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HOUSE BILL 155

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Edward C. Sandoval

AN ACT

RELATING TO TAXATION; SIMPLIFYING AND UPDATING THE INCOME TAX ACT; MAKING CONFORMING CHANGES TO THE UNIFORM DIVISION OF INCOME FOR TAX PURPOSES ACT; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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] INDEXING AMOUNTS FOR INFLATION.--The dollar value of an amount used to specify a tax, a credit, a rebate or any other provision that is indexed for inflation pursuant to this section shall be adjusted each calendar year subsequent to the base year according to the following rules:

A. to determine the dollar value of an amount for a calendar year, the dollar value of the amount in the base year

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1 shall be multiplied by the inflation adjustment factor
2 determined pursuant to Subsection B of this section and then
3 rounded according to the rules in Subsection D of this section;

4 B. the inflation adjustment factor for a calendar
5 year is the larger of one or the quotient of a fraction:

6 (1) the numerator of which is the sum of the
7 monthly consumer price index values for the twelve months
8 ending in August of the preceding calendar year; and

9 (2) the denominator of which is the sum of the
10 monthly consumer price index values for the twelve months
11 ending in August of the year preceding the base year;

12 C. as used in this section, the "consumer price
13 index" is the last consumer price index published by the United
14 States department of labor for all urban consumers, for all
15 items and for the current series; and

16 D. the amount determined under Subsection A of this
17 section, before rounding, shall be rounded according to the
18 following rules:

19 (1) if the amount is no more than five hundred
20 dollars (\$500), to the nearest one dollar (\$1.00);

21 (2) if the amount is more than five hundred
22 dollars (\$500) but no more than five thousand dollars (\$5,000),
23 to the nearest five dollars (\$5.00);

24 (3) if the amount is more than five thousand
25 dollars (\$5,000) but no more than fifty thousand dollars

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1 (\$50,000), to the nearest fifty dollars (\$50.00); and
2 (4) if the amount is more than fifty thousand
3 dollars (\$50,000), to the nearest five hundred dollars (\$500)."

4 Section 2. Section 7-2-2 NMSA 1978 (being Laws 1986,
5 Chapter 20, Section 26, as amended) is amended to read:

6 "7-2-2. DEFINITIONS.--For the purpose of the Income Tax
7 Act and unless the context requires otherwise:

8 A. "adjusted gross income" means adjusted gross
9 income as defined in Section 62 of the Internal Revenue Code
10 [~~as that section may be amended or renumbered~~];

11 B. "base income":

12 (1) means, for estates and trusts, that part
13 of the estate's or trust's income defined as taxable income and
14 upon which the federal income tax is calculated in the Internal
15 Revenue Code for income tax purposes [~~plus, for taxable years~~
16 ~~beginning on or after January 1, 1991, the amount of the net~~
17 ~~operating loss deduction allowed by Section 172(a) of the~~
18 ~~Internal Revenue Code, as that section may be amended or~~
19 ~~renumbered, and taken by the taxpayer for that year]; and~~

20 (2) means, for taxpayers other than estates or
21 trusts, that part of the taxpayer's income defined as adjusted
22 gross income [~~plus, for taxable years beginning on or after~~
23 ~~January 1, 1991, the amount of the net operating loss deduction~~
24 ~~allowed by Section 172(a) of the Internal Revenue Code, as that~~
25 ~~section may be amended or renumbered, and taken by the taxpayer~~

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1 ~~for that year;~~

2 ~~(3) includes, for all taxpayers, any other~~
3 ~~income of the taxpayer not included in adjusted gross income~~
4 ~~but upon which a federal tax is calculated pursuant to the~~
5 ~~Internal Revenue Code for income tax purposes, except amounts~~
6 ~~for which a calculation of tax is made pursuant to Section 55~~
7 ~~of the Internal Revenue Code, as that section may be amended or~~
8 ~~renumbered; "base income" also includes interest received on a~~
9 ~~state or local bond; and~~

10 ~~(4) includes, for all taxpayers, an amount~~
11 ~~deducted pursuant to Section 7-2-32 NMSA 1978 in a prior~~
12 ~~taxable year if:~~

13 ~~(a) such amount is transferred to~~
14 ~~another qualified tuition program, as defined in Section 529 of~~
15 ~~the Internal Revenue Code, not authorized in the Education~~
16 ~~Trust Act; or~~

17 ~~(b) a distribution or refund is made for~~
18 ~~any reason other than: 1) to pay for qualified higher~~
19 ~~education expenses, as defined pursuant to Section 529 of the~~
20 ~~Internal Revenue Code; or 2) upon the beneficiary's death,~~
21 ~~disability or receipt of a scholarship];~~

22 C. "compensation" means wages, salaries,
23 commissions and any other form of remuneration paid to
24 employees for personal services;

25 D. "department" means the taxation and revenue

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1 department, the secretary or any employee of the department
2 exercising authority lawfully delegated to that employee by the
3 secretary;

4 E. "dependent" means "dependent" as defined by
5 Section 152 of the Internal Revenue Code;

6 [~~E.~~] F. "fiduciary" means a guardian, trustee,
7 executor, administrator, committee, conservator, receiver,
8 individual or corporation acting in any fiduciary capacity;

9 [~~F.~~] G. "filing status" means [~~"married filing~~
10 ~~joint returns", "married filing separate returns", "head of~~
11 ~~household", "surviving spouse" and "single", as those terms are~~
12 ~~generally defined for federal tax purposes] the taxpayer's~~
13 marital and family status, which may be one of the following:

14 (1) "married individuals filing joint returns"
15 or "married filing jointly" means married individuals eligible
16 to file a federal income tax return jointly with the taxpayer's
17 spouse pursuant to Section 6013 of the Internal Revenue Code;

18 (2) "married individuals filing separate
19 returns" or "married filing separately" means a married
20 taxpayer not filing a federal income tax return jointly with
21 the taxpayer's spouse;

22 (3) "head of household" means "head of
23 household" as that term is defined by Section 2(b) of the
24 Internal Revenue Code;

25 (4) "surviving spouse" means "surviving

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1 spouse" as that term is defined by Section 2(a) of the Internal
2 Revenue Code; and

3 (5) "single" means an unmarried individual not
4 a head of household or surviving spouse;

5 H. "first year resident" means an individual who
6 moved to New Mexico during the taxable year for which the
7 taxpayer is filing a return with the intent to make New Mexico
8 the individual's permanent residence;

9 ~~[G.]~~ I. "fiscal year" means any accounting period
10 of twelve months ending on the last day of any month other than
11 December;

12 ~~[H. "head of household" means "head of household"~~
13 ~~as generally defined for federal income tax purposes;~~

14 ~~[I.]~~ J. "individual" means a natural person, an
15 estate, a trust or a fiduciary acting for a natural person,
16 trust or estate;

17 ~~[J.]~~ K. "Internal Revenue Code" means the United
18 States Internal Revenue Code of 1986, as that code may be
19 amended or as its sections may be renumbered;

20 ~~[K. "lump-sum amount" means for the purpose of~~
21 ~~determining liability for federal income tax, an amount that~~
22 ~~was not included in adjusted gross income but upon which the~~
23 ~~five-year-averaging or the ten-year-averaging method of tax~~
24 ~~computation provided in Section 402 of the Internal Revenue~~
25 ~~Code, as that section may be amended or renumbered, was~~

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1 applied;]

2 L. "itemized deduction" means the amount allowed
3 the taxpayer for the taxpayer's taxable year pursuant to
4 Section 63(d) of the Internal Revenue Code, reduced by the
5 amount determined pursuant to Section 68 of the Internal
6 Revenue Code and further reduced by the amount determined
7 pursuant to Subsection J of Section 7-2-18.10 NMSA 1978;

8 [~~E.~~] M. "modified gross income" means [all income
9 of the taxpayer and, if any, the taxpayer's spouse and
10 dependents, undiminished by losses and from whatever source,
11 including:

- 12 (1) ~~compensation;~~
- 13 (2) ~~net profit from business;~~
- 14 (3) ~~gains from dealings in property;~~
- 15 (4) ~~interest;~~
- 16 (5) ~~net rents;~~
- 17 (6) ~~royalties;~~
- 18 (7) ~~dividends;~~
- 19 (8) ~~alimony and separate maintenance payments;~~
- 20 (9) ~~annuities;~~
- 21 (10) ~~income from life insurance and endowment~~
22 ~~contracts;~~
- 23 (11) ~~pensions;~~
- 24 (12) ~~discharge of indebtedness;~~
- 25 (13) ~~distributive share of partnership income;~~

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- 1 ~~(14) income in respect of a decedent;~~
2 ~~(15) income from an interest in an estate or a~~
3 ~~trust;~~
4 ~~(16) social security benefits;~~
5 ~~(17) unemployment compensation benefits;~~
6 ~~(18) workers' compensation benefits;~~
7 ~~(19) public assistance and welfare benefits;~~
8 ~~(20) cost-of-living allowances; and~~
9 ~~(21) gifts;~~

10 M. ~~"modified gross income" excludes:~~

- 11 ~~(1) payments for hospital, dental, medical or~~
12 ~~drug expenses to or on behalf of the taxpayer;~~
13 ~~(2) the value of room and board provided by~~
14 ~~federal, state or local governments or by private individuals~~
15 ~~or agencies based upon financial need and not as a form of~~
16 ~~compensation;~~
17 ~~(3) payments pursuant to a federal, state or~~
18 ~~local government program directly or indirectly to a third~~
19 ~~party on behalf of the taxpayer when identified to a particular~~
20 ~~use or invoice by the payer; or~~
21 ~~(4) payments for credits and rebates pursuant~~
22 ~~to the Income Tax Act and made for a credit pursuant to Section~~
23 ~~7-3-9 NMSA 1978;~~

24 N. ~~"net income" means, for estates and trusts, base~~
25 ~~income adjusted to exclude amounts that the state is prohibited~~

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1 ~~from taxing because of the laws or constitution of this state~~
2 ~~or the United States and means, for taxpayers other than~~
3 ~~estates or trusts, base income adjusted to exclude:~~

4 ~~(1) an amount equal to the standard deduction~~
5 ~~allowed the taxpayer for the taxpayer's taxable year by Section~~
6 ~~63 of the Internal Revenue Code, as that section may be amended~~
7 ~~or renumbered;~~

8 ~~(2) an amount equal to the itemized deductions~~
9 ~~defined in Section 63 of the Internal Revenue Code, as that~~
10 ~~section may be amended or renumbered, allowed the taxpayer for~~
11 ~~the taxpayer's taxable year less the amount excluded pursuant~~
12 ~~to Paragraph (1) of this subsection;~~

13 ~~(3) an amount equal to the product of the~~
14 ~~exemption amount allowed for the taxpayer's taxable year by~~
15 ~~Section 151 of the Internal Revenue Code, as that section may~~
16 ~~be amended or renumbered, multiplied by the number of personal~~
17 ~~exemptions allowed for federal income tax purposes;~~

18 ~~(4) income from obligations of the United~~
19 ~~States of America less expenses incurred to earn that income;~~

20 ~~(5) other amounts that the state is prohibited~~
21 ~~from taxing because of the laws or constitution of this state~~
22 ~~or the United States;~~

23 ~~(6) for taxable years that began prior to~~
24 ~~January 1, 1991, an amount equal to the sum of:~~

25 ~~(a) net operating loss carryback~~

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1 ~~deductions to that year from taxable years beginning prior to~~
2 ~~January 1, 1991 claimed and allowed, as provided by the~~
3 ~~Internal Revenue Code; and~~

4 ~~(b) net operating loss carryover~~
5 ~~deductions to that year claimed and allowed; and~~

6 ~~(7) for taxable years beginning on or after~~
7 ~~January 1, 1991, an amount equal to the sum of any net~~
8 ~~operating loss carryover deductions to that year claimed and~~
9 ~~allowed, provided that the amount of any net operating loss~~
10 ~~carryover from a taxable year beginning on or after January 1,~~
11 ~~1991 may be excluded only as follows:~~

12 ~~(a) in the case of a timely filed~~
13 ~~return, in the taxable year immediately following the taxable~~
14 ~~year for which the return is filed; or~~

15 ~~(b) in the case of amended returns or~~
16 ~~original returns not timely filed, in the first taxable year~~
17 ~~beginning after the date on which the return or amended return~~
18 ~~establishing the net operating loss is filed; and~~

19 ~~(c) in either case, if the net operating~~
20 ~~loss carryover exceeds the amount of net income exclusive of~~
21 ~~the net operating loss carryover for the taxable year to which~~
22 ~~the exclusion first applies, in the next four succeeding~~
23 ~~taxable years in turn until the net operating loss carryover is~~
24 ~~exhausted; in no event shall a net operating loss carryover be~~
25 ~~excluded in any taxable year after the fourth taxable year~~

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1 ~~beginning after the taxable year to which the exclusion first~~
2 ~~applies]~~ the taxpayer's base income, the taxpayer's additions
3 to base income set forth in Section 7-2-3.1 NMSA 1978 and the
4 amount of social security benefits received during the taxable
5 year that are not included in the taxpayer's base income
6 pursuant to Section 86 of the Internal Revenue Code;

7 ~~[O-]~~ N. "net operating loss" means any net
8 operating loss, as defined by Section 172(c) of the Internal
9 Revenue Code ~~[as that section may be amended or renumbered]~~ for
10 a taxable year as further increased by the income, if any, from
11 obligations of the United States for that year less related
12 expenses;

13 ~~[P-]~~ O. "net operating loss carryover" means the
14 amount, or any portion of the amount, of a net operating loss
15 for any taxable year that, pursuant to ~~[Paragraph (6) or (7) of~~
16 ~~Subsection N of this section]~~ Subsection D of Section 7-2-4
17 NMSA 1978, may be excluded from base income;

18 ~~[Q-]~~ P. "nonresident" means every individual not a
19 resident of ~~[this state]~~ New Mexico;

20 ~~[R-]~~ Q. "person" means any individual, estate,
21 trust, receiver, cooperative association, club, corporation,
22 company, firm, partnership, limited liability company, joint
23 venture, syndicate or other association; "person" also means,
24 to the extent permitted by law, any federal, state or other
25 governmental unit or subdivision or agency, department or

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1 instrumentality thereof;

2 R. "personal exemption" means a taxpayer, a spouse
3 or a dependent that qualifies the taxpayer for a deduction for
4 personal exemptions pursuant to Section 151 of the Internal
5 Revenue Code;

6 S. "resident" means an individual who is domiciled
7 in [~~this state~~] New Mexico during any part of the taxable year
8 or an individual who is physically present in [~~this state~~] New
9 Mexico for one hundred eighty-five days or more during the
10 taxable year; but any individual, other than someone who was
11 physically present in [~~the state~~] New Mexico for one hundred
12 eighty-five days or more during the taxable year, who, on or
13 before the last day of the taxable year, changed the
14 individual's place of abode to a place [~~without this state~~]
15 outside of New Mexico with the bona fide intention of
16 continuing actually to abide permanently [~~without this state~~]
17 outside of New Mexico is not a resident for the purposes of the
18 Income Tax Act for periods after that change of abode;

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

21 U. "state" means any state of the United States,
22 the District of Columbia, the commonwealth of Puerto Rico, any
23 territory or possession of the United States or any political
24 subdivision of a foreign country;

25 V. "state or local bond" means a bond issued by a

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1 state other than New Mexico or by a local government other than
2 one of New Mexico's political subdivisions, the interest from
3 which is excluded from income for federal income tax purposes
4 under Section 103 of the Internal Revenue Code; ~~[as that~~
5 ~~section may be amended or renumbered;~~

6 W. ~~"surviving spouse" means "surviving spouse" as~~
7 ~~generally defined for federal income tax purposes;~~

8 W. "tax table income" means base income plus the
9 additions to base income set forth in Section 7-2-3.1 NMSA 1978
10 less the exemptions set forth in Sections 7-2-4, 7-2-5.2,
11 7-2-5.5, 7-2-5.6, 7-2-5.7, 7-2-5.9, 7-2-5.10 and 7-2-5.11 NMSA
12 1978 and less the deductions set forth in Sections 7-2-32,
13 7-2-34, 7-2-35, 7-2-36 and 7-2-37 NMSA 1978;

14 X. "taxable income" means ~~[net income less any~~
15 ~~lump-sum amount]~~ tax table income less the deductions set forth
16 in Sections 7-2-38, 7-2-39 and 7-2-40 NMSA 1978;

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

22 Z. "taxpayer" means any individual subject to the
23 tax imposed or eligible for a rebate or credit authorized by
24 the Income Tax Act."

25 Section 3. Section 7-2-3 NMSA 1978 (being Laws 1965,
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1 Chapter 202, Section 3, as amended) is amended to read:

2 "7-2-3. IMPOSITION AND LEVY OF TAX.--A tax is imposed at
3 the rates specified in [~~the Income Tax Act~~] Section 7-2-7 NMSA
4 1978 upon the [~~net~~] taxable income of every resident individual
5 and upon the [~~net~~] taxable income of every nonresident
6 individual employed or engaged in the transaction of business
7 in, into or from [~~this state~~] New Mexico or deriving any income
8 from any property or employment within [~~this state~~] New
9 Mexico."

10 Section 4. A new section of the Income Tax Act, Section
11 7-2-3.1 NMSA 1978, is enacted to read:

12 "7-2-3.1. [NEW MATERIAL] ADDITIONS TO BASE INCOME.--In
13 determining tax table income, the following amounts shall be
14 added to the taxpayer's base income:

15 A. for taxable years beginning on or after January
16 1, 1991, the amount of the net operating loss deduction allowed
17 by Section 172(a) of the Internal Revenue Code and taken by the
18 taxpayer for that year;

19 B. any other income of the taxpayer not included in
20 base income but upon which a federal tax is calculated pursuant
21 to the Internal Revenue Code for income tax purposes, except
22 amounts for which a calculation of tax is made pursuant to
23 Section 55 of the Internal Revenue Code;

24 C. interest received on a state or local bond;

25 D. an amount deducted pursuant to Section 7-2-32

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1 NMSA 1978 in a prior taxable year if:

2 (1) the amount is transferred to another
3 qualified tuition program, as defined in Section 529 of the
4 Internal Revenue Code, not authorized in the Education Trust
5 Act; or

6 (2) a distribution or refund is made for any
7 reason other than:

8 (a) to pay for qualified higher
9 education expenses, as defined pursuant to Section 529 of the
10 Internal Revenue Code; or

11 (b) upon the beneficiary's death,
12 disability or receipt of a scholarship; and

13 E. for a taxpayer other than an estate or trust who
14 is not a dependent of another taxpayer, who itemized deductions
15 for federal income tax purposes for the taxable year and the
16 taxpayer's itemized deductions do not exceed the deduction
17 allowed the taxpayer in Section 7-2-38 NMSA 1978, an amount
18 equal to the excess of the deduction allowed the taxpayer by
19 Section 7-2-38 NMSA 1978 and the taxpayer's itemized
20 deductions."

21 Section 5. Section 7-2-4 NMSA 1978 (being Laws 1965,
22 Chapter 202, Section 4, as amended) is amended to read:

23 "7-2-4. EXEMPTIONS.--No income tax shall be imposed upon:

24 A. the income of a trust organized or created in
25 the United States and forming part of a stock bonus, pension or

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1 profit-sharing plan of an employer for the exclusive benefit of
2 [~~his~~] the employer's employees or their beneficiaries, which
3 trust is exempt from taxation under the provisions of the
4 Internal Revenue Code; [~~or~~]

5 B. the income of religious, educational, benevolent
6 or other organizations not organized for profit [~~which~~] that
7 are exempt from income taxation under the Internal Revenue Code
8 except to the extent that such income is subject to federal
9 income taxation as "unrelated business income" under the
10 Internal Revenue Code;

11 C. the income of a taxpayer from:

12 (1) obligations of the United States less
13 expenses incurred to earn that income; or

14 (2) amounts that New Mexico is prohibited from
15 taxing because of the laws or constitution of New Mexico or the
16 United States constitution; or

17 D. for taxable years beginning on or after January
18 1, 1991, an amount equal to the sum of the net operating loss
19 carryover exemptions to the taxable year that are claimed and
20 allowed; provided, however:

21 (1) that the exemption is only applied:

22 (a) in the case of a timely filed
23 return, in the taxable year immediately following the taxable
24 year for which the return is filed; or

25 (b) in the case of amended returns or

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1 original returns not timely filed, in the first taxable year
2 beginning after the date on which the return or amended return
3 establishing the net operating loss is filed; and

4 (2) if the net operating loss carryover
5 exceeds the amount of taxable income exclusive of the net
6 operating loss carryover for the taxable year to which the
7 exemption first applies, the exemption shall be applied in the
8 next four succeeding taxable years in turn until the net
9 operating loss carryover is exhausted; in no event shall a net
10 operating loss carryover be exempted in any taxable year after
11 the fourth taxable year beginning after the taxable year to
12 which the exemption first applies."

13 Section 6. Section 7-2-5.2 NMSA 1978 (being Laws 1985,
14 Chapter 114, Section 1, as amended) is amended to read:

15 "7-2-5.2. EXEMPTION--INCOME OF PERSONS SIXTY-FIVE AND
16 OLDER OR BLIND.--

17 A. Any individual sixty-five years of age or older
18 or who, for federal income tax purposes, is blind may claim an
19 exemption in an amount specified in Subsections ~~[A]~~ B through
20 ~~[C]~~ D of this section not to exceed eight thousand dollars
21 (\$8,000) of income includable except for this exemption in
22 ~~[net]~~ tax table income. ~~[Individuals having income both within~~
23 ~~and without this state shall apportion this exemption in~~
24 ~~accordance with regulations of the secretary.~~

25 ~~A.]~~ B. For married individuals filing separate

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1 returns, for any taxable year beginning on or after January 1,
2 1987:

3		The maximum amount of
4	If adjusted	exemption allowable under
5	gross income is:	this section shall be:
6	Not over \$15,000	\$8,000
7	Over \$15,000 but not over \$16,500	\$7,000
8	Over \$16,500 but not over \$18,000	\$6,000
9	Over \$18,000 but not over \$19,500	\$5,000
10	Over \$19,500 but not over \$21,000	\$4,000
11	Over \$21,000 but not over \$22,500	\$3,000
12	Over \$22,500 but not over \$24,000	\$2,000
13	Over \$24,000 but not over \$25,500	\$1,000
14	Over \$25,500	0.

15 ~~[B-]~~ C. For heads of household, surviving spouses and
16 married individuals filing joint returns, for any taxable year
17 beginning on or after January 1, 1987:

18		The maximum amount of
19	If adjusted	exemption allowable under
20	gross income is:	this section shall be:
21	Not over \$30,000	\$8,000
22	Over \$30,000 but not over \$33,000	\$7,000
23	Over \$33,000 but not over \$36,000	\$6,000
24	Over \$36,000 but not over \$39,000	\$5,000
25	Over \$39,000 but not over \$42,000	\$4,000

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1	Over \$42,000 but not over \$45,000	\$3,000
2	Over \$45,000 but not over \$48,000	\$2,000
3	Over \$48,000 but not over \$51,000	\$1,000
4	Over \$51,000	0.

5 ~~[G-]~~ D. For single individuals, for any taxable year
6 beginning on or after January 1, 1987:

7		The maximum amount of
8	If adjusted	exemption allowable under
9	gross income is:	this section shall be:

10	Not over \$18,000	\$8,000
11	Over \$18,000 but not over \$19,500	\$7,000
12	Over \$19,500 but not over \$21,000	\$6,000
13	Over \$21,000 but not over \$22,500	\$5,000
14	Over \$22,500 but not over \$24,000	\$4,000
15	Over \$24,000 but not over \$25,500	\$3,000
16	Over \$25,500 but not over \$27,000	\$2,000
17	Over \$27,000 but not over \$28,500	\$1,000
18	Over \$28,500	0."

19 Section 7. Section 7-2-5.5 NMSA 1978 (being Laws 1995,
20 Chapter 42, Section 1) is amended to read:

21 "7-2-5.5. EXEMPTION--EARNINGS BY INDIANS, THEIR INDIAN
22 SPOUSES AND INDIAN DEPENDENTS ON INDIAN LANDS.--An individual
23 may claim an exemption of income includable in tax table income,
24 except for this exemption, in an amount equal to the income
25 earned by a member of a New Mexico federally recognized Indian

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1 nation, tribe [~~band~~] or pueblo, [~~his~~] the member's spouse or
2 dependent, who is a member of a New Mexico federally recognized
3 Indian nation, tribe [~~band~~] or pueblo, [~~is exempt from state~~
4 ~~income tax~~] if the income is earned from work performed within
5 and the member, spouse or dependent lives within the boundaries
6 of the Indian member's or the spouse's reservation or pueblo
7 grant or within the boundaries of lands held in trust by the
8 United States for the benefit of the member or spouse or [~~his~~]
9 the member's or spouse's nation, tribe [~~band~~] or pueblo, subject
10 to restriction against alienation imposed by the United States."

11 Section 8. Section 7-2-5.6 NMSA 1978 (being Laws 1995,
12 Chapter 93, Section 8) is amended to read:

13 "7-2-5.6. EXEMPTION--MEDICAL CARE SAVINGS ACCOUNTS.--
14 Except as provided in Section [~~6 of this act~~] 59A-23D-6 NMSA
15 1978, an individual may claim an exemption of income includable
16 in tax table income, except for this exemption, in an amount
17 equal to employer and employee contributions to medical care
18 savings accounts established pursuant to the Medical Care
19 Savings Account Act, the interest earned on those accounts and
20 money reimbursed to an employee for eligible medical expenses
21 from those accounts or money advanced to the employee by the
22 employer for eligible medical expenses pursuant to that act [~~are~~
23 ~~exempt from taxation~~]."

24 Section 9. Section 7-2-5.7 NMSA 1978 (being Laws 2002,
25 Chapter 58, Section 1) is amended to read:

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underscored material = new
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1 "7-2-5.7. EXEMPTION--INCOME OF INDIVIDUALS ONE HUNDRED
2 YEARS OF AGE OR OLDER.--~~[The income of]~~ An individual who is a
3 natural person, who is one hundred years of age or older and
4 who is not a dependent of another individual ~~[is exempt from~~
5 ~~state income tax]~~ may claim an exemption of all income
6 includable in tax table income except for this exemption."

7 Section 10. Section 7-2-5.9 NMSA 1978 (being Laws 2005,
8 Chapter 104, Section 6) is amended to read:

9 "7-2-5.9. EXEMPTION--UNREIMBURSED OR UNCOMPENSATED
10 MEDICAL CARE EXPENSES OF INDIVIDUALS SIXTY-FIVE YEARS OF AGE OR
11 OLDER.--

12 A. Any individual sixty-five years of age or older
13 may claim an additional exemption from income includable in tax
14 table income, except for this exemption, ~~[in net income]~~ in an
15 amount equal to three thousand dollars (\$3,000) for medical
16 care expenses paid by the individual for that individual or for
17 the individual's spouse or dependent during the taxable year if
18 those medical care expenses exceed twenty-eight thousand
19 dollars (\$28,000) and if the medical care expenses are not
20 reimbursed or compensated for by insurance or otherwise.

21 B. As used in this section:

22 ~~[(1) "dependent" means "dependent" as defined~~
23 ~~in Section 152 of the Internal Revenue Code;~~

24 ~~(2)]~~ (1) "health care facility" means a
25 hospital, outpatient facility, diagnostic and treatment center,

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1 rehabilitation center, freestanding hospice or other similar
2 facility at which medical care is provided;

3 [~~(3)~~] (2) "medical care" means the diagnosis,
4 cure, mitigation, treatment or prevention of disease or for the
5 purpose of affecting any structure or function of the body;

6 [~~(4)~~] (3) "medical care expenses" means
7 amounts paid for:

8 (a) the diagnosis, cure, mitigation,
9 treatment or prevention of disease or for the purpose of
10 affecting any structure or function of the body if provided by
11 a physician or in a health care facility;

12 (b) prescribed drugs or insulin;

13 (c) qualified long-term care services as
14 defined in Section 7702B(c) of the Internal Revenue Code;

15 (d) insurance covering medical care,
16 including amounts paid as premiums under Part B of Title 18 of
17 the Social Security Act or for a qualified long-term care
18 insurance contract defined in Section 7702B(b) of the Internal
19 Revenue Code, if the insurance or other amount is paid from
20 income included in the taxpayer's adjusted gross income for the
21 taxable year;

22 (e) specialized treatment or the use of
23 special therapeutic devices if the treatment or device is
24 prescribed by a physician and the patient can show that the
25 expense was incurred primarily for the prevention or

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1 alleviation of a physical or mental defect or illness; and

2 (f) care in an institution other than a
3 hospital, such as a sanitarium or rest home, if the principal
4 reason for the presence of the person in the institution is to
5 receive the medical care available; provided that if the meals
6 and lodging are furnished as a necessary part of such care, the
7 cost of the meals and lodging are "medical care expenses";

8 [~~(5)~~] (4) "physician" means a medical doctor,
9 osteopathic physician, dentist, podiatrist, chiropractic
10 physician or psychologist licensed or certified to practice in
11 New Mexico; and

12 [~~(6)~~] (5) "prescribed drug" means a drug or
13 biological that requires a prescription of a physician for its
14 use by an individual."

15 Section 11. Section 7-2-5.10 NMSA 1978 (being Laws 2006,
16 Chapter 50, Section 1) is amended to read:

17 "7-2-5.10. EXEMPTION--NEW MEXICO NATIONAL GUARD MEMBER
18 PREMIUMS PAID FOR GROUP LIFE INSURANCE.--An individual who
19 receives reimbursement from the service members' life insurance
20 reimbursement fund may claim an exemption in the amount of that
21 reimbursement, from income includable in tax table income,
22 except for this exemption [~~in net income~~]."

23 Section 12. Section 7-2-5.11 NMSA 1978 (being Laws 2007,
24 Chapter 45, Section 11) is amended to read:

25 "7-2-5.11. EXEMPTION--ARMED FORCES SALARIES.--An

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1 individual may claim an exemption of income includable in tax
2 table income, except for this exemption, in an amount equal to
3 a salary paid by the United States to a taxpayer for active
4 duty service in the armed forces of the United States [~~is~~
5 ~~exempt from state income taxation~~]."

6 Section 13. Section 7-2-7 NMSA 1978 (being Laws 2005,
7 Chapter 104, Section 4) is amended to read:

8 "7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed by
9 Section 7-2-3 NMSA 1978 shall be at the following rates for any
10 taxable year beginning on or after January 1, [~~2008~~] 2010:

11 A. For married individuals filing separate returns:

12 If the taxable income is:	The tax shall be:
13 Not over \$4,000	1.7% of taxable income
14 Over \$ 4,000 but not over \$ 8,000	\$ 68.00 plus 3.2% of
15	excess over \$ 4,000
16 Over \$ 8,000 but not over \$ 12,000	\$ 196 plus 4.7% of
17	excess over \$ 8,000
18 Over \$ 12,000	\$ 384 plus 4.9% of
19	excess over \$ 12,000.

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

22 If the taxable income is:	The tax shall be:
23 Not over \$8,000	1.7% of taxable income
24 Over \$ 8,000 but not over \$ 16,000	\$ 136 plus 3.2% of
25	excess over \$ 8,000

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1 Over \$ 16,000 but not over \$ 24,000 \$ 392 plus 4.7% of
2 excess over \$ 16,000
3 Over \$ 24,000 \$ 768 plus 4.9% of
4 excess over \$ 24,000.

5 C. For single individuals and for estates and
6 trusts:

7	If the taxable income is:	The tax shall be:
8	Not over \$5,500	1.7% of taxable income
9	Over \$ 5,500 but not over \$ 11,000	\$ 93.50 plus 3.2% of
10		excess over \$ 5,500
11	Over \$ 11,000 but not over \$ 16,000	\$ 269.50 plus 4.7% of
12		excess over \$ 11,000
13	Over \$ 16,000	\$ 504.50 plus 4.9% of
14		excess over \$ 16,000.

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

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

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

24 D. For 2011 and subsequent years, the taxable
25 income amounts in the tables in Subsections A through C of this

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1 section shall be indexed for inflation under the provisions of
2 the Tax Administration Act using 2010 as the base year, except
3 that the inflation adjustment factor shall be reduced, but not
4 below one, by the product of one-hundredth (0.01) multiplied by
5 the number of years since the base year, and the tax amounts at
6 each taxable income level in each table shall be recomputed
7 using the percentages in the table."

8 Section 14. Section 7-2-7.1 NMSA 1978 (being Laws 1980,
9 Chapter 102, Section 1, as amended) is amended to read:

10 "7-2-7.1. TAX TABLES.--In lieu of the [~~tax rate~~
11 ~~computations~~] computation of taxable income and the computation
12 of tax required in Section 7-2-7 NMSA 1978, the secretary may
13 adopt regulations requiring taxpayers to pay taxes in
14 accordance with tax [~~rate~~] tables. The tax tables may be
15 established either by regulation or by instruction, but shall
16 be computed substantially on the basis of taxable income and
17 the rates prescribed in Section 7-2-7 NMSA 1978. The secretary
18 may, by regulation or instruction, exclude from the application
19 of this section taxpayers having [~~net~~] tax table incomes in
20 excess of an amount to be determined by the secretary and may
21 exclude taxpayers in any [~~net-income~~] tax table income class
22 having more personal exemptions than the number of personal
23 exemptions specified by the secretary for that category."

24 Section 15. Section 7-2-9 NMSA 1978 (being Laws 1965,
25 Chapter 202, Section 7, as amended) is amended to read:

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1 "7-2-9. TAX COMPUTATION--ALTERNATIVE METHOD.--

2 A. For those taxpayers who do not compute an amount
3 upon which the federal income tax is calculated or who do not
4 compute their federal income tax payable for the taxable year,
5 the secretary shall prescribe such regulations or instructions
6 as the secretary may deem necessary to enable them to compute
7 their state income tax due.

8 B. For those taxpayers who file a return for a
9 fractional part of a year, certain exemptions, deductions,
10 credits and rebates and income tax shall be computed as
11 follows:

12 (1) the exemption otherwise allowed in Section
13 7-2-5.2 NMSA 1978 shall be computed by multiplying adjusted
14 gross income by the annualizing factor, finding the
15 corresponding exemption amount for the taxpayer's filing status
16 and then multiplying that exemption amount by the fractional
17 year factor;

18 (2) the income tax otherwise determined
19 pursuant to Section 7-2-7 NMSA 1978 shall be computed by
20 multiplying taxable income by the annualizing factor, finding
21 the corresponding tax amount for the taxpayer's filing status
22 and then multiplying that tax amount by the fractional year
23 factor;

24 (3) the income tax otherwise determined using
25 the tables authorized by Section 7-2-7.1 NMSA 1978 shall be

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1 computed by multiplying tax table income by the annualizing
2 factor, finding the corresponding tax amount for the taxpayer's
3 filing status and then multiplying that tax amount by the
4 fractional year factor;

5 (4) the tax rebate otherwise allowed in
6 Section 7-2-14 NMSA 1978 shall be computed by multiplying
7 modified gross income by the annualizing factor, finding the
8 corresponding rebate amount and then multiplying that rebate
9 amount by the fractional year factor;

10 (5) the tax rebates otherwise allowed pursuant
11 to Sections 7-2-14.3 and 7-2-18 NMSA 1978 shall be computed by
12 multiplying modified gross income by the annualizing factor,
13 determining the corresponding rebate amount and then
14 multiplying that rebate amount by the fractional year factor;

15 (6) the tax credit otherwise allowed pursuant
16 to Section 7-2-18.1 NMSA 1978 shall be computed by multiplying
17 modified gross income by the annualizing factor, determining
18 the corresponding credit amount and then multiplying that
19 credit amount by the fractional year factor;

20 (7) the deduction otherwise allowed pursuant
21 to Section 7-2-35 NMSA 1978 shall be computed by multiplying
22 adjusted gross income by the annualizing factor, determining
23 the corresponding deduction amount for the taxpayer's filing
24 status and then multiplying that deduction amount by the
25 fractional year factor;

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1 (8) the deductions otherwise allowed pursuant
2 to Sections 7-2-38 and 7-2-39 NMSA 1978 shall be computed by
3 multiplying the deduction amounts by the fractional year
4 factor; and

5 (9) the deduction otherwise allowed pursuant
6 to Section 7-2-40 NMSA 1978 shall be computed by multiplying
7 tax table income by the annualizing factor, determining the
8 corresponding deduction amount for the taxpayer's filing status
9 and then multiplying this deduction amount by the fractional
10 year factor.

11 C. As used in this section:

12 (1) "annualizing factor" means the quotient of
13 a fraction, the numerator of which is three hundred sixty-five
14 and the denominator of which is the number of days in the
15 taxpayer's taxable year; and

16 (2) "fractional year factor" means the
17 quotient of a fraction, the numerator of which is the number of
18 days in the taxpayer's taxable year and the denominator of
19 which is three hundred sixty-five."

20 Section 16. Section 7-2-11 NMSA 1978 (being Laws 1965,
21 Chapter 202, Section 9, as amended) is amended to read:

22 "7-2-11. TAX CREDIT--INCOME ALLOCATION AND
23 APPORTIONMENT.--

24 A. [~~Net~~] Taxable income of any individual having
25 income that is taxable both within and without [~~this state~~] New
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[bracketed material] = delete

1 Mexico shall be apportioned and allocated as follows:

2 (1) during the first taxable year in which an
3 individual incurs tax liability as a resident, only income
4 earned on or after the date the individual became a resident
5 and, in addition, income earned in New Mexico while a
6 nonresident of New Mexico shall be allocated to New Mexico;

7 (2) except as provided otherwise in Paragraph
8 (1) of this subsection, income other than compensation or
9 gambling winnings shall be allocated and apportioned as
10 provided in the Uniform Division of Income for Tax Purposes
11 Act, but if the income is not allocated or apportioned by that
12 act, then it may be allocated or apportioned in accordance with
13 instructions, rulings or regulations of the secretary;

14 (3) except as provided otherwise in Paragraph
15 (1) of this subsection, compensation and gambling winnings of a
16 resident taxpayer shall be allocated to [~~this state~~] New
17 Mexico;

18 (4) compensation of a nonresident taxpayer
19 shall be allocated to [~~this state~~] New Mexico to the extent
20 that such compensation is for activities, labor or personal
21 services within [~~this state~~] New Mexico; provided:

22 (a) if the activities, labor or services
23 are performed in [~~this state~~] New Mexico for fifteen or fewer
24 days during the taxpayer's taxable year, the compensation may
25 be allocated to the taxpayer's state of residence; and

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1 (b) if the compensation is for
2 activities, labor or services performed for a business in the
3 manufacturing industry in New Mexico that is located within
4 twenty miles of an international border, that has a minimum of
5 five full-time employees who are New Mexico residents, is not
6 receiving development training funds under Section 21-19-7 NMSA
7 1978 and that meets the qualifications of one of Items 1)
8 through 4) of this subparagraph, the compensation may be
9 allocated to the taxpayer's state of residence: 1) the
10 business had no payroll in New Mexico during the previous
11 calendar year; 2) the business had a payroll in New Mexico for
12 less than the entire previous calendar year, and the first
13 payroll of the new calendar year includes payments to New
14 Mexico residents exceeding the highest monthly payroll for such
15 residents in the previous calendar year; 3) the business had a
16 payroll in New Mexico for the entire previous calendar year,
17 and the first payroll of the new calendar year includes
18 payments to New Mexico residents exceeding by at least ten
19 percent both the payroll for all employees in January 2001 and
20 the payroll for New Mexico residents twelve months prior to the
21 commencement of the new calendar year; or 4) the business had a
22 payroll in New Mexico for the entire previous calendar year,
23 but had no payroll in New Mexico within one year prior to
24 January 1, 2001, and the first payroll of the new calendar year
25 includes payments to New Mexico residents exceeding by at least
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1 ten percent the payroll for such residents twelve months
2 earlier;

3 (5) gambling winnings of a nonresident shall
4 be allocated to ~~[this state]~~ New Mexico if the gambling
5 winnings arose from a source within ~~[this state]~~ New Mexico;
6 and

7 (6) other deductions and exemptions allowable
8 in computing ~~[net]~~ taxable income and not specifically
9 allocated in the Uniform Division of Income for Tax Purposes
10 Act shall be equitably allocated or apportioned in accordance
11 with instructions, rulings or regulations of the secretary.

12 B. For the purposes of this section, "non-New
13 Mexico percentage" means the ~~[percentage determined]~~ quotient
14 obtained by dividing the difference between the taxpayer's
15 ~~[net]~~ taxable income and the sum of the amounts allocated or
16 apportioned to New Mexico by that ~~[net]~~ taxable income;
17 provided that, if the quotient is greater than one, the
18 quotient shall be deemed to be one, and if the quotient is less
19 than zero, the quotient shall be deemed to be zero.

20 C. A taxpayer may claim a credit in an amount equal
21 to the amount of tax determined to be due under Section 7-2-7
22 or 7-2-7.1 NMSA 1978 multiplied by the non-New Mexico
23 percentage."

24 Section 17. Section 7-2-12 NMSA 1978 (being Laws 1965,
25 Chapter 202, Section 10, as amended) is amended to read:

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1 "7-2-12. TAXPAYER RETURNS--PAYMENT OF TAX.--

2 A. Every resident of [~~this state~~] New Mexico and
3 every individual deriving income from any business transaction,
4 property or employment within [~~this state~~] New Mexico and not
5 exempt from tax under the Income Tax Act who is required by the
6 laws of the United States to file a federal income tax return
7 shall file a complete tax return with the department in form
8 and content as prescribed by the secretary. [~~Except as~~
9 ~~provided in Subsection B of this section~~]

10 B. The taxpayer shall use the same taxable year for
11 the New Mexico income tax return as the taxpayer used for
12 federal income tax purposes, the calendar year if the taxpayer
13 was not required to file a federal income tax return covering
14 any period in the calendar year, or the remainder of the
15 calendar year if the taxpayer filed a federal income tax return
16 ending in a month other than December and was not required to
17 file a federal income tax return for the remainder of the
18 calendar year.

19 C. The taxpayer shall use the same filing status on
20 the New Mexico income tax return as the taxpayer used for
21 federal income tax purposes or the same filing status as would
22 have been used for federal income tax purposes if the taxpayer
23 had been required to file a federal income tax return.

24 D. The return required and the tax imposed on
25 individuals [~~under~~] pursuant to the provisions of the Income

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1 Tax Act are due and payment is required on or before the
2 fifteenth day of the fourth month following the end of the
3 taxable year; ~~[B.]~~ provided that when the department approves
4 electronic media for use by a taxpayer whose taxable year is a
5 calendar year, the taxpayer who uses electronic media for both
6 filing and payment must submit the required return and the tax
7 imposed on individuals under the Income Tax Act on or before
8 the thirtieth day of the fourth month following the end of the
9 taxable year."

10 Section 18. Section 7-2-12.1 NMSA 1978 (being Laws 1990,
11 Chapter 23, Section 1) is amended to read:

12 "7-2-12.1. LIMITATION ON CLAIMING OF CREDITS AND TAX
13 REBATES.--

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

20 B. Subsection A of this section does not apply to
21 ~~[(1)]~~ the credit authorized by Section 7-2-13 NMSA 1978 for
22 income taxes paid another state ~~[or~~

23 ~~(2) the credit authorized by Section 7-2-19~~
24 ~~NMSA 1978 for income taxes paid another state]."~~

25 Section 19. Section 7-2-13 NMSA 1978 (being Laws 1965,
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1 Chapter 202, Section 11, as amended) is amended to read:

2 "7-2-13. CREDIT FOR TAXES PAID OTHER STATES BY RESIDENT
3 INDIVIDUALS.--When a resident individual is liable to another
4 state for tax upon income derived from sources outside [~~this~~
5 ~~state~~] New Mexico but also included in [~~net~~] taxable income
6 under the Income Tax Act as income allocated or apportioned to
7 New Mexico pursuant to Section 7-2-11 NMSA 1978, the
8 individual, upon filing with the secretary satisfactory
9 evidence of the payment of the tax to the other state, shall
10 receive a credit against the tax due [~~this state~~] New Mexico in
11 the amount of the tax paid the other state with respect to
12 income that is required to be either allocated or apportioned
13 to New Mexico. However, in no case shall the credit exceed
14 five and one-half percent of income that is required to be
15 either allocated or apportioned to New Mexico on which the tax
16 payable to the other state was determined. The credit provided
17 by this section does not apply to or include income taxes paid
18 to any municipality, county or other political subdivision of a
19 state."

20 Section 20. Section 7-2-14 NMSA 1978 (being Laws 1972,
21 Chapter 20, Section 2, as amended) is amended to read:

22 "7-2-14. LOW-INCOME COMPREHENSIVE TAX REBATE.--

23 A. Except as otherwise provided in Subsection B of
24 this section, [~~any~~] a taxpayer who is a resident of New Mexico
25 who files an individual New Mexico income tax return and who is

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[bracketed material] = delete

1 not a trust, estate or dependent of another [~~individual~~]
2 taxpayer may claim a tax rebate for a portion of state and
3 local taxes to which the [~~resident~~] taxpayer has been subject
4 during the taxable year for which the return is filed. The tax
5 rebate may be claimed even though the resident has no income
6 taxable under the Income Tax Act. A husband and wife who file
7 separate returns for a taxable year in which they could have
8 filed a joint return may each claim only one-half of the tax
9 rebate that would have been allowed on a joint return.

10 B. No claim for the tax rebate provided in this
11 section shall be filed by a resident who was an inmate of a
12 public institution for more than six months during the taxable
13 year for which the tax rebate could be claimed or who was not
14 physically present in New Mexico for at least six months during
15 the taxable year for which the tax rebate could be claimed.

16 C. For the purposes of this section, the [~~total~~]
17 number of personal exemptions [~~for which a tax rebate may be~~
18 ~~claimed or allowed is determined by adding the number of~~
19 ~~federal exemptions allowable for federal income tax purposes~~
20 ~~for each individual included in the return who is domiciled in~~
21 ~~New Mexico plus two additional exemptions for each individual~~
22 ~~domiciled in New Mexico included in the return who is sixty-~~
23 ~~five years of age or older plus one additional exemption for~~
24 ~~each individual domiciled in New Mexico included in the return~~
25 ~~who, for federal income tax purposes, is blind plus one~~

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1 ~~exemption for each minor child or stepchild of the resident who~~
 2 ~~would be a dependent for federal income tax purposes if the~~
 3 ~~public assistance contributing to the support of the child or~~
 4 ~~stepchild was considered to have been contributed by the~~
 5 ~~resident]~~ shall be increased:

6 (1) by two if the taxpayer is sixty-five years
 7 of age or older;

8 (2) by two if the spouse of the taxpayer
 9 filing a joint return is sixty-five years of age or older;

10 (3) by one if, for federal income tax
 11 purposes, the taxpayer is blind; and

12 (4) by one if, for federal income tax
 13 purposes, the spouse of the taxpayer filing a joint return is
 14 blind.

15 D. The tax rebate provided for in this section may
 16 be claimed in the amount shown in the following table:

17	Modified gross		And the total number					
18	income is:		of <u>personal</u> exemptions is:					
19		But Not					6 or	
20	Over	Over	1	2	3	4	5	More
21	\$ 0	[\$ 500	\$ 120	\$ 160	\$ 200	\$ 240	\$ 280	\$ 320
22	500	1,000	135	195	250	310	350	415
23	1,000	1,500	135	195	250	310	350	435
24	1,500	2,000	135	195	250	310	350	450
25	2,000	2,500	135	195	250	310	350	450

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1	2,500	3,000	135	195	250	310	350	450
2	3,000	3,500	135	195	250	310	350	450
3	3,500	4,000	135	195	250	310	355	450
4	4,000]	4,500	135	195	250	310	355	450
5	4,500	5,000	125	190	240	305	355	450
6	5,000	5,500	115	175	230	295	355	430
7	5,500	6,000	105	155	210	260	315	410
8	6,000	7,000	90	130	170	220	275	370
9	7,000	8,000	80	115	145	180	225	295
10	8,000	9,000	70	105	135	170	195	240
11	9,000	10,000	65	95	115	145	175	205
12	10,000	11,000	60	80	100	130	155	185
13	11,000	12,000	55	70	90	110	135	160
14	12,000	13,000	50	65	85	100	115	140
15	13,000	14,000	50	65	85	100	115	140
16	14,000	15,000	45	60	75	90	105	120
17	15,000	16,000	40	55	70	85	95	110
18	16,000	17,000	35	50	65	80	85	105
19	17,000	18,000	30	45	60	70	80	95
20	18,000	19,000	25	35	50	60	70	80
21	19,000	20,000	20	30	40	50	60	65
22	20,000	21,000	15	25	30	40	50	55
23	21,000	22,000	10	20	25	35	40	45.

24 E. If a taxpayer's modified gross income is zero,
25 the taxpayer may claim a credit in the amount shown in the

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1 first row of the table appropriate for the taxpayer's number of
2 personal exemptions.

3 F. The tax [~~rebates~~] rebate provided for in this
4 section may be deducted from the taxpayer's New Mexico income
5 tax liability for the taxable year. If the tax [~~rebates~~
6 ~~exceed~~] rebate exceeds the taxpayer's income tax liability, the
7 excess shall be refunded to the taxpayer.

8 [~~G. For purposes of this section, "dependent" means~~
9 ~~"dependent" as defined by Section 152 of the Internal Revenue~~
10 ~~Code of 1986, as that section may be amended or renumbered, but~~
11 ~~also includes any minor child or stepchild of the resident who~~
12 ~~would be a dependent for federal income tax purposes if the~~
13 ~~public assistance contributing to the support of the child or~~
14 ~~stepchild was considered to have been contributed by the~~
15 ~~resident.~~]

16 G. For 2011 and subsequent years, the modified gross
17 income and rebate amounts shown in the table in Subsection D of
18 this section shall be indexed for inflation pursuant to the
19 provisions of the Tax Administration Act using 2010 as the base
20 year, except that the inflation adjustment factor shall be
21 reduced, but not below one, by the product of one-hundredth
22 (0.01) multiplied by the number of years since the base year."

23 Section 21. Section 7-2-32 NMSA 1978 (being Laws 1997,
24 Chapter 259, Section 8) is amended to read:

25 "7-2-32. DEDUCTION--PAYMENTS INTO EDUCATION TRUST FUND.--

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underscored material = new
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1 In determining tax table income, a taxpayer may claim a
2 deduction [~~from net income~~] in an amount equal to the payments
3 made by the taxpayer into the education trust fund pursuant to a
4 college investment agreement or prepaid tuition contract under
5 the Education Trust Act in the taxable year for which the
6 deduction is being claimed. The amount of payments made on
7 behalf of any one beneficiary that may be deducted shall not
8 exceed in the aggregate the cost of attendance at the applicable
9 institution of higher education, as determined by the education
10 trust board. A husband and wife who file separate returns for
11 the taxable year in which they could have filed a joint return
12 may each claim only one-half of the deduction that would have
13 been allowed on the joint return. [~~Individuals having income~~
14 ~~both within and without this state shall apportion this~~
15 ~~deduction in accordance with regulations of the secretary.~~]"

16 Section 22. Section 7-2-34 NMSA 1978 (being Laws 1999,
17 Chapter 205, Section 1, as amended) is amended to read:

18 "7-2-34. DEDUCTION--NET CAPITAL GAIN INCOME.--

19 A. Except as provided in Subsection C of this
20 section, in determining tax table income, a taxpayer may claim
21 a deduction [~~from net income~~] in an amount equal to the greater
22 of:

23 (1) the taxpayer's net capital gain income
24 for the taxable year for which the deduction is being claimed,
25 but not to exceed one thousand dollars (\$1,000); or

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1 (2) [~~the following percentage~~] fifty percent
2 of the taxpayer's net capital gain income for the taxable year
3 for which the deduction is being claimed

4 [~~(a) for a taxable year beginning in~~
5 ~~2003, ten percent;~~

6 ~~(b) for a taxable year beginning in~~
7 ~~2004, twenty percent;~~

8 ~~(c) for a taxable year beginning in~~
9 ~~2005, thirty percent;~~

10 ~~(d) for a taxable year beginning in~~
11 ~~2006, forty percent; and~~

12 ~~(e) for taxable years beginning on or~~
13 ~~after January 1, 2007, fifty percent].~~

14 B. A husband and wife who file separate returns for
15 a taxable year in which they could have filed a joint return
16 may each claim only one-half of the deduction provided by this
17 section that would have been allowed on the joint return.

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

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

24 Section 23. Section 7-2-35 NMSA 1978 (being Laws 2000
25 (2nd S.S.), Chapter 7, Section 1) is amended to read:

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1 "7-2-35. DEDUCTION--UNREIMBURSED OR UNCOMPENSATED
2 MEDICAL CARE EXPENSES.--

3 A. In determining tax table income, a taxpayer may
4 claim a deduction from net income in an amount determined
5 pursuant to Subsection B of this section for medical care
6 expenses paid during the taxable year for medical care of the
7 taxpayer, the taxpayer's spouse or a dependent if the expenses
8 are not reimbursed or compensated for by insurance or otherwise
9 and have not been included in the taxpayer's itemized
10 deductions, as defined in Section 63 of the Internal Revenue
11 Code, for the taxable year.

12 B. The deduction provided in Subsection A of this
13 section may be claimed in an amount equal to the following
14 percentage of medical care expenses paid during the taxable
15 year based on the taxpayer's filing status and adjusted gross
16 income as follows:

17 (1) for surviving spouses and married
18 individuals filing joint returns:

19 If adjusted gross income is:	The following
20	percent of medical
21	care expenses paid
22	may be deducted:
23 Not over \$30,000	25 percent
24 More than \$30,000 but not more than \$70,000	15 percent
25 Over \$70,000	10 percent;

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1 (2) for single individuals and married
2 individuals filing separate returns:
3 If adjusted gross income is: The following
4 percent of medical
5 care expenses paid
6 may be deducted:
7 Not over \$15,000 25 percent
8 More than \$15,000 but not more than \$35,000 15 percent
9 Over \$35,000 10 percent; and

10 (3) for heads of household:
11 If adjusted gross income is: The following
12 percent of medical
13 care expenses paid
14 may be deducted:
15 Not over \$20,000 25 percent
16 More than \$20,000 but not more than \$50,000 15 percent
17 Over \$50,000 10 percent.

18 C. As used in this section:

19 [~~(1)~~] "~~dependent~~" means ~~dependent as defined~~
20 ~~in Section 152 of the Internal Revenue Code;~~

21 ~~(2)~~] (1) "health care facility" means a
22 hospital, outpatient facility, diagnostic and treatment center,
23 rehabilitation center, [~~free-standing~~] freestanding hospice or
24 other similar facility at which medical care is provided;

25 [~~(3)~~] (2) "medical care" means the diagnosis,

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1 cure, mitigation, treatment or prevention of disease or for the
2 purpose of affecting any structure or function of the body;

3 ~~[(4)]~~ (3) "medical care expenses" means
4 amounts paid for:

5 (a) the diagnosis, cure, mitigation,
6 treatment or prevention of disease or for the purpose of
7 affecting any structure or function of the body, excluding
8 cosmetic surgery, if provided by a physician or in a health
9 care facility;

10 (b) prescribed drugs or insulin;

11 (c) qualified long-term care services as
12 defined in Section 7702B(c) of the Internal Revenue Code;

13 (d) insurance covering medical care,
14 including amounts paid as premiums under Part B of Title
15 ~~[XVIII]~~ 18 of the Social Security Act or for a qualified long-
16 term care insurance contract defined in Section 7702B(b) of the
17 Internal Revenue Code, if the insurance or other amount is paid
18 from income included in the taxpayer's adjusted gross income
19 for the taxable year;

20 (e) nursing services, regardless of
21 where the services are rendered, if provided by a practical
22 nurse or a professional nurse licensed to practice in ~~[the~~
23 ~~state]~~ New Mexico pursuant to the Nursing Practice Act;

24 (f) specialized treatment or the use of
25 special therapeutic devices if the treatment or device is

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1 prescribed by a physician and the patient can show that the
2 expense was incurred primarily for the prevention or
3 alleviation of a physical or mental defect or illness; and

4 (g) care in an institution other than a
5 hospital, such as a sanitarium or rest home, if the principal
6 reason for the presence of the person in the institution is to
7 receive the medical care available; provided that if the meals
8 and lodging are furnished as a necessary part of such care, the
9 cost of the meals and lodging are "medical care expenses";

10 [~~(5)~~] (4) "physician" means a medical doctor,
11 osteopathic physician, dentist, podiatrist, chiropractic
12 physician or psychologist licensed or certified to practice in
13 New Mexico; and

14 [~~(6)~~] (5) "prescribed drug" means a drug or
15 biological that requires a prescription of a physician for its
16 use by an individual."

17 Section 24. Section 7-2-36 NMSA 1978 (being Laws 2005,
18 Chapter 113, Section 1) is amended to read:

19 "7-2-36. DEDUCTION--EXPENSES RELATED TO ORGAN
20 DONATION.--

21 A. In determining tax table income, a taxpayer may
22 claim a deduction [~~from net income~~] in an amount not to exceed
23 ten thousand dollars (\$10,000) of organ donation-related
24 expenses, including lost wages, lodging expenses and travel
25 expenses, incurred during the taxable year by the taxpayer or

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1 the taxpayer's dependent as a result of the taxpayer's or
2 dependent's donation of a human organ to another person for
3 transfer of that human organ to the body of another person.

4 B. A husband and wife who file separate returns for
5 a taxable year in which they could have filed a joint return
6 may each claim only one-half of the deduction provided by this
7 section that would have been allowed on a joint return.

8 C. [~~For the purposes of~~] As used in this section,
9 [~~(1) "dependent" means "dependent" as defined~~
10 ~~by Section 152 of the Internal Revenue Code, as that section~~
11 ~~may be amended or renumbered; and~~

12 ~~(2)] "human organ" means all or part of a~~
13 heart, liver, pancreas, kidney, intestine, lung or bone
14 marrow."

15 Section 25. A new section of the Income Tax Act, Section
16 7-2-37 NMSA 1978, is enacted to read:

17 "7-2-37. [NEW MATERIAL] DEDUCTION--ITEMIZED OR SPECIAL
18 STANDARD DEDUCTIONS.--In determining taxable income:

19 A. a taxpayer other than an estate or trust who is
20 not a dependent of another taxpayer, who itemized deductions
21 for federal income tax purposes for the taxable year and whose
22 itemized deductions exceed the deduction allowed the taxpayer
23 in Section 7-2-38 NMSA 1978 may claim a deduction in an amount
24 equal to the excess of the taxpayer's itemized deductions and
25 the deduction allowed the taxpayer in Section 7-2-38 NMSA 1978;

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1 B. a taxpayer other than an estate or trust who is
2 not a dependent of another taxpayer and who did not itemize
3 deductions for federal income tax purposes for the taxable year
4 may claim a deduction in an amount equal to the amount allowed
5 the taxpayer for the taxpayer's taxable year under Section
6 63(c)(3) of the Internal Revenue Code; and

7 C. a taxpayer other than an estate or trust who is a
8 dependent of another taxpayer for the taxable year may claim a
9 deduction in an amount equal to the amount allowed the taxpayer
10 for the taxpayer's taxable year for standard or itemized
11 deductions under Section 63 of the Internal Revenue Code."

12 Section 26. A new section of the Income Tax Act, Section
13 7-2-38 NMSA 1978, is enacted to read:

14 "7-2-38. [NEW MATERIAL] DEDUCTION--STANDARD DEDUCTION.--

15 A. In determining taxable income, a taxpayer other
16 than an estate or trust who is not a dependent of another
17 taxpayer for the taxable year may claim a deduction in an
18 amount corresponding to the taxpayer's filing status as shown
19 in the following table:

Filing Status	Deduction
Married individuals filing separate returns	\$5,700
Married individuals filing joint returns and Surviving spouses	\$11,400
Heads of household	\$8,300
Single individuals	\$5,700.

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1 B. For 2011 and subsequent years, the amounts shown
2 in the table in Subsection A of this section shall be indexed
3 for inflation pursuant to the provisions of the Tax
4 Administration Act using 2010 as the base year, except that the
5 inflation adjustment factor shall be reduced, but not below
6 one, by the product of one-hundredth (0.01) multiplied by the
7 number of years since the base year."

8 Section 27. A new section of the Income Tax Act, Section
9 7-2-39 NMSA 1978, is enacted to read:

10 "7-2-39. [NEW MATERIAL] DEDUCTION--PERSONAL EXEMPTION
11 AMOUNT.--

12 A. In determining taxable income, a taxpayer other
13 than an estate or trust who is not a dependent of another
14 taxpayer for the taxable year may claim a deduction in an
15 amount equal to the product of the per exemption amount in
16 Subsection C of this section multiplied by the number of
17 personal exemptions allowed the taxpayer for the taxpayer's
18 taxable year for federal income tax purposes, reduced by the
19 amount determined pursuant to Subsection B of this section.

20 B. The deduction computed under Subsection A of this
21 section shall be reduced, but not below zero, by ten percent of
22 the excess, if any, of adjusted gross income over the following
23 threshold amounts:

24 (1) for single individuals and married
25 individuals filing separate returns, ninety thousand dollars

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1 (\$90,000);

2 (2) for married individuals filing joint
3 returns and surviving spouses, one hundred eighty thousand
4 dollars (\$180,000); and

5 (3) for heads of households, one hundred
6 thirty-five thousand dollars (\$135,000).

7 C. The per exemption amount is three thousand six
8 hundred fifty dollars (\$3,650).

9 D. For 2011 and subsequent years, the threshold
10 amounts in Subsection B of this section and the per exemption
11 amount in Subsection C of this section shall be indexed for
12 inflation pursuant to the provisions of the Tax Administration
13 Act using 2010 as the base year, except that the inflation
14 adjustment factor shall be reduced, but not below one, by the
15 product of one-hundredth (0.01) multiplied by the number of
16 years since the base year."

17 Section 28. A new section of the Income Tax Act, Section
18 7-2-40 NMSA 1978, is enacted to read:

19 "7-2-40. [NEW MATERIAL] DEDUCTION--ADDITIONAL PERSONAL
20 EXEMPTION AMOUNT FOR LOW- AND MIDDLE-INCOME TAXPAYERS.--

21 A. In determining taxable income, a taxpayer other
22 than an estate or trust who is not a dependent of another
23 taxpayer for the taxable year may claim a deduction in an
24 amount equal to the product of the amount for each personal
25 exemption specified in Subsections B through D of this section

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1 and the number of personal exemptions allowed the taxpayer for
2 the taxpayer's taxable year for federal income tax purposes.

3 B. For a married individual filing a separate return
4 with tax table income up to twenty-seven thousand five hundred
5 dollars (\$27,500):

6 (1) if the tax table income is not over
7 fifteen thousand dollars (\$15,000), the amount of the deduction
8 pursuant to this section shall be two thousand five hundred
9 dollars (\$2,500) for each personal exemption; and

10 (2) if the tax table income is over fifteen
11 thousand dollars (\$15,000) but not over twenty-seven thousand
12 five hundred dollars (\$27,500), the amount of the deduction
13 pursuant to this section for each personal exemption shall be
14 calculated by subtracting from two thousand five hundred
15 dollars (\$2,500) an amount equal to twenty percent of the
16 amount obtained by subtracting fifteen thousand dollars
17 (\$15,000) from the tax table income.

18 C. For single individuals with tax table income up
19 to thirty-six thousand six hundred sixty-seven dollars
20 (\$36,667):

21 (1) if the tax table income is not over
22 twenty thousand dollars (\$20,000), the amount of the deduction
23 pursuant to this section shall be two thousand five hundred
24 dollars (\$2,500) for each personal exemption; and

25 (2) if the tax table income is over twenty

1 thousand dollars (\$20,000) but not over thirty-six thousand six
2 hundred sixty-seven dollars (\$36,667), the amount of the
3 deduction pursuant to this section for each personal exemption
4 shall be calculated by subtracting from two thousand five
5 hundred dollars (\$2,500) an amount equal to fifteen percent of
6 the amount obtained by subtracting twenty thousand dollars
7 (\$20,000) from the tax table income.

8 D. For married individuals filing joint returns,
9 surviving spouses or for heads of households with tax table
10 income up to fifty-five thousand dollars (\$55,000):

11 (1) if the tax table income is not over
12 thirty thousand dollars (\$30,000), the amount of the deduction
13 pursuant to this section shall be two thousand five hundred
14 dollars (\$2,500) for each personal exemption; and

15 (2) if the tax table income is over thirty
16 thousand dollars (\$30,000) but not over fifty-five thousand
17 dollars (\$55,000), the amount of the deduction pursuant to this
18 section for each personal exemption shall be calculated by
19 subtracting from two thousand five hundred dollars (\$2,500) an
20 amount equal to ten percent of the amount obtained by
21 subtracting thirty thousand dollars (\$30,000) from the tax
22 table income.

23 E. For 2011 and subsequent years, all of the dollar
24 amounts specified in Subsections B through D of this section
25 shall be indexed for inflation pursuant to the provisions of

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1 the Tax Administration Act using 2010 as the base year, except
2 that the inflation adjustment factor shall be reduced, but not
3 below one, by the product of one-hundredth (0.01) multiplied by
4 the number of years since the base year."

5 Section 29. Section 7-4-3 NMSA 1978 (being Laws 1965,
6 Chapter 203, Section 3, as amended) is amended to read:

7 "7-4-3. ALLOCATION AND APPORTIONMENT OF INCOME IN
8 GENERAL.--Except as otherwise provided by law, any taxpayer
9 having income [~~which~~] that is taxable both within and without
10 this state, other than the rendering of purely personal
11 services by an individual, shall allocate and apportion [~~his~~]
12 the taxpayer's net income for the Corporate Income and
13 Franchise Tax Act or taxable income for the Income Tax Act as
14 provided in the Uniform Division of Income for Tax Purposes
15 Act."

16 Section 30. REPEAL.--Section 7-2-5.8 NMSA 1978 (being
17 Laws 2005, Chapter 104, Section 5, as amended) is repealed.

18 Section 31. APPLICABILITY.--The provisions of this act
19 are applicable to tax years beginning on or after January 1,
20 2010.