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SENATE BILL 3

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

INTRODUCED BY

Cliff R. Pirtle

AN ACT

RELATING TO CANNABIS; ENACTING THE CANNABIS REGULATION ACT;  
CREATING THE CANNABIS CONTROL DIVISION IN THE REGULATION AND  
LICENSING DEPARTMENT AND PROVIDING DUTIES; REVISING SECTIONS OF  
LAW RELATED TO CANNABIS; ESTABLISHING DUTIES FOR THE DEPARTMENT  
OF ENVIRONMENT; ESTABLISHING DUTIES FOR THE NEW MEXICO  
DEPARTMENT OF AGRICULTURE; CREATING THE CANNABIS REGULATION  
FUND AND THE ROAD SAFETY FUND; REVISING THE LOCAL DWI GRANT  
PROGRAM; ENACTING THE CANNABIS TAX ACT; AMENDING SECTIONS OF  
THE LYNN AND ERIN COMPASSIONATE USE ACT; PROVIDING AND REVISING  
PENALTIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE  
NMSA 1978; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
through 36 of this act may be cited as the "Cannabis Regulation  
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1 Act".

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

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

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

9 C. "cannabis":

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

16 (2) does not include:

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

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

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

4           E. "cannabis establishment" means:

5                 (1) a cannabis testing laboratory;

6                 (2) a cannabis producer;

7                 (3) a cannabis manufacturer;

8                 (4) a lounge; or

9                 (5) a dispensary;

10          F. "cannabis extract":

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

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

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

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

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

24          J. "cannabis manufacturer" means a person licensed  
25 to:

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- 1 (1) manufacture and package cannabis items;  
2 (2) have cannabis items tested by a cannabis  
3 testing laboratory; and  
4 (3) buy, sell, consign or transport cannabis  
5 items;

6 K. "cannabis producer" means a person licensed by  
7 the New Mexico department of agriculture to:

- 8 (1) cultivate or prepare cannabis in a raw  
9 form for consumption;  
10 (2) have cannabis items tested by a cannabis  
11 testing laboratory; and  
12 (3) sell, consign or transport cannabis items;

13 L. "cannabis product":

- 14 (1) means a product that contains cannabis or  
15 cannabis extracts, including edible or topical products that  
16 may also contain other ingredients; and  
17 (2) does not include the weight of any other  
18 ingredient combined with cannabis or cannabis extracts to  
19 prepare topical or oral administrations, food, drink or another  
20 product;

21 M. "cannabis testing laboratory" means a facility  
22 licensed by the department of environment to collect, transport  
23 and test cannabis items to analyze the items' strength, purity,  
24 chemical composition or presence of contaminants;

25 N. "commercial cannabis activity":

1 (1) means the cultivation, production,  
2 possession, manufacture, storage, testing, labeling,  
3 transportation, couriership, sale or consignment of cannabis and  
4 cannabis items; and

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

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

10 P. "controlling person":

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

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

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

19 R. "director" means the director of the division;

20 S. "dispensary" means a facility licensed by the  
21 division at which cannabis items are stored or offered for  
22 retail sale to consumers;

23 T. "division" means the cannabis control division  
24 of the regulation and licensing department;

25 U. "dual licensed dispensary" means an

1 establishment licensed to sell both medical and adult-use  
2 cannabis for off-site consumption;

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

6 W. "licensed premises" means a physical location  
7 operated by a person licensed to conduct activities under the  
8 Cannabis Regulation Act and where activities conducted pursuant  
9 to that act occur. Licensed premises include:

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

14 (2) all areas outside of a building  
15 specifically licensed for the production and manufacturing of  
16 cannabis items; and

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

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

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1           Y. "local jurisdiction" means a municipality or a  
2 county;

3           Z. "lounge" means a facility licensed by the  
4 division to sell cannabis items only for on-site consumption;

5           AA. "manufacture":

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

8                 (2) does not include cultivating the cannabis  
9 contained in a cannabis item;

10           BB. "medical cannabis" means cannabis items used by  
11 a qualified patient or reciprocal participant in accordance  
12 with the Lynn and Erin Compassionate Use Act;

13           CC. "medical cannabis collective" means a group of  
14 not more than five qualified patients licensed by the board  
15 through the New Mexico department of agriculture to cultivate  
16 and sell certain medical cannabis items pursuant to rule;

17           DD. "medical cannabis program" means the system  
18 allowing for purchase and consumption of cannabis by  
19 individuals suffering from debilitating medical conditions as  
20 established by the Lynn and Erin Compassionate Use Act;

21           EE. "medical cannabis registry" means "medical  
22 cannabis registry", as defined in the Lynn and Erin  
23 Compassionate Use Act;

24           FF. "person" means an individual or a firm,  
25 partnership, joint venture, association, corporation, limited

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1 liability company, estate, trust, business trust, receiver or  
2 any other legal or commercial entity;

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

10 HH. "qualified patient" means "qualified patient",  
11 as defined in the Lynn and Erin Compassionate Use Act;

12 II. "safety-sensitive position" means a position in  
13 which performance by a person under the influence of drugs or  
14 alcohol would constitute an immediate and direct threat of  
15 injury or death to that person or to another;

16 JJ. "usable cannabis" means dried cannabis flowers  
17 and dried cannabis leaves and any mixture or preparation of  
18 those flowers or leaves; and

19 KK. "volatile solvent" means a solvent that is or  
20 produces a flammable gas or vapor that, when present in the air  
21 in sufficient quantities, will create explosive or ignitable  
22 mixtures.

23 SECTION 3. [NEW MATERIAL] CANNABIS CONTROL DIVISION--  
24 DUTIES--RULEMAKING.--

25 A. The "cannabis control division" is created in  
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1 the regulation and licensing department.

2 B. The division, the board and the department of  
3 environment shall execute the provisions delegated to them  
4 under the Cannabis Regulation Act and administer and enforce  
5 rules adopted pursuant to that act.

6 C. The division shall employ such personnel and  
7 hire such consultants as are required to carry out its duties  
8 pursuant to the Cannabis Regulation Act; provided that the  
9 division shall not employ or hire a person who has a direct or  
10 indirect financial interest in a cannabis establishment or  
11 cannabis cultivation.

12 D. Not later than July 1, 2021, the division, the  
13 board and the department of environment, in compliance with the  
14 State Rules Act, shall promulgate rules necessary to carry out  
15 the division's, the board's and the department of environment's  
16 duties as provided in the Cannabis Regulation Act, and those  
17 rules shall include:

18 (1) procedures for the issuance, renewal,  
19 suspension or revocation of licenses issued by the division,  
20 the department of environment and the New Mexico department of  
21 agriculture;

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

25 (3) security requirements for a cannabis

1 establishment;

2 (4) requirements related to:

3 (a) inspection and monitoring of a  
4 cannabis establishment;

5 (b) a cannabis establishment's  
6 recordkeeping and tracking of cannabis items;

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

9 (d) labeling of cannabis items; and

10 (e) language for labels of cannabis  
11 items related to potential adverse effects;

12 (5) rules on a licensee's advertisement and  
13 marketing of cannabis products and on how a licensee may  
14 display cannabis products for sale; and

15 (6) rules to establish:

16 (a) health and safety standards  
17 applicable to the cultivation of cannabis and the manufacture  
18 of cannabis items;

19 (b) standards for quality control,  
20 inspection and testing of cannabis items;

21 (c) standards for food and product  
22 safety applicable to cannabis items; and

23 (d) which additives and ingredients are  
24 approved for and prohibited from inclusion in cannabis items.

25 E. Except as provided in Subsection H of this

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1 section and Section 9 of the Cannabis Regulation Act, the  
2 division may license dispensaries or lounges at any location in  
3 the state. Any person employed to sell retail cannabis items  
4 under the provisions of the Cannabis Regulation Act shall not  
5 sell cannabis items except as may be legally obtained under the  
6 provisions of the Cannabis Regulation Act.

7 F. Regarding cannabis activity, no state agency or  
8 entity may limit the number of plants a cannabis establishment  
9 may possess, cultivate or manufacture.

10 G. A state agency or entity shall not limit the  
11 type or number of licenses issued pursuant to the Cannabis  
12 Regulation Act or the type or number of licenses that a  
13 licensee may be issued pursuant to the Cannabis Regulation Act.  
14 A state agency or entity shall not limit the number of licensed  
15 premises operated by a licensee pursuant to the Cannabis  
16 Regulation Act.

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

24 I. The division shall issue a license to a  
25 dispensary applicant at a discount if the dispensary applicant

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1 provides documentation of an agreement to accept cannabis items  
2 on consignment for resale from any cannabis producer licensed  
3 pursuant to Section 6 of the Cannabis Regulation Act growing  
4 five thousand or fewer cannabis plants or if the dispensary  
5 applicant demonstrates that the applicant has formed a lawful  
6 cooperative that allows for sale of cannabis items on  
7 consignment from any licensed cannabis manufacturer or cannabis  
8 producer growing five thousand or fewer cannabis plants.

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

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

16 B. The secretary of health shall appoint a "public  
17 health and safety advisory committee" composed of professionals  
18 with expertise related to cannabis through work, training or  
19 research in public health, epidemiology, medicine, medical  
20 toxicology, poison control, road safety, occupational safety,  
21 environmental safety, laboratory testing and emergency  
22 medicine.

23 C. The public health and safety advisory committee  
24 shall provide to the legislature and the department of health  
25 shall publish on its website an annual report on the health

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1 effects of legalizing cannabis for adult use. The report shall  
2 include the following elements relating to cannabis use:

- 3 (1) child access;
- 4 (2) road safety and driving while impaired;
- 5 (3) workplace safety;
- 6 (4) percentage of emergency room visits and  
7 outcomes;
- 8 (5) educational needs for children and adults;
- 9 (6) consumer and product safety; and
- 10 (7) percentage of poison control center calls.

11 D. Public members of the committee are entitled to  
12 per diem and mileage as provided for state employees in the Per  
13 Diem and Mileage Act.

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

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

- 19 (1) the total number of arrests and citations  
20 for cannabis-related violations broken down by:
  - 21 (a) category and penalty level; and
  - 22 (b) race, ethnicity, age and gender; and
- 23 (2) the number of motor vehicle accidents in  
24 which the driver of one of the vehicles tested positive for  
25 cannabis.

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1           B. Each law enforcement agency shall submit its  
2 annual report to the department of public safety. A law  
3 enforcement agency that does not issue a citation or make an  
4 arrest for a cannabis law violation shall report that fact in  
5 its annual report.

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

14           SECTION 6. [NEW MATERIAL] LICENSING--LIMITATIONS.--

15           A. The division shall regulate and license  
16 dispensaries and lounges pursuant to rules promulgated by the  
17 director.

18           B. The division shall begin issuing licenses  
19 pursuant to the Cannabis Regulation Act for dispensaries and  
20 lounges no sooner than October 1, 2021, except to persons who  
21 possess valid dual licenses to whom the division shall begin  
22 issuing licenses no later than July 1, 2021.

23           C. The department of environment shall regulate and  
24 license cannabis manufacturers and cannabis testing  
25 laboratories pursuant to rules promulgated by the department of

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1 environment.

2 D. The department of environment shall begin  
3 issuing licenses pursuant to the Cannabis Regulation Act for  
4 cannabis manufacturers and cannabis testing laboratories no  
5 sooner than October 1, 2021, except to persons who possess  
6 valid dual licenses to whom the division shall begin issuing  
7 licenses no later than July 1, 2021.

8 E. The New Mexico department of agriculture shall  
9 regulate and license cannabis producers pursuant to rules  
10 promulgated by the board and shall begin issuing licenses no  
11 sooner than July 15, 2021 and shall regulate and issue licenses  
12 to persons who possess a valid dual license on the later of:

- 13 (1) May 15, 2021; or
- 14 (2) fifteen days after the effective date of
- 15 this 2021 act.

16 F. The division shall regulate and license lounges  
17 for the on-site consumption of cannabis items in conjunction  
18 with a cannabis producer or manufacturer license and shall  
19 begin issuing licenses for lounges except to persons who  
20 possess valid dual licenses no sooner than October 1, 2021.

21 G. The division shall assume all responsibilities  
22 for licensing and regulation under the Lynn and Erin  
23 Compassionate Use Act except for licenses for cannabis  
24 producers, cannabis manufacturers and cannabis testing  
25 laboratories as defined in the Cannabis Regulation Act no later

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1 than July 1, 2021. Any nonprofit corporation licensed under  
2 the Lynn and Erin Compassionate Use Act that is then licensed  
3 under the Cannabis Regulation Act shall be converted into a  
4 corporation by the secretary of state upon the filing of  
5 articles of organization by the nonprofit corporation, which  
6 shall be approved pursuant to an agreement of conversion in the  
7 manner provided for the conversion of a limited liability  
8 company in Section 53-19-60.1 NMSA 1978. To be valid, the  
9 agreement of conversion must be approved by all directors of  
10 the nonprofit corporation. Upon conversion, all licenses and  
11 property owned by the converting entity remain in the newly  
12 converted entity. All obligations of the converting entity  
13 continue as obligations of the newly converted entity. Any  
14 action or proceeding pending against the converting entity may  
15 be continued as if the conversion had not occurred.

16 H. The division and the department of environment  
17 shall begin issuing dual licenses that provide for the  
18 manufacturing and sale of on-site and off-site consumption of  
19 adult-use cannabis to a person that holds a valid medical  
20 cannabis producer license no later than July 1, 2021; provided  
21 that the person shall sell a minimum quantity of medical  
22 cannabis products as provided in Subsection B of this section  
23 and shall meet quality standards promulgated by the division.

24 I. The division shall issue a dispensary license to  
25 a person who holds a valid adult-use cannabis manufacturer or

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1 producer license or a valid dual license; provided that the  
2 dispensary shall meet quality standards promulgated by the  
3 director for a dispensary.

4 J. The director may propose rules to the board for  
5 adoption regarding the regulating and licensing of cannabis  
6 producers as provided for in the Cannabis Regulation Act.

7 K. A license issued pursuant to the Cannabis  
8 Regulation Act is valid for twelve months from the date the  
9 license is issued and may be renewed annually or as provided  
10 for in the rules promulgated by the division.

11 L. An application shall be denied if an applicant,  
12 a controlling person in an applicant's entity or the premises  
13 for which a license is sought does not qualify for licensure  
14 under the Cannabis Regulation Act or the Lynn and Erin  
15 Compassionate Use Act.

16 M. The division shall regulate and license cannabis  
17 couriers. The division shall begin issuing licenses for  
18 cannabis couriers no sooner than July 1, 2021.

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

20 A. The division shall establish application and  
21 licensing fees applicable to licenses for dispensaries, lounges  
22 and activity related to medical cannabis. The fees shall be  
23 reasonably calculated to cover the cost of administering and  
24 enforcing the programs established in the Cannabis Regulation  
25 Act; provided that:

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1 (1) the fees shall be scaled to reflect the  
2 amount of cannabis activity the licensee or applicant seeks to  
3 conduct or renew; and

4 (2) for a license or renewal of a license that  
5 authorizes only medical cannabis activity, the fee shall not  
6 exceed one-half of the fee charged for a license or renewal of  
7 a license for a similarly sized business that authorizes both  
8 commercial and medical cannabis activities.

9 B. The division and the New Mexico department of  
10 agriculture shall deposit all fees collected pursuant to the  
11 Cannabis Regulation Act in the cannabis regulation fund.

12 C. The board, on behalf of the New Mexico  
13 department of agriculture, shall establish application and  
14 licensing fees applicable to licenses for cannabis cultivation.  
15 The fees shall be reasonably calculated to cover the cost of  
16 administering and enforcing the programs established pursuant  
17 to the Cannabis Regulation Act.

18 D. The department of environment shall establish  
19 application and licensing fees applicable to licenses for  
20 manufacturing and testing laboratories for commercial and  
21 medical cannabis activity. The fees shall be reasonably  
22 calculated to cover the cost of administering and enforcing the  
23 programs established in the Cannabis Regulation Act; provided  
24 that:

25 (1) the fees shall be scaled to reflect the

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1 size of a business seeking or renewing a license; and

2 (2) for a license or renewal of a license that  
3 authorizes only medical cannabis activity, the fee shall not  
4 exceed one half of the fee charged for a license or renewal of  
5 a license for a similarly sized business that authorizes both  
6 commercial and medical cannabis activities.

7 SECTION 8. [NEW MATERIAL] DISCIPLINARY PROCEEDINGS--  
8 APPLICATION OF UNIFORM LICENSING ACT.--In accordance with the  
9 procedures contained in the Uniform Licensing Act, the  
10 division, the department of environment or the New Mexico  
11 department of agriculture may refuse to issue, revoke or  
12 suspend any permanent or temporary license that is administered  
13 by the division, the New Mexico department of agriculture or  
14 the department of environment pursuant to the Cannabis  
15 Regulation Act upon findings that the licensee or applicant:

16 A. engaged in fraud or deceit in procuring or  
17 attempting to procure a license;

18 B. has been convicted of a felony; provided that a  
19 certified copy of the record of conviction shall be conclusive  
20 evidence of such conviction;

21 C. is guilty of any violation of the Controlled  
22 Substances Act; or

23 D. has violated any provision of the Cannabis  
24 Regulation Act or rules promulgated by the director or the  
25 board, on behalf of the New Mexico department of agriculture.

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

2           A.   Except as provided in Subsection B of this  
3 section, a local jurisdiction may:

4                   (1)   prohibit, in accordance with the Cannabis  
5 Regulation Act, the operation of a cannabis establishment; and

6                   (2)   limit the location of a cannabis  
7 establishment, which distance shall be three hundred feet or  
8 more from the perimeter of school grounds on which instruction  
9 is provided at any level from kindergarten through twelfth  
10 grade, a playground, a child care center, a youth center, a  
11 public park or a library that was in existence at the time the  
12 cannabis establishment was licensed.

13           B.   A local jurisdiction shall not:

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

17                   (2)   prohibit the personal production of  
18 cannabis or cannabis products made without the use of volatile  
19 solvents for personal use provided for in the Cannabis  
20 Regulation Act or the Lynn and Erin Compassionate Use Act; or

21                   (3)   prohibit the operation of a business that  
22 limits its sales of cannabis to medical cannabis.

23           SECTION 10.   [NEW MATERIAL] LICENSEE PROTECTIONS.--

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

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

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

10 SECTION 11. [NEW MATERIAL] TRANSPORT VIA COURIER.--

11 A. Only a cannabis courier may courier cannabis  
12 products.

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

19 SECTION 12. [NEW MATERIAL] PROTECTION OF UNDERAGE  
20 PERSON--TRAFFICKING--PENALTIES.--

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

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

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

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

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

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

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

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

3 D. A person who is eighteen years of age or older  
4 shall not intentionally traffic cannabis to a minor. A person  
5 who violates this subsection is guilty of a fourth degree  
6 felony and shall be sentenced pursuant to Section 31-18-15 NMSA  
7 1978.

8 E. For the purposes of this section, "traffic"  
9 means the:

10 (1) distribution, sale, barter or giving away  
11 of cannabis; or

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

14 SECTION 13. [NEW MATERIAL] DISTRIBUTION AND TRANSPORT.--  
15 The Cannabis Regulation Act shall not be construed to authorize  
16 a licensee to transport or distribute, or cause to be  
17 transported or distributed, cannabis items outside the state,  
18 unless authorized by federal law.

19 SECTION 14. [NEW MATERIAL] PACKAGING AND LABELING.--

20 A. Before sale to the public, cannabis items shall  
21 be labeled and placed in a resealable, child-resistant package.

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

24 C. Labels shall include:

25 (1) total tetrahydrocannabinol concentration

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1 for the package;

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

4 (3) identification of the licensee or  
5 licensees that produced or manufactured the cannabis item, the  
6 date on which the cannabis was harvested, the type of cannabis  
7 item and the date on which the cannabis item was manufactured  
8 and packaged;

9 (4) a list of pharmacologically active  
10 ingredients;

11 (5) for cannabis products, a list of all  
12 ingredients, and for edibles, a disclosure of nutritional  
13 information for the product or cannabis extract;

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

16 (7) a warning of possible adverse effects of  
17 consumption and the New Mexico poison and drug information  
18 center phone number.

19 SECTION 15. [NEW MATERIAL] CANNABIS PRODUCTS--  
20 APPEARANCE.--

21 A. Cannabis products shall:

22 (1) be delineated or scored into standardized  
23 serving sizes, if the cannabis product contains more than one  
24 serving and is an edible cannabis product in solid form;

25 (2) be manufactured and sold under health and

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1 sanitation standards established by the division, with the  
2 assistance of the department of environment, for the  
3 preparation, storage, handling and sale of food products; and

4 (3) be sold with sufficient information to  
5 enable the informed consumption of the product, including  
6 information on the potential effects of the product and  
7 directions on how to consume the cannabis product.

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

12 SECTION 16. [NEW MATERIAL] CANNABIS MANUFACTURERS AND  
13 TESTING LABORATORIES--DEPARTMENT OF ENVIRONMENT--RULEMAKING.--

14 A. The department of environment shall promulgate  
15 rules to govern the licensing of a cannabis manufacturer and a  
16 cannabis testing laboratory. The department shall issue  
17 licenses as follows:

18 (1) "cannabis manufacturing level 1" for a  
19 site that manufactures cannabis extracts using nonvolatile  
20 solvents or no solvents;

21 (2) "cannabis manufacturing level 2" for a  
22 site that manufactures cannabis extracts using volatile  
23 solvents; and

24 (3) "cannabis testing laboratory" for a  
25 licensee that tests cannabis products.

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1           B. Except as otherwise provided by law, cannabis  
2 shall not be sold unless a representative sample from every  
3 five pounds of cannabis flower or each batch of cannabis has  
4 been tested by a cannabis testing laboratory to determine:

5                   (1) the chemical profile of the sample,  
6 including:

7                           (a) delta-9-tetrahydrocannabinol;

8                           (b) tetrahydrocannabinolic acid;

9                           (c) cannabidiol;

10                          (d) cannabidiolic acid;

11                          (e) cannabigerol; and

12                          (f) cannabitol; and

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

15                           (a) residual solvents or chemicals, such  
16 as butane, propane, methanol, methylene chloride, acetone,  
17 benzene, toluene and trichloroethylene; and

18                           (b) microbiological impurity, including  
19 total aerobic microbial count; total yeast mold count;  
20 aspergillus species; E. coli; salmonella spp.; bile-tolerant  
21 gram-negative organisms; aflatoxin B1, B2, G1 or G2; or  
22 ochratoxin A.

23           C. Residual levels of volatile organic compounds  
24 shall not exceed harmful levels.

25           D. The testing required by this section shall be

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1 performed in a manner consistent with general requirements for  
2 the competence of testing and calibration activities, including  
3 sampling, using validated methods to ensure conformity and  
4 competence to test cannabis products.

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

10 SECTION 17. [NEW MATERIAL] TESTING CANNABIS PRODUCTS--  
11 DEPARTMENT OF ENVIRONMENT.--

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

15 B. The department of environment shall develop  
16 rules and procedures to:

17 (1) ensure that testing of cannabis products  
18 occurs prior to distribution;

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

21 (3) specify which entities bear the cost of  
22 testing cannabis and medical cannabis;

23 (4) ensure that testing samples are  
24 transported and stored in a manner that prevents degradation,  
25 contamination and tampering;

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1 (5) specify protocols for sample collection  
2 that ensure that representative samples have been taken; and

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

9 C. Not later than July 1, 2021, the department of  
10 environment shall identify and designate standards where  
11 necessary to be used by cannabis testing laboratories.

12 SECTION 18. [NEW MATERIAL] ADVERTISING AND MARKETING  
13 RESTRICTIONS.--The director shall promulgate rules that  
14 explicitly:

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

17 (1) on a billboard, radio, television,  
18 newsprint, news website or other broadcast media;

19 (2) that makes false, deceptive or misleading  
20 claims regarding the health benefits of cannabis products;

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

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

25 (5) within three hundred feet of a school,

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1 church or daycare center;

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

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

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

8 B. require:

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

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

16 SECTION 19. [NEW MATERIAL] CONTRACTS.--A contract related  
17 to operation of a license issued pursuant to the Cannabis  
18 Regulation Act is enforceable, and a contract entered into by a  
19 licensee or a licensee representative for conduct allowed  
20 pursuant to a license or entered into by a person who allows  
21 property to be used by a licensee or a licensee representative  
22 for conduct allowed pursuant to a license shall not be deemed  
23 unenforceable on the basis that the conduct allowed pursuant to  
24 the license is prohibited by federal law.

25 SECTION 20. [NEW MATERIAL] PROVISION OF PROFESSIONAL

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1 SERVICES.--A person engaged in a profession subject to state  
2 licensure shall not be subject to disciplinary action because  
3 the person provides professional services or assistance to  
4 prospective or licensed cannabis establishments or another  
5 person in connection with activity that the person reasonably  
6 believes complies with the Cannabis Regulation Act and rules  
7 promulgated pursuant to that act. The provisions of this  
8 section shall not apply to an attorney licensed to practice law  
9 in this state.

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

25 SECTION 22. [NEW MATERIAL] PROTECTIONS FROM

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1 DISCRIMINATION FOR THE USE OF CANNABIS OR MEDICAL CANNABIS.--

2 A. No educational institution shall refuse to  
3 enroll or otherwise penalize a person for conduct allowed  
4 pursuant to the Cannabis Regulation Act or the Lynn and Erin  
5 Compassionate Use Act, unless failing to do so would cause the  
6 educational institution to lose a monetary or licensing-related  
7 benefit under federal law or regulation.

8 B. A person may prohibit or restrict any of the  
9 actions or conduct otherwise allowed under Section 24 of the  
10 Cannabis Regulation Act on that person's privately owned  
11 property.

12 C. A person shall not be denied custody of or  
13 visitation or parenting time with a child for conduct allowed  
14 under Section 24 of the Cannabis Regulation Act or under the  
15 Lynn and Erin Compassionate Use Act, unless the court  
16 determines that the person's behavior is contrary to the best  
17 interests of the child pursuant to Sections 40-4-9 and 40-4-9.1  
18 NMSA 1978.

19 SECTION 23. [NEW MATERIAL] EMPLOYMENT PROTECTIONS.--

- 20 A. Nothing in the Cannabis Regulation Act shall:
- 21 (1) restrict an employer's ability to prohibit
  - 22 or take adverse employment action against an employee for the
  - 23 possession or use of intoxicating substances at work during
  - 24 work hours;
  - 25 (2) require an employer to commit any act that

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1 would cause the employer to be in violation of federal law or  
2 that would result in the loss of a federal contract or federal  
3 funding; or

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

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

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

23 SECTION 24. [NEW MATERIAL] PERSONAL USE OF CANNABIS.--

24 A. The following conduct is lawful for a person who  
25 is twenty-one years of age or older and shall not constitute

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

5 (1) purchasing at one time, possessing, using,  
6 being under the influence of, displaying, purchasing, obtaining  
7 or transporting not more than two ounces of cannabis and  
8 sixteen grams of cannabis extracts;

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

13 (3) possessing not more than two ounces of  
14 cannabis and sixteen grams of cannabis extracts outside the  
15 person's private residence;

16 (4) transporting cannabis as described in  
17 Paragraph (2) of this subsection when the person is moving the  
18 person's residence to another location and for purposes of  
19 testing or manufacturing;

20 (5) smoking, ingesting or otherwise consuming  
21 cannabis or cannabis items;

22 (6) possessing, using, displaying, purchasing,  
23 obtaining, manufacturing, transporting or giving away to a  
24 person twenty-one years of age or older cannabis paraphernalia;

25 (7) assisting another person who is twenty-one

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1 years of age or older in, or allowing property to be used in,  
2 any of the acts described in Paragraphs (1) through (6) of this  
3 subsection;

4 (8) possessing, planting, cultivating,  
5 harvesting, drying, or manufacturing cannabis extracts using  
6 nonvolatile solvents, alcohol or carbon dioxide or no solvents  
7 or transporting not more than three mature cannabis plants per  
8 person and a maximum of six per household and possessing the  
9 cannabis produced by the plants; provided that the production  
10 of cannabis is permitted in writing by the owner of the  
11 residence; and

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

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

21 SECTION 25. [NEW MATERIAL] LIMITS ON PERSONAL  
22 CONSUMPTION--PENALTY.--

23 A. Nothing in Section 24 of the Cannabis Regulation  
24 Act shall be construed to restrict the ability of an individual  
25 or private entity to prohibit conduct otherwise allowed in

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1 Section 24 of the Cannabis Regulation Act on the individual's  
2 or private entity's privately owned property.

3 B. No person shall smoke cannabis or consume  
4 cannabis items in a public place.

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

8 SECTION 26. [NEW MATERIAL] PERSONAL PRODUCTION OF  
9 CANNABIS PROHIBITED--PENALTIES.--

10 A. Except as provided in the Lynn and Erin  
11 Compassionate Use Act and the Cannabis Regulation Act, it is  
12 unlawful for a person intentionally to produce cannabis  
13 products.

14 B. Notwithstanding the provisions of Subsection A  
15 of this section, a person twenty-one years of age or older who  
16 intentionally produces:

17 (1) more than six and up to twelve cannabis  
18 plants shall be issued a penalty assessment pursuant to Section  
19 31-19A-1 NMSA 1978 and is subject to a fine of fifty dollars  
20 (\$50.00); and

21 (2) more than twelve cannabis plants is guilty  
22 of a fourth degree felony and shall be sentenced pursuant to  
23 the provisions of Section 31-18-15 NMSA 1978.

24 SECTION 27. [NEW MATERIAL] UNLICENSED SALES OF CANNABIS--  
25 PENALTIES.--

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1           A. Except as allowed in the Cannabis Regulation  
2 Act, the Lynn and Erin Compassionate Use Act or Chapter 76,  
3 Article 24 NMSA 1978, it is unlawful for a person without a  
4 license to intentionally distribute cannabis items. It is  
5 unlawful for a person to sell or deliver cannabis items from a  
6 drive-up window.

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

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

10                           (a) a fine of one hundred dollars  
11 (\$100);

12                           (b) attendance at a four-hour drug  
13 education program; and

14                           (c) four hours of community service;

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

16                           (a) a fine of two hundred fifty dollars  
17 (\$250);

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

20                           (c) four hours of community service; and

21                   (3) for a third or subsequent violation, be  
22 subject to:

23                           (a) a fine of one thousand dollars  
24 (\$1,000);

25                           (b) attendance at a four-hour drug

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1 education program; and

2 (c) not less than one hundred hours of  
3 community service.

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

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

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

24 A. a person eighteen years of age or older and  
25 younger than twenty-one years of age shall not possess cannabis

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1 items. A person who violates this subsection shall be subject  
2 to:

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

6 (3) four hours of community service;

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

10 (1) a fine of fifty dollars (\$50.00);  
11 (2) attendance at a four-hour drug education  
12 program; and

13 (3) four hours of community service; and

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

20 (1) one ounce of cannabis or eight grams of  
21 cannabis extracts or less, shall be subject to a civil penalty  
22 of five hundred dollars (\$500);

23 (2) more than one ounce of cannabis or eight  
24 grams of cannabis extracts but not more than sixteen ounces of  
25 cannabis or one hundred twenty-eight grams of cannabis

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1 extracts, is guilty of a petty misdemeanor and shall be subject  
2 to a fine in an amount not more than five hundred dollars  
3 (\$500); or

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

9 SECTION 30. [NEW MATERIAL] UNLICENSED MANUFACTURING OF  
10 CANNABIS EXTRACTS--PENALTY.--Except as permitted by the Lynn  
11 and Erin Compassionate Use Act, it is unlawful for any person  
12 to use volatile solvents to manufacture cannabis extracts  
13 without a license issued pursuant to the Cannabis Regulation  
14 Act or the Lynn and Erin Compassionate Use Act. A person who  
15 violates this section shall be subject to a civil penalty of  
16 four hundred fifty dollars (\$450).

17 SECTION 31. [NEW MATERIAL] IMPORTS AND EXPORTS.--

18 A. The governor shall enter into agreements with  
19 other jurisdictions within or outside of the United States for  
20 the purposes of cross-jurisdictional delivery of cannabis items  
21 between this state and other jurisdictions on the earlier of:

22 (1) federal law being amended to allow for the  
23 interstate or international transfer of cannabis items between  
24 authorized cannabis-related businesses; or

25 (2) the United States department of justice

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1 issuing an opinion or memorandum allowing or tolerating the  
2 interstate or international transfer of cannabis items between  
3 cannabis-related businesses as authorized by state law. Such  
4 agreements shall:

5 (a) ensure enforceable public health and  
6 safety standards;

7 (b) include a system to regulate and  
8 track the interstate or international delivery of cannabis  
9 items; and

10 (c) ensure that any cannabis items  
11 delivered into this state, prior to sale to a consumer, are  
12 tested, packaged and labeled pursuant to New Mexico statutes  
13 and rules.

14 B. Notwithstanding any other provision of law and  
15 in accordance with the agreement as described in Subsection A  
16 of this section:

17 (1) a licensee permitted to courier cannabis  
18 items may deliver cannabis items to a person located in, and  
19 authorized to receive cannabis items by, another jurisdiction  
20 in the United States or internationally; and

21 (2) a licensee permitted to receive cannabis  
22 items may receive cannabis items from a person located in, and  
23 authorized to export cannabis items by, another jurisdiction in  
24 the United States or internationally.

25 SECTION 32. [NEW MATERIAL] INDIAN NATIONS, TRIBES AND

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1 PUEBLOS--INTERGOVERNMENTAL AGREEMENTS.--

2 A. The division may enter into one or more  
3 intergovernmental agreements with any tribal government to  
4 efficiently coordinate the cross-jurisdictional administration  
5 of the laws of this state and the laws of tribal governments  
6 relating to the use of cannabis items set forth in the Lynn and  
7 Erin Compassionate Use Act and the Cannabis Regulation Act.  
8 The agreements may include, without limitation, provisions  
9 relating to:

- 10 (1) criminal and civil law enforcement;
- 11 (2) regulatory issues relating to the  
12 possession, delivery, production, processing or use of cannabis  
13 items;
- 14 (3) the administration of laws relating to  
15 taxation;
- 16 (4) any immunity, preemption or conflict of  
17 law relating to the possession, delivery, production,  
18 processing or use of cannabis items; and
- 19 (5) the resolution of any disputes between a  
20 tribal government and the state, which may include, without  
21 limitation, the use of mediation or other nonjudicial  
22 processes.

23 B. An agreement entered into pursuant to this  
24 section shall:

- 25 (1) provide for the preservation of public

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1 health and safety;

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

4 (3) establish provisions regulating business  
5 involving cannabis that passes between tribal land and  
6 nontribal land in New Mexico; and

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

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

12 SECTION 33. [NEW MATERIAL] WRIT OF MANDAMUS.--Any person  
13 may commence a legal action for a writ of mandamus to compel  
14 the division to perform its duties pursuant to the Cannabis  
15 Regulation Act.

16 SECTION 34. [NEW MATERIAL] CANNABIS REGULATION FUND.--

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

23 B. The division shall administer the fund, and  
24 money in the fund is appropriated to the division to support  
25 the division in its duties established in the Cannabis

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1 Regulation Act. Money from the fund shall not be used for  
2 capital expenditures.

3 C. Money in the fund shall be disbursed on warrants  
4 signed by the secretary of finance and administration pursuant  
5 to vouchers signed by the director or the director's authorized  
6 representative.

7 SECTION 35. [NEW MATERIAL] EXEMPTION FROM CRIMINAL AND  
8 CIVIL PENALTIES--RESEARCHERS.--A person shall not be subject to  
9 arrest or prosecution, penalized in any manner or denied any  
10 right or privilege solely because the person produced,  
11 possessed, distributed, dispensed or purchased cannabis from a  
12 person licensed pursuant to the Lynn and Erin Compassionate Use  
13 Act or the Cannabis Regulation Act if the person produced,  
14 possessed, distributed, dispensed or purchased the cannabis  
15 solely for the purpose of research conducted pursuant to the  
16 Lynn and Erin Compassionate Use Act or the Cannabis Regulation  
17 Act.

18 SECTION 36. [NEW MATERIAL] ROAD SAFETY FUND.--

19 A. The "road safety fund" is created in the state  
20 treasury. The fund consists of money transferred from the  
21 cannabis excise tax, appropriations, other money deposited in  
22 the fund and money otherwise accruing to the fund. The  
23 department of public safety shall administer the fund, and  
24 money in the fund is subject to appropriation to the department  
25 of public safety for the purposes described in this section.

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

7 B. Money in the fund is subject to appropriation by  
8 the department of public safety for:

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

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

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

19 SECTION 37. Section 9-16-4 NMSA 1978 (being Laws 1983,  
20 Chapter 297, Section 20, as amended) is amended to read:

21 "9-16-4. DEPARTMENT ESTABLISHED.--The "regulation and  
22 licensing department" is created in the executive branch. The  
23 department shall not be a cabinet department. The department  
24 shall consist of but not be limited to the following divisions:

25 A. the administrative services division;

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- 1 B. the construction industries division;
- 2 C. the financial institutions division;
- 3 D. the securities division;
- 4 E. the manufactured housing division; ~~and~~
- 5 F. the alcoholic beverage control division; and
- 6 G. the cannabis control division."

7 SECTION 38. [NEW MATERIAL] SHORT TITLE.--Sections 38  
8 through 44 of this act may be cited as the "Cannabis Tax Act".

9 SECTION 39. [NEW MATERIAL] DEFINITIONS.--As used in the  
10 Cannabis Tax Act:

11 A. "cannabis":

12 (1) means all parts of the plant Cannabis  
13 sativa Linnaeus, whether growing or not; the seeds of the  
14 plant; the resin extracted from any part of the plant; and  
15 every compound, manufacture, salt, derivative, mixture or  
16 preparation of the 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 to prepare topical or oral

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1 administrations, food, drink or another product;

2 B. "cannabis extract":

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

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

10 C. "cannabis items" means cannabis, cannabis  
11 products and cannabis extracts;

12 D. "cannabis product":

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

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

20 E. "department" means the taxation and revenue  
21 department.

22 SECTION 40. [NEW MATERIAL] CANNABIS EXCISE TAX.--

23 A. An excise tax is imposed upon retailers on the  
24 sale of cannabis items in this state on which the tax imposed  
25 by this section has not been paid. The tax imposed by this

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1 section may be referred to as the "cannabis excise tax". If  
2 the price paid does not represent the value of the cannabis  
3 item, the tax rate shall be applied to the reasonable value of  
4 the cannabis item at the time the item was purchased.

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

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

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

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

14 SECTION 41. [NEW MATERIAL] MUNICIPAL CANNABIS TAX.--

15 A. There is imposed upon retailers an excise tax at  
16 a rate of two percent on the sale of cannabis items in the  
17 municipality on which the tax imposed by this section has not  
18 been paid. The tax imposed pursuant to this section may be  
19 referred to as the "municipal cannabis tax".

20 B. The governing body of the municipality may  
21 dedicate the revenue for any municipal purpose.

22 C. The municipal cannabis tax shall not apply to:

23 (1) retail sales of medical cannabis products  
24 sold to a qualified patient or to a primary caregiver who  
25 presents a registry identification card issued pursuant to the

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1 Lynn and Erin Compassionate Use Act at the time of the sale; or  
2 (2) receipts of cannabis producers from  
3 selling cannabis wholesale.

4 SECTION 42. [NEW MATERIAL] COUNTY CANNABIS TAX.--

5 A. There is imposed upon retailers an excise tax at  
6 a rate of two percent on the sale of cannabis items in the  
7 county on which the tax imposed by this section has not been  
8 paid. The tax imposed pursuant to this section may be referred  
9 to as the "county cannabis tax".

10 B. The governing body of the county may dedicate  
11 the revenue for any county purpose.

12 C. The county cannabis tax shall not apply to:

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

17 (2) receipts of cannabis producers from  
18 selling cannabis wholesale.

19 SECTION 43. [NEW MATERIAL] DATE PAYMENT DUE.--The taxes  
20 imposed pursuant to the Cannabis Tax Act are to be paid on or  
21 before the twenty-fifth day of the month following the month in  
22 which the taxable event occurs.

23 SECTION 44. [NEW MATERIAL] INTERPRETATION OF ACT--  
24 ADMINISTRATION AND ENFORCEMENT OF TAX.--The department shall  
25 administer and enforce the collection of the cannabis excise

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

3 SECTION 45. A new section of the Tax Administration Act  
4 is enacted to read:

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

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

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

14 SECTION 46. 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 is  
20 collecting a municipal cannabis tax imposed by that  
21 municipality in an amount, subject to any increase or decrease  
22 made pursuant to Section 7-1-6.15 NMSA 1978, equal to the net  
23 receipts attributable to the municipal cannabis tax.

24 B. A transfer pursuant to Section 7-1-6.1 NMSA 1978  
25 shall be made to each county for which the department is

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1 collecting a county cannabis tax imposed by that county in an  
2 amount, subject to any increase or decrease made pursuant to  
3 Section 7-1-6.15 NMSA 1978, equal to the net receipts  
4 attributable to the county cannabis tax."

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

9 "7-1-2. APPLICABILITY.--The Tax Administration Act  
10 applies to and governs:

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

- 14 (1) Income Tax Act;
- 15 (2) Withholding Tax Act;
- 16 (3) Oil and Gas Proceeds and Pass-Through  
17 Entity Withholding Tax Act;
- 18 (4) Gross Receipts and Compensating Tax Act,  
19 Interstate Telecommunications Gross Receipts Tax Act and Leased  
20 Vehicle Gross Receipts Tax Act;
- 21 (5) Liquor Excise Tax Act;
- 22 (6) Local Liquor Excise Tax Act;
- 23 (7) any municipal local option gross receipts  
24 tax or municipal compensating tax;
- 25 (8) any county local option gross receipts tax

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1 or county compensating tax;

2 (9) Special Fuels Supplier Tax Act;

3 (10) Gasoline Tax Act;

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

6 Administration Act;

7 (12) Alternative Fuel Tax Act;

8 (13) Cigarette Tax Act;

9 (14) Estate Tax Act;

10 (15) Railroad Car Company Tax Act;

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

16 (17) Corporate Income and Franchise Tax Act;

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

19 (19) Multistate Tax Compact;

20 (20) Tobacco Products Tax Act;

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

25 (22) the Insurance Premium Tax Act;

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1 (23) the Health Care Quality Surcharge Act;

2 and

3 (24) the Cannabis Tax Act;

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

7 (1) Resources Excise Tax Act;

8 (2) Severance Tax Act;

9 (3) any severance surtax;

10 (4) Oil and Gas Severance Tax Act;

11 (5) Oil and Gas Conservation Tax Act;

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

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

14 (8) Natural Gas Processors Tax Act;

15 (9) Oil and Gas Production Equipment Ad

16 Valorem Tax Act;

17 (10) Copper Production Ad Valorem Tax Act;

18 (11) any advance payment required to be made

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

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

21 Administration Act;

22 (12) Enhanced Oil Recovery Act;

23 (13) Natural Gas and Crude Oil Production

24 Incentive Act; and

25 (14) intergovernmental production tax credit

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1 and intergovernmental production equipment tax credit;

2 C. the administration and enforcement of the  
3 following taxes, surcharges, fees or acts as they now exist or  
4 may hereafter be amended:

5 (1) Weight Distance Tax Act;

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

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

10 (4) 911 emergency surcharge and the network  
11 and database surcharge, which surcharges shall be considered  
12 taxes for purposes of the Tax Administration Act;

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

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

19 (7) the gaming tax imposed pursuant to the  
20 Gaming Control Act; and

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

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1           SECTION 48. Section 7-1-6.15 NMSA 1978 (being Laws 1983,  
2 Chapter 211, Section 20, as amended by Laws 2015, Chapter 89,  
3 Section 1 and by Laws 2015, Chapter 100, Section 1) is amended  
4 to read:

5           "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO  
6 MUNICIPALITIES OR COUNTIES.--

7           A. The provisions of this section apply to:

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

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

13                   (3) any transfer to a county with respect to  
14 any local option gross receipts tax or county cannabis tax  
15 imposed by that county;

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

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

20                   (6) any transfer to a county with respect to  
21 any tax imposed in accordance with the Local Liquor Excise Tax  
22 Act;

23                   (7) any distribution to a county from the  
24 county government road fund pursuant to Section 7-1-6.26 NMSA  
25 1978;

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

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

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

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

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1 to the municipality or county shall be adjusted to equal the  
2 amount for the current month plus the revised total for prior  
3 periods; and

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

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

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

23 (1) that the department has made such an  
24 adjustment, that the department has determined that a specified  
25 amount is recoverable from the municipality or county and that

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1 the department intends to recover that amount from future  
2 distributions or transfers to the municipality or county;

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

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

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

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

19 (1) the department may collect the recoverable  
20 amount by:

21 (a) decreasing distributions or  
22 transfers to the municipality or county in accordance with a  
23 repayment agreement entered into with the municipality or  
24 county; or

25 (b) except as provided in Paragraphs (2)

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

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

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

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

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

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1 may waive recovery of any portion of the recoverable amount,  
2 subject to approval by the state board of finance.

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

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

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

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

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

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

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

25                   J. As used in this section:

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

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

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

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

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

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

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

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

16 SECTION 49. Section 7-2-2 NMSA 1978 (being Laws 1986,  
17 Chapter 20, Section 26, as amended) is amended to read:

18 "7-2-2. DEFINITIONS.--For the purpose of the Income Tax  
19 Act and unless the context requires otherwise:

20 A. "adjusted gross income" means adjusted gross  
21 income as defined in Section 62 of the Internal Revenue Code,  
22 as that section may be amended or renumbered;

23 B. "base income":

24 (1) means, for estates and trusts, that part  
25 of the estate's or trust's income defined as taxable income and

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1 upon which the federal income tax is calculated in the Internal  
2 Revenue Code for income tax purposes plus, for taxable years  
3 beginning on or after January 1, 1991, the amount of the net  
4 operating loss deduction allowed by Section 172(a) of the  
5 Internal Revenue Code, as that section may be amended or  
6 renumbered, and taken by the taxpayer for that year;

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

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

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

25 (a) such amount is transferred to

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1 another qualified tuition program, as defined in Section 529 of  
2 the Internal Revenue Code, not authorized in the Education  
3 Trust Act; or

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

9 (5) excludes, for taxpayers who conduct lawful  
10 businesses pursuant to the laws of the state, subtracting an  
11 amount equal to any expenditure that is eligible to be claimed  
12 as a federal income tax deduction but is disallowed by Section  
13 280E of the Internal Revenue Code, as that section may be  
14 amended or renumbered;

15 C. "compensation" means wages, salaries,  
16 commissions and any other form of remuneration paid to  
17 employees for personal services;

18 D. "department" means the taxation and revenue  
19 department, the secretary or any employee of the department  
20 exercising authority lawfully delegated to that employee by the  
21 secretary;

22 E. "fiduciary" means a guardian, trustee, executor,  
23 administrator, committee, conservator, receiver, individual or  
24 corporation acting in any fiduciary capacity;

25 F. "filing status" means "married filing joint

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1 returns", "married filing separate returns", "head of  
2 household", "surviving spouse" and "single", as those terms are  
3 generally defined for federal tax purposes;

4 G. "fiscal year" means any accounting period of  
5 twelve months ending on the last day of any month other than  
6 December;

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

9 I. "individual" means a natural person, an estate,  
10 a trust or a fiduciary acting for a natural person, trust or  
11 estate;

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

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

21 L. "modified gross income" means all income of the  
22 taxpayer and, if any, the taxpayer's spouse and dependents,  
23 undiminished by losses and from whatever source, including:

24 (1) compensation;

25 (2) net profit from business;

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- 1 (3) gains from dealings in property;
- 2 (4) interest;
- 3 (5) net rents;
- 4 (6) royalties;
- 5 (7) dividends;
- 6 (8) alimony and separate maintenance payments;
- 7 (9) annuities;
- 8 (10) income from life insurance and endowment
- 9 contracts;
- 10 (11) pensions;
- 11 (12) discharge of indebtedness;
- 12 (13) distributive share of partnership income;
- 13 (14) income in respect of a decedent;
- 14 (15) income from an interest in an estate or a
- 15 trust;
- 16 (16) social security benefits;
- 17 (17) unemployment compensation benefits;
- 18 (18) workers' compensation benefits;
- 19 (19) public assistance and welfare benefits;
- 20 (20) cost-of-living allowances; and
- 21 (21) gifts;

22 M. "modified gross income" excludes:

- 23 (1) payments for hospital, dental, medical or
- 24 drug expenses to or on behalf of the taxpayer;
- 25 (2) the value of room and board provided by

1 federal, state or local governments or by private individuals  
2 or agencies based upon financial need and not as a form of  
3 compensation;

4 (3) payments pursuant to a federal, state or  
5 local government program directly or indirectly to a third  
6 party on behalf of the taxpayer when identified to a particular  
7 use or invoice by the payer; or

8 (4) payments for credits and rebates pursuant  
9 to the Income Tax Act and made for a credit pursuant to Section  
10 7-3-9 NMSA 1978;

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

16 (1) an amount equal to the standard deduction  
17 allowed the taxpayer for the taxpayer's taxable year by Section  
18 63 of the Internal Revenue Code, as that section may be amended  
19 or renumbered;

20 (2) an amount equal to the itemized deductions  
21 defined in Section 63 of the Internal Revenue Code, as that  
22 section may be amended or renumbered, allowed the taxpayer for  
23 the taxpayer's taxable year less the amount excluded pursuant  
24 to Paragraph (1) of this subsection and less the amount of  
25 state and local income and sales taxes included in the

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1 taxpayer's itemized deductions;

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

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

9 (5) other amounts that the state is prohibited  
10 from taxing because of the laws or constitution of this state  
11 or the United States;

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

14 (a) net operating loss carryback  
15 deductions to that year from taxable years beginning prior to  
16 January 1, 1991 claimed and allowed, as provided by the  
17 Internal Revenue Code; and

18 (b) net operating loss carryover  
19 deductions to that year claimed and allowed;

20 (7) for taxable years beginning on or after  
21 January 1, 1991 and prior to January 1, 2013, an amount equal  
22 to the sum of any net operating loss carryover deductions to  
23 that year claimed and allowed, provided that the amount of any  
24 net operating loss carryover from a taxable year beginning on  
25 or after January 1, 1991 and prior to January 1, 2013 may be

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1 excluded only as follows:

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

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

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

20 (8) for taxable years beginning on or after  
21 January 1, 2013, an amount equal to the sum of any net  
22 operating loss carryover deductions to that year claimed and  
23 allowed; provided that the amount of any net operating loss  
24 carryover may be excluded only as follows:

25 (a) in the case of a timely filed

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1 return, in the taxable year immediately following the taxable  
2 year for which the return is filed; or

3 (b) in the case of amended returns or  
4 original returns not timely filed, in the first taxable year  
5 beginning after the date on which the return or amended return  
6 establishing the net operating loss is filed; and

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

21 (9) for taxable years beginning on or after  
22 January 1, 2011, an amount equal to the amount included in  
23 adjusted gross income that represents a refund of state and  
24 local income and sales taxes that were deducted for federal tax  
25 purposes in taxable years beginning on or after January 1,

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1 2010;

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

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

12 Q. "nonresident" means every individual not a  
13 resident of this state;

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

21 S. "resident" means an individual who is domiciled  
22 in this state during any part of the taxable year or an  
23 individual who is physically present in this state for one  
24 hundred eighty-five days or more during the taxable year; but  
25 any individual, other than someone who was physically present

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

8 T. "secretary" means the secretary of taxation and  
9 revenue or the secretary's delegate;

10 U. "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 any political  
13 subdivision of a foreign country;

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

20 W. "surviving spouse" means "surviving spouse" as  
21 generally defined for federal income tax purposes;

22 X. "taxable income" means net income less any lump-  
23 sum amount;

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

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

6 SECTION 50. Section 7-2A-2 NMSA 1978 (being Laws 1986,  
7 Chapter 20, Section 33, as amended) is amended to read:

8 "7-2A-2. DEFINITIONS.--For the purpose of the Corporate  
9 Income and Franchise Tax Act and unless the context requires  
10 otherwise:

11 A. "bank" means any national bank, national banking  
12 association, state bank or bank holding company;

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

20 C. "base income" means the federal taxable income  
21 or the federal net operating loss of a corporation for the  
22 taxable year calculated pursuant to the Internal Revenue Code,  
23 after special deductions provided in Sections 241 through 249  
24 of the Internal Revenue Code but without any deduction for net  
25 operating losses, as if the corporation filed a federal tax

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1 return as a separate domestic entity, modified as follows:

2 (1) adding to that income:

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

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

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

13 (2) subtracting from that income:

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

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

19 (c) an amount equal to one hundred  
20 percent of the subpart F income, as that term is defined in  
21 Section 952 of the Internal Revenue Code, as that section may  
22 be amended or renumbered, included in the income of the  
23 corporation; and

24 (d) an amount equal to one hundred  
25 percent of the income of the corporation under Section 951A of

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1 the Internal Revenue Code, after allowing the deduction  
2 provided in Section 250 of the Internal Revenue Code; ~~and~~

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

8 (4) for taxpayers that conduct lawful  
9 businesses pursuant to the laws of the state, subtracting an  
10 amount equal to any expenditure that is eligible to be claimed  
11 as a federal income tax deduction but is disallowed by Section  
12 280E of the Internal Revenue Code, as that section may be  
13 amended or renumbered;

14 D. "captive real estate investment trust" means a  
15 corporation, trust or association taxed as a real estate  
16 investment trust pursuant to Section 857 of the Internal  
17 Revenue Code, the shares or beneficial interests of which are  
18 not regularly traded on an established securities market;  
19 provided that more than fifty percent of any class of  
20 beneficial interests or shares of the real estate investment  
21 trust are owned directly, indirectly or constructively by the  
22 taxpayer during all or a part of the taxpayer's taxable year;

23 E. "common ownership" means the direct or indirect  
24 control or ownership of more than fifty percent of the  
25 outstanding voting stock, ownership of which is determined

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1 pursuant to Section 1563 of the Internal Revenue Code, as that  
2 section may be amended or renumbered, of:

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

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

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

11 (a) a common parent corporation included  
12 in a group of corporations described in Paragraph (1) of this  
13 subsection; and

14 (b) included in a group of corporations  
15 described in Paragraph (2) of this subsection;

16 F. "consolidated group" means the group of entities  
17 properly filing a federal consolidated return under the  
18 Internal Revenue Code for the taxable year;

19 G. "corporation" means corporations, joint stock  
20 companies, real estate trusts organized and operated under the  
21 Real Estate Trust Act, financial corporations and banks, other  
22 business associations and, for corporate income tax purposes,  
23 partnerships and limited liability companies taxed as  
24 corporations under the Internal Revenue Code;

25 H. "department" means the taxation and revenue

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1 department, the secretary of taxation and revenue or any  
2 employee of the department exercising authority lawfully  
3 delegated to that employee by the secretary;

4 I. "filing group" means a group of corporations  
5 properly included in a return pursuant to Section 7-2A-8.3 NMSA  
6 1978 for a particular taxable year;

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

10 K. "grandfathered net operating loss carryover"  
11 means:

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

20 (2) reduced by:

21 (a) adding back deductions that were  
22 taken by the corporation or corporations for royalties or  
23 interest paid to one or more related corporations, but only to  
24 the extent that such adjustment would not create a net loss for  
25 such related corporations; and

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

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

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

11 M. "net income" means:

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

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

20 N. "net operating loss carryover" means the  
21 apportioned net loss properly reported on an original or  
22 amended tax return for taxable years beginning on or after  
23 January 1, 2020 by the taxpayer:

24 (1) plus:

25 (a) the portion of an apportioned net

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

8 (b) the taxpayer's grandfathered net  
9 operating loss carryover; and

10 (2) minus:

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

17 (b) the amount of net operating loss  
18 deductions properly taken by the taxpayer;

19 0. "net operating loss deduction" means the portion  
20 of the net operating loss carryover that may be deducted from  
21 the taxpayer's apportioned net income under the Internal  
22 Revenue Code as of January 1, 2018 for the taxable year in  
23 which the deduction is taken, including the eighty percent  
24 limitation of Section 172(a) of the Internal Revenue Code as of  
25 January 1, 2018 calculated on the basis of the taxpayer's

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1 apporportioned net income;

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

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

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

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

23 T. "secretary" means the secretary of taxation and  
24 revenue or the secretary's delegate;

25 U. "separate year return" means a properly filed

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1 original or amended return for a taxable year beginning on or  
2 after January 1, 2020 by a taxpayer reporting a loss, a portion  
3 of which is claimed as part of the net operating loss carryover  
4 by another taxpayer in a subsequent return period;

5 V. "state" means any state of the United States,  
6 the District of Columbia, the commonwealth of Puerto Rico, any  
7 territory or possession of the United States or political  
8 subdivision thereof or any political subdivision of a foreign  
9 country;

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

16 X. "taxable income" means a taxpayer's apportioned  
17 net income minus the net operating loss deduction for the  
18 taxable year;

19 Y. "taxable year" means the calendar year or fiscal  
20 year upon the basis of which the net income is computed under  
21 the Corporate Income and Franchise Tax Act and includes, in the  
22 case of the return made for a fractional part of a year under  
23 the provisions of that act, the period for which the return is  
24 made;

25 Z. "taxpayer" means any corporation or group of

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1 corporations filing a return pursuant to Section 7-2A-8.3 NMSA  
2 1978 subject to the taxes imposed by the Corporate Income and  
3 Franchise Tax Act;

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

- 12 (1) related through common ownership; and
- 13 (2) economically interdependent with one  
14 another as demonstrated by the following factors:
  - 15 (a) centralized management;
  - 16 (b) functional integration; and
  - 17 (c) economies of scale;

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

- 20 (1) corporations that are exempt from  
21 corporate income tax pursuant to Section 7-2A-4 NMSA 1978; and
- 22 (2) corporations wherever organized or  
23 incorporated that have less than twenty percent of their  
24 property, payroll and sales sourced to locations within the  
25 United States, following the sourcing rules of the Uniform

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1 Division of Income for Tax Purposes Act; and

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

7 SECTION 51. Section 7-9-13 NMSA 1978 (being Laws 1969,  
8 Chapter 144, Section 6, as amended) is amended to read:

9 "7-9-13. EXEMPTION--GROSS RECEIPTS TAX--GOVERNMENTAL  
10 AGENCIES.--

11 A. Except as otherwise provided in this section,  
12 exempted from the gross receipts tax are receipts of:

13 (1) the United States or any agency,  
14 department or instrumentality thereof;

15 (2) the state of New Mexico or any political  
16 subdivision thereof;

17 (3) any Indian nation, tribe or pueblo from  
18 activities or transactions occurring on its sovereign  
19 territory; [~~or~~]

20 (4) any foreign nation or agency,  
21 instrumentality or political subdivision thereof, but only when  
22 required by a treaty in force to which the United States is a  
23 party; or

24 (5) cannabis producers for the sale of  
25 cannabis wholesale.

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1           B. Receipts from the sale of gas or electricity by  
2 a utility owned or operated by a county, municipality or other  
3 political subdivision of a state are not exempted from the  
4 gross receipts tax.

5           C. Receipts from the operation of a cable  
6 television system owned or operated by a municipality are not  
7 exempted from the gross receipts tax."

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

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

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

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

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

24                   (2) prescribed for a specified person by a  
25 person authorized under state law to prescribe the substance;

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1 and

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

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

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

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

9 (1) new, innovative or model programs,  
10 services or activities to prevent or reduce the incidence of  
11 DWI, alcoholism, alcohol abuse, drug addiction or drug abuse;  
12 [~~and~~]

13 (2) programs, services or activities to  
14 prevent or reduce the incidence of domestic abuse related to  
15 DWI, alcoholism, alcohol abuse, drug addiction or drug abuse;

16 (3) implementing best practices in law  
17 enforcement agencies regarding impairment by the use of  
18 cannabis products; and

19 (4) funding drug recognition expert field  
20 certification training for law enforcement officers and for  
21 purchasing roadside impairment tests that are validated for  
22 testing cannabis impairment.

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

25 C. The "local DWI grant fund" is created in the

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1 state treasury and shall be administered by the division. Two  
2 million five hundred thousand dollars (\$2,500,000) of liquor  
3 excise tax revenues distributed to the fund and all other money  
4 in the fund, other than money appropriated for distribution  
5 pursuant to Subsections D and E of this section and money  
6 appropriated for DWI program distributions, are appropriated to  
7 the division to make grants to municipalities and counties upon  
8 council approval in accordance with the program established  
9 under the Local DWI Grant Program Act and to evaluate DWI  
10 grantees and the local DWI grant program. Money in the fund  
11 may be used for drug courts. An amount equal to the liquor  
12 excise tax revenues distributed annually to the fund, less five  
13 million six hundred thousand dollars (\$5,600,000), is  
14 appropriated to the division to make DWI program distributions  
15 to counties upon council approval of programs in accordance  
16 with the provisions of the Local DWI Grant Program Act. No  
17 more than six hundred thousand dollars (\$600,000) of liquor  
18 excise tax revenues distributed to the fund in any fiscal year  
19 shall be expended for administration of the grant program.  
20 Balances in the fund at the end of any fiscal year shall not  
21 revert to the general fund.

22 D. Two million eight hundred thousand dollars  
23 (\$2,800,000) of the liquor excise tax revenues distributed to  
24 the local DWI grant fund is appropriated to the division for  
25 distribution to the following counties in the following amounts

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1 for funding of alcohol detoxification and treatment facilities:

2 (1) one million seven hundred thousand dollars  
3 (\$1,700,000) to class A counties with a population of over  
4 three hundred thousand persons according to the 1990 federal  
5 decennial census;

6 (2) three hundred thousand dollars (\$300,000)  
7 each to counties reclassified in 2002 as class A counties with  
8 a population of more than ninety thousand but less than one  
9 hundred thousand persons according to the 1990 federal  
10 decennial census;

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

15 (4) one hundred fifty thousand dollars  
16 (\$150,000) to class B counties with a population of more than  
17 sixty-two thousand but less than sixty-five thousand persons  
18 according to the 1990 federal decennial census; and

19 (5) one hundred fifty thousand dollars  
20 (\$150,000) to class B counties with a population of more than  
21 thirteen thousand but less than fifteen thousand persons  
22 according to the 1990 federal decennial census.

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

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1 fund.

2 F. In awarding DWI grants to local communities, the  
3 council:

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

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

10 (3) may fund new or existing innovative or  
11 model programs, services or activities of any kind designed to  
12 prevent or reduce the incidence of domestic abuse related to  
13 DWI, alcoholism or alcohol abuse;

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

17 (5) shall give consideration to a broad range  
18 of approaches to prevention, education, screening, treatment or  
19 alternative sentencing, including programs that combine  
20 incarceration, treatment and aftercare, to address the problem  
21 of DWI, alcoholism or alcohol abuse; and

22 (6) shall make grants only to counties or  
23 municipalities in counties that have established a DWI planning  
24 council and adopted a county DWI plan or are parties to a  
25 multicounty DWI plan that has been approved by the council and

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1 approved pursuant to Chapter 43, Article 3 NMSA 1978 and only  
2 for programs, services or activities consistent with that plan.  
3 A DWI plan shall also comply with local DWI grant program rules  
4 and guidelines.

5 G. The council shall use the criteria in Subsection  
6 F of this section to approve DWI programs, services or  
7 activities for funding through the county DWI program  
8 distribution. Sixty-five percent of the DWI grants awarded to  
9 local communities shall be used for alcohol-related treatment  
10 and detoxification programs."

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

13 "26-2B-3. DEFINITIONS.--As used in the Lynn and Erin  
14 Compassionate Use Act:

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

23 B. "cannabis":

24 (1) means all parts of the plant Cannabis  
25 [~~sativa L.~~] containing a delta-9-tetrahydrocannabinol

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1 concentration of more than three-tenths percent on a dry weight  
2 basis, whether growing or not; the seeds of the plant; the  
3 resin extracted from any part of the plant; and every compound,  
4 manufacture, salt, derivative, mixture or preparation of the  
5 plant, its seeds or its resin; and

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

14 ~~G. "cannabis consumption area" means an area~~  
15 ~~within a licensed premises approved by the department where~~  
16 ~~cannabis may be consumed that complies with rule as established~~  
17 ~~by the department;~~

18 ~~D. "cannabis courier" means a person that is~~  
19 ~~licensed by the department to transport usable cannabis and~~  
20 ~~cannabis products within the state from a cannabis~~  
21 ~~establishment to:~~

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

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

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

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

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

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

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

19                   G. ~~"cannabis producer" means a person that is~~  
20 ~~licensed by the department to possess, produce, dispense,~~  
21 ~~distribute and manufacture cannabis and cannabis products and~~  
22 ~~sell wholesale or by direct sale to qualified patients and~~  
23 ~~primary caregivers;]~~

24                   C. "cannabis extract":

- 25                   (1) means a product obtained by separating

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

9 [H.] E. "cannabis product":

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

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

17 [~~F. "cannabis testing facility" means a person that~~  
18 ~~is licensed by the department to perform tests of cannabis~~  
19 ~~products to analyze the strength or purity of the items and to~~  
20 ~~collect cannabis samples and transport cannabis products to the~~  
21 ~~cannabis testing facility from cannabis establishments;~~

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

23 (1) cancer;

24 (2) glaucoma;

25 (3) multiple sclerosis;

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1 (4) damage to the nervous tissue of the spinal  
2 cord, with objective neurological indication of intractable  
3 spasticity;

4 (5) seizure disorder, including epilepsy;

5 (6) positive status for human immunodeficiency  
6 virus or acquired immune deficiency syndrome;

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

9 (8) amyotrophic lateral sclerosis;

10 (9) Crohn's disease;

11 (10) hepatitis C infection;

12 (11) Huntington's disease;

13 (12) inclusion body myositis;

14 (13) inflammatory autoimmune-mediated  
15 arthritis;

16 (14) intractable nausea or vomiting;

17 (15) obstructive sleep apnea;

18 (16) painful peripheral neuropathy;

19 (17) Parkinson's disease;

20 (18) posttraumatic stress disorder;

21 (19) severe chronic pain;

22 (20) severe anorexia or cachexia;

23 (21) spasmodic torticollis;

24 (22) ulcerative colitis; or

25 (23) any other medical condition, medical

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1 treatment or disease as approved by the department;

2 ~~[K.]~~ G. "department" means the department of  
3 health;

4 H. "division" means the cannabis control division  
5 of the regulation and licensing department;

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

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

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

20 ~~N. "licensee" means a person that holds a license;~~

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

25 ~~P.]~~ K. "manufacture" means to prepare a cannabis

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1 product for a qualified patient's use;

2 [Q.] L. "medical cannabis program" means the  
3 program established pursuant to the Lynn and Erin Compassionate  
4 Use Act for authorization and regulation of the medical use of  
5 cannabis in the state;

6 ~~[R.] "personal production license" means a license  
7 issued to a qualified patient or to a qualified patient's  
8 primary caregiver participating in the medical cannabis program  
9 to permit the qualified patient or the qualified patient's  
10 primary caregiver to produce cannabis for the qualified  
11 patient's use at an address approved by the department;~~

12 ~~S.]~~ M. "practitioner" means a person licensed in  
13 New Mexico to prescribe and administer drugs that are subject  
14 to the Controlled Substances Act;

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

21 ~~[U.]~~ O. "produce" means to engage in any activity  
22 related to the planting or cultivation of cannabis;

23 ~~[V.]~~ P. "qualified patient" means a resident of New  
24 Mexico who has been diagnosed by a practitioner as having a  
25 debilitating medical condition and has received written

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1 certification and a registry identification card pursuant to  
2 the Lynn and Erin Compassionate Use Act on the basis of having  
3 been diagnosed, in person or via telemedicine, by a  
4 practitioner as having a debilitating medical condition;  
5 ~~[provided that a practitioner may only issue a written~~  
6 ~~certification on the basis of an evaluation conducted via~~  
7 ~~telemedicine if the practitioner has previously examined the~~  
8 ~~patient in person;~~

9 W.] Q. "reciprocal participant" means ~~[an~~  
10 ~~individual who holds proof of authorization to participate in~~  
11 ~~the medical cannabis program of another state of the United~~  
12 ~~States, the District of Columbia, a territory or commonwealth~~  
13 ~~of the United States or a New Mexico Indian nation, tribe or~~  
14 ~~pueblo] a person who is not a resident of New Mexico and who~~  
15 ~~holds proof of enrollment by a governmental regulatory~~  
16 ~~authority to participate in the medical cannabis program of~~  
17 ~~another state of the United States, the District of Columbia or~~  
18 ~~a territory or commonwealth of the United States in which the~~  
19 ~~person resides or a person who holds proof of enrollment by a~~  
20 ~~governmental regulatory authority of a New Mexico Indian~~  
21 ~~nation, tribe or pueblo to participate in its medical cannabis~~  
22 ~~program;~~

23 [X.] R. "registry identification card" means a  
24 document that the department issues:

25 (1) to a qualified patient that identifies the

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1 bearer as a qualified patient and authorizes the qualified  
2 patient to use cannabis for a debilitating medical condition;  
3 or

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

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

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

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

23 ~~[BB.]~~ V. "written certification" means a statement  
24 made on a department-approved form and signed by a patient's  
25 practitioner that indicates, in the practitioner's professional

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1 opinion, that the patient has a debilitating medical condition  
2 and the practitioner believes that the potential health  
3 benefits of the medical use of cannabis would likely outweigh  
4 the health risks for the patient."

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

7 "26-2B-4. EXEMPTION FROM CRIMINAL AND CIVIL PENALTIES FOR  
8 THE MEDICAL USE OF CANNABIS.--

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

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.

20 C. The following conduct is lawful and shall not  
21 constitute grounds for detention, search or arrest of a person  
22 or for a violation of probation or parole, and cannabis  
23 products that relate to the conduct are not contraband or  
24 subject to seizure or forfeiture pursuant to the Controlled  
25 Substances Act or the Forfeiture Act:

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

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

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

14 (4) a qualified patient or primary caregiver  
15 transferring, without financial consideration, to a qualified  
16 patient or primary caregiver not more than two ounces of  
17 cannabis, sixteen grams of cannabis extract and eight hundred  
18 milligrams of edible cannabis; ~~[or~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 SECTION 56. Section 26-2B-5 NMSA 1978 (being Laws 2007,  
24 Chapter 210, Section 5, as amended by Laws 2019, Chapter 247,  
25 Section 5 and by Laws 2019, Chapter 261, Section 2) is amended  
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1 to read:

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

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

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

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

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

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

17 (b) at a public park, recreation center,  
18 youth center or other public place.

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

25 ~~[C. If a licensee or the licensee's representative~~

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1 ~~sells, distributes, dispenses or transfers cannabis to a person~~  
2 ~~not approved by the department pursuant to the Lynn and Erin~~  
3 ~~Compassionate Use Act or obtains or transports cannabis outside~~  
4 ~~New Mexico, the licensee or the licensee's representative shall~~  
5 ~~be subject to arrest, prosecution and civil or criminal~~  
6 ~~penalties pursuant to state law.]"~~

7 SECTION 57. Section 26-2B-6.1 NMSA 1978 (being Laws 2019,  
8 Chapter 247, Section 8) is amended to read:

9 "26-2B-6.1. PROGRAM REGULATION AND ADMINISTRATION--FEES--  
10 LIMITATIONS [RULEMAKING]--LICENSURE--ISSUANCE--REPORTING.--

11 [A. ~~The department shall:~~

12 (1) ~~regulate and administer the medical~~  
13 ~~cannabis program; and~~

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

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

23 C. ~~The department shall establish application and~~  
24 ~~licensing fees applicable to licenses for activity related to~~  
25 ~~the medical cannabis program.~~

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1                   ~~D. The department shall administer licensure for~~  
2 ~~medical cannabis program activity provided for in the Lynn and~~  
3 ~~Erin Compassionate Use Act, which shall include personal~~  
4 ~~production licenses and licenses for:~~

- 5                   ~~(1) cannabis couriers;~~
- 6                   ~~(2) cannabis manufacturers;~~
- 7                   ~~(3) cannabis producers;~~
- 8                   ~~(4) cannabis testing facilities; and~~
- 9                   ~~(5) any other activity or person as deemed~~  
10 ~~necessary by the department.~~

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

14                   ~~F.]~~ A. The division shall administer personal  
15 production licenses.

16                   B. In consultation with qualified patients and  
17 primary caregivers, the department shall produce an assessment  
18 report annually, which shall be published to the public and  
19 that includes at a minimum an evaluation of:

20                   (1) the affordability of and accessibility to  
21 medical cannabis pursuant to the Lynn and Erin Compassionate  
22 Use Act; and

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

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

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

6                   ~~(2) cannabis consumption is not visible from~~  
7 ~~any public place or from outside the cannabis consumption area;~~  
8 ~~and~~

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

12                   SECTION 58. Section 26-2B-7 NMSA 1978 (being Laws 2007,  
13 Chapter 210, Section 7, as amended) is amended to read:

14                   "26-2B-7. REGISTRY IDENTIFICATION CARDS--DEPARTMENT  
15 RULES--DUTIES--RECIPROCITY.--

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

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

24                   (2) define the amount of cannabis that is  
25 necessary to constitute an adequate supply, including amounts

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1 for topical treatments;

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

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

12 ~~[(5) identify requirements for the licensure~~  
13 ~~of cannabis producers and cannabis production facilities,~~  
14 ~~cannabis couriers, cannabis manufacturers, cannabis testing~~  
15 ~~facilities and any other cannabis establishments that the~~  
16 ~~department may license and set forth procedures to obtain~~  
17 ~~licenses;~~

18 ~~(6) develop a distribution system for the~~  
19 ~~medical cannabis program that provides for:~~

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

23 ~~(b) distribution of cannabis to~~  
24 ~~qualified patients or their primary caregivers to take place at~~  
25 ~~locations that are designated by the department and that are~~

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1 ~~not within three hundred feet of any school, church or daycare~~  
2 ~~center that were in existence in that location before the~~  
3 ~~licensee distributing medical cannabis nearby was licensed;~~  
4 ~~provided that this distance requirement shall not apply to~~  
5 ~~distribution at the home of the qualified patient or primary~~  
6 ~~caregiver;~~

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

11 ~~(8)]~~ (5) determine additional duties and  
12 responsibilities of the advisory board; and

13 ~~[(9)]~~ (6) be revised and updated as necessary.

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

18 (1) a written certification;

19 (2) the name, address and date of birth of the  
20 patient;

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

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

25 C. The department shall verify the information

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

10 D. The department shall issue a registry  
11 identification card within five days of approving an  
12 application, and a card shall expire [~~three~~] two years after  
13 the date of issuance.

14 E. A registry identification card shall contain:

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

17 (2) the date of issuance and expiration date  
18 of the registry identification card; and

19 (3) other information that the department may  
20 require by rule.

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

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1 change.

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

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

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

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

20 (3) to the division; or

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

23 I. By ~~[March 1, 2020]~~ January 1, 2022, the  
24 secretary of health shall adopt and promulgate rules relating  
25 to medical cannabis program reciprocity. The department may

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1 identify requirements for the granting of reciprocity,  
2 including provisions limiting the period of time in which a  
3 reciprocal participant may participate in the medical cannabis  
4 program.

5 J. A reciprocal participant:

6 (1) may participate in the medical cannabis  
7 program in accordance with department rules;

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

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

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

23 SECTION 59. Section 30-31-2 NMSA 1978 (being Laws 1972,  
24 Chapter 84, Section 2, as amended) is amended to read:

25 "30-31-2. DEFINITIONS.--As used in the Controlled

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1 Substances Act:

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

5 B. "agent" includes an authorized person who acts  
6 on behalf of a manufacturer, distributor or dispenser. It does  
7 not include a common or contract carrier, public  
8 warehouseperson or employee of the carrier or warehouseperson;

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

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

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

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

22 G. "deliver" means the actual, constructive or  
23 attempted transfer from one person to another of a controlled  
24 substance or controlled substance analog, whether or not there  
25 is an agency relationship;

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

7 I. "dispenser" means a practitioner who dispenses  
8 and includes hospitals, pharmacies and clinics where controlled  
9 substances are dispensed;

10 J. "distribute" means to deliver other than by  
11 administering or dispensing a controlled substance or  
12 controlled substance analog;

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

19 ~~[L. "hashish" means the resin extracted from any  
20 part of marijuana, whether growing or not, and every compound,  
21 manufacture, salt, derivative, mixture or preparation of such  
22 resins;~~

23 M.] L. "hemp" means the plant Cannabis sativa L.  
24 and any part of that plant, including seeds and all  
25 derivatives, extracts, cannabinoids, isomers, acids, salts and

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1 salts of isomers, whether growing or not, with a delta-9-  
2 tetrahydrocannabinol concentration of not more than three-  
3 tenths percent on a dry weight basis;

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

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

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

20 ~~[0. "marijuana" means all parts of the plant~~  
21 ~~cannabis, including any and all varieties, species and~~  
22 ~~subspecies of the genus Cannabis, whether growing or not, the~~  
23 ~~seeds thereof and every compound, manufacture, salt,~~  
24 ~~derivative, mixture or preparation of the plant or its seeds.~~  
25 ~~It does not include the mature stalks of the plant, hashish,~~

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

10           P.] N. "narcotic drug" means any of the following,  
11 whether produced directly or indirectly by extraction from  
12 substances of vegetable origin or independently by means of  
13 chemical synthesis or by a combination of extraction and  
14 chemical synthesis:

15                   (1) opium and opiate and any salt, compound,  
16 derivative or preparation of opium or opiate;

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

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

24                   (4) coca leaves and any salt, compound,  
25 derivative or preparation of coca leaves, any salt, compound,

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1 isomer, derivative or preparation that is a chemical equivalent  
2 of any of these substances except decocainized coca leaves or  
3 extractions of coca leaves that do not contain cocaine or  
4 ecgonine;

5 [Q.] Q. "opiate" means any substance having an  
6 addiction-forming or addiction-sustaining liability similar to  
7 morphine or being capable of conversion into a drug having  
8 addiction-forming or addiction-sustaining liability. "Opiate"  
9 does not include, unless specifically designated as controlled  
10 under Section 30-31-5 NMSA 1978, the dextrorotatory isomer of  
11 3-methoxy-n-methylmorphinan and its salts, dextromethorphan.  
12 "Opiate" does include its racemic and levorotatory forms;

13 [R.] P. "person" means an individual, partnership,  
14 corporation, association, institution, political subdivision,  
15 government agency or other legal entity;

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

24 [T.] R. "prescription" means an order given  
25 individually for the person for whom is prescribed a controlled

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

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

14 [V.] T. "ultimate user" means a person who lawfully  
15 possesses a controlled substance for the person's own use or  
16 for the use of a member of the person's household or for  
17 administering to an animal under the care, custody and control  
18 of the person or by a member of the person's household;

19 [W.] U. "drug paraphernalia" means all equipment,  
20 products and materials of any kind that are used, intended for  
21 use or designed for use in planting, propagating, cultivating,  
22 growing, harvesting, manufacturing, compounding, converting,  
23 producing, processing, preparing, testing, analyzing,  
24 packaging, repackaging, storing, containing, concealing,  
25 injecting, ingesting, inhaling or otherwise introducing into

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1 the human body a controlled substance or controlled substance  
2 analog in violation of the Controlled Substances Act. It  
3 includes:

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

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

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

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

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

23 (6) diluents and adulterants, such as quinine  
24 hydrochloride, mannitol, mannite dextrose and lactose, used,  
25 intended for use or designed for use in cutting controlled

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1 substances or controlled substance analogs;

2 (7) separation gins and sifters used, intended  
3 for use or designed for use in removing twigs and seeds from,  
4 or in otherwise cleaning and refining, marijuana;

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

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

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

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

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

24 (a) metal, wooden, acrylic, glass,  
25 stone, plastic or ceramic pipes, with or without screens,

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1 permanent screens, hashish heads or punctured metal bowls;  
2 (b) water pipes;  
3 (c) carburetion tubes and devices;  
4 (d) smoking and carburetion masks;  
5 (e) roach clips, meaning objects used to  
6 hold burning material, such as a marijuana cigarette, that has  
7 become too small to hold in the hand;  
8 (f) miniature cocaine spoons and cocaine  
9 vials;  
10 (g) chamber pipes;  
11 (h) carburetor pipes;  
12 (i) electric pipes;  
13 (j) air-driven pipes;  
14 (k) chilams;  
15 (l) bongs; or  
16 (m) ice pipes or chillers; and  
17 (13) in determining whether an object is drug  
18 paraphernalia, a court or other authority should consider, in  
19 addition to all other logically relevant factors, the  
20 following:  
21 (a) statements by the owner or by anyone  
22 in control of the object concerning its use;  
23 (b) the proximity of the object, in time  
24 and space, to a direct violation of the Controlled Substances  
25 Act or any other law relating to controlled substances or

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1 controlled substance analogs;

2 (c) the proximity of the object to  
3 controlled substances or controlled substance analogs;

4 (d) the existence of any residue of a  
5 controlled substance or controlled substance analog on the  
6 object;

7 (e) instructions, written or oral,  
8 provided with the object concerning its use;

9 (f) descriptive materials accompanying  
10 the object that explain or depict its use;

11 (g) the manner in which the object is  
12 displayed for sale; and

13 (h) expert testimony concerning its use;

14 [~~X-~~] V. "controlled substance analog":

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

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

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

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

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- 1                                    [~~(4)~~] (d) ecgonines;
- 2                                    [~~(5)~~] (e) quinazolinones;
- 3                                    [~~(6)~~] (f) substituted indoles; and
- 4                                    [~~(7)~~] (g) arylcycloalkylamines;

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

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

14                                    [~~Y.~~] W. "human consumption" includes application,  
15   injection, inhalation, ingestion or any other manner of  
16   introduction;

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

22                                    [~~AA.~~] Y. "valid practitioner-patient relationship"  
23   means a professional relationship, as defined by the  
24   practitioner's licensing board, between the practitioner and  
25   the patient."

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1           SECTION 60. Section 30-31-6 NMSA 1978 (being Laws 1972,  
2 Chapter 84, Section 6, as amended) is amended to read:

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

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

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

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

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1 (42) trimeperidine;

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

7 (1) acetorphine;

8 (2) acetyldihydrocodeine;

9 (3) benzylmorphine;

10 (4) codeine methylbromide;

11 (5) codeine-N-oxide;

12 (6) cyprenorphine;

13 (7) desomorphine;

14 (8) dihydromorphine;

15 (9) etorphine;

16 (10) heroin;

17 (11) hydromorphenol;

18 (12) methyldesorphine;

19 (13) methyldihydromorphine;

20 (14) morphine methylbromide;

21 (15) morphine methylsulfonate;

22 (16) morphine-N-oxide;

23 (17) myrophine;

24 (18) nicocodeine;

25 (19) nicomorphine;

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1 (20) normorphine;

2 (21) pholcodine; and

3 (22) thebacon;

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

10 (1) 3,4-methylenedioxy amphetamine;

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

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

13 (4) bufotenine;

14 (5) diethyltryptamine;

15 (6) dimethyltryptamine;

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

17 (8) ibogaine;

18 (9) lysergic acid diethylamide;

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

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

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

22 provided in the Controlled Substances Act;

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

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

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

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



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

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

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

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

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

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

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

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

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

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

24 ~~(2) cultivation of hemp by persons pursuant to  
25 rules promulgated by the board of regents of New Mexico state~~

underscored material = new  
[bracketed material] = delete

1 ~~university on behalf of the New Mexico department of~~  
2 ~~agriculture;~~

3 ~~(3) tetrahydrocannabinols or chemical~~  
4 ~~derivatives of tetrahydrocannabinols, including~~  
5 ~~tetrahydrocannabinols or chemical derivatives of~~  
6 ~~tetrahydrocannabinols with concentrations of up to five percent~~  
7 ~~as measured using a post-decarboxylation method and based on~~  
8 ~~percentage dry weight, possessed by a person in connection with~~  
9 ~~the cultivation, transportation, testing, researching,~~  
10 ~~manufacturing or other processing of the plant Cannabis sativa~~  
11 ~~L., or any part of the plant whether growing or not, if~~  
12 ~~authorized pursuant to rules promulgated, pursuant to the Hemp~~  
13 ~~Manufacturing Act, by the board of regents of New Mexico state~~  
14 ~~university on behalf of the New Mexico department of~~  
15 ~~agriculture or the department of environment;~~

16 ~~(4) tetrahydrocannabinols or chemical~~  
17 ~~derivatives of tetrahydrocannabinols, including~~  
18 ~~tetrahydrocannabinols or chemical derivatives of~~  
19 ~~tetrahydrocannabinols in any concentration possessed by a~~  
20 ~~person in connection with the extraction of~~  
21 ~~tetrahydrocannabinols or chemical derivatives of~~  
22 ~~tetrahydrocannabinols, if authorized pursuant to rules~~  
23 ~~promulgated, pursuant to the Hemp Manufacturing Act, by the~~  
24 ~~board of regents of New Mexico state university on behalf of~~  
25 ~~the New Mexico department of agriculture or the department of~~

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underscored material = new  
[bracketed material] = delete

1 environment;

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

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

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

16 SECTION 61. Section 30-31-7 NMSA 1978 (being Laws 1972,  
17 Chapter 84, Section 7, as amended) is amended to read:

18 "30-31-7. SCHEDULE II.--

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

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

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underscoring material = new  
[bracketed material] = delete

1 synthesis:

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

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

9 (c) opium poppy and poppy straw; and

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

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

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

25 ~~Marijuana, tetrahydrocannabinols or chemical derivatives~~

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

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

- 9 (a) alphaprodine;
- 10 (b) anileridine;
- 11 (c) bezitramide;
- 12 (d) dihydrocodeine;
- 13 (e) diphenoxylate;
- 14 (f) fentanyl;
- 15 (g) hydromorphone;
- 16 (h) isomethadone;
- 17 (i) levomethorphan;
- 18 (j) levorphanol;
- 19 (k) meperidine;
- 20 (l) metazocine;
- 21 (m) methadone;
- 22 (n) methadone--intermediate, 4-cyano-2-  
23 dimethylamino-4, 4-diphenyl butane;
- 24 (o) moramide--intermediate, 2-methyl-3-  
25 morpholino-1, 1-diphenyl-propane-carboxylic acid;

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- 1 (p) oxycodone;
- 2 (q) pethidine;
- 3 (r) pethidine--intermediate--A, 4-cyano-
- 4 1-methyl-4-phenylpiperidine;
- 5 (s) pethidine--intermediate--B, ethyl-4-
- 6 phenyl-piperidine-4-carboxylate;
- 7 (t) pethidine--intermediate--C, 1-
- 8 methyl-4-phenylpiperidine-4-carboxylic acid;
- 9 (u) phenazocine;
- 10 (v) piminodine;
- 11 (w) racemethorphan; and
- 12 (x) racemorphan;

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

- 18 (a) amphetamine, its salts, optical
- 19 isomers and salts of its optical isomers;
- 20 (b) phenmetrazine and its salts;
- 21 (c) methamphetamine, its salts, isomers
- 22 and salts of isomers; and
- 23 (d) methylphenidate; and

24 (4) controlled substances added to Schedule II  
25 by rule adopted by the board pursuant to Section 30-31-3 NMSA

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

1 1978.

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

22 SECTION 62. Section 30-31-21 NMSA 1978 (being Laws 1972,  
23 Chapter 84, Section 21, as amended) is amended to read:

24 "30-31-21. DISTRIBUTION TO A MINOR.--Except as authorized  
25 by the Controlled Substances Act, no person who is eighteen

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underscored material = new  
[bracketed material] = delete

1 years of age or older shall intentionally distribute a  
2 controlled substance to a person under the age of eighteen  
3 years. Any person who violates this section with respect to

4 ~~[A. marijuana is:~~

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

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

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

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

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

21 SECTION 63. Section 30-31-22 NMSA 1978 (being Laws 1972,  
22 Chapter 84, Section 22, as amended) is amended to read:

23 "30-31-22. CONTROLLED OR COUNTERFEIT SUBSTANCES--  
24 DISTRIBUTION PROHIBITED.--

25 A. Except as authorized by the Controlled

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

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

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

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

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

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

22 (d) for the second and subsequent  
23 offenses, if more than one hundred pounds is possessed with  
24 intent to distribute or distributed or both, guilty of a second  
25 degree felony and shall be sentenced pursuant to the provisions

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

1 of Section 31-18-15 NMSA 1978;

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

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

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

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

24 B. It is unlawful for a person to distribute gamma  
25 hydroxybutyric acid or flunitrazepam to another person without

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1 that person's knowledge and with intent to commit a crime  
2 against that person, including criminal sexual penetration.

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

8 Any person who violates this subsection is:

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

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

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

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

24 (2) a counterfeit substance enumerated in  
25 Schedule V is guilty of a petty misdemeanor and shall be

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

1 punished by a fine of not more than one hundred dollars (\$100)  
2 or by imprisonment for a definite term not to exceed six  
3 months, or both.

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

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

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

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

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

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

25 (2) any other controlled substance enumerated

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

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

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

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

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

22 (a) a counterfeit substance enumerated  
23 in Schedule I, II, III or IV is guilty of a third degree felony  
24 and shall be sentenced pursuant to the provisions of Section  
25 31-18-15 NMSA 1978; and

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

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

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

12 SECTION 64. Section 30-31-23 NMSA 1978 (being Laws 1972,  
13 Chapter 84, Section 23, as amended) is amended to read:

14 "30-31-23. CONTROLLED SUBSTANCES--POSSESSION  
15 PROHIBITED.--

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

23 ~~[B. A person who violates this section with respect~~  
24 ~~to:~~

25 ~~(1) up to one-half ounce of marijuana shall be~~

underscored material = new  
[bracketed material] = delete

1 ~~issued a penalty assessment, pursuant to Section 31-19A-1 NMSA~~  
2 ~~1978 and is subject to a fine of fifty dollars (\$50.00);~~

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

13 ~~(3) more than one ounce but less than eight~~  
14 ~~ounces of marijuana is guilty of a misdemeanor and shall be~~  
15 ~~punished by a fine of not less than one hundred dollars (\$100)~~  
16 ~~or more than one thousand dollars (\$1,000) or by imprisonment~~  
17 ~~for a definite term of less than one year, or both; or~~

18 ~~(4) eight ounces or more of marijuana is~~  
19 ~~guilty of a fourth degree felony and shall be sentenced~~  
20 ~~pursuant to the provisions of Section 31-18-15 NMSA 1978.~~

21 ~~G.] B.~~ A person who violates this section with  
22 respect to:

23 (1) one ounce or less of synthetic  
24 cannabinoids is, for the first offense, guilty of a petty  
25 misdemeanor and shall be punished by a fine of not less than

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

1 fifty dollars (\$50.00) or more than one hundred dollars (\$100)  
2 and by imprisonment for not more than fifteen days, and, for  
3 the second and subsequent offenses, is guilty of a misdemeanor  
4 and shall be punished by a fine of not less than one hundred  
5 dollars (\$100) or more than one thousand dollars (\$1,000) or by  
6 imprisonment for a definite term less than one year, or both;

7 (2) more than one ounce and less than eight  
8 ounces of synthetic cannabinoids 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 or

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

17 ~~[D.]~~ C. A minor who violates this section with  
18 respect to the substances listed in this subsection is guilty  
19 of a petty misdemeanor and, notwithstanding the provisions of  
20 Sections 32A-1-5 and 32A-2-19 NMSA 1978, shall be required to  
21 perform no more than forty-eight hours of community service.  
22 For the third or subsequent violation by a minor of this  
23 section with respect to those substances, the provisions of  
24 Section 32A-2-19 NMSA 1978 shall govern punishment of the  
25 minor. ~~[As used in this subsection, "minor" means a person who~~

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

1 ~~is less than eighteen years of age.]~~ The provisions of this  
2 subsection apply to the following substances:

3 (1) synthetic cannabinoids;  
4 (2) any of the substances listed in Paragraphs  
5 ~~[(20) through (25)]~~ (17) through (22) of Subsection C of  
6 Section 30-31-6 NMSA 1978; or

7 (3) a substance added to Schedule I by a rule  
8 of the board adopted on or after March 31, 2011 if the board  
9 determines that the pharmacological effect of the substance,  
10 the risk to the public health by abuse of the substance and the  
11 potential of the substance to produce psychic or physiological  
12 dependence liability is similar to the substances described in  
13 Paragraph (1) or (2) of this subsection.

14 ~~[E.]~~ D. Except as provided in Subsections B ~~[G]~~ and  
15 ~~[G]~~ F of this section, and for those substances listed in  
16 Subsection ~~[F]~~ E of this section, a person who violates this  
17 section with respect to any amount of any controlled substance  
18 enumerated in Schedule I, II, III or IV or a controlled  
19 substance analog of a substance enumerated in Schedule I, II,  
20 III or IV is guilty of a misdemeanor and shall be punished by a  
21 fine of not less than five hundred dollars (\$500) or more than  
22 one thousand dollars (\$1,000) or by imprisonment for a definite  
23 term less than one year, or both.

24 ~~[F.]~~ E. A person who violates this section with  
25 respect to phencyclidine as enumerated in Schedule III or a

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

1 controlled substance analog of phencyclidine; methamphetamine,  
2 its salts, isomers or salts of isomers as enumerated in  
3 Schedule II or a controlled substance analog of  
4 methamphetamine, its salts, isomers or salts of isomers;  
5 flunitrazepam, its salts, isomers or salts of isomers as  
6 enumerated in Schedule I or a controlled substance analog of  
7 flunitrazepam, including naturally occurring metabolites, its  
8 salts, isomers or salts of isomers; gamma hydroxybutyric acid  
9 and any chemical compound that is metabolically converted to  
10 gamma hydroxybutyric acid, its salts, isomers or salts of  
11 isomers as enumerated in Schedule I or a controlled substance  
12 analog of gamma hydroxybutyric acid, its salts, isomers or  
13 salts of isomers; gamma butyrolactone and any chemical compound  
14 that is metabolically converted to gamma hydroxybutyric acid,  
15 its salts, isomers or salts of isomers as enumerated in  
16 Schedule I or a controlled substance analog of gamma  
17 butyrolactone, its salts, isomers or salts of isomers; 1-4  
18 butane diol and any chemical compound that is metabolically  
19 converted to gamma hydroxybutyric acid, its salts, isomers or  
20 salts of isomers as enumerated in Schedule I or a controlled  
21 substance analog of 1-4 butane diol, its salts, isomers or  
22 salts of isomers; or a narcotic drug enumerated in Schedule I  
23 or II or a controlled substance analog of a narcotic drug  
24 enumerated in Schedule I or II is guilty of a fourth degree  
25 felony and shall be sentenced pursuant to the provisions of  
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underscoring material = new  
[bracketed material] = delete

1 Section 31-18-15 NMSA 1978.

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

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

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

21 (3) eight ounces or more of [~~marijuana or~~  
22 synthetic cannabinoids is guilty of a third degree felony and  
23 shall be sentenced pursuant to the provisions of Section  
24 31-18-15 NMSA 1978;

25 (4) any amount of any other controlled

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underscored material = new  
[bracketed material] = delete

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

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

15 G. As used in this section, "minor" means a person  
16 who is younger than eighteen years of age."

17 SECTION 65. Section 30-31-28 NMSA 1978 (being Laws 1972,  
18 Chapter 84, Section 28) is amended to read:

19 "30-31-28. CONDITIONAL DISCHARGE FOR POSSESSION AS FIRST  
20 OFFENSE.--

21 A. If [~~any~~] a person, who has not previously been  
22 convicted of violating the laws of [~~any~~] a state or [~~any~~] laws  
23 of the United States relating to narcotic drugs, [~~marijuana~~]  
24 hallucinogenic or depressant or stimulant substances, is found  
25 guilty of a violation of Section [~~23~~] 30-31-23 NMSA 1978, after

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

1 trial or upon a plea of guilty, the court may, without entering  
2 a judgment of guilty and with the consent of the person, defer  
3 further proceedings and place ~~[him]~~ the person on probation  
4 upon reasonable conditions and for a period, not to exceed one  
5 year, as the court may prescribe.

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

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

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underscoring material = new  
[bracketed material] = delete

1 dismissal under this section may occur only once with respect  
2 to [~~any~~] a person.

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

24 SECTION 66. Section 30-31-34 NMSA 1978 (being Laws 1972,  
25 Chapter 84, Section 33, as amended) is amended to read:

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underscored material = new  
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1 "30-31-34. FORFEITURES--PROPERTY SUBJECT.--The following  
2 are subject to forfeiture pursuant to the provisions of the  
3 Forfeiture Act:

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

9 B. all property that is used or intended for use as  
10 a container for property described in Subsection A of this  
11 section;

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

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

20 E. narcotics paraphernalia or money that is a fruit  
21 or instrumentality of the crime; and

22 F. notwithstanding Subsection C of this section and  
23 the provisions of the Forfeiture Act:

24 (1) a conveyance used by a person as a common  
25 carrier in the transaction of business as a common carrier

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1 shall not be subject to forfeiture pursuant to this section  
2 unless it appears that the owner or other person in charge of  
3 the conveyance is a consenting party or privy to a violation of  
4 the Controlled Substances Act;

5 (2) a conveyance shall not be subject to  
6 forfeiture pursuant to this section by reason of an act or  
7 omission established for the owner to have been committed or  
8 omitted without the owner's knowledge or consent;

9 (3) a conveyance is not subject to forfeiture  
10 for a violation of law the penalty for which is a misdemeanor;  
11 and

12 (4) a forfeiture of a conveyance encumbered by  
13 a bona fide security interest shall be subject to the interest  
14 of a secured party if the secured party neither had knowledge  
15 of nor consented to the act or omission [~~and~~

16 ~~G. all drug paraphernalia as defined by Subsection~~  
17 ~~V of Section 30-31-2 NMSA 1978]."~~

18 SECTION 67. A new section of Chapter 76 NMSA 1978 is  
19 enacted to read:

20 "[NEW MATERIAL] NEW MEXICO DEPARTMENT OF AGRICULTURE--  
21 DUTIES--CULTIVATION OF CANNABIS.--

22 A. The New Mexico department of agriculture shall  
23 execute the provisions delegated to it for the cultivation of  
24 cannabis for medicinal purposes under the Lynn and Erin  
25 Compassionate Use Act and for adult use under the Cannabis

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underscored material = new  
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1 Regulation Act and administer and enforce rules adopted  
2 pursuant to those acts.

3 B. No later than the later of May 15, 2021 or  
4 fifteen days after the effective date of this 2021 act, the  
5 board of regents of New Mexico state university, in  
6 consultation with the cannabis control division of the  
7 regulation and licensing department and the New Mexico  
8 department of agriculture shall promulgate rules pursuant to  
9 the State Rules Act that are consistent with industry standards  
10 necessary for the New Mexico department of agriculture to carry  
11 out its duties as provided in the Cannabis Regulation Act as  
12 follows to:

13 (1) provide standards for the use of  
14 pesticides in the cultivation of cannabis, including the  
15 maximum allowances for pesticides and other foreign material  
16 such as hair, insects or other similar adulterants, in  
17 harvested cannabis;

18 (2) establish environmental protections that  
19 apply to all licensees; and

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

24 SECTION 68. [NEW MATERIAL] COOPERATION OF AGENCIES.--All  
25 state agencies shall cooperate with the cannabis control

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1 division of the regulation and licensing department in carrying  
2 out the provisions of the Cannabis Regulation Act.

3 SECTION 69. TEMPORARY PROVISION--TRANSFER--FUNCTIONS,  
4 PERSONNEL, MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS AND  
5 STATUTORY REFERENCES--MEDICAL CANNABIS FUND--RULES.--

6 A. On the effective date of this act, all  
7 functions, personnel, money, appropriations, records,  
8 furniture, equipment and other property of the department of  
9 health's medical cannabis program that are not part of the  
10 department's medical cannabis registry powers and duties shall  
11 be transferred to the regulation and licensing department.

12 B. On the effective date of this act, all  
13 contractual obligations and other agreements of the department  
14 of health as they pertain to the department's medical cannabis  
15 program that are not part of the department's medical cannabis  
16 registry powers and duties are binding on the regulation and  
17 licensing department.

18 C. Statutory references to the department of health  
19 that pertain to the department's medical cannabis program that  
20 are not part of the department's medical cannabis registry  
21 powers and duties shall be deemed to be references to the  
22 cannabis control division of the regulation and licensing  
23 department.

24 D. On the effective date of this act, any  
25 unexpended or unencumbered balance in the medical cannabis fund

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1 is transferred to the cannabis regulation fund.

2 E. Except to the extent any administrative rules  
3 are inconsistent with the provisions of this act, any  
4 administrative rules adopted by an officer, agency or other  
5 entity whose responsibilities have been transferred pursuant to  
6 the provisions of this act to another officer, agency or other  
7 entity remain in force until amended by the officer, agency or  
8 other entity to which the responsibility for the adoption of  
9 the rules has been transferred. To the extent any  
10 administrative rules are inconsistent with the provisions of  
11 this act, such rules are null and void.

12 SECTION 70. REPEAL.--Sections 9-7-17.1 and 30-31-25.1  
13 NMSA 1978 (being Laws 2012, Chapter 42, Section 1 and Laws  
14 1981, Chapter 31, Section 2, as amended) are repealed.

15 SECTION 71. EFFECTIVE DATE.--The effective date of the  
16 provisions of Sections 59 through 66 of this act is ninety days  
17 after the effective date of this act.

18 SECTION 72. EMERGENCY.--It is necessary for the public  
19 peace, health and safety that this act take effect immediately.

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