HOUSE BILL 17

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

INTRODUCED BY

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AN ACT

RELEATING TO CONTROLLED SUBSTANCES; ENACTING THE CANNABIS
REGULATION ACT; ENACTING THE CANNABIS TAX ACT; CREATING THE
CANNABIS REGULATION DIVISION IN THE REGULATION AND LICENSING
DEPARTMENT; PROVIDING DUTIES; CREATING THE CANNABIS POLICY AND
REGULATORY ADVISORY COMMITTEE; CREATING THE CANNABIS REGULATION
FUND; ESTABLISHING THE MEDICAL CANNABIS ASSISTANCE PROGRAM;
CREATING THE LOW-INCOME MEDICAL PATIENT ASSISTANCE FUND;
PROVIDING FOR DISTRIBUTIONS TO LOCAL GOVERNMENTS FROM CANNABIS
SALES TAX REVENUE; AMENDING, REPEALING AND ENACTING SECTIONS OF
THE NMSA 1978; MAKING APPROPRIATIONS.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.—Sections 1
through 28 of this act may be cited as the "Cannabis Regulation
Act".

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

A. "advertisement":

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

(2) does not include:

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

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

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

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

C. "cannabis":

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

(2) does not include:

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

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

(c) cannabis sold by licensees under the provisions of the Lynn and Erin Compassionate Use Act;

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

E. "cannabis establishment" means:

(1) a cannabis courier;

(2) a cannabis testing laboratory;

(3) a cannabis manufacturer;
(4) an integrated cannabis microbusiness;
(5) a cannabis producer;
(6) a cannabis retailer;
(7) a cannabis research laboratory; or
(8) a cannabis producer microbusiness;

F. "cannabis extract":

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

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

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

H. "cannabis manufacturer" means a person that is
licensed by the division to:

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

I. "cannabis producer" means a person that is
licensed by the division to:

(1) produce cannabis;

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

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

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

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

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

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

K. "cannabis product":

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

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

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

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

N. "cannabis sales tax" means a tax on the price
paid for cannabis products at the final point of sale for
nonmedical cannabis products sold under the provisions of the
Cannabis Regulation Act;

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

P. "commercial cannabis activity":
  (1) means the production, possession,
manufacture, storage, testing, researching, labeling,
transportation, couriering and sale of cannabis and cannabis
products; and
  (2) does not include activities related only
to the medical cannabis program or to the personal use of
cannabis;

Q. "consumer" means a person who purchases,
aquires, owns, possesses or uses a cannabis product for a
purpose other than resale;

R. "controlling person":
  (1) means a person that controls ten percent
or more of, or an officer or board member of, a cannabis
establishment; and

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

S. "department" means the regulation and licensing
department;

T. "director" means the director of the division;

U. "division" means the cannabis control division
of the department;

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

W. "immature cannabis plant" means a cannabis plant
that has no observable flowers or buds;

X. "integrated cannabis business or microbusiness"
means a person that is licensed by the division to:

(1) produce cannabis; provided that the
person, if licensed as a cannabis microbusiness, shall not
possess at any one time more than ninety-nine mature cannabis
plants;

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

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

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(4) operate only one cannabis establishment;
and

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

Y. "licensed premises" means a location that is licensed to engage in commercial cannabis activity pursuant to the Cannabis Regulation Act and includes:

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

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

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

Z. "licensee" means a person issued a license pursuant to the Cannabis Regulation Act;

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

BB. "manufacture" means to prepare a cannabis product;

CC. "marketing" means the act of promoting or selling a cannabis product or a cannabis-related product or service;

DD. "mature cannabis plant" means a cannabis plant that is not an immature cannabis plant;

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

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

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

HH. "person" means an individual or a firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver or any other legal or commercial entity;
II. "primary caregiver" means a resident of New Mexico who is at least eighteen years of age and who has been designated by the qualified patient's practitioner as being necessary to take responsibility for managing the well-being of a qualified patient with respect to the medical use of cannabis pursuant to the provisions of the Lynn and Erin Compassionate Use Act;

JJ. "produce" or "production" means any activity involving the cultivation of cannabis;

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

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

MM. "superintendent" means the superintendent of regulation and licensing.

SECTION 3. [NEW MATERIAL] CANNABIS REGULATION DIVISION--DUTIES--RULEMAKING--CANNABIS POLICY AND REGULATORY ADVISORY
COMMITTEE--CREATING THE CANNABIS REGULATION FUND.--

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

B. The division shall regulate and administer and collect fees and fines in connection with the administration of:

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

(2) the medical cannabis program, except for the medical cannabis registry and qualifying conditions; and

(3) all aspects of cannabis relating to occupational licensure and training.

C. No later than July 1, 2022 or earlier by executive order, the division shall promulgate rules necessary for the division to carry out its duties provided in the Cannabis Regulation Act, including:

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

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

(3) security requirements for a cannabis establishment;

(4) requirements related to:

(a) inspection and monitoring of a
cannabis establishment;

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

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

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

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

(5) a provision requiring that each cannabis retailer maintain at all times a supply of medical cannabis products suitable and sufficient to meet the reasonably foreseeable needs of qualified patients as determined by the cannabis policy and regulatory advisory committee; provided that in the event of a shortage of cannabis products, qualified patients shall be served before commercial consumers; and further provided that unused plants or products reserved for medical cannabis use may be offered to other consumers upon receiving division approval that all reasonably foreseeable medical cannabis needs have been met;

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

(7) rules on how a licensee may display cannabis products for sale;
(8) rules developed in consultation with the department of environment and the cannabis policy and regulatory advisory committee to establish:

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

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

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

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

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

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

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

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(b) environmental protections that apply to all licensees; and

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

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

D. The division shall collect and publish no less than annually to the appropriate committees of the legislature and on the division's website a report including aggregate data regarding demographics on license applicants, controlling persons and employees of cannabis establishments.

E. No later than the effective date of the Cannabis Regulation Act, the division shall convene the "cannabis policy and regulatory advisory committee" to advise the division on the development of rules pursuant to the Cannabis Regulation Act, including best practices and guidelines that promote economic and cultural diversity in licensing and employment opportunities and protect public health and safety while ensuring a regulated environment for commercial cannabis
activity that does not impose unreasonable barriers that would
perpetuate, rather than reduce and eliminate, the illicit
market for cannabis. The cannabis policy and regulatory
advisory committee shall consist of the following individuals
or their designees:

(1) two members who work as law enforcement
officers, one representing the state and one from a local
government;

(2) a representative from the department of
health;

(3) a medical cannabis licensee;

(4) two commercial cannabis licensees;

(5) a member of the judiciary recommended by
the supreme court;

(6) a representative from the New Mexico
department of agriculture;

(7) a representative from the department of
environment;

(8) two members recommended by the speaker of
the house of representatives;

(9) two members appointed by the president pro
tempore of the senate;

(10) a member representing cannabis consumers;

and

(11) a commercial cannabis microbusiness
licensee.

F. Beginning January 1, 2023, and each January 1
thereafter, the cannabis policy and regulatory advisory
committee shall publish and provide to the superintendent and
the legislature a report detailing its activities and
recommendations made to the division during the preceding year
and noting whether the division implemented the
recommendations. The report shall include a review of the
demographics and geographic diversity of the cannabis industry
workforce and licensees and shall include recommendations, if
necessary, to promote diversity of the workforce and licensees.
The report shall include a recommendation on whether the
legislature should adjust the cannabis sales tax based on the
following considerations:

(1) demand for and supply of cannabis
products;

(2) controlling and curtailing the illicit
cannabis market;

(3) preventing the commercial cannabis market
from negatively impacting the medical cannabis market;

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

(5) preventing cannabis use disorder; and

(6) results from an independent market and
economic analysis relative to market conditions, tax policy,
consumption and production trends and conditions.

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

H. At least biannually, the division shall convene public meetings to review developments and to coordinate efforts to improve economic and social outcomes related to the legalization and use of commercial cannabis and the medical cannabis program.

I. The "cannabis regulation fund" is created in the state treasury. The fund consists of appropriations, gifts, grants, donations and fees collected by the division pursuant to the Cannabis Regulation Act and the medical cannabis program administered by the division. Any unexpended or unencumbered balances remaining in the fund at the end of a fiscal year shall not revert, but may be subjected to reappropriation by the legislature to specific cannabis-related programs.

J. Money in the cannabis regulation fund is subject to appropriation by the legislature to fund the division, the department of health, the department of environment, the New Mexico department of agriculture, the taxation and revenue department and the department of public safety for the purposes of carrying out the provisions of the Cannabis Regulation Act and the Lynn and Erin Compassionate Use Act.
SECTION 4.  [NEW MATERIAL] DEPARTMENT OF HEALTH--DUTIES--
MEDICAL CANNABIS ASSISTANCE PROGRAM.--

A. No later than the effective date of the Cannabis
Regulation Act, the department of health shall:

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

(2) promulgate rules to govern the medical
cannabis assistance program.

B. In consultation with qualified patients and
primary caregivers, the department of health shall produce a
report annually, which shall be available to the public and
shall include at a minimum an evaluation of the:

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

(2) needs of qualified patients who live in
rural areas; and

(3) results of a survey of qualified patients,
caregivers and medical cannabis licensees to assess program
weaknesses and strengths.

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

A. Within sixty days following the end of each fiscal year, the department of public safety in conjunction with the administrative office of the courts shall compile a report on the total number of arrests, citations and penalty assessments for cannabis-related violations broken down by:

1. category and penalty level;
2. race, ethnicity, age and gender; and
3. jurisdiction.

B. The department of public safety shall make all past and current annual reports available on the department of public safety's website.

C. For purposes of this section, "cannabis-related violation" means a violation of any of Sections 20 through 24 of the Cannabis Regulation Act or a violation of Section 66-8-102 or 66-13-3 NMSA 1978 if the basis for the arrest or citation is intoxication due to the use of cannabis.

SECTION 6. [NEW MATERIAL] CANNABIS REGULATION DIVISION-- LICENSING CANNABIS ACTIVITIES--LIMITATIONS--MEDICAL CANNABIS LICENSING.--

A. Except as otherwise provided in Subsection H of this section, the division shall begin issuing transitional licenses for commercial cannabis activities no later than July 1, 2021; provided that a person that is not licensed pursuant to Subsection H of this section shall not courier or sell...
cannabis products until January 1, 2022.

B. The division shall administer a licensing program for commercial cannabis activities provided for in the Cannabis Regulation Act and the medical cannabis program provided for in the Lynn and Erin Compassionate Use Act, which shall include licenses for:

   (1) cannabis manufacturers;
   (2) cannabis testing laboratories;
   (3) cannabis research laboratories;
   (4) cannabis couriers;
   (5) integrated cannabis businesses and microbusinesses;
   (6) cannabis producers;
   (7) cannabis producer microbusinesses; and
   (8) cannabis retailers.

C. The division shall include a clear designation on all licenses that indicates whether the license is for medical cannabis activity or for medical and commercial cannabis activity.

D. A license is valid for two years from the date the license is issued and may be renewed unless suspended or revoked by the division for cause.

E. The division shall not issue a license to a natural person who cannot demonstrate continuous residency in New Mexico for at least two years prior to the date on which
the person submits a license application. If an applicant is
an entity, at least sixty percent of the ownership in the
entity shall be held by persons who shall demonstrate
continuous residency in New Mexico for two years prior to the
date on which the entity submits the license application;
provided that the provisions of this subsection shall not apply
to an applicant for a cannabis research laboratory or cannabis
testing laboratory or a person licensed pursuant to the Lynn
and Erin Compassionate Use Act prior to the effective date of
the Cannabis Regulation Act.

F. A person may demonstrate continuous residency by
providing to the division the following indicating at least two
years of residency in the state:

   (1) a current license, permit or
identification card issued by the motor vehicle division of the
taxation and revenue department;

   (2) proof of voter registration, business
pursuits, employment, income sources, marital status,
leaseholds, situs of personal and real property, motor vehicle
registration or residence of parents, spouse and children; and

   (3) other evidence as determined by the
division.

G. The division shall not limit the type or number
of licenses that a licensee may be issued pursuant to the
Cannabis Regulation Act; provided that, upon a finding and the
recommendation of the cannabis policy and regulatory advisory committee that market equilibrium is deficient and threatens the economic viability of the industry or adequate supply of cannabis, the division may impose temporary moratoria on new licensure and impose production limitations, issue new licenses or allow greater production by current licensees.

H. Any person properly licensed and in good standing pursuant to the Lynn and Erin Compassionate Use Act on the effective date of the Cannabis Regulation Act and who meets the criteria for licensure under the Cannabis Regulation Act shall be issued a transitional license or licenses, as available, pursuant to the provisions of the Cannabis Regulation Act to allow the licensee to conduct medical and commercial cannabis activity.

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

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

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

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

C. A licensee is liable for the reasonable costs of enforcing a directed plan of correction developed pursuant to rule.

D. The provisions of this section do not apply to occupational health and safety rules promulgated pursuant to Section 14 of the Cannabis Regulation Act.

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

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

B. Beginning no later than July 1, 2021, the
division shall issue a transitional license or licenses to
conduct commercial cannabis activity to a person that holds a
license issued pursuant to Subsection H of Section 6 of the
Cannabis Regulation Act that has applied for a license pursuant
to Subsection C of this section. The requirements to be a
licensee shall include standards for determining whether the
person has the financial and operational ability to engage in
commmercial cannabis activities. A person operating under a
transitional license shall continue to operate under rules
promulgated for the medical cannabis program until the division
promulgates rules for commercial cannabis activity. A
transitional license to conduct commercial cannabis activity
shall expire on the date that a license is issued or denied to
the transitional license holder pursuant to Subsection C of
this section.

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

(1) no later than the effective date of the
Cannabis Regulation Act, accept and begin processing
transitional and regular license applications;

(2) issue a license, or a written notice
detailing why an application was denied, no later than forty-five days following the day on which the complete application was submitted to the division; and

(3) require as a condition of licensing that the applicant:

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

(b) if applying for a cannabis producer license or cannabis manufacturer license, submit a plan to utilize energy and water conservation measures; and

(c) document that the applicant has a legal right and access to a public or private commercial water supply, owned or leased water rights or another source of water sufficient to meet the water needs related to the license.

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

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

(2) the applicant or a controlling person in the applicant's entity has been convicted of an offense that is substantially related to the qualifications, functions or duties of the applicant entity's business; provided that if the division determines that the controlling person and the applicant entity are otherwise qualified for a license and that issuing a license to the applicant entity would not compromise
public safety, the division shall conduct a thorough review of
the conviction, including the nature of the offense,
 Surrounding circumstances and any evidence of the controlling
person's rehabilitation following the conviction, and based on
that review, determine whether the applicant entity should be
issued a license; or
(3) the applicant or a controlling person in
the applicant's entity has had a license issued pursuant to the
Cannabis Regulation Act or the Lynn and Erin Compassionate Use
Act revoked by the division or the department of health in the
three years immediately preceding the date on which the
application was filed.

E. For the purposes of Subsection D of this
section:
(1) the following are considered substantially
related to the qualifications, functions or duties of a
business seeking a license:
(a) a felony conviction involving fraud,
deceit or embezzlement;
(b) a felony conviction for hiring,
employing or otherwise using a person younger than eighteen
years of age to: 1) prepare for sale, transport or carry a
controlled substance; or 2) sell, give away or offer to sell a
controlled substance to any person; and
(c) any other offense as determined by
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the division, except as provided in Paragraph (2) of this
subsection; and

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

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

SECTION 9. [NEW MATERIAL] LICENSING FEES.--

A. The division shall establish application and
licensing fees applicable to licenses for commercial cannabis
activity and activity related to medical cannabis; provided
that the fees shall be scaled based primarily on cannabis
production and annual actual or, in the case of new licensees,
projected revenues. For a license or renewal of a license that
authorizes only medical cannabis activity, the fee shall not
exceed one-half of the fee charged for a license or renewal of
a license for a similarly sized business that authorizes
commercial cannabis activities.
B. License fees shall be recommended to the division annually by the cannabis policy and regulatory advisory committee.

SECTION 10. [NEW MATERIAL] CANNABIS OCCUPATIONAL LICENSE.--

A. As used in this section, "cannabis occupational license" means a license issued by the director to allow a person to offer, sell, serve, dispense, cultivate, manufacture, test or transport cannabis or cannabis products.

B. Beginning on the effective date of the Cannabis Regulation Act, no person shall offer, sell, serve, dispense, cultivate, manufacture, test or transport cannabis or cannabis products in connection with a commercial cannabis activity unless that person has obtained a cannabis occupational license issued pursuant to this section; provided that a cannabis research laboratory or an employee of a cannabis research laboratory is not required to obtain or possess a cannabis occupational license while performing activities authorized pursuant to a cannabis research laboratory.

C. Beginning no later than the effective date of the Cannabis Regulation Act, the division shall begin the issuance of cannabis occupational licenses to persons twenty-one years of age or older who satisfy the requirements for licensure as determined by rule of the division. Requirements shall include a requirement for cannabis occupational license
applicants to have completed online training by the division
that ensures that cannabis occupational licensees have a basic
knowledge of the laws and rules governing the cannabis business
in the state.

D. The director shall within ten business days of
receipt of a completed application issue or deny a cannabis
occupational license.

E. The division shall maintain a public registry of
all persons with valid cannabis occupational licenses.

F. The division may stratify the types of cannabis
occupational licenses based on the types of jobs and duties
related to cannabis employees and establish fees for licenses
sufficient to cover the cost of issuance and administration of
the cannabis occupational licensing program.

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

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

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

SECTION 12. [NEW MATERIAL] PACKAGING AND LABELING.--
Before sale or transport via cannabis courier of a cannabis product, the cannabis product shall be labeled and packaged as provided in Section 13 of the Cannabis Regulation Act.

SECTION 13. [NEW MATERIAL] CANNABIS PRODUCTS--PACKAGING AND LABELING--DEPARTMENT OF ENVIRONMENT.--

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

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

C. The department of environment shall adopt and promulgate rules for cannabis products that establish labeling and packaging requirements, including that:

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

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

   (3) labels shall include:

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

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

(c) serving size, potency and pesticide
use;

(d) a list of pharmacologically active
ingredients;

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

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

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

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

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

SECTION 15. [NEW MATERIAL] CANNABIS MANUFACTURERS AND RESEARCH AND TESTING LABORATORIES--DEPARTMENT OF ENVIRONMENT--RULEMAKING--LICENSING.--

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

B. The division shall issue licenses as follows:

(1) "cannabis manufacturer" for a site that manufactures cannabis products;

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

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

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

(1) whether the chemical profile of the sample
conforms to the labeled content of compounds, including:
   (a) delta-9-tetrahydrocannabinol;
   (b) delta-9-tetrahydrocannabinolic acid;
   (c) cannabidiol;
   (d) cannabidiolic acid;
   (e) cannabigerol; and
   (f) cannabinol; and

(2) that the presence of contaminants does not
exceed harmful levels, including:
   (a) residual solvents or chemicals,
   including explosive gases such as butane and propane, and
   poisons, toxins or carcinogens, such as methanol, methylene
   chloride, acetone, benzene, toluene and trichloroethylene;
   (b) foreign material, including hair, insects or other similar adulterants; and
   (c) microbiological impurity, including
total aerobic microbial count; total yeast mold count;
pseudomonas aeruginosa; aspergillus species; staphylococcus
aureus; aflatoxin B1, B2, G1 or G2; or ochratoxin A.

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

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

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

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

B. The department shall develop rules and procedures to:

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

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

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

(4) provide for recordkeeping;

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

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

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

(8) require destruction and specify allowable means of destruction of a harvested batch of cannabis or of cannabis products if the testing samples from the batch or items indicate noncompliance with applicable health and safety standards promulgated by the division, unless remedial measures can bring the cannabis or cannabis products into compliance with the standards.

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

SECTION 17. [NEW MATERIAL] RESEARCHING CANNABIS--RULEMAKING.--

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

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

SECTION 18. [NEW MATERIAL] PERSONAL USE OF CANNABIS.--

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

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

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

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

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

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

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

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

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

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

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

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

(4) the possession of or the suspicion of possession of cannabis extracts without evidence of quantity in excess of two ounces of cannabis extracts.
excess of sixteen grams;

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

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

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

SECTION 19. [NEW MATERIAL] LIMITS ON PERSONAL CONSUMPTION--PENALTIES.--

A. Nothing in Section 18 of the Cannabis Regulation Act shall be construed to:

(1) allow a person to smoke cannabis or cannabis products in a public place; or

(2) restrict the ability of an individual or private entity to prohibit conduct otherwise allowed in Section 18 of the Cannabis Regulation Act on the individual's or private entity's privately owned property.
B. A person who violates Paragraph (1) of Subsection A of this section shall be subject to a civil penalty of fifty dollars ($50.00).

C. As used in this section, "smoke" means to inhale, exhale, burn or carry any lighted or heated device or pipe or any other lighted or heated cannabis product intended for inhalation in any manner or in any form.

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

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

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

(1) up to three mature female cannabis plants and any combination of six seedlings or male plants shall be issued a penalty assessment pursuant to Section 31-19A-1 NMSA 1978 and is subject to a fine of five hundred dollars ($500); and

(2) more than three mature female cannabis plants and any combination of six seedlings or male plants is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

C. A minor who violates this section with respect to:
(1) up to three mature female cannabis plants and any combination of six seedlings or male plants shall be issued a penalty assessment pursuant to Section 31-19A-1 NMSA 1978 and is subject to a fine of five hundred dollars ($500); and

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

D. As used in this section:

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

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

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

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

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

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

(2) attendance at a four-hour evidence-based drug education program;
(3) four hours of community service; or
(4) restorative justice mediation.

C. Except as otherwise provided in Section 18 of
the Cannabis Regulation Act, a person eighteen years of age or
older who violates Subsection A of this section is guilty of a
misdemeanor and shall be sentenced pursuant to the provisions
of Section 31-19-1 NMSA 1978.

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

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

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

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

SECTION 22. [NEW MATERIAL] CANNABIS WITHIN RESTRICTED
AREA--PENALTY.--Except as allowed in the Cannabis Regulation
Act and the Lynn and Erin Compassionate Use Act, a person shall
not possess or intentionally distribute any amount of a
cannabis product on the premises of a school, church or daycare
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center unless the person is a qualified patient or a qualified patient's primary caregiver. A person who violates this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

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

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

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

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

(3) four hours of community service; or

(4) restorative justice mediation;

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

(1) a fine of fifty dollars ($50.00);

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

(3) four hours of community service; or

(4) restorative justice mediation; and

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

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

(2) more than eight ounces of cannabis flowers
or more than sixty-four grams of cannabis extracts is guilty of
a fourth degree felony and shall be sentenced pursuant to the

SECTION 24. [NEW MATERIAL] UNLICENSED MANUFACTURING OF
CANNABIS EXTRACTS--PENALTY.--It is unlawful for a person to
manufacture cannabis extracts without a license issued pursuant
to the Cannabis Regulation Act or the Lynn and Erin
Compassionate Use Act. A person who violates this section is
guilty of a fourth degree felony and shall be sentenced
pursuant to the provisions of Section 31-18-15 NMSA 1978.

SECTION 25. [NEW MATERIAL] LOW-INCOME MEDICAL PATIENT
ASSISTANCE FUND.--

A. The "low-income medical patient assistance fund"
is created in the state treasury. The fund consists of
appropriations, other money deposited in the fund and money
otherwise accruing to the fund. Income from the fund shall be

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credited to the fund. The department of health shall
administer the fund, and money in the fund is subject to
appropriation to the department of health. Any unexpended or
unencumbered balance remaining at the end of a fiscal year
shall not revert to the general fund.

B. The low-income medical patient assistance fund
is created for the purpose of assisting qualified patients
participating in the medical cannabis program in accordance
with the Lynn and Erin Compassionate Use Act who also
participate in the medical cannabis assistance program created
pursuant to the Cannabis Regulation Act.

C. Money in the low-income medical patient
assistance fund shall be disbursed monthly to medical cannabis
licensees on warrants signed by the secretary of finance and
administration pursuant to vouchers signed by the secretary of
health or the secretary's authorized representative.

D. The department of health in consultation with
the division shall promulgate rules to govern the eligibility
and process for determining the amounts of assistance for
eligible patients and the method for administering the program.

SECTION 26. [NEW MATERIAL] EXEMPTION FROM CRIMINAL AND
CIVIL PENALTIES--RESEARCHERS.--A person shall not be subject to
arrest or prosecution, penalized in any manner or denied any
right or privilege solely because the person produced,
possession, distributed, dispensed or purchased cannabis from a
person licensed pursuant to the Lynn and Erin Compassionate Use Act or the Cannabis Regulation Act if the person produced, possessed, distributed, dispensed or purchased the cannabis solely for the purpose of research conducted pursuant to the Lynn and Erin Compassionate Use Act or the Cannabis Regulation Act.

SECTION 27. [NEW MATERIAL] CONTRACTS.--A contract, including contracts with persons holding licenses for the provision of professional services and licensed pursuant to state law or rule, related to the operation of a license is enforceable, and a contract entered into by a licensee or a licensee representative for conduct allowed pursuant to a license or entered into by a person who allows property to be used by a licensee or a licensee representative for conduct allowed pursuant to a license shall not be deemed unenforceable on the basis that the conduct allowed pursuant to the license is prohibited by federal law.

SECTION 28. [NEW MATERIAL] COOPERATION OF AGENCIES.--All state agencies shall cooperate with the cannabis regulation division of the regulation and licensing department in carrying out the provisions of the Cannabis Regulation Act.

SECTION 29. [NEW MATERIAL] SHORT TITLE.--Sections 29 through 34 of this act may be cited as the "Cannabis Tax Act".

SECTION 30. [NEW MATERIAL] DEFINITIONS.--As used in the Cannabis Tax Act:

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A. "cannabis":

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

(2) does not include:

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

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

(c) any cannabis product sold for medical purposes under the provisions of the Lynn and Erin Compassionate Use Act;

B. "cannabis extract":

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

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

C. "cannabis product":

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

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

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

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

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

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

SECTION 31. [NEW MATERIAL] CANNABIS SALES TAX.--
A. A sales tax is imposed on a cannabis retailer that sells cannabis products in this state on which the tax imposed by this section has not been paid. The tax imposed by this section may be referred to as the "cannabis sales tax".

B. The rate of the cannabis sales tax is twenty percent and is applied to the price paid for the cannabis product. The state rate is thirteen percent. The local government rate is seven percent.

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

D. As used in this section, "local government rate" means a cannabis sales tax rate of seven percent within the boundaries of an incorporated municipality or in counties outside the boundaries of incorporated municipalities.

SECTION 32. [NEW MATERIAL] DATE PAYMENT DUE.--The taxes imposed pursuant to the Cannabis Tax Act are to be paid on or before the twenty-fifth day of the month following the month in which the taxable event occurred.

SECTION 33. [NEW MATERIAL] ADMINISTRATIVE CHARGE.--The department may deduct an amount not to exceed one percent of the proceeds of the state, municipal and county cannabis sales taxes as a charge for the administrative costs of collection.
which amount shall be retained by the department for use in
administration of those taxes.

SECTION 34. [NEW MATERIAL] INTERPRETATION OF ACT--
ADMINISTRATION AND ENFORCEMENT OF TAX.--The department shall
administer and enforce the collection of the cannabis sales
tax, municipal cannabis tax and county cannabis tax pursuant to
the Tax Administration Act.

SECTION 35. A new section of the Tax Administration Act
is enacted to read:

"[NEW MATERIAL] MUNICIPAL CANNABIS TAX.--The department
under the provisions of the Tax Administration Act shall
distribute thirty-five percent of the tax revenue from the
retail sales of commercial cannabis within the boundaries of a
municipality to that municipality."

SECTION 36. A new section of the Tax Administration Act
is enacted to read:

"[NEW MATERIAL] COUNTY CANNABIS TAX.--The department under
the provisions of the Tax Administration Act shall distribute
thirty-five percent of the tax revenue from the retail sales of
commercial cannabis within the unincorporated county area to
that county."

SECTION 37. A new section of the Tax Administration Act
is enacted to read:

"[NEW MATERIAL] TRANSFER--REVENUES FROM MUNICIPAL CANNABIS
TAX AND COUNTY CANNABIS TAX.--
A. A transfer pursuant to Section 7-1-6.1 NMSA 1978 shall be made to each municipality in which the department is collecting a municipal cannabis tax, set at seven percent less any deduction for administrative costs determined and made by the department pursuant to the Cannabis Tax Act.

B. A transfer pursuant to Section 7-1-6.1 NMSA 1978 shall be made to each county in which the department is collecting a county cannabis tax in an amount set at seven percent and subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, less any deduction for administrative costs determined and made by the department pursuant to the Cannabis Tax Act."

SECTION 38. Section 7-1-2 NMSA 1978 (being Laws 1965, Chapter 248, Section 2, as amended by Laws 2019, Chapter 47, Section 1 and by Laws 2019, Chapter 53, Section 10 and also by Laws 2019, Chapter 270, Section 1) is amended to read:

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

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

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

(19) Multistate Tax Compact;

(20) Tobacco Products Tax Act;

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

(22) the Insurance Premium Tax Act;

(23) the Health Care Quality Surcharge Act;

and

(24) the Cannabis Tax Act;

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

(1) Resources Excise Tax Act;

(2) Severance Tax Act;

(3) any severance surtax;

(4) Oil and Gas Severance Tax Act;

(5) Oil and Gas Conservation Tax Act;

(6) Oil and Gas Emergency School Tax Act;

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

(8) Natural Gas Processors Tax Act;

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

(10) Copper Production Ad Valorem Tax Act;
(11) any advance payment required to be made by any act specified in this subsection, which advance payment shall be considered a tax for the purposes of the Tax Administration Act;

(12) Enhanced Oil Recovery Act;

(13) Natural Gas and Crude Oil Production Incentive Act; and

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

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

(1) Weight Distance Tax Act;

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

(3) Uniform Unclaimed Property Act (1995);

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

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

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

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

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

SECTION 39. Section 7-1-3 NMSA 1978 (being Laws 1965, Chapter 248, Section 3, as amended by Laws 2019, Chapter 270, Section 2 and by Laws 2019, Chapter 274, Section 10) is amended to read:

"7-1-3. DEFINITIONS.--Unless the context clearly indicates a different meaning, the definitions of words and phrases as they are stated in this section are to be used, and whenever in the Tax Administration Act these words and phrases appear, the singular includes the plural and the plural includes the singular:

A. "automated clearinghouse transaction" means an electronic credit or debit transmitted through an automated clearinghouse payable to the state treasurer and deposited with the fiscal agent of New Mexico;

B. "business location" means the location where a taxpayer's gross receipts and deductions are required to be reported pursuant to Section 7-1-14 NMSA 1978;
C. "county cannabis tax" means a sales tax of seven percent of the retail sales of commercial cannabis in the county area;

[D.] D. "department" means the taxation and revenue department, the secretary or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

[E.] E. "electronic payment" means a payment made by automated clearinghouse deposit, any funds wire transfer system or a credit card, debit card or electronic cash transaction through the internet;

[F.] F. "employee of the department" means any employee of the department, including the secretary, or any person acting as agent or authorized to represent or perform services for the department in any capacity with respect to any law made subject to administration and enforcement under the provisions of the Tax Administration Act;

[G.] G. "financial institution" means any state or federally chartered, federally insured depository institution;

[H.] H. "hearing officer" means a person who has been designated by the chief hearing officer to serve as a hearing officer and who is:

(1) the chief hearing officer;

(2) an employee of the administrative hearings office; or
(3) a contractor of the administrative hearings office;

[H-] I. "Internal Revenue Code" means the Internal Revenue Code of 1986, as that code may be amended or its sections renumbered;

[J-] J. "levy" means the lawful power, hereby invested in the secretary, to take into possession or to require the present or future surrender to the secretary or the secretary's delegate of any property or rights to property belonging to a delinquent taxpayer;

[K-] K. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon a taxpayer's gross receipts, as that term is defined in the Gross Receipts and Compensating Tax Act, and required to be collected by the department at the same time and in the same manner as the gross receipts tax;

[L-] L. "managed audit" means a review and analysis conducted by a taxpayer under an agreement with the department to determine the taxpayer's compliance with a tax administered pursuant to the Tax Administration Act and the presentation of the results to the department for assessment of tax found to be due;

M. "municipal cannabis tax" means a sales tax of seven percent of the retail sales of commercial cannabis inside the boundaries of an incorporated municipality;
"net receipts" means the total amount of money paid by taxpayers to the department in a month pursuant to a tax or tax act less any refunds disbursed in that month with respect to that tax or tax act;

"overpayment" means an amount paid, pursuant to any law subject to administration and enforcement under the provisions of the Tax Administration Act, by a person to the department or withheld from the person in excess of tax due from the person to the state at the time of the payment or at the time the amount withheld is credited against tax due;

"paid" includes the term "paid over";

"pay" includes the term "pay over";

"payment" includes the term "payment over";

"person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate, other association or gas, water or electric utility owned or operated by a county or municipality; "person" also means, to the extent permitted by law, a federal, state or other governmental unit or subdivision, or an agency, department or instrumentality thereof; and "person", as used in Sections 7-1-72 through 7-1-74 NMSA 1978, also includes an officer or employee of a corporation, a member or employee of a partnership or any individual who, as such, is under a duty to perform any act in

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respect of which a violation occurs;

[R.] T. "property" means property or rights to property;

[S.] U. "property or rights to property" means any tangible property, real or personal, or any intangible property of a taxpayer;

[T.] V. "return" means any tax or information return, application or form, declaration of estimated tax or claim for refund, including any amendments or supplements to the return, required or permitted pursuant to a law subject to administration and enforcement pursuant to the Tax Administration Act and filed with the secretary or the secretary's delegate by or on behalf of any person;

[U.] W. "return information" means a taxpayer's name, address, government-issued identification number and other identifying information; any information contained in or derived from a taxpayer's return; any information with respect to any actual or possible administrative or legal action by an employee of the department concerning a taxpayer's return, such as audits, managed audits, denial of credits or refunds, assessments of tax, penalty or interest, protests of assessments or denial of refunds or credits, levies or liens; or any other information with respect to a taxpayer's return or tax liability that was not obtained from public sources or that was created by an employee of the department; but "return
information" does not include statistical data or other
information that cannot be associated with or directly or
indirectly identify a particular taxpayer;

[V.] X. "secretary" means the secretary of taxation
and revenue and, except for purposes of Subsection B of Section
7-1-4 NMSA 1978, also includes the deputy secretary or a
division director or deputy division director delegated by the
secretary;

[W.] Y. "secretary or the secretary's delegate"
means the secretary or any employee of the department
exercising authority lawfully delegated to that employee by the
secretary;

[X.] Z. "security" means money, property or rights
to property or a surety bond;

[Y.] AA. "state" means any state of the United
States, the District of Columbia, the commonwealth of Puerto
Rico and any territory or possession of the United States;

[Z.] BB. "tax" means the total amount of each tax
imposed and required to be paid, withheld and paid or collected
and paid under provision of any law made subject to
administration and enforcement according to the provisions of
the Tax Administration Act, including the amount of any
interest or civil penalty relating thereto; "tax" also means
any amount of any abatement of tax made or any credit, rebate
or refund paid or credited by the department under any law

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subject to administration and enforcement under the provisions of the Tax Administration Act to any person contrary to law, including the amount of any interest or civil penalty relating thereto;

[AA] CC. "tax return preparer" means a person who prepares for others for compensation or who employs one or more persons to prepare for others for compensation any return of income tax, a substantial portion of any return of income tax, any claim for refund with respect to income tax or a substantial portion of any claim for refund with respect to income tax; provided that a person shall not be a "tax return preparer" merely because such person:

(1) furnishes typing, reproducing or other mechanical assistance;

(2) is an employee who prepares an income tax return or claim for refund with respect to an income tax return of the employer, or of an officer or employee of the employer, by whom the person is regularly and continuously employed; or

(3) prepares as a trustee or other fiduciary an income tax return or claim for refund with respect to income tax for any person; and

[BB] DD. "taxpayer" means a person liable for payment of any tax; a person responsible for withholding and payment or for collection and payment of any tax; a person to whom an assessment has been made, if the assessment remains unpa
unabated or the amount thereof has not been paid; or a person
who entered into a special agreement pursuant to Section
7-1-21.1 NMSA 1978 to assume the liability of gross receipts
tax or governmental gross receipts tax of another person and
the special agreement was approved by the secretary pursuant to
the Tax Administration Act."

SECTION 40. Section 7-2A-2 NMSA 1978 (being Laws 1986,
Chapter 20, Section 33, as amended) is amended to read:

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

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

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

C. "base income" means the federal taxable income
or the federal net operating loss of a corporation for the
taxable year calculated pursuant to the Internal Revenue Code,
after special deductions provided in Sections 241 through 249
of the Internal Revenue Code but without any deduction for net

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operating losses, as if the corporation filed a federal tax return as a separate domestic entity, modified as follows:

1. adding to that income:
   1.1 interest received on a state or local bond exempt under the Internal Revenue Code;
   1.2 the amount of any deduction claimed in calculating taxable income for all expenses and costs directly or indirectly paid, accrued or incurred to a captive real estate investment trust; and
   1.3 the amount of any deduction, other than for premiums, for amounts paid directly or indirectly to a commonly controlled entity that is exempt from corporate income tax pursuant to Section 7-2A-4 NMSA 1978;

2. subtracting from that income:
   2.1 income from obligations of the United States net of expenses incurred to earn that income;
   2.2 other amounts that the state is prohibited from taxing because of the laws or constitution of this state or the United States net of any related expenses;
   2.3 an amount equal to one hundred percent of the subpart F income, as that term is defined in Section 952 of the Internal Revenue Code, as that section may be amended or renumbered, included in the income of the corporation; [and]
   2.4 an amount equal to one hundred
percent of the income of the corporation under Section 951A of
the Internal Revenue Code, after allowing the deduction
provided in Section 250 of the Internal Revenue Code; and

(e) for cannabis businesses licensed
under state law, an amount equal to any expenditures disallowed
by Section 280e of the Internal Revenue Code due to the
designation of cannabis as a controlled substance under federal
law; and

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

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

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

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

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

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

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

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

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

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

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

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

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

K. "grandfathered net operating loss carryover"
means:

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

(2) reduced by:

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

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

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

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

M. "net income" means:

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

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

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

(1) plus:

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

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

(2) minus:

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

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

O. "net operating loss deduction" means the portion of the net operating loss carryover that may be deducted from the taxpayer's apportioned net income under the Internal Revenue Code as of January 1, 2018 for the taxable year in which the deduction is taken, including the eighty percent limitation of Section 172(a) of the Internal Revenue Code as of January 1, 2018 calculated on the basis of the taxpayer's apportioned net income;
P. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, joint venture, syndicate or other association; "person" also means, to the extent permitted by law, any federal, state or other governmental unit or subdivision or agency, department or instrumentality thereof;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) corporations that are exempt from corporate income tax pursuant to Section 7-2A-4 NMSA 1978; and
(2) corporations wherever organized or incorporated that have less than twenty percent of their property, payroll and sales sourced to locations within the United States, following the sourcing rules of the Uniform Division of Income for Tax Purposes Act; and
CC. "worldwide combined group" means all members of a unitary group, except members that are exempt from corporate income tax pursuant to Section 7-2A-4 NMSA 1978, irrespective of the country in which the corporations are incorporated or conduct business activity."

SECTION 41. Section 7-9-3.5 NMSA 1978 (being Laws 2003, Chapter 272, Section 3, as amended) is amended to read:

"7-9-3.5. DEFINITION--GROSS RECEIPTS.--
A. As used in the Gross Receipts and Compensating Tax Act:

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

(2) "gross receipts" includes:
(a) any receipts from sales of tangible personal property handled on consignment;
(b) the total commissions or fees
derived from the business of buying, selling or promoting the
purchase, sale or lease, as an agent or broker on a commission
or fee basis, of any property, service, stock, bond or
security;

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

(d) amounts received from transmitting
messages or conversations by persons providing telephone or
telegraph services;

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

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

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

(3) "gross receipts" excludes:

(a) cash discounts allowed and taken;

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

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

(d) any tax imposed pursuant to the Lynn
and Erin Compassionate Use Act and the Cannabis Tax Act;

(e) any gross receipts or sales
taxes imposed by an Indian nation, tribe or pueblo; provided
that the tax is approved, if approval is required by federal
law or regulation, by the secretary of the interior of the United States; and provided further that the gross receipts or sales tax imposed by the Indian nation, tribe or pueblo provides a reciprocal exclusion for gross receipts, sales or gross receipts-based excise taxes imposed by the state or its political subdivisions;

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

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

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

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

SECTION 42. Section 7-9-73.2 NMSA 1978 (being Laws 1998, Chapter 95, Section 2 and Laws 1998, Chapter 99, Section 4, as amended) is amended to read:

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

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

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

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

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

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

SECTION 43. Section 9-16-4 NMSA 1978 (being Laws 1983, Chapter 297, Section 20, as amended) is amended to read:

"9-16-4. DEPARTMENT ESTABLISHED.--The "regulation and
licensing department" is created in the executive branch. The
department shall not be a cabinet department. The department
shall consist of but not be limited to the following divisions:
   A. the administrative services division;
   B. the construction industries division;
   C. the financial institutions division;
   D. the securities division;
   E. the manufactured housing division; [and]
   F. the alcoholic beverage control division; and
   G. the cannabis regulation division."

SECTION 44. Section 26-2B-4 NMSA 1978 (being Laws 2007,
Chapter 210, Section 4, as amended) is amended to read:
"26-2B-4. EXEMPTION FROM CRIMINAL AND CIVIL PENALTIES FOR
THE MEDICAL USE OF CANNABIS.--

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

   B. A reciprocal participant shall not be subject to
arrest, prosecution or penalty in any manner for the possession
of or the medical use of cannabis if the quantity of cannabis
does not exceed the limit identified by department rule.
C. The following conduct is lawful and shall not constitute grounds for detention, search or arrest of a person or for a violation of probation or parole, and cannabis products that relate to the conduct are not contraband or subject to seizure or forfeiture pursuant to the Controlled Substances Act or the Forfeiture Act:

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

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

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

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

(5) with respect to cannabis cultivated under a personal production license, a qualified patient or primary caregiver possessing, planting, cultivating, harvesting,
drying, manufacturing or transporting cannabis plants or

cannabis products as allowed by department rule; provided that

a qualified patient or primary caregiver who possesses a

personal production license shall not manufacture cannabis

products using an oil extractor solvent that is stored under

pressure [unless the qualified patient or primary caregiver

holds a separate license from the department permitting the

person to manufacture cannabis products using an oil extractor

solvent that is under pressure].

D. Subsection A of this section shall not apply to

a qualified patient under the age of eighteen years, unless:

(1) the qualified patient's practitioner has

explained the potential risks and benefits of the medical use

of cannabis to the qualified patient and to a parent, guardian

or person having legal custody of the qualified patient; and

(2) a parent, guardian or person having legal

custody consents in writing to:

(a) allow the qualified patient's

medical use of cannabis;

(b) serve as the qualified patient's

primary caregiver; and

(c) control the dosage and the frequency

of the medical use of cannabis by the qualified patient.

E. A qualified patient or a primary caregiver shall

be granted the full legal protections provided in this section

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if the qualified patient or primary caregiver is in possession of a registry identification card. If the qualified patient or primary caregiver is not in possession of a registry identification card, the qualified patient or primary caregiver shall be given an opportunity to produce the registry identification card before any arrest or criminal charges or other penalties are initiated.

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

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

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

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

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

SECTION 45. Section 26-2B-5 NMSA 1978 (being Laws 2007, .219335.1
Chapter 210, Section 5, as amended by Laws 2019, Chapter 247, Section 5 and by Laws 2019, Chapter 261, Section 2) is amended to read:

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

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

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

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

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

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

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

B. A person who makes a fraudulent representation to a law enforcement officer about the person's participation in a medical use of cannabis program to avoid arrest or prosecution for a cannabis-related offense is guilty of a petty misdemeanor and shall be sentenced in accordance with the .219335.1
provisions of Section 31-19-1 NMSA 1978.

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

SECTION 46. Section 30-31-2 NMSA 1978 (being Laws 1972,
Chapter 84, Section 2, as amended) is amended to read:

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

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

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

C. "board" means the board of pharmacy;

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

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

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

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

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

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

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

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

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

M. "hemp" means the plant Cannabis sativa L. and any part of that plant, including seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than three-tenths percent on a dry weight basis;

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

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

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

[O. "marijuana" means all parts of the plant cannabis, including any and all varieties, species and subspecies of the genus Cannabis, whether growing or not, the seeds thereof and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds. It does not include the mature stalks of the plant, hashish, tetrahydrocannabinols extracted or isolated from marijuana, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination; or the plant Cannabis sativa L. and any part of the plant, whether growing or not, containing a delta-9-tetrahydrocannabinol concentration of no more than three-tenths percent on a dry weight basis;

P. ] N. "narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:
(1) opium and opiate and any salt, compound, derivative or preparation of opium or opiate;

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

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

(4) coca leaves and any salt, compound, derivative or preparation of coca leaves, any salt, compound, isomer, derivative or preparation that is a chemical equivalent of any of these substances except decocainized coca leaves or extractions of coca leaves that do not contain cocaine or ecgonine;

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

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

[SR] "practitioner" means a physician, certified advanced practice chiropractic physician, doctor of oriental medicine, dentist, physician assistant, certified nurse practitioner, clinical nurse specialist, certified nurse-midwife, prescribing psychologist, veterinarian, euthanasia technician, pharmacist, pharmacist clinician or other person licensed or certified to prescribe and administer drugs that are subject to the Controlled Substances Act;

[TR] "prescription" means an order given individually for the person for whom is prescribed a controlled substance, either directly from a licensed practitioner or the practitioner's agent to the pharmacist, including by means of electronic transmission, or indirectly by means of a written order signed by the prescriber, bearing the name and address of the prescriber, the prescriber's license classification, the name and address of the patient, the name and quantity of the drug prescribed, directions for use and the date of issue and in accordance with the Controlled Substances Act or rules adopted thereto;

[US] "scientific investigator" means a person registered to conduct research with controlled substances in the course of the person's professional practice or research and includes analytical laboratories;

[VT] "ultimate user" means a person who lawfully
possesses a controlled substance for the person's own use or for the use of a member of the person's household or for administering to an animal under the care, custody and control of the person or by a member of the person's household;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) water pipes;

(e) carburetion tubes and devices;

(d) smoking and carburetion masks;

(e) roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small to hold in the hand;

(f) miniature cocaine spoons and cocaine vials;

(g) chamber pipes;

(h) carburetor pipes;

(i) electric pipes;

(j) air-driven pipes;

(k) chilams;
(l) bongs; or

(m) ice pipes or chillers; and

(l3) in determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

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

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

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

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

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

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

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

(h) expert testimony concerning its use;

X.full U. "controlled substance analog":

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

[(1)] (a) phenethylamines;
[(2)] (b) N-substituted piperidines;
[(3)] (c) morphinans;
[(4)] (d) ecgonines;
[(5)] (e) quinazolinones;
[(6)] (f) substituted indoles; and
[(7)] (g) arylcycloalkylamines; and

[Specifically excluded from the definition of "controlled substance analog" are those]

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

[Y-] V. "human consumption" includes application,
injection, inhalation, ingestion or any other manner of introduction;

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

[AA-] X. "valid practitioner-patient relationship" means a professional relationship, as defined by the practitioner's licensing board, between the practitioner and the patient."

SECTION 47. Section 30-31-6 NMSA 1978 (being Laws 1972, Chapter 84, Section 6, as amended) is amended to read:

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

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

(1) acetylmethadol;
(2) allylprodine;
(3) alphacetylmethadol;
(4) alphameprodine;
(5) alphamethadol;
(6) benzethidine;  
(7) betacetylmethadol;  
(8) betameprodine;  
(9) betamethadol;  
(10) betaprodine;  
(11) clonitazene;  
(12) dextromoramide;  
(13) dextrorphan;  
(14) diamproamide;  
(15) diethylthiambutene;  
(16) dimenoxadol;  
(17) dimephtanol;  
(18) dimethylthiambutene;  
(19) dioxaphetyl butyrate;  
(20) dipipanone;  
(21) ethylmethylthiambutene;  
(22) etonitazene;  
(23) etoxeridine;  
(24) furethidine;  
(25) hydroxypethidine;  
(26) ketobemidone;  
(27) levomoramide;  
(28) levophenacylmorph;  
(29) morpheridine;  
(30) noracymethadol;
(31) norlevorphanol;
(32) normethadone;
(33) norpipanone;
(34) phenadoxone;
(35) phenampronide;
(36) phenomorphan;
(37) phenoperidine;
(38) piritramide;
(39) proheptazine;
(40) properidine;
(41) racemoramide; and
(42) trimeperidine;

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

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

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

(1) 3,4-methylenedioxy amphetamine;
(2) 5-methoxy-3,4-methylenedioxy amphetamine;
(3) 3,4,5-trimethoxy amphetamine;
(4) bufotenine;
(5) diethyltryptamine;
(6) dimethyltryptamine;
(7) 4-methyl-2,5-dimethoxy amphetamine;
(8) ibogaine;
(9) lysergic acid diethylamide;
[(10) marijuana;
(11) mescaline;
[(12) peyote, except as otherwise provided in the Controlled Substances Act;
[(13) N-ethyl-3-piperidyl benzilate;
[(14) N-methyl-3-piperidyl benzilate;
[(15) psilocybin;
[(16) psilocyn;
[(17) tetrahydrocannabinols;
(18) hashish;
[(19) synthetic cannabinoids, including:
(a) 1-[2-(4-(morpholinyl)ethyl]-3-(1-naphthoyl)indole;
(b) 1-butyl-3-(1-naphthoyl)indole;
(c) 1-hexyl-3-(1-naphthoyl)indole;
(d) 1-pentyl-3-(1-naphthoyl)indole;
(e) 1-pentyl-3-(2-methoxyphenylacetyl) indole;
(f) cannabicyclohexanol (CP 47, 497 and homologues: 5-(1,1-dimethylheptyl)-2-[(1R,3S)
-3-hydroxycyclohexyl] -phenol (CP-47,497); and 5-(1,
1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol;

(g) 6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,
10a-tetrahydrobenzo[c]chromen-1-ol;

(h) dexamabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a
-tetrahydrobenzo[c]chromen-1-ol;

(i) 1-pentyl-3-(4-chloro naphthoyl)
indole;

(j) (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone; and

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

%(20) (17) 3,4-methylenedioxymethcathinone;
%(21) (18) 3,4-methylenedioxypyrovalerone;
%(22) (19) 4-methylmethcathinone;
%(23) (20) 4-methoxymethcathinone;
%(24) (21) 3-fluoromethcathinone; and
%(25) (22) 4-fluoromethcathinone;

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

[E. the enumeration of marijuana,

tetrahydrocannabinols or chemical derivatives of
tetrahydrocannabinol as Schedule I controlled substances does
not apply to:

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

(2) cultivation of hemp by persons pursuant to
rules promulgated by the board of regents of New Mexico state
university on behalf of the New Mexico department of
agriculture;

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

agriculture or the department of environment;

(4) tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinols, including tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinols in any concentration possessed by a person in connection with the extraction of tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinols, if authorized pursuant to rules promulgated, pursuant to the Hemp Manufacturing Act, by the board of regents of New Mexico state university on behalf of the New Mexico department of agriculture or the department of environment;

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

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

E. controlled substances added to Schedule I by rule adopted by the board pursuant to Section 30-31-3 NMSA 219335.1
SECTION 48. Section 30-31-7 NMSA 1978 (being Laws 1972, Chapter 84, Section 7, as amended) is amended to read:
"30-31-7. SCHEDULE II.--

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

(1) any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

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

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

(c) opium poppy and poppy straw; and

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

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

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

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

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

(a) alphaprodine;

(b) anileridine;

(c) bezitramide;

(d) dihydrocodeine;

(e) diphenoxylate;

(f) fentanyl;
(g) hydromorphone;
(h) isomethadone;
(i) levomethorphan;
(j) levorphanol;
(k) meperidine;
(l) metazocine;
(m) methadone;
(n) methadone--intermediate,
4-cyano-2-dimethylamino-4, 4-diphenyl butane;
(o) moramide--intermediate,
2-methyl-3-morpholino-1, l-diphenyl-propane-carboxylic acid;
(p) oxycodone;
(q) pethidine;
(r) pethidine--intermediate--A,
4-cyano-1-methyl-4-phenylpiperidine;
(s) pethidine--intermediate--B,
ethyl-4-phenyl-piperidine-4-carboxylate;
(t) pethidine--intermediate--C,
1-methyl-4-phenylpiperidine-4-carboxylic acid;
(u) phenazocine;
(v) piminodine;
(w) racemethorphan; and
(x) racemorphan;
(3) unless listed in another schedule, any material, compound, mixture or preparation that contains any
quantity of the following substances having a potential for
abuse associated with a stimulant effect on the central nervous
system:

(a) amphetamine, its salts, optical
isomers and salts of its optical isomers;
(b) phenmetrazine and its salts;
(c) methamphetamine, its salts, isomers
and salts of isomers; and
(d) methylphenidate; and
(4) controlled substances added to Schedule II
by rule adopted by the board pursuant to Section 30-31-3 NMSA
1978.

B. Where methadone is prescribed, administered or
dispensed by a practitioner of a drug abuse rehabilitation
program while acting in the course of the practitioner's
professional practice, or otherwise lawfully obtained or
possessed by a person, such person shall not possess such
methadone beyond the date stamped or typed on the label of the
container of the methadone, nor shall any person possess
methadone except in the container in which it was originally
administered or dispensed to such person, and such container
shall include a label showing the name of the prescribing
physician or practitioner, the identity of methadone, the name
of the ultimate user, the date when the methadone is to be
administered to or used or consumed by the named ultimate user

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shown on the label and a warning on the label of the methadone container that the ultimate user must use, consume or administer to the ultimate user the methadone in such container. Any person who violates this subsection is guilty of a felony and shall be punished by imprisonment for not less than one year nor more than five years, or by a fine of up to five thousand dollars ($5,000), or both."

SECTION 49. TEMPORARY PROVISION--TRANSFER.--On July 1, 2021, any unexpended or unencumbered balance in the medical cannabis fund is transferred to the cannabis regulation fund.

SECTION 50. REPEAL.--Section 9-7-17.1 NMSA 1978 (being Laws 2012, Chapter 42, Section 1) is repealed.