

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
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 DEFINITIONS
IN THE CORPORATE INCOME AND FRANCHISE TAX ACT AND 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 IMPOSITION OF THE TRIP TAX;
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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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

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 7-2A-2 NMSA 1978 (being Laws 1986,
8 Chapter 20, Section 33, as amended) is amended to read:

9 "7-2A-2. DEFINITIONS.--For the purpose of the Corporate
10 Income and Franchise Tax Act and unless the context requires
11 otherwise:

12 A. "bank" means any national bank, national banking
13 association, state bank or bank holding company;

14 B. "apportioned net income" or "apportioned net
15 loss" means net income allocated and apportioned to New Mexico
16 pursuant to the provisions of the Corporate Income and
17 Franchise Tax Act or the Uniform Division of Income for Tax
18 Purposes Act, but excluding from the sales factor any sales
19 that represent intercompany transactions between members of the
20 filing group;

21 C. "base income" means the federal taxable income
22 or the federal net operating loss of a corporation for the
23 taxable year calculated pursuant to the Internal Revenue Code,
24 after special deductions provided in Sections 241 through 249
25 of the Internal Revenue Code but without any deduction for net

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1 operating losses, as if the corporation filed a federal tax
 2 return as a separate domestic entity, modified as follows:

3 (1) adding to that income:

4 (a) interest received on a state or
 5 local bond exempt under the Internal Revenue Code;

6 (b) the amount of any deduction claimed
 7 in calculating taxable income for all expenses and costs
 8 directly or indirectly paid, accrued or incurred to a captive
 9 real estate investment trust; ~~and~~

10 (c) the amount of any deduction, other
 11 than for premiums, for amounts paid directly or indirectly to a
 12 commonly controlled entity that is exempt from corporate income
 13 tax pursuant to Section 7-2A-4 NMSA 1978; and

14 (d) for taxable years beginning on or
 15 after January 1, 2023, an amount equal to the amount of credit
 16 claimed and allowed for that year pursuant to Section 7-3A-10
 17 NMSA 1978 with respect to the distributed net income of a
 18 pass-through entity;

19 (2) subtracting from that income:

20 (a) income from obligations of the
 21 United States net of expenses incurred to earn that income;

22 (b) other amounts that the state is
 23 prohibited from taxing because of the laws or constitution of
 24 this state or the United States net of any related expenses;

25 (c) an amount equal to one hundred

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1 percent of the subpart F income, as that term is defined in
2 Section 952 of the Internal Revenue Code, as that section may
3 be amended or renumbered, included in the income of the
4 corporation; and

5 (d) an amount equal to one hundred
6 percent of the income of the corporation under Section 951A of
7 the Internal Revenue Code, after allowing the deduction
8 provided in Section 250 of the Internal Revenue Code;

9 (3) making other adjustments deemed necessary
10 to properly reflect income of the unitary group, including
11 attribution of income or expense related to unitary assets held
12 by related corporations that are not part of the filing group;
13 and

14 (4) for a taxpayer that conducts a lawful
15 business pursuant to the laws of this state, excludes an amount
16 equal to any expenditure that is eligible to be claimed as a
17 federal income tax deduction but is disallowed pursuant to
18 Section 280E of the Internal Revenue Code, as that section may
19 be amended or renumbered;

20 D. "captive real estate investment trust" means a
21 corporation, trust or association taxed as a real estate
22 investment trust pursuant to Section 857 of the Internal
23 Revenue Code, the shares or beneficial interests of which are
24 not regularly traded on an established securities market;
25 provided that more than fifty percent of any class of

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1 beneficial interests or shares of the real estate investment
2 trust are owned directly, indirectly or constructively by the
3 taxpayer during all or a part of the taxpayer's taxable year;

4 E. "common ownership" means the direct or indirect
5 control or ownership of more than fifty percent of the
6 outstanding voting stock, ownership of which is determined
7 pursuant to Section 1563 of the Internal Revenue Code, as that
8 section may be amended or renumbered, of:

9 (1) a parent-subsidiary controlled group as
10 defined in Section 1563 of the Internal Revenue Code, except
11 that fifty percent shall be substituted for eighty percent;

12 (2) a brother-sister controlled group as
13 defined in Section 1563 of the Internal Revenue Code; or

14 (3) three or more corporations each of which
15 is a member of a group of corporations described in Paragraph
16 (1) or (2) of this subsection, and one of which is:

17 (a) a common parent corporation included
18 in a group of corporations described in Paragraph (1) of this
19 subsection; and

20 (b) included in a group of corporations
21 described in Paragraph (2) of this subsection;

22 F. "consolidated group" means the group of entities
23 properly filing a federal consolidated return under the
24 Internal Revenue Code for the taxable year;

25 G. "corporation" means corporations, joint stock

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1 companies, real estate trusts organized and operated under the
2 Real Estate Trust Act, financial corporations and banks, other
3 business associations and, for corporate income tax purposes,
4 partnerships and limited liability companies taxed as
5 corporations under the Internal Revenue Code;

6 H. "department" means the taxation and revenue
7 department, the secretary of taxation and revenue or any
8 employee of the department exercising authority lawfully
9 delegated to that employee by the secretary;

10 I. "filing group" means a group of corporations
11 properly included in a return pursuant to Section 7-2A-8.3 NMSA
12 1978 for a particular taxable year;

13 J. "fiscal year" means any accounting period of
14 twelve months ending on the last day of any month other than
15 December;

16 K. "grandfathered net operating loss carryover"
17 means:

18 (1) the amount of net loss properly reported
19 to New Mexico for taxable years beginning January 1, 2013 and
20 prior to January 1, 2020 as part of a timely filed original
21 return, or an amended return for those taxable years filed
22 prior to January 1, 2020, to the extent such loss can be
23 attributed to one or more corporations that are properly
24 included in the taxpayer's return for the first taxable year
25 beginning on or after January 1, 2020;

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1 (2) reduced by:

2 (a) adding back deductions that were
3 taken by the corporation or corporations for royalties or
4 interest paid to one or more related corporations, but only to
5 the extent that such adjustment would not create a net loss for
6 such related corporations; and

7 (b) the amount of net operating loss
8 deductions taken prior to January 1, 2020 that would be charged
9 against those losses consistent with the Internal Revenue Code
10 and provisions of the Corporate Income and Franchise Tax Act
11 applicable to the year of the deduction; and

12 (3) apportioned to New Mexico using the
13 apportionment factors that can properly be attributed to the
14 corporation or corporations for the year of the net loss;

15 L. "Internal Revenue Code" means the United States
16 Internal Revenue Code of 1986, as amended;

17 M. "net income" means:

18 (1) the base income of a corporation properly
19 filing a tax return as a separate entity; or

20 (2) the combined base income and losses of
21 corporations that are part of a filing group that is computed
22 after eliminating intercompany income and expense in a manner
23 consistent with the consolidated filing requirements of the
24 Internal Revenue Code and the Corporate Income and Franchise
25 Tax Act;

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1 N. "net operating loss carryover" means the
2 apportioned net loss properly reported on an original or
3 amended tax return for taxable years beginning on or after
4 January 1, 2020 by the taxpayer:

5 (1) plus:

6 (a) the portion of an apportioned net
7 loss properly reported to New Mexico for a taxable year
8 beginning on or after January 1, 2020, on a separate year
9 return, to the extent the taxpayer would have been entitled to
10 include the portion of such apportioned net loss in the
11 taxpayer's consolidated net operating loss carryforward under
12 the Internal Revenue Code if the taxpayer filed a consolidated
13 federal return; and

14 (b) the taxpayer's grandfathered net
15 operating loss carryover; and

16 (2) minus:

17 (a) the amount of the net operating loss
18 carryover attributed to an entity that has left the filing
19 group, computed in a manner consistent with the consolidated
20 filing requirements of the Internal Revenue Code and applicable
21 regulations, as if the taxpayer were filing a consolidated
22 return; and

23 (b) the amount of net operating loss
24 deductions properly taken by the taxpayer;

25 O. "net operating loss deduction" means the portion

1 of the net operating loss carryover that may be deducted from
2 the taxpayer's apportioned net income under the Internal
3 Revenue Code as of January 1, 2018 for the taxable year in
4 which the deduction is taken, including the eighty percent
5 limitation of Section 172(a) of the Internal Revenue Code as of
6 January 1, 2018 calculated on the basis of the taxpayer's
7 apportioned net income;

8 P. "person" means any individual, estate, trust,
9 receiver, cooperative association, club, corporation, company,
10 firm, partnership, limited liability company, joint venture,
11 syndicate or other association; "person" also means, to the
12 extent permitted by law, any federal, state or other
13 governmental unit or subdivision or agency, department or
14 instrumentality thereof;

15 Q. "real estate investment trust" has the meaning
16 ascribed to the term in Section 856 of the Internal Revenue
17 Code, as that section may be amended or renumbered;

18 R. "related corporation" means a corporation that
19 is under common ownership with one or more corporations but
20 that is not included in the same tax return;

21 S. "return" means any tax or information return,
22 including a water's-edge or worldwide combined return, a
23 consolidated return, a declaration of estimated tax or a claim
24 for refund, including any amendments or supplements to the
25 return, required or permitted pursuant to a law subject to

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1 administration and enforcement pursuant to the Tax
2 Administration Act and filed with the department by or on
3 behalf of any person;

4 T. "secretary" means the secretary of taxation and
5 revenue or the secretary's delegate;

6 U. "separate year return" means a properly filed
7 original or amended return for a taxable year beginning on or
8 after January 1, 2020 by a taxpayer reporting a loss, a portion
9 of which is claimed as part of the net operating loss carryover
10 by another taxpayer in a subsequent return period;

11 V. "state" means any state of the United States,
12 the District of Columbia, the commonwealth of Puerto Rico, any
13 territory or possession of the United States or political
14 subdivision thereof or any political subdivision of a foreign
15 country;

16 W. "state or local bond" means a bond issued by a
17 state other than New Mexico or by a local government other than
18 one of New Mexico's political subdivisions, the interest from
19 which is excluded from income for federal income tax purposes
20 under Section 103 of the Internal Revenue Code, as that section
21 may be amended or renumbered;

22 X. "taxable income" means a taxpayer's apportioned
23 net income minus the net operating loss deduction for the
24 taxable year;

25 Y. "taxable year" means the calendar year or fiscal

1 year upon the basis of which the net income is computed under
2 the Corporate Income and Franchise Tax Act and includes, in the
3 case of the return made for a fractional part of a year under
4 the provisions of that act, the period for which the return is
5 made;

6 Z. "taxpayer" means any corporation or group of
7 corporations filing a return pursuant to Section 7-2A-8.3 NMSA
8 1978 subject to the taxes imposed by the Corporate Income and
9 Franchise Tax Act;

10 AA. "unitary group" means a group of two or more
11 corporations, including a captive real estate investment trust,
12 but not including an S corporation, an insurance company
13 subject to the provisions of the New Mexico Insurance Code, an
14 insurance company that would be subject to the New Mexico
15 Insurance Code if the insurance company engaged in business in
16 this state or a real estate investment trust that is not a
17 captive real estate investment trust, that are:

- 18 (1) related through common ownership; and
19 (2) economically interdependent with one
20 another as demonstrated by the following factors:
21 (a) centralized management;
22 (b) functional integration; and
23 (c) economies of scale;

24 BB. "water's-edge group" means all corporations
25 that are part of a unitary group, except:

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1 (1) corporations that are exempt from
2 corporate income tax pursuant to Section 7-2A-4 NMSA 1978; and

3 (2) corporations wherever organized or
4 incorporated that have less than twenty percent of their
5 property, payroll and sales sourced to locations within the
6 United States, following the sourcing rules of the Uniform
7 Division of Income for Tax Purposes Act; and

8 CC. "worldwide combined group" means all members of
9 a unitary group, except members that are exempt from corporate
10 income tax pursuant to Section 7-2A-4 NMSA 1978, irrespective
11 of the country in which the corporations are incorporated or
12 conduct business activity."

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

15 "7-9-3. DEFINITIONS.--As used in the Gross Receipts and
16 Compensating Tax Act:

17 A. "buying" or "selling" means a transfer of
18 property for consideration or the performance of service for
19 consideration;

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

24 C. "digital good" means a digital product delivered
25 electronically, including software, music, photography, video,

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1 reading material, an application and a ringtone;

2 D. "disclosed agency" means [~~an agent receiving~~
3 ~~money on behalf of a principal if the agent or the agent's~~
4 ~~principal disclosed the agency relationship to a third party~~
5 ~~from which the agent receives money, or if the third party~~
6 ~~otherwise has actual knowledge that the agent receives money on~~
7 ~~behalf of the principal]~~ a person receiving money from a third
8 party on behalf of another if the person receiving the money,
9 or the person on whose behalf the money is received, disclosed
10 the relationship to the third party from whom the person
11 receives money, or if the third party otherwise has actual
12 knowledge that the person to whom the money is paid receives
13 the money on behalf of another;

14 E. "financial corporation" means a savings and loan
15 association or an incorporated savings and loan company, trust
16 company, mortgage banking company, consumer finance company or
17 other financial corporation;

18 F. "initial use" or "initially used" means the
19 first employment for the intended purpose and does not include
20 the following activities:

21 (1) observation of tests conducted by the
22 performer of services;

23 (2) participation in progress reviews,
24 briefings, consultations and conferences conducted by the
25 performer of services;

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

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

5 (5) similar activities;

6 G. "lease" or "leasing" means an arrangement
7 whereby, for a consideration, the owner of property grants
8 another person the exclusive right to possess and use the
9 property for a definite term;

10 H. "licensing" or "license" means an arrangement
11 whereby, for a consideration, the owner of property grants
12 another person a revocable, non-exclusive right to use the
13 property;

14 I. "local option gross receipts tax" means a tax
15 authorized to be imposed by a county or municipality upon a
16 taxpayer's gross receipts and required to be collected by the
17 department at the same time and in the same manner as the gross
18 receipts tax;

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

24 K. "manufacturing" means combining or processing
25 components or materials to increase their value for sale in the

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

5 L. "manufacturing service" means the service of
6 combining or processing components or materials owned by
7 another, but does not include construction services; farming;
8 electric power generation; processing of natural resources,
9 including hydrocarbons; or the processing or preparation of
10 meals for immediate consumption;

11 M. "marketplace provider" means a person who
12 facilitates the sale, lease or license of tangible personal
13 property or services or licenses for use of real property on a
14 marketplace seller's behalf, or on the marketplace provider's
15 own behalf, by:

16 (1) listing or advertising the sale, lease or
17 license, by any means, whether physical or electronic,
18 including by catalog, internet website or television or radio
19 broadcast; and

20 (2) either directly or indirectly, through
21 agreements or arrangements with third parties collecting
22 payment from the customer and transmitting that payment to the
23 seller, regardless of whether the marketplace provider receives
24 compensation or other consideration in exchange for the
25 marketplace provider's services;

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1 N. "marketplace seller" means a person who sells,
2 leases or licenses tangible personal property or services or
3 who licenses the use of real property through a marketplace
4 provider;

5 O. "person" means:

6 (1) an individual, estate, trust, receiver,
7 cooperative association, club, corporation, company, firm,
8 partnership, limited liability company, limited liability
9 partnership, joint venture, syndicate or other entity,
10 including any gas, water or electric utility owned or operated
11 by a county, municipality or other political subdivision of the
12 state; or

13 (2) a national, federal, state, Indian or
14 other governmental unit or subdivision, or an agency,
15 department or instrumentality of any of the foregoing;

16 P. "property" means:

17 (1) real property;
18 (2) tangible personal property, including
19 electricity and manufactured homes;
20 (3) licenses, including licenses of digital
21 goods, but not including the licenses of copyrights, trademarks
22 or patents; and
23 (4) franchises;

24 Q. "research and development services" means an
25 activity engaged in for other persons for consideration, for

1 one or more of the following purposes:

2 (1) advancing basic knowledge in a recognized
3 field of natural science;

4 (2) advancing technology in a field of
5 technical endeavor;

6 (3) developing a new or improved product,
7 process or system with new or improved function, performance,
8 reliability or quality, whether or not the new or improved
9 product, process or system is offered for sale, lease or other
10 transfer;

11 (4) developing new uses or applications for an
12 existing product, process or system, whether or not the new use
13 or application is offered as the rationale for purchase, lease
14 or other transfer of the product, process or system;

15 (5) developing analytical or survey activities
16 incorporating technology review, application, trade-off study,
17 modeling, simulation, conceptual design or similar activities,
18 whether or not offered for sale, lease or other transfer; or

19 (6) designing and developing prototypes or
20 integrating systems incorporating the advances, developments or
21 improvements included in Paragraphs (1) through (5) of this
22 subsection;

23 R. "secretary" means the secretary of taxation and
24 revenue or the secretary's delegate;

25 S. "service" means all activities engaged in for

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1 other persons for a consideration, which activities involve
2 predominantly the performance of a service as distinguished
3 from selling or leasing property. "Service" includes
4 activities performed by a person for its members or
5 shareholders. In determining what is a service, the intended
6 use, principal objective or ultimate objective of the
7 contracting parties shall not be controlling. "Service"
8 includes construction activities and all tangible personal
9 property that will become an ingredient or component part of a
10 construction project. That tangible personal property retains
11 its character as tangible personal property until it is
12 installed as an ingredient or component part of a construction
13 project in New Mexico. Sales of tangible personal property
14 that will become an ingredient or component part of a
15 construction project to persons engaged in the construction
16 business are sales of tangible personal property; and

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

20 SECTION 10. Section 7-9-3.5 NMSA 1978 (being Laws 2003,
21 Chapter 272, Section 3, as amended) is amended to read:

22 "7-9-3.5. DEFINITION--GROSS RECEIPTS.--

23 A. As used in the Gross Receipts and Compensating
24 Tax Act:

25 (1) "gross receipts" means the total amount of

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1 money or the value of other consideration received from selling
2 property in New Mexico, from leasing or licensing property
3 employed in New Mexico, from granting a right to use a
4 franchise employed in New Mexico, from selling services
5 performed outside New Mexico, the product of which is initially
6 used in New Mexico, or from performing services in New Mexico.
7 In an exchange in which the money or other consideration
8 received does not represent the value of the property or
9 service exchanged, "gross receipts" means the reasonable value
10 of the property or service exchanged;

11 (2) "gross receipts" includes:

12 (a) any receipts from sales of tangible
13 personal property handled on consignment;

14 (b) the total commissions or fees
15 derived from the business of buying, selling or promoting the
16 purchase, sale or lease, as an agent or broker on a commission
17 or fee basis, of any property, service, stock, bond or
18 security;

19 (c) amounts paid by members of any
20 cooperative association or similar organization for sales or
21 leases of personal property or performance of services by such
22 organization;

23 (d) amounts received from transmitting
24 messages or conversations by persons providing telephone or
25 telegraph services;

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1 (e) amounts received by a New Mexico
2 florist from the sale of flowers, plants or other products that
3 are customarily sold by florists where the sale is made
4 pursuant to orders placed with the New Mexico florist that are
5 filled and delivered outside New Mexico by an out-of-state
6 florist;

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

19 (g) receipts collected by a marketplace
20 provider engaging in business in the state from sales, leases
21 and licenses of tangible personal property, sales of licenses
22 and sales of services or licenses for use of real property that
23 are sourced to this state and are facilitated by the
24 marketplace provider on behalf of marketplace sellers,
25 regardless of whether the marketplace sellers are engaging in

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1 business in the state; and

2 (3) "gross receipts" excludes:

3 (a) cash discounts allowed and taken;

4 (b) ~~[New Mexico gross receipts tax,~~
5 ~~governmental gross receipts tax and leased vehicle gross~~
6 ~~receipts tax]~~ all excise taxes imposed by the state and
7 political subdivisions of the state payable on transactions for
8 the reporting period;

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

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

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

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

24 (g) amounts received by a New Mexico
25 florist from the sale of flowers, plants or other products that

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1 are customarily sold by florists where the sale is made
2 pursuant to orders placed with an out-of-state florist for
3 filling and delivery in New Mexico by a New Mexico florist.

4 B. When the sale of property or service is made
5 under any type of charge, conditional or time-sales contract or
6 the leasing of property is made under a leasing contract, the
7 seller or lessor may elect to treat all receipts, excluding any
8 type of time-price differential, under such contracts as gross
9 receipts as and when the payments are actually received. If
10 the seller or lessor transfers the seller's or lessor's
11 interest in any such contract to a third person, the seller or
12 lessor shall pay the gross receipts tax upon the full sale or
13 leasing contract amount, excluding any type of time-price
14 differential."

15 SECTION 11. Section 7-9-14 NMSA 1978 (being Laws 1969,
16 Chapter 144, Section 7, as amended) is amended to read:

17 "7-9-14. EXEMPTION--COMPENSATING TAX--GOVERNMENTAL
18 AGENCIES--INDIANS.--

19 A. Except as otherwise provided in this subsection,
20 there is exempted from the compensating tax the use of property
21 and services by the United States or the state of New Mexico or
22 any governmental unit or subdivision, agency, department or
23 instrumentality thereof. The exemption provided by this
24 subsection does not apply to:

- 25 (1) the use of property that is or will be

1 incorporated into a metropolitan redevelopment project under
2 the Metropolitan Redevelopment Code; or

3 (2) the use of construction material.

4 B. Exempted from the compensating tax is the use of
5 property by any Indian nation, tribe or pueblo or any
6 governmental unit, subdivision, agency, department or
7 instrumentality thereof on Indian reservations or pueblo
8 grants."

9 SECTION 12. Section 7-9-26 NMSA 1978 (being Laws 1969,
10 Chapter 144, Section 19, as amended) is amended to read:

11 "7-9-26. EXEMPTION--GROSS RECEIPTS AND COMPENSATING TAX--
12 FUEL.--Exempted from the gross receipts and compensating tax
13 are the receipts from selling and the use of gasoline, special
14 fuel or alternative fuel on which the tax imposed by Section
15 7-13-3, [~~7-16-3 or~~] 7-16A-3 or 7-16B-4 NMSA 1978 [~~or the~~
16 ~~Alternative Fuel Tax Act~~] has been paid and not refunded."

17 SECTION 13. Section 7-9-41.6 NMSA 1978 (being Laws 2020
18 (1st S.S.), Chapter 4, Section 3) is amended to read:

19 "7-9-41.6. EXEMPTION--GROSS RECEIPTS--CERTAIN HEALTH CARE
20 PROVIDERS FROM CERTAIN FEDERAL [~~CORONAVIRUS AID, RELIEF, AND~~
21 ~~ECONOMIC SECURITY ACT~~] PAYMENTS.--Exempted from the gross
22 receipts tax are receipts of health care providers, other than
23 hospitals licensed by the department of health, from payments
24 by:

25 A. the United States department of health and human

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1 services from the federal public health and social services
2 emergency fund to providers eligible to receive the payments
3 pursuant to the federal Coronavirus Aid, Relief, and Economic
4 Security Act; and

5 B. the medical assistance division of the human
6 services department from funds appropriated to New Mexico
7 pursuant to the federal American Rescue Plan Act of 2021 for
8 the state medicaid program to provide additional support for
9 home and community-based services."

10 SECTION 14. Section 7-9-46 NMSA 1978 (being Laws 1969,
11 Chapter 144, Section 36, as amended by Laws 2021, Chapter 65,
12 Section 13 and by Laws 2021, Chapter 66, Section 2) is amended
13 to read:

14 "7-9-46. DEDUCTION--GROSS RECEIPTS--GOVERNMENTAL GROSS
15 RECEIPTS--SALES TO MANUFACTURERS AND MANUFACTURING SERVICE
16 PROVIDERS.--

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

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1 manufacturing.

2 B. Receipts from selling a manufacturing consumable
3 to a manufacturer or a manufacturing service provider may be
4 deducted from gross receipts or from governmental gross
5 receipts if the buyer delivers a nontaxable transaction
6 certificate to the seller or provides alternative evidence
7 pursuant to Section 7-9-43 NMSA 1978; provided that if the
8 seller is a utility company, an agreement with the department
9 pursuant to Section 7-1-21.1 NMSA 1978 and a nontaxable
10 transaction certificate shall be required.

11 C. Receipts from selling or leasing qualified
12 equipment may be deducted from gross receipts if the sale is
13 made to, or the lease is entered into with, a person engaged in
14 the business of manufacturing or a manufacturing service
15 provider who delivers a nontaxable transaction certificate to
16 the seller or provides alternative evidence pursuant to Section
17 7-9-43 NMSA 1978; provided that a manufacturer or manufacturing
18 service provider delivering a nontaxable transaction
19 certificate or alternative evidence with respect to the
20 qualified equipment shall not claim an investment credit
21 pursuant to the Investment Credit Act for that same equipment.

22 D. The purpose of the deductions provided in this
23 section is to encourage manufacturing businesses to locate in
24 New Mexico and to reduce the tax burden, including reducing
25 pyramiding, on the tangible personal property that is consumed

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1 in the manufacturing process and that is purchased by
2 manufacturing businesses in New Mexico.

3 E. The department shall annually report to the
4 revenue stabilization and tax policy committee the aggregate
5 amount of deductions taken pursuant to this section, the number
6 of taxpayers claiming each of the deductions and any other
7 information that is necessary to determine that the deductions
8 are performing the purposes for which they are enacted.

9 F. A taxpayer deducting gross receipts pursuant to
10 this section shall report the amount deducted separately for
11 each deduction provided in this section and attribute the
12 amount of the deduction to the appropriate authorization
13 provided in this section in a manner required by the department
14 that facilitates the evaluation by the legislature of the
15 benefit to the state of these deductions.

16 G. As used in this section:

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

24 (2) "manufacturing operation" means a plant
25 operated by a manufacturer or manufacturing service provider

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1 that employs personnel to perform production tasks to produce
2 goods, in conjunction with machinery and equipment; and

3 (3) "qualified equipment" means machinery,
4 equipment and tools, including component, repair, replacement
5 and spare parts thereof, that are used directly in the
6 manufacturing process of a manufacturing operation. "Qualified
7 equipment" includes computer hardware and software used
8 directly in the manufacturing process of a manufacturing
9 operation but excludes any motor vehicle that is required to be
10 registered in this state pursuant to the Motor Vehicle Code."

11 SECTION 15. Section 7-9-54 NMSA 1978 (being Laws 1969,
12 Chapter 144, Section 44, as amended) is amended to read:

13 "7-9-54. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL
14 GROSS RECEIPTS TAX--SALES TO GOVERNMENTAL AGENCIES.--

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

23 (1) receipts from selling metalliferous
24 mineral ore;

25 (2) receipts from selling tangible personal

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1 property that is or will be incorporated into a metropolitan
2 redevelopment project created under the Metropolitan
3 Redevelopment Code;

4 (3) receipts from selling construction
5 material, excluding tangible personal property, whether
6 removable or non-removable, that is or would be classified for
7 depreciation purposes as three-year property, five-year
8 property, seven-year property or ten-year property, including
9 indirect costs related to the asset basis, by Section 168 of
10 the Internal Revenue Code of 1986, as that section may be
11 amended or renumbered; or

12 (4) that portion of the receipts from
13 performing a "service" that reflects the value of tangible
14 personal property utilized or produced in performance of such
15 service.

16 B. Receipts from selling tangible personal
17 property, or from selling licenses to use digital goods for the
18 purpose of loaning those digital goods to the public, for any
19 purpose to an Indian tribe, nation or pueblo or a governmental
20 unit, subdivision, agency, department or instrumentality
21 thereof for use on Indian reservations or pueblo grants may be
22 deducted from gross receipts or from governmental gross
23 receipts.

24 C. When a seller, in good faith, deducts receipts
25 for tangible personal property or licenses to use digital goods

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1 for the purpose of loaning those digital goods to the public
 2 sold to the state or a governmental unit, subdivision, agency,
 3 department or instrumentality thereof, after receiving written
 4 assurances from the buyer's representative that the property
 5 sold is not construction material, the department shall not
 6 assert in a later assessment or audit of the seller that the
 7 receipts are not deductible pursuant to Paragraph (3) of
 8 Subsection A of this section."

9 SECTION 16. Section 7-9-88.1 NMSA 1978 (being Laws 1999,
 10 Chapter 223, Section 2, as amended) is amended to read:

11 "7-9-88.1. CREDIT--GROSS RECEIPTS TAX--TAX PAID TO
 12 CERTAIN TRIBES.--

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

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1 Notwithstanding any other provision of law to the contrary, the
2 amount of credit taken and allowed shall be applied
3 proportionately against the amount of the gross receipts tax
4 and local option gross receipts taxes and against the amount of
5 distribution of those taxes pursuant to Section 7-1-6.1 NMSA
6 1978.

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

9 (1) is substantially similar to the gross
10 receipts tax imposed by the Gross Receipts and Compensating Tax
11 Act;

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

14 ~~[(3) is levied on the taxable transaction at a~~
15 ~~rate not greater than the total of the gross receipts tax rate~~
16 ~~and local option gross receipts tax rates imposed by this state~~
17 ~~and its political subdivisions located within the exterior~~
18 ~~boundaries of the tribe;~~

19 ~~(4)]~~ (3) provides a credit against the tribe's
20 tax equal to the lesser of twenty-five percent of the tax
21 imposed by the tribe on the receipts from the transactions or
22 twenty-five percent of the tax revenue produced by the sum of
23 the rate of tax imposed pursuant to the Gross Receipts and
24 Compensating Tax Act and the total of the rates of the local
25 option gross receipts taxes imposed on the receipts from the

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1 same transactions; and

2 [~~(5)~~] (4) is subject to a cooperative
3 agreement between the tribe and the secretary entered into
4 pursuant to Section 9-11-12.1 NMSA 1978 and in effect at the
5 time of the taxable transaction.

6 C. For purposes of the tax credit allowed by this
7 section:

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

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

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

19 SECTION 17. Section 7-12-9.1 NMSA 1978 (being Laws 2006,
20 Chapter 91, Section 7, as amended) is amended to read:

21 "7-12-9.1. LICENSING--GENERAL LICENSING PROVISIONS.--

22 A. A person shall not engage in the manufacture or
23 distribution of cigarettes in New Mexico without a license
24 issued by the department.

25 B. The department shall issue or renew a license

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1 for a term not to exceed one year.

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

5 D. An application for a license or renewal of a
6 license shall be submitted on a form determined by the
7 department and shall include:

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

9 (a) if the applicant is a firm,
10 partnership or association, the name and address of each of its
11 members; or

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

14 (2) the address of the applicant's principal
15 place of business and every location where the applicant's
16 business is conducted; and

17 (3) any other information the department may
18 require.

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

21 F. Persons licensed as manufacturers or
22 distributors may sell stamped cigarettes at retail.

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

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1 (1) the applicant [~~owes five hundred dollars~~
2 ~~(\$500) or more in delinquent cigarette taxes~~] is a delinquent
3 taxpayer pursuant to Section 7-1-16 NMSA 1978 only with respect
4 to the cigarette tax or the gross receipts tax or has unfiled
5 tax returns due with respect to the cigarette tax or the gross
6 receipts tax;

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

10 (3) the applicant is convicted of a crime
11 related to contraband cigarettes, stolen cigarettes or
12 counterfeit stamps;

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

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

22 H. In addition to a civil or criminal penalty
23 provided by law, upon a finding that a licensee has violated a
24 provision of the Cigarette Tax Act or the Tobacco Escrow Fund
25 Act or a rule adopted pursuant to either act, the department

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1 may revoke or suspend the license or licenses of the licensee.

2 I. As used in this section, "applicant" includes a
3 person or persons owning, directly or indirectly, in the
4 aggregate, more than ten percent of the ownership interest in
5 the business holding or applying for a license pursuant to the
6 Cigarette Tax Act."

7 SECTION 18. Section 7-14-6 NMSA 1978 (being Laws 1988,
8 Chapter 73, Section 16, as amended) is amended to read:

9 "7-14-6. EXEMPTIONS FROM TAX.--

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

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

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

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

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

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

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

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

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

16 (2) the lease is for a term of more than six
17 months;

18 (3) the receipts from the subsequent lease are
19 subject to the gross receipts tax; and

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

22 ~~[G. From July 1, 2004 through June 30, 2009,~~
23 ~~vehicles that are gasoline-electric hybrid vehicles with a~~
24 ~~United States environmental protection agency fuel economy~~
25 ~~rating of at least twenty-seven and one-half miles per gallon~~

1 are eligible for a one-time exemption from the tax at the time
2 of the issuance of the original certificate of title for the
3 vehicle.]"

4 SECTION 19. Section 7-15-3.1 NMSA 1978 (being Laws 1943,
5 Chapter 125, Section 12, as amended) is amended to read:

6 "7-15-3.1. TRIP TAX--COMPUTATION.--

7 A. For the purpose of providing funds for the
8 construction, maintenance, repair and reconstruction of this
9 state's public highways, a use fee, to be known as the "trip
10 tax", is imposed [~~in lieu of registration fees and the weight~~
11 ~~distance tax on the~~] on each trip made in this state by the
12 registrant, owner or operator of a foreign-based commercial
13 motor carrier vehicle and is in lieu of registration fees and
14 the weight distance tax that would otherwise be imposed on the
15 trip on a registrant, owner or operator of any foreign-based
16 commercial motor carrier vehicle that is:

17 (1) not registered in this state under
18 interstate registration;

19 (2) not registered in this state under
20 proportional registration;

21 (3) not subject to a valid reciprocity
22 agreement;

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

25 (5) not registered under an allocation of one-

1 way rental fleet vehicles; and

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

5 B. Except as provided otherwise in Subsections C
6 and D of this section, the trip tax shall be computed as
7 follows:

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

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

22 (3) when the gross vehicle weight or
23 combination gross vehicle weight exceeds fifty-four thousand
24 pounds and does not exceed seventy-two thousand pounds, fifteen
25 cents (\$.15) a mile for mileage to be traveled on the public

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

1 highways within New Mexico, measured from the point of entering
2 the state to the point of destination or place of leaving the
3 state; and

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

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

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

14 (a) custom harvesting operations; or
15 (b) the transportation of goods or
16 passengers between the state and Mexico; or

17 (2) any vehicle that is unable to declare at
18 the time of entering the state the point of destination or
19 place of leaving the state.

20 D. Prepaid trip permits established pursuant to
21 Subsection C of this section shall be sold in increments of no
22 less than fifty dollars (\$50.00). Any portion not used prior
23 to one year from the date of issuance shall not be refundable.
24 Prepaid trip permits shall not be transferable between a
25 registrant, owner or operator and another registrant, owner or

1 operator. Charges against the prepaid trip permit shall be
 2 based on the computations specified in Subsection B of this
 3 section."

4 SECTION 20. Section 7-15A-12 NMSA 1978 (being Laws 2003
 5 (1st S.S.), Chapter 3, Section 6, as amended) is amended to
 6 read:

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

9 A. An operator of a motor vehicle registered in
 10 this state and subject to the weight distance tax shall display
 11 a weight distance tax identification permit issued for that
 12 vehicle to an enforcement officer of the department of public
 13 safety upon demand of that employee and when the vehicle passes
 14 through a port of entry.

15 B. The department may suspend or decline to renew a
 16 weight distance tax identification permit for a motor vehicle
 17 if the owner or operator of the vehicle does not comply with
 18 the provisions of the Weight Distance Tax Act or if the owner
 19 or operator is a delinquent taxpayer as provided in Section
 20 7-1-16 NMSA 1978 only with respect to the weight distance tax
 21 or the gross receipts tax or if there are unfiled tax returns
 22 due with respect to the weight distance tax or the gross
 23 receipts tax.

24 C. The department of transportation may collect
 25 delinquent weight distance tax on behalf of the taxation and

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1 revenue department at ports of entry operated by the department
2 of transportation."

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

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

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

22 B. For a taxpayer that is an insurer lawfully
23 organized pursuant to the laws of the Republic of Mexico, the
24 premium tax shall apply solely to the taxpayer's gross premium
25 receipts from insurance policies issued by the taxpayer in New

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1 Mexico that cover residents of New Mexico or property or risks
2 principally domiciled or located in New Mexico.

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

7 D. The premium tax provided in Subsection A of this
8 section is imposed on the gross premiums received of a surplus
9 lines broker, less return premiums, on surplus lines insurance
10 where New Mexico is the home state of the insured transacted
11 under the surplus lines broker's license, as reported by the
12 surplus lines broker to the department on forms and in the
13 manner prescribed by the department. For purposes of this
14 subsection, "gross premiums" shall include any additional
15 amount charged the insured, including policy fees, risk
16 purchasing group fees and inspection fees; but "premiums" shall
17 not include any additional amount charged the insured for
18 local, state or federal taxes; regulatory authority fees; or
19 examination fees, if any. For a surplus lines policy issued to
20 an insured whose home state is New Mexico and where only a
21 portion of the risk is located in New Mexico, the entire
22 premium tax shall be paid in accordance with this section.

23 E. In addition to the premium tax, except as
24 provided in Subsection F of this section, a health insurance
25 premium surtax is imposed at a rate of three and seventy-five

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1 hundredths percent of the gross health insurance premiums and
2 membership and policy fees received by the taxpayer on hospital
3 and medical expense incurred insurance or contracts; nonprofit
4 health care plan contracts, excluding dental or vision only
5 contracts; and health maintenance organization subscriber
6 contracts covering health risks within this state during the
7 preceding calendar year. The surtax shall not apply to return
8 health insurance premiums, dividends paid or credited to
9 policyholders or contract holders and health insurance premiums
10 received for reinsurance on New Mexico risks. The surtax
11 imposed pursuant to this subsection may be referred to as the
12 "health insurance premium surtax".

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

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

7 **SECTION 22.** Section 7-40-6 NMSA 1978 (being Laws 2018,
8 Chapter 57, Section 6) is amended to read:

9 "7-40-6. CREDIT--MEDICAL INSURANCE POOL ASSESSMENTS.--The
10 assessment for any New Mexico medical insurance pool member
11 pursuant to Section 59A-54-10 NMSA 1978 shall be allowed as a
12 fifty percent credit on the tax return for that member and a
13 seventy-five percent credit on the tax return for that member
14 for the assessments attributable to pool policyholders that
15 receive premiums, in whole or in part, through the federal Ryan
16 White [~~CARE~~] Comprehensive AIDS Resources Emergency Act of
17 1990, the Ted R. Montoya hemophilia program at the university
18 of New Mexico health sciences center, the children's medical
19 services bureau of the public health division of the department
20 of health or other program receiving state funding or
21 assistance. That portion of credit that exceeds a member's
22 premium tax liability in the taxable period in which the credit
23 is claimed shall not be refunded and shall not be carried
24 forward to subsequent taxable periods."

25 **SECTION 23.** Section 7-42-4 NMSA 1978 (being Laws 2021

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1 (1st S.S.), Chapter 4, Section 46) is amended to read:

2 "7-42-4. DATE PAYMENT DUE--REPORTING LOCATION

3 INSTRUCTIONS.--

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

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

9 (1) if the cannabis product is received by the
10 purchaser at the New Mexico location of the cannabis retailer,
11 the location of the cannabis retailer;

12 (2) if the cannabis product is not received by
13 the purchaser at a location of the cannabis retailer, the
14 location indicated by instructions for delivery to the
15 purchaser, or the purchaser's donee, when known to the cannabis
16 retailer;

17 (3) if Paragraphs (1) and (2) of this
18 subsection do not apply, the location indicated by an address
19 for the purchaser available from the business records of the
20 cannabis retailer that are maintained in the ordinary course of
21 business; provided that use of the address does not constitute
22 bad faith;

23 (4) if Paragraphs (1) through (3) of this
24 subsection do not apply, the location for the purchaser
25 obtained during consummation of the sale, including the address

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1 of a purchaser's payment instrument if no other address is
2 available; provided that use of this address does not
3 constitute bad faith; or

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

9 SECTION 24. Section 26-2C-6 NMSA 1978 (being Laws 2021
10 (1st S.S.), Chapter 4, Section 6) is amended to read:

11 "26-2C-6. LICENSING CANNABIS ACTIVITIES--LIMITATIONS--
12 MEDICAL CANNABIS LEGACY LICENSING--CANNABIS SHORTAGE FOR
13 MEDICAL PROGRAM.--

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

16 (1) commercial cannabis activity and licensing
17 related to commercial cannabis activity;

18 (2) the medical cannabis program, except for
19 the medical cannabis registry; and

20 (3) all aspects of cannabis relating to
21 cannabis training and education programs.

22 B. The division shall follow the provisions of the
23 Uniform Licensing Act when licensing or permitting the
24 following:

25 (1) cannabis consumption areas;

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- 1 (2) cannabis couriers;
- 2 (3) cannabis manufacturers;
- 3 (4) cannabis producer microbusinesses;
- 4 (5) cannabis producers;
- 5 (6) cannabis research laboratories;
- 6 (7) cannabis retailers;
- 7 (8) cannabis servers;
- 8 (9) cannabis testing laboratories;
- 9 (10) cannabis training and education programs;
- 10 (11) integrated cannabis microbusinesses; and
- 11 (12) vertically integrated cannabis
- 12 establishments.

13 C. The division shall include a clear designation
14 on all licenses and permits that indicates whether the license
15 or permit is for medical cannabis activity, commercial cannabis
16 activity or both or for cannabis training and education
17 programs.

18 D. The division shall issue a license to a cannabis
19 retailer applicant at a discount if the applicant provides
20 documentation of an agreement to accept cannabis products on
21 consignment from a cannabis producer microbusiness or an
22 integrated cannabis microbusiness licensed pursuant the
23 Cannabis Regulation Act.

24 E. A license is valid for twelve months from the
25 date the license is issued and may be renewed annually, except

1 that a license issued for a cannabis training and education
 2 program is valid until terminated by the licensee or suspended
 3 or revoked by the division.

4 F. The director shall not renew a license issued
 5 pursuant to the provisions of the Cannabis Regulation Act until
 6 the director receives notification from the secretary of
 7 taxation and revenue or the secretary's designee that on a
 8 certain date:

9 (1) the licensee is not a delinquent taxpayer
 10 pursuant to Section 7-1-16 NMSA 1978 only with respect to the
 11 cannabis excise tax or the gross receipts tax; and

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

15 G. No license shall be transferable or assignable
 16 from a licensee to another person. The division shall not
 17 allow a person that is licensed as any type of cannabis
 18 establishment other than a cannabis research laboratory to
 19 hold, directly or indirectly, a cannabis testing laboratory
 20 license.

21 H. Except for verification of age, the division
 22 shall not require licensees to request information from
 23 consumers or impose any residency requirement upon consumers
 24 for the purchase of cannabis products pursuant to the
 25 commercial cannabis activity authorized by the Cannabis

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1 Regulation Act. The division may require licensees to request
2 information from consumers for the purchase of cannabis
3 products pursuant to the medical cannabis program, which may
4 include the presentation of legal identification issued by an
5 authorized governmental entity or other documents as required
6 by the medical cannabis program.

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

25 J. Licensees are specifically allowed to conduct

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1 other licensed activities, including activities pursuant to the
2 Hemp Manufacturing Act, except for sales of alcoholic
3 beverages.

4 K. A person properly licensed and in good standing
5 pursuant to the Lynn and Erin Compassionate Use Act on the
6 effective date of the Cannabis Regulation Act may continue to
7 operate under that license for medical cannabis until
8 comparable licenses for commercial cannabis activity are
9 available. The division shall determine when retail sales of
10 commercial cannabis products begin, but no later than April 1,
11 2022. A facility of such a licensee, upon issuance of the
12 applicable cannabis establishment license, shall constitute
13 licensed premises of the licensee and the licensee shall be
14 entitled to continued and uninterrupted operations of the
15 licensed premises. As to activity under the medical cannabis
16 program, the licensee shall continue to operate under rules
17 promulgated for the medical cannabis program until the division
18 promulgates rules for medical cannabis activity, except that a
19 qualified patient, a primary caregiver and a reciprocal
20 participant shall not be prohibited from purchasing and
21 obtaining cannabis products pursuant to the medical cannabis
22 program.

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

25 (1) require all cannabis establishment

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1 licensees to ensure that at least ten percent of their cannabis
2 in stock on a monthly basis is designated for sale to qualified
3 patients, primary caregivers and reciprocal participants;

4 (2) initially take reasonable measures to
5 expeditiously incentivize increased production of cannabis
6 plants to remedy a shortage of cannabis supply in the medical
7 cannabis program;

8 (3) after having first exhausted measures to
9 increase production of cannabis plants to address the shortage
10 of cannabis supply in the medical cannabis program, exclude
11 commercial cannabis activity from the scope of new licenses
12 issued to initial applicants for a vertically integrated
13 cannabis establishment, cannabis producer, integrated cannabis
14 microbusiness, cannabis producer microbusiness or cannabis
15 manufacturer license, which limitation shall be in force for a
16 period of at least six months; and

17 (4) require licensees who are licensed to
18 produce cannabis to produce a specified quota of mature
19 cannabis plants to be designated for use in the medical
20 cannabis program; provided that:

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

25 (b) the division may require specific

1 tracking of cannabis plants.

2 M. As used in this section, "shortage of cannabis
3 supply in the medical cannabis program" means that the average
4 number of cannabis plants in production in the medical cannabis
5 program per qualified patient after the effective date of the
6 Cannabis Regulation Act is substantially less than the average
7 number of cannabis plants in production in the medical cannabis
8 program per qualified patient as of the effective date of the
9 Cannabis Regulation Act, where:

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

13 (2) the average number of cannabis plants in
14 production as of the effective date of the Cannabis Regulation
15 Act is measured over a period of three consecutive months
16 immediately preceding the effective date of the Cannabis
17 Regulation Act.

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

23 **SECTION 25.** Section 59A-15-4 NMSA 1978 (being Laws 1984,
24 Chapter 127, Section 259.1, as amended) is amended to read:

25 "59A-15-4. INSURANCE INDEPENDENTLY PROCURED--DUTY TO

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1 [REPORT] FILE RETURNS.--

2 A. Each insured who in this state procures or
3 continues or renews insurance with a nonadmitted insurer on a
4 risk located or to be performed in whole or in part in this
5 state, other than insurance procured through a surplus lines
6 licensee pursuant to Chapter 59A, Article 14 NMSA 1978 shall
7 ~~[within ninety days after the date such insurance was so~~
8 ~~procured, continued or renewed, file a written report of the~~
9 ~~same with the superintendent, upon forms prescribed by the~~
10 ~~superintendent, showing the name and address of the insured or~~
11 ~~insureds, name and address of the insurer, the subject of the~~
12 ~~insurance, a general description of the coverage, the amount of~~
13 ~~premium currently charged therefor and such additional~~
14 ~~pertinent information as is reasonably requested by the~~
15 ~~superintendent]~~ file returns pursuant to the Insurance Premium
16 Tax Act.

17 B. If an independently procured policy covers risks
18 or exposures only partially located or to be performed in this
19 state, the taxes, fees and penalties imposed pursuant to the
20 Insurance Code and the Insurance Premium Tax Act shall be
21 computed on the portion of the premium properly attributable to
22 the risks or exposures located or to be performed in this state
23 and reported to the secretary of taxation and revenue. In no
24 event, however, shall a tax be payable solely because the risk
25 in question, or any portion thereof, is located or to be

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1 performed in this state.

2 C. This section does not abrogate or modify, and
3 shall not be construed or deemed to abrogate or modify, any
4 provision of the Insurance Code.

5 D. This section does not apply to life insurance,
6 health insurance or annuities."

7 SECTION 26. Section 61-28B-8 NMSA 1978 (being Laws 1999,
8 Chapter 179, Section 8, as amended) is amended to read:

9 "61-28B-8. QUALIFICATIONS FOR A CERTIFICATE AS A
10 CERTIFIED PUBLIC ACCOUNTANT.--

11 A. An applicant for a certificate shall complete
12 the application form provided by the board and demonstrate to
13 the board's satisfaction that the applicant:

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

16 (2) meets the education, experience and
17 examination requirements of the board.

18 B. The board may refuse to grant a certificate on
19 the ground that the applicant failed to satisfy the requirement
20 of good moral character.

21 C. The education requirement for examination shall
22 be a baccalaureate degree or its equivalent conferred by a
23 college or university acceptable to the board, with thirty
24 semester hours in accounting or the equivalent as determined by
25 the board. An applicant for a certificate shall have at least

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1 one hundred fifty semester hours of college education or its
2 equivalent earned at a college or university acceptable to the
3 board.

4 D. The examination for certification shall be
5 offered continuously via a computer-based testing system at a
6 designated testing center and shall test an applicant's
7 knowledge of the subjects of accounting and auditing and other
8 related subjects as prescribed by the board. The board shall
9 prescribe the method of applying for the examination and the
10 dissemination of scores, and it shall rely on the American
11 institute of certified public accountants for the grading of
12 the examination. The board may use all or any part of the
13 uniform certified public accountant examination services of the
14 national association of state boards of accountancy to perform
15 administrative services with respect to the examination. The
16 board or its designee shall report all eligibility and score
17 data to the national candidate database, and it shall, to the
18 extent possible, provide that the passing scores are uniform
19 with passing scores of other states.

20 E. An applicant must pass all sections of the
21 examination to qualify for a certificate. A passing scaled
22 score for each section shall be seventy-five. Sections may be
23 taken individually and in any order. Credit for any section
24 passed shall be valid for eighteen months from the ~~[actual]~~
25 date the ~~[applicant took that section]~~ passing score is

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1 released to the applicant, without having to attain a minimum
2 score on any failed test section and without regard to whether
3 the applicant has taken other test sections. An applicant must
4 pass all four test sections within a continuous eighteen-month
5 period, which begins on the date that the first [~~section passed~~
6 ~~is taken~~] passing scores are released to the applicant. If all
7 four test sections are not passed within the continuous
8 eighteen-month period, credit for any test section passed
9 outside the eighteen-month period will expire, and that test
10 section must be retaken.

11 F. An applicant shall be given credit for
12 examination sections passed in another state if such credit
13 would have been given in New Mexico.

14 G. The board may waive or defer requirements of
15 this section regarding the circumstances in which sections of
16 the examination must be passed, upon a showing that, by reason
17 of circumstances beyond the applicant's control, the applicant
18 was unable to meet the requirement.

19 H. An applicant for initial issuance of a certified
20 public accountant certificate shall show that the applicant has
21 had at least one year of experience. This experience shall
22 include providing service or advice involving the use of
23 accounting, attest, management advisory, financial advisory,
24 tax or consulting skills as verified by a certified public
25 accountant who meets requirements prescribed by the board. The

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1 experience is acceptable if it was gained through employment in
2 government, industry, academia or public practice."

3 SECTION 27. REPEAL CONFLICTING SECTION OF LAW.--Laws
4 2021, Chapter 65, Section 13 is repealed.

5 SECTION 28. REPEAL.--Sections 7-2-18.4, 7-2-18.5,
6 7-2-18.8, 7-2-18.21, 7-2-18.25, 7-2-18.27, 7-2-18.28, 7-2A-8.8,
7 7-2A-15, 7-2A-18, 7-2A-23, 7-2A-25, 7-2A-27, 7-2D-8.1, 7-9-16,
8 7-9-86, 7-9-105, 7-9-106, 7-9-114, 7-9G-2 and 7-14A-9 NMSA 1978
9 (being Laws 1994, Chapter 115, Section 1; Laws 1998, Chapter
10 97, Section 2; Laws 2001, Chapter 73, Section 1; Laws 2007,
11 Chapter 204, Section 7; Laws 2009, Chapter 279, Section 1; Laws
12 2011, Chapter 89, Section 1; Laws 2012, Chapter 55, Section 1;
13 Laws 1998, Chapter 97, Section 3; Laws 1994, Chapter 115,
14 Section 2; Laws 2001, Chapter 73, Section 2; Laws 2007, Chapter
15 204, Section 8; Laws 2009, Chapter 279, Section 2; Laws 2012,
16 Chapter 55, Section 2; Laws 1995, Chapter 89, Section 8; Laws
17 1969, Chapter 144, Section 9; Laws 1995, Chapter 80, Section 1;
18 Laws 2007, Chapter 45, Section 6; Laws 2018, Chapter 62,
19 Section 1; Laws 2010, Chapter 77, Section 1 and Laws 2010,
20 Chapter 78, Section 1; Laws 2007, Chapter 229, Section 1; and
21 Laws 1991, Chapter 197, Section 13, as amended) are repealed.

22 SECTION 29. EFFECTIVE DATE.--

23 A. The effective date of the provisions of Sections
24 1 through 12 and 14 through 28 of this act is July 1, 2023.

25 B. The effective date of the provisions of Section

.225709.1

1 13 of this act is the first day of the month following the date
2 this act takes effect.

3 SECTION 30. EMERGENCY.--It is necessary for the public
4 peace, health and safety that this act take effect immediately.

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