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SENATE BILL 288

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Cliff R. Pirtle

AN ACT

RELATING TO CANNABIS; ENACTING THE CANNABIS REGULATION ACT;
CREATING THE CANNABIS CONTROL COMMISSION AND PROVIDING DUTIES;
REVISING SECTIONS OF LAW RELATED TO CANNABIS; ESTABLISHING
DUTIES FOR THE DEPARTMENT OF ENVIRONMENT; CREATING THE CANNABIS
REGULATION FUND AND THE ROAD SAFETY FUND; REVISING THE LOCAL
DWI GRANT PROGRAM; ENACTING THE CANNABIS TAX ACT; PROVIDING AND
REVISING PENALTIES; AMENDING, REPEALING AND ENACTING SECTIONS
OF THE NMSA 1978; MAKING AN APPROPRIATION; DECLARING AN
EMERGENCY.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 34 of this act may be cited as the "Cannabis Regulation
Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
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1 Cannabis Regulation Act:

2 A. "adult-use cannabis" means cannabis that is
3 authorized for sale pursuant to the Cannabis Regulation Act,
4 but does not include medical cannabis;

5 B. "board" means the board of regents of New Mexico
6 state university;

7 C. "cannabis":

8 (1) means all parts of the plant Cannabis
9 sativa Linnaeus, whether growing or not, containing more than
10 three-tenths percent tetrahydrocannabinol; the seeds of the
11 plant; the resin extracted from any part of the plant; and
12 every compound, manufacture, salt, derivative, mixture or
13 preparation of the plant, its seeds or its resin; and

14 (2) does not include:

15 (a) the mature stalks of the plant;
16 fiber produced from the stalks; oil or cake made from the seeds
17 of the plant; any other compound, manufacture, salt,
18 derivative, mixture or preparation of the mature stalks, fiber,
19 oil or cake; or the sterilized seed of the plant that is
20 incapable of germination; or

21 (b) the weight of any other ingredient
22 combined with cannabis to prepare topical or oral
23 administrations, food, drink or another product;

24 D. "cannabis courier" means a person licensed by
25 the commission only to transport usable cannabis and cannabis

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1 products directly to consumers;

2 E. "cannabis establishment" means:

- 3 (1) a cannabis testing laboratory;
- 4 (2) a cannabis producer;
- 5 (3) a cannabis manufacturing facility;
- 6 (4) a lounge; or
- 7 (5) a dispensary;

8 F. "cannabis extract":

9 (1) means a product obtained by separating
10 resins from cannabis by solvent extraction using volatile
11 solvents, such as butane, hexane, isopropyl alcohol, ethanol or
12 carbon dioxide; and

13 (2) does not include the weight of any other
14 ingredient combined with cannabis extract to prepare topical or
15 oral administrations, food, drink or another product;

16 G. "cannabis flowers" means only the flowers of a
17 cannabis plant;

18 H. "cannabis items" means cannabis, cannabis
19 products and cannabis extracts;

20 I. "cannabis leaves" means only the leaves of a
21 cannabis plant;

22 J. "cannabis manufacturer" means a person licensed
23 to:

- 24 (1) manufacture and package cannabis items;
- 25 (2) have cannabis items tested by a cannabis

1 testing laboratory; and

2 (3) buy, sell, consign or transport cannabis
3 items;

4 K. "cannabis producer" means a person licensed to:

5 (1) cultivate or prepare cannabis in a raw
6 form for consumption;

7 (2) have cannabis items tested by a cannabis
8 testing laboratory; and

9 (3) sell, consign or transport cannabis items;

10 L. "cannabis product":

11 (1) means a product that contains cannabis or
12 cannabis extracts, including edible or topical products that
13 may also contain other ingredients; and

14 (2) does not include the weight of any other
15 ingredient combined with cannabis or cannabis extracts to
16 prepare topical or oral administrations, food, drink or another
17 product;

18 M. "cannabis testing laboratory" means a facility
19 licensed by the department of environment to collect, transport
20 and test cannabis items to analyze the strength or purity of
21 the items;

22 N. "commercial cannabis activity":

23 (1) means the cultivation, production,
24 possession, manufacture, storage, testing, labeling,
25 transportation, couriership, sale or consignment of cannabis and

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1 cannabis items; and

2 (2) does not include activities related only
3 to the medical cannabis program;

4 O. "commission" means the cannabis control
5 commission;

6 P. "consumer" means a person who purchases,
7 acquires, owns, possesses or uses a cannabis item for a purpose
8 other than resale;

9 Q. "controlling person":

10 (1) means an officer, board member or other
11 natural person who has a financial or voting interest of ten
12 percent or greater in a cannabis establishment; and

13 (2) does not include a bank or licensed
14 lending institution;

15 R. "cultivation" means any activity involving the
16 planting, growing, harvesting, drying, curing, grading or
17 trimming of cannabis;

18 S. "director" means the executive director of the
19 cannabis control commission;

20 T. "dispensary" means a commission regulated
21 facility at which cannabis items are stored or offered for
22 retail sale to the public;

23 U. "dual licensed dispensary" means an
24 establishment licensed to sell both medical and adult-use
25 cannabis for off-site consumption;

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1 V. "financial consideration" means the value that
2 is given or received, directly or indirectly, through sales,
3 barter, trade, fees, charges, dues, contributions or donations;

4 W. "licensed premises" means a location that is
5 licensed pursuant to the Cannabis Regulation Act and includes:

6 (1) all enclosed public and private areas at
7 the location that are used in the business operated pursuant to
8 a license and includes offices, kitchens, restrooms and
9 storerooms;

10 (2) all areas outside of a building
11 specifically licensed for the production and manufacturing of
12 cannabis items; and

13 (3) with respect to a location specifically
14 licensed for the production of cannabis outside of a building,
15 the entire unit of land that is created by subdivision or
16 partition of land that the licensee owns, leases or has a right
17 to occupy;

18 X. "licensee representative" means an owner,
19 director, officer, manager, employee, agent or other
20 representative of a licensee, to the extent that person acts in
21 a representative capacity;

22 Y. "local jurisdiction" means a municipality or a
23 county;

24 Z. "lounge" means a facility licensed by the
25 commission to sell cannabis items only for on-site consumption;

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- 1 AA. "manufacture":
2 (1) means to compound, blend, extract, infuse,
3 package or otherwise prepare a cannabis item; and
4 (2) does not include cultivating the cannabis
5 contained in a cannabis item;
6 BB. "medical cannabis" means cannabis items used by
7 a qualified patient in accordance with the Lynn and Erin
8 Compassionate Use Act;
9 CC. "medical cannabis collective" means a group of
10 not more than five qualified patients, as defined in the Lynn
11 and Erin Compassionate Use Act, licensed by the board through
12 the New Mexico department of agriculture to cultivate and sell
13 certain medical cannabis items pursuant to rule;
14 DD. "medical cannabis program" means the regulated
15 system allowing for the beneficial use of medical cannabis as
16 established in the Lynn and Erin Compassionate Use Act;
17 EE. "medical cannabis registry" means that term as
18 defined in the Lynn and Erin Compassionate Use Act;
19 FF. "person" means an individual or a firm,
20 partnership, joint venture, association, corporation, limited
21 liability company, estate, trust, business trust, receiver or
22 any other legal or commercial entity;
23 GG. "public place" means a place to which the
24 general public has access and includes hallways, lobbies and
25 other parts of apartment houses and hotels that do not

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1 constitute rooms or apartments designed for actual residence;
2 highways; streets; schools; places of amusement; parks;
3 playgrounds; and places used in connection with public
4 passenger transportation;

5 HH. "qualified patient" means that term as defined
6 in the Lynn and Erin Compassionate Use Act;

7 II. "safety-sensitive position" means a position in
8 which performance by a person under the influence of drugs or
9 alcohol would constitute an immediate and direct threat of
10 injury or death to that person or to another;

11 JJ. "usable cannabis" means dried cannabis flowers
12 and dried cannabis leaves and any mixture or preparation of
13 those flowers or leaves; and

14 KK. "volatile solvent" means a solvent that is or
15 produces a flammable gas or vapor that, when present in the air
16 in sufficient quantities, will create explosive or ignitable
17 mixtures.

18 SECTION 3. [NEW MATERIAL] CANNABIS CONTROL COMMISSION
19 CREATED--DUTIES--RULEMAKING.--

20 A. The "cannabis control commission" is created.
21 The commission is a governmental entity for purposes of the
22 Tort Claims Act. The commission consists of:

23 (1) the secretary of environment or a member
24 of the secretary's staff designated by the secretary in an
25 advisory role;

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1 (2) the secretary of health or a member of the
2 secretary's staff designated by the secretary in an advisory
3 role;

4 (3) the director of the New Mexico department
5 of agriculture or a member of the director's staff designated
6 by the director in an advisory role; and

7 (4) five public members appointed by the
8 governor with the consent of the senate, including:

9 (a) one member who is engaged in the
10 active commercial cultivation of non-cannabis crops;

11 (b) one member who is currently or has
12 previously served as a certified law enforcement officer; and

13 (c) one member who is currently or was
14 formerly licensed pursuant to the Medical Practice Act or the
15 Osteopathic Medicine Act.

16 B. Public members shall reside in New Mexico and
17 shall not have a financial interest in any entity engaged in
18 the commercial production, manufacture or sale of cannabis
19 products, and no more than three public members may be from the
20 same political party.

21 C. Public members shall serve staggered four-year
22 terms, except that of the initial public members appointed to
23 the commission, the governor shall select two members whose
24 initial terms are two years and three members whose initial
25 terms are four years.

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1 D. Public members of the commission shall be
2 reimbursed as provided in the Per Diem and Mileage Act.

3 E. Except as provided in the Lynn and Erin
4 Compassionate Use Act, the commission has exclusive authority
5 to regulate and administer the testing, manufacture, packaging
6 and transportation of cannabis items in the state.

7 F. The commission shall employ such personnel and
8 hire such consultants as are required to carry out its duties
9 pursuant to the Cannabis Regulation Act; provided that the
10 commission shall not employ or hire a person who has a direct
11 or indirect financial interest in a cannabis establishment or
12 cannabis cultivation.

13 G. Not later than September 1, 2021, the
14 commission, in compliance with the State Rules Act, shall
15 promulgate rules necessary to carry out the commission's duties
16 as provided in the Cannabis Regulation Act, and those rules
17 shall include:

18 (1) procedures for the issuance, renewal,
19 suspension or revocation of licenses issued by the commission,
20 the department of environment and the department of health;

21 (2) qualifications for licensure that are
22 directly and demonstrably related to the operation of a
23 cannabis establishment;

24 (3) security requirements for a cannabis
25 establishment;

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- 1 (4) requirements related to:
- 2 (a) inspection and monitoring of a
- 3 cannabis establishment;
- 4 (b) a cannabis establishment's
- 5 recordkeeping and tracking of cannabis items;
- 6 (c) prevention of the unauthorized sale
- 7 or diversion of cannabis items in commercial cannabis activity;
- 8 (d) labeling of cannabis items; and
- 9 (e) language for labels of cannabis
- 10 items related to potential adverse effects;
- 11 (5) a provision regarding whether a licensee
- 12 that is a cannabis producer may produce any other products;
- 13 (6) rules on a licensee's advertisement and
- 14 marketing of cannabis products and on how a licensee may
- 15 display cannabis products for sale;
- 16 (7) rules developed in consultation with the
- 17 department of environment to establish:
- 18 (a) health and safety standards
- 19 applicable to the cultivation of cannabis and the manufacture
- 20 of cannabis items;
- 21 (b) standards for quality control,
- 22 inspection and testing of cannabis items;
- 23 (c) standards for food and product
- 24 safety applicable to cannabis items; and
- 25 (d) which additives and ingredients are

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1 approved for and prohibited from inclusion in cannabis items;
2 and

3 (8) rules developed in consultation with the
4 department of environment and proposed for adoption by the
5 board, on behalf of the New Mexico department of agriculture,
6 to establish:

7 (a) standards for the use of pesticides
8 in the manufacture of cannabis, including the maximum
9 allowances for pesticides and other foreign material such as
10 hair, insects or other similar adulterants, in harvested
11 cannabis;

12 (b) environmental protections that apply
13 to all licensees;

14 (c) protocols to ensure licensees'
15 compliance with state laws governing environmental impacts,
16 natural resource protection, water quality, water supply,
17 hazardous materials, pesticide use and wastewater discharge;
18 and

19 (d) occupational health and safety
20 standards for persons working in the cannabis industry.

21 H. Except as provided in Subsection I of this
22 section and Section 10 of the Cannabis Regulation Act, the
23 commission may in its discretion license dispensaries or
24 lounges at any location within the state. Any person employed
25 to sell retail cannabis items under the provisions of the

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1 Cannabis Regulation Act shall not sell cannabis items except as
2 may be legally obtained under the provisions of the Cannabis
3 Regulation Act.

4 I. The commission shall not license a dispensary
5 that is located within three hundred feet from the perimeter of
6 school grounds on which instruction is provided at any level
7 from kindergarten through twelfth grade, a playground, a child
8 care center, a youth center, a public park or a library that
9 was in existence at the time the dispensary was established at
10 that location.

11 J. The commission shall not license a dispensary
12 unless the dispensary agrees as a condition of its license to
13 accept cannabis items on consignment for resale from any
14 manufacturer or producer licensed pursuant to Section 6 of the
15 Cannabis Regulation Act.

16 SECTION 4. [NEW MATERIAL] DEPARTMENT OF HEALTH--DUTIES--
17 PUBLIC HEALTH AND SAFETY ADVISORY COMMITTEE.--

18 A. The department of health shall promulgate rules
19 to govern the medical cannabis subsidy program.

20 B. The department of health shall monitor emerging
21 scientific and medical information relevant to the health
22 effects associated with cannabis use and shall monitor changes
23 in cannabis use patterns for children and adults within the
24 state, broken down by county, race and ethnicity.

25 C. The secretary of health shall appoint a "public

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1 health and safety advisory committee" composed of professionals
2 with expertise related to cannabis through work, training or
3 research in public health, epidemiology, medicine, medical
4 toxicology, poison control, road safety, occupational safety,
5 environmental safety, laboratory testing and emergency
6 medicine.

7 D. The public health and safety advisory committee
8 shall provide to the legislature and the department of health
9 shall publish on its website an annual report on the health
10 effects of legalizing cannabis for adult use. The report shall
11 include the following elements relating to cannabis use:

- 12 (1) child access;
- 13 (2) road safety and driving while impaired;
- 14 (3) workplace safety;
- 15 (4) percentage of emergency room visits and
16 outcomes;
- 17 (5) educational needs for children and adults;
- 18 (6) consumer and product safety; and
- 19 (7) percentage of poison control center calls.

20 E. Public members of the committee are entitled to
21 per diem and mileage as provided for state employees in the Per
22 Diem and Mileage Act.

23 SECTION 5. [NEW MATERIAL] DEPARTMENT OF PUBLIC SAFETY--
24 REPORTING REQUIREMENTS.--

25 A. Within sixty days following the end of each

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1 fiscal year, every police and sheriff's department shall report
2 on a form approved by the department of public safety:

3 (1) the total number of arrests and citations
4 for cannabis-related violations broken down by:

5 (a) category and penalty level; and

6 (b) race, ethnicity, age and gender; and

7 (2) the number of motor vehicle accidents in
8 which the driver of one of the vehicles tested positive for
9 cannabis.

10 B. Each law enforcement agency shall submit its
11 annual report to the department of public safety. A law
12 enforcement agency that does not issue a citation or make an
13 arrest for a cannabis law violation shall report that fact in
14 its annual report.

15 C. The department of public safety shall compile
16 the reports submitted and shall issue by November 1 of each
17 year an annual report of all cannabis law violations in the
18 state. The report shall aggregate the data for the state and
19 shall disaggregate the data by agency, race, ethnicity, age and
20 gender. The department of public safety shall make all annual
21 reports submitted for previous fiscal years available on the
22 department's website.

23 SECTION 6. [NEW MATERIAL] LICENSING--LIMITATIONS.--

24 A. The department of environment shall regulate and
25 license cannabis manufacturers, dual licensed dispensaries and

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1 cannabis testing laboratories pursuant to rules promulgated by
2 the commission.

3 B. The department of environment shall begin
4 issuing licenses pursuant to the Cannabis Regulation Act for
5 cannabis manufacturers no sooner than September 1, 2022 except
6 to persons who possess valid dual licenses; provided that:

7 (1) the department shall condition renewal of
8 a license for cannabis manufacturers currently manufacturing
9 medical cannabis products upon a requirement that the
10 manufacturer sell a minimum amount of medical cannabis products
11 as a percentage of total cannabis products sold. The
12 department shall determine the minimum percentage by rule;
13 provided that the minimum percentage shall be not less than
14 twenty percent and not more than forty percent of total
15 cannabis products sold from the preceding twelve months'
16 operation of the manufacturer; and

17 (2) all medical cannabis products shall be
18 sold at a grade and quality determined by rule and a cannabis
19 testing laboratory to be suitable for medical consumption.

20 C. The New Mexico department of agriculture shall
21 regulate and license cannabis producers pursuant to rules
22 promulgated by the board and shall begin issuing licenses no
23 sooner than June 1, 2022 and shall regulate and issue licenses
24 to persons who possess a valid dual license for both medical
25 and adult-use cannabis production no later than September 1,

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1 2021.

2 D. The commission shall regulate and license
3 lounges for the on-site consumption of cannabis items in
4 conjunction with a cannabis producer or manufacturer license
5 and shall begin issuing licenses for lounges except to persons
6 who possess valid dual licenses no sooner than September 1,
7 2022.

8 E. The department of environment shall assume all
9 responsibilities for licensing and regulation under the Lynn
10 and Erin Compassionate Use Act except for personal production
11 licenses as defined in the Lynn and Erin Compassionate Use Act
12 no later than September 1, 2021.

13 F. The department of environment may issue a dual
14 license that provides for the manufacturing and sale of on-site
15 and off-site consumption of adult-use cannabis to a person that
16 holds a valid medical cannabis manufacturer or producer
17 license; provided that the person shall sell a minimum quantity
18 of medical cannabis products as provided in Subsection B of
19 this section and shall meet quality standards promulgated by
20 the department of environment.

21 G. The commission may issue a dispensary license to
22 a person who holds a valid adult-use cannabis manufacturer or
23 producer license or a valid dual license; provided that the
24 dispensary shall meet quality standards promulgated by the
25 commission for a dispensary; and provided further that a

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1 dispensary shall not be located within one mile of previously
2 established dispensaries located within the same county.

3 H. The commission may propose rules to the board
4 for adoption regarding the regulating and licensing of cannabis
5 producers as provided for in the Cannabis Regulation Act.

6 I. A license issued pursuant to the Cannabis
7 Regulation Act is valid for twelve months from the date the
8 license is issued and may be renewed annually or as provided
9 for in the rules promulgated by the commission.

10 J. An application for an initial license or renewal
11 may be denied if:

12 (1) the applicant has violated any provision
13 of the Lynn and Erin Compassionate Use Act or the Cannabis
14 Regulation Act or a rule promulgated pursuant to either of
15 those acts;

16 (2) the applicant's application does not
17 include all information required;

18 (3) the applicant or a controlling person in
19 the applicant's entity has been convicted of an offense that is
20 substantially related to the qualifications, functions or
21 duties of the applicant entity's business; provided that if the
22 constituent agency determines that the controlling person and
23 the applicant entity are otherwise qualified for a license and
24 issuing a license to the applicant entity would not compromise
25 public safety, the constituent agency shall conduct a thorough

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1 review of the conviction, including the nature of the offense,
2 surrounding circumstances and any evidence of the controlling
3 person's rehabilitation following the conviction, and based on
4 that review, determine whether the applicant entity should be
5 issued a license; or

6 (4) the applicant or a controlling person in
7 the applicant's entity has been penalized for a violation of
8 the Cannabis Regulation Act or the Lynn and Erin Compassionate
9 Use Act in the three years immediately preceding the date on
10 which the application was filed.

11 K. For the purposes of Subsection J of this
12 section:

13 (1) the following are considered substantially
14 related to the qualifications, functions or duties of a
15 business seeking a license:

16 (a) a felony conviction involving fraud,
17 deceit or embezzlement;

18 (b) a felony conviction for hiring,
19 employing or otherwise using a person younger than eighteen
20 years of age to: 1) prepare for sale, transport or carry a
21 controlled substance; or 2) sell, give away or offer to sell a
22 controlled substance to any person; and

23 (c) any other offense as determined by
24 the commission by rule, except as provided in Paragraph (2) of
25 this subsection; and

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1 (2) a conviction for which the related
2 sentence, including any term of probation or parole, is
3 completed for the possession, use, manufacture, distribution or
4 dispensing or the possession with the intent to manufacture,
5 distribute or dispense a controlled substance is not considered
6 substantially related to the qualifications, functions or
7 duties of a person seeking a license and shall not be a ground
8 on which an application is denied unless the offense involved
9 the distribution of alcohol or a controlled substance to a
10 minor.

11 L. An application shall be denied if an applicant,
12 a controlling person in an applicant's entity or the premises
13 for which a license is sought does not qualify for licensure
14 under the Cannabis Regulation Act or the Lynn and Erin
15 Compassionate Use Act.

16 M. The commission shall regulate and license
17 cannabis couriers. The commission shall begin issuing licenses
18 for cannabis couriers no sooner than January 1, 2021.

19 SECTION 7. [NEW MATERIAL] LICENSING FEES.--

20 A. The commission shall establish application and
21 licensing fees applicable to licenses for commercial cannabis
22 activity and activity related to medical cannabis. The fees
23 shall be reasonably calculated to cover the cost of
24 administering and enforcing the programs established in the
25 Cannabis Regulation Act; provided that:

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1 (1) the fee shall be scaled to reflect the
2 size of a business seeking or renewing a license; and

3 (2) for a license or renewal of a license that
4 authorizes only medical cannabis activity, the fee shall not
5 exceed one-half of the fee charged for a license or renewal of
6 a license for a similarly sized business that authorizes both
7 commercial and medical cannabis activities.

8 B. The commission, the department of environment
9 and the department of health shall deposit all fees collected
10 pursuant to the Cannabis Regulation Act in the cannabis
11 regulation fund.

12 C. The board, on behalf of the New Mexico
13 department of agriculture, shall establish application and
14 licensing fees applicable to licenses for cannabis cultivation.
15 The fees shall be reasonably calculated to cover the cost of
16 administering and enforcing the programs established pursuant
17 to the Cannabis Regulation Act.

18 SECTION 8. [NEW MATERIAL] DISCIPLINARY PROCEEDINGS--
19 APPLICATION OF UNIFORM LICENSING ACT.--In accordance with the
20 procedures contained in the Uniform Licensing Act, the
21 commission, the department of environment or the department of
22 health may revoke or suspend any permanent or temporary license
23 held or applied for under the Cannabis Regulation Act upon
24 findings that the licensee or applicant:

25 A. engaged in fraud or deceit in procuring or

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1 attempting to procure a license;

2 B. has been convicted of a felony; provided that a
3 certified copy of the record of conviction shall be conclusive
4 evidence of such conviction;

5 C. is guilty of any violation of the Controlled
6 Substances Act; or

7 D. has violated any provision of the Cannabis
8 Regulation Act or rules promulgated by the commission or the
9 board, on behalf of the New Mexico department of agriculture.

10 SECTION 9. [NEW MATERIAL] LOCAL CONTROL.--

11 A. Except as provided in Subsection B of this
12 section, a local jurisdiction may:

13 (1) adopt reasonable time, place and manner
14 rules that do not conflict with the Cannabis Regulation Act;

15 (2) prohibit, in accordance with the Cannabis
16 Regulation Act, the operation of a cannabis establishment; and

17 (3) limit the location of a cannabis
18 establishment, which distance shall be three hundred feet or
19 more from the perimeter of school grounds on which instruction
20 is provided at any level from kindergarten through twelfth
21 grade, a playground, a child care center, a youth center, a
22 public park or a library that was in existence at the time the
23 cannabis establishment was licensed.

24 B. A local jurisdiction shall not:

25 (1) prevent transportation of cannabis

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1 products on public roads by a licensee that transports cannabis
2 products in compliance with the Cannabis Regulation Act;

3 (2) prohibit the personal production of
4 cannabis or cannabis products made without the use of volatile
5 solvents for personal use provided for in the Cannabis
6 Regulation Act or the Lynn and Erin Compassionate Use Act; or

7 (3) prohibit the operation of a business that
8 limits its sales of cannabis to medical cannabis.

9 SECTION 10. [NEW MATERIAL] LOCAL OPTION--EFFECT OF LOCAL
10 OPTION.--

11 A. A local jurisdiction in the state may prohibit
12 by ordinance or resolution the operation of a licensed
13 dispensary within six months following the effective date of
14 the Cannabis Regulation Act.

15 B. A local jurisdiction in the state that has by
16 ordinance or resolution prohibited the operation of a licensed
17 dispensary may at any time by ordinance or resolution allow the
18 operation of a licensed dispensary.

19 C. A local jurisdiction in the state may by
20 ordinance or resolution limit the sale of adult-use cannabis
21 for off-site consumption to sale in a licensed dispensary.

22 SECTION 11. [NEW MATERIAL] LICENSEE PROTECTIONS.--

23 A. Conduct by a licensee or a licensee
24 representative that is allowed pursuant to a license and
25 conduct by a person who allows property to be used by a

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1 licensee or a licensee representative for conduct allowed
2 pursuant to a license is lawful and is not a basis for seizure
3 or forfeiture of any property or assets.

4 B. A local jurisdiction shall not impose a
5 criminal, civil or administrative penalty on a licensee or a
6 licensee representative or on a person who allows property to
7 be used by a licensee or a licensee representative pursuant to
8 a license, solely for conduct allowed pursuant to a license.

9 SECTION 12. [NEW MATERIAL] TRANSPORT VIA COURIER.--

10 A. Only a cannabis courier may courier cannabis
11 products.

12 B. A consumer who requests courier service shall
13 maintain a physical or electronic copy of the courier request
14 for the duration of time that the consumer possesses the
15 cannabis product that was purchased and received by courier and
16 shall make the copy available upon request by the commission or
17 a law enforcement officer.

18 SECTION 13. [NEW MATERIAL] PROTECTION OF UNDERAGE
19 PERSON--TRAFFICKING--PENALTIES.--

20 A. A licensee shall not employ a person younger
21 than twenty-one years of age.

22 B. Except as allowed in the Cannabis Regulation Act
23 or the Lynn and Erin Compassionate Use Act, a licensee shall
24 not sell a cannabis product to a person younger than twenty-one
25 years of age. The commission shall suspend or revoke the

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1 license and may fine the licensee in an amount not to exceed
2 ten thousand dollars (\$10,000), or both, when the commission
3 finds that any licensee or the licensee's employee or agent
4 knowingly has sold, served or given any cannabis product to a
5 minor on two separate occasions within any twelve-month period.

6 C. The establishment of all of the following facts
7 by a licensee prosecuted for a violation of Subsection B of
8 this section shall constitute a defense that:

9 (1) the purchaser falsely represented in
10 writing; by producing a driver's license bearing the
11 purchaser's photograph; by producing a photographic
12 identification card issued by the motor vehicle division of the
13 taxation and revenue department; or by producing a similar
14 identification card issued pursuant to the laws of this state,
15 another state, the federal government or the government of an
16 Indian nation, tribe or pueblo that the person was twenty-one
17 years of age or older;

18 (2) the purchaser's appearance was such that
19 an ordinary, prudent person would believe that the purchaser
20 was twenty-one years of age or older; and

21 (3) the sale was made in good faith, relying
22 upon the purchaser's false written representation, driver's
23 license or identification card produced as provided in
24 Paragraph (1) of this subsection, and with the reasonable
25 belief that the purchaser was actually twenty-one years of age

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1 or older.

2 D. A person who is eighteen years of age or older
3 shall not intentionally traffic cannabis to a minor. A person
4 who violates this subsection is guilty of a fourth degree
5 felony and shall be sentenced pursuant to Section 31-18-15 NMSA
6 1978.

7 E. For the purposes of this section, "traffic"
8 means the:

9 (1) distribution, sale, barter or giving away
10 of cannabis; or

11 (2) possession with intent to distribute,
12 sell, barter or give away cannabis.

13 SECTION 14. [NEW MATERIAL] DISTRIBUTION AND TRANSPORT.--
14 The Cannabis Regulation Act shall not be construed to authorize
15 a licensee to transport or distribute, or cause to be
16 transported or distributed, cannabis items outside the state,
17 unless authorized by federal law.

18 SECTION 15. [NEW MATERIAL] PACKAGING AND LABELING.--

19 A. Before sale to the public, cannabis items shall
20 be labeled and placed in a resealable, child-resistant package.

21 B. Packages and labels for cannabis items shall not
22 be designed to be appealing to a child.

23 C. Labels shall include:

24 (1) total tetrahydrocannabinol concentration
25 for the package;

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1 (2) for a package containing only cannabis
2 flower, the net weight of cannabis in the package;

3 (3) identification of the licensee or
4 licensees that produced or manufactured the cannabis item, the
5 date on which the cannabis was harvested, the type of cannabis
6 item and the date on which the cannabis item was manufactured
7 and packaged;

8 (4) a list of pharmacologically active
9 ingredients;

10 (5) for cannabis products, a list of all
11 ingredients, and for edibles, a disclosure of nutritional
12 information for the product or cannabis extract, disclosed in
13 the same manner required under federal law for nutritional
14 labeling for food for human consumption;

15 (6) a warning, if nuts or other known
16 allergens are used in the item or in its manufacture; and

17 (7) a warning of possible adverse effects of
18 consumption and the New Mexico poison and drug information
19 center phone number.

20 SECTION 16. [NEW MATERIAL] CANNABIS PRODUCTS--
21 APPEARANCE.--

22 A. Cannabis products shall:

23 (1) not be designed to appeal to children or
24 in such a way that the products could be easily confused with
25 commercially sold candy or foods that do not contain cannabis;

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1 (2) be produced and sold with a standardized
2 dosage of cannabinoids not to exceed ten milligrams
3 tetrahydrocannabinol per serving;

4 (3) be delineated or scored into standardized
5 serving sizes, if the cannabis product contains more than one
6 serving and is an edible cannabis product in solid form;

7 (4) contain a uniform disbursement of
8 cannabinoids throughout the product;

9 (5) be manufactured and sold under health and
10 sanitation standards established by the commission, with the
11 assistance of the department of environment, for the
12 preparation, storage, handling and sale of food products; and

13 (6) be sold with sufficient information to
14 enable the informed consumption of the product, including
15 information on the potential effects of the product and
16 directions on how to consume the cannabis product.

17 B. Cannabis or cannabis extracts included in a
18 cannabis product that is manufactured in compliance with
19 applicable law are not considered to be an adulterant under
20 state law.

21 SECTION 17. [NEW MATERIAL] CANNABIS MANUFACTURERS AND
22 TESTING LABORATORIES--DEPARTMENT OF ENVIRONMENT--RULEMAKING.--

23 A. The department of environment shall promulgate
24 rules to govern the licensing of a cannabis manufacturer and a
25 cannabis testing laboratory. The department shall issue

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1 licenses as follows:

2 (1) "cannabis manufacturing level 1" for a
3 site that manufactures cannabis extracts using nonvolatile
4 solvents or no solvents;

5 (2) "cannabis manufacturing level 2" for a
6 site that manufactures cannabis extracts using volatile
7 solvents; and

8 (3) "cannabis testing laboratory" for a
9 licensee that tests cannabis products.

10 B. Except as otherwise provided by law, cannabis
11 shall not be sold unless a representative sample from every
12 five pounds of cannabis flower or each batch of cannabis has
13 been tested by a cannabis testing laboratory to determine:

14 (1) the chemical profile of the sample,
15 including:

- 16 (a) delta-9-tetrahydrocannabinol;
- 17 (b) tetrahydrocannabinolic acid;
- 18 (c) cannabidiol;
- 19 (d) cannabidiolic acid;
- 20 (e) cannabigerol; and
- 21 (f) cannabinol; and

22 (2) that the presence of the following
23 contaminants does not exceed harmful levels:

24 (a) residual solvents or chemicals, such
25 as butane, propane, methanol, methylene chloride, acetone,

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1 benzene, toluene and trichloroethylene; and

2 (b) microbiological impurity, including
3 total aerobic microbial count; total yeast mold count;
4 aspergillus species; E. coli; salmonella spp.; bile-tolerant
5 gram-negative organisms; aflatoxin B1, B2, G1 or G2; or
6 ochratoxin A.

7 C. Residual levels of volatile organic compounds
8 shall not exceed harmful levels.

9 D. The testing required by this section shall be
10 performed in a manner consistent with general requirements for
11 the competence of testing and calibration activities, including
12 sampling, using validated methods to ensure conformity,
13 competence and impartiality to test cannabis products.

14 E. Any pre-sale inspection, testing transfer or
15 transportation of cannabis products pursuant to this section
16 shall conform to a chain of custody protocol and any other
17 requirements imposed by the commission in accordance with the
18 Cannabis Regulation Act.

19 SECTION 18. [NEW MATERIAL] TESTING CANNABIS PRODUCTS--
20 DEPARTMENT OF ENVIRONMENT.--

21 A. A cannabis testing laboratory's testing of
22 cannabis products shall comply with the requirements set forth
23 in applicable law and rules.

24 B. The commission shall develop rules and
25 procedures to:

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1 (1) ensure that testing of cannabis products
2 occurs prior to distribution;

3 (2) specify how often licensees shall test
4 cannabis products;

5 (3) specify which entities bear the cost of
6 testing cannabis and medical cannabis;

7 (4) ensure that testing samples are
8 transported and stored in a manner that prevents degradation,
9 contamination and tampering;

10 (5) specify protocols for sample collection
11 that ensure that representative samples have been taken and
12 that require testing samples be collected by laboratory staff
13 trained in sample collection; and

14 (6) require destruction of a harvested batch
15 of cannabis or of cannabis products if the testing samples from
16 the batch or items indicate noncompliance with applicable
17 health and safety standards promulgated by the commission,
18 unless remedial measures can bring the cannabis or cannabis
19 products into compliance with the standards.

20 C. Not later than January 1, 2022, the department
21 of environment shall identify and designate to the commission
22 acceptable and accredited standards, where necessary to be used
23 by cannabis testing laboratories.

24 SECTION 19. [NEW MATERIAL] ADVERTISING AND MARKETING
25 RESTRICTIONS.--The commission shall promulgate rules that

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1 explicitly:

2 A. prohibit the advertisement and marketing of
3 cannabis products:

4 (1) on a billboard, radio, television or other
5 broadcast media;

6 (2) that is false, deceptive or misleading,
7 including making unproven health benefit claims;

8 (3) that depicts consumption by children or
9 other persons younger than twenty-one years of age;

10 (4) that is designed using cartoon characters
11 or to mimic any other product brand;

12 (5) within three hundred feet of a school,
13 church or daycare center;

14 (6) that is in public transit vehicles or
15 stations;

16 (7) that is in the form of an unsolicited
17 internet pop-up; or

18 (8) that is on publicly owned or operated
19 property; and

20 B. require:

21 (1) all advertisements and marketing to
22 accurately and legibly identify the licensee responsible for
23 its content; and

24 (2) print and digital communications
25 advertisements to be placed only where the audience is

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1 reasonably expected to be twenty-one years of age or older, as
2 determined by reliable, current audience composition data.

3 SECTION 20. [NEW MATERIAL] CONTRACTS.--A contract related
4 to operation of a license issued pursuant to the Cannabis
5 Regulation Act is enforceable, and a contract entered into by a
6 licensee or a licensee representative for conduct allowed
7 pursuant to a license or entered into by a person who allows
8 property to be used by a licensee or a licensee representative
9 for conduct allowed pursuant to a license shall not be deemed
10 unenforceable on the basis that the conduct allowed pursuant to
11 the license is prohibited by federal law.

12 SECTION 21. [NEW MATERIAL] PROVISION OF PROFESSIONAL
13 SERVICES.--A person engaged in a profession subject to state
14 licensure shall not be subject to disciplinary action because
15 the person provides professional services or assistance to
16 prospective or licensed cannabis establishments or another
17 person in connection with activity that the person reasonably
18 believes complies with the Cannabis Regulation Act and rules
19 promulgated pursuant to that act. The provisions of this
20 section shall not apply to an attorney licensed to practice law
21 in this state.

22 SECTION 22. [NEW MATERIAL] PROTECTIONS FOR THE USE OF
23 CANNABIS.--A person or a licensee shall not be subject to
24 arrest, prosecution, penalty, civil liability or disciplinary
25 action by a business or professional licensing entity and shall

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1 not be denied any right or privilege solely for conduct allowed
2 pursuant to the Cannabis Regulation Act. Except by court
3 order, state and local law enforcement agencies shall not
4 cooperate with or provide assistance to the United States
5 government, or any federal agency thereof, in enforcing the
6 federal Controlled Substances Act solely for conduct that
7 complies with the Cannabis Regulation Act or the Lynn and Erin
8 Compassionate Use Act. The supreme court and any disciplinary
9 or character and fitness committees established by that court
10 are considered business or professional licensing entities for
11 the purposes of this section.

12 SECTION 23. [NEW MATERIAL] PROTECTIONS FROM
13 DISCRIMINATION FOR THE USE OF CANNABIS OR MEDICAL CANNABIS.--

14 A. No educational institution shall refuse to
15 enroll or otherwise penalize a person for conduct allowed
16 pursuant to the Cannabis Regulation Act or the Lynn and Erin
17 Compassionate Use Act, unless failing to do so would cause the
18 educational institution to lose a monetary or licensing-related
19 benefit under federal law or regulation.

20 B. A person may prohibit or restrict any of the
21 actions or conduct otherwise allowed under Section 25 of the
22 Cannabis Regulation Act on that person's privately owned
23 property.

24 C. A person shall not be denied custody of or
25 visitation or parenting time with a child for conduct allowed

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1 under Section 25 of the Cannabis Regulation Act or under the
2 Lynn and Erin Compassionate Use Act, unless the court
3 determines that the person's behavior is contrary to the best
4 interests of the child pursuant to Sections 40-4-9 and 40-4-9.1
5 NMSA 1978.

6 SECTION 24. [NEW MATERIAL] EMPLOYMENT PROTECTIONS.--

7 A. Nothing in the Cannabis Regulation Act shall:

8 (1) restrict an employer's ability to prohibit
9 or take adverse employment action against an employee for the
10 possession or use of intoxicating substances at work during
11 work hours;

12 (2) require an employer to commit any act that
13 would cause the employer to be in violation of federal law or
14 that would result in the loss of a federal contract or federal
15 funding; or

16 (3) prevent or infringe upon the rights of an
17 employer to adopt and implement a written zero-tolerance policy
18 regarding the use of cannabis. A zero-tolerance policy may
19 permit the discipline or termination of an employee on the
20 basis of a positive drug test that indicates any amount of
21 delta-9-tetrahydrocannabinol or delta-9-tetrahydrocannabinol
22 metabolite.

23 B. Every workplace shall post signs warning of the
24 potential impairment effects of cannabis, any discipline or
25 penalty an employee may receive for using cannabis while at

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1 work or for coming to work impaired and a statement that
2 possession or use of cannabis is prohibited pursuant to federal
3 law.

4 C. As used in this section, "adverse employment
5 action" means refusing to hire or employ a person; barring or
6 discharging a person from employment; requiring a person to
7 retire from employment; or discriminating against an employee
8 in compensation or in terms, conditions or privileges of
9 employment.

10 SECTION 25. [NEW MATERIAL] PERSONAL USE OF CANNABIS.--

11 A. The following conduct is lawful for a person who
12 is twenty-one years of age or older and shall not constitute
13 grounds for detention, search or arrest of a person, and
14 cannabis items that relate to the conduct are not contraband or
15 subject to seizure or forfeiture pursuant to the Controlled
16 Substances Act or the Forfeiture Act; provided that the person
17 has proof that the cannabis items were purchased from a
18 licensed dispensary or are authorized pursuant to the medical
19 cannabis program:

20 (1) possessing, using, being under the
21 influence of, displaying, purchasing, obtaining or transporting
22 not more than two ounces of cannabis or sixteen grams of
23 cannabis extracts;

24 (2) transferring, without financial
25 consideration, to a person who is twenty-one years of age or

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1 older not more than two ounces of cannabis or sixteen grams of
2 cannabis extracts;

3 (3) possessing not more than two ounces of
4 cannabis or sixteen grams of cannabis extracts outside the
5 person's private residence;

6 (4) transporting cannabis as described in
7 Paragraph (2) of this subsection when the person is moving the
8 person's residence to another location or for purposes of
9 testing or manufacturing;

10 (5) smoking, ingesting or otherwise consuming
11 cannabis or cannabis items;

12 (6) possessing, using, displaying, purchasing,
13 obtaining, manufacturing, transporting or giving away to a
14 person twenty-one years of age or older cannabis paraphernalia;
15 and

16 (7) assisting another person who is twenty-one
17 years of age or older in, or allowing property to be used in,
18 any of the acts described in Paragraphs (1) through (6) of this
19 subsection.

20 B. Paragraphs (6) and (7) of Subsection A of this
21 section meet the requirements of 21 U.S.C. Section 863(f) by
22 authorizing, under state law, any person in compliance with
23 this section to manufacture, possess or distribute cannabis
24 paraphernalia.

25 SECTION 26. [NEW MATERIAL] LIMITS ON PERSONAL

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1 CONSUMPTION--PENALTY.--

2 A. Nothing in Section 25 of the Cannabis Regulation
3 Act shall be construed to restrict the ability of an individual
4 or private entity to prohibit conduct otherwise allowed in
5 Section 25 of the Cannabis Regulation Act on the individual's
6 or private entity's privately owned property.

7 B. No person shall smoke cannabis or consume
8 cannabis items in a public place.

9 C. A person who violates Subsection B of this
10 section shall be subject to a civil penalty of fifty dollars
11 (\$50.00).

12 SECTION 27. [NEW MATERIAL] UNLICENSED SALES OF CANNABIS--
13 PENALTIES.--

14 A. Except as allowed in the Cannabis Regulation
15 Act, the Lynn and Erin Compassionate Use Act or Chapter 76,
16 Article 24 NMSA 1978, it is unlawful for a person without a
17 license to intentionally distribute cannabis items.

18 B. A person under eighteen years of age who
19 violates Subsection A of this section shall:

20 (1) for a first violation, be subject to:

21 (a) a fine of one hundred dollars
22 (\$100);

23 (b) attendance at a four-hour drug
24 education program; and

25 (c) four hours of community service;

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- 1 (2) for a second violation, be subject to:
2 (a) a fine of two hundred fifty dollars
3 (\$250);
4 (b) attendance at a four-hour drug
5 education program; and
6 (c) four hours of community service; and
7 (3) for a third or subsequent violation, be
8 subject to:
9 (a) a fine of one thousand dollars
10 (\$1,000);
11 (b) attendance at a four-hour drug
12 education program; and
13 (c) not less than one hundred hours of
14 community service.

15 C. A person eighteen years of age or older who
16 violates Subsection A of this section is guilty of a
17 misdemeanor and shall be sentenced pursuant to the provisions
18 of Section 31-19-1 NMSA 1978.

19 SECTION 28. [NEW MATERIAL] CANNABIS WITHIN RESTRICTED
20 AREA--PENALTY.--Except as allowed in the Cannabis Regulation
21 Act or the Lynn and Erin Compassionate Use Act, a person shall
22 not possess or intentionally distribute any amount of a
23 cannabis item within three hundred feet of the perimeter of
24 school grounds on which instruction is provided at any level
25 from kindergarten through twelfth grade, a playground, a child

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1 care center, a youth center, a public park or a library unless
2 the person is a qualified patient or is in or upon or traveling
3 to or from the grounds of a private residence, as an invitee or
4 resident. A person who violates this section is guilty of a
5 misdemeanor and shall be sentenced pursuant to the provisions
6 of Section 31-19-1 NMSA 1978.

7 SECTION 29. [NEW MATERIAL] UNLAWFUL POSSESSION OF
8 CANNABIS--PENALTIES.--Except as allowed in the Lynn and Erin
9 Compassionate Use Act:

10 A. a person eighteen years of age or older and
11 younger than twenty-one years of age shall not possess cannabis
12 items. A person who violates this subsection shall be subject
13 to:

14 (1) a fine of seventy-five dollars (\$75.00);
15 (2) attendance at a four-hour drug education
16 program; and

17 (3) four hours of community service;

18 B. a person younger than eighteen years of age
19 shall not possess cannabis items. A person who violates this
20 subsection shall be subject to:

21 (1) a fine of fifty dollars (\$50.00);
22 (2) attendance at a four-hour drug education
23 program; and

24 (3) four hours of community service; and

25 C. or as allowed in the Cannabis Regulation Act, a

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1 person twenty-one years of age or older shall not possess
2 cannabis containing more than three-tenths percent
3 tetrahydrocannabinol except pursuant to a certificate of
4 purchase issued by a licensed dispensary. A person who
5 violates this subsection, if the amount is:

6 (1) one ounce of cannabis or eight grams of
7 cannabis extracts or less, shall be subject to a civil penalty
8 of five hundred dollars (\$500);

9 (2) more than one ounce of cannabis or eight
10 grams of cannabis extracts but not more than sixteen ounces of
11 cannabis or one hundred twenty-eight grams of cannabis
12 extracts, is guilty of a petty misdemeanor and shall be subject
13 to a fine in an amount not more than five hundred dollars
14 (\$500); or

15 (3) more than sixteen ounces of cannabis or
16 one hundred twenty-eight grams of cannabis extracts, is guilty
17 of a fourth degree felony and shall be sentenced to twelve
18 months imprisonment and subject to a fine of not more than five
19 thousand dollars (\$5,000).

20 SECTION 30. [NEW MATERIAL] UNLICENSED MANUFACTURING OF
21 CANNABIS EXTRACTS--PENALTY.--Except as permitted by the Lynn
22 and Erin Compassionate Use Act, it is unlawful for any person
23 to use volatile solvents to manufacture cannabis extracts
24 without a license issued pursuant to the Cannabis Regulation
25 Act or the Lynn and Erin Compassionate Use Act. A person who

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1 violates this section shall be subject to a civil penalty of
2 four hundred fifty dollars (\$450).

3 SECTION 31. [NEW MATERIAL] WRIT OF MANDAMUS.--Any person
4 may commence a legal action for a writ of mandamus to compel
5 the commission to perform its duties pursuant to the Cannabis
6 Regulation Act.

7 SECTION 32. [NEW MATERIAL] CANNABIS REGULATION FUND.--

8 A. The "cannabis regulation fund" is created in the
9 state treasury. The fund consists of appropriations, gifts,
10 grants, donations and fees collected pursuant to the Cannabis
11 Regulation Act. Any unexpended or unencumbered balance
12 remaining at the end of a fiscal year shall revert to the
13 general fund.

14 B. The commission shall administer the fund, and
15 money in the fund is appropriated to the commission to support
16 the commission in its duties established in the Cannabis
17 Regulation Act. Money from the fund shall not be used for
18 capital expenditures.

19 C. Money in the fund shall be disbursed on warrants
20 signed by the secretary of finance and administration pursuant
21 to vouchers signed by the director or the director's authorized
22 representative.

23 SECTION 33. [NEW MATERIAL] EXEMPTION FROM CRIMINAL AND
24 CIVIL PENALTIES--RESEARCHERS.--A person shall not be subject to
25 arrest or prosecution, penalized in any manner or denied any

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1 right or privilege solely because the person produced,
2 possessed, distributed, dispensed or purchased cannabis from a
3 person licensed pursuant to the Lynn and Erin Compassionate Use
4 Act or the Cannabis Regulation Act if the person produced,
5 possessed, distributed, dispensed or purchased the cannabis
6 solely for the purpose of research conducted pursuant to the
7 Lynn and Erin Compassionate Use Act or the Cannabis Regulation
8 Act.

9 SECTION 34. [NEW MATERIAL] ROAD SAFETY FUND.--

10 A. The "road safety fund" is created in the state
11 treasury. The fund consists of money transferred from the
12 cannabis excise tax, appropriations, other money deposited in
13 the fund and money otherwise accruing to the fund. The
14 department of public safety shall administer the fund, and
15 money in the fund is subject to appropriation to the department
16 of public safety for the purposes described in this section.
17 Any unexpended or unencumbered balance remaining at the end of
18 a fiscal year shall not revert to the general fund. Money in
19 the fund shall be disbursed on warrants signed by the secretary
20 of finance and administration pursuant to vouchers signed by
21 the secretary of public safety or the secretary's authorized
22 representative.

23 B. Money in the fund is subject to appropriation by
24 the department of public safety for:

- 25 (1) research to determine whether a driver is

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1 operating a vehicle while impaired, including impairment by the
2 use of cannabis items;

3 (2) implementing best practices in law
4 enforcement agencies regarding impairment by the use of
5 cannabis items; and

6 (3) drug recognition expert field
7 certification training for law enforcement officers and for
8 purchasing roadside impairment tests that are validated for
9 testing cannabis impairment.

10 SECTION 35. [NEW MATERIAL] SHORT TITLE.--Sections 35
11 through 41 of this act may be cited as the "Cannabis Tax Act".

12 SECTION 36. [NEW MATERIAL] DEFINITIONS.--As used in the
13 Cannabis Tax Act:

14 A. "cannabis":

15 (1) means all parts of the plant Cannabis
16 sativa Linnaeus, whether growing or not; the seeds of the
17 plant; the resin extracted from any part of the plant; and
18 every compound, manufacture, salt, derivative, mixture or
19 preparation of the plant, its seeds or its resin; and

20 (2) does not include:

21 (a) the mature stalks of the plant;
22 fiber produced from the stalks; oil or cake made from the seeds
23 of the plant; any other compound, manufacture, salt,
24 derivative, mixture or preparation of the mature stalks, fiber,
25 oil or cake; or the sterilized seed of the plant that is

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1 incapable of germination; or

2 (b) the weight of any other ingredient
3 combined with cannabis to prepare topical or oral
4 administrations, food, drink or another product;

5 B. "cannabis extract":

6 (1) means a product obtained by separating
7 resins from cannabis by solvent extraction using solvents other
8 than vegetable glycerin, such as butane, hexane, isopropyl
9 alcohol, ethanol or carbon dioxide; and

10 (2) does not include the weight of any other
11 ingredient combined with cannabis extract to prepare topical or
12 oral administrations, food, drink or another product;

13 C. "cannabis items" means cannabis, cannabis
14 products and cannabis extracts;

15 D. "cannabis product":

16 (1) means a product that contains cannabis or
17 cannabis extracts, including edible or topical products that
18 may also contain other ingredients; and

19 (2) does not include the weight of any other
20 ingredient combined with cannabis or cannabis extracts to
21 prepare topical or oral administrations, food, drink or another
22 product; and

23 E. "department" means the taxation and revenue
24 department.

25 SECTION 37. [NEW MATERIAL] CANNABIS EXCISE TAX.--

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1 A. An excise tax is imposed on the sale of cannabis
2 items in this state on which the tax imposed by this section
3 has not been paid. The tax imposed by this section may be
4 referred to as the "cannabis excise tax". If the price paid
5 does not represent the value of the cannabis item, the tax rate
6 shall be applied to the reasonable value of the cannabis item
7 at the time the item was purchased.

8 B. The rate of the cannabis excise tax is two
9 percent and is applied to the price paid for the cannabis item.

10 C. The cannabis excise tax shall not apply to:

11 (1) retail sales of medical cannabis products
12 sold to a qualified patient or to a primary caregiver who
13 presents a registry identification card issued pursuant to the
14 Lynn and Erin Compassionate Use Act at the time of the sale; or

15 (2) receipts of cannabis producers from
16 selling cannabis wholesale.

17 **SECTION 38. [NEW MATERIAL] MUNICIPAL CANNABIS TAX.--**

18 A. There is imposed an excise tax at a rate of two
19 percent on the sale of cannabis items in the municipality on
20 which the tax imposed by this section has not been paid. The
21 tax imposed pursuant to this section may be referred to as the
22 "municipal cannabis tax".

23 B. The governing body of the municipality may
24 dedicate the revenue for any municipal purpose.

25 **SECTION 39. [NEW MATERIAL] COUNTY CANNABIS TAX.--**

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1 A. There is imposed in a county that does not
2 prohibit the sale of cannabis items an excise tax at a rate of
3 two percent on the sale of cannabis items on which the tax
4 imposed by this section has not been paid. The tax imposed
5 pursuant to this section may be referred to as the "county
6 cannabis tax".

7 B. The governing body of the county may dedicate
8 the revenue for any county purpose.

9 SECTION 40. [NEW MATERIAL] DATE PAYMENT DUE.--The taxes
10 imposed pursuant to the Cannabis Tax Act are to be paid on or
11 before the twenty-fifth day of the month following the month in
12 which the taxable event occurs.

13 SECTION 41. [NEW MATERIAL] INTERPRETATION OF ACT--
14 ADMINISTRATION AND ENFORCEMENT OF TAX.--The department shall
15 administer and enforce the collection of the cannabis excise
16 tax, municipal cannabis tax and county cannabis tax pursuant to
17 the Tax Administration Act.

18 SECTION 42. A new section of the Tax Administration Act
19 is enacted to read:

20 "[NEW MATERIAL] DISTRIBUTION--CANNABIS EXCISE TAX.--

21 A. A distribution pursuant to Section 7-1-6.1 NMSA
22 1978 shall be made to the local DWI grant fund in an amount
23 equal to six percent of the net receipts attributable to the
24 cannabis excise tax.

25 B. A distribution pursuant to Section 7-1-6.1 NMSA

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1 1978 shall be made to the road safety fund in an amount equal
2 to two percent of the net receipts attributable to the cannabis
3 excise tax."

4 SECTION 43. A new section of the Tax Administration Act
5 is enacted to read:

6 "[NEW MATERIAL] TRANSFER--REVENUES FROM MUNICIPAL CANNABIS
7 TAX AND COUNTY CANNABIS TAX.--

8 A. A transfer pursuant to Section 7-1-6.1 NMSA 1978
9 shall be made to each municipality for which the department is
10 collecting a municipal cannabis tax imposed by that
11 municipality in an amount, subject to any increase or decrease
12 made pursuant to Section 7-1-6.15 NMSA 1978, equal to the net
13 receipts attributable to the municipal cannabis tax.

14 B. A transfer pursuant to Section 7-1-6.1 NMSA 1978
15 shall be made to each county for which the department is
16 collecting a county cannabis tax imposed by that county in an
17 amount, subject to any increase or decrease made pursuant to
18 Section 7-1-6.15 NMSA 1978, equal to the net receipts
19 attributable to the county cannabis tax."

20 SECTION 44. Section 7-1-2 NMSA 1978 (being Laws 1965,
21 Chapter 248, Section 2, as amended by Laws 2019, Chapter 47,
22 Section 1 and by Laws 2019, Chapter 53, Section 10 and also by
23 Laws 2019, Chapter 270, Section 1) is amended to read:

24 "7-1-2. APPLICABILITY.--The Tax Administration Act
25 applies to and governs:

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1 A. the administration and enforcement of the
2 following taxes or tax acts as they now exist or may hereafter
3 be amended:

- 4 (1) Income Tax Act;
- 5 (2) Withholding Tax Act;
- 6 (3) Oil and Gas Proceeds and Pass-Through
7 Entity Withholding Tax Act;
- 8 (4) Gross Receipts and Compensating Tax Act,
9 Interstate Telecommunications Gross Receipts Tax Act and Leased
10 Vehicle Gross Receipts Tax Act;
- 11 (5) Liquor Excise Tax Act;
- 12 (6) Local Liquor Excise Tax Act;
- 13 (7) any municipal local option gross receipts
14 tax or municipal compensating tax;
- 15 (8) any county local option gross receipts tax
16 or county compensating tax;
- 17 (9) Special Fuels Supplier Tax Act;
- 18 (10) Gasoline Tax Act;
- 19 (11) petroleum products loading fee, which fee
20 shall be considered a tax for the purpose of the Tax
21 Administration Act;
- 22 (12) Alternative Fuel Tax Act;
- 23 (13) Cigarette Tax Act;
- 24 (14) Estate Tax Act;
- 25 (15) Railroad Car Company Tax Act;

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1 (16) Investment Credit Act, rural job tax
2 credit, Laboratory Partnership with Small Business Tax Credit
3 Act, Technology Jobs and Research and Development Tax Credit
4 Act, Film Production Tax Credit Act, Affordable Housing Tax
5 Credit Act and high-wage jobs tax credit;

6 (17) Corporate Income and Franchise Tax Act;

7 (18) Uniform Division of Income for Tax
8 Purposes Act;

9 (19) Multistate Tax Compact;

10 (20) Tobacco Products Tax Act;

11 (21) the telecommunications relay service
12 surcharge imposed by Section 63-9F-11 NMSA 1978, which
13 surcharge shall be considered a tax for the purposes of the Tax
14 Administration Act; ~~and~~

15 (22) the Insurance Premium Tax Act;

16 (23) the Health Care Quality Surcharge Act;

17 and

18 (24) the Cannabis Tax Act;

19 B. the administration and enforcement of the
20 following taxes, surtaxes, advanced payments or tax acts as
21 they now exist or may hereafter be amended:

22 (1) Resources Excise Tax Act;

23 (2) Severance Tax Act;

24 (3) any severance surtax;

25 (4) Oil and Gas Severance Tax Act;

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- 1 (5) Oil and Gas Conservation Tax Act;
- 2 (6) Oil and Gas Emergency School Tax Act;
- 3 (7) Oil and Gas Ad Valorem Production Tax Act;
- 4 (8) Natural Gas Processors Tax Act;
- 5 (9) Oil and Gas Production Equipment Ad

6 Valorem Tax Act;

- 7 (10) Copper Production Ad Valorem Tax Act;

8 (11) any advance payment required to be made
9 by any act specified in this subsection, which advance payment
10 shall be considered a tax for the purposes of the Tax

11 Administration Act;

- 12 (12) Enhanced Oil Recovery Act;

13 (13) Natural Gas and Crude Oil Production
14 Incentive Act; and

- 15 (14) intergovernmental production tax credit
16 and intergovernmental production equipment tax credit;

17 C. the administration and enforcement of the
18 following taxes, surcharges, fees or acts as they now exist or
19 may hereafter be amended:

- 20 (1) Weight Distance Tax Act;

21 (2) the workers' compensation fee authorized
22 by Section 52-5-19 NMSA 1978, which fee shall be considered a
23 tax for purposes of the Tax Administration Act;

- 24 (3) Uniform Unclaimed Property Act (1995);

25 (4) 911 emergency surcharge and the network

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1 and database surcharge, which surcharges shall be considered
2 taxes for purposes of the Tax Administration Act;

3 (5) the solid waste assessment fee authorized
4 by the Solid Waste Act, which fee shall be considered a tax for
5 purposes of the Tax Administration Act;

6 (6) the water conservation fee imposed by
7 Section 74-1-13 NMSA 1978, which fee shall be considered a tax
8 for the purposes of the Tax Administration Act; and

9 (7) the gaming tax imposed pursuant to the
10 Gaming Control Act; and

11 D. the administration and enforcement of all other
12 laws, with respect to which the department is charged with
13 responsibilities pursuant to the Tax Administration Act, but
14 only to the extent that the other laws do not conflict with the
15 Tax Administration Act."

16 SECTION 45. Section 7-1-6.15 NMSA 1978 (being Laws 1983,
17 Chapter 211, Section 20, as amended by Laws 2015, Chapter 89,
18 Section 1 and by Laws 2015, Chapter 100, Section 1) is amended
19 to read:

20 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO
21 MUNICIPALITIES OR COUNTIES.--

22 A. The provisions of this section apply to:

23 (1) any distribution to a municipality
24 pursuant to Section 7-1-6.4, 7-1-6.36 or 7-1-6.46 NMSA 1978;

25 (2) any transfer to a municipality with

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1 respect to any local option gross receipts tax or municipal
2 cannabis tax imposed by that municipality;

3 (3) any transfer to a county with respect to
4 any local option gross receipts tax or county cannabis tax
5 imposed by that county;

6 (4) any distribution to a county pursuant to
7 Section 7-1-6.16 or 7-1-6.47 NMSA 1978;

8 (5) any distribution to a municipality or a
9 county of gasoline taxes pursuant to Section 7-1-6.9 NMSA 1978;

10 (6) any transfer to a county with respect to
11 any tax imposed in accordance with the Local Liquor Excise Tax
12 Act;

13 (7) any distribution to a county from the
14 county government road fund pursuant to Section 7-1-6.26 NMSA
15 1978;

16 (8) any distribution to a municipality of
17 gasoline taxes pursuant to Section 7-1-6.27 NMSA 1978; and

18 (9) any distribution to a municipality of
19 compensating taxes pursuant to Section 7-1-6.55 NMSA 1978.

20 B. Before making a distribution or transfer
21 specified in Subsection A of this section to a municipality or
22 county for the month, amounts comprising the net receipts shall
23 be segregated into two mutually exclusive categories. One
24 category shall be for amounts relating to the current month,
25 and the other category shall be for amounts relating to prior

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1 periods. The total of each category for a municipality or
2 county shall be reported each month to that municipality or
3 county. If the total of the amounts relating to prior periods
4 is less than zero and its absolute value exceeds the greater of
5 one hundred dollars (\$100) or an amount equal to twenty percent
6 of the average distribution or transfer amount for that
7 municipality or county, then the following procedures shall be
8 carried out:

9 (1) all negative amounts relating to any
10 period prior to the three calendar years preceding the year of
11 the current month, net of any positive amounts in that same
12 time period for the same taxpayers to which the negative
13 amounts pertain, shall be excluded from the total relating to
14 prior periods. Except as provided in Paragraph (2) of this
15 subsection, the net receipts to be distributed or transferred
16 to the municipality or county shall be adjusted to equal the
17 amount for the current month plus the revised total for prior
18 periods; and

19 (2) if the revised total for prior periods
20 determined pursuant to Paragraph (1) of this subsection is
21 negative and its absolute value exceeds the greater of one
22 hundred dollars (\$100) or an amount equal to twenty percent of
23 the average distribution or transfer amount for that
24 municipality or county, the revised total for prior periods
25 shall be excluded from the distribution or transfers and the

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1 net receipts to be distributed or transferred to the
2 municipality or county shall be equal to the amount for the
3 current month.

4 C. The department shall recover from a municipality
5 or county the amount excluded by Paragraph (2) of Subsection B
6 of this section. This amount may be referred to as the
7 "recoverable amount".

8 D. Prior to or concurrently with the distribution
9 or transfer to the municipality or county of the adjusted net
10 receipts, the department shall notify the municipality or
11 county whose distribution or transfer has been adjusted
12 pursuant to Paragraph (2) of Subsection B of this section:

13 (1) that the department has made such an
14 adjustment, that the department has determined that a specified
15 amount is recoverable from the municipality or county and that
16 the department intends to recover that amount from future
17 distributions or transfers to the municipality or county;

18 (2) that the municipality or county has ninety
19 days from the date notice is made to enter into a mutually
20 agreeable repayment agreement with the department;

21 (3) that if the municipality or county takes
22 no action within the ninety-day period, the department will
23 recover the amount from the next six distributions or transfers
24 following the expiration of the ninety days; and

25 (4) that the municipality or county may

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1 inspect, pursuant to Section 7-1-8.9 NMSA 1978, an application
2 for a claim for refund that gave rise to the recoverable
3 amount, exclusive of any amended returns that may be attached
4 to the application.

5 E. No earlier than ninety days from the date notice
6 pursuant to Subsection D of this section is given, the
7 department shall begin recovering the recoverable amount from a
8 municipality or county as follows:

9 (1) the department may collect the recoverable
10 amount by:

11 (a) decreasing distributions or
12 transfers to the municipality or county in accordance with a
13 repayment agreement entered into with the municipality or
14 county; or

15 (b) except as provided in Paragraphs (2)
16 and (3) of this subsection, if the municipality or county fails
17 to act within the ninety days, decreasing the amount of the
18 next six distributions or transfers to the municipality or
19 county following expiration of the ninety-day period in
20 increments as nearly equal as practicable and sufficient to
21 recover the amount;

22 (2) if, pursuant to Subsection B of this
23 section, the secretary determines that the recoverable amount
24 is more than fifty percent of the average distribution or
25 transfer of net receipts for that municipality or county, the

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1 secretary:

2 (a) shall recover only up to fifty
3 percent of the average distribution or transfer of net receipts
4 for that municipality or county; and

5 (b) may, in the secretary's discretion,
6 waive recovery of any portion of the recoverable amount,
7 subject to approval by the state board of finance; and

8 (3) if, after application of a refund claim,
9 audit adjustment, correction of a mistake by the department or
10 other adjustment of a prior period, but prior to any recovery
11 of the department pursuant to this section, the total net
12 receipts of a municipality or county for the twelve-month
13 period beginning with the current month are reduced or are
14 projected to be reduced to less than fifty percent of the
15 average distribution or transfer of net receipts, the secretary
16 may waive recovery of any portion of the recoverable amount,
17 subject to approval by the state board of finance.

18 F. No later than ninety days from the date notice
19 pursuant to Subsection D of this section is given, the
20 department shall provide the municipality or county adequate
21 opportunity to review an application for a claim for refund
22 that gave rise to the recoverable amount, exclusive of any
23 amended returns that may be attached to the application,
24 pursuant to Section 7-1-8.9 NMSA 1978.

25 G. On or before September 1 of each year beginning

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1 in 2016, the secretary shall report to the state board of
2 finance and the legislative finance committee the total
3 recoverable amount waived pursuant to Subparagraph (b) of
4 Paragraph (2) and Paragraph (3) of Subsection E of this section
5 for each municipality and county in the prior fiscal year.

6 H. The secretary is authorized to decrease a
7 distribution or transfer to a municipality or county upon being
8 directed to do so by the secretary of finance and
9 administration pursuant to the State Aid Intercept Act or to
10 redirect a distribution or transfer to the New Mexico finance
11 authority pursuant to an ordinance or a resolution passed by
12 the county or municipality and a written agreement of the
13 municipality or county and the New Mexico finance authority.

14 Upon direction to decrease a distribution or transfer or notice
15 to redirect a distribution or transfer to a municipality or
16 county, the secretary shall decrease or redirect the next
17 designated distribution or transfer, and succeeding
18 distributions or transfers as necessary, by the amount of the
19 state distributions intercept authorized by the secretary of
20 finance and administration pursuant to the State Aid Intercept
21 Act or by the amount of the state distribution intercept
22 authorized pursuant to an ordinance or a resolution passed by
23 the county or municipality and a written agreement with the New
24 Mexico finance authority. The secretary shall transfer the
25 state distributions intercept amount to the municipal or county

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1 treasurer or other person designated by the secretary of
2 finance and administration or to the New Mexico finance
3 authority pursuant to written agreement to pay the debt service
4 to avoid default on qualified local revenue bonds or meet other
5 local revenue bond, loan or other debt obligations of the
6 municipality or county to the New Mexico finance authority. A
7 decrease to or redirection of a distribution or transfer
8 pursuant to this subsection that arose:

9 (1) prior to an adjustment of a distribution
10 or transfer of net receipts creating a recoverable amount owed
11 to the department takes precedence over any collection of any
12 recoverable amount pursuant to Paragraph (2) of Subsection B of
13 this section, which may be made only from the net amount of the
14 distribution or transfer remaining after application of the
15 decrease or redirection pursuant to this subsection; and

16 (2) after an adjustment of a distribution or
17 transfer of net receipts creating a recoverable amount owed to
18 the department shall be subordinate to any collection of any
19 recoverable amount pursuant to Paragraph (2) of Subsection B of
20 this section.

21 I. Upon the direction of the secretary of finance
22 and administration pursuant to Section 9-6-5.2 NMSA 1978, the
23 secretary shall temporarily withhold the balance of a
24 distribution to a municipality or county, net of any decrease
25 or redirected amount pursuant to Subsection H of this section

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1 and any recoverable amount pursuant to Paragraph (2) of
2 Subsection B of this section, that has failed to submit an
3 audit report required by the Audit Act or a financial report
4 required by Subsection F of Section 6-6-2 NMSA 1978. The
5 amount to be withheld, the source of the withheld distribution
6 and the number of months that the distribution is to be
7 withheld shall be as directed by the secretary of finance and
8 administration. A distribution withheld pursuant to this
9 subsection shall remain in the tax administration suspense fund
10 until distributed to the municipality or county and shall not
11 be distributed to the general fund. An amount withheld
12 pursuant to this subsection shall be distributed to the
13 municipality or county upon direction of the secretary of
14 finance and administration.

15 J. As used in this section:

16 (1) "amounts relating to the current month"
17 means any amounts included in the net receipts of the current
18 month that represent payment of tax due for the current month,
19 correction of amounts processed in the current month that
20 relate to the current month or that otherwise relate to
21 obligations due for the current month;

22 (2) "amounts relating to prior periods" means
23 any amounts processed during the current month that adjust
24 amounts processed in a period or periods prior to the current
25 month regardless of whether the adjustment is a correction of a

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1 department error or due to the filing of amended returns,
2 payment of department-issued assessments, filing or approval of
3 claims for refund, audit adjustments or other cause;

4 (3) "average distribution or transfer amount"
5 means the following amounts; provided that a distribution or
6 transfer that is negative shall not be used in calculating the
7 amounts:

8 (a) the annual average of the total
9 amount distributed or transferred to a municipality or county
10 in each of the three twelve-month periods preceding the current
11 month;

12 (b) if a distribution or transfer to a
13 municipality or county has been made for less than three years,
14 the total amount distributed or transferred in the year
15 preceding the current month; or

16 (c) if a municipality or county has not
17 received distributions or transfers of net receipts for twelve
18 or more months, the monthly average of net receipts distributed
19 or transferred to the municipality or county preceding the
20 current month multiplied by twelve;

21 (4) "current month" means the month for which
22 the distribution or transfer is being prepared; and

23 (5) "repayment agreement" means an agreement
24 between the department and a municipality or county under which
25 the municipality or county agrees to allow the department to

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1 recover an amount determined pursuant to Paragraph (2) of
2 Subsection B of this section by decreasing distributions or
3 transfers to the municipality or county for one or more months
4 beginning with the distribution or transfer to be made with
5 respect to a designated month. No interest shall be charged."

6 SECTION 46. Section 7-2-2 NMSA 1978 (being Laws 1986,
7 Chapter 20, Section 26, as amended) is amended to read:

8 "7-2-2. DEFINITIONS.--For the purpose of the Income Tax
9 Act and unless the context requires otherwise:

10 A. "adjusted gross income" means adjusted gross
11 income as defined in Section 62 of the Internal Revenue Code,
12 as that section may be amended or renumbered;

13 B. "base income":

14 (1) means, for estates and trusts, that part
15 of the estate's or trust's income defined as taxable income and
16 upon which the federal income tax is calculated in the Internal
17 Revenue Code for income tax purposes plus, for taxable years
18 beginning on or after January 1, 1991, the amount of the net
19 operating loss deduction allowed by Section 172(a) of the
20 Internal Revenue Code, as that section may be amended or
21 renumbered, and taken by the taxpayer for that year;

22 (2) means, for taxpayers other than estates or
23 trusts, that part of the taxpayer's income defined as adjusted
24 gross income plus, for taxable years beginning on or after
25 January 1, 1991, the amount of the net operating loss deduction

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1 allowed by Section 172(a) of the Internal Revenue Code, as that
2 section may be amended or renumbered, and taken by the taxpayer
3 for that year;

4 (3) includes, for all taxpayers, any other
5 income of the taxpayer not included in adjusted gross income
6 but upon which a federal tax is calculated pursuant to the
7 Internal Revenue Code for income tax purposes, except amounts
8 for which a calculation of tax is made pursuant to Section 55
9 of the Internal Revenue Code, as that section may be amended or
10 renumbered; "base income" also includes interest received on a
11 state or local bond; ~~and~~

12 (4) includes, for all taxpayers, an amount
13 deducted pursuant to Section 7-2-32 NMSA 1978 in a prior
14 taxable year if:

15 (a) such amount is transferred to
16 another qualified tuition program, as defined in Section 529 of
17 the Internal Revenue Code, not authorized in the Education
18 Trust Act; or

19 (b) a distribution or refund is made for
20 any reason other than: 1) to pay for qualified higher
21 education expenses, as defined pursuant to Section 529 of the
22 Internal Revenue Code; or 2) upon the beneficiary's death,
23 disability or receipt of a scholarship; and

24 (5) excludes, for taxpayers who conduct lawful
25 businesses pursuant to the laws of the state, subtracting an

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1 amount equal to any expenditure that is eligible to be claimed
2 as a federal income tax deduction but is disallowed by Section
3 280E of the Internal Revenue Code, as that section may be
4 amended or renumbered;

5 C. "compensation" means wages, salaries,
6 commissions and any other form of remuneration paid to
7 employees for personal services;

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

12 E. "fiduciary" means a guardian, trustee, executor,
13 administrator, committee, conservator, receiver, individual or
14 corporation acting in any fiduciary capacity;

15 F. "filing status" means "married filing joint
16 returns", "married filing separate returns", "head of
17 household", "surviving spouse" and "single", as those terms are
18 generally defined for federal tax purposes;

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

22 H. "head of household" means "head of household" as
23 generally defined for federal income tax purposes;

24 I. "individual" means a natural person, an estate,
25 a trust or a fiduciary acting for a natural person, trust or

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1 estate;

2 J. "Internal Revenue Code" means the United States
3 Internal Revenue Code of 1986, as amended;

4 K. "lump-sum amount" means, for the purpose of
5 determining liability for federal income tax, an amount that
6 was not included in adjusted gross income but upon which the
7 five-year-averaging or the ten-year-averaging method of tax
8 computation provided in Section 402 of the Internal Revenue
9 Code, as that section may be amended or renumbered, was
10 applied;

11 L. "modified gross income" means all income of the
12 taxpayer and, if any, the taxpayer's spouse and dependents,
13 undiminished by losses and from whatever source, including:

- 14 (1) compensation;
- 15 (2) net profit from business;
- 16 (3) gains from dealings in property;
- 17 (4) interest;
- 18 (5) net rents;
- 19 (6) royalties;
- 20 (7) dividends;
- 21 (8) alimony and separate maintenance payments;
- 22 (9) annuities;
- 23 (10) income from life insurance and endowment
24 contracts;
- 25 (11) pensions;

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- 1 (12) discharge of indebtedness;
- 2 (13) distributive share of partnership income;
- 3 (14) income in respect of a decedent;
- 4 (15) income from an interest in an estate or a
- 5 trust;
- 6 (16) social security benefits;
- 7 (17) unemployment compensation benefits;
- 8 (18) workers' compensation benefits;
- 9 (19) public assistance and welfare benefits;
- 10 (20) cost-of-living allowances; and
- 11 (21) gifts;

12 M. "modified gross income" excludes:

- 13 (1) payments for hospital, dental, medical or
- 14 drug expenses to or on behalf of the taxpayer;
- 15 (2) the value of room and board provided by
- 16 federal, state or local governments or by private individuals
- 17 or agencies based upon financial need and not as a form of
- 18 compensation;
- 19 (3) payments pursuant to a federal, state or
- 20 local government program directly or indirectly to a third
- 21 party on behalf of the taxpayer when identified to a particular
- 22 use or invoice by the payer; or
- 23 (4) payments for credits and rebates pursuant
- 24 to the Income Tax Act and made for a credit pursuant to Section
- 25 7-3-9 NMSA 1978;

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1 N. "net income" means, for estates and trusts, base
2 income adjusted to exclude amounts that the state is prohibited
3 from taxing because of the laws or constitution of this state
4 or the United States and means, for taxpayers other than
5 estates or trusts, base income adjusted to exclude:

6 (1) an amount equal to the standard deduction
7 allowed the taxpayer for the taxpayer's taxable year by Section
8 63 of the Internal Revenue Code, as that section may be amended
9 or renumbered;

10 (2) an amount equal to the itemized deductions
11 defined in Section 63 of the Internal Revenue Code, as that
12 section may be amended or renumbered, allowed the taxpayer for
13 the taxpayer's taxable year less the amount excluded pursuant
14 to Paragraph (1) of this subsection and less the amount of
15 state and local income and sales taxes included in the
16 taxpayer's itemized deductions;

17 (3) an amount equal to the product of the
18 exemption amount allowed for the taxpayer's taxable year by
19 Section 151 of the Internal Revenue Code, as that section may
20 be amended or renumbered, multiplied by the number of personal
21 exemptions allowed for federal income tax purposes;

22 (4) income from obligations of the United
23 States of America less expenses incurred to earn that income;

24 (5) other amounts that the state is prohibited
25 from taxing because of the laws or constitution of this state

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1 or the United States;

2 (6) for taxable years that began prior to
3 January 1, 1991, an amount equal to the sum of:

4 (a) net operating loss carryback
5 deductions to that year from taxable years beginning prior to
6 January 1, 1991 claimed and allowed, as provided by the
7 Internal Revenue Code; and

8 (b) net operating loss carryover
9 deductions to that year claimed and allowed;

10 (7) for taxable years beginning on or after
11 January 1, 1991 and prior to January 1, 2013, an amount equal
12 to the sum of any net operating loss carryover deductions to
13 that year claimed and allowed, provided that the amount of any
14 net operating loss carryover from a taxable year beginning on
15 or after January 1, 1991 and prior to January 1, 2013 may be
16 excluded only as follows:

17 (a) in the case of a timely filed
18 return, in the taxable year immediately following the taxable
19 year for which the return is filed; or

20 (b) in the case of amended returns or
21 original returns not timely filed, in the first taxable year
22 beginning after the date on which the return or amended return
23 establishing the net operating loss is filed; and

24 (c) in either case, if the net operating
25 loss carryover exceeds the amount of net income exclusive of

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1 the net operating loss carryover for the taxable year to which
2 the exclusion first applies, in the next four succeeding
3 taxable years in turn until the net operating loss carryover is
4 exhausted for any net operating loss carryover from a taxable
5 year prior to January 1, 2013; in no event shall a net
6 operating loss carryover from a taxable year beginning prior to
7 January 1, 2013 be excluded in any taxable year after the
8 fourth taxable year beginning after the taxable year to which
9 the exclusion first applies;

10 (8) for taxable years beginning on or after
11 January 1, 2013, an amount equal to the sum of any net
12 operating loss carryover deductions to that year claimed and
13 allowed; provided that the amount of any net operating loss
14 carryover may be excluded only as follows:

15 (a) in the case of a timely filed
16 return, in the taxable year immediately following the taxable
17 year for which the return is filed; or

18 (b) in the case of amended returns or
19 original returns not timely filed, in the first taxable year
20 beginning after the date on which the return or amended return
21 establishing the net operating loss is filed; and

22 (c) in either case, if the net operating
23 loss carryover exceeds the amount of net income exclusive of
24 the net operating loss carryover for the taxable year to which
25 the exclusion first applies, in the next nineteen succeeding

1 taxable years in turn until the net operating loss carryover is
2 exhausted for any net operating loss carryover from a taxable
3 year beginning on or after January 1, 2013; in no event shall a
4 net operating loss carryover from a taxable year beginning: 1)
5 prior to January 1, 2013 be excluded in any taxable year after
6 the fourth taxable year beginning after the taxable year to
7 which the exclusion first applies; and 2) on or after January
8 1, 2013 be excluded in any taxable year after the nineteenth
9 taxable year beginning after the taxable year to which the
10 exclusion first applies; and

11 (9) for taxable years beginning on or after
12 January 1, 2011, an amount equal to the amount included in
13 adjusted gross income that represents a refund of state and
14 local income and sales taxes that were deducted for federal tax
15 purposes in taxable years beginning on or after January 1,
16 2010;

17 O. "net operating loss" means any net operating
18 loss, as defined by Section 172(c) of the Internal Revenue
19 Code, as that section may be amended or renumbered, for a
20 taxable year as further increased by the income, if any, from
21 obligations of the United States for that year less related
22 expenses;

23 P. "net operating loss carryover" means the amount,
24 or any portion of the amount, of a net operating loss for any
25 taxable year that, pursuant to Paragraph (6), (7) or (8) of

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1 Subsection N of this section, may be excluded from base income;

2 Q. "nonresident" means every individual not a
3 resident of this state;

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

11 S. "resident" means an individual who is domiciled
12 in this state during any part of the taxable year or an
13 individual who is physically present in this state for one
14 hundred eighty-five days or more during the taxable year; but
15 any individual, other than someone who was physically present
16 in the state for one hundred eighty-five days or more during
17 the taxable year, who, on or before the last day of the taxable
18 year, changed the individual's place of abode to a place
19 without this state with the bona fide intention of continuing
20 actually to abide permanently without this state is not a
21 resident for the purposes of the Income Tax Act for periods
22 after that change of abode;

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

25 U. "state" means any state of the United States,

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1 the District of Columbia, the commonwealth of Puerto Rico, any
2 territory or possession of the United States or any political
3 subdivision of a foreign country;

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

10 W. "surviving spouse" means "surviving spouse" as
11 generally defined for federal income tax purposes;

12 X. "taxable income" means net income less any lump-
13 sum amount;

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

19 Z. "taxpayer" means any individual subject to the
20 tax imposed by the Income Tax Act."

21 SECTION 47. Section 7-2A-2 NMSA 1978 (being Laws 1986,
22 Chapter 20, Section 33, as amended) is amended to read:

23 "7-2A-2. DEFINITIONS.--For the purpose of the Corporate
24 Income and Franchise Tax Act and unless the context requires
25 otherwise:

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

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

10 C. "base income" means the federal taxable income
11 or the federal net operating loss of a corporation for the
12 taxable year calculated pursuant to the Internal Revenue Code,
13 after special deductions provided in Sections 241 through 249
14 of the Internal Revenue Code but without any deduction for net
15 operating losses, as if the corporation filed a federal tax
16 return as a separate domestic entity, modified as follows:

17 (1) adding to that income:

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

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

24 (c) the amount of any deduction, other
25 than for premiums, for amounts paid directly or indirectly to a

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1 commonly controlled entity that is exempt from corporate income
2 tax pursuant to Section 7-2A-4 NMSA 1978;

3 (2) subtracting from that income:

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

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

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

14 (d) an amount equal to one hundred
15 percent of the income of the corporation under Section 951A of
16 the Internal Revenue Code, after allowing the deduction
17 provided in Section 250 of the Internal Revenue Code; [~~and~~]

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

23 (4) for taxpayers that conduct lawful
24 businesses pursuant to the laws of the state, subtracting an
25 amount equal to any expenditure that is eligible to be claimed

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1 as a federal income tax deduction but is disallowed by Section
2 280E of the Internal Revenue Code, as that section may be
3 amended or renumbered;

4 D. "captive real estate investment trust" means a
5 corporation, trust or association taxed as a real estate
6 investment trust pursuant to Section 857 of the Internal
7 Revenue Code, the shares or beneficial interests of which are
8 not regularly traded on an established securities market;
9 provided that more than fifty percent of any class of
10 beneficial interests or shares of the real estate investment
11 trust are owned directly, indirectly or constructively by the
12 taxpayer during all or a part of the taxpayer's taxable year;

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

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

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

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

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

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

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

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

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

19 I. "filing group" means a group of corporations
20 properly included in a return pursuant to Section 7-2A-8.3 NMSA
21 1978 for a particular taxable year;

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

25 K. "grandfathered net operating loss carryover"

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1 means:

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

10 (2) reduced by:

11 (a) adding back deductions that were
12 taken by the corporation or corporations for royalties or
13 interest paid to one or more related corporations, but only to
14 the extent that such adjustment would not create a net loss for
15 such related corporations; and

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

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

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

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1 M. "net income" means:

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

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

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

14 (1) plus:

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

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

25 (2) minus:

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

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

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

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

24 Q. "real estate investment trust" has the meaning
25 ascribed to the term in Section 856 of the Internal Revenue

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1 Code, as that section may be amended or renumbered;

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

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

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

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

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

25 W. "state or local bond" means a bond issued by a

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1 state other than New Mexico or by a local government other than
2 one of New Mexico's political subdivisions, the interest from
3 which is excluded from income for federal income tax purposes
4 under Section 103 of the Internal Revenue Code, as that section
5 may be amended or renumbered;

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

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

15 Z. "taxpayer" means any corporation or group of
16 corporations filing a return pursuant to Section 7-2A-8.3 NMSA
17 1978 subject to the taxes imposed by the Corporate Income and
18 Franchise Tax Act;

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

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1 captive real estate investment trust, that are:

2 (1) related through common ownership; and

3 (2) economically interdependent with one

4 another as demonstrated by the following factors:

5 (a) centralized management;

6 (b) functional integration; and

7 (c) economies of scale;

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

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

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

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

22 SECTION 48. Section 7-9-13 NMSA 1978 (being Laws 1969,
23 Chapter 144, Section 6, as amended) is amended to read:

24 "7-9-13. EXEMPTION--GROSS RECEIPTS TAX--GOVERNMENTAL
25 AGENCIES.--

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1 A. Except as otherwise provided in this section,
2 exempted from the gross receipts tax are receipts of:

3 (1) the United States or any agency,
4 department or instrumentality thereof;

5 (2) the state of New Mexico or any political
6 subdivision thereof;

7 (3) any Indian nation, tribe or pueblo from
8 activities or transactions occurring on its sovereign
9 territory; [~~or~~]

10 (4) any foreign nation or agency,
11 instrumentality or political subdivision thereof, but only when
12 required by a treaty in force to which the United States is a
13 party; or

14 (5) cannabis producers for the sale of
15 cannabis wholesale.

16 B. Receipts from the sale of gas or electricity by
17 a utility owned or operated by a county, municipality or other
18 political subdivision of a state are not exempted from the
19 gross receipts tax.

20 C. Receipts from the operation of a cable
21 television system owned or operated by a municipality are not
22 exempted from the gross receipts tax."

23 SECTION 49. Section 7-9-73.2 NMSA 1978 (being Laws 1998,
24 Chapter 95, Section 2 and Laws 1998, Chapter 99, Section 4, as
25 amended) is amended to read:

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1 "7-9-73.2. DEDUCTION--GROSS RECEIPTS TAX AND GOVERNMENTAL
2 GROSS RECEIPTS TAX--PRESCRIPTION DRUGS--OXYGEN--CANNABIS.--

3 A. Receipts from the sale of prescription drugs
4 [~~and~~], oxygen and oxygen services provided by a licensed
5 medicare durable medical equipment provider and cannabis that
6 is purchased in accordance with the Lynn and Erin Compassionate
7 Use Act may be deducted from gross receipts and governmental
8 gross receipts.

9 B. For the purposes of this section, "prescription
10 drugs" means insulin and substances that are:

11 (1) dispensed by or under the supervision of a
12 licensed pharmacist or by a physician or other person
13 authorized under state law to do so;

14 (2) prescribed for a specified person by a
15 person authorized under state law to prescribe the substance;
16 and

17 (3) subject to the restrictions on sale
18 contained in Subparagraph 1 of Subsection (b) of 21 USCA 353."

19 SECTION 50. Section 11-6A-3 NMSA 1978 (being Laws 1993,
20 Chapter 65, Section 3, as amended) is amended to read:

21 "11-6A-3. LOCAL DWI GRANT PROGRAM--FUND.--

22 A. The division shall establish a local DWI grant
23 program to make grants to municipalities or counties for:

24 (1) new, innovative or model programs,
25 services or activities to prevent or reduce the incidence of

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1 DWI, alcoholism, alcohol abuse, drug addiction or drug abuse;
2 [~~and~~]

3 (2) programs, services or activities to
4 prevent or reduce the incidence of domestic abuse related to
5 DWI, alcoholism, alcohol abuse, drug addiction or drug abuse;

6 (3) implementing best practices in law
7 enforcement agencies regarding impairment by the use of
8 cannabis products; and

9 (4) funding drug recognition expert field
10 certification training for law enforcement officers and for
11 purchasing roadside impairment tests that are validated for
12 testing cannabis impairment.

13 B. Grants shall be awarded by the council pursuant
14 to the advice and recommendations of the division.

15 C. The "local DWI grant fund" is created in the
16 state treasury and shall be administered by the division. Two
17 million five hundred thousand dollars (\$2,500,000) of liquor
18 excise tax revenues distributed to the fund and all other money
19 in the fund, other than money appropriated for distribution
20 pursuant to Subsections D and E of this section and money
21 appropriated for DWI program distributions, are appropriated to
22 the division to make grants to municipalities and counties upon
23 council approval in accordance with the program established
24 under the Local DWI Grant Program Act and to evaluate DWI
25 grantees and the local DWI grant program. Money in the fund

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1 may be used for drug courts. An amount equal to the liquor
2 excise tax revenues distributed annually to the fund, less five
3 million six hundred thousand dollars (\$5,600,000), is
4 appropriated to the division to make DWI program distributions
5 to counties upon council approval of programs in accordance
6 with the provisions of the Local DWI Grant Program Act. No
7 more than six hundred thousand dollars (\$600,000) of liquor
8 excise tax revenues distributed to the fund in any fiscal year
9 shall be expended for administration of the grant program.
10 Balances in the fund at the end of any fiscal year shall not
11 revert to the general fund.

12 D. Two million eight hundred thousand dollars
13 (\$2,800,000) of the liquor excise tax revenues distributed to
14 the local DWI grant fund is appropriated to the division for
15 distribution to the following counties in the following amounts
16 for funding of alcohol detoxification and treatment facilities:

17 (1) one million seven hundred thousand dollars
18 (\$1,700,000) to class A counties with a population of over
19 three hundred thousand persons according to the 1990 federal
20 decennial census;

21 (2) three hundred thousand dollars (\$300,000)
22 each to counties reclassified in 2002 as class A counties with
23 a population of more than ninety thousand but less than one
24 hundred thousand persons according to the 1990 federal
25 decennial census;

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1 (3) two hundred thousand dollars (\$200,000) to
2 class B counties with a population of more than thirty thousand
3 but less than forty thousand persons according to the 1990
4 federal decennial census;

5 (4) one hundred fifty thousand dollars
6 (\$150,000) to class B counties with a population of more than
7 sixty-two thousand but less than sixty-five thousand persons
8 according to the 1990 federal decennial census; and

9 (5) one hundred fifty thousand dollars
10 (\$150,000) to class B counties with a population of more than
11 thirteen thousand but less than fifteen thousand persons
12 according to the 1990 federal decennial census.

13 E. Three hundred thousand dollars (\$300,000) of the
14 liquor excise tax revenues distributed to the local DWI grant
15 fund is appropriated to the division for the interlock device
16 fund.

17 F. In awarding DWI grants to local communities, the
18 council:

19 (1) may fund new or existing innovative or
20 model programs, services or activities designed to prevent or
21 reduce the incidence of DWI, alcoholism or alcohol abuse;

22 (2) may fund existing community-based
23 programs, services or facilities for prevention, screening and
24 treatment of alcoholism and alcohol abuse;

25 (3) may fund new or existing innovative or

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1 model programs, services or activities of any kind designed to
2 prevent or reduce the incidence of domestic abuse related to
3 DWI, alcoholism or alcohol abuse;

4 (4) may fund existing community-based
5 programs, services or facilities for prevention and treatment
6 of domestic abuse related to DWI, alcoholism or alcohol abuse;

7 (5) shall give consideration to a broad range
8 of approaches to prevention, education, screening, treatment or
9 alternative sentencing, including programs that combine
10 incarceration, treatment and aftercare, to address the problem
11 of DWI, alcoholism or alcohol abuse; and

12 (6) shall make grants only to counties or
13 municipalities in counties that have established a DWI planning
14 council and adopted a county DWI plan or are parties to a
15 multicounty DWI plan that has been approved by the council and
16 approved pursuant to Chapter 43, Article 3 NMSA 1978 and only
17 for programs, services or activities consistent with that plan.
18 A DWI plan shall also comply with local DWI grant program rules
19 and guidelines.

20 G. The council shall use the criteria in Subsection
21 F of this section to approve DWI programs, services or
22 activities for funding through the county DWI program
23 distribution. Sixty-five percent of the DWI grants awarded to
24 local communities shall be used for alcohol-related treatment
25 and detoxification programs."

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1 SECTION 51. Section 30-31-2 NMSA 1978 (being Laws 1972,
2 Chapter 84, Section 2, as amended) is amended to read:

3 "30-31-2. DEFINITIONS.--As used in the Controlled
4 Substances Act:

5 A. "administer" means the direct application of a
6 controlled substance by any means to the body of a patient or
7 research subject by a practitioner or the practitioner's agent;

8 B. "agent" includes an authorized person who acts
9 on behalf of a manufacturer, distributor or dispenser. It does
10 not include a common or contract carrier, public
11 warehouseperson or employee of the carrier or warehouseperson;

12 C. "board" means the board of pharmacy;

13 D. "bureau" means the narcotic and dangerous drug
14 section of the criminal division of the United States
15 department of justice, or its successor agency;

16 E. "controlled substance" means a drug or substance
17 listed in Schedules I through V of the Controlled Substances
18 Act or rules adopted thereto;

19 F. "counterfeit substance" means a controlled
20 substance that bears the unauthorized trademark, trade name,
21 imprint, number, device or other identifying mark or likeness
22 of a manufacturer, distributor or dispenser other than the
23 person who in fact manufactured, distributed or dispensed the
24 controlled substance;

25 G. "deliver" means the actual, constructive or

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1 attempted transfer from one person to another of a controlled
2 substance or controlled substance analog, whether or not there
3 is an agency relationship;

4 H. "dispense" means to deliver a controlled
5 substance to an ultimate user or research subject pursuant to
6 the lawful order of a practitioner, including the
7 administering, prescribing, packaging, labeling or compounding
8 necessary to prepare the controlled substance for that
9 delivery;

10 I. "dispenser" means a practitioner who dispenses
11 and includes hospitals, pharmacies and clinics where controlled
12 substances are dispensed;

13 J. "distribute" means to deliver other than by
14 administering or dispensing a controlled substance or
15 controlled substance analog;

16 K. "drug" or "substance" means substances
17 recognized as drugs in the official United States
18 pharmacopoeia, official homeopathic pharmacopoeia of the United
19 States or official national formulary or any respective
20 supplement to those publications. It does not include devices
21 or their components, parts or accessories;

22 ~~[L. "hashish" means the resin extracted from any~~
23 ~~part of marijuana, whether growing or not, and every compound,~~
24 ~~manufacture, salt, derivative, mixture or preparation of such~~
25 ~~resins;~~

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1 ~~M.~~ L. "hemp" means the plant Cannabis sativa L.
2 and any part of that plant, including seeds and all
3 derivatives, extracts, cannabinoids, isomers, acids, salts and
4 salts of isomers, whether growing or not, with a delta-9-
5 tetrahydrocannabinol concentration of not more than three-
6 tenths percent on a dry weight basis;

7 ~~N.~~ M. "manufacture" means the production,
8 preparation, compounding, conversion or processing of a
9 controlled substance or controlled substance analog by
10 extraction from substances of natural origin or independently
11 by means of chemical synthesis or by a combination of
12 extraction and chemical synthesis and includes any packaging or
13 repackaging of the substance or labeling or relabeling of its
14 container, except that this term does not include the
15 preparation or compounding of a controlled substance:

16 (1) by a practitioner as an incident to
17 administering or dispensing a controlled substance in the
18 course of the practitioner's professional practice; or

19 (2) by a practitioner, or by the
20 practitioner's agent under the practitioner's supervision, for
21 the purpose of or as an incident to research, teaching or
22 chemical analysis and not for sale;

23 ~~0. "marijuana" means all parts of the plant~~
24 ~~cannabis, including any and all varieties, species and~~
25 ~~subspecies of the genus Cannabis, whether growing or not, the~~

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1 ~~seeds thereof and every compound, manufacture, salt,~~
2 ~~derivative, mixture or preparation of the plant or its seeds.~~
3 ~~It does not include the mature stalks of the plant, hashish,~~
4 ~~tetrahydrocannabinols extracted or isolated from marijuana,~~
5 ~~fiber produced from the stalks, oil or cake made from the seeds~~
6 ~~of the plant, any other compound, manufacture, salt,~~
7 ~~derivative, mixture or preparation of the mature stalks, fiber,~~
8 ~~oil or cake, or the sterilized seed of the plant that is~~
9 ~~incapable of germination; or the plant Cannabis sativa L. and~~
10 ~~any part of the plant, whether growing or not, containing a~~
11 ~~delta-9-tetrahydrocannabinol concentration of no more than~~
12 ~~three-tenths percent on a dry weight basis;~~

13 P.] N. "narcotic drug" means any of the following,
14 whether produced directly or indirectly by extraction from
15 substances of vegetable origin or independently by means of
16 chemical synthesis or by a combination of extraction and
17 chemical synthesis:

18 (1) opium and opiate and any salt, compound,
19 derivative or preparation of opium or opiate;

20 (2) any salt, compound, isomer, derivative or
21 preparation that is a chemical equivalent of any of the
22 substances referred to in Paragraph (1) of this subsection,
23 except the isoquinoline alkaloids of opium;

24 (3) opium poppy and poppy straw, including all
25 parts of the plant of the species Papaver somniferum L. except

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[bracketed material] = delete

1 its seeds; or

2 (4) coca leaves and any salt, compound,
3 derivative or preparation of coca leaves, any salt, compound,
4 isomer, derivative or preparation that is a chemical equivalent
5 of any of these substances except decocainized coca leaves or
6 extractions of coca leaves that do not contain cocaine or
7 ecgonine;

8 [Q-] O. "opiate" means any substance having an
9 addiction-forming or addiction-sustaining liability similar to
10 morphine or being capable of conversion into a drug having
11 addiction-forming or addiction-sustaining liability. "Opiate"
12 does not include, unless specifically designated as controlled
13 under Section 30-31-5 NMSA 1978, the dextrorotatory isomer of
14 3-methoxy-n-methylmorphinan and its salts, dextromethorphan.
15 "Opiate" does include its racemic and levorotatory forms;

16 [R-] P. "person" means an individual, partnership,
17 corporation, association, institution, political subdivision,
18 government agency or other legal entity;

19 [S-] Q. "practitioner" means a physician, certified
20 advanced practice chiropractic physician, doctor of oriental
21 medicine, dentist, physician assistant, certified nurse
22 practitioner, clinical nurse specialist, certified nurse-
23 midwife, prescribing psychologist, veterinarian, euthanasia
24 technician, pharmacist, pharmacist clinician or other person
25 licensed or certified to prescribe and administer drugs that

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

1 are subject to the Controlled Substances Act;

2 ~~[F.]~~ R. "prescription" means an order given
3 individually for the person for whom is prescribed a controlled
4 substance, either directly from a licensed practitioner or the
5 practitioner's agent to the pharmacist, including by means of
6 electronic transmission, or indirectly by means of a written
7 order signed by the prescriber, bearing the name and address of
8 the prescriber, the prescriber's license classification, the
9 name and address of the patient, the name and quantity of the
10 drug prescribed, directions for use and the date of issue and
11 in accordance with the Controlled Substances Act or rules
12 adopted thereto;

13 ~~[U.]~~ S. "scientific investigator" means a person
14 registered to conduct research with controlled substances in
15 the course of the person's professional practice or research
16 and includes analytical laboratories;

17 ~~[V.]~~ T. "ultimate user" means a person who lawfully
18 possesses a controlled substance for the person's own use or
19 for the use of a member of the person's household or for
20 administering to an animal under the care, custody and control
21 of the person or by a member of the person's household;

22 ~~[W.]~~ U. "drug paraphernalia" means all equipment,
23 products and materials of any kind that are used, intended for
24 use or designed for use in planting, propagating, cultivating,
25 growing, harvesting, manufacturing, compounding, converting,

.219045.2

1 producing, processing, preparing, testing, analyzing,
2 packaging, repackaging, storing, containing, concealing,
3 injecting, ingesting, inhaling or otherwise introducing into
4 the human body a controlled substance or controlled substance
5 analog in violation of the Controlled Substances Act. It
6 includes:

7 (1) kits used, intended for use or designed
8 for use in planting, propagating, cultivating, growing or
9 harvesting any species of plant that is a controlled substance
10 or controlled substance analog or from which a controlled
11 substance can be derived;

12 (2) kits used, intended for use or designed
13 for use in manufacturing, compounding, converting, producing,
14 processing or preparing controlled substances or controlled
15 substance analogs;

16 (3) isomerization devices used, intended for
17 use or designed for use in increasing the potency of any
18 species of plant that is a controlled substance;

19 (4) testing equipment used, intended for use
20 or designed for use in identifying or in analyzing the
21 strength, effectiveness or purity of controlled substances or
22 controlled substance analogs;

23 (5) scales or balances used, intended for use
24 or designed for use in weighing or measuring controlled
25 substances or controlled substance analogs;

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1 (6) diluents and adulterants, such as quinine
2 hydrochloride, mannitol, mannite dextrose and lactose, used,
3 intended for use or designed for use in cutting controlled
4 substances or controlled substance analogs;

5 (7) separation gins and sifters used, intended
6 for use or designed for use in removing twigs and seeds from,
7 or in otherwise cleaning and refining, marijuana;

8 (8) blenders, bowls, containers, spoons and
9 mixing devices used, intended for use or designed for use in
10 compounding controlled substances or controlled substance
11 analogs;

12 (9) capsules, balloons, envelopes and other
13 containers used, intended for use or designed for use in
14 packaging small quantities of controlled substances or
15 controlled substance analogs;

16 (10) containers and other objects used,
17 intended for use or designed for use in storing or concealing
18 controlled substances or controlled substance analogs;

19 (11) hypodermic syringes, needles and other
20 objects used, intended for use or designed for use in
21 parenterally injecting controlled substances or controlled
22 substance analogs into the human body;

23 (12) objects used, intended for use or
24 designed for use in ingesting, inhaling or otherwise
25 introducing marijuana, cocaine, hashish or hashish oil into the

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1 human body, such as:

2 (a) metal, wooden, acrylic, glass,
3 stone, plastic or ceramic pipes, with or without screens,
4 permanent screens, hashish heads or punctured metal bowls;

5 (b) water pipes;

6 (c) carburetion tubes and devices;

7 (d) smoking and carburetion masks;

8 (e) roach clips, meaning objects used to
9 hold burning material, such as a marijuana cigarette, that has
10 become too small to hold in the hand;

11 (f) miniature cocaine spoons and cocaine
12 vials;

13 (g) chamber pipes;

14 (h) carburetor pipes;

15 (i) electric pipes;

16 (j) air-driven pipes;

17 (k) chilams;

18 (l) bongs; or

19 (m) ice pipes or chillers; and

20 (13) in determining whether an object is drug
21 paraphernalia, a court or other authority should consider, in
22 addition to all other logically relevant factors, the
23 following:

24 (a) statements by the owner or by anyone
25 in control of the object concerning its use;

1 (b) the proximity of the object, in time
2 and space, to a direct violation of the Controlled Substances
3 Act or any other law relating to controlled substances or
4 controlled substance analogs;

5 (c) the proximity of the object to
6 controlled substances or controlled substance analogs;

7 (d) the existence of any residue of a
8 controlled substance or controlled substance analog on the
9 object;

10 (e) instructions, written or oral,
11 provided with the object concerning its use;

12 (f) descriptive materials accompanying
13 the object that explain or depict its use;

14 (g) the manner in which the object is
15 displayed for sale; and

16 (h) expert testimony concerning its use;

17 [~~X-~~] V. "controlled substance analog":

18 (1) means a substance other than a controlled
19 substance that has a chemical structure substantially similar
20 to that of a controlled substance in Schedule I, II, III, IV or
21 V or that was specifically designed to produce effects
22 substantially similar to that of controlled substances in
23 Schedule I, II, III, IV or V. Examples of chemical classes in
24 which controlled substance analogs are found include the
25 following:

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

- 1 [~~(1)~~] (a) phenethylamines;
- 2 [~~(2)~~] (b) N-substituted piperidines;
- 3 [~~(3)~~] (c) morphinans;
- 4 [~~(4)~~] (d) ecgonines;
- 5 [~~(5)~~] (e) quinazolinones;
- 6 [~~(6)~~] (f) substituted indoles; and
- 7 [~~(7)~~] (g) arylcycloalkylamines;

8 [~~Specifically excluded from the definition of "controlled~~
9 ~~substance analog" are those] and~~

10 (2) does not include substances that are
11 generally recognized as safe and effective within the meaning
12 of the Federal Food, Drug, and Cosmetic Act or have been
13 manufactured, distributed or possessed in conformance with the
14 provisions of an approved new drug application or an exemption
15 for investigational use within the meaning of Section 505 of
16 the Federal Food, Drug, and Cosmetic Act;

17 [~~Y.~~] W. "human consumption" includes application,
18 injection, inhalation, ingestion or any other manner of
19 introduction;

20 [~~Z.~~] X. "drug-free school zone" means a public
21 school, parochial school or private school or property that is
22 used for a public, parochial or private school purpose and the
23 area within one thousand feet of the school property line, but
24 it does not mean any post-secondary school; and

25 [~~AA.~~] Y. "valid practitioner-patient relationship"

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

1 means a professional relationship, as defined by the
2 practitioner's licensing board, between the practitioner and
3 the patient."

4 SECTION 52. Section 30-31-6 NMSA 1978 (being Laws 1972,
5 Chapter 84, Section 6, as amended) is amended to read:

6 "30-31-6. SCHEDULE I.--The following controlled
7 substances are included in Schedule I:

8 A. any of the following opiates, including their
9 isomers, esters, ethers, salts, and salts of isomers, esters
10 and ethers, unless specifically exempted, whenever the
11 existence of these isomers, esters, ethers and salts is
12 possible within the specific chemical designation:

- 13 (1) acetylmethadol;
- 14 (2) allylprodine;
- 15 (3) alphacetylmethadol;
- 16 (4) alphameprodine;
- 17 (5) alphamethadol;
- 18 (6) benzethidine;
- 19 (7) betacetylmethadol;
- 20 (8) betameprodine;
- 21 (9) betamethadol;
- 22 (10) betaprodine;
- 23 (11) clonitazene;
- 24 (12) dextromoramide;
- 25 (13) dextrorphan;

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

- 1 (14) diampromide;
- 2 (15) diethylthiambutene;
- 3 (16) dimenoxadol;
- 4 (17) dimepheptanol;
- 5 (18) dimethylthiambutene;
- 6 (19) dioxaphetyl butyrate;
- 7 (20) dipipanone;
- 8 (21) ethylmethylthiambutene;
- 9 (22) etonitazene;
- 10 (23) etoxeridine;
- 11 (24) furethidine;
- 12 (25) hydroxypethidine;
- 13 (26) ketobemidone;
- 14 (27) levomoramide;
- 15 (28) levophenacylmorphane;
- 16 (29) morpheridine;
- 17 (30) noracymethadol;
- 18 (31) norlevorphanol;
- 19 (32) normethadone;
- 20 (33) norpipanone;
- 21 (34) phenadoxone;
- 22 (35) phenampromide;
- 23 (36) phenomorphan;
- 24 (37) phenoperidine;
- 25 (38) piritramide;

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

- 1 (39) proheptazine;
- 2 (40) properidine;
- 3 (41) racemoramide; and
- 4 (42) trimeperidine;

5 B. any of the following opium derivatives, their
6 salts, isomers and salts of isomers, unless specifically
7 exempted, whenever the existence of these salts, isomers and
8 salts of isomers is possible within the specific chemical
9 designation:

- 10 (1) acetorphine;
- 11 (2) acetyldihydrocodeine;
- 12 (3) benzylmorphine;
- 13 (4) codeine methylbromide;
- 14 (5) codeine-N-oxide;
- 15 (6) cyprenorphine;
- 16 (7) desomorphine;
- 17 (8) dihydromorphine;
- 18 (9) etorphine;
- 19 (10) heroin;
- 20 (11) hydromorphenol;
- 21 (12) methyldesorphine;
- 22 (13) methyldihydromorphine;
- 23 (14) morphine methylbromide;
- 24 (15) morphine methylsulfonate;
- 25 (16) morphine-N-oxide;

underscored material = new
[bracketed material] = delete

- 1 (17) myrophine;
- 2 (18) nicocodeine;
- 3 (19) nicomorphine;
- 4 (20) normorphine;
- 5 (21) pholcodine; and
- 6 (22) thebacon;

7 C. any material, compound, mixture or preparation
8 that contains any quantity of the following hallucinogenic
9 substances, their salts, isomers and salts of isomers, unless
10 specifically exempted, whenever the existence of these salts,
11 isomers and salts of isomers is possible within the specific
12 chemical designation:

- 13 (1) 3,4-methylenedioxy amphetamine;
- 14 (2) 5-methoxy-3,4-methylenedioxy amphetamine;
- 15 (3) 3,4,5-trimethoxy amphetamine;
- 16 (4) bufotenine;
- 17 (5) diethyltryptamine;
- 18 (6) dimethyltryptamine;
- 19 (7) 4-methyl-2,5-dimethoxy amphetamine;
- 20 (8) ibogaine;
- 21 (9) lysergic acid diethylamide;
- 22 [~~(10)~~] ~~marijuana~~;
- 23 ~~(11)~~] (10) mescaline;
- 24 [~~(12)~~] (11) peyote, except as otherwise

25 provided in the Controlled Substances Act;

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- 1 [~~(13)~~] (12) N-ethyl-3-piperidyl benzilate;
2 [~~(14)~~] (13) N-methyl-3-piperidyl benzilate;
3 [~~(15)~~] (14) psilocybin;
4 [~~(16)~~] (15) psilocyn;
5 [~~(17)~~] ~~tetrahydrocannabinols;~~
6 ~~(18)~~ ~~hashish;~~
7 [~~(19)~~] (16) synthetic cannabinoids, including:
8 (a) 1-[2-(4-(morpholinyl)ethyl)-3-(1-
9 naphthoyl)indole;
10 (b) 1-butyl-3-(1-naphthoyl)indole;
11 (c) 1-hexyl-3-(1-naphthoyl)indole;
12 (d) 1-pentyl-3-(1-naphthoyl)indole;
13 (e) 1-pentyl-3-(2-methoxyphenylacetyl)
14 indole;
15 (f) cannabicyclohexanol (CP 47, 497 and
16 homologues: 5-(1,1-dimethylheptyl)-2-[(1R,3S) -3-
17 hydroxycyclohexyl]-phenol (CP-47,497); and 5-(1, 1-
18 dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol;
19 (g) 6aR,10aR)-9-(hydroxymethyl) -6,6-
20 dimethyl-3-(2-methyloctan-2-yl)-6a,7,10, 10a-
21 tetrahydrobenzo[c]chromen-1-ol);
22 (h) dexanabinol, (6aS,10aS) -9-
23 (hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl) -
24 6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;
25 (i) 1-pentyl-3-(4-chloro naphthoyl)

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1 indole;

2 (j) (2-methyl-1-propyl-1H-indol-3-yl) -
3 1-naphthalenyl-methanone; and

4 (k) 5-(1,1-dimethylheptyl)-2-(3-hydroxy
5 cyclohexyl)-phenol;

6 ~~(17)~~ (17) 3,4-methylenedioxy methcathinone;

7 ~~(18)~~ (18) 3,4-methylenedioxy pyrovalerone;

8 ~~(19)~~ (19) 4-methylmethcathinone;

9 ~~(20)~~ (20) 4-methoxymethcathinone;

10 ~~(21)~~ (21) 3-fluoromethcathinone; and

11 ~~(22)~~ (22) 4-fluoromethcathinone;

12 D. the enumeration of peyote as a controlled
13 substance does not apply to the use of peyote in bona fide
14 religious ceremonies by a bona fide religious organization, and
15 members of the organization so using peyote are exempt from
16 registration. Any person who manufactures peyote for or
17 distributes peyote to the organization or its members shall
18 comply with the federal Comprehensive Drug Abuse Prevention and
19 Control Act of 1970 and all other requirements of law; and

20 ~~[E. the enumeration of marijuana,
21 tetrahydrocannabinols or chemical derivatives of
22 tetrahydrocannabinol as Schedule I controlled substances does
23 not apply to:~~

24 ~~(1) hemp pursuant to rules promulgated by the
25 board of regents of New Mexico state university on behalf of~~

underscored material = new
[bracketed material] = delete

1 ~~the New Mexico department of agriculture;~~

2 ~~(2) cultivation of hemp by persons pursuant to~~
3 ~~rules promulgated by the board of regents of New Mexico state~~
4 ~~university on behalf of the New Mexico department of~~
5 ~~agriculture;~~

6 ~~(3) tetrahydrocannabinols or chemical~~
7 ~~derivatives of tetrahydrocannabinols, including~~
8 ~~tetrahydrocannabinols or chemical derivatives of~~
9 ~~tetrahydrocannabinols with concentrations of up to five percent~~
10 ~~as measured using a post-decarboxylation method and based on~~
11 ~~percentage dry weight, possessed by a person in connection with~~
12 ~~the cultivation, transportation, testing, researching,~~
13 ~~manufacturing or other processing of the plant Cannabis sativa~~
14 ~~L., or any part of the plant whether growing or not, if~~
15 ~~authorized pursuant to rules promulgated, pursuant to the Hemp~~
16 ~~Manufacturing Act, by the board of regents of New Mexico state~~
17 ~~university on behalf of the New Mexico department of~~
18 ~~agriculture or the department of environment;~~

19 ~~(4) tetrahydrocannabinols or chemical~~
20 ~~derivatives of tetrahydrocannabinols, including~~
21 ~~tetrahydrocannabinols or chemical derivatives of~~
22 ~~tetrahydrocannabinols in any concentration possessed by a~~
23 ~~person in connection with the extraction of~~
24 ~~tetrahydrocannabinols or chemical derivatives of~~
25 ~~tetrahydrocannabinols, if authorized pursuant to rules~~

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underscored material = new
[bracketed material] = delete

1 ~~promulgated, pursuant to the Hemp Manufacturing Act, by the~~
2 ~~board of regents of New Mexico state university on behalf of~~
3 ~~the New Mexico department of agriculture or the department of~~
4 ~~environment;~~

5 ~~(5) the use of marijuana,~~
6 ~~tetrahydrocannabinols or chemical derivatives of~~
7 ~~tetrahydrocannabinol by certified patients pursuant to the~~
8 ~~Controlled Substances Therapeutic Research Act or by qualified~~
9 ~~patients pursuant to the provisions of the Lynn and Erin~~
10 ~~Compassionate Use Act; or~~

11 ~~(6) the use, dispensing, possession,~~
12 ~~prescribing, storage or transport of a prescription drug that~~
13 ~~the United States food and drug administration has approved and~~
14 ~~that contains marijuana, a tetrahydrocannabinol derivative or a~~
15 ~~chemical derivative of tetrahydrocannabinol; and~~

16 ~~F.] E. controlled substances added to Schedule I by~~
17 ~~rule adopted by the board pursuant to Section 30-31-3 NMSA~~
18 ~~1978."~~

19 SECTION 53. Section 30-31-7 NMSA 1978 (being Laws 1972,
20 Chapter 84, Section 7, as amended) is amended to read:

21 "30-31-7. SCHEDULE II.--

22 A. The following controlled substances are included
23 in Schedule II:

24 (1) any of the following substances, except
25 those narcotic drugs listed in other schedules, whether

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underscoring material = new
[bracketed material] = delete

1 produced directly or indirectly by extraction from substances
2 of vegetable origin, or independently by means of chemical
3 synthesis, or by combination of extraction and chemical
4 synthesis:

5 (a) opium and opiate, and any salt,
6 compound, derivative or preparation of opium or opiate;

7 (b) any salt, compound, isomer,
8 derivative or preparation thereof that is chemically equivalent
9 or identical with any of the substances referred to in
10 Subparagraph (a) of this paragraph, but not including the
11 isoquinoline alkaloids of opium;

12 (c) opium poppy and poppy straw; and

13 (d) coca leaves and any salt, compound,
14 derivative or preparation of coca leaves, and any salt,
15 compound, derivative or preparation thereof that is chemically
16 equivalent or identical with any of these substances, but not
17 including decocainized coca leaves or extractions that do not
18 contain cocaine or ecgonine;

19 ~~[(e) marijuana, but only for the use by~~
20 ~~certified patients pursuant to the Controlled Substances~~
21 ~~Therapeutic Research Act or by qualified patients pursuant to~~
22 ~~the provisions of the Lynn and Erin Compassionate Use Act; and~~

23 ~~(f) tetrahydrocannabinols or chemical~~
24 ~~derivatives of tetrahydrocannabinol, but only for the use by~~
25 ~~certified patients pursuant to the Controlled Substances~~

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

1 ~~Therapeutic Research Act or by qualified patients pursuant to~~
2 ~~the provisions of the Lynn and Erin Compassionate Use Act.~~

3 ~~Marijuana, tetrahydrocannabinols or chemical derivatives~~
4 ~~of tetrahydrocannabinol shall be considered Schedule II~~
5 ~~controlled substances only for the purposes enumerated in the~~
6 ~~Controlled Substances Therapeutic Research Act or the Lynn and~~
7 ~~Erin Compassionate Use Act;]~~

8 (2) any of the following opiates, including
9 their isomers, esters, ethers, salts and salts of isomers,
10 whenever the existence of these isomers, esters, ethers and
11 salts is possible within the specific chemical designation:

- 12 (a) alphaprodine;
- 13 (b) anileridine;
- 14 (c) bezitramide;
- 15 (d) dihydrocodeine;
- 16 (e) diphenoxylate;
- 17 (f) fentanyl;
- 18 (g) hydromorphone;
- 19 (h) isomethadone;
- 20 (i) levomethorphan;
- 21 (j) levorphanol;
- 22 (k) meperidine;
- 23 (l) metazocine;
- 24 (m) methadone;
- 25 (n) methadone--intermediate,

- 1 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- 2 (o) moramide--intermediate,
- 3 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
- 4 (p) oxycodone;
- 5 (q) pethidine;
- 6 (r) pethidine--intermediate--A,
- 7 4-cyano-1-methyl-4-phenylpiperidine;
- 8 (s) pethidine--intermediate--B,
- 9 ethyl-4-phenyl-piperidine-4-carboxylate;
- 10 (t) pethidine--intermediate--C,
- 11 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- 12 (u) phenazocine;
- 13 (v) piminodine;
- 14 (w) racemethorphan; and
- 15 (x) racemorphan;
- 16 (3) unless listed in another schedule, any
- 17 material, compound, mixture or preparation that contains any
- 18 quantity of the following substances having a potential for
- 19 abuse associated with a stimulant effect on the central nervous
- 20 system:
- 21 (a) amphetamine, its salts, optical
- 22 isomers and salts of its optical isomers;
- 23 (b) phenmetrazine and its salts;
- 24 (c) methamphetamine, its salts, isomers
- 25 and salts of isomers; and

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

1 (d) methylphenidate; and
2 (4) controlled substances added to Schedule II
3 by rule adopted by the board pursuant to Section 30-31-3 NMSA
4 1978.

5 B. Where methadone is prescribed, administered or
6 dispensed by a practitioner of a drug abuse rehabilitation
7 program while acting in the course of the practitioner's
8 professional practice, or otherwise lawfully obtained or
9 possessed by a person, such person shall not possess such
10 methadone beyond the date stamped or typed on the label of the
11 container of the methadone, nor shall any person possess
12 methadone except in the container in which it was originally
13 administered or dispensed to such person, and such container
14 shall include a label showing the name of the prescribing
15 physician or practitioner, the identity of methadone, the name
16 of the ultimate user, the date when the methadone is to be
17 administered to or used or consumed by the named ultimate user
18 shown on the label and a warning on the label of the methadone
19 container that the ultimate user must use, consume or
20 administer to the ultimate user the methadone in such
21 container. Any person who violates this subsection is guilty
22 of a felony and shall be punished by imprisonment for not less
23 than one year nor more than five years, or by a fine of up to
24 five thousand dollars (\$5,000), or both."

25 SECTION 54. Section 30-31-21 NMSA 1978 (being Laws 1972,
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underscored material = new
[bracketed material] = delete

1 Chapter 84, Section 21, as amended) is amended to read:

2 "30-31-21. DISTRIBUTION TO A MINOR.--Except as
3 authorized by the Controlled Substances Act, no person who is
4 eighteen years of age or older shall intentionally distribute a
5 controlled substance to a person under the age of eighteen
6 years. Any person who violates this section with respect to

7 [~~A. marijuana is:~~

8 ~~(1) for the first offense, guilty of a third~~
9 ~~degree felony and shall be sentenced pursuant to the provisions~~
10 ~~of Section 31-18-15 NMSA 1978; and~~

11 ~~(2) for the second and subsequent offenses,~~
12 ~~guilty of a second degree felony and shall be sentenced~~
13 ~~pursuant to the provisions of Section 31-18-15 NMSA 1978; and~~

14 ~~B. any other]~~ a controlled substance enumerated in
15 [~~Schedules~~] Schedule I, II, III or IV or a controlled substance
16 analog of any controlled substance enumerated in Schedule I,
17 II, III or IV is:

18 [~~(1)~~] A. for the first offense, guilty of a second
19 degree felony and shall be sentenced pursuant to the provisions
20 of Section 31-18-15 NMSA 1978; and

21 [~~(2)~~] B. for the second and subsequent offenses,
22 guilty of a first degree felony and shall be sentenced pursuant
23 to the provisions of Section 31-18-15 NMSA 1978."

24 SECTION 55. Section 30-31-22 NMSA 1978 (being Laws 1972,
25 Chapter 84, Section 22, as amended) is amended to read:

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

1 "30-31-22. CONTROLLED OR COUNTERFEIT SUBSTANCES--
2 DISTRIBUTION PROHIBITED.--

3 A. Except as authorized by the Controlled
4 Substances Act, it is unlawful for a person to intentionally
5 distribute or possess with intent to distribute a controlled
6 substance or a controlled substance analog except a substance
7 enumerated in Schedule I or II that is a narcotic drug, a
8 controlled substance analog of a controlled substance
9 enumerated in Schedule I or II that is a narcotic drug or
10 methamphetamine, its salts, isomers and salts of isomers. A
11 person who violates this subsection with respect to:

12 (1) [~~marijuana or~~] synthetic cannabinoids is:

13 (a) for the first offense, guilty of a
14 fourth degree felony and shall be sentenced pursuant to the
15 provisions of Section 31-18-15 NMSA 1978;

16 (b) for the second and subsequent
17 offenses, guilty of a third degree felony and shall be
18 sentenced pursuant to the provisions of Section 31-18-15 NMSA
19 1978;

20 (c) for the first offense, if more than
21 one hundred pounds is possessed with intent to distribute or
22 distributed or both, guilty of a third degree felony and shall
23 be sentenced pursuant to the provisions of Section 31-18-15
24 NMSA 1978; and

25 (d) for the second and subsequent

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

1 offenses, if more than one hundred pounds is possessed with
2 intent to distribute or distributed or both, guilty of a second
3 degree felony and shall be sentenced pursuant to the provisions
4 of Section 31-18-15 NMSA 1978;

5 (2) any other controlled substance enumerated
6 in Schedule I, II, III or IV or a controlled substance analog
7 of a controlled substance enumerated in Schedule I, II, III or
8 IV except a substance enumerated in Schedule I or II that is a
9 narcotic drug, a controlled substance analog of a controlled
10 substance enumerated in Schedule I or II that is a narcotic
11 drug or methamphetamine, its salts, isomers and salts of
12 isomers, is:

13 (a) for the first offense, guilty of a
14 third degree felony and shall be sentenced pursuant to the
15 provisions of Section 31-18-15 NMSA 1978; and

16 (b) for the second and subsequent
17 offenses, guilty of a second degree felony and shall be
18 sentenced pursuant to the provisions of Section 31-18-15 NMSA
19 1978; and

20 (3) a controlled substance enumerated in
21 Schedule V or a controlled substance analog of a controlled
22 substance enumerated in Schedule V is guilty of a misdemeanor
23 and shall be punished by a fine of not less than one hundred
24 dollars (\$100) or more than five hundred dollars (\$500) or by
25 imprisonment for a definite term not less than one hundred

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1 eighty days but less than one year, or both.

2 B. It is unlawful for a person to distribute gamma
3 hydroxybutyric acid or flunitrazepam to another person without
4 that person's knowledge and with intent to commit a crime
5 against that person, including criminal sexual penetration.
6 For the purposes of this subsection, "without that person's
7 knowledge" means the person is unaware that a substance with
8 the ability to alter that person's ability to appraise conduct
9 or to decline participation in or communicate unwillingness to
10 participate in conduct is being distributed to that person.

11 Any person who violates this subsection is:

12 (1) for the first offense, guilty of a third
13 degree felony and shall be sentenced pursuant to the provisions
14 of Section 31-18-15 NMSA 1978; and

15 (2) for the second and subsequent offenses,
16 guilty of a second degree felony and shall be sentenced
17 pursuant to the provisions of Section 31-18-15 NMSA 1978.

18 C. Except as authorized by the Controlled
19 Substances Act, it is unlawful for a person to intentionally
20 create or deliver, or possess with intent to deliver, a
21 counterfeit substance. A person who violates this subsection
22 with respect to:

23 (1) a counterfeit substance enumerated in
24 Schedule I, II, III or IV is guilty of a fourth degree felony
25 and shall be sentenced pursuant to the provisions of Section

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1 31-18-15 NMSA 1978; ~~and~~ or

2 (2) a counterfeit substance enumerated in
3 Schedule V is guilty of a petty misdemeanor and shall be
4 punished by a fine of not more than one hundred dollars (\$100)
5 or by imprisonment for a definite term not to exceed six
6 months, or both.

7 D. A person who knowingly violates Subsection A or
8 C of this section while within a drug-free school zone with
9 respect to:

10 (1) ~~[marijuana or]~~ synthetic cannabinoids is:

11 (a) for the first offense, guilty of a
12 third degree felony and shall be sentenced pursuant to the
13 provisions of Section 31-18-15 NMSA 1978;

14 (b) for the second and subsequent
15 offenses, guilty of a second degree felony and shall be
16 sentenced pursuant to the provisions of Section 31-18-15 NMSA
17 1978;

18 (c) for the first offense, if more than
19 one hundred pounds is possessed with intent to distribute or
20 distributed or both, guilty of a second degree felony and shall
21 be sentenced pursuant to the provisions of Section 31-18-15
22 NMSA 1978; and

23 (d) for the second and subsequent
24 offenses, if more than one hundred pounds is possessed with
25 intent to distribute or distributed or both, guilty of a first

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1 degree felony and shall be sentenced pursuant to the provisions
2 of Section 31-18-15 NMSA 1978;

3 (2) any other controlled substance enumerated
4 in Schedule I, II, III or IV or a controlled substance analog
5 of a controlled substance enumerated in Schedule I, II, III or
6 IV except a substance enumerated in Schedule I or II that is a
7 narcotic drug, a controlled substance analog of a controlled
8 substance enumerated in Schedule I or II that is a narcotic
9 drug or methamphetamine, its salts, isomers and salts of
10 isomers, is:

11 (a) for the first offense, guilty of a
12 second degree felony and shall be sentenced pursuant to the
13 provisions of Section 31-18-15 NMSA 1978; and

14 (b) for the second and subsequent
15 offenses, guilty of a first degree felony and shall be
16 sentenced pursuant to the provisions of Section 31-18-15 NMSA
17 1978;

18 (3) a controlled substance enumerated in
19 Schedule V or a controlled substance analog of a controlled
20 substance enumerated in Schedule V is guilty of a fourth degree
21 felony and shall be sentenced pursuant to the provisions of
22 Section 31-18-15 NMSA 1978; and

23 (4) the intentional creation, delivery or
24 possession with the intent to deliver:

25 (a) a counterfeit substance enumerated

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1 in Schedule I, II, III or IV is guilty of a third degree felony
2 and shall be sentenced pursuant to the provisions of Section
3 31-18-15 NMSA 1978; and

4 (b) a counterfeit substance enumerated
5 in Schedule V is guilty of a misdemeanor and shall be punished
6 by a fine of not less than one hundred dollars (\$100) nor more
7 than five hundred dollars (\$500) or by imprisonment for a
8 definite term not less than one hundred eighty days but less
9 than one year, or both.

10 E. Notwithstanding the provisions of Subsection A
11 of this section, distribution of a small amount of [~~marijuana~~
12 ~~or~~] synthetic cannabinoids for no remuneration shall be treated
13 as provided in Paragraph (1) of Subsection B of Section
14 30-31-23 NMSA 1978."

15 SECTION 56. Section 30-31-23 NMSA 1978 (being Laws 1972,
16 Chapter 84, Section 23, as amended) is amended to read:

17 "30-31-23. CONTROLLED SUBSTANCES--POSSESSION
18 PROHIBITED.--

19 A. It is unlawful for a person intentionally to
20 possess a controlled substance unless the substance was
21 obtained pursuant to a valid prescription or order of a
22 practitioner while acting in the course of professional
23 practice or except as otherwise authorized by the Controlled
24 Substances Act. It is unlawful for a person intentionally to
25 possess a controlled substance analog.

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1 ~~[B. A person who violates this section with respect~~
2 ~~to:~~

3 ~~(1) up to one-half ounce of marijuana shall be~~
4 ~~issued a penalty assessment, pursuant to Section 3 of this 2019~~
5 ~~act and is subject to a fine of fifty dollars (\$50.00);~~

6 ~~(2) more than one-half ounce but up to and~~
7 ~~including one ounce of marijuana is, for the first offense,~~
8 ~~guilty of a petty misdemeanor and shall be punished by a fine~~
9 ~~of not less than fifty dollars (\$50.00) or more than one~~
10 ~~hundred dollars (\$100) and by imprisonment for not more than~~
11 ~~fifteen days, and, for a second or subsequent offense, is~~
12 ~~guilty of a misdemeanor and shall be punished by a fine of not~~
13 ~~less than one hundred dollars (\$100) or more than one thousand~~
14 ~~dollars (\$1,000) or by imprisonment for a definite term of less~~
15 ~~than one year, or both;~~

16 ~~(3) more than one ounce but less than eight~~
17 ~~ounces of marijuana is guilty of a misdemeanor and shall be~~
18 ~~punished by a fine of not less than one hundred dollars (\$100)~~
19 ~~or more than one thousand dollars (\$1,000) or by imprisonment~~
20 ~~for a definite term of less than one year, or both; or~~

21 ~~(4) eight ounces or more of marijuana is~~
22 ~~guilty of a fourth degree felony and shall be sentenced~~
23 ~~pursuant to the provisions of Section 31-18-15 NMSA 1978.~~

24 G.] B. A person who violates this section with
25 respect to:

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1 (1) one ounce or less of synthetic
2 cannabinoids is, for the first offense, guilty of a petty
3 misdemeanor and shall be punished by a fine of not less than
4 fifty dollars (\$50.00) or more than one hundred dollars (\$100)
5 and by imprisonment for not more than fifteen days, and, for
6 the second and subsequent offenses, is guilty of a misdemeanor
7 and shall be punished by a fine of not less than one hundred
8 dollars (\$100) or more than one thousand dollars (\$1,000) or by
9 imprisonment for a definite term less than one year, or both;

10 (2) more than one ounce and less than eight
11 ounces of synthetic cannabinoids is guilty of a misdemeanor and
12 shall be punished by a fine of not less than one hundred
13 dollars (\$100) or more than one thousand dollars (\$1,000) or by
14 imprisonment for a definite term less than one year, or both;
15 or

16 (3) eight ounces or more of synthetic
17 cannabinoids is guilty of a fourth degree felony and shall be
18 sentenced pursuant to the provisions of Section 31-18-15 NMSA
19 1978.

20 ~~[D-]~~ C. A minor who violates this section with
21 respect to the substances listed in this subsection is guilty
22 of a petty misdemeanor and, notwithstanding the provisions of
23 Sections 32A-1-5 and 32A-2-19 NMSA 1978, shall be punished by a
24 fine not to exceed one hundred dollars (\$100) or forty-eight
25 hours of community service. For the third or subsequent

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1 violation by a minor of this section with respect to those
2 substances, the provisions of Section 32A-2-19 NMSA 1978 shall
3 govern punishment of the minor. ~~[As used in this subsection,~~
4 ~~"minor" means a person who is less than eighteen years of age.]~~

5 The provisions of this subsection apply to the following
6 substances:

7 (1) synthetic cannabinoids;
8 (2) any of the substances listed in Paragraphs
9 ~~[(20) through (25)]~~ (17) through (22) of Subsection C of
10 Section 30-31-6 NMSA 1978; or

11 (3) a substance added to Schedule I by a rule
12 of the board adopted on or after March 31, 2011 if the board
13 determines that the pharmacological effect of the substance,
14 the risk to the public health by abuse of the substance and the
15 potential of the substance to produce psychic or physiological
16 dependence liability is similar to the substances described in
17 Paragraph (1) or (2) of this subsection.

18 ~~[E-]~~ D. Except as provided in Subsections B ~~[G]~~ and
19 ~~[G]~~ F of this section, and for those substances listed in
20 Subsection ~~[F]~~ E of this section, a person who violates this
21 section with respect to any amount of any controlled substance
22 enumerated in Schedule I, II, III or IV or a controlled
23 substance analog of a substance enumerated in Schedule I, II,
24 III or IV is guilty of a misdemeanor and shall be punished by a
25 fine of not less than five hundred dollars (\$500) or more than

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1 one thousand dollars (\$1,000) or by imprisonment for a definite
2 term less than one year, or both.

3 ~~[F-]~~ E. A person who violates this section with
4 respect to phencyclidine as enumerated in Schedule III or a
5 controlled substance analog of phencyclidine; methamphetamine,
6 its salts, isomers or salts of isomers as enumerated in
7 Schedule II or a controlled substance analog of
8 methamphetamine, its salts, isomers or salts of isomers;
9 flunitrazepam, its salts, isomers or salts of isomers as
10 enumerated in Schedule I or a controlled substance analog of
11 flunitrazepam, including naturally occurring metabolites, its
12 salts, isomers or salts of isomers; gamma hydroxybutyric acid
13 and any chemical compound that is metabolically converted to
14 gamma hydroxybutyric acid, its salts, isomers or salts of
15 isomers as enumerated in Schedule I or a controlled substance
16 analog of gamma hydroxybutyric acid, its salts, isomers or
17 salts of isomers; gamma butyrolactone and any chemical compound
18 that is metabolically converted to gamma hydroxybutyric acid,
19 its salts, isomers or salts of isomers as enumerated in
20 Schedule I or a controlled substance analog of gamma
21 butyrolactone, its salts, isomers or salts of isomers; 1-4
22 butane diol and any chemical compound that is metabolically
23 converted to gamma hydroxybutyric acid, its salts, isomers or
24 salts of isomers as enumerated in Schedule I or a controlled
25 substance analog of 1-4 butane diol, its salts, isomers or

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1 salts of isomers; or a narcotic drug enumerated in Schedule I
2 or II or a controlled substance analog of a narcotic drug
3 enumerated in Schedule I or II is guilty of a fourth degree
4 felony and shall be sentenced pursuant to the provisions of
5 Section 31-18-15 NMSA 1978.

6 ~~[G.]~~ F. Except for a minor ~~[as defined in~~
7 ~~Subsection D of this section]~~, a person who violates Subsection
8 A of this section while within a posted drug-free school zone,
9 excluding private property residentially zoned or used
10 primarily as a residence and excluding a person in or on a
11 motor vehicle in transit through the posted drug-free school
12 zone, with respect to:

13 (1) one ounce or less of ~~[marijuana or]~~
14 synthetic cannabinoids is, for the first offense, guilty of a
15 misdemeanor and shall be punished by a fine of not less than
16 one hundred dollars (\$100) or more than one thousand dollars
17 (\$1,000) or by imprisonment for a definite term less than one
18 year, or both, and for the second or subsequent offense, is
19 guilty of a fourth degree felony and shall be sentenced
20 pursuant to the provisions of Section 31-18-15 NMSA 1978;

21 (2) more than one ounce and less than eight
22 ounces of ~~[marijuana or]~~ synthetic cannabinoids is guilty of a
23 fourth degree felony and shall be sentenced pursuant to the
24 provisions of Section 31-18-15 NMSA 1978;

25 (3) eight ounces or more of ~~[marijuana or]~~

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1 synthetic cannabinoids is guilty of a third degree felony and
2 shall be sentenced pursuant to the provisions of Section
3 31-18-15 NMSA 1978;

4 (4) any amount of any other controlled
5 substance enumerated in Schedule I, II, III or IV or a
6 controlled substance analog of a substance enumerated in
7 Schedule I, II, III or IV, except phencyclidine as enumerated
8 in Schedule III, a narcotic drug enumerated in Schedule I or II
9 or a controlled substance analog of a narcotic drug enumerated
10 in Schedule I or II, is guilty of a fourth degree felony and
11 shall be sentenced pursuant to the provisions of Section
12 31-18-15 NMSA 1978; and

13 (5) phencyclidine as enumerated in Schedule
14 III, a narcotic drug enumerated in Schedule I or II, a
15 controlled substance analog of phencyclidine or a controlled
16 substance analog of a narcotic drug enumerated in Schedule I or
17 II is guilty of a third degree felony and shall be sentenced
18 pursuant to the provisions of Section 31-18-15 NMSA 1978.

19 G. For purposes of this section, "minor" means a
20 person who is younger than eighteen years of age."

21 SECTION 57. Section 30-31-28 NMSA 1978 (being Laws 1972,
22 Chapter 84, Section 28) is amended to read:

23 "30-31-28. CONDITIONAL DISCHARGE FOR POSSESSION AS FIRST
24 OFFENSE.--

25 A. If [~~any~~] a person, who has not previously been

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1 convicted of violating the laws of [~~any~~] a state or [~~any~~] laws
2 of the United States relating to narcotic drugs, [~~marijuana~~]
3 hallucinogenic or depressant or stimulant substances, is found
4 guilty of a violation of Section [~~23~~] 30-31-23 NMSA 1978, after
5 trial or upon a plea of guilty, the court may, without entering
6 a judgment of guilty and with the consent of the person, defer
7 further proceedings and place [~~him~~] the person on probation
8 upon reasonable conditions and for a period, not to exceed one
9 year, as the court may prescribe.

10 B. Upon violation of a condition of the probation,
11 the court may enter an adjudication of guilt and proceed as
12 otherwise provided. The court may, in its discretion, dismiss
13 the proceedings against the person and discharge [~~him~~] the
14 person from probation before the expiration of the maximum
15 period prescribed from the person's probation.

16 C. If during the period of [~~his~~] probation the
17 person does not violate [~~any of~~] the conditions of the
18 probation, then upon expiration of the period the court shall
19 discharge such person and dismiss the proceedings against [~~him~~]
20 the person. Discharge and dismissal under this section shall
21 be without court adjudication of guilt, but a nonpublic record
22 shall be retained by the attorney general solely for the
23 purpose of use by the courts in determining whether or not, in
24 subsequent proceedings, the person qualifies under this
25 section. A discharge or dismissal shall not be deemed a

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1 conviction for purposes of disqualifications or disabilities
2 imposed by law upon conviction of a crime, including the
3 penalties prescribed under this section for second or
4 subsequent convictions or for any other purpose. Discharge and
5 dismissal under this section may occur only once with respect
6 to ~~[any]~~ a person.

7 D. Upon the dismissal of a person and discharge of
8 the proceedings against ~~[him]~~ the person under this section, a
9 person, if ~~[he was]~~ not over eighteen years of age at the time
10 of the offense, may apply to the court for an order to expunge
11 from all official records all recordation relating to ~~[his]~~ the
12 arrest, indictment or information, trial, finding or plea of
13 guilty, and dismissal and discharge pursuant to this section
14 except nonpublic records filed with the attorney general. If
15 the court determines, after hearing, that the person was
16 dismissed and the proceedings against ~~[him]~~ the person
17 discharged and that ~~[he]~~ the person was not over eighteen years
18 of age at the time of the offense, it shall enter the order.
19 The effect of the order shall be to restore the person, in the
20 contemplation of the law, to the status ~~[he]~~ the person
21 occupied before the arrest or indictment or information. No
22 person in whose behalf an order has been entered shall be held
23 thereafter under any provision of any law to be guilty of
24 perjury or otherwise giving a false statement by reason of
25 ~~[his]~~ the person's failures to recite or acknowledge such

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1 arrest, or indictment or information or trial in response to
2 any inquiry made of ~~[him]~~ the person for any purpose."

3 SECTION 58. Section 30-31-34 NMSA 1978 (being Laws 1972,
4 Chapter 84, Section 33, as amended) is amended to read:

5 "30-31-34. FORFEITURES--PROPERTY SUBJECT.--The following
6 are subject to forfeiture pursuant to the provisions of the
7 Forfeiture Act:

8 A. all raw materials, products and equipment of any
9 kind, including firearms that are used or intended for use in
10 manufacturing, compounding, processing, delivering, importing
11 or exporting any controlled substance or controlled substance
12 analog in violation of the Controlled Substances Act;

13 B. all property that is used or intended for use as
14 a container for property described in Subsection A of this
15 section;

16 C. all conveyances, including aircraft, vehicles or
17 vessels that are used or intended for use to transport or in
18 any manner to facilitate the transportation for the purpose of
19 sale of property described in Subsection A of this section;

20 D. all books, records and research products and
21 materials, including formulas, microfilm, tapes and data that
22 are used or intended for use in violation of the Controlled
23 Substances Act;

24 E. narcotics paraphernalia or money that is a fruit
25 or instrumentality of the crime; and

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underscoring material = new
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1 F. notwithstanding Subsection C of this section and
2 the provisions of the Forfeiture Act:

3 (1) a conveyance used by a person as a common
4 carrier in the transaction of business as a common carrier
5 shall not be subject to forfeiture pursuant to this section
6 unless it appears that the owner or other person in charge of
7 the conveyance is a consenting party or privy to a violation of
8 the Controlled Substances Act;

9 (2) a conveyance shall not be subject to
10 forfeiture pursuant to this section by reason of an act or
11 omission established for the owner to have been committed or
12 omitted without the owner's knowledge or consent;

13 (3) a conveyance is not subject to forfeiture
14 for a violation of law the penalty for which is a misdemeanor;
15 and

16 (4) a forfeiture of a conveyance encumbered by
17 a bona fide security interest shall be subject to the interest
18 of a secured party if the secured party neither had knowledge
19 of nor consented to the act or omission [~~and~~

20 ~~G. all drug paraphernalia as defined by Subsection~~
21 ~~V of Section 30-31-2 NMSA 1978]."~~

22 SECTION 59. [NEW MATERIAL] COOPERATION OF AGENCIES.--All
23 state agencies shall cooperate with the cannabis control
24 commission in carrying out the provisions of the Cannabis
25 Regulation Act.

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SECTION 60. TEMPORARY PROVISION--TRANSFER.--On the effective date of this act, any unexpended or unencumbered balance in the medical cannabis fund is transferred to the cannabis regulation fund.

SECTION 61. REPEAL.--Sections 9-7-17.1 and 30-31-25.1 NMSA 1978 (being Laws 2012, Chapter 42, Section 1 and Laws 1981, Chapter 31, Section 2, as amended) are repealed.

SECTION 62. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.