

HOUSE BILL 160

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

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AN ACT

RELATING TO CONTROLLED SUBSTANCES; ENACTING THE CANNABIS
REGULATION ACT; ENACTING THE CANNABIS TAX ACT; CREATING THE
CANNABIS CONTROL DIVISION IN THE REGULATION AND LICENSING
DEPARTMENT; PROVIDING DUTIES; CREATING THE CANNABIS REGULATORY
ADVISORY COMMITTEE; CREATING THE PUBLIC HEALTH AND SAFETY
ADVISORY COMMITTEE; ESTABLISHING THE MEDICAL CANNABIS SUBSIDY
PROGRAM; REVISING LAW ENFORCEMENT REPORTING REQUIREMENTS;
REVISING SECTIONS OF LAW RELATED TO CANNABIS; CREATING THE
CANNABIS REGULATION FUND; CREATING THE COMMUNITY GRANTS
REINVESTMENT FUND AND THE COMMUNITY GRANTS REINVESTMENT
PROGRAM; CREATING THE LOW-INCOME MEDICAL PATIENT SUBSIDY FUND;
CREATING THE CANNABIS WORKFORCE TRAINING FUND; CREATING THE
CANNABIS INDUSTRY EQUITABLE OPPORTUNITY INVESTMENT FUND;
CREATING A ROADSIDE DRUG TESTING PILOT PROJECT; CREATING A
PUBLIC EDUCATION CAMPAIGN; PROVIDING FOR DISTRIBUTIONS FROM

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1 CANNABIS EXCISE TAX REVENUE; AMENDING THE LYNN AND ERIN
2 COMPASSIONATE USE ACT; PROVIDING AND REVISING PENALTIES;
3 AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978;
4 MAKING APPROPRIATIONS.

5
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

7 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
8 through 46 of this act may be cited as the "Cannabis Regulation
9 Act".

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

12 A. "advertisement":

13 (1) means a statement or a depiction that is
14 intended to induce the sale of cannabis and that is displayed
15 in printed material or on a sign or other outdoor display or
16 presented in a radio, television or other media broadcast or in
17 digital media; and

18 (2) does not include:

19 (a) a sign or outdoor display or other
20 statement permanently affixed to a licensed premises that is
21 intended to induce the sale of a cannabis product produced or
22 sold on the premises;

23 (b) a label affixed to a cannabis
24 product or the covering, wrapper or container of a cannabis
25 product; or

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1 (c) an editorial or other material
2 printed in a publication when the publication of the editorial
3 or material was not paid for by a licensee and was not intended
4 to promote the sale of cannabis by a particular brand or
5 company;

6 B. "advertising" means the publication or
7 dissemination of an advertisement;

8 C. "cannabis":

9 (1) means all parts of the plant genus
10 Cannabis containing a delta-9-tetrahydrocannabinol
11 concentration of more than three-tenths percent on a dry weight
12 basis, whether growing or not; the seeds of the plant; the
13 resin extracted from any part of the plant; and every compound,
14 manufacture, salt, derivative, mixture or preparation of the
15 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;

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1 D. "cannabis consumption area" means an area within
2 a cannabis retailer's or integrated cannabis microbusiness'
3 licensed premises where cannabis products may be consumed;

4 E. "cannabis courier" means a person who is
5 licensed by the division only to transport cannabis and
6 cannabis products directly to consumers;

7 F. "cannabis establishment" means:

- 8 (1) a cannabis courier;
- 9 (2) a cannabis testing laboratory;
- 10 (3) a cannabis manufacturer;
- 11 (4) an integrated cannabis microbusiness;
- 12 (5) a cannabis producer;
- 13 (6) a cannabis retailer;
- 14 (7) a cannabis research laboratory; or
- 15 (8) a cannabis producer microbusiness;

16 G. "cannabis extract":

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

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

24 H. "cannabis flowers" means only the flowers of a
25 cannabis plant;

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

- 3 (1) manufacture cannabis products;
- 4 (2) package, transport or courier cannabis
5 products;
- 6 (3) have cannabis products tested by a
7 cannabis testing laboratory; and
- 8 (4) sell and transport cannabis products to
9 other cannabis establishments;

10 J. "cannabis producer" means a person that is
11 licensed by the division to:

- 12 (1) produce cannabis;
- 13 (2) have unprocessed cannabis products tested
14 by a cannabis testing laboratory; and
- 15 (3) sell and transport unprocessed cannabis
16 only to other cannabis establishments;

17 K. "cannabis producer microbusiness" means a person
18 that is licensed by the division to:

- 19 (1) produce cannabis; provided that the person
20 shall not possess at any one time more than ninety-nine mature
21 cannabis plants;
- 22 (2) have unprocessed cannabis tested by a
23 cannabis testing laboratory; and
- 24 (3) sell and transport unprocessed cannabis
25 only to other cannabis establishments;

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1 L. "cannabis product":

2 (1) means a product that is or that contains
3 cannabis or cannabis extracts, including edible or topical
4 products that may also contain other ingredients; and

5 (2) does not include the weight of any other
6 ingredient combined with cannabis or cannabis extracts to
7 prepare topical or oral administrations, food, drink or another
8 product;

9 M. "cannabis research laboratory" means a facility
10 that is licensed by the division to produce or possess cannabis
11 and all parts of the plant genus Cannabis for the purpose of
12 studying cannabis cultivation, characteristics or uses;

13 N. "cannabis retailer" means a person that is
14 licensed by the division to sell and courier cannabis products
15 to a consumer in this state;

16 O. "cannabis server permit education provider"
17 means a person or a public or private school that is licensed
18 by the division to provide cannabis server education courses
19 and examinations;

20 P. "cannabis testing laboratory" means a facility
21 that is licensed by the division to sample, collect, transport
22 and test cannabis products;

23 Q. "cannabis training and education program" means
24 a practical or academic curriculum offered by a New Mexico
25 public post-secondary educational institution designed to

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1 prepare students for participation in the cannabis industry;

2 R. "commercial cannabis activity":

3 (1) means the production, possession,
4 manufacture, storage, testing, researching, labeling,
5 transportation, couriering and sale of cannabis and cannabis
6 products; and

7 (2) does not include activities related only
8 to the medical cannabis program, to cannabis training and
9 education programs or to the personal use of cannabis;

10 S. "consumer" means a person who purchases,
11 acquires, owns, possesses or uses a cannabis product for a
12 purpose other than resale;

13 T. "controlling person":

14 (1) means a person that controls ten percent
15 or more of, or an officer or board member of, a cannabis
16 establishment; and

17 (2) does not include a bank or licensed
18 lending institution;

19 U. "department" means the regulation and licensing
20 department;

21 V. "director" means the director of the division;

22 W. "division" means the cannabis control division
23 of the department;

24 X. "evidence-based drug education program" means a
25 research-based and scientific-evidence-based education program

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1 that has been thoroughly tested and has been shown to
2 significantly reduce problematic use of substances such as
3 nicotine, alcohol or drugs or reduce student suspensions or
4 expulsions related to alcohol or drug use;

5 Y. "financial consideration" means value that is
6 given or received, directly or indirectly, through sales,
7 barter, trade, fees, charges, dues, contributions or donations;

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

10 AA. "integrated cannabis microbusiness" means a
11 person that is licensed by the division to:

12 (1) produce cannabis; provided that the person
13 shall not possess at any one time more than ninety-nine mature
14 cannabis plants;

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

17 (3) sell and transport only cannabis products
18 manufactured by the person to other cannabis establishments and
19 courier those products to consumers;

20 (4) operate only one cannabis establishment;

21 and

22 (5) engage in any other activity authorized by
23 the division;

24 BB. "licensed premises" means a location that is
25 licensed to engage in commercial cannabis activity pursuant to

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1 the Cannabis Regulation Act and includes:

2 (1) all enclosed public and private areas at
3 the location that are used in the business operated pursuant to
4 the license and includes offices, kitchens, restrooms and
5 storerooms;

6 (2) all areas outside of a building that the
7 division has specifically licensed for the production,
8 manufacturing, wholesale sale or retail sale of cannabis
9 products; and

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

15 CC. "licensee" means a person issued a license
16 pursuant to the Cannabis Regulation Act;

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

21 EE. "local jurisdiction" means a municipality, home
22 rule municipality or county;

23 FF. "manufacture" means to prepare a cannabis
24 product;

25 GG. "marketing" means the act of promoting or

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1 selling a cannabis product or a cannabis-related product or
2 service;

3 HH. "mature cannabis plant" means a cannabis plant
4 that is not an immature cannabis plant;

5 II. "medical cannabis" means cannabis products used
6 by a qualified patient in accordance with the Lynn and Erin
7 Compassionate Use Act;

8 JJ. "medical cannabis program" means the regulated
9 system allowing for the beneficial use of medical cannabis as
10 established in the Lynn and Erin Compassionate Use Act;

11 KK. "medical cannabis registry" means the system by
12 which the department of health, pursuant to the Lynn and Erin
13 Compassionate Use Act, receives applications for registry
14 identification cards; approves and denies applications; issues
15 and renews registry identification cards; and maintains files
16 related to applicants for and recipients of registry
17 identification cards;

18 LL. "person" means an individual or a firm,
19 partnership, joint venture, association, corporation, limited
20 liability company, estate, trust, business trust, receiver or
21 any other legal or commercial entity;

22 MM. "primary caregiver" means a resident of New
23 Mexico who is at least eighteen years of age and who has been
24 designated by the qualified patient's practitioner as being
25 necessary to take responsibility for managing the well-being of

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1 a qualified patient with respect to the medical use of cannabis
2 pursuant to the provisions of the Lynn and Erin Compassionate
3 Use Act;

4 NN. "produce" or "production" means any activity
5 involving the cultivation of cannabis;

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

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

18 QQ. "superintendent" means the superintendent of
19 regulation and licensing.

20 SECTION 3. [NEW MATERIAL] CANNABIS CONTROL DIVISION--
21 DUTIES--RULEMAKING--CANNABIS REGULATORY ADVISORY COMMITTEE.--

22 A. The "cannabis control division" is created in
23 the regulation and licensing department.

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

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

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

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

7 C. No later than January 1, 2021, the division
8 shall promulgate rules necessary for the division to carry out
9 its duties provided in the Cannabis Regulation Act, including:

10 (1) procedures for the issuance, renewal,
11 suspension and revocation of a license;

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

15 (3) security requirements for a cannabis
16 establishment;

17 (4) requirements related to:

18 (a) inspection and monitoring of a
19 cannabis establishment;

20 (b) a cannabis establishment's
21 recordkeeping and tracking of cannabis from seed until sale;

22 (c) prevention of the sale or diversion
23 of cannabis products in commercial cannabis activity to a
24 person under the age of twenty-one;

25 (d) labeling of cannabis products

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1 packaged, sold or distributed by a cannabis establishment; and

2 (e) language for labels of cannabis
3 products regarding potential adverse effects;

4 (5) a provision requiring that each cannabis
5 retailer maintain at all times a supply of medical cannabis
6 products suitable and sufficient to meet the reasonably
7 foreseeable needs of qualified patients as determined by the
8 department of health; provided that in the event of a shortage
9 of cannabis products, qualified patients shall be served before
10 any other consumer; and further provided that unused plants or
11 products reserved for medical cannabis use may be offered to
12 other consumers upon receiving division approval that all
13 reasonably foreseeable medical cannabis needs have been met;

14 (6) rules on advertising and marketing of
15 cannabis products;

16 (7) rules on how a licensee may display
17 cannabis products for sale;

18 (8) procedures that promote and encourage full
19 participation in the cannabis industry governed by the Cannabis
20 Regulation Act by representatives of communities that have been
21 disproportionately harmed by rates of arrest through the
22 enforcement of cannabis prohibitions in law and policy;

23 (9) procedures that encourage racial, ethnic,
24 gender and geographic diversity among license applicants,
25 licensees and cannabis industry employees;

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1 (10) rules developed in consultation with the
2 department of environment to establish:

3 (a) health and safety standards
4 applicable to the research and production of cannabis and the
5 manufacture of cannabis products;

6 (b) standards for quality control,
7 inspection and testing of cannabis products;

8 (c) standards for food and product
9 safety applicable to cannabis products; and

10 (d) which additives and ingredients are
11 approved for and prohibited from inclusion in cannabis
12 products; provided that nicotine shall be prohibited;

13 (11) health and safety standards developed in
14 consultation with the department of health to meet the needs of
15 qualified patients, including those who are immunosuppressed;

16 (12) rules developed in consultation with the
17 New Mexico department of agriculture and the department of
18 environment to establish:

19 (a) standards for the use of pesticides
20 in the production of cannabis, including the maximum allowances
21 for pesticides and other foreign material, such as hair,
22 insects or other similar adulterants, in harvested cannabis,
23 except for cannabis produced or harvested for research purposes
24 and not for ingestion;

25 (b) environmental protections that apply

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1 to all licensees; and

2 (c) protocols to ensure licensees'
3 compliance with federal, state and local laws and ordinances
4 governing environmental impacts, natural resource protection,
5 water quality, water supply, hazardous materials, pesticide use
6 and wastewater discharge;

7 (13) a rule providing that each person to whom
8 a license is issued shall be fully liable and accountable for
9 the use of the license, including liability for all violations
10 of the Cannabis Regulation Act and for all taxes charged in
11 connection with the license; and

12 (14) rules developed in consultation with the
13 workforce solutions department to ensure that licensees comply
14 with applicable state and federal labor and employment laws.

15 D. The division shall collect and publish annually
16 to the appropriate committee of the legislature and on the
17 division's website a report describing demographic data on
18 license applicants, controlling persons and employees of
19 cannabis establishments, including race, ethnicity, gender and
20 age.

21 E. No later than September 1, 2020, the division
22 shall convene a "cannabis regulatory advisory committee" to
23 advise the division on the development of rules pursuant to the
24 Cannabis Regulation Act, including best practices and
25 guidelines that promote economic and cultural diversity in

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1 licensing and employment opportunities and protect public
2 health and safety while ensuring a regulated environment for
3 commercial cannabis activity that does not impose unreasonable
4 barriers that would perpetuate, rather than reduce and
5 eliminate, the illicit market for cannabis. The cannabis
6 regulatory advisory committee shall consist of the following
7 individuals or their designees:

8 (1) the chief public defender;

9 (2) a district attorney appointed by the New
10 Mexico district attorney association;

11 (3) a county sheriff appointed by the
12 executive director of New Mexico counties; and

13 (4) members appointed by the director with the
14 approval of the superintendent for four-year terms, including a
15 representative:

16 (a) of the cannabis industry;

17 (b) of a cannabis policy advocacy
18 organization;

19 (c) of a labor organization;

20 (d) who is a qualified patient;

21 (e) from a state or local agency with
22 relevant expertise as the director and the superintendent deem
23 appropriate;

24 (f) with expertise in public health;

25 (g) with expertise in regulating

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1 commercial activity for adult-use intoxicating substances;

2 (h) from a community disproportionately
3 affected by past federal and state drug policies;

4 (i) with expertise and experience in
5 cannabis laboratory science;

6 (j) from an Indian nation, tribe or
7 pueblo with relevant expertise as the director and the
8 superintendent deem appropriate; and

9 (k) with expertise in other relevant
10 areas as the director and the superintendent deem appropriate.

11 F. Beginning January 1, 2024, the cannabis
12 regulatory advisory committee shall publish and provide to the
13 superintendent and the legislature an annual report detailing
14 its activities and recommendations made to the division during
15 the preceding year and noting whether the division implemented
16 the recommendations. The report shall include a review of the
17 demographics and geographic diversity of the cannabis industry
18 workforce and licensees and shall include recommendations, if
19 necessary, to ensure diversity of the workforce and licensees.
20 The report shall include a recommendation on whether the
21 legislature should adjust the cannabis excise tax based on the
22 following considerations:

23 (1) demand for cannabis products;

24 (2) undercutting the illicit cannabis market;

25 (3) preventing the commercial cannabis market

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1 from undercutting the medical cannabis market;

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

4 (5) preventing cannabis use disorder.

5 G. Public members of the cannabis regulatory
6 advisory committee shall not be paid but are entitled to
7 receive per diem and mileage as provided for state employees in
8 the Per Diem and Mileage Act.

9 H. At least once in each of calendar years 2023
10 through 2026, the division shall convene a meeting to review
11 developments and to coordinate efforts to improve economic and
12 social outcomes related to the legalization and use of
13 commercial and medical cannabis. Meeting participants shall
14 include all members of the cannabis regulatory advisory
15 committee and a representative from:

16 (1) the department of environment;

17 (2) the department of health;

18 (3) the New Mexico department of agriculture;

19 (4) the department of public safety;

20 (5) the economic development department; and

21 (6) the workforce solutions department.

22 I. No later than April 1, 2021, the division shall
23 promulgate rules relating to cannabis training and education
24 programs, including:

25 (1) procedures for the issuance, renewal,

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1 suspension and revocation of a license;

2 (2) qualifications for licensure;

3 (3) security requirements;

4 (4) requirements relating to:

5 (a) inspection and monitoring;

6 (b) recordkeeping and tracking of
7 cannabis from seed until it is destroyed or transferred to a
8 program as authorized by the department of health; and

9 (c) prevention of the diversion of
10 cannabis;

11 (5) rules developed in consultation with the
12 department of environment to establish health and safety
13 standards applicable to the production of cannabis; and

14 (6) rules developed in consultation with the
15 New Mexico department of agriculture and the department of
16 environment to establish:

17 (a) standards for the use of pesticides
18 in the production of cannabis;

19 (b) environmental protections; and

20 (c) protocols to ensure licensees'
21 compliance with state and local laws and ordinances governing
22 environmental impacts, natural resource protection, water
23 quality, water supply, hazardous materials, pesticide use and
24 wastewater discharge.

25 SECTION 4. [NEW MATERIAL] DEPARTMENT OF HEALTH--DUTIES--

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1 MEDICAL CANNABIS SUBSIDY PROGRAM--PUBLIC HEALTH AND SAFETY
2 ADVISORY COMMITTEE.--

3 A. No later than January 1, 2021, the department of
4 health shall:

5 (1) establish the "medical cannabis subsidy
6 program", by which the department of health shall make
7 distributions to provide medical cannabis or subsidies to
8 qualified patients who are New Mexico residents and who are
9 sick and indigent persons and low-income and higher-use
10 patients who need assistance in obtaining medical cannabis; and

11 (2) promulgate rules to govern the medical
12 cannabis subsidy program.

13 B. The department of health shall monitor emerging
14 scientific and medical information relevant to the health
15 effects associated with cannabis use and shall monitor changes
16 in cannabis use patterns for children and adults within the
17 state, broken down by county, race and ethnicity.

18 C. No later than September 1, 2020, the secretary
19 of health shall appoint a "public health and safety advisory
20 committee" composed of professionals with expertise related to
21 cannabis through work, training or research in public health,
22 epidemiology, medicine, medical toxicology, poison control,
23 road safety, occupational safety, environmental safety and
24 emergency medicine.

25 D. Beginning December 1, 2022, the public health

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1 and safety advisory committee shall provide to the legislature,
2 and the department of health shall publish on its website, an
3 annual report on the health effects of legalizing cannabis for
4 adult use. The report shall include the following elements
5 relating to cannabis use and, as applicable, the demographics
6 of persons who are the subject of the event or report relating
7 to the element:

- 8 (1) child access;
- 9 (2) road safety and driving while impaired;
- 10 (3) workplace safety;
- 11 (4) the percentage of emergency room visits
12 and outcomes;
- 13 (5) educational needs for children and adults;
- 14 (6) consumer and product safety;
- 15 (7) the percentage of poison control center
16 calls; and
- 17 (8) the impact of cannabis use on rates of
18 alcohol, opioid and other substance abuse.

19 E. In consultation with qualified patients and
20 primary caregivers, the department shall produce an assessment
21 report annually, which shall be available to the public and
22 that includes at a minimum an evaluation of the:

- 23 (1) affordability and accessibility of medical
24 cannabis pursuant to the Lynn and Erin Compassionate Use Act;
25 and

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1 (2) needs of qualified patients who live in
2 rural areas, federal subsidized housing and New Mexico Indian
3 nations, tribes or pueblos.

4 F. Public members of the public health and safety
5 advisory committee are entitled to per diem and mileage as
6 provided for state employees in the Per Diem and Mileage Act.

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

9 A. Within sixty days following the end of each
10 fiscal year, every police and sheriff's department shall report
11 on a form approved by the department of public safety the total
12 number of arrests, citations and penalty assessments for
13 cannabis-related violations broken down by:

14 (1) category and penalty level; and

15 (2) race, ethnicity, age and gender.

16 B. Each law enforcement agency shall submit its
17 annual report to the department of public safety.

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 of public safety's website.

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1 D. For purposes of this section, "cannabis-related
2 violation" means a violation of any of Sections 31 through 35
3 of the Cannabis Regulation Act or a violation of Section
4 66-8-102 or 66-13-3 NMSA 1978 if the basis for the arrest or
5 citation is intoxication due to the use of cannabis.

6 **SECTION 6. [NEW MATERIAL] CANNABIS CONTROL DIVISION--**
7 **LICENSING CANNABIS ACTIVITIES--LIMITATIONS--MEDICAL CANNABIS**
8 **GRANDFATHERED LICENSING.--**

9 A. Except as otherwise provided in Subsection K of
10 this section, the division shall begin issuing licenses for
11 commercial cannabis activities no later than April 1, 2021;
12 provided that a person that is not licensed pursuant to
13 Subsection K of this section shall not courier or sell cannabis
14 products until January 1, 2022; and further provided that,
15 until January 1, 2022, and longer if the division deems it
16 necessary, the division may issue temporary licenses.

17 B. The division shall administer a licensing
18 program for commercial cannabis activities provided for in the
19 Cannabis Regulation Act, the medical cannabis program provided
20 for in the Lynn and Erin Compassionate Use Act and cannabis
21 training and education programs, which shall include licenses
22 for:

- 23 (1) cannabis manufacturers;
- 24 (2) cannabis testing laboratories;
- 25 (3) cannabis research laboratories;

- 1 (4) cannabis couriers;
- 2 (5) integrated cannabis microbusinesses;
- 3 (6) cannabis producers;
- 4 (7) cannabis producer microbusinesses;
- 5 (8) cannabis retailers;
- 6 (9) cannabis training and education programs;

7 and

- 8 (10) cannabis server permit education
- 9 providers.

10 C. The division shall include a clear designation
11 on all licenses that indicates whether the license is for
12 medical cannabis activity or for both medical and commercial
13 cannabis activity or for cannabis training and education
14 programs.

15 D. The division may designate subcategories of
16 licenses based on:

- 17 (1) the size of a business; or
- 18 (2) for cannabis producers, whether the
- 19 cannabis is produced indoors, outdoors or in a setting that
- 20 combines natural light with other light sources.

21 E. A license is valid for twelve months from the
22 date it is issued and may be renewed annually; provided that a
23 license issued for a cannabis training and education program
24 is valid until terminated by the licensee or suspended or
25 revoked by the division.

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1 F. The division shall not issue any other license
2 provided for in this section to a cannabis research laboratory,
3 a cannabis testing laboratory, a cannabis training and
4 education program licensee or a cannabis server permit
5 education provider licensee.

6 G. The division shall allow only a cannabis
7 retailer or an integrated cannabis microbusiness to operate a
8 cannabis consumption area.

9 H. The division shall not issue a license to a
10 natural person who cannot demonstrate continuous residency in
11 New Mexico for at least two years prior to the date on which
12 the person submits a license application. If an applicant is
13 an entity, at least sixty percent of the ownership in the
14 entity shall be held by persons who shall demonstrate
15 continuous residency in New Mexico for two years prior to the
16 date on which the entity submits its license application;
17 provided that the provisions of this subsection shall not apply
18 to an applicant for a cannabis research laboratory, a cannabis
19 testing laboratory, a cannabis training and education program
20 or a person licensed pursuant to the Lynn and Erin
21 Compassionate Use Act.

22 I. A person may demonstrate continuous residency by
23 providing to the division the following indicating at least two
24 years residency in the state:

- 25 (1) a current license, permit or

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1 identification card issued by the motor vehicle division of the
2 taxation and revenue department;

3 (2) proof of voter registration;

4 (3) evidence that the person has a voluntary,
5 principal or primary place of abode of self in the state to
6 which the person, whenever absent, has the bona fide intention
7 of returning, regardless of the duration of absence. In
8 determining what is a principal or primary place of abode of a
9 person, the following circumstances relating to the person may
10 be considered: business pursuits, employment, income sources,
11 marital status, residence of parents, spouse and children, if
12 any, leaseholds, situs of personal and real property or motor
13 vehicle registration; or

14 (4) other reasonable evidence as determined by
15 the division.

16 J. Except as provided in Subsection F of this
17 section and Section 8 of the Cannabis Regulation Act, the
18 division shall not limit the type or number of licenses that a
19 licensee may be issued pursuant to the Cannabis Regulation Act.

20 K. Any person properly licensed and in good
21 standing pursuant to the Lynn and Erin Compassionate Use Act on
22 the effective date of the Cannabis Regulation Act shall be
23 issued a license pursuant to the provisions of the Cannabis
24 Regulation Act allowing the licensee to continue to conduct
25 medical cannabis activity only. The licensee shall continue to

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1 operate under rules promulgated for the medical cannabis
2 program until the division promulgates rules for medical
3 cannabis activity.

4 SECTION 7. [NEW MATERIAL] LICENSEES--SANCTIONS--CIVIL
5 PENALTY.--

6 A. Any violation of a provision of the Cannabis
7 Regulation Act or a rule adopted by the division by a holder of
8 a license issued pursuant to Subsection B of Section 6 of the
9 Cannabis Regulation Act is grounds for disciplinary action.

10 The division may:

- 11 (1) suspend or revoke a license;
- 12 (2) impose any intermediate sanction
13 established by rule;
- 14 (3) impose a directed plan of correction; or
- 15 (4) assess a civil monetary penalty
16 established by rule; provided that a civil monetary penalty
17 shall not exceed a total of ten thousand dollars (\$10,000) per
18 violation, and penalties and interest recovered pursuant to the
19 Cannabis Regulation Act on behalf of the state shall be
20 remitted to the state treasurer for deposit in the general
21 fund.

22 B. The division shall adopt and promulgate rules
23 specifying the criteria for imposition of any sanction and
24 civil monetary penalty.

25 C. A licensee is liable for the reasonable costs of

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1 a directed plan of correction.

2 D. The provisions of this section do not apply to
3 occupational health and safety rules promulgated pursuant to
4 Section 20 of the Cannabis Regulation Act.

5 E. The provisions of this section do not apply to a
6 cannabis training and education program licensee; provided that
7 the division may suspend or revoke the license of a cannabis
8 training and education program for any violation of a provision
9 of the Cannabis Regulation Act or a rule adopted by the
10 division.

11 SECTION 8. [NEW MATERIAL] COMMERCIAL CANNABIS ACTIVITY
12 LICENSING--TEMPORARY LICENSING--APPLICATION--ISSUANCE AND
13 DENIAL OF A LICENSE.--

14 A. The holder of a license issued pursuant to the
15 Cannabis Regulation Act has no vested property right in the
16 license, which is the property of the state. A license issued
17 pursuant to the Cannabis Regulation Act is not transferrable
18 from person to person, shall not be leased and shall not be
19 considered property subject to execution, attachment, a
20 security transaction, liens, receivership or all other
21 incidents of tangible personal property under the laws of this
22 state.

23 B. Beginning no later than January 1, 2021, the
24 division shall issue a temporary license to conduct commercial
25 cannabis activity to a person that holds a license issued

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1 pursuant to Subsection K of Section 6 of the Cannabis
2 Regulation Act that has applied for a license pursuant to
3 Subsection C of this section; provided that the person shall
4 meet requirements established by the division. The
5 requirements shall include standards for determining whether
6 the person has the financial and operational ability to engage
7 in commercial cannabis activities. The requirements shall
8 ensure that a cannabis retailer maintain at all times a supply
9 of cannabis products suitable and sufficient to meet the
10 reasonably foreseeable needs of qualified patients as
11 determined by the department of health; provided that in the
12 event of a shortage of cannabis products, qualified patients
13 shall be served before any other consumer; and further provided
14 that unused plants or products reserved for medical use may be
15 offered to other consumers upon receiving department of health
16 approval that all reasonably foreseeable medical needs have
17 been met. A person operating under a temporary license shall
18 continue to operate under rules promulgated for the medical
19 cannabis program until the division promulgates rules for
20 commercial cannabis activity. A temporary license to conduct
21 commercial cannabis activity shall expire on the date that a
22 license is issued or denied to the temporary license holder
23 pursuant to Subsection C of this section.

24 C. In carrying out its commercial cannabis activity
25 licensing duties, the division shall:

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1 (1) no later than January 1, 2021, accept and
2 begin processing license applications;

3 (2) issue a license, or a written notice
4 detailing why an application was denied, no later than ninety
5 days following the day on which the application was submitted
6 to the division;

7 (3) no later than July 1, 2021, in
8 consultation with the cannabis regulatory advisory committee,
9 develop a plan to encourage racial, ethnic, gender and
10 geographic diversity among licensees; and

11 (4) require as a condition of licensing that
12 the applicant:

13 (a) comply with all applicable state and
14 local laws and ordinances;

15 (b) if applying for a cannabis producer
16 license or cannabis manufacturer license, submit a plan to
17 utilize, or demonstrate to the division that the applicant
18 cannot feasibly utilize, energy and water reduction
19 opportunities, including: 1) for a cannabis producer, drip
20 irrigation and water collection; 2) natural lighting and energy
21 efficiency measures; and 3) renewable energy generation;

22 (c) demonstrate that the applicant has a
23 legal right to a commercial water supply, water rights or
24 another source of water sufficient to meet the water needs
25 related to the license; and

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1 (d) submit an attestation signed by an
2 authorized representative of a bona fide labor organization
3 stating that the applicant and the labor organization have
4 entered into an agreement providing that: 1) the labor
5 organization shall not engage in picketing, work stoppages,
6 boycotts and other economic interference with the licensee's
7 business; and 2) the applicant shall not interfere in efforts
8 by the labor organization to communicate with, organize or
9 represent the applicant's employees and shall allow the labor
10 organization reasonable access to the applicant's employees
11 during work hours to discuss the employees' rights to
12 representation, employment rights under state law and terms and
13 conditions of employment; provided that the requirements of
14 this subparagraph shall not apply to an application for a
15 license as an integrated cannabis microbusiness or cannabis
16 producer microbusiness.

17 D. The division shall deny an application for an
18 initial license or renewal if:

19 (1) the application does not include all
20 information required by the division;

21 (2) the applicant or a controlling person in
22 the applicant's entity has been convicted of an offense that is
23 substantially related to the qualifications, functions or
24 duties of the applicant entity's business; provided that if the
25 division determines that the controlling person and the

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1 applicant entity are otherwise qualified for a license and that
2 issuing a license to the applicant entity would not compromise
3 public safety, the division shall conduct a thorough review of
4 the conviction, including the nature of the offense,
5 surrounding circumstances and any evidence of the controlling
6 person's rehabilitation following the conviction, and based on
7 that review, determine whether the applicant entity should be
8 issued a license;

9 (3) the applicant or a controlling person in
10 the applicant's entity has had a license issued pursuant to the
11 Cannabis Regulation Act or the Lynn and Erin Compassionate Use
12 Act revoked by the division or the department of health in the
13 three years immediately preceding the date on which the
14 application was filed; or

15 (4) the application:

16 (a) for initial licensure does not
17 include the attestation required pursuant to Subparagraph (d)
18 of Paragraph (4) of Subsection C of this section; or

19 (b) for renewal does not include an
20 attestation signed by an authorized representative of a bona
21 fide labor organization stating that an agreement required
22 pursuant to Subparagraph (d) of Paragraph (4) of Subsection C
23 of this section is currently in effect; provided that the
24 requirements of this subparagraph shall not apply to an
25 application for a license as an integrated cannabis

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1 microbusiness or cannabis producer microbusiness.

2 E. For the purposes of Subsection D of this
3 section:

4 (1) the following are considered substantially
5 related to the qualifications, functions or duties of a
6 business seeking a license:

7 (a) a felony conviction involving fraud,
8 deceit or embezzlement;

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

14 (c) any other offense as determined by
15 the division, except as provided in Paragraph (2) of this
16 subsection; and

17 (2) a conviction for which the related
18 sentence, including any term of probation or parole, is
19 completed for the possession, use, manufacture, distribution or
20 dispensing or the possession with the intent to manufacture,
21 distribute or dispense a controlled substance is not considered
22 substantially related to the qualifications, functions or
23 duties of a business seeking a license and shall not be the
24 sole ground on which an application is denied.

25 F. The division shall deny an application if an

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1 applicant, a controlling person in an applicant's entity or the
2 premises for which a license is sought does not qualify for
3 licensure pursuant to the Cannabis Regulation Act.

4 SECTION 9. [NEW MATERIAL] UNREASONABLE RESTRAINT ON
5 COMPETITION--PROHIBITED ACTS.--

6 A. No person shall enter into any agreement to
7 commit, or by any concerted action commit, any act of boycott,
8 coercion or intimidation resulting or tending to result in
9 unreasonable restraint of, or monopoly in, commercial cannabis
10 activities in this state.

11 B. It is unlawful for a licensee, directly,
12 indirectly or through an affiliate, to:

13 (1) require by agreement or otherwise that
14 another licensee engaged in a commercial cannabis activity in
15 the state purchase cannabis from the licensee to the exclusion
16 in whole or in part of cannabis sold or offered for sale by
17 other licensees;

18 (2) induce, through any of the following
19 means, a licensee engaged in a commercial cannabis activity in
20 the state to purchase cannabis from the licensee to the
21 exclusion in whole or in part of cannabis sold or offered for
22 sale by other licensees:

23 (a) by acquiring an interest in real or
24 personal property owned, occupied or used by another licensee
25 in the conduct of that licensee's commercial cannabis activity,

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1 subject to exceptions that the director may prescribe, having
2 due regard for the free flow of commerce, the purposes of this
3 section and established trade customs not contrary to the
4 public interest;

5 (b) by furnishing, giving, renting,
6 lending or selling to another licensee equipment, fixtures,
7 signs, supplies, money, services or other thing of value,
8 subject to exceptions that the director may by rule prescribe,
9 having due regard for public health and welfare, the quantity
10 and value of the articles involved and established trade
11 customs not contrary to the public interest and the purposes of
12 this section;

13 (c) by paying or crediting another
14 licensee for advertising, display or distribution services;

15 (d) by requiring another licensee to
16 take and dispose of a certain quota or combination of cannabis
17 or cannabis products; or

18 (e) by offering or giving a bonus,
19 premium or compensation to an officer, employee, agent or
20 representative of another licensee; or

21 (3) sell, offer for sale or contract to sell
22 to another licensee engaged in a commercial cannabis activity
23 in the state cannabis of any kind or class on consignment or
24 under a conditional sale or on a basis other than a bona fide
25 sale; provided that this paragraph shall not apply to

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1 transactions involving solely the bona fide return of cannabis
2 for ordinary and usual commercial reasons arising after the
3 cannabis has been sold, including a return of cannabis that is
4 at or near spoilage or expiration date or that was damaged by
5 the licensee, but not including a return of cannabis that was
6 damaged by any other licensee or any other licensee's employees
7 or customers.

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

9 A. The division shall establish application and
10 licensing fees applicable to licenses for commercial cannabis
11 activity and activity related to medical cannabis. The fees
12 shall not exceed the cost of administering and enforcing the
13 programs established in the Cannabis Regulation Act and the
14 Lynn and Erin Compassionate Use Act, including the
15 administration of the medical cannabis registry by the
16 department of health; provided that:

17 (1) the fees shall be scaled to reflect the
18 size of a business seeking or renewing a license; and

19 (2) for a license or renewal of a license that
20 authorizes only medical cannabis activity, the fee shall not
21 exceed one-half of the fee charged for a license or renewal of
22 a license for a similarly sized business that authorizes both
23 commercial and medical cannabis activities.

24 B. The division shall deposit all fees collected
25 pursuant to the Cannabis Regulation Act in the cannabis

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1 regulation fund.

2 SECTION 11. [NEW MATERIAL] CANNABIS CONTROL DIVISION--
3 CANNABIS TRAINING AND EDUCATION PROGRAM LICENSING--SANCTIONS.--

4 A. The division shall begin licensing cannabis
5 training and education programs no later than July 1, 2021.

6 B. The division shall administer a licensing
7 program for cannabis training and education programs.

8 C. Any violation of a provision of the Cannabis
9 Regulation Act or a rule adopted by the division applicable to
10 a person licensed pursuant to this section is grounds for
11 suspension or revocation of the license.

12 SECTION 12. [NEW MATERIAL] CANNABIS INDUSTRY MANDATORY
13 EDUCATION--APPLICATIONS--PERMIT REQUIRED--EDUCATION PROGRAM
14 APPROVAL REQUIRED--ISSUANCE OR DENIAL OF A PERMIT OR APPROVAL--
15 DEFINITIONS--PENALTIES.--

16 A. As used in this section:

17 (1) "cannabis server permit" means an
18 authorization issued by the director to allow a person to
19 offer, sell, serve, dispense, cultivate, manufacture, test or
20 transport cannabis or cannabis products; and

21 (2) "program" means a cannabis server
22 education course and examination approved by the director to be
23 administered by cannabis server permit education providers.

24 B. Beginning on January 1, 2022, no person shall
25 offer, sell, serve, dispense, cultivate, manufacture, test or

1 transport cannabis or cannabis products in connection with a
2 commercial cannabis activity unless that person has obtained a
3 cannabis server permit issued pursuant to this section;
4 provided that a cannabis research laboratory or an employee of
5 the laboratory is not required to obtain or possess a cannabis
6 server permit while performing activities authorized pursuant
7 to a cannabis research laboratory.

8 C. Beginning no later than December 1, 2021, the
9 division shall issue cannabis server permits to persons
10 eighteen years of age or older who satisfy the requirements of
11 this section.

12 D. Beginning no later than July 1, 2021, the
13 division may approve programs and issue cannabis server permit
14 education provider licenses. The director shall determine
15 program requirements; provided that:

16 (1) the program curriculum shall include the
17 following subjects:

18 (a) state laws and rules relating to
19 cannabis;

20 (b) safe handling of cannabis products,
21 including strategies to reduce access by persons under twenty-
22 one years of age; and

23 (c) ethics and customer privacy and
24 rights;

25 (2) training may be provided in person or

1 electronically. If the training is provided electronically,
2 students shall have real-time access to an instructor during at
3 least one-half of the instruction period for each subject;

4 (3) instructors shall have demonstrated
5 knowledge and experience related to the subject matter;

6 (4) an owner, agent, principal or instructor
7 of a program shall not have a direct or indirect financial
8 interest in a cannabis establishment;

9 (5) persons or schools seeking a cannabis
10 server permit education provider license shall file an
11 application and submit a nonrefundable application fee of two
12 thousand dollars (\$2,000), which shall be deposited into the
13 cannabis regulation fund;

14 (6) any change to approved program curriculum
15 shall be approved by the director prior to use;

16 (7) a denial of a license or renewal shall
17 include the reasons for denial and notice that the applicant
18 may appeal the decision pursuant to Subsection 0 of this
19 section; and

20 (8) a licensee shall submit an application for
21 renewal each year before the expiration date of the license,
22 which shall include:

23 (a) a nonrefundable application fee of
24 two thousand dollars (\$2,000), which shall be deposited into
25 the cannabis regulation fund; and

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1 (b) evidence demonstrating compliance
2 with current requirements for program approval.

3 E. The director shall require each cannabis server
4 permit education provider to post a surety bond in the amount
5 of five thousand dollars (\$5,000). The director may, in the
6 director's discretion, allow a provider to submit other
7 evidence of financial responsibility satisfactory to the
8 director in lieu of posting a surety bond.

9 F. The director shall within thirty days of receipt
10 of a completed application issue or deny a cannabis server
11 permit. The director shall issue a permit to each applicant
12 who obtains a certificate of completion from a program approved
13 by the director and who provides such other information as the
14 director may require.

15 G. The director may, in the director's discretion,
16 issue temporary cannabis server permits if circumstances
17 warrant.

18 H. Every licensee shall have on the licensed
19 premises at all times a copy of the cannabis server permit of
20 the licensee and each permit holder then employed by the
21 licensee and shall make copies available to the director and to
22 the agents or employees of the department of public safety upon
23 request; provided that the provisions of this subsection and
24 Subsection I of this section shall not apply to cannabis
25 testing laboratory licensees, cannabis research laboratory

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1 licensees, cannabis training and education program licensees
2 and cannabis server permit education provider licensees.

3 I. Failure to produce a copy of a cannabis server
4 permit is prima facie evidence that the permit has not been
5 issued and shall subject the licensee to fines and penalties as
6 determined by rule adopted by the director.

7 J. A cannabis server permit is the property of the
8 state and shall be immediately returned to the division upon
9 termination of employment or upon revocation or termination of
10 a permit holder's permit or license.

11 K. Cannabis server permits shall be valid for a
12 period of three years from the date the permit is issued and
13 may be renewed upon providing proof that the permit holder has
14 successfully completed ten hours of continuing education and an
15 examination as determined by the director.

16 L. A cannabis server permit holder shall display
17 the permit on the holder's person at all times when on duty.

18 M. In addition to any other penalties provided by
19 law, the following penalties may be imposed for sales to a
20 person under twenty-one years of age in violation of the
21 provisions of the Cannabis Regulation Act or rules of the
22 division:

23 (1) the director may suspend a cannabis server
24 permit for a period of thirty days or fine the server in an
25 amount not to exceed five hundred dollars (\$500), or both, when

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1 the director finds that the server is guilty of a first offense
2 of selling, serving or dispensing a cannabis product to a
3 person under twenty-one years of age;

4 (2) the director shall suspend a cannabis
5 server permit for a period of one year when the director finds
6 that the server is guilty of a second offense of selling,
7 serving or dispensing a cannabis product to a person under
8 twenty-one years of age in violation of the Cannabis Regulation
9 Act arising separately from the incident giving rise to the
10 server's first offense;

11 (3) the director shall permanently revoke a
12 cannabis server permit when the director finds that the server
13 is guilty of a third offense of selling, serving or dispensing
14 a cannabis product to a person under twenty-one years of age in
15 violation of the Cannabis Regulation Act arising separately
16 from the incidents giving rise to the server's first and second
17 offenses; and

18 (4) no person whose cannabis server permit is
19 suspended pursuant to the provisions of this section shall
20 offer, sell, serve, dispense, cultivate, manufacture, test or
21 transport cannabis or a cannabis product during the period of
22 suspension.

23 N. Nothing in this section shall be interpreted to
24 waive a licensee's liability that may otherwise arise pursuant
25 to the provisions of the Cannabis Regulation Act.

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1 0. Any person aggrieved by an action taken by the
2 director pursuant to this section may request and receive a
3 hearing for the purpose of reviewing the action. To obtain a
4 hearing, the aggrieved person shall file a request for a
5 hearing with the director within thirty days after the date the
6 action is taken. Failure to file the request within the
7 specified time is an irrevocable waiver of the right to a
8 hearing, and the action complained of shall be final with no
9 further right to review, either administratively or by a court.
10 Hearings shall be conducted in accordance with the provisions
11 of the Uniform Licensing Act.

12 SECTION 13. [NEW MATERIAL] LOCAL CONTROL.--

13 A. A local jurisdiction may:

14 (1) adopt reasonable time, place and manner
15 rules that do not conflict with the Cannabis Regulation Act or
16 the Dee Johnson Clean Indoor Air Act, including rules that
17 reasonably limit density of licenses and operating times
18 consistent with neighborhood uses;

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

23 (a) unless licensed pursuant to the Lynn
24 and Erin Compassionate Use Act, access to the cannabis
25 consumption area is restricted to persons twenty-one years of

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1 age and older;

2 (b) cannabis consumption is not visible
3 from any public place or from outside the cannabis consumption
4 area; and

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

11 (3) limit or prohibit public advertisement and
12 marketing of cannabis products; provided that a local
13 jurisdiction shall not prohibit or unreasonably limit signage
14 attached to or located on licensed premises that identify the
15 premises as a cannabis establishment.

16 B. A local jurisdiction shall not:

17 (1) prevent transportation of cannabis
18 products on public roads by a licensee that transports cannabis
19 products in compliance with the Cannabis Regulation Act; or

20 (2) completely prohibit the operation of any
21 category of license.

22 SECTION 14. [NEW MATERIAL] LICENSEE PROTECTIONS.--

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

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

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

11 SECTION 15. [NEW MATERIAL] PROTECTION OF UNDERAGE
12 PERSONS--TRAFFICKING--PENALTIES.--

13 A. A person who is not a licensee and who is
14 eighteen years of age or older shall not intentionally traffic
15 a cannabis product to a person who is under twenty-one years of
16 age and who is two or more years younger than the person. A
17 person who traffics a cannabis product in violation of this
18 subsection is, for the first offense, guilty of a misdemeanor
19 and shall be sentenced pursuant to Section 31-19-1 NMSA 1978
20 and, for second and subsequent offenses, guilty of a fourth
21 degree felony and shall be sentenced pursuant to Section
22 31-18-15 NMSA 1978.

23 B. A licensee shall not employ a person younger
24 than eighteen years of age to engage in a commercial cannabis
25 activity.

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1 C. Except as allowed in the Cannabis Regulation Act
2 or the Lynn and Erin Compassionate Use Act, a licensee shall
3 not sell a cannabis product to a person younger than twenty-one
4 years of age. The division shall suspend or revoke the license
5 and may fine the licensee in an amount not to exceed ten
6 thousand dollars (\$10,000), or both, when the division finds
7 that any licensee or the licensee's employee or agent knowingly
8 has sold, served or given any cannabis product to a person
9 under twenty-one years of age on two separate occasions within
10 any twelve-month period.

11 D. The establishment of all of the following facts
12 by a licensee prosecuted for a violation of Subsection C of
13 this section shall constitute a defense:

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

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

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1 (3) that the sale was made in good faith,
2 relying upon the purchaser's false written representation,
3 driver's license or identification card produced as provided in
4 Paragraph (1) of this subsection, and with the reasonable
5 belief that the purchaser was actually twenty-one years of age
6 or older.

7 E. Nothing in this section shall be construed or
8 interpreted to prevent:

9 (1) the division from enforcing its rules
10 against a licensee;

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

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

17 F. 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 16. [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

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

3 SECTION 17. [NEW MATERIAL] TRANSPORT VIA COURIER.--

4 A. Only a cannabis retailer, cannabis manufacturer,
5 integrated cannabis microbusiness or cannabis courier may
6 courier cannabis products.

7 B. A consumer who requests courier service shall
8 maintain a physical or electronic copy of the courier request
9 for the duration of time that the consumer possesses the
10 cannabis product that was purchased and received from the
11 courier and shall make the copy available upon request by the
12 division or a law enforcement officer.

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

14 Before sale or transport via cannabis courier of a cannabis
15 product, the cannabis product shall be labeled and packaged as
16 provided in Section 19 of the Cannabis Regulation Act.

17 SECTION 19. [NEW MATERIAL] CANNABIS PRODUCTS--PACKAGING
18 AND LABELING--DEPARTMENT OF ENVIRONMENT.--

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

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

25 C. The department of environment shall adopt and

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1 promulgate rules for cannabis products that establish labeling
2 and packaging requirements, including that:

3 (1) packages shall be resealable, child-
4 resistant, compostable and recyclable or made from recycled
5 materials;

6 (2) packages and labels shall not be designed
7 to be appealing to a child; and

8 (3) labels shall include:

9 (a) for a package containing only
10 cannabis leaf or flower, the net weight of cannabis in the
11 package;

12 (b) identification of the licensee or
13 licensees that produced or manufactured the cannabis product,
14 the date on which the cannabis was harvested, the type of
15 cannabis product and the date on which the cannabis product was
16 manufactured and packaged;

17 (c) serving size, potency and pesticide
18 use;

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

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

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1 consumption;

2 (f) a warning if nuts or other known
3 allergens are used in the item or in its manufacture;

4 (g) a logo designed by the division that
5 is distinctive in design, color, size and location such that
6 the logo notifies a reasonable person that the package contains
7 cannabis; and

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

11 SECTION 20. [NEW MATERIAL] DEPARTMENT OF ENVIRONMENT--
12 OCCUPATIONAL HEALTH AND SAFETY.--The department of environment
13 shall review and, if necessary, prepare proposed occupational
14 health and safety rules for persons working in the cannabis
15 industry for consideration by the environmental improvement
16 board.

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

20 A. The division, with the assistance of the
21 department of environment, shall promulgate rules to govern the
22 licensing of a cannabis manufacturer, a cannabis research
23 laboratory and a cannabis testing laboratory.

24 B. The division shall issue licenses as follows:

25 (1) "cannabis manufacturer" for a site that

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1 manufactures cannabis products;

2 (2) "cannabis research laboratory" for a
3 facility that produces or possesses cannabis, including all
4 parts of the plant genus Cannabis, for the purpose of studying
5 cannabis cultivation, characteristics or uses. An owner or
6 person with an ownership interest in a cannabis research
7 laboratory license shall not own or have ownership interest in
8 a non-laboratory cannabis establishment licensed pursuant to
9 the Cannabis Regulation Act; and

10 (3) "cannabis testing laboratory" for a
11 licensee that tests cannabis products. An owner or person with
12 an ownership interest in a cannabis testing laboratory license
13 shall not own or have ownership interest in a non-laboratory
14 cannabis establishment licensed pursuant to the Cannabis
15 Regulation Act.

16 C. Except as otherwise provided by law, a cannabis
17 product shall not be sold by a licensee unless a representative
18 sample of the cannabis product has been tested by a cannabis
19 testing laboratory to determine:

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

- 22 (a) delta-9-tetrahydrocannabinol;
- 23 (b) delta-9-tetrahydrocannabinolic acid;
- 24 (c) cannabidiol;
- 25 (d) cannabidiolic acid;

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1 (e) cannabigerol; and

2 (f) cannabidiol; and

3 (2) that the presence of contaminants does not
4 exceed harmful levels, including:

5 (a) residual solvents or chemicals,
6 including explosive gases such as butane and propane, and
7 poisons, toxins or carcinogens such as methanol, methylene
8 chloride, acetone, benzene, toluene and trichloroethylene;

9 (b) foreign material, including hair,
10 insects or other similar adulterants; and

11 (c) microbiological impurity, including
12 total aerobic microbial count; total yeast mold count;
13 pseudomonas aeruginosa; aspergillus species; staphylococcus
14 aureus; aflatoxin B1, B2, G1 or G2; or ochratoxin A.

15 D. Residual levels of volatile organic compounds
16 shall not exceed harmful levels.

17 E. The testing required by this section shall be
18 performed in a manner consistent with general requirements for
19 the competence of testing and calibration activities, including
20 sampling, using standard methods to ensure conformity,
21 competence and impartiality to test cannabis products.

22 SECTION 22. [NEW MATERIAL] TESTING CANNABIS PRODUCTS--
23 DEPARTMENT OF ENVIRONMENT.--

24 A. A cannabis testing laboratory's testing and
25 sampling of cannabis products shall comply with the

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1 requirements set forth in applicable law and rules.

2 B. The division shall develop rules and procedures
3 to:

4 (1) ensure that testing of cannabis products
5 occurs prior to distribution to cannabis retailers or sales by
6 integrated cannabis microbusinesses;

7 (2) specify how often licensees shall test
8 cannabis products;

9 (3) specify which entities bear the cost of
10 testing cannabis products and medical cannabis;

11 (4) provide for recordkeeping;

12 (5) establish chain of custody protocols for
13 testing sample transportation;

14 (6) ensure that testing samples are
15 transported and stored in a manner that prevents degradation,
16 contamination, tampering or diversion;

17 (7) specify protocols for testing sample
18 collection that ensure accurate test results, including
19 requiring that testing samples be collected by laboratory staff
20 trained in testing sample collection; and

21 (8) require destruction of a harvested batch
22 of cannabis or of cannabis products if the testing samples from
23 the batch or items indicate noncompliance with applicable
24 health and safety standards promulgated by the division, unless
25 remedial measures can bring the cannabis or cannabis products

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1 into compliance with the standards.

2 C. Beginning no later than April 1, 2021, the
3 department of environment shall identify and annually provide
4 to the division a set of updated certified reference materials
5 for laboratory testing to be measured against.

6 SECTION 23. [NEW MATERIAL] RESEARCHING CANNABIS--
7 RULEMAKING.--

8 A. A cannabis research laboratory's research of
9 cannabis shall comply with the requirements set forth in
10 applicable law and rules.

11 B. The division shall develop rules and procedures
12 to provide for recordkeeping to ensure that cannabis is not
13 removed from the cannabis research laboratory premises.

14 SECTION 24. [NEW MATERIAL] ADVERTISING AND MARKETING
15 RESTRICTIONS.--The division shall promulgate rules that:

16 A. prohibit the advertisement and marketing of
17 cannabis products:

18 (1) on a billboard, radio, television or other
19 broadcast media; provided that the division shall not prohibit
20 advertising and marketing to:

21 (a) subscribers of subscription-based
22 radio, television or other broadcast media who are twenty-one
23 years of age or older; or

24 (b) persons twenty-one years of age or
25 older who have solicited the advertising or marketing;

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1 (2) that is false, deceptive or misleading,
2 including making health benefit claims not supported by the
3 published results of research recognized by the federal food
4 and drug administration;

5 (3) that depicts consumption by children or
6 other persons who appear to be younger than twenty-one years of
7 age;

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

10 (5) that is in or on the outside of a public
11 transit vehicle or station;

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

14 (7) that is on publicly owned or operated
15 property;

16 B. require:

17 (1) all advertisements and marketing to
18 accurately and legibly identify the licensee responsible for
19 its content; and

20 (2) advertisements in print and digital
21 communications to be placed only where the audience is
22 reasonably expected to be twenty-one years of age or older, as
23 determined by reliable, current audience composition data; and

24 C. authorize and regulate the content of
25 communications:

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1 (1) provided to adults and persons under
2 twenty-one years of age solely for educational purposes
3 regarding the effects of cannabis use; and

4 (2) displayed or provided by a licensee in
5 connection with sponsoring a business, community or charitable
6 event; provided that the communication shall not include
7 content designed to promote the use of a cannabis product.

8 SECTION 25. [NEW MATERIAL] CONTRACTS.--A contract related
9 to operation of a license is enforceable, and a contract
10 entered into by a licensee or a licensee representative for
11 conduct allowed pursuant to a license or entered into by a
12 person who allows property to be used by a licensee or a
13 licensee representative for conduct allowed pursuant to a
14 license shall not be deemed unenforceable on the basis that the
15 conduct allowed pursuant to the license is prohibited by
16 federal law.

17 SECTION 26. [NEW MATERIAL] PROVISION OF PROFESSIONAL
18 SERVICES.--An attorney, accountant, insurance agent, real
19 estate agent, security guard or other person engaged in a
20 profession subject to state licensure shall not be subject to
21 disciplinary action by a professional association, a state
22 professional board or a state licensing entity because the
23 professional provides professional services or assistance to
24 prospective or licensed cannabis establishments or another
25 person in connection with activity that the professional

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1 reasonably believes complies with the Cannabis Regulation Act
2 and rules promulgated pursuant to that act.

3 SECTION 27. [NEW MATERIAL] MEDICAL CANNABIS PROVISIONS
4 UNAFFECTED.--Nothing in the Cannabis Regulation Act shall be
5 construed to limit a privilege or right of a qualified patient
6 or a primary caregiver participating in the medical cannabis
7 program.

8 SECTION 28. [NEW MATERIAL] PROTECTIONS FOR THE USE OF
9 CANNABIS.--

10 A. Conduct allowed pursuant to the Cannabis
11 Regulation Act shall not in itself constitute grounds for:

12 (1) intervention, removal or placement into
13 state custody of a child in an individual's care pursuant to
14 the Abuse and Neglect Act; or

15 (2) the provision of state prevention,
16 diversion or intervention services to that individual's family
17 pursuant to the Family Services Act.

18 B. A person shall not be denied custody of or
19 visitation or parenting time with a child, and there is no
20 presumption of neglect or child endangerment for conduct
21 allowed pursuant to the Cannabis Regulation Act.

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

23 A. Notwithstanding any other provision of law, the
24 following conduct is lawful for a person who is twenty-one
25 years of age or older and shall not constitute grounds for

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1 detention, search or arrest of a person or for a violation of
2 probation or parole, and cannabis products that relate to the
3 conduct are not contraband or subject to seizure or forfeiture
4 pursuant to the Controlled Substances Act or the Forfeiture
5 Act:

6 (1) possessing, using, being under the
7 influence of, displaying, purchasing, obtaining or transporting
8 not more than two ounces of cannabis flowers or sixteen grams
9 of cannabis extract;

10 (2) transferring, without financial
11 consideration, to a person who is twenty-one years of age or
12 older not more than two ounces of cannabis flowers or sixteen
13 grams of cannabis extract;

14 (3) possessing not more than two ounces of
15 cannabis flowers and sixteen grams of cannabis extract within
16 the person's private residence;

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

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

23 (6) assisting another person who is twenty-one
24 years of age or older in, or allowing property to be used in,
25 any of the acts described in Paragraphs (1) through (5) of this

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1 subsection.

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

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

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

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

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

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

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

25 (6) the possession of cannabis or cannabis

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1 extracts in proximity to any amount of cash or currency without
2 evidence of cannabis quantity in excess of two ounces of
3 cannabis flowers or cannabis extracts quantity in excess of
4 sixteen grams.

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

11 SECTION 30. [NEW MATERIAL] LIMITS ON PERSONAL
12 CONSUMPTION--PENALTIES.--

13 A. Nothing in Section 29 of the Cannabis Regulation
14 Act shall be construed to:

15 (1) allow a person to smoke cannabis or
16 cannabis products in a public place, except in a cannabis
17 consumption area; or

18 (2) restrict the ability of an individual or
19 private entity to prohibit conduct otherwise allowed in Section
20 29 of the Cannabis Regulation Act on the individual's or
21 private entity's privately owned property.

22 B. A person who violates Paragraph (1) of
23 Subsection A of this section shall be subject to a civil
24 penalty of fifty dollars (\$50.00).

25 C. For purposes of this section, "smoke" means to

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1 inhale, exhale, burn or carry any lighted or heated device or
2 pipe or any other lighted or heated cannabis product intended
3 for inhalation, whether natural or synthetic, in any manner or
4 in any form.

5 SECTION 31. [NEW MATERIAL] PERSONAL PRODUCTION OF
6 CANNABIS PROHIBITED--PENALTIES.--

7 A. Except as provided in the Lynn and Erin
8 Compassionate Use Act and the Cannabis Regulation Act, it is
9 unlawful for a person intentionally to produce cannabis.

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

12 (1) up to three mature female cannabis plants
13 and any combination of six seedlings or male plants shall be
14 issued a penalty assessment pursuant to Section 31-19A-1 NMSA
15 1978 and is subject to a fine of fifty dollars (\$50.00); and

16 (2) more than three mature female cannabis
17 plants and any combination of six seedlings or male plants 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 C. A minor who violates this section with respect
21 to:

22 (1) up to three mature female cannabis plants
23 and any combination of six seedlings or male plants shall be
24 issued a penalty assessment pursuant to Section 31-19A-1 NMSA
25 1978 and is subject to a fine of fifty dollars (\$50.00); and

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1 (2) more than three mature female cannabis
2 plants and any combination of six seedlings or male plants
3 shall be punished pursuant to the provisions of Section
4 32A-2-19 NMSA 1978.

5 D. As used in this section:

6 (1) "mature female cannabis plant" means a
7 female cannabis plant that has an observable flower or bud; and

8 (2) "minor" means a person who is less than
9 eighteen years of age.

10 SECTION 32. [NEW MATERIAL] UNLICENSED SALES OF CANNABIS--
11 PENALTIES.--

12 A. Except as allowed in the Cannabis Regulation Act
13 and the Lynn and Erin Compassionate Use Act, it is unlawful for
14 a person without a license to intentionally traffic cannabis
15 products.

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

18 (1) a fine of one hundred dollars (\$100);

19 (2) attendance at a four-hour evidence-based
20 drug education program;

21 (3) four hours of community service; or

22 (4) restorative justice mediation.

23 C. Except as otherwise provided in Section 15 of
24 the Cannabis Regulation Act, a person eighteen years of age or
25 older who violates Subsection A of this section is guilty of a

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1 misdemeanor and shall be sentenced pursuant to the provisions
2 of Section 31-19-1 NMSA 1978.

3 D. A person eighteen years of age or older who
4 violates Subsection A of this section and who conducts
5 unlicensed cannabis product sales from a building, room or
6 other area open to the public in a manner that would lead a
7 reasonable person to believe that the area is a cannabis
8 establishment licensed pursuant to the Cannabis Regulation Act
9 is guilty of a fourth degree felony and shall be sentenced
10 pursuant to the provisions of Section 31-18-15 NMSA 1978.

11 E. As used in this section, "traffic"
12 means the:

13 (1) distribution, sale, barter or giving away
14 of cannabis products; or

15 (2) possession with intent to distribute,
16 sell, barter or give away cannabis products.

17 SECTION 33. [NEW MATERIAL] CANNABIS WITHIN RESTRICTED
18 AREA--PENALTY.--Except as allowed in the Cannabis Regulation
19 Act and the Lynn and Erin Compassionate Use Act, a person shall
20 not possess or intentionally distribute any amount of a
21 cannabis product on the premises of a school, church or daycare
22 center unless the person is a qualified patient or a qualified
23 patient's primary caregiver; provided that this section shall
24 not apply to a person who possesses a cannabis product for
25 authorized purposes on the premises of a licensed cannabis

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1 training and education program. A person who violates this
2 section is guilty of a misdemeanor and shall be sentenced
3 pursuant to the provisions of Section 31-19-1 NMSA 1978.

4 SECTION 34. [NEW MATERIAL] UNLAWFUL POSSESSION OF
5 CANNABIS--PENALTIES.--Except as allowed in the Cannabis
6 Regulation Act and the Lynn and Erin Compassionate Use Act:

7 A. a person eighteen years of age or older and
8 younger than twenty-one years of age shall not possess cannabis
9 products. A person who violates this subsection shall be
10 subject to:

- 11 (1) a fine of seventy-five dollars (\$75.00);
- 12 (2) attendance at a four-hour evidence-based
- 13 drug education program;
- 14 (3) four hours of community service; or
- 15 (4) restorative justice mediation;

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

- 19 (1) a fine of fifty dollars (\$50.00);
- 20 (2) attendance at a four-hour evidence-based
- 21 drug education program;
- 22 (3) four hours of community service; or
- 23 (4) restorative justice mediation; and

24 C. a person twenty-one years of age or older shall
25 not possess more than two ounces of cannabis flowers or more

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1 than sixteen grams of cannabis extracts. A person who violates
2 this subsection with respect to:

3 (1) more than two and up to eight ounces of
4 cannabis flowers or more than sixteen and up to sixty-four
5 grams of cannabis extracts is guilty of a misdemeanor and shall
6 be sentenced pursuant to the provisions of Section 31-19-1 NMSA
7 1978; or

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

12 SECTION 35. [NEW MATERIAL] UNLICENSED MANUFACTURING OF
13 CANNABIS EXTRACTS--PENALTY.--It is unlawful for a person to
14 manufacture cannabis extracts without a license issued pursuant
15 to the Cannabis Regulation Act or the Lynn and Erin
16 Compassionate Use Act. A person who violates this section is
17 guilty of a fourth degree felony and shall be sentenced
18 pursuant to the provisions of Section 31-18-15 NMSA 1978.

19 SECTION 36. [NEW MATERIAL] EXPUNGEMENT OF ARREST AND
20 CONVICTION RECORDS--PROCEDURE.--

21 A. If a person is charged with any offense provided
22 in Sections 31 through 35 of the Cannabis Regulation Act and
23 the amount of cannabis product that is the basis of the charge
24 is two ounces of cannabis flowers or sixteen grams of cannabis
25 extract or less, whether or not the person is convicted, all

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1 records held by a court, an agency of the state or a local
2 jurisdiction that relate to the person's arrest or conviction
3 shall be automatically expunged two years after the date of the
4 person's conviction or the date of the person's arrest if there
5 was no conviction. If the person is or was a juvenile at the
6 time of the arrest or conviction, the records shall be retained
7 for two years or until the person is eighteen years of age,
8 whichever comes first, and shall then be expunged. The records
9 shall also be removed from any statewide criminal databases.

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

17 SECTION 37. [NEW MATERIAL] EXPUNGEMENT OF ARREST AND
18 CONVICTION RECORDS--PROCEDURE--RETROACTIVE.--

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

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

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

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

18 SECTION 38. [NEW MATERIAL] RECALL OR DISMISSAL OF
19 SENTENCES--INCARCERATED PERSONS.--

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

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1 if that act had been in effect at the time of the offense,
2 shall notify the court that the convicted person's case should
3 be reopened to consider possible recall or dismissal of the
4 person's sentence.

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

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

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

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

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1 conviction as a penalty assessment citation or dismiss and seal
2 the conviction as legally invalid because of the enactment of
3 the Cannabis Regulation Act, unless the court makes a finding
4 that the conviction is not legally invalid or was not
5 redesignated as a penalty assessment citation pursuant to that
6 act.

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

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

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

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

22 SECTION 39. [NEW MATERIAL] WRIT OF MANDAMUS.--Any person
23 may commence a legal action for a writ of mandamus to compel
24 the division to perform its duties pursuant to the Cannabis
25 Regulation Act.

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1 SECTION 40. ~~[NEW MATERIAL]~~ CANNABIS REGULATION FUND.--

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

9 B. Money in the cannabis regulation fund is subject
10 to appropriation. The legislature may appropriate money in the
11 fund to the division, the department of health, the department
12 of environment, the New Mexico department of agriculture, the
13 taxation and revenue department and the department of public
14 safety to carry out the provisions of the Cannabis Regulation
15 Act and the Lynn and Erin Compassionate Use Act.

16 SECTION 41. ~~[NEW MATERIAL]~~ COMMUNITY GRANTS REINVESTMENT
17 FUND--COMMUNITY GRANTS REINVESTMENT PROGRAM.--

18 A. The "community grants reinvestment fund" is
19 created in the state treasury. The fund consists of
20 appropriations, other money deposited in the fund and money
21 otherwise accruing to the fund. Income from the fund shall be
22 credited to the fund. The department of health shall
23 administer the fund, and money in the fund is subject to
24 appropriation to the department of health for the community
25 grants reinvestment program as described in this section. Any

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

7 B. The secretary of health shall establish the
8 "community grants reinvestment program". The community grants
9 reinvestment program shall provide grants to qualified
10 community-based nonprofit organizations and governmental
11 entities for the purposes of:

12 (1) developing and executing a comprehensive
13 and sustained multilingual public education campaign that
14 promotes abstinence from cannabis for persons under twenty-one
15 years of age, encourages responsible use of cannabis by adults
16 and promotes medical cannabis as a therapeutic option;

17 (2) reinvesting in communities
18 disproportionately affected by past federal and state drug
19 policies by supporting housing, job placement, mental health
20 treatment, substance use disorder treatment and legal services
21 to address barriers faced by formerly incarcerated persons,
22 including for the expungement of records;

23 (3) funding public health and substance abuse
24 prevention programming;

25 (4) funding housing that prioritizes people in

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1 treatment or who are currently using substances;

2 (5) funding promising practices or evidence-
3 based drug education programming based on the principles of
4 harm reduction, including leadership development, family
5 engagement and youth development, that is designed to prevent
6 and reduce substance use, improve grades kindergarten through
7 twelve school retention and performance and create economic
8 security for families; and

9 (6) funding research related to medical and
10 adult cannabis use effects or efficacy of medical and
11 commercial cannabis; impacts on public health, health costs
12 associated with cannabis use and whether cannabis use is
13 associated with an increase or decrease in the use of alcohol
14 or other drugs; the effectiveness of treatment for maladaptive
15 cannabis use and the effectiveness of different treatment
16 programs; public safety issues related to cannabis use; the
17 effectiveness of the packaging and labeling requirements and
18 advertising and marketing restrictions on the prevention of
19 underage access to and use of cannabis products; cannabis use
20 rates and maladaptive cannabis use rates for adults and youth
21 and diagnosis rates of cannabis-related substance use
22 disorders; and environmental issues related to cannabis
23 production and the criminal prohibition of cannabis production.

24 C. A qualified community-based nonprofit
25 organization or governmental entity may apply for a grant from

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1 the community grants reinvestment fund. Applications shall be
2 reviewed by the department of health.

3 SECTION 42. [NEW MATERIAL] LOW-INCOME MEDICAL PATIENT
4 SUBSIDY FUND.--

5 A. The "low-income medical patient subsidy fund" is
6 created in the state treasury. The fund consists of
7 appropriations, other money deposited in the fund and money
8 otherwise accruing to the fund. Income from the fund shall be
9 credited to the fund. The department of health shall
10 administer the fund, and money in the fund is subject to
11 appropriation to the department of health. Any unexpended or
12 unencumbered balance remaining at the end of a fiscal year
13 shall not revert to the general fund.

14 B. The low-income medical patient subsidy fund is
15 created for the purpose of supporting qualified patients
16 participating in the medical cannabis program in accordance
17 with the Lynn and Erin Compassionate Use Act who also
18 participate in the medical cannabis subsidy program created
19 pursuant to Section 4 of the Cannabis Regulation Act.

20 C. Money in the low-income medical patient subsidy
21 fund shall be disbursed on warrants signed by the secretary of
22 finance and administration pursuant to vouchers signed by the
23 secretary of health or the secretary's authorized
24 representative.

25 SECTION 43. [NEW MATERIAL] CANNABIS WORKFORCE TRAINING

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1 FUND--WORKFORCE SOLUTIONS DEPARTMENT--CANNABIS TRAINING AND
2 EDUCATION PROGRAMS.--

3 A. The "cannabis workforce training fund" is
4 created in the state treasury. The fund shall consist of
5 appropriations, gifts, grants, donations and bequests made to
6 the fund. Income from the fund shall be credited to the fund.
7 Any unexpended or unencumbered balance remaining at the end of
8 a fiscal year shall not revert to the general fund.

9 B. The workforce solutions department shall
10 administer the cannabis workforce training fund. Money in the
11 fund is appropriated to that department to develop a plan on
12 how to best prepare persons to engage in any commercial
13 cannabis activity or any activity related to the medical
14 cannabis program, to support public post-secondary educational
15 institutions that choose to participate in a cannabis training
16 and education program and to assist persons in gaining the
17 training and experience necessary to engage in those
18 activities.

19 C. The workforce solutions department shall develop
20 a plan to assist in preparing persons to engage in any
21 commercial cannabis activity or any activity related to the
22 medical cannabis program. In developing the plan, the
23 workforce solutions department shall request recommendations
24 from members of the cannabis industry and any person or group
25 that the workforce solutions department determines is

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1 appropriate to inform the use of money in the cannabis
2 workforce training fund. The workforce solutions department
3 shall engage in consultation with the economic development
4 department, the department of health, the higher education
5 department and the Indian affairs department to develop the
6 plan. The plan shall include provisions for developing
7 education and customized training concerning any commercial
8 cannabis activity or any activity related to the medical
9 cannabis program to be offered by public post-secondary
10 educational institutions pursuant to the Workforce Training
11 Act. The plan shall include consideration of communities
12 disproportionately affected by past federal and state drug
13 policies, shall include outreach to those communities regarding
14 business and job opportunities in the cannabis industry and
15 shall include an annual evaluation of the participation and
16 success in the industry by individuals from those communities
17 and recommendations on how to improve that participation and
18 success.

19 D. Expenditures from the cannabis workforce
20 training fund shall be made pursuant to the plan and to the
21 workforce solutions department to pay the costs of developing
22 the plan, to support public post-secondary educational
23 institutions that choose to participate in a cannabis training
24 and education program and to assist persons in gaining the
25 training and experience necessary to engage in those activities

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1 and for payment of costs associated with persons enrolling and
2 participating in certified apprenticeship programs, cannabis
3 training and education programs or for other programs designed
4 to train or educate persons to participate in any commercial
5 cannabis activity or any activity related to the medical
6 cannabis program.

7 E. Money in the cannabis workforce training fund
8 shall be expended on warrants of the secretary of finance and
9 administration pursuant to vouchers signed by the secretary of
10 workforce solutions or the secretary's designee.

11 SECTION 44. [NEW MATERIAL] CANNABIS INDUSTRY EQUITABLE
12 OPPORTUNITY INVESTMENT FUND--ECONOMIC DEVELOPMENT DEPARTMENT.--

13 A. The "cannabis industry equitable opportunity
14 investment fund" is created in the state treasury. The fund
15 consists of appropriations, gifts, grants, donations and
16 bequests made to the fund. Income from the fund shall be
17 credited to the fund. Any unexpended or unencumbered balance
18 remaining at the end of a fiscal year shall not revert to the
19 general fund.

20 B. The economic development department shall
21 administer the cannabis industry equitable opportunity
22 investment fund, and money in the fund is appropriated to that
23 department to:

24 (1) develop and implement a plan to provide
25 financial assistance to support start-up businesses and to

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1 expand existing businesses in or related to the cannabis
2 industry that are owned by persons from communities
3 disproportionately affected by past federal and state drug
4 policies; and

5 (2) research and develop and, on or before
6 December 1, 2021, propose new legislation or amendments to
7 existing acts designed to provide financial assistance to
8 support start-up businesses and to expand existing businesses
9 engaged in any commercial cannabis activity or any activity
10 related to the medical cannabis program that are owned by
11 persons from communities disproportionately affected by past
12 federal and state drug policies.

13 C. Money in the cannabis industry equitable
14 opportunity investment fund shall be expended on warrants of
15 the secretary of finance and administration pursuant to
16 vouchers signed by the secretary of economic development or the
17 secretary's designee.

18 SECTION 45. [NEW MATERIAL] EXEMPTION FROM CRIMINAL AND
19 CIVIL PENALTIES--RESEARCHERS.--A person shall not be subject to
20 arrest or prosecution, penalized in any manner or denied any
21 right or privilege solely because the person produced,
22 possessed, distributed, dispensed or purchased cannabis from a
23 person licensed pursuant to the Lynn and Erin Compassionate Use
24 Act or the Cannabis Regulation Act if the person produced,
25 possessed, distributed, dispensed or purchased the cannabis

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1 solely for the purpose of research conducted pursuant to the
2 Lynn and Erin Compassionate Use Act or the Cannabis Regulation
3 Act.

4 SECTION 46. [NEW MATERIAL] INDIAN NATIONS, TRIBES AND
5 PUEBLOS--INTERGOVERNMENTAL AGREEMENTS.--The department may
6 enter into an intergovernmental agreement with any sovereign
7 Indian nation, tribe or pueblo located in New Mexico that
8 elects to implement the provisions of the Cannabis Regulation
9 Act. The intergovernmental agreement shall provide for:

10 A. any assistance from the department that an
11 Indian nation, tribe or pueblo may request in implementing its
12 own commercial cannabis program within the boundaries of that
13 Indian nation, tribe or pueblo and that the department agrees
14 to provide; and

15 B. guidelines for compliance with department rules
16 or compliance with separate express provisions of the
17 intergovernmental agreement to govern the rights and the
18 responsibilities of the department and an Indian nation, tribe
19 or pueblo when that Indian nation, tribe or pueblo transports
20 or sells commercial cannabis outside of the boundaries of that
21 Indian nation, tribe or pueblo.

22 SECTION 47. A new section of the Public School Code is
23 enacted to read:

24 "[NEW MATERIAL] SUBSTANCE ABUSE EDUCATION.--The department
25 shall require that, by January 1, 2022, all public and charter

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1 schools annually provide to students in eighth through twelfth
2 grades evidence-based drug education programs that are based on
3 principles of harm reduction and are designed to prevent and
4 reduce substance use and improve school retention and
5 performance."

6 SECTION 48. [NEW MATERIAL] ROADSIDE DRUG TESTING--PILOT
7 PROJECT.--

8 A. On or before October 1, 2020, the department of
9 public safety shall establish a pilot project to determine
10 through roadside testing using an oral fluid test instrument
11 whether an individual is operating a vehicle while under the
12 influence of a drug in violation of Section 66-8-102 NMSA 1978.
13 The pilot project established pursuant to this section shall be
14 for a period of one calendar year.

15 B. Not more than ninety days after the conclusion
16 of the pilot project established pursuant to this section, the
17 department of public safety shall submit a report to the
18 appropriate legislative committee. The report shall include:

19 (1) relevant statistical data, including:
20 (a) the number of traffic stops
21 resulting in an arrest for operating under the influence of a
22 drug in violation of Section 66-8-102 NMSA 1978 as a result of
23 the pilot project;

24 (b) the number and type of convictions
25 resulting from arrests made as a result of the pilot project;

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1 and

2 (c) the race, ethnicity, age and gender
3 of each person arrested or convicted as a result of the pilot
4 project; and

5 (2) an overview of the results of the pilot
6 project and recommendations regarding whether to continue the
7 pilot project or to postpone, abandon or implement roadside
8 testing using an oral fluid test instrument.

9 SECTION 49. [NEW MATERIAL] SHORT TITLE.--Sections 49
10 through 56 of this act may be cited as the "Cannabis Tax Act".

11 SECTION 50. [NEW MATERIAL] DEFINITIONS.--As used in the
12 Cannabis Tax Act:

13 A. "cannabis":

14 (1) means all parts of the plant genus
15 Cannabis containing a delta-9-tetrahydrocannabinol
16 concentration of more than three-tenths percent on a dry weight
17 basis, whether growing or not; the seeds of the plant; the
18 resin extracted from any part of the plant; and every compound,
19 manufacture, salt, derivative, mixture or preparation of the
20 plant, its seeds or its resin; and

21 (2) does not include:

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

1 oil or cake; or the sterilized seed of the plant that is
2 incapable of germination; or

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

6 B. "cannabis extract":

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

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

14 C. "cannabis product":

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

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

22 D. "cannabis retailer" means a person that is
23 licensed by the cannabis control division of the regulation and
24 licensing department to sell and courier cannabis products to a
25 person who purchases, acquires, possesses or uses a cannabis

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1 product for a purpose other than resale;

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

5 F. "department" means the taxation and revenue
6 department; and

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

9 SECTION 51. [NEW MATERIAL] CANNABIS EXCISE TAX.--

10 A. An excise tax is imposed on a cannabis retailer
11 that sells cannabis products in this state on which the tax
12 imposed by this section has not been paid. The tax imposed by
13 this section may be referred to as the "cannabis excise tax".

14 B. The rate of the cannabis excise tax is nine
15 percent and is applied to the price paid for the cannabis
16 product. If the price paid does not represent the value of the
17 cannabis product, the tax rate shall be applied to the
18 reasonable value of the cannabis product at the time the
19 product was purchased.

20 C. The cannabis excise tax shall not apply to
21 retail sales of medical cannabis products sold to a qualified
22 patient or to a primary caregiver who presents a registry
23 identification card issued pursuant to the Lynn and Erin
24 Compassionate Use Act at the time of the sale.

25 SECTION 52. [NEW MATERIAL] MUNICIPAL CANNABIS TAX.--

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1 A. A majority of the members of the governing body
2 of a municipality may enact an ordinance imposing an excise tax
3 on a cannabis retailer that sells cannabis products in the
4 municipality on which the tax imposed by this section has not
5 been paid. The tax imposed pursuant to this section may be
6 referred to as the "municipal cannabis tax".

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

9 C. The rate of the municipal cannabis tax shall be
10 no more than four percent, which may be imposed in any number
11 of one-sixteenth percent increments, and is applied to the
12 price of the cannabis product. If the price of the cannabis
13 product does not represent the value of the cannabis product,
14 the tax rate shall be applied to the reasonable value of the
15 cannabis product at the time the cannabis product was
16 purchased.

17 D. The governing body of a municipality, at the
18 time of enacting an ordinance imposing a municipal cannabis
19 tax, may dedicate the revenue for any municipal purpose.

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

22 SECTION 53. [NEW MATERIAL] COUNTY CANNABIS TAX.--

23 A. The majority of the members of the governing
24 body of a county may enact an ordinance imposing an excise tax
25 on a cannabis retailer that sells cannabis products in the

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1 county area on which the tax imposed by this section has not
2 been paid. The tax imposed pursuant to this section may be
3 referred to as the "county cannabis tax".

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

6 C. The rate of the county cannabis tax shall be no
7 more than four percent, which may be imposed in any number of
8 one-sixteenth percent increments, and is applied to the price
9 of the cannabis product. If the price of the cannabis product
10 does not represent the value of the cannabis product, the tax
11 rate shall be applied to the reasonable value of the cannabis
12 product at the time the cannabis product was purchased.

13 D. The governing body of a county, at the time of
14 enacting an ordinance imposing a county cannabis tax, may
15 dedicate the revenue for any county purpose.

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

18 SECTION 54. [NEW MATERIAL] DATE PAYMENT DUE.--The taxes
19 imposed pursuant to the Cannabis Tax Act are to be paid on or
20 before the twenty-fifth day of the month following the month in
21 which the taxable event occurs.

22 SECTION 55. [NEW MATERIAL] ADMINISTRATIVE CHARGE.--The
23 department may deduct an amount not to exceed three percent of
24 the proceeds of the municipal cannabis tax and county cannabis
25 tax as a charge for the administrative costs of collection,

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1 which amount shall be retained by the department for use in
2 administration of those taxes.

3 SECTION 56. [NEW MATERIAL] INTERPRETATION OF ACT--
4 ADMINISTRATION AND ENFORCEMENT OF TAX.--The department shall
5 administer and enforce the collection of the cannabis excise
6 tax, municipal cannabis tax and county cannabis tax pursuant to
7 the Tax Administration Act.

8 SECTION 57. A new section of the Tax Administration Act
9 is enacted to read:

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

11 A. A distribution pursuant to Section 7-1-6.1 NMSA
12 1978 shall be made to the cannabis industry equitable
13 opportunity investment fund in an amount equal to six percent
14 of the net receipts attributable to the cannabis excise tax.

15 B. A distribution pursuant to Section 7-1-6.1 NMSA
16 1978 shall be made to the low-income medical patient subsidy
17 fund in an amount equal to twenty percent of the net receipts
18 attributable to the cannabis excise tax.

19 C. A distribution pursuant to Section 7-1-6.1 NMSA
20 1978 shall be made to the community grants reinvestment fund in
21 an amount equal to thirty-five percent of the net receipts
22 attributable to the cannabis excise tax.

23 D. A distribution pursuant to Section 7-1-6.1 NMSA
24 1978 shall be made to the cannabis workforce training fund in
25 an amount equal to three percent of the net receipts

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1 attributable to the cannabis excise tax.

2 E. A distribution pursuant to Section 7-1-6.1 NMSA
3 1978 shall be made to the law enforcement protection fund in an
4 amount equal to sixteen and one-half percent of the net
5 receipts attributable to the cannabis excise tax.

6 F. A distribution pursuant to Section 7-1-6.1 NMSA
7 1978 shall be made to the impaired driving education fund in an
8 amount equal to one and one-half percent of the net receipts
9 attributable to the cannabis excise tax.

10 G. A distribution pursuant to Section 7-1-6.1 NMSA
11 1978 shall be made to the human services department in an
12 amount equal to eighteen percent of the net receipts
13 attributable to the cannabis excise tax for statewide substance
14 use disorder treatment."

15 SECTION 58. A new section of the Tax Administration Act
16 is enacted to read:

17 "[NEW MATERIAL] TRANSFER--REVENUES FROM MUNICIPAL CANNABIS
18 TAX AND COUNTY CANNABIS TAX.--

19 A. A transfer pursuant to Section 7-1-6.1 NMSA 1978
20 shall be made to each municipality for which the department is
21 collecting a municipal cannabis tax imposed by that
22 municipality in an amount, subject to any increase or decrease
23 made pursuant to Section 7-1-6.15 NMSA 1978, equal to the net
24 receipts attributable to the municipal cannabis tax, less any
25 deduction for administrative costs determined and made by the

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1 department pursuant to the Cannabis Tax Act.

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

10 SECTION 59. Section 7-1-2 NMSA 1978 (being Laws 1965,
11 Chapter 248, Section 2, as amended by Laws 2019, Chapter 47,
12 Section 1 and by Laws 2019, Chapter 53, Section 10 and also by
13 Laws 2019, Chapter 270, Section 1) is amended to read:

14 "7-1-2. APPLICABILITY.--The Tax Administration Act
15 applies to and governs:

16 A. the administration and enforcement of the
17 following taxes or tax acts as they now exist or may hereafter
18 be amended:

19 (1) Income Tax Act;

20 (2) Withholding Tax Act;

21 (3) Oil and Gas Proceeds and Pass-Through
22 Entity Withholding Tax Act;

23 (4) Gross Receipts and Compensating Tax Act,
24 Interstate Telecommunications Gross Receipts Tax Act and Leased
25 Vehicle Gross Receipts Tax Act;

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- 1 (5) Liquor Excise Tax Act;
- 2 (6) Local Liquor Excise Tax Act;
- 3 (7) any municipal local option gross receipts
- 4 tax or municipal compensating tax;
- 5 (8) any county local option gross receipts tax
- 6 or county compensating tax;
- 7 (9) Special Fuels Supplier Tax Act;
- 8 (10) Gasoline Tax Act;
- 9 (11) petroleum products loading fee, which fee
- 10 shall be considered a tax for the purpose of the Tax
- 11 Administration Act;
- 12 (12) Alternative Fuel Tax Act;
- 13 (13) Cigarette Tax Act;
- 14 (14) Estate Tax Act;
- 15 (15) Railroad Car Company Tax Act;
- 16 (16) Investment Credit Act, rural job tax
- 17 credit, Laboratory Partnership with Small Business Tax Credit
- 18 Act, Technology Jobs and Research and Development Tax Credit
- 19 Act, Film Production Tax Credit Act, Affordable Housing Tax
- 20 Credit Act and high-wage jobs tax credit;
- 21 (17) Corporate Income and Franchise Tax Act;
- 22 (18) Uniform Division of Income for Tax
- 23 Purposes Act;
- 24 (19) Multistate Tax Compact;
- 25 (20) Tobacco Products Tax Act;

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

5 (22) the Insurance Premium Tax Act;

6 (23) the Health Care Quality Surcharge Act;

7 and

8 (24) the Cannabis Tax Act;

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

12 (1) Resources Excise Tax Act;

13 (2) Severance Tax Act;

14 (3) any severance surtax;

15 (4) Oil and Gas Severance Tax Act;

16 (5) Oil and Gas Conservation Tax Act;

17 (6) Oil and Gas Emergency School Tax Act;

18 (7) Oil and Gas Ad Valorem Production Tax Act;

19 (8) Natural Gas Processors Tax Act;

20 (9) Oil and Gas Production Equipment Ad

21 Valorem Tax Act;

22 (10) Copper Production Ad Valorem Tax Act;

23 (11) any advance payment required to be made

24 by any act specified in this subsection, which advance payment

25 shall be considered a tax for the purposes of the Tax

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1 Administration Act;

2 (12) Enhanced Oil Recovery Act;

3 (13) Natural Gas and Crude Oil Production

4 Incentive Act; and

5 (14) intergovernmental production tax credit
6 and intergovernmental production equipment tax credit;

7 C. the administration and enforcement of the
8 following taxes, surcharges, fees or acts as they now exist or
9 may hereafter be amended:

10 (1) Weight Distance Tax Act;

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

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

15 (4) 911 emergency surcharge and the network
16 and database surcharge, which surcharges shall be considered
17 taxes for purposes of the Tax Administration Act;

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

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

24 (7) the gaming tax imposed pursuant to the
25 Gaming Control Act; and

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1 D. the administration and enforcement of all other
2 laws, with respect to which the department is charged with
3 responsibilities pursuant to the Tax Administration Act, but
4 only to the extent that the other laws do not conflict with the
5 Tax Administration Act."

6 **SECTION 60.** Section 7-1-6.15 NMSA 1978 (being Laws 1983,
7 Chapter 211, Section 20, as amended by Laws 2015, Chapter 89,
8 Section 1 and by Laws 2015, Chapter 100, Section 1) is amended
9 to read:

10 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO
11 MUNICIPALITIES OR COUNTIES.--

12 A. The provisions of this section apply to:

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

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

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

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

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

25 (6) any transfer to a county with respect to

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1 any tax imposed in accordance with the Local Liquor Excise Tax
2 Act;

3 (7) any distribution to a county from the
4 county government road fund pursuant to Section 7-1-6.26 NMSA
5 1978;

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

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

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

24 (1) all negative amounts relating to any
25 period prior to the three calendar years preceding the year of

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1 the current month, net of any positive amounts in that same
2 time period for the same taxpayers to which the negative
3 amounts pertain, shall be excluded from the total relating to
4 prior periods. Except as provided in Paragraph (2) of this
5 subsection, the net receipts to be distributed or transferred
6 to the municipality or county shall be adjusted to equal the
7 amount for the current month plus the revised total for prior
8 periods; and

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

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

23 D. Prior to or concurrently with the distribution
24 or transfer to the municipality or county of the adjusted net
25 receipts, the department shall notify the municipality or

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1 county whose distribution or transfer has been adjusted
2 pursuant to Paragraph (2) of Subsection B of this section:

3 (1) that the department has made such an
4 adjustment, that the department has determined that a specified
5 amount is recoverable from the municipality or county and that
6 the department intends to recover that amount from future
7 distributions or transfers to the municipality or county;

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

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

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

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

24 (1) the department may collect the recoverable
25 amount by:

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1 (a) decreasing distributions or
2 transfers to the municipality or county in accordance with a
3 repayment agreement entered into with the municipality or
4 county; or

5 (b) except as provided in Paragraphs (2)
6 and (3) of this subsection, if the municipality or county fails
7 to act within the ninety days, decreasing the amount of the
8 next six distributions or transfers to the municipality or
9 county following expiration of the ninety-day period in
10 increments as nearly equal as practicable and sufficient to
11 recover the amount;

12 (2) if, pursuant to Subsection B of this
13 section, the secretary determines that the recoverable amount
14 is more than fifty percent of the average distribution or
15 transfer of net receipts for that municipality or county, the
16 secretary:

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

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

23 (3) if, after application of a refund claim,
24 audit adjustment, correction of a mistake by the department or
25 other adjustment of a prior period, but prior to any recovery

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1 of the department pursuant to this section, the total net
2 receipts of a municipality or county for the twelve-month
3 period beginning with the current month are reduced or are
4 projected to be reduced to less than fifty percent of the
5 average distribution or transfer of net receipts, the secretary
6 may waive recovery of any portion of the recoverable amount,
7 subject to approval by the state board of finance.

8 F. No later than ninety days from the date notice
9 pursuant to Subsection D of this section is given, the
10 department shall provide the municipality or county adequate
11 opportunity to review an application for a claim for refund
12 that gave rise to the recoverable amount, exclusive of any
13 amended returns that may be attached to the application,
14 pursuant to Section 7-1-8.9 NMSA 1978.

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

21 H. The secretary is authorized to decrease a
22 distribution or transfer to a municipality or county upon being
23 directed to do so by the secretary of finance and
24 administration pursuant to the State Aid Intercept Act or to
25 redirect a distribution or transfer to the New Mexico finance

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

24 (1) prior to an adjustment of a distribution
25 or transfer of net receipts creating a recoverable amount owed

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1 to the department takes precedence over any collection of any
2 recoverable amount pursuant to Paragraph (2) of Subsection B of
3 this section, which may be made only from the net amount of the
4 distribution or transfer remaining after application of the
5 decrease or redirection pursuant to this subsection; and

6 (2) after an adjustment of a distribution or
7 transfer of net receipts creating a recoverable amount owed to
8 the department shall be subordinate to any collection of any
9 recoverable amount pursuant to Paragraph (2) of Subsection B of
10 this section.

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

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1 be distributed to the general fund. An amount withheld
2 pursuant to this subsection shall be distributed to the
3 municipality or county upon direction of the secretary of
4 finance and administration.

5 J. As used in this section:

6 (1) "amounts relating to the current month"
7 means any amounts included in the net receipts of the current
8 month that represent payment of tax due for the current month,
9 correction of amounts processed in the current month that
10 relate to the current month or that otherwise relate to
11 obligations due for the current month;

12 (2) "amounts relating to prior periods" means
13 any amounts processed during the current month that adjust
14 amounts processed in a period or periods prior to the current
15 month regardless of whether the adjustment is a correction of a
16 department error or due to the filing of amended returns,
17 payment of department-issued assessments, filing or approval of
18 claims for refund, audit adjustments or other cause;

19 (3) "average distribution or transfer amount"
20 means the following amounts; provided that a distribution or
21 transfer that is negative shall not be used in calculating the
22 amounts:

23 (a) the annual average of the total
24 amount distributed or transferred to a municipality or county
25 in each of the three twelve-month periods preceding the current

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1 month;

2 (b) if a distribution or transfer to a
3 municipality or county has been made for less than three years,
4 the total amount distributed or transferred in the year
5 preceding the current month; or

6 (c) if a municipality or county has not
7 received distributions or transfers of net receipts for twelve
8 or more months, the monthly average of net receipts distributed
9 or transferred to the municipality or county preceding the
10 current month multiplied by twelve;

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

13 (5) "repayment agreement" means an agreement
14 between the department and a municipality or county under which
15 the municipality or county agrees to allow the department to
16 recover an amount determined pursuant to Paragraph (2) of
17 Subsection B of this section by decreasing distributions or
18 transfers to the municipality or county for one or more months
19 beginning with the distribution or transfer to be made with
20 respect to a designated month. No interest shall be charged."

21 SECTION 61. Section 7-9-3.5 NMSA 1978 (being Laws 2003,
22 Chapter 272, Section 3, as amended) is amended to read:

23 "7-9-3.5. DEFINITION--GROSS RECEIPTS.--

24 A. As used in the Gross Receipts and Compensating
25 Tax Act:

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

12 (2) "gross receipts" includes:

13 (a) any receipts from sales of tangible
14 personal property handled on consignment;

15 (b) the total commissions or fees
16 derived from the business of buying, selling or promoting the
17 purchase, sale or lease, as an agent or broker on a commission
18 or fee basis, of any property, service, stock, bond or
19 security;

20 (c) amounts paid by members of any
21 cooperative association or similar organization for sales or
22 leases of personal property or performance of services by such
23 organization;

24 (d) amounts received from transmitting
25 messages or conversations by persons providing telephone or

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1 telegraph services;

2 (e) amounts received by a New Mexico
3 florist from the sale of flowers, plants or other products that
4 are customarily sold by florists where the sale is made
5 pursuant to orders placed with the New Mexico florist that are
6 filled and delivered outside New Mexico by an out-of-state
7 florist;

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

20 (g) receipts collected by a marketplace
21 provider engaging in business in the state from sales, leases
22 and licenses of tangible personal property, sales of licenses
23 and sales of services or licenses for use of real property that
24 are sourced to this state and are facilitated by the
25 marketplace provider on behalf of marketplace sellers,

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1 regardless of whether the marketplace sellers are engaging in
2 business in the state; and

3 (3) "gross receipts" excludes:

4 (a) cash discounts allowed and taken;

5 (b) New Mexico gross receipts tax,
6 governmental gross receipts tax and leased vehicle gross
7 receipts tax payable on transactions for the reporting period;

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

11 (d) any tax imposed pursuant to the
12 Cannabis Tax Act;

13 [~~(d)~~] (e) any gross receipts or sales
14 taxes imposed by an Indian nation, tribe or pueblo; provided
15 that the tax is approved, if approval is required by federal
16 law or regulation, by the secretary of the interior of the
17 United States; and provided further that the gross receipts or
18 sales tax imposed by the Indian nation, tribe or pueblo
19 provides a reciprocal exclusion for gross receipts, sales or
20 gross receipts-based excise taxes imposed by the state or its
21 political subdivisions;

22 [~~(e)~~] (f) any type of time-price
23 differential;

24 [~~(f)~~] (g) amounts received solely on
25 behalf of another in a disclosed agency capacity; and

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1 [~~g~~] (h) amounts received by a New
2 Mexico florist from the sale of flowers, plants or other
3 products that are customarily sold by florists where the sale
4 is made pursuant to orders placed with an out-of-state florist
5 for filling and delivery in New Mexico by a New Mexico florist.

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

17 SECTION 62. Section 7-9-73.2 NMSA 1978 (being Laws 1998,
18 Chapter 95, Section 2 and Laws 1998, Chapter 99, Section 4, as
19 amended) is amended to read:

20 "7-9-73.2. DEDUCTION--GROSS RECEIPTS TAX AND GOVERNMENTAL
21 GROSS RECEIPTS TAX--PRESCRIPTION DRUGS--OXYGEN--CANNABIS---

22 A. Receipts from the sale of prescription drugs
23 [~~and~~], oxygen [~~and~~], oxygen services provided by a licensed
24 medicare durable medical equipment provider and cannabis that
25 is purchased in accordance with the Lynn and Erin Compassionate

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1 Use Act may be deducted from gross receipts and governmental
2 gross receipts.

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

5 (1) dispensed by or under the supervision of a
6 licensed pharmacist or by a physician or other person
7 authorized under state law to do so;

8 (2) prescribed for a specified person by a
9 person authorized under state law to prescribe the substance;
10 and

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

13 SECTION 63. Section 9-16-4 NMSA 1978 (being Laws 1983,
14 Chapter 297, Section 20, as amended) is amended to read:

15 "9-16-4. DEPARTMENT ESTABLISHED.--The "regulation and
16 licensing department" is created in the executive branch. The
17 department shall not be a cabinet department. The department
18 shall consist of but not be limited to the following divisions:

- 19 A. the administrative services division;
- 20 B. the construction industries division;
- 21 C. the financial institutions division;
- 22 D. the securities division;
- 23 E. the manufactured housing division; ~~and~~
- 24 F. the alcoholic beverage control division; and
- 25 G. the cannabis control division."

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1 SECTION 64. Section 24-16-12 NMSA 1978 (being Laws 2007,
2 Chapter 20, Section 4, as amended) is amended to read:

3 "24-16-12. SMOKING-PERMITTED AREAS.--Notwithstanding any
4 other provision of the Dee Johnson Clean Indoor Air Act,
5 smoking-permitted areas include the following:

6 A. a private residence, unless it is used
7 commercially to provide child care, adult care or health care
8 or any combination of those activities;

9 B. a retail tobacco store; provided that, for a
10 retail tobacco store established on or after the effective date
11 of this 2019 act, the store shall be located in a standalone
12 building;

13 C. a cigar bar; provided that, for a cigar bar
14 established on or after [~~the effective date of this 2019 act~~]
15 June 14, 2019, the bar shall be located in a standalone
16 building;

17 D. the facilities of a tobacco manufacturing
18 company licensed by the United States to manufacture tobacco
19 products that are operated by the company in its own name and
20 that are used exclusively by the company in its business of
21 manufacturing, marketing or distributing its tobacco products;
22 provided that secondhand smoke does not infiltrate other indoor
23 workplaces or other indoor public places where smoking is
24 otherwise prohibited under the Dee Johnson Clean Indoor Air
25 Act;

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1 E. a state-licensed gaming facility, casino or
2 bingo parlor;

3 F. designated outdoor smoking areas;

4 G. private clubs;

5 H. hotel and motel rooms that are rented to guests
6 and are designated as smoking-permitted rooms; provided that
7 not more than ten percent of rooms rented to guests in a hotel
8 or motel may be so designated;

9 I. a site that is being used in connection with the
10 practice of cultural or ceremonial activities by Native
11 Americans and that is in accordance with the federal American
12 Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a; [~~and~~]

13 J. a theatrical stage or a motion picture or
14 television production set when it is necessary for performers
15 to smoke as part of the production; and

16 K. an indoor or outdoor cannabis consumption area
17 located on the licensed premises of a cannabis establishment
18 authorized pursuant to the Cannabis Regulation Act."

19 SECTION 65. A new section of the Lynn and Erin
20 Compassionate Use Act is enacted to read:

21 "[NEW MATERIAL] INDIAN NATIONS, TRIBES AND PUEBLOS--
22 INTERGOVERNMENTAL AGREEMENTS.--The department may enter into an
23 intergovernmental agreement with any sovereign Indian nation,
24 tribe or pueblo located in New Mexico that elects to implement
25 the provisions of the medical cannabis program established

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1 pursuant to the Lynn and Erin Compassionate Use Act. The
2 intergovernmental agreement shall provide for:

3 A. any assistance from the department that an
4 Indian nation, tribe or pueblo may request in implementing its
5 own medical cannabis program within the boundaries of that
6 Indian nation, tribe or pueblo and that the department agrees
7 to provide; and

8 B. guidelines for compliance with department rules
9 or compliance with separate express provisions of the
10 intergovernmental agreement to govern the rights and the
11 responsibilities of the department and an Indian nation, tribe
12 or pueblo when that Indian nation, tribe or pueblo transports
13 or sells medical cannabis outside of the boundaries of that
14 Indian nation, tribe or pueblo."

15 SECTION 66. Section 26-2B-3 NMSA 1978 (being Laws 2007,
16 Chapter 210, Section 3, as amended) is amended to read:

17 "26-2B-3. DEFINITIONS.--As used in the Lynn and Erin
18 Compassionate Use Act:

19 A. "adequate supply" means an amount of cannabis,
20 in any form approved by the department, possessed by a
21 qualified patient or collectively possessed by a qualified
22 patient and the qualified patient's primary caregiver that is
23 determined by rule of the department to be no more than
24 reasonably necessary to ensure the uninterrupted availability
25 of cannabis for a period of three months and that is derived

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1 solely from an intrastate source;

2 B. "cannabis":

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

10 (2) does not include the mature stalks of the
11 plant; fiber produced from the stalks; oil or cake made from
12 the seeds of the plant; any other compound, manufacture, salt,
13 derivative, mixture or preparation of the mature stalks, fiber,
14 oil or cake; the sterilized seed of the plant that is incapable
15 of germination; the weight of any other ingredient combined
16 with cannabis to prepare topical or oral administrations, food,
17 drink or another product; or hemp;

18 [~~G. "cannabis consumption area" means an area~~
19 ~~within a licensed premises approved by the department where~~
20 ~~cannabis may be consumed that complies with rule as established~~
21 ~~by the department;~~

22 [~~D. "cannabis courier" means a person that is~~
23 ~~licensed by the department to transport usable cannabis and~~
24 ~~cannabis products within the state from a cannabis~~
25 ~~establishment to;~~

- 1 ~~(1) a qualified patient;~~
- 2 ~~(2) a primary caregiver; or~~
- 3 ~~(3) another cannabis establishment;~~

4 ~~E. "cannabis establishment" means:~~

- 5 ~~(1) a licensed cannabis courier;~~
- 6 ~~(2) a licensed cannabis testing facility;~~
- 7 ~~(3) a licensed cannabis manufacturer;~~
- 8 ~~(4) a licensed cannabis producer; or~~
- 9 ~~(5) such other person that the department may~~
- 10 ~~by rule approve for participation in the medical cannabis~~
- 11 ~~program;~~

12 ~~F. "cannabis manufacturer" means a person that is~~

13 ~~licensed by the department to:~~

- 14 ~~(1) manufacture cannabis products;~~
- 15 ~~(2) package, transport or courier cannabis~~
- 16 ~~products;~~
- 17 ~~(3) have cannabis products tested by a~~
- 18 ~~cannabis testing facility;~~
- 19 ~~(4) purchase, obtain, sell and transport~~
- 20 ~~cannabis products to other cannabis establishments; and~~
- 21 ~~(5) prepare products for personal production~~
- 22 ~~license holders;~~

23 ~~G. "cannabis producer" means a person that is~~

24 ~~licensed by the department to possess, produce, dispense,~~

25 ~~distribute and manufacture cannabis and cannabis products and~~

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1 ~~sell wholesale or by direct sale to qualified patients and~~
2 ~~primary caregivers;~~

3 H.] C. "cannabis product":

4 (1) means a product that contains cannabis,
5 including edible or topical products that may also contain
6 other ingredients; and

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

11 ~~[I. "cannabis testing facility" means a person that~~
12 ~~is licensed by the department to perform tests of cannabis~~
13 ~~products to analyze the strength or purity of the items and to~~
14 ~~collect cannabis samples and transport cannabis products to the~~
15 ~~cannabis testing facility from cannabis establishments;~~

16 J.] D. "debilitating medical condition" means:

- 17 (1) cancer;
18 (2) glaucoma;
19 (3) multiple sclerosis;
20 (4) damage to the nervous tissue of the spinal
21 cord, with objective neurological indication of intractable
22 spasticity;
23 (5) seizure disorder, including epilepsy;
24 (6) positive status for human immunodeficiency
25 virus or acquired immune deficiency syndrome;

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1 (7) admitted into hospice care in accordance
2 with rules promulgated by the department;

3 (8) amyotrophic lateral sclerosis;

4 (9) Crohn's disease;

5 (10) hepatitis C infection;

6 (11) Huntington's disease;

7 (12) inclusion body myositis;

8 (13) inflammatory autoimmune-mediated
9 arthritis;

10 (14) intractable nausea or vomiting;

11 (15) obstructive sleep apnea;

12 (16) painful peripheral neuropathy;

13 (17) Parkinson's disease;

14 (18) posttraumatic stress disorder;

15 (19) severe chronic pain;

16 (20) severe anorexia or cachexia;

17 (21) spasmodic torticollis;

18 (22) ulcerative colitis; or

19 (23) any other medical condition, medical
20 treatment or disease as approved by the department;

21 [~~K.~~] E. "department" means the department of
22 health;

23 [~~H.~~] F. "hemp" means the plant genus Cannabis
24 [~~sativa L.~~] and any part of the plant, whether growing or not,
25 containing a delta-9-tetrahydrocannabinol concentration of no

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1 more than three-tenths percent on a dry weight basis;

2 ~~[M.] "license" means a license issued pursuant to~~
3 ~~the Lynn and Erin Compassionate Use Act;~~

4 ~~N.]~~ G. "licensee" means a person that holds a
5 personal production license;

6 ~~[O.] "licensee representative" means an owner,~~
7 ~~director, officer, manager, employee, agent or other~~
8 ~~representative of a licensee, to the extent that person acts in~~
9 ~~a representative capacity;~~

10 ~~P.]~~ H. "manufacture" means to prepare a cannabis
11 product for a qualified patient's use;

12 ~~[Q.]~~ I. "medical cannabis program" means the
13 program established pursuant to the Lynn and Erin Compassionate
14 Use Act for authorization and regulation of the medical use of
15 cannabis in the state;

16 ~~[R.]~~ J. "personal production license" means a
17 license issued to a qualified patient or to a qualified
18 patient's primary caregiver participating in the medical
19 cannabis program to permit the qualified patient or the
20 qualified patient's primary caregiver to produce or manufacture
21 cannabis for the qualified patient's use at an address approved
22 by the department;

23 ~~[S.]~~ K. "practitioner" means a person licensed in
24 New Mexico to prescribe and administer drugs that are subject
25 to the Controlled Substances Act;

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

7 ~~[U.]~~ M. "produce" means to engage in any activity
8 related to the planting or cultivation of cannabis;

9 ~~[V.]~~ N. "qualified patient" means a person who has
10 been diagnosed by a practitioner as having a debilitating
11 medical condition and has received written certification and a
12 registry identification card pursuant to the Lynn and Erin
13 Compassionate Use Act on the basis of having been diagnosed, in
14 person or via telemedicine, by a practitioner as having a
15 debilitating medical condition; provided that a practitioner
16 may only issue a written certification on the basis of an
17 evaluation conducted via telemedicine if the practitioner has
18 previously examined the patient in person;

19 ~~[W.]~~ O. "reciprocal participant" means an
20 individual who holds proof of authorization to participate in
21 the medical cannabis program of another state of the United
22 States, the District of Columbia, a territory or commonwealth
23 of the United States or a New Mexico Indian nation, tribe or
24 pueblo;

25 ~~[X.]~~ P. "registry identification card" means a

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1 document that the department issues:

2 (1) to a qualified patient that identifies the
3 bearer as a qualified patient and authorizes the qualified
4 patient to use cannabis for a debilitating medical condition;
5 or

6 (2) to a primary caregiver that identifies the
7 bearer as a primary caregiver authorized to engage in the
8 intrastate possession and administration of cannabis for the
9 sole use of a qualified patient who is identified on the
10 document;

11 [~~Y.~~] Q. "safety-sensitive position" means a
12 position in which performance by a person under the influence
13 of drugs or alcohol would constitute an immediate or direct
14 threat of injury or death to that person or another;

15 [~~Z.~~] R. "telemedicine" means the use of
16 telecommunications and information technology to provide
17 clinical health care from a site apart from the site where the
18 patient is located, in real time or asynchronously, including
19 the use of interactive simultaneous audio and video or store-
20 and-forward technology, or off-site patient monitoring and
21 telecommunications in order to deliver health care services;

22 [~~AA.~~] S. "THC" means delta-9-tetrahydrocannabinol,
23 a substance that is the primary psychoactive ingredient in
24 cannabis; and

25 [~~BB.~~] T. "written certification" means a statement

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1 made on a department-approved form and signed by a patient's
2 practitioner that indicates, in the practitioner's professional
3 opinion, that the patient has a debilitating medical condition
4 and the practitioner believes that the potential health
5 benefits of the medical use of cannabis would likely outweigh
6 the health risks for the patient."

7 SECTION 67. Section 26-2B-4 NMSA 1978 (being Laws 2007,
8 Chapter 210, Section 4, as amended) is amended to read:

9 "26-2B-4. EXEMPTION FROM CRIMINAL AND CIVIL PENALTIES FOR
10 THE MEDICAL USE OF CANNABIS.--

11 A. A qualified patient or a qualified patient's
12 primary caregiver shall not be subject to arrest, prosecution
13 or penalty in any manner for the possession of or the medical
14 use of cannabis if the quantity of cannabis does not exceed an
15 adequate supply; provided that a qualified patient or the
16 qualified patient's primary caregiver may possess that
17 qualified patient's harvest of cannabis.

18 B. A reciprocal participant shall not be subject to
19 arrest, prosecution or penalty in any manner for the possession
20 of or the medical use of cannabis if the quantity of cannabis
21 does not exceed the limit identified by department rule.

22 C. The following conduct is lawful and shall not
23 constitute grounds for detention, search or arrest of a person
24 or for a violation of probation or parole, and cannabis
25 products that relate to the conduct are not contraband or

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1 subject to seizure or forfeiture pursuant to the Controlled
2 Substances Act or the Forfeiture Act:

3 (1) a qualified patient or primary caregiver
4 possessing or transporting not more than an adequate supply or
5 a reciprocal participant possessing or transporting not more
6 than the limit identified by department rule;

7 (2) a qualified patient or primary caregiver
8 purchasing or obtaining not more than an adequate supply from a
9 lawful source or a reciprocal participant purchasing or
10 obtaining not more than the limit identified by department
11 rule;

12 (3) a qualified patient using or being under
13 the influence of cannabis; provided that the qualified patient
14 is acting consistent with law;

15 (4) a qualified patient or primary caregiver
16 transferring, without financial consideration, to a qualified
17 patient or primary caregiver not more than two ounces of
18 cannabis; or

19 (5) with respect to cannabis cultivated under
20 a personal production license, a qualified patient or primary
21 caregiver possessing, planting, cultivating, harvesting,
22 drying, manufacturing or transporting cannabis plants or
23 cannabis products as allowed by department rule; provided that
24 a qualified patient or primary caregiver who possesses a
25 personal production license shall not manufacture cannabis

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1 products using an oil extractor solvent that is stored under
2 pressure [~~unless the qualified patient or primary caregiver~~
3 ~~holds a separate license from the department permitting the~~
4 ~~person to manufacture cannabis products using an oil extractor~~
5 ~~solvent that is under pressure~~].

6 D. Subsection A of this section shall not apply to
7 a qualified patient under the age of eighteen years, unless:

8 (1) the qualified patient's practitioner has
9 explained the potential risks and benefits of the medical use
10 of cannabis to the qualified patient and to a parent, guardian
11 or person having legal custody of the qualified patient; and

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

14 (a) allow the qualified patient's
15 medical use of cannabis;

16 (b) serve as the qualified patient's
17 primary caregiver; and

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

20 E. A qualified patient or a primary caregiver shall
21 be granted the full legal protections provided in this section
22 if the qualified patient or primary caregiver is in possession
23 of a registry identification card. If the qualified patient or
24 primary caregiver is not in possession of a registry
25 identification card, the qualified patient or primary caregiver

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1 shall be given an opportunity to produce the registry
2 identification card before any arrest or criminal charges or
3 other penalties are initiated.

4 F. A practitioner shall not be subject to arrest or
5 prosecution, penalized in any manner or denied any right or
6 privilege for recommending the medical use of cannabis or
7 providing written certification for the medical use of cannabis
8 pursuant to the Lynn and Erin Compassionate Use Act.

9 ~~[G. A licensee or licensee representative shall not~~
10 ~~be subject to arrest, prosecution or penalty, in any manner,~~
11 ~~for the production, possession, manufacture, distribution,~~
12 ~~dispensing or testing of cannabis pursuant to the Lynn and Erin~~
13 ~~Compassionate Use Act. Conduct by a licensee or a licensee~~
14 ~~representative that is allowed pursuant to a license and~~
15 ~~conduct by a person that allows property to be used by a~~
16 ~~licensee or a licensee representative for conduct allowed~~
17 ~~pursuant to a license is lawful, is not a violation of state or~~
18 ~~local law and is not a basis for seizure or forfeiture of~~
19 ~~property or assets under state or local law.~~

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

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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 ~~[F.]~~ H. A state or local government shall not
12 impose a criminal, civil or administrative penalty on a
13 licensee ~~[or a licensee representative]~~ or on a person that
14 allows property to be used by a licensee ~~[or a licensee~~
15 ~~representative]~~ pursuant to a license, solely for conduct that
16 is allowed pursuant to a license.

17 ~~[J.]~~ I. A person shall not be subject to arrest or
18 prosecution for a cannabis-related offense for simply being in
19 the presence of the medical use of cannabis as permitted under
20 the provisions of the Lynn and Erin Compassionate Use Act."

21 **SECTION 68.** Section 26-2B-5 NMSA 1978 (being Laws 2007,
22 Chapter 210, Section 5, as amended by Laws 2019, Chapter 247,
23 Section 5 and by Laws 2019, Chapter 261, Section 2) is amended
24 to read:

25 "26-2B-5. PROHIBITIONS, RESTRICTIONS AND LIMITATIONS ON

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1 THE MEDICAL USE OF CANNABIS--CRIMINAL PENALTIES.--

2 A. Participation in a medical use of cannabis
3 program by a qualified patient or primary caregiver does not
4 relieve the qualified patient or primary caregiver from:

5 (1) criminal prosecution or civil penalties
6 for activities not authorized in the Lynn and Erin
7 Compassionate Use Act;

8 (2) liability for damages or criminal
9 prosecution arising out of the operation of a vehicle while
10 under the influence of cannabis; or

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

13 (a) in the workplace of the qualified
14 patient's or primary caregiver's employment; or

15 (b) at a public park, recreation center,
16 youth center or other public place.

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

23 ~~[G. If a licensee or the licensee's representative~~
24 ~~sells, distributes, dispenses or transfers cannabis to a person~~
25 ~~not approved by the department pursuant to the Lynn and Erin~~

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1 ~~Compassionate Use Act or obtains or transports cannabis outside~~
2 ~~New Mexico, the licensee or the licensee's representative shall~~
3 ~~be subject to arrest, prosecution and civil or criminal~~
4 ~~penalties pursuant to state law.]"~~

5 SECTION 69. Section 26-2B-6.1 NMSA 1978 (being Laws 2019,
6 Chapter 247, Section 8) is amended to read:

7 "26-2B-6.1. PROGRAM REGULATION AND ADMINISTRATION--FEES--
8 LIMITATIONS--~~[RULEMAKING]~~ LICENSURE--ISSUANCE--REPORTING.--

9 A. The department shall:

10 (1) regulate and administer the medical
11 cannabis program; and

12 (2) collect fees from licensees; provided that
13 the department shall not charge a fee relating to the medical
14 cannabis registry.

15 ~~[B. By December 20, 2019, the secretary of health~~
16 ~~shall adopt and promulgate rules to establish fees for licenses~~
17 ~~for cannabis producers, cannabis manufacturers, cannabis~~
18 ~~couriers, cannabis testing facilities or any other cannabis~~
19 ~~establishments whose operations are authorized pursuant to the~~
20 ~~Lynn and Erin Compassionate Use Act.~~

21 ~~G.]~~ B. The department shall establish ~~[application~~
22 ~~and licensing fees applicable to licenses for activity related~~
23 ~~to the medical cannabis program]~~ an application and licensing
24 fee for personal production licenses.

25 ~~[D.]~~ C. The department shall administer ~~[licensure~~

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1 ~~for medical cannabis program activity provided for in the Lynn~~
2 ~~and Erin Compassionate Use Act, which shall include] personal~~
3 ~~production licenses. [and licenses for:~~

4 ~~(1) cannabis couriers;~~

5 ~~(2) cannabis manufacturers;~~

6 ~~(3) cannabis producers;~~

7 ~~(4) cannabis testing facilities; and~~

8 ~~(5) any other activity or person as deemed~~
9 ~~necessary by the department.~~

10 ~~E. The department shall not issue any other license~~
11 ~~provided for in this section to a cannabis testing facility~~
12 ~~licensee.~~

13 ~~F.]~~ D. In consultation with qualified patients and
14 primary caregivers, the department shall produce an assessment
15 report annually, which shall be published to the public and
16 that includes at a minimum an evaluation of:

17 (1) the affordability of and accessibility to
18 medical cannabis pursuant to the Lynn and Erin Compassionate
19 Use Act; and

20 (2) the needs of qualified patients who live
21 in rural areas, federal subsidized housing or New Mexico Indian
22 nations, tribes or pueblos.

23 ~~[G. The department shall allow for the smoking,~~
24 ~~vaporizing and ingesting of cannabis products within a cannabis~~
25 ~~consumption area on the premises if:~~

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1 ~~(1) access is restricted to qualified patients~~
2 ~~and their primary caregivers;~~

3 ~~(2) cannabis consumption is not visible from~~
4 ~~any public place or from outside the cannabis consumption area;~~
5 ~~and~~

6 ~~(3) qualified patients who consume cannabis on~~
7 ~~the premises have a designated driver or other means of~~
8 ~~transportation consistent with current law.]"~~

9 SECTION 70. Section 26-2B-7 NMSA 1978 (being Laws 2007,
10 Chapter 210, Section 7, as amended) is amended to read:

11 "26-2B-7. REGISTRY IDENTIFICATION CARDS--DEPARTMENT
12 RULES--DUTIES--RECIPROCITY.--

13 A. After consultation with the advisory board, the
14 department shall promulgate rules in accordance with the State
15 Rules Act to implement the purpose of the Lynn and Erin
16 Compassionate Use Act. The rules shall:

17 (1) govern the manner in which the department
18 will consider applications for registry identification cards
19 and for the renewal of identification cards for qualified
20 patients and primary caregivers;

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

24 (3) identify criteria and set forth procedures
25 for including additional medical conditions, medical treatments

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1 or diseases to the list of debilitating medical conditions that
2 qualify for the medical use of cannabis. Procedures shall
3 include a petition process and shall allow for public comment
4 and public hearings before the advisory board;

5 (4) set forth additional medical conditions,
6 medical treatments or diseases to the list of debilitating
7 medical conditions that qualify for the medical use of cannabis
8 as recommended by the advisory board;

9 (5) identify requirements for the licensure of
10 ~~[cannabis producers and cannabis production facilities,~~
11 ~~cannabis couriers, cannabis manufacturers, cannabis testing~~
12 ~~facilities and any other cannabis establishments that the~~
13 ~~department may license]~~ qualified patients to produce cannabis
14 for personal medical use and set forth procedures to obtain
15 licenses;

16 ~~[(6) develop a distribution system for the~~
17 ~~medical cannabis program that provides for:~~

18 (a) ~~cannabis production facilities~~
19 ~~within New Mexico housed on secured grounds and operated by~~
20 ~~licensees; and~~

21 (b) ~~distribution of cannabis to~~
22 ~~qualified patients or their primary caregivers to take place at~~
23 ~~locations that are designated by the department and that are~~
24 ~~not within three hundred feet of any school, church or daycare~~
25 ~~center that were in existence in that location before the~~

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1 ~~licensee distributing medical cannabis nearby was licensed;~~
2 ~~provided that this distance requirement shall not apply to~~
3 ~~distribution at the home of the qualified patient or primary~~
4 ~~caregiver;~~

5 ~~(7) identify requirements for testing and~~
6 ~~labeling of cannabis and cannabis products for quality~~
7 ~~assurance. The department shall adopt and promulgate rules~~
8 ~~pursuant to this paragraph by December 20, 2019;~~

9 ~~(8)]~~ (6) determine additional duties and
10 responsibilities of the advisory board; and

11 [~~(9)]~~ (7) be revised and updated as necessary.

12 B. The department shall issue registry
13 identification cards to a patient and to the primary caregiver
14 for that patient, if any, who submit the following, in
15 accordance with the department's rules:

16 (1) a written certification;

17 (2) the name, address and date of birth of the
18 patient;

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

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

23 C. The department shall verify the information
24 contained in an application submitted pursuant to Subsection B
25 of this section and shall approve or deny an application within

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1 thirty days of receipt. The department may deny an application
2 only if the applicant did not provide the information required
3 pursuant to Subsection B of this section or if the department
4 determines that the information provided is false. A person
5 whose application has been denied shall not reapply for six
6 months from the date of the denial unless otherwise authorized
7 by the department.

8 D. The department shall issue a registry
9 identification card within five days of approving an
10 application, and a card shall expire three years after the date
11 of issuance.

12 E. A registry identification card shall contain:

13 (1) the name and date of birth of the
14 qualified patient and primary caregiver, if any;

15 (2) the date of issuance and expiration date
16 of the registry identification card; and

17 (3) other information that the department may
18 require by rule.

19 F. A person who possesses a registry identification
20 card shall notify the department of any change in the person's
21 name, qualified patient's practitioner, qualified patient's
22 primary caregiver or change in status of the qualified
23 patient's debilitating medical condition within ten days of the
24 change.

25 G. Possession of or application for a registry

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1 identification card shall not constitute probable cause or give
2 rise to reasonable suspicion for a governmental agency to
3 search the person or property of the person possessing or
4 applying for the card.

5 H. The department shall maintain a confidential
6 file containing the names and addresses of the persons who have
7 either applied for or received a registry identification card.
8 Individual names on the list shall be confidential and not
9 subject to disclosure, except:

10 (1) to authorized employees or agents of the
11 department as necessary to perform the duties of the department
12 pursuant to the provisions of the Lynn and Erin Compassionate
13 Use Act;

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

18 (3) to the cannabis control division of the
19 regulation and licensing department; or

20 [~~(3)~~] (4) as provided in the federal Health
21 Insurance Portability and Accountability Act of 1996.

22 I. By March 1, 2020, the secretary of health shall
23 adopt and promulgate rules relating to medical cannabis program
24 reciprocity. The department may identify requirements for the
25 granting of reciprocity, including provisions limiting the

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1 period of time in which a reciprocal participant may
2 participate in the medical cannabis program.

3 J. A reciprocal participant:

4 (1) may participate in the medical cannabis
5 program in accordance with department rules;

6 (2) shall not be required to comply with the
7 registry identification card application and renewal
8 requirements established pursuant to this section and
9 department rules;

10 (3) shall at all times possess proof of
11 authorization to participate in the medical cannabis program of
12 another state, the District of Columbia, a territory or
13 commonwealth of the United States or a New Mexico Indian
14 nation, tribe or pueblo and shall present proof of that
15 authorization when purchasing cannabis from a [~~licensee~~] person
16 licensed pursuant to the Cannabis Regulation Act; and

17 (4) shall register with a [~~licensee~~] person
18 licensed pursuant to the Cannabis Regulation Act for the
19 purpose of tracking sales to the reciprocal participant in an
20 electronic system that is accessible to the department."

21 SECTION 71. Section 29-13-3 NMSA 1978 (being Laws 1983,
22 Chapter 289, Section 3, as amended) is amended to read:

23 "29-13-3. DISTRIBUTION OF CERTAIN INSURANCE COLLECTIONS
24 AND CANNABIS EXCISE TAXES--LAW ENFORCEMENT PROTECTION FUND
25 CREATED.--There is created in the state treasury the "law

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1 enforcement protection fund". Ten percent of all money
2 received for fees, licenses and penalties from life, general
3 casualty and title insurance business pursuant to the New
4 Mexico Insurance Code shall be paid monthly to the state
5 treasurer and credited to the fund. Sixteen and one-half
6 percent of all money received for excise taxes pursuant to
7 Section 57 of this 2020 act shall be transferred monthly to the
8 state treasurer and credited to the fund. On or before June 30
9 of each year, the state treasurer shall transfer to the general
10 fund any balance in the law enforcement protection fund in
11 excess of one hundred thousand dollars (\$100,000) that is not
12 obligated for expenses in that current fiscal year."

13 SECTION 72. Section 30-31-2 NMSA 1978 (being Laws 1972,
14 Chapter 84, Section 2, as amended) is amended to read:

15 "30-31-2. DEFINITIONS.--As used in the Controlled
16 Substances Act:

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

20 B. "agent" includes an authorized person who acts
21 on behalf of a manufacturer, distributor or dispenser. It does
22 not include a common or contract carrier, public
23 warehouseperson or employee of the carrier or warehouseperson;

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

25 D. "bureau" means the narcotic and dangerous drug

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1 section of the criminal division of the United States
2 department of justice, or its successor agency;

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

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

12 G. "deliver" means the actual, constructive or
13 attempted transfer from one person to another of a controlled
14 substance or controlled substance analog, whether or not there
15 is an agency relationship;

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

22 I. "dispenser" means a practitioner who dispenses
23 and includes hospitals, pharmacies and clinics where controlled
24 substances are dispensed;

25 J. "distribute" means to deliver other than by

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1 administering or dispensing a controlled substance or
2 controlled substance analog;

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

9 ~~[L. "hashish" means the resin extracted from any
10 part of marijuana, whether growing or not, and every compound,
11 manufacture, salt, derivative, mixture or preparation of such
12 resins;~~

13 M.] L. "hemp" means the plant Cannabis sativa L.
14 and any part of that plant, including seeds and all
15 derivatives, extracts, cannabinoids, isomers, acids, salts and
16 salts of isomers, whether growing or not, with a delta-9-
17 tetrahydrocannabinol concentration of not more than three-
18 tenths percent on a dry weight basis;

19 ~~[N.]~~ M. "manufacture" means the production,
20 preparation, compounding, conversion or processing of a
21 controlled substance or controlled substance analog by
22 extraction from substances of natural origin or independently
23 by means of chemical synthesis or by a combination of
24 extraction and chemical synthesis and includes any packaging or
25 repackaging of the substance or labeling or relabeling of its

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1 container, except that this term does not include the
2 preparation or compounding of a controlled substance:

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

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

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

25 P.] N. "narcotic drug" means any of the following,

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

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

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

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

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

20 [Q-] O. "opiate" means any substance having an
21 addiction-forming or addiction-sustaining liability similar to
22 morphine or being capable of conversion into a drug having
23 addiction-forming or addiction-sustaining liability. "Opiate"
24 does not include, unless specifically designated as controlled
25 under Section 30-31-5 NMSA 1978, the dextrorotatory isomer of

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1 3-methoxy-n-methylmorphinan and its salts, dextromethorphan.

2 "Opiate" does include its racemic and levorotatory forms;

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

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

14 [T-] R. "prescription" means an order given
15 individually for the person for whom is prescribed a controlled
16 substance, either directly from a licensed practitioner or the
17 practitioner's agent to the pharmacist, including by means of
18 electronic transmission, or indirectly by means of a written
19 order signed by the prescriber, bearing the name and address of
20 the prescriber, the prescriber's license classification, the
21 name and address of the patient, the name and quantity of the
22 drug prescribed, directions for use and the date of issue and
23 in accordance with the Controlled Substances Act or rules
24 adopted thereto;

25 [U-] S. "scientific investigator" means a person

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1 registered to conduct research with controlled substances in
2 the course of the person's professional practice or research
3 and includes analytical laboratories;

4 [V.] T. "ultimate user" means a person who lawfully
5 possesses a controlled substance for the person's own use or
6 for the use of a member of the person's household or for
7 administering to an animal under the care, custody and control
8 of the person or by a member of the person's household;

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

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

24 (2) ~~kits used, intended for use or designed~~
25 ~~for use in manufacturing, compounding, converting, producing,~~

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1 ~~processing or preparing controlled substances or controlled~~
2 ~~substance analogs;~~

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

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

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

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

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

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

24 ~~(9) capsules, balloons, envelopes and other~~
25 ~~containers used, intended for use or designed for use in~~

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1 ~~packaging small quantities of controlled substances or~~
2 ~~controlled substance analogs;~~

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

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

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

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

17 ~~(b) water pipes;~~

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

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

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

23 ~~(f) miniature cocaine spoons and cocaine~~
24 ~~vials;~~

25 ~~(g) chamber pipes;~~

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1 ~~(h) carburetor pipes;~~

2 ~~(i) electric pipes;~~

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

4 ~~(k) chilams;~~

5 ~~(l) bonges; or~~

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

7 ~~(13) in determining whether an object is drug~~
8 ~~paraphernalia, a court or other authority should consider, in~~
9 ~~addition to all other logically relevant factors, the~~
10 ~~following:~~

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

13 ~~(b) the proximity of the object, in time~~
14 ~~and space, to a direct violation of the Controlled Substances~~
15 ~~Act or any other law relating to controlled substances or~~
16 ~~controlled substance analogs;~~

17 ~~(c) the proximity of the object to~~
18 ~~controlled substances or controlled substance analogs;~~

19 ~~(d) the existence of any residue of a~~
20 ~~controlled substance or controlled substance analog on the~~
21 ~~object;~~

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

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

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1 ~~(g) the manner in which the object is~~
2 ~~displayed for sale; and~~

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

4 X.] U. "controlled substance analog":

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

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

20 ~~[Specifically excluded from the definition of "controlled~~
21 ~~substance analog" are those]~~

22 (2) does not include substances that are
23 generally recognized as safe and effective within the meaning
24 of the Federal Food, Drug, and Cosmetic Act or have been
25 manufactured, distributed or possessed in conformance with the

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1 provisions of an approved new drug application or an exemption
2 for investigational use within the meaning of Section 505 of
3 the Federal Food, Drug, and Cosmetic Act;

4 [~~Y.~~] V. "human consumption" includes application,
5 injection, inhalation, ingestion or any other manner of
6 introduction;

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

12 [~~AA.~~] X. "valid practitioner-patient relationship"
13 means a professional relationship, as defined by the
14 practitioner's licensing board, between the practitioner and
15 the patient."

16 **SECTION 73.** Section 30-31-6 NMSA 1978 (being Laws 1972,
17 Chapter 84, Section 6, as amended) is amended to read:

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

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

25 (1) acetylmethadol;

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

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

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

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

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

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

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

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

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1 indole;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 ~~(2) cultivation of hemp by persons pursuant to~~
15 ~~rules promulgated by the board of regents of New Mexico state~~
16 ~~university on behalf of the New Mexico department of~~
17 ~~agriculture;~~

18 ~~(3) tetrahydrocannabinols or chemical~~
19 ~~derivatives of tetrahydrocannabinols, including~~
20 ~~tetrahydrocannabinols or chemical derivatives of~~
21 ~~tetrahydrocannabinols with concentrations of up to five percent~~
22 ~~as measured using a post-decarboxylation method and based on~~
23 ~~percentage dry weight, possessed by a person in connection with~~
24 ~~the cultivation, transportation, testing, researching,~~
25 ~~manufacturing or other processing of the plant Cannabis sativa~~

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1 ~~L., or any part of the plant whether growing or not, if~~
2 ~~authorized pursuant to rules promulgated, pursuant to the Hemp~~
3 ~~Manufacturing Act, by the board of regents of New Mexico state~~
4 ~~university on behalf of the New Mexico department of~~
5 ~~agriculture or the department of environment;~~

6 ~~(4) tetrahydrocannabinols or chemical~~
7 ~~derivatives of tetrahydrocannabinols, including~~
8 ~~tetrahydrocannabinols or chemical derivatives of~~
9 ~~tetrahydrocannabinols in any concentration possessed by a~~
10 ~~person in connection with the extraction of~~
11 ~~tetrahydrocannabinols or chemical derivatives of~~
12 ~~tetrahydrocannabinols, if authorized pursuant to rules~~
13 ~~promulgated, pursuant to the Hemp Manufacturing Act, by the~~
14 ~~board of regents of New Mexico state university on behalf of~~
15 ~~the New Mexico department of agriculture or the department of~~
16 ~~environment;~~

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

23 ~~(6) the use, dispensing, possession,~~
24 ~~prescribing, storage or transport of a prescription drug that~~
25 ~~the United States food and drug administration has approved and~~

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1 ~~that contains marijuana, a tetrahydrocannabinol derivative or a~~
2 ~~chemical derivative of tetrahydrocannabinol; and~~

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

6 SECTION 74. Section 30-31-7 NMSA 1978 (being Laws 1972,
7 Chapter 84, Section 7, as amended) is amended to read:

8 "30-31-7. SCHEDULE II.--

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

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

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

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

24 (c) opium poppy and poppy straw; and

25 (d) coca leaves and any salt, compound,

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

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

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

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

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

24 (a) alphaprodine;

25 (b) anileridine;

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

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1 (w) racemethorphan; and

2 (x) racemorphan;

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

8 (a) amphetamine, its salts, optical
9 isomers and salts of its optical isomers;

10 (b) phenmetrazine and its salts;

11 (c) methamphetamine, its salts, isomers
12 and salts of isomers; and

13 (d) methylphenidate; and

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

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

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

12 SECTION 75. Section 30-31-21 NMSA 1978 (being Laws 1972,
13 Chapter 84, Section 21, as amended) is amended to read:

14 "30-31-21. DISTRIBUTION TO A MINOR.--Except as authorized
15 by the Controlled Substances Act, no person who is eighteen
16 years of age or older shall intentionally distribute a
17 controlled substance to a person under the age of eighteen
18 years. Any person who violates this section with respect to

19 [~~A. marijuana is:~~

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

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

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

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

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

11 **SECTION 76.** Section 30-31-22 NMSA 1978 (being Laws 1972,
12 Chapter 84, Section 22, as amended) is amended to read:

13 "30-31-22. CONTROLLED OR COUNTERFEIT SUBSTANCES--
14 DISTRIBUTION PROHIBITED.--

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

- 24 (1) ~~[marijuana or]~~ synthetic cannabinoids is:
25 (a) for the first offense, guilty of a

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

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

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

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

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

25 (a) for the first offense, guilty of a third

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

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

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

13 B. It is unlawful for a person to distribute gamma
14 hydroxybutyric acid or flunitrazepam to another person without
15 that person's knowledge and with intent to commit a crime
16 against that person, including criminal sexual penetration.

17 For the purposes of this subsection, "without that person's
18 knowledge" means the person is unaware that a substance with
19 the ability to alter that person's ability to appraise conduct
20 or to decline participation in or communicate unwillingness to
21 participate in conduct is being distributed to that person.

22 Any person who violates this subsection is:

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

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

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

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

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

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

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

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

25 (b) for the second and subsequent offenses,

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

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

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

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

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

24 (b) for the second and subsequent offenses,
25 guilty of a first degree felony and shall be sentenced pursuant

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

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

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

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

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

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

24 SECTION 77. Section 30-31-23 NMSA 1978 (being Laws 1972,
25 Chapter 84, Section 23, as amended) is amended to read:

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1 "30-31-23. CONTROLLED SUBSTANCES--POSSESSION

2 PROHIBITED.--

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

10 ~~[B. A person who violates this section with respect~~
11 ~~to:~~

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

15 ~~(2) more than one-half ounce but up to and~~
16 ~~including one ounce of marijuana is, for the first offense,~~
17 ~~guilty of a petty misdemeanor and shall be punished by a fine~~
18 ~~of not less than fifty dollars (\$50.00) or more than one~~
19 ~~hundred dollars (\$100) and by imprisonment for not more than~~
20 ~~fifteen days, and, for a second or subsequent offense, is~~
21 ~~guilty of a misdemeanor and shall be punished by a fine of not~~
22 ~~less than one hundred dollars (\$100) or more than one thousand~~
23 ~~dollars (\$1,000) or by imprisonment for a definite term of less~~
24 ~~than one year, or both;~~

25 ~~(3) more than one ounce but less than eight~~

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1 ~~ounces of marijuana is guilty of a misdemeanor and shall be~~
2 ~~punished by a fine of not less than one hundred dollars (\$100)~~
3 ~~or more than one thousand dollars (\$1,000) or by imprisonment~~
4 ~~for a definite term of less than one year, or both; or~~

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

8 ~~G.]~~ B. A person who violates this section with
9 respect to:

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

19 (2) more than one ounce and less than eight
20 ounces of synthetic cannabinoids is guilty of a misdemeanor and
21 shall be punished by a fine of not less than one hundred
22 dollars (\$100) or more than one thousand dollars (\$1,000) or by
23 imprisonment for a definite term less than one year, or both;
24 or

25 (3) eight ounces or more of synthetic

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

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

- 16 (1) synthetic cannabinoids;
- 17 (2) any of the substances listed in Paragraphs
18 ~~[(20)]~~ (17) through ~~[(25)]~~ (22) of Subsection C of Section
19 30-31-6 NMSA 1978; or
- 20 (3) a substance added to Schedule I by a rule of
21 the board adopted on or after March 31, 2011 if the board
22 determines that the pharmacological effect of the substance,
23 the risk to the public health by abuse of the substance and the
24 potential of the substance to produce psychic or physiological
25 dependence liability is similar to the substances described in

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1 Paragraph (1) or (2) of this subsection.

2 ~~[E-]~~ D. Except as provided in Subsections B ~~[C and G]~~
3 and F of this section, and for those substances listed in
4 Subsection ~~[F]~~ E of this section, a person who violates this
5 section with respect to any amount of any controlled substance
6 enumerated in Schedule I, II, III or IV or a controlled
7 substance analog of a substance enumerated in Schedule I, II,
8 III or IV is guilty of a misdemeanor and shall be punished by a
9 fine of not less than five hundred dollars (\$500) or more than
10 one thousand dollars (\$1,000) or by imprisonment for a definite
11 term less than one year, or both.

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

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

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

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

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1 (\$1,000) or by imprisonment for a definite term less than one
2 year, or both, and for the second or subsequent offense, is
3 guilty of a fourth degree felony and shall be sentenced
4 pursuant to the provisions of Section 31-18-15 NMSA 1978;

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

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

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

21 (5) phencyclidine as enumerated in Schedule III,
22 a narcotic drug enumerated in Schedule I or II, a controlled
23 substance analog of phencyclidine or a controlled substance
24 analog of a narcotic drug enumerated in Schedule I or II is
25 guilty of a third degree felony and shall be sentenced pursuant

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1 to the provisions of Section 31-18-15 NMSA 1978."

2 SECTION 78. Section 30-31-28 NMSA 1978 (being Laws 1972,
3 Chapter 84, Section 28) is amended to read:

4 "30-31-28. CONDITIONAL DISCHARGE FOR POSSESSION AS FIRST
5 OFFENSE.--

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

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

22 C. If during the period of [~~his~~] probation the person
23 does not violate [~~any of~~] the conditions of the probation, then
24 upon expiration of the period the court shall discharge such
25 person and dismiss the proceedings against [~~him~~] the person.

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

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

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1 occupied before the arrest or indictment or information. No
2 person in whose behalf an order has been entered shall be held
3 thereafter under any provision of any law to be guilty of
4 perjury or otherwise giving a false statement by reason of
5 ~~[his]~~ the person's failures to recite or acknowledge such
6 arrest, or indictment or information or trial in response to
7 any inquiry made of ~~[him]~~ the person for any purpose."

8 SECTION 79. Section 30-31-34 NMSA 1978 (being Laws 1972,
9 Chapter 84, Section 33, as amended) is amended to read:

10 "30-31-34. FORFEITURES--PROPERTY SUBJECT.--The following
11 are subject to forfeiture pursuant to the provisions of the
12 Forfeiture Act:

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

18 B. all property that is used or intended for use as a
19 container for property described in Subsection A of this
20 section;

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

25 D. all books, records and research products and

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1 materials, including formulas, microfilm, tapes and data that
2 are used or intended for use in violation of the Controlled
3 Substances Act;

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

6 F. notwithstanding Subsection C of this section and
7 the provisions of the Forfeiture Act:

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

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

18 (3) a conveyance is not subject to forfeiture
19 for a violation of law the penalty for which is a misdemeanor;
20 and

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

25 ~~G. all drug paraphernalia as defined by Subsection V~~

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1 of ~~Section 30-31-2 NMSA 1978~~]."

2 SECTION 80. A new section of the Traffic Safety Act is
3 amended to read:

4 "[NEW MATERIAL] IMPAIRED DRIVING EDUCATION FUND CREATED.--

5 A. The "impaired driving education fund" is created
6 as a nonreverting fund in the state treasury. The fund
7 consists of appropriations, other money deposited in the fund
8 and money otherwise accruing to the fund. Income from the fund
9 shall be credited to the fund.

10 B. The bureau shall administer the impaired driving
11 education fund. Money in the fund is appropriated to the
12 bureau to develop and execute a comprehensive and sustained
13 multilingual public education campaign that promotes road
14 safety and discourages driving while impaired due to the use of
15 cannabis.

16 C. Money in the impaired driving education fund shall
17 be disbursed on warrants of the secretary of finance and
18 administration pursuant to vouchers signed by the chief or the
19 chief's authorized representative."

20 SECTION 81. Section 66-7-506 NMSA 1978 (being Laws 1978,
21 Chapter 35, Section 493, as amended) is amended to read:

22 "66-7-506. BUREAU--FUNCTIONS--POWERS--DUTIES.--The bureau
23 shall have the following powers and duties:

24 A. organize, plan and conduct a statewide program of
25 activities designed to prevent accidents and to reduce the

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1 incidence of DWI in New Mexico;

2 B. coordinate activities and programs of the
3 departments, divisions and agencies of this state now engaged
4 in promoting traffic safety;

5 C. provide accident prevention information and
6 publicity to all appropriate media of information and develop
7 other means of public information;

8 D. cooperate with all public and private agencies and
9 organizations interested in the promotion of traffic safety and
10 accident prevention;

11 E. serve as a clearinghouse for all traffic safety
12 materials and information used throughout this state;

13 F. cooperate in promoting research, special studies
14 and analysis of problems concerning the safety and welfare of
15 the citizens of New Mexico;

16 G. cooperate fully with national safety organizations
17 in bringing about greater effectiveness in nationwide accident
18 prevention activities and programs;

19 H. make studies and suitable recommendations, through
20 the chief and the secretary of transportation, to the
21 legislature concerning safety regulations and laws;

22 I. prepare and submit each year a written report to
23 the governor concerning the activities of the bureau and
24 activities concerning assistance to local organizations and
25 officials;

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1 J. institute and administer a statewide motorcycle
2 training program funded as provided for in Section 66-10-10
3 NMSA 1978;

4 K. institute and administer an accident prevention
5 course for elderly drivers as provided for in Section 59A-32-14
6 NMSA 1978;

7 L. cooperate with the public education department to
8 develop a regulatory framework for instructional and
9 administrative processes, including licensure requirements for
10 instructors, and a curriculum for instruction in defensive
11 driving with a DWI education and prevention component to be
12 offered statewide in secondary schools as an elective;

13 M. institute and administer a DWI prevention and
14 education program for elementary and secondary school students,
15 funded as provided for in Section 66-5-35 NMSA 1978;

16 N. include at least two hours of DWI prevention and
17 education training in all driver education courses approved by
18 the bureau; ~~and~~

19 O. include a DWI recidivism prevention component in
20 all driver rehabilitation programs for alcohol or drugs
21 approved by the bureau; and

22 P. develop and execute a comprehensive and
23 sustained multilingual public education campaign that promotes
24 road safety and discourages driving while impaired due to the
25 use of cannabis."

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