

1 AN ACT

2 RELATING TO TAXATION; PROVIDING FOR A TAX EXPENDITURE BUDGET;
3 PROVIDING FOR DESTINATION-BASED SOURCING FOR THE CANNABIS
4 EXCISE TAX; REQUIRING THE TAXATION AND REVENUE DEPARTMENT TO
5 MAKE PUBLICLY AVAILABLE CERTAIN REPORTS ON SPECIAL FUEL FOR
6 WHICH THE SPECIAL FUELS EXCISE TAX IS IMPOSED; CLARIFYING
7 REPORTING LOCATION INSTRUCTIONS FOR CERTAIN PROPERTY;
8 PROVIDING THAT CERTAIN LICENSES SHALL NOT BE ISSUED OR
9 RENEWED IF THE LICENSEE IS A DELINQUENT TAXPAYER FOR CERTAIN
10 TAXES; AMENDING CERTAIN PROVISIONS FOR A CLAIM FOR REFUND;
11 AMENDING DEFINITIONS IN THE CORPORATE INCOME AND FRANCHISE
12 TAX ACT AND THE GROSS RECEIPTS AND COMPENSATING TAX ACT;
13 INCLUDING THE USE OF SERVICES BY GOVERNMENTAL AGENCIES IN A
14 COMPENSATING TAX DEDUCTION; INCLUDING PAYMENTS FROM THE
15 FEDERAL AMERICAN RESCUE PLAN ACT OF 2021 IN A GROSS RECEIPTS
16 TAX EXEMPTION FOR CERTAIN HEALTH CARE PROVIDERS; INCLUDING
17 THE SALE TO GOVERNMENTAL AGENCIES OF LICENSES TO USE CERTAIN
18 DIGITAL GOODS IN CERTAIN GROSS RECEIPTS TAX AND GOVERNMENTAL
19 GROSS RECEIPTS TAX DEDUCTIONS; REMOVING A REQUIREMENT THAT A
20 GROSS RECEIPTS OR SIMILAR TAX LEVIED BY A TRIBE BE AT A RATE
21 NOT GREATER THAN THE TOTAL OF THE GROSS RECEIPTS AND LOCAL
22 OPTION GROSS RECEIPTS TAXES; DELETING AN EXPIRED EXEMPTION
23 FROM THE MOTOR VEHICLE EXCISE TAX; CLARIFYING THE IMPOSITION
24 OF THE TRIP TAX; CLARIFYING WHEN THE PREMIUM TAX IS IMPOSED
25 ON CERTAIN TAXPAYERS AND WHEN CERTAIN CREDITS WILL BE

1 APPLIED; ADJUSTING THE LENGTH OF TIME AN APPLICANT FOR A
2 CERTIFICATE AS A CERTIFIED PUBLIC ACCOUNTANT HAS TO PASS ALL
3 PARTS OF THE CERTIFICATION EXAMINATION; RECONCILING
4 CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW BY
5 REPEALING LAWS 2021, CHAPTER 65, SECTION 13; AMENDING,
6 REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; DECLARING
7 AN EMERGENCY.

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

12 "TAX EXPENDITURE BUDGET.--

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

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

- 21 (1) the statutory basis;
22 (2) the year of enactment, amendment or
23 repeal, if any;
24 (3) a brief description;
25 (4) the intended purpose, if specified in

1 the law providing for the tax expenditure;

2 (5) an estimate of the amount of foregone
3 revenue by fiscal year for the three fiscal years preceding
4 the current fiscal year, including the general fund, other
5 state funds and local government revenues;

6 (6) the number of taxpayers that claimed a
7 tax expenditure for each fiscal year reported, unless
8 reporting of such data is in a form that can be associated
9 with or otherwise identify, directly or indirectly, a
10 particular taxpayer;

11 (7) the data source used for the estimate;

12 (8) a description of the reliability of the
13 estimate;

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

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

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

24 D. As used in this section, "tax expenditure"
25 means a provision of law administered by the department to

1 reflect state tax policy, as determined by the secretary,
2 including promoting the general welfare of citizens, giving
3 preferential tax treatment to a specific industry or
4 reflecting a specific purpose, including incentivizing
5 consumer behavior, economic development or job creation. A
6 tax expenditure does not include provisions of laws enacted
7 to prevent violation of state or federal law, prevent federal
8 preemption, ensure comity between governments, avoid multiple
9 taxation or define a tax base."

10 SECTION 2. Section 7-1-6.68 NMSA 1978 (being Laws 2021
11 (1st S.S.), Chapter 4, Section 50) is amended to read:

12 "7-1-6.68. DISTRIBUTION--CANNABIS EXCISE TAX--
13 MUNICIPALITIES AND COUNTIES.--

14 A. A distribution pursuant to Section 7-1-6.1
15 NMSA 1978 shall be made to each municipality, subject to any
16 increase or decrease made pursuant to Section 7-1-6.15
17 NMSA 1978, in an amount equal to thirty-three and thirty-
18 three hundredths percent of the net receipts attributable to
19 the cannabis excise tax from business locations within the
20 municipality as reported pursuant to Section 7-42-4 NMSA
21 1978.

22 B. A distribution pursuant to Section 7-1-6.1
23 NMSA 1978 shall be made to each county in an amount equal to
24 thirty-three and thirty-three hundredths percent of the net
25 receipts attributable to the cannabis excise tax from

1 business locations within the county area of the county as
2 reported pursuant to Section 7-42-4 NMSA 1978.

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

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

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

12 "7-1-8.2. INFORMATION REQUIRED TO BE REVEALED.--

13 A. The department shall:

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

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

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

24 (a) Section 7-1-28 or Section 7-1-29
25 NMSA 1978, the taxpayer name, abatement, refund or credit

1 amount, tax program or business tax credit and the date the
2 abatement, refund or credit was issued; and

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

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

14 B. Nothing in this section shall be construed to
15 require the release of information that would violate an
16 agreement between the state and the federal internal revenue
17 service for sharing of information or any provision or rule
18 of the federal Internal Revenue Code to which a state is
19 subject."

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

22 "7-1-14. REPORTING LOCATION INSTRUCTIONS FOR PURPOSES
23 OF REPORTING GROSS RECEIPTS AND USE--LOCATION-CODE DATABASE
24 AND LOCATION-RATE DATABASE.--

25 A. For purposes of the Gross Receipts and

1 Compensating Tax Act, Interstate Telecommunications Gross
2 Receipts Tax Act, Leased Vehicle Gross Receipts Tax Act and
3 any act authorizing the imposition of a local option gross
4 receipts or compensating tax, a taxpayer that has gross
5 receipts and a taxpayer using property or services in
6 New Mexico in a taxable manner shall report the gross
7 receipts and use to the proper reporting location as provided
8 in this section.

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

13 C. The reporting location for gross receipts from
14 the sale or license of property, other than real property,
15 and any related deductions, shall be at the following
16 locations:

17 (1) if the property is received by the
18 purchaser at the New Mexico location of the seller, the
19 location of the seller;

20 (2) if the property is not received by the
21 purchaser at the location of the seller, the location
22 indicated by instructions for delivery to the purchaser, or
23 the purchaser's donee, when known to the seller;

24 (3) if Paragraphs (1) and (2) of this
25 subsection do not apply, the location indicated by an address

1 for the purchaser available from the business records of the
2 seller that are maintained in the ordinary course of
3 business; provided that use of the address does not
4 constitute bad faith;

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

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

16 D. The reporting location for gross receipts from
17 the lease of tangible personal property, including vehicles,
18 other transportation equipment and other mobile tangible
19 personal property, and any related deductions, shall be the
20 location of primary use of the property, as indicated by the
21 address for the property provided by the lessee that is
22 available to the lessor from the lessor's records maintained
23 in the ordinary course of business; provided that use of this
24 address does not constitute bad faith. The location of
25 primary use shall not be altered by intermittent use at

1 different locations, such as use of business property that
2 accompanies employees on business trips and service calls.

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

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

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

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

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

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

24 (5) for services other than those described
25 in Paragraphs (1) through (4) of this subsection, the

1 location where the product of the service is delivered.

2 G. Except as provided in Subsection H of this
3 section, the reporting location for uses of property or
4 services subject to the compensating tax shall be the
5 location at which gross receipts would have been required to
6 be reported had the transaction been subject to the gross
7 receipts tax.

8 H. If a taxpayer subject to the compensating tax
9 can demonstrate that the first use upon which compensating
10 tax is imposed occurred at a time and place different from
11 the time and place of the purchase, then the reporting
12 location for the compensating tax shall be the location of
13 the first use.

14 I. The secretary shall develop a location-code
15 database that provides the reporting location codes
16 designated by the secretary. The secretary shall also
17 develop and provide to taxpayers a location-rate database
18 that sets out the tax rates applicable to reporting locations
19 within the state, by address, and sellers who properly rely
20 on this database shall not be liable for any additional tax
21 due to the use of an incorrect rate.

22 J. As used in this section:

23 (1) "gross receipts" means, as applicable,
24 "gross receipts" as used in the Gross Receipts and
25 Compensating Tax Act and the Leased Vehicle Gross Receipts

1 Tax Act and "interstate telecommunications gross receipts" in
2 the Interstate Telecommunications Gross Receipts Tax Act;

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

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

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

15 "7-1-26. DISPUTING LIABILITIES--CLAIM FOR CREDIT,
16 REBATE OR REFUND.--

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

1 provided in Subsection K of this section, includes:

2 (1) the taxpayer's name, address and
3 identification number;

4 (2) the type of tax for which a refund is
5 being claimed, the credit or rebate denied or the property
6 levied upon;

7 (3) the sum of money or other property being
8 claimed;

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

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

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

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

25 C. If the department requests additional relevant

1 documentation from a taxpayer who has submitted a claim for
2 refund, the claim for refund shall not be considered
3 incomplete provided the taxpayer submits sufficient
4 information for the department to make a determination.

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

7 If the:

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

14 (2) department has neither granted nor
15 denied any portion of a complete claim for refund within one
16 hundred eighty days after the claim was mailed or otherwise
17 delivered to the department, the person may elect to treat
18 the claim as denied and elect to pursue only one of the
19 remedies provided in Subsection E of this section.

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

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

1 that sets forth:

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

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

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

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

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

25 F. Except as otherwise provided in Subsection G of

1 this section, a credit or refund of any amount of overpaid
2 tax, penalty or interest may be allowed or made to a person
3 if a claim is properly filed:

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

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

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

12 (c) in the case of tax with respect to
13 which a net-negative federal adjustment, as that term is used
14 in Section 7-1-13 NMSA 1978, relates, the final determination
15 date of that federal adjustment, as provided in Section
16 7-1-13 NMSA 1978;

17 (d) the final determination of value
18 occurs with respect to any overpayment that resulted from a
19 disapproval by any agency of the United States or the state
20 of New Mexico or any court of increase in value of a product
21 subject to taxation pursuant to the Oil and Gas Severance Tax
22 Act, the Oil and Gas Conservation Tax Act, the Oil and Gas
23 Emergency School Tax Act, the Oil and Gas Ad Valorem
24 Production Tax Act or the Natural Gas Processors Tax Act; or

25 (e) in the case of a claim related to

1 property taken by levy, the date the property was levied upon
2 as provided in the Tax Administration Act;

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

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

20 (4) in the case of a payment of an amount of
21 tax not made within three years of the end of the calendar
22 year in which the original due date of the tax or date of the
23 assessment of the department occurred, only for a claim for
24 refund of that amount of tax and only within one year of the
25 date on which the tax was paid; or

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

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

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

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

4 I. A refund of tax paid under any tax or tax act
5 administered pursuant to Subsection B of Section 7-1-2 NMSA
6 1978 may be made, at the discretion of the department, in the
7 form of credit against future tax payments if future tax
8 liabilities in an amount at least equal to the credit amount
9 reasonably may be expected to become due.

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

18 K. The filing of a fully completed original income
19 tax return, corporate income tax return, corporate income and
20 franchise tax return, estate tax return, special fuel excise
21 tax return or annual insurance premium tax return that shows
22 a balance due the taxpayer or a fully completed amended
23 income tax return, an amended corporate income tax return, an
24 amended corporate income and franchise tax return, an amended
25 estate tax return, an amended special fuel excise tax return,

1 an amended oil and gas tax return or an amended insurance
2 premium tax return that shows a lesser tax liability than the
3 original return constitutes the filing of a claim for refund
4 for the difference in tax due shown on the original and
5 amended returns.

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

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

13 "7-1-82. TRANSFER, ASSIGNMENT, SALE, LEASE OR RENEWAL
14 OF LIQUOR LICENSE.--

15 A. The director of the alcoholic beverage control
16 division of the regulation and licensing department shall not
17 allow the transfer, assignment, lease or sale of any liquor
18 license pursuant to the provisions of the Liquor Control Act
19 until the director receives written notification from the
20 secretary or secretary's delegate that:

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

25 (2) the transferee, assignee, buyer or

1 lessee has entered into a written agreement with the
2 secretary or secretary's delegate in which the transferee,
3 assignee, buyer or lessee has assumed full liability for
4 payment of all taxes due or that may become due from the
5 licensee with respect to the liquor excise tax or the gross
6 receipts tax.

7 B. The director of the alcoholic beverage control
8 division of the regulation and licensing department shall not
9 allow the renewal of any liquor license pursuant to the
10 provisions of the Liquor Control Act until the director
11 receives notification from the secretary or secretary's
12 delegate that on a certain date:

13 (1) the licensee is not a delinquent
14 taxpayer as provided in Section 7-1-16 NMSA 1978 only with
15 respect to the liquor excise tax or the gross receipts tax;
16 and

17 (2) there are no unfiled tax returns due
18 from the licensee with respect to the liquor excise tax or
19 the gross receipts tax."

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

22 "7-2-5.5. EXEMPTION--EARNINGS BY INDIANS, THEIR INDIAN
23 SPOUSES AND INDIAN DEPENDENTS ON INDIAN LANDS.--Income earned
24 by a member of a New Mexico federally recognized Indian
25 nation, tribe, band or pueblo, the member's spouse or

1 dependent, who is a member of a New Mexico federally
2 recognized Indian nation, tribe, band or pueblo, is exempt
3 from state income tax if the income is earned from work
4 performed within and the member, spouse or dependent is
5 domiciled within the boundaries of the Indian member's or the
6 spouse's reservation or pueblo grant or within the boundaries
7 of land defined as "Indian country" pursuant to 18 U.S.C.
8 Section 1151, as that section may be amended or renumbered,
9 for that nation, tribe, band or pueblo."

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

12 "7-2A-2. DEFINITIONS.--For the purpose of the Corporate
13 Income and Franchise Tax Act and unless the context requires
14 otherwise:

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

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

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

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

7 (1) adding to that income:

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

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

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

18 (d) for taxable years beginning on or
19 after January 1, 2023, an amount equal to the amount of
20 credit claimed and allowed for that year pursuant to Section
21 7-3A-10 NMSA 1978 with respect to the distributed net income
22 of a pass-through entity;

23 (2) subtracting from that income:

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

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

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

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

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

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

24 D. "captive real estate investment trust" means a
25 corporation, trust or association taxed as a real estate

1 investment trust pursuant to Section 857 of the Internal
2 Revenue Code, the shares or beneficial interests of which are
3 not regularly traded on an established securities market;
4 provided that more than fifty percent of any class of
5 beneficial interests or shares of the real estate investment
6 trust are owned directly, indirectly or constructively by the
7 taxpayer during all or a part of the taxpayer's taxable year;

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

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

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

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

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

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

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

4 G. "corporation" means corporations, joint stock
5 companies, real estate trusts organized and operated under
6 the Real Estate Trust Act, financial corporations and banks,
7 other business associations and, for corporate income tax
8 purposes, partnerships and limited liability companies taxed
9 as corporations under the Internal Revenue Code;

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

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

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

20 K. "grandfathered net operating loss carryover"
21 means:

22 (1) the amount of net loss properly reported
23 to New Mexico for taxable years beginning January 1, 2013 and
24 prior to January 1, 2020 as part of a timely filed original
25 return, or an amended return for those taxable years filed

1 prior to January 1, 2020, to the extent such loss can be
2 attributed to one or more corporations that are properly
3 included in the taxpayer's return for the first taxable year
4 beginning on or after January 1, 2020;

5 (2) reduced by:

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

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

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

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

22 M. "net income" means:

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

25 (2) the combined base income and losses of

1 corporations that are part of a filing group that is computed
2 after eliminating intercompany income and expense in a manner
3 consistent with the consolidated filing requirements of the
4 Internal Revenue Code and the Corporate Income and Franchise
5 Tax Act;

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

10 (1) plus:

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

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

21 (2) minus:

22 (a) the amount of the net operating
23 loss carryover attributed to an entity that has left the
24 filing group, computed in a manner consistent with the
25 consolidated filing requirements of the Internal Revenue Code

1 and applicable regulations, as if the taxpayer were filing a
2 consolidated return; and

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

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

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

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

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

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

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

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

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

21 W. "state or local bond" means a bond issued by a
22 state other than New Mexico or by a local government other
23 than one of New Mexico's political subdivisions, the interest
24 from which is excluded from income for federal income tax
25 purposes under Section 103 of the Internal Revenue Code, as

1 that section may be amended or renumbered;

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

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

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

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

23 (1) related through common ownership; and

24 (2) economically interdependent with one

25 another as demonstrated by the following factors:

- 1 (a) centralized management;
- 2 (b) functional integration; and
- 3 (c) economies of scale;

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

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

9 (2) corporations wherever organized or
10 incorporated that have less than twenty percent of their
11 property, payroll and sales sourced to locations within the
12 United States, following the sourcing rules of the Uniform
13 Division of Income for Tax Purposes Act; and

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

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

21 "7-9-3. DEFINITIONS.--As used in the Gross Receipts and
22 Compensating Tax Act:

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

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

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

9 D. "disclosed agency" means a person receiving
10 money from a third party on behalf of another if the person
11 receiving the money, or the person on whose behalf the money
12 is received, disclosed the relationship to the third party
13 from whom the person receives money, or if the third party
14 otherwise has actual knowledge that the person to whom the
15 money is paid receives the money on behalf of another;

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

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

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

25 (2) participation in progress reviews,

1 briefings, consultations and conferences conducted by the
2 performer of services;

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

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

7 (5) similar activities;

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

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

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

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

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

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

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

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

23 (2) either directly or indirectly, through
24 agreements or arrangements with third parties collecting
25 payment from the customer and transmitting that payment to

1 the seller, regardless of whether the marketplace provider
2 receives compensation or other consideration in exchange for
3 the marketplace provider's services;

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

8 O. "person" means:

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

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

19 P. "property" means:

20 (1) real property;

21 (2) tangible personal property, including
22 electricity and manufactured homes;

23 (3) licenses, including licenses of digital
24 goods, but not including the licenses of copyrights,
25 trademarks or patents; and

1 (4) franchises;

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

5 (1) advancing basic knowledge in a
6 recognized field of natural science;

7 (2) advancing technology in a field of
8 technical endeavor;

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

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

19 (5) developing analytical or survey
20 activities incorporating technology review, application,
21 trade-off study, modeling, simulation, conceptual design or
22 similar activities, whether or not offered for sale, lease or
23 other transfer; or

24 (6) designing and developing prototypes or
25 integrating systems incorporating the advances, developments

1 or improvements included in Paragraphs (1) through (5) of
2 this subsection;

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

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

23 T. "use" or "using" includes use, consumption or
24 storage other than storage for subsequent sale in the
25 ordinary course of business or for use solely outside this

1 state."

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

4 "7-9-3.5. DEFINITION--GROSS RECEIPTS.--

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

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

18 (2) "gross receipts" includes:

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

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

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

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

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

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

1 Sourcing Act; and

2 (g) receipts collected by a marketplace
3 provider engaging in business in the state from sales, leases
4 and licenses of tangible personal property, sales of licenses
5 and sales of services or licenses for use of real property
6 that are sourced to this state and are facilitated by the
7 marketplace provider on behalf of marketplace sellers,
8 regardless of whether the marketplace sellers are engaging in
9 business in the state; and

10 (3) "gross receipts" excludes:

11 (a) cash discounts allowed and taken;

12 (b) New Mexico gross receipts tax,
13 governmental gross receipts tax, leased vehicle gross
14 receipts tax, and cannabis excise tax payable on transactions
15 for the reporting period;

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

19 (d) any gross receipts or sales taxes
20 imposed by an Indian nation, tribe or pueblo; provided that
21 the tax is approved, if approval is required by federal law
22 or regulation, by the secretary of the interior of the United
23 States; and provided further that the gross receipts or sales
24 tax imposed by the Indian nation, tribe or pueblo provides a
25 reciprocal exclusion for gross receipts, sales or gross

1 receipts-based excise taxes imposed by the state or its
2 political subdivisions;

3 (e) any type of time-price
4 differential;

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

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

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

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

25 "7-9-14. EXEMPTION--COMPENSATING TAX--GOVERNMENTAL

1 AGENCIES--INDIANS.--

2 A. Except as otherwise provided in this
3 subsection, there is exempted from the compensating tax the
4 use of property and services by the United States or the
5 state of New Mexico or any governmental unit or subdivision,
6 agency, department or instrumentality thereof. The exemption
7 provided by this subsection does not apply to:

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

11 (2) the use of construction material.

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

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

19 "7-9-26. EXEMPTION--GROSS RECEIPTS AND COMPENSATING
20 TAX--FUEL.--Exempted from the gross receipts and compensating
21 tax are the receipts from selling and the use of gasoline,
22 special fuel or alternative fuel on which the tax imposed by
23 Section 7-13-3, 7-16A-3 or 7-16B-4 NMSA 1978 has been paid
24 and not refunded."

25 SECTION 13. Section 7-9-41.6 NMSA 1978 (being Laws 2020

1 (1st S.S.), Chapter 4, Section 3) is amended to read:

2 "7-9-41.6. EXEMPTION--GROSS RECEIPTS--CERTAIN HEALTH
3 CARE PROVIDERS FROM CERTAIN FEDERAL PAYMENTS.--Exempted from
4 the gross receipts tax are receipts of health care providers,
5 other than hospitals licensed by the department of health,
6 from payments by:

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

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

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

21 "7-9-46. DEDUCTION--GROSS RECEIPTS--GOVERNMENTAL GROSS
22 RECEIPTS--SALES TO MANUFACTURERS AND MANUFACTURING SERVICE
23 PROVIDERS.--

24 A. Receipts from selling tangible personal
25 property may be deducted from gross receipts or from

1 governmental gross receipts if the sale is made to a person
2 engaged in the business of manufacturing who delivers a
3 nontaxable transaction certificate to the seller or provides
4 alternative evidence pursuant to Section 7-9-43 NMSA 1978.
5 The buyer must incorporate the tangible personal property as
6 an ingredient or component part of the product that the buyer
7 is in the business of manufacturing.

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

18 C. Receipts from selling or leasing qualified
19 equipment may be deducted from gross receipts if the sale is
20 made to, or the lease is entered into with, a person engaged
21 in the business of manufacturing or a manufacturing service
22 provider who delivers a nontaxable transaction certificate to
23 the seller or provides alternative evidence pursuant to
24 Section 7-9-43 NMSA 1978; provided that a manufacturer or
25 manufacturing service provider delivering a nontaxable

1 transaction certificate or alternative evidence with respect
2 to the qualified equipment shall not claim an investment
3 credit pursuant to the Investment Credit Act for that same
4 equipment.

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

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

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

25 G. As used in this section:

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

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

13 (3) "qualified equipment" means machinery,
14 equipment and tools, including component, repair, replacement
15 and spare parts thereof, that are used directly in the
16 manufacturing process of a manufacturing operation.

17 "Qualified equipment" includes computer hardware and software
18 used directly in the manufacturing process of a manufacturing
19 operation but excludes any motor vehicle that is required to
20 be registered in this state pursuant to the Motor Vehicle
21 Code."

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

24 "7-9-54. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL
25 GROSS RECEIPTS TAX--SALES TO GOVERNMENTAL AGENCIES.--

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

9 (1) receipts from selling metalliferous
10 mineral ore;

11 (2) receipts from selling tangible personal
12 property that is or will be incorporated into a metropolitan
13 redevelopment project created under the Metropolitan
14 Redevelopment Code;

15 (3) receipts from selling construction
16 material, excluding tangible personal property, whether
17 removable or non-removable, that is or would be classified
18 for depreciation purposes as three-year property, five-year
19 property, seven-year property or ten-year property, including
20 indirect costs related to the asset basis, by Section 168 of
21 the Internal Revenue Code of 1986, as that section may be
22 amended or renumbered; or

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

1 service.

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

10 C. When a seller, in good faith, deducts receipts
11 for tangible personal property or licenses to use digital
12 goods for the purpose of loaning those digital goods to the
13 public sold to the state or a governmental unit, subdivision,
14 agency, department or instrumentality thereof, after
15 receiving written assurances from the buyer's representative
16 that the property sold is not construction material, the
17 department shall not assert in a later assessment or audit of
18 the seller that the receipts are not deductible pursuant to
19 Paragraph (3) of Subsection A of this section."

20 SECTION 16. Section 7-9-88.1 NMSA 1978 (being Laws
21 1999, Chapter 223, Section 2, as amended) is amended to read:

22 "7-9-88.1. CREDIT--GROSS RECEIPTS TAX--TAX PAID TO
23 CERTAIN TRIBES.--

24 A. If on a taxable transaction taking place on
25 tribal land a qualifying gross receipts, sales or similar tax

1 has been levied by the tribe, the amount of the tribe's tax
2 may be credited against gross receipts tax due this state or
3 its political subdivisions pursuant to the Gross Receipts and
4 Compensating Tax Act and a local option gross receipts tax on
5 the same transaction. The amount of the credit shall be
6 equal to the lesser of seventy-five percent of the tax
7 imposed by the tribe on the receipts from the transaction or
8 seventy-five percent of the revenue produced by the sum of
9 the rate of tax imposed pursuant to the Gross Receipts and
10 Compensating Tax Act and the total of the rates of local
11 option gross receipts taxes imposed on the receipts from the
12 same transaction. Notwithstanding any other provision of law
13 to the contrary, the amount of credit taken and allowed shall
14 be applied proportionately against the amount of the gross
15 receipts tax and local option gross receipts taxes and
16 against the amount of distribution of those taxes pursuant to
17 Section 7-1-6.1 NMSA 1978.

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

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

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

25 (3) provides a credit against the tribe's

1 tax equal to the lesser of twenty-five percent of the tax
2 imposed by the tribe on the receipts from the transactions or
3 twenty-five percent of the tax revenue produced by the sum of
4 the rate of tax imposed pursuant to the Gross Receipts and
5 Compensating Tax Act and the total of the rates of the local
6 option gross receipts taxes imposed on the receipts from the
7 same transactions; and

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

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

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

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

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

25 SECTION 17. Section 7-12-9.1 NMSA 1978 (being Laws

1 2006, Chapter 91, Section 7, as amended) is amended to read:

2 "7-12-9.1. LICENSING--GENERAL LICENSING PROVISIONS.--

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

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

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

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

14 (1) the name and address of the applicant
15 and:

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

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

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

24 (3) any other information the department may
25 require.

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

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

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

8 (1) the applicant is a delinquent taxpayer
9 pursuant to Section 7-1-16 NMSA 1978 only with respect to the
10 cigarette tax or the gross receipts tax or has unfiled tax
11 returns due with respect to the cigarette tax or the gross
12 receipts tax;

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

16 (3) the applicant is convicted of a crime
17 related to contraband cigarettes, stolen cigarettes or
18 counterfeit stamps;

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

24 (5) the applicant is a manufacturer and
25 imports cigarettes into the United States that are in

1 violation of 19 U.S.C. 1681a or manufactures cigarettes that
2 do not comply with the Federal Cigarette Labeling and
3 Advertising Act.

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

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

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

17 "7-14-6. EXEMPTIONS FROM TAX.--

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

22 B. A person applying for a certificate of title
23 for a vehicle registered in another state is exempt from the
24 tax if the person has previously registered and titled the
25 vehicle in New Mexico and has owned the vehicle continuously

1 since that time.

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

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

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

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

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

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

- 23 (1) the person does not use the vehicle in
24 any manner other than holding it for lease or sale or leasing
25 or selling it in the ordinary course of business;

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

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

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

7 SECTION 19. Section 7-15-3.1 NMSA 1978 (being Laws
8 1943, Chapter 125, Section 12, as amended) is amended to
9 read:

10 "7-15-3.1. TRIP TAX--COMPUTATION.--

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

20 (1) not registered in this state under
21 interstate registration;

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

24 (3) not subject to a valid reciprocity
25 agreement;

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

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

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

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

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

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

25 (3) when the gross vehicle weight or

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

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

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

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

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

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

23 D. Prepaid trip permits established pursuant to
24 Subsection C of this section shall be sold in increments of
25 no less than fifty dollars (\$50.00). Any portion not used

1 prior to one year from the date of issuance shall not be
2 refundable. Prepaid trip permits shall not be transferable
3 between a registrant, owner or operator and another
4 registrant, owner or operator. Charges against the prepaid
5 trip permit shall be based on the computations specified in
6 Subsection B of this section."

7 SECTION 20. Section 7-15A-12 NMSA 1978 (being Laws 2003
8 (1st S.S.), Chapter 3, Section 6, as amended) is amended to
9 read:

10 "7-15A-12. WEIGHT DISTANCE TAX IDENTIFICATION
11 PERMITS--SUSPENSION AND RENEWAL.--

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

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

1 tax or the gross receipts tax.

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

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

10 "7-40-3. IMPOSITION AND RATE OF TAX--DENOMINATION OF
11 "PREMIUM TAX", "HEALTH INSURANCE PREMIUM SURTAX" AND "SELF-
12 INSURED GROUP TAX".--

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

1 B. For a taxpayer that is an insurer lawfully
2 organized pursuant to the laws of the Republic of Mexico, the
3 premium tax shall apply solely to the taxpayer's gross
4 premium receipts from insurance policies issued by the
5 taxpayer in New Mexico that cover residents of New Mexico or
6 property or risks principally domiciled or located in
7 New Mexico.

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

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

1 New Mexico and where only a portion of the risk is located in
2 New Mexico, the entire premium tax shall be paid in
3 accordance with this section.

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

19 F. If an act of the United States congress is
20 signed into law that imposes the annual fee on health
21 insurance providers pursuant to Section 9010 of the federal
22 Patient Protection and Affordable Care Act, or that imposes a
23 substantially similar fee on the same class of taxpayers, the
24 rate of the health insurance premium surtax shall be
25 decreased at a rate equal to the rate of the annual fee

1 imposed; provided that the rate of the health insurance
2 premium surtax shall not be less than one percent. A
3 reduction in the health insurance premium surtax pursuant to
4 this subsection shall go into effect on the later of the
5 effective date of the imposition of the federal annual fee or
6 ninety days after the congressional act imposing the federal
7 annual fee is signed into law.

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

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

16 "7-40-6. CREDIT--MEDICAL INSURANCE POOL ASSESSMENTS.--
17 The assessment for any New Mexico medical insurance pool
18 member pursuant to Section 59A-54-10 NMSA 1978 shall be
19 allowed as a fifty percent credit on the tax return for that
20 member and a seventy-five percent credit on the tax return
21 for that member for the assessments attributable to pool
22 policyholders that receive premiums, in whole or in part,
23 through the federal Ryan White Comprehensive AIDS Resources
24 Emergency Act of 1990, the Ted R. Montoya hemophilia program
25 at the university of New Mexico health sciences center, the

1 children's medical services bureau of the public health
2 division of the department of health or other program
3 receiving state funding or assistance. That portion of
4 credit that exceeds a member's premium tax liability in the
5 taxable period in which the credit is claimed shall not be
6 refunded and shall not be carried forward to subsequent
7 taxable periods."

8 SECTION 23. Section 7-42-4 NMSA 1978 (being Laws 2021
9 (1st S.S.), Chapter 4, Section 46) is amended to read:

10 "7-42-4. DATE PAYMENT DUE--REPORTING LOCATION
11 INSTRUCTIONS.--

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

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

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

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

25 (3) if Paragraphs (1) and (2) of this

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

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

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

17 SECTION 24. Section 26-2C-6 NMSA 1978 (being Laws 2021
18 (1st S.S.), Chapter 4, Section 6) is amended to read:

19 "26-2C-6. LICENSING CANNABIS ACTIVITIES--LIMITATIONS--
20 MEDICAL CANNABIS LEGACY LICENSING--CANNABIS SHORTAGE FOR
21 MEDICAL PROGRAM.--

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

24 (1) commercial cannabis activity and
25 licensing related to commercial cannabis activity;

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

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

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

- 8 (1) cannabis consumption areas;
- 9 (2) cannabis couriers;
- 10 (3) cannabis manufacturers;
- 11 (4) cannabis producer microbusinesses;
- 12 (5) cannabis producers;
- 13 (6) cannabis research laboratories;
- 14 (7) cannabis retailers;
- 15 (8) cannabis servers;
- 16 (9) cannabis testing laboratories;
- 17 (10) cannabis training and education

18 programs;

- 19 (11) integrated cannabis microbusinesses;

20 and

- 21 (12) vertically integrated cannabis
- 22 establishments.

23 C. The division shall include a clear designation
24 on all licenses and permits that indicates whether the
25 license or permit is for medical cannabis activity,

1 commercial cannabis activity or both or for cannabis training
2 and education programs.

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

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

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

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

23 (2) there are no unfiled tax returns due
24 with respect to the cannabis excise tax or the gross receipts
25 tax.

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

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

18 I. Except as otherwise provided in the Cannabis
19 Regulation Act, the division shall not limit the number of
20 licensed premises a licensee may occupy or operate under a
21 license. Multiple licensees may occupy a single licensed
22 premises, and the division shall not place any restriction or
23 prohibition on the number of licensees occupying a single
24 licensed premises or on the number of licensed premises of a
25 cannabis establishment except as otherwise specifically

1 provided for by the Cannabis Regulation Act. A licensee may
2 conduct any lawful activity or any combination of lawful
3 activities at a licensed premises; provided that the licensee
4 is not a licensee pursuant to the Liquor Control Act.

5 Smoking in a cannabis consumption area on a licensed premises
6 shall be allowed only if the cannabis consumption area is in
7 a designated smoking area or in a standalone building from
8 which smoke does not infiltrate other indoor workplaces or
9 other indoor public places where smoking is otherwise
10 prohibited pursuant to the Dee Johnson Clean Indoor Air Act.

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

15 K. A person properly licensed and in good standing
16 pursuant to the Lynn and Erin Compassionate Use Act on the
17 effective date of the Cannabis Regulation Act may continue to
18 operate under that license for medical cannabis until
19 comparable licenses for commercial cannabis activity are
20 available. The division shall determine when retail sales of
21 commercial cannabis products begin, but no later than April
22 1, 2022. A facility of such a licensee, upon issuance of the
23 applicable cannabis establishment license, shall constitute
24 licensed premises of the licensee and the licensee shall be
25 entitled to continued and uninterrupted operations of the

1 licensed premises. As to activity under the medical cannabis
2 program, the licensee shall continue to operate under rules
3 promulgated for the medical cannabis program until the
4 division promulgates rules for medical cannabis activity,
5 except that a qualified patient, a primary caregiver and a
6 reciprocal participant shall not be prohibited from
7 purchasing and obtaining cannabis products pursuant to the
8 medical cannabis program.

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

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

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

20 (3) after having first exhausted measures to
21 increase production of cannabis plants to address the
22 shortage of cannabis supply in the medical cannabis program,
23 exclude commercial cannabis activity from the scope of new
24 licenses issued to initial applicants for a vertically
25 integrated cannabis establishment, cannabis producer,

1 integrated cannabis microbusiness, cannabis producer
2 microbusiness or cannabis manufacturer license, which
3 limitation shall be in force for a period of at least six
4 months; and

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

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

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

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

24 (1) the average number of cannabis plants in
25 production after the effective date of the Cannabis

1 Regulation Act is measured over a period of three consecutive
2 months; and

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

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

13 SECTION 25. Section 59A-15-4 NMSA 1978 (being Laws
14 1984, Chapter 127, Section 259.1, as amended) is amended to
15 read:

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

18 A. Each insured who in this state procures or
19 continues or renews insurance with a nonadmitted insurer on a
20 risk located or to be performed in whole or in part in this
21 state, other than insurance procured through a surplus lines
22 licensee pursuant to Chapter 59A, Article 14 NMSA 1978 shall
23 file returns pursuant to the Insurance Premium Tax Act.

24 B. If an independently procured policy covers
25 risks or exposures only partially located or to be performed

1 in this state, the taxes, fees and penalties imposed pursuant
2 to the Insurance Code and the Insurance Premium Tax Act shall
3 be computed on the portion of the premium properly
4 attributable to the risks or exposures located or to be
5 performed in this state and reported to the secretary of
6 taxation and revenue. In no event, however, shall a tax be
7 payable solely because the risk in question, or any portion
8 thereof, is located or to be performed in this state.

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

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

14 SECTION 26. Section 61-28B-8 NMSA 1978 (being Laws
15 1999, Chapter 179, Section 8, as amended) is amended to read:

16 "61-28B-8. QUALIFICATIONS FOR A CERTIFICATE AS A
17 CERTIFIED PUBLIC ACCOUNTANT.--

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

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

23 (2) meets the education, experience and
24 examination requirements of the board.

25 B. The board may refuse to grant a certificate on

1 the ground that the applicant failed to satisfy the
2 requirement of good moral character.

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

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

1 the passing scores are uniform with passing scores of other
2 states.

3 E. An applicant must pass all sections of the
4 examination to qualify for a certificate. A passing scaled
5 score for each section shall be seventy-five. Sections may
6 be taken individually and in any order. Credit for any
7 section passed shall be valid for eighteen months from the
8 date the passing score is released to the applicant, without
9 having to attain a minimum score on any failed test section
10 and without regard to whether the applicant has taken other
11 test sections. An applicant must pass all four test sections
12 within a continuous eighteen-month period, which begins on
13 the date that the first passing scores are released to the
14 applicant. If all four test sections are not passed within
15 the continuous eighteen-month period, credit for any test
16 section passed outside the eighteen-month period will expire,
17 and that test section must be retaken.

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

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

1 H. An applicant for initial issuance of a
2 certified public accountant certificate shall show that the
3 applicant has had at least one year of experience. This
4 experience shall include providing service or advice
5 involving the use of accounting, attest, management advisory,
6 financial advisory, tax or consulting skills as verified by a
7 certified public accountant who meets requirements prescribed
8 by the board. The experience is acceptable if it was gained
9 through employment in government, industry, academia or
10 public practice."

11 SECTION 27. REPEAL CONFLICTING SECTION OF LAW.--Laws
12 2021, Chapter 65, Section 13 is repealed.

13 SECTION 28. REPEAL.--Sections 7-2-18.4, 7-2-18.5,
14 7-2-18.8, 7-2-18.21, 7-2-18.25, 7-2-18.27, 7-2-18.28,
15 7-2A-8.8, 7-2A-15, 7-2A-18, 7-2A-23, 7-2A-25, 7-2A-27,
16 7-2D-8.1, 7-9-16, 7-9-86, 7-9-105, 7-9-106, 7-9-114, 7-9G-2
17 and 7-14A-9 NMSA 1978 (being Laws 1994, Chapter 115, Section
18 1; Laws 1998, Chapter 97, Section 2; Laws 2001, Chapter 73,
19 Section 1; Laws 2007, Chapter 204, Section 7; Laws 2009,
20 Chapter 279, Section 1; Laws 2011, Chapter 89, Section 1; Laws
21 2012, Chapter 55, Section 1; Laws 1998, Chapter 97, Section 3;
22 Laws 1994, Chapter 115, Section 2; Laws 2001, Chapter 73,
23 Section 2; Laws 2007, Chapter 204, Section 8; Laws 2009,
24 Chapter 279, Section 2; Laws 2012, Chapter 55, Section 2; Laws
25 1995, Chapter 89, Section 8; Laws 1969, Chapter 144, Section

1 9; Laws 1995, Chapter 80, Section 1; Laws 2007, Chapter 45,
2 Section 6; Laws 2018, Chapter 62, Section 1; Laws 2010,
3 Chapter 77, Section 1 and Laws 2010, Chapter 78, Section 1;
4 Laws 2007, Chapter 229, Section 1; and Laws 1991, Chapter 197,
5 Section 13, as amended) are repealed.

6 SECTION 29. EFFECTIVE DATE.--

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

10 B. The effective date of the provisions of Section
11 13 of this act is the first day of the month following the
12 date this act takes effect.

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