

SENATE TAX, BUSINESS AND TRANSPORTATION
COMMITTEE SUBSTITUTE FOR
SENATE BILL 147

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

AN ACT

RELATING TO TAXATION; PROVIDING FOR A TAX EXPENDITURE BUDGET;
PROVIDING FOR DESTINATION-BASED SOURCING FOR THE CANNABIS
EXCISE TAX; REQUIRING THE TAXATION AND REVENUE DEPARTMENT TO
MAKE PUBLICLY AVAILABLE CERTAIN REPORTS ON SPECIAL FUEL FOR
WHICH THE SPECIAL FUELS EXCISE TAX IS IMPOSED; CLARIFYING
REPORTING LOCATION INSTRUCTIONS FOR CERTAIN PROPERTY; PROVIDING
THAT CERTAIN LICENSES SHALL NOT BE ISSUED OR RENEWED IF THE
LICENSEE IS A DELINQUENT TAXPAYER FOR CERTAIN TAXES; AMENDING
CERTAIN PROVISIONS FOR A CLAIM FOR REFUND; AMENDING THE
DEFINITIONS OF "DISCLOSED AGENCY" AND "GROSS RECEIPTS" IN THE
GROSS RECEIPTS AND COMPENSATING TAX ACT; INCLUDING THE USE OF
SERVICES BY GOVERNMENTAL AGENCIES IN A COMPENSATING TAX
DEDUCTION; INCLUDING PAYMENTS FROM THE FEDERAL AMERICAN RESCUE
PLAN ACT OF 2021 IN A GROSS RECEIPTS TAX EXEMPTION FOR CERTAIN
HEALTH CARE PROVIDERS; INCLUDING THE SALE TO GOVERNMENTAL

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1 AGENCIES OF LICENSES TO USE CERTAIN DIGITAL GOODS IN CERTAIN
2 GROSS RECEIPTS TAX AND GOVERNMENTAL GROSS RECEIPTS TAX
3 DEDUCTIONS; REMOVING A REQUIREMENT THAT A GROSS RECEIPTS OR
4 SIMILAR TAX LEVIED BY A TRIBE BE AT A RATE NOT GREATER THAN THE
5 TOTAL OF THE GROSS RECEIPTS AND LOCAL OPTION GROSS RECEIPTS
6 TAXES; DELETING AN EXPIRED EXEMPTION FROM THE MOTOR VEHICLE
7 EXCISE TAX; CLARIFYING THE AMOUNT OF TRIP TAX TO BE IMPOSED;
8 CLARIFYING WHEN THE PREMIUM TAX IS IMPOSED ON CERTAIN TAXPAYERS
9 AND WHEN CERTAIN CREDITS WILL BE APPLIED; ADJUSTING THE LENGTH
10 OF TIME AN APPLICANT FOR A CERTIFICATE AS A CERTIFIED PUBLIC
11 ACCOUNTANT HAS TO PASS ALL PARTS OF THE CERTIFICATION
12 EXAMINATION; RECONCILING CONFLICTING AMENDMENTS TO THE SAME
13 SECTION OF LAW BY REPEALING LAWS 2021, CHAPTER 65, SECTION 13;
14 AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978;
15 DECLARING AN EMERGENCY.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. A new section of the Tax Administration Act is
19 enacted to read:

20 "[NEW MATERIAL] TAX EXPENDITURE BUDGET.--

21 A. No later than November 15 of each year, the
22 secretary shall compile and present a tax expenditure budget to
23 the governor, the revenue stabilization and tax policy
24 committee and the legislative finance committee and post the
25 tax expenditure budget to the department's website.

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1 B. A tax expenditure budget shall include the
2 following information for each tax expenditure of a tax
3 administered by the department:

- 4 (1) the statutory basis;
- 5 (2) the year of enactment, amendment or
6 repeal, if any;
- 7 (3) a brief description;
- 8 (4) the intended purpose, if specified in the
9 law providing for the tax expenditure;
- 10 (5) an estimate of the amount of foregone
11 revenue by fiscal year for the three fiscal years preceding the
12 current fiscal year, including the general fund, other state
13 funds and local government revenues;
- 14 (6) the number of taxpayers that claimed a tax
15 expenditure for each fiscal year reported, unless reporting of
16 such data is in a form that can be associated with or otherwise
17 identify, directly or indirectly, a particular taxpayer;
- 18 (7) the data source used for the estimate;
- 19 (8) a description of the reliability of the
20 estimate;
- 21 (9) an evaluation of the tax expenditure, if
22 required in statute for the specific expenditure; and
- 23 (10) a description of the tax expenditure's
24 effect on tax administration, if any.

25 C. The department may request from an executive

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1 agency or a local government agency or official the information
2 necessary to complete a tax expenditure budget required by this
3 section. The agency or official shall comply with a request
4 made pursuant to this section by the department as permitted by
5 law.

6 D. As used in this section, "tax expenditure" means
7 a provision of law administered by the department to reflect
8 state tax policy, as determined by the secretary, including
9 promoting the general welfare of citizens, giving preferential
10 tax treatment to a specific industry or reflecting a specific
11 purpose, including incentivizing consumer behavior, economic
12 development or job creation. A tax expenditure does not
13 include provisions of laws enacted to prevent violation of
14 state or federal law, prevent federal preemption, ensure comity
15 between governments, avoid multiple taxation or define a tax
16 base."

17 SECTION 2. Section 7-1-6.68 NMSA 1978 (being Laws 2021
18 (1st S.S.), Chapter 4, Section 50) is amended to read:

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

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

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1 cannabis excise tax from [~~cannabis retailers~~] business
 2 locations within the municipality as reported pursuant to
 3 Section 7-42-4 NMSA 1978.

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

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

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

17 **SECTION 3.** Section 7-1-8.2 NMSA 1978 (being Laws 2009,
 18 Chapter 243, Section 4) is amended to read:

19 "7-1-8.2. INFORMATION REQUIRED TO BE REVEALED.--

20 A. The department shall:

21 (1) furnish returns and return information
 22 required by a provision of the Tax Administration Act to be
 23 made available to the public by the department;

24 (2) answer all inquiries concerning whether a
 25 person is or is not a registered taxpayer for tax programs that

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1 require registration, but nothing in this subsection shall be
2 construed to allow the department to answer inquiries
3 concerning whether a person has filed a tax return;

4 (3) furnish, upon request for inspection by a
5 member of the public pursuant to:

6 (a) Section 7-1-28 or Section 7-1-29
7 NMSA 1978, the taxpayer name, abatement, refund or credit
8 amount, tax program or business tax credit and the date the
9 abatement, refund or credit was issued; and

10 (b) Section 7-1-21 NMSA 1978, the
11 installment agreement; and

12 (4) with respect to the [~~tax~~] taxes on
13 gasoline and special fuel imposed by the Gasoline Tax Act and
14 the Special Fuels Supplier Tax Act, make available for public
15 inspection at monthly intervals a report covering the number of
16 gallons of gasoline, [~~and~~] ethanol blended fuels and special
17 fuel received and deducted and the amount of tax paid by each
18 person required to file a gasoline tax return or special fuel
19 tax return or pay gasoline tax or special fuel excise tax in
20 the state of New Mexico.

21 B. Nothing in this section shall be construed to
22 require the release of information that would violate an
23 agreement between the state and the federal internal revenue
24 service for sharing of information or any provision or rule of
25 the federal Internal Revenue Code to which a state is subject."

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1 SECTION 4. Section 7-1-14 NMSA 1978 (being Laws 2020,
2 Chapter 80, Section 1) is amended to read:

3 "7-1-14. ~~[BUSINESS]~~ REPORTING LOCATION INSTRUCTIONS FOR
4 PURPOSES OF REPORTING GROSS RECEIPTS AND USE--LOCATION-CODE
5 DATABASE AND LOCATION-RATE DATABASE.--

6 A. For purposes of the Gross Receipts and
7 Compensating Tax Act, Interstate Telecommunications Gross
8 Receipts Tax Act, Leased Vehicle Gross Receipts Tax Act and any
9 act authorizing the imposition of a local option gross receipts
10 or compensating tax, a ~~[person]~~ taxpayer that has gross
11 receipts and a ~~[person]~~ taxpayer using property or services in
12 New Mexico in a taxable manner shall report the gross receipts
13 and use to the proper ~~[business]~~ reporting location as provided
14 in this section.

15 B. The ~~[business]~~ reporting location for gross
16 receipts from the sale, lease or granting of a license to use
17 real property located in New Mexico, and any related
18 deductions, shall be the location of the property.

19 C. The ~~[business]~~ reporting location for gross
20 receipts from the sale or license of ~~[tangible personal]~~
21 property, other than real property, and any related deductions,
22 shall be at the following locations:

23 (1) if the property is received by the
24 purchaser at the New Mexico ~~[business]~~ location of the seller,
25 the location of the seller;

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1 (2) if the property is not received by the
2 purchaser at [~~a business~~] the location of the seller, the
3 location indicated by instructions for delivery to the
4 purchaser, or the purchaser's donee, when known to the seller;

5 (3) if Paragraphs (1) and (2) of this
6 subsection do not apply, the location indicated by an address
7 for the purchaser available from the business records of the
8 seller that are maintained in the ordinary course of business;
9 provided that use of the address does not constitute bad faith;

10 (4) if Paragraphs (1) through (3) of this
11 subsection do not apply, the location for the purchaser
12 obtained during consummation of the sale, including the address
13 of a purchaser's payment instrument, if no other address is
14 available; provided that use of this address does not
15 constitute bad faith; or

16 (5) if Paragraphs (1) through (4) of this
17 subsection do not apply, including a circumstance in which the
18 seller is without sufficient information to apply those
19 standards, the location from which the property was shipped or
20 transmitted.

21 D. The [~~business~~] reporting location for gross
22 receipts from the lease of tangible personal property,
23 including vehicles, other transportation equipment and other
24 mobile tangible personal property, and any related deductions,
25 shall be the location of primary use of the property, as

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1 indicated by the address for the property provided by the
2 lessee that is available to the lessor from the lessor's
3 records maintained in the ordinary course of business; provided
4 that use of this address does not constitute bad faith. The
5 location of primary [~~business location~~] use shall not be
6 altered by intermittent use at different locations, such as use
7 of business property that accompanies employees on business
8 trips and service calls.

9 E. The [~~business~~] reporting location for gross
10 receipts from the sale, lease or license of franchises, and any
11 related deductions, shall be where the franchise is used.

12 F. The [~~business~~] reporting location for gross
13 receipts from the performance or sale of the following
14 services, and any related deductions, shall be at the following
15 locations:

16 (1) for professional services performed in New
17 Mexico, other than construction-related services, or performed
18 outside New Mexico when the product of the service is initially
19 used in New Mexico, the location of the performer of the
20 service or seller of the product of the service, as
21 appropriate;

22 (2) for construction services and
23 construction-related services performed for a construction
24 project in New Mexico, the location of the construction site;

25 (3) for services with respect to the selling

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1 of real estate located in New Mexico, the location of the real
2 estate;

3 (4) for transportation of persons or property
4 in, into or from New Mexico, the location where the person or
5 property enters the vehicle; and

6 (5) for services other than those described in
7 Paragraphs (1) through (4) of this subsection, the location
8 where the product of the service is delivered.

9 G. Except as provided in Subsection H of this
10 section, the reporting location for uses of property or
11 services subject to the compensating tax shall be [~~reported at~~]
12 the [~~business~~] location at which gross receipts would have been
13 required to be reported had the transaction been subject to the
14 gross receipts tax.

15 H. If a [~~person~~] taxpayer subject to the
16 compensating tax can demonstrate that the first use upon which
17 compensating tax is imposed occurred at a time and place
18 different from the time and place of the purchase, then the
19 reporting location for the compensating tax shall be [~~reported~~
20 ~~at~~] the [~~business~~] location of the first use.

21 [~~I. The secretary shall designate codes to identify~~
22 ~~the business locations for a person's gross receipts, or use~~
23 ~~for purchases subject to the compensating tax, and deductions~~
24 ~~related to those receipts or that use shall be reported.~~

25 J.] I. The secretary shall develop a location-code

1 database that provides the [~~business~~] reporting location codes
 2 designated [~~pursuant to Subsection I of this section~~] by the
 3 secretary. The secretary shall also develop and provide to
 4 taxpayers a location-rate database that sets out the tax rates
 5 applicable to [~~business~~] reporting locations within the state,
 6 by address, and sellers who properly rely on this database
 7 shall not be liable for any additional tax due to the use of an
 8 incorrect rate.

9 [~~K.~~] J. As used in this section:

10 [~~(1)~~] "business location" means the code
 11 designated by the department to identify business locations and
 12 required to be used to report the gross receipts, or use for
 13 purchases subject to the compensating tax, and deductions
 14 related to those receipts or that use;

15 [~~(2)~~] (1) "gross receipts" means, as
 16 applicable, "gross receipts" as used in the Gross Receipts and
 17 Compensating Tax Act and the Leased Vehicle Gross Receipts Tax
 18 Act and "interstate telecommunications gross receipts" in the
 19 Interstate Telecommunications Gross Receipts Tax Act;

20 [~~(3)~~] (2) "in-person service" means a service
 21 physically provided in person by the service provider, where
 22 the customer or the customer's real or tangible personal
 23 property upon which the service is performed is in the same
 24 location as the service provider at the time the service is
 25 performed; and

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1 [~~(4)~~] (3) "professional service" means a
2 service, other than an in-person service, that requires either
3 an advanced degree from an accredited post-secondary
4 educational institution or a license from the state to
5 perform."

6 SECTION 5. Section 7-1-26 NMSA 1978 (being Laws 1965,
7 Chapter 248, Section 28, as amended) is amended to read:

8 "7-1-26. DISPUTING LIABILITIES--CLAIM FOR CREDIT, REBATE
9 OR REFUND.--

10 A. A person who believes that an amount of tax has
11 been paid by or withheld from that person in excess of that for
12 which the person was liable, who has been denied a credit or
13 rebate claimed or who claims a prior right to property in the
14 possession of the department pursuant to a levy made pursuant
15 to the authority of Sections 7-1-31 through 7-1-34 NMSA 1978
16 may claim a refund by directing to the secretary, within the
17 time limitations provided by Subsections F and G of this
18 section, a written claim for refund that, except as provided in
19 Subsection K of this section, includes:

20 (1) the taxpayer's name, address and
21 identification number;

22 (2) the type of tax for which a refund is
23 being claimed, the credit or rebate denied or the property
24 levied upon;

25 (3) the sum of money or other property being

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1 claimed;

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

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

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

11 B. A claim for refund that meets the requirements
12 of Subsection A of this section and that is filed within the
13 time limitations provided by Subsections F and G of this
14 section is deemed to be properly before the department for
15 consideration, regardless of whether the department requests
16 additional documentation after receipt of the claim for refund.

17 C. If the department requests additional relevant
18 documentation from a taxpayer who has submitted a claim for
19 refund, the claim for refund shall not be considered incomplete
20 provided the taxpayer submits sufficient information for the
21 department to make a determination.

22 D. The secretary or the secretary's delegate may
23 allow the claim in whole or in part or may deny the claim. If
24 the:

25 (1) claim is denied in whole or in part in

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underscoring material = new
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1 writing, the person shall not refile the denied claim, but the
2 person, within ninety days after either the mailing or delivery
3 of the denial of all or any part of the claim, may elect to
4 pursue only one of the remedies provided in Subsection E of
5 this section; and

6 (2) department has neither granted nor denied
7 any portion of a complete claim for refund within one hundred
8 eighty days after the claim was mailed or otherwise delivered
9 to the department, the person may elect to treat the claim as
10 denied and elect to pursue only one of the remedies provided in
11 Subsection E of this section.

12 E. A person may elect to pursue only one of the
13 remedies provided in this subsection. A person who timely
14 pursues more than one remedy is deemed to have elected the
15 first. The person may:

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

19 (a) the circumstances of: 1) an alleged
20 overpayment; 2) a denied credit; 3) a denied rebate; or 4) a
21 denial of a prior right to property levied upon by the
22 department;

23 (b) an allegation that, because of that
24 overpayment or denial, the state is indebted to the taxpayer
25 for a specified amount, including any allowed interest, or for

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1 the property;

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

4 (d) a recitation of the facts of the
5 claim for refund; or

6 (2) commence a civil action in the district
7 court for Santa Fe county by filing a complaint setting forth
8 the circumstance of the claimed overpayment, denied credit or
9 rebate or denial of a prior right to property levied upon by
10 the department alleging that on account thereof the state is
11 indebted to the plaintiff in the amount or property stated,
12 together with any interest allowable, demanding the refund to
13 the plaintiff of that amount or property and reciting the facts
14 of the claim for refund. The plaintiff or the secretary may
15 appeal from any final decision or order of the district court
16 to the court of appeals.

17 F. Except as otherwise provided in Subsection G of
18 this section, a credit or refund of any amount of overpaid tax,
19 penalty or interest may be allowed or made to a person if a
20 claim is properly filed:

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

23 (a) in the case of tax paid with an
24 original or amended state return, the date the related tax was
25 originally due;

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

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

9 (d) the final determination of value
10 occurs with respect to any overpayment that resulted from a
11 disapproval by any agency of the United States or the state of
12 New Mexico or any court of increase in value of a product
13 subject to taxation pursuant to the Oil and Gas Severance Tax
14 Act, the Oil and Gas Conservation Tax Act, the Oil and Gas
15 Emergency School Tax Act, the Oil and Gas Ad Valorem Production
16 Tax Act or the Natural Gas Processors Tax Act; or

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

20 (2) in the case of a denial of a claim for
21 credit pursuant to the Investment Credit Act, Laboratory
22 Partnership with Small Business Tax Credit Act or Technology
23 Jobs and Research and Development Tax Credit Act or for the
24 rural job tax credit provided by Section 7-2E-1.1 NMSA 1978 or
25 similar credit, only within one year after the date of the

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1 denial;

2 (3) in the case of a taxpayer under audit by
3 the department who has signed a waiver of the limitation on
4 assessments on or after July 1, 1993 pursuant to Subsection F
5 of Section 7-1-18 NMSA 1978, only for a refund of the same tax
6 paid for the same period for which the waiver was given, and
7 only until a date one year after the later of the date of the
8 mailing of an assessment issued pursuant to the audit, the date
9 of the mailing of final audit findings to the taxpayer or the
10 date a proceeding is begun in court by the department with
11 respect to the same tax and the same period;

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

18 (5) in the case of a taxpayer who has been
19 assessed a tax on or after July 1, 1993 pursuant to Subsection
20 B, C or D of Section 7-1-18 NMSA 1978 and an assessment that
21 applies to a period ending at least three years prior to the
22 beginning of the year in which the assessment was made, only
23 for a refund for the same tax for the period of the assessment
24 or for any period following that period within one year of the
25 date of the assessment unless a longer period for claiming a

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1 refund is provided in this section.

2 G. No credit or refund shall be allowed or made to
3 a person claiming a refund of gasoline tax pursuant to Section
4 7-13-11 NMSA 1978 unless notice of the destruction of the
5 gasoline was given to the department within thirty days of the
6 actual destruction and the claim for refund is made within six
7 months of the date of destruction. No credit or refund shall
8 be allowed or made to a person claiming a refund of gasoline
9 tax pursuant to Section 7-13-17 NMSA 1978 unless the refund is
10 claimed within six months of the date of purchase of the
11 gasoline and the gasoline has been used at the time the claim
12 for refund is made.

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

20 I. A refund of tax paid under any tax or tax act
21 administered pursuant to Subsection B of Section 7-1-2 NMSA
22 1978 may be made, at the discretion of the department, in the
23 form of credit against future tax payments if future tax
24 liabilities in an amount at least equal to the credit amount
25 reasonably may be expected to become due.

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

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

22 L. In no case may a credit or refund be claimed if
23 the related federal adjustment is taken into account by a
24 partnership in the partnership's tax return for the adjustment
25 year and allocated to the partners in a manner similar to other

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1 partnership tax items."

2 SECTION 6. Section 7-1-82 NMSA 1978 (being Laws 1973,
3 Chapter 179, Section 1, as amended) is amended to read:

4 "7-1-82. TRANSFER, ASSIGNMENT, SALE, LEASE OR RENEWAL OF
5 LIQUOR LICENSE.--

6 A. The director of the [~~alcohol and gaming~~]
7 alcoholic beverage control division of the regulation and
8 licensing department shall not allow the transfer, assignment,
9 lease or sale of any liquor license pursuant to the provisions
10 of the Liquor Control Act until the director receives written
11 notification from the secretary or secretary's delegate that:

12 (1) the licensee or any person authorized to
13 use the license is not a delinquent taxpayer as [~~defined~~]
14 provided in Section 7-1-16 NMSA 1978 only with respect to the
15 liquor excise tax or the gross receipts tax; or

16 (2) the transferee, assignee, buyer or lessee
17 has entered into a written agreement with the secretary or
18 secretary's delegate in which the transferee, assignee, buyer
19 or lessee has assumed full liability for payment of all taxes
20 due or [~~which~~] that may become due from [~~engaging in business~~
21 ~~authorized by the liquor license~~] the licensee with respect to
22 the liquor excise tax or the gross receipts tax.

23 B. The director of the [~~alcohol and gaming~~]
24 alcoholic beverage control division of the regulation and
25 licensing department shall not allow the renewal of any liquor

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1 license pursuant to the provisions of the Liquor Control Act
 2 until the director receives notification from the secretary or
 3 secretary's delegate that on a certain date:

4 (1) ~~[there is no assessed tax liability from~~
 5 ~~engaging in business authorized by the liquor license or, if~~
 6 ~~there is assessed tax liability, the licensee is not a~~
 7 ~~delinquent taxpayer]~~ the licensee is not a delinquent taxpayer
 8 as provided in Section 7-1-16 NMSA 1978 only with respect to
 9 the liquor excise tax or the gross receipts tax; and

10 (2) there are no unfiled tax returns due from
 11 ~~[engaging in business authorized by the liquor license]~~ the
 12 licensee with respect to the liquor excise tax or the gross
 13 receipts tax."

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

16 "7-2-5.5. EXEMPTION--EARNINGS BY INDIANS, THEIR INDIAN
 17 SPOUSES AND INDIAN DEPENDENTS ON INDIAN LANDS.--Income earned
 18 by a member of a New Mexico federally recognized Indian nation,
 19 tribe, band or pueblo, ~~[his]~~ the member's spouse or dependent,
 20 who is a member of a New Mexico federally recognized Indian
 21 nation, tribe, band or pueblo, is exempt from state income tax
 22 if the income is earned from work performed within and the
 23 member, spouse or dependent ~~[lives]~~ is domiciled within the
 24 boundaries of the Indian member's or the spouse's reservation
 25 or pueblo grant or within the boundaries of ~~[lands held in~~

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1 ~~trust by the United States for the benefit of the member or~~
2 ~~spouse or his nation, tribe, band or pueblo, subject to~~
3 ~~restriction against alienation imposed by the United States]~~
4 land defined as "Indian country" pursuant to 18 U.S.C. Section
5 1151, as that section may be amended or renumbered, for that
6 nation, tribe, band or pueblo."

7 SECTION 8. Section 7-9-3 NMSA 1978 (being Laws 1978,
8 Chapter 46, Section 1, as amended) is amended to read:

9 "7-9-3. DEFINITIONS.--As used in the Gross Receipts and
10 Compensating Tax Act:

11 A. "buying" or "selling" means a transfer of
12 property for consideration or the performance of service for
13 consideration;

14 B. "department" means the taxation and revenue
15 department, the secretary of taxation and revenue or an
16 employee of the department exercising authority lawfully
17 delegated to that employee by the secretary;

18 C. "digital good" means a digital product delivered
19 electronically, including software, music, photography, video,
20 reading material, an application and a ringtone;

21 D. "disclosed agency" means ~~[an agent receiving~~
22 ~~money on behalf of a principal if the agent or the agent's~~
23 ~~principal disclosed the agency relationship to a third party~~
24 ~~from which the agent receives money, or if the third party~~
25 ~~otherwise has actual knowledge that the agent receives money on~~

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1 ~~behalf of the principal]~~ a person receiving money from a third
2 party on behalf of another if the person receiving the money,
3 or the person on whose behalf the money is received, disclosed
4 the relationship to the third party from whom the person
5 receives money, or if the third party otherwise has actual
6 knowledge that the person to whom the money is paid receives
7 the money on behalf of another;

8 E. "financial corporation" means a savings and loan
9 association or an incorporated savings and loan company, trust
10 company, mortgage banking company, consumer finance company or
11 other financial corporation;

12 F. "initial use" or "initially used" means the
13 first employment for the intended purpose and does not include
14 the following activities:

15 (1) observation of tests conducted by the
16 performer of services;

17 (2) participation in progress reviews,
18 briefings, consultations and conferences conducted by the
19 performer of services;

20 (3) review of preliminary drafts, drawings and
21 other materials prepared by the performer of services;

22 (4) inspection of preliminary prototypes
23 developed by the performer of services; or

24 (5) similar activities;

25 G. "lease" or "leasing" means an arrangement

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1 whereby, for a consideration, the owner of property grants
2 another person the exclusive right to possess and use the
3 property for a definite term;

4 H. "licensing" or "license" means an arrangement
5 whereby, for a consideration, the owner of property grants
6 another person a revocable, non-exclusive right to use the
7 property;

8 I. "local option gross receipts tax" means a tax
9 authorized to be imposed by a county or municipality upon a
10 taxpayer's gross receipts and required to be collected by the
11 department at the same time and in the same manner as the gross
12 receipts tax;

13 J. "manufactured home" means a movable or portable
14 housing structure for human occupancy that exceeds either a
15 width of eight feet or a length of forty feet constructed to be
16 towed on its own chassis and designed to be installed with or
17 without a permanent foundation;

18 K. "manufacturing" means combining or processing
19 components or materials to increase their value for sale in the
20 ordinary course of business, but does not include construction
21 services; farming; electric power generation; processing of
22 natural resources, including hydrocarbons; or the processing or
23 preparation of meals for immediate consumption;

24 L. "manufacturing service" means the service of
25 combining or processing components or materials owned by

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1 another, but does not include construction services; farming;
2 electric power generation; processing of natural resources,
3 including hydrocarbons; or the processing or preparation of
4 meals for immediate consumption;

5 M. "marketplace provider" means a person who
6 facilitates the sale, lease or license of tangible personal
7 property or services or licenses for use of real property on a
8 marketplace seller's behalf, or on the marketplace provider's
9 own behalf, by:

10 (1) listing or advertising the sale, lease or
11 license, by any means, whether physical or electronic,
12 including by catalog, internet website or television or radio
13 broadcast; and

14 (2) either directly or indirectly, through
15 agreements or arrangements with third parties collecting
16 payment from the customer and transmitting that payment to the
17 seller, regardless of whether the marketplace provider receives
18 compensation or other consideration in exchange for the
19 marketplace provider's services;

20 N. "marketplace seller" means a person who sells,
21 leases or licenses tangible personal property or services or
22 who licenses the use of real property through a marketplace
23 provider;

24 O. "person" means:

25 (1) an individual, estate, trust, receiver,

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

1 cooperative association, club, corporation, company, firm,
2 partnership, limited liability company, limited liability
3 partnership, joint venture, syndicate or other entity,
4 including any gas, water or electric utility owned or operated
5 by a county, municipality or other political subdivision of the
6 state; or

7 (2) a national, federal, state, Indian or
8 other governmental unit or subdivision, or an agency,
9 department or instrumentality of any of the foregoing;

10 P. "property" means:

11 (1) real property;
12 (2) tangible personal property, including
13 electricity and manufactured homes;
14 (3) licenses, including licenses of digital
15 goods, but not including the licenses of copyrights, trademarks
16 or patents; and

17 (4) franchises;

18 Q. "research and development services" means an
19 activity engaged in for other persons for consideration, for
20 one or more of the following purposes:

21 (1) advancing basic knowledge in a recognized
22 field of natural science;

23 (2) advancing technology in a field of
24 technical endeavor;

25 (3) developing a new or improved product,

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1 process or system with new or improved function, performance,
2 reliability or quality, whether or not the new or improved
3 product, process or system is offered for sale, lease or other
4 transfer;

5 (4) developing new uses or applications for an
6 existing product, process or system, whether or not the new use
7 or application is offered as the rationale for purchase, lease
8 or other transfer of the product, process or system;

9 (5) developing analytical or survey activities
10 incorporating technology review, application, trade-off study,
11 modeling, simulation, conceptual design or similar activities,
12 whether or not offered for sale, lease or other transfer; or

13 (6) designing and developing prototypes or
14 integrating systems incorporating the advances, developments or
15 improvements included in Paragraphs (1) through (5) of this
16 subsection;

17 R. "secretary" means the secretary of taxation and
18 revenue or the secretary's delegate;

19 S. "service" means all activities engaged in for
20 other persons for a consideration, which activities involve
21 predominantly the performance of a service as distinguished
22 from selling or leasing property. "Service" includes
23 activities performed by a person for its members or
24 shareholders. In determining what is a service, the intended
25 use, principal objective or ultimate objective of the

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1 contracting parties shall not be controlling. "Service"
2 includes construction activities and all tangible personal
3 property that will become an ingredient or component part of a
4 construction project. That tangible personal property retains
5 its character as tangible personal property until it is
6 installed as an ingredient or component part of a construction
7 project in New Mexico. Sales of tangible personal property
8 that will become an ingredient or component part of a
9 construction project to persons engaged in the construction
10 business are sales of tangible personal property; and

11 T. "use" or "using" includes use, consumption or
12 storage other than storage for subsequent sale in the ordinary
13 course of business or for use solely outside this state."

14 SECTION 9. Section 7-9-3.5 NMSA 1978 (being Laws 2003,
15 Chapter 272, Section 3, as amended) is amended to read:

16 "7-9-3.5. DEFINITION--GROSS RECEIPTS.--

17 A. As used in the Gross Receipts and Compensating
18 Tax Act:

19 (1) "gross receipts" means the total amount of
20 money or the value of other consideration received from selling
21 property in New Mexico, from leasing or licensing property
22 employed in New Mexico, from granting a right to use a
23 franchise employed in New Mexico, from selling services
24 performed outside New Mexico, the product of which is initially
25 used in New Mexico, or from performing services in New Mexico.

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1 In an exchange in which the money or other consideration
2 received does not represent the value of the property or
3 service exchanged, "gross receipts" means the reasonable value
4 of the property or service exchanged;

5 (2) "gross receipts" includes:

6 (a) any receipts from sales of tangible
7 personal property handled on consignment;

8 (b) the total commissions or fees
9 derived from the business of buying, selling or promoting the
10 purchase, sale or lease, as an agent or broker on a commission
11 or fee basis, of any property, service, stock, bond or
12 security;

13 (c) amounts paid by members of any
14 cooperative association or similar organization for sales or
15 leases of personal property or performance of services by such
16 organization;

17 (d) amounts received from transmitting
18 messages or conversations by persons providing telephone or
19 telegraph services;

20 (e) amounts received by a New Mexico
21 florist from the sale of flowers, plants or other products that
22 are customarily sold by florists where the sale is made
23 pursuant to orders placed with the New Mexico florist that are
24 filled and delivered outside New Mexico by an out-of-state
25 florist;

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1 (f) the receipts of a home service
2 provider from providing mobile telecommunications services to
3 customers whose place of primary use is in New Mexico if: 1)
4 the mobile telecommunications services originate and terminate
5 in the same state, regardless of where the services originate,
6 terminate or pass through; and 2) the charges for mobile
7 telecommunications services are billed by or for a customer's
8 home service provider and are deemed provided by the home
9 service provider. For the purposes of this section, "home
10 service provider", "mobile telecommunications services",
11 "customer" and "place of primary use" have the meanings given
12 in the federal Mobile Telecommunications Sourcing Act; and

13 (g) receipts collected by a marketplace
14 provider engaging in business in the state from sales, leases
15 and licenses of tangible personal property, sales of licenses
16 and sales of services or licenses for use of real property that
17 are sourced to this state and are facilitated by the
18 marketplace provider on behalf of marketplace sellers,
19 regardless of whether the marketplace sellers are engaging in
20 business in the state; and

21 (3) "gross receipts" excludes:

- 22 (a) cash discounts allowed and taken;
- 23 (b) ~~[New Mexico gross receipts tax,~~
24 ~~governmental gross receipts tax and leased vehicle gross~~
25 ~~receipts tax]~~ all excise taxes imposed by the state and

1 political subdivisions of the state payable on transactions for
2 the reporting period;

3 (c) taxes imposed pursuant to the
4 provisions of any local option gross receipts tax that is
5 payable on transactions for the reporting period;

6 (d) any gross receipts or sales taxes
7 imposed by an Indian nation, tribe or pueblo; provided that the
8 tax is approved, if approval is required by federal law or
9 regulation, by the secretary of the interior of the United
10 States; and provided further that the gross receipts or sales
11 tax imposed by the Indian nation, tribe or pueblo provides a
12 reciprocal exclusion for gross receipts, sales or gross
13 receipts-based excise taxes imposed by the state or its
14 political subdivisions;

15 (e) any type of time-price differential;

16 (f) amounts received solely on behalf of
17 another in a disclosed agency capacity; and

18 (g) amounts received by a New Mexico
19 florist from the sale of flowers, plants or other products that
20 are customarily sold by florists where the sale is made
21 pursuant to orders placed with an out-of-state florist for
22 filling and delivery in New Mexico by a New Mexico florist.

23 B. When the sale of property or service is made
24 under any type of charge, conditional or time-sales contract or
25 the leasing of property is made under a leasing contract, the

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1 seller or lessor may elect to treat all receipts, excluding any
2 type of time-price differential, under such contracts as gross
3 receipts as and when the payments are actually received. If
4 the seller or lessor transfers the seller's or lessor's
5 interest in any such contract to a third person, the seller or
6 lessor shall pay the gross receipts tax upon the full sale or
7 leasing contract amount, excluding any type of time-price
8 differential."

9 SECTION 10. Section 7-9-14 NMSA 1978 (being Laws 1969,
10 Chapter 144, Section 7, as amended) is amended to read:

11 "7-9-14. EXEMPTION--COMPENSATING TAX--GOVERNMENTAL
12 AGENCIES--INDIANS.--

13 A. Except as otherwise provided in this subsection,
14 there is exempted from the compensating tax the use of property
15 and services by the United States or the state of New Mexico or
16 any governmental unit or subdivision, agency, department or
17 instrumentality thereof. The exemption provided by this
18 subsection does not apply to:

19 (1) the use of property that is or will be
20 incorporated into a metropolitan redevelopment project under
21 the Metropolitan Redevelopment Code; or

22 (2) the use of construction material.

23 B. Exempted from the compensating tax is the use of
24 property by any Indian nation, tribe or pueblo or any
25 governmental unit, subdivision, agency, department or

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1 instrumentality thereof on Indian reservations or pueblo
2 grants."

3 SECTION 11. Section 7-9-26 NMSA 1978 (being Laws 1969,
4 Chapter 144, Section 19, as amended) is amended to read:

5 "7-9-26. EXEMPTION--GROSS RECEIPTS AND COMPENSATING TAX--
6 FUEL.--Exempted from the gross receipts and compensating tax
7 are the receipts from selling and the use of gasoline, special
8 fuel or alternative fuel on which the tax imposed by Section
9 7-13-3, [~~7-16-3 or~~] 7-16A-3 or 7-16B-4 NMSA 1978 [~~or the~~
10 ~~Alternative Fuel Tax Act~~] has been paid and not refunded."

11 SECTION 12. Section 7-9-41.6 NMSA 1978 (being Laws 2020
12 (1st S.S.), Chapter 4, Section 3) is amended to read:

13 "7-9-41.6. EXEMPTION--GROSS RECEIPTS--CERTAIN HEALTH CARE
14 PROVIDERS FROM CERTAIN FEDERAL [~~CORONAVIRUS AID, RELIEF, AND~~
15 ~~ECONOMIC SECURITY ACT~~] PAYMENTS.--Exempted from the gross
16 receipts tax are receipts of health care providers, other than
17 hospitals licensed by the department of health, from payments
18 by:

19 A. the United States department of health and human
20 services from the federal public health and social services
21 emergency fund to providers eligible to receive the payments
22 pursuant to the federal Coronavirus Aid, Relief, and Economic
23 Security Act; and

24 B. the medical assistance division of the human
25 services department from funds appropriated to New Mexico

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1 pursuant to the federal American Rescue Plan Act of 2021 for
2 the state medicaid program to provide additional support for
3 home and community-based services."

4 SECTION 13. Section 7-9-46 NMSA 1978 (being Laws 1969,
5 Chapter 144, Section 36, as amended by Laws 2021, Chapter 65,
6 Section 13 and by Laws 2021, Chapter 66, Section 2) is amended
7 to read:

8 "7-9-46. DEDUCTION--GROSS RECEIPTS--GOVERNMENTAL GROSS
9 RECEIPTS--SALES TO MANUFACTURERS AND MANUFACTURING SERVICE
10 PROVIDERS.--

11 A. Receipts from selling tangible personal property
12 may be deducted from gross receipts or from governmental gross
13 receipts if the sale is made to a person engaged in the
14 business of manufacturing who delivers a nontaxable transaction
15 certificate to the seller or provides alternative evidence
16 pursuant to Section 7-9-43 NMSA 1978. The buyer [~~delivering~~
17 ~~the nontaxable transaction certificate~~] must incorporate the
18 tangible personal property as an ingredient or component part
19 of the product that the buyer is in the business of
20 manufacturing.

21 B. Receipts from selling a manufacturing consumable
22 to a manufacturer or a manufacturing service provider may be
23 deducted from gross receipts or from governmental gross
24 receipts if the buyer delivers a nontaxable transaction
25 certificate to the seller or provides alternative evidence

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1 pursuant to Section 7-9-43 NMSA 1978; provided that if the
2 seller is a utility company, an agreement with the department
3 pursuant to Section 7-1-21.1 NMSA 1978 and a nontaxable
4 transaction certificate shall be required.

5 C. Receipts from selling or leasing qualified
6 equipment may be deducted from gross receipts if the sale is
7 made to, or the lease is entered into with, a person engaged in
8 the business of manufacturing or a manufacturing service
9 provider who delivers a nontaxable transaction certificate to
10 the seller or provides alternative evidence pursuant to Section
11 7-9-43 NMSA 1978; provided that a manufacturer or manufacturing
12 service provider delivering a nontaxable transaction
13 certificate or alternative evidence with respect to the
14 qualified equipment shall not claim an investment credit
15 pursuant to the Investment Credit Act for that same equipment.

16 D. The purpose of the deductions provided in this
17 section is to encourage manufacturing businesses to locate in
18 New Mexico and to reduce the tax burden, including reducing
19 pyramiding, on the tangible personal property that is consumed
20 in the manufacturing process and that is purchased by
21 manufacturing businesses in New Mexico.

22 E. The department shall annually report to the
23 revenue stabilization and tax policy committee the aggregate
24 amount of deductions taken pursuant to this section, the number
25 of taxpayers claiming each of the deductions and any other

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1 information that is necessary to determine that the deductions
2 are performing the purposes for which they are enacted.

3 F. A taxpayer deducting gross receipts pursuant to
4 this section shall report the amount deducted separately for
5 each deduction provided in this section and attribute the
6 amount of the deduction to the appropriate authorization
7 provided in this section in a manner required by the department
8 that facilitates the evaluation by the legislature of the
9 benefit to the state of these deductions.

10 G. As used in this section:

11 (1) "manufacturing consumable" means tangible
12 personal property, other than qualified equipment or an
13 ingredient or component part of a manufactured product, that is
14 incorporated into, destroyed, depleted or transformed in the
15 process of manufacturing a product, including electricity,
16 fuels, water, manufacturing aids and supplies, chemicals, gases
17 and other tangibles used to manufacture a product;

18 (2) "manufacturing operation" means a plant
19 operated by a manufacturer or manufacturing service provider
20 that employs personnel to perform production tasks to produce
21 goods, in conjunction with machinery and equipment; and

22 (3) "qualified equipment" means machinery,
23 equipment and tools, including component, repair, replacement
24 and spare parts thereof, that are used directly in the
25 manufacturing process of a manufacturing operation. "Qualified

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1 equipment" includes computer hardware and software used
 2 directly in the manufacturing process of a manufacturing
 3 operation but excludes any motor vehicle that is required to be
 4 registered in this state pursuant to the Motor Vehicle Code."

5 SECTION 14. Section 7-9-54 NMSA 1978 (being Laws 1969,
 6 Chapter 144, Section 44, as amended) is amended to read:

7 "7-9-54. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL
 8 GROSS RECEIPTS TAX--SALES TO GOVERNMENTAL AGENCIES.--

9 A. Receipts from selling tangible personal
 10 property, or from selling licenses to use digital goods for the
 11 purpose of loaning those digital goods to the public, to the
 12 United States or to New Mexico or a governmental unit,
 13 subdivision, agency, department or instrumentality thereof may
 14 be deducted from gross receipts or from governmental gross
 15 receipts. Unless contrary to federal law, the deduction
 16 provided by this subsection does not apply to:

17 (1) receipts from selling metalliferous
 18 mineral ore;

19 (2) receipts from selling tangible personal
 20 property that is or will be incorporated into a metropolitan
 21 redevelopment project created under the Metropolitan
 22 Redevelopment Code;

23 (3) receipts from selling construction
 24 material, excluding tangible personal property, whether
 25 removable or non-removable, that is or would be classified for

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1 depreciation purposes as three-year property, five-year
2 property, seven-year property or ten-year property, including
3 indirect costs related to the asset basis, by Section 168 of
4 the Internal Revenue Code of 1986, as that section may be
5 amended or renumbered; or

6 (4) that portion of the receipts from
7 performing a "service" that reflects the value of tangible
8 personal property utilized or produced in performance of such
9 service.

10 B. Receipts from selling tangible personal
11 property, or from selling licenses to use digital goods for the
12 purpose of loaning those digital goods to the public, for any
13 purpose to an Indian tribe, nation or pueblo or a governmental
14 unit, subdivision, agency, department or instrumentality
15 thereof for use on Indian reservations or pueblo grants may be
16 deducted from gross receipts or from governmental gross
17 receipts.

18 C. When a seller, in good faith, deducts receipts
19 for tangible personal property or licenses to use digital goods
20 for the purpose of loaning those digital goods to the public
21 sold to the state or a governmental unit, subdivision, agency,
22 department or instrumentality thereof, after receiving written
23 assurances from the buyer's representative that the property
24 sold is not construction material, the department shall not
25 assert in a later assessment or audit of the seller that the

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1 receipts are not deductible pursuant to Paragraph (3) of
 2 Subsection A of this section."

3 SECTION 15. Section 7-9-88.1 NMSA 1978 (being Laws 1999,
 4 Chapter 223, Section 2, as amended) is amended to read:

5 "7-9-88.1. CREDIT--GROSS RECEIPTS TAX--TAX PAID TO
 6 CERTAIN TRIBES.--

7 A. If on a taxable transaction taking place on
 8 tribal land a qualifying gross receipts, sales or similar tax
 9 has been levied by the tribe, the amount of the tribe's tax may
 10 be credited against gross receipts tax due this state or its
 11 political subdivisions pursuant to the Gross Receipts and
 12 Compensating Tax Act and a local option gross receipts tax on
 13 the same transaction. The amount of the credit shall be equal
 14 to the lesser of seventy-five percent of the tax imposed by the
 15 tribe on the receipts from the transaction or seventy-five
 16 percent of the revenue produced by the sum of the rate of tax
 17 imposed pursuant to the Gross Receipts and Compensating Tax Act
 18 and the total of the rates of local option gross receipts taxes
 19 imposed on the receipts from the same transaction.

20 Notwithstanding any other provision of law to the contrary, the
 21 amount of credit taken and allowed shall be applied
 22 proportionately against the amount of the gross receipts tax
 23 and local option gross receipts taxes and against the amount of
 24 distribution of those taxes pursuant to Section 7-1-6.1 NMSA
 25 1978.

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1 B. A qualifying gross receipts, sales or similar
2 tax levied by the tribe shall be limited to a tax that:

3 (1) is substantially similar to the gross
4 receipts tax imposed by the Gross Receipts and Compensating Tax
5 Act;

6 (2) does not unlawfully discriminate among
7 persons or transactions based on membership in the tribe;

8 ~~[(3) is levied on the taxable transaction at a~~
9 ~~rate not greater than the total of the gross receipts tax rate~~
10 ~~and local option gross receipts tax rates imposed by this state~~
11 ~~and its political subdivisions located within the exterior~~
12 ~~boundaries of the tribe;~~

13 ~~(4)]~~ (3) provides a credit against the tribe's
14 tax equal to the lesser of twenty-five percent of the tax
15 imposed by the tribe on the receipts from the transactions or
16 twenty-five percent of the tax revenue produced by the sum of
17 the rate of tax imposed pursuant to the Gross Receipts and
18 Compensating Tax Act and the total of the rates of the local
19 option gross receipts taxes imposed on the receipts from the
20 same transactions; and

21 ~~[(5)]~~ (4) is subject to a cooperative
22 agreement between the tribe and the secretary entered into
23 pursuant to Section 9-11-12.1 NMSA 1978 and in effect at the
24 time of the taxable transaction.

25 C. For purposes of the tax credit allowed by this

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1 section:

2 (1) "pueblo" means the Pueblo of Acoma,
3 Cochiti, Isleta, Jemez, Laguna, Nambe, Picuris, Pojoaque,
4 Sandia, San Felipe, San Ildefonso, San Juan, Santa Ana, Santa
5 Clara, Santo Domingo, Taos, Tesuque, Zia or Zuni or the
6 nineteen New Mexico pueblos acting collectively;

7 (2) "tribal land" means all land that is owned
8 by a tribe located within the exterior boundaries of a tribe's
9 reservation or grant and all land held by the United States in
10 trust for that tribe; and

11 (3) "tribe" means a pueblo, the Jicarilla
12 Apache Nation or the Mescalero Apache Tribe."

13 SECTION 16. Section 7-12-9.1 NMSA 1978 (being Laws 2006,
14 Chapter 91, Section 7, as amended) is amended to read:

15 "7-12-9.1. LICENSING--GENERAL LICENSING PROVISIONS.--

16 A. A person shall not engage in the manufacture or
17 distribution of cigarettes in New Mexico without a license
18 issued by the department.

19 B. The department shall issue or renew a license
20 for a term not to exceed one year.

21 C. The department may charge a license fee of up to
22 one hundred dollars (\$100) for each manufacturer's or
23 distributor's license issued or renewed.

24 D. An application for a license or renewal of a
25 license shall be submitted on a form determined by the

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1 department and shall include:

2 (1) the name and address of the applicant and:

3 (a) if the applicant is a firm,
4 partnership or association, the name and address of each of its
5 members; or

6 (b) if the applicant is a corporation,
7 the name and address of each of its officers;

8 (2) the address of the applicant's principal
9 place of business and every location where the applicant's
10 business is conducted; and

11 (3) any other information the department may
12 require.

13 E. The department may issue a distributor's license
14 and a manufacturer's license to the same person.

15 F. Persons licensed as manufacturers or
16 distributors may sell stamped cigarettes at retail.

17 G. A license may not be granted, maintained or
18 renewed if one or more of the following conditions applies to
19 an applicant:

20 (1) the applicant [~~owes five hundred dollars~~
21 ~~(\$500) or more in delinquent cigarette taxes~~] is a delinquent
22 taxpayer pursuant to Section 7-1-16 NMSA 1978 only with respect
23 to the cigarette tax or the gross receipts tax or has unfiled
24 tax returns due with respect to the cigarette tax or the gross
25 receipts tax;

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1 (2) the applicant has had a manufacturer's or
2 distributor's license revoked by the department or any other
3 state within the past two years;

4 (3) the applicant is convicted of a crime
5 related to contraband cigarettes, stolen cigarettes or
6 counterfeit stamps;

7 (4) the applicant is a manufacturer but not a
8 participating manufacturer as defined in Section II(jj) of the
9 master settlement agreement and the applicant is not in
10 compliance with the provisions of Section 6-4-13 NMSA 1978 or
11 the Tobacco Escrow Fund Act; or

12 (5) the applicant is a manufacturer and
13 imports cigarettes into the United States that are in violation
14 of 19 U.S.C. 1681a or manufactures cigarettes that do not
15 comply with the Federal Cigarette Labeling and Advertising Act.

16 H. In addition to a civil or criminal penalty
17 provided by law, upon a finding that a licensee has violated a
18 provision of the Cigarette Tax Act or the Tobacco Escrow Fund
19 Act or a rule adopted pursuant to either act, the department
20 may revoke or suspend the license or licenses of the licensee.

21 I. As used in this section, "applicant" includes a
22 person or persons owning, directly or indirectly, in the
23 aggregate, more than ten percent of the ownership interest in
24 the business holding or applying for a license pursuant to the
25 Cigarette Tax Act."

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1 SECTION 17. Section 7-14-6 NMSA 1978 (being Laws 1988,
2 Chapter 73, Section 16, as amended) is amended to read:

3 "7-14-6. EXEMPTIONS FROM TAX.--

4 A. A person who acquires a vehicle out of state
5 thirty or more days before establishing a domicile in this
6 state is exempt from the tax if the vehicle was acquired for
7 personal use.

8 B. A person applying for a certificate of title for
9 a vehicle registered in another state is exempt from the tax if
10 the person has previously registered and titled the vehicle in
11 New Mexico and has owned the vehicle continuously since that
12 time.

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

15 D. A person is exempt from the tax if the person
16 has a disability at the time the person purchases a vehicle and
17 can prove to the motor vehicle division of the department or
18 its agent that modifications have been made to the vehicle that
19 are:

20 (1) due to that person's disability; and

21 (2) necessary to enable that person to drive
22 that vehicle or be transported in that vehicle.

23 E. A person is exempt from the tax if the person is
24 a bona fide resident of New Mexico who served in the armed
25 forces of the United States and who suffered, while serving in

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1 the armed forces or from a service-connected cause, the loss or
2 complete and total loss of use of:

3 (1) one or both legs at or above the ankle; or

4 (2) one or both arms at or above the wrist.

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

7 (1) the person does not use the vehicle in any
8 manner other than holding it for lease or sale or leasing or
9 selling it in the ordinary course of business;

10 (2) the lease is for a term of more than six
11 months;

12 (3) the receipts from the subsequent lease are
13 subject to the gross receipts tax; and

14 (4) the vehicle does not have a gross vehicle
15 weight of over twenty-six thousand pounds.

16 [~~G. From July 1, 2004 through June 30, 2009,~~
17 ~~vehicles that are gasoline-electric hybrid vehicles with a~~
18 ~~United States environmental protection agency fuel economy~~
19 ~~rating of at least twenty-seven and one-half miles per gallon~~
20 ~~are eligible for a one-time exemption from the tax at the time~~
21 ~~of the issuance of the original certificate of title for the~~
22 ~~vehicle.]"~~

23 SECTION 18. Section 7-15-3.1 NMSA 1978 (being Laws 1943,
24 Chapter 125, Section 12, as amended) is amended to read:

25 "7-15-3.1. TRIP TAX--COMPUTATION.--

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1 A. For the purpose of providing funds for the
2 construction, maintenance, repair and reconstruction of this
3 state's public highways, a use fee, to be known as the "trip
4 tax", is imposed ~~[in lieu]~~ in an amount up to the total amount
5 due of registration fees and the weight distance tax on the
6 registrant, owner or operator of any foreign-based commercial
7 motor carrier vehicle that is:

8 (1) not registered in this state under
9 interstate registration;

10 (2) not registered in this state under
11 proportional registration;

12 (3) not subject to a valid reciprocity
13 agreement;

14 (4) not registered as a foreign commercial
15 motor carrier vehicle under short-term registration;

16 (5) not registered under an allocation of one-
17 way rental fleet vehicles; and

18 (6) not exempted from registration and the
19 payment of any registration fees and not exempted from the
20 payment of the trip tax under Section 65-5-3 NMSA 1978.

21 B. Except as provided otherwise in Subsections C
22 and D of this section, the trip tax shall be computed as
23 follows:

24 (1) when the gross vehicle weight or
25 combination gross vehicle weight exceeds twelve thousand pounds

1 but does not exceed twenty-six thousand pounds, seven cents
2 (\$.07) a mile for mileage to be traveled on the public highways
3 within New Mexico, measured from the point of entering the
4 state to the point of destination or place of leaving the
5 state;

6 (2) when the gross vehicle weight or
7 combination gross vehicle weight exceeds twenty-six thousand
8 pounds and does not exceed fifty-four thousand pounds, twelve
9 cents (\$.12) a mile for mileage to be traveled on the public
10 highways within New Mexico, measured from the point of entering
11 the state to the point of destination or place of leaving the
12 state;

13 (3) when the gross vehicle weight or
14 combination gross vehicle weight exceeds fifty-four thousand
15 pounds and does not exceed seventy-two thousand pounds, fifteen
16 cents (\$.15) a mile for mileage to be traveled on the public
17 highways within New Mexico, measured from the point of entering
18 the state to the point of destination or place of leaving the
19 state; and

20 (4) when the gross vehicle weight or
21 combination gross vehicle weight exceeds seventy-two thousand
22 pounds, sixteen cents (\$.16) a mile for mileage to be traveled
23 on the public highways within New Mexico, measured from the
24 point of entering the state to the point of destination or
25 place of leaving the state.

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1 C. The department, by regulation, shall establish a
2 procedure for the issuance of prepaid trip permits for:

3 (1) trips by a single vehicle or a fleet of
4 vehicles for the purpose of:

5 (a) custom harvesting operations; or
6 (b) the transportation of goods or
7 passengers between the state and Mexico; or

8 (2) any vehicle that is unable to declare at
9 the time of entering the state the point of destination or
10 place of leaving the state.

11 D. Prepaid trip permits established pursuant to
12 Subsection C of this section shall be sold in increments of no
13 less than fifty dollars (\$50.00). Any portion not used prior
14 to one year from the date of issuance shall not be refundable.
15 Prepaid trip permits shall not be transferable between a
16 registrant, owner or operator and another registrant, owner or
17 operator. Charges against the prepaid trip permit shall be
18 based on the computations specified in Subsection B of this
19 section."

20 SECTION 19. Section 7-15A-12 NMSA 1978 (being Laws 2003
21 (1st S.S.), Chapter 3, Section 6, as amended) is amended to
22 read:

23 "7-15A-12. WEIGHT DISTANCE TAX IDENTIFICATION
24 PERMITS--SUSPENSION AND RENEWAL.--

25 A. An operator of a motor vehicle registered in
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1 this state and subject to the weight distance tax shall display
 2 a weight distance tax identification permit issued for that
 3 vehicle to an enforcement officer of the department of public
 4 safety upon demand of that employee and when the vehicle passes
 5 through a port of entry.

6 B. The department may suspend or decline to renew a
 7 weight distance tax identification permit for a motor vehicle
 8 if the owner or operator of the vehicle does not comply with
 9 the provisions of the Weight Distance Tax Act or if the owner
 10 or operator is a delinquent taxpayer as provided in Section
 11 7-1-16 NMSA 1978 only with respect to the weight distance tax
 12 or the gross receipts tax or if there are unfiled tax returns
 13 due with respect to the weight distance tax or the gross
 14 receipts tax.

15 C. The department of transportation may collect
 16 delinquent weight distance tax on behalf of the taxation and
 17 revenue department at ports of entry operated by the department
 18 of transportation."

19 SECTION 20. Section 7-40-3 NMSA 1978 (being Laws 2018,
 20 Chapter 57, Section 3, as amended by Laws 2021, Chapter 65,
 21 Section 35 and by Laws 2021, Chapter 136, Section 2) is amended
 22 to read:

23 "7-40-3. IMPOSITION AND RATE OF TAX--DENOMINATION OF
 24 "PREMIUM TAX", "HEALTH INSURANCE PREMIUM SURTAX" AND "SELF-
 25 INSURED GROUP TAX".--

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1 A. The tax imposed pursuant to this subsection may
2 be referred to as the "premium tax". The premium tax is
3 imposed at a rate of three and three-thousandths percent of the
4 gross premiums and membership and policy fees received or
5 written by a taxpayer or, with respect to a taxpayer that is an
6 insured that procures, continues or renews insurance with a
7 nonadmitted insurer, paid by the taxpayer, on insurance or
8 contracts covering risks within the state during the preceding
9 calendar year. The premium tax shall not be imposed on self-
10 insured groups or on return premiums, dividends paid or
11 credited to policyholders or contract holders and premiums
12 received for reinsurance on New Mexico risks.

13 B. For a taxpayer that is an insurer lawfully
14 organized pursuant to the laws of the Republic of Mexico, the
15 premium tax shall apply solely to the taxpayer's gross premium
16 receipts from insurance policies issued by the taxpayer in New
17 Mexico that cover residents of New Mexico or property or risks
18 principally domiciled or located in New Mexico.

19 C. With respect to a taxpayer that is a property
20 bondsman, "gross premiums" shall be considered any
21 consideration received as security or surety for a bail bond in
22 connection with a judicial proceeding.

23 D. The premium tax provided in Subsection A of this
24 section is imposed on the gross premiums received of a surplus
25 lines broker, less return premiums, on surplus lines insurance

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1 where New Mexico is the home state of the insured transacted
2 under the surplus lines broker's license, as reported by the
3 surplus lines broker to the department on forms and in the
4 manner prescribed by the department. For purposes of this
5 subsection, "gross premiums" shall include any additional
6 amount charged the insured, including policy fees, risk
7 purchasing group fees and inspection fees; but "premiums" shall
8 not include any additional amount charged the insured for
9 local, state or federal taxes; regulatory authority fees; or
10 examination fees, if any. For a surplus lines policy issued to
11 an insured whose home state is New Mexico and where only a
12 portion of the risk is located in New Mexico, the entire
13 premium tax shall be paid in accordance with this section.

14 E. In addition to the premium tax, except as
15 provided in Subsection F of this section, a health insurance
16 premium surtax is imposed at a rate of three and seventy-five
17 hundredths percent of the gross health insurance premiums and
18 membership and policy fees received by the taxpayer on hospital
19 and medical expense incurred insurance or contracts; nonprofit
20 health care plan contracts, excluding dental or vision only
21 contracts; and health maintenance organization subscriber
22 contracts covering health risks within this state during the
23 preceding calendar year. The surtax shall not apply to return
24 health insurance premiums, dividends paid or credited to
25 policyholders or contract holders and health insurance premiums

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1 received for reinsurance on New Mexico risks. The surtax
2 imposed pursuant to this subsection may be referred to as the
3 "health insurance premium surtax".

4 F. If an act of the United States congress is
5 signed into law that imposes the annual fee on health insurance
6 providers pursuant to Section 9010 of the federal Patient
7 Protection and Affordable Care Act, or that imposes a
8 substantially similar fee on the same class of taxpayers, the
9 rate of the health insurance premium surtax shall be decreased
10 at a rate equal to the rate of the annual fee imposed; provided
11 that the rate of the health insurance premium surtax shall not
12 be less than one percent. A reduction in the health insurance
13 premium surtax pursuant to this subsection shall go into effect
14 on the later of the effective date of the imposition of the
15 federal annual fee or ninety days after the congressional act
16 imposing the federal annual fee is signed into law.

17 G. A tax is imposed at a rate of nine-tenths
18 percent on the net premiums, as defined in the Group Self-
19 Insurance Act, received or written by a self-insured group
20 within the state during the preceding calendar year. The tax
21 imposed pursuant to this subsection may be referred to as the
22 "self-insured group tax".

23 SECTION 21. Section 7-40-6 NMSA 1978 (being Laws 2018,
24 Chapter 57, Section 6) is amended to read:

25 "7-40-6. CREDIT--MEDICAL INSURANCE POOL ASSESSMENTS.--The
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1 assessment for any New Mexico medical insurance pool member
 2 pursuant to Section 59A-54-10 NMSA 1978 shall be allowed as a
 3 fifty percent credit on the tax return for that member and a
 4 seventy-five percent credit on the tax return for that member
 5 for the assessments attributable to pool policyholders that
 6 receive premiums, in whole or in part, through the federal Ryan
 7 White ~~[CARE]~~ Comprehensive AIDS Resources Emergency Act of
 8 1990, the Ted R. Montoya hemophilia program at the university
 9 of New Mexico health sciences center, the children's medical
 10 services bureau of the public health division of the department
 11 of health or other program receiving state funding or
 12 assistance. That portion of credit that exceeds a member's
 13 premium tax liability in the taxable period in which the credit
 14 is claimed shall not be refunded and shall not be carried
 15 forward to subsequent taxable periods."

16 SECTION 22. Section 7-42-4 NMSA 1978 (being Laws 2021
 17 (1st S.S.), Chapter 4, Section 46) is amended to read:

18 "7-42-4. DATE PAYMENT DUE--REPORTING LOCATION
 19 INSTRUCTIONS--

20 A. The cannabis excise tax is to be paid on or
 21 before the twenty-fifth day of the month following the month in
 22 which the taxable sale occurs.

23 B. The reporting location for reporting the sale of
 24 cannabis products shall be at the following locations:

25 (1) if the cannabis product is received by the

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1 purchaser at the New Mexico location of the cannabis retailer,
2 the location of the cannabis retailer;

3 (2) if the cannabis product is not received by
4 the purchaser at a location of the cannabis retailer, the
5 location indicated by instructions for delivery to the
6 purchaser, or the purchaser's donee, when known to the cannabis
7 retailer;

8 (3) if Paragraphs (1) and (2) of this
9 subsection do not apply, the location indicated by an address
10 for the purchaser available from the business records of the
11 cannabis retailer that are maintained in the ordinary course of
12 business; provided that use of the address does not constitute
13 bad faith;

14 (4) if Paragraphs (1) through (3) of this
15 subsection do not apply, the location for the purchaser
16 obtained during consummation of the sale, including the address
17 of a purchaser's payment instrument if no other address is
18 available; provided that use of this address does not
19 constitute bad faith; or

20 (5) if Paragraphs (1) through (4) of this
21 subsection do not apply, including a circumstance in which the
22 cannabis retailer is without sufficient information to apply
23 those standards, the location from which the cannabis product
24 is shipped or transmitted."

25 SECTION 23. Section 26-2C-6 NMSA 1978 (being Laws 2021

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1 (1st S.S.), Chapter 4, Section 6) is amended to read:

2 "26-2C-6. LICENSING CANNABIS ACTIVITIES--LIMITATIONS--
3 MEDICAL CANNABIS LEGACY LICENSING--CANNABIS SHORTAGE FOR
4 MEDICAL PROGRAM.--

5 A. The division shall regulate and administer and
6 may collect fees in connection with the administration of:

7 (1) commercial cannabis activity and licensing
8 related to commercial cannabis activity;

9 (2) the medical cannabis program, except for
10 the medical cannabis registry; and

11 (3) all aspects of cannabis relating to
12 cannabis training and education programs.

13 B. The division shall follow the provisions of the
14 Uniform Licensing Act when licensing or permitting the
15 following:

16 (1) cannabis consumption areas;

17 (2) cannabis couriers;

18 (3) cannabis manufacturers;

19 (4) cannabis producer microbusinesses;

20 (5) cannabis producers;

21 (6) cannabis research laboratories;

22 (7) cannabis retailers;

23 (8) cannabis servers;

24 (9) cannabis testing laboratories;

25 (10) cannabis training and education programs;

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~~[bracketed material] = delete~~

- 1 (11) integrated cannabis microbusinesses; and
- 2 (12) vertically integrated cannabis
- 3 establishments.

4 C. The division shall include a clear designation
5 on all licenses and permits that indicates whether the license
6 or permit is for medical cannabis activity, commercial cannabis
7 activity or both or for cannabis training and education
8 programs.

9 D. The division shall issue a license to a cannabis
10 retailer applicant at a discount if the applicant provides
11 documentation of an agreement to accept cannabis products on
12 consignment from a cannabis producer microbusiness or an
13 integrated cannabis microbusiness licensed pursuant the
14 Cannabis Regulation Act.

15 E. A license is valid for twelve months from the
16 date the license is issued and may be renewed annually, except
17 that a license issued for a cannabis training and education
18 program is valid until terminated by the licensee or suspended
19 or revoked by the division.

20 F. The director shall not renew a license issued
21 pursuant to the provisions of the Cannabis Regulation Act until
22 the director receives notification from the secretary of
23 taxation and revenue or the secretary's designee that on a
24 certain date:

- 25 (1) the licensee is not a delinquent taxpayer

1 pursuant to Section 7-1-16 NMSA 1978 only with respect to the
2 cannabis excise tax or the gross receipts tax; and

3 (2) there are no unfiled tax returns due [~~from~~
4 ~~engaging in business authorized by the license~~] with respect to
5 the cannabis excise tax or the gross receipts tax.

6 G. No license shall be transferable or assignable
7 from a licensee to another person. The division shall not
8 allow a person that is licensed as any type of cannabis
9 establishment other than a cannabis research laboratory to
10 hold, directly or indirectly, a cannabis testing laboratory
11 license.

12 H. Except for verification of age, the division
13 shall not require licensees to request information from
14 consumers or impose any residency requirement upon consumers
15 for the purchase of cannabis products pursuant to the
16 commercial cannabis activity authorized by the Cannabis
17 Regulation Act. The division may require licensees to request
18 information from consumers for the purchase of cannabis
19 products pursuant to the medical cannabis program, which may
20 include the presentation of legal identification issued by an
21 authorized governmental entity or other documents as required
22 by the medical cannabis program.

23 I. Except as otherwise provided in the Cannabis
24 Regulation Act, the division shall not limit the number of
25 licensed premises a licensee may occupy or operate under a

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1 license. Multiple licensees may occupy a single licensed
2 premises, and the division shall not place any restriction or
3 prohibition on the number of licensees occupying a single
4 licensed premises or on the number of licensed premises of a
5 cannabis establishment except as otherwise specifically
6 provided for by the Cannabis Regulation Act. A licensee may
7 conduct any lawful activity or any combination of lawful
8 activities at a licensed premises; provided that the licensee
9 is not a licensee pursuant to the Liquor Control Act. Smoking
10 in a cannabis consumption area on a licensed premises shall be
11 allowed only if the cannabis consumption area is in a
12 designated smoking area or in a standalone building from which
13 smoke does not infiltrate other indoor workplaces or other
14 indoor public places where smoking is otherwise prohibited
15 pursuant to the Dee Johnson Clean Indoor Air Act.

16 J. Licensees are specifically allowed to conduct
17 other licensed activities, including activities pursuant to the
18 Hemp Manufacturing Act, except for sales of alcoholic
19 beverages.

20 K. A person properly licensed and in good standing
21 pursuant to the Lynn and Erin Compassionate Use Act on the
22 effective date of the Cannabis Regulation Act may continue to
23 operate under that license for medical cannabis until
24 comparable licenses for commercial cannabis activity are
25 available. The division shall determine when retail sales of

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1 commercial cannabis products begin, but no later than April 1,
2 2022. A facility of such a licensee, upon issuance of the
3 applicable cannabis establishment license, shall constitute
4 licensed premises of the licensee and the licensee shall be
5 entitled to continued and uninterrupted operations of the
6 licensed premises. As to activity under the medical cannabis
7 program, the licensee shall continue to operate under rules
8 promulgated for the medical cannabis program until the division
9 promulgates rules for medical cannabis activity, except that a
10 qualified patient, a primary caregiver and a reciprocal
11 participant shall not be prohibited from purchasing and
12 obtaining cannabis products pursuant to the medical cannabis
13 program.

14 L. To address a shortage of cannabis supply in the
15 medical cannabis program, the division may:

16 (1) require all cannabis establishment
17 licensees to ensure that at least ten percent of their cannabis
18 in stock on a monthly basis is designated for sale to qualified
19 patients, primary caregivers and reciprocal participants;

20 (2) initially take reasonable measures to
21 expeditiously incentivize increased production of cannabis
22 plants to remedy a shortage of cannabis supply in the medical
23 cannabis program;

24 (3) after having first exhausted measures to
25 increase production of cannabis plants to address the shortage

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1 of cannabis supply in the medical cannabis program, exclude
2 commercial cannabis activity from the scope of new licenses
3 issued to initial applicants for a vertically integrated
4 cannabis establishment, cannabis producer, integrated cannabis
5 microbusiness, cannabis producer microbusiness or cannabis
6 manufacturer license, which limitation shall be in force for a
7 period of at least six months; and

8 (4) require licensees who are licensed to
9 produce cannabis to produce a specified quota of mature
10 cannabis plants to be designated for use in the medical
11 cannabis program; provided that:

12 (a) the division may require a licensee
13 to devote no more than twenty-five percent of the licensee's
14 cultivated cannabis plants on a monthly basis for use in the
15 medical cannabis program; and

16 (b) the division may require specific
17 tracking of cannabis plants.

18 M. As used in this section, "shortage of cannabis
19 supply in the medical cannabis program" means that the average
20 number of cannabis plants in production in the medical cannabis
21 program per qualified patient after the effective date of the
22 Cannabis Regulation Act is substantially less than the average
23 number of cannabis plants in production in the medical cannabis
24 program per qualified patient as of the effective date of the
25 Cannabis Regulation Act, where:

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1 (1) the average number of cannabis plants in
 2 production after the effective date of the Cannabis Regulation
 3 Act is measured over a period of three consecutive months; and

4 (2) the average number of cannabis plants in
 5 production as of the effective date of the Cannabis Regulation
 6 Act is measured over a period of three consecutive months
 7 immediately preceding the effective date of the Cannabis
 8 Regulation Act.

9 N. A person who is a member of the New Mexico
 10 senate or the New Mexico house of representatives on the
 11 effective date of the Cannabis Regulation Act shall not apply
 12 for or be granted a license to engage in any commercial
 13 cannabis activity prior to July 1, 2026."

14 SECTION 24. Section 59A-15-4 NMSA 1978 (being Laws 1984,
 15 Chapter 127, Section 259.1, as amended) is amended to read:

16 "59A-15-4. INSURANCE INDEPENDENTLY PROCURED--DUTY TO
 17 ~~[REPORT]~~ FILE RETURNS.--

18 A. Each insured who in this state procures or
 19 continues or renews insurance with a nonadmitted insurer on a
 20 risk located or to be performed in whole or in part in this
 21 state, other than insurance procured through a surplus lines
 22 licensee pursuant to Chapter 59A, Article 14 NMSA 1978 shall
 23 ~~[within ninety days after the date such insurance was so~~
 24 ~~procured, continued or renewed, file a written report of the~~
 25 ~~same with the superintendent, upon forms prescribed by the~~

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1 ~~superintendent, showing the name and address of the insured or~~
2 ~~insureds, name and address of the insurer, the subject of the~~
3 ~~insurance, a general description of the coverage, the amount of~~
4 ~~premium currently charged therefor and such additional~~
5 ~~pertinent information as is reasonably requested by the~~
6 ~~superintendent] file returns pursuant to the Insurance Premium~~
7 ~~Tax Act.~~

8 B. If an independently procured policy covers risks
9 or exposures only partially located or to be performed in this
10 state, the taxes, fees and penalties imposed pursuant to the
11 Insurance Code and the Insurance Premium Tax Act shall be
12 computed on the portion of the premium properly attributable to
13 the risks or exposures located or to be performed in this state
14 and reported to the secretary of taxation and revenue. In no
15 event, however, shall a tax be payable solely because the risk
16 in question, or any portion thereof, is located or to be
17 performed in this state.

18 C. This section does not abrogate or modify, and
19 shall not be construed or deemed to abrogate or modify, any
20 provision of the Insurance Code.

21 D. This section does not apply to life insurance,
22 health insurance or annuities."

23 SECTION 25. Section 61-28B-8 NMSA 1978 (being Laws 1999,
24 Chapter 179, Section 8, as amended) is amended to read:

25 "61-28B-8. QUALIFICATIONS FOR A CERTIFICATE AS A

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1 CERTIFIED PUBLIC ACCOUNTANT.--

2 A. An applicant for a certificate shall complete
3 the application form provided by the board and demonstrate to
4 the board's satisfaction that the applicant:

5 (1) is of good moral character and lacks a
6 history of dishonest or felonious acts; and

7 (2) meets the education, experience and
8 examination requirements of the board.

9 B. The board may refuse to grant a certificate on
10 the ground that the applicant failed to satisfy the requirement
11 of good moral character.

12 C. The education requirement for examination shall
13 be a baccalaureate degree or its equivalent conferred by a
14 college or university acceptable to the board, with thirty
15 semester hours in accounting or the equivalent as determined by
16 the board. An applicant for a certificate shall have at least
17 one hundred fifty semester hours of college education or its
18 equivalent earned at a college or university acceptable to the
19 board.

20 D. The examination for certification shall be
21 offered continuously via a computer-based testing system at a
22 designated testing center and shall test an applicant's
23 knowledge of the subjects of accounting and auditing and other
24 related subjects as prescribed by the board. The board shall
25 prescribe the method of applying for the examination and the

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1 dissemination of scores, and it shall rely on the American
2 institute of certified public accountants for the grading of
3 the examination. The board may use all or any part of the
4 uniform certified public accountant examination services of the
5 national association of state boards of accountancy to perform
6 administrative services with respect to the examination. The
7 board or its designee shall report all eligibility and score
8 data to the national candidate database, and it shall, to the
9 extent possible, provide that the passing scores are uniform
10 with passing scores of other states.

11 E. An applicant must pass all sections of the
12 examination to qualify for a certificate. A passing scaled
13 score for each section shall be seventy-five. Sections may be
14 taken individually and in any order. Credit for any section
15 passed shall be valid for eighteen months from the ~~[actual]~~
16 date the ~~[applicant took that section]~~ passing score is
17 released to the applicant, without having to attain a minimum
18 score on any failed test section and without regard to whether
19 the applicant has taken other test sections. An applicant must
20 pass all four test sections within a continuous eighteen-month
21 period, which begins on the date that the first ~~[section passed~~
22 ~~is taken]~~ passing scores are released to the applicant. If all
23 four test sections are not passed within the continuous
24 eighteen-month period, credit for any test section passed
25 outside the eighteen-month period will expire, and that test

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1 section must be retaken.

2 F. An applicant shall be given credit for
3 examination sections passed in another state if such credit
4 would have been given in New Mexico.

5 G. The board may waive or defer requirements of
6 this section regarding the circumstances in which sections of
7 the examination must be passed, upon a showing that, by reason
8 of circumstances beyond the applicant's control, the applicant
9 was unable to meet the requirement.

10 H. An applicant for initial issuance of a certified
11 public accountant certificate shall show that the applicant has
12 had at least one year of experience. This experience shall
13 include providing service or advice involving the use of
14 accounting, attest, management advisory, financial advisory,
15 tax or consulting skills as verified by a certified public
16 accountant who meets requirements prescribed by the board. The
17 experience is acceptable if it was gained through employment in
18 government, industry, academia or public practice."

19 **SECTION 26. REPEAL CONFLICTING SECTION OF LAW.--Laws**
20 **2021, Chapter 65, Section 13 is repealed.**

21 **SECTION 27. REPEAL.--Sections 7-2-18.4, 7-2-18.5,**
22 **7-2-18.8, 7-2-18.21, 7-2-18.25, 7-2-18.27, 7-2-18.28, 7-2A-8.8,**
23 **7-2A-15, 7-2A-18, 7-2A-23, 7-2A-25, 7-2A-27, 7-2D-8.1, 7-9-16,**
24 **7-9-86, 7-9-105, 7-9-106, 7-9-114, 7-9G-2 and 7-14A-9 NMSA 1978**
25 **(being Laws 1994, Chapter 115, Section 1; Laws 1998, Chapter**
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1 97, Section 2; Laws 2001, Chapter 73, Section 1; Laws 2007,
2 Chapter 204, Section 7; Laws 2009, Chapter 279, Section 1; Laws
3 2011, Chapter 89, Section 1; Laws 2012, Chapter 55, Section 1;
4 Laws 1998, Chapter 97, Section 3; Laws 1994, Chapter 115,
5 Section 2; Laws 2001, Chapter 73, Section 2; Laws 2007, Chapter
6 204, Section 8; Laws 2009, Chapter 279, Section 2; Laws 2012,
7 Chapter 55, Section 2; Laws 1995, Chapter 89, Section 8; Laws
8 1969, Chapter 144, Section 9; Laws 1995, Chapter 80, Section 1;
9 Laws 2007, Chapter 45, Section 6; Laws 2018, Chapter 62,
10 Section 1; Laws 2010, Chapter 77, Section 1 and Laws 2010,
11 Chapter 78, Section 1; Laws 2007, Chapter 229, Section 1; and
12 Laws 1991, Chapter 197, Section 13, as amended) are repealed.

13 **SECTION 28. EFFECTIVE DATE.--**

14 A. The effective date of the provisions of Sections
15 1 through 11 and 13 through 27 of this act is July 1, 2023.

16 B. The effective date of the provisions of Section
17 12 of this act is the first day of the month following the date
18 this act takes effect.

19 **SECTION 29. EMERGENCY.--**It is necessary for the public
20 peace, health and safety that this act take effect immediately.