

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

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

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

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

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

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

"[NEW MATERIAL] TAX EXPENDITURE BUDGET.--

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

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

- (1) the statutory basis;
- (2) the year of enactment, amendment or repeal, if any;
- (3) a brief description;
- (4) the intended purpose, if specified in the law providing for the tax expenditure;
- (5) an estimate of the amount of foregone revenue by fiscal year for the three fiscal years preceding the current fiscal year, including the general fund, other state funds and local government revenues;
- (6) the number of taxpayers that claimed a tax expenditure for each fiscal year reported, unless reporting of such data is in a form that can be associated with or otherwise identify, directly or indirectly, a particular taxpayer;
- (7) the data source used for the estimate;
- (8) a description of the reliability of the estimate;

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(9) an evaluation of the tax expenditure, if required in statute for the specific expenditure; and

(10) a description of the tax expenditure's effect on tax administration, if any.

C. The department may request from an executive agency or a local government agency or official the information necessary to complete a tax expenditure budget required by this section. The agency or official shall comply with a request made pursuant to this section by the department as permitted by law.

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

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

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

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A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to each municipality, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, in an amount equal to thirty-three and thirty-three hundredths percent of the net receipts attributable to the cannabis excise tax from [~~cannabis retailers~~] business locations within the municipality as reported pursuant to Section 7-42-4 NMSA 1978.

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

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

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

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

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

A. The department shall:

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

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(2) answer all inquiries concerning whether a person is or is not a registered taxpayer for tax programs that require registration, but nothing in this subsection shall be construed to allow the department to answer inquiries concerning whether a person has filed a tax return;

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

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

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

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

B. Nothing in this section shall be construed to require the release of information that would violate an agreement between the state and the federal internal revenue

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service for sharing of information or any provision or rule of the federal Internal Revenue Code to which a state is subject."

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

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

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

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

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

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

(2) if the property is not received by the

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purchaser at [~~a business~~] the location of the seller, the location indicated by instructions for delivery to the purchaser, or the purchaser's donee, when known to the seller;

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

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

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

D. The [~~business~~] reporting location for gross receipts from the lease of tangible personal property, including vehicles, other transportation equipment and other mobile tangible personal property, and any related deductions, shall be the location of primary use of the property, as indicated by the address for the property provided by the

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

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

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

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

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

(3) for services with respect to the selling of real estate located in New Mexico, the location of the real estate;

(4) for transportation of persons or property in, into or from New Mexico, the location where the person or

property enters the vehicle; and

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

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

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

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

J.] I. The secretary shall develop a location-code database that provides the [~~business~~] reporting location codes designated [~~pursuant to Subsection I of this section~~] by the secretary. The secretary shall also develop and provide to taxpayers a location-rate database that sets out the tax rates

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applicable to ~~[business]~~ reporting locations within the state, by address, and sellers who properly rely on this database shall not be liable for any additional tax due to the use of an incorrect rate.

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

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

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

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

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

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

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

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

- (1) the taxpayer's name, address and identification number;
- (2) the type of tax for which a refund is being claimed, the credit or rebate denied or the property levied upon;
- (3) the sum of money or other property being claimed;
- (4) with respect to a refund, the period for which overpayment was made;
- (5) a brief statement of the facts and the law on which the claim is based, which may be referred to as the "basis for the refund", which may include documentation that substantiates the written claim and supports the taxpayer's

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basis for the refund; and

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

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

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

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

(1) claim is denied in whole or in part in writing, the person shall not refile the denied claim, but the person, within ninety days after either the mailing or delivery of the denial of all or any part of the claim, may elect to pursue only one of the remedies provided in Subsection E of this section; and

(2) department has neither granted nor denied any portion of a complete claim for refund within one hundred eighty days after the claim was mailed or otherwise delivered to the department, the person may elect to treat the claim as denied and elect to pursue only one of the remedies provided in

Subsection E of this section.

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

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

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

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

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

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

(2) commence a civil action in the district court for Santa Fe county by filing a complaint setting forth the circumstance of the claimed overpayment, denied credit or rebate or denial of a prior right to property levied upon by the department alleging that on account thereof the state is

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indebted to the plaintiff in the amount or property stated, together with any interest allowable, demanding the refund to the plaintiff of that amount or property and reciting the facts of the claim for refund. The plaintiff or the secretary may appeal from any final decision or order of the district court to the court of appeals.

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

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

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

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

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

(d) the final determination of value occurs with respect to any overpayment that resulted from a disapproval by any agency of the United States or the state of New Mexico or any court of increase in value of a product subject to taxation pursuant to the Oil and Gas Severance Tax

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Act, the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency School Tax Act, the Oil and Gas Ad Valorem Production Tax Act or the Natural Gas Processors Tax Act; or

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

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

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

(4) in the case of a payment of an amount of tax not made within three years of the end of the calendar year

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in which the original due date of the tax or date of the assessment of the department occurred, only for a claim for refund of that amount of tax and only within one year of the date on which the tax was paid; or

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

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

H. If, as a result of an audit by the department or a managed audit covering multiple periods, an overpayment of tax is found in any period under the audit and if the taxpayer files a claim for refund for the overpayments identified in the

audit, that overpayment may be credited against an underpayment of the same tax found in another period under audit pursuant to Section 7-1-29 NMSA 1978.

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

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

K. The filing of a fully completed original income tax return, corporate income tax return, corporate income and franchise tax return, estate tax return, [Ø] special fuel excise tax return or annual insurance premium tax return that shows a balance due the taxpayer or a fully completed amended income tax return, an amended corporate income tax return, an amended corporate income and franchise tax return, an amended estate tax return, an amended special fuel excise tax return,

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[~~or~~] an amended oil and gas tax return or an amended insurance premium tax return that shows a lesser tax liability than the original return constitutes the filing of a claim for refund for the difference in tax due shown on the original and amended returns.

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

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

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

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

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

(2) the transferee, assignee, buyer or lessee has entered into a written agreement with the secretary or secretary's delegate in which the transferee, assignee, buyer or lessee has assumed full liability for payment of all taxes

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due or ~~[which]~~ that may become due from ~~[engaging in business authorized by the liquor license]~~ the licensee with respect to the liquor excise tax or the gross receipts tax.

B. The director of the ~~[alcohol and gaming]~~ alcoholic beverage control division of the regulation and licensing department shall not allow the renewal of any liquor license pursuant to the provisions of the Liquor Control Act until the director receives notification from the secretary or secretary's delegate that on a certain date:

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

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

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

"7-2-5.5. EXEMPTION--EARNINGS BY INDIANS, THEIR INDIAN SPOUSES AND INDIAN DEPENDENTS ON INDIAN LANDS.--Income earned by a member of a New Mexico federally recognized Indian nation, tribe, band or pueblo, ~~[his]~~ the member's spouse or dependent,

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who is a member of a New Mexico federally recognized Indian nation, tribe, band or pueblo, is exempt from state income tax if the income is earned from work performed within and the member, spouse or dependent [~~lives~~] is domiciled within the boundaries of the Indian member's or the spouse's reservation or pueblo grant or within the boundaries of [~~lands held in trust by the United States for the benefit of the member or spouse or his nation, tribe, band or pueblo, subject to restriction against alienation imposed by the United States]~~ land defined as "Indian country" pursuant to 18 U.S.C. Section 1151, as that section may be amended or renumbered, for that nation, tribe, band or pueblo."

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

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

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

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

C. "base income" means the federal taxable income or the federal net operating loss of a corporation for the

taxable year calculated pursuant to the Internal Revenue Code, after special deductions provided in Sections 241 through 249 of the Internal Revenue Code but without any deduction for net operating losses, as if the corporation filed a federal tax return as a separate domestic entity, modified as follows:

(1) adding to that income:

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

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

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

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

(2) subtracting from that income:

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

(b) other amounts that the state is

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prohibited from taxing because of the laws or constitution of this state or the United States net of any related expenses;

(c) an amount equal to one hundred percent of the subpart F income, as that term is defined in Section 952 of the Internal Revenue Code, as that section may be amended or renumbered, included in the income of the corporation; and

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

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

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

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

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

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

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

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

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

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

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

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

G. "corporation" means corporations, joint stock

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

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

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

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

K. "grandfathered net operating loss carryover" means:

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

(2) reduced by:

(a) adding back deductions that were taken by the corporation or corporations for royalties or

interest paid to one or more related corporations, but only to the extent that such adjustment would not create a net loss for such related corporations; and

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

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

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

M. "net income" means:

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

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

N. "net operating loss carryover" means the apportioned net loss properly reported on an original or amended tax return for taxable years beginning on or after

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January 1, 2020 by the taxpayer:

(1) plus:

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

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

(2) minus:

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

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

0. "net operating loss deduction" means the portion of the net operating loss carryover that may be deducted from the taxpayer's apportioned net income under the Internal Revenue Code as of January 1, 2018 for the taxable year in which the deduction is taken, including the eighty percent limitation of Section 172(a) of the Internal Revenue Code as of January 1, 2018 calculated on the basis of the taxpayer's

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apportioned net income;

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

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

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

S. "return" means any tax or information return, including a water's-edge or worldwide combined return, a consolidated return, a declaration of estimated tax or a claim for refund, including any amendments or supplements to the return, required or permitted pursuant to a law subject to administration and enforcement pursuant to the Tax Administration Act and filed with the department by or on behalf of any person;

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

U. "separate year return" means a properly filed

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original or amended return for a taxable year beginning on or after January 1, 2020 by a taxpayer reporting a loss, a portion of which is claimed as part of the net operating loss carryover by another taxpayer in a subsequent return period;

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

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

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

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

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

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

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

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

- (1) corporations that are exempt from corporate income tax pursuant to Section 7-2A-4 NMSA 1978; and
- (2) corporations wherever organized or incorporated that have less than twenty percent of their property, payroll and sales sourced to locations within the United States, following the sourcing rules of the Uniform Division of Income for Tax Purposes Act; and

CC. "worldwide combined group" means all members of a unitary group, except members that are exempt from corporate

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income tax pursuant to Section 7-2A-4 NMSA 1978, irrespective of the country in which the corporations are incorporated or conduct business activity."

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

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

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

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

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

D. "disclosed agency" means ~~[an agent receiving money on behalf of a principal if the agent or the agent's principal disclosed the agency relationship to a third party from which the agent receives money, or if the third party otherwise has actual knowledge that the agent receives money on behalf of the principal]~~ a person receiving money from a third party on behalf of another if the person receiving the money, or the person on whose behalf the money is received, disclosed the relationship to the third party from whom the person receives money, or if the third party otherwise has actual knowledge that the person to whom the money is paid receives

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the money on behalf of another;

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

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

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

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

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

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

(5) similar activities;

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

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

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property;

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

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

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

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

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

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

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

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

O. "person" means:

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

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

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P. "property" means:

- (1) real property;
- (2) tangible personal property, including electricity and manufactured homes;
- (3) licenses, including licenses of digital goods, but not including the licenses of copyrights, trademarks or patents; and
- (4) franchises;

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

- (1) advancing basic knowledge in a recognized field of natural science;
- (2) advancing technology in a field of technical endeavor;
- (3) developing a new or improved product, process or system with new or improved function, performance, reliability or quality, whether or not the new or improved product, process or system is offered for sale, lease or other transfer;
- (4) developing new uses or applications for an existing product, process or system, whether or not the new use or application is offered as the rationale for purchase, lease or other transfer of the product, process or system;
- (5) developing analytical or survey activities incorporating technology review, application, trade-off study, modeling, simulation, conceptual design or similar activities, whether or not offered for sale, lease or other transfer; or

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

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

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

T. "use" or "using" includes use, consumption or storage other than storage for subsequent sale in the ordinary

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course of business or for use solely outside this state."

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

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

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

(1) "gross receipts" means the total amount of money or the value of other consideration received from selling property in New Mexico, from leasing or licensing property employed in New Mexico, from granting a right to use a franchise employed in New Mexico, from selling services performed outside New Mexico, the product of which is initially used in New Mexico, or from performing services in New Mexico. In an exchange in which the money or other consideration received does not represent the value of the property or service exchanged, "gross receipts" means the reasonable value of the property or service exchanged;

(2) "gross receipts" includes:

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

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

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

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organization;

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

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

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

(g) receipts collected by a marketplace provider engaging in business in the state from sales, leases and licenses of tangible personal property, sales of licenses

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and sales of services or licenses for use of real property that are sourced to this state and are facilitated by the marketplace provider on behalf of marketplace sellers, regardless of whether the marketplace sellers are engaging in business in the state; and

(3) "gross receipts" excludes:

(a) cash discounts allowed and taken;

(b) SFC→~~[New Mexico gross receipts tax, governmental gross receipts tax and leased vehicle gross receipts tax]~~←SFC SFC→New Mexico gross receipts tax, governmental gross receipts tax SFC→and←SFC , leased vehicle gross receipts tax←SFC SFC→and cannabis excise tax←SFC SFC→~~all excise taxes imposed by the state and political subdivisions of the state~~←SFC payable on transactions for the reporting period;

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

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

(e) any type of time-price differential;

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

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

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

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

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

A. Except as otherwise provided in this subsection, there is exempted from the compensating tax the use of property and services by the United States or the state of New Mexico or

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any governmental unit or subdivision, agency, department or instrumentality thereof. The exemption provided by this subsection does not apply to:

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

(2) the use of construction material.

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

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

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

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

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

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

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

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

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

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

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of the product that the buyer is in the business of manufacturing.

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

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

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

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

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

G. As used in this section:

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

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

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

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

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

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

- (1) receipts from selling metalliferous mineral ore;
- (2) receipts from selling tangible personal property that is or will be incorporated into a metropolitan redevelopment project created under the Metropolitan Redevelopment Code;
- (3) receipts from selling construction material, excluding tangible personal property, whether

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removable or non-removable, that is or would be classified for depreciation purposes as three-year property, five-year property, seven-year property or ten-year property, including indirect costs related to the asset basis, by Section 168 of the Internal Revenue Code of 1986, as that section may be amended or renumbered; or

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

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

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

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assert in a later assessment or audit of the seller that the receipts are not deductible pursuant to Paragraph (3) of Subsection A of this section."

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

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

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

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

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

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

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

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

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

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

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

(1) "pueblo" means the Pueblo of Acoma,

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Cochiti, Isleta, Jemez, Laguna, Nambe, Picuris, Pojoaque, Sandia, San Felipe, San Ildefonso, San Juan, Santa Ana, Santa Clara, Santo Domingo, Taos, Tesuque, Zia or Zuni or the nineteen New Mexico pueblos acting collectively;

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

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

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

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

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

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

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

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

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

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

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

(3) any other information the department may require.

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

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

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

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

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

(3) the applicant is convicted of a crime related to contraband cigarettes, stolen cigarettes or

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counterfeit stamps;

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

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

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

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

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

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

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

B. A person applying for a certificate of title for

a vehicle registered in another state is exempt from the tax if the person has previously registered and titled the vehicle in New Mexico and has owned the vehicle continuously since that time.

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

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

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

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

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

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

- (1) the person does not use the vehicle in any manner other than holding it for lease or sale or leasing or

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selling it in the ordinary course of business;

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

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

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

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

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

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

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

(1) not registered in this state under

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interstate registration;

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

(3) not subject to a valid reciprocity agreement;

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

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

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

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

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

(2) when the gross vehicle weight or combination gross vehicle weight exceeds twenty-six thousand pounds and does not exceed fifty-four thousand pounds, twelve

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cents (\$.12) a mile for mileage to be traveled on the public highways within New Mexico, measured from the point of entering the state to the point of destination or place of leaving the state;

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

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

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

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

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

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

D. Prepaid trip permits established pursuant to

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

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

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

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

B. The department may suspend or decline to renew a weight distance tax identification permit for a motor vehicle if the owner or operator of the vehicle does not comply with the provisions of the Weight Distance Tax Act or if the owner or operator is a delinquent taxpayer as provided in Section 7-1-16 NMSA 1978 only with respect to the weight distance tax

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or the gross receipts tax or if there are unfiled tax returns due with respect to the weight distance tax or the gross receipts tax.

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

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

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

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

B. For a taxpayer that is an insurer lawfully organized pursuant to the laws of the Republic of Mexico, the

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premium tax shall apply solely to the taxpayer's gross premium receipts from insurance policies issued by the taxpayer in New Mexico that cover residents of New Mexico or property or risks principally domiciled or located in New Mexico.

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

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

E. In addition to the premium tax, except as

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provided in Subsection F of this section, a health insurance premium surtax is imposed at a rate of three and seventy-five hundredths percent of the gross health insurance premiums and membership and policy fees received by the taxpayer on hospital and medical expense incurred insurance or contracts; nonprofit health care plan contracts, excluding dental or vision only contracts; and health maintenance organization subscriber contracts covering health risks within this state during the preceding calendar year. The surtax shall not apply to return health insurance premiums, dividends paid or credited to policyholders or contract holders and health insurance premiums received for reinsurance on New Mexico risks. The surtax imposed pursuant to this subsection may be referred to as the "health insurance premium surtax".

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

G. A tax is imposed at a rate of nine-tenths

percent on the net premiums, as defined in the Group Self-Insurance Act, received or written by a self-insured group within the state during the preceding calendar year. The tax imposed pursuant to this subsection may be referred to as the "self-insured group tax".

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

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

SECTION 23. Section 7-42-4 NMSA 1978 (being Laws 2021 (1st S.S.), Chapter 4, Section 46) is amended to read:

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INSTRUCTIONS.--

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

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

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

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

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

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

(5) if Paragraphs (1) through (4) of this

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subsection do not apply, including a circumstance in which the cannabis retailer is without sufficient information to apply those standards, the location from which the cannabis product is shipped or transmitted."

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

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

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

- (1) commercial cannabis activity and licensing related to commercial cannabis activity;
- (2) the medical cannabis program, except for the medical cannabis registry; and
- (3) all aspects of cannabis relating to cannabis training and education programs.

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

- (1) cannabis consumption areas;
- (2) cannabis couriers;
- (3) cannabis manufacturers;
- (4) cannabis producer microbusinesses;
- (5) cannabis producers;

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- (6) cannabis research laboratories;
- (7) cannabis retailers;
- (8) cannabis servers;
- (9) cannabis testing laboratories;
- (10) cannabis training and education programs;
- (11) integrated cannabis microbusinesses; and
- (12) vertically integrated cannabis

establishments.

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

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

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

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

certain date:

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

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

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

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

I. Except as otherwise provided in the Cannabis

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

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

K. A person properly licensed and in good standing pursuant to the Lynn and Erin Compassionate Use Act on the effective date of the Cannabis Regulation Act may continue to operate under that license for medical cannabis until comparable licenses for commercial cannabis activity are available. The division shall determine when retail sales of commercial cannabis products begin, but no later than April 1,

2022. A facility of such a licensee, upon issuance of the applicable cannabis establishment license, shall constitute licensed premises of the licensee and the licensee shall be entitled to continued and uninterrupted operations of the licensed premises. As to activity under the medical cannabis program, the licensee shall continue to operate under rules promulgated for the medical cannabis program until the division promulgates rules for medical cannabis activity, except that a qualified patient, a primary caregiver and a reciprocal participant shall not be prohibited from purchasing and obtaining cannabis products pursuant to the medical cannabis program.

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

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

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

(3) after having first exhausted measures to increase production of cannabis plants to address the shortage of cannabis supply in the medical cannabis program, exclude

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commercial cannabis activity from the scope of new licenses issued to initial applicants for a vertically integrated cannabis establishment, cannabis producer, integrated cannabis microbusiness, cannabis producer microbusiness or cannabis manufacturer license, which limitation shall be in force for a period of at least six months; and

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

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

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

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

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

(2) the average number of cannabis plants in

production as of the effective date of the Cannabis Regulation Act is measured over a period of three consecutive months immediately preceding the effective date of the Cannabis Regulation Act.

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

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

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

A. Each insured who in this state procures or continues or renews insurance with a nonadmitted insurer on a risk located or to be performed in whole or in part in this state, other than insurance procured through a surplus lines licensee pursuant to Chapter 59A, Article 14 NMSA 1978 shall ~~[within ninety days after the date such insurance was so procured, continued or renewed, file a written report of the same with the superintendent, upon forms prescribed by the superintendent, showing the name and address of the insured or insureds, name and address of the insurer, the subject of the insurance, a general description of the coverage, the amount of premium currently charged therefor and such additional~~

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~~pertinent information as is reasonably requested by the superintendent]~~ file returns pursuant to the Insurance Premium Tax Act.

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

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

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

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

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

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

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

(2) meets the education, experience and

examination requirements of the board.

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

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

D. The examination for certification shall be offered continuously via a computer-based testing system at a designated testing center and shall test an applicant's knowledge of the subjects of accounting and auditing and other related subjects as prescribed by the board. The board shall prescribe the method of applying for the examination and the dissemination of scores, and it shall rely on the American institute of certified public accountants for the grading of the examination. The board may use all or any part of the uniform certified public accountant examination services of the national association of state boards of accountancy to perform administrative services with respect to the examination. The board or its designee shall report all eligibility and score

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data to the national candidate database, and it shall, to the extent possible, provide that the passing scores are uniform with passing scores of other states.

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

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

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

H. An applicant for initial issuance of a certified

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

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

SECTION 28. REPEAL.--Sections 7-2-18.4, 7-2-18.5, 7-2-18.8, 7-2-18.21, 7-2-18.25, 7-2-18.27, 7-2-18.28, 7-2A-8.8, 7-2A-15, 7-2A-18, 7-2A-23, 7-2A-25, 7-2A-27, 7-2D-8.1, 7-9-16, 7-9-86, 7-9-105, 7-9-106, 7-9-114, 7-9G-2 and 7-14A-9 NMSA 1978 (being Laws 1994, Chapter 115, Section 1; Laws 1998, Chapter 97, Section 2; Laws 2001, Chapter 73, Section 1; Laws 2007, Chapter 204, Section 7; Laws 2009, Chapter 279, Section 1; Laws 2011, Chapter 89, Section 1; Laws 2012, Chapter 55, Section 1; Laws 1998, Chapter 97, Section 3; Laws 1994, Chapter 115, Section 2; Laws 2001, Chapter 73, Section 2; Laws 2007, Chapter 204, Section 8; Laws 2009, Chapter 279, Section 2; Laws 2012, Chapter 55, Section 2; Laws 1995, Chapter 89, Section 8; Laws 1969, Chapter 144, Section 9; Laws 1995, Chapter 80, Section 1; Laws 2007, Chapter 45, Section 6; Laws 2018, Chapter 62, Section 1; Laws 2010, Chapter 77, Section 1 and Laws 2010,

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Chapter 78, Section 1; Laws 2007, Chapter 229, Section 1; and Laws 1991, Chapter 197, Section 13, as amended) are repealed.

SECTION 29. EFFECTIVE DATE.--

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

B. The effective date of the provisions of Section 13 of this act is the first day of the month following the date this act takes effect.

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

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