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HOUSE BILL

**51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014**

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO TAXATION; CREATING DEDUCTIONS FOR A THREE-YEAR PERIOD FROM GROSS RECEIPTS AND COMPENSATING TAXES FOR CERTAIN EQUIPMENT PURCHASES FOR PRODUCTION AND PROCESSING OF NEW MEXICO CHILE.

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

**SECTION 1.** Section 7-1-8.8 NMSA 1978 (being Laws 2009, Chapter 243, Section 10) is amended to read:

"7-1-8.8. INFORMATION THAT MAY BE REVEALED TO OTHER STATE AGENCIES AND LEGISLATIVE COMMITTEES.--An employee of the department may reveal to:

A. a committee of the legislature for a valid legislative purpose, return information concerning any tax or fee imposed pursuant to the Cigarette Tax Act;

B. the revenue stabilization and tax policy

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1 committee and the legislative finance committee, return  
2 information necessary to facilitate the compilation of a report  
3 to those committees on the effectiveness of a tax credit or  
4 deduction that is required pursuant to law; provided that the  
5 return information shall not include a taxpayer's name, address  
6 or government-issued identification number;

7 ~~[B-]~~ C. the attorney general, return information  
8 acquired pursuant to the Cigarette Tax Act for purposes of  
9 Section 6-4-13 NMSA 1978 and the master settlement agreement  
10 defined in Section 6-4-12 NMSA 1978;

11 ~~[G-]~~ D. the commissioner of public lands, return  
12 information for use in auditing that pertains to rentals,  
13 royalties, fees and other payments due the state under land  
14 sale, land lease or other land use contracts;

15 ~~[D-]~~ E. the secretary of human services or the  
16 secretary's delegate, under a written agreement with the  
17 department, the last known address with date of all names  
18 certified to the department as being absent parents of children  
19 receiving public financial assistance, but only for the purpose  
20 of enforcing the support liability of the absent parents by the  
21 child support enforcement division or any successor  
22 organizational unit;

23 ~~[E-]~~ F. the department of information technology,  
24 by electronic media, a database updated quarterly that contains  
25 the names, addresses, county of address and taxpayer

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1 identification numbers of New Mexico personal income tax  
2 filers, but only for the purpose of producing the random jury  
3 list for the selection of petit or grand jurors for the state  
4 courts pursuant to Section 38-5-3 NMSA 1978;

5 ~~[F.]~~ G. the state courts, the random jury lists  
6 produced by the department of information technology under  
7 Subsection ~~[E]~~ F of this section;

8 ~~[G.]~~ H. the director of the New Mexico department  
9 of agriculture or the director's authorized representative,  
10 upon request of the director or representative, the names and  
11 addresses of all gasoline or special fuel distributors,  
12 wholesalers and retailers;

13 ~~[H.]~~ I. the public regulation commission, return  
14 information with respect to the Corporate Income and Franchise  
15 Tax Act required to enable the commission to carry out its  
16 duties;

17 ~~[I.]~~ J. the state racing commission, return  
18 information with respect to the state, municipal and county  
19 gross receipts taxes paid by racetracks;

20 ~~[J.]~~ K. the gaming control board, tax returns of  
21 license applicants and their affiliates as provided in  
22 Subsection E of Section 60-2E-14 NMSA 1978;

23 ~~[K.]~~ L. the director of the workers' compensation  
24 administration or to the director's representatives authorized  
25 for this purpose, return information to facilitate the

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1 identification of taxpayers that are delinquent or noncompliant  
2 in payment of fees required by Section 52-1-9.1 or 52-5-19 NMSA  
3 1978; and

4 ~~[H.]~~ M. the secretary of workforce solutions or the  
5 secretary's delegate, return information for use in enforcement  
6 of unemployment insurance collections pursuant to the terms of  
7 a written reciprocal agreement entered into by the department  
8 with the secretary of workforce solutions for exchange of  
9 information."

10 SECTION 2. A new section of the Gross Receipts and  
11 Compensating Tax Act is enacted to read:

12 "[NEW MATERIAL] DEDUCTION--COMPENSATING TAX COMPUTATION--  
13 EQUIPMENT USED IN THE PRODUCTION AND PROCESSING OF NEW MEXICO  
14 CHILE.--

15 A. From July 1, 2014 through June 30, 2017, the  
16 value of equipment used in or for chile production or chile  
17 processing of New Mexico chile and purchased by a chile  
18 producer or a chile processor in this state may be deducted in  
19 computing compensating tax due.

20 B. The purpose of this deduction is to encourage  
21 the purchase of equipment to enable greater production and  
22 processing of New Mexico chile in the state.

23 C. A deduction pursuant to this section shall not  
24 be claimed if a deduction pursuant to Section 7-9-77 NMSA 1978  
25 or a credit pursuant to Section 7-9A-5 NMSA 1978 is claimed for

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1 the same equipment.

2 D. A taxpayer allowed a deduction pursuant to this  
3 section shall report the amount of the deduction separately in  
4 a manner required by the department.

5 E. The department shall compile an annual report on  
6 the deduction provided by this section that shall include the  
7 number of taxpayers approved by the department to receive the  
8 deduction, the aggregate amount of deductions approved and any  
9 other information necessary to evaluate the effectiveness of  
10 the deduction. Beginning in 2016 and every five years  
11 thereafter that the deduction is in effect, the department  
12 shall compile and present the annual reports to the revenue  
13 stabilization and tax policy committee and the legislative  
14 finance committee with an analysis of the effectiveness and  
15 cost of the deduction and whether the deduction is performing  
16 the purpose for which it was created.

17 F. As used in this section:

18 (1) "chile" means any variety of the pepper  
19 Capsicum annuum and "New Mexico chile" means any variety of the  
20 pepper Capsicum annuum grown in the state;

21 (2) "chile processing" means changing either  
22 the raw agricultural product of chile or chile that has been  
23 further processed, including combining it with other  
24 ingredients, so that value is added or transforming chile into  
25 packaged or bulk products for intermediate processing or final

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1 consumption through a manufacturing process;

2 (3) "chile processor" means a person that is a  
3 wholesaler and that derives at least fifty percent of the  
4 person's gross receipts from sales of products that are a  
5 direct result of the processing of chile. For the purposes of  
6 this paragraph, gross receipts shall be determined using the  
7 person's most recent income tax year, and "wholesaler" means a  
8 merchant for whom seventy-five percent of gross receipts is  
9 derived from sales to retailers, other merchants or industrial,  
10 institutional or commercial users for resale or for business  
11 use but not from internal sales that the merchant makes to  
12 itself or to a component of the merchant;

13 (4) "chile producer" means a person that is a  
14 wholesaler and that derives at least fifteen percent of the  
15 person's gross receipts from sales of products that are a  
16 direct result of the production of New Mexico chile. For the  
17 purposes of this paragraph, gross receipts shall be determined  
18 using the person's most recent income tax year, and  
19 "wholesaler" means a merchant for whom seventy-five percent of  
20 gross receipts is derived from sales to retailers, other  
21 merchants or industrial, institutional or commercial users for  
22 resale or for business use but not from internal sales that the  
23 merchant makes to itself or to a component of the merchant;

24 (5) "chile production" means growing or  
25 otherwise producing a raw agricultural product from any variety

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1 of chile; and

2 (6) "equipment" means an essential machine,  
3 mechanism or tool, or a component or fitting of an essential  
4 machine, mechanism or tool, used directly in chile production  
5 or chile processing by a purchaser and subject to depreciation  
6 for purposes of the Internal Revenue Code of 1986, not  
7 including irrigation equipment or vehicles that are not  
8 required to be registered under the Motor Vehicle Code."

9 SECTION 3. A new section of the Gross Receipts and  
10 Compensating Tax Act is enacted to read:

11 "[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS--EQUIPMENT USED  
12 IN THE PRODUCTION AND PROCESSING OF NEW MEXICO CHILE.--

13 A. From July 1, 2014 through June 30, 2017,  
14 receipts from the sale of equipment used in or for chile  
15 production or chile processing of New Mexico chile to a chile  
16 producer or a chile processor in this state may be deducted  
17 from gross receipts if the chile producer or chile processor  
18 delivers an appropriate nontaxable transaction certificate to  
19 the seller. The department shall promulgate rules for the  
20 issuance of a certificate of eligibility for the purposes of  
21 claiming a deduction pursuant to this section.

22 B. The purpose of this deduction is to encourage  
23 the purchase of equipment to enable greater production and  
24 processing of New Mexico chile in the state.

25 C. A deduction pursuant to this section shall not

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1 be claimed if a deduction pursuant to Section 7-9-62 NMSA 1978  
2 or a credit pursuant to Section 7-9A-5 NMSA 1978 is claimed for  
3 the same equipment.

4 D. A taxpayer allowed a deduction pursuant to this  
5 section shall report the amount of the deduction separately in  
6 a manner required by the department.

7 E. The department shall compile an annual report on  
8 the deduction provided by this section that shall include the  
9 number of taxpayers approved by the department to receive the  
10 deduction, the aggregate amount of deductions approved and any  
11 other information necessary to evaluate the effectiveness of  
12 the deduction. Beginning in 2016 and every five years  
13 thereafter that the deduction is in effect, the department  
14 shall compile and present the annual reports to the revenue  
15 stabilization and tax policy committee and the legislative  
16 finance committee with an analysis of the effectiveness and  
17 cost of the deduction and whether the deduction is performing  
18 the purpose for which it was created.

19 F. As used in this section:

20 (1) "chile" means any variety of the pepper  
21 Capsicum annuum and "New Mexico chile" means any variety of the  
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23 (2) "chile processing" means changing either  
24 the raw agricultural product of chile or chile that has been  
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1 ingredients, so that value is added or transforming chile into  
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8 this paragraph, gross receipts shall be determined using the  
9 person's most recent income tax year, and "wholesaler" means a  
10 merchant for whom seventy-five percent of gross receipts is  
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13 use but not from internal sales that the merchant makes to  
14 itself or to a component of the merchant;

15 (4) "chile producer" means a person that is a  
16 wholesaler and that derives at least fifteen percent of the  
17 person's gross receipts from sales of products that are a  
18 direct result of the production of New Mexico chile. For the  
19 purposes of this paragraph, gross receipts shall be determined  
20 using the person's most recent income tax year, and  
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(5) "chile production" means growing or otherwise producing a raw agricultural product from any variety of chile; and

(6) "equipment" means an essential machine, mechanism or tool, or a component or fitting of an essential machine, mechanism or tool, used directly in chile production or chile processing by a purchaser and subject to depreciation for purposes of the Internal Revenue Code of 1986, not including irrigation equipment or vehicles that are not required to be registered under the Motor Vehicle Code."