wine" does not include:

18 (1) wine that is sealed or capped by cork
19 closure and aged two years or more;

20 (2) wine that contains more than fourteen
21 percent alcohol by volume solely as a result of the natural
22 fermentation process and that has not been produced with the
23 addition of wine spirits, brandy or alcohol; or

24 (3) vermouth and sherry;

25 F. "microbrewer" means a person who produces

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1 [~~fewer~~] less than five thousand barrels of beer in a year;

2 G. "person" includes, to the extent permitted by
3 law, a federal, state or other governmental unit or subdivision
4 or an agency, department, institution or instrumentality
5 thereof;

6 H. "small winegrower" means a winegrower who
7 produces [~~fewer than nine hundred fifty thousand~~] less than one
8 million five hundred thousand liters of wine in a year;

9 I. "spirituous liquor" means alcoholic beverages,
10 except fermented beverages such as wine, beer, cider and ale;

11 J. "wholesaler" means a person holding a license
12 issued under Section 60-6A-1 NMSA 1978 or a person selling
13 alcoholic beverages that were not purchased from a person
14 holding a license issued under Section 60-6A-1 NMSA 1978;

15 K. "wine" means an alcoholic beverage other than
16 cider that is obtained by the fermentation of the natural sugar
17 contained in fruit or other agricultural products, with or
18 without the addition of sugar or other products, and that does
19 not contain more than twenty-one percent alcohol by volume; and

20 L. "winegrower" means a person licensed pursuant to
21 Section 60-6A-11 NMSA 1978."

22 SECTION 2. Section 7-17-5 NMSA 1978 (being Laws 1993,
23 Chapter 65, Section 8, as amended) is amended to read:

24 "7-17-5. IMPOSITION AND RATE OF LIQUOR EXCISE TAX.--

25 A. There is imposed on a wholesaler who sells

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1 alcoholic beverages on which the tax imposed by this section
2 has not been paid an excise tax, to be referred to as the
3 "liquor excise tax", at the following rates on alcoholic
4 beverages sold:

5 (1) on spirituous liquors, one dollar sixty
6 cents (\$1.60) per liter;

7 (2) on beer, except as provided in Paragraph
8 (5) of this subsection, forty-one cents (\$.41) per gallon;

9 (3) on wine, except as provided in Paragraphs
10 (4) and (6) of this subsection, forty-five cents (\$.45) per
11 liter;

12 (4) on fortified wine, one dollar fifty cents
13 (\$1.50) per liter;

14 (5) on beer manufactured or produced by a
15 microbrewer and sold in this state, provided that proof is
16 furnished to the department that the beer was manufactured or
17 produced by a microbrewer, eight cents (\$.08) per gallon;

18 (6) on wine manufactured or produced by a
19 small winegrower and sold in this state, provided that proof is
20 furnished to the department that the wine was manufactured or
21 produced by a small winegrower:

22 (a) ten cents (\$.10) per liter on the
23 first eighty thousand liters sold ~~[and]~~;

24 (b) twenty cents (\$.20) per liter on
25 ~~[all liters]~~ each liter sold over eighty thousand liters but

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BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; REQUIRING AFFIDAVITS BE FILED WITH THE
COUNTY ASSESSOR ON REAL PROPERTY SOLD IN THE COUNTIES;
DECLARING AN EMERGENCY.

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

SECTION 1. Section 7-38-12.1 NMSA 1978 (being Laws 2003,
Chapter 118, Section 2, as amended) is amended to read:

"7-38-12.1. [~~RESIDENTIAL~~] PROPERTY TRANSFERS--AFFIDAVIT
TO BE FILED WITH ASSESSOR.--

A. After January 1, 2004, a transferor or the
transferor's authorized agent or a transferee or the
transferee's authorized agent presenting for recording with a
county clerk a deed, real estate contract or memorandum of real
estate contract transferring an interest in real property
[~~classified as residential property~~] for property taxation

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1 purposes shall also file with the county assessor within thirty
2 days of the date of filing with the county clerk an affidavit
3 signed and completed in accordance with the provisions of
4 Subsection B of this section.

5 B. The affidavit required for submission shall be
6 in a form approved by the department and signed by the
7 transferors or their authorized agents or the transferees or
8 their authorized agents of any interest in [~~residential~~] real
9 property transferred by deed or real estate contract. The
10 affidavit shall contain only the following information to be
11 used only for analytical and statistical purposes in the
12 application of appraisal methods:

13 (1) the complete names of all transferors and
14 transferees;

15 (2) the current mailing addresses of all
16 transferors and transferees;

17 (3) the legal description of the real property
18 interest transferred as it appears in the document of transfer;

19 (4) the full consideration, including money or
20 any other thing of value, paid or exchanged for the transfer
21 and the terms of the sale, including any amount of seller
22 incentives; and

23 (5) the value and a description of personal
24 property that is included in the sale price.

25 C. Upon receipt of the affidavit required by

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1 Subsection A of this section, the county assessor shall place
2 the date of receipt on the original affidavit and on a copy of
3 the affidavit. The county assessor shall retain the original
4 affidavit as a confidential record and as proof of compliance
5 and shall return the copy marked with the date of receipt to
6 the person presenting the affidavit. The assessor shall index
7 the affidavits in a manner that permits cross-referencing to
8 other records in the assessor's office pertaining to the
9 specific property described in the affidavit. The affidavit
10 and its contents are not part of the valuation record of the
11 assessor.

12 D. The affidavit required by Subsection A of this
13 section shall not be required for:

14 [~~(1)~~] ~~a deed transferring nonresidential~~
15 ~~property;~~

16 ~~(2)]~~ (1) a deed that results from the payment
17 in full or forfeiture by a transferee under a recorded real
18 estate contract or recorded memorandum of real estate contract;

19 [~~(3)]~~ (2) a lease of or easement on real
20 property, regardless of the length of term;

21 [~~(4)]~~ (3) a deed, patent or contract for sale
22 or transfer of real property in which an agency or
23 representative of the United States or New Mexico or any
24 political subdivision of the state is the named grantor or
25 grantee and authorized transferor or transferee;

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1 ~~[(5)]~~ (4) a quitclaim deed to quiet title or
2 clear boundary disputes;

3 ~~[(6)]~~ (5) a conveyance of real property
4 executed pursuant to court order;

5 ~~[(7)]~~ (6) a deed to an unpatented mining
6 claim;

7 ~~[(8)]~~ (7) an instrument solely to provide or
8 release security for a debt or obligation;

9 ~~[(9)]~~ (8) an instrument that confirms or
10 corrects a deed previously recorded;

11 ~~[(10)]~~ (9) an instrument between husband and
12 wife or parent and child with only nominal actual consideration
13 therefor;

14 ~~[(11)]~~ (10) an instrument arising out of a
15 sale for delinquent taxes or assessments;

16 ~~[(12)]~~ (11) an instrument accomplishing a
17 court-ordered partition;

18 ~~[(13)]~~ (12) an instrument arising out of a
19 merger or incorporation;

20 ~~[(14)]~~ (13) an instrument by a subsidiary
21 corporation to its parent corporation for no consideration,
22 nominal consideration or in sole consideration of the
23 cancellation or surrender of the subsidiary's stock;

24 ~~[(15)]~~ (14) an instrument from a person to a
25 trustee or from a trustee to a trust beneficiary with only

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1 nominal actual consideration therefor;
2 [~~(16)~~] (15) an instrument to or from an
3 intermediary for the purpose of creating a joint tenancy estate
4 or some other form of ownership; or

5 [~~(17)~~] (16) an instrument delivered to
6 establish a gift or a distribution from an estate of a decedent
7 or trust.

8 E. The affidavit required by Subsection A of this
9 section shall not be construed to be a valuation record
10 pursuant to Section 7-38-19 NMSA 1978.

11 F. Prior to November 1, 2003, the department
12 shall print and distribute to each county assessor affidavit
13 forms for distribution to the public upon request."

14 **SECTION 2. EFFECTIVE DATE.--** The effective date of the
15 provisions of this act is May 1, 2013.

16 **SECTION 3. EMERGENCY.--**It is necessary for the public
17 peace, health and safety that this act take effect
18 immediately.

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BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; REQUIRING THE TAXATION AND REVENUE DEPARTMENT TO CONDUCT DELINQUENT PROPERTY TAX SALES IN EACH COUNTY WITH DELINQUENT PROPERTIES AT LEAST ONE TIME IN EACH CALENDAR YEAR.

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

SECTION 1. Section 7-38-65 NMSA 1978 (being Laws 1973, Chapter 258, Section 105, as amended) is amended to read:

"7-38-65. COLLECTION OF DELINQUENT TAXES ON REAL PROPERTY--SALE OF REAL PROPERTY.--

A. If a lien exists by the operation of Section 7-38-48 NMSA 1978, the department may collect delinquent taxes on real property by selling the real property on which the taxes have become delinquent. The sale of real property for delinquent taxes shall be in accordance with the provisions of

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1 the Property Tax Code. Real property may be sold for
2 delinquent taxes at any time after the expiration of three
3 years from the first date shown on the tax delinquency list on
4 which the taxes became delinquent. Real property shall be
5 offered for sale for delinquent taxes either within four years
6 after the first date shown on the tax delinquency list on which
7 the taxes became delinquent or, if the department is barred by
8 operation of law or by order of a court of competent
9 jurisdiction from offering the property for sale for delinquent
10 taxes within four years after the first date shown on the tax
11 delinquency list on which the taxes became delinquent, within
12 one year from the time the department determines that it is no
13 longer barred from selling the property, unless:

14 (1) all delinquent taxes, penalties, interest
15 and costs due are paid by 5:00 p.m. of the day prior to the
16 date of the sale; or

17 (2) an installment agreement for payment of
18 all delinquent taxes, penalties, [~~interests~~] interest and costs
19 due is entered into with the department by 5:00 p.m. of the day
20 prior to the date of the sale pursuant to Section 7-38-68 NMSA
21 1978.

22 B. Failure to offer property for sale within the
23 time prescribed by Subsection A of this section shall not
24 impair the validity or effect of any sale [~~which~~] that does
25 take place.

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C. The time requirements of this section are subject to the provisions of Section 7-38-83 NMSA 1978.

D. The department shall conduct at least one sale of real property for delinquent property taxes in each county in which properties listed on the delinquent property tax list are located in each calendar year beginning in 2014."

SECTION 2. APPLICABILITY.--The provisions of this act apply to property tax years beginning on or after January 1, 2014.

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2014.

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HOUSE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; LIMITING INCREASES IN VALUE OF
RESIDENTIAL PROPERTY FOR PROPERTY TAXATION PURPOSES; PROVIDING
FOR ADDITIONAL LIMITS ON INCREASES IN VALUE OF CERTAIN OWNER-
OCCUPIED RESIDENTIAL PROPERTY.

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

SECTION 1. Section 7-36-21.2 NMSA 1978 (being Laws 2000,
Chapter 10, Section 2, as amended) is amended to read:

"7-36-21.2. LIMITATION ON INCREASES IN VALUATION OF
RESIDENTIAL PROPERTY.--

A. Residential property shall be valued at its
current and correct value in accordance with the provisions of
the Property Tax Code; provided that for the ~~[2001]~~ 2014 and
subsequent tax years, the value of a property in any tax year
shall not exceed ~~[the higher of]~~ whichever value is the highest

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1 of the following:

2 (1) one hundred [~~three~~] five percent of the
3 value in the tax year prior to the tax year in which the
4 property is being valued; [~~or~~]

5 (2) one hundred [~~six and one-tenth~~] ten and
6 twenty-five hundredths percent of the value in the tax year two
7 years prior to the tax year in which the property is being
8 valued; [~~This~~] or

9 (3) ninety percent of the current and correct
10 value of the property determined for property taxation
11 purposes.

12 B. The limitation on increases in value provided by
13 Subsection A of this section shall be the highest value and
14 shall not exceed the current and correct value of the property
15 determined for property taxation purposes in accordance with
16 the provisions of the Property Tax Code.

17 C. In addition to the limitation on increases in
18 value provided by Subsection A of this section, the valuation
19 for property taxation purposes of a residential, single-family
20 dwelling owned and occupied as a primary residence by the same
21 person for:

22 (1) ten or more years shall not exceed ninety
23 percent of the value of the property determined after the
24 application of the limitation provided pursuant to Subsection A
25 of this section; or

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1 (2) twenty or more years, and that person is
2 sixty-five years of age or older, shall not exceed eighty
3 percent of the value of the property determined after the
4 application of the limitation provided pursuant to Subsection A
5 of this section.

6 D. The limitation on increases in value provided
7 pursuant to this section does not apply to:

8 (1) a residential property in the first tax
9 year that it is valued for property taxation purposes;

10 (2) any physical improvements, except for
11 solar energy system installations, made to the property during
12 the year immediately prior to the tax year or omitted in a
13 prior tax year; or

14 (3) valuation of a residential property in any
15 tax year in which

16 ~~[(a) a change of ownership of the~~
17 ~~property occurred in the year immediately prior to the tax year~~
18 ~~for which the value of the property for property taxation~~
19 ~~purposes is being determined; or~~

20 ~~(b)]~~ the use or zoning of the property
21 has changed in the year prior to the tax year.

22 ~~[B. If a change of ownership of residential~~
23 ~~property occurred in the year immediately prior to the tax year~~
24 ~~for which the value of the property for property taxation~~
25 ~~purposes is being determined, the value of the property shall~~

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1 ~~be its current and correct value as determined pursuant to the~~
2 ~~general valuation provisions of the Property Tax Code.~~

3 ~~C. To assure that the values of residential~~
4 ~~property for property taxation purposes are at current and~~
5 ~~correct values in all counties prior to application of the~~
6 ~~limitation in Subsection A of this section, the department~~
7 ~~shall determine for the 2000 tax year the sales ratio pursuant~~
8 ~~to Section 7-36-18 NMSA 1978 or, if a sales ratio cannot be~~
9 ~~determined pursuant to that section, conduct a sales-ratio~~
10 ~~analysis using both independent appraisals by the department~~
11 ~~and sales. If the sales ratio for a county for the 2000 tax~~
12 ~~year is less than eighty-five, as measured by the median ratio~~
13 ~~of value for property taxation purposes to sales price or~~
14 ~~independent appraisal by the department, the county shall not~~
15 ~~be subject to the limitations of Subsection A of this section~~
16 ~~and shall conduct a reassessment of residential property in the~~
17 ~~county so that by the 2003 tax year, the sales ratio is at~~
18 ~~least eighty-five. After such reassessment, the limitation on~~
19 ~~increases in valuation in this section shall apply in those~~
20 ~~counties in the earlier of the 2004 tax year or the first tax~~
21 ~~year following the tax year that the county has a sales ratio~~
22 ~~of eighty-five or higher, as measured by the median ratio of~~
23 ~~value for property taxation purposes to sales value or~~
24 ~~independent appraisal by the department. Thereafter, the~~
25 ~~limitation on increases in valuation of residential property~~

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1 ~~for property taxation purposes in this section shall apply to~~
2 ~~subsequent tax years in all counties.~~

3 ~~D.]~~ E. The provisions of this section do not apply
4 to residential property for any tax year in which the property
5 is subject to the valuation limitation in Section 7-36-21.3
6 NMSA 1978.

7 ~~[E. As used in this section, "change of ownership"~~
8 ~~means a transfer to a transferee by a transferor of all or any~~
9 ~~part of the transferor's legal or equitable ownership interest~~
10 ~~in residential property except for a transfer:~~

11 ~~(1) to a trustee for the beneficial use of the~~
12 ~~spouse of the transferor or the surviving spouse of a deceased~~
13 ~~transferor;~~

14 ~~(2) to the spouse of the transferor that takes~~
15 ~~effect upon the death of the transferor;~~

16 ~~(3) that creates, transfers or terminates,~~
17 ~~solely between spouses, any co-owner's interest;~~

18 ~~(4) to a child of the transferor, who occupies~~
19 ~~the property as that person's principal residence at the time~~
20 ~~of transfer; provided that the first subsequent tax year in~~
21 ~~which that person does not qualify for the head of household~~
22 ~~exemption on that property, a change of ownership shall be~~
23 ~~deemed to have occurred;~~

24 ~~(5) that confirms or corrects a previous~~
25 ~~transfer made by a document that was recorded in the real~~

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1 ~~estate records of the county in which the real property is~~
2 ~~located;~~

3 ~~(6) for the purpose of quieting the title to~~
4 ~~real property or resolving a disputed location of a real~~
5 ~~property boundary;~~

6 ~~(7) to a revocable trust by the transferor~~
7 ~~with the transferor, the transferor's spouse or a child of the~~
8 ~~transferor as beneficiary; or~~

9 ~~(8) from a revocable trust described in~~
10 ~~Paragraph (7) of this subsection back to the settlor or trustor~~
11 ~~or to the beneficiaries of the trust.]~~

12 F. As used in this section, "solar energy system
13 installation" means an installation that is used to provide
14 space heat, hot water or electricity to the property in which
15 it is installed and is:

16 (1) an installation that uses solar panels
17 that are not also windows;

18 (2) a dark-colored water tank exposed to
19 sunlight; or

20 (3) a non-vented trombe wall."

21 SECTION 2. APPLICABILITY.--The provisions of this act
22 apply to taxable years beginning on or after January 1, 2014.

23 SECTION 3. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is January 1, 2014.

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HOUSE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; PROVIDING A DEDUCTION FROM GROSS RECEIPTS FOR SALES OR RENTALS OF DURABLE MEDICAL EQUIPMENT AND MEDICAL SUPPLIES.

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

SECTION 1. Section 7-9-73.2 NMSA 1978 (being Laws 1998, Chapter 95, Section 2 and Laws 1998, Chapter 99, Section 4, as amended) is amended to read:

"7-9-73.2. DEDUCTION--GROSS RECEIPTS TAX AND GOVERNMENTAL GROSS RECEIPTS TAX--PRESCRIPTION DRUGS--OXYGEN--DURABLE MEDICAL EQUIPMENT--MEDICAL SUPPLIES.--

A. Receipts from the sale of prescription drugs and oxygen and oxygen services provided by a licensed medicare durable medical equipment provider may be deducted from gross receipts and governmental gross receipts.

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1 B. ~~[For the purposes of this section]~~ Receipts from
2 transactions occurring prior to July 1, 2024 and that are from
3 the sale or rental of prescribed durable medical equipment and
4 prescribed medical supplies may be deducted from gross receipts
5 and governmental gross receipts.

6 C. The purpose of the deductions provided in this
7 section is to help protect jobs and retain businesses in New
8 Mexico that sell or rent prescribed durable medical equipment,
9 infusion therapy services and prescribed medical supplies.

10 D. Deductions pursuant to this section shall be
11 stated separately by the taxpayer on forms provided by the
12 department.

13 E. The department shall annually report to the
14 interim legislative revenue stabilization and tax policy
15 committee aggregate amounts of each deduction taken pursuant to
16 this section, the number of taxpayers claiming each deduction
17 and any other information that is necessary to determine that
18 the deduction is performing the purposes for which it is
19 enacted.

20 F. The deductions provided in Subsection B of this
21 section shall be taken only by a taxpayer participating in the
22 New Mexico medicaid program whose gross receipts are no less
23 than ninety percent derived from the sale or rental of
24 prescribed durable medical equipment, prescribed medical
25 supplies, oxygen or oxygen services or infusion therapy

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1 services, including the medications used in infusion therapy
2 services.

3 G. As used in this section:

4 (1) "durable medical equipment" means a
5 medical assistive device or other equipment that:

6 (a) can withstand repeated use;

7 (b) is primarily and customarily used to
8 serve a medical purpose and is not useful to an individual in
9 the absence of an illness, injury or other medical necessity,
10 including improved functioning of a body part;

11 (c) is appropriate for use at home
12 exclusively by the eligible recipient for whom the durable
13 medical equipment is prescribed; and

14 (d) is prescribed by a physician or
15 other person licensed by the state to prescribe durable medical
16 equipment;

17 (2) "infusion therapy services" means the
18 administration of prescribed medication through a needle or
19 catheter;

20 (3) "medical supplies" means items for a
21 course of medical treatment, including nutritional products,
22 that are:

23 (a) necessary for an ongoing course of
24 medical treatment;

25 (b) disposable and cannot be reused; and

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1 (c) prescribed by a physician or other
2 person licensed by the state to prescribe medical supplies;

3 (4) "prescribe" means to authorize the use of
4 an item or substance for a course of medical treatment; and

5 (5) "prescription drugs" means insulin and
6 substances that are:

7 [~~1~~] (a) dispensed by or under the
8 supervision of a licensed pharmacist or by a physician or other
9 person authorized under state law to do so;

10 [~~2~~] (b) prescribed for a specified
11 person by a person authorized under state law to prescribe the
12 substance; and

13 [~~3~~] (c) subject to the restrictions on
14 sale contained in Subparagraph 1 of Subsection (b) of 21 USCA
15 353."

16 **SECTION 2. EFFECTIVE DATE.**--The effective date of the
17 provisions of this act is July 1, 2013.

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; AUTHORIZING CERTAIN TAX CREDITS TO BE TRANSFERRED BETWEEN TAXPAYERS.

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

SECTION 1. Section 7-2-18.2 NMSA 1978 (being Laws 1984, Chapter 34, Section 1, as amended) is amended to read:

"7-2-18.2. [~~CREDIT FOR~~] PRESERVATION OF CULTURAL PROPERTY--~~[REFUND]~~ PERSONAL INCOME TAX CREDIT--

A. Tax credits for the preservation of cultural property may be claimed as follows:

- (1) to encourage the restoration, rehabilitation and preservation of cultural properties, a taxpayer who files an individual New Mexico income tax return, [~~and~~] who is not a dependent of another individual and who is the owner of a cultural property listed on the official New

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1 Mexico register of cultural properties, with the taxpayer's
2 consent, may claim a credit not to exceed a maximum aggregate
3 of twenty-five thousand dollars (\$25,000) in an amount equal to
4 one-half of the cost of restoration, rehabilitation or
5 preservation of a cultural property listed on the official New
6 Mexico register; or

7 (2) if a cultural property, whose owner may
8 otherwise claim the credit set forth in Paragraph (1) of this
9 subsection, is also located within an arts and cultural
10 district certified by the state or a municipality pursuant to
11 the Arts and Cultural District Act, the owner of that cultural
12 property may claim a credit not to exceed fifty thousand
13 dollars (\$50,000), including any credit claimed pursuant to
14 Paragraph (1) of this subsection, in an amount equal to one-
15 half of the cost of restoration, rehabilitation or preservation
16 of the cultural property.

17 B. The taxpayer may claim the credit for a cultural
18 property restoration, rehabilitation or preservation project
19 if:

20 (1) the taxpayer submitted a plan and
21 specifications for a restoration, rehabilitation or
22 preservation project to the committee and received approval
23 from the committee for the plan and specifications prior to
24 commencement of the [~~restoration, rehabilitation or~~
25 ~~preservation~~] project;

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1 (2) the taxpayer received certification from
2 the committee after completing the restoration, rehabilitation
3 or preservation project, or committee-approved phase, that [~~it~~]
4 the project or phase conformed to the plan and specifications
5 and preserved and maintained those qualities of the property
6 that made [~~it~~] the property eligible for inclusion in the
7 official register; and

8 (3) the project is completed within twenty-
9 four months of the date that the project is approved by the
10 committee in accordance with Paragraph (1) of this subsection.

11 C. A taxpayer may claim the credit provided in this
12 section for each taxable year in which restoration,
13 rehabilitation or preservation is carried out. The credit is
14 deemed to originate when the restoration, rehabilitation or
15 preservation is completed. A taxpayer shall apply for approval
16 of the tax credit within one year of the completion of the
17 restoration, rehabilitation or preservation. Except as
18 provided in Subsection F of this section, claims for the credit
19 provided in this section shall be limited to three consecutive
20 years, and the maximum aggregate credit allowable shall not
21 exceed twenty-five thousand dollars (\$25,000) if governed by
22 Paragraph (1) of Subsection A of this section, or fifty
23 thousand dollars (\$50,000) if governed by Paragraph (2) of
24 Subsection A of this section, for any single restoration,
25 rehabilitation or preservation project for any cultural

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1 property listed on the official New Mexico register certified
2 by the committee.

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

7 E. A taxpayer who otherwise qualifies and claims a
8 credit on a restoration, rehabilitation or preservation project
9 on property owned by a partnership of which the taxpayer is a
10 member may claim a credit only in proportion to the taxpayer's
11 interest in the partnership. The total credit claimed by all
12 members of the partnership shall not exceed twenty-five
13 thousand dollars (\$25,000) in the aggregate if governed by
14 Paragraph (1) of Subsection A of this section, or fifty
15 thousand dollars (\$50,000) in the aggregate if governed by
16 Paragraph (2) of Subsection A of this section, for any single
17 restoration, rehabilitation or preservation project for any
18 cultural property listed on the official New Mexico register
19 certified by the committee.

20 F. The credit provided in this section may only be
21 deducted from the taxpayer's income tax liability. Any portion
22 of the maximum tax credit provided by this section that remains
23 unused at the end of the taxpayer's taxable year may be carried
24 forward for four consecutive years; provided, however, that the
25 total tax credits claimed under this section shall not exceed

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1 twenty-five thousand dollars (\$25,000) if governed by Paragraph
2 (1) of Subsection A of this section, or fifty thousand dollars
3 (\$50,000) if governed by Paragraph (2) of Subsection A of this
4 section, for any single restoration, preservation or
5 rehabilitation project for any cultural property listed on the
6 official New Mexico register.

7 G. If the requirements of this section have been
8 complied with, the department shall issue to the applicant a
9 document granting the tax credit allowed pursuant to this
10 section. The document shall be numbered for identification and
11 shall declare its date of issuance and the amount of the tax
12 credit allowed pursuant to this section. The document may be
13 submitted by the applicant with that taxpayer's income tax
14 return or may be sold, exchanged or otherwise transferred to
15 another taxpayer. The parties to such a transaction shall
16 notify the department of the sale, exchange or transfer within
17 ten days of the sale, exchange or transfer.

18 [~~G.~~] H. The historic preservation division shall
19 promulgate regulations for the implementation of Subsection B
20 of this section.

21 [~~H.~~] I. As used in this section:

22 (1) "committee" means the cultural properties
23 review committee created in Section 18-6-4 NMSA 1978; and

24 (2) "historic preservation division" means the
25 historic preservation division of the cultural affairs

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1 department created in Section 18-6-8 NMSA 1978."

2 SECTION 2. Section 7-2-18.11 NMSA 1978 (being Laws 2003,
3 Chapter 400, Section 1) is amended to read:

4 "7-2-18.11. JOB MENTORSHIP TAX CREDIT.--

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

15 B. A taxpayer who is an owner of a New Mexico
16 business may claim the job mentorship tax credit for each
17 taxable year in which the business employs one or more
18 qualified students. A taxpayer shall apply for approval for
19 the tax credit within one year following the end of the
20 calendar year in which the qualified student is employed by the
21 business. The maximum aggregate credit allowable shall not
22 exceed fifty percent of the gross wages paid to not more than
23 ten qualified students employed by the business for up to three
24 hundred twenty hours of employment of each qualified student in
25 each taxable year for a maximum of three taxable years for each

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1 qualified student. Each credit is deemed to originate on the
2 hiring date for each qualified student. In no event shall a
3 taxpayer claim a credit in excess of twelve thousand dollars
4 (\$12,000) in any taxable year. The taxpayer shall certify that
5 hiring the qualified student does not displace or replace a
6 current employee.

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

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

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

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1 credit is claimed:

2 (1) a properly executed job mentorship tax
3 credit certificate;

4 (2) information required by the secretary with
5 respect to the employee's employment by the business during the
6 taxable year for which the credit is claimed; and

7 (3) information required by the secretary that
8 the employee was not also employed in the same taxable year by
9 another New Mexico business qualifying for and claiming a job
10 mentorship tax credit for that employee pursuant to this
11 section or the Corporate Income and Franchise Tax Act.

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

20 G. If the requirements of this section have been
21 complied with, the department shall issue to the applicant a
22 document granting the tax credit allowed pursuant to this
23 section. The document shall be numbered for identification and
24 shall declare its date of issuance and the amount of the tax
25 credit allowed pursuant to this section. The document may be

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1 submitted by the applicant with that taxpayer's income tax
2 return or may be sold, exchanged or otherwise transferred to
3 another taxpayer. The parties to such a transaction shall
4 notify the department of the sale, exchange or transfer within
5 ten days of the sale, exchange or transfer.

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

10 ~~[H.]~~ I. A taxpayer who otherwise qualifies for and
11 claims a job mentorship tax credit for employment of qualified
12 students by a partnership, limited partnership, limited
13 liability company, S corporation or other business association
14 of which the taxpayer is a member may claim a credit only in
15 proportion to ~~[his]~~ the taxpayer's interest in the partnership,
16 limited partnership, limited liability company, S corporation
17 or association. The total credit claimed by all members of the
18 business shall not exceed the maximum credit allowable pursuant
19 to Subsection B of this section.

20 ~~[I.]~~ J. As used in this section:

21 (1) "career preparation education program"
22 means a work-based learning or school-to-career program
23 designed for secondary school students to create academic and
24 career goals and objectives and find employment in a job
25 meeting those goals and objectives;

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1 (2) "New Mexico business" means a partnership,
2 limited partnership, limited liability company treated as a
3 partnership for federal income tax purposes, S corporation or
4 sole proprietorship that carries on a trade or business in New
5 Mexico and that employs in New Mexico fewer than three hundred
6 full-time employees at any one time during the taxable year;
7 and

8 (3) "qualified student" means an individual
9 who is at least fourteen years of age but not more than twenty-
10 one years of age who is attending full time an accredited New
11 Mexico secondary school and who is a participant in a career
12 preparation education program sanctioned by the secondary
13 school."

14 **SECTION 3.** Section 7-2-18.14 NMSA 1978 (being Laws 2006,
15 Chapter 93, Section 1, as amended) is amended to read:

16 "7-2-18.14. SOLAR MARKET DEVELOPMENT TAX CREDIT--
17 RESIDENTIAL AND SMALL BUSINESS SOLAR THERMAL AND PHOTOVOLTAIC
18 MARKET DEVELOPMENT TAX CREDIT.--

19 A. Except as provided in Subsection C of this
20 section, a taxpayer who files an individual New Mexico income
21 tax return for a taxable year beginning on or after
22 January 1, 2006 and who purchases and installs after
23 January 1, 2006 but before December 31, 2016 a solar thermal
24 system or a photovoltaic system in a residence, business or
25 agricultural enterprise in New Mexico owned by that taxpayer

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1 may apply for, and the department may allow, a solar market
2 development tax credit of up to ten percent of the purchase
3 and installation costs of the system.

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

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

13 (1) a heating system for a swimming pool or
14 a hot tub; or

15 (2) a commercial or industrial photovoltaic
16 system other than an agricultural photovoltaic system on a
17 farm or ranch that is not connected to an electric utility
18 transmission or distribution system.

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

21 (1) two million dollars (\$2,000,000) in
22 solar market development tax credits for solar thermal
23 systems; and

24 (2) three million dollars (\$3,000,000) in
25 solar market development tax credits for photovoltaic systems.

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1 E. The solar market development tax credit may
2 only be deducted from a taxpayer's income tax liability. A
3 taxpayer shall apply for approval for the tax credit within
4 one year of system installation. The tax credit is deemed to
5 originate at the point of system installation. A portion of
6 the solar market development tax credit that remains unused in
7 a taxable year may be carried forward for a maximum of ten
8 consecutive taxable years following the taxable year in which
9 the credit originates until fully expended.

10 F. If the requirements of this section have been
11 complied with, the department shall issue to the applicant a
12 document granting the tax credit allowed pursuant to this
13 section. The document shall be numbered for identification
14 and shall declare its date of issuance and the amount of the
15 tax credit allowed pursuant to this section. The document may
16 be submitted by the applicant with that taxpayer's income tax
17 return or may be sold, exchanged or otherwise transferred to
18 another taxpayer. The parties to such a transaction shall
19 notify the department of the sale, exchange or transfer within
20 ten days of the sale, exchange or transfer.

21 ~~[F.]~~ G. Prior to July 1, 2006, the energy,
22 minerals and natural resources department shall adopt rules
23 establishing procedures to provide certification of solar
24 thermal systems and photovoltaic systems for purposes of
25 obtaining a solar market development tax credit. The rules

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1 shall address technical specifications and requirements
2 relating to safety, code and standards compliance, solar
3 collector orientation and sun exposure, minimum system sizes,
4 system applications and lists of eligible components. The
5 energy, minerals and natural resources department may modify
6 the specifications and requirements as necessary to maintain a
7 high level of system quality and performance.

8 ~~[G-]~~ H. As used in this section:

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

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

16 **SECTION 4.** Section 7-2-18.17 NMSA 1978 (being Laws
17 2007, Chapter 172, Section 1, as amended) is amended to read:

18 "7-2-18.17. ANGEL INVESTMENT CREDIT.--

19 A. A taxpayer who files a New Mexico income tax
20 return, is not a dependent of another taxpayer, is an
21 accredited investor and makes a qualified investment may claim
22 a credit in an amount not to exceed twenty-five percent of not
23 more than one hundred thousand dollars (\$100,000) of the
24 qualified investment. The tax credit provided in this section
25 shall be known as the "angel investment credit".

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1 B. A taxpayer may claim the angel investment
2 credit for not more than two qualified investments in a
3 taxable year; provided that each investment is in a different
4 qualified business. A taxpayer may claim the angel investment
5 credit for qualified investments made in the same qualified
6 business or successor of that business for not more than three
7 taxable years. The angel investment credit shall not exceed
8 twenty-five thousand dollars (\$25,000) for each qualified
9 investment by the taxpayer.

10 C. A taxpayer may claim the angel investment
11 credit no later than one year following the end of the
12 calendar year in which the qualified investment was made;
13 provided that a claim for the credit may not be made or
14 allowed with respect to any investment made after December 31,
15 2016.

16 D. A taxpayer shall apply for certification of
17 eligibility for the angel investment credit from the economic
18 development department. Applications shall be considered in
19 the order received. If the economic development department
20 determines that the taxpayer is an accredited investor and the
21 investment is a qualified investment, [~~it~~] the department
22 shall issue a certificate of eligibility to the taxpayer,
23 subject to the limitation in Subsection E of this section.
24 The certificate shall be dated and shall include a calculation
25 of the amount of the angel investment credit for which the

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1 taxpayer is eligible. The economic development department may
2 issue rules governing the procedure for administering the
3 provisions of this subsection.

4 E. The economic development department may issue a
5 certificate of eligibility pursuant to Subsection D of this
6 section only if the total amount of angel investment credits
7 represented by certificates of eligibility issued by the
8 economic development department in any calendar year will not
9 exceed seven hundred fifty thousand dollars (\$750,000). If
10 the applications for certificates of eligibility for angel
11 investment credits represent an aggregate amount exceeding
12 seven hundred fifty thousand dollars (\$750,000) for any
13 calendar year, certificates shall be issued in the order that
14 the applications were received. The excess applications that
15 would have been certified, but for the limit imposed by this
16 subsection, shall be certified, subject to the same limit, in
17 subsequent calendar years.

18 F. The economic development department shall
19 report annually to the legislative finance committee on the
20 utilization and effectiveness of the angel investment credit.
21 The report shall include, at a minimum: the number of
22 accredited investors to whom certificates of eligibility were
23 issued by the department in the previous year; the names of
24 those investors; the amount of angel investment credit for
25 which each investor was certified eligible; and the number and

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1 names of the businesses that the department has determined are
2 qualified businesses for purposes of an investment by an
3 accredited investor. The report shall also include an
4 evaluation of the success of the angel investment credit as an
5 incubator of new businesses in New Mexico and of the continued
6 viability and operation in New Mexico of businesses in which
7 investments eligible for the angel investment credit have been
8 made.

9 G. To claim the angel investment credit, the
10 taxpayer must provide to the taxation and revenue department a
11 certificate of eligibility issued by the economic development
12 department pursuant to Subsection D of this section and any
13 other information the taxation and revenue department may
14 require to determine the amount of the tax credit due the
15 taxpayer. If the requirements of this section have been
16 complied with, the taxation and revenue department shall
17 approve the claim for the credit and issue a document pursuant
18 to Subsection K of this section.

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

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1 association in a taxable year with respect to a qualified
2 investment shall not exceed twenty-five thousand dollars
3 (\$25,000).

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

8 J. The angel investment credit may only be
9 deducted from ~~[the]~~ a taxpayer's income tax liability. The
10 tax credit is deemed to originate at the point of the
11 qualified investment. Any portion of the tax credit provided
12 by this section that remains unused at the end of the
13 taxpayer's taxable year may be carried forward for three
14 consecutive years.

15 K. If the requirements of this section have been
16 complied with, the department shall issue to the applicant a
17 document granting the tax credit allowed pursuant to this
18 section. The document shall be numbered for identification
19 and shall declare its date of issuance and the amount of the
20 tax credit allowed pursuant to this section. The document may
21 be submitted by the applicant with that taxpayer's income tax
22 return or may be sold, exchanged or otherwise transferred to
23 another taxpayer. The parties to such a transaction shall
24 notify the department of the sale, exchange or transfer within
25 ten days of the sale, exchange or transfer.

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1 [~~K-~~] L. As used in this section:

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

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

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

17 (4) "high-technology research" means
18 research:

19 (a) that is undertaken for the purpose
20 of discovering information that is technological in nature and
21 the application of which is intended to be useful in the
22 development of a new or improved business component of the
23 qualified business; and

24 (b) substantially all of the activities
25 of which constitute elements of a process or experimentation

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1 related to a new or improved function, performance,
2 reliability or quality, but not related to style, taste or
3 cosmetic or seasonal design factors;

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

- 7 (a) construction;
- 8 (b) farming;
- 9 (c) processing natural resources,
10 including hydrocarbons; or
- 11 (d) preparing meals for immediate
12 consumption, on- or off-premises;

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

- 15 (a) maintains its principal place of
16 business in New Mexico;
- 17 (b) engages in high-technology research
18 or manufacturing activities in New Mexico;
- 19 (c) is not primarily engaged in or is
20 not primarily organized as any of the following types of
21 businesses: credit or finance services, including banks,
22 savings and loan associations, credit unions, small loan
23 companies or title loan companies; financial brokering or
24 investment; professional services, including accounting, legal
25 services, engineering and any other service the practice of

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1 which requires a license; insurance; real estate; construction
2 or construction contracting; consulting or brokering; mining;
3 wholesale or retail trade; providing utility service,
4 including water, sewerage, electricity, natural gas, propane
5 or butane; publishing, including publishing newspapers or
6 other periodicals; broadcasting; or providing internet
7 operating services;

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

16 (e) has one hundred or fewer employees
17 calculated on a full-time-equivalent basis at the time of the
18 investment; and

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

22 (7) "qualified investment" means a cash
23 investment in a qualified business for equity, but does not
24 include an investment by a taxpayer if the taxpayer, a member
25 of the taxpayer's immediate family or an entity affiliated

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1 with the taxpayer receives compensation from the qualified
2 business in exchange for services provided to the qualified
3 business within one year of investment in the qualified
4 business."

5 SECTION 5. Section 7-2-18.22 NMSA 1978 (being Laws
6 2007, Chapter 361, Section 2) is amended to read:

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

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

17 B. The rural health care practitioner tax credit
18 may be claimed and allowed in an amount that shall not exceed
19 five thousand dollars (\$5,000) for all eligible physicians,
20 osteopathic physicians, dentists, clinical psychologists,
21 podiatrists and optometrists who qualify pursuant to the
22 provisions of this section, except the credit shall not exceed
23 three thousand dollars (\$3,000) for all eligible dental
24 hygienists, physician assistants, certified nurse-midwives,
25 certified registered nurse anesthetists, certified nurse

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1 practitioners and clinical nurse specialists.

2 C. To qualify for the rural health care
3 practitioner tax credit, an eligible health care practitioner
4 shall have provided health care during a taxable year for at
5 least two thousand eighty hours at a practice site located in
6 an approved, rural health care underserved area. An eligible
7 rural health care practitioner who provided health care
8 services for at least one thousand forty hours but less than
9 two thousand eighty hours at a practice site located in an
10 approved rural health care underserved area during a taxable
11 year is eligible for one-half of the credit amount. A
12 taxpayer shall apply for approval for the tax credit within
13 one year following the end of the calendar year in which the
14 health care services are provided. The credit is deemed to
15 originate on the date the minimum required hours of health
16 care services are completed.

17 D. Before an eligible health care practitioner may
18 claim the rural health care practitioner tax credit, the
19 practitioner shall submit an application to the department of
20 health that describes the practitioner's clinical practice and
21 contains additional information that the department of health
22 may require. The department of health shall determine whether
23 an eligible health care practitioner qualifies for the rural
24 health care practitioner tax credit and shall issue a
25 certificate to each qualifying eligible health care

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1 practitioner. The department of health shall provide the
2 taxation and revenue department appropriate information for
3 all eligible health care practitioners to whom certificates
4 are issued.

5 E. ~~[A taxpayer claiming]~~ To claim the credit
6 provided by this section, a taxpayer shall submit a copy of
7 the certificate issued by the department of health ~~[with the~~
8 ~~taxpayer's New Mexico income tax return for the taxable year]~~
9 to the taxation and revenue department. If the requirements
10 of this section have been complied with, the department shall
11 issue to the applicant a document granting the tax credit
12 allowed pursuant to this section. The document shall be
13 numbered for identification and shall declare its date of
14 issuance and the amount of the tax credit allowed pursuant to
15 this section. The document may be submitted by the applicant
16 with that taxpayer's income tax return or may be sold,
17 exchanged or otherwise transferred to another taxpayer. The
18 parties to such a transaction shall notify the department of
19 the sale, exchange or transfer within ten days of the sale,
20 exchange or transfer.

21 F. The rural health care practitioner tax credit
22 may only be deducted from a taxpayer's income tax liability.
23 If the amount of the credit claimed exceeds a taxpayer's tax
24 liability for the taxable year in which the credit is being
25 claimed, the excess may be carried forward for three

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1 consecutive taxable years.

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

3 (1) "eligible health care practitioner"

4 means:

5 (a) a certified nurse-midwife licensed
6 by the board of nursing as a registered nurse and licensed by
7 the public health division of the department of health to
8 practice nurse-midwifery as a certified nurse-midwife;

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

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

13 (d) an osteopathic physician licensed
14 pursuant to the provisions of Chapter 61, Article 10 NMSA 1978
15 or an osteopathic physician assistant licensed pursuant to the
16 provisions of the Osteopathic Physicians' Assistants Act;

17 (e) a physician or physician assistant
18 licensed pursuant to the provisions of Chapter 61, Article 6
19 NMSA 1978;

20 (f) a podiatrist licensed pursuant to
21 the provisions of the Podiatry Act;

22 (g) a clinical psychologist licensed
23 pursuant to the provisions of the Professional Psychologist
24 Act; and

25 (h) a registered nurse in advanced

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1 practice who has been prepared through additional formal
2 education as provided in Sections 61-3-23.2 through 61-3-23.4
3 NMSA 1978 to function beyond the scope of practice of
4 professional registered nursing, including certified nurse
5 practitioners, certified registered nurse anesthetists and
6 clinical nurse specialists;

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

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

16 (4) "rural" means an area or location
17 identified by the department of health as falling outside of
18 an urban area."

19 SECTION 6. Section 7-2A-8.6 NMSA 1978 (being Laws 1984,
20 Chapter 34, Section 2, as amended) is amended to read:

21 "7-2A-8.6. [~~CREDIT FOR~~] PRESERVATION OF CULTURAL
22 PROPERTY CORPORATE INCOME TAX CREDIT.--

23 A. Tax credits for the preservation of cultural
24 property may be claimed as follows:

25 (1) to encourage the restoration,

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1 rehabilitation and preservation of cultural properties, a
2 taxpayer that files a corporate income tax return and that is
3 the owner of a cultural property listed on the official New
4 Mexico register of cultural properties, with its consent, may
5 claim a credit not to exceed twenty-five thousand dollars
6 (\$25,000) in an amount equal to one-half of the cost of
7 restoration, rehabilitation or preservation of the cultural
8 property; or

9 (2) if a cultural property, whose owner may
10 otherwise claim the credit set forth in Paragraph (1) of this
11 subsection, is also located within an arts and cultural
12 district designated by the state or a municipality pursuant to
13 the Arts and Cultural District Act, the owner of that cultural
14 property may claim a credit not to exceed fifty thousand
15 dollars (\$50,000), including any credit claimed pursuant to
16 Paragraph (1) of this subsection, in an amount equal to one-
17 half of the cost of restoration, rehabilitation or
18 preservation of the cultural property.

19 B. The taxpayer may claim the credit for a
20 cultural property restoration, rehabilitation or preservation
21 project if:

22 (1) it submitted a plan and specifications
23 for a restoration, rehabilitation or preservation project to
24 the committee and received approval from the committee for the
25 plan and specifications prior to commencement of the

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1 ~~[restoration, rehabilitation or preservation]~~ project;

2 (2) it received certification from the
3 committee after completing the restoration, rehabilitation or
4 preservation project, or committee-approved phase, that ~~[it]~~
5 the project or phase conformed to the plan and specifications
6 and preserved and maintained those qualities of the property
7 that made ~~[it]~~ the property eligible for inclusion in the
8 official register; and

9 (3) the project is completed within twenty-
10 four months of the date that the project is approved by the
11 committee in accordance with Paragraph (1) of this subsection.

12 C. A taxpayer may claim the credit provided in
13 this section for each taxable year in which preservation,
14 restoration or rehabilitation is carried out. The credit is
15 deemed to originate when the preservation, restoration or
16 rehabilitation is completed. A taxpayer shall apply for
17 approval for the tax credit within one year of the completion
18 of the preservation, restoration or rehabilitation. Claims
19 for the credit provided in this section shall be limited to
20 three consecutive years, and the maximum aggregate credit
21 allowable shall not exceed twenty-five thousand dollars
22 (\$25,000) if governed by Paragraph (1) of Subsection A of this
23 section, or fifty thousand dollars (\$50,000) if governed by
24 Paragraph (2) of Subsection A of this section, for any single
25 restoration, rehabilitation or preservation project certified

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1 by the committee for any cultural property listed on the
2 official New Mexico register. No single project may extend
3 beyond a period of more than two years.

4 D. A taxpayer who otherwise qualifies and claims a
5 credit on a restoration, rehabilitation or preservation
6 project on property owned by a partnership of which the
7 taxpayer is a member may claim a credit only in proportion to
8 the taxpayer's interest in the partnership. The total credit
9 claimed by all members of the partnership shall not exceed
10 twenty-five thousand dollars (\$25,000) if governed by
11 Paragraph (1) of Subsection A of this section, or fifty
12 thousand dollars (\$50,000) if governed by Paragraph (2) of
13 Subsection A of this section, in the aggregate for any single
14 restoration, preservation or rehabilitation project for any
15 cultural property listed on the official New Mexico register
16 approved by the committee.

17 E. The credit provided in this section may only be
18 deducted from the taxpayer's corporate income tax liability.
19 Any portion of the maximum tax credit provided by this section
20 that remains unused at the end of the taxpayer's taxable year
21 may be carried forward for four consecutive years; provided,
22 however, that the total tax credits claimed under this section
23 shall not exceed twenty-five thousand dollars (\$25,000) if
24 governed by Paragraph (1) of Subsection A of this section, or
25 fifty thousand dollars (\$50,000) if governed by Paragraph (2)

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1 of Subsection A of this section, for any single restoration,
2 rehabilitation or preservation project for any cultural
3 property listed on the official New Mexico register.

4 F. If the requirements of this section have been
5 complied with, the department shall issue to the applicant a
6 document granting the tax credit allowed pursuant to this
7 section. The document shall be numbered for identification
8 and shall declare its date of issuance and the amount of the
9 tax credit allowed pursuant to this section. The document may
10 be submitted by the applicant with that taxpayer's income tax
11 return or may be sold, exchanged or otherwise transferred to
12 another taxpayer. The parties to such a transaction shall
13 notify the department of the sale, exchange or transfer within
14 ten days of the sale, exchange or transfer.

15 [~~F.~~] G. The historic preservation division shall
16 promulgate regulations for the implementation of this section.

17 [~~G.~~] H. As used in this section:

18 (1) "committee" means the cultural
19 properties review committee created in Section 18-6-4 NMSA
20 1978; and

21 (2) "historic preservation division" means
22 the historic preservation division of the cultural affairs
23 department created in Section 18-6-8 NMSA 1978."

24 **SECTION 7.** Section 7-2A-17.1 NMSA 1978 (being Laws
25 2003, Chapter 400, Section 2) is amended to read:

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1 "7-2A-17.1. JOB MENTORSHIP TAX CREDIT.--

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

11 B. A taxpayer may claim the job mentorship tax
12 credit provided in this section for each taxable year in which
13 the taxpayer employs one or more qualified students. A
14 taxpayer shall apply for approval for the tax credit within
15 one year following the end of the calendar year in which the
16 qualified student is employed by the business. The maximum
17 aggregate credit allowable shall not exceed fifty percent of
18 the gross wages paid to not more than ten qualified students
19 employed by the taxpayer for up to three hundred twenty hours
20 of employment of each qualified student in each taxable year
21 for a maximum of three taxable years for each qualified
22 student. Each credit is deemed to originate on the hiring
23 date for each qualified student. In no event shall a taxpayer
24 claim a credit in excess of twelve thousand dollars (\$12,000)
25 in any taxable year. The employer shall certify that hiring

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1 the qualified student does not displace or replace a current
2 employee.

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

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

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

23 (1) a properly executed job mentorship tax
24 credit certificate;

25 (2) information required by the secretary

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1 with respect to the employee's employment by the taxpayer
2 during the taxable year for which the credit is claimed; and

3 (3) information required by the secretary
4 that the employee was not also employed in the same taxable
5 year by another New Mexico business qualifying for and
6 claiming a job mentorship tax credit for that employee
7 pursuant to this section or the Income Tax Act.

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

16 G. If the requirements of this section have been
17 complied with, the department shall issue to the applicant a
18 document granting the tax credit allowed pursuant to this
19 section. The document shall be numbered for identification
20 and shall declare its date of issuance and the amount of the
21 tax credit allowed pursuant to this section. The document may
22 be submitted by the applicant with that taxpayer's corporate
23 income tax return or may be sold, exchanged or otherwise
24 transferred to another taxpayer. The parties to such a
25 transaction shall notify the department of the sale, exchange

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1 or transfer within ten days of the sale, exchange or transfer.

2 [~~G-~~] H. As used in this section:

3 (1) "career preparation education program"
4 means a work-based learning or school-to-career program
5 designed for secondary school students to create academic and
6 career goals and objectives and find employment in a job
7 meeting those goals and objectives;

8 (2) "New Mexico business" means a
9 corporation that carries on a trade or business in New Mexico
10 and that employs in New Mexico fewer than three hundred full-
11 time employees during the taxable year; and

12 (3) "qualified student" means an individual
13 who is at least fourteen years of age but not more than
14 twenty-one years of age who is attending full time an
15 accredited New Mexico secondary school and who is a
16 participant in a career preparation education program
17 sanctioned by the secondary school."

18 **SECTION 8. APPLICABILITY.**--The provisions of this act
19 apply to taxable years beginning on or after January 1, 2014.

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BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; AMENDING THE GROSS RECEIPTS AND
COMPENSATING TAX ACT; PROVIDING FOR SPECIAL AGREEMENTS TO ALLOW
PAYMENT OF TAXES BY A PERSON OTHER THAN THE TAXPAYER; REMOVING
REPORTING REQUIREMENTS FROM A DEDUCTION REGARDING SALES TO
MANUFACTURERS.

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

SECTION 1. A new section of the Tax Administration Act is
enacted to read:

"[NEW MATERIAL] SPECIAL AGREEMENTS--ALTERNATIVE GROSS
RECEIPTS TAXPAYER.--

A. To allow the payment of gross receipts tax by a
person who is not the liable taxpayer, the secretary may
approve the following special agreements:

- (1) an agreement to collect and pay over taxes

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1 for persons in a business relationship, which is an agreement
2 that may be entered into by persons who wish to remit gross
3 receipts tax on behalf of another person with whom the taxpayer
4 has a business relationship;

5 (2) an agreement to collect and pay over taxes
6 for a direct sales company:

7 (a) which agreement may be entered into
8 by a direct sales company that has distributors of tangible
9 personal property in New Mexico; and

10 (b) in which the direct sales company
11 agrees to pay the gross receipts tax liability of the
12 distributor at the same time the company remits its own gross
13 receipts tax; and

14 (3) a manufacturer's agreement to pay gross
15 receipts tax on behalf of a utility company, which agreement:

16 (a) allows a manufacturer in New Mexico
17 to pay gross receipts tax on behalf of a utility company on
18 sales of utilities that are not consumed in the manufacturing
19 process; and

20 (b) is only applicable to transactions
21 between a manufacturer and a utility company that are
22 associated with the gross receipts tax deduction pursuant to
23 Subsection B of Section 7-9-46 NMSA 1978.

24 B. To enter into the agreements authorized in this
25 section, a person shall complete a form prescribed by the

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1 secretary and provide any additional information or
2 documentation required by department rules or instructions that
3 will assist in the approval of agreements listed in Subsection
4 A of this section.

5 C. Once approved, an agreement shall be effective
6 only for the period of time specified in each agreement. Any
7 person entering into an agreement to pay tax on behalf of
8 another person shall fulfill all of the requirements set out in
9 the agreement. Failure to fulfill all of the requirements set
10 out in the agreement shall result in the revocation of the
11 agreement by the department. An approved agreement may only be
12 revoked prior to expiration by written notification to all
13 persons who are party to the agreement and shall be applied
14 beginning on the first day of a month that occurs at least one
15 month following the date on which the agreement is revoked."

16 SECTION 2. Section 7-9-46 NMSA 1978 (being Laws 1969,
17 Chapter 144, Section 36, as amended) is amended to read:

18 "7-9-46. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL
19 GROSS RECEIPTS--SALES TO MANUFACTURERS.--

20 A. Receipts from selling tangible personal property
21 may be deducted from gross receipts or from governmental gross
22 receipts if the sale is made to a person engaged in the
23 business of manufacturing who delivers a nontaxable transaction
24 certificate to the seller. The buyer delivering the nontaxable
25 transaction certificate must incorporate the tangible personal

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1 property as an ingredient or component part of the product that
2 the buyer is in the business of manufacturing.

3 B. Receipts from selling tangible personal property
4 that is used in such a way that it is consumed in the
5 manufacturing process of a product, provided that the tangible
6 personal property is not a tool or equipment used to create the
7 manufactured product, to a person engaged in the business of
8 manufacturing that product and who delivers a nontaxable
9 transaction certificate to the seller may be deducted in the
10 following percentages from gross receipts or from governmental
11 gross receipts:

12 (1) twenty percent of receipts received prior
13 to January 1, 2014;

14 (2) forty percent of receipts received in
15 calendar year 2014;

16 (3) sixty percent of receipts received in
17 calendar year 2015;

18 (4) eighty percent of receipts received in
19 calendar year 2016; and

20 (5) one hundred percent of receipts received
21 on or after January 1, 2017.

22 C. The purpose of the deductions provided in this
23 section is to encourage manufacturing businesses to locate in
24 New Mexico and to reduce the tax burden, including reducing
25 pyramiding, on the tangible personal property that is consumed

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underscored material = new
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1 in the manufacturing process and that is purchased by
2 manufacturing businesses in New Mexico.

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

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

16 SECTION 3. APPLICABILITY.--The provisions of this act
17 apply to gross receipts received in tax periods beginning on or
18 after May 1, 2013.

19 SECTION 4. EMERGENCY.--It is necessary for the public
20 peace, health and safety that this act take effect immediately.

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SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; AMENDING A SECTION OF THE GROSS RECEIPTS AND COMPENSATING TAX ACT TO PROVIDE FOR A DEDUCTION FROM GROSS RECEIPTS OF PAYMENTS FOR SERVICES RENDERED BY DIALYSIS FACILITIES.

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

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

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

A. Receipts from payments by the United States government or any agency thereof for provision of medical and other health services by medical doctors, osteopathic physicians, doctors of oriental medicine, athletic trainers, chiropractic physicians, counselor and therapist practitioners,

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1 dentists, massage therapists, naprapaths, nurses,
2 nutritionists, dietitians, occupational therapists,
3 optometrists, pharmacists, physical therapists, psychologists,
4 radiologic technologists, respiratory care practitioners,
5 audiologists, speech-language pathologists, social workers and
6 podiatrists or of medical, other health and palliative services
7 by hospices or nursing homes to medicare beneficiaries pursuant
8 to the provisions of Title 18 of the federal Social Security
9 Act may be deducted from gross receipts.

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

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

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

25 E. Receipts from payments by the United States

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

6 F. Receipts from payments by the United States
7 government or any agency thereof for medical and other health
8 services provided by a dialysis facility to medicare
9 beneficiaries pursuant to the provisions of Title 18 of the
10 federal Social Security Act may be deducted from gross receipts
11 according to the following schedule:

12 (1) from July 1, 2013 through June 30, 2014,
13 thirty-three and one-third percent of the receipts may be
14 deducted;

15 (2) from July 1, 2014 through June 30, 2015,
16 sixty-six and two-thirds percent of the receipts may be
17 deducted; and

18 (3) after June 30, 2015, one hundred percent
19 of the receipts may be deducted.

20 [~~F.~~] G. For the purposes of this section:

21 (1) "athletic trainer" means a person licensed
22 as an athletic trainer pursuant to the provisions of Chapter
23 61, Article 14D NMSA 1978;

24 (2) "chiropractic physician" means a person
25 who practices chiropractic as defined in the Chiropractic

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1 Physician Practice Act;

2 (3) "clinical laboratory" means a laboratory
3 accredited pursuant to 42 USCA 263a;

4 (4) "counselor and therapist practitioner"
5 means a person licensed to practice as a counselor or therapist
6 pursuant to the provisions of Chapter 61, Article 9A NMSA 1978;

7 (5) "dentist" means a person licensed to
8 practice as a dentist pursuant to the provisions of Chapter 61,
9 Article 5A NMSA 1978;

10 (6) "dialysis facility" means an end-stage
11 renal disease facility as defined pursuant to 42 C.F.R.
12 405.2102;

13 [~~6~~] (7) "doctor of oriental medicine" means
14 a person licensed as a physician to practice acupuncture or
15 oriental medicine pursuant to the provisions of Chapter 61,
16 Article 14A NMSA 1978;

17 [~~7~~] (8) "home health agency" means a for-
18 profit entity that is licensed by the department of health and
19 certified by the federal centers for medicare and medicaid
20 services as a home health agency and certified to provide
21 medicare services;

22 [~~8~~] (9) "hospice" means a for-profit entity
23 licensed by the department of health as a hospice and certified
24 to provide medicare services;

25 [~~9~~] (10) "massage therapist" means a person

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1 licensed to practice massage therapy pursuant to the provisions
2 of Chapter 61, Article 12C NMSA 1978;

3 ~~[(10)]~~ (11) "medical doctor" means a person
4 licensed as a physician to practice medicine pursuant to the
5 provisions of the Medical Practice Act;

6 ~~[(11)]~~ (12) "naprapath" means a person
7 licensed as a naprapath pursuant to the provisions of Chapter
8 61, Article ~~[12E]~~ 12F NMSA 1978;

9 ~~[(12)]~~ (13) "nurse" means a person licensed as
10 a registered nurse pursuant to the provisions of Chapter 61,
11 Article 3 NMSA 1978;

12 ~~[(13)]~~ (14) "nursing home" means a for-profit
13 entity licensed by the department of health as a nursing home
14 and certified to provide medicare services;

15 ~~[(14)]~~ (15) "nutritionist" or "dietitian"
16 means a person licensed as a nutritionist or dietitian pursuant
17 to the provisions of Chapter 61, Article 7A NMSA 1978;

18 ~~[(15)]~~ (16) "occupational therapist" means a
19 person licensed as an occupational therapist pursuant to the
20 provisions of Chapter 61, Article 12A NMSA 1978;

21 ~~[(16)]~~ (17) "osteopathic physician" means a
22 person licensed as an osteopathic physician pursuant to the
23 provisions of Chapter 61, Article 10 NMSA 1978;

24 ~~[(17)]~~ (18) "optometrist" means a person
25 licensed to practice optometry pursuant to the provisions of

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1 Chapter 61, Article 2 NMSA 1978;

2 [~~(18)~~] (19) "pharmacist" means a person
3 licensed as a pharmacist pursuant to the provisions of Chapter
4 61, Article 11 NMSA 1978;

5 [~~(19)~~] (20) "physical therapist" means a
6 person licensed as a physical therapist pursuant to the
7 provisions of Chapter 61, Article 12D NMSA 1978;

8 [~~(20)~~] (21) "podiatrist" means a person
9 licensed as a podiatrist pursuant to the provisions of the
10 Podiatry Act;

11 [~~(21)~~] (22) "psychologist" means a person
12 licensed as a psychologist pursuant to the provisions of
13 Chapter 61, Article 9 NMSA 1978;

14 [~~(22)~~] (23) "radiologic technologist" means a
15 person licensed as a radiologic technologist pursuant to the
16 provisions of Chapter 61, Article 14E NMSA 1978;

17 [~~(23)~~] (24) "respiratory care practitioner"
18 means a person licensed as a respiratory care practitioner
19 pursuant to the provisions of Chapter 61, Article 12B NMSA
20 1978;

21 [~~(24)~~] (25) "social worker" means a person
22 licensed as an independent social worker pursuant to the
23 provisions of Chapter 61, Article 31 NMSA 1978;

24 [~~(25)~~] (26) "speech-language pathologist"
25 means a person licensed as a speech-language pathologist

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pursuant to the provisions of Chapter 61, Article 14B NMSA
1978; and

~~[(26)]~~ (27) "TRICARE program" means the
program defined in 10 U.S.C. 1072(7)."

SECTION 2. EFFECTIVE DATE.--The effective date of the
provisions of this act is July 1, 2013.