

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 356

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

AN ACT

RELATING TO CANNABIS; ENACTING THE CANNABIS REGULATION ACT;  
ENACTING THE CANNABIS TAX ACT; CREATING THE CANNABIS CONTROL  
DIVISION IN THE REGULATION AND LICENSING DEPARTMENT AND  
PROVIDING DUTIES; REVISING REPORTING REQUIREMENTS; REVISING THE  
LYNN AND ERIN COMPASSIONATE USE ACT; REVISING SECTIONS OF LAW  
RELATED TO CANNABIS; CREATING THE CANNABIS REGULATION FUND, THE  
COMMUNITY GRANTS REINVESTMENT FUND AND THE COMMUNITY GRANTS  
REINVESTMENT PROGRAM; CREATING THE CANNABIS HEALTH AND SAFETY  
FUND; CREATING THE CANNABIS RESEARCH FUND; REVISING THE LOCAL  
DWI GRANT PROGRAM; PROVIDING AND REVISING PENALTIES; AMENDING,  
REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN  
APPROPRIATION.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1

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1 through 45 of this act may be cited as the "Cannabis Regulation  
2 Act".

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

5 A. "advertisement":

6 (1) means a statement or a depiction intended  
7 to induce the sale of an item and that is displayed in printed  
8 material or on a sign or other outdoor display or presented in  
9 a radio, television or other media broadcast or in digital  
10 media; and

11 (2) does not include:

12 (a) a sign or outdoor display or other  
13 statement permanently affixed to a licensed premises that is  
14 intended to induce the sale of a cannabis product produced or  
15 sold on the premises;

16 (b) a label affixed to a cannabis  
17 product or the covering, wrapper or container of a cannabis  
18 product; or

19 (c) an editorial or other material  
20 printed in a publication when the publication of the editorial  
21 or material was not paid for by a licensee and was not  
22 published by or at the direction of a licensee;

23 B. "advertising" means the publication or  
24 dissemination of an advertisement;

25 C. "cannabis":

1 (1) means all parts of the plant Cannabis  
2 sativa Linnaeus containing a delta-9-tetrahydrocannabinol  
3 concentration of more than three-tenths percent on a dry weight  
4 basis, whether growing or not; the seeds of the plant; the  
5 resin extracted from any part of the plant; and every compound,  
6 manufacture, salt, derivative, mixture or preparation of the  
7 plant, its seeds or its resin; and

8 (2) does not include:

9 (a) the mature stalks of the plant;  
10 fiber produced from the stalks; oil or cake made from the seeds  
11 of the plant; any other compound, manufacture, salt,  
12 derivative, mixture or preparation of the mature stalks, fiber,  
13 oil or cake; or the sterilized seed of the plant that is  
14 incapable of germination; or

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

18 D. "cannabis consumption area" means an area within  
19 a cannabis retailer's licensed premises where cannabis products  
20 may be consumed;

21 E. "cannabis courier" means a person who is  
22 licensed by the division only to transport usable cannabis and  
23 cannabis products directly to consumers;

24 F. "cannabis establishment" means:

25 (1) a cannabis courier;

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- 1 (2) a cannabis testing laboratory;
- 2 (3) a cannabis manufacturer;
- 3 (4) a cannabis microbusiness;
- 4 (5) a cannabis producer; or
- 5 (6) a cannabis retailer;

6 G. "cannabis extract":

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

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

14 H. "cannabis flowers" means only the flowers of a  
15 cannabis plant;

16 I. "cannabis manufacturer" means a person that is  
17 licensed by the division to:

18 (1) manufacture cannabis products;  
19 (2) package, transport or courier cannabis  
20 products;

21 (3) have cannabis products tested by a  
22 cannabis testing laboratory; and

23 (4) sell and transport cannabis products to  
24 other cannabis establishments;

25 J. "cannabis microbusiness" means a person that

1 employs fewer than nine people, collects no more than two  
2 million dollars (\$2,000,000) in annual revenue and is licensed  
3 by the division to:

4 (1) produce up to ninety-nine mature cannabis  
5 plants;

6 (2) manufacture cannabis extracts using  
7 nonvolatile solvents, alcohol or carbon dioxide or no solvents;

8 (3) be a cannabis retailer;

9 (4) sell, transport or courier the cannabis  
10 products to other cannabis establishments and to consumers; or

11 (5) engage in any other activity authorized by  
12 the division;

13 K. "cannabis producer" means a person that is  
14 licensed by the division to:

15 (1) produce cannabis;

16 (2) package cannabis products;

17 (3) have cannabis products tested by a  
18 cannabis testing laboratory; and

19 (4) sell and transport cannabis products to  
20 other cannabis establishments;

21 L. "cannabis product":

22 (1) means a product that contains cannabis or  
23 cannabis extracts, including edible or topical products that  
24 may also contain other ingredients; and

25 (2) does not include the weight of any other

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1 ingredient combined with cannabis or cannabis extracts to  
2 prepare topical or oral administrations, food, drink or another  
3 product;

4 M. "cannabis retailer" means a person that is  
5 licensed by the division to sell and courier cannabis products  
6 to a consumer in this state;

7 N. "cannabis testing laboratory" means a facility  
8 that is licensed by the division to sample, collect, transport  
9 and test cannabis products to analyze the strength or purity of  
10 the products;

11 O. "commercial cannabis activity":

12 (1) means the cultivation, production,  
13 possession, manufacture, storage, testing, labeling,  
14 transportation, couriating and sale of cannabis and cannabis  
15 products; and

16 (2) does not include activities related only  
17 to the medical cannabis program or personal production;

18 P. "consumer" means a person who purchases,  
19 acquires, owns, possesses or uses a cannabis product for a  
20 purpose other than resale;

21 Q. "controlling person":

22 (1) means an officer or board member in a  
23 cannabis establishment; and

24 (2) does not include a bank or licensed  
25 lending institution;

1           R. "department" means the regulation and licensing  
2 department;

3           S. "director" means the head of the division;

4           T. "division" means the cannabis control division  
5 of the department;

6           U. "evidence-based drug education program" means a  
7 research- and scientific-evidence-based education program that  
8 has been thoroughly tested and has been shown to significantly  
9 reduce problematic use of substances such as nicotine, alcohol  
10 or drugs;

11          V. "financial consideration":

12               (1) means the value that is given or received,  
13 directly or indirectly, through sales, barter, trade, fees,  
14 charges, dues, contributions or donations; and

15               (2) does not mean the value in homegrown  
16 cannabis produced or homemade cannabis products manufactured by  
17 another person;

18          W. "homegrown" or "homemade" means grown or made by  
19 a personal production licensee for purposes that are not  
20 dependent or conditioned upon the provision or receipt of  
21 financial consideration;

22          X. "household" means a housing unit and includes  
23 any place in or around the housing unit at which an occupant of  
24 the housing unit produces, manufactures, keeps or stores  
25 homegrown cannabis or homemade cannabis products;

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1           Y. "housing unit" means a house, an apartment, a  
2 mobile home, a group of rooms or a single room that is occupied  
3 as separate living quarters in which an occupant lives and eats  
4 separately from any other person in the building who does not  
5 occupy the same housing unit and which unit includes direct  
6 access from the outside of the building or through a common  
7 hall;

8           Z. "immature cannabis plant" means a cannabis plant  
9 that has no observable flowers or buds;

10          AA. "licensed premises" means a location that is  
11 licensed pursuant to the Cannabis Regulation Act and includes:

12               (1) all enclosed public and private areas at  
13 the location that are used in the business operated pursuant to  
14 a license and includes offices, kitchens, restrooms and  
15 storerooms;

16               (2) all areas outside of a building that the  
17 department has specifically licensed for the production,  
18 manufacturing, wholesale sale or retail sale of cannabis  
19 products; and

20               (3) with respect to a location that the  
21 department has specifically licensed for the production of  
22 cannabis outside of a building, the entire unit of land that is  
23 created by subsection or partition of land that the licensee  
24 owns, leases or has a right to occupy;

25          BB. "licensee representative" means an owner,



1 director, officer, manager, employee, agent or other  
2 representative of a licensee, to the extent that person acts in  
3 a representative capacity;

4 CC. "local jurisdiction" means a municipality, home  
5 rule municipality or a county;

6 DD. "manufacture" means to prepare a cannabis  
7 product;

8 EE. "marketing" means the act of promoting or  
9 selling a cannabis product or cannabis-related products or  
10 services;

11 FF. "mature cannabis plant" means a cannabis plant  
12 that is not an immature cannabis plant;

13 GG. "medical cannabis" means cannabis products used  
14 by a qualified patient in accordance with the Lynn and Erin  
15 Compassionate Use Act;

16 HH. "medical cannabis program" means the regulated  
17 system allowing for the beneficial use of medical cannabis as  
18 established in the Lynn and Erin Compassionate Use Act;

19 II. "medical cannabis registry" means the system by  
20 which the department of health, pursuant to the Lynn and Erin  
21 Compassionate Use Act, receives applications for registry  
22 identification cards; approves and denies applications; issues  
23 and renews registry identification cards; and maintains files  
24 related to applicants for and recipients of registry  
25 identification cards;

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1 JJ. "person" means an individual or a firm,  
2 partnership, joint venture, association, corporation, limited  
3 liability company, estate, trust, business trust, receiver or  
4 any other legal or commercial entity;

5 KK. "personal production license" means a license  
6 issued to a person that allows the person to produce cannabis  
7 for the person's personal use, consistent with the requirements  
8 of the Cannabis Regulation Act or a rule promulgated pursuant  
9 to that act;

10 LL. "produce" means any activity involving the  
11 cultivation of cannabis;

12 MM. "public place" means a place to which the  
13 general public has access and includes hallways, lobbies and  
14 other parts of apartment houses and hotels that do not  
15 constitute rooms or apartments designed for actual residence;  
16 highways; streets; schools; places of amusement; parks;  
17 playgrounds; and places used in connection with public  
18 passenger transportation;

19 NN. "qualified patient" means a person who has been  
20 diagnosed by a practitioner as having a debilitating medical  
21 condition and has received written certification and a registry  
22 identification card as part of the medical cannabis program;

23 OO. "safety-sensitive position" means a position in  
24 which performance by a person under the influence of drugs or  
25 alcohol would constitute an immediate and direct threat of

1 injury or death to that person or to another;

2 PP. "superintendent" means the superintendent of  
3 regulation and licensing;

4 QQ. "usable cannabis" means dried cannabis flowers  
5 and dried cannabis leaves and any mixture or preparation of  
6 those flowers or leaves; and

7 RR. "volatile solvent" means a solvent that is or  
8 produces a flammable gas or vapor that, when present in the air  
9 in sufficient quantities, will create explosive or ignitable  
10 mixtures.

11 SECTION 3. [NEW MATERIAL] CANNABIS CONTROL DIVISION--  
12 DUTIES--RULEMAKING--ADVISORY COMMITTEE.--

13 A. The "cannabis control division" is created in  
14 the regulation and licensing department.

15 B. The division shall regulate and administer, and  
16 may collect fees in connection with the administration of:

17 (1) commercial cannabis activity and licensing  
18 related to the activity; and

19 (2) the medical cannabis program, except for  
20 the medical cannabis registry.

21 C. Not later than July 1, 2020, the division shall  
22 promulgate rules necessary for the division to carry out its  
23 duties provided in the Cannabis Regulation Act, and those rules  
24 shall include:

25 (1) procedures for the issuance, renewal,

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1 suspension and revocation of a license;

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

5 (3) security requirements for a cannabis  
6 establishment;

7 (4) requirements related to:

8 (a) inspection and monitoring of a  
9 cannabis establishment;

10 (b) a cannabis establishment's  
11 recordkeeping and tracking of cannabis from seed until it is  
12 sold;

13 (c) prevention of the sale or diversion  
14 of cannabis products in commercial cannabis activity to a  
15 person under the age of twenty-one;

16 (d) labeling of cannabis products  
17 packaged, sold or distributed by a cannabis establishment; and

18 (e) language for labels of cannabis  
19 products related to potential adverse effects;

20 (5) a provision regarding whether a licensee  
21 who sells cannabis products may sell any other products;

22 (6) rules on a licensee's advertisement and  
23 marketing of cannabis products and on how a licensee may  
24 display cannabis products for sale;

25 (7) procedures that promote and encourage full

1 participation in the cannabis industry governed by the Cannabis  
2 Regulation Act by representatives of communities that have been  
3 disproportionately harmed by the enforcement of cannabis  
4 prohibitions in law and policy, including harms from  
5 disproportionate rates of related interactions with law  
6 enforcement officers, arrests, incarceration and collateral  
7 consequences;

8 (8) rules developed in consultation with the  
9 department of environment to establish:

10 (a) health and safety standards  
11 applicable to the cultivation of cannabis and the manufacture  
12 of cannabis products;

13 (b) standards for quality control,  
14 inspection and testing of cannabis products;

15 (c) standards for food and product  
16 safety applicable to cannabis products; and

17 (d) which additives and ingredients are  
18 approved for and prohibited from inclusion in cannabis  
19 products;

20 (9) health and safety standards developed in  
21 consultation with the department of health to meet the needs of  
22 qualified patients, including those who are immunosuppressed;  
23 and

24 (10) rules developed in consultation with the  
25 New Mexico department of agriculture and the department of

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1 environment to establish:

2 (a) standards for the use of pesticides  
3 in the manufacture of cannabis, including the maximum  
4 allowances for pesticides and other foreign material such as  
5 hair, insects or other similar adulterants, in harvested  
6 cannabis;

7 (b) environmental protections that apply  
8 to all licensees; and

9 (c) protocols to ensure licensees'  
10 compliance with state laws governing environmental impacts,  
11 natural resource protection, water quality, water supply,  
12 hazardous materials, pesticide use and wastewater discharge.

13 D. The division shall collect demographic data on  
14 license applicants and employees of cannabis establishments,  
15 including race, ethnicity, gender and age.

16 E. Not later than September 1, 2019, the division  
17 shall convene an advisory committee to advise the division on  
18 the development of rules pursuant to the Cannabis Regulation  
19 Act, including best practices and guidelines that protect  
20 public health and safety while ensuring a regulated environment  
21 for commercial cannabis activity that does not impose  
22 unreasonable barriers that would perpetuate, rather than reduce  
23 and eliminate, the illicit market for cannabis. The advisory  
24 committee members shall be appointed by the director with the  
25 approval of the superintendent for two-year terms and shall

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1 include a representative:

- 2 (1) of the cannabis industry;
- 3 (2) of a cannabis policy advocacy  
4 organization;
- 5 (3) of a labor organization;
- 6 (4) who is a medical cannabis patient;
- 7 (5) from a state or local agency with relevant  
8 expertise as the director and the superintendent deem  
9 appropriate;
- 10 (6) with expertise in public health;
- 11 (7) with expertise in regulating commercial  
12 activity for adult-use intoxicating substances;
- 13 (8) with expertise in other relevant areas as  
14 the director and the superintendent deem appropriate; and
- 15 (9) expertise and experience in cannabis  
16 laboratory science.

17 F. Beginning January 1, 2021, the advisory  
18 committee shall publish and provide to the legislature an  
19 annual report detailing its activities and recommendations made  
20 to the division during the preceding year and noting whether  
21 the division implemented the recommendations. The report shall  
22 include a recommendation on whether the legislature should  
23 adjust the cannabis excise tax based on the following  
24 considerations:

- 25 (1) demand for cannabis products;

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1 (2) undercutting the illicit cannabis market;

2 (3) preventing the cannabis market from  
3 undercutting the medical cannabis market;

4 (4) preventing cannabis use by a person  
5 younger than twenty-one years of age; and

6 (5) preventing cannabis use disorder.

7 G. Members of the advisory committee convened  
8 pursuant to this section shall not be paid but are entitled to  
9 receive per diem and mileage as provided for state employees in  
10 the Per Diem and Mileage Act.

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

13 A. Not later than January 1, 2020, the department  
14 of health shall:

15 (1) establish a medical cannabis subsidy  
16 program by which the department of health shall make  
17 distributions of a portion of cannabis excise tax revenue to  
18 provide medical cannabis to sick and indigent persons who are  
19 residents of New Mexico and who have been diagnosed by a  
20 practitioner as having a debilitating medical condition and  
21 have received written certification and a registry  
22 identification card issued pursuant to the Lynn and Erin  
23 Compassionate Use Act; and

24 (2) promulgate rules to govern the medical  
25 cannabis subsidy program.



1           B. The department of health shall monitor emerging  
2 scientific and medical information relevant to the health  
3 effects associated with cannabis use and shall monitor changes  
4 in cannabis use patterns for children and adults within the  
5 state, broken down by county, race and ethnicity.

6           C. Not later than September 1, 2019, the secretary  
7 of health shall appoint a "public health and safety advisory  
8 committee" composed of professionals with expertise related to  
9 cannabis through work, training or research in public health,  
10 epidemiology, medicine, medical toxicology, poison control,  
11 road safety, occupational safety, environmental safety and  
12 emergency medicine.

13           D. Beginning December 1, 2020, the public health  
14 and safety advisory committee shall provide to the legislature  
15 and the department of health shall publish on its website an  
16 annual report on the health effects of legalizing cannabis for  
17 adult use. The report shall include the following elements  
18 relating to cannabis use:

- 19                   (1) child access;
- 20                   (2) road safety and driving while impaired;
- 21                   (3) workplace safety;
- 22                   (4) percentage of emergency room visits and  
23 outcomes;
- 24                   (5) educational needs for children and adults;
- 25                   (6) consumer and product safety; and

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1 (7) percentage of poison control center calls.

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

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

7 A. Within sixty days following the end of each  
8 fiscal year, every police and sheriff's department shall report  
9 on a form approved by the department of public safety:

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

- 12 (a) category and penalty level; and
- 13 (b) race, ethnicity, age and gender; and

14 (2) the number of motor vehicle accidents in  
15 which the driver of one of the vehicles tested positive for  
16 cannabis.

17 B. Each law enforcement agency shall submit its  
18 annual report to the department of public safety. A law  
19 enforcement agency that does not issue a citation or make an  
20 arrest for a cannabis law violation shall report that fact in  
21 its annual report.

22 C. The department of public safety shall compile  
23 the reports submitted and shall issue by November 1 of each  
24 year an annual report of all cannabis law violations in the  
25 state. The report shall aggregate the data for the state and

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1 shall disaggregate the data by agency, race, ethnicity, age and  
2 gender. The department of public safety shall make all annual  
3 reports submitted for previous fiscal years available on the  
4 department's website.

5 SECTION 6. [NEW MATERIAL] LICENSING--LIMITATIONS--MEDICAL  
6 CANNABIS GRANDFATHERED LICENSING.--

7 A. Except as otherwise provided in Subsection K of  
8 this section, the division shall begin issuing licenses no  
9 later than January 1, 2021; provided that until July 1, 2021,  
10 and longer if the division deems it necessary, the division may  
11 issue temporary licenses.

12 B. The department shall administer a licensing  
13 program for commercial cannabis and personal production  
14 activity provided for in the Cannabis Regulation Act and for  
15 the medical cannabis program provided for in the Lynn and Erin  
16 Compassionate Use Act, which shall include licenses for:

- 17 (1) cannabis couriers;
- 18 (2) cannabis testing laboratories;
- 19 (3) cannabis manufacturers;
- 20 (4) cannabis microbusinesses;
- 21 (5) cannabis producers;
- 22 (6) cannabis retailers; and
- 23 (7) personal producers.

24 C. The division shall include a clear designation  
25 on all licenses that indicates whether the license is for

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1 personal production, medical cannabis activity or for both  
2 medical and commercial cannabis activity.

3 D. The division shall require all commercial  
4 cannabis licensees to sell to both medical cannabis patients  
5 and consumers; provided that if a cannabis establishment is  
6 licensed for both commercial cannabis activity and medical  
7 cannabis activity, the division shall condition renewal upon a  
8 requirement that no less than thirty-three percent of units  
9 sold from the preceding twelve months' operation of the  
10 establishment was derived from the sale of medical cannabis  
11 products.

12 E. The division may designate subcategories of  
13 licenses based on:

14 (1) the size of a business; or

15 (2) for cannabis producers, whether the  
16 cannabis is produced indoors, outdoors or in a setting that  
17 combines natural light with other light sources.

18 F. A license is valid for twelve months from the  
19 date it is issued and may be renewed annually.

20 G. The division shall not issue any other license  
21 provided for in this section to a cannabis testing laboratory  
22 licensee.

23 H. The division shall allow only a cannabis  
24 retailer or a cannabis microbusiness to operate a cannabis  
25 consumption area.

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1           I. Except for a personal production license, the  
2 division shall not issue a license to a natural person who  
3 cannot demonstrate continuous residency in New Mexico for at  
4 least two years prior to the date on which the person submits a  
5 license application. If an applicant is an entity, all  
6 controlling persons in the entity shall be required to  
7 demonstrate continuous residency in New Mexico for two years  
8 prior to the date on which the entity submits its license  
9 application; provided that the provisions of this subsection  
10 shall not apply to a person licensed pursuant to the Lynn and  
11 Erin Compassionate Use Act.

12           J. Except as provided in Subsection G of this  
13 section and Section 8 of the Cannabis Regulation Act, the  
14 division shall not limit the type or number of licenses that a  
15 licensee may be issued under the Cannabis Regulation Act.

16           K. Any person properly licensed and in good  
17 standing pursuant to the Lynn and Erin Compassionate Use Act on  
18 the effective date of the enactment of the Cannabis Regulation  
19 Act shall be issued a license under the provisions of the  
20 Cannabis Regulation Act allowing the licensee to continue to  
21 conduct medical cannabis activity only. The licensee shall  
22 continue to operate under rules promulgated for the medical  
23 cannabis program until the division promulgates rules for  
24 medical cannabis activity.

25           **SECTION 7. [NEW MATERIAL] LICENSEES--INTERMEDIATE**

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1 SANCTIONS--CIVIL PENALTY.--

2 A. Any violation of a provision of the Cannabis  
3 Regulation Act or a rule adopted by the division is grounds for  
4 disciplinary action. The division may:

5 (1) impose any intermediate sanction  
6 established by rule;

7 (2) impose a directed plan of correction; or

8 (3) assess a civil monetary penalty  
9 established by rule; provided that a civil monetary penalty  
10 shall not exceed a total of one thousand dollars (\$1,000) per  
11 violation, and penalties and interest recovered pursuant to the  
12 Cannabis Regulation Act on behalf of the state shall be  
13 remitted to the state treasurer for deposit in the general  
14 fund.

15 B. The division shall adopt and promulgate rules  
16 specifying the criteria for imposition of any intermediate  
17 sanction and civil monetary penalty.

18 C. A licensee is liable for the reasonable costs of  
19 a directed plan of correction.

20 D. The provisions of this section shall not apply  
21 to occupational health and safety rules promulgated pursuant to  
22 Section 18 of the Cannabis Regulation Act.

23 SECTION 8. [NEW MATERIAL] COMMERCIAL CANNABIS ACTIVITY  
24 LICENSING--TEMPORARY LICENSING--LICENSING--APPLICATION--  
25 ISSUANCE AND DENIAL OF A LICENSE.--

1           A. Beginning no later than January 1, 2020, the  
2 division shall issue a temporary license to conduct commercial  
3 cannabis activity to a currently licensed medical cannabis  
4 business that has applied for a license pursuant to Subsection  
5 B of this section; provided that the medical cannabis business  
6 shall meet requirements established by the division. The  
7 requirements shall include consideration of whether the medical  
8 cannabis business has the financial and operational ability to  
9 engage in commercial cannabis activities. A medical cannabis  
10 business operating under a temporary license shall continue to  
11 operate under rules promulgated for the medical cannabis  
12 program until the division promulgates rules for commercial  
13 cannabis activity. A temporary license to conduct commercial  
14 cannabis activity issued to a medical cannabis business shall  
15 expire on the date that a license is issued or denied to the  
16 medical cannabis business pursuant to Subsection B of this  
17 section.

18           B. In carrying out its licensing duties, the  
19 division shall:

20                   (1) no later than September 1, 2020, accept  
21 and begin processing license applications;

22                   (2) issue a license, or a written notice  
23 detailing why an application was denied, no later than ninety  
24 days following the day on which the application was submitted  
25 to the division;

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1 (3) no later than September 1, 2020, develop a  
2 plan to encourage racial, ethnic, gender and geographic  
3 diversity among licensees; and

4 (4) require as a condition of licensing that  
5 the licensee use fifty percent captured, active, passive or  
6 natural solar energy or recycled water to produce cannabis or  
7 otherwise in the business licensed.

8 C. The division may deny an application for an  
9 initial license or renewal if:

10 (1) the applicant's application does not  
11 include all information required by the division;

12 (2) issuance of the license would lead to  
13 monopolization of the cannabis or medical cannabis industry in  
14 the state or would unreasonably restrain competition in those  
15 industries;

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

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1 person's rehabilitation following the conviction, and based on  
2 that review, determine whether the applicant entity should be  
3 issued a license; or

4 (4) the applicant or a controlling person in  
5 the applicant's entity has had a license issued pursuant to the  
6 Cannabis Regulation Act or the Lynn and Erin Compassionate Use  
7 Act revoked by the division in the three years immediately  
8 preceding the date on which the application was filed.

9 D. For the purposes of Subsection C of this  
10 section:

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

14 (a) a felony conviction involving fraud,  
15 deceit or embezzlement;

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

21 (c) any other offense as determined by  
22 the division, except as provided in Paragraph (2) of this  
23 subsection; and

24 (2) a conviction for which the related  
25 sentence, including any term of probation or parole, is

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1 completed for the possession, use, manufacture, distribution or  
2 dispensing or the possession with the intent to manufacture,  
3 distribute or dispense a controlled substance is not considered  
4 substantially related to the qualifications, functions or  
5 duties of a business seeking a license and shall not be the  
6 sole ground on which an application is denied.

7 E. The division shall deny an application if an  
8 applicant, a controlling person in an applicant's entity or the  
9 premises for which a license is sought does not qualify for  
10 licensure under the Cannabis Regulation Act.

11 F. If a currently licensed medical cannabis  
12 business is temporarily licensed for commercial cannabis  
13 activity, the division shall require that the business  
14 demonstrate that medical cannabis sales for each year total not  
15 less than seventy-five percent of medical cannabis sales for  
16 the previous year.

17 SECTION 9. [NEW MATERIAL] PERSONAL PRODUCTION  
18 LICENSING--APPLICATION--ISSUANCE AND DENIAL OF A LICENSE--  
19 FEES--CONFIDENTIALITY.--

20 A. Beginning no later than September 1, 2020, a  
21 person twenty-one years of age or older may apply for a  
22 personal production license to produce cannabis pursuant to the  
23 Cannabis Regulation Act.

24 B. A personal production license does not authorize  
25 the licensee to exchange cannabis products for financial

1 consideration.

2 C. A person may obtain no more than one personal  
3 production license, which license may be issued for production  
4 to occur either indoors or outdoors in no more than one single  
5 location.

6 D. No more than two personal production licenses  
7 may be issued for a given location, with proof that a second  
8 licensee currently resides at the location. Multiple personal  
9 production licenses may not be issued for nonresidential  
10 locations.

11 E. An applicant shall provide the following in  
12 order to be considered for a personal production license:

13 (1) a nonrefundable application fee;

14 (2) a description of the single indoor or  
15 outdoor location that shall be used in the production of  
16 cannabis;

17 (3) a written plan that ensures that the  
18 cannabis production shall not be visible from the street or  
19 other public areas;

20 (4) a written acknowledgment that the  
21 applicant will ensure that all cannabis, cannabis products and  
22 paraphernalia are accessible only by the applicant and kept  
23 secure and out of reach of children; and

24 (5) a description of any device or series of  
25 devices that shall be used to provide security and proof of the

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1 secure grounds.

2 F. The division may deny an application for an  
3 initial personal production license or renewal, or may grant a  
4 license subject to reasonable conditions as determined by the  
5 division, if:

6 (1) the applicant has violated any provision  
7 of the Cannabis Regulation Act or a rule promulgated pursuant  
8 to that act; or

9 (2) the application does not include all  
10 information required by the division.

11 G. Every personal production license shall be  
12 renewed each year on or before the last day of the month in  
13 which the license was issued. If a licensee has not made  
14 application for renewal of a license and paid the renewal fee  
15 by the license renewal date, the license shall expire. The  
16 division may require a person whose license has expired to  
17 apply for a license as if the person had not been previously  
18 licensed under the Cannabis Regulation Act.

19 H. The division shall maintain a confidential file  
20 containing the names, addresses and telephone numbers of the  
21 persons who have received a personal production license. The  
22 name, address and telephone number of personal production  
23 licensees and personal production license applicants shall be  
24 confidential and not subject to disclosure, except to:

25 (1) authorized employees or agents of the

1 division as necessary to perform the duties of the division  
 2 pursuant to the provisions of the Cannabis Regulation Act; and

3 (2) authorized employees of state or local law  
 4 enforcement agencies, but only for the purpose of verifying  
 5 that a person is lawfully in possession of the personal  
 6 production license or as otherwise expressly permitted in the  
 7 Cannabis Regulation Act.

8 I. The division shall not issue a license pursuant  
 9 to this section to, and the provisions of this section shall  
 10 not apply to, a qualified patient, as defined in Section  
 11 26-2B-3 NMSA 1978, who holds a production license issued  
 12 pursuant to the Lynn and Erin Compassionate Use Act.

13 SECTION 10. [NEW MATERIAL] LICENSING FEES.--

14 A. The division shall establish application and  
 15 licensing fees applicable to licenses for commercial cannabis  
 16 activity, personal production and activity related to medical  
 17 cannabis. The fees shall be reasonably calculated to cover the  
 18 cost of administering and enforcing the programs established in  
 19 the Cannabis Regulation Act and the Lynn and Erin Compassionate  
 20 Use Act, including the administration of the medical cannabis  
 21 registry by the department of health; provided that:

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

24 (2) for a license or renewal of a license that  
 25 authorizes only medical cannabis activity, the fee shall not

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1 exceed one-half of the fee charged for a license or renewal of  
2 a license for a similarly sized business that authorizes both  
3 commercial and medical cannabis activities.

4 B. The division shall deposit all fees collected  
5 pursuant to the Cannabis Regulation Act in the cannabis  
6 regulation fund.

7 SECTION 11. [NEW MATERIAL] LOCAL CONTROL.--

8 A. A local jurisdiction may:

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

11 (2) adopt reasonable health- and safety-  
12 related rules on the production of homegrown cannabis;  
13 provided, however, that a violation of a rule shall constitute  
14 a civil offense;

15 (3) prohibit, in accordance with the Cannabis  
16 Regulation Act, the operation of a cannabis retailer or a  
17 cannabis microbusiness that sells cannabis products; and

18 (4) allow for the smoking, vaporizing and  
19 ingesting of cannabis products within an indoor or outdoor  
20 cannabis consumption area on the premises of a cannabis  
21 retailer or cannabis microbusiness if:

22 (a) access to the cannabis consumption  
23 area is restricted to persons twenty-one years of age and  
24 older;

25 (b) cannabis consumption is not visible

1 from any public place or from outside the cannabis consumption  
2 area; and

3 (c) the cannabis retailer or cannabis  
4 microbusiness is located at a minimum distance as determined by  
5 the local jurisdiction, but which distance shall be three  
6 hundred feet or more from a school, church or daycare center  
7 that was in existence at the time the retailer or microbusiness  
8 was licensed.

9 B. A local jurisdiction shall not:

10 (1) prevent transportation of cannabis  
11 products on public roads by a licensee that transports cannabis  
12 products in compliance with the Cannabis Regulation Act;

13 (2) completely prohibit the operation of any  
14 category of license other than a cannabis retailer or cannabis  
15 microbusiness that sells cannabis products;

16 (3) prohibit the personal production of  
17 cannabis or cannabis products made without the use of volatile  
18 solvents for personal use provided for in the Cannabis  
19 Regulation Act; or

20 (4) prohibit the operation of a medical-  
21 cannabis-only retail business.

22 SECTION 12. [NEW MATERIAL] LOCAL OPTION ELECTION--EFFECT  
23 OF LOCAL OPTION.--

24 A. The governing body of a municipality, whether or  
25 not the county in which that municipality is situated has held

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1 an election provided for in this section, or a board of county  
2 commissioners of a county in the state may prohibit by  
3 ordinance or resolution the operation of a cannabis retailer or  
4 a cannabis microbusiness that sells cannabis products.

5 B. The registered qualified electors of the  
6 municipality or county may petition the governing body by  
7 filing one or more petitions in the appropriate office to hold  
8 an election for the purpose of determining whether to overturn  
9 an ordinance or resolution prohibiting the operations of a  
10 cannabis retailer or a cannabis microbusiness that sells  
11 cannabis products in the municipality or county. If the  
12 aggregate of the signatures of such electors on all the  
13 petitions equals or exceeds five percent of the number of  
14 registered qualified electors of the municipality or county,  
15 the governing body shall call an election as provided in  
16 Subsection C of this section. The date of the filing of the  
17 petition shall be the date of the filing of the last petition  
18 that brings the number of signatures up to the required five  
19 percent; provided, however, that the governing body shall  
20 refuse to recognize the petition if more than three months have  
21 elapsed between the date of the first signature and the filing  
22 of the last petition necessary to bring the number of  
23 signatures on the petition up to five percent.

24 C. The election may be held in conjunction with a  
25 regular election of the governing body, a general election or a



1 regular local or special election held pursuant to the Local  
2 Election Act or Special Election Act. The election shall be  
3 called, conducted, counted and canvassed in substantially the  
4 same manner as provided for general elections in the county  
5 under the Election Code or for regular local or special  
6 elections in a municipality under the Local Election Act or  
7 Special Election Act.

8 D. If the majority of all of the votes cast at the  
9 election are cast in favor of the prohibition of the operations  
10 of a cannabis retailer or a cannabis microbusiness that sells  
11 cannabis products in the county or municipality, the chair of  
12 the governing body shall declare by order entered upon the  
13 records of the county or municipality that the county or  
14 municipality has approved the prohibition and shall notify the  
15 department of the election results.

16 E. No election held pursuant to this section shall  
17 be held within seventy days before or after any primary,  
18 general or regular local election.

19 F. If an election is held pursuant to this section  
20 in a county that contains within its limits a municipality of  
21 more than five thousand persons according to the most recent  
22 federal decennial census, it is not necessary for the  
23 registered qualified electors in the municipality to file a  
24 separate petition asking for a separate or different vote on  
25 the question of whether to allow the operations of a cannabis

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1 retailer or a cannabis microbusiness that sells cannabis  
2 products. The election in the county shall be conducted so as  
3 to separate the votes in the municipality from those in the  
4 remaining parts of the county. If the majority of the voters  
5 in the county, including the voters in the municipality, vote  
6 to prohibit the operations of a cannabis retailer or a cannabis  
7 microbusiness that sells cannabis products, the county shall  
8 not allow the prohibited operations; but if the majority of the  
9 votes in the municipality are in favor of allowing the  
10 operations of a cannabis retailer or a cannabis microbusiness  
11 that sells cannabis products, the municipality shall allow the  
12 approved operations in the municipality. Nothing contained in  
13 this subsection shall prevent any municipality from having a  
14 separate election under the terms of this section.

15 G. Any county or municipality that has voted to  
16 uphold the prohibition on the operations of a cannabis retailer  
17 or a cannabis microbusiness that sells cannabis products may  
18 vote to discontinue the prohibition and to allow the previously  
19 prohibited operations in that county or municipality; provided  
20 that the discontinuance shall become effective on the ninetieth  
21 day after the local option election is held as provided for in  
22 this subsection.

23 SECTION 13. [NEW MATERIAL] LICENSEE PROTECTIONS.--

24 A. Conduct by a licensee or a licensee  
25 representative that is allowed pursuant to a license and

1 conduct by a person who allows property to be used by a  
 2 licensee or a licensee representative for conduct allowed  
 3 pursuant to a license is lawful, not a violation of state or  
 4 local law and is not a basis for seizure or forfeiture of any  
 5 property or assets under state or local law.

6 B. The state or a local government shall not impose  
 7 a criminal, civil or administrative penalty on a licensee or a  
 8 licensee representative or on a person who allows property to  
 9 be used by a licensee or a licensee representative pursuant to  
 10 a license, solely for conduct allowed pursuant to a license.

11 SECTION 14. [NEW MATERIAL] PROTECTION OF UNDERAGE  
 12 PERSONS--TRAFFICKING--PENALTIES.--

13 A. A person who is not a licensee and who is  
 14 eighteen years of age or older shall not intentionally traffic  
 15 a cannabis product to a minor who is two or more years younger  
 16 than the person. A person who traffics a cannabis product in  
 17 violation of this subsection is guilty of a fourth degree  
 18 felony and shall be sentenced pursuant to Section 31-18-15 NMSA  
 19 1978.

20 B. A licensee shall not employ a person younger  
 21 than twenty-one years of age to engage in a commercial cannabis  
 22 activity.

23 C. Except as allowed in the Cannabis Regulation Act  
 24 or the Lynn and Erin Compassionate Use Act, a licensee shall  
 25 not sell a cannabis product to a person younger than twenty-one

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

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

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

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

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

1 belief that the purchaser was actually twenty-one years of age  
2 or older.

3 E. Nothing in this section shall be construed or  
4 interpreted to prevent:

5 (1) the division from enforcing its rules  
6 against a licensee;

7 (2) a state agency from enforcing a law or  
8 rule that does not conflict with the Cannabis Regulation Act or  
9 rules promulgated pursuant to that act; or

10 (3) a local jurisdiction from enforcing a  
11 local ordinance that does not conflict with the Cannabis  
12 Regulation Act or rules promulgated pursuant to that act.

13 F. For the purposes of this section, "traffic"  
14 means the:

15 (1) distribution, sale, barter or giving away  
16 of cannabis; or

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

19 SECTION 15. [NEW MATERIAL] DISTRIBUTION AND TRANSPORT.--

20 The Cannabis Regulation Act shall not be construed to authorize  
21 a licensee to transport or distribute, or cause to be  
22 transported or distributed, cannabis products outside the  
23 state, unless authorized by federal law.

24 SECTION 16. [NEW MATERIAL] TRANSPORT VIA COURIER.--

25 A. Only a cannabis retailer, cannabis microbusiness

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1 or cannabis courier may courier cannabis products.

2 B. A consumer who requests courier service shall  
3 maintain a physical or electronic copy of the courier request  
4 for the duration of time that the consumer possesses the  
5 cannabis product that was purchased and received by courier and  
6 shall make the copy available upon request by the division or a  
7 law enforcement officer.

8 SECTION 17. [NEW MATERIAL] PACKAGING AND LABELING.--

9 A. Before sale or transport via cannabis courier of  
10 a cannabis product, the cannabis product shall be labeled and  
11 placed in a resealable, child-resistant package that is  
12 compostable, recyclable or made from recycled materials.

13 B. Packages and labels for cannabis products shall  
14 not be designed to be appealing to a child.

15 C. Labels shall include:

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

18 (2) identification of the licensee or  
19 licensees that produced or manufactured the cannabis product,  
20 the date on which the cannabis was harvested, the type of  
21 cannabis product and the date on which the cannabis product was  
22 manufactured and packaged;

23 (3) a list of pharmacologically active  
24 ingredients;

25 (4) for cannabis products, a list of all

1 ingredients and a disclosure of nutritional information for the  
 2 product or cannabis extract, disclosed in the same manner  
 3 required under federal law for nutritional labeling for food  
 4 for human consumption;

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

7 (6) a warning of possible adverse effects of  
 8 consumption and the New Mexico poison and drug information  
 9 center phone number.

10 SECTION 18. [NEW MATERIAL] CANNABIS PRODUCTS--DEPARTMENT  
 11 OF ENVIRONMENT--OCCUPATIONAL HEALTH AND SAFETY.--

12 A. Cannabis products shall be homogenized to ensure  
 13 uniform disbursement of cannabinoids throughout the product.

14 B. The department of environment shall adopt and  
 15 promulgate rules for cannabis products that establish packaging  
 16 requirements, including serving size, ingredient list,  
 17 labeling, including ingredients and adverse effects, and  
 18 testing, including potency and pesticide use, and that are not  
 19 designed to appeal to children.

20 C. Cannabis or cannabis extracts included in a  
 21 cannabis product that is manufactured in compliance with  
 22 applicable law are not considered to be an adulterant under  
 23 state law.

24 D. The department of environment shall review and,  
 25 if necessary, prepare proposed occupational health and safety

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1 rules for persons working in the cannabis industry for  
2 consideration by the environmental improvement board.

3 SECTION 19. [NEW MATERIAL] CANNABIS MANUFACTURERS AND  
4 TESTING LABORATORIES--DEPARTMENT OF ENVIRONMENT--RULEMAKING.--

5 A. The division, with the assistance of the  
6 department of environment, shall promulgate rules to govern the  
7 licensing of a cannabis manufacturer and a cannabis testing  
8 laboratory.

9 B. The division shall issue licenses as follows:

10 (1) "cannabis manufacturing level 1" for a  
11 site that manufactures cannabis extracts using nonvolatile  
12 solvents, carbon dioxide, alcohol or no solvents;

13 (2) "cannabis manufacturing level 2" for a  
14 site that manufactures cannabis extracts using volatile  
15 solvents; and

16 (3) "cannabis testing laboratory" for a  
17 licensee that tests cannabis products. An owner or person with  
18 an ownership interest in a laboratory license shall not own or  
19 have ownership interest in a non-laboratory facility licensed  
20 pursuant to the Cannabis Regulation Act.

21 C. Except as otherwise provided by law, a cannabis  
22 product shall not be sold by a licensee unless a representative  
23 sample of the cannabis product has been tested by a cannabis  
24 testing laboratory to determine:

25 (1) whether the chemical profile of the sample



1 conforms to the labeled content of compounds, including:

- 2 (a) delta-9-tetrahydrocannabinol;
- 3 (b) delta-9-tetrahydrocannabinolic;
- 4 (c) cannabidiol;
- 5 (d) cannabidiolic acid;
- 6 (e) cannabigerol; and
- 7 (f) cannabinol; and

8 (2) that the presence of the following  
9 contaminants does not exceed harmful levels:

- 10 (a) residual solvents or chemicals,  
11 including explosive gases such as butane and propane and  
12 poisons, toxins or carcinogens such as methanol, methylene  
13 chloride, acetone, benzene, toluene and trichloroethylene;
- 14 (b) foreign material, including hair,  
15 insects or other similar adulterants; and
- 16 (c) microbiological impurity, including  
17 total aerobic microbial count; total yeast mold count;  
18 pseudomonas aeruginosa; aspergillus species; staphylococcus  
19 aureus; aflatoxin B1, B2, G1 or G2; or ochratoxin A.

20 D. Residual levels of volatile organic compounds  
21 shall not exceed harmful levels.

22 E. The testing required by this section shall be  
23 performed in a manner consistent with general requirements for  
24 the competence of testing and calibration activities, including  
25 sampling, using standard methods to ensure conformity,

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1 competence and impartiality to test cannabis products.

2 SECTION 20. [NEW MATERIAL] TESTING CANNABIS PRODUCTS--  
3 DEPARTMENT OF ENVIRONMENT.--

4 A. A cannabis testing laboratory's testing and  
5 sampling of cannabis products shall comply with the  
6 requirements set forth in applicable law and rules.

7 B. The division shall develop rules and procedures  
8 to:

9 (1) ensure that testing of cannabis products  
10 occurs prior to distribution to cannabis retailers or cannabis  
11 microbusinesses;

12 (2) specify how often licensees shall test  
13 cannabis products;

14 (3) specify which entities bear the cost of  
15 testing cannabis and medical cannabis;

16 (4) provide for recordkeeping;

17 (5) establish chain of custody protocols for  
18 testing sample transportation;

19 (6) ensure that testing samples are  
20 transported and stored in a manner that prevents degradation,  
21 contamination and tampering;

22 (7) specify protocols for testing sample  
23 collection that ensure accurate test results, including  
24 requiring that testing samples be collected by laboratory staff  
25 trained in testing sample collection; and

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1 (8) require destruction of a harvested batch  
2 of cannabis or of cannabis products if the testing samples from  
3 the batch or items indicate noncompliance with applicable  
4 health and safety standards promulgated by the division, unless  
5 remedial measures can bring the cannabis or cannabis products  
6 into compliance with the standards.

7 C. Not later than January 1, 2020, the department  
8 of environment shall identify and provide to the division a set  
9 of certified reference materials for laboratory testing to be  
10 measured against.

11 SECTION 21. [NEW MATERIAL] ADVERTISING AND MARKETING  
12 RESTRICTIONS.--

13 A. The division shall promulgate rules that  
14 explicitly:

15 (1) prohibit the advertisement and marketing  
16 of cannabis products:

17 (a) on a billboard, radio, television or  
18 other broadcast media;

19 (b) that is false, deceptive or  
20 misleading, including making unproven health benefit claims;

21 (c) that depicts consumption by children  
22 or other persons younger than twenty-one years of age;

23 (d) that is designed using cartoon  
24 characters or to mimic any other product brand;

25 (e) within three hundred feet of a

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1 school, church or daycare center;

2 (f) that is in public transit vehicles  
3 or stations;

4 (g) that is in the form of an  
5 unsolicited internet pop-up; or

6 (h) that is on publicly owned or  
7 operated property; and

8 (2) require:

9 (a) all advertisements and marketing to  
10 accurately and legibly identify the licensee responsible for  
11 its content; and

12 (b) print and digital communications  
13 advertisements to be placed only where the audience is  
14 reasonably expected to be twenty-one years of age or older, as  
15 determined by reliable, current audience composition data.

16 B. Upon a determination by the New Mexico attorney  
17 general that the use of cannabis, other than as provided for in  
18 the Lynn and Erin Compassionate Use Act, is lawful in the state  
19 under federal law, Subparagraph (a) of Paragraph (1) of  
20 Subsection A of this section shall cease to be in effect.

21 **SECTION 22. [NEW MATERIAL] CONTRACTS.--**A contract related  
22 to operation of a license is enforceable, and a contract  
23 entered into by a licensee or a licensee representative for  
24 conduct allowed pursuant to a license or entered into by a  
25 person who allows property to be used by a licensee or a

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1 licensee representative for conduct allowed pursuant to a  
2 license, shall not be deemed unenforceable on the basis that  
3 the conduct allowed pursuant to the license is prohibited by  
4 federal law.

5 SECTION 23. [NEW MATERIAL] PROVISION OF PROFESSIONAL  
6 SERVICES.--An attorney, accountant, insurance agent, real  
7 estate agent, security guard or other person engaged in a  
8 profession subject to state licensure shall not be subject to  
9 disciplinary action by a professional association, a state  
10 professional board or a state licensing entity because the  
11 professional provides professional services or assistance to  
12 prospective or licensed cannabis establishments or another  
13 person in connection with activity that the professional  
14 reasonably believes complies with the Cannabis Regulation Act  
15 and rules promulgated pursuant to that act.

16 SECTION 24. [NEW MATERIAL] MEDICAL CANNABIS PROVISIONS  
17 UNAFFECTED.--Nothing in the Cannabis Regulation Act shall be  
18 construed to:

19 A. limit a privilege or right of a qualified  
20 patient or a primary caregiver participating in the medical  
21 cannabis program or a person issued a permit to operate as a  
22 medical cannabis licensee or to be a director, officer or  
23 employee of a medical cannabis licensee;

24 B. allow a medical cannabis licensee to distribute  
25 cannabis to a person who is not a qualified patient without

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1 first obtaining a temporary license, a cannabis retailer  
2 license or a cannabis microbusiness license from the division;  
3 or

4 C. allow a medical cannabis licensee to purchase  
5 cannabis products in a manner or from a source not authorized  
6 under the Lynn and Erin Compassionate Use Act without first  
7 obtaining a temporary license, a cannabis retailer license or a  
8 cannabis microbusiness license from the division.

9 SECTION 25. [NEW MATERIAL] PROTECTIONS FOR THE USE OF  
10 CANNABIS.--A person or a licensee shall not be subject to  
11 arrest, prosecution, penalty, civil liability or disciplinary  
12 action by a business or professional licensing entity and shall  
13 not be denied any right or privilege solely for conduct allowed  
14 pursuant to the Cannabis Regulation Act. Except by court  
15 order, state and local law enforcement agencies shall not  
16 cooperate with or provide assistance to the United States  
17 government, or any federal agency thereof, in enforcing the  
18 federal Controlled Substances Act solely for conduct that  
19 complies with the Cannabis Regulation Act or the Lynn and Erin  
20 Compassionate Use Act. The New Mexico supreme court and any  
21 disciplinary or character and fitness committees established by  
22 that court are considered business or professional licensing  
23 entities for the purposes of this section.

24 SECTION 26. [NEW MATERIAL] PROTECTIONS FROM  
25 DISCRIMINATION FOR THE USE OF CANNABIS OR MEDICAL CANNABIS.--

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1           A. A school shall not refuse to enroll or otherwise  
2 penalize a person solely for conduct allowed pursuant to the  
3 Cannabis Regulation Act or the Lynn and Erin Compassionate Use  
4 Act, unless failing to do so would cause the school to lose a  
5 monetary or licensing-related benefit under federal law or  
6 regulation.

7           B. A landlord shall not refuse to lease property to  
8 or to otherwise penalize a person solely for conduct allowed  
9 pursuant to the Cannabis Regulation Act or the Lynn and Erin  
10 Compassionate Use Act, unless failing to do so would cause the  
11 landlord to lose a monetary or licensing-related benefit under  
12 federal law or regulation.

13           C. Notwithstanding Subsection B of this section, a  
14 person may prohibit or restrict any of the actions or conduct  
15 otherwise allowed under Sections 29 and 30 of the Cannabis  
16 Regulation Act and may prohibit any activity for which a  
17 license is required pursuant to the Cannabis Regulation Act on  
18 that person's privately owned property.

19           D. For the purposes of medical care, including  
20 organ transplants, a qualified patient's use of medical  
21 cannabis pursuant to the Lynn and Erin Compassionate Use Act  
22 shall be considered the equivalent of the use of any other  
23 medication under the direction of a physician and does not  
24 constitute the use of an illicit substance or otherwise  
25 disqualify a qualified patient from medical care.

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1           E. A person shall not be denied custody of or  
2 visitation or parenting time with a child, and there is no  
3 presumption of neglect or child endangerment, for conduct  
4 allowed under Sections 29 and 30 of the Cannabis Regulation Act  
5 or under the Lynn and Erin Compassionate Use Act, unless the  
6 person's behavior creates an immediate danger to the safety of  
7 the child as established by clear and convincing evidence. For  
8 the purposes of this subsection, a determination that behavior  
9 creates an "immediate danger" shall not be based solely on  
10 whether, when or how often a person uses cannabis or medical  
11 cannabis.

12           SECTION 27. [NEW MATERIAL] EMPLOYMENT PROTECTIONS.--

13           A. It shall be unlawful to take an adverse  
14 employment action against an employee who is not acting in a  
15 safety-sensitive position based on conduct allowed under the  
16 Lynn and Erin Compassionate Use Act.

17           B. Unless there is an agreement between the  
18 employer and employee, nothing in this section shall:

19                   (1) restrict an employer's ability to prohibit  
20 or take adverse employment action against an employee for the  
21 possession or use of intoxicating substances at work or during  
22 work hours;

23                   (2) require an employer to commit any act that  
24 would cause the employer to be in violation of federal law or  
25 that would result in the loss of a federal contract or federal

underscored material = new  
[bracketed material] = delete



1 funding; or

2 (3) prevent or infringe upon the rights of an  
3 employer to adopt and implement a written zero-tolerance policy  
4 regarding the use of cannabis. A zero-tolerance policy may  
5 permit the discipline or termination of an employee on the  
6 basis of a positive drug test that indicates any amount of  
7 delta-9-tetrahydrocannabinol or delta-9-tetrahydrocannabinol  
8 metabolite.

9 C. As used in this section, "adverse employment  
10 action" means refusing to hire or employ a person; barring or  
11 discharging a person from employment; requiring a person to  
12 retire from employment; or discriminating against an employee  
13 in compensation or in terms, conditions or privileges of  
14 employment.

15 D. Every workplace shall post signs warning of the  
16 potential impairment effects of cannabis, any discipline or  
17 penalty an employee may receive for using cannabis while at  
18 work or for coming to work impaired and a statement that  
19 possession or use of cannabis is prohibited pursuant to federal  
20 law.

21 **SECTION 28.** [NEW MATERIAL] PROTECTIONS FOR A PERSON UNDER  
22 STATE SUPERVISION.--A person who is serving a period of  
23 probation or parole or who is under the supervision of the  
24 state or a local government pending trial or as part of a  
25 community supervision program shall not be penalized for

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1 conduct allowed under Sections 29 and 30 of the Cannabis  
2 Regulation Act or the Lynn and Erin Compassionate Use Act.

3 SECTION 29. [NEW MATERIAL] PERSONAL USE OF CANNABIS.--

4 A. Notwithstanding any other provision of law, the  
5 following conduct is lawful for a person who is twenty-one  
6 years of age or older and shall not constitute grounds for  
7 detention, search or arrest of a person or for a violation of  
8 probation or parole, and cannabis products that relate to the  
9 conduct are not contraband or subject to seizure or forfeiture  
10 pursuant to the Controlled Substances Act or the Forfeiture  
11 Act:

12 (1) possessing, using, being under the  
13 influence of, displaying, purchasing, obtaining or transporting  
14 not more than two ounces of cannabis or sixteen grams of  
15 cannabis extracts;

16 (2) transferring, without financial  
17 consideration, to a person who is twenty-one years of age or  
18 older not more than two ounces of cannabis or sixteen grams of  
19 cannabis extracts;

20 (3) possessing not more than two ounces of  
21 cannabis and sixteen grams of cannabis extracts within the  
22 person's private residence;

23 (4) if the person holds a valid personal  
24 production license, making, manufacturing with non-volatile  
25 substances or alcohol, keeping, storing or transferring without

1 remuneration to a person who is twenty-one years of age or  
2 older homemade cannabis extract or cannabis products containing  
3 not more than two ounces of cannabis or sixteen grams of  
4 cannabis extracts;

5 (5) if the person holds a valid personal  
6 production license, with respect to homegrown cannabis,  
7 possessing, planting, cultivating, harvesting, drying,  
8 manufacturing or transporting not more than six mature cannabis  
9 plants and six immature cannabis plants and possessing the  
10 cannabis produced by the plants;

11 (6) if the person holds a valid personal  
12 production license, transporting homegrown cannabis, mature or  
13 immature cannabis plants or cannabis products as described in  
14 Paragraphs (2) and (4) of this subsection when the person is  
15 moving the person's residence to another location or for  
16 purposes of testing or manufacturing;

17 (7) smoking, ingesting or otherwise consuming  
18 cannabis or cannabis products;

19 (8) possessing, using, displaying, purchasing,  
20 obtaining, manufacturing, transporting or giving away to a  
21 person twenty-one years of age or older cannabis paraphernalia;  
22 and

23 (9) assisting another person who is twenty-one  
24 years of age or older in, or allowing property to be used in,  
25 any of the acts described in Paragraphs (1) through (8) of this

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1 subsection.

2 B. Paragraphs (8) and (9) of Subsection A of this  
3 section are intended to meet the requirements of 21 U.S.C.  
4 Section 863(f) by authorizing, under state law, any person in  
5 compliance with this section to manufacture, possess or  
6 distribute cannabis paraphernalia.

7 C. Except as provided in Subsection D of this  
8 section, none of the following shall, individually or in  
9 combination with each other, constitute reasonable articulable  
10 suspicion of a crime:

11 (1) the odor of cannabis or cannabis extracts  
12 or of burnt cannabis or cannabis extracts;

13 (2) the possession of or the suspicion of  
14 possession of cannabis without evidence of quantity in excess  
15 of two ounces;

16 (3) the possession of multiple containers of  
17 cannabis without evidence of quantity in excess of two ounces;

18 (4) the possession of or the suspicion of  
19 possession of cannabis extracts without evidence of quantity in  
20 excess of sixteen grams;

21 (5) the possession of multiple containers of  
22 cannabis extracts without evidence of quantity in excess of  
23 sixteen grams; or

24 (6) the possession of cannabis or cannabis  
25 extracts in proximity to any amount of cash or currency without

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1 evidence of cannabis quantity in excess of two ounces or  
 2 cannabis extracts quantity in excess of sixteen grams.

3 D. Subsection C of this section shall not apply  
 4 when a law enforcement officer is investigating whether a  
 5 person is operating or in physical control of a vehicle or  
 6 watercraft while intoxicated, under the influence of or  
 7 impaired by alcohol or a drug or any combination thereof in  
 8 violation of Section 66-8-102 or 66-13-3 NMSA 1978.

9 SECTION 30. [NEW MATERIAL] PERSONAL CULTIVATION OF  
 10 CANNABIS.--

11 A. Personal cultivation of cannabis is subject to  
 12 the following restrictions:

13 (1) a person shall not plant, produce,  
 14 harvest, dry or manufacture cannabis plants unless the person  
 15 possesses a valid personal production license;

16 (2) a person shall plant, produce, harvest or  
 17 dry cannabis or manufacture cannabis products in accordance  
 18 with a local ordinance that does not conflict with the Cannabis  
 19 Regulation Act;

20 (3) the living plants and any cannabis  
 21 produced by the plants in excess of two ounces shall be kept  
 22 within the person's private residence, or upon the grounds of  
 23 that private residence, in a locked space and shall not be  
 24 visible by normal unaided vision from a public place; and

25 (4) not more than six mature plants and six

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1 immature plants may be produced per person; provided, however,  
2 that no more than twelve mature plants may be present in one  
3 household.

4 B. A local jurisdiction shall not prohibit a person  
5 from producing homegrown cannabis as provided for in the  
6 Cannabis Regulation Act.

7 SECTION 31. [NEW MATERIAL] LIMITS ON PERSONAL  
8 CONSUMPTION--PENALTIES.--

9 A. Nothing in Section 29 or 30 of the Cannabis  
10 Regulation Act shall be construed to:

11 (1) allow a person to:

12 (a) smoke cannabis or cannabis products  
13 in a public place, except in a cannabis consumption area; or

14 (b) produce cannabis in public view; or

15 (2) restrict the ability of an individual or  
16 private entity to prohibit conduct otherwise allowed in  
17 Sections 29 and 30 of the Cannabis Regulation Act on the  
18 individual's or private entity's privately owned property.

19 B. A person who violates:

20 (1) Subparagraph (a) of Paragraph (1) of  
21 Subsection A of this section shall be subject to a civil  
22 penalty of fifty dollars (\$50.00); and

23 (2) Subparagraph (b) of Paragraph (1) of  
24 Subsection A of this section shall be subject to a civil  
25 penalty of twenty-five dollars (\$25.00).

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1           C. For purposes of this section, "smoke" means to  
2 inhale, exhale, burn or carry any lighted or heated device or  
3 pipe, or any other lighted or heated cannabis product intended  
4 for inhalation, whether natural or synthetic, in any manner or  
5 in any form.

6           SECTION 32. [NEW MATERIAL] UNLICENSED SALES OF CANNABIS--  
7 PENALTIES.--

8           A. Except as allowed in the Cannabis Regulation Act  
9 or the Lynn and Erin Compassionate Use Act, it is unlawful for  
10 a person without a license to intentionally distribute cannabis  
11 products.

12           B. A person under eighteen years of age who  
13 violates Subsection A of this section shall be subject to:

- 14                   (1) a fine of one hundred dollars (\$100);  
15                   (2) attendance at a four-hour evidence-based  
16 drug education program;  
17                   (3) four hours of community service; or  
18                   (4) restorative justice mediation.

19           C. Except as otherwise provided in Section 14 of  
20 the Cannabis Regulation Act, a person eighteen years of age or  
21 older who violates Subsection A of this section is guilty of a  
22 misdemeanor and shall be sentenced pursuant to the provisions  
23 of Section 31-19-1 NMSA 1978.

24           D. A person eighteen years of age or older who  
25 violates Subsection A of this section and conducts unlicensed

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1 cannabis sales from a storefront is guilty of a fourth degree  
2 felony and shall be sentenced pursuant to the provisions of  
3 Section 31-18-15 NMSA 1978.

4 SECTION 33. [NEW MATERIAL] CANNABIS WITHIN RESTRICTED  
5 AREA--PENALTY.--Except as allowed in the Cannabis Regulation  
6 Act or the Lynn and Erin Compassionate Use Act, a person shall  
7 not possess or intentionally distribute any amount of a  
8 cannabis product within three hundred feet of any school,  
9 church or daycare center unless the person is a qualified  
10 patient or is in or upon the grounds of a private residence, as  
11 an invitee or resident, or a cannabis consumption area. A  
12 person who violates this section is guilty of a misdemeanor and  
13 shall be sentenced pursuant to the provisions of Section  
14 31-19-1 NMSA 1978.

15 SECTION 34. [NEW MATERIAL] UNLAWFUL POSSESSION OF  
16 CANNABIS--PENALTIES.--Except as allowed in the Lynn and Erin  
17 Compassionate Use Act:

18 A. a person eighteen years of age or older and  
19 younger than twenty-one years of age shall not possess cannabis  
20 products. A person who violates this subsection shall be  
21 subject to:

- 22 (1) a fine of seventy-five dollars (\$75.00);  
23 (2) attendance at a four-hour evidence-based  
24 drug education program;  
25 (3) four hours of community service; or



1 (4) restorative justice mediation;

2 B. a person younger than eighteen years of age  
3 shall not possess cannabis products. A person who violates  
4 this subsection shall be subject to:

5 (1) a fine of fifty dollars (\$50.00);

6 (2) attendance at a four-hour evidence-based  
7 drug education program;

8 (3) four hours of community service; or

9 (4) restorative justice mediation; and

10 C. or as allowed in the Cannabis Regulation Act, a  
11 person twenty-one years of age or older shall not possess more  
12 than two ounces of cannabis outside a private residence or more  
13 than sixteen grams of cannabis extracts outside a private  
14 residence. A person who violates this subsection with respect  
15 to:

16 (1) between two and eight ounces of cannabis  
17 or between sixteen and sixty-four grams of cannabis extracts is  
18 guilty of a misdemeanor and shall be sentenced pursuant to the  
19 provisions of Section 31-19-1 NMSA 1978; or

20 (2) more than eight ounces of cannabis or more  
21 than sixty-four grams of cannabis extracts is guilty of a  
22 fourth degree felony and shall be sentenced pursuant to the  
23 provisions of Section 31-18-15 NMSA 1978.

24 SECTION 35. [NEW MATERIAL] UNLICENSED PRODUCTION OF  
25 CANNABIS--PENALTIES.--Except as allowed in the Lynn and Erin

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1 Compassionate Use Act:

2 A. a person younger than twenty-one years of age  
3 shall not produce cannabis;

4 B. a person eighteen years of age or older and  
5 younger than twenty-one years of age who violates Subsection A  
6 of this section is guilty of a fourth degree felony; and

7 C. or as allowed in the Cannabis Regulation Act, a  
8 person twenty-one years of age or older shall not possess more  
9 than six mature cannabis plants and six immature cannabis  
10 plants. A person who violates this subsection is guilty of a  
11 fourth degree felony.

12 SECTION 36. [NEW MATERIAL] UNLICENSED MANUFACTURING OF  
13 CANNABIS EXTRACTS--PENALTY.--Except as permitted by the Lynn  
14 and Erin Compassionate Use Act, it is unlawful for any person  
15 to use volatile solvents to manufacture cannabis extracts  
16 without a license issued pursuant to the Cannabis Regulation  
17 Act or the Lynn and Erin Compassionate Use Act. A person who  
18 violates this section is guilty of a fourth degree felony.

19 SECTION 37. [NEW MATERIAL] DESTRUCTION OF ARREST AND  
20 CONVICTION RECORDS--PROCEDURE.--

21 A. If a person is charged with any offense provided  
22 in Sections 32 through 36 of the Cannabis Regulation Act,  
23 whether or not the person is convicted, all records held by a  
24 court, or an agency of the state or a local jurisdiction that  
25 relate to the person's arrest or conviction shall be

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1 automatically destroyed two years after the date of the  
 2 person's conviction or the date of the person's arrest if there  
 3 was no conviction. If the person is or was a juvenile at the  
 4 time of the arrest or conviction, the records shall be retained  
 5 for two years or until the person is eighteen years of age,  
 6 whichever comes first, and shall then be destroyed. The  
 7 records shall also be removed from any statewide criminal  
 8 databases.

9 B. After destruction of records pursuant to  
 10 Subsection A of this section, a court, an agency of the state  
 11 or a local jurisdiction shall treat the case as if it never  
 12 occurred, and all index references to the case shall be  
 13 deleted. The court, agency or local jurisdiction shall respond  
 14 to an inquiry regarding the case that no record exists with  
 15 respect to the referenced person with respect to that case.

16 **SECTION 38. [NEW MATERIAL] DESTRUCTION OF ARREST AND**  
 17 **CONVICTION RECORDS--PROCEDURE--RETROACTIVE.--**

18 A. Records held by a court, an agency of the state  
 19 or a local jurisdiction that relate to a person's arrest or  
 20 conviction for trafficking cannabis in violation of Section  
 21 30-31-20 NMSA 1978, distribution of cannabis, possession with  
 22 intent to distribute cannabis in violation of Section 30-31-22  
 23 NMSA 1978 or possession of cannabis in violation of Section  
 24 30-31-23 NMSA 1978 shall not be kept beyond two years from the  
 25 date of the person's conviction or from the date of the

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1 person's arrest if there was no conviction. If the person was  
2 a juvenile at the time of the arrest or conviction, the records  
3 shall be retained until the offender is eighteen years of age  
4 and shall then be destroyed. The records shall also be removed  
5 from any statewide criminal databases.

6 B. If a person whose records would be subject to  
7 destruction pursuant to Subsection A of this section is  
8 incarcerated for an offense listed in that subsection at the  
9 time the person's records would be destroyed, the two-year  
10 record retention period shall begin upon the person's release  
11 from incarceration.

12 C. For the purpose of this section, "records"  
13 includes records of arrests resulting in a criminal proceeding  
14 and records relating to other offenses charged in the  
15 accusatory pleading, whether the defendant was acquitted,  
16 convicted or the charges were dismissed.

17 SECTION 39. [NEW MATERIAL] RECALL OR DISMISSAL OF  
18 SENTENCES--INCARCERATED PERSONS.--

19 A. Within thirty days following the effective date  
20 of the Cannabis Regulation Act, a corrections facility, a  
21 county jail or a juvenile corrections facility in which a  
22 person is currently incarcerated for an offense that is no  
23 longer a crime pursuant to the provisions of the Cannabis  
24 Regulation Act, or that would have resulted in a lesser offense  
25 if that act had been in effect at the time of the offense,

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1 shall notify the court that the convicted person's case should  
2 be reopened to consider possible recall or dismissal of the  
3 person's sentence.

4 B. A court shall reopen a case pursuant to  
5 Subsection A of this section and recall the person's sentence  
6 or dismiss the person's sentence because it is legally invalid,  
7 unless the court determines that doing so would pose an  
8 unreasonable risk of danger to public safety.

9 C. A person who is resentenced pursuant to this  
10 section shall be given credit against the person's new sentence  
11 for time already served.

12 D. A person who is resentenced pursuant to this  
13 section shall not be sentenced to a term longer than the  
14 person's original sentence and shall not have any charges  
15 reinstated that were originally dismissed pursuant to a  
16 negotiated plea agreement.

17 E. A person who has completed the person's sentence  
18 for a conviction, whether by trial or negotiated plea, who  
19 would not have been guilty of an offense or who would have been  
20 guilty of a lesser offense if the Cannabis Regulation Act had  
21 been in effect at the time of the offense may notify the court  
22 in writing to have the conviction dismissed and sealed because  
23 the prior conviction is now legally invalid or redesignated as  
24 an infraction. The court shall redesignate the conviction as  
25 an infraction or dismiss and seal the conviction as legally

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1 invalid because of the enactment of the Cannabis Regulation Act  
2 unless the court makes a finding that the conviction is not  
3 legally invalid or was not redesignated as an infraction  
4 pursuant to that act.

5 F. The court clerk shall notify the department of  
6 public safety that a case has been dismissed. Upon notice, the  
7 department of public safety shall erase the arrest record  
8 pertaining to the offense; provided that, if the arrest  
9 included multiple charges, only the related charge shall be  
10 erased.

11 G. Nothing in this section is intended to diminish  
12 or abrogate any rights or remedies otherwise available to a  
13 person who was convicted of or incarcerated for an offense.

14 H. The provisions of this section shall apply  
15 equally to juvenile delinquency adjudications and convictions  
16 of a juvenile person if the juvenile would not have been guilty  
17 of an offense or would have been guilty of a lesser offense as  
18 provided in the Cannabis Regulation Act.

19 I. No fee or cost of any kind shall be imposed  
20 against a person whose sentence is reviewed pursuant to this  
21 section.

22 SECTION 40. [NEW MATERIAL] WRIT OF MANDAMUS.--Any person  
23 may commence a legal action for a writ of mandamus to compel  
24 the division to perform its duties pursuant to the Cannabis  
25 Regulation Act.

1           SECTION 41. [NEW MATERIAL] CANNABIS REGULATION FUND.--

2           A. The "cannabis regulation fund" is created in the  
3 state treasury. The fund consists of appropriations, gifts,  
4 grants, donations and fees collected by the division pursuant  
5 to the Cannabis Regulation Act and the medical cannabis program  
6 administered by the division. Any unexpended or unencumbered  
7 balance remaining at the end of any fiscal year shall revert to  
8 the general fund.

9           B. The division shall administer the fund, and  
10 money in the fund is appropriated to the division to support  
11 the division in its duties established in the Cannabis  
12 Regulation Act and the medical cannabis program. Money from  
13 the fund shall not be used for capital expenditures.

14           C. Money in the fund shall be disbursed on warrants  
15 signed by the secretary of finance and administration pursuant  
16 to vouchers signed by the superintendent or the  
17 superintendent's authorized representative.

18           SECTION 42. [NEW MATERIAL] COMMUNITY GRANTS REINVESTMENT  
19 FUND--COMMUNITY GRANTS REINVESTMENT PROGRAM.--

20           A. The "community grants reinvestment fund" is  
21 created in the state treasury. The fund consists of  
22 appropriations, other money deposited in the fund and money  
23 otherwise accruing to the fund. The department of health shall  
24 administer the fund, and money in the fund is subject to  
25 appropriation to the department of health for the community

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1 grants reinvestment program as described in this section. Any  
2 unexpended or unencumbered balance remaining at the end of any  
3 fiscal year shall not revert to the general fund. Money in the  
4 fund shall be disbursed on warrants signed by the secretary of  
5 finance and administration pursuant to vouchers signed by the  
6 secretary of health or the secretary's authorized  
7 representative.

8 B. The secretary of health shall establish the  
9 "community grants reinvestment program". The community grants  
10 reinvestment program shall provide grants to qualified  
11 community-based nonprofit organizations and governmental  
12 entities for the purpose of reinvesting in communities  
13 disproportionately affected by past federal and state drug  
14 policies by supporting job placement, mental health treatment,  
15 substance use disorder treatment, navigation of government  
16 programs, legal services to address barriers faced by formerly  
17 incarcerated persons and linkages to medical care and women's  
18 health services. The program may also include provision of  
19 grants for:

20 (1) prevention, early intervention and  
21 outreach services; risk surveys; and education for youth,  
22 families, caregivers, schools, primary care health providers,  
23 behavioral health and substance use disorder service providers,  
24 community and faith-based organizations, foster care providers,  
25 juvenile and family courts and others working to recognize and

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1 reduce risks related to substance use and the early signs of  
2 problematic use and of substance use disorders;

3 (2) schools to develop and support evidence-  
4 based drug educational programs, based on principles of harm  
5 reduction, that are designed to prevent and reduce substance  
6 use and improve school retention and performance by supporting  
7 students who are at risk of dropping out of school and  
8 promoting alternatives to suspension or expulsion that focus on  
9 school retention, remediation and professional care. Schools  
10 with higher-than-average dropout rates shall be prioritized for  
11 grants for this purpose;

12 (3) programs for outreach, education and  
13 treatment, based on principles of harm reduction, for homeless  
14 youth and out-of-school youth with substance use disorders;

15 (4) access and linkage to care provided by  
16 county behavioral health programs for youth and their families  
17 and caregivers who have a substance use disorder or who are at  
18 risk for developing a substance use disorder;

19 (5) youth-focused substance use disorder  
20 treatment programs that are culturally and gender competent,  
21 trauma-informed, based on principles of harm reduction and  
22 evidence-based and that provide a continuum of care that  
23 includes screening and assessment for substance use disorder as  
24 well as mental health care, early intervention, active  
25 treatment, family involvement, case management, overdose

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1 prevention, prevention of communicable diseases related to  
2 substance use, relapse management for substance use and other  
3 co-occurring behavioral health disorders, vocational services,  
4 literacy services, parenting classes, family therapy and  
5 counseling services, medication-assisted treatments,  
6 psychiatric medication, psychotherapy and other related  
7 services;

8 (6) to the extent permitted by law and where  
9 indicated, interventions that use a two-generation approach to  
10 addressing substance use disorders with the capacity to treat  
11 youth and adults together, including support for the  
12 development of family-based interventions that address  
13 substance use disorders and related problems within the context  
14 of families of all types and their children;

15 (7) programs to assist individuals, as well as  
16 families and friends of young people who use drugs, to reduce  
17 the stigma associated with substance use, including being  
18 diagnosed with a substance use disorder or seeking substance  
19 use disorder services. This includes peer-run outreach and  
20 education to reduce stigma, anti-stigma campaigns and community  
21 recovery networks;

22 (8) workforce training and wage structures  
23 that increase the hiring pool of behavioral health staff with  
24 substance use disorder prevention and treatment expertise,  
25 provide ongoing education and coaching that increase substance

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1 use treatment providers' core competencies and train providers  
2 on promising and evidenced-based practices;

3 (9) construction of community-based youth  
4 treatment facilities;

5 (10) contracts with county behavioral health  
6 programs for the provision of services described in this  
7 subsection; and

8 (11) programs that provide equity resources,  
9 including start-up funding, incubation, technical assistance,  
10 training and educational opportunities, for people who want to  
11 become part of the cannabis industry in New Mexico.

12 C. A qualified community-based nonprofit  
13 organization or governmental entity may apply for a grant from  
14 the community grants reinvestment fund. Applications shall be  
15 reviewed by the department of health.

16 SECTION 43. [NEW MATERIAL] CANNABIS HEALTH AND SAFETY  
17 FUND.--

18 A. The "cannabis health and safety fund" is created  
19 in the state treasury. The fund consists of appropriations,  
20 other money deposited in the fund and money otherwise accruing  
21 to the fund. The department of health shall administer the  
22 fund, and money in the fund is subject to appropriation to the  
23 department of health for the community grants reinvestment  
24 program as provided in Subsection B of Section 42 of the  
25 Cannabis Regulation Act. Any unexpended or unencumbered

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1 balance remaining at the end of any fiscal year shall not  
2 revert to the general fund. Money in the fund shall be  
3 disbursed on warrants signed by the secretary of finance and  
4 administration pursuant to vouchers signed by the secretary of  
5 health or the secretary's authorized representative.

6 B. The cannabis health and safety fund is created  
7 for the purpose of:

8 (1) supporting qualified patients  
9 participating in the medical cannabis program in accordance  
10 with the Lynn and Erin Compassionate Use Act who also  
11 participate in the medical cannabis subsidy program; and

12 (2) developing and executing a comprehensive  
13 and sustained public education campaign, based on principles of  
14 harm reduction, that:

15 (a) promotes road safety and discourages  
16 driving while impaired;

17 (b) promotes abstinence for persons  
18 under twenty-one years of age;

19 (c) encourages responsible use by  
20 adults; and

21 (d) promotes medical cannabis as a  
22 therapeutic option.

23 SECTION 44. [NEW MATERIAL] CANNABIS RESEARCH FUND.--

24 A. The "cannabis research fund" is created in the  
25 state treasury. The fund consists of money transferred from

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1 the cannabis excise tax, appropriations, income from investment  
2 of the fund and money otherwise accruing to the fund. Money in  
3 the fund is appropriated to the board of regents of the  
4 university of New Mexico for the university of New Mexico  
5 health sciences center for the purpose of research related to  
6 medical and recreational cannabis use and substance use  
7 disorder treatment. Money in the fund shall be disbursed on  
8 warrants signed by the secretary of finance and administration  
9 pursuant to vouchers signed by the chancellor for health  
10 sciences of the university of New Mexico or the chancellor's  
11 authorized representative.

12 B. The chancellor shall:

13 (1) oversee and keep a record of any research  
14 and how the research relates to the use, effects or efficacy of  
15 medical and recreational cannabis; impacts on public health,  
16 health costs associated with cannabis use and whether cannabis  
17 use is associated with an increase or decrease in the use of  
18 alcohol or other drugs; the impact of treatment for maladaptive  
19 cannabis use and the effectiveness of different treatment  
20 programs; public safety issues related to cannabis use; the  
21 effectiveness of the packaging and labeling requirements and  
22 advertising and marketing restrictions on the prevention of  
23 underage access to and use of cannabis products; cannabis use  
24 rates, maladaptive use rates for adults and youth and diagnosis  
25 rates of cannabis-related substance use disorders;

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1 environmental issues related to cannabis production and the  
2 criminal prohibition of cannabis production; and supervised  
3 injectable opioid treatment by medical practitioners under  
4 strict controls in a clinical setting to select heroin-  
5 dependent persons;

6 (2) oversee distribution documentation to each  
7 person conducting research that identifies the person  
8 conducting the research and states that the person is  
9 conducting research pursuant to the Lynn and Erin Compassionate  
10 Use Act and the Cannabis Regulation Act;

11 (3) ensure that research conducted pursuant to  
12 the Lynn and Erin Compassionate Use Act and the Cannabis  
13 Regulation Act is conducted in accordance with institutional  
14 and federal requirements relating to the protection of human  
15 subjects and is approved by an institutional review board; and

16 (4) prepare and submit:

17 (a) an annual report to the legislative  
18 finance committee that describes expenditures from the cannabis  
19 research fund and research conducted pursuant to the Lynn and  
20 Erin Compassionate Use Act and the Cannabis Regulation Act  
21 during the fiscal year preceding the submission of the report;  
22 and

23 (b) by November 1, 2020, and every three  
24 years thereafter, a report to the legislative health and human  
25 services committee that describes the research conducted and

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1 any findings, reports or publications that resulted from the  
2 research.

3 SECTION 45. [NEW MATERIAL] EXEMPTION FROM CRIMINAL AND  
4 CIVIL PENALTIES--RESEARCHERS.--A person shall not be subject to  
5 arrest or prosecution, penalized in any manner or denied any  
6 right or privilege solely because the person produced,  
7 possessed, distributed, dispensed or purchased cannabis from a  
8 person licensed pursuant to the Lynn and Erin Compassionate Use  
9 Act or the Cannabis Regulation Act if the person produced,  
10 possessed, distributed, dispensed or purchased the cannabis  
11 solely for the purpose of research conducted pursuant to the  
12 Lynn and Erin Compassionate Use Act or the Cannabis Regulation  
13 Act.

14 SECTION 46. [NEW MATERIAL] SHORT TITLE.--Sections 46  
15 through 53 of this act may be cited as the "Cannabis Tax Act".

16 SECTION 47. [NEW MATERIAL] DEFINITIONS.--As used in the  
17 Cannabis Tax Act:

18 A. "cannabis":

19 (1) means all parts of the plant Cannabis  
20 sativa Linnaeus containing a delta-9-tetrahydrocannabinol  
21 concentration of more than three-tenths percent on a dry weight  
22 basis, whether growing or not; the seeds of the plant; the  
23 resin extracted from any part of the plant; and every compound,  
24 manufacture, salt, derivative, mixture or preparation of the  
25 plant, its seeds or its resin; and

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1 (2) does not include:

2 (a) the mature stalks of the plant;  
3 fiber produced from the stalks; oil or cake made from the seeds  
4 of the plant; any other compound, manufacture, salt,  
5 derivative, mixture or preparation of the mature stalks, fiber,  
6 oil or cake; or the sterilized seed of the plant that is  
7 incapable of germination; or

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

11 B. "cannabis extract":

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

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

19 C. "cannabis product":

20 (1) means a product that contains cannabis or  
21 cannabis extracts, including edible or topical products that  
22 may also contain other ingredients; and

23 (2) does not include the weight of any other  
24 ingredient combined with cannabis or cannabis extracts to  
25 prepare topical or oral administrations, food, drink or another



1 product;

2 D. "cannabis retailer" means a person that is  
3 licensed by the cannabis control division of the regulation and  
4 licensing department to sell and courier cannabis products to a  
5 person who purchases, acquires, possesses or uses a cannabis  
6 product for a purpose other than resale;

7 E. "county area" means that portion of a county  
8 located outside the boundaries of any municipality, except that  
9 for H class counties, "county area" means the entire county;

10 F. "department" means the taxation and revenue  
11 department; and

12 G. "licensee" means a person who holds a license  
13 issued pursuant to the Cannabis Regulation Act.

14 SECTION 48. [NEW MATERIAL] CANNABIS EXCISE TAX.--

15 A. An excise tax is imposed on a licensee that  
16 sells cannabis products in this state on which the tax imposed  
17 by this section has not been paid. The tax imposed by this  
18 section may be referred to as the "cannabis excise tax". If  
19 the price paid does not represent the value of the cannabis  
20 product, the tax rate shall be applied to the reasonable value  
21 of the cannabis product at the time the product was purchased.

22 B. The rate of the cannabis excise tax is nine  
23 percent and is applied to the price paid for the cannabis  
24 product.

25 C. The cannabis excise tax shall not apply to

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1 retail sales of medical cannabis products sold to a qualified  
2 patient or to a primary caregiver who presents a registry  
3 identification card issued pursuant to the Lynn and Erin  
4 Compassionate Use Act at the time of the sale.

5 D. Cannabis sold wholesale from a licensee to  
6 another shall not incur taxation.

7 SECTION 49. [NEW MATERIAL] MUNICIPAL CANNABIS TAX.--

8 A. A majority of the members of the governing body  
9 of a municipality may enact an ordinance imposing an excise tax  
10 on a cannabis retailer that sells cannabis products in the  
11 municipality on which the tax imposed by this section has not  
12 been paid. The tax imposed pursuant to this section may be  
13 referred to as the "municipal cannabis tax".

14 B. The imposition of an increment of the municipal  
15 cannabis tax shall not be subject to referendum.

16 C. The rate of the municipal cannabis tax shall be  
17 no more than three percent, which may be imposed in any number  
18 of one-sixteenth percent increments, and is applied to the  
19 price of the cannabis product. If the price of the cannabis  
20 product does not represent the value of the cannabis product,  
21 the tax rate shall be applied to the reasonable value of the  
22 cannabis product at the time that the cannabis product was  
23 purchased.

24 D. The governing body of a municipality, at the  
25 time of enacting an ordinance imposing a municipal cannabis

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1 tax, may dedicate the revenue for any municipal purpose.

2 E. An ordinance enacted pursuant to this section  
3 shall include an effective date of July 1 or January 1.

4 SECTION 50. [NEW MATERIAL] COUNTY CANNABIS TAX.--

5 A. The majority of the members of the governing  
6 body of a county may enact an ordinance imposing an excise tax  
7 on a cannabis retailer that sells cannabis products in the  
8 county area on which the tax imposed by this section has not  
9 been paid. The tax imposed pursuant to this section may be  
10 referred to as the "county cannabis tax".

11 B. The imposition of an increment of the county  
12 cannabis tax shall not be subject to referendum.

13 C. The rate of the county cannabis tax shall be no  
14 more than three percent, which may be imposed in any number of  
15 one-sixteenth percent increments, and is applied to the price  
16 of the cannabis product. If the price of the cannabis product  
17 does not represent the value of the cannabis product, the tax  
18 rate shall be applied to the reasonable value of the cannabis  
19 product at the time that the cannabis product was purchased.

20 D. The governing body of a county, at the time of  
21 enacting an ordinance imposing a county cannabis tax, may  
22 dedicate the revenue for county general purposes.

23 E. An ordinance enacted pursuant to this section  
24 shall include an effective date of July 1 or January 1.

25 SECTION 51. [NEW MATERIAL] DATE PAYMENT DUE.--The taxes

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1 imposed pursuant to the Cannabis Tax Act are to be paid on or  
2 before the twenty-fifth day of the month following the month in  
3 which the taxable event occurs.

4 SECTION 52. [NEW MATERIAL] ADMINISTRATIVE CHARGE.--The  
5 department may deduct an amount not to exceed three percent of  
6 the proceeds of the municipal cannabis tax and county cannabis  
7 tax as a charge for the administrative costs of collection,  
8 which amount shall be retained by the department for use in  
9 administration of those taxes.

10 SECTION 53. [NEW MATERIAL] INTERPRETATION OF ACT--  
11 ADMINISTRATION AND ENFORCEMENT OF TAX.--The department shall  
12 administer and enforce the collection of the cannabis excise  
13 tax, municipal cannabis tax and county cannabis tax pursuant to  
14 the Tax Administration Act.

15 SECTION 54. A new section of the Tax Administration Act  
16 is enacted to read:

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

18 A. A distribution pursuant to Section 7-1-6.1 NMSA  
19 1978 shall be made to the cannabis health and safety fund in an  
20 amount equal to six percent of the net receipts attributable to  
21 the cannabis excise tax.

22 B. A distribution pursuant to Section 7-1-6.1 NMSA  
23 1978 shall be made to the cannabis research fund in an amount  
24 equal to two percent of the net receipts attributable to the  
25 cannabis excise tax.

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1 C. A distribution pursuant to Section 7-1-6.1 NMSA  
2 1978 shall be made to the local DWI grant fund in an amount  
3 equal to six percent of the net receipts attributable to the  
4 cannabis excise tax.

5 D. A distribution pursuant to Section 7-1-6.1 NMSA  
6 1978 shall be made to the community grants reinvestment fund in  
7 an amount equal to twenty percent of the net receipts  
8 attributable to the cannabis excise tax."

9 SECTION 55. A new section of the Tax Administration Act  
10 is enacted to read:

11 "[NEW MATERIAL] TRANSFER--REVENUES FROM MUNICIPAL CANNABIS  
12 TAX AND COUNTY CANNABIS TAX.--

13 A. A transfer pursuant to Section 7-1-6.1 NMSA 1978  
14 shall be made to each municipality for which the department is  
15 collecting a municipal cannabis tax imposed by that  
16 municipality in an amount, subject to any increase or decrease  
17 made pursuant to Section 7-1-6.15 NMSA 1978, equal to the net  
18 receipts attributable to the municipal cannabis tax, less any  
19 deduction for administrative costs determined and made by the  
20 department pursuant to the Cannabis Tax Act.

21 B. A transfer pursuant to Section 7-1-6.1 NMSA 1978  
22 shall be made to each county for which the department is  
23 collecting a county cannabis tax imposed by that county in an  
24 amount, subject to any increase or decrease made pursuant to  
25 Section 7-1-6.15 NMSA 1978, equal to the net receipts

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1 attributable to the county cannabis tax, less any deduction for  
2 administrative costs determined and made by the department  
3 pursuant to the Cannabis Tax Act."

4 SECTION 56. Section 7-1-2 NMSA 1978 (being Laws 1965,  
5 Chapter 248, Section 2, as amended) is amended to read:

6 "7-1-2. APPLICABILITY.--The Tax Administration Act  
7 applies to and governs:

8 A. the administration and enforcement of the  
9 following taxes or tax acts as they now exist or may hereafter  
10 be amended:

- 11 (1) Income Tax Act;
- 12 (2) Withholding Tax Act;
- 13 (3) Venture Capital Investment Act;
- 14 (4) Gross Receipts and Compensating Tax Act  
15 and any state gross receipts tax;
- 16 (5) Liquor Excise Tax Act;
- 17 (6) Local Liquor Excise Tax Act;
- 18 (7) any municipal local option gross receipts  
19 tax;
- 20 (8) any county local option gross receipts  
21 tax;
- 22 (9) Special Fuels Supplier Tax Act;
- 23 (10) Gasoline Tax Act;
- 24 (11) petroleum products loading fee, which fee  
25 shall be considered a tax for the purpose of the Tax

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1 Administration Act;

2 (12) Alternative Fuel Tax Act;

3 (13) Cigarette Tax Act;

4 (14) Estate Tax Act;

5 (15) Railroad Car Company Tax Act;

6 (16) Investment Credit Act, rural job tax  
7 credit, Laboratory Partnership with Small Business Tax Credit  
8 Act, Technology Jobs and Research and Development Tax Credit  
9 Act, Film Production Tax Credit Act, Affordable Housing Tax  
10 Credit Act and high-wage jobs tax credit;

11 (17) Corporate Income and Franchise Tax Act;

12 (18) Uniform Division of Income for Tax  
13 Purposes Act;

14 (19) Multistate Tax Compact;

15 (20) Tobacco Products Tax Act; ~~and~~

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

20 (22) the Cannabis Tax Act;

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

24 (1) Resources Excise Tax Act;

25 (2) Severance Tax Act;

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

8 Valorem Tax Act;

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

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

- 14 (12) Enhanced Oil Recovery Act;

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

- 17 (14) intergovernmental production tax credit  
18 and intergovernmental production equipment tax credit;

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

- 22 (1) Weight Distance Tax Act;

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



1 (3) Uniform Unclaimed Property Act (1995);

2 (4) 911 emergency surcharge and the network  
3 and database surcharge, which surcharges shall be considered  
4 taxes for purposes of the Tax Administration Act;

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

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

11 (7) the gaming tax imposed pursuant to the  
12 Gaming Control Act; and

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

18 SECTION 57. Section 7-1-6.15 NMSA 1978 (being Laws 1983,  
19 Chapter 211, Section 20, as amended by Laws 2015, Chapter 89,  
20 Section 1 and by Laws 2015, Chapter 100, Section 1) is amended  
21 to read:

22 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO  
23 MUNICIPALITIES OR COUNTIES.--

24 A. The provisions of this section apply to:

25 (1) any distribution to a municipality

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1 pursuant to Section 7-1-6.4, 7-1-6.36 or 7-1-6.46 NMSA 1978;

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

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

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

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

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

15 (7) any distribution to a county from the  
16 county government road fund pursuant to Section 7-1-6.26 NMSA  
17 1978;

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

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

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

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

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

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

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1 municipality or county, the revised total for prior periods  
2 shall be excluded from the distribution or transfers and the  
3 net receipts to be distributed or transferred to the  
4 municipality or county shall be equal to the amount for the  
5 current month.

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

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

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

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

23 (3) that if the municipality or county takes  
24 no action within the ninety-day period, the department will  
25 recover the amount from the next six distributions or transfers

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1 following the expiration of the ninety days; and

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

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

11 (1) the department may collect the recoverable  
12 amount by:

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

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

24 (2) if, pursuant to Subsection B of this  
25 section, the secretary determines that the recoverable amount

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1 is more than fifty percent of the average distribution or  
2 transfer of net receipts for that municipality or county, the  
3 secretary:

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

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

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

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

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1 pursuant to Section 7-1-8.9 NMSA 1978.

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

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

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

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

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

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

23 I. Upon the direction of the secretary of finance  
24 and administration pursuant to Section 9-6-5.2 NMSA 1978, the  
25 secretary shall temporarily withhold the balance of a

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

17 J. As used in this section:

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

24 (2) "amounts relating to prior periods" means  
25 any amounts processed during the current month that adjust

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1 amounts processed in a period or periods prior to the current  
2 month regardless of whether the adjustment is a correction of a  
3 department error or due to the filing of amended returns,  
4 payment of department-issued assessments, filing or approval of  
5 claims for refund, audit adjustments or other cause;

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

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

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

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

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

25 (5) "repayment agreement" means an agreement

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

8 SECTION 58. Section 7-9-73.2 NMSA 1978 (being Laws 1998,  
 9 Chapter 95, Section 2 and Laws 1998, Chapter 99, Section 4, as  
 10 amended) is amended to read:

11 "7-9-73.2. DEDUCTION--GROSS RECEIPTS TAX AND GOVERNMENTAL  
 12 GROSS RECEIPTS TAX--PRESCRIPTION DRUGS--OXYGEN--MEDICAL  
 13 CANNABIS.--

14 A. Receipts from the sale of prescription drugs  
 15 [~~and~~], oxygen [~~and~~], oxygen services provided by a licensed  
 16 medicare durable medical equipment provider and medical  
 17 cannabis that is purchased in accordance with the Lynn and Erin  
 18 Compassionate Use Act may be deducted from gross receipts and  
 19 governmental gross receipts.

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

22 (1) dispensed by or under the supervision of a  
 23 licensed pharmacist or by a physician or other person  
 24 authorized under state law to do so;

25 (2) prescribed for a specified person by a

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1 person authorized under state law to prescribe the substance;  
2 and

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

5 SECTION 59. Section 9-16-4 NMSA 1978 (being Laws 1983,  
6 Chapter 297, Section 20, as amended) is amended to read:

7 "9-16-4. DEPARTMENT ESTABLISHED.--~~[There is created in~~  
8 ~~the executive branch]~~ The "regulation and licensing department"  
9 is created in the executive branch. The department shall not  
10 be a cabinet department. The department shall consist of but  
11 not be limited to ~~[six]~~ the following divisions ~~[as follows]:~~

- 12 A. the administrative services division;
- 13 B. the construction industries division;
- 14 C. the financial institutions division;
- 15 D. the securities division;
- 16 E. the manufactured housing division; ~~and]~~
- 17 F. the alcohol and gaming division; and
- 18 G. the cannabis control division."

19 SECTION 60. 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

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 61.** Section 26-2B-1 NMSA 1978 (being Laws 2007,  
2 Chapter 210, Section 1) is amended to read:

3           "26-2B-1. SHORT TITLE.--~~[Sections 1 through 7 of this~~  
4 ~~act]~~ Chapter 26, Article 2B NMSA 1978 may be cited as the "Lynn  
5 and Erin Compassionate Use Act" in honor of Lynn Pierson and  
6 Erin Armstrong."

7           **SECTION 62.** Section 26-2B-3 NMSA 1978 (being Laws 2007,  
8 Chapter 210, Section 3) is amended to read:

9           "26-2B-3. DEFINITIONS.--As used in the Lynn and Erin  
10 Compassionate Use Act:

11           A. "adequate supply" means an amount of cannabis,  
12 in any form approved by the department, possessed by a  
13 qualified patient or collectively possessed by a qualified  
14 patient and the qualified patient's primary caregiver that is  
15 determined by rule of the department to be no more than  
16 reasonably necessary to ensure the uninterrupted availability  
17 of cannabis for a period of three months and that is derived  
18 solely from an intrastate source;

19           B. "debilitating medical condition" means:  
20               (1) cancer;  
21               (2) glaucoma;  
22               (3) multiple sclerosis;  
23               (4) damage to the nervous tissue of the spinal  
24 cord, with objective neurological indication of intractable  
25 spasticity;

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- 1 (5) epilepsy;
- 2 (6) positive status for human immunodeficiency
- 3 virus or acquired immune deficiency syndrome;
- 4 (7) admitted into hospice care in accordance
- 5 with rules promulgated by the department; or
- 6 (8) any other medical condition, medical
- 7 treatment or disease as approved by the department;
- 8 C. "department" means the department of health;
- 9 D. "licensed producer" means any person or
- 10 association of persons within New Mexico [~~that the department~~
- 11 ~~determines to be qualified~~] licensed by the cannabis control
- 12 division of the regulation and licensing department to produce,
- 13 possess, distribute and dispense cannabis pursuant to the Lynn
- 14 and Erin Compassionate Use Act [~~and that is licensed by the~~
- 15 ~~department~~];
- 16 E. "practitioner" means a person licensed in New
- 17 Mexico to prescribe and administer drugs that are subject to
- 18 the Controlled Substances Act;
- 19 F. "primary caregiver" means a resident of New
- 20 Mexico who is at least eighteen years of age and who has been
- 21 designated by the patient's practitioner as being necessary to
- 22 take responsibility for managing the well-being of a qualified
- 23 patient with respect to the medical use of cannabis pursuant to
- 24 the provisions of the Lynn and Erin Compassionate Use Act;
- 25 G. "qualified patient" means a resident of New

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1 Mexico who has been diagnosed by a practitioner as having a  
 2 debilitating medical condition and has received written  
 3 certification and a registry identification card issued  
 4 pursuant to the Lynn and Erin Compassionate Use Act; and

5 H. "written certification" means a statement in a  
 6 patient's medical records or a statement signed by a patient's  
 7 practitioner that, in the practitioner's professional opinion,  
 8 the patient has a debilitating medical condition and the  
 9 practitioner believes that the potential health benefits of the  
 10 medical use of cannabis would likely outweigh the health risks  
 11 for the patient. A written certification is not valid for more  
 12 than one year from the date of issuance."

13 SECTION 63. Section 26-2B-7 NMSA 1978 (being Laws 2007,  
 14 Chapter 210, Section 7) is amended to read:

15 "26-2B-7. [~~REGISTRY IDENTIFICATION CARDS~~] DEPARTMENT  
 16 RULES--DUTIES--REGISTRY IDENTIFICATION CARDS.--

17 A. No later than October 1, 2007, and after  
 18 consultation with the advisory board, the department shall  
 19 promulgate rules in accordance with the State Rules Act to  
 20 implement the purpose of the Lynn and Erin Compassionate Use  
 21 Act. The rules shall:

22 (1) govern the manner in which the department  
 23 will consider applications for registry identification cards  
 24 and for the renewal of identification cards for qualified  
 25 patients and primary caregivers;

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1 (2) define the amount of cannabis that is  
2 necessary to constitute an adequate supply, including amounts  
3 for topical treatments;

4 (3) identify criteria and set forth procedures  
5 for including additional medical conditions, medical treatments  
6 or diseases to the list of debilitating medical conditions that  
7 qualify for the medical use of cannabis. Procedures shall  
8 include a petition process and shall allow for public comment  
9 and public hearings before the advisory board;

10 (4) set forth additional medical conditions,  
11 medical treatments or diseases to the list of debilitating  
12 medical conditions that qualify for the medical use of cannabis  
13 as recommended by the advisory board;

14 (5) identify requirements for the licensure of  
15 ~~[producers and cannabis production facilities]~~ qualified  
16 patients to produce cannabis for personal medical use and set  
17 forth procedures to obtain licenses; provided that the  
18 department shall not charge a fee in connection with a license  
19 issued pursuant to this paragraph;

20 ~~[(6) develop a distribution system for medical~~  
21 ~~cannabis that provides for:~~

22 (a) ~~cannabis production facilities~~  
23 ~~within New Mexico housed on secured grounds and operated by~~  
24 ~~licensed producers; and~~

25 (b) ~~distribution of medical cannabis to~~

1 ~~qualified patients or their primary caregivers to take place at~~  
2 ~~locations that are designated by the department and that are~~  
3 ~~not within three hundred feet of any school, church or daycare~~  
4 ~~center;~~

5 ~~(7)]~~ (6) determine additional duties and  
6 responsibilities of the advisory board; and

7 [~~(8)]~~ (7) be revised and updated as necessary.

8 B. The department shall issue registry  
9 identification cards to a patient and to the primary caregiver  
10 for that patient, if any, who submit the following, in  
11 accordance with the department's rules:

12 (1) a written certification;

13 (2) the name, address and date of birth of the  
14 patient;

15 (3) the name, address and telephone number of  
16 the patient's practitioner; and

17 (4) the name, address and date of birth of the  
18 patient's primary caregiver, if any.

19 C. The department shall verify the information  
20 contained in an application submitted pursuant to Subsection B  
21 of this section and shall approve or deny an application within  
22 thirty days of receipt. The department may deny an application  
23 only if the applicant did not provide the information required  
24 pursuant to Subsection B of this section or if the department  
25 determines that the information provided is false. A person

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1 whose application has been denied shall not reapply for six  
2 months from the date of the denial unless otherwise authorized  
3 by the department.

4 D. The department shall issue a registry  
5 identification card within five days of approving an  
6 application, and a card shall expire one year after the date of  
7 issuance. A registry identification card shall contain:

8 (1) the name, address and date of birth of the  
9 qualified patient and primary caregiver, if any;

10 (2) the date of issuance and expiration date  
11 of the registry identification card; and

12 (3) other information that the department may  
13 require by rule.

14 E. A person who possesses a registry identification  
15 card shall notify the department of any change in the person's  
16 name, address, qualified patient's practitioner, qualified  
17 patient's primary caregiver or change in status of the  
18 qualified patient's debilitating medical condition within ten  
19 days of the change.

20 F. Possession of or application for a registry  
21 identification card shall not constitute probable cause or give  
22 rise to reasonable suspicion for a governmental agency to  
23 search the person or property of the person possessing or  
24 applying for the card.

25 G. The department shall maintain a confidential

1 file containing the names and addresses of the persons who have  
 2 either applied for or received a registry identification card.  
 3 Individual names on the list shall be confidential and not  
 4 subject to disclosure, except:

5 (1) to authorized employees or agents of the  
 6 department as necessary to perform the duties of the department  
 7 pursuant to the provisions of the Lynn and Erin Compassionate  
 8 Use Act;

9 (2) to authorized employees of state or local  
 10 law enforcement agencies, but only for the purpose of verifying  
 11 that a person is lawfully in possession of a registry  
 12 identification card; [~~or~~]

13 (3) to the cannabis control division of the  
 14 regulation and licensing department; or

15 [~~(3)~~] (4) as provided in the federal Health  
 16 Insurance Portability and Accountability Act of 1996."

17 **SECTION 64.** Section 30-31-2 NMSA 1978 (being Laws 1972,  
 18 Chapter 84, Section 2, as amended) is amended to read:

19 "30-31-2. DEFINITIONS.--As used in the Controlled  
 20 Substances Act:

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

24 B. "agent" includes an authorized person who acts  
 25 on behalf of a manufacturer, distributor or dispenser. It does

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1 not include a common or contract carrier, public  
2 warehouseperson or employee of the carrier or warehouseperson;

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

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

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

10 F. "counterfeit substance" means a controlled  
11 substance that bears the unauthorized trademark, trade name,  
12 imprint, number, device or other identifying mark or likeness  
13 of a manufacturer, distributor or dispenser other than the  
14 person who in fact manufactured, distributed or dispensed the  
15 controlled substance;

16 G. "deliver" means the actual, constructive or  
17 attempted transfer from one person to another of a controlled  
18 substance or controlled substance analog, whether or not there  
19 is an agency relationship;

20 H. "dispense" means to deliver a controlled  
21 substance to an ultimate user or research subject pursuant to  
22 the lawful order of a practitioner, including the  
23 administering, prescribing, packaging, labeling or compounding  
24 necessary to prepare the controlled substance for that  
25 delivery;

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1 I. "dispenser" means a practitioner who dispenses  
2 and includes hospitals, pharmacies and clinics where controlled  
3 substances are dispensed;

4 J. "distribute" means to deliver other than by  
5 administering or dispensing a controlled substance or  
6 controlled substance analog;

7 K. "drug" or "substance" means substances  
8 recognized as drugs in the official United States  
9 pharmacopoeia, official homeopathic pharmacopoeia of the United  
10 States or official national formulary or any respective  
11 supplement to those publications. It does not include devices  
12 or their components, parts or accessories;

13 ~~L. "hashish" means the resin extracted from any~~  
14 ~~part of marijuana, whether growing or not, and every compound,~~  
15 ~~manufacture, salt, derivative, mixture or preparation of such~~  
16 ~~resins;~~

17 M.] L. "manufacture" means the production,  
18 preparation, compounding, conversion or processing of a  
19 controlled substance or controlled substance analog by  
20 extraction from substances of natural origin or independently  
21 by means of chemical synthesis or by a combination of  
22 extraction and chemical synthesis and includes any packaging or  
23 repackaging of the substance or labeling or relabeling of its  
24 container, except that this term does not include the  
25 preparation or compounding of a controlled substance:

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

4 (2) by a practitioner, or by the  
5 practitioner's agent under the practitioner's supervision, for  
6 the purpose of or as an incident to research, teaching or  
7 chemical analysis and not for sale;

8 ~~[N. "marijuana" means all parts of the plant  
9 cannabis, including any and all varieties, species and  
10 subspecies of the genus Cannabis, whether growing or not, the  
11 seeds thereof and every compound, manufacture, salt,  
12 derivative, mixture or preparation of the plant or its seeds.  
13 It does not include the mature stalks of the plant, hashish,  
14 tetrahydrocannabinols extracted or isolated from marijuana,  
15 fiber produced from the stalks, oil or cake made from the seeds  
16 of the plant, any other compound, manufacture, salt,  
17 derivative, mixture or preparation of the mature stalks, fiber,  
18 oil or cake, or the sterilized seed of the plant that is  
19 incapable of germination; or the plant Cannabis sativa L. and  
20 any part of the plant, whether growing or not, containing a  
21 delta-9-tetrahydrocannabinol concentration of no more than  
22 three-tenths percent on a dry weight basis;~~

23 ~~0.]~~ M. "narcotic drug" means any of the following,  
24 whether produced directly or indirectly by extraction from  
25 substances of vegetable origin or independently by means of

1 chemical synthesis or by a combination of extraction and  
2 chemical synthesis:

3 (1) opium and opiate and any salt, compound,  
4 derivative or preparation of opium or opiate;

5 (2) any salt, compound, isomer, derivative or  
6 preparation that is a chemical equivalent of any of the  
7 substances referred to in Paragraph (1) of this subsection,  
8 except the isoquinoline alkaloids of opium;

9 (3) opium poppy and poppy straw, including all  
10 parts of the plant of the species *Papaver somniferum* L. except  
11 its seeds; or

12 (4) coca leaves and any salt, compound,  
13 derivative or preparation of coca leaves, any salt, compound,  
14 isomer, derivative or preparation that is a chemical equivalent  
15 of any of these substances except decocainized coca leaves or  
16 extractions of coca leaves that do not contain cocaine or  
17 ecgonine;

18 [P.] N. "opiate" means any substance having an  
19 addiction-forming or addiction-sustaining liability similar to  
20 morphine or being capable of conversion into a drug having  
21 addiction-forming or addiction-sustaining liability. "Opiate"  
22 does not include, unless specifically designated as controlled  
23 under Section 30-31-5 NMSA 1978, the dextrorotatory isomer of  
24 3-methoxy-n-methylmorphinan and its salts, dextromethorphan.  
25 "Opiate" does include its racemic and levorotatory forms;

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1           [Q-] Q. "person" means an individual, partnership,  
2 corporation, association, institution, political subdivision,  
3 government agency or other legal entity;

4           [R-] P. "practitioner" means a physician, certified  
5 advanced practice chiropractic physician, doctor of oriental  
6 medicine, dentist, physician assistant, certified nurse  
7 practitioner, clinical nurse specialist, certified nurse-  
8 midwife, prescribing psychologist, veterinarian, euthanasia  
9 technician, pharmacist, pharmacist clinician or other person  
10 licensed or certified to prescribe and administer drugs that  
11 are subject to the Controlled Substances Act;

12           [S-] Q. "prescription" means an order given  
13 individually for the person for whom is prescribed a controlled  
14 substance, either directly from a licensed practitioner or the  
15 practitioner's agent to the pharmacist, including by means of  
16 electronic transmission, or indirectly by means of a written  
17 order signed by the prescriber, bearing the name and address of  
18 the prescriber, the prescriber's license classification, the  
19 name and address of the patient, the name and quantity of the  
20 drug prescribed, directions for use and the date of issue and  
21 in accordance with the Controlled Substances Act or rules  
22 adopted thereto;

23           [T-] R. "scientific investigator" means a person  
24 registered to conduct research with controlled substances in  
25 the course of the person's professional practice or research

1 and includes analytical laboratories;

2 [U.] S. "ultimate user" means a person who lawfully  
3 possesses a controlled substance for the person's own use or  
4 for the use of a member of the person's household or for  
5 administering to an animal under the care, custody and control  
6 of the person or by a member of the person's household;

7 ~~[V. "drug paraphernalia" means all equipment,~~  
8 ~~products and materials of any kind that are used, intended for~~  
9 ~~use or designed for use in planting, propagating, cultivating,~~  
10 ~~growing, harvesting, manufacturing, compounding, converting,~~  
11 ~~producing, processing, preparing, testing, analyzing,~~  
12 ~~packaging, repackaging, storing, containing, concealing,~~  
13 ~~injecting, ingesting, inhaling or otherwise introducing into~~  
14 ~~the human body a controlled substance or controlled substance~~  
15 ~~analog in violation of the Controlled Substances Act. It~~  
16 ~~includes:~~

17 ~~(1) kits used, intended for use or designed~~  
18 ~~for use in planting, propagating, cultivating, growing or~~  
19 ~~harvesting any species of plant that is a controlled substance~~  
20 ~~or controlled substance analog or from which a controlled~~  
21 ~~substance can be derived;~~

22 ~~(2) kits used, intended for use or designed~~  
23 ~~for use in manufacturing, compounding, converting, producing,~~  
24 ~~processing or preparing controlled substances or controlled~~  
25 ~~substance analogs;~~

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

4                   ~~(4) testing equipment used, intended for use~~  
5 ~~or designed for use in identifying or in analyzing the~~  
6 ~~strength, effectiveness or purity of controlled substances or~~  
7 ~~controlled substance analogs;~~

8                   ~~(5) scales or balances used, intended for use~~  
9 ~~or designed for use in weighing or measuring controlled~~  
10 ~~substances or controlled substance analogs;~~

11                   ~~(6) diluents and adulterants, such as quinine~~  
12 ~~hydrochloride, mannitol, mannite dextrose and lactose, used,~~  
13 ~~intended for use or designed for use in cutting controlled~~  
14 ~~substances or controlled substance analogs;~~

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

18                   ~~(8) blenders, bowls, containers, spoons and~~  
19 ~~mixing devices used, intended for use or designed for use in~~  
20 ~~compounding controlled substances or controlled substance~~  
21 ~~analog;~~

22                   ~~(9) capsules, balloons, envelopes and other~~  
23 ~~containers used, intended for use or designed for use in~~  
24 ~~packaging small quantities of controlled substances or~~  
25 ~~controlled substance analogs;~~

underscored material = new  
[bracketed material] = delete

1                   ~~(10) containers and other objects used,~~  
2 ~~intended for use or designed for use in storing or concealing~~  
3 ~~controlled substances or controlled substance analogs;~~

4                   ~~(11) hypodermic syringes, needles and other~~  
5 ~~objects used, intended for use or designed for use in~~  
6 ~~parenterally injecting controlled substances or controlled~~  
7 ~~substance analogs into the human body;~~

8                   ~~(12) objects used, intended for use or~~  
9 ~~designed for use in ingesting, inhaling or otherwise~~  
10 ~~introducing marijuana, cocaine, hashish or hashish oil into the~~  
11 ~~human body, such as:~~

12                   ~~(a) metal, wooden, acrylic, glass,~~  
13 ~~stone, plastic or ceramic pipes, with or without screens,~~  
14 ~~permanent screens, hashish heads or punctured metal bowls;~~

15                   ~~(b) water pipes;~~

16                   ~~(c) carburetion tubes and devices;~~

17                   ~~(d) smoking and carburetion masks;~~

18                   ~~(e) roach clips, meaning objects used to~~  
19 ~~hold burning material, such as a marijuana cigarette, that has~~  
20 ~~become too small to hold in the hand;~~

21                   ~~(f) miniature cocaine spoons and cocaine~~  
22 ~~vials;~~

23                   ~~(g) chamber pipes;~~

24                   ~~(h) carburetor pipes;~~

25                   ~~(i) electric pipes;~~

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- 1                                   (j) ~~air-driven pipes;~~  
2                                   (k) ~~chilams;~~  
3                                   (l) ~~bongs; or~~  
4                                   (m) ~~ice pipes or chillers; and~~  
5                                   (13) ~~in determining whether an object is drug~~  
6 ~~paraphernalia, a court or other authority should consider, in~~  
7 ~~addition to all other logically relevant factors, the~~  
8 ~~following:~~  
9                                   (a) ~~statements by the owner or by anyone~~  
10 ~~in control of the object concerning its use;~~  
11                                   (b) ~~the proximity of the object, in time~~  
12 ~~and space, to a direct violation of the Controlled Substances~~  
13 ~~Act or any other law relating to controlled substances or~~  
14 ~~controlled substance analogs;~~  
15                                   (c) ~~the proximity of the object to~~  
16 ~~controlled substances or controlled substance analogs;~~  
17                                   (d) ~~the existence of any residue of a~~  
18 ~~controlled substance or controlled substance analog on the~~  
19 ~~object;~~  
20                                   (e) ~~instructions, written or oral,~~  
21 ~~provided with the object concerning its use;~~  
22                                   (f) ~~descriptive materials accompanying~~  
23 ~~the object that explain or depict its use;~~  
24                                   (g) ~~the manner in which the object is~~  
25 ~~displayed for sale; and~~

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underscored material = new  
[bracketed material] = delete



1 ~~(h) expert testimony concerning its use;~~

2 W.] T. "controlled substance analog":

3 (1) means a substance other than a controlled  
4 substance that has a chemical structure substantially similar  
5 to that of a controlled substance in Schedule I, II, III, IV or  
6 V or that was specifically designed to produce effects  
7 substantially similar to that of controlled substances in  
8 Schedule I, II, III, IV or V. Examples of chemical classes in  
9 which controlled substance analogs are found include the  
10 following:

11 [~~(1)~~] (a) phenethylamines;

12 [~~(2)~~] (b) N-substituted piperidines;

13 [~~(3)~~] (c) morphinans;

14 [~~(4)~~] (d) ecgonines;

15 [~~(5)~~] (e) quinazolinones;

16 [~~(6)~~] (f) substituted indoles; and

17 [~~(7)~~] (g) arylcycloalkylamines;

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

20 (2) does not include substances that are  
21 generally recognized as safe and effective within the meaning  
22 of the Federal Food, Drug, and Cosmetic Act or have been  
23 manufactured, distributed or possessed in conformance with the  
24 provisions of an approved new drug application or an exemption  
25 for investigational use within the meaning of Section 505 of

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1 the Federal Food, Drug, and Cosmetic Act;

2 [~~X-~~] U. "human consumption" includes application,  
3 injection, inhalation, ingestion or any other manner of  
4 introduction;

5 [~~Y-~~] V. "drug-free school zone" means a public  
6 school, parochial school or private school or property that is  
7 used for a public, parochial or private school purpose and the  
8 area within one thousand feet of the school property line, but  
9 it does not mean any post-secondary school; and

10 [~~Z-~~] W. "valid practitioner-patient relationship"  
11 means a professional relationship, as defined by the  
12 practitioner's licensing board, between the practitioner and  
13 the patient."

14 **SECTION 65.** Section 30-31-6 NMSA 1978 (being Laws 1972,  
15 Chapter 84, Section 6, as amended by Laws 2017, Chapter 139,  
16 Section 2, by Laws 2017, Chapter 140, Section 3 and by Laws  
17 2018, Chapter 41, Section 1) is amended to read:

18 "30-31-6. SCHEDULE I.--The following controlled  
19 substances are included in Schedule I:

20 A. any of the following opiates, including their  
21 isomers, esters, ethers, salts, and salts of isomers, esters  
22 and ethers, unless specifically exempted, whenever the  
23 existence of these isomers, esters, ethers and salts is  
24 possible within the specific chemical designation:

25 (1) acetylmethadol;

- underscored material = new  
[bracketed material] = delete
- 1 (2) allylprodine;
  - 2 (3) alphacetylmethadol;
  - 3 (4) alphameprodine;
  - 4 (5) alphamethadol;
  - 5 (6) benzethidine;
  - 6 (7) betacetylmethadol;
  - 7 (8) betameprodine;
  - 8 (9) betamethadol;
  - 9 (10) betaprodine;
  - 10 (11) clonitazene;
  - 11 (12) dextromoramide;
  - 12 (13) dextrorphan;
  - 13 (14) diampromide;
  - 14 (15) diethylthiambutene;
  - 15 (16) dimenoxadol;
  - 16 (17) dimepheptanol;
  - 17 (18) dimethylthiambutene;
  - 18 (19) dioxaphetyl butyrate;
  - 19 (20) dipipanone;
  - 20 (21) ethylmethylthiambutene;
  - 21 (22) etonitazene;
  - 22 (23) etoxeridine;
  - 23 (24) furethidine;
  - 24 (25) hydroxypethidine;
  - 25 (26) ketobemidone;

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- 1 (27) levomoramide;
- 2 (28) levophenacymorphan;
- 3 (29) morpheridine;
- 4 (30) noracymethadol;
- 5 (31) norlevorphanol;
- 6 (32) normethadone;
- 7 (33) norpipanone;
- 8 (34) phenadoxone;
- 9 (35) phenampromide;
- 10 (36) phenomorphan;
- 11 (37) phenoperidine;
- 12 (38) piritramide;
- 13 (39) proheptazine;
- 14 (40) properidine;
- 15 (41) racemoramide; and
- 16 (42) trimeperidine;

17 B. any of the following opium derivatives, their  
18 salts, isomers and salts of isomers, unless specifically  
19 exempted, whenever the existence of these salts, isomers and  
20 salts of isomers is possible within the specific chemical  
21 designation:

- 22 (1) acetorphine;
- 23 (2) acetyldihydrocodeine;
- 24 (3) benzylmorphine;
- 25 (4) codeine methylbromide;

- 1 (5) codeine-N-oxide;
- 2 (6) cyprenorphine;
- 3 (7) desomorphine;
- 4 (8) dihydromorphine;
- 5 (9) etorphine;
- 6 (10) heroin;
- 7 (11) hydromorphinol;
- 8 (12) methyldesorphine;
- 9 (13) methyldihydromorphine;
- 10 (14) morphine methylbromide;
- 11 (15) morphine methylsulfonate;
- 12 (16) morphine-N-oxide;
- 13 (17) myrophine;
- 14 (18) nicocodeine;
- 15 (19) nicomorphine;
- 16 (20) normorphine;
- 17 (21) pholcodine; and
- 18 (22) thebacon;

19 C. any material, compound, mixture or preparation  
20 that contains any quantity of the following hallucinogenic  
21 substances, their salts, isomers and salts of isomers, unless  
22 specifically exempted, whenever the existence of these salts,  
23 isomers and salts of isomers is possible within the specific  
24 chemical designation:

- 25 (1) 3,4-methylenedioxy amphetamine;

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underscored material = new  
[bracketed material] = delete

- 1 (2) 5-methoxy-3,4-methylenedioxy amphetamine;
- 2 (3) 3,4,5-trimethoxy amphetamine;
- 3 (4) bufotenine;
- 4 (5) diethyltryptamine;
- 5 (6) dimethyltryptamine;
- 6 (7) 4-methyl-2,5-dimethoxy amphetamine;
- 7 (8) ibogaine;
- 8 (9) lysergic acid diethylamide;
- 9 [~~(10)~~] ~~marijuana~~;
- 10 [~~(11)~~] (10) mescaline;
- 11 [~~(12)~~] (11) peyote, except as otherwise  
12 provided in the Controlled Substances Act;
- 13 [~~(13)~~] (12) N-ethyl-3-piperidyl benzilate;
- 14 [~~(14)~~] (13) N-methyl-3-piperidyl benzilate;
- 15 [~~(15)~~] (14) psilocybin;
- 16 [~~(16)~~] (15) psilocyn;
- 17 [~~(17)~~] ~~tetrahydrocannabinols~~;
- 18 [~~(18)~~] ~~hashish~~;
- 19 [~~(19)~~] (16) synthetic cannabinoids, including:
  - 20 (a) 1-[2-(4-(morpholinyl)ethyl]  
21 -3-(1-naphthoyl)indole;
  - 22 (b) 1-butyl-3-(1-naphthoyl)indole;
  - 23 (c) 1-hexyl-3-(1-naphthoyl)indole;
  - 24 (d) 1-pentyl-3-(1-naphthoyl)indole;
  - 25 (e) 1-pentyl-3-(2-methoxyphenylacetyl)

1 indole;

2 (f) cannabicyclohexanol (CP 47, 497 and  
3 homologues: 5-(1,1-dimethylheptyl)-2-[(1R,3S)  
4 -3-hydroxycyclohexyl]-phenol (CP-47,497); and 5-(1,  
5 1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol;

6 (g) 6aR,10aR)-9-(hydroxymethyl)  
7 -6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,  
8 10a-tetrahydrobenzo[c]chromen-1-ol);

9 (h) dexanabinol, (6aS,10aS)  
10 -9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)  
11 -6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;

12 (i) 1-pentyl-3-(4-chloro naphthoyl)  
13 indole;

14 (j) (2-methyl-1-propyl-1H-indol-3-yl)  
15 -1-naphthalenyl-methanone; and

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

18 [~~(20)~~] (17) 3,4-methylenedioxymethcathinone;

19 [~~(21)~~] (18) 3,4-methylenedioxypyrovalerone;

20 [~~(22)~~] (19) 4-methylmethcathinone;

21 [~~(23)~~] (20) 4-methoxymethcathinone;

22 [~~(24)~~] (21) 3-fluoromethcathinone; and

23 [~~(25)~~] (22) 4-fluoromethcathinone;

24 D. the enumeration of peyote as a controlled  
25 substance does not apply to the use of peyote in bona fide

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1 religious ceremonies by a bona fide religious organization, and  
2 members of the organization so using peyote are exempt from  
3 registration. Any person who manufactures peyote for or  
4 distributes peyote to the organization or its members shall  
5 comply with the federal Comprehensive Drug Abuse Prevention and  
6 Control Act of 1970 and all other requirements of law; and

7 ~~[E. The enumeration of marijuana,~~  
8 ~~tetrahydrocannabinols or chemical derivatives of~~  
9 ~~tetrahydrocannabinol as Schedule I controlled substances does~~  
10 ~~not apply to:~~

11 ~~(1) industrial hemp, pursuant to rules~~  
12 ~~promulgated by the board of regents of New Mexico state~~  
13 ~~university on behalf of the New Mexico department of~~  
14 ~~agriculture;~~

15 ~~(2) cultivation of industrial hemp by~~  
16 ~~qualified entities pursuant to rules adopted by the New Mexico~~  
17 ~~department of agriculture;~~

18 ~~(3) the use of marijuana,~~  
19 ~~tetrahydrocannabinols or chemical derivatives of~~  
20 ~~tetrahydrocannabinol by certified patients pursuant to the~~  
21 ~~Controlled Substances Therapeutic Research Act or by qualified~~  
22 ~~patients pursuant to the provisions of the Lynn and Erin~~  
23 ~~Compassionate Use Act; or~~

24 ~~(4) the use, dispensing, possession,~~  
25 ~~prescribing, storage or transport of a prescription drug that~~



1 ~~the United States food and drug administration has approved and~~  
 2 ~~that contains marijuana, a tetrahydrocannabinol derivative or a~~  
 3 ~~chemical derivative of tetrahydrocannabinol; and~~

4 ~~F.]~~ E. controlled substances added to Schedule I by  
 5 rule adopted by the board pursuant to Section 30-31-3 NMSA  
 6 1978."

7 **SECTION 66.** Section 30-31-7 NMSA 1978 (being Laws 1972,  
 8 Chapter 84, Section 7, as amended) is amended to read:

9 "30-31-7. SCHEDULE II.--

10 A. The following controlled substances are included  
 11 in Schedule II:

12 (1) any of the following substances, except  
 13 those narcotic drugs listed in other schedules, whether  
 14 produced directly or indirectly by extraction from substances  
 15 of vegetable origin, or independently by means of chemical  
 16 synthesis, or by combination of extraction and chemical  
 17 synthesis:

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

20 (b) any salt, compound, isomer,  
 21 derivative or preparation thereof that is chemically equivalent  
 22 or identical with any of the substances referred to in  
 23 Subparagraph (a) of this paragraph, but not including the  
 24 isoquinoline alkaloids of opium;

25 (c) opium poppy and poppy straw; and

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1 (d) coca leaves and any salt, compound,  
2 derivative or preparation of coca leaves, and any salt,  
3 compound, derivative or preparation thereof that is chemically  
4 equivalent or identical with any of these substances, but not  
5 including decocainized coca leaves or extractions that do not  
6 contain cocaine or ecgonine;

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

11 ~~(f) tetrahydrocannabinols or chemical  
12 derivatives of tetrahydrocannabinol, but only for the use by  
13 certified patients pursuant to the Controlled Substances  
14 Therapeutic Research Act or by qualified patients pursuant to  
15 the provisions of the Lynn and Erin Compassionate Use Act.~~

16 ~~Marijuana, tetrahydrocannabinols or chemical derivatives  
17 of tetrahydrocannabinol shall be considered Schedule II  
18 controlled substances only for the purposes enumerated in the  
19 Controlled Substances Therapeutic Research Act or the Lynn and  
20 Erin Compassionate Use Act;]~~

21 (2) any of the following opiates, including  
22 their isomers, esters, ethers, salts and salts of isomers,  
23 whenever the existence of these isomers, esters, ethers and  
24 salts is possible within the specific chemical designation:

25 (a) alphaprodine;

- 1 (b) anileridine;
- 2 (c) bezitramide;
- 3 (d) dihydrocodeine;
- 4 (e) diphenoxylate;
- 5 (f) fentanyl;
- 6 (g) hydromorphone;
- 7 (h) isomethadone;
- 8 (i) levomethorphan;
- 9 (j) levorphanol;
- 10 (k) meperidine;
- 11 (l) metazocine;
- 12 (m) methadone;
- 13 (n) methadone--intermediate,
- 14 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- 15 (o) moramide--intermediate,
- 16 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
- 17 (p) oxycodone;
- 18 (q) pethidine;
- 19 (r) pethidine--intermediate--A,
- 20 4-cyano-1-methyl-4-phenylpiperidine;
- 21 (s) pethidine--intermediate--B,
- 22 ethyl-4-phenyl-piperidine-4-carboxylate;
- 23 (t) pethidine--intermediate--C,
- 24 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- 25 (u) phenazocine;

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1 (v) piminodine;  
2 (w) racemethorphan; and  
3 (x) racemorphan;  
4 (3) unless listed in another schedule, any  
5 material, compound, mixture or preparation that contains any  
6 quantity of the following substances having a potential for  
7 abuse associated with a stimulant effect on the central nervous  
8 system:

- 9 (a) amphetamine, its salts, optical  
10 isomers and salts of its optical isomers;  
11 (b) phenmetrazine and its salts;  
12 (c) methamphetamine, its salts, isomers  
13 and salts of isomers; and  
14 (d) methylphenidate; and

15 (4) controlled substances added to Schedule II  
16 by rule adopted by the board pursuant to Section 30-31-3 NMSA  
17 1978.

18 B. Where methadone is prescribed, administered or  
19 dispensed by a practitioner of a drug abuse rehabilitation  
20 program while acting in the course of the practitioner's  
21 professional practice, or otherwise lawfully obtained or  
22 possessed by a person, such person shall not possess such  
23 methadone beyond the date stamped or typed on the label of the  
24 container of the methadone, nor shall any person possess  
25 methadone except in the container in which it was originally

1 administered or dispensed to such person, and such container  
 2 shall include a label showing the name of the prescribing  
 3 physician or practitioner, the identity of methadone, the name  
 4 of the ultimate user, the date when the methadone is to be  
 5 administered to or used or consumed by the named ultimate user  
 6 shown on the label and a warning on the label of the methadone  
 7 container that the ultimate user must use, consume or  
 8 administer to the ultimate user the methadone in such  
 9 container. Any person who violates this subsection is guilty  
 10 of a felony and shall be punished by imprisonment for not less  
 11 than one year nor more than five years, or by a fine of up to  
 12 five thousand dollars (\$5,000), or both."

13 SECTION 67. Section 30-31-21 NMSA 1978 (being Laws 1972,  
 14 Chapter 84, Section 21, as amended) is amended to read:

15 "30-31-21. DISTRIBUTION TO A MINOR.--Except as authorized  
 16 by the Controlled Substances Act, no person who is eighteen  
 17 years of age or older shall intentionally distribute a  
 18 controlled substance to a person under the age of eighteen  
 19 years. Any person who violates this section with respect to

20 [~~A. marijuana is:~~

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

24 ~~(2) for the second and subsequent offenses,~~  
 25 ~~guilty of a second degree felony and shall be sentenced~~

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1 ~~pursuant to the provisions of Section 31-18-15 NMSA 1978; and~~

2 ~~B. any other]~~ a controlled substance enumerated in  
3 [~~Schedules~~] Schedule I, II, III or IV or a controlled substance  
4 analog of any controlled substance enumerated in Schedule I,  
5 II, III or IV is:

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

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

12 **SECTION 68.** Section 30-31-22 NMSA 1978 (being Laws 1972,  
13 Chapter 84, Section 22, as amended) is amended to read:

14 "30-31-22. CONTROLLED OR COUNTERFEIT SUBSTANCES--  
15 DISTRIBUTION PROHIBITED.--

16 A. Except as authorized by the Controlled  
17 Substances Act, it is unlawful for a person to intentionally  
18 distribute or possess with intent to distribute a controlled  
19 substance or a controlled substance analog except a substance  
20 enumerated in Schedule I or II that is a narcotic drug, a  
21 controlled substance analog of a controlled substance  
22 enumerated in Schedule I or II that is a narcotic drug or  
23 methamphetamine, its salts, isomers and salts of isomers. A  
24 person who violates this subsection with respect to:

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

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

4 (b) for the second and subsequent  
5 offenses, guilty of a third degree felony and shall be  
6 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
7 1978;

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

13 (d) for the second and subsequent  
14 offenses, if more than one hundred pounds is possessed with  
15 intent to distribute or distributed or both, guilty of a second  
16 degree felony and shall be sentenced pursuant to the provisions  
17 of Section 31-18-15 NMSA 1978;

18 (2) any other controlled substance enumerated in  
19 Schedule I, II, III or IV or a controlled substance analog of a  
20 controlled substance enumerated in Schedule I, II, III or IV  
21 except a substance enumerated in Schedule I or II that is a  
22 narcotic drug, a controlled substance analog of a controlled  
23 substance enumerated in Schedule I or II that is a narcotic  
24 drug or methamphetamine, its salts, isomers and salts of  
25 isomers, is:

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

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

7 (3) a controlled substance enumerated in  
8 Schedule V or a controlled substance analog of a controlled  
9 substance enumerated in Schedule V is guilty of a misdemeanor  
10 and shall be punished by a fine of not less than one hundred  
11 dollars (\$100) or more than five hundred dollars (\$500) or by  
12 imprisonment for a definite term not less than one hundred  
13 eighty days but less than one year, or both.

14 B. It is unlawful for a person to distribute gamma  
15 hydroxybutyric acid or flunitrazepam to another person without  
16 that person's knowledge and with intent to commit a crime  
17 against that person, including criminal sexual penetration.  
18 For the purposes of this subsection, "without that person's  
19 knowledge" means the person is unaware that a substance with  
20 the ability to alter that person's ability to appraise conduct  
21 or to decline participation in or communicate unwillingness to  
22 participate in conduct is being distributed to that person.  
23 Any person who violates this subsection is:

24 (1) for the first offense, guilty of a third  
25 degree felony and shall be sentenced pursuant to the provisions

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1 of Section 31-18-15 NMSA 1978; and

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

5 C. Except as authorized by the Controlled Substances  
6 Act, it is unlawful for a person to intentionally create or  
7 deliver, or possess with intent to deliver, a counterfeit  
8 substance. A person who violates this subsection with respect  
9 to:

10 (1) a counterfeit substance enumerated in  
11 Schedule I, II, III or IV is guilty of a fourth degree felony  
12 and shall be sentenced pursuant to the provisions of Section  
13 31-18-15 NMSA 1978; ~~and~~ or

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

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

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

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

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

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

9 (d) for the second and subsequent offenses,  
10 if more than one hundred pounds is possessed with intent to  
11 distribute or distributed or both, guilty of a first degree  
12 felony and shall be sentenced pursuant to the provisions of  
13 Section 31-18-15 NMSA 1978;

14 (2) any other controlled substance enumerated in  
15 Schedule I, II, III or IV or a controlled substance analog of a  
16 controlled substance enumerated in Schedule I, II, III or IV  
17 except a substance enumerated in Schedule I or II that is a  
18 narcotic drug, a controlled substance analog of a controlled  
19 substance enumerated in Schedule I or II that is a narcotic  
20 drug or methamphetamine, its salts, isomers and salts of  
21 isomers, is:

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

25 (b) for the second and subsequent offenses,

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

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

8 (4) the intentional creation, delivery or  
9 possession with the intent to deliver:

10 (a) a counterfeit substance enumerated in  
11 Schedule I, II, III or IV is guilty of a third degree felony  
12 and shall be sentenced pursuant to the provisions of Section  
13 31-18-15 NMSA 1978; and

14 (b) a counterfeit substance enumerated in  
15 Schedule V is guilty of a misdemeanor and shall be punished by  
16 a fine of not less than one hundred dollars (\$100) nor more  
17 than five hundred dollars (\$500) or by imprisonment for a  
18 definite term not less than one hundred eighty days but less  
19 than one year, or both.

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

25 **SECTION 69.** Section 30-31-23 NMSA 1978 (being Laws 1972,

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1 Chapter 84, Section 23, as amended) is amended to read:

2 "30-31-23. CONTROLLED SUBSTANCES--POSSESSION  
3 PROHIBITED.--

4 A. It is unlawful for a person intentionally to  
5 possess a controlled substance unless the substance was  
6 obtained pursuant to a valid prescription or order of a  
7 practitioner while acting in the course of professional  
8 practice or except as otherwise authorized by the Controlled  
9 Substances Act. It is unlawful for a person intentionally to  
10 possess a controlled substance analog.

11 B. A person who violates this section with respect  
12 to:

13 (1) one ounce or less of [~~marijuana or~~]  
14 synthetic cannabinoids is, for the first offense, guilty of a  
15 petty misdemeanor and shall be punished by a fine of not less  
16 than fifty dollars (\$50.00) or more than one hundred dollars  
17 (\$100) and by imprisonment for not more than fifteen days, and,  
18 for the second and subsequent offenses, guilty of a misdemeanor  
19 and shall be punished by a fine of not less than one hundred  
20 dollars (\$100) or more than one thousand dollars (\$1,000) or by  
21 imprisonment for a definite term less than one year, or both;

22 (2) more than one ounce and less than eight  
23 ounces of [~~marijuana or~~] synthetic cannabinoids is guilty of a  
24 misdemeanor and shall be punished by a fine of not less than  
25 one hundred dollars (\$100) or more than one thousand dollars

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

3 (3) eight ounces or more of [~~marijuana or~~]  
4 synthetic cannabinoids is guilty of a fourth degree felony and  
5 shall be sentenced pursuant to the provisions of Section  
6 31-18-15 NMSA 1978.

7 C. A minor who violates this section with respect to  
8 the substances listed in this subsection is guilty of a petty  
9 misdemeanor and, notwithstanding the provisions of Sections  
10 32A-1-5 and 32A-2-19 NMSA 1978, shall be punished by a fine not  
11 to exceed one hundred dollars (\$100) or forty-eight hours of  
12 community service. For the third or subsequent violation [~~by a~~  
13 ~~minor of this section~~] with respect to those substances, the  
14 provisions of Section 32A-2-19 NMSA 1978 shall govern  
15 punishment of the minor. [~~As used in this subsection, "minor"~~  
16 ~~means a person who is less than eighteen years of age.~~] The  
17 provisions of this subsection apply to the following  
18 substances:

- 19 (1) synthetic cannabinoids;
- 20 (2) any of the substances listed in Paragraphs  
21 [~~(20)~~] (17) through [~~(25)~~] (22) of Subsection C of Section  
22 30-31-6 NMSA 1978; or
- 23 (3) a substance added to Schedule I by a rule of  
24 the board adopted on or after [~~the effective date of this~~]  
25 March 31, 2011 [~~act~~] if the board determines that the

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1 pharmacological effect of the substance, the risk to the public  
2 health by abuse of the substance and the potential of the  
3 substance to produce psychic or physiological dependence  
4 liability is similar to the substances described in Paragraph  
5 (1) or (2) of this subsection.

6 D. Except for those substances listed in Subsection E  
7 of this section, a person who violates this section with  
8 respect to any amount of any controlled substance enumerated in  
9 Schedule I, II, III or IV, or a controlled substance analog of  
10 a substance enumerated in Schedule I, II, III or IV is guilty  
11 of a misdemeanor and shall be punished by a fine of not less  
12 than five hundred dollars (\$500) or more than one thousand  
13 dollars (\$1,000) or by imprisonment for a definite term less  
14 than one year, or both.

15 E. A person who violates this section with respect to  
16 phencyclidine as enumerated in Schedule III or a controlled  
17 substance analog of phencyclidine; methamphetamine, its salts,  
18 isomers or salts of isomers as enumerated in Schedule II or a  
19 controlled substance analog of methamphetamine, its salts,  
20 isomers or salts of isomers; flunitrazepam, its salts, isomers  
21 or salts of isomers as enumerated in Schedule I or a controlled  
22 substance analog of flunitrazepam, including naturally  
23 occurring metabolites, its salts, isomers or salts of isomers;  
24 gamma hydroxybutyric acid and any chemical compound that is  
25 metabolically converted to gamma hydroxybutyric acid, its

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1 salts, isomers or salts of isomers as enumerated in Schedule I  
 2 or a controlled substance analog of gamma hydroxybutyric acid,  
 3 its salts, isomers or salts of isomers; gamma butyrolactone and  
 4 any chemical compound that is metabolically converted to gamma  
 5 hydroxybutyric acid, its salts, isomers or salts of isomers as  
 6 enumerated in Schedule I or a controlled substance analog of  
 7 gamma butyrolactone, its salts, isomers or salts of isomers;  
 8 1-4 butane diol and any chemical compound that is metabolically  
 9 converted to gamma hydroxybutyric acid, its salts, isomers or  
 10 salts of isomers as enumerated in Schedule I or a controlled  
 11 substance analog of 1-4 butane diol, its salts, isomers or  
 12 salts of isomers; or a narcotic drug enumerated in Schedule I  
 13 or II or a controlled substance analog of a narcotic drug  
 14 enumerated in Schedule I or II is guilty of a fourth degree  
 15 felony and shall be sentenced pursuant to the provisions of  
 16 Section 31-18-15 NMSA 1978.

17 F. Except for a minor [~~as defined in Subsection C of~~  
 18 ~~this section~~], a person who violates Subsection A of this  
 19 section while within a posted drug-free school zone, excluding  
 20 private property residentially zoned or used primarily as a  
 21 residence and excluding a person in or on a motor vehicle in  
 22 transit through the posted drug-free school zone, with respect  
 23 to:

24 (1) one ounce or less of [~~marijuana or~~  
 25 synthetic cannabinoids is, for the first offense, guilty of a

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1 misdemeanor and shall be punished by a fine of not less than  
2 one hundred dollars (\$100) or more than one thousand dollars  
3 (\$1,000) or by imprisonment for a definite term less than one  
4 year, or both, and for the second or subsequent offense, is  
5 guilty of a fourth degree felony and shall be sentenced  
6 pursuant to the provisions of Section 31-18-15 NMSA 1978;

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

11 (3) eight ounces or more of [~~marijuana or~~]  
12 synthetic cannabinoids is guilty of a third degree felony and  
13 shall be sentenced pursuant to the provisions of Section  
14 31-18-15 NMSA 1978;

15 (4) any amount of any other controlled substance  
16 enumerated in Schedule I, II, III or IV or a controlled  
17 substance analog of a substance enumerated in Schedule I, II,  
18 III or IV, except phencyclidine as enumerated in Schedule III,  
19 a narcotic drug enumerated in Schedule I or II or a controlled  
20 substance analog of a narcotic drug enumerated in Schedule I or  
21 II, is guilty of a fourth degree felony and shall be sentenced  
22 pursuant to the provisions of Section 31-18-15 NMSA 1978; and

23 (5) phencyclidine as enumerated in Schedule III,  
24 a narcotic drug enumerated in Schedule I or II, a controlled  
25 substance analog of phencyclidine or a controlled substance

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1 analog of a narcotic drug enumerated in Schedule I or II is  
 2 guilty of a third degree felony and shall be sentenced pursuant  
 3 to the provisions of Section 31-18-15 NMSA 1978.

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

6 SECTION 70. Section 30-31-28 NMSA 1978 (being Laws 1972,  
 7 Chapter 84, Section 28) is amended to read:

8 "30-31-28. CONDITIONAL DISCHARGE FOR POSSESSION AS FIRST  
 9 OFFENSE.--

10 A. If [~~any~~] a person, who has not previously been  
 11 convicted of violating the laws of [~~any~~] a state or [~~any~~] laws  
 12 of the United States relating to narcotic drugs, [~~marijuana~~]  
 13 hallucinogenic or depressant or stimulant substances, is found  
 14 guilty of a violation of Section [~~23~~] 30-31-23 NMSA 1978, after  
 15 trial or upon a plea of guilty, the court may, without entering  
 16 a judgment of guilty and with the consent of the person, defer  
 17 further proceedings and place [~~him~~] the person on probation  
 18 upon reasonable conditions and for a period, not to exceed one  
 19 year, as the court may prescribe.

20 B. Upon violation of a condition of the probation,  
 21 the court may enter an adjudication of guilt and proceed as  
 22 otherwise provided. The court may, in its discretion, dismiss  
 23 the proceedings against the person and discharge [~~him~~] the  
 24 person from probation before the expiration of the maximum  
 25 period prescribed from the person's probation.

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1           C. If during the period of [~~his~~] probation the person  
2 does not violate [~~any of~~] the conditions of the probation, then  
3 upon expiration of the period the court shall discharge such  
4 person and dismiss the proceedings against [~~him~~] the person.  
5 Discharge and dismissal under this section shall be without  
6 court adjudication of guilt, but a nonpublic record shall be  
7 retained by the attorney general solely for the purpose of use  
8 by the courts in determining whether or not, in subsequent  
9 proceedings, the person qualifies under this section. A  
10 discharge or dismissal shall not be deemed a conviction for  
11 purposes of disqualifications or disabilities imposed by law  
12 upon conviction of a crime, including the penalties prescribed  
13 under this section for second or subsequent convictions or for  
14 any other purpose. Discharge and dismissal under this section  
15 may occur only once with respect to [~~any~~] a person.

16           D. Upon the dismissal of a person and discharge of  
17 the proceedings against [~~him~~] the person under this section, a  
18 person, if [~~he was~~] not over eighteen years of age at the time  
19 of the offense, may apply to the court for an order to expunge  
20 from all official records all recordation relating to [~~his~~] the  
21 arrest, indictment or information, trial, finding or plea of  
22 guilty, and dismissal and discharge pursuant to this section  
23 except nonpublic records filed with the attorney general. If  
24 the court determines, after hearing, that the person was  
25 dismissed and the proceedings against [~~him~~] the person

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1 discharged and that [~~he~~] the person was not over eighteen years  
2 of age at the time of the offense, it shall enter the order.  
3 The effect of the order shall be to restore the person, in the  
4 contemplation of the law, to the status [~~he~~] the person  
5 occupied before the arrest or indictment or information. No  
6 person in whose behalf an order has been entered shall be held  
7 thereafter under any provision of any law to be guilty of  
8 perjury or otherwise giving a false statement by reason of  
9 [~~his~~] the person's failures to recite or acknowledge such  
10 arrest, or indictment or information or trial in response to  
11 any inquiry made of [~~him~~] the person for any purpose."

12 SECTION 71. Section 30-31-34 NMSA 1978 (being Laws 1972,  
13 Chapter 84, Section 33, as amended) is amended to read:

14 "30-31-34. FORFEITURES--PROPERTY SUBJECT.--The following  
15 are subject to forfeiture pursuant to the provisions of the  
16 Forfeiture Act:

17 A. all raw materials, products and equipment of any  
18 kind, including firearms that are used or intended for use in  
19 manufacturing, compounding, processing, delivering, importing  
20 or exporting any controlled substance or controlled substance  
21 analog in violation of the Controlled Substances Act;

22 B. all property that is used or intended for use as a  
23 container for property described in Subsection A of this  
24 section;

25 C. all conveyances, including aircraft, vehicles or

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1 vessels that are used or intended for use to transport or in  
2 any manner to facilitate the transportation for the purpose of  
3 sale of property described in Subsection A of this section;

4 D. all books, records and research products and  
5 materials, including formulas, microfilm, tapes and data that  
6 are used or intended for use in violation of the Controlled  
7 Substances Act;

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

10 F. notwithstanding Subsection C of this section and  
11 the provisions of the Forfeiture Act:

12 (1) a conveyance used by a person as a common  
13 carrier in the transaction of business as a common carrier  
14 shall not be subject to forfeiture pursuant to this section  
15 unless it appears that the owner or other person in charge of  
16 the conveyance is a consenting party or privy to a violation of  
17 the Controlled Substances Act;

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

22 (3) a conveyance is not subject to forfeiture  
23 for a violation of law the penalty for which is a misdemeanor;  
24 and

25 (4) a forfeiture of a conveyance encumbered by a

1 bona fide security interest shall be subject to the interest of  
 2 a secured party if the secured party neither had knowledge of  
 3 nor consented to the act or omission [~~and~~

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

6 SECTION 72. [NEW MATERIAL] COOPERATION OF AGENCIES.--All  
 7 state agencies shall cooperate with the cannabis control  
 8 division of the regulation and licensing department in carrying  
 9 out the provisions of the Cannabis Regulation Act.

10 SECTION 73. TEMPORARY PROVISION--TRANSFER.--On the  
 11 effective date of this act, any unexpended or unencumbered  
 12 balance in the medical cannabis fund is transferred to the  
 13 cannabis regulation fund.

14 SECTION 74. REPEAL.--Sections 9-7-17.1 and 30-31-25.1  
 15 NMSA 1978 (being Laws 2012, Chapter 42, Section 1 and Laws  
 16 1981, Chapter 31, Section 2, as amended) are repealed.

17 SECTION 75. EFFECTIVE DATE.--The effective date of the  
 18 provisions of this act is July 1, 2019.