SENATE BILL 288

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

INTRODUCED BY
Cliff R. Pirtle

AN ACT

RELATING TO CANNABIS; ENACTING THE CANNABIS REGULATION ACT;
CREATING THE CANNABIS CONTROL COMMISSION AND PROVIDING DUTIES;
REVISING SECTIONS OF LAW RELATED TO CANNABIS; ESTABLISHING
DUTIES FOR THE DEPARTMENT OF ENVIRONMENT; CREATING THE CANNABIS
REGULATION FUND AND THE ROAD SAFETY FUND; REVISING THE LOCAL
DWI GRANT PROGRAM; ENACTING THE CANNABIS TAX ACT; PROVIDING AND
REVISING PENALTIES; AMENDING, REPEALING AND ENACTING SECTIONS
OF THE NMSA 1978; MAKING AN APPROPRIATION; DECLARING AN
EMERGENCY.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 34 of this act may be cited as the "Cannabis Regulation
Act".

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

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

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

C. "cannabis":

(1) means all parts of the plant Cannabis sativa Linnaeus, whether growing or not, containing more than three-tenths percent tetrahydrocannabinol; 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; or

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

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

E. "cannabis establishment" means:

(1) a cannabis testing laboratory;
(2) a cannabis producer;
(3) a cannabis manufacturing facility;
(4) a lounge; or
(5) a dispensary;

F. "cannabis extract":

(1) means a product obtained by separating resins from cannabis by solvent extraction using volatile solvents, 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 items" means cannabis, cannabis products and cannabis extracts;

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

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

(1) manufacture and package cannabis items;
(2) have cannabis items tested by a cannabis...
testing laboratory; and

(3) buy, sell, consign or transport cannabis items;

K. "cannabis producer" means a person licensed to:

(1) cultivate or prepare cannabis in a raw form for consumption;

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

(3) sell, consign or transport cannabis items;

L. "cannabis product":

(1) means a product 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;

M. "cannabis testing laboratory" means a facility licensed by the department of environment to collect, transport and test cannabis items to analyze the strength or purity of the items;

N. "commercial cannabis activity":

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

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

O. "commission" means the cannabis control
commission;

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

Q. "controlling person":

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

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

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

S. "director" means the executive director of the
cannabis control commission;

T. "dispensary" means a commission regulated
facility at which cannabis items are stored or offered for
retail sale to the public;

U. "dual licensed dispensary" means an
establishment licensed to sell both medical and adult-use
cannabis for off-site consumption;
V. "financial consideration" means the value that is given or received, directly or indirectly, through sales, barter, trade, fees, charges, dues, contributions or donations;

W. "licensed premises" means a location that is licensed 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 a license and includes offices, kitchens, restrooms and storerooms;
   (2) all areas outside of a building specifically licensed for the production and manufacturing of cannabis items; and
   (3) with respect to a location specifically licensed for the production of cannabis outside of a building, the entire unit of land that is created by subdivision or partition of land that the licensee owns, leases or has a right to occupy;

X. "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;

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

Z. "lounge" means a facility licensed by the commission to sell cannabis items only for on-site consumption;
AA. "manufacture":
   (1) means to compound, blend, extract, infuse, package or otherwise prepare a cannabis item; and
   (2) does not include cultivating the cannabis contained in a cannabis item;

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

CC. "medical cannabis collective" means a group of not more than five qualified patients, as defined in the Lynn and Erin Compassionate Use Act, licensed by the board through the New Mexico department of agriculture to cultivate and sell certain medical cannabis items pursuant to rule;

DD. "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;

EE. "medical cannabis registry" means that term as defined in the Lynn and Erin Compassionate Use Act;

FF. "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;

GG. "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;

HH. "qualified patient" means that term as defined
in the Lynn and Erin Compassionate Use Act;

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

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

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

SECTION 3. [NEW MATERIAL] CANNABIS CONTROL COMMISSION
CREATED--DUTIES--RULEMAKING.---

A. The "cannabis control commission" is created.
The commission is a governmental entity for purposes of the
Tort Claims Act. The commission consists of:

(1) the secretary of environment or a member
of the secretary's staff designated by the secretary in an
advisory role;
(2) the secretary of health or a member of the secretary's staff designated by the secretary in an advisory role;

(3) the director of the New Mexico department of agriculture or a member of the director's staff designated by the director in an advisory role; and

(4) five public members appointed by the governor with the consent of the senate, including:

(a) one member who is engaged in the active commercial cultivation of non-cannabis crops;

(b) one member who is currently or has previously served as a certified law enforcement officer; and

(c) one member who is currently or was formerly licensed pursuant to the Medical Practice Act or the Osteopathic Medicine Act.

B. Public members shall reside in New Mexico and shall not have a financial interest in any entity engaged in the commercial production, manufacture or sale of cannabis products, and no more than three public members may be from the same political party.

C. Public members shall serve staggered four-year terms, except that of the initial public members appointed to the commission, the governor shall select two members whose initial terms are two years and three members whose initial terms are four years.
D. Public members of the commission shall be reimbursed as provided in the Per Diem and Mileage Act.

E. Except as provided in the Lynn and Erin Compassionate Use Act, the commission has exclusive authority to regulate and administer the testing, manufacture, packaging and transportation of cannabis items in the state.

F. The commission shall employ such personnel and hire such consultants as are required to carry out its duties pursuant to the Cannabis Regulation Act; provided that the commission shall not employ or hire a person who has a direct or indirect financial interest in a cannabis establishment or cannabis cultivation.

G. Not later than September 1, 2021, the commission, in compliance with the State Rules Act, shall promulgate rules necessary to carry out the commission's duties as provided in the Cannabis Regulation Act, and those rules shall include:

   (1) procedures for the issuance, renewal, suspension or revocation of licenses issued by the commission, the department of environment and the department of health;

   (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 items;

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

(d) labeling of cannabis items; and

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

(5) a provision regarding whether a licensee that is a cannabis producer may produce any other products;

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

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

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

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

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

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

(8) rules developed in consultation with the department of environment and proposed for adoption by the board, on behalf of the New Mexico department of agriculture, to establish:

(a) standards for the use of pesticides in the manufacture of cannabis, including the maximum allowances for pesticides and other foreign material such as hair, insects or other similar adulterants, in harvested cannabis;

(b) environmental protections that apply to all licensees;

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

(d) occupational health and safety standards for persons working in the cannabis industry.

H. Except as provided in Subsection I of this section and Section 10 of the Cannabis Regulation Act, the commission may in its discretion license dispensaries or lounges at any location within the state. Any person employed to sell retail cannabis items under the provisions of the
Cannabis Regulation Act shall not sell cannabis items except as may be legally obtained under the provisions of the Cannabis Regulation Act.

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

J. The commission shall not license a dispensary unless the dispensary agrees as a condition of its license to accept cannabis items on consignment for resale from any manufacturer or producer licensed pursuant to Section 6 of the Cannabis Regulation Act.

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

A. The department of health shall promulgate rules to govern the medical cannabis subsidy program.

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

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

D. The public health and safety advisory committee shall provide to the legislature and the department of health shall publish on its website an annual report on the health effects of legalizing cannabis for adult use. The report shall include the following elements relating to cannabis use:

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

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

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

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

(1) the total number of arrests and citations for cannabis-related violations broken down by:

(a) category and penalty level; and

(b) race, ethnicity, age and gender; and

(2) the number of motor vehicle accidents in which the driver of one of the vehicles tested positive for cannabis.

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

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

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

A. The department of environment shall regulate and license cannabis manufacturers, dual licensed dispensaries and
cannabis testing laboratories pursuant to rules promulgated by
the commission.

B. The department of environment shall begin
issuing licenses pursuant to the Cannabis Regulation Act for
cannabis manufacturers no sooner than September 1, 2022 except
to persons who possess valid dual licenses; provided that:

(1) the department shall condition renewal of
a license for cannabis manufacturers currently manufacturing
medical cannabis products upon a requirement that the
manufacturer sell a minimum amount of medical cannabis products
as a percentage of total cannabis products sold. The
department shall determine the minimum percentage by rule;
provided that the minimum percentage shall be not less than
twenty percent and not more than forty percent of total
cannabis products sold from the preceding twelve months'
operation of the manufacturer; and

(2) all medical cannabis products shall be
sold at a grade and quality determined by rule and a cannabis
testing laboratory to be suitable for medical consumption.

C. The New Mexico department of agriculture shall
regulate and license cannabis producers pursuant to rules
promulgated by the board and shall begin issuing licenses no
sooner than June 1, 2022 and shall regulate and issue licenses
to persons who possess a valid dual license for both medical
and adult-use cannabis production no later than September 1,
2021.

D. The commission shall regulate and license lounges for the on-site consumption of cannabis items in conjunction with a cannabis producer or manufacturer license and shall begin issuing licenses for lounges except to persons who possess valid dual licenses no sooner than September 1, 2022.

E. The department of environment shall assume all responsibilities for licensing and regulation under the Lynn and Erin Compassionate Use Act except for personal production licenses as defined in the Lynn and Erin Compassionate Use Act no later than September 1, 2021.

F. The department of environment may issue a dual license that provides for the manufacturing and sale of on-site and off-site consumption of adult-use cannabis to a person that holds a valid medical cannabis manufacturer or producer license; provided that the person shall sell a minimum quantity of medical cannabis products as provided in Subsection B of this section and shall meet quality standards promulgated by the department of environment.

G. The commission may issue a dispensary license to a person who holds a valid adult-use cannabis manufacturer or producer license or a valid dual license; provided that the dispensary shall meet quality standards promulgated by the commission for a dispensary; and provided further that a
dispensary shall not be located within one mile of previously
established dispensaries located within the same county.

H. The commission may propose rules to the board
for adoption regarding the regulating and licensing of cannabis
producers as provided for in the Cannabis Regulation Act.

I. A license issued pursuant to the Cannabis
Regulation Act is valid for twelve months from the date the
license is issued and may be renewed annually or as provided
for in the rules promulgated by the commission.

J. An application for an initial license or renewal
may be denied if:

(1) the applicant has violated any provision
of the Lynn and Erin Compassionate Use Act or the Cannabis
Regulation Act or a rule promulgated pursuant to either of
those acts;

(2) the applicant's application does not
include all information required;

(3) 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
constituent agency determines that the controlling person and
the applicant entity are otherwise qualified for a license and
issuing a license to the applicant entity would not compromise
public safety, the constituent agency 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 

(4) the applicant or a controlling person in 
the applicant's entity has been penalized for a violation of 
the Cannabis Regulation Act or the Lynn and Erin Compassionate 
Use Act in the three years immediately preceding the date on 
which the application was filed.

K. For the purposes of Subsection J 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 
the commission by rule, except as provided in Paragraph (2) of 
this subsection; and

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(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 a controlled substance is not considered substantially related to the qualifications, functions or duties of a person seeking a license and shall not be a ground on which an application is denied unless the offense involved the distribution of alcohol or a controlled substance to a minor.

L. An application shall be denied 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 under the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act.

M. The commission shall regulate and license cannabis couriers. The commission shall begin issuing licenses for cannabis couriers no sooner than January 1, 2021.

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

A. The commission shall establish application and licensing fees applicable to licenses for commercial cannabis activity and activity related to medical cannabis. The fees shall be reasonably calculated to cover the cost of administering and enforcing the programs established in the Cannabis Regulation Act; provided that:
(1) the fee shall be scaled to reflect the size of a business seeking or renewing a license; and

(2) 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 both commercial and medical cannabis activities.

B. The commission, the department of environment and the department of health shall deposit all fees collected pursuant to the Cannabis Regulation Act in the cannabis regulation fund.

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

SECTION 8. [NEW MATERIAL] DISCIPLINARY PROCEEDINGS--APPLICATION OF UNIFORM LICENSING ACT.--In accordance with the procedures contained in the Uniform Licensing Act, the commission, the department of environment or the department of health may revoke or suspend any permanent or temporary license held or applied for under the Cannabis Regulation Act upon findings that the licensee or applicant:

A. engaged in fraud or deceit in procuring or
attempts to procure a license;

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

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

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

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

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

(1) adopt reasonable time, place and manner rules that do not conflict with the Cannabis Regulation Act;

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

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

B. A local jurisdiction shall not:

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

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

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

SECTION 10. [NEW MATERIAL] LOCAL OPTION--EFFECT OF LOCAL
OPTION.--

A. A local jurisdiction in the state may prohibit
by ordinance or resolution the operation of a licensed
dispensary within six months following the effective date of
the Cannabis Regulation Act.

B. A local jurisdiction in the state that has by
ordinance or resolution prohibited the operation of a licensed
dispensary may at any time by ordinance or resolution allow the
operation of a licensed dispensary.

C. A local jurisdiction in the state may by
ordinance or resolution limit the sale of adult-use cannabis
for off-site consumption to sale in a licensed dispensary.

SECTION 11. [NEW MATERIAL] LICENSEE PROTECTIONS.--

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

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

SECTION 12. [NEW MATERIAL] TRANSPORT VIA COURIER.--

A. Only a 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 by courier and shall make the copy available upon request by the commission or a law enforcement officer.

SECTION 13. [NEW MATERIAL] PROTECTION OF UNDERAGE PERSON--TRAFFICKING--PENALTIES.--

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

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

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

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

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

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

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or older.

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

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

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

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

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

SECTION 15. [NEW MATERIAL] PACKAGING AND LABELING.--

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

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

C. Labels shall include:

(1) total tetrahydrocannabinol concentration for the package;
for a package containing only cannabis
flower, the net weight of cannabis in the package;

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

(4) a list of pharmacologically active
ingredients;

(5) for cannabis products, a list of all
ingredients, and for edibles, 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;

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

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

SECTION 16. [NEW MATERIAL] CANNABIS PRODUCTS--

APPEARANCE.--

A. Cannabis products shall:

(1) not be designed to appeal to children or
in such a way that the products could be easily confused with
commercially sold candy or foods that do not contain cannabis;
(2) be produced and sold with a standardized dosage of cannabinoids not to exceed ten milligrams tetrahydrocannabinol per serving;

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

(4) contain a uniform disbursement of cannabinoids throughout the product;

(5) be manufactured and sold under health and sanitation standards established by the commission, with the assistance of the department of environment, for the preparation, storage, handling and sale of food products; and

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

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

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

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

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

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

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

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

(a) delta-9-tetrahydrocannabinol;
(b) tetrahydrocannabinolic acid;
(c) cannabidiol;
(d) cannabidiolic acid;
(e) cannabigerol; and
(f) cannabinol; and

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

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

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

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

D. 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 validated methods to ensure conformity,
competence and impartiality to test cannabis products.

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

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

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

B. The commission shall develop rules and
procedures to:
(1) ensure that testing of cannabis products occurs prior to distribution;
(2) specify how often licensees shall test cannabis products;
(3) specify which entities bear the cost of testing cannabis and medical cannabis;
(4) ensure that testing samples are transported and stored in a manner that prevents degradation, contamination and tampering;
(5) specify protocols for sample collection that ensure that representative samples have been taken and that require testing samples be collected by laboratory staff trained in sample collection; and
(6) require 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 commission, unless remedial measures can bring the cannabis or cannabis products into compliance with the standards.

C. Not later than January 1, 2022, the department of environment shall identify and designate to the commission acceptable and accredited standards, where necessary to be used by cannabis testing laboratories.

SECTION 19. [NEW MATERIAL] ADVERTISING AND MARKETING RESTRICTIONS.--The commission shall promulgate rules that
explicitly:

A. prohibit the advertisement and marketing of cannabis products:

   (1) on a billboard, radio, television or other broadcast media;

   (2) that is false, deceptive or misleading, including making unproven health benefit claims;

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

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

   (5) within three hundred feet of a school, church or daycare center;

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

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

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

B. require:

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

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

SECTION 20. [NEW MATERIAL] CONTRACTS.--A contract related
to operation of a license issued pursuant to the Cannabis
Regulation Act 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 21. [NEW MATERIAL] PROVISION OF PROFESSIONAL
SERVICES.--A person engaged in a profession subject to state
licensure shall not be subject to disciplinary action because
the person provides professional services or assistance to
prospective or licensed cannabis establishments or another
person in connection with activity that the person reasonably
believes complies with the Cannabis Regulation Act and rules
promulgated pursuant to that act. The provisions of this
section shall not apply to an attorney licensed to practice law
in this state.

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

SECTION 23. [NEW MATERIAL] PROTECTIONS FROM DISCRIMINATION FOR THE USE OF CANNABIS OR MEDICAL CANNABIS.—

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

B. A person may prohibit or restrict any of the actions or conduct otherwise allowed under Section 25 of the Cannabis Regulation Act on that person's privately owned property.

C. A person shall not be denied custody of or visitation or parenting time with a child for conduct allowed...
under Section 25 of the Cannabis Regulation Act or under the
Lynn and Erin Compassionate Use Act, unless the court
determines that the person's behavior is contrary to the best
interests of the child pursuant to Sections 40-4-9 and 40-4-9.1
NMSA 1978.

SECTION 24. [NEW MATERIAL] EMPLOYMENT PROTECTIONS.--

A. Nothing in the Cannabis Regulation Act shall:

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

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

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

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

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

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

A. 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, and
cannabis items that relate to the conduct are not contraband or
subject to seizure or forfeiture pursuant to the Controlled
Substances Act or the Forfeiture Act; provided that the person
has proof that the cannabis items were purchased from a
licensed dispensary or are authorized pursuant to the medical
cannabis program:

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

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

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

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

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

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

(7) 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 (6) of this subsection.

B. Paragraphs (6) and (7) of Subsection A of this section 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.

SECTION 26. [NEW MATERIAL] LIMITS ON PERSONAL
CONSUMPTION--PENALTY.--

A. Nothing in Section 25 of the Cannabis Regulation Act shall be construed to restrict the ability of an individual or private entity to prohibit conduct otherwise allowed in Section 25 of the Cannabis Regulation Act on the individual's or private entity's privately owned property.

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

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

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

A. Except as allowed in the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act or Chapter 76, Article 24 NMSA 1978, it is unlawful for a person without a license to intentionally distribute cannabis items.

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

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

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

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

       (c) four hours of community service;
(2) for a second violation, be subject to:
   (a) a fine of two hundred fifty dollars ($250);
   (b) attendance at a four-hour drug education program; and
   (c) four hours of community service; and
(3) for a third or subsequent violation, be subject to:
   (a) a fine of one thousand dollars ($1,000);
   (b) attendance at a four-hour drug education program; and
   (c) not less than one hundred hours of community service.

C. 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.

SECTION 28. [NEW MATERIAL] CANNABIS WITHIN RESTRICTED AREA--PENALTY.--Except as allowed in the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act, a person shall not possess or intentionally distribute any amount of a cannabis item within three hundred feet of the perimeter of school grounds on which instruction is provided at any level from kindergarten through twelfth grade, a playground, a child
care center, a youth center, a public park or a library unless
the person is a qualified patient or is in or upon or traveling
to or from the grounds of a private residence, as an invitee or
resident. 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 29. [NEW MATERIAL] UNLAWFUL POSSESSION OF
CANNABIS--PENALTIES.--Except as allowed in 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
items. A person who violates this subsection shall be subject
to:

   (1) a fine of seventy-five dollars ($75.00);

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

   (3) four hours of community service;

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

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

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

   (3) four hours of community service; and

   C. or as allowed in the Cannabis Regulation Act, a
person twenty-one years of age or older shall not possess

cannabis containing more than three-tenths percent
tetrahydrocannabinol except pursuant to a certificate of
purchase issued by a licensed dispensary. A person who
violates this subsection, if the amount is:

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

2. more than one ounce of cannabis or eight
grams of cannabis extracts but not more than sixteen ounces of
cannabis or one hundred twenty-eight grams of cannabis
extracts, is guilty of a petty misdemeanor and shall be subject
to a fine in an amount not more than five hundred dollars
($500); or

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

SECTION 30. [NEW MATERIAL] UNLICENSED MANUFACTURING OF
CANNABIS EXTRACTS—PENALTY.—Except as permitted by the Lynn
and Erin Compassionate Use Act, it is unlawful for any person
to use volatile solvents 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 shall be subject to a civil penalty of four hundred fifty dollars ($450).

SECTION 31. [NEW MATERIAL] WRIT OF MANDAMUS.--Any person may commence a legal action for a writ of mandamus to compel the commission to perform its duties pursuant to the Cannabis Regulation Act.

SECTION 32. [NEW MATERIAL] CANNABIS REGULATION FUND.--

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

B. The commission shall administer the fund, and money in the fund is appropriated to the commission to support the commission in its duties established in the Cannabis Regulation Act. Money from the fund shall not be used for capital expenditures.

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

SECTION 33. [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,
possessed, 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 34. [NEW MATERIAL] ROAD SAFETY FUND.--

A. The "road safety fund" is created in the state
treasury. The fund consists of money transferred from the
cannabis excise tax, appropriations, other money deposited in
the fund and money otherwise accruing to the fund. The
department of public safety shall administer the fund, and
money in the fund is subject to appropriation to the department
of public safety for the purposes described in this section.
Any unexpended or unencumbered balance remaining at the end of
a fiscal year shall not revert to the general fund. Money in
the fund shall be disbursed on warrants signed by the secretary
of finance and administration pursuant to vouchers signed by
the secretary of public safety or the secretary's authorized
representative.

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

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

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

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

SECTION 35. [NEW MATERIAL] SHORT TITLE.--Sections 35
through 41 of this act may be cited as the "Cannabis Tax Act".

SECTION 36. [NEW MATERIAL] DEFINITIONS.--As used in the
Cannabis Tax Act:

A. "cannabis":

(1) means all parts of the plant Cannabis
sativa Linnaeus, 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; or

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

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 items" means cannabis, cannabis products and cannabis extracts;

D. "cannabis product":

(1) means a product 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; and

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

SECTION 37. [NEW MATERIAL] CANNABIS EXCISE TAX.--
A. An excise tax is imposed on the sale of cannabis items 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 excise tax". If the price paid does not represent the value of the cannabis item, the tax rate shall be applied to the reasonable value of the cannabis item at the time the item was purchased.

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

C. The cannabis excise tax shall not apply to:

1. 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; or

2. receipts of cannabis producers from selling cannabis wholesale.

SECTION 38. [NEW MATERIAL] MUNICIPAL CANNABIS TAX.--

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

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

SECTION 39. [NEW MATERIAL] COUNTY CANNABIS TAX.--
A. There is imposed in a county that does not prohibit the sale of cannabis items an excise tax at a rate of two percent on the sale of cannabis items on which the tax imposed by this section has not been paid. The tax imposed pursuant to this section may be referred to as the "county cannabis tax".

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

SECTION 40. [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 occurs.

SECTION 41. [NEW MATERIAL] INTERPRETATION OF ACT--ADMINISTRATION AND ENFORCEMENT OF TAX.--The department shall administer and enforce the collection of the cannabis excise tax, municipal cannabis tax and county cannabis tax pursuant to the Tax Administration Act.

SECTION 42. A new section of the Tax Administration Act is enacted to read:

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

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

B. A distribution pursuant to Section 7-1-6.1 NMSA 219045.2
1978 shall be made to the road safety fund in an amount equal
to two percent of the net receipts attributable to the cannabis
excise tax."

SECTION 43. 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 for which the department is
collecting a municipal cannabis tax imposed by that
municipality in an amount, subject to any increase or decrease
made pursuant to Section 7-1-6.15 NMSA 1978, equal to the net
receipts attributable to the municipal cannabis tax.

B. A transfer pursuant to Section 7-1-6.1 NMSA 1978
shall be made to each county for which the department is
collecting a county cannabis tax imposed by that county in an
amount, subject to any increase or decrease made pursuant to
Section 7-1-6.15 NMSA 1978, equal to the net receipts
attributable to the county cannabis tax."

SECTION 44. 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 45. Section 7-1-6.15 NMSA 1978 (being Laws 1983,
Chapter 211, Section 20, as amended by Laws 2015, Chapter 89,
Section 1 and by Laws 2015, Chapter 100, Section 1) is amended
to read:

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

A. The provisions of this section apply to:

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

(2) any transfer to a municipality with

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respect to any local option gross receipts tax or municipal cannabis tax imposed by that municipality;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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secretary:

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

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

(3) if, after application of a refund claim, audit adjustment, correction of a mistake by the department or other adjustment of a prior period, but prior to any recovery of the department pursuant to this section, the total net receipts of a municipality or county for the twelve-month period beginning with the current month are reduced or are projected to be reduced to less than fifty percent of the average distribution or transfer of net receipts, the secretary may waive recovery of any portion of the recoverable amount, subject to approval by the state board of finance.

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

G. On or before September 1 of each year beginning .219045.2
in 2016, the secretary shall report to the state board of
finance and the legislative finance committee the total
recoverable amount waived pursuant to Subparagraph (b) of
Paragraph (2) and Paragraph (3) of Subsection E of this section
for each municipality and county in the prior fiscal year.

H. The secretary is authorized to decrease a
distribution or transfer to a municipality or county upon being
directed to do so by the secretary of finance and
administration pursuant to the State Aid Intercept Act or to
redirect a distribution or transfer to the New Mexico finance
authority pursuant to an ordinance or a resolution passed by
the county or municipality and a written agreement of the
municipality or county and the New Mexico finance authority.
Upon direction to decrease a distribution or transfer or notice
to redirect a distribution or transfer to a municipality or
county, the secretary shall decrease or redirect the next
designated distribution or transfer, and succeeding
distributions or transfers as necessary, by the amount of the
state distributions intercept authorized by the secretary of
finance and administration pursuant to the State Aid Intercept
Act or by the amount of the state distribution intercept
authorized pursuant to an ordinance or a resolution passed by
the county or municipality and a written agreement with the New
Mexico finance authority. The secretary shall transfer the
state distributions intercept amount to the municipal or county
treasurer or other person designated by the secretary of finance and administration or to the New Mexico finance authority pursuant to written agreement to pay the debt service to avoid default on qualified local revenue bonds or meet other local revenue bond, loan or other debt obligations of the municipality or county to the New Mexico finance authority. A decrease to or redirection of a distribution or transfer pursuant to this subsection that arose:

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

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

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

J. As used in this section:

1. "amounts relating to the current month" means any amounts included in the net receipts of the current month that represent payment of tax due for the current month, correction of amounts processed in the current month that relate to the current month or that otherwise relate to obligations due for the current month;

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

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

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

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

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

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

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

SECTION 46. Section 7-2-2 NMSA 1978 (being Laws 1986, Chapter 20, Section 26, as amended) is amended to read:

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

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

B. "base income":

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

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

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

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

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

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

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

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

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

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

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

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

I. "individual" means a natural person, an estate, a trust or a fiduciary acting for a natural person, trust or
J. "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended;

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

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

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

M. "modified gross income" excludes:

(1) payments for hospital, dental, medical or drug expenses to or on behalf of the taxpayer;
(2) the value of room and board provided by federal, state or local governments or by private individuals or agencies based upon financial need and not as a form of compensation;
(3) payments pursuant to a federal, state or local government program directly or indirectly to a third party on behalf of the taxpayer when identified to a particular use or invoice by the payer; or
(4) payments for credits and rebates pursuant to the Income Tax Act and made for a credit pursuant to Section 7-3-9 NMSA 1978;
N. "net income" means, for estates and trusts, base income adjusted to exclude amounts that the state is prohibited from taxing because of the laws or constitution of this state or the United States and means, for taxpayers other than estates or trusts, base income adjusted to exclude:

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

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

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

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

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

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

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

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

(7) for taxable years beginning on or after January 1, 1991 and prior to January 1, 2013, an amount equal to the sum of any net operating loss carryover deductions to that year claimed and allowed, provided that the amount of any net operating loss carryover from a taxable year beginning on or after January 1, 1991 and prior to January 1, 2013 may be excluded only as follows:

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

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

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

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

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

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

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

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

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

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

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

R. "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;

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

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

U. "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 any political
subdivision of a foreign country;

V. "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;

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

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

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

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

SECTION 47. 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:

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

   (1) adding to that income:

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

       (b) 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

       (c) 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:

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

(b) 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;

(c) 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

(d) 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]

(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;
and

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

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

"7-9-13. EXEMPTION--GROSS RECEIPTS TAX--GOVERNMENTAL AGENCIES.--
A. Except as otherwise provided in this section, exempted from the gross receipts tax are receipts of:
   (1) the United States or any agency, department or instrumentality thereof;
   (2) the state of New Mexico or any political subdivision thereof;
   (3) any Indian nation, tribe or pueblo from activities or transactions occurring on its sovereign territory; [or]
   (4) any foreign nation or agency, instrumentality or political subdivision thereof, but only when required by a treaty in force to which the United States is a party; or
   (5) cannabis producers for the sale of cannabis wholesale.

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

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

SECTION 49. 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:

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"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 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 50. Section 11-6A-3 NMSA 1978 (being Laws 1993, Chapter 65, Section 3, as amended) is amended to read:

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

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

(1) new, innovative or model programs, services or activities to prevent or reduce the incidence of
(2) programs, services or activities to prevent or reduce the incidence of domestic abuse related to DWI, alcoholism, alcohol abuse, drug addiction or drug abuse;

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

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

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

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

D. Two million eight hundred thousand dollars
($2,800,000) of the liquor excise tax revenues distributed to
the local DWI grant fund is appropriated to the division for
distribution to the following counties in the following amounts
for funding of alcohol detoxification and treatment facilities:

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

(2) three hundred thousand dollars ($300,000)
each to counties reclassified in 2002 as class A counties with
a population of more than ninety thousand but less than one
hundred thousand persons according to the 1990 federal
decennial census;
(3) two hundred thousand dollars ($200,000) to class B counties with a population of more than thirty thousand but less than forty thousand persons according to the 1990 federal decennial census;

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

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

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

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

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

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

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

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

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

(6) shall make grants only to counties or
municipalities in counties that have established a DWI planning
council and adopted a county DWI plan or are parties to a
multicounty DWI plan that has been approved by the council and
approved pursuant to Chapter 43, Article 3 NMSA 1978 and only
for programs, services or activities consistent with that plan.
A DWI plan shall also comply with local DWI grant program rules
and guidelines.

G. The council shall use the criteria in Subsection
F of this section to approve DWI programs, services or
activities for funding through the county DWI program
distribution. Sixty-five percent of the DWI grants awarded to
local communities shall be used for alcohol-related treatment
and detoxification programs."
SECTION 51. 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];
"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;

"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;

"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;

[Q-] 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;

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

[S-] Q. "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;

[T.][R. "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;

[U.][S. "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;

[V.][T. "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.][U. "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 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;

(c) 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

(13) 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. V. "controlled substance analog":

(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:

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[(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;

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

(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_] W. "human consumption" includes application, injection, inhalation, ingestion or any other manner of introduction;

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

SECTION 52. 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) diampromide;
(15) diethylthiambutene;
(16) dimenoxadol;
(17) dimepheptanol;
(18) dimethylthiambutene;
(19) dioxaphetyl butyrate;
(20) dipipanone;
(21) ethylmethylthiambutene;
(22) etonitazene;
(23) etoxeridine;
(24) furethidine;
(25) hydroxypethidine;
(26) ketobemidone;
(27) levomoramide;
(28) levophenacylmorphan;
(29) morpheridine;
(30) noracymethadol;
(31) norlevorphanol;
(32) normethadone;
(33) norpipanone;
(34) phenadoxone;
(35) phenampromide;
(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) dihydromorphine;
(9) etorphine;
(10) heroin;
(11) hydromorphinol;
(12) methyldeorphine;
(13) methylidihydromorphine;
(14) morphine methylbromide;
(15) morphine methylsulfonate;
(16) morphine-N-oxide;
(17) myrophine;
(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;]
N-ethyl-3-piperidyl benzilate;  
N-methyl-3-piperidyl benzilate;  
psilocybin;  
psilocyn;  
tetrahydrocannabinols;  
hashish;  
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]-phenolen );  
  (g) 6aR,10aR)-9-(hydroxymethyl) -6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10, 10a-tetrahydrobenzo[c]chromen-1-ol);  
  (h) dexanabinol, (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 .219045.2

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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

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

SECTION 53. 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, 1-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

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(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
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
two thousand dollars ($5,000), or both."

SECTION 54. Section 30-31-21 NMSA 1978 (being Laws 1972,
Chapter 84, Section 21, as amended) is amended to read:

"30-31-21. DISTRIBUTION TO A MINOR.--Except as authorized by the Controlled Substances Act, no person who is eighteen years of age or older shall intentionally distribute a controlled substance to a person under the age of eighteen years. Any person who violates this section with respect to

[A. marijuana is:

(1) for the first offense, guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

(2) for the second and subsequent offenses, guilty of a second degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

B. any other] a controlled substance enumerated in [Schedules] Schedule I, II, III or IV or a controlled substance analog of any controlled substance enumerated in Schedule I, II, III or IV is:

[{{1}]} A. for the first offense, guilty of a second degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

[{{2}]} B. for the second and subsequent offenses, guilty of a first degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."

SECTION 55. Section 30-31-22 NMSA 1978 (being Laws 1972, Chapter 84, Section 22, as amended) is amended to read:

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"30-31-22. CONTROLLED OR COUNTERFEIT SUBSTANCES--
DISTRIBUTION PROHIBITED.--

A. Except as authorized by the Controlled
Substances Act, it is unlawful for a person to intentionally
distribute or possess with intent to distribute a controlled
substance or a controlled substance analog except a substance
enumerated in Schedule I or II that is a narcotic drug, a
controlled substance analog of a controlled substance
enumerated in Schedule I or II that is a narcotic drug or
methamphetamine, its salts, isomers and salts of isomers. A
person who violates this subsection with respect to:

(1) [marijuana—or] synthetic cannabinoids is:

   (a) for the first offense, guilty of a
fourth degree felony and shall be sentenced pursuant to the
provisions of Section 31-18-15 NMSA 1978;

   (b) for the second and subsequent
offenses, guilty of a third degree felony and shall be
sentenced pursuant to the provisions of Section 31-18-15 NMSA
1978;

   (c) for the first offense, if more than
one hundred pounds is possessed with intent to distribute or
distributed or both, guilty of a third degree felony and shall
be sentenced pursuant to the provisions of Section 31-18-15
NMSA 1978; and

   (d) for the second and subsequent
offenses, if more than one hundred pounds is possessed with
intent to distribute or distributed or both, guilty of a second
degree felony and shall be sentenced pursuant to the provisions
of Section 31-18-15 NMSA 1978;

(2) any other controlled substance enumerated
in Schedule I, II, III or IV or a controlled substance analog
of a controlled substance enumerated in Schedule I, II, III or
IV except a substance enumerated in Schedule I or II that is a
narcotic drug, a controlled substance analog of a controlled
substance enumerated in Schedule I or II that is a narcotic
drug or methamphetamine, its salts, isomers and salts of
isomers, is:

(a) for the first offense, guilty of a
third degree felony and shall be sentenced pursuant to the
provisions of Section 31-18-15 NMSA 1978; and

(b) for the second and subsequent
offenses, guilty of a second degree felony and shall be
sentenced pursuant to the provisions of Section 31-18-15 NMSA
1978; and

(3) a controlled substance enumerated in
Schedule V or a controlled substance analog of a controlled
substance enumerated in Schedule V is guilty of a misdemeanor
and shall be punished by a fine of not less than one hundred
dollars ($100) or more than five hundred dollars ($500) or by
imprisonment for a definite term not less than one hundred

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eighty days but less than one year, or both.

B. It is unlawful for a person to distribute gamma hydroxybutyric acid or flunitrazepam to another person without that person's knowledge and with intent to commit a crime against that person, including criminal sexual penetration.

For the purposes of this subsection, "without that person's knowledge" means the person is unaware that a substance with the ability to alter that person's ability to appraise conduct or to decline participation in or communicate unwillingness to participate in conduct is being distributed to that person.

Any person who violates this subsection is:

(1) for the first offense, guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

(2) for the second and subsequent offenses, guilty of a second degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

C. Except as authorized by the Controlled Substances Act, it is unlawful for a person to intentionally create or deliver, or possess with intent to deliver, a counterfeit substance. A person who violates this subsection with respect to:

(1) a counterfeit substance enumerated in Schedule I, II, III or IV is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section .219045.2
31-18-15 NMSA 1978; [and] or

(2) a counterfeit substance enumerated in
Schedule V is guilty of a petty misdemeanor and shall be
punished by a fine of not more than one hundred dollars ($100)
or by imprisonment for a definite term not to exceed six
months, or both.

D. A person who knowingly violates Subsection A or
C of this section while within a drug-free school zone with
respect to:

(1) [marijuana or] synthetic cannabinoids is:

(a) for the first offense, guilty of a
third degree felony and shall be sentenced pursuant to the
provisions of Section 31-18-15 NMSA 1978;

(b) for the second and subsequent
offenses, guilty of a second degree felony and shall be
sentenced pursuant to the provisions of Section 31-18-15 NMSA
1978;

(c) for the first offense, if more than
one hundred pounds is possessed with intent to distribute or
distributed or both, guilty of a second degree felony and shall
be sentenced pursuant to the provisions of Section 31-18-15
NMSA 1978; and

(d) for the second and subsequent
offenses, if more than one hundred pounds is possessed with
intent to distribute or distributed or both, guilty of a first
degree felony and shall be sentenced pursuant to the provisions
of Section 31-18-15 NMSA 1978;

(2) any other controlled substance enumerated
in Schedule I, II, III or IV or a controlled substance analog
of a controlled substance enumerated in Schedule I, II, III or
IV except a substance enumerated in Schedule I or II that is a
narcotic drug, a controlled substance analog of a controlled
substance enumerated in Schedule I or II that is a narcotic
drug or methamphetamine, its salts, isomers and salts of
isomers, is:

(a) for the first offense, guilty of a
second degree felony and shall be sentenced pursuant to the
provisions of Section 31-18-15 NMSA 1978; and

(b) for the second and subsequent
offenses, guilty of a first degree felony and shall be
sentenced pursuant to the provisions of Section 31-18-15 NMSA
1978;

(3) a controlled substance enumerated in
Schedule V or a controlled substance analog of a controlled
substance enumerated in Schedule V is guilty of a fourth degree
felony and shall be sentenced pursuant to the provisions of
Section 31-18-15 NMSA 1978; and

(4) the intentional creation, delivery or
possession with the intent to deliver:

(a) a counterfeit substance enumerated
in Schedule I, II, III or IV is guilty of a third degree felony
and shall be sentenced pursuant to the provisions of Section
31-18-15 NMSA 1978; and

(b) a counterfeit substance enumerated
in Schedule V is guilty of a misdemeanor and shall be punished
by a fine of not less than one hundred dollars ($100) nor more
than five hundred dollars ($500) or by imprisonment for a
definite term not less than one hundred eighty days but less
than one year, or both.

E. Notwithstanding the provisions of Subsection A
of this section, distribution of a small amount of [marijuana
or] synthetic cannabinoids for no remuneration shall be treated
as provided in Paragraph (l) of Subsection B of Section
30-31-23 NMSA 1978."

SECTION 56. Section 30-31-23 NMSA 1978 (being Laws 1972,
Chapter 84, Section 23, as amended) is amended to read:

"30-31-23. CONTROLLED SUBSTANCES--POSSESSION
PROHIBITED.--

A. It is unlawful for a person intentionally to
possess a controlled substance unless the substance was
obtained pursuant to a valid prescription or order of a
practitioner while acting in the course of professional
practice or except as otherwise authorized by the Controlled
Substances Act. It is unlawful for a person intentionally to
possess a controlled substance analog.

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

(1) up to one-half ounce of marijuana shall be issued a penalty assessment, pursuant to Section 3 of this 2019 act and is subject to a fine of fifty dollars ($50.00);

(2) more than one-half ounce but up to and including one ounce of marijuana is, for the first offense, guilty of a petty misdemeanor and shall be punished by a fine of not less than fifty dollars ($50.00) or more than one hundred dollars ($100) and by imprisonment for not more than fifteen days, and, for a second or subsequent offense, is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000) or by imprisonment for a definite term of less than one year, or both;

(3) more than one ounce but less than eight ounces of marijuana is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000) or by imprisonment for a definite term of less than one year, or both, or

(4) eight ounces or more of marijuana is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

Gr] B. A person who violates this section with respect to:
(1) one ounce or less of synthetic cannabinoids is, for the first offense, guilty of a petty misdemeanor and shall be punished by a fine of not less than fifty dollars ($50.00) or more than one hundred dollars ($100) and by imprisonment for not more than fifteen days, and, for the second and subsequent offenses, is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000) or by imprisonment for a definite term less than one year, or both;

(2) more than one ounce and less than eight ounces of synthetic cannabinoids is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000) or by imprisonment for a definite term less than one year, or both; or

(3) eight ounces or more of synthetic cannabinoids is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

[D-t] C. A minor who violates this section with respect to the substances listed in this subsection is guilty of a petty misdemeanor and, notwithstanding the provisions of Sections 32A-1-5 and 32A-2-19 NMSA 1978, shall be punished by a fine not to exceed one hundred dollars ($100) or forty-eight hours of community service. For the third or subsequent
violation by a minor of this section with respect to those substances, the provisions of Section 32A-2-19 NMSA 1978 shall govern punishment of the minor. [As used in this subsection, "minor" means a person who is less than eighteen years of age.] The provisions of this subsection apply to the following substances:

(1) synthetic cannabinoids;

(2) any of the substances listed in Paragraphs [(20) through (25)] [(17) through (22)] of Subsection C of Section 30-31-6 NMSA 1978; or

(3) a substance added to Schedule I by a rule of the board adopted on or after March 31, 2011 if the board determines that the pharmacological effect of the substance, the risk to the public health by abuse of the substance and the potential of the substance to produce psychic or physiological dependence liability is similar to the substances described in Paragraph (1) or (2) of this subsection.

Except as provided in Subsections B [G] and [G] F of this section, and for those substances listed in Subsection [F] E of this section, a person who violates this section with respect to any amount of any controlled substance enumerated in Schedule I, II, III or IV or a controlled substance analog of a substance enumerated in Schedule I, II, III or IV is guilty of a misdemeanor and shall be punished by a fine of not less than five hundred dollars ($500) or more than
one thousand dollars ($1,000) or by imprisonment for a definite term less than one year, or both.

[F-] E. A person who violates this section with respect to phencyclidine as enumerated in Schedule III or a controlled substance analog of phencyclidine; methamphetamine, its salts, isomers or salts of isomers as enumerated in Schedule II or a controlled substance analog of methamphetamine, its salts, isomers or salts of isomers; flunitrazepam, its salts, isomers or salts of isomers as enumerated in Schedule I or a controlled substance analog of flunitrazepam, including naturally occurring metabolites, its salts, isomers or salts of isomers; gamma hydroxybutyric acid and any chemical compound that is metabolically converted to gamma hydroxybutyric acid, its salts, isomers or salts of isomers as enumerated in Schedule I or a controlled substance analog of gamma hydroxybutyric acid, its salts, isomers or salts of isomers; gamma butyrolactone and any chemical compound that is metabolically converted to gamma hydroxybutyric acid, its salts, isomers or salts of isomers as enumerated in Schedule I or a controlled substance analog of gamma butyrolactone, its salts, isomers or salts of isomers; 1-4 butane diol and any chemical compound that is metabolically converted to gamma hydroxybutyric acid, its salts, isomers or salts of isomers as enumerated in Schedule I or a controlled substance analog of 1-4 butane diol, its salts, isomers or salts of isomers.
salts of isomers; or a narcotic drug enumerated in Schedule I or II or a controlled substance analog of a narcotic drug enumerated in Schedule I or II is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

(G.) Except for a minor as defined in Subsection D of this section, a person who violates Subsection A of this section while within a posted drug-free school zone, excluding private property residentially zoned or used primarily as a residence and excluding a person in or on a motor vehicle in transit through the posted drug-free school zone, with respect to:

(1) one ounce or less of synthetic cannabinoids is, for the first offense, guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000) or by imprisonment for a definite term less than one year, or both, and for the second or subsequent offense, is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(2) more than one ounce and less than eight ounces of synthetic cannabinoids is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(3) eight ounces or more of synthetic cannabinoids is, for the first offense, guilty of a fourth degree felony and shall be punished by a fine of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000) or by imprisonment for a definite term less than one year, or both, and for the second or subsequent offense, is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;
synthetic cannabinoids is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(4) any amount of any other controlled substance enumerated in Schedule I, II, III or IV or a controlled substance analog of a substance enumerated in Schedule I, II, III or IV, except phencyclidine as enumerated in Schedule III, a narcotic drug enumerated in Schedule I or II or a controlled substance analog of a narcotic drug enumerated in Schedule I or II, is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

(5) phencyclidine as enumerated in Schedule III, a narcotic drug enumerated in Schedule I or II, a controlled substance analog of phencyclidine or a controlled substance analog of a narcotic drug enumerated in Schedule I or II is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

G. For purposes of this section, "minor" means a person who is younger than eighteen years of age."

SECTION 57. Section 30-31-28 NMSA 1978 (being Laws 1972, Chapter 84, Section 28) is amended to read:

"30-31-28. CONDITIONAL DISCHARGE FOR POSSESSION AS FIRST OFFENSE.--

A. If [any] a person, who has not previously been
convicted of violating the laws of [any] a state or [any] laws of the United States relating to narcotic drugs, [marijuana] hallucinogenic or depressant or stimulant substances, is found guilty of a violation of Section [23] 30-31-23 NMSA 1978, after trial or upon a plea of guilty, the court may, without entering a judgment of guilty and with the consent of the person, defer further proceedings and place [him] the person on probation upon reasonable conditions and for a period, not to exceed one year, as the court may prescribe.

B. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against the person and discharge [him] the person from probation before the expiration of the maximum period prescribed from the person's probation.

C. If during the period of [his] probation the person does not violate [any of] the conditions of the probation, then upon expiration of the period the court shall discharge such person and dismiss the proceedings against [him] the person. Discharge and dismissal under this section shall be without court adjudication of guilt, but a nonpublic record shall be retained by the attorney general solely for the purpose of use by the courts in determining whether or not, in subsequent proceedings, the person qualifies under this section. A discharge or dismissal shall not be deemed a
conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the penalties prescribed under this section for second or subsequent convictions or for any other purpose. Discharge and dismissal under this section may occur only once with respect to any a person.

D. Upon the dismissal of a person and discharge of the proceedings against him the person under this section, a person, if he was not over eighteen years of age at the time of the offense, may apply to the court for an order to expunge from all official records all recordation relating to his the arrest, indictment or information, trial, finding or plea of guilty, and dismissal and discharge pursuant to this section except nonpublic records filed with the attorney general. If the court determines, after hearing, that the person was dismissed and the proceedings against him the person discharged and that he the person was not over eighteen years of age at the time of the offense, it shall enter the order. The effect of the order shall be to restore the person, in the contemplation of the law, to the status he the person occupied before the arrest or indictment or information. No person in whose behalf an order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his the person's failures to recite or acknowledge such
arrest, or indictment or information or trial in response to
any inquiry made of [him] the person for any purpose."

SECTION 58. Section 30-31-34 NMSA 1978 (being Laws 1972,
Chapter 84, Section 33, as amended) is amended to read:

"30-31-34. FORFEITURES--PROPERTY SUBJECT.--The following
are subject to forfeiture pursuant to the provisions of the
Forfeiture Act:

A. all raw materials, products and equipment of any
kind, including firearms that are used or intended for use in
manufacturing, compounding, processing, delivering, importing
or exporting any controlled substance or controlled substance
analog in violation of the Controlled Substances Act;

B. all property that is used or intended for use as
a container for property described in Subsection A of this
section;

C. all conveyances, including aircraft, vehicles or
vessels that are used or intended for use to transport or in
any manner to facilitate the transportation for the purpose of
sale of property described in Subsection A of this section;

D. all books, records and research products and
materials, including formulas, microfilm, tapes and data that
are used or intended for use in violation of the Controlled
Substances Act;

E. narcotics paraphernalia or money that is a fruit
or instrumentality of the crime; and
F. notwithstanding Subsection C of this section and the provisions of the Forfeiture Act:

(1) a conveyance used by a person as a common carrier in the transaction of business as a common carrier shall not be subject to forfeiture pursuant to this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of the Controlled Substances Act;

(2) a conveyance shall not be subject to forfeiture pursuant to this section by reason of an act or omission established for the owner to have been committed or omitted without the owner's knowledge or consent;

(3) a conveyance is not subject to forfeiture for a violation of law the penalty for which is a misdemeanor; and

(4) a forfeiture of a conveyance encumbered by a bona fide security interest shall be subject to the interest of a secured party if the secured party neither had knowledge of nor consented to the act or omission [and

G. all drug paraphernalia as defined by Subsection V of Section 30-31-2 NMSA 1978]."

SECTION 59. [NEW MATERIAL] COOPERATION OF AGENCIES.--All state agencies shall cooperate with the cannabis control commission in carrying out the provisions of the Cannabis Regulation Act.

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SECTION 60. TEMPORARY PROVISION--TRANSFER.--On the
effective date of this act, any unexpended or unencumbered
balance in the medical cannabis fund is transferred to the
cannabis regulation fund.

SECTION 61. REPEAL.--Sections 9-7-17.1 and 30-31-25.1
NMSA 1978 (being Laws 2012, Chapter 42, Section 1 and Laws
1981, Chapter 31, Section 2, as amended) are repealed.

SECTION 62. EMERGENCY.--It is necessary for the public
peace, health and safety that this act take effect immediately.