

1 SENATE BILL 147

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Benny Shendo, Jr. And Jason C. Harper

5
6
7
8
9
10 AN ACT

11 RELATING TO TAXATION; PROVIDING FOR A TAX EXPENDITURE BUDGET;
12 PROVIDING FOR DESTINATION-BASED SOURCING FOR THE CANNABIS
13 EXCISE TAX; REQUIRING THE TAXATION AND REVENUE DEPARTMENT TO
14 MAKE PUBLICLY AVAILABLE CERTAIN REPORTS ON SPECIAL FUEL FOR
15 WHICH THE SPECIAL FUELS EXCISE TAX IS IMPOSED; CLARIFYING
16 REPORTING LOCATION INSTRUCTIONS FOR CERTAIN PROPERTY; PROVIDING
17 THAT CERTAIN LICENSES SHALL NOT BE ISSUED OR RENEWED IF THE
18 LICENSEE IS A DELINQUENT TAXPAYER FOR CERTAIN TAXES; AMENDING
19 CERTAIN PROVISIONS FOR A CLAIM FOR REFUND; AMENDING THE
20 DEFINITIONS OF "DISCLOSED AGENCY" AND "GROSS RECEIPTS" IN THE
21 GROSS RECEIPTS AND COMPENSATING TAX ACT; ALLOWING THE
22 DEPARTMENT TO REQUIRE RECEIPTS ALLOWED TO BE DEDUCTED FROM
23 GROSS RECEIPTS TO BE REPORTED SEPARATELY; INCLUDING THE USE OF
24 SERVICES BY GOVERNMENTAL AGENCIES IN A COMPENSATING TAX
25 DEDUCTION; INCLUDING PAYMENTS FROM THE FEDERAL AMERICAN RESCUE

.223112.8SA

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

underscored material = new
[bracketed material] = delete

1 PLAN ACT OF 2021 IN A GROSS RECEIPTS TAX EXEMPTION FOR CERTAIN
2 HEALTH CARE PROVIDERS; INCLUDING THE SALE TO GOVERNMENTAL
3 AGENCIES OF LICENSES TO USE CERTAIN DIGITAL GOODS IN CERTAIN
4 GROSS RECEIPTS TAX AND GOVERNMENTAL GROSS RECEIPTS TAX
5 DEDUCTIONS; REMOVING A REQUIREMENT THAT A GROSS RECEIPTS OR
6 SIMILAR TAX LEVIED BY A TRIBE BE AT A RATE NOT GREATER THAN THE
7 TOTAL OF THE GROSS RECEIPTS AND LOCAL OPTION GROSS RECEIPTS
8 TAXES; DELETING AN EXPIRED EXEMPTION FROM THE MOTOR VEHICLE
9 EXCISE TAX; CLARIFYING THE AMOUNT OF TRIP TAX TO BE IMPOSED;
10 CLARIFYING WHEN THE PREMIUM TAX IS IMPOSED ON CERTAIN TAXPAYERS
11 AND WHEN CERTAIN CREDITS WILL BE APPLIED; RECONCILING
12 CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW BY REPEALING
13 LAWS 2021, CHAPTER 65, SECTION 13; AMENDING, REPEALING AND
14 ENACTING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

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

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

25 B. A tax expenditure budget shall include the

.223112.8SA

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

1 following information for each tax expenditure of a tax
2 administered by the department:

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

24 C. The department may request from an executive
25 agency or a local government agency or official the information

.223112.8SA

underscored material = new
[bracketed material] = delete

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

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

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

18 "7-1-6.68. DISTRIBUTION--CANNABIS EXCISE TAX--
19 MUNICIPALITIES AND COUNTIES.--

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

.223112.8SA

underscored material = new
[bracketed material] = delete

1 locations within the municipality as reported pursuant to
2 Section 7-42-4 NMSA 1978.

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

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

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

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

18 "7-1-8.2. INFORMATION REQUIRED TO BE REVEALED.--

19 A. The department shall:

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

23 (2) answer all inquiries concerning whether a
24 person is or is not a registered taxpayer for tax programs that
25 require registration, but nothing in this subsection shall be

.223112.8SA

underscoring material = new
[bracketed material] = delete

1 construed to allow the department to answer inquiries
2 concerning whether a person has filed a tax return;

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

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

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

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

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

25 SECTION 4. Section 7-1-14 NMSA 1978 (being Laws 2020,
.223112.8SA

underscoring material = new
[bracketed material] = delete

1 Chapter 80, Section 1) is amended to read:

2 "7-1-14. ~~[BUSINESS]~~ REPORTING LOCATION INSTRUCTIONS FOR
3 PURPOSES OF REPORTING GROSS RECEIPTS AND USE--LOCATION-CODE
4 DATABASE AND LOCATION-RATE DATABASE.--

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

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

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

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

25 (2) if the property is not received by the

.223112.8SA

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

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

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

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

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

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

.223112.8SA

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

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

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

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

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

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

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

.223112.8SA

underscored material = new
[bracketed material] = delete

1 estate;

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

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

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

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

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

24 J.] I. The secretary shall develop a location-code
25 database that provides the [~~business~~] reporting location codes

.223112.8SA

underscoring material = new
[bracketed material] = delete

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

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

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

14 ~~[(2)]~~ (1) "gross receipts" means, as
15 applicable, "gross receipts" as used in the Gross Receipts and
16 Compensating Tax Act and the Leased Vehicle Gross Receipts Tax
17 Act and "interstate telecommunications gross receipts" in the
18 Interstate Telecommunications Gross Receipts Tax Act;

19 ~~[(3)]~~ (2) "in-person service" means a service
20 physically provided in person by the service provider, where
21 the customer or the customer's real or tangible personal
22 property upon which the service is performed is in the same
23 location as the service provider at the time the service is
24 performed; and

25 ~~[(4)]~~ (3) "professional service" means a

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

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

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

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

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

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

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

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

.223112.8SA

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

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

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

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

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

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

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

24 (1) claim is denied in whole or in part in
25 writing, the person shall not refile the denied claim, but the

.223112.8SA

1 person, within ninety days after either the mailing or delivery
2 of the denial of all or any part of the claim, may elect to
3 pursue only one of the remedies provided in Subsection E of
4 this section; and

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

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

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

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

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

.223112.8SA

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

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

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

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

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

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

25 (b) in the case of tax paid in response

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

1 to an assessment by the department pursuant to Section 7-1-17
2 NMSA 1978, the date the tax was paid;

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

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

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

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

.223112.8SA

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

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

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

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

.223112.8SA

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

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

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

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

25 J. For the purposes of this section, "oil and gas
.223112.8SA

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

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

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

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

.223112.8SA

underscored material = new
[bracketed material] = delete

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

3 "7-1-82. TRANSFER, ASSIGNMENT, SALE, LEASE OR RENEWAL OF
4 LIQUOR LICENSE.--

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

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

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

21 B. The director of the [~~alcohol and gaming~~]
22 alcoholic beverage control division of the regulation and
23 licensing department shall not allow the renewal of any liquor
24 license pursuant to the provisions of the Liquor Control Act
25 until the director receives notification from the secretary or

.223112.8SA

underscoring material = new
[bracketed material] = delete

1 secretary's delegate that on a certain date:

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

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

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

14 "7-2-5.5. EXEMPTION--EARNINGS BY INDIANS, THEIR INDIAN
15 SPOUSES AND INDIAN DEPENDENTS ON INDIAN LANDS.--Income earned
16 by a member of a New Mexico federally recognized Indian nation,
17 tribe, band or pueblo, ~~[his]~~ the member's spouse or dependent,
18 who is a member of a New Mexico federally recognized Indian
19 nation, tribe, band or pueblo, is exempt from state income tax
20 if the income is earned from work performed within and the
21 member, spouse or dependent ~~[lives]~~ is domiciled within the
22 boundaries of the Indian member's or the spouse's reservation
23 or pueblo grant or within the boundaries of ~~[lands held in~~
24 ~~trust by the United States for the benefit of the member or~~
25 ~~spouse or his nation, tribe, band or pueblo, subject to~~

.223112.8SA

underscoring material = new
[bracketed material] = delete

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

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

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

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

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

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

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

.223112.8SA

underscored material = new
[bracketed material] = delete

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

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

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

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

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

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

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

22 (5) similar activities;

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

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

1 property for a definite term;

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

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

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

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

22 L. "manufacturing service" means the service of
23 combining or processing components or materials owned by
24 another, but does not include construction services; farming;
25 electric power generation; processing of natural resources,

.223112.8SA

1 including hydrocarbons; or the processing or preparation of
2 meals for immediate consumption;

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

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

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

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

22 O. "person" means:

23 (1) an individual, estate, trust, receiver,
24 cooperative association, club, corporation, company, firm,
25 partnership, limited liability company, limited liability

.223112.8SA

1 partnership, joint venture, syndicate or other entity,
2 including any gas, water or electric utility owned or operated
3 by a county, municipality or other political subdivision of the
4 state; or

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

8 P. "property" means:

9 (1) real property;

10 (2) tangible personal property, including
11 electricity and manufactured homes;

12 (3) licenses, including licenses of digital
13 goods, but not including the licenses of copyrights, trademarks
14 or patents; and

15 (4) franchises;

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

19 (1) advancing basic knowledge in a recognized
20 field of natural science;

21 (2) advancing technology in a field of
22 technical endeavor;

23 (3) developing a new or improved product,
24 process or system with new or improved function, performance,
25 reliability or quality, whether or not the new or improved

.223112.8SA

1 product, process or system is offered for sale, lease or other
2 transfer;

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

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

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

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

17 S. "service" means all activities engaged in for
18 other persons for a consideration, which activities involve
19 predominantly the performance of a service as distinguished
20 from selling or leasing property. "Service" includes
21 activities performed by a person for its members or
22 shareholders. In determining what is a service, the intended
23 use, principal objective or ultimate objective of the
24 contracting parties shall not be controlling. "Service"
25 includes construction activities and all tangible personal

.223112.8SA

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

1 property that will become an ingredient or component part of a
2 construction project. That tangible personal property retains
3 its character as tangible personal property until it is
4 installed as an ingredient or component part of a construction
5 project in New Mexico. Sales of tangible personal property
6 that will become an ingredient or component part of a
7 construction project to persons engaged in the construction
8 business are sales of tangible personal property; and

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

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

14 "7-9-3.5. DEFINITION--GROSS RECEIPTS.--

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

17 (1) "gross receipts" means the total amount of
18 money or the value of other consideration received from selling
19 property in New Mexico, from leasing or licensing property
20 employed in New Mexico, from granting a right to use a
21 franchise employed in New Mexico, from selling services
22 performed outside New Mexico, the product of which is initially
23 used in New Mexico, or from performing services in New Mexico.
24 In an exchange in which the money or other consideration
25 received does not represent the value of the property or

.223112.8SA

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

1 service exchanged, "gross receipts" means the reasonable value
2 of the property or service exchanged;

3 (2) "gross receipts" includes:

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

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

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

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

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

24 (f) the receipts of a home service
25 provider from providing mobile telecommunications services to

.223112.8SA

underscored material = new
[bracketed material] = delete

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

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

19 (3) "gross receipts" excludes:

20 (a) cash discounts allowed and taken;
21 (b) ~~[New Mexico gross receipts tax,~~
22 ~~governmental gross receipts tax and leased vehicle gross~~
23 ~~receipts tax]~~ all excise taxes imposed by the state and
24 political subdivisions of the state payable on transactions for
25 the reporting period;

.223112.8SA

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

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

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

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

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

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

21 B. When the sale of property or service is made
22 under any type of charge, conditional or time-sales contract or
23 the leasing of property is made under a leasing contract, the
24 seller or lessor may elect to treat all receipts, excluding any
25 type of time-price differential, under such contracts as gross

.223112.8SA

underscoring material = new
[bracketed material] = delete

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

7 SECTION 10. Section 7-9-6 NMSA 1978 (being Laws 1966,
8 Chapter 47, Section 6, as amended) is amended to read:

9 "7-9-6. SEPARATELY STATING AND REPORTING THE GROSS
10 RECEIPTS TAX.--

11 A. Taxpayers subject to the Gross Receipts and
12 Compensating Tax Act, when billing a customer, shall separately
13 state the amount of tax associated with the transaction or
14 provide a statement affirmatively indicating that the gross
15 receipts tax is included in the amount billed.

16 B. When the gross receipts tax is stated separately
17 on the books of the seller or lessor, and if the total amount
18 of tax that is stated separately on transactions reportable
19 within one reporting period is in excess of the amount of gross
20 receipts tax otherwise payable on the transactions on which the
21 tax was stated separately, the excess amount of tax stated on
22 the transactions within that reporting period shall be included
23 in gross receipts.

24 C. The department may require receipts allowed to
25 be deducted from gross receipts by law to be reported

.223112.8SA

underscored material = new
[bracketed material] = delete

1 separately by rules promulgated by the department."

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

4 "7-9-14. EXEMPTION--COMPENSATING TAX--GOVERNMENTAL
5 AGENCIES--INDIANS.--

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

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

15 (2) the use of construction material.

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

21 SECTION 12. Section 7-9-41.6 NMSA 1978 (being Laws 2020
22 (1st S.S.), Chapter 4, Section 3) is amended to read:

23 "7-9-41.6. EXEMPTION--GROSS RECEIPTS--CERTAIN HEALTH CARE
24 PROVIDERS FROM CERTAIN FEDERAL [~~CORONAVIRUS AID, RELIEF, AND~~
25 ~~ECONOMIC SECURITY ACT~~] PAYMENTS.--Exempted from the gross

.223112.8SA

underscoring material = new
[bracketed material] = delete

1 receipts tax are receipts of health care providers, other than
2 hospitals licensed by the department of health, from payments
3 by the United States department of health and human services
4 from the federal public health and social services emergency
5 fund to providers eligible to receive the payments pursuant to
6 the federal Coronavirus Aid, Relief, and Economic Security Act
7 and the federal American Rescue Plan Act of 2021."

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

12 "7-9-46. DEDUCTION--GROSS RECEIPTS--GOVERNMENTAL GROSS
13 RECEIPTS--SALES TO MANUFACTURERS AND MANUFACTURING SERVICE
14 PROVIDERS.--

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

25 B. Receipts from selling a manufacturing consumable

.223112.8SA

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

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

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

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

.223112.8SA

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

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

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

14 G. As used in this section:

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

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

.223112.8SA

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

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

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

11 "7-9-54. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL
12 GROSS RECEIPTS TAX--SALES TO GOVERNMENTAL AGENCIES.--

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

21 (1) receipts from selling metalliferous
22 mineral ore;

23 (2) receipts from selling tangible personal
24 property that is or will be incorporated into a metropolitan
25 redevelopment project created under the Metropolitan

.223112.8SA

underscoring material = new
[bracketed material] = delete

1 Redevelopment Code;

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

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

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

22 C. When a seller, in good faith, deducts receipts
23 for tangible personal property or licenses to use digital goods
24 for the purpose of loaning those digital goods to the public
25 sold to the state or a governmental unit, subdivision, agency,

.223112.8SA

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

1 department or instrumentality thereof, after receiving written
2 assurances from the buyer's representative that the property
3 sold is not construction material, the department shall not
4 assert in a later assessment or audit of the seller that the
5 receipts are not deductible pursuant to Paragraph (3) of
6 Subsection A of this section."

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

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

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

24 Notwithstanding any other provision of law to the contrary, the
25 amount of credit taken and allowed shall be applied

.223112.8SA

underscored material = new
[bracketed material] = delete

1 proportionately against the amount of the gross receipts tax
2 and local option gross receipts taxes and against the amount of
3 distribution of those taxes pursuant to Section 7-1-6.1 NMSA
4 1978.

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

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

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

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

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

25 ~~[(5)]~~ (4) is subject to a cooperative

.223112.8SA

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

1 agreement between the tribe and the secretary entered into
2 pursuant to Section 9-11-12.1 NMSA 1978 and in effect at the
3 time of the taxable transaction.

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

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

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

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

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

19 "7-12-9.1. LICENSING--GENERAL LICENSING PROVISIONS.--

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

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

25 C. The department may charge a license fee of up to
.223112.8SA

underscored material = new
[bracketed material] = delete

1 one hundred dollars (\$100) for each manufacturer's or
2 distributor's license issued or renewed.

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

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

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

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

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

15 (3) any other information the department may
16 require.

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

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

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

24 (1) the applicant [~~owes five hundred dollars~~
25 ~~(\$500) or more in delinquent cigarette taxes~~] is a delinquent

.223112.8SA

underscored material = new
[bracketed material] = delete

1 taxpayer pursuant to Section 7-1-16 NMSA 1978 only with respect
2 to the cigarette tax or the gross receipts tax;

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

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

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

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

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

23 I. As used in this section, "applicant" includes a
24 person or persons owning, directly or indirectly, in the
25 aggregate, more than ten percent of the ownership interest in

.223112.8SA

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

1 the business holding or applying for a license pursuant to the
2 Cigarette Tax Act."

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

5 "7-14-6. EXEMPTIONS FROM TAX.--

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

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

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

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

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

23 (2) necessary to enable that person to drive
24 that vehicle or be transported in that vehicle.

25 E. A person is exempt from the tax if the person is

.223112.8SA

underscored material = new
[bracketed material] = delete

1 a bona fide resident of New Mexico who served in the armed
2 forces of the United States and who suffered, while serving in
3 the armed forces or from a service-connected cause, the loss or
4 complete and total loss of use of:

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

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

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

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

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

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

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

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

25 SECTION 18. Section 7-15-3.1 NMSA 1978 (being Laws 1943,

.223112.8SA

underscored material = new
[bracketed material] = delete

1 Chapter 125, Section 12, as amended) is amended to read:

2 "7-15-3.1. TRIP TAX--COMPUTATION.--

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

10 (1) not registered in this state under
11 interstate registration;

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

14 (3) not subject to a valid reciprocity
15 agreement;

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

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

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

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

.223112.8SA

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

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

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

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

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

.223112.8SA

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

1 point of entering the state to the point of destination or
2 place of leaving the state.

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

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

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

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

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

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

.223112.8SA

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

1 "7-40-3. IMPOSITION AND RATE OF TAX--DENOMINATION OF
2 "PREMIUM TAX", "HEALTH INSURANCE PREMIUM SURTAX" AND "SELF-
3 INSURED GROUP TAX".--

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

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

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

.223112.8SA

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

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

17 E. In addition to the premium tax, except as
18 provided in Subsection F of this section, a health insurance
19 premium surtax is imposed at a rate of three and seventy-five
20 hundredths percent of the gross health insurance premiums and
21 membership and policy fees received by the taxpayer on hospital
22 and medical expense incurred insurance or contracts; nonprofit
23 health care plan contracts, excluding dental or vision only
24 contracts; and health maintenance organization subscriber
25 contracts covering health risks within this state during the

.223112.8SA

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

1 preceding calendar year. The surtax shall not apply to return
2 health insurance premiums, dividends paid or credited to
3 policyholders or contract holders and health insurance premiums
4 received for reinsurance on New Mexico risks. The surtax
5 imposed pursuant to this subsection may be referred to as the
6 "health insurance premium surtax".

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

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

.223112.8SA

underscoring material = new
[bracketed material] = delete

1 SECTION 20. Section 7-40-6 NMSA 1978 (being Laws 2018,
2 Chapter 57, Section 6) is amended to read:

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

19 SECTION 21. Section 7-42-4 NMSA 1978 (being Laws 2021
20 (1st S.S.), Chapter 4, Section 46) is amended to read:

21 "7-42-4. DATE PAYMENT DUE--REPORTING LOCATION
22 INSTRUCTIONS--

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

.223112.8SA

underscored material = new
[bracketed material] = delete

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

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

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

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

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

23 (5) if Paragraphs (1) through (4) of this
24 subsection do not apply, including a circumstance in which the
25 cannabis retailer is without sufficient information to apply

.223112.8SA

underscored material = new
[bracketed material] = delete

1 those standards, the location from which the cannabis product
2 is shipped or transmitted."

3 SECTION 22. Section 26-2C-6 NMSA 1978 (being Laws 2021
4 (1st S.S.), Chapter 4, Section 6) is amended to read:

5 "26-2C-6. LICENSING CANNABIS ACTIVITIES--LIMITATIONS--
6 MEDICAL CANNABIS LEGACY LICENSING--CANNABIS SHORTAGE FOR
7 MEDICAL PROGRAM.--

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

10 (1) commercial cannabis activity and licensing
11 related to commercial cannabis activity;

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

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

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

19 (1) cannabis consumption areas;

20 (2) cannabis couriers;

21 (3) cannabis manufacturers;

22 (4) cannabis producer microbusinesses;

23 (5) cannabis producers;

24 (6) cannabis research laboratories;

25 (7) cannabis retailers;

.223112.8SA

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

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

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

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

23 F. The director shall not renew a license issued
24 pursuant to the provisions of the Cannabis Regulation Act until
25 the director receives notification from the secretary of

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

1 taxation and revenue or the secretary's designee that on a
2 certain date:

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

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

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

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

.223112.8SA

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

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

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

23 K. A person properly licensed and in good standing
24 pursuant to the Lynn and Erin Compassionate Use Act on the
25 effective date of the Cannabis Regulation Act may continue to

.223112.8SA

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

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

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

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

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

.223112.8SA

1 cannabis program;

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

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

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

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

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

underscoring material = new
[bracketed material] = delete

1 number of cannabis plants in production in the medical cannabis
2 program per qualified patient as of the effective date of the
3 Cannabis Regulation Act, where:

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

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

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

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

19 "59A-15-4. INSURANCE INDEPENDENTLY PROCURED--DUTY TO
20 [REPORT] FILE RETURNS.--

21 A. Each insured who in this state procures or
22 continues or renews insurance with a nonadmitted insurer on a
23 risk located or to be performed in whole or in part in this
24 state, other than insurance procured through a surplus lines
25 licensee pursuant to Chapter 59A, Article 14 NMSA 1978 shall

.223112.8SA

underscored material = new
[bracketed material] = delete

1 ~~[within ninety days after the date such insurance was so~~
2 ~~procured, continued or renewed, file a written report of the~~
3 ~~same with the superintendent, upon forms prescribed by the~~
4 ~~superintendent, showing the name and address of the insured or~~
5 ~~insureds, name and address of the insurer, the subject of the~~
6 ~~insurance, a general description of the coverage, the amount of~~
7 ~~premium currently charged therefor and such additional~~
8 ~~pertinent information as is reasonably requested by the~~
9 ~~superintendent]~~ file returns pursuant to the Insurance Premium
10 Tax Act.

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

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

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

.223112.8SA

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

1 **SECTION 24. REPEAL CONFLICTING SECTION OF LAW.--**Laws
2 2021, Chapter 65, Section 13 is repealed.

3 **SECTION 25. REPEAL.--**Sections 7-2-18.4, 7-2-18.5,
4 7-2-18.8, 7-2-18.21, 7-2-18.25, 7-2-18.27, 7-2-18.28, 7-2A-8.8,
5 7-2A-15, 7-2A-18, 7-2A-23, 7-2A-25, 7-2A-27, 7-2D-8.1, 7-9-16,
6 7-9-86, 7-9-105, 7-9-106, 7-9-114, 7-9G-2, 7-14A-9 and 66-4-3
7 NMSA 1978 (being Laws 1994, Chapter 115, Section 1; Laws 1998,
8 Chapter 97, Section 2; Laws 2001, Chapter 73, Section 1; Laws
9 2007, Chapter 204, Section 7; Laws 2009, Chapter 279, Section
10 1; Laws 2011, Chapter 89, Section 1; Laws 2012, Chapter 55,
11 Section 1; Laws 1998, Chapter 97, Section 3; Laws 1994, Chapter
12 115, Section 2; Laws 2001, Chapter 73, Section 2; Laws 2007,
13 Chapter 204, Section 8; Laws 2009, Chapter 279, Section 2; Laws
14 2012, Chapter 55, Section 2; Laws 1995, Chapter 89, Section 8;
15 Laws 1969, Chapter 144, Section 9; Laws 1995, Chapter 80,
16 Section 1; Laws 2007, Chapter 45, Section 6; Laws 2018, Chapter
17 62, Section 1; Laws 2010, Chapter 77, Section 1 and Laws 2010,
18 Chapter 78, Section 1; Laws 2007, Chapter 229, Section 1; Laws
19 1991, Chapter 197, Section 13; and Laws 1978, Chapter 35,
20 Section 216, as amended) are repealed.

21 **SECTION 26. EFFECTIVE DATE.--**

22 A. The effective date of the provisions of Sections
23 1 through 11 and 13 through 25 of this act is July 1, 2023.

24 B. The effective date of the provisions of Section
25 12 of this act is the first day of the month following the date

.223112.8SA

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

1 this act takes effect.

2 SECTION 27. EMERGENCY.--It is necessary for the public
3 peace, health and safety that this act take effect immediately.

4 - 63 -

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25