

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR  
HOUSE HEALTH AND HUMAN SERVICES COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 12

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

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; AUTHORIZING THE REGULATION AND LICENSING  
DEPARTMENT TO ENTER INTO INTERGOVERNMENTAL AGREEMENTS WITH  
INDIAN NATIONS, TRIBES AND PUEBLOS REGARDING IMPLEMENTATION AND  
COMPLIANCE IN CONNECTION WITH THE LYNN AND ERIN COMPASSIONATE  
USE ACT AND THE CANNABIS REGULATION ACT; 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

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

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

8 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
9 through 47 of this act may be cited as the "Cannabis Regulation  
10 Act".

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

13 A. "advertisement":

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

19 (2) does not include:

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

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

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1 product; or

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

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

9 C. "cannabis":

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

17 (2) does not include:

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

24 (b) the weight of any other ingredient  
25 combined with cannabis products to prepare topical or oral

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1 administrations, food, drink or another product;

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

6 E. "cannabis courier" means a person that  
7 transports cannabis products from a cannabis establishment to  
8 any or all of the following:

- 9 (1) a qualified patient;
- 10 (2) a primary caregiver;
- 11 (3) another cannabis establishment; or
- 12 (4) directly to consumers;

13 F. "cannabis establishment" means:

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

24 G. "cannabis extract":

- 25 (1) means a product obtained by separating

1 resins from cannabis by solvent extraction using solvents other  
2 than vegetable glycerin, such as butane, hexane, isopropyl  
3 alcohol, ethanol or carbon dioxide; and

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

7 H. "cannabis flowers" means only the flowers of a  
8 cannabis plant;

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

10 (1) manufactures cannabis products;

11 (2) packages, transports or couriers cannabis  
12 products;

13 (3) has cannabis products tested by a cannabis  
14 testing laboratory;

15 (4) purchases, acquires, obtains, possesses,  
16 sells or transports cannabis products to other cannabis  
17 establishments; or

18 (5) prepares products for personal production  
19 license holders pursuant to the Lynn and Erin Compassionate Use  
20 Act;

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

22 (1) possesses, produces, dispenses,  
23 distributes and manufactures cannabis products;

24 (2) cultivates cannabis plants;

25 (3) has unprocessed cannabis products tested

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1 by a cannabis testing laboratory; or

2 (4) sells cannabis products wholesale;

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

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

8 (2) have unprocessed cannabis products tested  
9 by a cannabis testing laboratory; and

10 (3) sell and transport unprocessed cannabis  
11 products only to other cannabis establishments;

12 L. "cannabis product" means a product that is or  
13 that contains cannabis or cannabis extracts, including edible  
14 or topical products that may also contain other ingredients;

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

19 N. "cannabis retailer" means a person or entity  
20 that is licensed by the division to sell or courier cannabis  
21 products to a person who purchases, acquires, possesses or uses  
22 a cannabis product for a purpose other than resale;

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

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1 commercial cannabis activity in a cannabis consumption area;

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

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

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

14 S. "commercial cannabis activity":

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

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

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

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1           U. "contaminant" means pesticides and other foreign  
2 material, such as hair, insects or other similar adulterants,  
3 in harvested cannabis;

4           V. "controlling person":

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

8                 (2) does not include a bank or licensed  
9 lending institution;

10           W. "department" means the regulation and licensing  
11 department;

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

13           Y. "division" means the cannabis control division  
14 of the department;

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

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

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

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

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

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

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

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

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

23 HH. "integrated cannabis microbusiness" means a  
24 person that is licensed by the division to conduct one or more  
25 of the following:

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

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

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

9 (4) operate only one retail establishment; or

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

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

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

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

23 (3) with respect to a location that the  
24 division has specifically licensed for the production of  
25 cannabis outside of a building, the entire unit of land that is

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1 created by subsection or partition of land that the licensee  
2 owns, leases or has a right to occupy;

3 JJ. "licensee" means a person issued a license  
4 pursuant to the Cannabis Regulation Act;

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

9 LL. "local jurisdiction" means a municipality, home  
10 rule municipality or county;

11 MM. "manufacture" means to prepare a cannabis  
12 product;

13 NN. "marketing" means the act of promoting or  
14 selling a cannabis product or a cannabis-related product or  
15 service;

16 OO. "mature cannabis plant" means a cannabis plant  
17 that is not an immature cannabis plant;

18 PP. "medical cannabis" means cannabis products used  
19 by a qualified patient in accordance with the Lynn and Erin  
20 Compassionate Use Act;

21 QQ. "medical cannabis program" means licensed  
22 activity as authorized by the Lynn and Erin Compassionate Use  
23 Act;

24 RR. "medical cannabis registry" means the system by  
25 which the department of health, pursuant to the Lynn and Erin

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1 Compassionate Use Act, receives applications for registry  
2 identification cards; approves and denies applications; issues  
3 and renews registry identification cards; and maintains files  
4 related to applicants for and recipients of registry  
5 identification cards;

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

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

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

24 VV. "qualified patient" means a person who has been  
25 diagnosed by a practitioner as having a debilitating medical

1 condition and has received written certification and a registry  
2 identification card as part of the medical cannabis program;

3 WW. "retail establishment" means a single location,  
4 not to exceed ten thousand square feet in total area, operated  
5 by an integrated cannabis microbusiness for the purpose of  
6 performing all licensed activities;

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

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

18 (2) the average number of plants in production  
19 as of the effective date of the Cannabis Regulation Act is  
20 measured over a period of three consecutive months immediately  
21 preceding the effective date of the Cannabis Regulation Act;

22 YY. "vertically integrated cannabis establishment"  
23 means a licensee that is authorized under a vertically  
24 integrated cannabis establishment license issued by the  
25 division to act, without additional licensure and in the

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1 licensee's discretion, as any of the following:

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

10 ZZ. "superintendent" means the superintendent of  
11 regulation and licensing.

12 SECTION 3. [NEW MATERIAL] DIVISION--POWERS AND DUTIES--  
13 RULEMAKING.--

14 A. The "cannabis control division" is created in  
15 the department.

16 B. The division shall execute the provisions  
17 delegated to it under this 2021 act and administer and enforce  
18 the provisions of rules adopted under the Cannabis Regulation  
19 Act.

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

- 24 (1) procedures for the issuance, renewal,  
25 suspension and revocation of a license;

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

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

6 (4) requirements related to:

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

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

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

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

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

18 (5) rules providing that:

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

23 (b) a qualified patient or a primary  
24 caregiver shall not be limited in possession of the amount of  
25 cannabis flowers or cannabis extract purchased and obtained

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1 pursuant to the medical cannabis program; and

2 (c) as to commercial cannabis activity:

3 1) except for limits set in place in statute for an integrated  
4 cannabis microbusiness or a cannabis producer microbusiness,  
5 the division shall not limit the number of plants the licensee  
6 may possess, cultivate or manufacture; 2) a consumer shall be  
7 permitted to possess at least two ounces of cannabis flowers  
8 and at least sixteen grams of cannabis extract purchased and  
9 obtained pursuant to the commercial cannabis activity

10 authorized by the Cannabis Regulation Act outside of the  
11 consumer's private residence; 3) any cannabis flower in excess  
12 of two ounces of cannabis flowers or cannabis extract in excess  
13 of sixteen grams shall be stored in the person's residence in a  
14 locked space and shall not be visible from a public place; and

15 4) the division shall not limit the amount of  
16 tetrahydrocannabinol concentration in a cannabis product;

17 (6) rules on advertising and marketing of  
18 cannabis products;

19 (7) rules on how a licensee may display  
20 cannabis products for sale;

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

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1 (9) procedures that promote and encourage  
2 racial, ethnic, gender and geographic diversity among license  
3 applicants, licensees and cannabis industry employees;

4 (10) development of a certification to  
5 identify products for consumers from licensees that are  
6 integrated cannabis microbusinesses or cannabis producer  
7 microbusinesses or owned by representatives of communities that  
8 have been disproportionately harmed by rates of arrest through  
9 the enforcement of cannabis prohibitions in law and policy;

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

12 (a) health and safety standards  
13 applicable to the research, production and manufacture of  
14 cannabis products;

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

17 (c) which additives are approved for and  
18 prohibited from inclusion in cannabis products; provided that  
19 nicotine shall be prohibited;

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

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1 rules and standards must be consistent with the rules and  
2 standards for testing of medical cannabis products; and

3 (13) rules developed in consultation with the  
4 state fire marshal's office of the homeland security and  
5 emergency management department with regard to health and  
6 safety.

7 D. No later than January 1, 2022, the division  
8 shall promulgate reasonable rules consistent with industry  
9 standards relating to cannabis training and education programs,  
10 including:

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

13 (2) qualifications for licensure;

14 (3) physical security, cybersecurity and, if  
15 applicable, security of information collected under the federal  
16 Health Insurance Portability and Accountability Act of 1996  
17 requirements; and

18 (4) rules developed in consultation with the  
19 New Mexico department of agriculture and the department of  
20 environment to establish:

21 (a) environmental protections; and

22 (b) protocols to ensure licensees'  
23 compliance with state and local laws and ordinances governing  
24 environmental impacts, natural resource protection, water  
25 quality, water supply, hazardous materials, pesticide use and

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1 wastewater discharge.

2 E. The division shall collect and publish annually  
3 on the division's website, and present to the appropriate  
4 interim committee of the legislature, a report describing  
5 demographic data on license applicants, controlling persons and  
6 employees of cannabis establishments, including race,  
7 ethnicity, gender and age.

8 F. No later than September 1, 2021, the division  
9 shall convene a "cannabis regulatory advisory committee" to  
10 advise the division on the development of rules pursuant to the  
11 Cannabis Regulation Act, including best practices and  
12 guidelines that promote economic and cultural diversity in  
13 licensing and employment opportunities and protect public  
14 health and safety while ensuring a regulated environment for  
15 commercial cannabis activity that does not impose unreasonable  
16 barriers that would perpetuate, rather than reduce and  
17 eliminate, the illicit market for cannabis. An individual  
18 appointed to the cannabis regulatory advisory committee shall  
19 not hold any ownership interest or investment in a licensed  
20 entity pursuant to the Cannabis Regulation Act. The cannabis  
21 regulatory advisory committee shall consist of the following  
22 individuals or their designees:

23 (1) the chief public defender;

24 (2) a district attorney appointed by the New  
25 Mexico district attorney association;

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1 (3) a county sheriff appointed by the  
2 executive director of the New Mexico association of counties;  
3 and

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

7 (a) of a cannabis policy advocacy  
8 organization;

9 (b) of a labor organization;

10 (c) who is a qualified patient;

11 (d) from a state or local agency with  
12 relevant expertise as the director and the superintendent deem  
13 appropriate;

14 (e) with expertise in public health;

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

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

19 (h) with expertise and experience in  
20 cannabis laboratory science;

21 (i) with expertise in environmental  
22 science;

23 (j) from an Indian nation, tribe or  
24 pueblo with relevant expertise as the director and the  
25 superintendent deem appropriate;

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1 (k) with expertise in small business  
2 development; and

3 (l) with expertise in other relevant  
4 areas as the director and the superintendent deem appropriate.

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

9 H. The division shall monitor the supply and demand  
10 of cannabis products produced in New Mexico by licensees and  
11 present annually to the appropriate interim committee of the  
12 legislature on the impacts of supply on illicit cannabis  
13 products markets and adequate supply of cannabis products for  
14 qualified patients.

15 I. The director is responsible for the operation of  
16 the division. The director shall supervise all operations of  
17 the division and shall:

18 (1) administer the laws that the division  
19 administers, including the Cannabis Regulation Act. The  
20 director shall request the department of public safety to  
21 enforce the provisions of the Cannabis Regulation Act as deemed  
22 necessary;

23 (2) exercise general supervisory authority  
24 over all employees of the division;

25 (3) organize the division into bureaus to

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1 enable it to function effectively for the operation of the  
2 division;

3 (4) confer authority, delegate responsibility  
4 and hire personnel as necessary to carry out the powers and  
5 duties of the division;

6 (5) undertake studies and conduct courses of  
7 instruction for division employees that will improve the  
8 operations of the division and advance its purposes; and

9 (6) require compliance by employees of the  
10 division with the director's verbal and written instructions by  
11 whatever disciplinary means appropriate.

12 J. The director, through the legal counsel for the  
13 division, is vested with the power to issue subpoenas. In no  
14 case shall a subpoena be made returnable less than five days  
15 from the date of service. After service of a subpoena upon a  
16 person, if the person neglects or refuses to appear or produce  
17 records or other evidence in response to the subpoena or  
18 neglects or refuses to give testimony, as required, the  
19 director may invoke the aid of a district court in the  
20 enforcement of the subpoena. In appropriate cases, the court  
21 shall issue its order requiring the person to appear and  
22 testify or produce the person's books or records and may, upon  
23 failure of the person to comply with the order, punish the  
24 person for contempt. A subpoena issued by the legal counsel  
25 for the division shall state with reasonable certainty the

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1 nature of the evidence required to be produced, the time and  
2 place of the hearing, the nature of the inquiry or  
3 investigation and the consequences of failure to obey the  
4 subpoena and shall bear the seal of the department and be  
5 attested to by the director.

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

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

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

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

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

24 C. No later than September 1, 2021, the secretary  
25 of health shall appoint a "public health and safety advisory

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

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

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

25 E. In consultation with qualified patients and



1 primary caregivers, the department of health shall produce an  
 2 assessment report annually that shall be available to the  
 3 public and that includes at a minimum an evaluation of the  
 4 affordability and accessibility of medical cannabis pursuant to  
 5 the Lynn and Erin Compassionate Use Act.

6 F. Public members of the public health and safety  
 7 advisory committee are entitled to per diem and mileage as  
 8 provided for non-salaried public officers in the Per Diem and  
 9 Mileage Act.

10 SECTION 5. [NEW MATERIAL] DEPARTMENT OF HEALTH--DUTIES.--

11 Except for administration of the medical cannabis registry  
 12 under the Lynn and Erin Compassionate Use Act, the power, duty  
 13 and authority of the department of health related to commercial  
 14 cannabis activity and the medical cannabis program shall be  
 15 transferred to the division on July 1, 2021.

16 SECTION 6. [NEW MATERIAL] LICENSING CANNABIS ACTIVITIES--  
 17 LIMITATIONS--MEDICAL CANNABIS LEGACY LICENSING.--

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

20 (1) commercial cannabis activity and licensing  
 21 related to commercial cannabis activity;

22 (2) the medical cannabis program, except for  
 23 the medical cannabis registry; and

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

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

4           C. Within sixty days of the effective date of the  
5 Cannabis Regulation Act, the division shall adopt procedures  
6 to:

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

11                   (2) promote and encourage racial, ethnic,  
12 gender and geographic diversity among license applicants,  
13 licensees and cannabis industry employees.

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

21                   (1) vertically integrated cannabis  
22 establishments;

23                   (2) cannabis testing laboratories;

24                   (3) cannabis couriers;

25                   (4) cannabis producers;

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

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

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

16 G. The director shall not renew a license issued  
17 pursuant to the provisions of the Cannabis Regulation Act until  
18 the director receives notification from the secretary of  
19 taxation and revenue or the secretary's delegate that on a  
20 certain date:

21 (1) there is no assessed tax liability from  
22 engaging in business authorized by the license or, if there is  
23 assessed tax liability, the licensee is not a delinquent  
24 taxpayer; and

25 (2) there are no unfiled tax returns due from

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1 engaging in business authorized by the license.

2 H. No license shall be transferable or assignable  
3 from a licensee to another person or entity.

4 I. The division shall allow only a vertically  
5 integrated cannabis establishment, a cannabis retailer or an  
6 integrated cannabis microbusiness to operate a cannabis  
7 consumption area.

8 J. The division shall not limit the type or number  
9 of licenses that a licensee may be issued pursuant to the  
10 Cannabis Regulation Act.

11 K. Except for verification of age, the division  
12 shall not require licensees to request information from  
13 consumers or impose any residency requirement upon consumers  
14 for the purchase of cannabis products pursuant to the  
15 commercial cannabis activity authorized by the Cannabis  
16 Regulation Act or the medical cannabis program.

17 L. Except as otherwise provided in the Cannabis  
18 Regulation Act, the division shall not limit the number of  
19 licensed premises a licensee may occupy or operate under a  
20 license. Multiple licensees may occupy a single licensed  
21 premises, and the division shall not place any restriction or  
22 prohibition on the number of licensees occupying a single  
23 licensed premises or on the number of licensed premises of a  
24 cannabis establishment except as otherwise specifically  
25 provided for by the Cannabis Regulation Act. A licensee may

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1 conduct any lawful activity or any combination of lawful  
2 activities at a licensed premises; provided that the licensee  
3 is not a licensee pursuant to the Liquor Control Act.

4 M. Licensees pursuant to the Cannabis Regulation  
5 Act shall be specifically permitted to conduct any other  
6 licensed activities, including activities pursuant to the Hemp  
7 Manufacturing Act.

8 N. Any person properly licensed and in good  
9 standing as a licensed cannabis producer pursuant to the Lynn  
10 and Erin Compassionate Use Act on the effective date of the  
11 Cannabis Regulation Act shall be issued a license by the  
12 division allowing the licensee to conduct commercial cannabis  
13 activity and medical cannabis activity as a vertically  
14 integrated cannabis establishment beginning on January 1, 2022.  
15 Any other person properly licensed and in good standing  
16 pursuant to the Lynn and Erin Compassionate Use Act on the  
17 effective date of the Cannabis Regulation Act shall be issued a  
18 license of comparable class and privileges to conduct  
19 commercial cannabis activity under the Cannabis Regulation Act.  
20 Any facility of such a licensee, upon issuance of the cannabis  
21 establishment license, shall constitute licensed premises of  
22 the licensee and the licensee shall be entitled to continued  
23 and uninterrupted operations of the licensed premises. As to  
24 activity under the medical cannabis program, the licensee shall  
25 continue to operate under rules promulgated for the medical

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1 cannabis program until the division promulgates rules for  
2 medical cannabis activity, except that a qualified patient and  
3 a primary caregiver shall not be prohibited from purchasing and  
4 obtaining cannabis products pursuant to the medical cannabis  
5 program nor shall such a person be prohibited from purchasing  
6 up to sixteen grams of cannabis extract purchased and obtained  
7 pursuant to the medical cannabis program. The division shall  
8 not limit:

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

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

15 O. Any nonprofit corporation issued a license under  
16 Subsection N of this section shall be converted into a  
17 corporation by the secretary of state upon the filing of  
18 articles of organization by the nonprofit corporation, which  
19 shall be approved pursuant to an agreement of conversion in the  
20 manner provided for the conversion of a limited liability  
21 company in Section 53-19-60.1 NMSA 1978. To be valid, the  
22 agreement of conversion must be approved by all directors of  
23 the nonprofit corporation. Upon conversion, all property owned  
24 by the converting entity remains in the newly converted entity.  
25 All obligations of the converting entity continue as

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1 obligations of the newly converted entity. Any action or  
2 proceeding pending against the converting entity may be  
3 continued as if the conversion had not occurred.

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

6 A. Any violation of the provisions of the Cannabis  
7 Regulation Act by a licensee is grounds for disciplinary  
8 action.

9 B. The division may:

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

21 C. The division shall adopt and promulgate  
22 reasonable rules consistent with industry standards specifying  
23 the criteria for imposition of any sanction and civil monetary  
24 penalty.

25 D. The provisions of this section do not apply to

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1 occupational health and safety rules promulgated pursuant to  
2 Section 3 of the Cannabis Regulation Act.

3 E. A person aggrieved by an action taken by the  
4 division pursuant to this section may request and receive a  
5 hearing with the division for the purpose of reviewing the  
6 action. To obtain a hearing with the division, the aggrieved  
7 person shall file a request for a hearing with the director  
8 within thirty days after the date the action is taken. The  
9 division hearings shall be conducted in accordance with the  
10 provisions of the Uniform Licensing Act.

11 F. After the hearing conducted according to the  
12 Uniform Licensing Act, a person who is aggrieved by an adverse  
13 decision of the division may obtain review of the decision in  
14 the court of appeals, notwithstanding the review procedures set  
15 out in the Uniform Licensing Act.

16 SECTION 8. [NEW MATERIAL] COMMERCIAL CANNABIS ACTIVITY  
17 LICENSING--APPLICATION--ISSUANCE AND DENIAL OF A LICENSE.--

18 A. A license issued pursuant to the Cannabis  
19 Regulation Act shall not be subject to execution, attachment, a  
20 security transaction, liens or receivership.

21 B. The division shall not limit the number of  
22 licenses of any kind, the scope of licenses or the activities a  
23 licensee is authorized to conduct under the Cannabis Regulation  
24 Act; provided that to address a shortage of cannabis supply in  
25 the medical cannabis program, the division may:

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1 (1) initially take reasonable measures to  
2 expeditiously incentivize increased production of cannabis  
3 plants to remedy a shortage of cannabis supply in the medical  
4 cannabis program;

5 (2) after having first exhausted measures to  
6 increase production of cannabis plants to address the shortage  
7 of cannabis supply in the medical cannabis program, exclude  
8 commercial cannabis activity from the scope of new licenses  
9 issued to initial applicants for a vertically integrated  
10 cannabis establishment, cannabis producer, integrated cannabis  
11 microbusiness, cannabis producer microbusinesses or cannabis  
12 manufacturer license, which limitation shall be in force for a  
13 period of at least six months; and

14 (3) after having exhausted reasonable efforts  
15 to increase production of cannabis plants, including expediting  
16 applications for additional licensed premises, the division may  
17 then require licensees who are licensed to produce cannabis to  
18 produce a specified quota of mature cannabis plants to be  
19 designated for use in the medical cannabis program; provided  
20 that:

21 (a) the division may require a licensee  
22 to devote no more than five percent of the licensee's  
23 cultivated cannabis plants for use in the medical cannabis  
24 program;

25 (b) the total number of plants to be

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1 produced from such a quota shall not exceed the number  
2 necessary to eliminate the shortage of cannabis supply in the  
3 medical cannabis program; and

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

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

10 (1) beginning on September 1, 2021, accept and  
11 begin processing license applications for cannabis producers;

12 (2) beginning on January 1, 2022, issue  
13 licenses for integrated cannabis microbusinesses and cannabis  
14 producer microbusinesses;

15 (3) beginning on July 1, 2022, accept license  
16 applications for all licenses;

17 (4) issue a license or a written notice  
18 detailing why an application was denied no later than ninety  
19 days following the day on which the complete application was  
20 submitted to the division;

21 (5) in consultation with the cannabis  
22 regulatory advisory committee, develop a plan to promote and  
23 encourage racial, ethnic, gender and geographic diversity among  
24 licensees;

25 (6) require as a condition of licensing

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1 pursuant to the Cannabis Regulation Act that the applicant  
2 demonstrate that the applicant has a legal right to a  
3 commercial water supply, water rights or another source of  
4 water sufficient to meet the water needs related to the  
5 license, and, if an applicant applies for a cannabis producer  
6 license or a cannabis manufacturer license, submit a plan to  
7 utilize, or demonstrate to the division that the applicant  
8 cannot feasibly utilize, energy and water reduction  
9 opportunities, including:

10 (a) for a cannabis producer, drip  
11 irrigation and water collection;

12 (b) natural lighting and energy  
13 efficiency measures; and

14 (c) renewable energy generation; and

15 (7) permit retail sales under the commercial  
16 cannabis activity authorized by the Cannabis Regulation Act by  
17 any licensee whose license allows such activity no earlier than  
18 January 1, 2022 and otherwise permit any activity authorized by  
19 the Cannabis Regulation Act or the medical cannabis program as  
20 of the time of licensure of a licensee.

21 D. The department has ninety days from the date an  
22 application is deemed complete to process a license  
23 application.

24 E. The division shall deny an application for an  
25 initial license or renewal if:

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

3 (2) the applicant or a controlling person in  
4 the applicant's entity has been convicted of an offense that is  
5 substantially related to the qualifications, functions or  
6 duties of the applicant entity's business; provided that if the  
7 division determines that the controlling person and the  
8 applicant entity are otherwise qualified for a license and that  
9 issuing a license to the applicant entity would not compromise  
10 public safety, the division shall conduct a thorough review of  
11 the conviction, including the nature of the offense,  
12 surrounding circumstances and any evidence of the controlling  
13 person's rehabilitation following the conviction, and based on  
14 that review, determine whether the applicant entity should be  
15 issued a license; or

16 (3) the applicant or a controlling person in  
17 the applicant's entity has had a license issued pursuant to the  
18 Cannabis Regulation Act or the Lynn and Erin Compassionate Use  
19 Act revoked by the division or the department of health in the  
20 three years immediately preceding the date on which the  
21 application was filed.

22 F. For purposes of Subsection E of this section,  
23 the following are considered substantially related to the  
24 qualifications, functions or duties of a business seeking a  
25 license:

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

3 (2) a felony conviction for hiring, employing  
4 or otherwise using a person younger than eighteen years of age  
5 to:

6 (a) prepare for sale, transport or carry  
7 a controlled substance; or

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

10 (3) any other offense as determined by the  
11 division.

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

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

24 I. Unless otherwise provided in the Cannabis  
25 Regulation Act, a person whose license has been revoked may

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1 reapply for a license after a period of three years. The  
2 division may consider all of the circumstances resulting in the  
3 revocation in determining whether to issue a new license.

4 SECTION 9. [NEW MATERIAL] APPLICATION AND LICENSING  
5 FEES.--

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

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

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1 renewal fee for a license or renewal of a license that  
2 authorizes only medical cannabis activity shall be one-half the  
3 fee applicable to a license authorizing both medical cannabis  
4 activity and commercial cannabis activity. The division shall  
5 charge five percent of the maximum fee assessed for a  
6 vertically integrated cannabis establishment licensee as the  
7 licensing fee for a cannabis producer microbusiness or an  
8 integrated cannabis microbusiness; provided that if a cannabis  
9 producer microbusiness or an integrated cannabis microbusiness  
10 enters into any business arrangement with another such entity  
11 with the purpose or having the effect of evading the  
12 limitations of the licensee's license, such licensee shall not  
13 be eligible for the lower fee prescribed for by this  
14 subsection.

15 C. The division shall collect all renewal fees,  
16 including the renewal fees for all licensed premises, at the  
17 time of renewal of a license.

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

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

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

6 SECTION 10. [NEW MATERIAL] CANNABIS TRAINING AND  
7 EDUCATION PROGRAM LICENSING--SANCTIONS.--

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

10 B. The division shall administer a licensing  
11 program for cannabis training and education programs.

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

19 SECTION 11. [NEW MATERIAL] CANNABIS INDUSTRY MANDATORY  
20 EDUCATION--APPLICATIONS--PERMIT REQUIRED--EDUCATION PROGRAM  
21 APPROVAL REQUIRED--ISSUANCE OR DENIAL OF A PERMIT OR APPROVAL--  
22 DEFINITIONS--PENALTIES.--

23 A. No later than January 1, 2022, the division  
24 shall promulgate reasonable rules consistent with this section  
25 and industry standards for issuance of a cannabis server

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1 permit; provided that a cannabis research laboratory or an  
2 employee of the laboratory is not required to obtain or possess  
3 a cannabis server permit while performing activities authorized  
4 pursuant to a cannabis research laboratory.

5 B. The program curriculum shall include the  
6 following subjects:

7 (1) the effect cannabis products have on the  
8 body and behavior, including the effect on a person's ability  
9 to operate a motor vehicle when under the influence of cannabis  
10 products;

11 (2) the effect cannabis products have on a  
12 person when used in combination with alcohol or legal or  
13 illegal drugs;

14 (3) state laws concerning cannabis licensure,  
15 cannabis liability issues and driving under the influence of  
16 cannabis;

17 (4) methods of recognizing problem cannabis  
18 products users and techniques for intervening with problem  
19 cannabis products users;

20 (5) methods of identifying false driver's  
21 licenses and other documents used as evidence of age and  
22 identity to prevent the sale of cannabis products to a person  
23 under twenty-one years of age pursuant to the Cannabis  
24 Regulation Act; and

25 (6) harm reduction practices related to

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1 cannabis use.

2 C. Beginning no later than January 1, 2022, the  
3 division shall issue cannabis server permits to persons twenty-  
4 one years of age or older who satisfy the requirements of this  
5 section and the rules promulgated by the division. Cannabis  
6 server permits shall not be issued to graduates of programs  
7 that are not approved by the division.

8 D. No person shall be employed as a server on a  
9 licensed premises unless that person obtains a cannabis server  
10 permit pursuant to the provisions of this section within thirty  
11 days of employment.

12 E. A cannabis server permit is the property of the  
13 state and shall be immediately returned to the division upon  
14 termination of employment or upon revocation or termination of  
15 a permit holder's permit or license.

16 F. Cannabis server permits shall be valid for a  
17 period of three years from the date the permit is issued and  
18 may be renewed upon providing proof that the permit holder has  
19 successfully completed up to four and one-half hours of  
20 continuing education and an examination as determined by the  
21 director.

22 G. In addition to any other penalties provided by  
23 law, the following penalties may be imposed for sales to a  
24 person under twenty-one years of age in violation of the  
25 provisions of the Cannabis Regulation Act or rules of the

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1 division:

2 (1) the director may suspend a cannabis server  
3 permit for a period of thirty days if the director finds that  
4 the server is guilty of a first offense of selling, serving or  
5 dispensing a cannabis product to a person under twenty-one  
6 years of age;

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

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

21 (4) no person whose cannabis server permit is  
22 suspended pursuant to the provisions of this section shall  
23 offer, sell or serve cannabis or a cannabis product as part of  
24 commercial cannabis activity in a cannabis consumption area  
25 during the period of suspension.

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1           H. As used in this section, "program" means a  
2 cannabis server education course and examination approved by  
3 the director to be administered by cannabis server permit  
4 education providers.

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

6           A. A local jurisdiction may:

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

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

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

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

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1 microbusiness was licensed.

2 B. A local jurisdiction shall not:

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

6 (2) completely prohibit the operation of a  
7 licensee;

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

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

15 (5) require an existing licensee at a licensed  
16 premises to relocate; or

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

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

20 A. Conduct by a licensee or a licensee  
21 representative that is allowed pursuant to a license and  
22 conduct by a person that allows property to be used by a  
23 licensee or a licensee representative for conduct allowed  
24 pursuant to a license is lawful, not a violation of state or  
25 local law and is not a basis for seizure or forfeiture of any

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1 property or assets under state or local law.

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

8 SECTION 14. [NEW MATERIAL] PROTECTION OF UNDERAGE  
9 PERSONS--PROVIDING CANNABIS PRODUCTS TO MINORS--PENALTIES.--

10 A. Except as allowed in the Cannabis Regulation Act  
11 or the Lynn and Erin Compassionate Use Act, it is a violation  
12 of the Cannabis Regulation Act for a person, including a person  
13 licensed pursuant to the provisions of the Cannabis Regulation  
14 Act, or an employee, agent or lessee of that person, if the  
15 person knows or has reason to know that the person is violating  
16 the provisions of this section, to knowingly and intentionally:

17 (1) sell, serve or give cannabis products to a  
18 person under twenty-one years of age or permit a person under  
19 twenty-one years of age to consume cannabis products on the  
20 licensed premises;

21 (2) buy cannabis products for or procure the  
22 sale or service of cannabis products to a person under twenty-  
23 one years of age;

24 (3) deliver cannabis products to a person  
25 under twenty-one years of age; or

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1 (4) aid or assist a person under twenty-one  
2 years of age to buy, procure or be served cannabis products.

3 B. It is not a violation of the Cannabis Regulation  
4 Act when:

5 (1) a parent, legal guardian or adult spouse  
6 of a person under twenty-one years of age serves cannabis  
7 products to that person under twenty-one years of age on real  
8 property, other than licensed premises, under the control of  
9 the parent, legal guardian or adult spouse; or

10 (2) cannabis products are used in the practice  
11 of religious beliefs.

12 C. Except as provided in the Lynn and Erin  
13 Compassionate Use Act, a licensee shall not employ a person  
14 younger than twenty-one years of age to engage in a commercial  
15 cannabis activity.

16 D. Except as allowed in the Cannabis Regulation Act  
17 or the Lynn and Erin Compassionate Use Act, a licensee shall  
18 not sell a cannabis product to a person younger than twenty-one  
19 years of age. The division shall suspend or revoke the license  
20 and may fine the licensee in an amount not to exceed ten  
21 thousand dollars (\$10,000), or both, when the division finds  
22 that any licensee or the licensee's employee or agent knowingly  
23 has sold, served or given any cannabis product to a person  
24 under twenty-one years of age.

25 E. The establishment of all of the following facts

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1 by a licensee prosecuted for a violation of Subsection D of  
2 this section and a cannabis server for a violation of  
3 Subsection G of Section 11 of this 2021 act shall constitute a  
4 defense:

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

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

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

23 F. Nothing in this section shall be construed or  
24 interpreted to prevent:

25 (1) the division from enforcing its rules

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1 against a licensee;

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

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

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

9 A. A vertically integrated cannabis establishment,  
10 cannabis retailer or integrated cannabis microbusiness may  
11 courier cannabis products.

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

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

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

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

24 SECTION 17. [NEW MATERIAL] CANNABIS PRODUCTS--PACKAGING  
25 AND LABELING--DEPARTMENT RULEMAKING.--

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1           A. Cannabis or cannabis extracts included in a  
2 cannabis product that is manufactured in compliance with  
3 applicable law are not considered to be an adulterant under  
4 state law.

5           B. The department shall adopt and promulgate  
6 reasonable rules consistent with industry standards for  
7 cannabis products that establish labeling and packaging  
8 requirements, including that:

9                   (1) packages shall be resealable,  
10 child-resistant, compostable and recyclable or made from  
11 recycled materials;

12                   (2) packages and labels shall not be designed  
13 to be appealing to a child; and

14                   (3) labels shall include:

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

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

23                           (c) potency and pesticide use;

24                           (d) a list of pharmacologically active  
25 ingredients;

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1 (e) for cannabis products containing  
2 non-cannabis ingredients, a list of all ingredients and a  
3 disclosure of nutritional information for the product or  
4 cannabis extract disclosed in the same manner required under  
5 federal law for nutritional labeling for food for human  
6 consumption;

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

9 (g) a logo designed by the division that  
10 is distinctive in design, color, size and location such that  
11 the logo notifies a reasonable person that the package contains  
12 cannabis; and

13 (h) a warning of possible adverse  
14 effects of consumption and the New Mexico poison and drug  
15 information center phone number.

16 SECTION 18. [NEW MATERIAL] TESTING CANNABIS PRODUCTS--  
17 HEALTH AND SAFETY OF EMPLOYEES--DEPARTMENT OF ENVIRONMENT.--

18 A. A cannabis testing laboratory's testing of  
19 cannabis products shall comply with the requirements set forth  
20 in applicable law and rules.

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

23 (1) ensure that testing of cannabis products  
24 occurs prior to distribution to cannabis retailers or sales by  
25 integrated cannabis microbusinesses;

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

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

5 (4) provide for recordkeeping;

6 (5) establish chain of custody protocols for  
7 testing sample transportation;

8 (6) ensure that testing samples are  
9 transported and stored in a manner that prevents degradation,  
10 contamination, tampering or diversion;

11 (7) specify protocols for testing sample  
12 collection that ensure accurate test results, including  
13 requiring that testing samples be collected by laboratory staff  
14 trained in testing sample collection; and

15 (8) require destruction of a tested batch of  
16 cannabis or of cannabis products if the testing samples from  
17 the tested batch or items indicate noncompliance with  
18 applicable health and safety standards promulgated by the  
19 division, unless remedial measures can bring the cannabis or  
20 cannabis products into compliance with the standards or the  
21 cannabis or cannabis products can be used for research  
22 purposes.

23 C. Beginning no later than April 1, 2022, the  
24 department of environment shall identify and annually provide  
25 to the division a set of updated certified reference materials

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1 for laboratory testing to be measured against.

2 D. The division shall inspect cannabis  
3 establishments to ensure the health and safety of employees in  
4 accordance with the Occupational Health and Safety Act and to  
5 determine compliance with rules promulgated by the  
6 environmental improvement board.

7 SECTION 19. [NEW MATERIAL] RESEARCHING CANNABIS--  
8 RULEMAKING.--

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

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

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

19 A. prohibit the advertisement and marketing of  
20 cannabis products:

21 (1) on radio, television or other broadcast  
22 media, internet pop-ups and mass transit vehicles; provided  
23 that the division shall not prohibit advertising and marketing  
24 to:

25 (a) subscribers of subscription-based

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1 radio, television or other broadcast media who are twenty-one  
2 years of age or older; or

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

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

8 (3) that uses predatory marketing and  
9 advertising practices targeting minors; or

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

12 B. require:

13 (1) all advertisements and marketing to  
14 accurately and legibly identify all persons responsible for its  
15 content; and

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

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

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

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

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

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

25 A. Conduct allowed pursuant to the Cannabis

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

7 B. An applicant for a professional or occupational  
8 license shall not be denied a license based solely on previous  
9 employment related to cannabis establishments. An employer may  
10 not refuse to employ or discipline an employee solely for  
11 conduct that is lawful pursuant to the Cannabis Regulation Act  
12 unless the person used, possessed or was impaired by cannabis  
13 products on the premises of the place of employment or during  
14 the hours of employment or unless failing to do so would put  
15 the employer in noncompliance with or violation of federal law  
16 or federal regulations 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 or denied health care based solely  
6 on conduct that is permitted by the Cannabis Regulation Act  
7 unless required by 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 authorized by the Cannabis  
20 Regulation Act or the medical cannabis program;

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

25 (3) transferring, without financial

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1 consideration, to a person who is twenty-one years of age or  
2 older not more than two ounces of cannabis flowers or not more  
3 than sixteen grams of cannabis extract purchased and obtained  
4 pursuant to the commercial cannabis activity authorized by the  
5 Cannabis Regulation Act or the medical cannabis program;

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

10 (5) possessing, using, displaying, purchasing,  
11 obtaining or manufacturing cannabis extracts using nonvolatile  
12 solvents, alcohol or carbon dioxide or no solvents;

13 (6) manufacturing, transporting or giving away  
14 to a person twenty-one years of age or older cannabis  
15 paraphernalia;

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

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

25 (9) smoking cannabis or cannabis products in

1 an area authorized pursuant to the Cannabis Regulation Act or a  
2 local jurisdiction;

3 (10) possessing, planting, cultivating,  
4 harvesting, drying, manufacturing cannabis products using  
5 nonvolatile solvents, alcohol or carbon dioxide or no solvents  
6 or transporting not more than six mature cannabis plants and  
7 six immature plants per person; provided that despite a  
8 household having multiple residents, no more than twelve mature  
9 plants may be present in one household; and further provided  
10 that if the person does not exceed the maximum number of  
11 cannabis plants, the person may possess the cannabis produced  
12 by the plants notwithstanding any weight limits; and

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

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

22 C. 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; or

10 (4) the possession of cannabis or cannabis  
11 extracts in proximity to any amount of cash or currency without  
12 evidence of cannabis quantity in excess of two ounces of  
13 cannabis flowers or cannabis extracts quantity in excess of  
14 sixteen grams.

15 D. Subsection C of this section shall not apply  
16 when a law enforcement officer is investigating whether a  
17 person is operating a vehicle or watercraft while intoxicated  
18 or under the influence of or impaired by alcohol or a drug or  
19 any combination thereof in violation of Section 66-8-102 or  
20 66-13-3 NMSA 1978.

21 SECTION 26. [NEW MATERIAL] LIMITS ON PERSONAL USE--  
22 PENALTIES.--

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

25 (1) allow a person to smoke cannabis products  
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1 in a public place, except in a cannabis consumption area; or  
2 (2) restrict the ability of an individual or  
3 private entity to prohibit conduct otherwise allowed in the  
4 Cannabis Regulation Act on the individual's or private entity's  
5 privately owned property.

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

9 C. As used in this section, "smoke" means to  
10 inhale, exhale, burn or carry any lighted or heated device or  
11 pipe or any other lighted or heated cannabis products intended  
12 for inhalation, whether natural or synthetic, in any manner or  
13 in any form.

14 D. A person less than eighteen years of age, the  
15 family of a person less than eighteen years of age or a person  
16 legally obligated to care for and support a person less than  
17 eighteen years age who is subject to the fines pursuant to  
18 Subsection B of this section shall not be required to pay any  
19 fees or fines pursuant to the Cannabis Regulation Act.

20 SECTION 27. [NEW MATERIAL] PERSONAL PRODUCTION OF  
21 CANNABIS--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 twenty-one 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 eighteen years of age or older  
13 but less than twenty-one years of age who intentionally  
14 produces:

15                   (1) up to six mature or immature cannabis  
16 plants shall be issued a penalty assessment pursuant to Section  
17 31-19A-1 NMSA 1978 and is subject to a fine of fifty dollars  
18 (\$50.00);

19                   (2) more than six mature or immature cannabis  
20 plants and up to twelve mature or immature cannabis plants is  
21 guilty of a misdemeanor and shall be sentenced pursuant to the  
22 provisions of Section 31-19-1 NMSA 1978; and

23                   (3) more than twelve mature or immature  
24 cannabis plants is guilty of a fourth degree felony and shall  
25 be sentenced pursuant to the provisions of Section 31-18-15

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1 NMSA 1978.

2 D. A person who is less than eighteen years of age  
3 who intentionally produces:

4 (1) up to six mature or immature cannabis  
5 plants is guilty of civil violation and shall be subject to:

6 (a) attendance at a four-hour evidence-  
7 based drug education and legal rights program at no cost to the  
8 minor; or

9 (b) four hours of community service; and

10 (2) six mature or immature cannabis plants or  
11 more shall be punished pursuant to the provisions of Section  
12 32A-2-19 NMSA 1978.

13 SECTION 28. [NEW MATERIAL] UNLICENSED SALES OF CANNABIS--  
14 PENALTIES.--

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

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

21 (1) attendance at a four-hour evidence-based  
22 drug education and legal rights program at no cost to the  
23 person; or

24 (2) four hours of community service.

25 C. Except as otherwise provided in Section 14 of

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1 the Cannabis Regulation Act, a person eighteen years of age or  
2 older who violates Subsection A of this section is guilty of a  
3 misdemeanor and shall be sentenced pursuant to the provisions  
4 of Section 31-19-1 NMSA 1978.

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

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

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

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

18 SECTION 29. [NEW MATERIAL] CANNABIS WITHIN RESTRICTED  
19 AREA--PENALTY.--Except as allowed in the Cannabis Regulation  
20 Act and the Lynn and Erin Compassionate Use Act, a person shall  
21 not possess or intentionally distribute any amount of a  
22 cannabis product on the premises of a school or daycare center  
23 unless the person is a qualified patient or a qualified  
24 patient's primary caregiver; provided that this section shall  
25 not apply to a person who possesses a cannabis product for

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

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

8 A. a person under twenty-one years of age shall not  
9 possess cannabis products. A person who violates this  
10 subsection is guilty of a civil violation and shall be subject  
11 to:

12 (1) attendance at a four-hour evidence-based  
13 drug education and legal rights program at no cost to the  
14 person; or

15 (2) four hours of community service; and

16 B. a person twenty-one years of age or older shall  
17 not possess more than two ounces of cannabis flowers or more  
18 than sixteen grams of cannabis extracts. A person who violates  
19 this subsection with respect to:

20 (1) more than two and up to eight ounces of  
21 cannabis flowers or more than sixteen grams of cannabis  
22 extracts is guilty of a misdemeanor and shall be sentenced  
23 pursuant to the provisions of Section 31-19-1 NMSA 1978; or

24 (2) more than eight ounces of cannabis flowers  
25 is guilty of a fourth degree felony and shall be sentenced

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1 pursuant to the provisions of Section 31-18-15 NMSA 1978.

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

9           SECTION 32. [NEW MATERIAL] EXPUNGEMENT OF ARREST AND  
10 CONVICTION RECORDS--PROCEDURE.--If a person is charged with any  
11 offense provided in Sections 27 through 31 of the Cannabis  
12 Regulation Act and the amount of cannabis product that is the  
13 basis of the charge is two ounces of cannabis flowers, sixteen  
14 grams of cannabis extract or less or six mature and six  
15 immature cannabis plants or less, whether or not the person is  
16 convicted, under the direction and review of the attorney  
17 general, all records held by a court, an agency of the state or  
18 a local jurisdiction that relate to the person's arrest or  
19 conviction shall be automatically expunged two years after the  
20 date of the person's conviction or the date of the person's  
21 arrest if there was no conviction. If the person is or was  
22 under eighteen years of age at the time of the arrest or  
23 conviction, the records shall be retained for two years or  
24 until the person is eighteen years of age, whichever comes  
25 first, and shall then be expunged. The records shall also be

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1 removed from any statewide criminal databases.

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

4 A. Under the direction and review of the attorney  
5 general, records held by a court, an agency of the state or a  
6 local jurisdiction that relate to a person's arrest or  
7 conviction for trafficking cannabis in violation of Section  
8 30-31-20 NMSA 1978, distribution of cannabis or possession with  
9 intent to distribute cannabis in violation of Section 30-31-22  
10 NMSA 1978 or possession of cannabis in violation of Section  
11 30-31-23 NMSA 1978 shall be expunged after two years from the  
12 date of the person's conviction or from the date of the  
13 person's arrest if there was no conviction. If the person was  
14 under eighteen years of age at the time of the arrest or  
15 conviction, the records shall be retained until the offender is  
16 eighteen years of age and shall then be expunged. The records  
17 shall also be removed from any statewide criminal databases.

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

23 SECTION 34. [NEW MATERIAL] RECALL OR DISMISSAL OF  
24 SENTENCES--INCARCERATED PERSONS.--

25 A. Within thirty days following the effective date

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1 of the Cannabis Regulation Act, under the direction and review  
2 of the attorney general, a correctional facility, a county jail  
3 or a juvenile correctional facility in which a person is  
4 currently incarcerated for an offense that is no longer a crime  
5 pursuant to the provisions of the Cannabis Regulation Act, or  
6 that would have resulted in a lesser offense if that act had  
7 been in effect at the time of the offense, shall notify the  
8 court that the convicted person's case may be:

9 (1) reopened to consider possible recall or  
10 dismissal of the person's sentence; or

11 (2) expunged pursuant to the provisions of the  
12 Criminal Record Expungement Act.

13 B. A judge may enter an order deferring the  
14 imposition of a sentence or enter an order suspending the  
15 execution of a sentence pursuant to Section 31-20-3 NMSA 1978.

16 C. A person who is currently or in the past was  
17 incarcerated for an offense that is no longer a crime may at  
18 any time petition to modify the person's criminal sentence or  
19 to have the person's conviction vacated.

20 D. A court shall reopen a case pursuant to  
21 Subsection A of this section and dismiss the person's sentence  
22 because it is legally invalid.

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

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1 guilty of a lesser offense if the Cannabis Regulation Act had  
2 been in effect at the time of the offense is entitled to have  
3 the conviction dismissed and destroyed because the prior  
4 conviction is now legally invalid or redesignated as a penalty  
5 assessment citation. The court shall dismiss and destroy the  
6 records of the conviction as legally invalid because of the  
7 enactment of the Cannabis Regulation Act, unless the court  
8 makes a finding that the conviction is not legally invalid or  
9 was not redesignated as a penalty assessment citation pursuant  
10 to that act.

11 F. On or before January 1, 2022, the department of  
12 public safety shall review the records in the state criminal  
13 history databases and shall identify all past convictions that  
14 are potentially eligible for recall or dismissal of sentence,  
15 dismissal and sealing or redesignation pursuant to the Cannabis  
16 Regulation Act. The department shall notify the corrections  
17 department, prosecutors and the public defender department of  
18 all cases that are eligible for recall or dismissal of  
19 sentence, dismissal and sealing or redesignation.

20 G. The prosecutor of the case shall have until July  
21 1, 2022, to review all cases and determine whether to challenge  
22 the recall or dismissal of sentence, dismissal and sealing or  
23 redesignation.

24 H. The prosecutor of the case may challenge the  
25 resentencing of a person pursuant to this section when the

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1 person does not meet the criteria established under the  
2 Cannabis Regulation Act.

3 I. On or before July 1, 2022, the prosecutor of the  
4 case shall inform the court and the public defender's office in  
5 the prosecutor's county when the prosecutor of the case is  
6 challenging a particular recall or dismissal of sentence,  
7 dismissal and sealing or redesignation. The prosecutor of the  
8 case shall inform the court when the prosecutor of the case is  
9 not challenging a particular recall or dismissal of sentence,  
10 dismissal and sealing or redesignation.

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

15 K. If the prosecutor of the case does not challenge  
16 the recall or dismissal of sentence, dismissal and sealing or  
17 redesignation by July 1, 2022, the court shall notify the  
18 department of public safety that a case has been dismissed.  
19 Upon notice, the department of public safety shall erase the  
20 arrest record pertaining to the offense; provided that if the  
21 arrest included multiple charges, only the related charge shall  
22 be expunged.

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

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1 M. The provisions of this section shall apply  
2 equally to juvenile delinquency adjudications and convictions  
3 of a juvenile person if the juvenile would not have been guilty  
4 of an offense or would have been guilty of a lesser offense as  
5 provided in the Cannabis Regulation Act.

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

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

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

23 SECTION 37. [NEW MATERIAL] REPORTING REQUIREMENTS FOR  
24 CANNABIS-RELATED VIOLATIONS.--

25 A. Within sixty days following the end of each

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1 fiscal year, every police and sheriff's department shall report  
2 on a form approved by the department of public safety the total  
3 number of arrests, citations and penalty assessments for  
4 cannabis-related violations broken down by:

5 (1) category and penalty level; and

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

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

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

17 D. For purposes of this section, "cannabis-related  
18 violation" means a violation of any of Sections 27 through 31  
19 of the Cannabis Regulation Act or a violation of Section  
20 66-8-102 or 66-13-3 NMSA 1978 if the basis for the arrest or  
21 citation is impairment due to the use of cannabis products.

22 SECTION 38. [NEW MATERIAL] EMPLOYER PROTECTIONS--  
23 EXEMPTIONS.--

24 A. Unless there is an agreement between the  
25 employer and employee, nothing in the Cannabis Regulation Act

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1 shall:

2 (1) restrict an employer's ability to prohibit  
3 or take an adverse employment action against an employee for  
4 impairment by or possession or use of intoxicating substances  
5 at work or during work hours;

6 (2) require an employer to commit any act that  
7 would cause the employer to be noncompliant with or in  
8 violation of federal law or federal regulations or that would  
9 result in the loss of a federal contract or federal funding; or

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

17 B. The Cannabis Regulation Act does not apply to an  
18 employee of an employer subject to the provisions of Title II  
19 of the federal Railway Labor Act.

20 C. Nothing in the Cannabis Regulation Act shall be  
21 construed to invalidate, diminish or otherwise interfere with  
22 any collective bargaining agreement nor shall it be construed  
23 to invalidate, diminish or otherwise interfere with any party's  
24 power to collectively bargain such an agreement, or to an  
25 employer or employee.

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

7           **SECTION 39. [NEW MATERIAL] APPEALS.--**

8           A. No rule shall be adopted by a state agency or  
9 board pursuant to the Cannabis Regulation Act until after a  
10 public hearing by the state agency, in accordance with the  
11 State Rules Act.

12           B. Any person who is or may be affected by a rule  
13 or decision adopted by a state agency or the division pursuant  
14 to the Cannabis Regulation Act may appeal to the court of  
15 appeals for further relief.

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

18           D. All appeals pursuant to Subsection B of this  
19 section shall be taken to the court of appeals within thirty  
20 days after filing of the rule under the State Rules Act or  
21 final decision of the division.

22           E. The procedure for perfecting an appeal to the  
23 court of appeals under this section consists of the timely  
24 filing of a notice of appeal with a copy attached of the rule  
25 or the final decision of the division from which the appeal is

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1 taken pursuant to NMRA 12-601.

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

3 Records of the division are subject to the Inspection of Public  
4 Records Act. Proceedings of the division are subject to the  
5 Open Meetings Act.

6 SECTION 41. [NEW MATERIAL] INTRASTATE SOURCE.--Except as

7 provided in Section 42 of the Cannabis Regulation Act, all  
8 cannabis products pursuant to the commercial cannabis activity  
9 authorized by the Cannabis Regulation Act or the medical  
10 cannabis program shall be derived from a source originating  
11 within New Mexico.

12 SECTION 42. [NEW MATERIAL] IMPORTS AND EXPORTS.--

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

19 (1) ensure enforceable public health and  
20 safety standards;

21 (2) include a system to regulate and track the  
22 interstate delivery of cannabis products; and

23 (3) ensure that any cannabis products  
24 delivered into this state, prior to sale to a consumer, are  
25 tested, packaged and labeled pursuant to New Mexico statutes

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1 and rules.

2 B. Notwithstanding any other provision of law and  
3 in accordance with an agreement described in Subsection A of  
4 this section:

5 (1) a licensee permitted to courier cannabis  
6 products may deliver cannabis products to a person located in,  
7 and authorized to receive cannabis products by, another  
8 jurisdiction in the United States; and

9 (2) a licensee permitted to receive cannabis  
10 products may receive cannabis products from a person located  
11 in, and authorized to export cannabis products by, another  
12 jurisdiction in the United States.

13 C. This section shall take effect on the earlier  
14 date on which:

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

18 (2) the United States department of justice  
19 issues an opinion or memorandum allowing or tolerating the  
20 interstate transfer of cannabis products between cannabis-  
21 related businesses as authorized by state law.

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

23 A. The "cannabis regulation fund" is created in the  
24 state treasury. The fund consists of appropriations, gifts,  
25 grants, donations and fees collected by the division pursuant

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1 to the Cannabis Regulation Act and the medical cannabis program  
 2 administered by the division. Any unexpended or unencumbered  
 3 balance remaining at the end of a fiscal year shall revert to  
 4 the general fund.

5 B. Money in the cannabis regulation fund is subject  
 6 to appropriation by the legislature to fund the division, the  
 7 department of health, the department of environment, the New  
 8 Mexico department of agriculture, the taxation and revenue  
 9 department and the department of public safety for the purposes  
 10 of carrying out the provisions of the Cannabis Regulation Act  
 11 and the Lynn and Erin Compassionate Use Act.

12 SECTION 44. [NEW MATERIAL] COMMUNITY GRANTS REINVESTMENT  
 13 FUND--COMMUNITY GRANTS REINVESTMENT PROGRAM.--

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

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1 secretary of finance and administration pursuant to vouchers  
2 signed by the secretary of health or the secretary's authorized  
3 representative.

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

9 (1) developing and executing a comprehensive  
10 and sustained multilingual public education campaign that is  
11 aimed to reduce drug-related harms for persons under twenty-one  
12 years of age and educates about responsible use of cannabis  
13 products by adults;

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

20 (3) funding public health and substance abuse  
21 prevention programming;

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

24 (5) funding promising practices or evidence-  
25 based drug education programming based on the principles of

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1 harm reduction, including leadership development, family  
2 engagement and youth development, that is designed to prevent  
3 and reduce substance use, improve access to early childhood  
4 education, improve grades kindergarten through twelve school  
5 retention and performance and create economic security for  
6 families;

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

23 (7) funding research and development of  
24 products related to medical and commercial use of cannabis  
25 products.

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1 C. A qualified community-based nonprofit  
2 organization or governmental entity may apply for a grant from  
3 the community grants reinvestment fund. Applications shall be  
4 reviewed by the department of health.

5 SECTION 45. [NEW MATERIAL] LOW-INCOME MEDICAL PATIENT  
6 SUBSIDY FUND.--

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

17 B. The low-income medical patient subsidy fund is  
18 created for the purpose of supporting qualified patients who  
19 participate in the medical cannabis subsidy program created  
20 pursuant to Section 4 of the Cannabis Regulation Act.

21 C. The department of health, in consultation with  
22 the division, shall promulgate rules to govern the eligibility  
23 and process for determining the amounts of assistance for  
24 qualified patients and the method for administering the medical  
25 cannabis subsidy program.

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1           D. Money in the low-income medical patient subsidy  
 2 fund shall be disbursed on warrants signed by the secretary of  
 3 finance and administration pursuant to vouchers signed by the  
 4 secretary of health or the secretary's authorized  
 5 representative.

6           **SECTION 46. [NEW MATERIAL] NO PLANT LIMIT.--**No state  
 7 agency shall limit the number of cannabis plants that a  
 8 licensee pursuant to the Cannabis Regulation Act may produce,  
 9 except for limits set in statute for an integrated cannabis  
 10 microbusiness or a cannabis producer microbusiness.

11           **SECTION 47. [NEW MATERIAL] INDIAN NATIONS, TRIBES AND**  
 12 **PUEBLOS--INTERGOVERNMENTAL AGREEMENTS.--**

13           A. The department may enter into one or more  
 14 intergovernmental agreements with any tribal government to  
 15 efficiently coordinate the cross-jurisdictional administration  
 16 of the laws of this state and the laws of tribal governments  
 17 relating to the use of cannabis products set forth in the Lynn  
 18 and Erin Compassionate Use Act and the Cannabis Regulation Act.  
 19 The agreements may include, without limitation, provisions  
 20 relating to:

- 21                           (1) criminal and civil law enforcement;
- 22                           (2) regulatory issues relating to the
- 23 possession, delivery, production, processing or use of cannabis
- 24 products;
- 25                           (3) the administration of laws relating to

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1 taxation;

2 (4) any immunity, preemption or conflict of  
3 law relating to the possession, delivery, production,  
4 processing or use of cannabis products; and

5 (5) the resolution of any disputes between a  
6 tribal government and the state, which may include, without  
7 limitation, the use of mediation or other nonjudicial  
8 processes.

9 B. An agreement entered into pursuant to this  
10 section shall:

11 (1) provide for the preservation of public  
12 health and safety;

13 (2) ensure the security of cannabis  
14 establishments and the corresponding facilities on tribal land;

15 (3) establish provisions regulating business  
16 involving cannabis that passes between tribal land and non-  
17 tribal land in New Mexico; and

18 (4) be negotiated in good faith, which shall  
19 respect and protect state and tribal sovereign immunity.

20 C. As used in this section, "tribal government"  
21 means a federally recognized Indian nation, tribe or pueblo  
22 located wholly or partially in the state."

23 SECTION 48. A new section of the Public School Code is  
24 enacted to read:

25 "[NEW MATERIAL] SUBSTANCE ABUSE EDUCATION.--The department  
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1 shall require that by January 1, 2023 all public schools  
2 annually provide to students in sixth through twelfth grades  
3 evidence-based drug education programs that are based on  
4 principles of harm reduction and are designed to prevent and  
5 reduce the harms of substance use and improve school retention  
6 and performance."

7 SECTION 49. [NEW MATERIAL] COOPERATION OF AGENCIES.--All  
8 state agencies shall cooperate with the cannabis control  
9 division of the regulation and licensing department in carrying  
10 out the provisions of the Cannabis Regulation Act.

11 SECTION 50. [NEW MATERIAL] SHORT TITLE.--Sections 50  
12 through 57 of this act may be cited as the "Cannabis Tax Act".

13 SECTION 51. [NEW MATERIAL] DEFINITIONS.--As used in the  
14 Cannabis Tax Act:

15 A. "cannabis":

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

23 (2) does not include:

24 (a) the mature stalks of the plant;  
25 fiber produced from the stalks; oil or cake made from the seeds

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1 of the plant; any other compound, manufacture, salt,  
2 derivative, mixture or preparation of the mature stalks, fiber,  
3 oil or cake; or the sterilized seed of the plant that is  
4 incapable of germination; or

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

8 B. "cannabis extract":

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

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

16 C. "cannabis product" means a product that is or  
17 that contains cannabis or cannabis extracts, including edible  
18 or topical products that may also contain other ingredients;

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

24 E. "county area" means that portion of a county  
25 located outside the boundaries of any municipality, except that

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1 for H class counties, "county area" means the entire county;

2 F. "department" means the taxation and revenue  
3 department;

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

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

14 SECTION 52. [NEW MATERIAL] CANNABIS EXCISE TAX.--

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

18 B. The rate of the cannabis excise tax is eight  
19 percent and shall be applied to the price paid for a cannabis  
20 product.

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

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1           SECTION 53. [NEW MATERIAL] MUNICIPAL CANNABIS TAX.--

2           A. A majority of the members of the governing body  
3 of a municipality may enact an ordinance imposing an excise tax  
4 on a cannabis retailer that sells cannabis products in the  
5 municipality. The tax imposed pursuant to this section may be  
6 referred to as the "municipal cannabis tax".

7           B. The rate of the municipal cannabis tax shall be  
8 no more than four percent, which shall be applied to the price  
9 paid for the cannabis product.

10          C. The governing body of a municipality, at the  
11 time of enacting an ordinance imposing a municipal cannabis  
12 tax, may dedicate the revenue for any municipal purpose. The  
13 imposition of an increment of the municipal cannabis tax shall  
14 not be subject to referendum.

15          D. An ordinance imposing, amending or repealing a  
16 tax or an increment of tax authorized by the Cannabis Tax Act  
17 shall be effective on July 1 or January 1, whichever date  
18 occurs first after the expiration of at least three months from  
19 the date the adopted ordinance is mailed or delivered to the  
20 department. The ordinance shall include that effective date.

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

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1           SECTION 54.   ~~[NEW MATERIAL]~~ COUNTY CANNABIS TAX.--

2           A.   The majority of the members of the governing  
3 body of a county may enact an ordinance imposing an excise tax  
4 on a cannabis retailer that sells cannabis products in the  
5 county area.  The tax imposed pursuant to this section may be  
6 referred to as the "county cannabis tax".

7           B.   The rate of the county cannabis tax shall be no  
8 more than four percent and is applied to the price paid for the  
9 cannabis product.

10          C.   The governing body of a county, at the time of  
11 enacting an ordinance imposing a county cannabis tax, may  
12 dedicate the revenue for any county purpose.  The imposition of  
13 an increment of the county cannabis tax shall not be subject to  
14 referendum.

15          D.   An ordinance imposing, amending or repealing a  
16 tax or an increment of tax authorized by the Cannabis Tax Act  
17 shall be effective on July 1 or January 1, whichever date  
18 occurs first after the expiration of at least three months from  
19 the date the adopted ordinance is mailed or delivered to the  
20 department.  The ordinance shall include that effective date.

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

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1           SECTION 55. [NEW MATERIAL] DATE PAYMENT DUE.--The taxes  
2 imposed pursuant to the Cannabis Tax Act are to be paid on or  
3 before the twenty-fifth day of the month following the month in  
4 which the taxable sale occurs.

5           SECTION 56. [NEW MATERIAL] ADMINISTRATIVE CHARGE.--The  
6 department may deduct an amount not to exceed three percent of  
7 the proceeds of the municipal cannabis tax and county cannabis  
8 tax for the reasonable costs for administering those taxes.

9           SECTION 57. [NEW MATERIAL] INTERPRETATION OF THE CANNABIS  
10 TAX ACT--ADMINISTRATION AND ENFORCEMENT OF TAX.--The department  
11 shall administer and enforce the collection of the cannabis  
12 excise tax, municipal cannabis tax and county cannabis tax  
13 pursuant to the Tax Administration Act.

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

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

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, municipal  
 16 compensating tax or municipal cannabis tax imposed by that  
 17 municipality;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 J. As used in this section:

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

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

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

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

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1 month;

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

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

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

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

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

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

25 A. "adjusted gross income" means adjusted gross

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1 income as defined in Section 62 of the Internal Revenue Code,  
2 as that section may be amended or renumbered;

3 B. "base income":

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

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

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

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1 state or local bond; [~~and~~]

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

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

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

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

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

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



1 secretary;

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

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

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

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

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

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

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

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

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1 (21) gifts;

2 M. "modified gross income" excludes:

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

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

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

13 (4) payments for credits and rebates pursuant  
14 to the Income Tax Act and made for a credit pursuant to Section  
15 7-3-9 NMSA 1978;

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

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

25 (2) an amount equal to the itemized deductions

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1 defined in Section 63 of the Internal Revenue Code, as that  
2 section may be amended or renumbered, allowed the taxpayer for  
3 the taxpayer's taxable year less the amount excluded pursuant  
4 to Paragraph (1) of this subsection and less the amount of  
5 state and local income and sales taxes included in the  
6 taxpayer's itemized deductions;

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

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

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

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

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

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

25 (7) for taxable years beginning on or after

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

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

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

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

25 (8) for taxable years beginning on or after

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1 January 1, 2013, an amount equal to the sum of any net  
2 operating loss carryover deductions to that year claimed and  
3 allowed; provided that the amount of any net operating loss  
4 carryover may be excluded only as follows:

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

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

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

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1 (9) for taxable years beginning on or after  
2 January 1, 2011, an amount equal to the amount included in  
3 adjusted gross income that represents a refund of state and  
4 local income and sales taxes that were deducted for federal tax  
5 purposes in taxable years beginning on or after January 1,  
6 2010;

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

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

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

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

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

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

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

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

25           W. "surviving spouse" means "surviving spouse" as



1 generally defined for federal income tax purposes;

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

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

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

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

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

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

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

25 C. "base income" means the federal taxable income

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

7 (1) adding to that income:

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

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

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

18 (2) subtracting from that income:

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

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

24 (c) an amount equal to one hundred  
25 percent of the subpart F income, as that term is defined in

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1 Section 952 of the Internal Revenue Code, as that section may  
2 be amended or renumbered, included in the income of the  
3 corporation; and

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

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

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

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

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1 trust are owned directly, indirectly or constructively by the  
2 taxpayer during all or a part of the taxpayer's taxable year;

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

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

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

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

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

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

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

24 G. "corporation" means corporations, joint stock  
25 companies, real estate trusts organized and operated under the

1 Real Estate Trust Act, financial corporations and banks, other  
2 business associations and, for corporate income tax purposes,  
3 partnerships and limited liability companies taxed as  
4 corporations under the Internal Revenue Code;

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

9 I. "filing group" means a group of corporations  
10 properly included in a return pursuant to Section 7-2A-8.3 NMSA  
11 1978 for a particular taxable year;

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

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

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

25 (2) reduced by:

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

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

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

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

16 M. "net income" means:

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

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

25 N. "net operating loss carryover" means the

1 apportioned net loss properly reported on an original or  
2 amended tax return for taxable years beginning on or after  
3 January 1, 2020 by the taxpayer:

4 (1) plus:

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

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

15 (2) minus:

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

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

24 0. "net operating loss deduction" means the portion  
25 of the net operating loss carryover that may be deducted from

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

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

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

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

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

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1 Administration Act and filed with the department by or on  
2 behalf of any person;

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

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

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

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

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

24 Y. "taxable year" means the calendar year or fiscal  
25 year upon the basis of which the net income is computed under

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1 the Corporate Income and Franchise Tax Act and includes, in the  
2 case of the return made for a fractional part of a year under  
3 the provisions of that act, the period for which the return is  
4 made;

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

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

- 17 (1) related through common ownership; and  
18 (2) economically interdependent with one  
19 another as demonstrated by the following factors:  
20 (a) centralized management;  
21 (b) functional integration; and  
22 (c) economies of scale;

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

- 25 (1) corporations that are exempt from

1 corporate income tax pursuant to Section 7-2A-4 NMSA 1978; and

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

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

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

14 "9-16-4. DEPARTMENT ESTABLISHED.--The "regulation and  
15 licensing department" is created in the executive branch. The  
16 department shall not be a cabinet department. The department  
17 shall consist of but not be limited to the following divisions:

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

25 SECTION 64. Section 24-16-12 NMSA 1978 (being Laws 2007,

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1 Chapter 20, Section 4, as amended) is amended to read:

2 "24-16-12. SMOKING-PERMITTED AREAS.--Notwithstanding any  
3 other provision of the Dee Johnson Clean Indoor Air Act,  
4 smoking-permitted areas include the following:

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

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

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

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

24 E. a state-licensed gaming facility, casino or  
25 bingo parlor;

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1 F. designated outdoor smoking areas;

2 G. private clubs;

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

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

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

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

17 SECTION 65. A new section of the Dee Johnson Clean Indoor  
18 Air Act is enacted to read:

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

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

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

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

10 SECTION 66. A new section of the Lynn and Erin  
11 Compassionate Use Act is enacted to read:

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

16 SECTION 67. Section 26-2B-3 NMSA 1978 (being Laws 2007,  
17 Chapter 210, Section 3, as amended) is amended to read:

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

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

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1 of cannabis for a period of three months and that is derived  
 2 solely from an intrastate source;

3 B. "cannabis":

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

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

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

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

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1 ~~establishment to:~~

2 ~~(1) a qualified patient;~~

3 ~~(2) a primary caregiver; or~~

4 ~~(3) another cannabis establishment;~~

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

6 ~~(1) a licensed cannabis courier;~~

7 ~~(2) a licensed cannabis testing facility;~~

8 ~~(3) a licensed cannabis manufacturer;~~

9 ~~(4) a licensed cannabis producer; or~~

10 ~~(5) such other person that the department may~~

11 ~~by rule approve for participation in the medical cannabis~~

12 ~~program;~~

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

14 ~~licensed by the department to:~~

15 ~~(1) manufacture cannabis products;~~

16 ~~(2) package, transport or courier cannabis~~  
17 ~~products;~~

18 ~~(3) have cannabis products tested by a~~  
19 ~~cannabis testing facility;~~

20 ~~(4) purchase, obtain, sell and transport~~  
21 ~~cannabis products to other cannabis establishments; and~~

22 ~~(5) prepare products for personal production~~  
23 ~~license holders;~~

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

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



1 ~~distribute and manufacture cannabis and cannabis products and~~  
2 ~~sell wholesale or by direct sale to qualified patients and~~  
3 ~~primary caregivers;]~~

4 C. "cannabis extract":

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

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

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

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

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

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

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

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~~cannabis testing facility from cannabis establishments;~~

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

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

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- 1 (19) severe chronic pain;  
 2 (20) severe anorexia or cachexia;  
 3 (21) spasmodic torticollis;  
 4 (22) ulcerative colitis; or  
 5 (23) any other medical condition, medical  
 6 treatment or disease as approved by the department;

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

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

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

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

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

25 ~~[O.]~~ "licensee representative" means an owner,

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

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

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

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

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

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

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

3           ~~[V.]~~ Q. "qualified patient" means a resident of New  
4 Mexico who has been diagnosed by a practitioner as having a  
5 debilitating medical condition and has received written  
6 certification and a registry identification card pursuant to  
7 the Lynn and Erin Compassionate Use Act on the basis of having  
8 been diagnosed, in person or via telemedicine, by a  
9 practitioner as having a debilitating medical condition;  
10 ~~[provided that a practitioner may only issue a written~~  
11 ~~certification on the basis of an evaluation conducted via~~  
12 ~~telemedicine if the practitioner has previously examined the~~  
13 ~~patient in person;~~

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

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

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

25                   (2) to a primary caregiver that identifies the

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

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

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

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

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

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1           SECTION 68. Section 26-2B-4 NMSA 1978 (being Laws 2007,  
2 Chapter 210, Section 4, as amended) is amended to read:

3           "26-2B-4. EXEMPTION FROM CRIMINAL AND CIVIL PENALTIES FOR  
4 THE MEDICAL USE OF CANNABIS.--

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

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

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

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1 products that relate to the conduct are not contraband or  
2 subject to seizure or forfeiture pursuant to the Controlled  
3 Substances Act or the Forfeiture Act:

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

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

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

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



1 the Lynn and Erin Compassionate Use Act; or

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

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

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

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

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

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

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

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

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

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

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1 ~~local law and is not a basis for seizure or forfeiture of~~  
2 ~~property or assets under state or local law.~~

3           ~~H.~~ G. Any property interest that is possessed,  
4 owned or used in connection with the medical use of cannabis,  
5 or acts incidental to such use, shall not be harmed, neglected,  
6 injured or destroyed while in the possession of state or local  
7 law enforcement officials. Any such property interest shall  
8 not be forfeited under any state or local law providing for the  
9 forfeiture of property except as provided in the Forfeiture  
10 Act. Cannabis, paraphernalia or other property seized from a  
11 qualified patient or primary caregiver in connection with the  
12 claimed medical use of cannabis shall be returned immediately  
13 upon the determination by a court or prosecutor that the  
14 qualified patient or primary caregiver is entitled to the  
15 protections of the provisions of the Lynn and Erin  
16 Compassionate Use Act, as may be evidenced by a failure to  
17 actively investigate the case, a decision not to prosecute, the  
18 dismissal of charges or acquittal.

19           ~~[F.]~~ H. A state or local government shall not  
20 impose a criminal, civil or administrative penalty on a  
21 licensee [~~or a licensee representative~~], or on a person that  
22 allows property to be used by a licensee [~~or a licensee~~  
23 ~~representative~~] pursuant to a license, solely for conduct that  
24 is allowed pursuant to a license.

25           ~~[J.]~~ I. A person shall not be subject to arrest or

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1 prosecution for a cannabis-related offense for simply being in  
2 the presence of the medical use of cannabis as permitted under  
3 the provisions of the Lynn and Erin Compassionate Use Act."

4 SECTION 69. Section 26-2B-5 NMSA 1978 (being Laws 2007,  
5 Chapter 210, Section 5, as amended by Laws 2019, Chapter 247,  
6 Section 5 and by Laws 2019, Chapter 261, Section 2) is amended  
7 to read:

8 "26-2B-5. PROHIBITIONS, RESTRICTIONS AND LIMITATIONS ON  
9 THE MEDICAL USE OF CANNABIS--CRIMINAL PENALTIES.--

10 A. Participation in a medical use of cannabis  
11 program by a qualified patient or primary caregiver does not  
12 relieve the qualified patient or primary caregiver from:

13 (1) criminal prosecution or civil penalties  
14 for activities not authorized in the Lynn and Erin  
15 Compassionate Use Act;

16 (2) liability for damages or criminal  
17 prosecution arising out of the operation of a vehicle while  
18 under the influence of cannabis; or

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

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

23 (b) at a public park, recreation center,  
24 youth center or other public place.

25 B. A person who makes a fraudulent representation

1 to a law enforcement officer about the person's participation  
 2 in a medical use of cannabis program to avoid arrest or  
 3 prosecution for a cannabis-related offense is guilty of a petty  
 4 misdemeanor and shall be sentenced in accordance with the  
 5 provisions of Section 31-19-1 NMSA 1978.

6 ~~[G. If a licensee or the licensee's representative  
 7 sells, distributes, dispenses or transfers cannabis to a person  
 8 not approved by the department pursuant to the Lynn and Erin  
 9 Compassionate Use Act or obtains or transports cannabis outside  
 10 New Mexico, the licensee or the licensee's representative shall  
 11 be subject to arrest, prosecution and civil or criminal  
 12 penalties pursuant to state law.]"~~

13 SECTION 70. Section 26-2B-6.1 NMSA 1978 (being Laws 2019,  
 14 Chapter 247, Section 8) is amended to read:

15 "26-2B-6.1. PROGRAM REGULATION AND ADMINISTRATION--FEES--  
 16 LIMITATIONS [RULEMAKING]--LICENSURE--ISSUANCE--REPORTING.--

17 A. The department shall ~~[(1) regulate and  
 18 administer the medical cannabis program; and~~

19 ~~(2) collect fees from licensees; provided that  
 20 the department shall not charge a fee relating to the medical  
 21 cannabis registry.~~

22 B. ~~By December 20, 2019, the secretary of health  
 23 shall adopt and promulgate rules to establish fees for licenses  
 24 for cannabis producers, cannabis manufacturers, cannabis  
 25 couriers, cannabis testing facilities or any other cannabis~~

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1 ~~establishments whose operations are authorized pursuant to the~~  
2 ~~Lynn and Erin Compassionate Use Act.~~

3 ~~C. The department shall establish application and~~  
4 ~~licensing fees applicable to licenses for activity related to~~  
5 ~~the medical cannabis program.~~

6 ~~D. The department shall administer licensure for~~  
7 ~~medical cannabis program activity provided for in the Lynn and~~  
8 ~~Erin Compassionate Use Act, which shall include personal~~  
9 ~~production licenses and licenses for:~~

- 10 ~~(1) cannabis couriers;~~
- 11 ~~(2) cannabis manufacturers;~~
- 12 ~~(3) cannabis producers;~~
- 13 ~~(4) cannabis testing facilities; and~~
- 14 ~~(5) any other activity or person as deemed~~

15 ~~necessary by the department.~~

16 ~~E. The department shall not issue any other license~~  
17 ~~provided for in this section to a cannabis testing facility~~  
18 ~~licensee] establish an application and licensing fee for~~  
19 ~~personal production licenses.~~

20 ~~[F.] B. The department shall administer personal~~  
21 ~~production licenses.~~

22 ~~C. In consultation with qualified patients and~~  
23 ~~primary caregivers, the department shall produce an assessment~~  
24 ~~report annually, which shall be published to the public and~~  
25 ~~that includes at a minimum an evaluation of:~~

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

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

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

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

12 ~~(2) cannabis consumption is not visible from~~  
13 ~~any public place or from outside the cannabis consumption area;~~  
14 ~~and~~

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

18 SECTION 71. Section 26-2B-7 NMSA 1978 (being Laws 2007,  
19 Chapter 210, Section 7, as amended) is amended to read:

20 "26-2B-7. REGISTRY IDENTIFICATION CARDS--DEPARTMENT  
21 RULES--DUTIES--RECIPROCITY.--

22 A. After consultation with the advisory board, the  
23 department shall promulgate rules in accordance with the State  
24 Rules Act to implement the purpose of the Lynn and Erin  
25 Compassionate Use Act. The rules shall:

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1 (1) govern the manner in which the department  
2 will consider applications for registry identification cards  
3 and for the renewal of identification cards for qualified  
4 patients and primary caregivers;

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

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

14 (4) set forth additional medical conditions,  
15 medical treatments or diseases to the list of debilitating  
16 medical conditions that qualify for the medical use of cannabis  
17 as recommended by the advisory board;

18 (5) identify requirements for the licensure of  
19 ~~[cannabis producers and cannabis production facilities,~~  
20 ~~cannabis couriers, cannabis manufacturers, cannabis testing~~  
21 ~~facilities and any other cannabis establishments that the~~  
22 ~~department may license]~~ qualified patients to produce cannabis  
23 for personal medical use and set forth procedures to obtain  
24 licenses;

25 ~~[(6) develop a distribution system for the~~



1 ~~medical cannabis program that provides for:~~

2 ~~(a) cannabis production facilities~~  
3 ~~within New Mexico housed on secured grounds and operated by~~  
4 ~~licensees; and~~

5 ~~(b) distribution of cannabis to~~  
6 ~~qualified patients or their primary caregivers to take place at~~  
7 ~~locations that are designated by the department and that are~~  
8 ~~not within three hundred feet of any school, church or daycare~~  
9 ~~center that were in existence in that location before the~~  
10 ~~licensee distributing medical cannabis nearby was licensed;~~  
11 ~~provided that this distance requirement shall not apply to~~  
12 ~~distribution at the home of the qualified patient or primary~~  
13 ~~caregiver;~~

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

18 ~~(8)] (6) determine additional duties and~~  
19 ~~responsibilities of the advisory board; and~~

20 ~~[(9)] (7) be revised and updated as necessary.~~

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

25 (1) a written certification;

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

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

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

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

17 D. The department shall issue a registry  
18 identification card within five days of approving an  
19 application, and a card shall expire three years after the date  
20 of issuance.

21 E. A registry identification card shall contain:

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

24 (2) the date of issuance and expiration date  
25 of the registry identification card; and

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1 (3) other information that the department may  
2 require by rule.

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

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

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

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

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

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1 identification card; [~~or~~]

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

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

6 I. By [~~March 1, 2020~~] January 1, 2022, the  
7 secretary of health shall adopt and promulgate rules relating  
8 to medical cannabis program reciprocity. The department may  
9 identify requirements for the granting of reciprocity,  
10 including provisions limiting the period of time in which a  
11 reciprocal participant may participate in the medical cannabis  
12 program.

13 J. A reciprocal participant:

14 (1) may participate in the medical cannabis  
15 program in accordance with department rules;

16 (2) shall not be required to comply with the  
17 registry identification card application and renewal  
18 requirements established pursuant to this section and  
19 department rules;

20 (3) shall at all times possess proof of  
21 authorization to participate in the medical cannabis program of  
22 another state, the District of Columbia, a territory or  
23 commonwealth of the United States or a New Mexico Indian  
24 nation, tribe or pueblo and shall present proof of that  
25 authorization when purchasing cannabis from a [~~licensee~~] person

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1 licensed pursuant to the Cannabis Regulation Act; and

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

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

8 "30-31-2. DEFINITIONS.--As used in the Controlled  
9 Substances Act:

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

13 B. "agent" includes an authorized person who acts  
14 on behalf of a manufacturer, distributor or dispenser. It does  
15 not include a common or contract carrier, public  
16 warehouseperson or employee of the carrier or warehouseperson;

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

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

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

24 F. "counterfeit substance" means a controlled  
25 substance that bears the unauthorized trademark, trade name,

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1 imprint, number, device or other identifying mark or likeness  
2 of a manufacturer, distributor or dispenser other than the  
3 person who in fact manufactured, distributed or dispensed the  
4 controlled substance;

5 G. "deliver" means the actual, constructive or  
6 attempted transfer from one person to another of a controlled  
7 substance or controlled substance analog, whether or not there  
8 is an agency relationship;

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

15 I. "dispenser" means a practitioner who dispenses  
16 and includes hospitals, pharmacies and clinics where controlled  
17 substances are dispensed;

18 J. "distribute" means to deliver other than by  
19 administering or dispensing a controlled substance or  
20 controlled substance analog;

21 K. "drug" or "substance" means substances  
22 recognized as drugs in the official United States  
23 pharmacopoeia, official homeopathic pharmacopoeia of the United  
24 States or official national formulary or any respective  
25 supplement to those publications. It does not include devices

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1 or their components, parts or accessories;

2 ~~[L. "hashish" means the resin extracted from any~~  
3 ~~part of marijuana, whether growing or not, and every compound,~~  
4 ~~manufacture, salt, derivative, mixture or preparation of such~~  
5 ~~resins;~~

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

12 ~~N.]~~ L. "manufacture" means the production,  
13 preparation, compounding, conversion or processing of a  
14 controlled substance or controlled substance analog by  
15 extraction from substances of natural origin or independently  
16 by means of chemical synthesis or by a combination of  
17 extraction and chemical synthesis and includes any packaging or  
18 repackaging of the substance or labeling or relabeling of its  
19 container, except that this term does not include the  
20 preparation or compounding of a controlled substance:

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

24 (2) by a practitioner, or by the  
25 practitioner's agent under the practitioner's supervision, for

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1 the purpose of or as an incident to research, teaching or  
2 chemical analysis and not for sale;

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

18 P.] M. "narcotic drug" means any of the following,  
19 whether produced directly or indirectly by extraction from  
20 substances of vegetable origin or independently by means of  
21 chemical synthesis or by a combination of extraction and  
22 chemical synthesis:

23 (1) opium and opiate and any salt, compound,  
24 derivative or preparation of opium or opiate;

25 (2) any salt, compound, isomer, derivative or



1 preparation that is a chemical equivalent of any of the  
2 substances referred to in Paragraph (1) of this subsection,  
3 except the isoquinoline alkaloids of opium;

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

7 (4) coca leaves and any salt, compound,  
8 derivative or preparation of coca leaves, any salt, compound,  
9 isomer, derivative or preparation that is a chemical equivalent  
10 of any of these substances except decocainized coca leaves or  
11 extractions of coca leaves that do not contain cocaine or  
12 ecgonine;

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

21 ~~[R.]~~ O. "person" means an individual, partnership,  
22 corporation, association, institution, political subdivision,  
23 government agency or other legal entity;

24 ~~[S.]~~ P. "practitioner" means a physician, certified  
25 advanced practice chiropractic physician, doctor of oriental

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1 medicine, dentist, physician assistant, certified nurse  
2 practitioner, clinical nurse specialist, certified nurse-  
3 midwife, prescribing psychologist, veterinarian, euthanasia  
4 technician, pharmacist, pharmacist clinician or other person  
5 licensed or certified to prescribe and administer drugs that  
6 are subject to the Controlled Substances Act;

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

18           [~~U~~] R. "scientific investigator" means a person  
19 registered to conduct research with controlled substances in  
20 the course of the person's professional practice or research  
21 and includes analytical laboratories;

22           [~~V~~] S. "ultimate user" means a person who lawfully  
23 possesses a controlled substance for the person's own use or  
24 for the use of a member of the person's household or for  
25 administering to an animal under the care, custody and control

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1 of the person or by a member of the person's household;

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

12 (1) kits used, intended for use or designed  
13 for use in planting, propagating, cultivating, growing or  
14 harvesting any species of plant that is a controlled substance  
15 or controlled substance analog or from which a controlled  
16 substance can be derived;

17 (2) kits used, intended for use or designed  
18 for use in manufacturing, compounding, converting, producing,  
19 processing or preparing controlled substances or controlled  
20 substance analogs;

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

24 (4) testing equipment used, intended for use  
25 or designed for use in identifying or in analyzing the

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1 strength, effectiveness or purity of controlled substances or  
2 controlled substance analogs;

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

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

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

13 (8) blenders, bowls, containers, spoons and  
14 mixing devices used, intended for use or designed for use in  
15 compounding controlled substances or controlled substance  
16 analogs;

17 (9) capsules, balloons, envelopes and other  
18 containers used, intended for use or designed for use in  
19 packaging small quantities of controlled substances or  
20 controlled substance analogs;

21 (10) containers and other objects used,  
22 intended for use or designed for use in storing or concealing  
23 controlled substances or controlled substance analogs;

24 (11) hypodermic syringes, needles and other  
25 objects used, intended for use or designed for use in

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1 parenterally injecting controlled substances or controlled  
2 substance analogs into the human body;

3 (12) objects used, intended for use or  
4 designed for use in ingesting, inhaling or otherwise  
5 introducing marijuana, cocaine, hashish or hashish oil into the  
6 human body, such as:

7 (a) metal, wooden, acrylic, glass,  
8 stone, plastic or ceramic pipes, with or without screens,  
9 permanent screens, hashish heads or punctured metal bowls;

10 (b) water pipes;

11 (c) carburetion tubes and devices;

12 (d) smoking and carburetion masks;

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

16 (f) miniature cocaine spoons and cocaine  
17 vials;

18 (g) chamber pipes;

19 (h) carburetor pipes;

20 (i) electric pipes;

21 (j) air-driven pipes;

22 (k) chilams;

23 (l) bongs; or

24 (m) ice pipes or chillers; and

25 (13) in determining whether an object is drug

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1 paraphernalia, a court or other authority should consider, in  
2 addition to all other logically relevant factors, the  
3 following:

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

6 (b) the proximity of the object, in time  
7 and space, to a direct violation of the Controlled Substances  
8 Act or any other law relating to controlled substances or  
9 controlled substance analogs;

10 (c) the proximity of the object to  
11 controlled substances or controlled substance analogs;

12 (d) the existence of any residue of a  
13 controlled substance or controlled substance analog on the  
14 object;

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

17 (f) descriptive materials accompanying  
18 the object that explain or depict its use;

19 (g) the manner in which the object is  
20 displayed for sale; and

21 (h) expert testimony concerning its use;

22 [~~X-~~] U. "controlled substance analog" means a  
23 substance other than a controlled substance that has a chemical  
24 structure substantially similar to that of a controlled  
25 substance in Schedule I, II, III, IV or V or that was

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1 specifically designed to produce effects substantially similar  
2 to that of controlled substances in Schedule I, II, III, IV or  
3 V. Examples of chemical classes in which controlled substance  
4 analogs are found:

5 (1) include ~~[the following]~~:

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

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

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

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

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

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

12 ~~[(7)]~~ (g) arylcycloalkylamines; and

13 ~~[Specifically excluded from the definition of "controlled~~  
14 ~~substance analog" are]~~

15 (2) do not include those substances that are  
16 generally recognized as safe and effective within the meaning  
17 of the Federal Food, Drug, and Cosmetic Act or have been  
18 manufactured, distributed or possessed in conformance with the  
19 provisions of an approved new drug application or an exemption  
20 for investigational use within the meaning of Section 505 of  
21 the Federal Food, Drug, and Cosmetic Act;

22 ~~[Y.]~~ V. "human consumption" includes application,  
23 injection, inhalation, ingestion or any other manner of  
24 introduction;

25 ~~[Z.]~~ W. "drug-free school zone" means a public

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1 school, parochial school or private school or property that is  
2 used for a public, parochial or private school purpose and the  
3 area within one thousand feet of the school property line, but  
4 it does not mean any post-secondary school; and

5 ~~[AA-]~~ X. "valid practitioner-patient relationship"  
6 means a professional relationship, as defined by the  
7 practitioner's licensing board, between the practitioner and  
8 the patient."

9 SECTION 73. Section 30-31-6 NMSA 1978 (being Laws 1972,  
10 Chapter 84, Section 6, as amended) is amended to read:

11 "30-31-6. SCHEDULE I.--The following controlled  
12 substances are included in Schedule I:

13 A. any of the following opiates, including their  
14 isomers, esters, ethers, salts, and salts of isomers, esters  
15 and ethers, unless specifically exempted, whenever the  
16 existence of these isomers, esters, ethers and salts is  
17 possible within the specific chemical designation:

- 18 (1) acetylmethadol;
- 19 (2) allylprodine;
- 20 (3) alphacetylmethadol;
- 21 (4) alphameprodine;
- 22 (5) alphasmethadol;
- 23 (6) benzethidine;
- 24 (7) betacetylmethadol;
- 25 (8) betameprodine;



- 1 (9) betamethadol;  
2 (10) betaprodine;  
3 (11) clonitazene;  
4 (12) dextromoramide;  
5 (13) dextrorphan;  
6 (14) diampromide;  
7 (15) diethylthiambutene;  
8 (16) dimenoxadol;  
9 (17) dimepheptanol;  
10 (18) dimethylthiambutene;  
11 (19) dioxaphetyl butyrate;  
12 (20) dipipanone;  
13 (21) ethylmethylthiambutene;  
14 (22) etonitazene;  
15 (23) etoxeridine;  
16 (24) furethidine;  
17 (25) hydroxypethidine;  
18 (26) ketobemidone;  
19 (27) levomoramide;  
20 (28) levophenacymorphan;  
21 (29) morpheridine;  
22 (30) noracymethadol;  
23 (31) norlevorphanol;  
24 (32) normethadone;  
25 (33) norpipanone;

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

- 1 (34) phenadoxone;
- 2 (35) phenampromide;
- 3 (36) phenomorphan;
- 4 (37) phenoperidine;
- 5 (38) piritramide;
- 6 (39) proheptazine;
- 7 (40) properidine;
- 8 (41) racemoramide; and
- 9 (42) trimeperidine;

10 B. any of the following opium derivatives, their  
11 salts, isomers and salts of isomers, unless specifically  
12 exempted, whenever the existence of these salts, isomers and  
13 salts of isomers is possible within the specific chemical  
14 designation:

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

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

12 C. any material, compound, mixture or preparation  
 13 that contains any quantity of the following hallucinogenic  
 14 substances, their salts, isomers and salts of isomers, unless  
 15 specifically exempted, whenever the existence of these salts,  
 16 isomers and salts of isomers is possible within the specific  
 17 chemical designation:

- 18 (1) 3,4-methylenedioxy amphetamine;  
 19 (2) 5-methoxy-3,4-methylenedioxy amphetamine;  
 20 (3) 3,4,5-trimethoxy amphetamine;  
 21 (4) bufotenine;  
 22 (5) diethyltryptamine;  
 23 (6) dimethyltryptamine;  
 24 (7) 4-methyl-2,5-dimethoxy amphetamine;  
 25 (8) ibogaine;

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- 1 (9) lysergic acid diethylamide;  
2 [~~(10)~~] ~~marijuana~~;  
3 ~~(11)~~] (10) mescaline;  
4 [~~(12)~~] (11) peyote, except as otherwise  
5 provided in the Controlled Substances Act;  
6 [~~(13)~~] (12) N-ethyl-3-piperidyl benzilate;  
7 [~~(14)~~] (13) N-methyl-3-piperidyl benzilate;  
8 [~~(15)~~] (14) psilocybin;  
9 [~~(16)~~] (15) psilocyn;  
10 [~~(17)~~] ~~tetrahydrocannabinols~~;  
11 ~~(18)~~] ~~hashish~~;  
12 ~~(19)~~] (16) synthetic cannabinoids, including:  
13 (a) 1-[2-(4-(morpholinyl)ethyl)  
14 -3-(1-naphthoyl)indole];  
15 (b) 1-butyl-3-(1-naphthoyl)indole;  
16 (c) 1-hexyl-3-(1-naphthoyl)indole;  
17 (d) 1-pentyl-3-(1-naphthoyl)indole;  
18 (e) 1-pentyl-3-(2-methoxyphenylacetyl)  
19 indole;  
20 (f) cannabicyclohexanol (CP 47, 497 and  
21 homologues: 5-(1,1-dimethylheptyl)-2-[(1R,3S)  
22 -3-hydroxycyclohexyl]-phenol (CP-47,497); and 5-(1,  
23 1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol;  
24 (g) 6aR,10aR)-9-(hydroxymethyl)  
25 -6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,

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1 10a-tetrahydrobenzo[c]chromen-1-ol);

2 (h) dexanabinol, (6aS,10aS)  
 3 -9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)  
 4 -6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;

5 (i) 1-pentyl-3-(4-chloro naphthoyl)  
 6 indole;

7 (j) (2-methyl-1-propyl-1H-indol-3-yl)  
 8 -1-naphthalenyl-methanone; and

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

11 [~~(20)~~] (17) 3,4-methylenedioxymethcathinone;

12 [~~(21)~~] (18) 3,4-methylenedioxypyrovalerone;

13 [~~(22)~~] (19) 4-methylmethcathinone;

14 [~~(23)~~] (20) 4-methoxymethcathinone;

15 [~~(24)~~] (21) 3-fluoromethcathinone; and

16 [~~(25)~~] (22) 4-fluoromethcathinone;

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

25 [~~E.—The enumeration of marijuana,~~

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1 ~~tetrahydrocannabinols or chemical derivatives of~~  
2 ~~tetrahydrocannabinol as Schedule I controlled substances does~~  
3 ~~not apply to:~~

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

7 ~~(2) cultivation of hemp by persons pursuant to~~  
8 ~~rules promulgated by the board of regents of New Mexico state~~  
9 ~~university on behalf of the New Mexico department of~~  
10 ~~agriculture;~~

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

24 ~~(4) tetrahydrocannabinols or chemical~~  
25 ~~derivatives of tetrahydrocannabinols, including~~

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1 ~~tetrahydrocannabinols or chemical derivatives of~~  
 2 ~~tetrahydrocannabinols in any concentration possessed by a~~  
 3 ~~person in connection with the extraction of~~  
 4 ~~tetrahydrocannabinols or chemical derivatives of~~  
 5 ~~tetrahydrocannabinols, if authorized pursuant to rules~~  
 6 ~~promulgated, pursuant to the Hemp Manufacturing Act, by the~~  
 7 ~~board of regents of New Mexico state university on behalf of~~  
 8 ~~the New Mexico department of agriculture or the department of~~  
 9 ~~environment;~~

10 ~~(5) the use of marijuana,~~  
 11 ~~tetrahydrocannabinols or chemical derivatives of~~  
 12 ~~tetrahydrocannabinol by certified patients pursuant to the~~  
 13 ~~Controlled Substances Therapeutic Research Act or by qualified~~  
 14 ~~patients pursuant to the provisions of the Lynn and Erin~~  
 15 ~~Compassionate Use Act; or~~

16 ~~(6) the use, dispensing, possession,~~  
 17 ~~prescribing, storage or transport of a prescription drug that~~  
 18 ~~the United States food and drug administration has approved and~~  
 19 ~~that contains marijuana, a tetrahydrocannabinol derivative or a~~  
 20 ~~chemical derivative of tetrahydrocannabinol; and~~

21 ~~F.] E.~~ controlled substances added to Schedule I by  
 22 rule adopted by the board pursuant to Section 30-31-3 NMSA  
 23 1978."

24 SECTION 74. Section 30-31-7 NMSA 1978 (being Laws 1972,  
 25 Chapter 84, Section 7, as amended) is amended to read:

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1 "30-31-7. SCHEDULE II.--

2 A. The following controlled substances are included  
3 in Schedule II:

4 (1) any of the following substances, except  
5 those narcotic drugs listed in other schedules, whether  
6 produced directly or indirectly by extraction from substances  
7 of vegetable origin, or independently by means of chemical  
8 synthesis, or by combination of extraction and chemical  
9 synthesis:

10 (a) opium and opiate, and any salt,  
11 compound, derivative or preparation of opium or opiate;

12 (b) any salt, compound, isomer,  
13 derivative or preparation thereof that is chemically equivalent  
14 or identical with any of the substances referred to in  
15 Subparagraph (a) of this paragraph, but not including the  
16 isoquinoline alkaloids of opium;

17 (c) opium poppy and poppy straw; and

18 (d) coca leaves and any salt, compound,  
19 derivative or preparation of coca leaves, and any salt,  
20 compound, derivative or preparation thereof that is chemically  
21 equivalent or identical with any of these substances, but not  
22 including decocainized coca leaves or extractions that do not  
23 contain cocaine or ecgonine;

24 [~~(e) marijuana, but only for the use by~~  
25 ~~certified patients pursuant to the Controlled Substances~~

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

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

8 ~~Marijuana, tetrahydrocannabinols or chemical derivatives of~~  
 9 ~~tetrahydrocannabinol shall be considered Schedule II controlled~~  
 10 ~~substances only for the purposes enumerated in the Controlled~~  
 11 ~~Substances Therapeutic Research Act or the Lynn and Erin~~  
 12 ~~Compassionate Use Act;]~~

13 (2) any of the following opiates, including  
 14 their isomers, esters, ethers, salts and salts of isomers,  
 15 whenever the existence of these isomers, esters, ethers and  
 16 salts is possible within the specific chemical designation:

- 17 (a) alphaprodine;
- 18 (b) anileridine;
- 19 (c) bezitramide;
- 20 (d) dihydrocodeine;
- 21 (e) diphenoxylate;
- 22 (f) fentanyl;
- 23 (g) hydromorphone;
- 24 (h) isomethadone;
- 25 (i) levomethorphan;

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

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

1 (a) amphetamine, its salts, optical  
2 isomers and salts of its optical isomers;  
3 (b) phenmetrazine and its salts;  
4 (c) methamphetamine, its salts, isomers  
5 and salts of isomers; and  
6 (d) methylphenidate; and  
7 (4) controlled substances added to Schedule II  
8 by rule adopted by the board pursuant to Section 30-31-3 NMSA  
9 1978.

10 B. Where methadone is prescribed, administered or  
11 dispensed by a practitioner of a drug abuse rehabilitation  
12 program while acting in the course of the practitioner's  
13 professional practice, or otherwise lawfully obtained or  
14 possessed by a person, such person shall not possess such  
15 methadone beyond the date stamped or typed on the label of the  
16 container of the methadone, nor shall any person possess  
17 methadone except in the container in which it was originally  
18 administered or dispensed to such person, and such container  
19 shall include a label showing the name of the prescribing  
20 physician or practitioner, the identity of methadone, the name  
21 of the ultimate user, the date when the methadone is to be  
22 administered to or used or consumed by the named ultimate user  
23 shown on the label and a warning on the label of the methadone  
24 container that the ultimate user must use, consume or  
25 administer to the ultimate user the methadone in such

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1 container. Any person who violates this subsection is guilty  
2 of a felony and shall be punished by imprisonment for not less  
3 than one year nor more than five years, or by a fine of up to  
4 five thousand dollars (\$5,000), or both."

5 SECTION 75. Section 30-31-21 NMSA 1978 (being Laws 1972,  
6 Chapter 84, Section 21, as amended) is amended to read:

7 "30-31-21. DISTRIBUTION TO A MINOR.--Except as authorized  
8 by the Controlled Substances Act, no person who is eighteen  
9 years of age or older shall intentionally distribute a  
10 controlled substance to a person under the age of eighteen  
11 years. Any person who violates this section with respect to:

12 [~~A. marijuana is:~~

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

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

19 B. ~~any other~~] a controlled substance enumerated in  
20 [~~Schedules~~] Schedule I, II, III or IV or a controlled substance  
21 analog of any controlled substance enumerated in Schedule I,  
22 II, III or IV is:

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

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

4 SECTION 76. Section 30-31-22 NMSA 1978 (being Laws 1972,  
5 Chapter 84, Section 22, as amended) is amended to read:

6 "30-31-22. CONTROLLED OR COUNTERFEIT SUBSTANCES--  
7 DISTRIBUTION PROHIBITED.--

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

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

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

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

25 (c) for the first offense, if more than

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

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

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

18 (a) 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 (b) 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; and

24 (3) a controlled substance enumerated in  
25 Schedule V or a controlled substance analog of a controlled

1 substance enumerated in Schedule V is guilty of a misdemeanor  
2 and shall be punished by a fine of not less than one hundred  
3 dollars (\$100) or more than five hundred dollars (\$500) or by  
4 imprisonment for a definite term not less than one hundred  
5 eighty days but less than one year, or both.

6 B. It is unlawful for a person to distribute gamma  
7 hydroxybutyric acid or flunitrazepam to another person without  
8 that person's knowledge and with intent to commit a crime  
9 against that person, including criminal sexual penetration.

10 For the purposes of this subsection, "without that person's  
11 knowledge" means the person is unaware that a substance with  
12 the ability to alter that person's ability to appraise conduct  
13 or to decline participation in or communicate unwillingness to  
14 participate in conduct is being distributed to that person.

15 Any person who violates this subsection is:

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

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

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

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1 to:

2 (1) a counterfeit substance enumerated in  
3 Schedule I, II, III or IV is guilty of a fourth degree felony  
4 and shall be sentenced pursuant to the provisions of Section  
5 31-18-15 NMSA 1978; and

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

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

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

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

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

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

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

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

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

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

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

25 (4) the intentional creation, delivery or

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1 possession with the intent to deliver:

2 (a) a counterfeit substance enumerated in  
3 Schedule I, II, III or IV is guilty of a third degree felony  
4 and shall be sentenced pursuant to the provisions of Section  
5 31-18-15 NMSA 1978; and

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

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

17 **SECTION 77.** Section 30-31-23 NMSA 1978 (being Laws 1972,  
18 Chapter 84, Section 23, as amended) is amended to read:

19 "30-31-23. CONTROLLED SUBSTANCES--POSSESSION  
20 PROHIBITED.--

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

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1 Substances Act. It is unlawful for a person intentionally to  
2 possess a controlled substance analog.

3 ~~[B. A person who violates this section with respect~~  
4 ~~to:~~

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

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

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

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

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

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

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

18                   (3) eight ounces or more of synthetic  
19 cannabinoids is guilty of a fourth degree felony and shall be  
20 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
21 1978.

22           ~~D.]~~ C. A minor who violates this section with  
23 respect to the substances listed in this subsection is guilty  
24 of a petty misdemeanor and, notwithstanding the provisions of  
25 Sections 32A-1-5 and 32A-2-19 NMSA 1978, shall be punished by a

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1 fine not to exceed one hundred dollars (\$100) or forty-eight  
2 hours of community service. For the third or subsequent  
3 violation by a minor of this section with respect to those  
4 substances, the provisions of Section 32A-2-19 NMSA 1978 shall  
5 govern punishment of the minor. As used in this subsection,  
6 "minor" means a person who is less than eighteen years of age.  
7 The provisions of this subsection apply to the following  
8 substances:

- 9 (1) synthetic cannabinoids;
- 10 (2) any of the substances listed in Paragraphs  
11 [~~(20) through (25)~~] (17) through (22) of Subsection C of  
12 Section 30-31-6 NMSA 1978; or
- 13 (3) a substance added to Schedule I by a rule of  
14 the board adopted on or after March 31, 2011 if the board  
15 determines that the pharmacological effect of the substance,  
16 the risk to the public health by abuse of the substance and the  
17 potential of the substance to produce psychic or physiological  
18 dependence liability is similar to the substances described in  
19 Paragraph (1) or (2) of this subsection.

20 [~~E.~~] D. Except as provided in Subsections [~~B, C and~~  
21 ~~G~~] B and F of this section, and for those substances listed in  
22 Subsection [~~F~~] E of this section, a person who violates this  
23 section with respect to any amount of any controlled substance  
24 enumerated in Schedule I, II, III or IV or a controlled  
25 substance analog of a substance enumerated in Schedule I, II,

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1 III or IV is guilty of a misdemeanor and shall be punished by a  
2 fine of not less than five hundred dollars (\$500) or more than  
3 one thousand dollars (\$1,000) or by imprisonment for a definite  
4 term less than one year, or both.

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

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

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

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

23 (2) more than one ounce and less than eight  
24 ounces of ~~[marijuana or]~~ synthetic cannabinoids is guilty of a  
25 fourth degree felony and shall be sentenced pursuant to the

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

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

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

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

20 SECTION 78. Section 30-31-34 NMSA 1978 (being Laws 1972,  
21 Chapter 84, Section 33, as amended) is amended to read:

22 "30-31-34. FORFEITURES--PROPERTY SUBJECT.--The following  
23 are subject to forfeiture pursuant to the provisions of the  
24 Forfeiture Act:

25 A. all raw materials, products and equipment of any



1 kind, including firearms that are used or intended for use in  
2 manufacturing, compounding, processing, delivering, importing  
3 or exporting any controlled substance or controlled substance  
4 analog in violation of the Controlled Substances Act;

5 B. all property that is used or intended for use as a  
6 container for property described in Subsection A of this  
7 section;

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

12 D. all books, records and research products and  
13 materials, including formulas, microfilm, tapes and data that  
14 are used or intended for use in violation of the Controlled  
15 Substances Act;

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

18 F. notwithstanding Subsection C of this section and  
19 the provisions of the Forfeiture Act:

20 (1) a conveyance used by a person as a common  
21 carrier in the transaction of business as a common carrier  
22 shall not be subject to forfeiture pursuant to this section  
23 unless it appears that the owner or other person in charge of  
24 the conveyance is a consenting party or privy to a violation of  
25 the Controlled Substances Act;

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

5           (3) a conveyance is not subject to forfeiture  
6 for a violation of law the penalty for which is a misdemeanor;  
7 and

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

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

14           **SECTION 79. TEMPORARY PROVISION--TRANSFER.--**

15           A. On July 1, 2021, any unexpended or unencumbered  
16 balance in the medical cannabis fund is transferred to the  
17 cannabis regulation fund.

18           B. Except to the extent any administrative rules are  
19 inconsistent with the provisions of this act, any  
20 administrative rules adopted by an officer, agency or other  
21 entity whose responsibilities have been transferred pursuant to  
22 the provisions of this act to another officer, agency or other  
23 entity remain in force until amended by the officer, agency or  
24 other entity to which the responsibility for the adoption of  
25 the rules has been transferred. To the extent any

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1 administrative rules are inconsistent with the provisions of  
2 this act, such rules are null and void.

3 SECTION 80. REPEAL.--Section 9-7-17.1 NMSA 1978 (being  
4 Laws 2012, Chapter 42, Section 1) is repealed.

5 SECTION 81. EFFECTIVE DATE.--The effective date of the  
6 provisions of this act is July 1, 2021.

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