

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 577

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

AN ACT

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

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 40 of this act may be cited as the "Cannabis Regulation
.214675.3

underscored material = new
[bracketed material] = delete

1 Act".

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

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

7 B. "board" means the board of regents of New Mexico
8 state university;

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

16 (2) does not include:
17 (a) the mature stalks of the plant;
18 fiber produced from the stalks; oil or cake made from the seeds
19 of the plant; any other compound, manufacture, salt,
20 derivative, mixture or preparation of the mature stalks, fiber,
21 oil or cake; or the sterilized seed of the plant that is
22 incapable of germination; or

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

.214675.3

1 D. "cannabis courier" means a person licensed by
2 the commission only to transport usable cannabis and cannabis
3 products directly to consumers;

4 E. "cannabis establishment" means:

5 (1) a cannabis testing laboratory;

6 (2) a cannabis producer;

7 (3) a cannabis manufacturing facility; or

8 (4) a dispensary;

9 F. "cannabis extract":

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

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

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

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

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

23 J. "cannabis manufacturer" means a person that is
24 licensed to:

25 (1) manufacture and package cannabis items;

.214675.3

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

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

5 K. "cannabis producer" means a person that is
6 licensed to:

7 (1) cultivate or prepare cannabis in a raw
8 form for consumption;

9 (2) have cannabis items tested by a cannabis
10 testing laboratory; and

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

12 L. "cannabis product":

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

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

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

24 N. "commercial cannabis activity":

25 (1) means the cultivation, production,

1 possession, manufacture, storage, testing, labeling,
2 transportation, couriering, sale or consignment of cannabis and
3 cannabis items; and

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

6 O. "commission" means the cannabis control
7 commission;

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

11 Q. "controlling person":

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

15 (2) does not include a bank or licensed
16 lending institution;

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

20 S. "director" means the executive director of the
21 cannabis control commission;

22 T. "dispensary" means an establishment licensed to
23 sell medical cannabis for off-site consumption;

24 U. "dual licensed dispensary" means an
25 establishment licensed to sell both medical and adult-use

.214675.3

1 cannabis for off-site consumption;

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

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

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

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

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

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

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

25 Z. "lounge" means a facility licensed by the

1 commission to sell cannabis items only for on-site consumption;

2 AA. "manufacture":

3 (1) means to compound, blend, extract, infuse,
4 package or otherwise prepare a cannabis item; and

5 (2) does not include cultivating the cannabis
6 contained in a cannabis item;

7 BB. "medical cannabis" means cannabis items used by
8 a qualified patient in accordance with the Lynn and Erin
9 Compassionate Use Act;

10 CC. "medical cannabis collective" means a group of
11 not more than five qualified patients, as defined in the Lynn
12 and Erin Compassionate Use Act, licensed by the board through
13 the New Mexico department of agriculture to cultivate and sell
14 certain medical cannabis pursuant to rule;

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

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

25 FF. "medical professional" means a person licensed

.214675.3

1 pursuant to the Medical Practice Act or the Osteopathic
2 Medicine Act;

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

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

14 II. "qualified patient" means a New Mexico resident
15 who has been diagnosed by a practitioner as having a
16 debilitating medical condition and has received written
17 certification and a registry identification card as part of the
18 medical cannabis program;

19 JJ. "safety-sensitive position" means a position in
20 which performance by a person under the influence of drugs or
21 alcohol would constitute an immediate and direct threat of
22 injury or death to that person or to another;

23 KK. "state store" means a commission-operated
24 facility at which cannabis items are stored or offered for
25 retail sale to the public;

.214675.3

1 LL. "usable cannabis" means dried cannabis flowers
2 and dried cannabis leaves and any mixture or preparation of
3 those flowers or leaves; and

4 MM. "volatile solvent" means a solvent that is or
5 produces a flammable gas or vapor that, when present in the air
6 in sufficient quantities, will create explosive or ignitable
7 mixtures.

8 SECTION 3. [NEW MATERIAL] CANNABIS CONTROL COMMISSION
9 CREATED--DUTIES--RULEMAKING.--

10 A. There is created the "cannabis control
11 commission". The commission is a governmental entity for
12 purposes of the Tort Claims Act. The commission shall consist
13 of:

14 (1) the secretary of environment or a member
15 of the secretary's staff designated by the secretary in an
16 advisory role;

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

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

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

25 (a) one member who is engaged in the

.214675.3

1 active commercial cultivation of non-cannabis crops;

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

4 (c) one member who is a currently or
5 formerly licensed medical professional.

6 B. Public members shall reside in New Mexico and
7 shall not have a financial interest in any entity engaged in
8 the commercial production, manufacture or sale of cannabis
9 products, and no more than three public members may be from the
10 same political party.

11 C. Public members shall serve staggered four-year
12 terms; except that of the initial public members appointed to
13 the commission, the governor shall select two members whose
14 initial terms are two years and three members whose initial
15 terms are four years.

16 D. Public members of the commission shall be
17 reimbursed as provided in the Per Diem and Mileage Act; except
18 that during the period beginning July 1, 2019 and ending June
19 30, 2023, public members shall be paid five hundred dollars
20 (\$500) per day for every day or portion of a day that the
21 public member attends a commission meeting. The public member
22 shall receive no other compensation, perquisite or allowance.

23 E. Except as provided in the Lynn and Erin
24 Compassionate Use Act, the commission shall have exclusive
25 authority to regulate and administer the testing, manufacture,

.214675.3

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

1 packaging and transportation of cannabis items in the state.

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

8 G. Not later than March 1, 2020, the commission
9 shall promulgate or propose rules necessary to carry out the
10 commission's duties as provided in the Cannabis Regulation Act,
11 and those rules shall include:

12 (1) procedures for the issuance, renewal,
13 suspension and revocation of a license issued by the
14 commission, the department of environment and the department of
15 health;

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

19 (3) security requirements for a cannabis
20 establishment;

21 (4) requirements related to:
22 (a) inspection and monitoring of a
23 cannabis establishment;

24 (b) a cannabis establishment's
25 recordkeeping and tracking of cannabis items;

.214675.3

1 (c) prevention of the unauthorized sale
2 or diversion of cannabis items in commercial cannabis activity;

3 (d) labeling of cannabis items; and

4 (e) language for labels of cannabis
5 items related to potential adverse effects;

6 (5) a provision regarding whether a licensee
7 that is a cannabis producer may produce any other products;

8 (6) rules on a licensee's advertisement and
9 marketing of cannabis products and on how a licensee may
10 display cannabis products for sale;

11 (7) procedures that promote and encourage full
12 participation in the cannabis industry governed by the Cannabis
13 Regulation Act by representatives of communities that have been
14 disproportionately harmed by the enforcement of cannabis
15 prohibitions in law and policy, including harms from
16 disproportionate rates of related interactions with law
17 enforcement officers, arrests, incarceration and collateral
18 consequences;

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

21 (a) health and safety standards
22 applicable to the cultivation of cannabis and the manufacture
23 of cannabis items;

24 (b) standards for quality control,
25 inspection and testing of cannabis items;

1 (c) standards for food and product
2 safety applicable to cannabis items; and

3 (d) which additives and ingredients are
4 approved for and prohibited from inclusion in cannabis items;
5 and

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

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

15 (b) environmental protections that apply
16 to all licensees;

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

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

24 H. Not later than June 1, 2020, the commission
25 shall offer cannabis items for retail sale to the public. The

.214675.3

1 commission may purchase materials, goods and services and may
2 lease, purchase and equip, in the name of the state, stores,
3 warehouses and other assets as necessary for, incidental to or
4 related to the operation of the cannabis retail operations.

5 I. Except as provided in Subsection J of this
6 section and Section 10 of the Cannabis Regulation Act, the
7 commission may in its discretion operate state stores at any
8 location within the state and, subject to the Personnel Act and
9 within the limits of available appropriations and funds, may
10 employ persons to sell cannabis items in the stores. The
11 salaries of the persons shall not be governed by the amount of
12 sales. A person employed to sell cannabis items under the
13 provisions of the Cannabis Regulation Act shall not sell
14 cannabis items except as may be legally obtained under the
15 provisions of the Cannabis Regulation Act.

16 J. The commission shall not locate a state store
17 within three hundred feet from the perimeter of school grounds
18 on which instruction is provided at any level from kindergarten
19 through twelfth grade, a playground, a child care center, a
20 youth center, a public park or a library that was in existence
21 at the time the commission established the state store at that
22 location.

23 K. The commission may, in its discretion, open for
24 business at reasonable hours on any day, including Sunday or
25 legal holidays except for Easter, Thanksgiving and Christmas

1 day. The commission may employ part-time employees, subject to
2 the Personnel Act, to staff state stores open on Sundays or
3 legal holidays.

4 L. The commission shall accept cannabis items on
5 consignment for resale from manufacturers or producers licensed
6 pursuant to Section 6 of the Cannabis Regulation Act.

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

9 A. Not later than January 1, 2020, the department
10 of health shall:

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

20 (2) promulgate rules to govern the medical
21 cannabis subsidy program.

22 B. The department of health shall monitor emerging
23 scientific and medical information relevant to the health
24 effects associated with cannabis use and shall monitor changes
25 in cannabis use patterns for children and adults within the

.214675.3

1 state, broken down by county, race and ethnicity.

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

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

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

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

.214675.3

1 SECTION 5. ~~[NEW MATERIAL]~~ DEPARTMENT OF PUBLIC SAFETY--
2 REPORTING REQUIREMENTS.--

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

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

8 (a) category and penalty level; and

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

10 (2) the number of motor vehicle accidents in
11 which the driver of one of the vehicles tested positive for
12 cannabis.

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

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

.214675.3

1 SECTION 6. ~~[NEW MATERIAL]~~ LICENSING--LIMITATIONS.--

2 A. The department of environment shall regulate and
3 license cannabis manufacturers and cannabis testing
4 laboratories pursuant to rules promulgated by the commission.

5 B. The department of environment shall begin
6 issuing licenses:

7 (1) for cannabis manufacturers currently
8 manufacturing medical cannabis products, no sooner than July 1,
9 2020; provided that:

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

20 (b) all medical cannabis products shall
21 be sold at a grade and quality determined by regulation to be
22 suitable for medical consumption and cannabis testing
23 laboratories to licensed dispensers as defined in Section
24 26-2B-3 NMSA; and

25 (2) for cannabis manufacturing to other

.214675.3

1 persons, no sooner than July 1, 2021.

2 C. The New Mexico department of agriculture shall
3 regulate and license cannabis producers pursuant to rules
4 promulgated by the board. The New Mexico department of
5 agriculture shall begin issuing licenses for cannabis producers
6 currently producing and maintaining a crop of no less than four
7 hundred fifty cannabis plants exclusively for medical use by
8 licensed medical patients, as defined in the Lynn and Erin
9 Compassionate Use Act, no sooner than July 1, 2020 and shall
10 begin issuing licenses for cannabis producers to other persons
11 no sooner than July 1, 2021.

12 D. The commission shall regulate and license on-
13 site consumption of cannabis items in a lounge in conjunction
14 with a cannabis producer or manufacturer license. The
15 commission shall begin issuing licenses for lounges to licensed
16 dispensers as defined in Section 26-2B-3 NMSA 1978 no sooner
17 than July 1, 2020 and shall begin issuing licenses for lounges
18 to other persons no sooner than July 1, 2021.

19 E. The commission may issue a dual medical and
20 adult-use cannabis sale license to a person that holds both a
21 valid adult-use cannabis manufacturer or producer license and a
22 valid medical cannabis manufacturer or producer license;
23 provided that the person shall sell a minimum quantity of
24 medical product as provided in Subsection B of this section and
25 shall meet quality standards promulgated by the commission; and

.214675.3

1 provided further that a dual licensed dispensary shall not be
2 located within twenty-five miles of a state store located
3 within the same county. Every license issued pursuant to this
4 subsection shall expire on July 1, 2025.

5 F. The department of health shall regulate and
6 license the dispensing of medical cannabis items as provided in
7 the Lynn and Erin Compassionate Use Act and pursuant to rules
8 promulgated by the commission.

9 G. The board, through the New Mexico department of
10 agriculture, shall regulate and license cannabis producers.

11 H. The board, through the New Mexico department of
12 agriculture, shall regulate and license collective medical
13 cannabis cultivation. On December 31, 2019, the board, on
14 behalf of and through the New Mexico department of agriculture,
15 shall issue rules and shall begin issuing licenses to authorize
16 collective medical cannabis cultivation. The rules shall
17 include procedures that:

18 (1) allow not more than five qualified
19 patients, as defined in the Lynn and Erin Compassionate Use
20 Act, to cultivate cannabis together at a designated licensed
21 location or pursuant to an agreement with a cannabis producer
22 at the licensed location of that cannabis producer;

23 (2) provide that the licensed location shall
24 not contain more than four mature female cannabis plants and a
25 combined total of twelve seedlings and male plants multiplied

1 by the number of qualified patients who are members of the
2 medical cannabis collective; provided that if the medical
3 cannabis collective's plants are grown at a location operated
4 by a cannabis producer, the total number of plants at the
5 location, including the medical cannabis collective's plants,
6 shall not exceed the total number of plants authorized for that
7 location; and

8 (3) provide that members of a medical cannabis
9 collective shall destroy cannabis produced in excess of the
10 combined total adequate supply of the members, as defined in
11 the Lynn and Erin Compassionate Use Act; provided that if the
12 medical cannabis collective's plants are grown at a cannabis
13 producer's licensed location, the medical cannabis collective
14 may enter into an agreement with the cannabis producer to sell
15 cannabis produced in excess of the combined total adequate
16 supply of the members to the cannabis producer; and provided
17 further that if the medical cannabis collective enters into an
18 agreement with a licensed medical cannabis manufacturer, the
19 medical cannabis collective may sell excess cannabis only to
20 that manufacturer.

21 I. The commission may propose rules to the board
22 for adoption regarding the regulating and licensing of cannabis
23 producers as provided for in the Cannabis Regulation Act.

24 J. A license is valid for twelve months from the
25 date it is issued and may be renewed annually or as provided

.214675.3

1 for in the rules promulgated by the commission.

2 K. A constituent agency may deny an application for
3 an initial license or renewal if:

4 (1) the applicant has violated any provision
5 of the Lynn and Erin Compassionate Use Act or the Cannabis
6 Regulation Act or a rule promulgated pursuant to those acts;

7 (2) the applicant's application does not
8 include all information required;

9 (3) issuance of the license would lead to
10 monopolization of the cannabis or medical cannabis industry in
11 the state or would unreasonably restrain competition in those
12 industries;

13 (4) the applicant or a controlling person in
14 the applicant's entity has been convicted of an offense that is
15 substantially related to the qualifications, functions or
16 duties of the applicant entity's business; provided that if the
17 constituent agency determines that the controlling person and
18 the applicant entity are otherwise qualified for a license and
19 issuing a license to the applicant entity would not compromise
20 public safety, the constituent agency shall conduct a thorough
21 review of the conviction, including the nature of the offense,
22 surrounding circumstances and any evidence of the controlling
23 person's rehabilitation following the conviction, and based on
24 that review, determine whether the applicant entity should be
25 issued a license; or

.214675.3

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

6 L. For the purposes of Subsection K of this
7 section:

8 (1) the following are considered substantially
9 related to the qualifications, functions or duties of a
10 business seeking a license:

11 (a) a felony conviction involving fraud,
12 deceit or embezzlement;

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

18 (c) any other offense as determined by
19 the commission by rule, except as provided in Paragraph (2) of
20 this subsection; and

21 (2) a conviction for which the related
22 sentence, including any term of probation or parole, is
23 completed for the possession, use, manufacture, distribution or
24 dispensing or the possession with the intent to manufacture,
25 distribute or dispense a controlled substance is not considered

.214675.3

1 substantially related to the qualifications, functions or
2 duties of a person seeking a license and shall not be a ground
3 on which an application is denied unless the offense involved
4 the distribution of alcohol or a controlled substance to a
5 minor.

6 M. A constituent agency shall deny an application
7 if an applicant, a controlling person in an applicant's entity
8 or the premises for which a license is sought does not qualify
9 for licensure under the Cannabis Regulation Act or the Lynn and
10 Erin Compassionate Use Act.

11 N. The commission shall regulate and license
12 cannabis couriers. The commission shall begin issuing licenses
13 for cannabis couriers no sooner than December 31, 2019.

14 O. For purposes of this section, "constituent
15 agency" means the commission, the department of environment or
16 the department of health.

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

.214675.3

1 activity.

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

3 A. The commission shall establish application and
4 licensing fees applicable to licenses for commercial cannabis
5 activity and activity related to medical cannabis. The fees
6 shall be reasonably calculated to cover the cost of
7 administering and enforcing the programs established in the
8 Cannabis Regulation Act; provided that:

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

11 (2) for a license or renewal of a license that
12 authorizes only medical cannabis activity, the fee shall not
13 exceed one-half of the fee charged for a license or renewal of
14 a license for a similarly sized business that authorizes both
15 commercial and medical cannabis activities.

16 B. The commission, the department of environment
17 and the department of health shall deposit all fees collected
18 pursuant to the Cannabis Regulation Act in the cannabis
19 regulation fund.

20 C. The board, on behalf of the New Mexico
21 department of agriculture, shall establish application and
22 licensing fees applicable to licenses for cannabis cultivation.
23 The fees shall be reasonably calculated to cover the cost of
24 administering and enforcing the programs established pursuant
25 to the Cannabis Regulation Act.

.214675.3

1 SECTION 8. [NEW MATERIAL] DISCIPLINARY PROCEEDINGS--
2 APPLICATION OF UNIFORM LICENSING ACT.--In accordance with the
3 procedures contained in the Uniform Licensing Act, the
4 commission, the department of environment or the department of
5 health may revoke or suspend any permanent or temporary license
6 held or applied for under the Cannabis Regulation Act upon
7 findings that the licensee or applicant:

8 A. engaged in fraud or deceit in procuring or
9 attempting to procure a license;

10 B. has been convicted of a felony; provided that a
11 certified copy of the record of conviction shall be conclusive
12 evidence of such conviction;

13 C. is guilty of any violation of the Controlled
14 Substances Act; or

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

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

19 A. A local jurisdiction may:

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

22 (2) prohibit, in accordance with the Cannabis
23 Regulation Act, the operation of a state store or a dual
24 licensed dispensary; and

25 (3) limit the location of a cannabis

1 establishment or state store as determined by the local
2 jurisdiction, but which distance shall be three hundred feet or
3 more from the perimeter of school grounds on which instruction
4 is provided at any level from kindergarten through twelfth
5 grade, a playground, a child care center, a youth center, a
6 public park or a library that was in existence at the time the
7 cannabis establishment was licensed.

8 B. A local jurisdiction shall not:

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

12 (2) prohibit the personal production of
13 cannabis or cannabis products made without the use of volatile
14 solvents for personal use provided for in the Cannabis
15 Regulation Act or the Lynn and Erin Compassionate Use Act; or

16 (3) prohibit the operation of a medical-
17 cannabis-only retail business.

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

20 A. A municipality or a county in the state may
21 prohibit by ordinance or resolution the operation of a state
22 store within six months following the effective date of the
23 Cannabis Regulation Act.

24 B. A municipality or a county in the state that has
25 by ordinance or resolution prohibited the operation of a state

.214675.3

1 store may at any time by ordinance or resolution allow the
2 operation of a state store.

3 C. A municipality or a county in the state may by
4 ordinance or resolution limit the sale of adult-use cannabis
5 for off-site consumption to sale in a state store.

6 D. A municipality or a county in the state that has
7 by ordinance or resolution allowed the operation of a state
8 store pursuant to Subsection B of this section shall not later
9 prohibit the operation of a state store by ordinance or
10 resolution.

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

12 A. Conduct by a licensee or a licensee
13 representative that is allowed pursuant to a license and
14 conduct by a person who allows property to be used by a
15 licensee or a licensee representative for conduct allowed
16 pursuant to a license is lawful, not a violation of state or
17 local law and is not a basis for seizure or forfeiture of any
18 property or assets under state or local law.

19 B. The state or a local government shall not impose
20 a criminal, civil or administrative penalty on a licensee or a
21 licensee representative or on a person who allows property to
22 be used by a licensee or a licensee representative pursuant to
23 a license, solely for conduct allowed pursuant to a license.

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

25 A. Only a cannabis retailer, cannabis microbusiness

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 commission or
7 a law enforcement officer.

8 SECTION 13. [NEW MATERIAL] PROTECTION OF UNDERAGE
9 PERSON--TRAFFICKING--PENALTIES.--

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

12 B. Nothing in this section shall be construed or
13 interpreted to prevent:

14 (1) the commission from enforcing its rules
15 against a licensee;

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

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

22 C. A person who is eighteen years of age or older
23 shall not intentionally traffic cannabis. A person who
24 violates this subsection, if the amount is:

25 (1) one-half ounce of cannabis or four grams

.214675.3

1 of cannabis extracts or less, shall be subject to a civil
2 penalty of fifty dollars (\$50.00);

3 (2) more than one-half ounce of cannabis or
4 four grams of cannabis extracts but no more than one pound of
5 cannabis or one hundred twenty-eight grams of cannabis
6 extracts, is guilty of a petty misdemeanor and shall be
7 sentenced to a fine in an amount not less than five hundred
8 dollars (\$500) and not more than one thousand dollars (\$1,000);
9 and

10 (3) more than one pound of cannabis or one
11 hundred twenty-eight grams of cannabis extracts, is guilty of a
12 fourth degree felony and shall be sentenced to a basic sentence
13 of imprisonment of twelve months and to the payment of a fine
14 in an amount not less than twenty-five thousand dollars
15 (\$25,000) and not more than seventy-five thousand dollars
16 (\$75,000).

17 D. For the purposes of this section, "traffic"
18 means the:

19 (1) distribution, sale, barter or giving away
20 of cannabis; or

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

23 SECTION 14. [NEW MATERIAL] DISTRIBUTION AND TRANSPORT.--

24 The Cannabis Regulation Act shall not be construed to authorize
25 a licensee to transport or distribute, or cause to be

1 transported or distributed, cannabis items outside the state,
2 unless authorized by federal law.

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

4 A. Before sale to the public or consignment to the
5 commission, cannabis items shall be labeled and placed in a
6 resealable, child-resistant package.

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

9 C. Labels shall include:

10 (1) total tetrahydrocannabinol concentration
11 for the package;

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

14 (3) identification of the licensee or
15 licensees that produced or manufactured the cannabis item, the
16 date on which the cannabis was harvested, the type of cannabis
17 item and the date on which the cannabis item was manufactured
18 and packaged;

19 (4) a list of pharmacologically active
20 ingredients;

21 (5) for cannabis products, a list of all
22 ingredients and a disclosure of nutritional information for the
23 product or cannabis extract, disclosed in the same manner
24 required under federal law for nutritional labeling for food
25 for human consumption;

.214675.3

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

3 (7) a warning of possible adverse effects of
4 consumption and the New Mexico poison and drug information
5 center phone number.

6 SECTION 16. [NEW MATERIAL] CANNABIS PRODUCTS--DEPARTMENT
7 OF ENVIRONMENT.--

8 A. Cannabis products shall:

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

12 (2) be produced and sold or consigned to the
13 commission with a standardized dosage of cannabinoids not to
14 exceed ten milligrams tetrahydrocannabinol per serving;

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

18 (4) contain a uniform disbursement of
19 cannabinoids throughout the product;

20 (5) be manufactured and sold or consigned to
21 the commission under health and sanitation standards
22 established by the commission, with the assistance of the
23 department of environment, for the preparation, storage,
24 handling and sale of food products; and

25 (6) be sold or consigned to the commission

.214675.3

1 with sufficient information to enable the informed consumption
 2 of the product, including information on the potential effects
 3 of the product and directions on how to consume the cannabis
 4 product.

5 B. Cannabis or cannabis extracts included in a
 6 cannabis product that is manufactured in compliance with
 7 applicable law are not considered to be an adulterant under
 8 state law.

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

11 A. The commission, with the assistance of the
 12 department of environment, shall promulgate rules to govern the
 13 licensing of a cannabis manufacturer and a cannabis testing
 14 laboratory. The commission shall issue licenses as follows:

15 (1) "cannabis manufacturing level 1" for a
 16 site that manufactures cannabis extracts using nonvolatile
 17 solvents or no solvents;

18 (2) "cannabis manufacturing level 2" for a
 19 site that manufactures cannabis extracts using volatile
 20 solvents; and

21 (3) "cannabis testing laboratory" for a
 22 licensee that tests cannabis products. An owner or person with
 23 an ownership interest in a laboratory license shall not own or
 24 have ownership interest in a non-laboratory facility licensed
 25 pursuant to the Cannabis Regulation Act.

.214675.3

1 B. Except as otherwise provided by law, a cannabis
2 product shall not be sold by a licensee unless a representative
3 sample of the cannabis product has been tested by a cannabis
4 testing laboratory to determine:

5 (1) whether the chemical profile of the sample
6 conforms to the labeled content of compounds, including:

- 7 (a) tetrahydrocannabinol;
- 8 (b) tetrahydrocannabinolic acid;
- 9 (c) cannabidiol;
- 10 (d) cannabidiolic acid;
- 11 (e) terpenes;
- 12 (f) cannabigerol; and
- 13 (g) cannabinol; and

14 (2) that the presence of the following
15 contaminants does not exceed harmful levels:

16 (a) residual solvents or chemicals,
17 including explosive gases such as butane, propane and hydrogen,
18 and poisons, toxins or carcinogens such as methanol, methylene
19 chloride, acetone, benzene, toluene and trichloroethylene;

20 (b) foreign material, including hair,
21 insects or other similar adulterants; and

22 (c) microbiological impurity, including
23 total aerobic microbial count; total yeast mold count;
24 pseudomonas aeruginosa; aspergillus species; staphylococcus
25 aureus; aflatoxin B1, B2, G1 or G2; or ochratoxin A.

.214675.3

1 C. Residual levels of volatile organic compounds
2 shall not exceed harmful levels.

3 D. The testing required by this section shall be
4 performed in a manner consistent with general requirements for
5 the competence of testing and calibration activities, including
6 sampling, using standard methods to ensure conformity,
7 competence and impartiality to test cannabis products.

8 E. Any pre-sale inspection, testing transfer or
9 transportation of cannabis products pursuant to this section
10 shall conform to a chain of custody protocol and any other
11 requirements imposed by the commission in accordance with the
12 Cannabis Regulation Act.

13 SECTION 18. [NEW MATERIAL] TESTING CANNABIS PRODUCTS--
14 DEPARTMENT OF ENVIRONMENT.--

15 A. A cannabis testing laboratory's testing of
16 cannabis products shall comply with the requirements set forth
17 in applicable law and rules.

18 B. The commission shall develop rules and
19 procedures to:

20 (1) ensure that testing of cannabis products
21 occurs prior to distribution to cannabis retailers or cannabis
22 microbusinesses;

23 (2) specify how often licensees shall test
24 cannabis products;

25 (3) specify which entities bear the cost of

.214675.3

1 testing cannabis and medical cannabis; and

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

8 C. Not later than January 1, 2020, the department
9 of environment shall identify and designate to the commission
10 acceptable and accredited standards, where necessary to be used
11 by laboratories.

12 SECTION 19. [NEW MATERIAL] ADVERTISING AND MARKETING
13 RESTRICTIONS.--

14 A. The commission shall promulgate rules that
15 explicitly:

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

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

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

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

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

.214675.3

1 (e) within three hundred feet of a
2 school, church or daycare center;

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

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

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

9 (2) require:

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

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

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

22 SECTION 20. [NEW MATERIAL] CONTRACTS.--A contract related
23 to operation of a license is enforceable, and a contract
24 entered into by a licensee or a licensee representative for
25 conduct allowed pursuant to a license or entered into by a

.214675.3

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

6 SECTION 21. [NEW MATERIAL] PROVISION OF PROFESSIONAL
7 SERVICES.--An accountant, insurance agent, real estate agent,
8 security guard or other person engaged in a profession subject
9 to state licensure shall not be subject to disciplinary action
10 by a professional association, a state professional board or a
11 state licensing entity because the professional provides
12 professional services or assistance to prospective or licensed
13 cannabis establishments or another person in connection with
14 activity that the professional reasonably believes complies
15 with the Cannabis Regulation Act and rules promulgated pursuant
16 to that act. The provisions of this section shall not apply to
17 an attorney licensed to practice law in this state.

18 SECTION 22. [NEW MATERIAL] PROTECTIONS FOR THE USE OF
19 CANNABIS.--A person or a licensee shall not be subject to
20 arrest, prosecution, penalty, civil liability or disciplinary
21 action by a business or professional licensing entity and shall
22 not be denied any right or privilege solely for conduct allowed
23 pursuant to the Cannabis Regulation Act. Except by court
24 order, state and local law enforcement agencies shall not
25 cooperate with or provide assistance to the United States

.214675.3

1 government, or any federal agency thereof, in enforcing the
2 federal Controlled Substances Act solely for conduct that
3 complies with the Cannabis Regulation Act or the Lynn and Erin
4 Compassionate Use Act. The New Mexico supreme court and any
5 disciplinary or character and fitness committees established by
6 that court are considered business or professional licensing
7 entities for the purposes of this section.

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

10 A. A school shall not refuse to enroll or otherwise
11 penalize a person for conduct allowed pursuant to the Cannabis
12 Regulation Act or the Lynn and Erin Compassionate Use Act,
13 unless failing to do so would cause the school to lose a
14 monetary or licensing-related benefit under federal law or
15 regulation.

16 B. A person may prohibit or restrict any of the
17 actions or conduct otherwise allowed under Section 25 of the
18 Cannabis Regulation Act on that person's privately owned
19 property.

20 C. A person shall not be denied custody of or
21 visitation or parenting time with a child for conduct allowed
22 under Section 25 of the Cannabis Regulation Act or under the
23 Lynn and Erin Compassionate Use Act, unless the court
24 determines that the person's behavior is contrary to the best
25 interests of the child.

.214675.3

1 SECTION 24. ~~[NEW MATERIAL]~~ EMPLOYMENT PROTECTIONS.--

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

6 B. Nothing in this section shall:

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

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

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

22 C. As used in this section, "adverse employment
23 action" means refusing to hire or employ a person; barring or
24 discharging a person from employment; requiring a person to
25 retire from employment; or discriminating against an employee

.214675.3

1 in compensation or in terms, conditions or privileges of
2 employment.

3 D. Every workplace shall post signs warning of the
4 potential impairment effects of cannabis, any discipline or
5 penalty an employee may receive for using cannabis while at
6 work or for coming to work impaired and a statement that
7 possession or use of cannabis is prohibited pursuant to federal
8 law.

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

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

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

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

.214675.3

1 older not more than one ounce of cannabis or eight grams of
2 cannabis extracts;

3 (3) possessing not more than one ounce of
4 cannabis and eight grams of cannabis extracts outside the
5 person's private residence;

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

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

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

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

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

25 SECTION 26. [NEW MATERIAL] LIMITS ON PERSONAL

.214675.3

1 CONSUMPTION--PENALTIES.--

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

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

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

12 D. Whoever is guilty of a second or subsequent
13 violation of Subsection B of this section is guilty of a
14 misdemeanor and shall be sentenced pursuant to the provisions
15 of Section 31-19-1 NMSA 1978.

16 SECTION 27. [NEW MATERIAL] UNLICENSED SALES OF CANNABIS--
17 PENALTIES.--

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

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

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

25 (a) a fine of one hundred dollars

.214675.3

1 (\$100);

2 (b) attendance at a four-hour drug
3 education program;

4 (c) four hours of community service; and

5 (d) restorative justice mediation;

6 (2) for a second violation, be subject to:

7 (a) a fine of two hundred fifty dollars
8 (\$250);

9 (b) attendance at a four-hour drug
10 education program;

11 (c) four hours of community service; and

12 (d) restorative justice mediation; and

13 (3) for a third or subsequent violation, be
14 subject to:

15 (a) a fine of one thousand dollars
16 (\$1,000);

17 (b) attendance at a four-hour drug
18 education program;

19 (c) not less than one hundred hours of
20 community service; and

21 (d) restorative justice mediation.

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

1 D. A person eighteen years of age or older who
2 violates Subsection A of this section and conducts unlicensed
3 cannabis sales is guilty of a fourth degree felony and shall be
4 sentenced pursuant to the provisions of Section 31-18-15 NMSA
5 1978.

6 SECTION 28. [NEW MATERIAL] CANNABIS WITHIN RESTRICTED
7 AREA--PENALTY.--Except as allowed in the Cannabis Regulation
8 Act or the Lynn and Erin Compassionate Use Act, a person shall
9 not possess or intentionally distribute any amount of a
10 cannabis item within three hundred feet of the perimeter of
11 school grounds on which instruction is provided at any level
12 from kindergarten through twelfth grade, a playground, a child
13 care center, a youth center, a public park or a library unless
14 the person is a qualified patient or is in or upon or traveling
15 to or from the grounds of a private residence, as an invitee or
16 resident. A person who violates this section is guilty of a
17 misdemeanor and shall be sentenced pursuant to the provisions
18 of Section 31-19-1 NMSA 1978.

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

22 A. a person eighteen years of age or older and
23 younger than twenty-one years of age shall not possess cannabis
24 items. A person who violates this subsection shall be subject
25 to:

.214675.3

- 1 (1) a fine of seventy-five dollars (\$75.00);
2 (2) attendance at a four-hour drug education
3 program;
4 (3) four hours of community service; and
5 (4) restorative justice mediation;

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

- 9 (1) a fine of fifty dollars (\$50.00);
10 (2) attendance at a four-hour drug education
11 program;
12 (3) four hours of community service; and
13 (4) restorative justice mediation; and

14 C. or as allowed in the Cannabis Regulation Act, a
15 person twenty-one years of age or older shall not possess
16 cannabis containing more than three-tenths percent
17 tetrahydrocannabinol except pursuant to a certificate of
18 purchase issued by a state store or dual-licensed dispensary.
19 A person who violates this subsection, if the amount is:

- 20 (1) one ounce of cannabis or eight grams of
21 cannabis extracts or less, shall be subject to a civil penalty
22 of five hundred dollars (\$500);
23 (2) more than one ounce of cannabis or eight
24 grams of cannabis extracts but not more than one pound of
25 cannabis or one hundred twenty-eight grams of cannabis

1 extracts, is guilty of a petty misdemeanor and shall be
2 sentenced to a fine in an amount not less than one thousand
3 dollars (\$1,000) and not more than five thousand dollars
4 (\$5,000); or

5 (3) more than one pound of cannabis or one
6 hundred twenty-eight grams of cannabis extracts, is guilty of a
7 fourth degree felony and shall be sentenced to twelve months
8 imprisonment and subject to a fine of not less than twenty-five
9 thousand dollars (\$25,000) and not more than seventy-five
10 thousand dollars (\$75,000).

11 SECTION 30. [NEW MATERIAL] UNLICENSED PRODUCTION OF
12 CANNABIS--PENALTIES.--Except as allowed in the Cannabis
13 Regulation Act or the Lynn and Erin Compassionate Use Act:

14 A. a person younger than twenty-one years of age
15 shall not produce cannabis. A person who violates this
16 subsection shall be subject to:

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

18 (2) attendance at a four-hour drug education
19 program or four hours of community service;

20 B. a person eighteen years of age or older and
21 younger than twenty-one years of age shall not produce
22 cannabis. A person who violates this subsection shall be
23 subject to a civil penalty of fifty dollars (\$50.00); and

24 C. a person twenty-one years of age or older shall
25 not possess any cannabis plant. In addition to any criminal

.214675.3

1 penalty, a person who violates this subsection shall be subject
2 to a civil penalty of two hundred fifty dollars (\$250).

3 SECTION 31. [NEW MATERIAL] UNLICENSED MANUFACTURING OF
4 CANNABIS EXTRACTS--PENALTY.--Except as permitted by the Lynn
5 and Erin Compassionate Use Act, it is unlawful for any person
6 to use volatile solvents to manufacture cannabis extracts
7 without a license issued pursuant to the Cannabis Regulation
8 Act or the Lynn and Erin Compassionate Use Act. A person who
9 violates this section shall be subject to a civil penalty of
10 four hundred fifty dollars (\$450).

11 SECTION 32. [NEW MATERIAL] DESTRUCTION OF ARREST AND
12 CONVICTION RECORDS--PROCEDURE--RETROACTIVE.--

13 A. Records held by a court, an agency of the state
14 or a local jurisdiction that relate to a person's arrest or
15 conviction for possession of one ounce or less of cannabis in
16 violation of Section 30-31-23 NMSA 1978 shall not be kept
17 beyond two years from the date of the person's conviction or
18 from the date of the person's arrest if there was no
19 conviction. If the person was a juvenile at the time of the
20 arrest or conviction, the records shall be retained until the
21 offender is eighteen years of age and shall then be destroyed.
22 The records shall also be removed from any statewide criminal
23 databases.

24 B. If a person whose records would be subject to
25 destruction pursuant to Subsection A of this section is

.214675.3

1 incarcerated for an offense listed in that subsection at the
2 time the person's records would be destroyed, the two-year
3 record retention period shall begin upon the person's release
4 from incarceration.

5 C. Records held by a court, an agency of the state
6 or a local jurisdiction that relate to a person's arrest for
7 trafficking cannabis in violation of Section 30-31-20 NMSA
8 1978, distribution of cannabis, possession with intent to
9 distribute cannabis in violation of Section 30-31-22 NMSA 1978
10 or possession of more than one ounce of cannabis in violation
11 of Section 30-31-23 NMSA 1978 shall not be kept beyond two
12 years from the date of the person's arrest if there was no
13 conviction. If the person was a juvenile at the time of the
14 arrest, the records shall be retained until the offender is
15 eighteen years of age and shall then be destroyed. The records
16 shall also be removed from any statewide criminal databases.

17 D. For the purpose of this section, "records"
18 includes records of arrests resulting in a criminal proceeding
19 and records relating to other offenses charged in the
20 accusatory pleading, whether the defendant was acquitted,
21 convicted or the charges were dismissed.

22 SECTION 33. [NEW MATERIAL] RECALL OR DISMISSAL OF
23 SENTENCES--INCARCERATED PERSONS.--

24 A. Within thirty days following the effective date
25 of the Cannabis Regulation Act, a corrections facility, a

.214675.3

1 county jail or a juvenile corrections facility in which a
2 person is currently incarcerated for possession of one ounce or
3 less of marijuana in violation of Section 30-31-23 NMSA 1978 or
4 possession of drug paraphernalia, or that would have resulted
5 in a lesser offense if that act had been in effect at the time
6 of the offense, shall notify the court that the convicted
7 person's case should be reopened to consider possible recall or
8 dismissal of the person's sentence.

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

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

17 D. A person who is resentenced pursuant to this
18 section shall not be sentenced to a term longer than the
19 person's original sentence and shall not have any charges
20 reinstated that were originally dismissed pursuant to a
21 negotiated plea agreement.

22 E. A person who has completed the person's sentence
23 for a conviction, whether by trial or negotiated plea, who
24 would not have been guilty of an offense or who would have been
25 guilty of a lesser offense if the Cannabis Regulation Act had

1 been in effect at the time of the offense may notify the court
2 in writing to have the conviction dismissed and sealed because
3 the prior conviction is now legally invalid or redesignated as
4 an infraction. The court shall redesignate the conviction as
5 an infraction or dismiss and seal the conviction as legally
6 invalid because of the enactment of the Cannabis Regulation Act
7 unless the court makes a finding that the conviction is not
8 legally invalid or was not redesignated as an infraction
9 pursuant to that act.

10 F. The court clerk shall notify the department of
11 public safety that a case has been dismissed. Upon notice, the
12 department of public safety shall erase the arrest record
13 pertaining to the offense; provided that, if the arrest
14 included multiple charges, only the related charge shall be
15 erased.

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

19 H. The provisions of this section shall apply
20 equally to juvenile delinquency adjudications and convictions
21 of a juvenile person if the juvenile would not have been guilty
22 of an offense or would have been guilty of a lesser offense as
23 provided in the Cannabis Regulation Act.

24 I. No fee or cost of any kind shall be imposed
25 against a person whose sentence is reviewed pursuant to this

.214675.3

1 section.

2 SECTION 34. [NEW MATERIAL] WRIT OF MANDAMUS.--Any person
3 may commence a legal action for a writ of mandamus to compel
4 the commission to perform its duties pursuant to the Cannabis
5 Regulation Act.

6 SECTION 35. [NEW MATERIAL] CANNABIS REGULATION FUND.--

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

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

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

22 SECTION 36. [NEW MATERIAL] COMMUNITY GRANTS REINVESTMENT
23 FUND--COMMUNITY GRANTS REINVESTMENT PROGRAM.--

24 A. The "community grants reinvestment fund" is
25 created in the state treasury. The fund consists of

.214675.3

1 appropriations, other money deposited in the fund and money
2 otherwise accruing to the fund. The department of health shall
3 administer the fund, and money in the fund is subject to
4 appropriation to the department of health for the community
5 grants reinvestment program as described in this section. Any
6 unexpended or unencumbered balance remaining at the end of any
7 fiscal year shall not revert to the general fund. Money in the
8 fund shall be disbursed on warrants signed by the secretary of
9 finance and administration pursuant to vouchers signed by the
10 secretary of health or the secretary's authorized
11 representative.

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

24 (1) prevention, early intervention and
25 outreach services; risk surveys; and education for youth,

.214675.3

underscoring material = new
[bracketed material] = delete

1 families, caregivers, schools, primary care health providers,
2 behavioral health and substance use disorder service providers,
3 community and faith-based organizations, foster care providers,
4 juvenile and family courts and others working to recognize and
5 reduce risks related to substance use and the early signs of
6 problematic use and of substance use disorders;

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

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

19 (4) access and linkage to care provided by
20 county behavioral health programs for youth and their families
21 and caregivers who have a substance use disorder or who are at
22 risk for developing a substance use disorder;

23 (5) youth-focused substance use disorder
24 treatment programs that are culturally and gender competent,
25 trauma-informed, based on principles of harm reduction and

.214675.3

1 evidence-based and that provide a continuum of care that
2 includes screening and assessment for substance use disorder as
3 well as mental health care, early intervention, active
4 treatment, family involvement, case management, overdose
5 prevention, prevention of communicable diseases related to
6 substance use, relapse management for substance use and other
7 co-occurring behavioral health disorders, vocational services,
8 literacy services, parenting classes, family therapy and
9 counseling services, medication-assisted treatments,
10 psychiatric medication, psychotherapy and other related
11 services;

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

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

.214675.3

1 (8) workforce training and wage structures
2 that increase the hiring pool of behavioral health staff with
3 substance use disorder prevention and treatment expertise,
4 provide ongoing education and coaching that increase substance
5 use treatment providers' core competencies and train providers
6 on promising and evidenced-based practices;

7 (9) construction of community-based youth
8 treatment facilities;

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

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

16 C. A qualified community-based nonprofit
17 organization or governmental entity may apply for a grant from
18 the community grants reinvestment fund. Applications shall be
19 reviewed by the department of health.

20 SECTION 37. [NEW MATERIAL] CANNABIS HEALTH AND SAFETY
21 FUND.--

22 A. The "cannabis health and safety fund" is created
23 in the state treasury. The fund consists of appropriations,
24 other money deposited in the fund and money otherwise accruing
25 to the fund. The department of health shall administer the

1 fund, and money in the fund is subject to appropriation to the
 2 department of health for the community grants reinvestment
 3 program as provided in Subsection B of Section 36 of the
 4 Cannabis Regulation Act. Any unexpended or unencumbered
 5 balance remaining at the end of any fiscal year shall not
 6 revert to the general fund. Money in the fund shall be
 7 disbursed on warrants signed by the secretary of finance and
 8 administration pursuant to vouchers signed by the secretary of
 9 health or the secretary's authorized representative.

10 B. The cannabis health and safety fund is created
 11 for the purpose of:

12 (1) supporting qualified patients
 13 participating in the medical cannabis program in accordance
 14 with the Lynn and Erin Compassionate Use Act who also
 15 participate in the medical cannabis subsidy program; and

16 (2) developing and executing a comprehensive
 17 and sustained public education campaign, based on principles of
 18 harm reduction, that:

19 (a) promotes road safety and discourages
 20 driving while impaired;

21 (b) promotes abstinence for persons
 22 under twenty-one years of age; and

23 (c) encourages responsible use by
 24 adults.

25 SECTION 38. [NEW MATERIAL] CANNABIS RESEARCH FUND.--

.214675.3

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

14 B. The chancellor shall:

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

.214675.3

1 rates, maladaptive use rates for adults and youth and diagnosis
2 rates of cannabis-related substance use disorders;
3 environmental issues related to cannabis production and the
4 criminal prohibition of cannabis production; and supervised
5 injectable opioid treatment by medical practitioners under
6 strict controls in a clinical setting to select heroin-
7 dependent persons;

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

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

18 (4) prepare and submit:

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

25 (b) by November 1, 2020, and every three

.214675.3

1 years thereafter, a report to the legislative health and human
2 services committee that describes the research conducted and
3 any findings, reports or publications that resulted from the
4 research.

5 SECTION 39. [NEW MATERIAL] EXEMPTION FROM CRIMINAL AND
6 CIVIL PENALTIES--RESEARCHERS.--A person shall not be subject to
7 arrest or prosecution, penalized in any manner or denied any
8 right or privilege solely because the person produced,
9 possessed, distributed, dispensed or purchased cannabis from a
10 person licensed pursuant to the Lynn and Erin Compassionate Use
11 Act or the Cannabis Regulation Act if the person produced,
12 possessed, distributed, dispensed or purchased the cannabis
13 solely for the purpose of research conducted pursuant to the
14 Lynn and Erin Compassionate Use Act or the Cannabis Regulation
15 Act.

16 SECTION 40. [NEW MATERIAL] ROAD SAFETY FUND.--

17 A. The "road safety fund" is created in the state
18 treasury. The fund consists of money transferred from the
19 cannabis excise tax, appropriations, other money deposited in
20 the fund and money otherwise accruing to the fund. The
21 department of public safety shall administer the fund, and
22 money in the fund is subject to appropriation to the department
23 of public safety for the purposes described in this section.
24 Any unexpended or unencumbered balance remaining at the end of
25 a fiscal year shall not revert to the general fund. Money in

.214675.3

1 the fund shall be disbursed on warrants signed by the secretary
2 of finance and administration pursuant to vouchers signed by
3 the secretary of public safety or the secretary's authorized
4 representative.

5 B. Money in the fund is appropriated to the
6 department of public safety for:

7 (1) research to determine whether a driver is
8 operating a vehicle while impaired, including impairment by the
9 use of cannabis items;

10 (2) implementing best practices in law
11 enforcement agencies regarding impairment by the use of
12 cannabis items; and

13 (3) drug recognition expert field
14 certification training for law enforcement officers and for
15 purchasing roadside impairment tests that are validated for
16 testing cannabis impairment.

17 SECTION 41. [NEW MATERIAL] SHORT TITLE.--Sections 41
18 through 47 of this act may be cited as the "Cannabis Tax Act".

19 SECTION 42. [NEW MATERIAL] DEFINITIONS.--As used in the
20 Cannabis Tax Act:

21 A. "cannabis":

22 (1) means all parts of the plant Cannabis
23 sativa Linnaeus, whether growing or not; the seeds of the
24 plant; the resin extracted from any part of the plant; and
25 every compound, manufacture, salt, derivative, mixture or

.214675.3

1 preparation of the plant, its seeds or its resin; and

2 (2) does not include:

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

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

12 B. "cannabis extract":

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

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

20 C. "cannabis items" means cannabis, cannabis
21 products and cannabis extracts;

22 D. "cannabis product":

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

.214675.3

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

5 E. "department" means the taxation and revenue
 6 department.

7 SECTION 43. [NEW MATERIAL] CANNABIS EXCISE TAX.--

8 A. An excise tax is imposed on the sale of cannabis
 9 items in this state on which the tax imposed by this section
 10 has not been paid. The tax imposed by this section may be
 11 referred to as the "cannabis excise tax". If the price paid
 12 does not represent the value of the cannabis item, the tax rate
 13 shall be applied to the reasonable value of the cannabis item
 14 at the time the item was purchased.

15 B. The rate of the cannabis excise tax is four
 16 percent and is applied to the price paid for the cannabis item.

17 SECTION 44. [NEW MATERIAL] MUNICIPAL CANNABIS TAX.--

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

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

25 SECTION 45. [NEW MATERIAL] COUNTY CANNABIS TAX.--

.214675.3

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

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

9 **SECTION 46. [NEW MATERIAL] DATE PAYMENT DUE.--**The taxes
10 imposed pursuant to the Cannabis Tax Act are to be paid on or
11 before the twenty-fifth day of the month following the month in
12 which the taxable event occurs.

13 **SECTION 47. [NEW MATERIAL] INTERPRETATION OF ACT--**
14 **ADMINISTRATION AND ENFORCEMENT OF TAX.--**The department shall
15 administer and enforce the collection of the cannabis excise
16 tax, municipal cannabis tax and county cannabis tax pursuant to
17 the Tax Administration Act.

18 **SECTION 48.** A new section of the Tax Administration Act
19 is enacted to read:

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

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

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

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

4 C. A distribution pursuant to Section 7-1-6.1 NMSA
 5 1978 shall be made to the local DWI grant fund in an amount
 6 equal to six percent of the net receipts attributable to the
 7 cannabis excise tax; provided that the revenue is used for the
 8 purposes described in Paragraphs (3) through (5) of Subsection
 9 A of Section 11-6A-3 NMSA 1978.

10 D. A distribution pursuant to Section 7-1-6.1 NMSA
 11 1978 shall be made to the community grants reinvestment fund in
 12 an amount equal to twenty percent of the net receipts
 13 attributable to the cannabis excise tax.

14 E. A distribution pursuant to Section 7-1-6.1 NMSA
 15 1978 shall be made to the road safety fund in an amount equal
 16 to two percent of the net receipts attributable to the cannabis
 17 excise tax."

18 SECTION 49. A new section of the Tax Administration Act
 19 is enacted to read:

20 "[NEW MATERIAL] TRANSFER--REVENUES FROM MUNICIPAL CANNABIS
 21 TAX AND COUNTY CANNABIS TAX.--

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

.214675.3

1 made pursuant to Section 7-1-6.15 NMSA 1978, equal to the net
2 receipts attributable to the municipal cannabis tax.

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

9 SECTION 50. Section 7-1-2 NMSA 1978 (being Laws 1965,
10 Chapter 248, Section 2, as amended) is amended to read:

11 "7-1-2. APPLICABILITY.--The Tax Administration Act
12 applies to and governs:

13 A. the administration and enforcement of the
14 following taxes or tax acts as they now exist or may hereafter
15 be amended:

- 16 (1) Income Tax Act;
17 (2) Withholding Tax Act;
18 (3) Venture Capital Investment Act;
19 (4) Gross Receipts and Compensating Tax Act
20 and any state gross receipts tax;
21 (5) Liquor Excise Tax Act;
22 (6) Local Liquor Excise Tax Act;
23 (7) any municipal local option gross receipts
24 tax;
25 (8) any county local option gross receipts

.214675.3

1 tax;

2 (9) Special Fuels Supplier Tax Act;

3 (10) Gasoline Tax Act;

4 (11) petroleum products loading fee, which fee
5 shall be considered a tax for the purpose of the Tax

6 Administration Act;

7 (12) Alternative Fuel Tax Act;

8 (13) Cigarette Tax Act;

9 (14) Estate Tax Act;

10 (15) Railroad Car Company Tax Act;

11 (16) Investment Credit Act, rural job tax
12 credit, Laboratory Partnership with Small Business Tax Credit
13 Act, Technology Jobs and Research and Development Tax Credit
14 Act, Film Production Tax Credit Act, Affordable Housing Tax
15 Credit Act and high-wage jobs tax credit;

16 (17) Corporate Income and Franchise Tax Act;

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

19 (19) Multistate Tax Compact;

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

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

25 (22) the Cannabis Tax Act;

.214675.3

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

- 4 (1) Resources Excise Tax Act;
- 5 (2) Severance Tax Act;
- 6 (3) any severance surtax;
- 7 (4) Oil and Gas Severance Tax Act;
- 8 (5) Oil and Gas Conservation Tax Act;
- 9 (6) Oil and Gas Emergency School Tax Act;
- 10 (7) Oil and Gas Ad Valorem Production Tax Act;
- 11 (8) Natural Gas Processors Tax Act;
- 12 (9) Oil and Gas Production Equipment Ad
13 Valorem Tax Act;
- 14 (10) Copper Production Ad Valorem Tax Act;
- 15 (11) any advance payment required to be made
16 by any act specified in this subsection, which advance payment
17 shall be considered a tax for the purposes of the Tax
18 Administration Act;
- 19 (12) Enhanced Oil Recovery Act;
- 20 (13) Natural Gas and Crude Oil Production
21 Incentive Act; and
- 22 (14) intergovernmental production tax credit
23 and intergovernmental production equipment tax credit;

24 C. the administration and enforcement of the
25 following taxes, surcharges, fees or acts as they now exist or

1 may hereafter be amended:

2 (1) Weight Distance Tax Act;

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

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

7 (4) 911 emergency surcharge and the network
8 and database surcharge, which surcharges shall be considered
9 taxes for purposes of the Tax Administration Act;

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

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

16 (7) the gaming tax imposed pursuant to the
17 Gaming Control Act; and

18 D. the administration and enforcement of all other
19 laws, with respect to which the department is charged with
20 responsibilities pursuant to the Tax Administration Act, but
21 only to the extent that the other laws do not conflict with the
22 Tax Administration Act."

23 **SECTION 51.** Section 7-1-6.15 NMSA 1978 (being Laws 1983,
24 Chapter 211, Section 20, as amended by Laws 2015, Chapter 89,
25 Section 1 and by Laws 2015, Chapter 100, Section 1) is amended

.214675.3

1 to read:

2 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO
3 MUNICIPALITIES OR COUNTIES.--

4 A. The provisions of this section apply to:

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

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

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

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

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

17 (6) any transfer to a county with respect to
18 any tax imposed in accordance with the Local Liquor Excise Tax
19 Act;

20 (7) any distribution to a county from the
21 county government road fund pursuant to Section 7-1-6.26 NMSA
22 1978;

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

25 (9) any distribution to a municipality of

.214675.3

1 compensating taxes pursuant to Section 7-1-6.55 NMSA 1978.

2 B. Before making a distribution or transfer
3 specified in Subsection A of this section to a municipality or
4 county for the month, amounts comprising the net receipts shall
5 be segregated into two mutually exclusive categories. One
6 category shall be for amounts relating to the current month,
7 and the other category shall be for amounts relating to prior
8 periods. The total of each category for a municipality or
9 county shall be reported each month to that municipality or
10 county. If the total of the amounts relating to prior periods
11 is less than zero and its absolute value exceeds the greater of
12 one hundred dollars (\$100) or an amount equal to twenty percent
13 of the average distribution or transfer amount for that
14 municipality or county, then the following procedures shall be
15 carried out:

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

.214675.3

1 (2) if the revised total for prior periods
2 determined pursuant to Paragraph (1) of this subsection is
3 negative and its absolute value exceeds the greater of one
4 hundred dollars (\$100) or an amount equal to twenty percent of
5 the average distribution or transfer amount for that
6 municipality or county, the revised total for prior periods
7 shall be excluded from the distribution or transfers and the
8 net receipts to be distributed or transferred to the
9 municipality or county shall be equal to the amount for the
10 current month.

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

15 D. Prior to or concurrently with the distribution
16 or transfer to the municipality or county of the adjusted net
17 receipts, the department shall notify the municipality or
18 county whose distribution or transfer has been adjusted
19 pursuant to Paragraph (2) of Subsection B of this section:

20 (1) that the department has made such an
21 adjustment, that the department has determined that a specified
22 amount is recoverable from the municipality or county and that
23 the department intends to recover that amount from future
24 distributions or transfers to the municipality or county;

25 (2) that the municipality or county has ninety

1 days from the date notice is made to enter into a mutually
2 agreeable repayment agreement with the department;

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

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

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

16 (1) the department may collect the recoverable
17 amount by:

18 (a) decreasing distributions or
19 transfers to the municipality or county in accordance with a
20 repayment agreement entered into with the municipality or
21 county; or

22 (b) except as provided in Paragraphs (2)
23 and (3) of this subsection, if the municipality or county fails
24 to act within the ninety days, decreasing the amount of the
25 next six distributions or transfers to the municipality or

.214675.3

1 county following expiration of the ninety-day period in
2 increments as nearly equal as practicable and sufficient to
3 recover the amount;

4 (2) if, pursuant to Subsection B of this
5 section, the secretary determines that the recoverable amount
6 is more than fifty percent of the average distribution or
7 transfer of net receipts for that municipality or county, the
8 secretary:

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

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

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

25 F. No later than ninety days from the date notice

1 pursuant to Subsection D of this section is given, the
2 department shall provide the municipality or county adequate
3 opportunity to review an application for a claim for refund
4 that gave rise to the recoverable amount, exclusive of any
5 amended returns that may be attached to the application,
6 pursuant to Section 7-1-8.9 NMSA 1978.

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

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

.214675.3

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

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

23 (2) after an adjustment of a distribution or
24 transfer of net receipts creating a recoverable amount owed to
25 the department shall be subordinate to any collection of any

.214675.3

1 recoverable amount pursuant to Paragraph (2) of Subsection B of
2 this section.

3 I. Upon the direction of the secretary of finance
4 and administration pursuant to Section 9-6-5.2 NMSA 1978, the
5 secretary shall temporarily withhold the balance of a
6 distribution to a municipality or county, net of any decrease
7 or redirected amount pursuant to Subsection H of this section
8 and any recoverable amount pursuant to Paragraph (2) of
9 Subsection B of this section, that has failed to submit an
10 audit report required by the Audit Act or a financial report
11 required by Subsection F of Section 6-6-2 NMSA 1978. The
12 amount to be withheld, the source of the withheld distribution
13 and the number of months that the distribution is to be
14 withheld shall be as directed by the secretary of finance and
15 administration. A distribution withheld pursuant to this
16 subsection shall remain in the tax administration suspense fund
17 until distributed to the municipality or county and shall not
18 be distributed to the general fund. An amount withheld
19 pursuant to this subsection shall be distributed to the
20 municipality or county upon direction of the secretary of
21 finance and administration.

22 J. As used in this section:

23 (1) "amounts relating to the current month"
24 means any amounts included in the net receipts of the current
25 month that represent payment of tax due for the current month,

.214675.3

1 correction of amounts processed in the current month that
2 relate to the current month or that otherwise relate to
3 obligations due for the current month;

4 (2) "amounts relating to prior periods" means
5 any amounts processed during the current month that adjust
6 amounts processed in a period or periods prior to the current
7 month regardless of whether the adjustment is a correction of a
8 department error or due to the filing of amended returns,
9 payment of department-issued assessments, filing or approval of
10 claims for refund, audit adjustments or other cause;

11 (3) "average distribution or transfer amount"
12 means the following amounts; provided that a distribution or
13 transfer that is negative shall not be used in calculating the
14 amounts:

15 (a) the annual average of the total
16 amount distributed or transferred to a municipality or county
17 in each of the three twelve-month periods preceding the current
18 month;

19 (b) if a distribution or transfer to a
20 municipality or county has been made for less than three years,
21 the total amount distributed or transferred in the year
22 preceding the current month; or

23 (c) if a municipality or county has not
24 received distributions or transfers of net receipts for twelve
25 or more months, the monthly average of net receipts distributed

.214675.3

1 or transferred to the municipality or county preceding the
2 current month multiplied by twelve;

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

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

13 SECTION 52. Section 7-9-73.2 NMSA 1978 (being Laws 1998,
14 Chapter 95, Section 2 and Laws 1998, Chapter 99, Section 4, as
15 amended) is amended to read:

16 "7-9-73.2. DEDUCTION--GROSS RECEIPTS TAX AND GOVERNMENTAL
17 GROSS RECEIPTS TAX--PRESCRIPTION DRUGS--OXYGEN--MEDICAL
18 CANNABIS.--

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

25 B. For the purposes of this section, "prescription

.214675.3

1 drugs" means insulin and substances that are:

2 (1) dispensed by or under the supervision of a
3 licensed pharmacist or by a physician or other person
4 authorized under state law to do so;

5 (2) prescribed for a specified person by a
6 person authorized under state law to prescribe the substance;
7 and

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

10 SECTION 53. Section 11-6A-3 NMSA 1978 (being Laws 1993,
11 Chapter 65, Section 3, as amended) is amended to read:

12 "11-6A-3. LOCAL DWI GRANT PROGRAM--FUND.--

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

15 (1) new, innovative or model programs,
16 services or activities to prevent or reduce the incidence of
17 DWI, alcoholism, alcohol abuse, drug addiction or drug abuse;
18 [~~and~~]

19 (2) programs, services or activities to
20 prevent or reduce the incidence of domestic abuse related to
21 DWI, alcoholism, alcohol abuse, drug addiction or drug abuse;

22 (3) research to determine whether a driver is
23 operating a vehicle while impaired, including impairment by the
24 use of cannabis products;

25 (4) implementing best practices in law

1 enforcement agencies regarding impairment by the use of
2 cannabis products; and

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

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

9 C. The "local DWI grant fund" is created in the
10 state treasury and shall be administered by the division. Two
11 million five hundred thousand dollars (\$2,500,000) of liquor
12 excise tax revenues distributed to the fund and all other money
13 in the fund, other than money appropriated for distribution
14 pursuant to Subsections D and E of this section and money
15 appropriated for DWI program distributions, are appropriated to
16 the division to make grants to municipalities and counties upon
17 council approval in accordance with the program established
18 under the Local DWI Grant Program Act and to evaluate DWI
19 grantees and the local DWI grant program. Money in the fund
20 may be used for drug courts. An amount equal to the liquor
21 excise tax revenues distributed annually to the fund, less five
22 million six hundred thousand dollars (\$5,600,000), is
23 appropriated to the division to make DWI program distributions
24 to counties upon council approval of programs in accordance
25 with the provisions of the Local DWI Grant Program Act. No

.214675.3

1 more than six hundred thousand dollars (\$600,000) of liquor
2 excise tax revenues distributed to the fund in any fiscal year
3 shall be expended for administration of the grant program.
4 Balances in the fund at the end of any fiscal year shall not
5 revert to the general fund.

6 D. Two million eight hundred thousand dollars
7 (\$2,800,000) of the liquor excise tax revenues distributed to
8 the local DWI grant fund is appropriated to the division for
9 distribution to the following counties in the following amounts
10 for funding of alcohol detoxification and treatment facilities:

11 (1) one million seven hundred thousand dollars
12 (\$1,700,000) to class A counties with a population of over
13 three hundred thousand persons according to the 1990 federal
14 decennial census;

15 (2) three hundred thousand dollars (\$300,000)
16 each to counties reclassified in 2002 as class A counties with
17 a population of more than ninety thousand but less than one
18 hundred thousand persons according to the 1990 federal
19 decennial census;

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

24 (4) one hundred fifty thousand dollars
25 (\$150,000) to class B counties with a population of more than

.214675.3

1 sixty-two thousand but less than sixty-five thousand persons
2 according to the 1990 federal decennial census; and

3 (5) one hundred fifty thousand dollars
4 (\$150,000) to class B counties with a population of more than
5 thirteen thousand but less than fifteen thousand persons
6 according to the 1990 federal decennial census.

7 E. Three hundred thousand dollars (\$300,000) of the
8 liquor excise tax revenues distributed to the local DWI grant
9 fund is appropriated to the division for the interlock device
10 fund.

11 F. In awarding DWI grants to local communities, the
12 council:

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

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

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

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

.214675.3

1 (5) shall give consideration to a broad range
2 of approaches to prevention, education, screening, treatment or
3 alternative sentencing, including programs that combine
4 incarceration, treatment and aftercare, to address the problem
5 of DWI, alcoholism or alcohol abuse; and

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

14 G. The council shall use the criteria in Subsection
15 F of this section to approve DWI programs, services or
16 activities for funding through the county DWI program
17 distribution. Sixty-five percent of the DWI grants awarded to
18 local communities shall be used for alcohol-related treatment
19 and detoxification programs."

20 SECTION 54. Section 26-2B-3 NMSA 1978 (being Laws 2007,
21 Chapter 210, Section 3) is amended to read:

22 "26-2B-3. DEFINITIONS.--As used in the Lynn and Erin
23 Compassionate Use Act:

24 A. "adequate supply" means an amount of cannabis,
25 in any form approved by the department, possessed by a

1 qualified patient or collectively possessed by a qualified
2 patient and the qualified patient's primary caregiver that is
3 determined by rule of the department to be no more than
4 reasonably necessary to ensure the uninterrupted availability
5 of cannabis for a period of three months and that is derived
6 solely from an intrastate source;

7 B. "debilitating medical condition" means:

- 8 (1) cancer;
- 9 (2) glaucoma;
- 10 (3) multiple sclerosis;
- 11 (4) damage to the nervous tissue of the spinal
12 cord, with objective neurological indication of intractable
13 spasticity;
- 14 (5) epilepsy;
- 15 (6) positive status for human immunodeficiency
16 virus or acquired immune deficiency syndrome;
- 17 (7) admitted into hospice care in accordance
18 with rules promulgated by the department; or
- 19 (8) any other medical condition, medical
20 treatment or disease as approved by the department;

21 C. "department" means the department of health;

22 D. "licensed [~~producer~~] dispenser" means any person
23 or association of persons within New Mexico that the department
24 determines to be qualified to [~~produce~~] possess, distribute and
25 dispense cannabis pursuant to the Lynn and Erin Compassionate

.214675.3

1 Use Act and that is licensed by the department;

2 E. "practitioner" means a person licensed in New
3 Mexico to prescribe and administer drugs that are subject to
4 the Controlled Substances Act;

5 F. "primary caregiver" means a resident of New
6 Mexico who is at least eighteen years of age and who has been
7 designated by the patient's practitioner as being necessary to
8 take responsibility for managing the well-being of a qualified
9 patient with respect to the medical use of cannabis pursuant to
10 the provisions of the Lynn and Erin Compassionate Use Act;

11 G. "qualified patient" means a resident of New
12 Mexico who has been diagnosed by a practitioner as having a
13 debilitating medical condition and has received written
14 certification and a registry identification card issued
15 pursuant to the Lynn and Erin Compassionate Use Act; and

16 H. "written certification" means a statement in a
17 patient's medical records or a statement signed by a patient's
18 practitioner that, in the practitioner's professional opinion,
19 the patient has a debilitating medical condition and the
20 practitioner believes that the potential health benefits of the
21 medical use of cannabis would likely outweigh the health risks
22 for the patient. A written certification is not valid for more
23 than one year from the date of issuance."

24 SECTION 55. Section 26-2B-4 NMSA 1978 (being Laws 2007,
25 Chapter 210, Section 4) is amended to read:

.214675.3

1 "26-2B-4. EXEMPTION FROM CRIMINAL AND CIVIL PENALTIES FOR
2 THE MEDICAL USE OF CANNABIS.--

3 A. A qualified patient shall not be subject to
4 arrest, prosecution or penalty in any manner for the possession
5 of or the medical use of cannabis if the quantity of cannabis
6 does not exceed an adequate supply or the qualified patient is
7 authorized to possess the cannabis pursuant to the Cannabis
8 Regulation Act.

9 B. A qualified patient's primary caregiver shall
10 not be subject to arrest, prosecution or penalty in any manner
11 for the possession of cannabis for medical use by the qualified
12 patient if the quantity of cannabis does not exceed an adequate
13 supply.

14 C. Subsection A of this section shall not apply to
15 a qualified patient under the age of eighteen years, unless:

16 (1) the qualified patient's practitioner has
17 explained the potential risks and benefits of the medical use
18 of cannabis to the qualified patient and to a parent, guardian
19 or person having legal custody of the qualified patient; and

20 (2) a parent, guardian or person having legal
21 custody consents in writing to:

22 (a) allow the qualified patient's
23 medical use of cannabis;

24 (b) serve as the qualified patient's
25 primary caregiver; and

.214675.3

1 (c) control the dosage and the frequency
2 of the medical use of cannabis by the qualified patient.

3 D. A qualified patient or a primary caregiver shall
4 be granted the full legal protections provided in this section
5 if the patient or caregiver is in possession of a registry
6 identification card. If the qualified patient or primary
7 caregiver is not in possession of a registry identification
8 card, the patient or caregiver shall be given an opportunity to
9 produce the registry identification card before any arrest or
10 criminal charges or other penalties are initiated.

11 E. A practitioner shall not be subject to arrest or
12 prosecution, penalized in any manner or denied any right or
13 privilege for recommending the medical use of cannabis or
14 providing written certification for the medical use of cannabis
15 pursuant to the Lynn and Erin Compassionate Use Act.

16 F. A licensed [~~producer~~] dispenser shall not be
17 subject to arrest, prosecution or penalty, in any manner, for
18 the [~~production~~] possession, distribution or dispensing of
19 cannabis pursuant to the Lynn and Erin Compassionate Use Act.

20 G. Any property interest that is possessed, owned
21 or used in connection with the medical use of cannabis, or acts
22 incidental to such use, shall not be harmed, neglected, injured
23 or destroyed while in the possession of state or local law
24 enforcement officials. Any such property interest shall not be
25 forfeited under any state or local law providing for the

.214675.3

1 forfeiture of property except as provided in the Forfeiture
2 Act. Cannabis, paraphernalia or other property seized from a
3 qualified patient or primary caregiver in connection with the
4 claimed medical use of cannabis shall be returned immediately
5 upon the determination by a court or prosecutor that the
6 qualified patient or primary caregiver is entitled to the
7 protections of the provisions of the Lynn and Erin
8 Compassionate Use Act, as may be evidenced by a failure to
9 actively investigate the case, a decision not to prosecute, the
10 dismissal of charges or acquittal.

11 H. A person shall not be subject to arrest or
12 prosecution for a cannabis-related offense for simply being in
13 the presence of the medical use of cannabis as permitted under
14 the provisions of the Lynn and Erin Compassionate Use Act."

15 SECTION 56. Section 26-2B-5 NMSA 1978 (being Laws 2007,
16 Chapter 210, Section 5) is amended to read:

17 "26-2B-5. PROHIBITIONS, RESTRICTIONS AND LIMITATIONS ON
18 THE MEDICAL USE OF CANNABIS--CRIMINAL PENALTIES.--

19 A. Participation in a medical use of cannabis
20 program by a qualified patient or primary caregiver does not
21 relieve the qualified patient or primary caregiver from:

22 (1) criminal prosecution or civil penalties
23 for activities not authorized in the Lynn and Erin
24 Compassionate Use Act;

25 (2) liability for damages or criminal

.214675.3

1 prosecution arising out of the operation of a vehicle while
2 under the influence of cannabis; or

3 (3) criminal prosecution or civil penalty for
4 possession or use of cannabis:

5 (a) in a school bus or public vehicle;

6 (b) on school grounds or property;

7 (c) in the workplace of the qualified
8 patient's or primary caregiver's employment; or

9 (d) at a public park, recreation center,
10 youth center or other public place.

11 B. A person who makes a fraudulent representation
12 to a law enforcement officer about the person's participation
13 in a medical use of cannabis program to avoid arrest or
14 prosecution for a cannabis-related offense is guilty of a petty
15 misdemeanor and shall be sentenced in accordance with the
16 provisions of Section 31-19-1 NMSA 1978.

17 C. If a licensed [~~producer~~] dispenser sells,
18 distributes, dispenses or transfers cannabis to a person not
19 approved by the department pursuant to the Lynn and Erin
20 Compassionate Use Act or obtains or transports cannabis outside
21 New Mexico in violation of federal law, the licensed [~~producer~~]
22 dispenser shall be subject to arrest, prosecution and civil or
23 criminal penalties pursuant to state law."

24 SECTION 57. Section 26-2B-7 NMSA 1978 (being Laws 2007,
25 Chapter 210, Section 7) is amended to read:

.214675.3

1 "26-2B-7. REGISTRY IDENTIFICATION CARDS--DEPARTMENT
2 RULES--DUTIES.--

3 A. No later than October 1, 2007, and after
4 consultation with the advisory board, the department shall
5 promulgate rules in accordance with the State Rules Act to
6 implement the purpose of the Lynn and Erin Compassionate Use
7 Act. The rules shall:

8 (1) govern the manner in which the department
9 will consider applications for registry identification cards
10 and for the renewal of identification cards for qualified
11 patients and primary caregivers;

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

15 (3) identify criteria and set forth procedures
16 for including additional medical conditions, medical treatments
17 or diseases to the list of debilitating medical conditions that
18 qualify for the medical use of cannabis. Procedures shall
19 include a petition process and shall allow for public comment
20 and public hearings before the advisory board;

21 (4) set forth additional medical conditions,
22 medical treatments or diseases to the list of debilitating
23 medical conditions that qualify for the medical use of cannabis
24 as recommended by the advisory board;

25 (5) identify requirements for the licensure of

.214675.3

1 ~~[producers and cannabis production facilities]~~ qualified
2 patients to produce medical cannabis for the qualified
3 patient's personal use and set forth procedures to obtain
4 licenses; provided that the department shall not impose a fee
5 for or in connection with a license issued pursuant to this
6 paragraph;

7 (6) develop a distribution system for medical
8 cannabis that provides for

9 ~~[(a) cannabis production facilities~~
10 ~~within New Mexico housed on secured grounds and operated by~~
11 ~~licensed producers; and~~

12 ~~(b)]~~ distribution of medical cannabis to
13 qualified patients or their primary caregivers to take place at
14 locations that are designated by the department and that are
15 not within three hundred feet of any school, church or daycare
16 center;

17 (7) determine additional duties and
18 responsibilities of the advisory board; and

19 (8) be revised and updated as necessary.

20 B. The department shall issue registry
21 identification cards to a patient and to the primary caregiver
22 for that patient, if any, who submit the following, in
23 accordance with the department's rules:

24 (1) a written certification;

25 (2) the name, address and date of birth of the

1 patient;

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

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

6 C. The department shall verify the information
7 contained in an application submitted pursuant to Subsection B
8 of this section and shall approve or deny an application within
9 thirty days of receipt. The department may deny an application
10 only if the applicant did not provide the information required
11 pursuant to Subsection B of this section or if the department
12 determines that the information provided is false. A person
13 whose application has been denied shall not reapply for six
14 months from the date of the denial unless otherwise authorized
15 by the department.

16 D. The department shall issue a registry
17 identification card within five days of approving an
18 application, and a card shall expire one year after the date of
19 issuance. A registry identification card shall contain:

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

22 (2) the date of issuance and expiration date
23 of the registry identification card; and

24 (3) other information that the department may
25 require by rule.

.214675.3

1 E. A person who possesses a registry identification
2 card shall notify the department of any change in the person's
3 name, address, qualified patient's practitioner, qualified
4 patient's primary caregiver or change in status of the
5 qualified patient's debilitating medical condition within ten
6 days of the change.

7 F. Possession of or application for a registry
8 identification card shall not constitute probable cause or give
9 rise to reasonable suspicion for a governmental agency to
10 search the person or property of the person possessing or
11 applying for the card.

12 G. The department shall maintain a confidential
13 file containing the names and addresses of the persons who have
14 either applied for or received a registry identification card.
15 Individual names on the list shall be confidential and not
16 subject to disclosure, except:

17 (1) to authorized employees or agents of the
18 department as necessary to perform the duties of the department
19 pursuant to the provisions of the Lynn and Erin Compassionate
20 Use Act;

21 (2) to authorized employees of state or local
22 law enforcement agencies, but only for the purpose of verifying
23 that a person is lawfully in possession of a registry
24 identification card; or

25 (3) as provided in the federal Health

1 Insurance Portability and Accountability Act of 1996."

2 SECTION 58. Section 30-31-2 NMSA 1978 (being Laws 1972,
3 Chapter 84, Section 2, as amended) is amended to read:

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

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

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

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

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

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

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

.214675.3

1 G. "deliver" means the actual, constructive or
2 attempted transfer from one person to another of a controlled
3 substance or controlled substance analog, whether or not there
4 is an agency relationship;

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

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

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

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

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

1 resins;

2 M.] L. "manufacture" means the production,
3 preparation, compounding, conversion or processing of a
4 controlled substance or controlled substance analog by
5 extraction from substances of natural origin or independently
6 by means of chemical synthesis or by a combination of
7 extraction and chemical synthesis and includes any packaging or
8 repackaging of the substance or labeling or relabeling of its
9 container, except that this term does not include the
10 preparation or compounding of a controlled substance:

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

14 (2) by a practitioner, or by the
15 practitioner's agent under the practitioner's supervision, for
16 the purpose of or as an incident to research, teaching or
17 chemical analysis and not for sale;

18 ~~[N. "marijuana" means all parts of the plant~~
19 ~~cannabis, including any and all varieties, species and~~
20 ~~subspecies of the genus Cannabis, whether growing or not, the~~
21 ~~seeds thereof and every compound, manufacture, salt,~~
22 ~~derivative, mixture or preparation of the plant or its seeds.~~
23 ~~It does not include the mature stalks of the plant, hashish,~~
24 ~~tetrahydrocannabinols extracted or isolated from marijuana,~~
25 ~~fiber produced from the stalks, oil or cake made from the seeds~~

.214675.3

1 ~~of the plant, any other compound, manufacture, salt,~~
2 ~~derivative, mixture or preparation of the mature stalks, fiber,~~
3 ~~oil or cake, or the sterilized seed of the plant that is~~
4 ~~incapable of germination; or the plant Cannabis sativa L. and~~
5 ~~any part of the plant, whether growing or not, containing a~~
6 ~~delta-9-tetrahydrocannabinol concentration of no more than~~
7 ~~three-tenths percent on a dry weight basis;~~

8 ~~Θ.]~~ M. "narcotic drug" means any of the following,
9 whether produced directly or indirectly by extraction from
10 substances of vegetable origin or independently by means of
11 chemical synthesis or by a combination of extraction and
12 chemical synthesis:

13 (1) opium and opiate and any salt, compound,
14 derivative or preparation of opium or opiate;

15 (2) any salt, compound, isomer, derivative or
16 preparation that is a chemical equivalent of any of the
17 substances referred to in Paragraph (1) of this subsection,
18 except the isoquinoline alkaloids of opium;

19 (3) opium poppy and poppy straw, including all
20 parts of the plant of the species Papaver somniferum L. except
21 its seeds; or

22 (4) coca leaves and any salt, compound,
23 derivative or preparation of coca leaves, any salt, compound,
24 isomer, derivative or preparation that is a chemical equivalent
25 of any of these substances except decocainized coca leaves or

1 extractions of coca leaves that do not contain cocaine or
2 ecgonine;

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

11 [Q-] O. "person" means an individual, partnership,
12 corporation, association, institution, political subdivision,
13 government agency or other legal entity;

14 [R-] P. "practitioner" means a physician, certified
15 advanced practice chiropractic physician, doctor of oriental
16 medicine, dentist, physician assistant, certified nurse
17 practitioner, clinical nurse specialist, certified nurse-
18 midwife, prescribing psychologist, veterinarian, euthanasia
19 technician, pharmacist, pharmacist clinician or other person
20 licensed or certified to prescribe and administer drugs that
21 are subject to the Controlled Substances Act;

22 [S-] Q. "prescription" means an order given
23 individually for the person for whom is prescribed a controlled
24 substance, either directly from a licensed practitioner or the
25 practitioner's agent to the pharmacist, including by means of

.214675.3

1 electronic transmission, or indirectly by means of a written
2 order signed by the prescriber, bearing the name and address of
3 the prescriber, the prescriber's license classification, the
4 name and address of the patient, the name and quantity of the
5 drug prescribed, directions for use and the date of issue and
6 in accordance with the Controlled Substances Act or rules
7 adopted thereto;

8 [F.] R. "scientific investigator" means a person
9 registered to conduct research with controlled substances in
10 the course of the person's professional practice or research
11 and includes analytical laboratories;

12 [U.] S. "ultimate user" means a person who lawfully
13 possesses a controlled substance for the person's own use or
14 for the use of a member of the person's household or for
15 administering to an animal under the care, custody and control
16 of the person or by a member of the person's household;

17 ~~[V.] "drug paraphernalia" means all equipment,~~
18 ~~products and materials of any kind that are used, intended for~~
19 ~~use or designed for use in planting, propagating, cultivating,~~
20 ~~growing, harvesting, manufacturing, compounding, converting,~~
21 ~~producing, processing, preparing, testing, analyzing,~~
22 ~~packaging, repackaging, storing, containing, concealing,~~
23 ~~injecting, ingesting, inhaling or otherwise introducing into~~
24 ~~the human body a controlled substance or controlled substance~~
25 ~~analog in violation of the Controlled Substances Act. It~~

.214675.3

1 includes:

2 ~~(1) kits used, intended for use or designed~~
3 ~~for use in planting, propagating, cultivating, growing or~~
4 ~~harvesting any species of plant that is a controlled substance~~
5 ~~or controlled substance analog or from which a controlled~~
6 ~~substance can be derived;~~

7 ~~(2) kits used, intended for use or designed~~
8 ~~for use in manufacturing, compounding, converting, producing,~~
9 ~~processing or preparing controlled substances or controlled~~
10 ~~substance analogs;~~

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

14 ~~(4) testing equipment used, intended for use~~
15 ~~or designed for use in identifying or in analyzing the~~
16 ~~strength, effectiveness or purity of controlled substances or~~
17 ~~controlled substance analogs;~~

18 ~~(5) scales or balances used, intended for use~~
19 ~~or designed for use in weighing or measuring controlled~~
20 ~~substances or controlled substance analogs;~~

21 ~~(6) diluents and adulterants, such as quinine~~
22 ~~hydrochloride, mannitol, mannite dextrose and lactose, used,~~
23 ~~intended for use or designed for use in cutting controlled~~
24 ~~substances or controlled substance analogs;~~

25 ~~(7) separation gins and sifters used, intended~~

.214675.3

1 ~~for use or designed for use in removing twigs and seeds from,~~
2 ~~or in otherwise cleaning and refining, marijuana;~~

3 ~~(8) blenders, bowls, containers, spoons and~~
4 ~~mixing devices used, intended for use or designed for use in~~
5 ~~compounding controlled substances or controlled substance~~
6 ~~analogs;~~

7 ~~(9) capsules, balloons, envelopes and other~~
8 ~~containers used, intended for use or designed for use in~~
9 ~~packaging small quantities of controlled substances or~~
10 ~~controlled substance analogs;~~

11 ~~(10) containers and other objects used,~~
12 ~~intended for use or designed for use in storing or concealing~~
13 ~~controlled substances or controlled substance analogs;~~

14 ~~(11) hypodermic syringes, needles and other~~
15 ~~objects used, intended for use or designed for use in~~
16 ~~parenterally injecting controlled substances or controlled~~
17 ~~substance analogs into the human body;~~

18 ~~(12) objects used, intended for use or~~
19 ~~designed for use in ingesting, inhaling or otherwise~~
20 ~~introducing marijuana, cocaine, hashish or hashish oil into the~~
21 ~~human body, such as:~~

22 ~~(a) metal, wooden, acrylic, glass,~~
23 ~~stone, plastic or ceramic pipes, with or without screens,~~
24 ~~permanent screens, hashish heads or punctured metal bowls;~~

25 ~~(b) water pipes;~~

1 ~~(c) carburetion tubes and devices;~~
2 ~~(d) smoking and carburetion masks;~~
3 ~~(e) roach clips, meaning objects used to~~
4 ~~hold burning material, such as a marijuana cigarette, that has~~
5 ~~become too small to hold in the hand;~~

6 ~~(f) miniature cocaine spoons and cocaine~~
7 ~~vials;~~

8 ~~(g) chamber pipes;~~

9 ~~(h) carburetor pipes;~~

10 ~~(i) electric pipes;~~

11 ~~(j) air-driven pipes;~~

12 ~~(k) chilams;~~

13 ~~(l) bonges; or~~

14 ~~(m) ice pipes or chillers; and~~

15 ~~(13) in determining whether an object is drug~~
16 ~~paraphernalia, a court or other authority should consider, in~~
17 ~~addition to all other logically relevant factors, the~~
18 ~~following:~~

19 ~~(a) statements by the owner or by anyone~~
20 ~~in control of the object concerning its use;~~

21 ~~(b) the proximity of the object, in time~~
22 ~~and space, to a direct violation of the Controlled Substances~~
23 ~~Act or any other law relating to controlled substances or~~
24 ~~controlled substance analogs;~~

25 ~~(c) the proximity of the object to~~

1 ~~controlled substances or controlled substance analogs;~~

2 ~~(d) the existence of any residue of a~~
3 ~~controlled substance or controlled substance analog on the~~
4 ~~object;~~

5 ~~(e) instructions, written or oral,~~
6 ~~provided with the object concerning its use;~~

7 ~~(f) descriptive materials accompanying~~
8 ~~the object that explain or depict its use;~~

9 ~~(g) the manner in which the object is~~
10 ~~displayed for sale; and~~

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

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

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

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

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

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

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

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

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

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

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

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

12 [~~X.~~] U. "human consumption" includes application,
13 injection, inhalation, ingestion or any other manner of
14 introduction;

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

20 [~~Z.~~] W. "valid practitioner-patient relationship"
21 means a professional relationship, as defined by the
22 practitioner's licensing board, between the practitioner and
23 the patient."

24 **SECTION 59.** Section 30-31-6 NMSA 1978 (being Laws 1972,
25 Chapter 84, Section 6, as amended by Laws 2017, Chapter 139,

.214675.3

1 Section 2, by Laws 2017, Chapter 140, Section 3 and by Laws
2 2018, Chapter 41, Section 1) is amended to read:

3 "30-31-6. SCHEDULE I.--The following controlled
4 substances are included in Schedule I:

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

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

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

.214675.3

1 (42) trimeperidine;

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

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

underscored material = new
[bracketed material] = delete

1 (20) normorphine;

2 (21) pholcodine; and

3 (22) thebacon;

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

10 (1) 3,4-methylenedioxy amphetamine;

11 (2) 5-methoxy-3,4-methylenedioxy amphetamine;

12 (3) 3,4,5-trimethoxy amphetamine;

13 (4) bufotenine;

14 (5) diethyltryptamine;

15 (6) dimethyltryptamine;

16 (7) 4-methyl-2,5-dimethoxy amphetamine;

17 (8) ibogaine;

18 (9) lysergic acid diethylamide;

19 [~~(10)~~] ~~marijuana~~;

20 [~~(11)~~] (10) mescaline;

21 [~~(12)~~] (11) peyote, except as otherwise

22 provided in the Controlled Substances Act;

23 [~~(13)~~] (12) N-ethyl-3-piperidyl benzilate;

24 [~~(14)~~] (13) N-methyl-3-piperidyl benzilate;

25 [~~(15)~~] (14) psilocybin;

.214675.3

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

.214675.3

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

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

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

5 ~~[(22)]~~ (19) 4-methylmethcathinone;

6 ~~[(23)]~~ (20) 4-methoxymethcathinone;

7 ~~[(24)]~~ (21) 3-fluoromethcathinone; and

8 ~~[(25)]~~ (22) 4-fluoromethcathinone;

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

17 ~~[E. The enumeration of marijuana,~~
18 ~~tetrahydrocannabinols or chemical derivatives of~~
19 ~~tetrahydrocannabinol as Schedule I controlled substances does~~
20 ~~not apply to:~~

21 ~~(1) industrial hemp, pursuant to rules~~
22 ~~promulgated by the board of regents of New Mexico state~~
23 ~~university on behalf of the New Mexico department of~~
24 ~~agriculture;~~

25 ~~(2) cultivation of industrial hemp by~~

.214675.3

1 ~~qualified entities pursuant to rules adopted by the New Mexico~~
2 ~~department of agriculture;~~

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

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

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

17 SECTION 60. Section 30-31-7 NMSA 1978 (being Laws 1972,
18 Chapter 84, Section 7, as amended) is amended to read:

19 "30-31-7. SCHEDULE II.--

20 A. The following controlled substances are included
21 in Schedule II:

22 (1) any of the following substances, except
23 those narcotic drugs listed in other schedules, whether
24 produced directly or indirectly by extraction from substances
25 of vegetable origin, or independently by means of chemical

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

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

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

10 (c) opium poppy and poppy straw; and

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

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

21 ~~(f) tetrahydrocannabinols or chemical~~
22 ~~derivatives of tetrahydrocannabinol, but only for the use by~~
23 ~~certified patients pursuant to the Controlled Substances~~
24 ~~Therapeutic Research Act or by qualified patients pursuant to~~
25 ~~the provisions of the Lynn and Erin Compassionate Use Act.~~

.214675.3

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

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

- 10 (a) alphaprodine;
- 11 (b) anileridine;
- 12 (c) bezitramide;
- 13 (d) dihydrocodeine;
- 14 (e) diphenoxylate;
- 15 (f) fentanyl;
- 16 (g) hydromorphone;
- 17 (h) isomethadone;
- 18 (i) levomethorphan;
- 19 (j) levorphanol;
- 20 (k) meperidine;
- 21 (l) metazocine;
- 22 (m) methadone;
- 23 (n) methadone--intermediate,
- 24 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- 25 (o) moramide--intermediate,

1 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;

2 (p) oxycodone;

3 (q) pethidine;

4 (r) pethidine--intermediate--A,

5 4-cyano-1-methyl-4-phenylpiperidine;

6 (s) pethidine--intermediate--B,

7 ethyl-4-phenyl-piperidine-4-carboxylate;

8 (t) pethidine--intermediate--C,

9 1-methyl-4-phenylpiperidine-4-carboxylic acid;

10 (u) phenazocine;

11 (v) piminodine;

12 (w) racemethorphan; and

13 (x) racemorphan;

14 (3) unless listed in another schedule, any
 15 material, compound, mixture or preparation that contains any
 16 quantity of the following substances having a potential for
 17 abuse associated with a stimulant effect on the central nervous
 18 system:

19 (a) amphetamine, its salts, optical
 20 isomers and salts of its optical isomers;

21 (b) phenmetrazine and its salts;

22 (c) methamphetamine, its salts, isomers
 23 and salts of isomers; and

24 (d) methylphenidate; and

25 (4) controlled substances added to Schedule II

.214675.3

1 by rule adopted by the board pursuant to Section 30-31-3 NMSA
2 1978.

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

23 SECTION 61. Section 30-31-21 NMSA 1978 (being Laws 1972,
24 Chapter 84, Section 21, as amended) is amended to read:

25 "30-31-21. DISTRIBUTION TO A MINOR.--Except as authorized

1 by the Controlled Substances Act, no person who is eighteen
 2 years of age or older shall intentionally distribute a
 3 controlled substance to a person under the age of eighteen
 4 years. Any person who violates this section with respect to

5 ~~[A. marijuana is:~~

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

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

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

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

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

22 **SECTION 62.** Section 30-31-22 NMSA 1978 (being Laws 1972,
 23 Chapter 84, Section 22, as amended) is amended to read:

24 "30-31-22. CONTROLLED OR COUNTERFEIT SUBSTANCES--
 25 DISTRIBUTION PROHIBITED.--

.214675.3

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

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

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

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

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

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

.214675.3

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

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

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

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

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

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

25 B. It is unlawful for a person to distribute gamma

.214675.3

1 hydroxybutyric acid or flunitrazepam to another person without
2 that person's knowledge and with intent to commit a crime
3 against that person, including criminal sexual penetration.

4 For the purposes of this subsection, "without that person's
5 knowledge" means the person is unaware that a substance with
6 the ability to alter that person's ability to appraise conduct
7 or to decline participation in or communicate unwillingness to
8 participate in conduct is being distributed to that person.

9 Any person who violates this subsection is:

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

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

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

21 (1) a counterfeit substance enumerated in
22 Schedule I, II, III or IV is guilty of a fourth degree felony
23 and shall be sentenced pursuant to the provisions of Section
24 31-18-15 NMSA 1978; ~~and~~ or

25 (2) a counterfeit substance enumerated in

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

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

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

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

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

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

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

.214675.3

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

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

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

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

21 (4) the intentional creation, delivery or
22 possession with the intent to deliver:

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

1 31-18-15 NMSA 1978; and

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

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

13 SECTION 63. Section 30-31-23 NMSA 1978 (being Laws 1972,
14 Chapter 84, Section 23, as amended) is amended to read:

15 "30-31-23. CONTROLLED SUBSTANCES--POSSESSION
16 PROHIBITED.--

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

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

.214675.3

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

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

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

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

.214675.3

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

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

7 (1) synthetic cannabinoids;

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

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

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

.214675.3

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

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

.214675.3

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

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

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

20 (2) more than one ounce and less than eight
21 ounces of [~~marijuana or~~] synthetic cannabinoids 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 (3) eight ounces or more of [~~marijuana or~~
25 synthetic cannabinoids is guilty of a third degree felony and

.214675.3

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

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

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

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

20 SECTION 64. Section 30-31-28 NMSA 1978 (being Laws 1972,
21 Chapter 84, Section 28) is amended to read:

22 "30-31-28. CONDITIONAL DISCHARGE FOR POSSESSION AS FIRST
23 OFFENSE.--

24 A. If [~~any~~] a person, who has not previously been
25 convicted of violating the laws of [~~any~~] a state or [~~any~~] laws

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

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

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

.214675.3

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

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

.214675.3

1 any inquiry made of [~~him~~] the person for any purpose."

2 SECTION 65. Section 30-31-34 NMSA 1978 (being Laws 1972,
3 Chapter 84, Section 33, as amended) is amended to read:

4 "30-31-34. FORFEITURES--PROPERTY SUBJECT.--The following
5 are subject to forfeiture pursuant to the provisions of the
6 Forfeiture Act:

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

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

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

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

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

25 F. notwithstanding Subsection C of this section and

.214675.3

1 the provisions of the Forfeiture Act:

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

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

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

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

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

21 SECTION 66. [NEW MATERIAL] COOPERATION OF AGENCIES.--All
22 state agencies shall cooperate with the cannabis control
23 commission in carrying out the provisions of the Cannabis
24 Regulation Act.

25 SECTION 67. TEMPORARY PROVISION--TRANSFER.--On the
.214675.3

1 effective date of this act, any unexpended or unencumbered
2 balance in the medical cannabis fund is transferred to the
3 cannabis regulation fund.

4 SECTION 68. REPEAL.--Sections 9-7-17.1 and 30-31-25.1
5 NMSA 1978 (being Laws 2012, Chapter 42, Section 1 and Laws
6 1981, Chapter 31, Section 2, as amended) are repealed.

7 SECTION 69. TEMPORARY PROVISION--REGULATORY AUTHORITY.--

8 A. No sooner than July 1, 2020, the governor shall
9 certify to the New Mexico legislative council and to the New
10 Mexico compilation commission that:

11 (1) the New Mexico department of agriculture
12 is prepared to issue licenses and regulate cannabis production;
13 and

14 (2) the department of environment is prepared
15 to issue licenses and regulate cannabis manufacturing.

16 B. The department of health shall continue to
17 regulate and issue licenses for cannabis production and
18 cannabis manufacturing until the governor issues the
19 certification pursuant to Subsection A of this section.

20 SECTION 70. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2019.