

1 SENATE BILL 577

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Cliff R. Pirtle and Mark Moores and Craig W. Brandt

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10 AN ACT

11 RELATING TO CANNABIS; ENACTING THE CANNABIS REGULATION ACT;  
12 CREATING THE CANNABIS CONTROL COMMISSION AND PROVIDING DUTIES;  
13 REVISING SECTIONS OF LAW RELATED TO CANNABIS; ESTABLISHING  
14 DUTIES FOR THE DEPARTMENT OF ENVIRONMENT; AMENDING THE LYNN AND  
15 ERIN COMPASSIONATE USE ACT; CREATING THE CANNABIS REGULATION  
16 FUND; ENACTING THE CANNABIS TAX ACT; PROVIDING AND REVISING  
17 PENALTIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE  
18 NMSA 1978; MAKING AN APPROPRIATION.

19  
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

21 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
22 through 30 of this act may be cited as the "Cannabis Regulation  
23 Act".

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

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1           A. "board" means the board of regents of New Mexico  
2 state university;

3           B. "cannabis":

4                 (1) means all parts of the plant Cannabis  
5 sativa Linnaeus, whether growing or not, containing more than  
6 three-tenths percent tetrahydrocannabinol; the seeds of the  
7 plant; the resin extracted from any part of the plant; and  
8 every compound, manufacture, salt, derivative, mixture or  
9 preparation of the plant, its seeds or its resin; and

10                (2) does not include:

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

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

20           C. "cannabis establishment" means:

21                 (1) a cannabis testing laboratory; or

22                 (2) a cannabis producer;

23           D. "cannabis extract":

24                 (1) means a product obtained by separating  
25 resins from cannabis by solvent extraction using solvents other

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1 than vegetable glycerin, such as butane, hexane, isopropyl  
2 alcohol, ethanol or carbon dioxide; and  
3 (2) does not include the weight of any other  
4 ingredient combined with cannabis extract to prepare topical or  
5 oral administrations, food, drink or another product;  
6 E. "cannabis flowers" means only the flowers of a  
7 cannabis plant;  
8 F. "cannabis items" means cannabis, cannabis  
9 products and cannabis extracts;  
10 G. "cannabis leaves" means only the leaves of a  
11 cannabis plant;  
12 H. "cannabis producer" means a person that is  
13 licensed to:  
14 (1) manufacture and package cannabis items;  
15 (2) have cannabis items tested by a cannabis  
16 testing laboratory; and  
17 (3) sell, consign or transport cannabis items;  
18 I. "cannabis product":  
19 (1) means a product that contains cannabis or  
20 cannabis extracts, including edible or topical products that  
21 may also contain other ingredients; and  
22 (2) does not include the weight of any other  
23 ingredient combined with cannabis or cannabis extracts to  
24 prepare topical or oral administrations, food, drink or another  
25 product;

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1           J. "cannabis testing laboratory" means a facility  
2 that is licensed by the department of environment to collect,  
3 transport and test cannabis items to analyze the strength or  
4 purity of the items;

5           K. "commercial cannabis activity":

6                 (1) means the cultivation, production,  
7 possession, manufacture, storage, testing, labeling,  
8 transportation, couriership, sale or consignment of cannabis and  
9 cannabis items; and

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

12           L. "commission" means the cannabis control  
13 commission;

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

17           N. "controlling person":

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

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

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

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1 P. "director" means the executive director of the  
2 cannabis control commission;

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

6 R. "licensed premises" means a location that is  
7 licensed pursuant to the Cannabis Regulation Act and includes:

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

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

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

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

24 T. "local jurisdiction" means a municipality or a  
25 county;

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1 U. "lounge" means a facility licensed by the  
2 commission to sell cannabis items only for on-site consumption;

3 V. "manufacture":

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

6 (2) does not include cultivating the cannabis  
7 contained in a cannabis item;

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

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

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

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

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1 AA. "person" means an individual or a firm,  
2 partnership, joint venture, association, corporation, limited  
3 liability company, estate, trust, business trust, receiver or  
4 any other legal or commercial entity;

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

12 CC. "qualified patient" means a New Mexico resident  
13 who has been diagnosed by a practitioner as having a  
14 debilitating medical condition and has received written  
15 certification and a registry identification card as part of the  
16 medical cannabis program;

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

21 EE. "state store" means a commission-operated  
22 facility at which cannabis items are stored or offered for  
23 retail sale to the public;

24 FF. "usable cannabis" means dried cannabis flowers  
25 and dried cannabis leaves and any mixture or preparation of

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1 those flowers or leaves; and

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

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

8 A. There is created the "cannabis control  
9 commission". The commission is a governmental entity for  
10 purposes of the Tort Claims Act. The commission shall consist  
11 of:

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

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

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

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

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

25 (b) one member who is currently or has



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1 previously served as a certified law enforcement officer; and

2 (c) one member who is a licensed  
3 physician.

4 B. Public members shall reside in New Mexico, and  
5 no more than three public members may be from the same  
6 political party.

7 C. Public members shall serve staggered four-year  
8 terms; except that of the initial public members appointed to  
9 the commission, the governor shall select two members whose  
10 initial terms are two years and three members whose initial  
11 terms are four years.

12 D. Public members of the commission shall not be  
13 reimbursed as provided in the Per Diem and Mileage Act, but  
14 shall be paid five hundred dollars (\$500) per day for every day  
15 or portion of a day that the public member attends a commission  
16 meeting. The public member shall receive no other  
17 compensation, perquisite or allowance.

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

22 F. The commission shall employ such personnel and  
23 hire such consultants as are required to carry out its duties  
24 pursuant to the Cannabis Regulation Act; provided that the  
25 commission shall not employ or hire a person who has a direct

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1 or indirect financial interest in a cannabis establishment or  
2 cannabis cultivation.

3 G. Not later than December 31, 2019, the commission  
4 shall promulgate or propose rules necessary to carry out the  
5 commission's duties as provided in the Cannabis Regulation Act,  
6 and those rules shall include:

7 (1) procedures for the issuance, renewal,  
8 suspension and revocation of a license issued by the  
9 commission, the department of environment and the department of  
10 health;

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

14 (3) security requirements for a cannabis  
15 establishment;

16 (4) requirements related to:

17 (a) inspection and monitoring of a  
18 cannabis establishment;

19 (b) a cannabis establishment's  
20 recordkeeping and tracking of cannabis items;

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

23 (d) labeling of cannabis items; and

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

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

3 (6) rules developed in consultation with the  
4 department of environment to establish:

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

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

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

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

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

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

24 (b) environmental protections that apply  
25 to all licensees;

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

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

8 H. Not later than June 1, 2020, the commission  
9 shall offer cannabis items for retail sale to the public. The  
10 commission may purchase materials, goods and services and may  
11 lease, purchase and equip, in the name of the state, stores,  
12 warehouses and other assets as necessary for, incidental to or  
13 related to the operation of the cannabis retail operations.

14 I. Except as provided in Subsection J of this  
15 section and Section 8 of the Cannabis Regulation Act, the  
16 commission may in its discretion operate state stores at any  
17 location within the state and, subject to the Personnel Act and  
18 within the limits of available appropriations and funds, may  
19 employ persons to sell cannabis items in the stores. The  
20 salaries of the persons shall not be governed by the amount of  
21 sales. A person employed to sell cannabis items under the  
22 provisions of the Cannabis Regulation Act shall not sell  
23 cannabis items except as may be legally obtained under the  
24 provisions of the Cannabis Regulation Act.

25 J. The commission shall not locate a state store

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1 within three hundred feet from the perimeter of school grounds  
2 on which instruction is provided at any level from kindergarten  
3 through twelfth grade, a playground, a child care center, a  
4 youth center, a public park or a library that was in existence  
5 at the time the commission established the state store at that  
6 location.

7 K. The commission may, in its discretion, open for  
8 business at reasonable hours on any day, including Sunday or  
9 legal holidays except for Easter, Thanksgiving and Christmas  
10 day. The commission may employ part-time employees, subject to  
11 the Personnel Act, to staff state stores open on Sundays or  
12 legal holidays.

13 L. The commission shall accept cannabis items on  
14 consignment for resale from persons licensed pursuant to  
15 Section 4 of the Cannabis Regulation Act.

16 SECTION 4. [NEW MATERIAL] LICENSING--LIMITATIONS.--

17 A. The department of environment shall regulate and  
18 license cannabis producers and cannabis testing laboratories  
19 pursuant to rules promulgated by the commission. The  
20 department of environment shall begin issuing licenses for  
21 cannabis producers currently producing and maintaining a crop  
22 of no less than four hundred fifty cannabis plants exclusively  
23 for medical use and cannabis testing laboratories to licensed  
24 dispensers, as defined in the Lynn and Erin Compassionate Use  
25 Act, no sooner than December 31, 2019 and no later than January

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1 31, 2020, and shall begin issuing licenses for cannabis  
2 producers and cannabis testing laboratories to other persons no  
3 sooner than January 1, 2021 and no later than January 31, 2021.

4 B. The commission shall regulate and license on-  
5 site consumption of cannabis items in a lounge in conjunction  
6 with a cannabis producer license. The commission shall begin  
7 issuing licenses for lounges to licensed dispensers, as defined  
8 in the Lynn and Erin Compassionate Use Act, no sooner than  
9 December 31, 2019 and no later than January 31, 2020 and shall  
10 begin issuing licenses for lounges to other persons no sooner  
11 than January 1, 2021 and no later than January 31, 2021.

12 C. The department of health shall regulate and  
13 license commercial, medical and on-site consumption of cannabis  
14 items as provided in the Lynn and Erin Compassionate Use Act  
15 and pursuant to rules promulgated by the commission.

16 D. The board, through the New Mexico department of  
17 agriculture, shall regulate and license commercial and medical  
18 cannabis cultivation as provided for in the Cannabis Regulation  
19 Act.

20 E. The board, through the New Mexico department of  
21 agriculture, shall regulate and license collective medical  
22 cannabis cultivation. On December 31, 2019, the board, on  
23 behalf of and through the New Mexico department of agriculture,  
24 shall issue rules and shall begin issuing licenses to authorize  
25 collective medical cannabis cultivation. The rules shall

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1 include procedures that:

2 (1) allow not more than five qualified  
3 patients, as defined in the Lynn and Erin Compassionate Use  
4 Act, to cultivate cannabis together at a designated licensed  
5 location;

6 (2) provide that the licensed location shall  
7 not contain more than four mature female cannabis plants and a  
8 combined total of twelve seedlings and male plants multiplied  
9 by the number of qualified patients who are members of the  
10 medical cannabis collective; and

11 (3) allow members of a medical cannabis  
12 collective to either destroy or sell cannabis in excess of the  
13 combined total adequate supply of the members, as defined in  
14 the Lynn and Erin Compassionate Use Act, to a person licensed  
15 to produce medical cannabis.

16 F. The commission may propose rules to the board  
17 for adoption regarding the regulating and licensing of  
18 commercial and medical cannabis cultivation as provided for in  
19 the Cannabis Regulation Act.

20 G. A license is valid for twelve months from the  
21 date it is issued and may be renewed annually or as provided  
22 for in the rules promulgated by the commission.

23 H. A constituent agency may deny an application for  
24 an initial license or renewal if:

25 (1) the applicant has violated any provision

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1 of the Lynn and Erin Compassionate Use Act or the Cannabis  
2 Regulation Act or a rule promulgated pursuant to those acts;

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

5 (3) issuance of the license would lead to  
6 monopolization of the cannabis or medical cannabis industry in  
7 the state or would unreasonably restrain competition in those  
8 industries;

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

22 (5) the applicant or a controlling person in  
23 the applicant's entity has been penalized for a violation of  
24 the Cannabis Regulation Act or the Lynn and Erin Compassionate  
25 Use Act; or

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1 (6) the applicant or a controlling person in  
2 the applicant's entity has had a license issued pursuant to the  
3 Cannabis Regulation Act or the Lynn and Erin Compassionate Use  
4 Act revoked by a constituent agency or the New Mexico  
5 department of agriculture in the three years immediately  
6 preceding the date on which the application was filed.

7 I. For the purposes of Subsection H of this  
8 section:

9 (1) the following are considered substantially  
10 related to the qualifications, functions or duties of a  
11 business seeking a license:

12 (a) a felony conviction involving fraud,  
13 deceit or embezzlement;

14 (b) a felony conviction for hiring,  
15 employing or otherwise using a person younger than eighteen  
16 years of age to: 1) prepare for sale, transport or carry a  
17 controlled substance; or 2) sell, give away or offer to sell a  
18 controlled substance to any person; and

19 (c) any other offense as determined by  
20 the commission by rule, except as provided in Paragraph (2) of  
21 this subsection; and

22 (2) a conviction for which the related  
23 sentence, including any term of probation or parole, is  
24 completed for the possession, use, manufacture, distribution or  
25 dispensing or the possession with the intent to manufacture,

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1 distribute or dispense a controlled substance is not considered  
2 substantially related to the qualifications, functions or  
3 duties of a person seeking a license and shall not be the sole  
4 ground on which an application is denied unless the offense  
5 involved the distribution of alcohol or a controlled substance  
6 to a minor.

7 J. A constituent agency shall deny an application  
8 if an applicant, a controlling person in an applicant's entity  
9 or the premises for which a license is sought does not qualify  
10 for licensure under the Cannabis Regulation Act or the Lynn and  
11 Erin Compassionate Use Act.

12 K. For purposes of this section, "constituent  
13 agency" means the commission, the department of environment or  
14 the department of health.

15 L. Any person properly licensed and in good  
16 standing pursuant to the Lynn and Erin Compassionate Use Act on  
17 the effective date of the enactment of the Cannabis Regulation  
18 Act shall be issued a license under the provisions of the  
19 Cannabis Regulation Act allowing the licensee to continue to  
20 conduct medical cannabis activity only. The licensee shall  
21 continue to operate under rules promulgated for the medical  
22 cannabis program until the commission and the department of  
23 environment promulgate rules regulating medical cannabis  
24 activity.

25 SECTION 5. [NEW MATERIAL] LICENSING FEES.--

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1           A. The commission shall establish application and  
2 licensing fees applicable to licenses for commercial cannabis  
3 activity and activity related to medical cannabis. The fees  
4 shall be reasonably calculated to cover the cost of  
5 administering and enforcing the programs established in the  
6 Cannabis Regulation Act.

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

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

17           **SECTION 6. [NEW MATERIAL] DISCIPLINARY PROCEEDINGS--**  
18 **APPLICATION OF UNIFORM LICENSING ACT.--**In accordance with the  
19 procedures contained in the Uniform Licensing Act, the  
20 commission, the department of environment or the department of  
21 health may revoke or suspend any permanent or temporary license  
22 held or applied for under the Cannabis Regulation Act upon  
23 findings that the licensee or applicant:

24           A. engaged in fraud or deceit in procuring or  
25 attempting to procure a license;

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

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

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

9           SECTION 7. [NEW MATERIAL] LOCAL CONTROL.--

10           A. A local jurisdiction may:

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

13                   (2) prohibit, in accordance with the Cannabis  
14 Regulation Act, the operation of a state store; and

15                   (3) limit the location of a cannabis  
16 establishment or state store as determined by the local  
17 jurisdiction, but which distance shall be three hundred feet or  
18 more from the perimeter of school grounds on which instruction  
19 is provided at any level from kindergarten through twelfth  
20 grade, a playground, a child care center, a youth center, a  
21 public park or a library that was in existence at the time the  
22 cannabis establishment was licensed.

23           B. A local jurisdiction shall not prevent  
24 transportation of cannabis items on public roads by a licensee  
25 that transports cannabis items in compliance with the Cannabis

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1 Regulation Act or prohibit the personal possession of cannabis  
2 items authorized pursuant to the Cannabis Regulation Act.

3 SECTION 8. [NEW MATERIAL] LOCAL OPTION--EFFECT OF LOCAL  
4 OPTION.--

5 A. A municipality or a county in the state may  
6 prohibit by ordinance or resolution the operation of a state  
7 store or lounge within six months following the effective date  
8 of the Cannabis Regulation Act.

9 B. A municipality or a county in the state that has  
10 by ordinance or resolution prohibited the operation of a state  
11 store or lounge may at any time by ordinance or resolution  
12 allow the operation of a state store or lounge.

13 C. A municipality or a county in the state that has  
14 by ordinance or resolution allowed the operation of a state  
15 store or lounge pursuant to Subsection B of this section shall  
16 not later prohibit the operation of a state store or lounge by  
17 ordinance or resolution.

18 SECTION 9. [NEW MATERIAL] LICENSEE PROTECTIONS.--

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

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

6           SECTION 10. [NEW MATERIAL] PROTECTION OF UNDERAGE  
7 PERSON--TRAFFICKING--PENALTIES.--

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

10           B. Nothing in this section shall be construed or  
11 interpreted to prevent:

12                   (1) the commission from enforcing its rules  
13 against a licensee;

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

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

20           C. A person who is eighteen years of age or older  
21 shall not intentionally traffic cannabis. A person who  
22 violates this subsection, if the amount is:

23                   (1) one-half ounce of cannabis or four grams  
24 of cannabis extracts or less, shall be subject to a civil  
25 penalty of fifty dollars (\$50.00);

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1 (2) more than one-half ounce of cannabis or  
2 four grams of cannabis extracts but no more than one pound of  
3 cannabis or one hundred twenty-eight grams of cannabis  
4 extracts, is guilty of a petty misdemeanor and shall be  
5 sentenced to a fine in an amount not less than five hundred  
6 dollars (\$500) and not more than one thousand dollars (\$1,000);  
7 and

8 (3) more than one pound of cannabis or one  
9 hundred twenty-eight grams of cannabis extracts, is guilty of a  
10 fourth degree felony and shall be sentenced to a basic sentence  
11 of imprisonment of twelve months and to the payment of a fine  
12 in an amount not less than twenty-five thousand dollars  
13 (\$25,000) and not more than seventy-five thousand dollars  
14 (\$75,000).

15 D. For the purposes of this section, "traffic"  
16 means the:

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

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

21 SECTION 11. [NEW MATERIAL] DISTRIBUTION AND TRANSPORT.--  
22 The Cannabis Regulation Act shall not be construed to authorize  
23 a licensee to transport or distribute, or cause to be  
24 transported or distributed, cannabis items outside the state,  
25 unless authorized by federal law.

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1           SECTION 12.   ~~[NEW MATERIAL]~~ PACKAGING AND LABELING.--

2           A.   Before sale or consignment to the commission or  
3 transport of a cannabis item, the cannabis item shall be  
4 labeled and placed in a resealable, child-resistant package.

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

7           C.   Labels shall include:

8                   (1) total tetrahydrocannabinol concentration  
9 for the package;

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

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

17                   (4) a list of pharmacologically active  
18 ingredients;

19                   (5) for cannabis products, a list of all  
20 ingredients and a disclosure of nutritional information for the  
21 product or cannabis extract, disclosed in the same manner  
22 required under federal law for nutritional labeling for food  
23 for human consumption;

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

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

4 SECTION 13. [NEW MATERIAL] CANNABIS PRODUCTS--DEPARTMENT  
5 OF ENVIRONMENT.--

6 A. Cannabis products shall:

7 (1) not be designed to appeal to children or  
8 in such a way that the products could be easily confused with  
9 commercially sold candy or foods that do not contain cannabis;

10 (2) be produced and sold or consigned to the  
11 commission with a standardized dosage of cannabinoids not to  
12 exceed ten milligrams tetrahydrocannabinol per serving;

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

16 (4) be homogenized to ensure uniform  
17 disbursement of cannabinoids throughout the product;

18 (5) be manufactured and sold or consigned to  
19 the commission under health and sanitation standards  
20 established by the commission, with the assistance of the  
21 department of environment, for the preparation, storage,  
22 handling and sale of food products; and

23 (6) be sold or consigned to the commission  
24 with sufficient information to enable the informed consumption  
25 of the product, including information on the potential effects

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1 of the product and directions on how to consume the cannabis  
2 product.

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

7 SECTION 14. [NEW MATERIAL] CANNABIS MANUFACTURERS AND  
8 TESTING LABORATORIES--DEPARTMENT OF ENVIRONMENT--RULEMAKING.--

9 A. The commission, with the assistance of the  
10 department of environment, shall promulgate rules to govern the  
11 licensing of a cannabis producer and a cannabis testing  
12 laboratory. The department of environment shall issue licenses  
13 as follows:

14 (1) "cannabis producer level 1" for a site  
15 that manufactures cannabis extracts using nonvolatile solvents  
16 or no solvents;

17 (2) "cannabis producer level 2" for a site  
18 that manufactures cannabis extracts using volatile solvents;  
19 and

20 (3) "cannabis testing laboratory" for a  
21 licensee that tests cannabis items.

22 B. Except as otherwise provided by law, a cannabis  
23 item shall not be sold or consigned to the commission by a  
24 licensee unless a representative sample of the cannabis item  
25 has been tested by a cannabis testing laboratory to determine:

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1 (1) whether the chemical profile of the sample  
2 conforms to the labeled content of compounds, including:

- 3 (a) tetrahydrocannabinol;
- 4 (b) tetrahydrocannabinolic acid;
- 5 (c) cannabidiol;
- 6 (d) cannabidiolic acid;
- 7 (e) terpenes;
- 8 (f) cannabigerol; and
- 9 (g) cannabinol; and

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

12 (a) residual solvents or chemicals,  
13 including explosive gases such as butane, propane and hydrogen,  
14 and poisons, toxins or carcinogens such as methanol, methylene  
15 chloride, acetone, benzene, toluene and trichloroethylene;

16 (b) foreign material, including hair,  
17 insects or other similar adulterants; and

18 (c) microbiological impurity, including  
19 total aerobic microbial count; total yeast mold count;  
20 pseudomonas aeruginosa; aspergillus species; staphylococcus  
21 aureus; aflatoxin B1, B2, G1 or G2; or ochratoxin A.

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

24 D. The testing required by this section shall be  
25 performed in a manner consistent with general requirements for

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1 the competence of testing and calibration activities, including  
2 sampling, using standard methods to ensure conformity,  
3 competence and impartiality to test cannabis items.

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

9 SECTION 15. [NEW MATERIAL] TESTING CANNABIS ITEMS--  
10 DEPARTMENT OF ENVIRONMENT.--

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

14 B. The commission shall promulgate and provide to  
15 the department of environment rules and procedures to:

- 16 (1) ensure that testing of cannabis items  
17 occurs prior to sale;
- 18 (2) specify how often licensees shall test  
19 cannabis items; and
- 20 (3) require destruction of a harvested batch  
21 of cannabis or of cannabis items if the testing samples from  
22 the batch or items indicate noncompliance with applicable  
23 health and safety standards promulgated by the commission,  
24 unless remedial measures can bring the cannabis or cannabis  
25 items into compliance with the standards.

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1           SECTION 16. [NEW MATERIAL] CONTRACTS.--A contract related  
2 to operation of a license is enforceable, and a contract  
3 entered into by a licensee or a licensee representative for  
4 conduct allowed pursuant to a license or entered into by a  
5 person who allows property to be used by a licensee or a  
6 licensee representative for conduct allowed pursuant to a  
7 license, shall not be deemed unenforceable on the basis that  
8 the conduct allowed pursuant to the license is prohibited by  
9 federal law.

10           SECTION 17. [NEW MATERIAL] PROVISION OF PROFESSIONAL  
11 SERVICES.--An attorney, accountant, insurance agent, real  
12 estate agent, security guard or other person engaged in a  
13 profession subject to state licensure shall not be subject to  
14 disciplinary action by a professional association, a state  
15 professional board or a state licensing entity because the  
16 professional provides professional services or assistance to  
17 prospective or licensed cannabis establishments or another  
18 person in connection with activity that the professional  
19 reasonably believes complies with the Cannabis Regulation Act  
20 and rules promulgated pursuant to that act.

21           SECTION 18. [NEW MATERIAL] MEDICAL CANNABIS PROVISIONS  
22 UNAFFECTED.--Nothing in the Cannabis Regulation Act shall be  
23 construed to:

24           A. limit a privilege or right of a qualified  
25 patient or a primary caregiver participating in the medical

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1 cannabis program or a person issued a permit to operate as a  
2 medical cannabis licensed producer or to be a director, officer  
3 or employee of a medical cannabis licensed producer; or

4 B. allow a medical cannabis licensed producer to  
5 purchase cannabis items in a manner or from a source not  
6 authorized under the Lynn and Erin Compassionate Use Act.

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

22 SECTION 20. [NEW MATERIAL] PROTECTIONS FROM  
23 DISCRIMINATION FOR THE USE OF CANNABIS OR MEDICAL CANNABIS.--

24 A. A school shall not refuse to enroll or otherwise  
25 penalize a person solely for conduct allowed pursuant to the

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1 Cannabis Regulation Act or the Lynn and Erin Compassionate Use  
2 Act, unless failing to do so would cause the school to lose a  
3 monetary or licensing-related benefit under federal law or  
4 regulation.

5 B. A person may prohibit or restrict any of the  
6 actions or conduct otherwise allowed under Section 22 of the  
7 Cannabis Regulation Act on that person's privately owned  
8 property.

9 C. A person shall not be denied custody of or  
10 visitation or parenting time with a child for conduct allowed  
11 under Section 22 of the Cannabis Regulation Act or under the  
12 Lynn and Erin Compassionate Use Act, unless the person's  
13 behavior creates an immediate danger to the safety of the child  
14 as established by clear and convincing evidence. For the  
15 purposes of this subsection, a determination that behavior  
16 creates an "immediate danger" shall not be based solely on  
17 whether, when or how often a person uses cannabis or medical  
18 cannabis.

19 SECTION 21. [NEW MATERIAL] EMPLOYMENT PROTECTIONS.--

20 A. Nothing in the Cannabis Regulation Act shall  
21 prevent or infringe upon the rights of an employer to  
22 adopt and implement a zero-tolerance policy regarding the use  
23 of cannabis. A zero-tolerance policy may permit the discipline  
24 or termination of an employee on the basis of a positive drug  
25 test that indicates any amount of THC or THC metabolites.

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1           B. Nothing in the Cannabis Regulation Act shall  
2 prevent or prohibit an employer from adopting and enforcing  
3 polices and procedures that provide for discipline up to and  
4 including termination of an employee for possession or use of  
5 cannabis at the workplace where use of cannabis substantively  
6 impacts the employee's ability to perform the employee's job  
7 duties or where use of recreational cannabis creates any risk  
8 to the safety of persons or property.

9           C. For the purposes of this section, "THC" means  
10 delta-9-tetrahydrocannabinol.

11           SECTION 22. [NEW MATERIAL] PERSONAL USE OF CANNABIS.--

12           A. Notwithstanding any other provision of law, the  
13 following conduct is lawful for a person who is twenty-one  
14 years of age or older and shall not constitute grounds for  
15 detention, search or arrest of a person and cannabis items that  
16 relate to the conduct are not contraband or subject to seizure  
17 or forfeiture pursuant to the Controlled Substances Act or the  
18 Forfeiture Act; provided that the person has proof that the  
19 cannabis items were purchased from a state store or are  
20 authorized pursuant to the medical cannabis program:

21                   (1) possessing, using, being under the  
22 influence of, displaying, purchasing, obtaining or transporting  
23 not more than one-half ounce of cannabis or four grams of  
24 cannabis extracts;

25                   (2) transferring, without financial



1 consideration, to a person who is twenty-one years of age or  
2 older not more than one-half ounce of cannabis or four grams of  
3 cannabis extracts;

4 (3) possessing not more than one ounce of  
5 cannabis and eight grams of cannabis extracts outside the  
6 person's private residence;

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

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

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

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

21 B. Paragraphs (6) and (7) of Subsection A of this  
22 section are intended to meet the requirements of 21 U.S.C.  
23 Section 863(f) by authorizing, under state law, any person in  
24 compliance with this section to manufacture, possess or  
25 distribute cannabis paraphernalia.

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1           SECTION 23.   [NEW MATERIAL] LIMITS ON PERSONAL

2 CONSUMPTION--PENALTIES.--

3           A. Nothing in Section 22 of the Cannabis Regulation  
4 Act shall be construed to restrict the ability of an individual  
5 or private entity to prohibit conduct otherwise allowed in  
6 Section 22 of the Cannabis Regulation Act on the individual's  
7 or private entity's privately owned property.

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

10          C. A person who violates Subsection B of this  
11 section shall be subject to a civil penalty of fifty dollars  
12 (\$50.00).

13          D. Whoever is guilty of a second or subsequent  
14 violation of Subsection B of this section is guilty of a  
15 misdemeanor and shall be sentenced pursuant to the provisions  
16 of Section 31-19-1 NMSA 1978.

17           SECTION 24.   [NEW MATERIAL] UNLICENSED SALES OF CANNABIS--  
18 PENALTIES.--

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

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

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

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- 1 (a) a fine of one hundred dollars  
2 (\$100);
- 3 (b) attendance at a four-hour drug  
4 education program;
- 5 (c) four hours of community service; and  
6 (d) restorative justice mediation;
- 7 (2) for a second violation, be subject to:
- 8 (a) a fine of two hundred fifty dollars  
9 (\$250);
- 10 (b) attendance at a four-hour drug  
11 education program;
- 12 (c) four hours of community service; and  
13 (d) restorative justice mediation; and
- 14 (3) for a third or subsequent violation, be  
15 subject to:
- 16 (a) a fine of one thousand dollars  
17 (\$1,000);
- 18 (b) attendance at a four-hour drug  
19 education program;
- 20 (c) not less than one hundred hours of  
21 community service; and  
22 (d) restorative justice mediation.

23 C. A person eighteen years of age or older who  
24 violates Subsection A of this section is guilty of a  
25 misdemeanor and shall be sentenced pursuant to the provisions

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1 of Section 31-19-1 NMSA 1978.

2 D. A person eighteen years of age or older who  
3 violates Subsection A of this section and conducts unlicensed  
4 cannabis sales is guilty of a fourth degree felony and shall be  
5 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
6 1978.

7 SECTION 25. [NEW MATERIAL] CANNABIS WITHIN RESTRICTED  
8 AREA--PENALTY.--Except as allowed in the Cannabis Regulation  
9 Act or the Lynn and Erin Compassionate Use Act, a person shall  
10 not possess or intentionally distribute any amount of a  
11 cannabis item within three hundred feet of the perimeter of  
12 school grounds on which instruction is provided at any level  
13 from kindergarten through twelfth grade, a playground, a child  
14 care center, a youth center, a public park or a library unless  
15 the person is a qualified patient or is in or upon or traveling  
16 to or from the grounds of a private residence, as an invitee or  
17 resident. A person who violates this section is guilty of a  
18 misdemeanor and shall be sentenced pursuant to the provisions  
19 of Section 31-19-1 NMSA 1978.

20 SECTION 26. [NEW MATERIAL] UNLAWFUL POSSESSION OF  
21 CANNABIS--PENALTIES.--Except as allowed in the Lynn and Erin  
22 Compassionate Use Act:

23 A. a person eighteen years of age or older and  
24 younger than twenty-one years of age shall not possess cannabis  
25 items. A person who violates this subsection shall be subject

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1 to:

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

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

5 (3) four hours of community service; and

6 (4) restorative justice mediation;

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

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

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

13 (3) four hours of community service; and

14 (4) restorative justice mediation; and

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

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

24 (2) more than one-half ounce of cannabis or  
25 four grams of cannabis extracts but not more than one pound of

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1 cannabis or one hundred twenty-eight grams of cannabis  
2 extracts, is guilty of a petty misdemeanor and shall be  
3 sentenced to a fine in an amount not less than one thousand  
4 dollars (\$1,000) and not more than five thousand dollars  
5 (\$5,000); or

6 (3) more than one pound of cannabis or one  
7 hundred twenty-eight grams of cannabis extracts, is guilty of a  
8 fourth degree felony and shall be sentenced to twelve months  
9 imprisonment and subject to a fine of not less than twenty-five  
10 thousand dollars (\$25,000) and not more than seventy-five  
11 thousand dollars (\$75,000).

12 SECTION 27. [NEW MATERIAL] UNLICENSED PRODUCTION OF  
13 CANNABIS--PENALTIES.--Except as allowed in the Lynn and Erin  
14 Compassionate Use Act:

15 A. a person younger than twenty-one years of age  
16 shall not produce cannabis. A person who violates this  
17 subsection shall be subject to:

18 (1) a fine of fifty dollars (\$50.00); or

19 (2) attendance at a four-hour drug education  
20 program or four hours of community service;

21 B. a person eighteen years of age or older and  
22 younger than twenty-one years of age shall not produce  
23 cannabis. A person who violates this subsection shall be  
24 subject to a civil penalty of fifty dollars (\$50.00); and

25 C. a person twenty-one years of age or older shall

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1 not possess any cannabis plant. In addition to any criminal  
2 penalty, a person who violates this subsection shall be subject  
3 to a civil penalty of two hundred fifty dollars (\$250).

4 SECTION 28. [NEW MATERIAL] UNLICENSED MANUFACTURING OF  
5 CANNABIS EXTRACTS--PENALTY.--Except as permitted by the Lynn  
6 and Erin Compassionate Use Act, it is unlawful for any person  
7 to use volatile solvents to manufacture cannabis extracts  
8 without a license issued pursuant to the Cannabis Regulation  
9 Act or the Lynn and Erin Compassionate Use Act. A person who  
10 violates this section shall be subject to a civil penalty of  
11 four hundred fifty dollars (\$450).

12 SECTION 29. [NEW MATERIAL] WRIT OF MANDAMUS.--Any person  
13 may commence a legal action for a writ of mandamus to compel  
14 the commission to perform its duties pursuant to the Cannabis  
15 Regulation Act.

16 SECTION 30. [NEW MATERIAL] CANNABIS REGULATION FUND.--

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

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

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

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

7 SECTION 31. [NEW MATERIAL] SHORT TITLE.--Sections 31  
8 through 38 of this act may be cited as the "Cannabis Tax Act".

9 SECTION 32. [NEW MATERIAL] DEFINITIONS.--As used in the  
10 Cannabis Tax Act:

11 A. "cannabis":

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

17 (2) does not include:

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

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

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1 administrations, food, drink or another product;

2 B. "cannabis extract":

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

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

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

12 D. "cannabis product":

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

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

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

22 SECTION 33. [NEW MATERIAL] CANNABIS EXCISE TAX.--

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

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

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

7 SECTION 34. [NEW MATERIAL] MUNICIPAL CANNABIS TAX.--

8 A. A majority of the members of the governing body  
9 of a municipality may enact an ordinance imposing an excise tax  
10 on the sale of cannabis items in the municipality on which the  
11 tax imposed by this section has not been paid. The tax imposed  
12 pursuant to this section may be referred to as the "municipal  
13 cannabis tax".

14 B. The imposition of an increment of the municipal  
15 cannabis tax shall not be subject to referendum.

16 C. The rate of the municipal cannabis tax shall not  
17 exceed four percent, which may be imposed in one-sixteenth  
18 percent increments and is applied to the price of the cannabis  
19 item. If the price of the cannabis item does not represent the  
20 value of the item, the tax rate shall be applied to the  
21 reasonable value of the item at the time that the item was  
22 purchased.

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

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1           E. Any ordinance enacted under the provisions of  
2 Subsection A of this section shall include an effective date of  
3 either July 1 or January 1.

4           **SECTION 35. [NEW MATERIAL] COUNTY CANNABIS TAX.--**

5           A. The majority of the members of the governing  
6 body of a county may enact an ordinance imposing an excise tax  
7 on the sale of cannabis items in the county on which the tax  
8 imposed by this section has not been paid. The tax imposed  
9 pursuant to this section may be referred to as the "county  
10 cannabis tax".

11           B. The imposition of an increment of the county  
12 cannabis tax shall not be subject to referendum.

13           C. The rate of the county cannabis tax shall not  
14 exceed a rate of four percent, which may be imposed in  
15 one-sixteenth percent increments, and is applied to the price  
16 of the cannabis item. If the price of the cannabis item does  
17 not represent the value of the item, the tax rate shall be  
18 applied to the reasonable value of the item at the time that  
19 the item was purchased.

20           D. The governing body of a county, at the time of  
21 enacting any ordinance imposing a county cannabis tax, may  
22 dedicate the revenue for county general purposes.

23           E. Any ordinance enacted under the provisions of  
24 Subsection A of this section shall include an effective date of  
25 either July 1 or January 1.

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1           SECTION 36.   [NEW MATERIAL] DATE PAYMENT DUE.--The taxes  
2 imposed pursuant to the Cannabis Tax Act are to be paid on or  
3 before the twenty-fifth day of the month following the month in  
4 which the taxable event occurs.

5           SECTION 37.   [NEW MATERIAL] ADMINISTRATIVE CHARGE.--The  
6 department may deduct an amount not to exceed three percent of  
7 the proceeds of the municipal cannabis tax and county cannabis  
8 tax as a charge for the administrative costs of collection,  
9 which amount shall be retained by the department for use in  
10 administration of those taxes.

11           SECTION 38.   [NEW MATERIAL] INTERPRETATION OF ACT--  
12 ADMINISTRATION AND ENFORCEMENT OF TAX.--The department shall  
13 administer and enforce the collection of the cannabis excise  
14 tax, municipal cannabis tax and county cannabis tax pursuant to  
15 the Tax Administration Act.

16           SECTION 39.   A new section of the Tax Administration Act  
17 is enacted to read:

18           "[NEW MATERIAL] DISTRIBUTION--CANNABIS EXCISE TAX.--A  
19 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be  
20 made to the local DWI grant fund in an amount equal to two  
21 percent of the net receipts attributable to the cannabis excise  
22 tax; provided that the revenue is used for the purposes  
23 described in Paragraphs (3) through (5) of Subsection A of  
24 Section 11-6A-3 NMSA 1978."

25           SECTION 40.   A new section of the Tax Administration Act

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1 is enacted to read:

2 "[NEW MATERIAL] TRANSFER--REVENUES FROM MUNICIPAL CANNABIS  
3 TAX AND COUNTY CANNABIS TAX.--

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

12 B. A transfer pursuant to Section 7-1-6.1 NMSA 1978  
13 shall be made to each county for which the department is  
14 collecting a county cannabis tax imposed by that county in an  
15 amount, subject to any increase or decrease made pursuant to  
16 Section 7-1-6.15 NMSA 1978, equal to the net receipts  
17 attributable to the county cannabis tax, less any deduction for  
18 administrative costs determined and made by the department  
19 pursuant to the Cannabis Tax Act."

20 SECTION 41. Section 7-1-2 NMSA 1978 (being Laws 1965,  
21 Chapter 248, Section 2, as amended) is amended to read:

22 "7-1-2. APPLICABILITY.--The Tax Administration Act  
23 applies to and governs:

24 A. the administration and enforcement of the  
25 following taxes or tax acts as they now exist or may hereafter

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1 be amended:

2 (1) Income Tax Act;

3 (2) Withholding Tax Act;

4 (3) Venture Capital Investment Act;

5 (4) Gross Receipts and Compensating Tax Act

6 and any state gross receipts tax;

7 (5) Liquor Excise Tax Act;

8 (6) Local Liquor Excise Tax Act;

9 (7) any municipal local option gross receipts  
10 tax;

11 (8) any county local option gross receipts  
12 tax;

13 (9) Special Fuels Supplier Tax Act;

14 (10) Gasoline Tax Act;

15 (11) petroleum products loading fee, which fee  
16 shall be considered a tax for the purpose of the Tax  
17 Administration Act;

18 (12) Alternative Fuel Tax Act;

19 (13) Cigarette Tax Act;

20 (14) Estate Tax Act;

21 (15) Railroad Car Company Tax Act;

22 (16) Investment Credit Act, rural job tax  
23 credit, Laboratory Partnership with Small Business Tax Credit  
24 Act, Technology Jobs and Research and Development Tax Credit  
25 Act, Film Production Tax Credit Act, Affordable Housing Tax

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- 1 Credit Act and high-wage jobs tax credit;
- 2 (17) Corporate Income and Franchise Tax Act;
- 3 (18) Uniform Division of Income for Tax
- 4 Purposes Act;
- 5 (19) Multistate Tax Compact;
- 6 (20) Tobacco Products Tax Act; ~~[and]~~
- 7 (21) the telecommunications relay service
- 8 surcharge imposed by Section 63-9F-11 NMSA 1978, which
- 9 surcharge shall be considered a tax for the purposes of the Tax
- 10 Administration Act; and
- 11 (22) the Cannabis Tax Act;
- 12 B. the administration and enforcement of the
- 13 following taxes, surtaxes, advanced payments or tax acts as
- 14 they now exist or may hereafter be amended:
- 15 (1) Resources Excise Tax Act;
- 16 (2) Severance Tax Act;
- 17 (3) any severance surtax;
- 18 (4) Oil and Gas Severance Tax Act;
- 19 (5) Oil and Gas Conservation Tax Act;
- 20 (6) Oil and Gas Emergency School Tax Act;
- 21 (7) Oil and Gas Ad Valorem Production Tax Act;
- 22 (8) Natural Gas Processors Tax Act;
- 23 (9) Oil and Gas Production Equipment Ad
- 24 Valorem Tax Act;
- 25 (10) Copper Production Ad Valorem Tax Act;

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1 (11) any advance payment required to be made  
2 by any act specified in this subsection, which advance payment  
3 shall be considered a tax for the purposes of the Tax  
4 Administration Act;

5 (12) Enhanced Oil Recovery Act;

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

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

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

13 (1) Weight Distance Tax Act;

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

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

18 (4) 911 emergency surcharge and the network  
19 and database surcharge, which surcharges shall be considered  
20 taxes for purposes of the Tax Administration Act;

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

24 (6) the water conservation fee imposed by  
25 Section 74-1-13 NMSA 1978, which fee shall be considered a tax

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1 for the purposes of the Tax Administration Act; and

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

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

9 SECTION 42. Section 7-1-6.15 NMSA 1978 (being Laws 1983,  
10 Chapter 211, Section 20, as amended by Laws 2015, Chapter 89,  
11 Section 1 and by Laws 2015, Chapter 100, Section 1) is amended  
12 to read:

13 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO  
14 MUNICIPALITIES OR COUNTIES.--

15 A. The provisions of this section apply to:

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

18 (2) any transfer to a municipality with  
19 respect to any local option gross receipts tax or municipal  
20 cannabis tax imposed by that municipality;

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

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

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

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

6 (7) any distribution to a county from the  
7 county government road fund pursuant to Section 7-1-6.26 NMSA  
8 1978;

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

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

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

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1 carried out:

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

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

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

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

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

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

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

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

23           E. No earlier than ninety days from the date notice  
24 pursuant to Subsection D of this section is given, the  
25 department shall begin recovering the recoverable amount from a

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1 municipality or county as follows:

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

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

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

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

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

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

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

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

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

24 H. The secretary is authorized to decrease a  
25 distribution or transfer to a municipality or county upon being

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

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1 pursuant to this subsection that arose:

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

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

14 I. Upon the direction of the secretary of finance  
15 and administration pursuant to Section 9-6-5.2 NMSA 1978, the  
16 secretary shall temporarily withhold the balance of a  
17 distribution to a municipality or county, net of any decrease  
18 or redirected amount pursuant to Subsection H of this section  
19 and any recoverable amount pursuant to Paragraph (2) of  
20 Subsection B of this section, that has failed to submit an  
21 audit report required by the Audit Act or a financial report  
22 required by Subsection F of Section 6-6-2 NMSA 1978. The  
23 amount to be withheld, the source of the withheld distribution  
24 and the number of months that the distribution is to be  
25 withheld shall be as directed by the secretary of finance and

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1 administration. A distribution withheld pursuant to this  
2 subsection shall remain in the tax administration suspense fund  
3 until distributed to the municipality or county and shall not  
4 be distributed to the general fund. An amount withheld  
5 pursuant to this subsection shall be distributed to the  
6 municipality or county upon direction of the secretary of  
7 finance and administration.

8 J. As used in this section:

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

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

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

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

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

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

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

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

24 **SECTION 43.** Section 7-9-3.2 NMSA 1978 (being Laws 1991,  
25 Chapter 8, Section 1, as amended) is amended to read:

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1 "7-9-3.2. ADDITIONAL DEFINITION.--

2 A. As used in the Gross Receipts and Compensating  
3 Tax Act, "governmental gross receipts" means receipts of the  
4 state or an agency, institution, instrumentality or political  
5 subdivision from:

6 (1) the sale of tangible personal property  
7 other than water from facilities open to the general public;

8 (2) the performance of or admissions to  
9 recreational, athletic or entertainment services or events in  
10 facilities open to the general public;

11 (3) refuse collection or refuse disposal or  
12 both;

13 (4) sewage services;

14 (5) the sale of water by a utility owned or  
15 operated by a county, municipality or other political  
16 subdivision of the state; ~~and~~

17 (6) the renting of parking, docking or  
18 tie-down spaces or the granting of permission to park vehicles,  
19 tie down aircraft or dock boats; and

20 [~~"Governmental gross receipts" includes~~  
21 ~~receipts from~~] (7) except as provided in Subsection B of this  
22 section, the sale of tangible personal property handled on  
23 consignment when sold from facilities open to the general  
24 public [~~but~~].

25 B. "Governmental gross receipts" excludes receipts

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1 of the state or an agency, institution, instrumentality or  
2 political subdivision from:

- 3 (1) the sale of cannabis items;
- 4 (2) cash discounts taken and allowed;
- 5 (3) governmental gross receipts tax payable on  
6 transactions reportable for the period; and
- 7 (4) any type of time-price differential.

8 [B-] C. As used in this section, "facilities open  
9 to the general public" does not include point of sale registers  
10 or electronic devices at a bookstore owned or operated by a  
11 public post-secondary educational institution when the  
12 registers or devices are utilized in the sale of textbooks or  
13 other materials required for courses at the institution to a  
14 student enrolled at the institution who displays a valid  
15 student identification card."

16 **SECTION 44.** Section 11-6A-3 NMSA 1978 (being Laws 1993,  
17 Chapter 65, Section 3, as amended) is amended to read:

18 "11-6A-3. LOCAL DWI GRANT PROGRAM--FUND.--

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

- 21 (1) new, innovative or model programs,  
22 services or activities to prevent or reduce the incidence of  
23 DWI, alcoholism, alcohol abuse, drug addiction or drug abuse;  
24 [~~and~~]

- 25 (2) programs, services or activities to

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1 prevent or reduce the incidence of domestic abuse related to  
2 DWI, alcoholism, alcohol abuse, drug addiction or drug abuse;

3 (3) research to determine whether a driver is  
4 operating a vehicle while impaired, including impairment by the  
5 use of cannabis products;

6 (4) implementing best practices in law  
7 enforcement agencies regarding impairment by the use of  
8 cannabis products; and

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

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

15 C. The "local DWI grant fund" is created in the  
16 state treasury and shall be administered by the division. Two  
17 million five hundred thousand dollars (\$2,500,000) of liquor  
18 excise tax revenues distributed to the fund and all other money  
19 in the fund, other than money appropriated for distribution  
20 pursuant to Subsections D and E of this section and money  
21 appropriated for DWI program distributions, are appropriated to  
22 the division to make grants to municipalities and counties upon  
23 council approval in accordance with the program established  
24 under the Local DWI Grant Program Act and to evaluate DWI  
25 grantees and the local DWI grant program. Money in the fund

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1 may be used for drug courts. An amount equal to the liquor  
2 excise tax revenues distributed annually to the fund, less five  
3 million six hundred thousand dollars (\$5,600,000), is  
4 appropriated to the division to make DWI program distributions  
5 to counties upon council approval of programs in accordance  
6 with the provisions of the Local DWI Grant Program Act. No  
7 more than six hundred thousand dollars (\$600,000) of liquor  
8 excise tax revenues distributed to the fund in any fiscal year  
9 shall be expended for administration of the grant program.  
10 Balances in the fund at the end of any fiscal year shall not  
11 revert to the general fund.

12 D. Two million eight hundred thousand dollars  
13 (\$2,800,000) of the liquor excise tax revenues distributed to  
14 the local DWI grant fund is appropriated to the division for  
15 distribution to the following counties in the following amounts  
16 for funding of alcohol detoxification and treatment facilities:

17 (1) one million seven hundred thousand dollars  
18 (\$1,700,000) to class A counties with a population of over  
19 three hundred thousand persons according to the 1990 federal  
20 decennial census;

21 (2) three hundred thousand dollars (\$300,000)  
22 each to counties reclassified in 2002 as class A counties with  
23 a population of more than ninety thousand but less than one  
24 hundred thousand persons according to the 1990 federal  
25 decennial census;

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

5                   (4) one hundred fifty thousand dollars  
6 (\$150,000) to class B counties with a population of more than  
7 sixty-two thousand but less than sixty-five thousand persons  
8 according to the 1990 federal decennial census; and

9                   (5) one hundred fifty thousand dollars  
10 (\$150,000) to class B counties with a population of more than  
11 thirteen thousand but less than fifteen thousand persons  
12 according to the 1990 federal decennial census.

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

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

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

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

25                         (3) may fund new or existing innovative or

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1 model programs, services or activities of any kind designed to  
2 prevent or reduce the incidence of domestic abuse related to  
3 DWI, alcoholism or alcohol abuse;

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

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

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

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

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1           SECTION 45. Section 26-2B-3 NMSA 1978 (being Laws 2007,  
2 Chapter 210, Section 3) is amended to read:

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

5           A. "adequate supply" means an amount of cannabis,  
6 in any form approved by the department, possessed by a  
7 qualified patient or collectively possessed by a qualified  
8 patient and the qualified patient's primary caregiver that is  
9 determined by rule of the department to be no more than  
10 reasonably necessary to ensure the uninterrupted availability  
11 of cannabis for a period of three months and that is derived  
12 solely from an intrastate source;

13           B. "debilitating medical condition" means:

- 14                   (1) cancer;
- 15                   (2) glaucoma;
- 16                   (3) multiple sclerosis;
- 17                   (4) damage to the nervous tissue of the spinal  
18 cord, with objective neurological indication of intractable  
19 spasticity;
- 20                   (5) epilepsy;
- 21                   (6) positive status for human immunodeficiency  
22 virus or acquired immune deficiency syndrome;
- 23                   (7) admitted into hospice care in accordance  
24 with rules promulgated by the department; or
- 25                   (8) any other medical condition, medical

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1 treatment or disease as approved by the department;

2 C. "department" means the department of health;

3 D. "licensed ~~[producer]~~ dispenser" means any person  
4 or association of persons within New Mexico that the department  
5 determines to be qualified to ~~[produce]~~ possess, distribute and  
6 dispense cannabis pursuant to the Lynn and Erin Compassionate  
7 Use Act and that is licensed by the department;

8 E. "practitioner" means a person licensed in New  
9 Mexico to prescribe and administer drugs that are subject to  
10 the Controlled Substances Act;

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

17 G. "qualified patient" means a resident of New  
18 Mexico who has been diagnosed by a practitioner as having a  
19 debilitating medical condition and has received written  
20 certification and a registry identification card issued  
21 pursuant to the Lynn and Erin Compassionate Use Act; and

22 H. "written certification" means a statement in a  
23 patient's medical records or a statement signed by a patient's  
24 practitioner that, in the practitioner's professional opinion,  
25 the patient has a debilitating medical condition and the

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1 practitioner believes that the potential health benefits of the  
2 medical use of cannabis would likely outweigh the health risks  
3 for the patient. A written certification is not valid for more  
4 than one year from the date of issuance."

5 SECTION 46. Section 26-2B-4 NMSA 1978 (being Laws 2007,  
6 Chapter 210, Section 4) is amended to read:

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

9 A. A qualified patient shall not be subject to  
10 arrest, prosecution or penalty in any manner for the possession  
11 of or the medical use of cannabis if the quantity of cannabis  
12 does not exceed an adequate supply or the qualified patient is  
13 authorized to possess the cannabis pursuant to the Cannabis  
14 Regulation Act.

15 B. A qualified patient's primary caregiver shall  
16 not be subject to arrest, prosecution or penalty in any manner  
17 for the possession of cannabis for medical use by the qualified  
18 patient if the quantity of cannabis does not exceed an adequate  
19 supply.

20 C. Subsection A of this section shall not apply to  
21 a qualified patient under the age of eighteen years, unless:

22 (1) the qualified patient's practitioner has  
23 explained the potential risks and benefits of the medical use  
24 of cannabis to the qualified patient and to a parent, guardian  
25 or person having legal custody of the qualified patient; and

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

3 (a) allow the qualified patient's  
4 medical use of cannabis;

5 (b) serve as the qualified patient's  
6 primary caregiver; and

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

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

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

22 F. A licensed [~~producer~~] dispenser shall not be  
23 subject to arrest, prosecution or penalty, in any manner, for  
24 the production, possession, distribution or dispensing of  
25 cannabis pursuant to the Lynn and Erin Compassionate Use Act.

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

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

21           **SECTION 47.** Section 26-2B-5 NMSA 1978 (being Laws 2007,  
22 Chapter 210, Section 5) is amended to read:

23           "26-2B-5. PROHIBITIONS, RESTRICTIONS AND LIMITATIONS ON  
24 THE MEDICAL USE OF CANNABIS--CRIMINAL PENALTIES.--

25           A. Participation in a medical use of cannabis

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1 program by a qualified patient or primary caregiver does not  
2 relieve the qualified patient or primary caregiver from:

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

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

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

11 (a) in a school bus or public vehicle;

12 (b) on school grounds or property;

13 (c) in the workplace of the qualified  
14 patient's or primary caregiver's employment; or

15 (d) at a public park, recreation center,  
16 youth center or other public place.

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

23 C. If a licensed [~~producer~~] dispenser sells,  
24 distributes, dispenses or transfers cannabis to a person not  
25 approved by the department pursuant to the Lynn and Erin

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1 Compassionate Use Act or obtains or transports cannabis outside  
2 New Mexico in violation of federal law, the licensed [~~producer~~]  
3 dispenser shall be subject to arrest, prosecution and civil or  
4 criminal penalties pursuant to state law."

5 SECTION 48. Section 30-6-1 NMSA 1978 (being Laws 1973,  
6 Chapter 360, Section 10, as amended) is amended to read:

7 "30-6-1. ABANDONMENT OR ABUSE OF A CHILD.--

8 A. As used in this section:

9 (1) "child" means a person who is less than  
10 eighteen years of age;

11 (2) "neglect" means that a child is without  
12 proper parental care and control of subsistence, education,  
13 medical or other care or control necessary for the child's  
14 well-being because of the faults or habits of the child's  
15 parents, guardian or custodian or their neglect or refusal,  
16 when able to do so, to provide them; and

17 (3) "negligently" refers to criminal  
18 negligence and means that a person knew or should have known of  
19 the danger involved and acted with a reckless disregard for the  
20 safety or health of the child.

21 B. Abandonment of a child consists of the parent,  
22 guardian or custodian of a child intentionally leaving or  
23 abandoning the child under circumstances whereby the child may  
24 or does suffer neglect. A person who commits abandonment of a  
25 child is guilty of a misdemeanor, unless the abandonment

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1 results in the child's death or great bodily harm, in which  
2 case the person is guilty of a second degree felony.

3 C. A parent, guardian or custodian who leaves an  
4 infant less than ninety days old in compliance with the Safe  
5 Haven for Infants Act shall not be prosecuted for abandonment  
6 of a child.

7 D. Abuse of a child consists of a person knowingly,  
8 intentionally or negligently, and without justifiable cause,  
9 causing or permitting a child to be:

10 (1) placed in a situation that may endanger  
11 the child's life or health;

12 (2) tortured, cruelly confined or cruelly  
13 punished; ~~[or]~~

14 (3) exposed to the inclemency of the weather;

15 or

16 (4) placed in a situation that allows the  
17 child access to a cannabis item as defined in the Cannabis  
18 Regulation Act, unless the child is a qualified patient in  
19 accordance with the Lynn and Erin Compassionate Use Act.

20 E. A person who commits abuse of a child that does  
21 not result in the child's death or great bodily harm is, for a  
22 first offense, guilty of a third degree felony and for second  
23 and subsequent offenses is guilty of a second degree felony.

24 If the abuse results in great bodily harm to the child, the  
25 person is guilty of a first degree felony.

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1           F. A person who commits negligent abuse of a child  
2 that results in the death of the child is guilty of a first  
3 degree felony.

4           G. A person who commits intentional abuse of a  
5 child twelve to eighteen years of age that results in the death  
6 of the child is guilty of a first degree felony.

7           H. A person who commits intentional abuse of a  
8 child less than twelve years of age that results in the death  
9 of the child is guilty of a first degree felony resulting in  
10 the death of a child.

11           I. Evidence that demonstrates that a child has been  
12 knowingly, intentionally or negligently allowed to enter or  
13 remain in a motor vehicle, building or any other premises that  
14 contains chemicals and equipment used or intended for use in  
15 the manufacture of a controlled substance shall be deemed prima  
16 facie evidence of abuse of the child.

17           J. Evidence that demonstrates that a child has been  
18 knowingly and intentionally exposed to the use of  
19 methamphetamine shall be deemed prima facie evidence of abuse  
20 of the child.

21           K. A person who leaves an infant less than ninety  
22 days old at a hospital may be prosecuted for abuse of the  
23 infant for actions of the person occurring before the infant  
24 was left at the hospital."

25           **SECTION 49.** Section 30-31-2 NMSA 1978 (being Laws 1972,

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1 Chapter 84, Section 2, as amended) is amended to read:

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

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

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

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

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

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

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

24 G. "deliver" means the actual, constructive or  
25 attempted transfer from one person to another of a controlled

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1 substance or controlled substance analog, whether or not there  
2 is an agency relationship;

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

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

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

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

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

25 M.] L. "manufacture" means the production,

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1 preparation, compounding, conversion or processing of a  
2 controlled substance or controlled substance analog by  
3 extraction from substances of natural origin or independently  
4 by means of chemical synthesis or by a combination of  
5 extraction and chemical synthesis and includes any packaging or  
6 repackaging of the substance or labeling or relabeling of its  
7 container, except that this term does not include the  
8 preparation or compounding of a controlled substance:

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

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

16 ~~[N. "marijuana" means all parts of the plant~~  
17 ~~cannabis, including any and all varieties, species and~~  
18 ~~subspecies of the genus Cannabis, whether growing or not, the~~  
19 ~~seeds thereof and every compound, manufacture, salt,~~  
20 ~~derivative, mixture or preparation of the plant or its seeds.~~  
21 ~~It does not include the mature stalks of the plant, hashish,~~  
22 ~~tetrahydrocannabinols extracted or isolated from marijuana,~~  
23 ~~fiber produced from the stalks, oil or cake made from the seeds~~  
24 ~~of the plant, any other compound, manufacture, salt,~~  
25 ~~derivative, mixture or preparation of the mature stalks, fiber,~~

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1 ~~oil or cake, or the sterilized seed of the plant that is~~  
2 ~~incapable of germination; or the plant Cannabis sativa L. and~~  
3 ~~any part of the plant, whether growing or not, containing a~~  
4 ~~delta-9-tetrahydrocannabinol concentration of no more than~~  
5 ~~three-tenths percent on a dry weight basis;~~

6           ~~Θ.]~~ M. "narcotic drug" means any of the following,  
7 whether produced directly or indirectly by extraction from  
8 substances of vegetable origin or independently by means of  
9 chemical synthesis or by a combination of extraction and  
10 chemical synthesis:

11                   (1) opium and opiate and any salt, compound,  
12 derivative or preparation of opium or opiate;

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

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

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

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

9           [~~Q-~~] O. "person" means an individual, partnership,  
10 corporation, association, institution, political subdivision,  
11 government agency or other legal entity;

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

20           [~~S-~~] Q. "prescription" means an order given  
21 individually for the person for whom is prescribed a controlled  
22 substance, either directly from a licensed practitioner or the  
23 practitioner's agent to the pharmacist, including by means of  
24 electronic transmission, or indirectly by means of a written  
25 order signed by the prescriber, bearing the name and address of

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1 the prescriber, the prescriber's license classification, the  
2 name and address of the patient, the name and quantity of the  
3 drug prescribed, directions for use and the date of issue and  
4 in accordance with the Controlled Substances Act or rules  
5 adopted thereto;

6 [F.] R. "scientific investigator" means a person  
7 registered to conduct research with controlled substances in  
8 the course of the person's professional practice or research  
9 and includes analytical laboratories;

10 [U.] S. "ultimate user" means a person who lawfully  
11 possesses a controlled substance for the person's own use or  
12 for the use of a member of the person's household or for  
13 administering to an animal under the care, custody and control  
14 of the person or by a member of the person's household;

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

25 ~~(1) kits used, intended for use or designed~~

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1 ~~for use in planting, propagating, cultivating, growing or~~  
2 ~~harvesting any species of plant that is a controlled substance~~  
3 ~~or controlled substance analog or from which a controlled~~  
4 ~~substance can be derived;~~

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

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

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

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

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

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

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

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

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

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

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

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

23                                 ~~(b) water pipes;~~

24                                 ~~(c) carburetion tubes and devices;~~

25                                 ~~(d) smoking and carburetion masks;~~

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

4                   ~~(f) miniature cocaine spoons and cocaine~~  
5 ~~vials;~~

6                   ~~(g) chamber pipes;~~

7                   ~~(h) carburetor pipes;~~

8                   ~~(i) electric pipes;~~

9                   ~~(j) air-driven pipes;~~

10                  ~~(k) chilams;~~

11                  ~~(l) bonges; or~~

12                  ~~(m) ice pipes or chillers; and~~

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

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

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

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

25                   ~~(d) the existence of any residue of a~~

underscored material = new  
[bracketed material] = delete

1 ~~controlled substance or controlled substance analog on the~~  
2 ~~object;~~

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

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

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

9 ~~(h) expert testimony concerning its use;~~

10 ~~W.]~~ T. "controlled substance analog":

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

19 ~~(1)~~ (a) phenethylamines;

20 ~~(2)~~ (b) N-substituted piperidines;

21 ~~(3)~~ (c) morphinans;

22 ~~(4)~~ (d) ecgonines;

23 ~~(5)~~ (e) quinazolinones;

24 ~~(6)~~ (f) substituted indoles; and

25 ~~(7)~~ (g) arylcycloalkylamines;

underscored material = new  
[bracketed material] = delete

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

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

10           ~~[X.]~~ U. "human consumption" includes application,  
11 injection, inhalation, ingestion or any other manner of  
12 introduction;

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

18           ~~[Z.]~~ W. "valid practitioner-patient relationship"  
19 means a professional relationship, as defined by the  
20 practitioner's licensing board, between the practitioner and  
21 the patient."

22           **SECTION 50.** Section 30-31-6 NMSA 1978 (being Laws 1972,  
23 Chapter 84, Section 6, as amended by Laws 2017, Chapter 139,  
24 Section 2, by Laws 2017, Chapter 140, Section 3 and by Laws  
25 2018, Chapter 41, Section 1) is amended to read:

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1 "30-31-6. SCHEDULE I.--The following controlled  
2 substances are included in Schedule I:

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

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

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~~[bracketed material] = delete~~

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

25 B. any of the following opium derivatives, their

1 salts, isomers and salts of isomers, unless specifically  
2 exempted, whenever the existence of these salts, isomers and  
3 salts of isomers is possible within the specific chemical  
4 designation:

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

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[bracketed material] = delete

1 (22) thebacon;

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

8 (1) 3,4-methylenedioxy amphetamine;

9 (2) 5-methoxy-3,4-methylenedioxy amphetamine;

10 (3) 3,4,5-trimethoxy amphetamine;

11 (4) bufotenine;

12 (5) diethyltryptamine;

13 (6) dimethyltryptamine;

14 (7) 4-methyl-2,5-dimethoxy amphetamine;

15 (8) ibogaine;

16 (9) lysergic acid diethylamide;

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

18 [~~(11)~~] (10) mescaline;

19 [~~(12)~~] (11) peyote, except as otherwise

20 provided in the Controlled Substances Act;

21 [~~(13)~~] (12) N-ethyl-3-piperidyl benzilate;

22 [~~(14)~~] (13) N-methyl-3-piperidyl benzilate;

23 [~~(15)~~] (14) psilocybin;

24 [~~(16)~~] (15) psilocyn;

25 [~~(17)~~] ~~tetrahydrocannabinols~~;



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

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underscored material = new  
[bracketed material] = delete

- 1                    [~~(20)~~] (17) 3,4-methylenedioxymethcathinone;
- 2                    [~~(21)~~] (18) 3,4-methylenedioxypyrovalerone;
- 3                    [~~(22)~~] (19) 4-methylmethcathinone;
- 4                    [~~(23)~~] (20) 4-methoxymethcathinone;
- 5                    [~~(24)~~] (21) 3-fluoromethcathinone; and
- 6                    [~~(25)~~] (22) 4-fluoromethcathinone;

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

15                    [~~E.—The enumeration of marijuana,~~  
16 ~~tetrahydrocannabinols or chemical derivatives of~~  
17 ~~tetrahydrocannabinol as Schedule I controlled substances does~~  
18 ~~not apply to:~~

19                    [~~(1)—industrial hemp, pursuant to rules~~  
20 ~~promulgated by the board of regents of New Mexico state~~  
21 ~~university on behalf of the New Mexico department of~~  
22 ~~agriculture;~~

23                    [~~(2)—cultivation of industrial hemp by~~  
24 ~~qualified entities pursuant to rules adopted by the New Mexico~~  
25 ~~department of agriculture;~~

.212180.9

underscored material = new  
[bracketed material] = delete

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

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

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

15                   SECTION 51. Section 30-31-7 NMSA 1978 (being Laws 1972,  
16 Chapter 84, Section 7, as amended) is amended to read:

17                   "30-31-7. SCHEDULE II.--

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

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

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underscored material = new  
[bracketed material] = delete

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

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

8 (c) opium poppy and poppy straw; and

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

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

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

24 ~~Marijuana, tetrahydrocannabinols or chemical derivatives~~  
25 ~~of tetrahydrocannabinol shall be considered Schedule II~~

.212180.9

underscoring material = new  
[bracketed material] = delete

1 ~~controlled substances only for the purposes enumerated in the~~  
2 ~~Controlled Substances Therapeutic Research Act or the Lynn and~~  
3 ~~Erin Compassionate Use Act;]~~

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

- 8 (a) alphaprodine;
- 9 (b) anileridine;
- 10 (c) bezitramide;
- 11 (d) dihydrocodeine;
- 12 (e) diphenoxylate;
- 13 (f) fentanyl;
- 14 (g) hydromorphone;
- 15 (h) isomethadone;
- 16 (i) levomethorphan;
- 17 (j) levorphanol;
- 18 (k) meperidine;
- 19 (l) metazocine;
- 20 (m) methadone;
- 21 (n) methadone--intermediate,  
22 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- 23 (o) moramide--intermediate,  
24 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
- 25 (p) oxycodone;

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underscoring material = new  
~~[bracketed material] = delete~~

- 1 (q) pethidine;
- 2 (r) pethidine--intermediate--A,
- 3 4-cyano-1-methyl-4-phenylpiperidine;
- 4 (s) pethidine--intermediate--B,
- 5 ethyl-4-phenyl-piperidine-4-carboxylate;
- 6 (t) pethidine--intermediate--C,
- 7 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- 8 (u) phenazocine;
- 9 (v) piminodine;
- 10 (w) racemethorphan; and
- 11 (x) racemorphan;

12 (3) unless listed in another schedule, any  
13 material, compound, mixture or preparation that contains any  
14 quantity of the following substances having a potential for  
15 abuse associated with a stimulant effect on the central nervous  
16 system:

- 17 (a) amphetamine, its salts, optical
- 18 isomers and salts of its optical isomers;
- 19 (b) phenmetrazine and its salts;
- 20 (c) methamphetamine, its salts, isomers
- 21 and salts of isomers; and
- 22 (d) methylphenidate; and

23 (4) controlled substances added to Schedule II  
24 by rule adopted by the board pursuant to Section 30-31-3 NMSA  
25 1978.

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underscored material = new  
~~[bracketed material] = delete~~

1           B. Where methadone is prescribed, administered or  
2 dispensed by a practitioner of a drug abuse rehabilitation  
3 program while acting in the course of the practitioner's  
4 professional practice, or otherwise lawfully obtained or  
5 possessed by a person, such person shall not possess such  
6 methadone beyond the date stamped or typed on the label of the  
7 container of the methadone, nor shall any person possess  
8 methadone except in the container in which it was originally  
9 administered or dispensed to such person, and such container  
10 shall include a label showing the name of the prescribing  
11 physician or practitioner, the identity of methadone, the name  
12 of the ultimate user, the date when the methadone is to be  
13 administered to or used or consumed by the named ultimate user  
14 shown on the label and a warning on the label of the methadone  
15 container that the ultimate user must use, consume or  
16 administer to the ultimate user the methadone in such  
17 container. Any person who violates this subsection is guilty  
18 of a felony and shall be punished by imprisonment for not less  
19 than one year nor more than five years, or by a fine of up to  
20 five thousand dollars (\$5,000), or both."

21           **SECTION 52.** Section 30-31-21 NMSA 1978 (being Laws 1972,  
22 Chapter 84, Section 21, as amended) is amended to read:

23           "30-31-21. DISTRIBUTION TO A MINOR.--Except as authorized  
24 by the Controlled Substances Act, no person who is eighteen  
25 years of age or older shall intentionally distribute a

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underscored material = new  
[bracketed material] = delete

1 controlled substance to a person under the age of eighteen  
2 years. Any person who violates this section with respect to

3 ~~[A. marijuana is:~~

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

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

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

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

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

20 **SECTION 53.** Section 30-31-22 NMSA 1978 (being Laws 1972,  
21 Chapter 84, Section 22, as amended) is amended to read:

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

24 A. Except as authorized by the Controlled  
25 Substances Act, it is unlawful for a person to intentionally

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underscored material = new  
~~[bracketed material] = delete~~

1 distribute or possess with intent to distribute a controlled  
2 substance or a controlled substance analog except a substance  
3 enumerated in Schedule I or II that is a narcotic drug, a  
4 controlled substance analog of a controlled substance  
5 enumerated in Schedule I or II that is a narcotic drug or  
6 methamphetamine, its salts, isomers and salts of isomers. A  
7 person who violates this subsection with respect to:

8 (1) ~~[marijuana or]~~ synthetic cannabinoids is:

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

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

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

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

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underscoring material = new  
~~[bracketed material] = delete~~

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

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

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

16                   (3) a controlled substance enumerated in  
17 Schedule V or a controlled substance analog of a controlled  
18 substance enumerated in Schedule V is guilty of a misdemeanor  
19 and shall be punished by a fine of not less than one hundred  
20 dollars (\$100) or more than five hundred dollars (\$500) or by  
21 imprisonment for a definite term not less than one hundred  
22 eighty days but less than one year, or both.

23                   B. It is unlawful for a person to distribute gamma  
24 hydroxybutyric acid or flunitrazepam to another person without  
25 that person's knowledge and with intent to commit a crime

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underscored material = new  
[bracketed material] = delete

1 against that person, including criminal sexual penetration.

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

7 Any person who violates this subsection is:

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

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

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

19 (1) a counterfeit substance enumerated in  
20 Schedule I, II, III or IV is guilty of a fourth degree felony  
21 and shall be sentenced pursuant to the provisions of Section  
22 31-18-15 NMSA 1978; [~~and~~] or

23 (2) a counterfeit substance enumerated in  
24 Schedule V is guilty of a petty misdemeanor and shall be  
25 punished by a fine of not more than one hundred dollars (\$100)

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underscored material = new  
[bracketed material] = delete

1 or by imprisonment for a definite term not to exceed six  
2 months, or both.

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

6 (1) [~~marijuana or~~] synthetic cannabinoids is:

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

10 (b) for the second and subsequent  
11 offenses, guilty of a second degree felony and shall be  
12 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
13 1978;

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

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

24 (2) any other controlled substance enumerated  
25 in Schedule I, II, III or IV or a controlled substance analog

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underscoring material = new  
~~[bracketed material] = delete~~

1 of a controlled substance enumerated in Schedule I, II, III or  
2 IV except a substance enumerated in Schedule I or II that is a  
3 narcotic drug, a controlled substance analog of a controlled  
4 substance enumerated in Schedule I or II that is a narcotic  
5 drug or methamphetamine, its salts, isomers and salts of  
6 isomers, is:

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

10 (b) for the second and subsequent  
11 offenses, guilty of a first degree felony and shall be  
12 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
13 1978;

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

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

21 (a) a counterfeit substance enumerated  
22 in Schedule I, II, III or IV is guilty of a third degree felony  
23 and shall be sentenced pursuant to the provisions of Section  
24 31-18-15 NMSA 1978; and

25 (b) a counterfeit substance enumerated

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underscored material = new  
[bracketed material] = delete

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

6 E. Notwithstanding the provisions of Subsection A  
7 of this section, distribution of a small amount of [~~marijuana~~  
8 ~~or~~] synthetic cannabinoids for no remuneration shall be treated  
9 as provided in Paragraph (1) of Subsection B of Section  
10 30-31-23 NMSA 1978."

11 SECTION 54. Section 30-31-23 NMSA 1978 (being Laws 1972,  
12 Chapter 84, Section 23, as amended) is amended to read:

13 "30-31-23. CONTROLLED SUBSTANCES--POSSESSION  
14 PROHIBITED.--

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

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

24 (1) one ounce or less of [~~marijuana or~~]  
25 synthetic cannabinoids is, for the first offense, guilty of a

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underscored material = new  
~~[bracketed material] = delete~~

1 petty misdemeanor and shall be punished by a fine of not less  
2 than fifty dollars (\$50.00) or more than one hundred dollars  
3 (\$100) and by imprisonment for not more than fifteen days, and,  
4 for the second and subsequent offenses, guilty of a misdemeanor  
5 and shall be punished by a fine of not less than one hundred  
6 dollars (\$100) or more than one thousand dollars (\$1,000) or by  
7 imprisonment for a definite term less than one year, or both;

8 (2) more than one ounce and less than eight  
9 ounces of ~~[marijuana or]~~ synthetic cannabinoids is guilty of a  
10 misdemeanor and shall be punished by a fine of not less than  
11 one hundred dollars (\$100) or more than one thousand dollars  
12 (\$1,000) or by imprisonment for a definite term less than one  
13 year, or both; or

14 (3) eight ounces or more of ~~[marijuana or]~~  
15 synthetic cannabinoids is guilty of a fourth degree felony and  
16 shall be sentenced pursuant to the provisions of Section  
17 31-18-15 NMSA 1978.

18 C. A minor who violates this section with respect  
19 to the substances listed in this subsection is guilty of a  
20 petty misdemeanor and, notwithstanding the provisions of  
21 Sections 32A-1-5 and 32A-2-19 NMSA 1978, shall be punished by a  
22 fine not to exceed one hundred dollars (\$100) or forty-eight  
23 hours of community service. For the third or subsequent  
24 violation ~~[by a minor of this section]~~ with respect to those  
25 substances, the provisions of Section 32A-2-19 NMSA 1978 shall

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underscored material = new  
[bracketed material] = delete

1 govern punishment of the minor. [~~As used in this subsection,~~  
2 ~~"minor" means a person who is less than eighteen years of age.~~]

3 The provisions of this subsection apply to the following  
4 substances:

5 (1) synthetic cannabinoids;

6 (2) any of the substances listed in Paragraphs  
7 [~~(20)~~] (17) through [~~(25)~~] (22) of Subsection C of Section  
8 30-31-6 NMSA 1978; or

9 (3) a substance added to Schedule I by a rule  
10 of the board adopted on or after [~~the effective date of this~~]  
11 March 31, 2011 [~~act~~] if the board determines that the  
12 pharmacological effect of the substance, the risk to the public  
13 health by abuse of the substance and the potential of the  
14 substance to produce psychic or physiological dependence  
15 liability is similar to the substances described in Paragraph  
16 (1) or (2) of this subsection.

17 D. Except for those substances listed in Subsection  
18 E of this section, a person who violates this section with  
19 respect to any amount of any controlled substance enumerated in  
20 Schedule I, II, III or IV, or a controlled substance analog of  
21 a substance enumerated in Schedule I, II, III or IV is guilty  
22 of a misdemeanor and shall be punished by a fine of not less  
23 than five hundred dollars (\$500) or more than one thousand  
24 dollars (\$1,000) or by imprisonment for a definite term less  
25 than one year, or both.

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underscored material = new  
~~[bracketed material] = delete~~

1           E. A person who violates this section with respect  
2 to phencyclidine as enumerated in Schedule III or a controlled  
3 substance analog of phencyclidine; methamphetamine, its salts,  
4 isomers or salts of isomers as enumerated in Schedule II or a  
5 controlled substance analog of methamphetamine, its salts,  
6 isomers or salts of isomers; flunitrazepam, its salts, isomers  
7 or salts of isomers as enumerated in Schedule I or a controlled  
8 substance analog of flunitrazepam, including naturally  
9 occurring metabolites, its salts, isomers or salts of isomers;  
10 gamma hydroxybutyric acid and any chemical compound that is  
11 metabolically converted to gamma hydroxybutyric acid, its  
12 salts, isomers or salts of isomers as enumerated in Schedule I  
13 or a controlled substance analog of gamma hydroxybutyric acid,  
14 its salts, isomers or salts of isomers; gamma butyrolactone and  
15 any chemical compound that is metabolically converted to gamma  
16 hydroxybutyric acid, its salts, isomers or salts of isomers as  
17 enumerated in Schedule I or a controlled substance analog of  
18 gamma butyrolactone, its salts, isomers or salts of isomers;  
19 1-4 butane diol and any chemical compound that is metabolically  
20 converted to gamma hydroxybutyric acid, its salts, isomers or  
21 salts of isomers as enumerated in Schedule I or a controlled  
22 substance analog of 1-4 butane diol, its salts, isomers or  
23 salts of isomers; or a narcotic drug enumerated in Schedule I  
24 or II or a controlled substance analog of a narcotic drug  
25 enumerated in Schedule I or II is guilty of a fourth degree

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

3 F. Except for a minor [~~as defined in Subsection G~~  
4 ~~of this section~~], a person who violates Subsection A of this  
5 section while within a posted drug-free school zone, excluding  
6 private property residentially zoned or used primarily as a  
7 residence and excluding a person in or on a motor vehicle in  
8 transit through the posted drug-free school zone, with respect  
9 to:

10 (1) one ounce or less of [~~marijuana or~~  
11 synthetic cannabinoids is, for the first offense, guilty of a  
12 misdemeanor and shall be punished by a fine of not less than  
13 one hundred dollars (\$100) or more than one thousand dollars  
14 (\$1,000) or by imprisonment for a definite term less than one  
15 year, or both, and for the second or subsequent offense, is  
16 guilty of a fourth degree felony and shall be sentenced  
17 pursuant to the provisions of Section 31-18-15 NMSA 1978;

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

22 (3) eight ounces or more of [~~marijuana or~~  
23 synthetic cannabinoids is guilty of a third degree felony and  
24 shall be sentenced pursuant to the provisions of Section  
25 31-18-15 NMSA 1978;

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1 (4) any amount of any other controlled  
2 substance enumerated in Schedule I, II, III or IV or a  
3 controlled substance analog of a substance enumerated in  
4 Schedule I, II, III or IV, except phencyclidine as enumerated  
5 in Schedule III, a narcotic drug enumerated in Schedule I or II  
6 or a controlled substance analog of a narcotic drug enumerated  
7 in Schedule I or II, is guilty of a fourth degree felony and  
8 shall be sentenced pursuant to the provisions of Section  
9 31-18-15 NMSA 1978; and

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

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

18 SECTION 55. Section 30-31-28 NMSA 1978 (being Laws 1972,  
19 Chapter 84, Section 28) is amended to read:

20 "30-31-28. CONDITIONAL DISCHARGE FOR POSSESSION AS FIRST  
21 OFFENSE.--

22 A. If [~~any~~] a person, who has not previously been  
23 convicted of violating the laws of [~~any~~] a state or [~~any~~] laws  
24 of the United States relating to narcotic drugs, [~~marijuana~~]  
25 hallucinogenic or depressant or stimulant substances, is found

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1 guilty of a violation of Section [23] 30-31-23 NMSA 1978, after  
2 trial or upon a plea of guilty, the court may, without entering  
3 a judgment of guilty and with the consent of the person, defer  
4 further proceedings and place [~~him~~] the person on probation  
5 upon reasonable conditions and for a period, not to exceed one  
6 year, as the court may prescribe.

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

13 C. If during the period of [~~his~~] probation the  
14 person does not violate [~~any of~~] the conditions of the  
15 probation, then upon expiration of the period the court shall  
16 discharge such person and dismiss the proceedings against [~~him~~]  
17 the person. Discharge and dismissal under this section shall  
18 be without court adjudication of guilt, but a nonpublic record  
19 shall be retained by the attorney general solely for the  
20 purpose of use by the courts in determining whether or not, in  
21 subsequent proceedings, the person qualifies under this  
22 section. A discharge or dismissal shall not be deemed a  
23 conviction for purposes of disqualifications or disabilities  
24 imposed by law upon conviction of a crime, including the  
25 penalties prescribed under this section for second or

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1 subsequent convictions or for any other purpose. Discharge and  
2 dismissal under this section may occur only once with respect  
3 to ~~[any]~~ a person.

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

25 SECTION 56. Section 30-31-34 NMSA 1978 (being Laws 1972,

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1 Chapter 84, Section 33, as amended) is amended to read:

2 "30-31-34. FORFEITURES--PROPERTY SUBJECT.--The following  
3 are subject to forfeiture pursuant to the provisions of the  
4 Forfeiture Act:

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

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

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

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

21 E. narcotics paraphernalia or money that is a fruit  
22 or instrumentality of the crime; and

23 F. notwithstanding Subsection C of this section and  
24 the provisions of the Forfeiture Act:

25 (1) a conveyance used by a person as a common

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

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

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

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

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

19 SECTION 57. [NEW MATERIAL] COOPERATION OF AGENCIES.--All  
20 state agencies shall cooperate with the cannabis control  
21 commission in carrying out the provisions of the Cannabis  
22 Regulation Act.

23 SECTION 58. TEMPORARY PROVISION--TRANSFER.--On the  
24 effective date of this act, any unexpended or unencumbered  
25 balance in the medical cannabis fund is transferred to the

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1 cannabis regulation fund.

2 SECTION 59. REPEAL.--Sections 9-7-17.1 and 30-31-25.1  
3 NMSA 1978 (being Laws 2012, Chapter 42, Section 1 and Laws  
4 1981, Chapter 31, Section 2, as amended) are repealed.

5 SECTION 60. EFFECTIVE DATE.--

6 A. The effective date of the provisions of Sections  
7 1 through 44 and 48 through 59 of this act is July 1, 2019.

8 B. The effective date of the provisions of Sections  
9 45 through 47 of this act is December 31, 2019.