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HOUSE BILL 12

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

INTRODUCED BY

Javier Martínez and Andrea Romero and Deborah A. Armstrong

AN ACT

RELATING TO CANNABIS; ENACTING THE CANNABIS REGULATION ACT;  
ENACTING THE CANNABIS TAX ACT; CREATING THE CANNABIS CONTROL  
DIVISION IN THE REGULATION AND LICENSING DEPARTMENT; 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 A PUBLIC EDUCATION CAMPAIGN;  
CREATING THE COMMUNITY GRANTS REINVESTMENT FUND; CREATING THE  
COMMUNITY GRANTS REINVESTMENT PROGRAM; CREATING THE LOW-INCOME  
MEDICAL PATIENT SUBSIDY FUND; CREATING THE CANNABIS EXCISE TAX;  
CREATING THE COUNTY CANNABIS TAX; CREATING THE MUNICIPAL  
CANNABIS TAX; PROVIDING FOR DISTRIBUTIONS FROM CANNABIS EXCISE  
TAX REVENUE; AMENDING THE LYNN AND ERIN COMPASSIONATE USE ACT;  
PROVIDING AND REVISING PENALTIES; AMENDING, REPEALING AND

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1 ENACTING SECTIONS OF THE NMSA 1978; MAKING APPROPRIATIONS.

2

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

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

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

9 A. "advertisement":

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

15 (2) does not include:

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

20 (b) a label affixed to a cannabis  
21 product or the covering, wrapper or container of a cannabis  
22 product; or

23 (c) an editorial or other material  
24 printed in a publication when the publication of the editorial  
25 or material was not paid for by a licensee and was not intended

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1 to promote the sale of cannabis products by a particular brand  
2 or company;

3 B. "advertising" means the publication or  
4 dissemination of an advertisement;

5 C. "cannabis":

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

13 (2) does not include:

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

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

23 D. "cannabis consumption area" means an area within  
24 a vertically integrated cannabis establishment's, integrated  
25 cannabis microbusiness's or cannabis retailer's licensed

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1 premises where cannabis products may be consumed;

2 E. "cannabis courier" means a person that  
3 transports cannabis products from a cannabis establishment to  
4 any or all of the following:

- 5 (1) a qualified patient;
- 6 (2) a primary caregiver;
- 7 (3) another cannabis establishment; or
- 8 (4) directly to consumers;

9 F. "cannabis establishment" means:

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

20 G. "cannabis extract":

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

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

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

3 H. "cannabis flowers" means only the flowers of a  
4 cannabis plant;

5 I. "cannabis manufacturer" means a person that:

6 (1) manufactures cannabis products;

7 (2) packages, transports or couriers cannabis  
8 products;

9 (3) has cannabis products tested by a cannabis  
10 testing laboratory;

11 (4) purchases, acquires, obtains, possesses,  
12 sells or transports cannabis products to other cannabis  
13 establishments; or

14 (5) prepares products for personal production  
15 license holders pursuant to the Lynn and Erin Compassionate Use  
16 Act;

17 J. "cannabis producer" means a person that:

18 (1) possesses, produces, dispenses,  
19 distributes and manufactures cannabis products;

20 (2) cultivates cannabis plants;

21 (3) has unprocessed cannabis products tested  
22 by a cannabis testing laboratory; or

23 (4) sells cannabis products wholesale;

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

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

4 (2) have unprocessed cannabis products tested  
5 by a cannabis testing laboratory; and

6 (3) sell and transport unprocessed cannabis  
7 products only to other cannabis establishments;

8 L. "cannabis product":

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

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

16 M. "cannabis research laboratory" means a facility  
17 that produces or possesses cannabis products and all parts of  
18 the plant genus Cannabis for the purpose of studying cannabis  
19 cultivation, characteristics or uses;

20 N. "cannabis retailer" means a person that sells or  
21 couriers cannabis products to a consumer in this state;

22 O. "cannabis server permit" means an authorization  
23 issued by the director to allow a person to directly offer,  
24 sell or serve cannabis or cannabis products as part of  
25 commercial cannabis activity in a cannabis consumption area;

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1 P. "cannabis server permit education provider"  
2 means a person or a public or private school that is licensed  
3 by the division to provide cannabis server education courses  
4 and examinations;

5 Q. "cannabis testing laboratory" means a person  
6 authorized by the division to sample, collect or test cannabis  
7 products and to transport cannabis products for the purpose of  
8 testing;

9 R. "cannabis training and education program" means  
10 a practical or academic curriculum offered by a New Mexico  
11 public post-secondary educational institution designed to  
12 prepare students for participation in the cannabis industry;

13 S. "commercial cannabis activity":

14 (1) means the cultivation, production,  
15 possession, manufacture, storage, testing, researching,  
16 labeling, transportation, couriering, purchase and sale of  
17 cannabis products; and

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

21 T. "consumer" means a person twenty-one years of  
22 age or older who purchases, acquires, owns, possesses or uses a  
23 cannabis product for a purpose other than resale;

24 U. "contaminant" means pesticides and other foreign  
25 material, such as hair, insects or other similar adulterants,

1 in harvested cannabis;

2 V. "controlling person":

3 (1) means a person that controls ten percent  
4 or more of, or an officer or board member of, a cannabis  
5 establishment; and

6 (2) does not include a bank or licensed  
7 lending institution;

8 W. "department" means the regulation and licensing  
9 department;

10 X. "director" means the director of the division;

11 Y. "division" means the cannabis control division  
12 of the department;

13 Z. "dry weight basis", when used in the context of  
14 regulation of commercial cannabis activity, means a process by  
15 which delta-tetrahydrocannabinol concentration is measured  
16 relative to the aggregate weight of all parts of the plant  
17 genus Cannabis, whether growing or not, including the leaves of  
18 the plant, the flowers and buds of the plant, the seeds of the  
19 plant, the resin of the plant and the stalks of the plant at  
20 the point of harvest by a licensee and with no moisture added  
21 to the harvested plant;

22 AA. "evidence-based drug education program" means a  
23 research-based and scientific-evidence-based education program  
24 that has been thoroughly tested and has been shown to  
25 significantly reduce problematic use of substances such as

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1 nicotine, alcohol or drugs or reduce student suspensions or  
2 expulsions related to alcohol or drug use;

3 BB. "facility" means any building, space or grounds  
4 licensed for the production, possession, testing, manufacturing  
5 or distribution of cannabis, concentrates or cannabis products;

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

9 DD. "homegrown" or "homemade" means grown or made  
10 for purposes that are not dependent or conditioned upon the  
11 provision or receipt of financial consideration;

12 EE. "household" means a housing unit and includes  
13 any place in or around the housing unit at which an occupant of  
14 the housing unit produces, manufactures, keeps or stores  
15 homegrown cannabis or homemade cannabis products;

16 FF. "immature cannabis plant" means a cannabis  
17 plant that has no observable flowers or buds;

18 GG. "industry standards" means the prevailing  
19 customary standards of business practice in the cannabis  
20 industry in jurisdictions within the United States;

21 HH. "integrated cannabis microbusiness" means a  
22 person that is licensed by the division to:

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

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

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

6 (4) operate only one retail establishment; and

7 (5) engage in any other activity authorized by  
8 the division;

9 II. "licensed premises" means a location that is  
10 designated by the division to engage in commercial cannabis  
11 activity pursuant to the Cannabis Regulation Act and includes:

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

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

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

25 JJ. "licensee" means a person issued a license

1 pursuant to the Cannabis Regulation Act;

2           KK. "licensee representative" means an owner,  
3 director, officer, manager, employee, agent or other  
4 representative of a licensee, to the extent that person acts in  
5 a representative capacity;

6           LL. "local jurisdiction" means a municipality, home  
7 rule municipality or county;

8           MM. "manufacture" means to prepare a cannabis  
9 product;

10           NN. "marketing" means the act of promoting or  
11 selling a cannabis product or a cannabis-related product or  
12 service;

13           OO. "mature cannabis plant" means a cannabis plant  
14 that is not an immature cannabis plant;

15           PP. "medical cannabis" means cannabis products used  
16 by a qualified patient in accordance with the Lynn and Erin  
17 Compassionate Use Act;

18           QQ. "medical cannabis program" means licensed  
19 activity as authorized by the Lynn and Erin Compassionate Use  
20 Act;

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

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1 related to applicants for and recipients of registry  
2 identification cards;

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

10 TT. "produce" or "production" means any activity  
11 involving the cultivation of cannabis or performing any action  
12 intended to result in making cannabis products available to  
13 consumers;

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

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

25 WW. "retail establishment" means a single location,

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1 not to exceed ten thousand square feet in total area, operated  
2 by an integrated cannabis microbusiness for the purpose of  
3 performing all licensed activities;

4 XX. "shortage of cannabis supply in the medical  
5 program" means that the average number of plants in production  
6 in the medical cannabis program per qualified patient after the  
7 effective date of the Cannabis Regulation Act is substantially  
8 less than the average number of plants in production in the  
9 medical cannabis program per qualified patient as of the  
10 effective date of the Cannabis Regulation Act, where:

11 (1) the average number of plants in production  
12 after the effective date of the Cannabis Regulation Act is  
13 measured over a period of three consecutive months; and

14 (2) the average number of plants in production  
15 as of the effective date of the Cannabis Regulation Act is  
16 measured over a period of three consecutive months immediately  
17 preceding the effective date of the Cannabis Regulation Act;

18 YY. "vertically integrated cannabis establishment"  
19 means a licensee that is authorized under a vertically  
20 integrated cannabis establishment license issued by the  
21 division to act, without additional licensure and in the  
22 licensee's discretion, as any of the following:

- 23 (1) a cannabis courier;  
24 (2) a cannabis testing laboratory;  
25 (3) a cannabis manufacturer;

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- 1 (4) a cannabis producer;
- 2 (5) a cannabis retailer;
- 3 (6) a cannabis research laboratory; or
- 4 (7) a person that engages in any other
- 5 activity authorized by the division; and

6 ZZ. "superintendent" means the superintendent of  
7 regulation and licensing.

8 SECTION 3. [NEW MATERIAL] DIVISION--DUTIES--RULEMAKING.--

9 A. The "cannabis control division" is created in  
10 the department.

11 B. The division shall execute the provisions  
12 delegated to it under this 2021 act and administer and enforce  
13 the provisions of rules adopted under the Cannabis Regulation  
14 Act.

15 C. No later than January 1, 2022, the division  
16 shall promulgate reasonable rules consistent with industry  
17 standards necessary for the division to carry out its duties as  
18 provided in the Cannabis Regulation Act as follows:

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

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

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

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(4) requirements related to:

(a) inspection and monitoring of a cannabis establishment;

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

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

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

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

(5) rules providing that:

(a) any adult who is twenty-one years old or older shall be permitted to purchase at least two ounces of cannabis flowers and at least sixteen grams of cannabis extract each day;

(b) a qualified patient or a primary caregiver shall not be limited in possession of the amount of cannabis flowers or cannabis extract purchased and obtained pursuant to the medical cannabis program; and

(c) as to commercial cannabis activity:  
1) except for limits set in place in statute for an integrated cannabis microbusiness or a cannabis producer microbusiness, the division shall not limit the number of plants the licensee

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1 may possess, cultivate or manufacture; 2) a consumer shall be  
2 permitted to possess at least two ounces of cannabis flowers  
3 and at least sixteen grams of cannabis extract purchased and  
4 obtained pursuant to the commercial cannabis activity  
5 authorized by the Cannabis Regulation Act outside of the  
6 consumer's private residence; 3) any cannabis flower in excess  
7 of two ounces of cannabis flowers or cannabis extract in excess  
8 of sixteen grams of cannabis extract shall be stored in the  
9 person's residence in a locked space and shall not be visible  
10 from a public place; and 4) the division shall not limit the  
11 amount of tetrahydrocannabinol concentration in a cannabis  
12 product;

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

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

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

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

25 (10) development of a certification to

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1 identify products for consumers from licensees that are  
2 integrated cannabis microbusinesses or cannabis producer  
3 microbusinesses or owned by representatives of communities that  
4 have been disproportionately harmed by rates of arrest through  
5 the enforcement of cannabis prohibitions in law and policy;

6 (11) rules developed in consultation with the  
7 department of environment to establish:

8 (a) health and safety standards  
9 applicable to the research, production and manufacture of  
10 cannabis products;

11 (b) standards for food and product  
12 safety applicable to cannabis products; and

13 (c) which additives are approved for and  
14 prohibited from inclusion in cannabis products; provided that  
15 nicotine shall be prohibited; and

16 (12) rules developed in consultation with the  
17 New Mexico department of agriculture and the department of  
18 environment to establish standards for quality control,  
19 inspection and testing of cannabis products for potency and  
20 contaminants, except for cannabis produced or harvested for  
21 research purposes and not for ingestion; provided that all such  
22 rules and standards must be consistent with the rules and  
23 standards for testing of medical cannabis products.

24 D. No later than January 1, 2022, the division  
25 shall promulgate reasonable rules consistent with industry

1 standards relating to cannabis training and education programs,  
2 including:

3 (1) procedures for the issuance, renewal,  
4 suspension and revocation of a license;  
5 (2) qualifications for licensure;  
6 (3) physical security, cybersecurity and, if  
7 applicable, security of information collected under the federal  
8 Health Insurance Portability and Accountability Act of 1996  
9 requirements; and

10 (4) rules developed in consultation with the  
11 New Mexico department of agriculture and the department of  
12 environment to establish:

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

19 E. The division shall collect and publish annually  
20 on the division's website, and present to the appropriate  
21 interim committee of the legislature, a report describing  
22 demographic data on license applicants, controlling persons and  
23 employees of cannabis establishments, including race,  
24 ethnicity, gender and age.

25 F. No later than September 1, 2021, the division

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1 shall convene a "cannabis regulatory advisory committee" to  
2 advise the division on the development of rules pursuant to the  
3 Cannabis Regulation Act, including best practices and  
4 guidelines that promote economic and cultural diversity in  
5 licensing and employment opportunities and protect public  
6 health and safety while ensuring a regulated environment for  
7 commercial cannabis activity that does not impose unreasonable  
8 barriers that would perpetuate, rather than reduce and  
9 eliminate, the illicit market for cannabis. An individual  
10 appointed to the cannabis regulatory advisory committee shall  
11 not hold any ownership interest or investment in a licensed  
12 entity pursuant to the Cannabis Regulation Act. The cannabis  
13 regulatory advisory committee shall consist of the following  
14 individuals or their designees:

15 (1) the chief public defender;

16 (2) a district attorney appointed by the New  
17 Mexico district attorney association;

18 (3) a county sheriff appointed by the  
19 executive director of the New Mexico association of counties;  
20 and

21 (4) members appointed by the director with the  
22 approval of the superintendent for four-year terms, including a  
23 representative:

24 (a) of a cannabis policy advocacy  
25 organization;

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1 (b) of a labor organization;  
2 (c) who is a qualified patient;  
3 (d) from a state or local agency with  
4 relevant expertise as the director and the superintendent deem  
5 appropriate;

6 (e) with expertise in public health;

7 (f) with expertise in regulating  
8 commercial activity for adult-use intoxicating substances;

9 (g) from a community disproportionately  
10 affected by past federal and state drug policies;

11 (h) with expertise and experience in  
12 cannabis laboratory science;

13 (i) with expertise in environmental  
14 science;

15 (j) from an Indian nation, tribe or  
16 pueblo with relevant expertise as the director and the  
17 superintendent deem appropriate; and

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

20 G. Public members of the cannabis regulatory  
21 advisory committee shall not be paid but are entitled to  
22 receive per diem and mileage as provided for non-salaried  
23 public officers in the Per Diem and Mileage Act.

24 H. The division shall monitor the supply and demand  
25 of cannabis products produced in New Mexico by licensees and

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1 present annually to the appropriate interim committee of the  
2 legislature on the impacts of supply on illicit cannabis  
3 products markets and adequate supply of cannabis products for  
4 qualified patients.

5 SECTION 4. [NEW MATERIAL] DEPARTMENT OF HEALTH--DUTIES--  
6 MEDICAL CANNABIS SUBSIDY PROGRAM--PUBLIC HEALTH AND SAFETY  
7 ADVISORY COMMITTEE.--

8 A. No later than January 1, 2022, the department of  
9 health shall:

10 (1) establish the "medical cannabis subsidy  
11 program" through which the department of health shall make  
12 distributions to provide medical cannabis or subsidies to  
13 qualified patients who are New Mexico residents and who need  
14 assistance in obtaining medical cannabis; and

15 (2) promulgate rules to govern the medical  
16 cannabis subsidy program.

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

23 C. No later than September 1, 2021, the secretary  
24 of health shall appoint a "public health and safety advisory  
25 committee" composed of professionals with expertise related to

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1 cannabis products through work, training or research in public  
2 health, epidemiology, medicine, medical toxicology, poison  
3 control, road safety, occupational safety, environmental safety  
4 and emergency medicine.

5 D. Beginning December 1, 2024, the public health  
6 and safety advisory committee shall provide to the legislature,  
7 and the department of health shall publish on its website, an  
8 annual report on the health effects of legalizing cannabis  
9 products for adult use. The report shall include the following  
10 elements relating to cannabis products use and, as applicable,  
11 the demographics of persons who are the subject of the event or  
12 report relating to the element:

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

24 E. In consultation with qualified patients and  
25 primary caregivers, the department of health shall produce an

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1 assessment report annually that shall be available to the  
2 public and that includes at a minimum an evaluation of the:

3 (1) affordability and accessibility of medical  
4 cannabis pursuant to the Lynn and Erin Compassionate Use Act;  
5 and

6 (2) needs of qualified patients who live in  
7 rural areas, federally subsidized housing and New Mexico Indian  
8 nations, tribes or pueblos.

9 F. Public members of the public health and safety  
10 advisory committee are entitled to per diem and mileage as  
11 provided for nonsalaried public officers in the Per Diem and  
12 Mileage Act.

13 SECTION 5. [NEW MATERIAL] DEPARTMENT OF HEALTH--DUTIES.--  
14 Except for administration of the medical cannabis registry  
15 under the Lynn and Erin Compassionate Use Act, the power, duty  
16 and authority of the department of health related to commercial  
17 cannabis activity and the medical cannabis program shall be  
18 transferred to the division.

19 SECTION 6. [NEW MATERIAL] LICENSING CANNABIS ACTIVITIES--  
20 LIMITATIONS--MEDICAL CANNABIS LEGACY LICENSING.--

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

23 (1) commercial cannabis activity and licensing  
24 related to commercial cannabis activity;

25 (2) the medical cannabis program, except for

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1 the medical cannabis registry; and

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

4 B. The division shall begin issuing licenses in  
5 accordance with the rules promulgated by the division for  
6 commercial cannabis activities no later than January 1, 2022.

7 C. Within sixty days of the effective date of the  
8 Cannabis Regulation Act, the division shall adopt procedures  
9 to:

10 (1) promote and encourage full participation  
11 in the cannabis industry by representatives of communities that  
12 have been disproportionately harmed by rates of arrest through  
13 the enforcement of cannabis prohibitions in law; and

14 (2) encourage racial, ethnic, gender and  
15 geographic diversity among license applicants, licensees and  
16 cannabis industry employees.

17 D. The division shall administer a licensing  
18 program in accordance with the rules promulgated by the  
19 division for commercial cannabis activities provided for in the  
20 Cannabis Regulation Act, the medical cannabis program provided  
21 for in the Lynn and Erin Compassionate Use Act and cannabis  
22 training and education programs that shall include licenses  
23 for:

24 (1) vertically integrated cannabis  
25 establishments;

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

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

14 F. A license is valid for twelve months from the  
15 date the license is issued and may be renewed annually;  
16 provided that a license issued for a cannabis training and  
17 education program is valid until terminated by the licensee or  
18 suspended or revoked by the division.

19 G. The division shall allow only a vertically  
20 integrated cannabis establishment, a cannabis retailer or an  
21 integrated cannabis microbusiness to operate a cannabis  
22 consumption area.

23 H. The division shall not limit the type or number  
24 of licenses that a licensee may be issued pursuant to the  
25 Cannabis Regulation Act.

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1           I. Except for verification of age, the division  
2 shall not require licensees to request information from  
3 consumers or impose any residency requirement upon consumers  
4 for the purchase of cannabis products pursuant to the  
5 commercial cannabis activity authorized by the Cannabis  
6 Regulation Act or the medical cannabis program.

7           J. Except as otherwise provided in the Cannabis  
8 Regulation Act, the division shall not limit the number of  
9 licensed premises a licensee may occupy or operate under a  
10 license. Multiple licensees may occupy a single licensed  
11 premises, and the division shall not place any restriction or  
12 prohibition on the number of licensees occupying a single  
13 licensed premises or on the number of licensed premises of a  
14 cannabis establishment except as otherwise specifically  
15 provided for by the Cannabis Regulation Act. A licensee may  
16 conduct any lawful activity or any combination of lawful  
17 activities at a licensed premises.

18           K. Licensees pursuant to the Cannabis Regulation  
19 Act shall be specifically permitted to conduct any other  
20 licensed activities, including activities pursuant to the Hemp  
21 Manufacturing Act.

22           L. Any person properly licensed and in good  
23 standing as a licensed cannabis producer pursuant to the Lynn  
24 and Erin Compassionate Use Act on the effective date of the  
25 Cannabis Regulation Act shall be issued a license by the

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1 division allowing the licensee to conduct commercial cannabis  
2 activity and medical cannabis activity as a vertically  
3 integrated cannabis establishment within thirty days of the  
4 effective date of the Cannabis Regulation Act. Any other  
5 person properly licensed and in good standing pursuant to the  
6 Lynn and Erin Compassionate Use Act on the effective date of  
7 the Cannabis Regulation Act shall be issued a license of  
8 comparable class and privileges to conduct commercial cannabis  
9 activity under the Cannabis Regulation Act. Any facility of  
10 such a licensee, upon issuance of the cannabis establishment  
11 license, shall constitute licensed premises of the licensee and  
12 the licensee shall be entitled to continued and uninterrupted  
13 operations of the licensed premises. As to activity under the  
14 medical cannabis program, the licensee shall continue to  
15 operate under rules promulgated for the medical cannabis  
16 program until the division promulgates rules for medical  
17 cannabis activity, except that a qualified patient and a  
18 primary caregiver shall not be prohibited from purchasing and  
19 obtaining cannabis products pursuant to the medical cannabis  
20 program nor shall such a person be prohibited from purchasing  
21 up to sixteen grams of cannabis extract purchased and obtained  
22 pursuant to the medical cannabis program. The division shall  
23 not limit:

24 (1) the number of plants the licensee shall be  
25 permitted to possess, cultivate or manufacture; or

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1 (2) a consumer from purchasing and obtaining  
2 pursuant to the commercial cannabis activity authorized by the  
3 Cannabis Regulation Act up to two ounces of cannabis flowers or  
4 sixteen grams of cannabis extract each day.

5 M. Any nonprofit corporation issued a license under  
6 Subsection L of this section shall be converted into a  
7 corporation by the secretary of state upon the filing of  
8 articles of organization by the nonprofit corporation, which  
9 shall be approved pursuant to an agreement of conversion in the  
10 manner provided for the conversion of a limited liability  
11 company in Section 53-19-60.1 NMSA 1978. To be valid, the  
12 agreement of conversion must be approved by all directors of  
13 the nonprofit corporation. Upon conversion, all property owned  
14 by the converting entity remains in the newly converted entity.  
15 All obligations of the converting entity continue as  
16 obligations of the newly converted entity. Any action or  
17 proceeding pending against the converting entity may be  
18 continued as if the conversion had not occurred.

19 SECTION 7. [NEW MATERIAL] LICENSEES--SANCTIONS--CIVIL  
20 PENALTY.--

21 A. Any violation of the provisions of the Cannabis  
22 Regulation Act by a licensee is grounds for disciplinary  
23 action.

24 B. The division may:

- 25 (1) suspend or revoke a license;

1                   (2) impose any intermediate sanction  
2 established by rule;

3                   (3) impose a directed plan of correction; or

4                   (4) assess a civil monetary penalty  
5 established by rule; provided that a civil monetary penalty  
6 shall not exceed ten thousand dollars (\$10,000) per violation;  
7 and further provided that penalties and interest recovered  
8 pursuant to the Cannabis Regulation Act on behalf of the state  
9 shall be remitted to the state treasurer for deposit in the  
10 general fund.

11                   C. The division shall adopt and promulgate  
12 reasonable rules consistent with industry standards specifying  
13 the criteria for imposition of any sanction and civil monetary  
14 penalty.

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

18                   E. A person aggrieved by an action taken by the  
19 division pursuant to this section may request and receive a  
20 hearing with the division for the purpose of reviewing the  
21 action. To obtain a hearing with the division, the aggrieved  
22 person shall file a request for a hearing with the director  
23 within thirty days after the date the action is taken. The  
24 division hearings shall be conducted in accordance with the  
25 provisions of the Uniform Licensing Act.

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1           F. After the hearing conducted according to the  
2 Uniform Licensing Act, a person who is aggrieved by an adverse  
3 decision of the division may obtain review of the decision in  
4 the court of appeals, notwithstanding the review procedures set  
5 out in the Uniform Licensing Act.

6           **SECTION 8. [NEW MATERIAL] COMMERCIAL CANNABIS ACTIVITY**  
7 **LICENSING--APPLICATION--ISSUANCE AND DENIAL OF A LICENSE.--**

8           A. A license issued pursuant to the Cannabis  
9 Regulation Act shall not be subject to execution, attachment, a  
10 security transaction, liens or receivership.

11           B. The division shall not limit the number of  
12 licenses of any kind, the scope of licenses or the activities a  
13 licensee is authorized to conduct under the Cannabis Regulation  
14 Act; provided that to address a shortage of cannabis supply in  
15 the medical cannabis program, the division may:

16                   (1) initially take reasonable measures to  
17 expeditiously incentivize increased production of cannabis  
18 plants to remedy a shortage of cannabis supply in the medical  
19 cannabis program;

20                   (2) after having first exhausted measures to  
21 increase production of cannabis plants to address the shortage  
22 of cannabis supply in the medical cannabis program, exclude  
23 commercial cannabis activity from the scope of new licenses  
24 issued to initial applicants for a vertically integrated  
25 cannabis establishment, cannabis producer, integrated cannabis

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1 microbusiness, cannabis producer microbusinesses or cannabis  
2 manufacturer license, which limitation shall be in force for a  
3 period of at least six months; and

4 (3) after having exhausted reasonable efforts  
5 to increase production of cannabis plants, including expediting  
6 applications for additional licensed premises, the division may  
7 then require licensees who are licensed to produce cannabis to  
8 produce a specified quota of mature cannabis plants to be  
9 designated for use in the medical cannabis program; provided  
10 that:

11 (a) the division may require a licensee  
12 to devote no more than five percent of the licensee's  
13 cultivated cannabis plants for use in the medical cannabis  
14 program;

15 (b) the total number of plants to be  
16 produced from such a quota shall not exceed the number  
17 necessary to eliminate the shortage of cannabis supply in the  
18 medical cannabis program; and

19 (c) the division shall not require  
20 specific tracking of produced particular plants, but shall  
21 instead permit a licensee to produce any sufficient number of  
22 plants to meet a quota imposed under this subsection.

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

25 (1) beginning on September 1, 2021, accept and

1 begin processing license applications for cannabis producers;

2 (2) beginning October 1, 2021, issue licenses  
3 for integrated cannabis microbusinesses and cannabis producer  
4 microbusinesses under the medical cannabis program;

5 (3) beginning on July 1, 2022, accept license  
6 applications for all licenses; provided that for any license  
7 issued for an application submitted on or after July 1, 2022,  
8 the licensee shall be licensed for activities exclusively under  
9 the medical cannabis program for a minimum of six months from  
10 the date of licensure;

11 (4) issue a license or a written notice  
12 detailing why an application was denied no later than ninety  
13 days following the day on which the application was submitted  
14 to the division;

15 (5) no later than January 1, 2022, in  
16 consultation with the cannabis regulatory advisory committee,  
17 develop a plan to encourage racial, ethnic, gender and  
18 geographic diversity among licensees;

19 (6) require as a condition of licensing  
20 pursuant to the Cannabis Regulation Act that the applicant  
21 demonstrate that the applicant has a legal right to a  
22 commercial water supply, water rights or another source of  
23 water sufficient to meet the water needs related to the  
24 license, and, if an applicant applies for a cannabis producer  
25 license or a cannabis manufacturer license, submit a plan to

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1 utilize, or demonstrate to the division that the applicant  
2 cannot feasibly utilize, energy and water reduction  
3 opportunities, including:

4 (a) for a cannabis producer, drip  
5 irrigation and water collection;

6 (b) natural lighting and energy  
7 efficiency measures; and

8 (c) renewable energy generation; and

9 (7) permit retail sales under the commercial  
10 cannabis activity authorized by the Cannabis Regulation Act by  
11 any licensee whose license allows such activity no later than  
12 October 1, 2021 and otherwise permit any activity authorized by  
13 the Cannabis Regulation Act or the medical cannabis program as  
14 of the time of licensure of a licensee.

15 D. The division shall deny an application for an  
16 initial license or renewal if:

17 (1) the application does not include  
18 significant information required by the division;

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

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

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

13 E. The division shall deny an application for  
14 renewal of a license pursuant to the Cannabis Regulation Act if  
15 the licensee fails to regularly and consistently operate for a  
16 minimum of thirty-two hours per week, on average, for the  
17 duration of its licensure on or after July 1, 2021.

18 F. For purposes of Subsection D of this section,  
19 the following are considered substantially related to the  
20 qualifications, functions or duties of a business seeking a  
21 license:

22 (1) a felony conviction involving fraud,  
23 deceit or embezzlement;

24 (2) a felony conviction for hiring, employing  
25 or otherwise using a person younger than eighteen years of age

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1 to:

2 (a) prepare for sale, transport or carry  
3 a controlled substance; or

4 (b) sell, give away or offer to sell a  
5 controlled substance to any person; and

6 (3) any other offense as determined by the  
7 division.

8 G. A conviction for which the related sentence,  
9 including any term of probation or parole, is completed for the  
10 possession, use, manufacture, distribution, dispensing or the  
11 possession with the intent to manufacture, distribute or  
12 dispense a controlled substance is not considered substantially  
13 related to the qualifications, functions or duties of a  
14 business seeking a license and shall not be the sole ground on  
15 which an application is denied.

16 H. The division shall deny an application if an  
17 applicant, a controlling person in an applicant's entity or the  
18 premises for which a license is sought does not qualify for  
19 licensure pursuant to the Cannabis Regulation Act.

20 I. Unless otherwise provided in the Cannabis  
21 Regulation Act, a person whose license has been revoked may  
22 reapply for a license after a period of three years. The  
23 division may consider all of the circumstances resulting in the  
24 revocation in determining whether to issue a new license.

25 SECTION 9. [NEW MATERIAL] APPLICATION AND LICENSING

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1 FEES.--

2 A. The division shall establish application and  
3 licensing fees applicable to licenses for commercial cannabis  
4 activity and activity related to medical cannabis consistent  
5 with the provisions of this section. Money collected for the  
6 fees shall not exceed the cost of administering and enforcing  
7 the programs established in the Cannabis Regulation Act and the  
8 Lynn and Erin Compassionate Use Act, including the  
9 administration of the medical cannabis registry by the  
10 department of health.

11 B. For fees assessed through January 1, 2026, the  
12 fees shall consist of a base annual fee of two thousand five  
13 hundred dollars (\$2,500) per year, an additional fee of one  
14 thousand dollars (\$1,000) for each licensed premises of the  
15 licensee and for a vertically integrated cannabis establishment  
16 licensee, an initial application fee and an annual renewal fee.  
17 The initial application fee and the annual renewal fee for a  
18 vertically integrated cannabis establishment license shall not  
19 exceed one hundred twenty-five thousand dollars (\$125,000) for  
20 a license for both medical cannabis activity and commercial  
21 cannabis activity. The initial application fee and the annual  
22 renewal fee for a license or renewal of a license that  
23 authorizes only medical cannabis activity shall be one-half the  
24 fee applicable to a license authorizing both medical cannabis  
25 activity and commercial cannabis activity. The division shall

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1 charge five percent of the maximum fee assessed for a  
2 vertically integrated cannabis establishment licensee as the  
3 licensing fee for a cannabis producer microbusiness or an  
4 integrated cannabis microbusiness; provided that if a cannabis  
5 producer microbusiness or an integrated cannabis microbusiness  
6 enters into any business arrangement with another such entity  
7 with the purpose or having the effect of evading the  
8 limitations of the licensee's license, such licensee shall not  
9 be eligible for the lower fee prescribed for by this  
10 subsection.

11 C. The division shall collect all renewal fees,  
12 including the renewal fees for all licensed premises, at the  
13 time of renewal of a license.

14 D. For fees assessed on or after July 1, 2022, the  
15 division shall annually adjust the fees set by this section by  
16 multiplying the prior year's fees by the percentage, if any, by  
17 which the average of the monthly consumer price indices for the  
18 twelve months ending on December 31 of the prior fiscal year  
19 exceeds the average monthly consumer price indices for the  
20 twelve months ending on December 31 of the fiscal year  
21 preceding the prior fiscal year.

22 E. The fee for the issuance of a cannabis server  
23 permit shall not exceed thirty-five dollars (\$35.00).

24 F. 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 10. [NEW MATERIAL] CANNABIS TRAINING AND  
3 EDUCATION PROGRAM LICENSING--SANCTIONS.--

4 A. The division shall begin licensing cannabis  
5 training and education programs no later than January 1, 2022.

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

8 C. A violation of a provision of the Cannabis  
9 Regulation Act is grounds for suspension or revocation of a  
10 license issued pursuant to Subsection B of this section. The  
11 division may also suspend a license for repeated violations of  
12 the same, serious and substantial rule promulgated pursuant to  
13 the Cannabis Regulation Act pertaining to public health and  
14 safety.

15 SECTION 11. [NEW MATERIAL] CANNABIS INDUSTRY MANDATORY  
16 EDUCATION--APPLICATIONS--PERMIT REQUIRED--EDUCATION PROGRAM  
17 APPROVAL REQUIRED--ISSUANCE OR DENIAL OF A PERMIT OR APPROVAL--  
18 DEFINITIONS--PENALTIES.--

19 A. No later than January 1, 2022, the division  
20 shall promulgate reasonable rules consistent with this section  
21 and industry standards for issuance of a cannabis server  
22 permit; provided that a cannabis research laboratory or an  
23 employee of the laboratory is not required to obtain or possess  
24 a cannabis server permit while performing activities authorized  
25 pursuant to a cannabis research laboratory.

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1           B. The program curriculum shall include the  
2 following subjects:

3                   (1) the effect cannabis products have on the  
4 body and behavior, including the effect on a person's ability  
5 to operate a motor vehicle when under the influence of cannabis  
6 products;

7                   (2) the effect cannabis products have on a  
8 person when used in combination with alcohol or legal or  
9 illegal drugs;

10                  (3) state laws concerning cannabis licensure,  
11 cannabis liability issues and driving under the influence of  
12 cannabis;

13                  (4) methods of recognizing problem cannabis  
14 products users and techniques for intervening with problem  
15 cannabis products users; and

16                  (5) methods of identifying false driver's  
17 licenses and other documents used as evidence of age and  
18 identity to prevent the sale of cannabis products to a person  
19 under twenty-one years of age pursuant to the Cannabis  
20 Regulation Act.

21           C. Beginning no later than July 1, 2022, the  
22 division shall issue cannabis server permits to persons twenty-  
23 one years of age or older who satisfy the requirements of this  
24 section and the rules promulgated by the division. Cannabis  
25 server permits shall not be issued to graduates of programs

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1 that are not approved by the division.

2 D. No person shall be employed as a server on a  
3 licensed premises unless that person obtains a cannabis server  
4 permit pursuant to the provisions of this section within thirty  
5 days of employment.

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

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

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

21 (1) the director may suspend a cannabis server  
22 permit for a period of thirty days or fine the server in an  
23 amount not to exceed five hundred dollars (\$500), or both, if  
24 the director finds that the server is guilty of a first offense  
25 of selling, serving or dispensing a cannabis product to a

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1 person under twenty-one years of age;

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

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

16 (4) no person whose cannabis server permit is  
17 suspended pursuant to the provisions of this section shall  
18 offer, sell or serve cannabis or a cannabis product as part of  
19 commercial cannabis activity in a cannabis consumption area  
20 during the period of suspension.

21 H. As used in this section, "program" means a  
22 cannabis server education course and examination approved by  
23 the director to be administered by cannabis server permit  
24 education providers.

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

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A. A local jurisdiction may:

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

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

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

(b) the cannabis establishment or integrated cannabis microbusiness is located at a minimum distance from a school or daycare center as determined by the local jurisdiction, but which minimum distance shall not be set at any more than three hundred feet from a school or daycare center that was in existence at the time the establishment or microbusiness was licensed.

B. A local jurisdiction shall not:

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

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1 (2) completely prohibit the operation of a  
2 licensee;

3 (3) prohibit or limit signage attached to or  
4 located on licensed premises that identify the premises as a  
5 cannabis establishment;

6 (4) require a licensed premises or a  
7 consumption area to be any more than three hundred feet from a  
8 school or daycare center that was in existence at the time the  
9 establishment or microbusiness was licensed;

10 (5) require an existing licensee at a licensed  
11 premises to relocate; or

12 (6) prohibit a person from producing homegrown  
13 cannabis as provided for in the Cannabis Regulation Act.

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

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

22 B. The state or a local jurisdiction shall not  
23 impose a criminal, civil or administrative penalty on a  
24 licensee, a licensee representative or a person that allows  
25 property to be used by a licensee or a licensee representative

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1 pursuant to a license, solely for conduct allowed pursuant to a  
2 license.

3 SECTION 14. [NEW MATERIAL] PROTECTION OF UNDERAGE  
4 PERSONS--TRAFFICKING--PENALTIES.--

5 A. Except as allowed in the Cannabis Regulation Act  
6 or the Lynn and Erin Compassionate Use Act, a person who is not  
7 a licensee and who is eighteen years of age or older shall not  
8 intentionally traffic a cannabis product to a person who is  
9 under twenty-one years of age and who is two or more years  
10 younger than the trafficker. A person who traffics a cannabis  
11 product in violation of this subsection is, for the first  
12 offense, guilty of a misdemeanor and shall be sentenced  
13 pursuant to Section 31-19-1 NMSA 1978 and, for second and  
14 subsequent offenses, guilty of a fourth degree felony and shall  
15 be sentenced pursuant to Section 31-18-15 NMSA 1978.

16 B. Except as provided in the Lynn and Erin  
17 Compassionate Use Act, a licensee shall not employ a person  
18 younger than twenty-one years of age to engage in a commercial  
19 cannabis activity.

20 C. Except as allowed in the Cannabis Regulation Act  
21 or the Lynn and Erin Compassionate Use Act, a licensee shall  
22 not sell a cannabis product to a person younger than twenty-one  
23 years of age. The division shall suspend or revoke the license  
24 and may fine the licensee in an amount not to exceed ten  
25 thousand dollars (\$10,000), or both, when the division finds

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1 that any licensee or the licensee's employee or agent knowingly  
2 has sold, served or given any cannabis product to a person  
3 under twenty-one years of age on two separate occasions within  
4 any twelve-month period.

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

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

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

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

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1 E. Nothing in this section shall be construed or  
2 interpreted to prevent:

3 (1) the division from enforcing its rules  
4 against a licensee;

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

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

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

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

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

16 SECTION 15. [NEW MATERIAL] TRANSPORT VIA COURIER.--

17 A. A vertically integrated cannabis establishment,  
18 cannabis retailer or integrated cannabis microbusiness may  
19 courier cannabis products.

20 B. A courier may accept payment for services using  
21 any legal method of payment or payment on delivery.

22 C. A consumer who requests courier service shall  
23 maintain a physical or electronic copy of the courier request  
24 for the duration of time that the consumer possesses the  
25 cannabis product that was purchased and received from the

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1 courier and shall make the copy available upon request by the  
2 division or a law enforcement officer.

3 SECTION 16. [NEW MATERIAL] PACKAGING AND LABELING.--

4 Before sale or transport via cannabis courier of a cannabis  
5 product, the cannabis product shall be labeled and packaged as  
6 provided in Section 17 of the Cannabis Regulation Act.

7 SECTION 17. [NEW MATERIAL] CANNABIS PRODUCTS--PACKAGING  
8 AND LABELING--DEPARTMENT RULEMAKING.--

9 A. Cannabis or cannabis extracts included in a  
10 cannabis product that is manufactured in compliance with  
11 applicable law are not considered to be an adulterant under  
12 state law.

13 B. The department shall adopt and promulgate  
14 reasonable rules consistent with industry standards for  
15 cannabis products that establish labeling and packaging  
16 requirements, including that:

17 (1) packages shall be resealable,  
18 child-resistant, compostable and recyclable or made from  
19 recycled materials;

20 (2) packages and labels shall not be designed  
21 to be appealing to a child; and

22 (3) labels shall include:

23 (a) for a package containing only  
24 cannabis leaf or flower, the net weight of cannabis in the  
25 package;

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1 (b) identification of the licensee or  
2 licensees that produced or manufactured the cannabis product,  
3 the date on which the cannabis was harvested, the type of  
4 cannabis product and the date on which the cannabis product was  
5 manufactured and packaged;

6 (c) potency and pesticide use;

7 (d) a list of pharmacologically active  
8 ingredients;

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

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

17 (g) a logo designed by the division that  
18 is distinctive in design, color, size and location such that  
19 the logo notifies a reasonable person that the package contains  
20 cannabis; and

21 (h) a warning of possible adverse  
22 effects of consumption and the New Mexico poison and drug  
23 information center phone number.

24 SECTION 18. [NEW MATERIAL] TESTING CANNABIS PRODUCTS--  
25 DEPARTMENT OF ENVIRONMENT.--

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1           A. A cannabis testing laboratory's testing of  
2 cannabis products shall comply with the requirements set forth  
3 in applicable law and rules.

4           B. The division shall develop reasonable rules and  
5 procedures consistent with industry standards to:

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

9                   (2) specify how often licensees shall test  
10 cannabis products;

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

13                   (4) provide for recordkeeping;

14                   (5) establish chain of custody protocols for  
15 testing sample transportation;

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

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

23                   (8) require destruction of a tested batch of  
24 cannabis or of cannabis products if the testing samples from  
25 the tested batch or items indicate noncompliance with

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1 applicable health and safety standards promulgated by the  
2 division, unless remedial measures can bring the cannabis or  
3 cannabis products into compliance with the standards or the  
4 cannabis or cannabis products can be used for research  
5 purposes.

6 C. Beginning no later than April 1, 2022, the  
7 department of environment shall identify and annually provide  
8 to the division a set of updated certified reference materials  
9 for laboratory testing to be measured against.

10 SECTION 19. [NEW MATERIAL] RESEARCHING CANNABIS--  
11 RULEMAKING.--

12 A. A cannabis research laboratory's research of  
13 cannabis shall comply with the requirements set forth in  
14 applicable law and rules.

15 B. The division shall develop reasonable rules and  
16 procedures consistent with industry standards to provide for  
17 recordkeeping to ensure that cannabis products are not removed  
18 from the cannabis research laboratory premises.

19 SECTION 20. [NEW MATERIAL] ADVERTISING AND MARKETING  
20 RESTRICTIONS.--The division shall promulgate reasonable rules  
21 consistent with industry standards that:

22 A. prohibit the advertisement and marketing of  
23 cannabis products:

24 (1) on a billboard, radio, television or other  
25 broadcast media, internet pop-ups and mass transit vehicles;

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1 provided that the division shall not prohibit advertising and  
2 marketing to:

3 (a) subscribers of subscription-based  
4 radio, television or other broadcast media who are twenty-one  
5 years of age or older; or

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

8 (2) that depicts consumption by children or  
9 other persons who appear to be younger than twenty-one years of  
10 age; or

11 (3) that is designed using cartoon characters  
12 or to mimic any other product brand; and

13 B. require:

14 (1) all advertisements and marketing to  
15 accurately and legibly identify the licensee responsible for  
16 its content; and

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

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

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

5 SECTION 22. [NEW MATERIAL] PROVISION OF PROFESSIONAL  
6 SERVICES.--An attorney, accountant, insurance agent, real  
7 estate agent, security guard or other person engaged in a  
8 profession subject to state licensure shall not be subject to  
9 disciplinary action by a professional association, a state  
10 professional board or a state licensing entity because the  
11 professional provides professional services or assistance to  
12 prospective or licensed cannabis establishments or another  
13 person in connection with activity that the professional  
14 reasonably believes complies with the Cannabis Regulation Act  
15 and rules promulgated pursuant to that act.

16 SECTION 23. [NEW MATERIAL] MEDICAL CANNABIS PROVISIONS  
17 UNAFFECTED.--Nothing in the Cannabis Regulation Act shall be  
18 construed to limit a privilege or right of a qualified patient  
19 or a primary caregiver participating in the medical cannabis  
20 program or the use, dispensing, possession, prescribing,  
21 storage or transport of a prescription drug containing cannabis  
22 that is approved pursuant to the Federal Food, Drug, and  
23 Cosmetic Act.

24 SECTION 24. [NEW MATERIAL] PROTECTIONS FOR THE USE OF  
25 CANNABIS.--

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1           A. Conduct allowed pursuant to the Cannabis  
2 Regulation Act shall not in itself constitute grounds for a  
3 holder of a professional or occupational license to be subject  
4 to professional discipline for providing advice or services  
5 related to cannabis establishments or applications to operate  
6 cannabis establishments on the basis that cannabis is illegal  
7 under federal law.

8           B. An applicant for a professional or occupational  
9 license shall not be denied a license based on previous  
10 employment related to cannabis establishments may not refuse to  
11 employ or discipline an employee solely for conduct that is  
12 lawful pursuant to the Cannabis Regulation Act unless the  
13 person used, possessed or was impaired by cannabis products on  
14 the premises of the place of employment or during the hours of  
15 employment or unless failing to do so would put the employer in  
16 violation of federal law or cause it to lose a federal contract  
17 or funding.

18           C. A person shall not be denied parental rights or  
19 custody of or visitation with a minor child by the state or  
20 local government based solely on conduct that is permitted by  
21 the Cannabis Regulation Act unless the person's behavior is  
22 such that it creates an unreasonable danger to the minor child  
23 that can be established by clear and convincing evidence.

24           D. A person currently under parole, probation or  
25 other state supervision or released awaiting trial or other

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1 hearing shall not be punished or otherwise penalized based  
2 solely on conduct that is permitted by the Cannabis Regulation  
3 Act.

4 E. A person shall not be denied eligibility in  
5 public assistance programs based solely on conduct that is  
6 permitted by the Cannabis Regulation Act unless required by  
7 federal law.

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

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

16 (1) possessing, using, being under the  
17 influence of, displaying, purchasing, obtaining or transporting  
18 not more than two ounces of cannabis flowers or not more than  
19 sixteen grams of cannabis extract purchased and obtained  
20 pursuant to the commercial cannabis activity authorized by the  
21 Cannabis Regulation Act or the medical cannabis program;

22 (2) possession in excess of two ounces of  
23 cannabis flowers or sixteen grams of cannabis extract; provided  
24 that such excess is stored in the person's private residence in  
25 a locked space and not visible from a public place;

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1 (3) transferring, without financial  
2 consideration, to a person who is twenty-one years of age or  
3 older not more than two ounces of cannabis flowers or not more  
4 than sixteen grams of cannabis extract purchased and obtained  
5 pursuant to the commercial cannabis activity authorized by the  
6 Cannabis Regulation Act or the medical cannabis program;

7 (4) ingesting or otherwise consuming cannabis  
8 or cannabis products purchased and obtained pursuant to the  
9 commercial cannabis activity authorized by the Cannabis  
10 Regulation Act or the medical cannabis program;

11 (5) possessing, using, displaying, purchasing,  
12 obtaining, manufacturing cannabis extracts using nonvolatile  
13 solvents, alcohol or carbon dioxide or no solvents,  
14 transporting or giving away to a person twenty-one years of age  
15 or older cannabis paraphernalia purchased and obtained pursuant  
16 to the commercial cannabis activity authorized by the Cannabis  
17 Regulation Act or the medical cannabis program;

18 (6) in a single day, purchasing and obtaining  
19 pursuant to the commercial cannabis activity authorized by the  
20 Cannabis Regulation Act or the medical cannabis program up to  
21 two ounces of cannabis flowers and up to sixteen grams of  
22 cannabis extract;

23 (7) 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 (8) smoking cannabis or cannabis products in  
3 an area authorized pursuant to the Cannabis Regulation Act or a  
4 local jurisdiction;

5 (9) possessing, planting, cultivating,  
6 harvesting, drying, manufacturing cannabis extracts using  
7 nonvolatile solvents, alcohol or carbon dioxide or no solvents  
8 or transporting not more than six mature cannabis plants per  
9 person and a maximum of twelve per household and six immature  
10 plants per household and possessing the cannabis produced by  
11 the plants; and

12 (10) transporting homegrown cannabis or mature  
13 or immature cannabis plants when the person is moving the  
14 person's residence to another location or for purposes of  
15 testing or manufacturing.

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

21 C. Except as provided in Subsection D of this  
22 section, none of the following shall, individually or in  
23 combination with each other, constitute reasonable articulable  
24 suspicion of a crime and is not a basis to stop, detain or  
25 search a person:

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1 (1) the odor of cannabis or cannabis extracts  
2 or of burnt cannabis or cannabis extracts;

3 (2) the possession of or the suspicion of  
4 possession of cannabis without evidence of quantity in excess  
5 of two ounces of cannabis flowers or sixteen grams of cannabis  
6 extract;

7 (3) the possession of multiple containers of  
8 cannabis without evidence of quantity in excess of two ounces  
9 of cannabis flowers or sixteen grams of cannabis extract;

10 (4) the possession of or the suspicion of  
11 possession of cannabis extracts without evidence of quantity in  
12 excess of sixteen grams;

13 (5) the possession of multiple containers of  
14 cannabis extracts without evidence of quantity in excess of  
15 sixteen grams; or

16 (6) the possession of cannabis or cannabis  
17 extracts in proximity to any amount of cash or currency without  
18 evidence of cannabis quantity in excess of two ounces of  
19 cannabis flowers or cannabis extracts quantity in excess of  
20 sixteen grams.

21 D. Subsection C of this section shall not apply  
22 when a law enforcement officer is investigating whether a  
23 person is operating a vehicle or watercraft while intoxicated  
24 or under the influence of or impaired by alcohol or a drug or  
25 any combination thereof in violation of Section 66-8-102 or

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1 66-13-3 NMSA 1978.

2 SECTION 26. [NEW MATERIAL] LIMITS ON PERSONAL USE--  
3 PENALTIES.--

4 A. Nothing in Section 25 of the Cannabis Regulation  
5 Act shall be construed to:

6 (1) allow a person to smoke cannabis products  
7 in a public place, except in a cannabis consumption area; or

8 (2) restrict the ability of an individual or  
9 private entity to prohibit conduct otherwise allowed in the  
10 Cannabis Regulation Act on the individual's or private entity's  
11 privately owned property.

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

15 C. As used in this section, "smoke" means to  
16 inhale, exhale, burn or carry any lighted or heated device or  
17 pipe or any other lighted or heated cannabis products intended  
18 for inhalation, whether natural or synthetic, in any manner or  
19 in any form.

20 SECTION 27. [NEW MATERIAL] PERSONAL PRODUCTION OF  
21 CANNABIS PROHIBITED--PENALTIES.--

22 A. Except as provided in the Lynn and Erin  
23 Compassionate Use Act and the Cannabis Regulation Act, it is  
24 unlawful for a person intentionally to produce cannabis  
25 products.

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1           B. Notwithstanding the provisions of Subsection A  
2 of this section, a person eighteen years of age or older who  
3 intentionally produces:

4                   (1) more than six and up to twelve mature or  
5 immature cannabis plants shall be issued a penalty assessment  
6 pursuant to Section 31-19A-1 NMSA 1978 and is subject to a fine  
7 of fifty dollars (\$50.00); and

8                   (2) more than twelve mature or immature  
9 cannabis plants is guilty of a fourth degree felony and shall  
10 be sentenced pursuant to the provisions of Section 31-18-15  
11 NMSA 1978.

12           C. A person who is less than eighteen years of age  
13 who intentionally produces:

14                   (1) up to six mature cannabis plants shall be  
15 issued a penalty assessment pursuant to Section 31-19A-1 NMSA  
16 1978 and is subject to a fine of fifty dollars (\$50.00); and

17                   (2) more than three mature cannabis plants or  
18 more than six immature cannabis plants shall be punished  
19 pursuant to the provisions of Section 32A-2-19 NMSA 1978.

20           SECTION 28. [NEW MATERIAL] UNLICENSED SALES OF CANNABIS--  
21 PENALTIES.--

22           A. Except as allowed in the Cannabis Regulation Act  
23 and the Lynn and Erin Compassionate Use Act, it is unlawful for  
24 a person without a license to intentionally traffic cannabis  
25 products.

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

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

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

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

21           E. As used in this section, "traffic" means the:  
22                   (1) distribution, sale, barter or giving away  
23 of cannabis products; or  
24                   (2) possession with intent to distribute,  
25 sell, barter or give away cannabis products.

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1           SECTION 29.   [NEW MATERIAL] CANNABIS WITHIN RESTRICTED  
2 AREA--PENALTY.--Except as allowed in the Cannabis Regulation  
3 Act and the Lynn and Erin Compassionate Use Act, a person shall  
4 not possess or intentionally distribute any amount of a  
5 cannabis product on the premises of a school or daycare center  
6 unless the person is a qualified patient or a qualified  
7 patient's primary caregiver; provided that this section shall  
8 not apply to a person who possesses a cannabis product for  
9 authorized purposes on the premises of a licensed cannabis  
10 training and education program. A person who violates this  
11 section is guilty of a misdemeanor and shall be sentenced  
12 pursuant to the provisions of Section 31-19-1 NMSA 1978.

13           SECTION 30.   [NEW MATERIAL] UNLAWFUL POSSESSION OF  
14 CANNABIS--PENALTIES.--Except as allowed in the Cannabis  
15 Regulation Act and the Lynn and Erin Compassionate Use Act:

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

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

25           B. a person under eighteen years of age shall not

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1 possess cannabis products. A person who violates this  
2 subsection shall be subject to:

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

8 C. a person twenty-one years of age or older shall  
9 not possess more than two ounces of cannabis flowers or more  
10 than sixteen grams of cannabis extracts. A person who violates  
11 this subsection with respect to:

- 12 (1) more than two and up to eight ounces of  
13 cannabis flowers or more than sixteen and up to sixty-four  
14 grams of cannabis extracts is guilty of a misdemeanor and shall  
15 be sentenced pursuant to the provisions of Section 31-19-1 NMSA  
16 1978; or

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

21 SECTION 31. [NEW MATERIAL] UNLICENSED MANUFACTURING OF  
22 CANNABIS EXTRACTS--PENALTY.--It is unlawful for a person to  
23 manufacture cannabis extracts without a license issued pursuant  
24 to the Cannabis Regulation Act or the Lynn and Erin  
25 Compassionate Use Act. A person who violates this section is

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

3 SECTION 32. [NEW MATERIAL] EXPUNGEMENT OF ARREST AND  
4 CONVICTION RECORDS--PROCEDURE.--

5 A. If a person is charged with any offense provided  
6 in Sections 27 through 31 of the Cannabis Regulation Act and  
7 the amount of cannabis product that is the basis of the charge  
8 is two ounces of cannabis flowers or sixteen grams of cannabis  
9 extract or less, whether or not the person is convicted, all  
10 records held by a court, an agency of the state or a local  
11 jurisdiction that relate to the person's arrest or conviction  
12 shall be automatically expunged two years after the date of the  
13 person's conviction or the date of the person's arrest if there  
14 was no conviction. If the person is or was under eighteen  
15 years of age at the time of the arrest or conviction, the  
16 records shall be retained for two years or until the person is  
17 eighteen years of age, whichever comes first, and shall then be  
18 expunged. The records shall also be removed from any statewide  
19 criminal databases.

20 B. After expungement of records pursuant to  
21 Subsection A of this section, a court, an agency of the state  
22 or a local jurisdiction shall treat the case as if it never  
23 occurred, and all index references to the case shall be  
24 deleted. The court, agency or local jurisdiction shall respond  
25 to an inquiry regarding the case that no record exists with

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1 respect to the referenced person with respect to that case.

2 SECTION 33. [NEW MATERIAL] EXPUNGEMENT OF ARREST AND  
3 CONVICTION RECORDS--PROCEDURE--RETROACTIVE.--

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

17 B. If a person whose records would be subject to  
18 expungement pursuant to Subsection A of this section is  
19 incarcerated for an offense listed in that subsection at the  
20 time the person's records would be expunged, the two-year  
21 record retention period shall begin upon the person's release  
22 from incarceration.

23 C. As used in this section, "records" includes  
24 records of arrests resulting in a criminal proceeding and  
25 records relating to other offenses charged in the accusatory

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1 pleading, whether the defendant was acquitted or convicted or  
2 the charges were dismissed.

3 SECTION 34. [NEW MATERIAL] RECALL OR DISMISSAL OF  
4 SENTENCES--INCARCERATED PERSONS.--

5 A. Within thirty days following the effective date  
6 of the Cannabis Regulation Act, a correctional facility, a  
7 county jail or a juvenile correctional facility in which a  
8 person is currently incarcerated for an offense that is no  
9 longer a crime pursuant to the provisions of the Cannabis  
10 Regulation Act, or that would have resulted in a lesser offense  
11 if that act had been in effect at the time of the offense,  
12 shall notify the court that the convicted person's case should  
13 be reopened to consider possible recall or dismissal of the  
14 person's sentence.

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

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

23 D. A person who is resentenced pursuant to this  
24 section shall not be sentenced to a term longer than the  
25 person's original sentence and shall not have any charges

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1 reinstated that were originally dismissed pursuant to a  
2 negotiated plea agreement.

3 E. A person who has completed the person's sentence  
4 for a conviction, whether by trial or negotiated plea, who  
5 would not have been guilty of an offense or who would have been  
6 guilty of a lesser offense if the Cannabis Regulation Act had  
7 been in effect at the time of the offense is entitled to have  
8 the conviction dismissed and sealed because the prior  
9 conviction is now legally invalid or redesignated as a penalty  
10 assessment citation. The court shall redesignate the  
11 conviction as a penalty assessment citation or dismiss and seal  
12 the conviction as legally invalid because of the enactment of  
13 the Cannabis Regulation Act, unless the court makes a finding  
14 that the conviction is not legally invalid or was not  
15 redesignated as a penalty assessment citation pursuant to that  
16 act.

17 F. On or before January 1, 2022, the department of  
18 public safety shall review the records in the state criminal  
19 history databases and shall identify all past convictions that  
20 are potentially eligible for recall or dismissal of sentence,  
21 dismissal and sealing or redesignation pursuant to the Cannabis  
22 Regulation Act. The department shall notify the prosecutors of  
23 all cases that are eligible for recall or dismissal of  
24 sentence, dismissal and sealing or redesignation.

25 G. The prosecutor of the case shall have until July

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1 1, 2022, to review all cases and determine whether to challenge  
2 the recall or dismissal of sentence, dismissal and sealing or  
3 redesignation.

4 H. The prosecutor of the case may challenge the  
5 resentencing of a person pursuant to this section when the  
6 person does not meet the criteria established under the  
7 Cannabis Regulation Act.

8 I. On or before July 1, 2022, the prosecutor of the  
9 case shall inform the court and the public defender's office in  
10 the prosecutor's county when the prosecutor of the case is  
11 challenging a particular recall or dismissal of sentence,  
12 dismissal and sealing or redesignation. The prosecutor of the  
13 case shall inform the court when the prosecutor of the case is  
14 not challenging a particular recall or dismissal of sentence,  
15 dismissal and sealing or redesignation.

16 J. The public defender's office, upon receiving  
17 notice from the prosecutor of the case, shall make a reasonable  
18 effort to notify the person whose resentencing or dismissal is  
19 being challenged.

20 K. If the prosecutor of the case does not challenge  
21 the recall or dismissal of sentence, dismissal and sealing or  
22 redesignation by July 1, 2022, the court shall notify the  
23 department of public safety that a case has been dismissed.  
24 Upon notice, the department of public safety shall erase the  
25 arrest record pertaining to the offense; provided that if the

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1 arrest included multiple charges, only the related charge shall  
2 be expunged.

3 L. Nothing in this section is intended to diminish  
4 or abrogate any rights or remedies otherwise available to a  
5 person who was convicted of or incarcerated for an offense.

6 M. The provisions of this section shall apply  
7 equally to juvenile delinquency adjudications and convictions  
8 of a juvenile person if the juvenile would not have been guilty  
9 of an offense or would have been guilty of a lesser offense as  
10 provided in the Cannabis Regulation Act.

11 N. No fee or cost of any kind shall be imposed upon  
12 a person whose sentence is reviewed pursuant to this section.

13 SECTION 35. [NEW MATERIAL] WRIT OF MANDAMUS.--Any person  
14 may commence a legal action for a writ of mandamus to compel  
15 the division to perform its duties pursuant to the Cannabis  
16 Regulation Act.

17 SECTION 36. [NEW MATERIAL] EXEMPTION FROM CRIMINAL AND  
18 CIVIL PENALTIES--RESEARCHERS.--A person shall not be subject to  
19 arrest or prosecution, penalized in any manner or denied any  
20 right or privilege solely because the person produced,  
21 possessed, distributed, dispensed or purchased cannabis  
22 products from a person licensed pursuant to the Lynn and Erin  
23 Compassionate Use Act or the Cannabis Regulation Act if the  
24 person produced, possessed, distributed, dispensed or purchased  
25 the cannabis products solely for the purpose of research

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1 conducted pursuant to the Lynn and Erin Compassionate Use Act  
2 or the Cannabis Regulation Act.

3 SECTION 37. [NEW MATERIAL] REPORTING REQUIREMENTS FOR  
4 CANNABIS-RELATED VIOLATIONS.--

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

- 10 (1) category and penalty level; and
- 11 (2) race, ethnicity, age and gender.

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

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

22 D. For purposes of this section, "cannabis-related  
23 violation" means a violation of any of Sections 27 through 31  
24 of the Cannabis Regulation Act or a violation of Section  
25 66-8-102 or 66-13-3 NMSA 1978 if the basis for the arrest or

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1 citation is impairment due to the use of cannabis products.

2 SECTION 38. [NEW MATERIAL] EMPLOYER PROTECTIONS.--

3 A. Unless there is an agreement between the  
4 employer and employee, nothing in the Cannabis Regulation Act  
5 shall:

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

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

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

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

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1 employment.

2 SECTION 39. [NEW MATERIAL] APPEALS.--

3 A. No rule shall be adopted by a state agency or  
4 board pursuant to the Cannabis Regulation Act until after a  
5 public hearing by the state agency, in accordance with the  
6 State Rules Act.

7 B. Any person who is or may be affected by a rule  
8 or decision adopted by a state agency or the division pursuant  
9 to the Cannabis Regulation Act may appeal to the court of  
10 appeals for further relief.

11 C. An appeal of a rule or decision adopted by an  
12 agency or the division shall be de novo.

13 D. All appeals pursuant to Subsection B of this  
14 section shall be taken to the court of appeals within thirty  
15 days after filing of the rule under the State Rules Act or  
16 final decision of the division.

17 E. The procedure for perfecting an appeal to the  
18 court of appeals under this section consists of the timely  
19 filing of a notice of appeal with a copy attached of the rule  
20 or the final decision of the division from which the appeal is  
21 taken pursuant to NMRA 12-601.

22 SECTION 40. [NEW MATERIAL] DIVISION TRANSPARENCY.--

23 Records of the division are subject to the Inspection of Public  
24 Records Act. Proceedings of the division are subject to the  
25 Open Meetings Act.

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1           SECTION 41.   ~~[NEW MATERIAL]~~ INTRASTATE SOURCE.--Except as  
2 provided in Section 42 of the Cannabis Regulation Act, all  
3 cannabis products pursuant to the commercial cannabis activity  
4 authorized by the Cannabis Regulation Act or the medical  
5 cannabis program shall be derived from a source originating  
6 within New Mexico.

7           SECTION 42.   ~~[NEW MATERIAL]~~ IMPORTS AND EXPORTS.--

8           A. Notwithstanding the provisions of Section 41 of  
9 the Cannabis Regulation Act or any other provision of law, the  
10 governor may enter into an agreement with another jurisdiction  
11 within the United States for the purposes of cross-  
12 jurisdictional delivery of cannabis products between this state  
13 and the other jurisdiction. Any such agreement shall:

- 14                           (1) ensure enforceable public health and  
15 safety standards;
- 16                           (2) include a system to regulate and track the  
17 interstate delivery of cannabis products; and
- 18                           (3) ensure that any cannabis products  
19 delivered into this state, prior to sale to a consumer, are  
20 tested, packaged and labeled pursuant to New Mexico statutes  
21 and rules.

22           B. Notwithstanding any other provision of law and  
23 in accordance with an agreement described in Subsection A of  
24 this section:

- 25                           (1) a licensee permitted to courier cannabis

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1 products may deliver cannabis products to a person located in,  
2 and authorized to receive cannabis products by, another  
3 jurisdiction in the United States; and

4 (2) a licensee permitted to receive cannabis  
5 products may receive cannabis products from a person located  
6 in, and authorized to export cannabis products by, another  
7 jurisdiction in the United States.

8 C. This section shall take effect on the earlier  
9 date on which:

10 (1) federal law is amended to allow for the  
11 interstate transfer of cannabis products items between  
12 authorized cannabis-related businesses; or

13 (2) the United States department of justice  
14 issues an opinion or memorandum allowing or tolerating the  
15 interstate transfer of cannabis products between cannabis-  
16 related businesses as authorized by state law.

17 SECTION 43. [NEW MATERIAL] CANNABIS REGULATION FUND.--

18 A. The "cannabis regulation fund" is created in the  
19 state treasury. The fund consists of appropriations, gifts,  
20 grants, donations and fees collected by the division pursuant  
21 to the Cannabis Regulation Act and the medical cannabis program  
22 administered by the division. Any unexpended or unencumbered  
23 balance remaining at the end of a fiscal year shall revert to  
24 the general fund.

25 B. Money in the cannabis regulation fund is subject

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1 to appropriation by the legislature to fund the division, the  
2 department of health, the department of environment, the New  
3 Mexico department of agriculture, the taxation and revenue  
4 department and the department of public safety for the purposes  
5 of carrying out the provisions of the Cannabis Regulation Act  
6 and the Lynn and Erin Compassionate Use Act.

7 SECTION 44. [NEW MATERIAL] COMMUNITY GRANTS REINVESTMENT  
8 FUND--COMMUNITY GRANTS REINVESTMENT PROGRAM.--

9 A. The "community grants reinvestment fund" is  
10 created in the state treasury. The fund consists of  
11 appropriations, other money deposited in the fund and money  
12 otherwise accruing to the fund. Income from the fund shall be  
13 credited to the fund. The department of health shall  
14 administer the fund, and money in the fund is subject to  
15 appropriation by the legislature to the department of health to  
16 administer the community grants reinvestment program as  
17 described in this section. Any unexpended or unencumbered  
18 balance remaining at the end of a fiscal year shall not revert  
19 to the general fund. Money in the community grants  
20 reinvestment fund shall be disbursed on warrants signed by the  
21 secretary of finance and administration pursuant to vouchers  
22 signed by the secretary of health or the secretary's authorized  
23 representative.

24 B. The secretary of health shall establish the  
25 "community grants reinvestment program". The community grants  
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1 reinvestment program shall provide grants to qualified  
2 community-based nonprofit organizations and governmental  
3 entities for the purposes of:

4 (1) developing and executing a comprehensive  
5 and sustained multilingual public education campaign that  
6 promotes abstinence from cannabis products for persons under  
7 twenty-one years of age, encourages responsible use of cannabis  
8 products by adults and promotes medical cannabis as a  
9 therapeutic option;

10 (2) reinvesting in communities  
11 disproportionately affected by past federal and state drug  
12 policies by supporting housing, job placement, mental health  
13 treatment, substance use disorder treatment and legal services  
14 to address barriers faced by formerly incarcerated persons,  
15 including for the expungement of records;

16 (3) funding public health and substance abuse  
17 prevention programming;

18 (4) funding housing that prioritizes people in  
19 treatment or who are currently using substances;

20 (5) funding promising practices or evidence-  
21 based drug education programming based on the principles of  
22 harm reduction, including leadership development, family  
23 engagement and youth development, that is designed to prevent  
24 and reduce substance use, improve grades kindergarten through  
25 twelve school retention and performance and create economic

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1 security for families; and

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

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

21 SECTION 45. [NEW MATERIAL] LOW-INCOME MEDICAL PATIENT  
22 SUBSIDY FUND.--

23 A. The "low-income medical patient subsidy fund" is  
24 created in the state treasury. The fund consists of  
25 appropriations, other money deposited in the fund and money

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1 otherwise accruing to the fund. Income from the fund shall be  
2 credited to the fund. The department of health shall  
3 administer the fund, and money in the fund is subject to  
4 appropriation by the legislature to the department of health to  
5 administer the low-income medical patient subsidy fund. Any  
6 unexpended or unencumbered balance remaining at the end of a  
7 fiscal year shall not revert to the general fund.

8 B. The low-income medical patient subsidy fund is  
9 created for the purpose of supporting qualified patients who  
10 participate in the medical cannabis subsidy program created  
11 pursuant to Section 4 of the Cannabis Regulation Act.

12 C. Money in the low-income medical patient subsidy  
13 fund shall be disbursed on warrants signed by the secretary of  
14 finance and administration pursuant to vouchers signed by the  
15 secretary of health or the secretary's authorized  
16 representative.

17 SECTION 46. [NEW MATERIAL] NO PLANT LIMIT.--No state  
18 agency shall limit the number of cannabis plants that a  
19 licensee pursuant to the Cannabis Regulation Act may produce.

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

22 "[NEW MATERIAL] SUBSTANCE ABUSE EDUCATION.--The department  
23 shall require that by January 1, 2023 all public schools  
24 annually provide to students in eighth through twelfth grades  
25 evidence-based drug education programs that are based on

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1 principles of harm reduction and are designed to prevent and  
2 reduce substance use and improve school retention and  
3 performance."

4 SECTION 48. [NEW MATERIAL] COOPERATION OF AGENCIES.--All  
5 state agencies shall cooperate with the cannabis control  
6 division of the regulation and licensing department in carrying  
7 out the provisions of the Cannabis Regulation Act.

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

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

12 A. "cannabis":

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

20 (2) does not include:

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

1 incapable of germination; or

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

5 B. "cannabis extract":

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

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

13 C. "cannabis product":

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

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

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

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

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

6           G. "dry weight basis", in the context of taxation  
7 of commercial cannabis activity, means a process by which  
8 delta-tetrahydrocannabinol concentration is measured relative  
9 to the aggregate weight of all parts of the plant genus  
10 Cannabis, whether growing or not, including the leaves of the  
11 plant, the flowers and buds of the plant, the seeds of the  
12 plant, the resin of the plant and the stalks of the plant at  
13 the point of harvest by a licensee and with no moisture added  
14 to the harvested plant; and

15           H. "licensee" means a person who holds a license  
16 issued pursuant to the Cannabis Regulation Act.

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

18           A. An excise tax is imposed on a cannabis retailer  
19 that sells cannabis products in this state. The tax imposed by  
20 this section may be referred to as the "cannabis excise tax".

21           B. The rate of the cannabis excise tax is nine  
22 percent and shall be applied to the price paid for a cannabis  
23 product. If the price paid does not represent the value of the  
24 cannabis product, the tax rate shall be applied to the  
25 reasonable value of the cannabis product at the time the

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1 product was purchased.

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

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

7 (2) receipts of cannabis producers from  
8 selling cannabis products wholesale.

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

10 A. A majority of the members of the governing body  
11 of a municipality may enact an ordinance imposing an excise tax  
12 on a cannabis retailer that sells cannabis products in the  
13 municipality. The tax imposed pursuant to this section may be  
14 referred to as the "municipal cannabis tax".

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

23 C. The governing body of a municipality, at the  
24 time of enacting an ordinance imposing a municipal cannabis  
25 tax, may dedicate the revenue for any municipal purpose. The

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1 imposition of an increment of the municipal cannabis tax shall  
2 not be subject to referendum.

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

5 E. The municipal cannabis tax shall not apply to:

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

10 (2) receipts of cannabis producers from  
11 selling cannabis products wholesale.

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

13 A. The majority of the members of the governing  
14 body of a county may enact an ordinance imposing an excise tax  
15 on a cannabis retailer that sells cannabis products in the  
16 county. The tax imposed pursuant to this section may be  
17 referred to as the "county cannabis tax".

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

25 C. The governing body of a county, at the time of

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1 enacting an ordinance imposing a county cannabis tax, may  
2 dedicate the revenue for any county purpose. The imposition of  
3 an increment of the county cannabis tax shall not be subject to  
4 referendum.

5 D. An ordinance enacted pursuant to this section  
6 shall include an effective date of July 1 or January 1.

7 E. The county cannabis tax shall not apply to any  
8 of the following:

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

13 (2) receipts of cannabis producers from  
14 selling cannabis products wholesale.

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

19 SECTION 55. [NEW MATERIAL] ADMINISTRATIVE CHARGE.--The  
20 department may deduct an amount not to exceed three percent of  
21 the proceeds of the municipal cannabis tax and county cannabis  
22 tax for the reasonable costs for administering those taxes.

23 SECTION 56. [NEW MATERIAL] INTERPRETATION OF THE CANNABIS  
24 TAX ACT--ADMINISTRATION AND ENFORCEMENT OF TAX.--The department  
25 shall administer and enforce the collection of the cannabis

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1 excise tax, municipal cannabis tax and county cannabis tax  
2 pursuant to the Tax Administration Act.

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

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

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

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

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

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

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

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

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

13           "7-1-2. APPLICABILITY.--The Tax Administration Act  
14 applies to and governs:

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

- 18                           (1) Income Tax Act;
- 19                           (2) Withholding Tax Act;
- 20                           (3) Oil and Gas Proceeds and Pass-Through  
21 Entity Withholding Tax Act;
- 22                           (4) Gross Receipts and Compensating Tax Act,  
23 Interstate Telecommunications Gross Receipts Tax Act and Leased  
24 Vehicle Gross Receipts Tax Act;
- 25                           (5) Liquor Excise Tax Act;

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

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

4 (22) the Insurance Premium Tax Act;

5 (23) the Health Care Quality Surcharge Act;

6 and

7 (24) the Cannabis Tax Act;

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

11 (1) Resources Excise Tax Act;

12 (2) Severance Tax Act;

13 (3) any severance surtax;

14 (4) Oil and Gas Severance Tax Act;

15 (5) Oil and Gas Conservation Tax Act;

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

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

18 (8) Natural Gas Processors Tax Act;

19 (9) Oil and Gas Production Equipment Ad  
20 Valorem Tax Act;

21 (10) Copper Production Ad Valorem Tax Act;

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

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1 (12) Enhanced Oil Recovery Act;

2 (13) Natural Gas and Crude Oil Production

3 Incentive Act; and

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

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

9 (1) Weight Distance Tax Act;

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

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

14 (4) 911 emergency surcharge and the network  
15 and database surcharge, which surcharges shall be considered  
16 taxes for purposes of the Tax Administration Act;

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

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

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

25 D. the administration and enforcement of all other

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

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

9 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO  
10 MUNICIPALITIES OR COUNTIES.--

11 A. The provisions of this section apply to:

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

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

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

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

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

24 (6) any transfer to a county with respect to  
25 any tax imposed in accordance with the Local Liquor Excise Tax

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1 Act;

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

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

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

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

23 (1) all negative amounts relating to any  
24 period prior to the three calendar years preceding the year of  
25 the current month, net of any positive amounts in that same

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

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

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

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

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1 pursuant to Paragraph (2) of Subsection B of this section:

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

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

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

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

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

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

25 (a) decreasing distributions or

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1 transfers to the municipality or county in accordance with a  
2 repayment agreement entered into with the municipality or  
3 county; or

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

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

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

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

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

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

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

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

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

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

23 (1) prior to an adjustment of a distribution  
24 or transfer of net receipts creating a recoverable amount owed  
25 to the department takes precedence over any collection of any

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

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

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

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1 pursuant to this subsection shall be distributed to the  
2 municipality or county upon direction of the secretary of  
3 finance and administration.

4 J. As used in this section:

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

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

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

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

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

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

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

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

20 SECTION 61. Section 7-2-2 NMSA 1978 (being Laws 1986,  
21 Chapter 20, Section 26, as amended) is amended to read:

22 "7-2-2. DEFINITIONS.--For the purpose of the Income Tax  
23 Act and unless the context requires otherwise:

24 A. "adjusted gross income" means adjusted gross  
25 income as defined in Section 62 of the Internal Revenue Code,

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1 as that section may be amended or renumbered;

2 B. "base income":

3 (1) means, for estates and trusts, that part  
4 of the estate's or trust's income defined as taxable income and  
5 upon which the federal income tax is calculated in the Internal  
6 Revenue Code for income tax purposes plus, for taxable years  
7 beginning on or after January 1, 1991, the amount of the net  
8 operating loss deduction allowed by Section 172(a) of the  
9 Internal Revenue Code, as that section may be amended or  
10 renumbered, and taken by the taxpayer for that year;

11 (2) means, for taxpayers other than estates or  
12 trusts, that part of the taxpayer's income defined as adjusted  
13 gross income plus, for taxable years beginning on or after  
14 January 1, 1991, the amount of the net operating loss deduction  
15 allowed by Section 172(a) of the Internal Revenue Code, as that  
16 section may be amended or renumbered, and taken by the taxpayer  
17 for that year;

18 (3) includes, for all taxpayers, any other  
19 income of the taxpayer not included in adjusted gross income  
20 but upon which a federal tax is calculated pursuant to the  
21 Internal Revenue Code for income tax purposes, except amounts  
22 for which a calculation of tax is made pursuant to Section 55  
23 of the Internal Revenue Code, as that section may be amended or  
24 renumbered; "base income" also includes interest received on a  
25 state or local bond; ~~[and]~~

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

4 (a) such amount is transferred to  
5 another qualified tuition program, as defined in Section 529 of  
6 the Internal Revenue Code, not authorized in the Education  
7 Trust Act; or

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

13 (5) excludes, for a taxpayer who conducts a  
14 lawful business pursuant to the laws of the state, an amount  
15 equal to any expenditure that is eligible to be claimed as a  
16 federal income tax deduction but is disallowed by Section 280E  
17 of the Internal Revenue Code, as that section may be amended or  
18 renumbered;

19 C. "compensation" means wages, salaries,  
20 commissions and any other form of remuneration paid to  
21 employees for personal services;

22 D. "department" means the taxation and revenue  
23 department, the secretary or any employee of the department  
24 exercising authority lawfully delegated to that employee by the  
25 secretary;

1 E. "fiduciary" means a guardian, trustee, executor,  
2 administrator, committee, conservator, receiver, individual or  
3 corporation acting in any fiduciary capacity;

4 F. "filing status" means "married filing joint  
5 returns", "married filing separate returns", "head of  
6 household", "surviving spouse" and "single", as those terms are  
7 generally defined for federal tax purposes;

8 G. "fiscal year" means any accounting period of  
9 twelve months ending on the last day of any month other than  
10 December;

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

13 I. "individual" means a natural person, an estate,  
14 a trust or a fiduciary acting for a natural person, trust or  
15 estate;

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

18 K. "lump-sum amount" means, for the purpose of  
19 determining liability for federal income tax, an amount that  
20 was not included in adjusted gross income but upon which the  
21 five-year-averaging or the ten-year-averaging method of tax  
22 computation provided in Section 402 of the Internal Revenue  
23 Code, as that section may be amended or renumbered, was  
24 applied;

25 L. "modified gross income" means all income of the

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1 taxpayer and, if any, the taxpayer's spouse and dependents,  
2 undiminished by losses and from whatever source, including:  
3 (1) compensation;  
4 (2) net profit from business;  
5 (3) gains from dealings in property;  
6 (4) interest;  
7 (5) net rents;  
8 (6) royalties;  
9 (7) dividends;  
10 (8) alimony and separate maintenance payments;  
11 (9) annuities;  
12 (10) income from life insurance and endowment  
13 contracts;  
14 (11) pensions;  
15 (12) discharge of indebtedness;  
16 (13) distributive share of partnership income;  
17 (14) income in respect of a decedent;  
18 (15) income from an interest in an estate or a  
19 trust;  
20 (16) social security benefits;  
21 (17) unemployment compensation benefits;  
22 (18) workers' compensation benefits;  
23 (19) public assistance and welfare benefits;  
24 (20) cost-of-living allowances; and  
25 (21) gifts;

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1 M. "modified gross income" excludes:

2 (1) payments for hospital, dental, medical or  
3 drug expenses to or on behalf of the taxpayer;

4 (2) the value of room and board provided by  
5 federal, state or local governments or by private individuals  
6 or agencies based upon financial need and not as a form of  
7 compensation;

8 (3) payments pursuant to a federal, state or  
9 local government program directly or indirectly to a third  
10 party on behalf of the taxpayer when identified to a particular  
11 use or invoice by the payer; or

12 (4) payments for credits and rebates pursuant  
13 to the Income Tax Act and made for a credit pursuant to Section  
14 7-3-9 NMSA 1978;

15 N. "net income" means, for estates and trusts, base  
16 income adjusted to exclude amounts that the state is prohibited  
17 from taxing because of the laws or constitution of this state  
18 or the United States and means, for taxpayers other than  
19 estates or trusts, base income adjusted to exclude:

20 (1) an amount equal to the standard deduction  
21 allowed the taxpayer for the taxpayer's taxable year by Section  
22 63 of the Internal Revenue Code, as that section may be amended  
23 or renumbered;

24 (2) an amount equal to the itemized deductions  
25 defined in Section 63 of the Internal Revenue Code, as that

1 section may be amended or renumbered, allowed the taxpayer for  
2 the taxpayer's taxable year less the amount excluded pursuant  
3 to Paragraph (1) of this subsection and less the amount of  
4 state and local income and sales taxes included in the  
5 taxpayer's itemized deductions;

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

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

13 (5) other amounts that the state is prohibited  
14 from taxing because of the laws or constitution of this state  
15 or the United States;

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

18 (a) net operating loss carryback  
19 deductions to that year from taxable years beginning prior to  
20 January 1, 1991 claimed and allowed, as provided by the  
21 Internal Revenue Code; and

22 (b) net operating loss carryover  
23 deductions to that year claimed and allowed;

24 (7) for taxable years beginning on or after  
25 January 1, 1991 and prior to January 1, 2013, an amount equal

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1 to the sum of any net operating loss carryover deductions to  
2 that year claimed and allowed, provided that the amount of any  
3 net operating loss carryover from a taxable year beginning on  
4 or after January 1, 1991 and prior to January 1, 2013 may be  
5 excluded only as follows:

6 (a) in the case of a timely filed  
7 return, in the taxable year immediately following the taxable  
8 year for which the return is filed; or

9 (b) in the case of amended returns or  
10 original returns not timely filed, in the first taxable year  
11 beginning after the date on which the return or amended return  
12 establishing the net operating loss is filed; and

13 (c) in either case, if the net operating  
14 loss carryover exceeds the amount of net income exclusive of  
15 the net operating loss carryover for the taxable year to which  
16 the exclusion first applies, in the next four succeeding  
17 taxable years in turn until the net operating loss carryover is  
18 exhausted for any net operating loss carryover from a taxable  
19 year prior to January 1, 2013; in no event shall a net  
20 operating loss carryover from a taxable year beginning prior to  
21 January 1, 2013 be excluded in any taxable year after the  
22 fourth taxable year beginning after the taxable year to which  
23 the exclusion first applies;

24 (8) for taxable years beginning on or after  
25 January 1, 2013, an amount equal to the sum of any net

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1 operating loss carryover deductions to that year claimed and  
2 allowed; provided that the amount of any net operating loss  
3 carryover may be excluded only as follows:

4 (a) in the case of a timely filed  
5 return, in the taxable year immediately following the taxable  
6 year for which the return is filed; or

7 (b) in the case of amended returns or  
8 original returns not timely filed, in the first taxable year  
9 beginning after the date on which the return or amended return  
10 establishing the net operating loss is filed; and

11 (c) in either case, if the net operating  
12 loss carryover exceeds the amount of net income exclusive of  
13 the net operating loss carryover for the taxable year to which  
14 the exclusion first applies, in the next nineteen succeeding  
15 taxable years in turn until the net operating loss carryover is  
16 exhausted for any net operating loss carryover from a taxable  
17 year beginning on or after January 1, 2013; in no event shall a  
18 net operating loss carryover from a taxable year beginning: 1)  
19 prior to January 1, 2013 be excluded in any taxable year after  
20 the fourth taxable year beginning after the taxable year to  
21 which the exclusion first applies; and 2) on or after January  
22 1, 2013 be excluded in any taxable year after the nineteenth  
23 taxable year beginning after the taxable year to which the  
24 exclusion first applies; and

25 (9) for taxable years beginning on or after

1 January 1, 2011, an amount equal to the amount included in  
2 adjusted gross income that represents a refund of state and  
3 local income and sales taxes that were deducted for federal tax  
4 purposes in taxable years beginning on or after January 1,  
5 2010;

6 O. "net operating loss" means any net operating  
7 loss, as defined by Section 172(c) of the Internal Revenue  
8 Code, as that section may be amended or renumbered, for a  
9 taxable year as further increased by the income, if any, from  
10 obligations of the United States for that year less related  
11 expenses;

12 P. "net operating loss carryover" means the amount,  
13 or any portion of the amount, of a net operating loss for any  
14 taxable year that, pursuant to Paragraph (6), (7) or (8) of  
15 Subsection N of this section, may be excluded from base income;

16 Q. "nonresident" means every individual not a  
17 resident of this state;

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

25 S. "resident" means an individual who is domiciled

1 in this state during any part of the taxable year or an  
2 individual who is physically present in this state for one  
3 hundred eighty-five days or more during the taxable year; but  
4 any individual, other than someone who was physically present  
5 in the state for one hundred eighty-five days or more during  
6 the taxable year, who, on or before the last day of the taxable  
7 year, changed the individual's place of abode to a place  
8 without this state with the bona fide intention of continuing  
9 actually to abide permanently without this state is not a  
10 resident for the purposes of the Income Tax Act for periods  
11 after that change of abode;

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

14 U. "state" means any state of the United States,  
15 the District of Columbia, the commonwealth of Puerto Rico, any  
16 territory or possession of the United States or any political  
17 subdivision of a foreign country;

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

24 W. "surviving spouse" means "surviving spouse" as  
25 generally defined for federal income tax purposes;

1 X. "taxable income" means net income less any lump-  
2 sum amount;

3 Y. "taxable year" means the calendar year or fiscal  
4 year upon the basis of which the net income is computed under  
5 the Income Tax Act and includes, in the case of the return made  
6 for a fractional part of a year under the provisions of the  
7 Income Tax Act, the period for which the return is made; and

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

10 SECTION 62. Section 7-2A-2 NMSA 1978 (being Laws 1986,  
11 Chapter 20, Section 33, as amended) is amended to read:

12 "7-2A-2. DEFINITIONS.--For the purpose of the Corporate  
13 Income and Franchise Tax Act and unless the context requires  
14 otherwise:

15 A. "bank" means any national bank, national banking  
16 association, state bank or bank holding company;

17 B. "apportioned net income" or "apportioned net  
18 loss" means net income allocated and apportioned to New Mexico  
19 pursuant to the provisions of the Corporate Income and  
20 Franchise Tax Act or the Uniform Division of Income for Tax  
21 Purposes Act, but excluding from the sales factor any sales  
22 that represent intercompany transactions between members of the  
23 filing group;

24 C. "base income" means the federal taxable income  
25 or the federal net operating loss of a corporation for the

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1 taxable year calculated pursuant to the Internal Revenue Code,  
2 after special deductions provided in Sections 241 through 249  
3 of the Internal Revenue Code but without any deduction for net  
4 operating losses, as if the corporation filed a federal tax  
5 return as a separate domestic entity, modified as follows:

6 (1) adding to that income:

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

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

13 (c) the amount of any deduction, other  
14 than for premiums, for amounts paid directly or indirectly to a  
15 commonly controlled entity that is exempt from corporate income  
16 tax pursuant to Section 7-2A-4 NMSA 1978;

17 (2) subtracting from that income:

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

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

23 (c) an amount equal to one hundred  
24 percent of the subpart F income, as that term is defined in  
25 Section 952 of the Internal Revenue Code, as that section may

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1 be amended or renumbered, included in the income of the  
2 corporation; and

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

7 (3) making other adjustments deemed necessary  
8 to properly reflect income of the unitary group, including  
9 attribution of income or expense related to unitary assets held  
10 by related corporations that are not part of the filing group;  
11 and

12 (4) for a taxpayer that conducts a lawful  
13 business pursuant to the laws of this state, excludes an amount  
14 equal to any expenditure that is eligible to be claimed as a  
15 federal income tax deduction but is disallowed pursuant to  
16 Section 280E of the Internal Revenue Code, as that section may  
17 be amended or renumbered;

18 D. "captive real estate investment trust" means a  
19 corporation, trust or association taxed as a real estate  
20 investment trust pursuant to Section 857 of the Internal  
21 Revenue Code, the shares or beneficial interests of which are  
22 not regularly traded on an established securities market;  
23 provided that more than fifty percent of any class of  
24 beneficial interests or shares of the real estate investment  
25 trust are owned directly, indirectly or constructively by the

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1 taxpayer during all or a part of the taxpayer's taxable year;

2 E. "common ownership" means the direct or indirect  
3 control or ownership of more than fifty percent of the  
4 outstanding voting stock, ownership of which is determined  
5 pursuant to Section 1563 of the Internal Revenue Code, as that  
6 section may be amended or renumbered, of:

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

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

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

15 (a) a common parent corporation included  
16 in a group of corporations described in Paragraph (1) of this  
17 subsection; and

18 (b) included in a group of corporations  
19 described in Paragraph (2) of this subsection;

20 F. "consolidated group" means the group of entities  
21 properly filing a federal consolidated return under the  
22 Internal Revenue Code for the taxable year;

23 G. "corporation" means corporations, joint stock  
24 companies, real estate trusts organized and operated under the  
25 Real Estate Trust Act, financial corporations and banks, other

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1 business associations and, for corporate income tax purposes,  
2 partnerships and limited liability companies taxed as  
3 corporations under the Internal Revenue Code;

4 H. "department" means the taxation and revenue  
5 department, the secretary of taxation and revenue or any  
6 employee of the department exercising authority lawfully  
7 delegated to that employee by the secretary;

8 I. "filing group" means a group of corporations  
9 properly included in a return pursuant to Section 7-2A-8.3 NMSA  
10 1978 for a particular taxable year;

11 J. "fiscal year" means any accounting period of  
12 twelve months ending on the last day of any month other than  
13 December;

14 K. "grandfathered net operating loss carryover"  
15 means:

16 (1) the amount of net loss properly reported  
17 to New Mexico for taxable years beginning January 1, 2013 and  
18 prior to January 1, 2020 as part of a timely filed original  
19 return, or an amended return for those taxable years filed  
20 prior to January 1, 2020, to the extent such loss can be  
21 attributed to one or more corporations that are properly  
22 included in the taxpayer's return for the first taxable year  
23 beginning on or after January 1, 2020;

24 (2) reduced by:

25 (a) adding back deductions that were

1 taken by the corporation or corporations for royalties or  
2 interest paid to one or more related corporations, but only to  
3 the extent that such adjustment would not create a net loss for  
4 such related corporations; and

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

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

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

15 M. "net income" means:

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

18 (2) the combined base income and losses of  
19 corporations that are part of a filing group that is computed  
20 after eliminating intercompany income and expense in a manner  
21 consistent with the consolidated filing requirements of the  
22 Internal Revenue Code and the Corporate Income and Franchise  
23 Tax Act;

24 N. "net operating loss carryover" means the  
25 apportioned net loss properly reported on an original or

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1 amended tax return for taxable years beginning on or after  
2 January 1, 2020 by the taxpayer:

3 (1) plus:

4 (a) the portion of an apportioned net  
5 loss properly reported to New Mexico for a taxable year  
6 beginning on or after January 1, 2020, on a separate year  
7 return, to the extent the taxpayer would have been entitled to  
8 include the portion of such apportioned net loss in the  
9 taxpayer's consolidated net operating loss carryforward under  
10 the Internal Revenue Code if the taxpayer filed a consolidated  
11 federal return; and

12 (b) the taxpayer's grandfathered net  
13 operating loss carryover; and

14 (2) minus:

15 (a) the amount of the net operating loss  
16 carryover attributed to an entity that has left the filing  
17 group, computed in a manner consistent with the consolidated  
18 filing requirements of the Internal Revenue Code and applicable  
19 regulations, as if the taxpayer were filing a consolidated  
20 return; and

21 (b) the amount of net operating loss  
22 deductions properly taken by the taxpayer;

23 0. "net operating loss deduction" means the portion  
24 of the net operating loss carryover that may be deducted from  
25 the taxpayer's apportioned net income under the Internal

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1 Revenue Code as of January 1, 2018 for the taxable year in  
2 which the deduction is taken, including the eighty percent  
3 limitation of Section 172(a) of the Internal Revenue Code as of  
4 January 1, 2018 calculated on the basis of the taxpayer's  
5 apportioned net income;

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

13 Q. "real estate investment trust" has the meaning  
14 ascribed to the term in Section 856 of the Internal Revenue  
15 Code, as that section may be amended or renumbered;

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

19 S. "return" means any tax or information return,  
20 including a water's-edge or worldwide combined return, a  
21 consolidated return, a declaration of estimated tax or a claim  
22 for refund, including any amendments or supplements to the  
23 return, required or permitted pursuant to a law subject to  
24 administration and enforcement pursuant to the Tax  
25 Administration Act and filed with the department by or on

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1 behalf of any person;

2 T. "secretary" means the secretary of taxation and  
3 revenue or the secretary's delegate;

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

9 V. "state" means any state of the United States,  
10 the District of Columbia, the commonwealth of Puerto Rico, any  
11 territory or possession of the United States or political  
12 subdivision thereof or any political subdivision of a foreign  
13 country;

14 W. "state or local bond" means a bond issued by a  
15 state other than New Mexico or by a local government other than  
16 one of New Mexico's political subdivisions, the interest from  
17 which is excluded from income for federal income tax purposes  
18 under Section 103 of the Internal Revenue Code, as that section  
19 may be amended or renumbered;

20 X. "taxable income" means a taxpayer's apportioned  
21 net income minus the net operating loss deduction for the  
22 taxable year;

23 Y. "taxable year" means the calendar year or fiscal  
24 year upon the basis of which the net income is computed under  
25 the Corporate Income and Franchise Tax Act and includes, in the

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1 case of the return made for a fractional part of a year under  
2 the provisions of that act, the period for which the return is  
3 made;

4 Z. "taxpayer" means any corporation or group of  
5 corporations filing a return pursuant to Section 7-2A-8.3 NMSA  
6 1978 subject to the taxes imposed by the Corporate Income and  
7 Franchise Tax Act;

8 AA. "unitary group" means a group of two or more  
9 corporations, including a captive real estate investment trust,  
10 but not including an S corporation, an insurance company  
11 subject to the provisions of the New Mexico Insurance Code, an  
12 insurance company that would be subject to the New Mexico  
13 Insurance Code if the insurance company engaged in business in  
14 this state or a real estate investment trust that is not a  
15 captive real estate investment trust, that are:

16 (1) related through common ownership; and  
17 (2) economically interdependent with one  
18 another as demonstrated by the following factors:

19 (a) centralized management;  
20 (b) functional integration; and  
21 (c) economies of scale;

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

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

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

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

11 SECTION 63. [NEW MATERIAL] EXEMPTION--GROSS RECEIPTS TAX  
12 AND GOVERNMENTAL GROSS RECEIPTS TAX--CANNABIS PRODUCTS.--The  
13 receipts of cannabis producers from selling cannabis products  
14 wholesale pursuant to the Cannabis Regulation Act are exempt  
15 from the gross receipts tax and from the governmental gross  
16 receipts tax.

17 SECTION 64. 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  
25 products that are purchased in accordance with the Lynn and

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1 Erin Compassionate Use Act may be deducted from gross receipts  
2 and governmental 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 65. 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 66. 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~~] June 14,  
15 2019 [~~act~~], the bar shall be located in a standalone building;

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

25           E. a state-licensed gaming facility, casino or

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1 bingo parlor;

2 F. designated outdoor smoking areas;

3 G. private clubs;

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

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

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

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

18 SECTION 67. A new section of the Dee Johnson Clean Indoor  
19 Air Act is enacted to read:

20 "[NEW MATERIAL] LIABILITY FOR ALLOWING THE SMOKING,  
21 VAPORIZING OR INGESTING OF CANNABIS PRODUCTS.--

22 A. A person who allows another person to smoke,  
23 vaporize or otherwise use, ingest or consume cannabis or  
24 cannabis products is not liable in a civil action for any  
25 damages caused by the person that smokes, vaporizes or

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1 otherwise uses, ingests or consumes cannabis products as a  
2 result of the use, ingestion or consumption of the cannabis or  
3 cannabis products unless a cannabis server or licensee allows a  
4 person to smoke, vaporize or otherwise use, ingest or consume  
5 cannabis or cannabis products in a cannabis consumption area  
6 when the cannabis server or licensee has actual knowledge that  
7 the other person is under the age of twenty-one.

8 B. A plaintiff who prevails in an action brought  
9 pursuant to Subsection A of this section is limited to recovery  
10 of the plaintiff's actual damages."

11 SECTION 68. A new section of the Lynn and Erin  
12 Compassionate Use Act is enacted to read:

13 "[NEW MATERIAL] NO PLANT LIMIT.--Except for licensees  
14 under the Lynn and Erin Compassionate Use Act, no state agency  
15 shall limit the number of cannabis plants that may be  
16 produced."

17 SECTION 69. Section 26-2B-3 NMSA 1978 (being Laws 2007,  
18 Chapter 210, Section 3, as amended) is amended to read:

19 "26-2B-3. DEFINITIONS.--As used in the Lynn and Erin  
20 Compassionate Use Act:

21 A. "adequate supply" means an amount of cannabis,  
22 in any form approved by the department, possessed by a  
23 qualified patient or collectively possessed by a qualified  
24 patient and the qualified patient's primary caregiver that is  
25 determined by rule of the department to be no more than

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1 reasonably necessary to ensure the uninterrupted availability  
2 of cannabis for a period of three months and that is derived  
3 solely from an intrastate source;

4 B. "cannabis":

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

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

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

24 D. [~~"cannabis courier" means a person that is~~  
25 ~~licensed by the department to transport usable cannabis and~~

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1 ~~cannabis products within the state from a cannabis~~  
2 ~~establishment to:~~

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

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

- 7 ~~(1) a licensed cannabis courier;~~
- 8 ~~(2) a licensed cannabis testing facility;~~
- 9 ~~(3) a licensed cannabis manufacturer;~~
- 10 ~~(4) a licensed cannabis producer; or~~
- 11 ~~(5) such other person that the department may~~

12 ~~by rule approve for participation in the medical cannabis~~  
13 ~~program;~~

14 ~~F. "cannabis manufacturer" means a person that is~~  
15 ~~licensed by the department to:~~

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

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

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1 ~~licensed by the department to possess, produce, dispense,~~  
2 ~~distribute and manufacture cannabis and cannabis products and~~  
3 ~~sell wholesale or by direct sale to qualified patients and~~  
4 ~~primary caregivers;]~~

5 C. "cannabis extract":

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

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

13 D. "cannabis flowers" means only the flowers of a  
14 cannabis plant;

15 ~~[H.]~~ E. "cannabis product":

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

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

23 ~~[I. "cannabis testing facility" means a person that~~  
24 ~~is licensed by the department to perform tests of cannabis~~  
25 ~~products to analyze the strength or purity of the items and to~~

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1 ~~collect cannabis samples and transport cannabis products to the~~  
2 ~~cannabis testing facility from cannabis establishments;~~

3 J.] F. "debilitating medical condition" means:

- 4 (1) cancer;
- 5 (2) glaucoma;
- 6 (3) multiple sclerosis;
- 7 (4) damage to the nervous tissue of the spinal  
8 cord, with objective neurological indication of intractable  
9 spasticity;
- 10 (5) seizure disorder, including epilepsy;
- 11 (6) positive status for human immunodeficiency  
12 virus or acquired immune deficiency syndrome;
- 13 (7) admitted into hospice care in accordance  
14 with rules promulgated by the department;
- 15 (8) amyotrophic lateral sclerosis;
- 16 (9) Crohn's disease;
- 17 (10) hepatitis C infection;
- 18 (11) Huntington's disease;
- 19 (12) inclusion body myositis;
- 20 (13) inflammatory autoimmune-mediated  
21 arthritis;
- 22 (14) intractable nausea or vomiting;
- 23 (15) obstructive sleep apnea;
- 24 (16) painful peripheral neuropathy;
- 25 (17) Parkinson's disease;

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1 (18) posttraumatic stress disorder;

2 (19) severe chronic pain;

3 (20) severe anorexia or cachexia;

4 (21) spasmodic torticollis;

5 (22) ulcerative colitis; or

6 (23) any other medical condition, medical

7 treatment or disease as approved by the department;

8 [~~K.~~] G. "department" means the department of  
9 health;

10 H. "dry weight basis" means a process by which  
11 delta-tetrahydrocannabinol concentration is measured relative  
12 to the aggregate weight of all parts of the plant genus  
13 Cannabis, whether growing or not, including the leaves of the  
14 plant, the flowers and buds of the plant, the seeds of the  
15 plant, the resin of the plant and the stalks of the plant, at  
16 the point of harvest by a licensee and with no moisture added  
17 to the harvested plant;

18 [~~L.~~] I. "hemp" means the plant genus Cannabis  
19 [~~sativa L.~~] and any part of the plant, whether growing or not,  
20 containing a delta-9-tetrahydrocannabinol concentration of no  
21 more than three-tenths percent on a dry weight basis;

22 [~~M.~~ "license" means a license issued pursuant to  
23 the Lynn and Erin Compassionate Use Act;

24 [~~N.~~] J. "licensee" means a person that holds a  
25 personal production license;

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1                   ~~[O.] "licensee representative" means an owner,~~  
2 ~~director, officer, manager, employee, agent or other~~  
3 ~~representative of a licensee, to the extent that person acts in~~  
4 ~~a representative capacity;~~

5                   ~~P.]~~ K. "manufacture" means to prepare a cannabis  
6 product for a qualified patient's use;

7                   ~~[Q.]~~ L. "medical cannabis program" means the  
8 program established pursuant to the Lynn and Erin Compassionate  
9 Use Act for authorization and regulation of the medical use of  
10 cannabis in the state;

11                   ~~[R.]~~ M. "personal production license" means a  
12 license issued to a qualified patient or to a qualified  
13 patient's primary caregiver participating in the medical  
14 cannabis program to permit the qualified patient or the  
15 qualified patient's primary caregiver to produce or manufacture  
16 cannabis for the qualified patient's use at an address approved  
17 by the department;

18                   ~~[S.]~~ N. "practitioner" means a person licensed in  
19 New Mexico to prescribe and administer drugs that are subject  
20 to the Controlled Substances Act;

21                   ~~[T.]~~ O. "primary caregiver" means a resident of New  
22 Mexico who is at least eighteen years of age and who has been  
23 designated by the patient's practitioner as being necessary to  
24 take responsibility for managing the well-being of a qualified  
25 patient with respect to the medical use of cannabis pursuant to

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1 the provisions of the Lynn and Erin Compassionate Use Act;

2 [U.] P. "produce" means to engage in any activity  
3 related to the planting or cultivation of cannabis;

4 [V.] Q. "qualified patient" means a resident of New  
5 Mexico who has been diagnosed by a practitioner as having a  
6 debilitating medical condition and has received written  
7 certification and a registry identification card pursuant to  
8 the Lynn and Erin Compassionate Use Act on the basis of having  
9 been diagnosed, in person or via telemedicine, by a  
10 practitioner as having a debilitating medical condition;

11 ~~[provided that a practitioner may only issue a written~~  
12 ~~certification on the basis of an evaluation conducted via~~  
13 ~~telemedicine if the practitioner has previously examined the~~  
14 ~~patient in person;~~

15 [W.] R. "reciprocal participant" means an individual  
16 who holds proof of authorization to participate in the medical  
17 cannabis program of another state of the United States, the  
18 District of Columbia, a territory or commonwealth of the United  
19 States or a New Mexico Indian nation, tribe or pueblo;

20 [X.] S. "registry identification card" means a  
21 document that the department issues:

22 (1) to a qualified patient that identifies the  
23 bearer as a qualified patient and authorizes the qualified  
24 patient to use cannabis for a debilitating medical condition;  
25 or

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1 (2) to a primary caregiver that identifies the  
2 bearer as a primary caregiver authorized to engage in the  
3 intrastate possession and administration of cannabis for the  
4 sole use of a qualified patient who is identified on the  
5 document;

6 ~~[Y.]~~ T. "safety-sensitive position" means a  
7 position in which performance by a person under the influence  
8 of drugs or alcohol would constitute an immediate or direct  
9 threat of injury or death to that person or another;

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

17 ~~[AA.]~~ V. "THC" means delta-9-tetrahydrocannabinol,  
18 a substance that is the primary psychoactive ingredient in  
19 cannabis; and

20 ~~[BB.]~~ W. "written certification" means a statement  
21 made on a department-approved form and signed by a patient's  
22 practitioner that indicates, in the practitioner's professional  
23 opinion, that the patient has a debilitating medical condition  
24 and the practitioner believes that the potential health  
25 benefits of the medical use of cannabis would likely outweigh

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1 the health risks for the patient."

2 SECTION 70. Section 26-2B-4 NMSA 1978 (being Laws 2007,  
3 Chapter 210, Section 4, as amended) is amended to read:

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

6 A. A qualified patient or a qualified patient's  
7 primary caregiver shall not be subject to arrest, prosecution  
8 or penalty in any manner for the possession of or the medical  
9 use of cannabis if the quantity of cannabis does not exceed an  
10 adequate supply; provided that a qualified patient or the  
11 qualified patient's primary caregiver may possess that  
12 qualified patient's harvest of cannabis; and further provided  
13 that a qualified patient or the qualified patient's primary  
14 caregiver may possess at least two ounces of cannabis flowers  
15 and at least sixteen grams of cannabis extract purchased and  
16 obtained pursuant to the Lynn and Erin Compassionate Use Act.

17 B. A reciprocal participant shall not be subject to  
18 arrest, prosecution or penalty in any manner for the possession  
19 of or the medical use of cannabis if the quantity of cannabis  
20 [~~does not exceed the limit identified by department rule~~] is  
21 not more than two ounces of cannabis flowers or more than  
22 sixteen grams of cannabis extract purchased and obtained  
23 pursuant to the Lynn and Erin Compassionate Use Act.

24 C. The following conduct is lawful and shall not  
25 constitute grounds for detention, search or arrest of a person

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

5 (1) a qualified patient or primary caregiver  
6 possessing or transporting not more than an adequate supply or  
7 a reciprocal participant possessing or transporting not more  
8 than ~~[the limit identified by department rule]~~ two ounces of  
9 cannabis flowers or more than sixteen grams of cannabis extract  
10 purchased and obtained pursuant to the Lynn and Erin  
11 Compassionate Use Act;

12 (2) a qualified patient or primary caregiver  
13 purchasing or obtaining not more than an adequate supply from a  
14 lawful source or a reciprocal participant purchasing or  
15 obtaining not more than ~~[the limit identified by department~~  
16 ~~rule]~~ two ounces of cannabis flowers or more than sixteen grams  
17 of cannabis extract purchased and obtained pursuant to the Lynn  
18 and Erin Compassionate Use Act;

19 (3) a qualified patient using or being under  
20 the influence of cannabis; provided that the qualified patient  
21 is acting consistent with law;

22 (4) a qualified patient or primary caregiver  
23 transferring, without financial consideration, to a qualified  
24 patient or primary caregiver not more than ~~[two ounces of~~  
25 ~~cannabis]~~ two ounces of cannabis flowers or more than sixteen

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1 grams of cannabis extract purchased and obtained pursuant to  
2 the Lynn and Erin Compassionate Use Act; or

3 (5) with respect to cannabis cultivated under  
4 a personal production license, a qualified patient or primary  
5 caregiver possessing, planting, cultivating, harvesting,  
6 drying, manufacturing or transporting cannabis plants or  
7 cannabis products as allowed by department rule; provided that  
8 a qualified patient or primary caregiver who possesses a  
9 personal production license shall not manufacture cannabis  
10 products using an oil extractor solvent that is stored under  
11 pressure [~~unless the qualified patient or primary caregiver~~  
12 ~~holds a separate license from the department permitting the~~  
13 ~~person to manufacture cannabis products using an oil extractor~~  
14 ~~solvent that is under pressure~~].

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

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

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

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

25 (b) serve as the qualified patient's

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1 primary caregiver; and

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

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

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

18 ~~[G. A licensee or licensee representative shall not~~  
19 ~~be subject to arrest, prosecution or penalty, in any manner,~~  
20 ~~for the production, possession, manufacture, distribution,~~  
21 ~~dispensing or testing of cannabis pursuant to the Lynn and Erin~~  
22 ~~Compassionate Use Act. Conduct by a licensee or a licensee~~  
23 ~~representative that is allowed pursuant to a license and~~  
24 ~~conduct by a person that allows property to be used by a~~  
25 ~~licensee or a licensee representative for conduct allowed~~

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1 ~~pursuant to a license is lawful, is not a violation of state or~~  
2 ~~local law and is not a basis for seizure or forfeiture of~~  
3 ~~property or assets under state or local law.~~

4           ~~H.~~] G. Any property interest that is possessed,  
5 owned or used in connection with the medical use of cannabis,  
6 or acts incidental to such use, shall not be harmed, neglected,  
7 injured or destroyed while in the possession of state or local  
8 law enforcement officials. Any such property interest shall  
9 not be forfeited under any state or local law providing for the  
10 forfeiture of property except as provided in the Forfeiture  
11 Act. Cannabis, paraphernalia or other property seized from a  
12 qualified patient or primary caregiver in connection with the  
13 claimed medical use of cannabis shall be returned immediately  
14 upon the determination by a court or prosecutor that the  
15 qualified patient or primary caregiver is entitled to the  
16 protections of the provisions of the Lynn and Erin  
17 Compassionate Use Act, as may be evidenced by a failure to  
18 actively investigate the case, a decision not to prosecute, the  
19 dismissal of charges or acquittal.

20           ~~[H.]~~ H. A state or local government shall not  
21 impose a criminal, civil or administrative penalty on a  
22 licensee ~~[or a licensee representative]~~, or on a person that  
23 allows property to be used by a licensee ~~[or a licensee~~  
24 ~~representative]~~ pursuant to a license, solely for conduct that  
25 is allowed pursuant to a license.

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

5           **SECTION 71.** Section 26-2B-5 NMSA 1978 (being Laws 2007,  
6 Chapter 210, Section 5, as amended by Laws 2019, Chapter 247,  
7 Section 5 and by Laws 2019, Chapter 261, Section 2) is amended  
8 to read:

9           "26-2B-5. PROHIBITIONS, RESTRICTIONS AND LIMITATIONS ON  
10 THE MEDICAL USE OF CANNABIS--CRIMINAL PENALTIES.--

11           A. Participation in a medical use of cannabis  
12 program by a qualified patient or primary caregiver does not  
13 relieve the qualified patient or primary caregiver from:

14                       (1) criminal prosecution or civil penalties  
15 for activities not authorized in the Lynn and Erin  
16 Compassionate Use Act;

17                       (2) liability for damages or criminal  
18 prosecution arising out of the operation of a vehicle while  
19 under the influence of cannabis; or

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

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

24                               (b) at a public park, recreation center,  
25 youth center or other public place.

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

7           ~~[G. If a licensee or the licensee's representative  
8 sells, distributes, dispenses or transfers cannabis to a person  
9 not approved by the department pursuant to the Lynn and Erin  
10 Compassionate Use Act or obtains or transports cannabis outside  
11 New Mexico, the licensee or the licensee's representative shall  
12 be subject to arrest, prosecution and civil or criminal  
13 penalties pursuant to state law.]"~~

14           SECTION 72. Section 26-2B-6.1 NMSA 1978 (being Laws 2019,  
15 Chapter 247, Section 8) is amended to read:

16           "26-2B-6.1. PROGRAM REGULATION AND ADMINISTRATION--FEES--  
17 LIMITATIONS [RULEMAKING]--LICENSURE--ISSUANCE--REPORTING.--

18           A. The department shall ~~[(1) regulate and  
19 administer the medical cannabis program; and~~

20                         ~~(2) collect fees from licensees; provided that  
21 the department shall not charge a fee relating to the medical  
22 cannabis registry.~~

23           ~~B. By December 20, 2019, the secretary of health  
24 shall adopt and promulgate rules to establish fees for licenses  
25 for cannabis producers, cannabis manufacturers, cannabis~~

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1 ~~couriers, cannabis testing facilities or any other cannabis~~  
2 ~~establishments whose operations are authorized pursuant to the~~  
3 ~~Lynn and Erin Compassionate Use Act.~~

4 ~~C. The department shall establish application and~~  
5 ~~licensing fees applicable to licenses for activity related to~~  
6 ~~the medical cannabis program.~~

7 ~~D. The department shall administer licensure for~~  
8 ~~medical cannabis program activity provided for in the Lynn and~~  
9 ~~Erin Compassionate Use Act, which shall include personal~~  
10 ~~production licenses and licenses for:~~

11 ~~(1) cannabis couriers;~~

12 ~~(2) cannabis manufacturers;~~

13 ~~(3) cannabis producers;~~

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

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

17 ~~E. The department shall not issue any other license~~  
18 ~~provided for in this section to a cannabis testing facility~~  
19 ~~licensee] establish an application and licensing fee for~~  
20 ~~personal production licenses.~~

21 ~~[F.] B. The department shall administer personal~~  
22 ~~production licenses.~~

23 C. In consultation with qualified patients and  
24 primary caregivers, the department shall produce an assessment  
25 report annually, which shall be published to the public and

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1 that includes at a minimum an evaluation of:

2 (1) the affordability of and accessibility to  
3 medical cannabis pursuant to the Lynn and Erin Compassionate  
4 Use Act; and

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

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

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

13 ~~(2) cannabis consumption is not visible from~~  
14 ~~any public place or from outside the cannabis consumption area;~~  
15 ~~and~~

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

19 SECTION 73. Section 26-2B-7 NMSA 1978 (being Laws 2007,  
20 Chapter 210, Section 7, as amended) is amended to read:

21 "26-2B-7. REGISTRY IDENTIFICATION CARDS--DEPARTMENT  
22 RULES--DUTIES--RECIPROCITY.--

23 A. After consultation with the advisory board, the  
24 department shall promulgate rules in accordance with the State  
25 Rules Act to implement the purpose of the Lynn and Erin

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1 Compassionate Use Act. The rules shall:

2 (1) govern the manner in which the department  
3 will consider applications for registry identification cards  
4 and for the renewal of identification cards for qualified  
5 patients and primary caregivers;

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

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

15 (4) set forth additional medical conditions,  
16 medical treatments or diseases to the list of debilitating  
17 medical conditions that qualify for the medical use of cannabis  
18 as recommended by the advisory board;

19 (5) identify requirements for the licensure of  
20 ~~[cannabis producers and cannabis production facilities,~~  
21 ~~cannabis couriers, cannabis manufacturers, cannabis testing~~  
22 ~~facilities and any other cannabis establishments that the~~  
23 ~~department may license]~~ qualified patients to produce cannabis  
24 for personal medical use and set forth procedures to obtain  
25 licenses;

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

3                                 ~~(a) cannabis production facilities~~  
4 ~~within New Mexico housed on secured grounds and operated by~~  
5 ~~licensees; and~~

6                                 ~~(b) distribution of cannabis to~~  
7 ~~qualified patients or their primary caregivers to take place at~~  
8 ~~locations that are designated by the department and that are~~  
9 ~~not within three hundred feet of any school, church or daycare~~  
10 ~~center that were in existence in that location before the~~  
11 ~~licensee distributing medical cannabis nearby was licensed;~~  
12 ~~provided that this distance requirement shall not apply to~~  
13 ~~distribution at the home of the qualified patient or primary~~  
14 ~~caregiver;~~

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

19                                 ~~(8)] (6) determine additional duties and~~  
20 ~~responsibilities of the advisory board; and~~

21                                 ~~[(9)] (7) be revised and updated as necessary.~~

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

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- 1 (1) a written certification;
- 2 (2) the name, address and date of birth of the
- 3 patient;
- 4 (3) the name, address and telephone number of
- 5 the patient's practitioner; and
- 6 (4) the name, address and date of birth of the
- 7 patient's primary caregiver, if any.

8 C. The department shall verify the information

9 contained in an application submitted pursuant to Subsection B

10 of this section and shall approve or deny an application within

11 thirty days of receipt. The department may deny an application

12 only if the applicant did not provide the information required

13 pursuant to Subsection B of this section or if the department

14 determines that the information provided is false. A person

15 whose application has been denied shall not reapply for six

16 months from the date of the denial unless otherwise authorized

17 by the department.

18 D. The department shall issue a registry

19 identification card within five days of approving an

20 application, and a card shall expire three years after the date

21 of issuance.

22 E. A registry identification card shall contain:

- 23 (1) the name and date of birth of the
- 24 qualified patient and primary caregiver, if any;
- 25 (2) the date of issuance and expiration date

1 of the registry identification card; and

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

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

10 G. Possession of or application for a registry  
11 identification card shall not constitute probable cause or give  
12 rise to reasonable suspicion for a governmental agency to  
13 search the person or property of the person possessing or  
14 applying for the card.

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

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

24 (2) to authorized employees of state or local  
25 law enforcement agencies, but only for the purpose of verifying

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1 that a person is lawfully in possession of a registry  
2 identification card; ~~[or]~~

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

5 ~~[(3)]~~ (4) as provided in the federal Health  
6 Insurance Portability and Accountability Act of 1996.

7 I. By ~~[March 1, 2020]~~ January 1, 2022, the  
8 secretary of health shall adopt and promulgate rules relating  
9 to medical cannabis program reciprocity. The department may  
10 identify requirements for the granting of reciprocity,  
11 including provisions limiting the period of time in which a  
12 reciprocal participant may participate in the medical cannabis  
13 program.

14 J. A reciprocal participant:

15 (1) may participate in the medical cannabis  
16 program in accordance with department rules;

17 (2) shall not be required to comply with the  
18 registry identification card application and renewal  
19 requirements established pursuant to this section and  
20 department rules;

21 (3) shall at all times possess proof of  
22 authorization to participate in the medical cannabis program of  
23 another state, the District of Columbia, a territory or  
24 commonwealth of the United States or a New Mexico Indian  
25 nation, tribe or pueblo and shall present proof of that

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1 authorization when purchasing cannabis from a [~~licensee~~] person  
2 licensed pursuant to the Cannabis Regulation Act; and

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

7 SECTION 74. Section 30-31-2 NMSA 1978 (being Laws 1972,  
8 Chapter 84, Section 2, as amended) is amended to read:

9 "30-31-2. DEFINITIONS.--As used in the Controlled  
10 Substances Act:

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

14 B. "agent" includes an authorized person who acts  
15 on behalf of a manufacturer, distributor or dispenser. It does  
16 not include a common or contract carrier, public  
17 warehouseperson or employee of the carrier or warehouseperson;

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

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

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

25 F. "counterfeit substance" means a controlled

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1 substance that bears the unauthorized trademark, trade name,  
2 imprint, number, device or other identifying mark or likeness  
3 of a manufacturer, distributor or dispenser other than the  
4 person who in fact manufactured, distributed or dispensed the  
5 controlled substance;

6 G. "deliver" means the actual, constructive or  
7 attempted transfer from one person to another of a controlled  
8 substance or controlled substance analog, whether or not there  
9 is an agency relationship;

10 H. "dispense" means to deliver a controlled  
11 substance to an ultimate user or research subject pursuant to  
12 the lawful order of a practitioner, including the  
13 administering, prescribing, packaging, labeling or compounding  
14 necessary to prepare the controlled substance for that  
15 delivery;

16 I. "dispenser" means a practitioner who dispenses  
17 and includes hospitals, pharmacies and clinics where controlled  
18 substances are dispensed;

19 J. "distribute" means to deliver other than by  
20 administering or dispensing a controlled substance or  
21 controlled substance analog;

22 K. "drug" or "substance" means substances  
23 recognized as drugs in the official United States  
24 pharmacopoeia, official homeopathic pharmacopoeia of the United  
25 States or official national formulary or any respective

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1 supplement to those publications. It does not include devices  
2 or their components, parts or accessories;

3 ~~[L. "hashish" means the resin extracted from any  
4 part of marijuana, whether growing or not, and every compound,  
5 manufacture, salt, derivative, mixture or preparation of such  
6 resins;~~

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

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

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

25 (2) by a practitioner, or by the

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1 practitioner's agent under the practitioner's supervision, for  
2 the purpose of or as an incident to research, teaching or  
3 chemical analysis and not for sale;

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

19 P.] M. "narcotic drug" means any of the following,  
20 whether produced directly or indirectly by extraction from  
21 substances of vegetable origin or independently by means of  
22 chemical synthesis or by a combination of extraction and  
23 chemical synthesis:

24 (1) opium and opiate and any salt, compound,  
25 derivative or preparation of opium or opiate;

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

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

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

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

22 [R-] O. "person" means an individual, partnership,  
23 corporation, association, institution, political subdivision,  
24 government agency or other legal entity;

25 [S-] P. "practitioner" means a physician, certified

1 advanced practice chiropractic physician, doctor of oriental  
2 medicine, dentist, physician assistant, certified nurse  
3 practitioner, clinical nurse specialist, certified nurse-  
4 midwife, prescribing psychologist, veterinarian, euthanasia  
5 technician, pharmacist, pharmacist clinician or other person  
6 licensed or certified to prescribe and administer drugs that  
7 are subject to the Controlled Substances Act;

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

19 [U.] R. "scientific investigator" means a person  
20 registered to conduct research with controlled substances in  
21 the course of the person's professional practice or research  
22 and includes analytical laboratories;

23 [V.] S. "ultimate user" means a person who lawfully  
24 possesses a controlled substance for the person's own use or  
25 for the use of a member of the person's household or for

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1 administering to an animal under the care, custody and control  
2 of the person or by a member of the person's household;

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

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

18 ~~(2) kits used, intended for use or designed~~  
19 ~~for use in manufacturing, compounding, converting, producing,~~  
20 ~~processing or preparing controlled substances or controlled~~  
21 ~~substance analogs;~~

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

25 ~~(4) testing equipment used, intended for use~~

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1 ~~or designed for use in identifying or in analyzing the~~  
2 ~~strength, effectiveness or purity of controlled substances or~~  
3 ~~controlled substance analogs;~~

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

7 ~~(6) diluents and adulterants, such as quinine~~  
8 ~~hydrochloride, mannitol, mannite dextrose and lactose, used,~~  
9 ~~intended for use or designed for use in cutting controlled~~  
10 ~~substances or controlled substance analogs;~~

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

14 ~~(8) blenders, bowls, containers, spoons and~~  
15 ~~mixing devices used, intended for use or designed for use in~~  
16 ~~compounding controlled substances or controlled substance~~  
17 ~~analog;~~

18 ~~(9) capsules, balloons, envelopes and other~~  
19 ~~containers used, intended for use or designed for use in~~  
20 ~~packaging small quantities of controlled substances or~~  
21 ~~controlled substance analogs;~~

22 ~~(10) containers and other objects used,~~  
23 ~~intended for use or designed for use in storing or concealing~~  
24 ~~controlled substances or controlled substance analogs;~~

25 ~~(11) hypodermic syringes, needles and other~~

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1 ~~objects used, intended for use or designed for use in~~  
2 ~~parenterally injecting controlled substances or controlled~~  
3 ~~substance analogs into the human body;~~

4 ~~(12) objects used, intended for use or~~  
5 ~~designed for use in ingesting, inhaling or otherwise~~  
6 ~~introducing marijuana, cocaine, hashish or hashish oil into the~~  
7 ~~human body, such as:~~

8 ~~(a) metal, wooden, acrylic, glass,~~  
9 ~~stone, plastic or ceramic pipes, with or without screens,~~  
10 ~~permanent screens, hashish heads or punctured metal bowls;~~

11 ~~(b) water pipes;~~

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

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

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

17 ~~(f) miniature cocaine spoons and cocaine~~  
18 ~~vials;~~

19 ~~(g) chamber pipes;~~

20 ~~(h) carburetor pipes;~~

21 ~~(i) electric pipes;~~

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

23 ~~(k) chilams;~~

24 ~~(l) bongs; or~~

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

underscoring material = new  
[bracketed material] = delete

1                   ~~(13) in determining whether an object is drug~~  
2 ~~paraphernalia, a court or other authority should consider, in~~  
3 ~~addition to all other logically relevant factors, the~~  
4 ~~following:~~

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

7                   ~~(b) the proximity of the object, in time~~  
8 ~~and space, to a direct violation of the Controlled Substances~~  
9 ~~Act or any other law relating to controlled substances or~~  
10 ~~controlled substance analogs;~~

11                   ~~(c) the proximity of the object to~~  
12 ~~controlled substances or controlled substance analogs;~~

13                   ~~(d) the existence of any residue of a~~  
14 ~~controlled substance or controlled substance analog on the~~  
15 ~~object;~~

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

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

20                   ~~(g) the manner in which the object is~~  
21 ~~displayed for sale; and~~

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

23                   ~~X.] T.~~ "controlled substance analog" means a  
24 substance other than a controlled substance that has a chemical  
25 structure substantially similar to that of a controlled

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

1 substance in Schedule I, II, III, IV or V or that was  
2 specifically designed to produce effects substantially similar  
3 to that of controlled substances in Schedule I, II, III, IV or  
4 V. Examples of chemical classes in which controlled substance  
5 analogs are found:

6 (1) include ~~[the following]~~:

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

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

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

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

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

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

13 ~~[(7)]~~ (g) arylcycloalkylamines; and

14 ~~[Specifically excluded from the definition of "controlled~~  
15 ~~substance analog" are]~~

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

23 ~~[Y.]~~ U. "human consumption" includes application,  
24 injection, inhalation, ingestion or any other manner of  
25 introduction;

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[bracketed material] = delete

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

6           ~~[AA.]~~ W. "valid practitioner-patient relationship"  
7 means a professional relationship, as defined by the  
8 practitioner's licensing board, between the practitioner and  
9 the patient."

10           **SECTION 75.** Section 30-31-6 NMSA 1978 (being Laws 1972,  
11 Chapter 84, Section 6, as amended) is amended to read:

12           "30-31-6. SCHEDULE I.--The following controlled  
13 substances are included in Schedule I:

14           A. any of the following opiates, including their  
15 isomers, esters, ethers, salts, and salts of isomers, esters  
16 and ethers, unless specifically exempted, whenever the  
17 existence of these isomers, esters, ethers and salts is  
18 possible within the specific chemical designation:

- 19                           (1) acetylmethadol;
- 20                           (2) allylprodine;
- 21                           (3) alphacetylmethadol;
- 22                           (4) alphameprodine;
- 23                           (5) alphamethadol;
- 24                           (6) benzethidine;
- 25                           (7) betacetylmethadol;

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~~[bracketed material] = delete~~

- 1 (8) betameprodine;
- 2 (9) betamethadol;
- 3 (10) betaprodine;
- 4 (11) clonitazene;
- 5 (12) dextromoramide;
- 6 (13) dextrorphan;
- 7 (14) diampromide;
- 8 (15) diethylthiambutene;
- 9 (16) dimenoxadol;
- 10 (17) dimepheptanol;
- 11 (18) dimethylthiambutene;
- 12 (19) dioxaphetyl butyrate;
- 13 (20) dipipanone;
- 14 (21) ethylmethylthiambutene;
- 15 (22) etonitazene;
- 16 (23) etoxeridine;
- 17 (24) furethidine;
- 18 (25) hydroxypethidine;
- 19 (26) ketobemidone;
- 20 (27) levomoramide;
- 21 (28) levophenacymorphan;
- 22 (29) morpheridine;
- 23 (30) noracymethadol;
- 24 (31) norlevorphanol;
- 25 (32) normethadone;

- 1 (33) norpipanone;
- 2 (34) phenadoxone;
- 3 (35) phenampromide;
- 4 (36) phenomorphan;
- 5 (37) phenoperidine;
- 6 (38) piritramide;
- 7 (39) proheptazine;
- 8 (40) properidine;
- 9 (41) racemoramide; and
- 10 (42) trimeperidine;

11 B. any of the following opium derivatives, their  
12 salts, isomers and salts of isomers, unless specifically  
13 exempted, whenever the existence of these salts, isomers and  
14 salts of isomers is possible within the specific chemical  
15 designation:

- 16 (1) acetorphine;
- 17 (2) acetyldihydrocodeine;
- 18 (3) benzylmorphine;
- 19 (4) codeine methylbromide;
- 20 (5) codeine-N-oxide;
- 21 (6) cyprenorphine;
- 22 (7) desomorphine;
- 23 (8) dihydromorphine;
- 24 (9) etorphine;
- 25 (10) heroin;

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

13 C. any material, compound, mixture or preparation  
14 that contains any quantity of the following hallucinogenic  
15 substances, their salts, isomers and salts of isomers, unless  
16 specifically exempted, whenever the existence of these salts,  
17 isomers and salts of isomers is possible within the specific  
18 chemical designation:

- 19 (1) 3,4-methylenedioxy amphetamine;
- 20 (2) 5-methoxy-3,4-methylenedioxy amphetamine;
- 21 (3) 3,4,5-trimethoxy amphetamine;
- 22 (4) bufotenine;
- 23 (5) diethyltryptamine;
- 24 (6) dimethyltryptamine;
- 25 (7) 4-methyl-2,5-dimethoxy amphetamine;

- 1 (8) ibogaine;
- 2 (9) lysergic acid diethylamide;
- 3 [~~(10)~~—marijuana;
- 4 ~~(11)~~] (10) mescaline;
- 5 [~~(12)~~] (11) peyote, except as otherwise
- 6 provided in the Controlled Substances Act;
- 7 [~~(13)~~] (12) N-ethyl-3-piperidyl benzilate;
- 8 [~~(14)~~] (13) N-methyl-3-piperidyl benzilate;
- 9 [~~(15)~~] (14) psilocybin;
- 10 [~~(16)~~] (15) psilocyn;
- 11 [~~(17)~~—tetrahydrocannabinols;
- 12 ~~(18)~~—hashish;
- 13 ~~(19)~~] (16) synthetic cannabinoids, including:
- 14 (a) 1-[2-(4-(morpholinyl)ethyl]
- 15 -3-(1-naphthoyl)indole;
- 16 (b) 1-butyl-3-(1-naphthoyl)indole;
- 17 (c) 1-hexyl-3-(1-naphthoyl)indole;
- 18 (d) 1-pentyl-3-(1-naphthoyl)indole;
- 19 (e) 1-pentyl-3-(2-methoxyphenylacetyl)
- 20 indole;
- 21 (f) cannabicyclohexanol (CP 47, 497 and
- 22 homologues: 5-(1,1-dimethylheptyl)-2-[(1R,3S)
- 23 -3-hydroxycyclohexyl]-phenol (CP-47,497); and 5-(1,
- 24 1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol;
- 25 (g) 6aR,10aR)-9-(hydroxymethyl)

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

3 (h) dexanabinol, (6aS,10aS)  
4 -9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)  
5 -6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;

6 (i) 1-pentyl-3-(4-chloro naphthoyl)  
7 indole;

8 (j) (2-methyl-1-propyl-1H-indol-3-yl)  
9 -1-naphthalenyl-methanone; and

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

12 [~~(20)~~] (17) 3,4-methylenedioxymethcathinone;

13 [~~(21)~~] (18) 3,4-methylenedioxyprovalerone;

14 [~~(22)~~] (19) 4-methylmethcathinone;

15 [~~(23)~~] (20) 4-methoxymethcathinone;

16 [~~(24)~~] (21) 3-fluoromethcathinone; and

17 [~~(25)~~] (22) 4-fluoromethcathinone;

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

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[bracketed material] = delete

1                   ~~[E.—The enumeration of marijuana,~~  
2                   ~~tetrahydrocannabinols or chemical derivatives of~~  
3                   ~~tetrahydrocannabinol as Schedule I controlled substances does~~  
4                   ~~not apply to:~~

5                                 ~~(1) hemp pursuant to rules promulgated by the~~  
6                   ~~board of regents of New Mexico state university on behalf of~~  
7                   ~~the New Mexico department of agriculture;~~

8                                 ~~(2) cultivation of hemp by persons pursuant to~~  
9                   ~~rules promulgated by the board of regents of New Mexico state~~  
10                   ~~university on behalf of the New Mexico department of~~  
11                   ~~agriculture;~~

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

25                                ~~(4) tetrahydrocannabinols or chemical~~

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[bracketed material] = delete

1 ~~derivatives of tetrahydrocannabinols, including~~  
2 ~~tetrahydrocannabinols or chemical derivatives of~~  
3 ~~tetrahydrocannabinols in any concentration possessed by a~~  
4 ~~person in connection with the extraction of~~  
5 ~~tetrahydrocannabinols or chemical derivatives of~~  
6 ~~tetrahydrocannabinols, if authorized pursuant to rules~~  
7 ~~promulgated, pursuant to the Hemp Manufacturing Act, by the~~  
8 ~~board of regents of New Mexico state university on behalf of~~  
9 ~~the New Mexico department of agriculture or the department of~~  
10 ~~environment;~~

11 ~~(5) the use of marijuana,~~  
12 ~~tetrahydrocannabinols or chemical derivatives of~~  
13 ~~tetrahydrocannabinol by certified patients pursuant to the~~  
14 ~~Controlled Substances Therapeutic Research Act or by qualified~~  
15 ~~patients pursuant to the provisions of the Lynn and Erin~~  
16 ~~Compassionate Use Act; or~~

17 ~~(6) the use, dispensing, possession,~~  
18 ~~prescribing, storage or transport of a prescription drug that~~  
19 ~~the United States food and drug administration has approved and~~  
20 ~~that contains marijuana, a tetrahydrocannabinol derivative or a~~  
21 ~~chemical derivative of tetrahydrocannabinol; and~~

22 ~~F.] E.~~ controlled substances added to Schedule I by  
23 rule adopted by the board pursuant to Section 30-31-3 NMSA  
24 1978."

25 SECTION 76. Section 30-31-7 NMSA 1978 (being Laws 1972,  
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[bracketed material] = delete

1 Chapter 84, Section 7, as amended) is amended to read:

2 "30-31-7. SCHEDULE II.--

3 A. The following controlled substances are included  
4 in Schedule II:

5 (1) any of the following substances, except  
6 those narcotic drugs listed in other schedules, whether  
7 produced directly or indirectly by extraction from substances  
8 of vegetable origin, or independently by means of chemical  
9 synthesis, or by combination of extraction and chemical  
10 synthesis:

11 (a) opium and opiate, and any salt,  
12 compound, derivative or preparation of opium or opiate;

13 (b) any salt, compound, isomer,  
14 derivative or preparation thereof that is chemically equivalent  
15 or identical with any of the substances referred to in  
16 Subparagraph (a) of this paragraph, but not including the  
17 isoquinoline alkaloids of opium;

18 (c) opium poppy and poppy straw; and

19 (d) coca leaves and any salt, compound,  
20 derivative or preparation of coca leaves, and any salt,  
21 compound, derivative or preparation thereof that is chemically  
22 equivalent or identical with any of these substances, but not  
23 including decocainized coca leaves or extractions that do not  
24 contain cocaine or ecgonine;

25 [~~(e) marijuana, but only for the use by~~

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

1 ~~certified patients pursuant to the Controlled Substances~~  
2 ~~Therapeutic Research Act or by qualified patients pursuant to~~  
3 ~~the provisions of the Lynn and Erin Compassionate Use Act; and~~

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

9 ~~Marijuana, tetrahydrocannabinols or chemical derivatives of~~  
10 ~~tetrahydrocannabinol shall be considered Schedule II controlled~~  
11 ~~substances only for the purposes enumerated in the Controlled~~  
12 ~~Substances Therapeutic Research Act or the Lynn and Erin~~  
13 ~~Compassionate Use Act;]~~

14 (2) any of the following opiates, including  
15 their isomers, esters, ethers, salts and salts of isomers,  
16 whenever the existence of these isomers, esters, ethers and  
17 salts is possible within the specific chemical designation:

- 18 (a) alphaprodine;
- 19 (b) anileridine;
- 20 (c) bezitramide;
- 21 (d) dihydrocodeine;
- 22 (e) diphenoxylate;
- 23 (f) fentanyl;
- 24 (g) hydromorphone;
- 25 (h) isomethadone;

- 1 (i) levomethorphan;
- 2 (j) levorphanol;
- 3 (k) meperidine;
- 4 (l) metazocine;
- 5 (m) methadone;
- 6 (n) methadone--intermediate,  
7 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- 8 (o) moramide--intermediate,  
9 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
- 10 (p) oxycodone;
- 11 (q) pethidine;
- 12 (r) pethidine--intermediate--A,  
13 4-cyano-1-methyl-4-phenylpiperidine;
- 14 (s) pethidine--intermediate--B,  
15 ethyl-4-phenyl-piperidine-4-carboxylate;
- 16 (t) pethidine--intermediate--C,  
17 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- 18 (u) phenazocine;
- 19 (v) piminodine;
- 20 (w) racemethorphan; and
- 21 (x) racemorphan;

22 (3) unless listed in another schedule, any  
23 material, compound, mixture or preparation that contains any  
24 quantity of the following substances having a potential for  
25 abuse associated with a stimulant effect on the central nervous

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

1 system:

- 2 (a) amphetamine, its salts, optical  
3 isomers and salts of its optical isomers;  
4 (b) phenmetrazine and its salts;  
5 (c) methamphetamine, its salts, isomers  
6 and salts of isomers; and  
7 (d) methylphenidate; and  
8 (4) controlled substances added to Schedule II  
9 by rule adopted by the board pursuant to Section 30-31-3 NMSA  
10 1978.

11 B. Where methadone is prescribed, administered or  
12 dispensed by a practitioner of a drug abuse rehabilitation  
13 program while acting in the course of the practitioner's  
14 professional practice, or otherwise lawfully obtained or  
15 possessed by a person, such person shall not possess such  
16 methadone beyond the date stamped or typed on the label of the  
17 container of the methadone, nor shall any person possess  
18 methadone except in the container in which it was originally  
19 administered or dispensed to such person, and such container  
20 shall include a label showing the name of the prescribing  
21 physician or practitioner, the identity of methadone, the name  
22 of the ultimate user, the date when the methadone is to be  
23 administered to or used or consumed by the named ultimate user  
24 shown on the label and a warning on the label of the methadone  
25 container that the ultimate user must use, consume or

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[bracketed material] = delete

1 administer to the ultimate user the methadone in such  
2 container. Any person who violates this subsection is guilty  
3 of a felony and shall be punished by imprisonment for not less  
4 than one year nor more than five years, or by a fine of up to  
5 five thousand dollars (\$5,000), or both."

6 SECTION 77. Section 30-31-22 NMSA 1978 (being Laws 1972,  
7 Chapter 84, Section 22, as amended) is amended to read:

8 "30-31-22. CONTROLLED OR COUNTERFEIT SUBSTANCES--  
9 DISTRIBUTION PROHIBITED.--

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

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

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

23 (b) for the second and subsequent  
24 offenses, guilty of a third degree felony and shall be  
25 sentenced pursuant to the provisions of Section 31-18-15 NMSA

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~~[bracketed material] = delete~~

1 1978;

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

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

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

20 (a) 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 (b) 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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underscoring material = new  
~~[bracketed material]~~ = delete

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

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

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

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

24                   C. Except as authorized by the Controlled Substances  
25 Act, it is unlawful for a person to intentionally create or

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

1 deliver, or possess with intent to deliver, a counterfeit  
2 substance. A person who violates this subsection with respect  
3 to:

4 (1) a counterfeit substance enumerated in  
5 Schedule I, II, III or IV is guilty of a fourth degree felony  
6 and shall be sentenced pursuant to the provisions of Section  
7 31-18-15 NMSA 1978; and

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

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

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

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

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

23 (c) for the first offense, if more than one  
24 hundred pounds is possessed with intent to distribute or  
25 distributed or both, guilty of a second degree felony and shall

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

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

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

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

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

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

22 (3) a controlled substance enumerated in  
23 Schedule V or a controlled substance analog of a controlled  
24 substance enumerated in Schedule V is guilty of a fourth degree  
25 felony and shall be sentenced pursuant to the provisions of

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

1 Section 31-18-15 NMSA 1978; and

2 (4) the intentional creation, delivery or  
3 possession with the intent to deliver:

4 (a) a counterfeit substance enumerated in  
5 Schedule I, II, III or IV is guilty of a third degree felony  
6 and shall be sentenced pursuant to the provisions of Section  
7 31-18-15 NMSA 1978; and

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

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

19 SECTION 78. Section 30-31-23 NMSA 1978 (being Laws 1972,  
20 Chapter 84, Section 23, as amended) is amended to read:

21 "30-31-23. CONTROLLED SUBSTANCES--POSSESSION  
22 PROHIBITED.--

23 A. It is unlawful for a person intentionally to  
24 possess a controlled substance unless the substance was  
25 obtained pursuant to a valid prescription or order of a

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underscored material = new  
[bracketed material] = delete

1 practitioner while acting in the course of professional  
2 practice or except as otherwise authorized by the Controlled  
3 Substances Act. It is unlawful for a person intentionally to  
4 possess a controlled substance analog.

5 ~~[B. A person who violates this section with respect~~  
6 ~~to:~~

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

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

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

25 ~~(4) eight ounces or more of marijuana is guilty~~

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underscored material = new  
[bracketed material] = delete

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

3 ~~G.]~~ B. A person who violates this section with  
4 respect to:

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

14 (2) more than one ounce and less than eight  
15 ounces of synthetic cannabinoids 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 or

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

24 ~~[D.]~~ C. A minor who violates this section with  
25 respect to the substances listed in this subsection is guilty

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

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

11 (1) synthetic cannabinoids;

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

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

22 ~~[E.]~~ D. Except as provided in Subsections [~~B, C and~~  
23 ~~G~~] B and F of this section, and for those substances listed in  
24 Subsection [~~F~~] E of this section, a person who violates this  
25 section with respect to any amount of any controlled substance

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

1 enumerated in Schedule I, II, III or IV or a controlled  
2 substance analog of a substance enumerated in Schedule I, II,  
3 III or IV is guilty of a misdemeanor and shall be punished by a  
4 fine of not less than five hundred dollars (\$500) or more than  
5 one thousand dollars (\$1,000) or by imprisonment for a definite  
6 term less than one year, or both.

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

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

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

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

17 (1) one ounce or less of ~~[marijuana or]~~  
18 synthetic cannabinoids is, for the first offense, guilty of a  
19 misdemeanor and shall be punished by a fine of not less than  
20 one hundred dollars (\$100) or more than one thousand dollars  
21 (\$1,000) or by imprisonment for a definite term less than one  
22 year, or both, and for the second or subsequent offense, is  
23 guilty of a fourth degree felony and shall be sentenced  
24 pursuant to the provisions of Section 31-18-15 NMSA 1978;

25 (2) more than one ounce and less than eight

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

1 ounces of [~~marijuana or~~] synthetic cannabinoids is guilty of a  
2 fourth degree felony and shall be sentenced pursuant to the  
3 provisions of Section 31-18-15 NMSA 1978;

4 (3) eight ounces or more of [~~marijuana or~~]  
5 synthetic cannabinoids is guilty of a third degree felony and  
6 shall be sentenced pursuant to the provisions of Section  
7 31-18-15 NMSA 1978;

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

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

22 SECTION 79. Section 30-31-34 NMSA 1978 (being Laws 1972,  
23 Chapter 84, Section 33, as amended) is amended to read:

24 "30-31-34. FORFEITURES--PROPERTY SUBJECT.--The following  
25 are subject to forfeiture pursuant to the provisions of the

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

1 Forfeiture Act:

2 A. all raw materials, products and equipment of any  
3 kind, including firearms that are used or intended for use in  
4 manufacturing, compounding, processing, delivering, importing  
5 or exporting any controlled substance or controlled substance  
6 analog in violation of the Controlled Substances Act;

7 B. all property that is used or intended for use as a  
8 container for property described in Subsection A of this  
9 section;

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

14 D. all books, records and research products and  
15 materials, including formulas, microfilm, tapes and data that  
16 are used or intended for use in violation of the Controlled  
17 Substances Act;

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

20 F. notwithstanding Subsection C of this section and  
21 the provisions of the Forfeiture Act:

22 (1) a conveyance used by a person as a common  
23 carrier in the transaction of business as a common carrier  
24 shall not be subject to forfeiture pursuant to this section  
25 unless it appears that the owner or other person in charge of

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underscored material = new  
[bracketed material] = delete

1 the conveyance is a consenting party or privy to a violation of  
2 the Controlled Substances Act;

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

7 (3) a conveyance is not subject to forfeiture  
8 for a violation of law the penalty for which is a misdemeanor;  
9 and

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

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

16 SECTION 80. TEMPORARY PROVISION--TRANSFER.--

17 A. On July 1, 2021, any unexpended or unencumbered  
18 balance in the medical cannabis fund is transferred to the  
19 cannabis regulation fund.

20 B. Except to the extent any administrative rules are  
21 inconsistent with the provisions of this act, any  
22 administrative rules adopted by an officer, agency or other  
23 entity whose responsibilities have been transferred pursuant to  
24 the provisions of this act to another officer, agency or other  
25 entity remain in force until amended by the officer, agency or

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

1 other entity to which the responsibility for the adoption of  
2 the rules has been transferred. To the extent any  
3 administrative rules are inconsistent with the provisions of  
4 this act, such rules are null and void.

5 SECTION 81. REPEAL.--Section 9-7-17.1 NMSA 1978 (being  
6 Laws 2012, Chapter 42, Section 1) is repealed.

7 SECTION 82. EFFECTIVE DATE.--The effective date of the  
8 provisions of this act is July 1, 2021.

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