

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 2

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

INTRODUCED BY

Javier Martínez and Andrea Romero and Deborah A. Armstrong and  
Katy Duhigg and Linda M. Lopez

AN ACT

RELATING TO CANNABIS; ENACTING THE CANNABIS REGULATION ACT;  
CREATING THE CANNABIS CONTROL DIVISION OF THE REGULATION AND  
LICENSING DEPARTMENT; PROVIDING POWERS AND DUTIES; SETTING  
LIMITATIONS ON SALES AND PURCHASES OF CANNABIS; PROVIDING FOR  
LICENSURE AND PERMITTING; TRANSFERRING LICENSING AUTHORITY  
UNDER THE LYNN AND ERIN COMPASSIONATE USE ACT TO THE CANNABIS  
CONTROL DIVISION; CREATING THE CANNABIS REGULATORY ADVISORY  
COMMITTEE; CREATING A FUND; AUTHORIZING THE REGULATION AND  
LICENSING DEPARTMENT TO ENTER INTO INTERGOVERNMENTAL AGREEMENTS  
WITH INDIAN NATIONS, TRIBES AND PUEBLOS; REQUIRING TRAINING FOR  
PERMITTEES; ENACTING THE CANNABIS TAX ACT; DISTRIBUTING A  
PORTION OF THE CANNABIS EXCISE TAX TO MUNICIPALITIES AND  
COUNTIES; PRESCRIBING PENALTIES; AMENDING, REPEALING AND  
ENACTING SECTIONS OF THE NMSA 1978.

.221014.5GLG

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

underscoring material = new  
[bracketed material] = delete

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

2 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
3 through 42 of this act may be cited as the "Cannabis Regulation  
4 Act".

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

7 A. "advertisement":

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

13 (2) does not include:

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

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

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

.221014.5GLG

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

B. "cannabis":

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

(2) does not include:

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

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

C. "cannabis consumption area" means an area where cannabis products may be served and consumed;

D. "cannabis courier" means a person that transports cannabis products to qualified patients, primary caregivers, reciprocal participants or directly to consumers;

E. "cannabis establishment" means:

(1) a cannabis testing laboratory;

- 1 (2) a cannabis manufacturer;
- 2 (3) a cannabis producer;
- 3 (4) a cannabis retailer;
- 4 (5) a cannabis research laboratory;
- 5 (6) a vertically integrated cannabis

6 establishment;

- 7 (7) a cannabis producer microbusiness; or
- 8 (8) an integrated cannabis microbusiness;

9 F. "cannabis extract":

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

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

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

19 H. "cannabis manufacturer" means a person that:

- 20 (1) manufactures cannabis products;
- 21 (2) packages cannabis products;
- 22 (3) has cannabis products tested by a cannabis  
23 testing laboratory; or
- 24 (4) purchases, acquires, sells or transports  
25 wholesale cannabis products to other cannabis establishments;

- 1 I. "cannabis producer" means a person that:  
2 (1) cultivates cannabis plants;  
3 (2) has unprocessed cannabis products tested  
4 by a cannabis testing laboratory;  
5 (3) transports unprocessed cannabis products  
6 only to other cannabis establishments; or  
7 (4) sells cannabis products wholesale;

8 J. "cannabis producer microbusiness" means a  
9 cannabis producer at a single licensed premises that possesses  
10 no more than two hundred total mature cannabis plants at any  
11 one time;

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

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

19 M. "cannabis retailer" means a person that sells  
20 cannabis products to qualified patients, primary caregivers,  
21 reciprocal participants or directly to consumers;

22 N. "cannabis server permit" means an authorization  
23 that allows a person to directly offer, sell or serve cannabis  
24 or cannabis products as part of commercial cannabis activity in  
25 a cannabis consumption area;

1           O. "cannabis server permit education provider"  
2 means a person that provides cannabis server education courses  
3 and examinations;

4           P. "cannabis testing laboratory" means a person  
5 that samples, collects and tests cannabis products and  
6 transports cannabis products for the purpose of testing;

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

11           R. "commercial cannabis activity":

12                 (1) means the cultivation, production,  
13 possession, manufacture, storage, testing, researching,  
14 labeling, transportation, couriering, purchase for resale, sale  
15 or consignment of cannabis products; and

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

20           S. "consumer" means a person twenty-one years of  
21 age or older who purchases, acquires, owns, possesses or uses a  
22 cannabis product for a purpose other than resale;

23           T. "contaminant" means pesticides and other foreign  
24 material, such as hair, insects or other similar adulterants,  
25 in harvested cannabis;

.221014.5GLG

1 U. "controlling person":

2 (1) means a person that controls a financial  
3 or voting interest of ten percent or more of, or an officer or  
4 board member of, a cannabis establishment; and

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

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

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

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

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

15 Z. "dry weight basis", when used in the context of  
16 regulation of commercial cannabis activity, means a process by  
17 which delta-9-tetrahydrocannabinol concentration is measured  
18 relative to the aggregate weight of all parts of the plant  
19 genus Cannabis, whether growing or not, including the leaves of  
20 the plant, the flowers and buds of the plant, the seeds of the  
21 plant, the resin of the plant and the stalks of the plant at  
22 the point of harvest by a licensee and with no moisture added  
23 to the harvested plant;

24 AA. "facility" means a building, space or grounds  
25 licensed for the production, possession, testing, manufacturing

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

1 or distribution of cannabis, cannabis extracts or cannabis  
2 products;

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

6 CC. "homegrown" or "homemade" means grown or made  
7 for purposes that are not dependent or conditioned upon the  
8 provision or receipt of financial consideration;

9 DD. "household" means a housing unit and includes  
10 any place in or around the housing unit at which an occupant of  
11 the housing unit produces, manufactures, keeps or stores  
12 homegrown cannabis or homemade cannabis products;

13 EE. "immature cannabis plant" means a cannabis  
14 plant that has no observable flowers or buds;

15 FF. "industry standards" means the prevailing  
16 customary standards of business practice in the cannabis  
17 industry in jurisdictions within the United States;

18 GG. "integrated cannabis microbusiness" means a  
19 person that is authorized to conduct one or more of the  
20 following:

21 (1) production of cannabis at a single  
22 licensed premises; provided that the person shall not possess  
23 more than two hundred total mature cannabis plants at any one  
24 time;

25 (2) manufacture of cannabis products at a



1 single licensed premises;

2 (3) sales and transportation of only cannabis  
3 products produced or manufactured by that person;

4 (4) operation of only one retail  
5 establishment; and

6 (5) couriering of cannabis products to  
7 qualified patients, primary caregivers, reciprocal participants  
8 or directly to consumers;

9 HH. "licensed premises" means a location that  
10 includes:

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

14 (2) all areas outside of a building that are  
15 specifically included in the license for the production,  
16 manufacturing, wholesale sale or retail sale of cannabis  
17 products; and

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

23 II. "local jurisdiction" means a municipality, home  
24 rule municipality or county;

25 JJ. "manufacture" means to compound, blend,

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

1 extract, infuse, package or otherwise prepare a cannabis  
2 product;

3 KK. "medical cannabis" means cannabis products used  
4 by a qualified patient or reciprocal participant in accordance  
5 with the Lynn and Erin Compassionate Use Act;

6 LL. "medical cannabis program" means the program  
7 created pursuant to the Lynn and Erin Compassionate Use Act;

8 MM. "medical cannabis registry" means the system by  
9 which the department of health approves or denies applications  
10 and issues and renews registry identification cards for  
11 qualified patients;

12 NN. "primary caregiver" means a resident of New  
13 Mexico who is at least eighteen years of age and who is  
14 responsible for managing the well-being of a qualified patient  
15 with respect to the medical use of cannabis pursuant to the  
16 Lynn and Erin Compassionate Use Act;

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

24 PP. "qualified patient" means a resident of New  
25 Mexico who holds a registry identification card pursuant to the

.221014.5GLG

underscored material = new  
[bracketed material] = delete

1 Lynn and Erin Compassionate Use Act;

2 QQ. "reciprocal participant" means a person who is  
3 not a resident of New Mexico and who holds proof of enrollment  
4 by a governmental regulatory authority to participate in the  
5 medical cannabis program of another state of the United States,  
6 the District of Columbia or a territory or commonwealth of the  
7 United States in which the person resides or a person who holds  
8 proof of enrollment by a governmental regulatory authority of a  
9 New Mexico Indian nation, tribe or pueblo to participate in its  
10 medical cannabis program;

11 RR. "retail establishment" means a location at  
12 which cannabis products are sold to qualified patients, primary  
13 caregivers, reciprocal participants and directly to consumers;

14 SS. "superintendent" means the superintendent of  
15 regulation and licensing;

16 TT. "unprocessed" means unaltered from an original,  
17 raw or natural state; and

18 UU. "vertically integrated cannabis establishment"  
19 means a person that is authorized to act as any of the  
20 following:

- 21 (1) a cannabis courier;
- 22 (2) a cannabis manufacturer;
- 23 (3) a cannabis producer; and
- 24 (4) a cannabis retailer.

25 SECTION 3. [NEW MATERIAL] DIVISION--POWERS AND DUTIES--

.221014.5GLG

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

1 RULEMAKING--ADVISORY COMMITTEE CREATED--MEMBERSHIP--DUTIES.--

2 A. The "cannabis control division" is created in  
3 the department to administer the Cannabis Regulation Act and  
4 the licensing provisions of the Lynn and Erin Compassionate Use  
5 Act and rules promulgated in accordance with those acts. Rules  
6 shall be adopted and promulgated as provided in the State Rules  
7 Act.

8 B. No later than January 1, 2022, the division  
9 shall promulgate rules that are consistent with industry  
10 standards necessary for the division to carry out its duties  
11 pursuant to the Cannabis Regulation Act as follows:

12 (1) qualifications and procedures for  
13 licensure; provided that qualifications shall be directly and  
14 demonstrably related to the operation of the applicable  
15 cannabis establishment;

16 (2) security requirements for a cannabis  
17 establishment;

18 (3) requirements related to:

19 (a) inspection and monitoring of a  
20 cannabis establishment;

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

23 (c) prevention of the sale or diversion  
24 of cannabis products in commercial cannabis activity to a  
25 person under the age of twenty-one;

.221014.5GLG

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

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

5 (4) rules providing that:

6 (a) a person who is twenty-one years old  
7 or older shall not purchase more than two ounces of cannabis,  
8 sixteen grams of cannabis extract and eight hundred milligrams  
9 of edible cannabis at one time; and

10 (b) as to commercial cannabis activity:

11 1) a consumer shall not possess more than two ounces of  
12 cannabis, sixteen grams of cannabis extract and eight hundred  
13 milligrams of edible cannabis outside the consumer's private  
14 residence; 2) any cannabis in excess of the amounts described  
15 in Item 1) of this subparagraph shall be stored in the person's  
16 residence and shall not be visible from a public place; and 3)  
17 the division shall not limit the amount of tetrahydrocannabinol  
18 concentration in a cannabis product; provided that the division  
19 may adopt requirements for apportionment and packaging of  
20 cannabis products;

21 (5) rules on advertising and marketing of  
22 cannabis products;

23 (6) rules on how a licensee may display  
24 cannabis products for sale;

25 (7) procedures that promote and encourage full

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

1 participation in the cannabis industry governed by the Cannabis  
2 Regulation Act by representatives of communities that have been  
3 disproportionately harmed by rates of arrest through the  
4 enforcement of cannabis prohibitions in law and policy, rural  
5 communities likely to be impacted by cannabis production and  
6 agricultural producers from economically disadvantaged  
7 communities;

8 (8) procedures that promote and encourage  
9 racial, ethnic, gender and geographic diversity and New Mexico  
10 residency among license applicants, licensees and cannabis  
11 industry employees;

12 (9) rules for a certification process to  
13 identify cannabis products for consumers from integrated  
14 cannabis microbusinesses or cannabis producer microbusinesses  
15 or owned by representatives of communities that have been  
16 disproportionately harmed by rates of arrest through the  
17 enforcement of cannabis prohibitions in law and policy and  
18 underserved communities that include tribal, acequia, land  
19 grant-merced and other rural historic communities;

20 (10) in consultation with the economic  
21 development department, development of a technical assistance  
22 resource guide for rural New Mexico residents who are seeking  
23 to establish vertically integrated cannabis establishments,  
24 cannabis producer microbusinesses or integrated cannabis  
25 microbusinesses;

.221014.5GLG

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

1 (11) in consultation with the department of  
2 environment, rules to establish:

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

6 (b) standards for food and product  
7 safety applicable to cannabis products; and

8 (c) which additives are approved for and  
9 prohibited from inclusion in cannabis products; provided that  
10 nicotine shall be prohibited;

11 (12) in consultation with the New Mexico  
12 department of agriculture and the department of environment,  
13 rules to establish standards for quality control, inspection  
14 and testing of cannabis products for potency and contaminants,  
15 except for cannabis produced or harvested for research purposes  
16 and not for ingestion; provided that all such rules and  
17 standards shall be consistent with the rules and standards for  
18 testing of medical cannabis products; and

19 (13) in consultation with the state fire  
20 marshal's office of the homeland security and emergency  
21 management department, rules with regard to health and safety.

22 C. No later than January 1, 2022, the division  
23 shall promulgate rules that are consistent with industry  
24 standards relating to cannabis training and education programs,  
25 including:

.221014.5GLG

1 (1) qualifications and procedures for  
2 licensure; and

3 (2) physical security, cybersecurity and, if  
4 applicable, security of information collected under the federal  
5 Health Insurance Portability and Accountability Act of 1996  
6 requirements.

7 D. No later than January 1, 2022, the division  
8 shall promulgate rules in consultation with the New Mexico  
9 department of agriculture, the department of environment and  
10 the office of the state engineer to establish:

11 (1) environmental protections; and

12 (2) protocols to ensure licensees' compliance  
13 with state and local laws and ordinances governing food and  
14 product safety, occupational health and safety, environmental  
15 impacts, natural resource protection, water use and quality,  
16 water supply, hazardous materials, pesticide use and wastewater  
17 discharge.

18 E. No later than January 1, 2022, the division  
19 shall adopt rules in consultation with the department of health  
20 to establish standards and determinations on requirements for  
21 reserving cannabis products for sale to qualified patients,  
22 primary caregivers and reciprocal participants.

23 F. The division shall collect and publish annually  
24 on the division's website, and present to the appropriate  
25 interim committee of the legislature, a report describing

.221014.5GLG



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

1 demographic data on license applicants, controlling persons and  
2 employees of cannabis establishments, including race,  
3 ethnicity, gender, age, residential status and whether the  
4 applicants, persons, employees or the locations where the  
5 cannabis products are produced, manufactured, sold, tested or  
6 researched are located in an underserved rural community,  
7 including tribal, acequia, land grant-merced or other rural  
8 historic communities.

9 G. The "cannabis regulatory advisory committee"  
10 shall be created no later than September 1, 2021. The  
11 committee shall advise the division on the development of rules  
12 pursuant to the Cannabis Regulation Act, including best  
13 practices and the promotion of economic and cultural diversity  
14 in licensing and employment opportunities and protection of  
15 public health and safety while ensuring a regulated environment  
16 for commercial cannabis activity that does not impose  
17 unreasonable barriers that would perpetuate, rather than reduce  
18 and eliminate, the illicit market for cannabis. A person  
19 appointed to the cannabis regulatory advisory committee shall  
20 not hold any ownership interest or investment in a licensed  
21 person pursuant to the Cannabis Regulation Act; provided that  
22 the superintendent may appoint a person who holds an ownership  
23 interest in a licensed person as a nonvoting member. The  
24 committee shall consist of the following members:

- 25 (1) the chief public defender or the chief

.221014.5GLG

1 public defender's designee;

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

4 (3) a county sheriff appointed by the  
5 executive director of the New Mexico association of counties;  
6 and

7 (4) one member for each of the following  
8 groups or professional qualifications, appointed by the  
9 superintendent:

10 (a) a cannabis policy advocacy  
11 organization;

12 (b) a labor organization;

13 (c) a qualified patient;

14 (d) a state or local agency with  
15 relevant expertise as the director and the superintendent deem  
16 appropriate;

17 (e) an Indian nation, tribe or pueblo  
18 with relevant expertise as the director and the superintendent  
19 deem appropriate;

20 (f) expertise in public health;

21 (g) expertise in regulating commercial  
22 activity for adult-use intoxicating substances;

23 (h) expertise and experience in cannabis  
24 laboratory science;

25 (i) expertise in environmental science;

.221014.5GLG

1 (j) expertise in small business  
2 development;

3 (k) expertise in water resources;

4 (l) expertise in other relevant areas as  
5 the director and the superintendent deem appropriate; and

6 (m) previous experience as a cannabis  
7 retailer, cannabis producer or cannabis manufacturer and who is  
8 a nonvoting member.

9 H. The cannabis regulatory advisory committee shall  
10 elect from among its members a chair and such other officers as  
11 it deems necessary. The committee shall meet at the call of  
12 the chair, the director or the superintendent. A majority of  
13 members currently serving constitutes a quorum for the conduct  
14 of business. Members shall serve at the pleasure of the  
15 superintendent.

16 I. Public voting members of the cannabis regulatory  
17 advisory committee are entitled to receive per diem and mileage  
18 as provided for state employees pursuant to the Per Diem and  
19 Mileage Act and shall receive no other compensation, perquisite  
20 or allowance.

21 J. The division shall:

22 (1) monitor the supply and demand of cannabis  
23 products produced in New Mexico by licensees and present  
24 annually to the appropriate interim committee of the  
25 legislature the impacts of supply on illicit cannabis products

underscored material = new  
[bracketed material] = delete

1 markets and adequate supply of cannabis products for qualified  
2 patients and reciprocal participants;

3 (2) request the department of public safety to  
4 enforce the provisions of the Cannabis Regulation Act as deemed  
5 necessary; and

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

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

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

17 B. No later than September 1, 2021, the secretary  
18 of health shall appoint a "public health and safety advisory  
19 committee" composed of no more than fifteen professionals with  
20 expertise related to cannabis products through work, training  
21 or research in public health, epidemiology, medicine, medical  
22 toxicology, poison control, road safety, occupational safety,  
23 environmental safety and emergency medicine.

24 C. Beginning December 1, 2024, the public health  
25 and safety advisory committee shall provide to the legislature,

.221014.5GLG

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

1 and the department of health shall publish on its website, an  
2 annual report on the health effects of legalizing cannabis  
3 products for adult use. The report shall include the following  
4 elements relating to cannabis product use and, as applicable,  
5 the demographics of persons who are the subject of an element:

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

17 D. In consultation with qualified patients and  
18 primary caregivers, the department of health shall publish an  
19 annual assessment report that shall include at a minimum an  
20 evaluation of the affordability and accessibility of medical  
21 cannabis.

22 E. Public members of the public health and safety  
23 advisory committee are entitled to per diem and mileage as  
24 provided for state employees pursuant to the Per Diem and  
25 Mileage Act and shall receive no other compensation, perquisite

.221014.5GLG

underscoring material = new  
[bracketed material] = delete

1 or allowance.

2 SECTION 5. [NEW MATERIAL] DEPARTMENT OF HEALTH--DUTIES--  
3 TRANSFER OF LICENSING DUTIES.--Except for administration of the  
4 medical cannabis registry, the power, duty and authority of the  
5 department of health related to the medical cannabis program  
6 shall be transferred to the division on the effective date of  
7 the Cannabis Regulation Act.

8 SECTION 6. [NEW MATERIAL] LICENSING CANNABIS ACTIVITIES--  
9 LIMITATIONS--MEDICAL CANNABIS LEGACY LICENSING--CANNABIS  
10 SHORTAGE FOR MEDICAL PROGRAM.--

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

13 (1) commercial cannabis activity and licensing  
14 related to commercial cannabis activity;

15 (2) the medical cannabis program, except for  
16 the medical cannabis registry; and

17 (3) all aspects of cannabis relating to  
18 cannabis training and education programs.

19 B. The division shall follow the provisions of the  
20 Uniform Licensing Act when licensing or permitting the  
21 following:

22 (1) cannabis consumption areas;

23 (2) cannabis couriers;

24 (3) cannabis manufacturers;

25 (4) cannabis producer microbusinesses;

- 1 (5) cannabis producers;
- 2 (6) cannabis research laboratories;
- 3 (7) cannabis retailers;
- 4 (8) cannabis servers;
- 5 (9) cannabis testing laboratories;
- 6 (10) cannabis training and education programs;
- 7 (11) integrated cannabis microbusinesses; and
- 8 (12) vertically integrated cannabis
- 9 establishments.

10 C. The division shall include a clear designation  
11 on all licenses and permits that indicates whether the license  
12 or permit is for medical cannabis activity, commercial cannabis  
13 activity or both or for cannabis training and education  
14 programs.

15 D. The division shall issue a license to a cannabis  
16 retailer applicant at a discount if the applicant provides  
17 documentation of an agreement to accept cannabis products on  
18 consignment from a cannabis producer microbusiness or an  
19 integrated cannabis microbusiness licensed pursuant the  
20 Cannabis Regulation Act.

21 E. A license is valid for twelve months from the  
22 date the license is issued and may be renewed annually, except  
23 that a license issued for a cannabis training and education  
24 program is valid until terminated by the licensee or suspended  
25 or revoked by the division.

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

1 F. The director shall not renew a license issued  
2 pursuant to the provisions of the Cannabis Regulation Act until  
3 the director receives notification from the secretary of  
4 taxation and revenue or the secretary's designee that on a  
5 certain date:

6 (1) the licensee is not a delinquent taxpayer;  
7 and

8 (2) there are no unfiled tax returns due from  
9 engaging in business authorized by the license.

10 G. No license shall be transferable or assignable  
11 from a licensee to another person. The division shall not  
12 allow a person that is licensed as any type of cannabis  
13 establishment other than a cannabis research laboratory to  
14 hold, directly or indirectly, a cannabis testing laboratory  
15 license.

16 H. Except for verification of age, the division  
17 shall not require licensees to request information from  
18 consumers or impose any residency requirement upon consumers  
19 for the purchase of cannabis products pursuant to the  
20 commercial cannabis activity authorized by the Cannabis  
21 Regulation Act. The division may require licensees to request  
22 information from consumers for the purchase of cannabis  
23 products pursuant to the medical cannabis program, which may  
24 include the presentation of legal identification issued by an  
25 authorized governmental entity or other documents as required

.221014.5GLG



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

1 by the medical cannabis program.

2 I. Except as otherwise provided in the Cannabis  
3 Regulation Act, the division shall not limit the number of  
4 licensed premises a licensee may occupy or operate under a  
5 license. Multiple licensees may occupy a single licensed  
6 premises, and the division shall not place any restriction or  
7 prohibition on the number of licensees occupying a single  
8 licensed premises or on the number of licensed premises of a  
9 cannabis establishment except as otherwise specifically  
10 provided for by the Cannabis Regulation Act. A licensee may  
11 conduct any lawful activity or any combination of lawful  
12 activities at a licensed premises; provided that the licensee  
13 is not a licensee pursuant to the Liquor Control Act.

14 J. Licensees are specifically allowed to conduct  
15 other licensed activities, including activities pursuant to the  
16 Hemp Manufacturing Act, except for sales of alcoholic  
17 beverages.

18 K. A person properly licensed and in good standing  
19 pursuant to the Lynn and Erin Compassionate Use Act on the  
20 effective date of the Cannabis Regulation Act may continue to  
21 operate under that license for medical cannabis until  
22 comparable licenses for commercial cannabis activity are  
23 available. The division shall determine when retail sales of  
24 commercial cannabis products begin, but no later than April 1,  
25 2022. A facility of such a licensee, upon issuance of the

.221014.5GLG

1 applicable cannabis establishment license, shall constitute  
2 licensed premises of the licensee and the licensee shall be  
3 entitled to continued and uninterrupted operations of the  
4 licensed premises. As to activity under the medical cannabis  
5 program, the licensee shall continue to operate under rules  
6 promulgated for the medical cannabis program until the division  
7 promulgates rules for medical cannabis activity, except that a  
8 qualified patient, a primary caregiver and a reciprocal  
9 participant shall not be prohibited from purchasing and  
10 obtaining cannabis products pursuant to the medical cannabis  
11 program.

12 L. To address a shortage of cannabis supply in the  
13 medical cannabis program, the division may:

14 (1) require all cannabis establishment  
15 licensees to ensure that at least ten percent of their cannabis  
16 in stock on a monthly basis is designated for sale to qualified  
17 patients, primary caregivers and reciprocal participants;

18 (2) initially take reasonable measures to  
19 expeditiously incentivize increased production of cannabis  
20 plants to remedy a shortage of cannabis supply in the medical  
21 cannabis program;

22 (3) after having first exhausted measures to  
23 increase production of cannabis plants to address the shortage  
24 of cannabis supply in the medical cannabis program, exclude  
25 commercial cannabis activity from the scope of new licenses

.221014.5GLG

1 issued to initial applicants for a vertically integrated  
2 cannabis establishment, cannabis producer, integrated cannabis  
3 microbusiness, cannabis producer microbusiness or cannabis  
4 manufacturer license, which limitation shall be in force for a  
5 period of at least six months; and

6 (4) require licensees who are licensed to  
7 produce cannabis to produce a specified quota of mature  
8 cannabis plants to be designated for use in the medical  
9 cannabis program; provided that:

10 (a) the division may require a licensee  
11 to devote no more than twenty-five percent of the licensee's  
12 cultivated cannabis plants on a monthly basis for use in the  
13 medical cannabis program; and

14 (b) the division may require specific  
15 tracking of cannabis plants.

16 M. As used in this section, "shortage of cannabis  
17 supply in the medical cannabis program" means that the average  
18 number of cannabis plants in production in the medical cannabis  
19 program per qualified patient after the effective date of the  
20 Cannabis Regulation Act is substantially less than the average  
21 number of cannabis plants in production in the medical cannabis  
22 program per qualified patient as of the effective date of the  
23 Cannabis Regulation Act, where:

24 (1) the average number of cannabis plants in  
25 production after the effective date of the Cannabis Regulation

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

1 Act is measured over a period of three consecutive months; and

2 (2) the average number of cannabis plants in  
3 production as of the effective date of the Cannabis Regulation  
4 Act is measured over a period of three consecutive months  
5 immediately preceding the effective date of the Cannabis  
6 Regulation Act.

7 SECTION 7. [NEW MATERIAL] COMMERCIAL CANNABIS ACTIVITY  
8 LICENSING--APPLICATION--ISSUANCE AND DENIAL OF A LICENSE.--

9 A. A license issued pursuant to the Cannabis  
10 Regulation Act shall not be subject to execution, attachment, a  
11 security transaction, liens or receivership.

12 B. In carrying out its commercial cannabis activity  
13 licensing duties, the division shall:

14 (1) no later than September 1, 2021, accept  
15 and begin processing license applications for cannabis  
16 producers, cannabis producer microbusinesses and any person  
17 properly licensed and in good standing as a licensed cannabis  
18 producer pursuant to the Lynn and Erin Compassionate Use Act;

19 (2) no later than January 1, 2022, accept and  
20 begin processing license applications for all license types;

21 (3) require as a condition of licensing  
22 pursuant to the Cannabis Regulation Act that the applicant  
23 demonstrate that the applicant has a legal right to a  
24 commercial water supply, water rights or another source of  
25 water sufficient to meet the water needs as determined by the

.221014.5GLG

1 division related to the license as evidenced by documentation  
2 from the office of the state engineer of a valid water right or  
3 from a water provider that the use of water for cannabis  
4 production is compliant with that water provider's rules;

5 (4) if an applicant applies for a cannabis  
6 producer license or a cannabis manufacturer license, in  
7 addition to the requirements in Paragraph (3) of this  
8 subsection, require that the applicant submit a plan to use, or  
9 demonstrate to the division that the applicant cannot feasibly  
10 use, energy and water reduction opportunities, including:

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

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

15 (c) renewable energy generation; and

16 (5) allow commercial cannabis activity retail  
17 sales no later than April 1, 2022 and otherwise allow  
18 activities authorized by the Cannabis Regulation Act or the  
19 medical cannabis program as of the time of licensure of a  
20 licensee, so long as a minimum of twenty-five percent of  
21 monthly cannabis sales are to qualified patients, primary  
22 caregivers and reciprocal participants or sold wholesale to  
23 other licensees that meet or exceed the twenty-five percent  
24 sales to qualified patients, primary caregivers and reciprocal  
25 participants until December 31, 2022.

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

1           C. Once the division deems an application complete,  
2 the division has ninety days to issue or deny a license  
3 application.

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

6                   (1) the application does not include  
7 information required by the division; or

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

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

25                   (1) a felony conviction involving fraud,

.221014.5GLG

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

1       deceit or embezzlement;

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

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

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

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

11                      F. A conviction for which the related sentence,  
12      including any term of probation or parole, is completed for the  
13      possession, use, manufacture, distribution or dispensing or the  
14      possession with the intent to manufacture, distribute or  
15      dispense cannabis is not considered substantially related to  
16      the qualifications, functions or duties of a person seeking a  
17      license and shall not be the sole ground on which an  
18      application is denied. The division shall comply with the  
19      provisions of the Criminal Offender Employment Act.

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

24                      H. The division shall not license a person who has  
25      had a license that was issued pursuant to the Cannabis

.221014.5GLG

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

1 Regulation Act or the Lynn and Erin Compassionate Use Act  
2 revoked by the division or the department of health in the  
3 three years immediately preceding the date on which the person  
4 filed a new application.

5 I. Unless otherwise provided in the Cannabis  
6 Regulation Act, a person whose license has been revoked may  
7 reapply for a license after a period of three years. The  
8 division may consider all of the circumstances resulting in the  
9 revocation in determining whether to issue a new license.

10 J. The division shall adopt rules providing for  
11 submission of an applicant's fingerprints to the federal bureau  
12 of investigation to conduct a national criminal history  
13 background check and to the department of public safety to  
14 conduct a state criminal history check for the following  
15 licensees:

- 16 (1) cannabis manufacturer;
- 17 (2) cannabis producer;
- 18 (3) cannabis producer microbusiness;
- 19 (4) cannabis research laboratory;
- 20 (5) cannabis retailer;
- 21 (6) cannabis testing laboratory;
- 22 (7) integrated cannabis microbusiness; and
- 23 (8) vertically integrated cannabis  
24 establishment.

25 K. The division shall conduct national criminal

.221014.5GLG



underscored material = new  
[bracketed material] = delete

1 history background checks and state criminal history checks on  
2 the following:

3 (1) if an applicant is a limited partnership,  
4 each partner of the limited partnership;

5 (2) if the applicant is a limited liability  
6 company, each member of the limited liability company;

7 (3) if the applicant is a corporation, each  
8 director and officer of the corporation; and

9 (4) any controlling person of the applicant.

10 L. Arrest record information received from the  
11 federal bureau of investigation and the department of public  
12 safety shall be confidential, shall not be considered a public  
13 record pursuant to the Public Records Act and shall not be  
14 disclosed to persons not directly involved in the decision  
15 affecting the applicant.

16 M. Electronic live fingerprint scans may be used  
17 when conducting criminal history background checks.

18 SECTION 8. [NEW MATERIAL] LICENSEES--DISCIPLINARY  
19 ACTIONS--SANCTIONS--CIVIL PENALTY.--

20 A. A violation of the provisions of the Cannabis  
21 Regulation Act by a licensee is grounds for disciplinary  
22 action.

23 B. The division may:

24 (1) impose an intermediate sanction  
25 established by rule;

.221014.5GLG

underscored material = new  
[bracketed material] = delete

1 (2) impose a directed plan of correction;  
2 (3) assess a civil monetary penalty  
3 established by rule; provided that a civil monetary penalty  
4 shall not exceed ten thousand dollars (\$10,000) per violation;  
5 and provided further that penalties and interest recovered  
6 pursuant to the Cannabis Regulation Act on behalf of the state  
7 shall be remitted to the state treasurer for deposit in the  
8 current school fund; or

9 (4) suspend or revoke the license.

10 C. The division shall promulgate rules specifying  
11 the criteria for imposition of sanctions and civil monetary  
12 penalties.

13 D. The provisions of this section do not apply to  
14 occupational health and safety rules promulgated pursuant to  
15 Section 3 of the Cannabis Regulation Act.

16 E. A person aggrieved by an action taken by the  
17 division pursuant to this section may request and receive a  
18 hearing with the superintendent for the purpose of reviewing  
19 the action in accordance with the Uniform Licensing Act.

20 SECTION 9. [NEW MATERIAL] APPLICATION AND LICENSING  
21 FEES.--

22 A. Every application for the issuance or renewal of  
23 the following licenses shall be accompanied by a license fee in  
24 the following specified amounts:

25 (1) a cannabis courier license, up to one

1 thousand five hundred dollars (\$1,500) per year and an  
2 additional fee of up to one thousand dollars (\$1,000) per year  
3 for each additional licensed premises of the licensee;

4 (2) a cannabis testing laboratory license, up  
5 to two thousand five hundred dollars (\$2,500) per year and an  
6 additional fee of up to one thousand dollars (\$1,000) per year  
7 for each additional licensed premises of the licensee;

8 (3) a cannabis manufacturer license, two  
9 thousand five hundred dollars (\$2,500) per year and an  
10 additional fee of one thousand dollars (\$1,000) per year for  
11 each additional licensed premises of the licensee;

12 (4) a cannabis producer license, two thousand  
13 five hundred dollars (\$2,500) per year and an additional fee of  
14 one thousand dollars (\$1,000) per year for each additional  
15 licensed premises of the licensee;

16 (5) a cannabis retailer license, two thousand  
17 five hundred dollars (\$2,500) per year and an additional fee of  
18 one thousand dollars (\$1,000) per year for each additional  
19 licensed premises of the licensee;

20 (6) a cannabis research laboratory license,  
21 two thousand five hundred dollars (\$2,500) per year and an  
22 additional fee of one thousand dollars (\$1,000) per year for  
23 each additional licensed premises of the licensee;

24 (7) a vertically integrated cannabis  
25 establishment license, seven thousand five hundred dollars

1 (\$7,500) per year and an additional fee of one thousand dollars  
2 (\$1,000) per year for each licensed premises of the licensee;

3 (8) a cannabis producer microbusiness license,  
4 up to one thousand dollars (\$1,000) per year;

5 (9) an integrated cannabis microbusiness  
6 license, up to two thousand five hundred dollars (\$2,500) per  
7 year and an additional fee of five hundred dollars (\$500) per  
8 year for each licensed premises of the licensee; and

9 (10) a cannabis consumption area, up to two  
10 thousand five hundred dollars (\$2,500) per year.

11 B. Except for cannabis producer microbusinesses and  
12 integrated cannabis microbusinesses, a licensee cultivating  
13 cannabis plants shall be assessed an additional annual fee no  
14 greater than fifty dollars (\$50.00) per mature cannabis plant  
15 at the time of licensing or renewal.

16 C. A licensee may increase the number of mature  
17 plants licensed at the time of renewal and one other time per  
18 year in increments of five hundred mature plants. Fees may be  
19 prorated for the remainder of the licensing year.

20 D. The initial application fee and the annual  
21 renewal fee for a vertically integrated cannabis establishment  
22 license shall not exceed one hundred twenty-five thousand  
23 dollars (\$125,000) for a license for both medical cannabis  
24 activity and commercial cannabis activity. The initial  
25 application fee and the annual renewal fee for a license or

underscored material = new  
[bracketed material] = delete

1 renewal of a license that authorizes only medical cannabis  
2 activity shall be one-half the fee applicable to a license  
3 authorizing both medical cannabis activity and commercial  
4 cannabis activity.

5 E. If a cannabis producer microbusiness or an  
6 integrated cannabis microbusiness enters into a business  
7 arrangement with another licensee with the purpose or having  
8 the effect of evading the limitations of the licensee's  
9 license, such licensee shall not be eligible for the lower fee  
10 prescribed in Subsection A of this section and shall pay the  
11 per-plant fee prescribed in Subsection B of this section.

12 F. The division shall collect all renewal fees,  
13 including the renewal fees for all licensed premises, at the  
14 time of renewal of a license.

15 G. The fee for the issuance of a cannabis server  
16 permit shall not exceed thirty-five dollars (\$35.00).

17 H. The division shall deposit all fees collected  
18 pursuant to the Cannabis Regulation Act in the cannabis  
19 regulation fund.

20 SECTION 10. [NEW MATERIAL] CANNABIS TRAINING AND  
21 EDUCATION PROGRAM LICENSING--SANCTIONS.--

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

24 B. The division may suspend a license for repeated  
25 violations of the same serious and substantial rule promulgated

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

1 pursuant to the Cannabis Regulation Act pertaining to public  
2 health and safety.

3 SECTION 11. [NEW MATERIAL] CANNABIS SERVER PERMITS--  
4 CANNABIS SERVERS--PERMIT REQUIRED--APPLICATIONS--EDUCATION  
5 PROGRAM APPROVAL REQUIRED--ISSUANCE OR DENIAL OF A PERMIT OR  
6 APPROVAL--PENALTIES.--

7 A. The division shall promulgate rules consistent  
8 with this section and industry standards for issuance of a  
9 cannabis server permit and licenses for a cannabis consumption  
10 area. A cannabis research laboratory or an employee of the  
11 laboratory is not required to obtain or possess a cannabis  
12 server permit while performing activities authorized pursuant  
13 to a cannabis research laboratory.

14 B. The division shall issue cannabis server permits  
15 to persons twenty-one years of age or older who satisfy the  
16 requirements of this section and rules promulgated by the  
17 division. An applicant shall provide proof of satisfactory  
18 completion of a program provided by a cannabis server permit  
19 education provider approved by the division. A person shall  
20 not be employed as a cannabis server on a licensed premises  
21 unless that person obtains a cannabis server permit within  
22 thirty days of employment.

23 C. The cannabis server education program curriculum  
24 shall include the following subjects:

25 (1) the effect cannabis products have on the

.221014.5GLG

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

1 body and behavior, including the effect on a person's ability  
2 to operate a motor vehicle when under the influence of cannabis  
3 products;

4 (2) the effect cannabis products have on a  
5 person when used in combination with alcohol or legal or  
6 illegal drugs;

7 (3) state laws concerning cannabis licensure,  
8 cannabis liability issues and driving under the influence of  
9 cannabis;

10 (4) methods of recognizing problem cannabis  
11 product users and techniques for intervening with problem  
12 cannabis product users;

13 (5) methods of identifying false driver's  
14 licenses and other documents used as evidence of age and  
15 identity to prevent the sale of cannabis products to a person  
16 under twenty-one years of age pursuant to the Cannabis  
17 Regulation Act; and

18 (6) harm reduction practices related to  
19 cannabis use.

20 D. A cannabis server permit is the property of the  
21 state and shall be immediately returned to the division upon  
22 suspension or revocation or denial of renewal of a permit.

23 E. Cannabis server permits shall be valid for a  
24 period of three years from the date the permit is issued and  
25 may be renewed upon providing proof that the permit holder has

.221014.5GLG

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

1 successfully completed up to four and one-half hours of  
2 continuing education and an examination as determined by the  
3 division.

4 F. In addition to any other penalties provided by  
5 law, the following penalties may be imposed for sales, service  
6 or dispensing a cannabis product to a person under twenty-one  
7 years of age in violation of the provisions of the Cannabis  
8 Regulation Act or rules of the division:

9 (1) the division may suspend a cannabis server  
10 permit for a period of thirty days if the director finds that  
11 the cannabis server is guilty of a first offense of selling,  
12 serving or dispensing a cannabis product to a person under  
13 twenty-one years of age;

14 (2) the division shall suspend a cannabis  
15 server permit for a period of one year when the division finds  
16 that the cannabis server is guilty of a second offense of  
17 selling, serving or dispensing a cannabis product to a person  
18 under twenty-one years of age in violation of the Cannabis  
19 Regulation Act arising separately from the incident giving rise  
20 to the cannabis server's first offense;

21 (3) the division shall permanently revoke a  
22 cannabis server permit when it finds that the cannabis server  
23 is guilty of a third offense of selling, serving or dispensing  
24 a cannabis product to a person under twenty-one years of age in  
25 violation of the Cannabis Regulation Act arising separately

.221014.5GLG



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

1 from the incidents giving rise to the cannabis server's first  
2 and second offenses; and

3 (4) no person whose cannabis server permit is  
4 suspended pursuant to the provisions of this section shall  
5 offer, sell, serve or dispense a cannabis product as part of  
6 commercial cannabis activity in a cannabis consumption area  
7 during the period of suspension.

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

9 A. A local jurisdiction may:

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

15 (2) allow for the smoking, vaporizing and  
16 ingesting of cannabis products within an indoor or outdoor  
17 cannabis consumption area if:

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

22 (b) the cannabis establishment or  
23 integrated cannabis microbusiness is located at a minimum  
24 distance from a school or daycare center as determined by the  
25 local jurisdiction, but which minimum distance shall not be set

.221014.5GLG

underscored material = new  
[bracketed material] = delete

1 at any more than three hundred feet from a school or daycare  
2 center that was in existence at the time the establishment or  
3 microbusiness was licensed.

4 B. A local jurisdiction shall not:

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

8 (2) completely prohibit the operation of a  
9 licensee;

10 (3) prohibit or limit signage attached to or  
11 located on licensed premises that identifies the premises as a  
12 cannabis establishment;

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

18 (5) require an existing licensee at a licensed  
19 premises to relocate; or

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

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

23 A. Conduct by a licensee or a licensee  
24 representative that is allowed pursuant to a license and  
25 conduct by a person that allows property to be used by a

.221014.5GLG

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

1 licensee or a licensee representative for conduct allowed  
2 pursuant to a license is lawful, not a violation of state or  
3 local law and is not a basis for seizure or forfeiture of any  
4 property or assets under state or local law.

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

11 SECTION 14. ~~[NEW MATERIAL]~~ PROTECTION OF UNDERAGE  
12 PERSONS--PROVIDING CANNABIS PRODUCTS TO MINORS--PENALTIES.--

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

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

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

.221014.5GLG

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

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

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

6 B. A licensee shall not employ a person younger  
7 than twenty-one years of age to engage in a commercial cannabis  
8 activity.

9 C. The division shall suspend or revoke the license  
10 and may fine the licensee in an amount not to exceed ten  
11 thousand dollars (\$10,000), or both, when the division finds  
12 that a licensee or the licensee's employee or agent knowingly  
13 has sold, served or given any cannabis product to a person  
14 under twenty-one years of age.

15 D. The establishment of all of the following facts  
16 by a licensee prosecuted for a violation of Subsection D of  
17 this section and a cannabis server for a violation of  
18 Subsection F of Section 11 of the Cannabis Regulation Act shall  
19 constitute a defense:

20 (1) that the purchaser falsely represented in  
21 writing; by producing a driver's license bearing the  
22 purchaser's photograph; by producing a photographic  
23 identification card issued by the motor vehicle division of the  
24 taxation and revenue department; or by producing a similar  
25 identification card issued pursuant to the laws of this state,

.221014.5GLG

underscored material = new  
[bracketed material] = delete

1 another state, the federal government or the government of an  
2 Indian nation, tribe or pueblo that the person was twenty-one  
3 years of age or older;

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

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

13 E. Nothing in this section shall be construed or  
14 interpreted to prevent:

15 (1) the division from enforcing its rules  
16 against a licensee;

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

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

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

24 A. A vertically integrated cannabis establishment,  
25 cannabis retailer or integrated cannabis microbusiness may

.221014.5GLG

underscored material = new  
[bracketed material] = delete

1 courier cannabis products.

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

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

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

8 SECTION 17. [NEW MATERIAL] CANNABIS PRODUCTS--PACKAGING  
9 AND LABELING--DIVISION RULEMAKING.--

10 A. Cannabis or cannabis extract included in a  
11 cannabis product that is manufactured in compliance with  
12 applicable law is not considered to be an adulterant under  
13 state law.

14 B. The division shall promulgate rules consistent  
15 with industry standards for cannabis products that establish  
16 labeling and packaging requirements, including that:

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

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

22 (3) labels shall include:

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

.221014.5GLG

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

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

6 (c) potency and pesticide use;

7 (d) a list of pharmacologically active  
8 ingredients;

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

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

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

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

24 (i) an expiration date; and

25 (j) other information as required by

.221014.5GLG

underscored material = new  
[bracketed material] = delete

1 rules promulgated pursuant to the Cannabis Regulation Act.

2 SECTION 18. [NEW MATERIAL] TESTING CANNABIS PRODUCTS--  
3 HEALTH AND SAFETY OF EMPLOYEES.--

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

7 B. In consultation with the department of  
8 environment and consistent with industry standards, the  
9 division shall promulgate rules to:

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

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

15 (3) specify which persons bear the cost of  
16 testing cannabis products and medical cannabis;

17 (4) provide for recordkeeping;

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

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

23 (7) specify protocols for testing sample  
24 collection that ensure accurate test results, including  
25 requiring that testing samples be collected by laboratory staff



underscored material = new  
[bracketed material] = delete

1 trained in testing sample collection; and

2 (8) require destruction of a tested batch of  
3 cannabis products if the testing samples from the tested batch  
4 indicate noncompliance with applicable health and safety  
5 standards promulgated by the division, unless remedial measures  
6 can bring the cannabis products into compliance with the  
7 standards or the cannabis products can be used for research  
8 purposes.

9 C. Beginning no later than April 1, 2022, the  
10 division shall identify, in consultation with the department of  
11 environment, a set of updated certified reference materials for  
12 laboratory testing to be measured against.

13 D. The division shall work cooperatively with the  
14 department of environment to implement inspection of cannabis  
15 establishments to ensure the health and safety of employees in  
16 accordance with the Occupational Health and Safety Act and to  
17 determine compliance with rules promulgated by the  
18 environmental improvement board.

19 SECTION 19. [NEW MATERIAL] RESEARCHING CANNABIS--  
20 RECORDKEEPING.--

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

24 B. The division shall develop rules and procedures  
25 consistent with industry standards to provide for recordkeeping

.221014.5GLG

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

1 to ensure that cannabis products are not removed from the  
2 cannabis research laboratory premises.

3 SECTION 20. [NEW MATERIAL] ADVERTISING AND MARKETING  
4 RESTRICTIONS.--The division shall promulgate rules consistent  
5 with industry standards that:

6 A. prohibit the advertisement and marketing of  
7 cannabis products:

8 (1) on radio, television or other broadcast  
9 media, internet pop-ups and mass transit vehicles; provided  
10 that the division shall not prohibit advertising and marketing  
11 to:

12 (a) subscribers of subscription-based  
13 radio, television or other broadcast media who are twenty-one  
14 years of age or older; or

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

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

19 (3) that are on billboards, posters, handbills  
20 or other visual media that are located or can be viewed within  
21 three hundred feet of a school, daycare center or church;

22 (4) that depict consumption by children or  
23 other persons who appear to be younger than twenty-one years of  
24 age;

25 (5) that use predatory marketing and

underscoring material = new  
[bracketed material] = delete

1 advertising practices targeting minors; or

2 (6) that are designed using cartoon characters  
3 or to mimic any other product brand; and

4 B. require:

5 (1) all advertisements and marketing to  
6 accurately and legibly identify all persons responsible for its  
7 content; and

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

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

21 SECTION 22. [NEW MATERIAL] PROVISION OF PROFESSIONAL  
22 SERVICES.--An attorney, accountant, insurance agent, real  
23 estate agent, security guard or other person engaged in a  
24 profession subject to state licensure shall not be subject to  
25 disciplinary action by a professional association, a state

.221014.5GLG

underscoring material = new  
[bracketed material] = delete

1 professional board or a state licensing entity because the  
2 professional provides professional services or assistance to  
3 prospective or licensed cannabis establishments or another  
4 person in connection with activity that the professional  
5 reasonably believes complies with the Cannabis Regulation Act  
6 and rules promulgated pursuant to that act.

7 SECTION 23. [NEW MATERIAL] MEDICAL CANNABIS PROVISIONS  
8 UNAFFECTED.--Nothing in the Cannabis Regulation Act shall be  
9 construed to limit a privilege or right of a qualified patient,  
10 a primary caregiver or a reciprocal participant participating  
11 in the medical cannabis program or the use, dispensing,  
12 possession, prescribing, storage or transport of a prescription  
13 drug containing cannabis that is approved pursuant to the  
14 Federal Food, Drug, and Cosmetic Act.

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

17 A. Conduct allowed pursuant to the Cannabis  
18 Regulation Act shall not in itself constitute grounds for a  
19 holder of a professional or occupational license to be subject  
20 to professional discipline for providing advice or services  
21 related to cannabis establishments or applications to operate  
22 cannabis establishments on the basis that cannabis is illegal  
23 under federal law.

24 B. An applicant for a professional or occupational  
25 license shall not be denied a license based solely on previous

.221014.5GLG

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

1 employment related to cannabis establishments.

2 C. A person shall not be denied parental rights or  
3 custody of or visitation with a minor child by the state or  
4 local government based solely on conduct that is lawful  
5 pursuant to the Cannabis Regulation Act unless the person's  
6 behavior is such that it creates an unreasonable danger to the  
7 minor child that can be established by clear and convincing  
8 evidence.

9 D. A person currently under parole, probation or  
10 other state supervision or released awaiting trial or other  
11 hearing shall not be punished or otherwise penalized based  
12 solely on conduct that is lawful pursuant to the Cannabis  
13 Regulation Act unless prohibition on the use or possession of  
14 cannabis has been a specific condition of parole, probation or  
15 other state supervision or release awaiting trial or other  
16 hearing.

17 E. A person shall not be denied eligibility in  
18 public assistance programs or denied health care based solely  
19 on conduct that is lawful pursuant to the Cannabis Regulation  
20 Act unless required by federal law.

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

22 A. The following conduct is lawful for a person who  
23 is twenty-one years of age or older and shall not constitute  
24 grounds for detention, search or arrest of a person or search  
25 of property, and cannabis products that relate to the conduct

.221014.5GLG

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

1 are not contraband or subject to seizure or forfeiture pursuant  
2 to the Controlled Substances Act or the Forfeiture Act:

3 (1) possessing, using, being under the  
4 influence of, displaying, purchasing, obtaining or transporting  
5 not more cannabis than authorized by the Cannabis Regulation  
6 Act or the medical cannabis program;

7 (2) possessing in excess of two ounces of  
8 cannabis, sixteen grams of cannabis extract and eight hundred  
9 milligrams of edible cannabis if the excess is stored in the  
10 person's private residence and not visible from a public place;

11 (3) transferring, without financial  
12 consideration, to a person who is twenty-one years of age or  
13 older not more than the amount of cannabis lawfully purchased  
14 and obtained pursuant to the Cannabis Regulation Act or the  
15 medical cannabis program;

16 (4) ingesting or otherwise consuming cannabis  
17 or cannabis products purchased and obtained pursuant to the  
18 Cannabis Regulation Act or the medical cannabis program;

19 (5) possessing, using, displaying, purchasing,  
20 obtaining or manufacturing cannabis extract using nonvolatile  
21 solvents, alcohol or carbon dioxide or no solvents;

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

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

.221014.5GLG

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

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

4 (8) smoking cannabis or cannabis products in  
5 an area authorized pursuant to the Cannabis Regulation Act or a  
6 local jurisdiction;

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

18 (10) transporting homegrown cannabis or mature  
19 or immature cannabis plants when the person is moving the  
20 person's residence to another location or for purposes of  
21 testing or manufacturing.

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

.221014.5GLG

underscored material = new  
[bracketed material] = delete

1 paraphernalia.

2 C. None of the following shall, individually or in  
3 combination with each other, constitute reasonable articulable  
4 suspicion of a crime and is not a basis to stop, detain or  
5 search a person:

6 (1) the odor of cannabis or cannabis extract  
7 or of burnt cannabis or cannabis extract;

8 (2) the possession of or the suspicion of  
9 possession of cannabis without evidence of quantity in excess  
10 of two ounces of cannabis, sixteen grams of cannabis extract  
11 and eight hundred milligrams of edible cannabis; or

12 (3) the possession of multiple containers of  
13 cannabis without evidence of quantity in excess of two ounces  
14 of cannabis, sixteen grams of cannabis extract and eight  
15 hundred milligrams of edible cannabis.

16 D. Paragraph (1) of Subsection A and Subsection C  
17 of this section shall not apply when a law enforcement officer  
18 is investigating whether a person is operating a vehicle or  
19 watercraft while intoxicated or under the influence of or  
20 impaired by alcohol or a drug or any combination thereof in  
21 violation of Section 66-8-102 or 66-13-3 NMSA 1978.

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

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

.221014.5GLG



underscored material = new  
[bracketed material] = delete

1 (1) allow a person to smoke cannabis products  
2 in a public place, except in a cannabis consumption area; or

3 (2) restrict the ability of a person to  
4 prohibit conduct otherwise allowed in the Cannabis Regulation  
5 Act on the person's privately owned property.

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

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

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

20 SECTION 27. [NEW MATERIAL] PERSONAL PRODUCTION OF  
21 CANNABIS--PENALTIES.--

22 A. Unless otherwise provided in the Cannabis  
23 Regulation Act, it is unlawful for a person without a license  
24 to intentionally produce cannabis products except as provided  
25 in this section.

.221014.5GLG

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

1           B. A person twenty-one years of age or older who  
2 intentionally produces:

3                   (1) more than six and up to twelve mature or  
4 immature cannabis plants shall be issued a penalty assessment  
5 pursuant to Section 31-19A-1 NMSA 1978 and is subject to a fine  
6 of fifty dollars (\$50.00); and

7                   (2) more than twelve mature or immature  
8 cannabis plants is guilty of a fourth degree felony and may be  
9 sentenced as provided in Section 31-18-15 NMSA 1978.

10           C. A person who is eighteen years of age or older  
11 but less than twenty-one years of age who intentionally  
12 produces:

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

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

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

25           D. A person who is less than eighteen years of age

underscoring material = new  
[bracketed material] = delete

1 who intentionally produces cannabis products is guilty of civil  
2 violation and shall be subject to:

3 (1) attendance at a four-hour evidence-based  
4 drug education and legal rights program at no cost to the  
5 minor; or

6 (2) four hours of community service.

7 SECTION 28. [NEW MATERIAL] UNLICENSED SALES OF CANNABIS--  
8 PENALTIES.--

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

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

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

14 B. Unless otherwise provided in the Cannabis  
15 Regulation Act or the Lynn and Erin Compassionate Use Act, it  
16 is unlawful for a person without a license to intentionally  
17 traffic cannabis products.

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

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

23 (2) four hours of community service.

24 D. Except as otherwise provided in Section 14 of  
25 the Cannabis Regulation Act, a person eighteen years of age or

.221014.5GLG

underscoring material = new  
[bracketed material] = delete

1 older who violates Subsection B of this section is guilty of a  
2 misdemeanor and shall be sentenced pursuant to the provisions  
3 of Section 31-19-1 NMSA 1978.

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

12 SECTION 29. [NEW MATERIAL] CANNABIS WITHIN RESTRICTED  
13 AREA--PENALTY.--Unless otherwise allowed in the Cannabis  
14 Regulation Act or the Lynn and Erin Compassionate Use Act, a  
15 person shall not possess or intentionally distribute any amount  
16 of a cannabis product on the premises of a school or daycare  
17 center unless the person is a qualified patient, a primary  
18 caregiver or a reciprocal participant; provided that this  
19 section shall not apply to a person who possesses a cannabis  
20 product for authorized purposes on the premises of a licensed  
21 cannabis training and education program. A person who violates  
22 this section is guilty of a misdemeanor and shall be sentenced  
23 pursuant to the provisions of Section 31-19-1 NMSA 1978.

24 SECTION 30. [NEW MATERIAL] UNLAWFUL POSSESSION OF  
25 CANNABIS--PENALTIES.--Except as allowed in the Cannabis

.221014.5GLG

underscored material = new  
[bracketed material] = delete

1 Regulation Act and the Lynn and Erin Compassionate Use Act:

2 A. a person under twenty-one years of age shall not  
3 possess cannabis products. A person who violates this  
4 subsection is guilty of a civil violation and shall be subject  
5 to:

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

9 (2) four hours of community service; and

10 B. a person twenty-one years of age or older shall  
11 not possess more than two ounces of cannabis, sixteen grams of  
12 cannabis extract and eight hundred milligrams of edible  
13 cannabis in public. A person who violates this subsection with  
14 respect to:

15 (1) more than two but not more than eight  
16 ounces of cannabis, more than sixteen grams of cannabis extract  
17 and more than eight hundred milligrams of edible cannabis is  
18 guilty of a misdemeanor and shall be sentenced pursuant to the  
19 provisions of Section 31-19-1 NMSA 1978; or

20 (2) more than eight ounces of cannabis, sixty-  
21 four grams of cannabis extract or three thousand two hundred  
22 milligrams of edible cannabis is guilty of a fourth degree  
23 felony and shall be sentenced pursuant to the provisions of  
24 Section 31-18-15 NMSA 1978.

25 SECTION 31. [NEW MATERIAL] UNLICENSED MANUFACTURING OF

.221014.5GLG

underscoring material = new  
[bracketed material] = delete

1 CANNABIS EXTRACT--PENALTY.--It is unlawful for a person to  
2 manufacture cannabis extract without a license issued pursuant  
3 to the Cannabis Regulation Act unless the person produces and  
4 manufactures cannabis extract using nonvolatile solvents,  
5 alcohol or carbon dioxide or no solvents. A person who  
6 violates this section is guilty of a fourth degree felony and  
7 shall be sentenced pursuant to the provisions of Section  
8 31-18-15 NMSA 1978.

9 SECTION 32. [NEW MATERIAL] EXEMPTION FROM CRIMINAL AND  
10 CIVIL PENALTIES--RESEARCHERS.--A person shall not be subject to  
11 arrest or prosecution, penalized in any manner or denied any  
12 right or privilege solely because the person produced,  
13 possessed, distributed, dispensed or purchased cannabis  
14 products if the person produced, possessed, distributed,  
15 dispensed or purchased the cannabis products solely for the  
16 purpose of research conducted pursuant to the Lynn and Erin  
17 Compassionate Use Act or the Cannabis Regulation Act.

18 SECTION 33. [NEW MATERIAL] REPORTING REQUIREMENTS FOR  
19 CANNABIS-RELATED VIOLATIONS.--

20 A. Within sixty days following the end of each  
21 fiscal year, every police and sheriff's department shall report  
22 on a form approved by the department of public safety the total  
23 number of arrests, citations and penalty assessments for  
24 cannabis-related violations broken down by:

25 (1) category and penalty level; and

underscoring material = new  
[bracketed material] = delete

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

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

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

12 D. For purposes of this section, "cannabis-related  
13 violation" means a violation of any of Sections 27 through 31  
14 of the Cannabis Regulation Act or a violation of Section  
15 66-8-102 or 66-13-3 NMSA 1978 if the basis for the arrest or  
16 citation is impairment due to the use of cannabis products.

17 SECTION 34. [NEW MATERIAL] EMPLOYER PROTECTIONS--  
18 EXEMPTIONS.--

19 A. Unless there is an agreement between the  
20 employer and employee, nothing in the Cannabis Regulation Act  
21 shall:

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

.221014.5GLG

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

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

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

12 B. The Cannabis Regulation Act does not apply to an  
13 employee of an employer subject to the provisions of Title 2 of  
14 the federal Railway Labor Act.

15 C. Nothing in the Cannabis Regulation Act shall be  
16 construed to invalidate, diminish or otherwise interfere with  
17 any collective bargaining agreement nor shall it be construed  
18 to invalidate, diminish or otherwise interfere with any party's  
19 power to collectively bargain such an agreement, or to an  
20 employer or employee.

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

.221014.5GLG



underscoring material = new  
[bracketed material] = delete

1 employment.

2 SECTION 35. [NEW MATERIAL] APPEAL OF RULES.--A person who  
3 is or may be affected by a rule promulgated by the division or  
4 other state agency pursuant to the Cannabis Regulation Act may  
5 appeal to the district court.

6 SECTION 36. [NEW MATERIAL] PUBLIC RECORDS AND OPEN  
7 MEETINGS.--Records of the division are subject to the  
8 Inspection of Public Records Act. Rulemaking and other  
9 hearings of the division are subject to the Open Meetings Act.

10 SECTION 37. [NEW MATERIAL] INTRASTATE SOURCE.--Except as  
11 provided in Section 38 of the Cannabis Regulation Act, all  
12 cannabis products shall be derived from a source originating  
13 within New Mexico.

14 SECTION 38. [NEW MATERIAL] IMPORTS AND EXPORTS.--

15 A. Notwithstanding the provisions of Section 37 of  
16 the Cannabis Regulation Act or any other provision of law, the  
17 governor shall enter into agreements with other jurisdictions  
18 within or outside of the United States for the purposes of  
19 cross-jurisdictional delivery of cannabis products between this  
20 state and the other jurisdictions. Such agreements shall:

- 21 (1) ensure enforceable public health and  
22 safety standards;
- 23 (2) include a system to regulate and track the  
24 interstate or international delivery of cannabis products; and
- 25 (3) ensure that any cannabis products

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

1 delivered into this state, prior to sale to a consumer, are  
2 tested, packaged and labeled pursuant to New Mexico laws and  
3 rules.

4 B. Notwithstanding any other provision of law and  
5 in accordance with an agreement described in Subsection A of  
6 this section, a person licensed to:

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

11 (2) receive cannabis products may receive  
12 cannabis products from a person located in, and authorized to  
13 export cannabis products by, another jurisdiction in the United  
14 States or internationally.

15 C. This section shall take effect on the earlier  
16 date on which:

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

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

24 SECTION 39. [NEW MATERIAL] CANNABIS REGULATION FUND.--

25 A. The "cannabis regulation fund" is created in the  
.221014.5GLG

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

1 state treasury. The fund consists of appropriations, gifts,  
2 grants, donations and fees collected by the division pursuant  
3 to the Cannabis Regulation Act and the medical cannabis program  
4 administered by the division. Any unexpended or unencumbered  
5 balance remaining at the end of a fiscal year shall revert to  
6 the general fund.

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

14 SECTION 40. [NEW MATERIAL] PLANT LIMIT.--No later than  
15 September 1, 2021, and each September 1 thereafter, the  
16 division shall by rule limit, by plant count, canopy or square  
17 footage, the number of cannabis plants that a licensee that is  
18 not an integrated cannabis microbusiness or a cannabis producer  
19 microbusiness may produce. The rule shall set the number of  
20 allowed cannabis plants per licensee to meet an average  
21 national market demand for cannabis products in states where  
22 adult and medical cannabis are authorized during the preceding  
23 year using a consumer base of no less than twenty percent of  
24 the adult population of New Mexico.

25 SECTION 41. [NEW MATERIAL] INDIAN NATIONS, TRIBES AND  
.221014.5GLG

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

1 PUEBLOS--INTERGOVERNMENTAL AGREEMENTS.--

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

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

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

- 25 (1) provide for the preservation of public

underscored material = new  
[bracketed material] = delete

- 1 health and safety;
- 2 (2) ensure the security of cannabis
- 3 establishments and the corresponding facilities on tribal land;
- 4 (3) establish provisions regulating business
- 5 involving cannabis that passes between tribal land and non-
- 6 tribal land in New Mexico; and
- 7 (4) be negotiated in good faith, which shall
- 8 respect and protect state and tribal sovereign immunity.

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

12 SECTION 42. [NEW MATERIAL] COOPERATION OF AGENCIES.--All  
13 state agencies shall cooperate with the division in carrying  
14 out the provisions of the Cannabis Regulation Act.

15 SECTION 43. A new section of Chapter 7 NMSA 1978 is  
16 enacted to read:

17 "[NEW MATERIAL] SHORT TITLE.--Sections 43 through 47 of  
18 this act may be cited as the "Cannabis Tax Act".

19 SECTION 44. A new section of Chapter 7 NMSA 1978 is  
20 enacted to read:

21 "[NEW MATERIAL] DEFINITIONS.--As used in the Cannabis Tax  
22 Act:

- 23 A. "cannabis":
- 24 (1) means all parts of the plant genus
- 25 Cannabis containing a delta-9-tetrahydrocannabinol

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

6 (2) does not include:

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

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

16 B. "cannabis extract":

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

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

24 C. "cannabis product" means a product that is or  
25 that contains cannabis or cannabis extracts, including edible

underscoring material = new  
[bracketed material] = delete

1 or topical products that may also contain other ingredients;  
2 and

3 D. "cannabis retailer" means a person whose license  
4 from the cannabis control division of the regulation and  
5 licensing department allows the person to sell cannabis  
6 products to a person who purchases, acquires, possesses or uses  
7 the cannabis product for a purpose other than resale."

8 SECTION 45. A new section of Chapter 7 NMSA 1978 is  
9 enacted to read:

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

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

14 B. The rate of the cannabis excise tax is twelve  
15 percent and shall be applied to the price paid for a cannabis  
16 product.

17 C. The cannabis excise tax shall not apply to  
18 retail sales of medical cannabis products sold to a qualified  
19 patient or a primary caregiver who presents a registry  
20 identification card issued pursuant to the Lynn and Erin  
21 Compassionate Use Act or a reciprocal participant who presents  
22 similar proof from another state, the District of Columbia or a  
23 territory or commonwealth of the United States at the time of  
24 the sale."

25 SECTION 46. A new section of Chapter 7 NMSA 1978 is

.221014.5GLG

underscoring material = new  
[bracketed material] = delete

1 enacted to read:

2 "[NEW MATERIAL] DATE PAYMENT DUE.--The cannabis excise tax  
3 is to be paid on or before the twenty-fifth day of the month  
4 following the month in which the taxable sale occurs."

5 SECTION 47. A new section of Chapter 7 NMSA 1978 is  
6 enacted to read:

7 "[NEW MATERIAL] INTERPRETATION OF THE CANNABIS TAX ACT--  
8 ADMINISTRATION AND ENFORCEMENT OF TAX.--The department shall  
9 administer and enforce the collection of the cannabis excise  
10 tax pursuant to the Tax Administration Act."

11 SECTION 48. Section 7-1-2 NMSA 1978 (being Laws 1965,  
12 Chapter 248, Section 2, as amended by Laws 2019, Chapter 47,  
13 Section 1 and by Laws 2019, Chapter 53, Section 10 and also by  
14 Laws 2019, Chapter 270, Section 1) is amended to read:

15 "7-1-2. APPLICABILITY.--The Tax Administration Act  
16 applies to and governs:

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

- 20 (1) Income Tax Act;
- 21 (2) Withholding Tax Act;
- 22 (3) Oil and Gas Proceeds and Pass-Through  
23 Entity Withholding Tax Act;
- 24 (4) Gross Receipts and Compensating Tax Act,  
25 Interstate Telecommunications Gross Receipts Tax Act and Leased

.221014.5GLG



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

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

.221014.5GLG

underscored material = new  
[bracketed material] = delete

1 (20) Tobacco Products Tax Act;  
2 (21) the telecommunications relay service  
3 surcharge imposed by Section 63-9F-11 NMSA 1978, which  
4 surcharge shall be considered a tax for the purposes of the Tax  
5 Administration Act; ~~and~~

6 (22) the Insurance Premium Tax Act;  
7 (23) the Health Care Quality Surcharge Act;

8 and

9 (24) the Cannabis Tax Act;

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

- 13 (1) Resources Excise Tax Act;  
14 (2) Severance Tax Act;  
15 (3) any severance surtax;  
16 (4) Oil and Gas Severance Tax Act;  
17 (5) Oil and Gas Conservation Tax Act;  
18 (6) Oil and Gas Emergency School Tax Act;  
19 (7) Oil and Gas Ad Valorem Production Tax Act;  
20 (8) Natural Gas Processors Tax Act;  
21 (9) Oil and Gas Production Equipment Ad

22 Valorem Tax Act;

- 23 (10) Copper Production Ad Valorem Tax Act;  
24 (11) any advance payment required to be made

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

.221014.5GLG

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

1 shall be considered a tax for the purposes of the Tax  
2 Administration Act;

3 (12) Enhanced Oil Recovery Act;

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

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

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

11 (1) Weight Distance Tax Act;

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

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

16 (4) 911 emergency surcharge and the network  
17 and database surcharge, which surcharges shall be considered  
18 taxes for purposes of the Tax Administration Act;

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

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

25 (7) the gaming tax imposed pursuant to the

.221014.5GLG

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

1 Gaming Control Act; and

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

7 SECTION 49. Section 7-1-6.15 NMSA 1978 (being Laws 1983,  
8 Chapter 211, Section 20, as amended by Laws 2015, Chapter 89,  
9 Section 1 and by Laws 2015, Chapter 100, Section 1) is amended  
10 to read:

11 "7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO  
12 MUNICIPALITIES OR COUNTIES.--

13 A. The provisions of this section apply to:

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

16 (2) any transfer to a municipality with  
17 respect to any local option gross receipts tax imposed by that  
18 municipality;

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

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

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

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

.221014.5GLG

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

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

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

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

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

10 (10) any distribution to a municipality or a  
11 county of cannabis excise taxes pursuant to the Cannabis Tax  
12 Act.

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

.221014.5GLG

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

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".

.221014.5GLG

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

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

.221014.5GLG

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

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

.221014.5GLG



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

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

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

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

.221014.5GLG

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

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

.221014.5GLG

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

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:

.221014.5GLG

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

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 50. A new section of the Tax Administration Act  
25 is enacted to read:

.221014.5GLG

underscored material = new  
[bracketed material] = delete

1           "[NEW MATERIAL] DISTRIBUTION--CANNABIS EXCISE TAX--  
2 MUNICIPALITIES AND COUNTIES.--

3           A. A distribution pursuant to Section 7-1-6.1 NMSA  
4 1978 shall be made to each municipality, subject to any  
5 increase or decrease made pursuant to Section 7-1-6.15 NMSA  
6 1978, in an amount equal to thirty-three and thirty-three  
7 hundredths percent of the net receipts attributable to the  
8 cannabis excise tax from cannabis retailers within the  
9 municipality.

10           B. A distribution pursuant to Section 7-1-6.1 NMSA  
11 1978 shall be made to each county in an amount equal to  
12 thirty-three and thirty-three hundredths percent of the net  
13 receipts attributable to the cannabis excise tax from cannabis  
14 retailers within the county area of the county.

15           C. The department may deduct an amount not to  
16 exceed three percent of the distributions made pursuant to this  
17 section for the reasonable costs for administering the  
18 distributions.

19           D. As used in this section, "county area" means  
20 that portion of a county located outside the boundaries of any  
21 municipality."

22           SECTION 51. Section 7-2-2 NMSA 1978 (being Laws 1986,  
23 Chapter 20, Section 26, as amended) is amended to read:

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

.221014.5GLG

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

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

4           B. "base income":

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

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

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

.221014.5GLG

underscored material = new  
[bracketed material] = delete

1 renumbered; "base income" also includes interest received on a  
2 state or local bond; ~~and~~

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

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

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

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

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

24 D. "department" means the taxation and revenue  
25 department, the secretary or any employee of the department

.221014.5GLG



1 exercising authority lawfully delegated to that employee by the  
2 secretary;

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

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

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

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

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

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

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

.221014.5GLG

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

1 applied;

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

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

1 (20) cost-of-living allowances; and

2 (21) gifts;

3 M. "modified gross income" excludes:

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

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

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

14 (4) payments for credits and rebates pursuant  
15 to the Income Tax Act and made for a credit pursuant to Section  
16 7-3-9 NMSA 1978;

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

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

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

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

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

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

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

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

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

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

.221014.5GLG

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

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

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

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

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

.221014.5GLG

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

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

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

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

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

.221014.5GLG

1 exclusion first applies; and

2 (9) for taxable years beginning on or after  
3 January 1, 2011, an amount equal to the amount included in  
4 adjusted gross income that represents a refund of state and  
5 local income and sales taxes that were deducted for federal tax  
6 purposes in taxable years beginning on or after January 1,  
7 2010;

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

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

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

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

.221014.5GLG

1 instrumentality thereof;

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

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

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

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

.221014.5GLG



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

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

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

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

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

12           SECTION 52. Section 7-2A-2 NMSA 1978 (being Laws 1986,  
13 Chapter 20, Section 33, as amended) is amended to read:

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

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

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

.221014.5GLG

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

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

8                   (1) adding to that income:

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

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

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

19                   (2) subtracting from that income:

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

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

25                           (c) an amount equal to one hundred

underscoring material = new  
[bracketed material] = delete

1 percent of the subpart F income, as that term is defined in  
2 Section 952 of the Internal Revenue Code, as that section may  
3 be amended or renumbered, included in the income of the  
4 corporation; and

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

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

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

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

.221014.5GLG

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

1 beneficial interests or shares of the real estate investment  
2 trust are owned directly, indirectly or constructively by the  
3 taxpayer during all or a part of the taxpayer's taxable year;

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

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

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

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

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

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

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

25 G. "corporation" means corporations, joint stock

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

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

10 I. "filing group" means a group of corporations  
11 properly included in a return pursuant to Section 7-2A-8.3 NMSA  
12 1978 for a particular taxable year;

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

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

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

.221014.5GLG

1 (2) reduced by:

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

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

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

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

17 M. "net income" means:

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

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

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

5 (1) plus:

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

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

16 (2) minus:

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

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

25 O. "net operating loss deduction" means the portion

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

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

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

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

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

.221014.5GLG



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

1 administration and enforcement pursuant to the Tax  
2 Administration Act and filed with the department by or on  
3 behalf of any person;

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

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

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

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

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

25 Y. "taxable year" means the calendar year or fiscal

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

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

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

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

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

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

.221014.5GLG

underscored material = new  
[bracketed material] = delete

1 (1) corporations that are exempt from  
2 corporate income tax pursuant to Section 7-2A-4 NMSA 1978; and

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

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

13 SECTION 53. Section 7-9-73.2 NMSA 1978 (being Laws 1998,  
14 Chapter 95, Section 2 and Laws 1998, Chapter 99, Section 4, as  
15 amended) is amended to read:

16 "7-9-73.2. DEDUCTION--GROSS RECEIPTS TAX AND GOVERNMENTAL  
17 GROSS RECEIPTS TAX--PRESCRIPTION DRUGS--OXYGEN--CANNABIS.--

18 A. Receipts from the sale of prescription drugs and  
19 oxygen and oxygen services provided by a licensed medicare  
20 durable medical equipment provider and cannabis products that  
21 are sold in accordance with the Lynn and Erin Compassionate Use  
22 Act may be deducted from gross receipts and governmental gross  
23 receipts.

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

.221014.5GLG

underscored material = new  
[bracketed material] = delete

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

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

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

10 SECTION 54. Section 9-11-12.1 NMSA 1978 (being Laws 1997,  
11 Chapter 64, Section 1, as amended) is amended to read:

12 "9-11-12.1. TRIBAL COOPERATIVE AGREEMENTS.--

13 A. The secretary may enter into cooperative  
14 agreements with the Pueblos of Acoma, Cochiti, Jemez, Isleta,  
15 Laguna, Nambe, Picuris, Pojoaque, Sandia, San Felipe, San  
16 Ildefonso, San Juan, Santa Ana, Santa Clara, Santo Domingo,  
17 Taos, Tesuque, Zia and Zuni; the Jicarilla Apache Nation; the  
18 Mescalero Apache Tribe; and [with] the nineteen pueblos acting  
19 collectively for the exchange of information and the  
20 reciprocal, joint or common enforcement, administration,  
21 collection, remittance and audit of gross receipts tax and  
22 cannabis excise tax revenues of the party jurisdictions.

23 B. Money collected by the department on behalf of a  
24 tribe in accordance with an agreement entered into pursuant to  
25 this section is not money of this state and shall be collected

.221014.5GLG

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

1 and disbursed in accordance with the terms of the agreement,  
2 notwithstanding any other provision of law.

3 C. The secretary is empowered to promulgate such  
4 rules and to establish such procedures as the secretary deems  
5 appropriate for the collection and disbursement of funds due a  
6 tribe and for the receipt of money collected by a tribe for the  
7 account of this state under the terms of a cooperative  
8 agreement entered into under the authority of this section,  
9 including procedures for identification of taxpayers or  
10 transactions that are subject only to the taxing authority of  
11 the tribe, taxpayers or transactions that are subject only to  
12 the taxing authority of this state and taxpayers or  
13 transactions that are subject to the taxing authority of both  
14 party jurisdictions.

15 D. Nothing in an agreement entered into pursuant to  
16 this section shall be construed as authorizing this state or a  
17 tribe to tax ~~[persons]~~ a person or ~~[transactions]~~ transaction  
18 that federal law prohibits that government from taxing, ~~[or as]~~  
19 authorizing a state or tribal court to assert jurisdiction over  
20 ~~[persons]~~ a person who ~~[are]~~ is not otherwise subject to that  
21 court's jurisdiction or ~~[as]~~ affecting any issue of the  
22 respective civil or criminal jurisdictions of this state or the  
23 tribe. Nothing in an agreement entered into pursuant to this  
24 section shall be construed as an assertion or an admission by  
25 either this state or a tribe that the taxes of one have

.221014.5GLG

underscored material = new  
[bracketed material] = delete

1 precedence over the taxes of the other when [~~the~~] a person or  
2 transaction is subject to the taxing authority of both  
3 governments. An agreement entered into pursuant to this  
4 section shall be construed solely as an agreement between the  
5 two party governments and shall not alter or affect the  
6 government-to-government relations between this state and any  
7 other tribe.

8 E. As used in this section:

9 (1) "tribal" means of or pertaining to a  
10 tribe; and

11 (2) "tribe" means an Indian nation, tribe or  
12 pueblo located entirely in New Mexico."

13 SECTION 55. Section 9-16-4 NMSA 1978 (being Laws 1983,  
14 Chapter 297, Section 20, as amended) is amended to read:

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

19 A. the administrative services division;

20 B. the construction industries division;

21 C. the financial institutions division;

22 D. the securities division;

23 E. the manufactured housing division; [~~and~~]

24 F. the alcoholic beverage control division; and

25 G. the cannabis control division."

.221014.5GLG

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

1           SECTION 56. Section 9-16-6 NMSA 1978 (being Laws 1983,  
2 Chapter 297, Section 22, as amended) is amended to read:

3           "9-16-6. SUPERINTENDENT--DUTIES AND GENERAL POWERS.--

4           A. The superintendent is responsible to the  
5 governor for the operation of the department. It is the  
6 superintendent's duty to manage all operations of the  
7 department and to administer and enforce the laws with which  
8 the superintendent ~~[or]~~, the department or a division of the  
9 department is charged.

10           B. To perform the superintendent's duties, the  
11 superintendent has every power expressly enumerated in the  
12 laws, whether granted to the superintendent or the department  
13 or any division of the department, except where authority  
14 conferred upon any division is explicitly exempted from the  
15 superintendent's authority by statute. In accordance with  
16 these provisions, the superintendent shall:

17                   (1) except as otherwise provided in the  
18 Regulation and Licensing Department Act, exercise general  
19 supervisory and appointing authority over all department  
20 employees, subject to any applicable personnel laws and  
21 regulations;

22                   (2) delegate authority to subordinates as the  
23 superintendent deems necessary and appropriate, clearly  
24 delineating such delegated authority and the limitations  
25 thereto;

.221014.5GLG

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

1 (3) organize the department into those  
2 organizational units the superintendent deems will enable it to  
3 function most efficiently, subject to any provisions of law  
4 requiring or establishing specific organizational units;

5 (4) within the limitations of available  
6 appropriations and applicable laws, employ and fix the  
7 compensation of those persons necessary to discharge the  
8 superintendent's duties;

9 (5) take administrative action by issuing  
10 orders and instructions, not inconsistent with the law, to  
11 assure implementation of and compliance with the provisions of  
12 law for whose administration or execution the superintendent is  
13 responsible and to enforce those orders and instructions by  
14 appropriate administrative action or actions in the courts;

15 (6) conduct research and studies that will  
16 improve the operations of the department and the provision of  
17 services to the residents of the state;

18 (7) provide courses of instruction and  
19 practical training for employees of the department and other  
20 persons involved in the administration of programs, with the  
21 objective of improving the operations and efficiency of  
22 administration;

23 (8) prepare an annual budget of the  
24 department;

25 (9) provide ~~[cooperation, at the request of~~



underscored material = new  
[bracketed material] = delete

1 ~~heads of~~] administratively attached agencies [~~in order~~]

2 assistance as necessary to:

3 (a) minimize or eliminate duplication of  
4 services and jurisdictional conflicts;

5 (b) coordinate activities and resolve  
6 problems of mutual concern; and

7 (c) [~~resolve by agreement the manner and~~  
8 ~~extent to which the department shall~~] provide implementation of  
9 licensure processes, budgeting, recordkeeping, procurement,  
10 contracting, hiring and supervision of staff and related  
11 administrative and clerical assistance [~~to~~] for  
12 administratively attached agencies; and

13 (10) appoint, with the governor's consent, a  
14 "director" for each division. These appointed positions are  
15 exempt from the provisions of the Personnel Act. Persons  
16 appointed to these positions shall serve at the pleasure of the  
17 superintendent.

18 [~~(11) give bond in the penal sum of twenty-~~  
19 ~~five thousand dollars (\$25,000) and require directors to each~~  
20 ~~give bond in the penal sum of ten thousand dollars (\$10,000)~~  
21 ~~conditioned upon the faithful performance of duties, as~~  
22 ~~provided in the Surety Bond Act. The department shall pay the~~  
23 ~~costs of these bonds; and~~

24 (12) ~~require performance bonds of such~~  
25 ~~department employees and officers as the superintendent deems~~

.221014.5GLG

underscored material = new  
[bracketed material] = delete

1 ~~necessary, as provided in the Surety Bond Act. The department~~  
2 ~~shall pay the costs of these bonds.]~~

3 C. The superintendent may apply for and receive,  
4 with the governor's approval, in the name of the department any  
5 public or private funds, including United States government  
6 funds, available to the department to carry out its programs,  
7 duties or services.

8 D. The superintendent may make and adopt such  
9 reasonable and procedural rules [~~and regulations~~] as may be  
10 necessary to carry out the duties of the department and its  
11 divisions; provided that where a licensing entity requires  
12 submission of fingerprints as part of the initial license  
13 application, and a licensee has provided fingerprints and the  
14 license has been issued, the licensing entity shall not require  
15 a licensee to submit fingerprints again to renew the license,  
16 but a licensee shall submit to a background investigation if  
17 required; and provided further that the prohibition against  
18 requiring additional fingerprints shall not apply to the  
19 financial institutions division of the department when  
20 utilizing the nationwide multistate licensing system and  
21 registry.

22 E. No rule [~~or regulation~~] promulgated by the  
23 director of any division in carrying out the functions and  
24 duties of the department or a division shall be effective until  
25 approved by the superintendent, unless otherwise provided by

.221014.5GLG

underscoring material = new  
[bracketed material] = delete

1 statute. Unless otherwise provided by statute, ~~[no regulation~~  
2 ~~affecting any person or agency outside the department shall be~~  
3 ~~adopted, amended or repealed without a public hearing on the~~  
4 ~~proposed action before the superintendent or a hearing officer~~  
5 ~~designated by the superintendent. The public hearing shall be~~  
6 ~~held in Santa Fe unless otherwise permitted by statute. Notice~~  
7 ~~of the subject matter of the regulation, the action proposed to~~  
8 ~~be taken, the time and place of the hearing, the manner in~~  
9 ~~which interested persons may present their views and the method~~  
10 ~~by which copies of the proposed regulation, proposed amendment~~  
11 ~~or repeal of an existing regulation may be obtained shall be~~  
12 ~~published once at least thirty days prior to the hearing date~~  
13 ~~in a newspaper of general circulation and mailed at least~~  
14 ~~thirty days prior to the hearing date to all persons who have~~  
15 ~~made a written request for advance notice of hearing. All~~  
16 ~~rules and regulations shall be] all rules adopted, amended or~~  
17 ~~repealed by the superintendent or the director of any division~~  
18 ~~shall have notice provided and be conducted and filed in~~  
19 accordance with the State Rules Act."

20 SECTION 57. Section 24-16-12 NMSA 1978 (being Laws 2007,  
21 Chapter 20, Section 4, as amended) is amended to read:

22 "24-16-12. SMOKING-PERMITTED AREAS.--Notwithstanding any  
23 other provision of the Dee Johnson Clean Indoor Air Act,  
24 smoking-permitted areas include the following:

25 A. a private residence, unless it is used

.221014.5GLG

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

1 commercially to provide child care, adult care or health care  
2 or any combination of those activities;

3 B. a retail tobacco store; provided that, for a  
4 retail tobacco store established on or after the effective date  
5 of this 2019 act, the store shall be located in a standalone  
6 building;

7 C. a cigar bar; provided that, for a cigar bar  
8 established on or after ~~[the effective date of this]~~ June 14,  
9 2019 ~~[act]~~, the bar shall be located in a standalone building;

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

19 E. a state-licensed gaming facility, casino or  
20 bingo parlor;

21 F. designated outdoor smoking areas;

22 G. private clubs;

23 H. hotel and motel rooms that are rented to guests  
24 and are designated as smoking-permitted rooms; provided that  
25 not more than ten percent of rooms rented to guests in a hotel

.221014.5GLG

underscoring material = new  
[bracketed material] = delete

1 or motel may be so designated;

2 I. a site that is being used in connection with the  
3 practice of cultural or ceremonial activities by Native  
4 Americans and that is in accordance with the federal American  
5 Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a; ~~[and]~~

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

9 K. an indoor or outdoor cannabis consumption area  
10 pursuant to the Cannabis Regulation Act."

11 SECTION 58. Section 26-2B-3 NMSA 1978 (being Laws 2007,  
12 Chapter 210, Section 3, as amended) is amended to read:

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

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

23 B. "cannabis":

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

.221014.5GLG

underscored material = new  
[bracketed material] = delete

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

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

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

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

- 22 ~~(1) a qualified patient;~~
- 23 ~~(2) a primary caregiver; or~~
- 24 ~~(3) another cannabis establishment;~~

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

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

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

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

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

24                   C. "cannabis extract":

- 25                   (1) means a product obtained by separating

underscored material = new  
[bracketed material] = delete

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

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

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

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

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

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

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

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

23 (1) cancer;

24 (2) glaucoma;

25 (3) multiple sclerosis;



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

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

4 (5) seizure disorder, including epilepsy;

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

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

9 (8) amyotrophic lateral sclerosis;

10 (9) Crohn's disease;

11 (10) hepatitis C infection;

12 (11) Huntington's disease;

13 (12) inclusion body myositis;

14 (13) inflammatory autoimmune-mediated  
15 arthritis;

16 (14) intractable nausea or vomiting;

17 (15) obstructive sleep apnea;

18 (16) painful peripheral neuropathy;

19 (17) Parkinson's disease;

20 (18) posttraumatic stress disorder;

21 (19) severe chronic pain;

22 (20) severe anorexia or cachexia;

23 (21) spasmodic torticollis;

24 (22) ulcerative colitis; or

25 (23) any other medical condition, medical

underscored material = new  
[bracketed material] = delete

1 treatment or disease as approved by the department;

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

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

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

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

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

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

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

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

.221014.5GLG

underscored material = new  
[bracketed material] = delete

1 ~~product;~~

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

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

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

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

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

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

.221014.5GLG

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

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

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

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

25                   (1) to a qualified patient that identifies the

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

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

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

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

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

23 [~~BB.~~] T. "written certification" means a statement  
24 made on a department-approved form and signed by a patient's  
25 practitioner that indicates, in the practitioner's professional

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

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

5 SECTION 59. Section 26-2B-4 NMSA 1978 (being Laws 2007,  
6 Chapter 210, Section 4, as amended) is amended to read:

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

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

16 B. A reciprocal participant shall not be subject to  
17 arrest, prosecution or penalty in any manner for the possession  
18 of or the medical use of cannabis if the quantity of cannabis  
19 does not exceed the limit identified by department rule.

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

.221014.5GLG

underscored material = new  
[bracketed material] = delete

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

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

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

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

20 ~~(5) with respect to cannabis cultivated under~~  
21 ~~a personal production license, a qualified patient or primary~~  
22 ~~caregiver possessing, planting, cultivating, harvesting,~~  
23 ~~drying, manufacturing or transporting cannabis plants or~~  
24 ~~cannabis products as allowed by department rule; provided that~~  
25 ~~a qualified patient or primary caregiver who possesses a~~

.221014.5GLG

underscored material = new  
[bracketed material] = delete

1 ~~personal production license shall not manufacture cannabis~~  
2 ~~products using an oil extractor solvent that is stored under~~  
3 ~~pressure unless the qualified patient or primary caregiver~~  
4 ~~holds a separate license from the department permitting the~~  
5 ~~person to manufacture cannabis products using an oil extractor~~  
6 ~~solvent that is under pressure].~~

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

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

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

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

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

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

22 E. A qualified patient or a primary caregiver shall  
23 be granted the full legal protections provided in this section  
24 if the qualified patient or primary caregiver is in possession  
25 of a registry identification card. If the qualified patient or



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

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

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

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

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

.221014.5GLG

underscored material = new  
[bracketed material] = delete

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

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

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

25 SECTION 60. Section 26-2B-5 NMSA 1978 (being Laws 2007,  
.221014.5GLG

underscoring material = new  
[bracketed material] = delete

1 Chapter 210, Section 5, as amended by Laws 2019, Chapter 247,  
2 Section 5 and by Laws 2019, Chapter 261, Section 2) is amended  
3 to read:

4 "26-2B-5. PROHIBITIONS, RESTRICTIONS AND LIMITATIONS ON  
5 THE MEDICAL USE OF CANNABIS--CRIMINAL PENALTIES.--

6 A. Participation in a medical use of cannabis  
7 program by a qualified patient [~~or~~], primary caregiver or  
8 reciprocal participant does not relieve the qualified patient  
9 [~~or~~], primary caregiver or reciprocal participant from:

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

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

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

18 (a) in the workplace of the qualified  
19 patient's [~~or~~], primary caregiver's or reciprocal participant's  
20 employment; or

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

23 B. A person who makes a fraudulent representation  
24 to a law enforcement officer about the person's participation  
25 in a medical use of cannabis program to avoid arrest or

.221014.5GLG

underscored material = new  
[bracketed material] = delete

1 prosecution for a cannabis-related offense is guilty of a petty  
2 misdemeanor and shall be sentenced in accordance with the  
3 provisions of Section 31-19-1 NMSA 1978.

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

11 SECTION 61. Section 26-2B-6.1 NMSA 1978 (being Laws 2019,  
12 Chapter 247, Section 8) is amended to read:

13 "26-2B-6.1. ~~[PROGRAM REGULATION AND ADMINISTRATION--~~  
14 ~~FEES--LIMITATIONS RULEMAKING--LICENSURE--ISSUANCE]~~ ASSESSMENT  
15 REPORTING.--

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

17 ~~(1) regulate and administer the medical~~  
18 ~~cannabis program; and~~

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

22 ~~B. By December 20, 2019, the secretary of health~~  
23 ~~shall adopt and promulgate rules to establish fees for licenses~~  
24 ~~for cannabis producers, cannabis manufacturers, cannabis~~  
25 ~~couriers, cannabis testing facilities or any other cannabis~~

.221014.5GLG

underscoring material = new  
[bracketed material] = delete

1 ~~establishments whose operations are authorized pursuant to the~~  
2 ~~Lynn and Erin Compassionate Use Act.~~

3 ~~C. The department shall establish application and~~  
4 ~~licensing fees applicable to licenses for activity related to~~  
5 ~~the medical cannabis program.~~

6 ~~D. The department shall administer licensure for~~  
7 ~~medical cannabis program activity provided for in the Lynn and~~  
8 ~~Erin Compassionate Use Act, which shall include personal~~  
9 ~~production licenses and licenses for:~~

10 ~~(1) cannabis couriers;~~

11 ~~(2) cannabis manufacturers;~~

12 ~~(3) cannabis producers;~~

13 ~~(4) cannabis testing facilities; and~~

14 ~~(5) any other activity or person as deemed~~  
15 ~~necessary by the department.~~

16 ~~E. The department shall not issue any other license~~  
17 ~~provided for in this section to a cannabis testing facility~~  
18 ~~licensee.~~

19 ~~F.] In consultation with qualified patients and~~  
20 ~~primary caregivers, the department shall produce an assessment~~  
21 ~~report annually, which shall be published to the public and~~  
22 ~~that includes at a minimum an evaluation of:~~

23 ~~[(1)]~~ A. ~~the affordability of and accessibility to~~  
24 ~~medical cannabis pursuant to the Lynn and Erin Compassionate~~  
25 ~~Use Act; and~~

.221014.5GLG

underscored material = new  
[bracketed material] = delete

1           ~~[(2)]~~ B. the needs of qualified patients who live  
2 in rural areas, federal subsidized housing or New Mexico Indian  
3 nations, tribes or pueblos.

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

7                   ~~(1) access is restricted to qualified patients~~  
8 ~~and their primary caregivers;~~

9                   ~~(2) cannabis consumption is not visible from~~  
10 ~~any public place or from outside the cannabis consumption area;~~  
11 ~~and~~

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

15           SECTION 62. Section 26-2B-7 NMSA 1978 (being Laws 2007,  
16 Chapter 210, Section 7, as amended) is amended to read:

17           "26-2B-7. REGISTRY IDENTIFICATION CARDS--DEPARTMENT  
18 RULES--DUTIES--RECIPROCITY.--

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

23                           (1) govern the manner in which the department  
24 will consider applications for registry identification cards  
25 and for the renewal of identification cards for qualified

.221014.5GLG

underscoring material = new  
[bracketed material] = delete

1 patients and primary caregivers;

2 (2) define the amount of cannabis that is  
3 necessary to constitute an adequate supply, including amounts  
4 for topical treatments;

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

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

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

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

23 ~~(a) cannabis production facilities~~  
24 ~~within New Mexico housed on secured grounds and operated by~~  
25 ~~licensees; and~~

.221014.5GLG





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

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

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

13 D. The department shall issue a registry  
14 identification card within five days of approving an  
15 application, and a card shall expire three years after the date  
16 of issuance.

17 E. A registry identification card shall contain:

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

20 (2) the date of issuance and expiration date  
21 of the registry identification card; and

22 (3) other information that the department may  
23 require by rule.

24 F. A person who possesses a registry identification  
25 card shall notify the department of any change in the person's

.221014.5GLG

underscoring material = new  
[bracketed material] = delete

1 name, qualified patient's practitioner, qualified patient's  
2 primary caregiver or change in status of the qualified  
3 patient's debilitating medical condition within ten days of the  
4 change.

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

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

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

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

23 (3) to the division; or

24 ~~[+3]~~ (4) as provided in the federal Health  
25 Insurance Portability and Accountability Act of 1996.

underscoring material = new  
[bracketed material] = delete

1 I. By March 1, 2020, the secretary of health shall  
2 adopt and promulgate rules relating to medical cannabis program  
3 reciprocity. The department may identify requirements for the  
4 granting of reciprocity, including provisions limiting the  
5 period of time in which a reciprocal participant may  
6 participate in the medical cannabis program.

7 J. A reciprocal participant:

8 (1) may participate in the medical cannabis  
9 program in accordance with department rules;

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

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

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

25 SECTION 63. Section 30-31-2 NMSA 1978 (being Laws 1972,  
.221014.5GLG

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

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

.221014.5GLG

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. ~~"hemp" means the plant Cannabis sativa L. and~~

underscored material = new  
[bracketed material] = delete

1 ~~any part of that plant, including seeds and all derivatives,~~  
2 ~~extracts, cannabinoids, isomers, acids, salts and salts of~~  
3 ~~isomers, whether growing or not, with a delta-9-~~  
4 ~~tetrahydrocannabinol concentration of not more than three-~~  
5 ~~tenths percent on a dry weight basis;~~

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

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

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

22 ~~[0. "marijuana" means all parts of the plant~~  
23 ~~cannabis, including any and all varieties, species and~~  
24 ~~subspecies of the genus Cannabis, whether growing or not, the~~  
25 ~~seeds thereof and every compound, manufacture, salt,~~

.221014.5GLG

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

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

17                   (1) opium and opiate and any salt, compound,  
18 derivative or preparation of opium or opiate;

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

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

.221014.5GLG

underscored material = new  
[bracketed material] = delete

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

7 [Q-] N. "opiate" means any substance having an  
8 addiction-forming or addiction-sustaining liability similar to  
9 morphine or being capable of conversion into a drug having  
10 addiction-forming or addiction-sustaining liability. "Opiate"  
11 does not include, unless specifically designated as controlled  
12 under Section 30-31-5 NMSA 1978, the dextrorotatory isomer of  
13 3-methoxy-n-methylmorphinan and its salts, dextromethorphan.  
14 "Opiate" does include its racemic and levorotatory forms;

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

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

.221014.5GLG



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

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

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

16           [V.] S. "ultimate user" means a person who lawfully  
17 possesses a controlled substance for the person's own use or  
18 for the use of a member of the person's household or for  
19 administering to an animal under the care, custody and control  
20 of the person or by a member of the person's household;

21           [W.] T. "drug paraphernalia" means except as to use  
22 in accordance with the Cannabis Regulation Act or the Lynn and  
23 Erin Compassionate Use Act, all equipment, products and  
24 materials of any kind that are used, intended for use or  
25 designed for use in planting, propagating, cultivating,

1 growing, harvesting, manufacturing, compounding, converting,  
2 producing, processing, preparing, testing, analyzing,  
3 packaging, repackaging, storing, containing, concealing,  
4 injecting, ingesting, inhaling or otherwise introducing into  
5 the human body a controlled substance or controlled substance  
6 analog in violation of the Controlled Substances Act. It  
7 includes:

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

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

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

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

24 (5) scales or balances used, intended for use  
25 or designed for use in weighing or measuring controlled

underscoring material = new  
[bracketed material] = delete

1 substances or controlled substance analogs;

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

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

9 ~~(8)~~] (7) blenders, bowls, containers, spoons  
10 and mixing devices used, intended for use or designed for use  
11 in compounding controlled substances or controlled substance  
12 analogs;

13 [~~(9)~~] (8) capsules, balloons, envelopes and  
14 other containers used, intended for use or designed for use in  
15 packaging small quantities of controlled substances or  
16 controlled substance analogs;

17 [~~(10)~~] (9) containers and other objects used,  
18 intended for use or designed for use in storing or concealing  
19 controlled substances or controlled substance analogs;

20 [~~(11)~~] (10) hypodermic syringes, needles and  
21 other objects used, intended for use or designed for use in  
22 parenterally injecting controlled substances or controlled  
23 substance analogs into the human body;

24 [~~(12)~~] (11) objects used, intended for use or  
25 designed for use in ingesting, inhaling or otherwise

.221014.5GLG

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

1 introducing [~~marijuana~~] cocaine [~~hashish or hashish oil~~] into  
2 the human body, such as:

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

6 (b) water pipes;

7 (c) carburetion tubes and devices;

8 (d) smoking and carburetion masks;

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

12 ~~(f)]~~ (e) miniature cocaine spoons and  
13 cocaine vials;

14 ~~[(g)]~~ (f) chamber pipes;

15 ~~[(h)]~~ (g) carburetor pipes;

16 ~~[(i)]~~ (h) electric pipes;

17 ~~[(j)]~~ (i) air-driven pipes;

18 ~~[(k)]~~ (j) chilams;

19 ~~[(l)]~~ (k) bongs; or

20 ~~[(m)]~~ (l) ice pipes or chillers; and

21 ~~[(13)]~~ (12) in determining whether an object  
22 is drug paraphernalia, a court or other authority should  
23 consider, in addition to all other logically relevant factors,  
24 the following:

25 (a) statements by the owner or by anyone

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

1 in control of the object concerning its use;

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

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

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

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

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

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

17 (h) expert testimony concerning its use;

18 ~~[X-]~~ U. "controlled substance analog" means a  
19 substance other than a controlled substance that has a chemical  
20 structure substantially similar to that of a controlled  
21 substance in Schedule I, II, III, IV or V or that was  
22 specifically designed to produce effects substantially similar  
23 to that of controlled substances in Schedule I, II, III, IV or  
24 V. Examples of chemical classes in which controlled substance  
25 analogs are found:

.221014.5GLG

underscored material = new  
[bracketed material] = delete

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

9 ~~[Specifically excluded from the definition of "controlled~~  
10 ~~substance analog" are]~~

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

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

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

underscored material = new  
[bracketed material] = delete

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

5                   **SECTION 64.** Section 30-31-6 NMSA 1978 (being Laws 1972,  
6 Chapter 84, Section 6, as amended) is amended to read:

7                   "30-31-6. SCHEDULE I.--The following controlled  
8 substances are included in Schedule I:

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

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

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

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



- 1 (38) piritramide;
- 2 (39) proheptazine;
- 3 (40) properidine;
- 4 (41) racemoramide; and
- 5 (42) trimeperidine;

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

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

- 1 (16) morphine-N-oxide;
- 2 (17) myrophine;
- 3 (18) nicocodeine;
- 4 (19) nicomorphine;
- 5 (20) normorphine;
- 6 (21) pholcodine; and
- 7 (22) thebacon;

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

- 14 (1) 3,4-methylenedioxy amphetamine;
- 15 (2) 5-methoxy-3,4-methylenedioxy amphetamine;
- 16 (3) 3,4,5-trimethoxy amphetamine;
- 17 (4) bufotenine;
- 18 (5) diethyltryptamine;
- 19 (6) dimethyltryptamine;
- 20 (7) 4-methyl-2,5-dimethoxy amphetamine;
- 21 (8) ibogaine;
- 22 (9) lysergic acid diethylamide;
- 23 [~~(10)~~] ~~marijuana~~;
- 24 [~~(11)~~] (10) mescaline;
- 25 [~~(12)~~] (11) peyote, except as otherwise

1 provided in the Controlled Substances Act;

2 [~~(13)~~] (12) N-ethyl-3-piperidyl benzilate;

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

4 [~~(15)~~] (14) psilocybin;

5 [~~(16)~~] (15) psilocyn;

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

7 ~~(18)~~ ~~hashish;~~

8 ~~(19)~~] (16) synthetic cannabinoids, including:

9 (a) 1-[2-(4-(morpholinyl)ethyl]

10 -3-(1-naphthoyl)indole;

11 (b) 1-butyl-3-(1-naphthoyl)indole;

12 (c) 1-hexyl-3-(1-naphthoyl)indole;

13 (d) 1-pentyl-3-(1-naphthoyl)indole;

14 (e) 1-pentyl-3-(2-methoxyphenylacetyl)

15 indole;

16 (f) cannabicyclohexanol (CP 47, 497 and

17 homologues: 5-(1,1-dimethylheptyl)-2-[(1R,3S)

18 -3-hydroxycyclohexyl]-phenol (CP-47,497); and 5-(1,

19 1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol;

20 (g) 6aR,10aR)-9-(hydroxymethyl)

21 -6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,

22 10a-tetrahydrobenzo[c]chromen-1-ol);

23 (h) dexanabinol, (6aS,10aS)

24 -9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)

25 -6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;

.221014.5GLG

underscored material = new  
[bracketed material] = delete

- 1 (i) 1-pentyl-3-(4-chloro naphthoyl)
- 2 indole;
- 3 (j) (2-methyl-1-propyl-1H-indol-3-yl)
- 4 -1-naphthalenyl-methanone; and
- 5 (k) 5-(1,1-dimethylheptyl)-2-(3-hydroxy
- 6 cyclohexyl)-phenol;
- 7 ~~(17)~~ (17) 3,4-methylenedioxymethcathinone;
- 8 ~~(18)~~ (18) 3,4-methylenedioxypyrovalerone;
- 9 ~~(19)~~ (19) 4-methylmethcathinone;
- 10 ~~(20)~~ (20) 4-methoxymethcathinone;
- 11 ~~(21)~~ (21) 3-fluoromethcathinone; and
- 12 ~~(22)~~ (22) 4-fluoromethcathinone;

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

21 E. the enumeration of [~~marijuana,~~  
22 ~~tetrahydrocannabinols or chemical derivatives of~~  
23 ~~tetrahydrocannabinol as~~] Schedule I controlled substances does  
24 not apply to:

- 25 (1) hemp pursuant to rules promulgated by the  
.221014.5GLG

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

1 board of regents of New Mexico state university on behalf of  
2 the New Mexico department of agriculture;

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

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

20 (4) tetrahydrocannabinols or chemical  
21 derivatives of tetrahydrocannabinols, including  
22 tetrahydrocannabinols or chemical derivatives of  
23 tetrahydrocannabinols in any concentration possessed by a  
24 person in connection with the extraction of  
25 tetrahydrocannabinols or chemical derivatives of

.221014.5GLG

underscored material = new  
[bracketed material] = delete

1 tetrahydrocannabinols, if authorized pursuant to rules  
2 promulgated, pursuant to the Hemp Manufacturing Act, by the  
3 board of regents of New Mexico state university on behalf of  
4 the New Mexico department of agriculture or the department of  
5 environment; and

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

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

17 F. controlled substances added to Schedule I by  
18 rule adopted by the board pursuant to Section 30-31-3 NMSA  
19 1978."

20 SECTION 65. Section 30-31-7 NMSA 1978 (being Laws 1972,  
21 Chapter 84, Section 7, as amended) is amended to read:

22 "30-31-7. SCHEDULE II.--

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

25 (1) any of the following substances, except

.221014.5GLG

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

1 those narcotic drugs listed in other schedules, whether  
2 produced directly or indirectly by extraction from substances  
3 of vegetable origin, or independently by means of chemical  
4 synthesis, or by combination of extraction and chemical  
5 synthesis:

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

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

13 (c) opium poppy and poppy straw; and

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

20 ~~[(e) marijuana, 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; and~~

24 ~~(f) tetrahydrocannabinols or chemical~~  
25 ~~derivatives of tetrahydrocannabinol, but only for the use by~~

.221014.5GLG

underscoring material = new  
[bracketed material] = delete

1 ~~certified patients pursuant to the Controlled Substances~~  
2 ~~Therapeutic Research Act or by qualified patients pursuant to~~  
3 ~~the provisions of the Lynn and Erin Compassionate Use Act.~~  
4 ~~Marijuana, tetrahydrocannabinols or chemical derivatives of~~  
5 ~~tetrahydrocannabinol shall be considered Schedule II controlled~~  
6 ~~substances only for the purposes enumerated in the Controlled~~  
7 ~~Substances Therapeutic Research Act or the Lynn and Erin~~  
8 ~~Compassionate Use Act;]~~

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

- 13 (a) alphaprodine;
- 14 (b) anileridine;
- 15 (c) bezitramide;
- 16 (d) dihydrocodeine;
- 17 (e) diphenoxylate;
- 18 (f) fentanyl;
- 19 (g) hydromorphone;
- 20 (h) isomethadone;
- 21 (i) levomethorphan;
- 22 (j) levorphanol;
- 23 (k) meperidine;
- 24 (l) metazocine;
- 25 (m) methadone;



- 1 (n) methadone--intermediate,  
2 4-cyano-2-dimethylamino-4, 4-diphenyl butane;  
3 (o) moramide--intermediate,  
4 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;  
5 (p) oxycodone;  
6 (q) pethidine;  
7 (r) pethidine--intermediate--A,  
8 4-cyano-1-methyl-4-phenylpiperidine;  
9 (s) pethidine--intermediate--B,  
10 ethyl-4-phenyl-piperidine-4-carboxylate;  
11 (t) pethidine--intermediate--C,  
12 1-methyl-4-phenylpiperidine-4-carboxylic acid;  
13 (u) phenazocine;  
14 (v) piminodine;  
15 (w) racemethorphan; and  
16 (x) racemorphan;

17 (3) unless listed in another schedule, any  
18 material, compound, mixture or preparation that contains any  
19 quantity of the following substances having a potential for  
20 abuse associated with a stimulant effect on the central nervous  
21 system:

- 22 (a) amphetamine, its salts, optical  
23 isomers and salts of its optical isomers;  
24 (b) phenmetrazine and its salts;  
25 (c) methamphetamine, its salts, isomers

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

1 and salts of isomers; and

2 (d) methylphenidate; and

3 (4) controlled substances added to Schedule II  
4 by rule adopted by the board pursuant to Section 30-31-3 NMSA  
5 1978.

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

.221014.5GLG

underscoring material = new  
[bracketed material] = delete

1           SECTION 66. Section 30-31-21 NMSA 1978 (being Laws 1972,  
2 Chapter 84, Section 21, as amended) is amended to read:

3           "30-31-21. DISTRIBUTION TO A MINOR.--Except as authorized  
4 by the Controlled Substances Act, no person who is eighteen  
5 years of age or older shall intentionally distribute a  
6 controlled substance to a person under the age of eighteen  
7 years. Any person who violates this section with respect to:

8                   ~~A. marijuana is:~~

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

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

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

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

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

25           SECTION 67. Section 30-31-22 NMSA 1978 (being Laws 1972,

.221014.5GLG

underscored material = new  
[bracketed material] = delete

1 Chapter 84, Section 22, as amended) is amended to read:

2 "30-31-22. CONTROLLED OR COUNTERFEIT SUBSTANCES--  
3 DISTRIBUTION PROHIBITED.--

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

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

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

17 (b) for the second and subsequent  
18 offenses, guilty of a third degree felony and shall be  
19 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
20 1978;

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

.221014.5GLG

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

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

6 (2) any other controlled substance enumerated  
7 in Schedule I, II, III or IV or a controlled substance analog  
8 of a controlled substance enumerated in Schedule I, II, III or  
9 IV except a substance enumerated in Schedule I or II that is a  
10 narcotic drug, a controlled substance analog of a controlled  
11 substance enumerated in Schedule I or II that is a narcotic  
12 drug or methamphetamine, its salts, isomers and salts of  
13 isomers, is:

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

17 (b) for the second and subsequent  
18 offenses, guilty of a second degree felony and shall be  
19 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
20 1978; and

21 (3) a controlled substance enumerated in  
22 Schedule V or a controlled substance analog of a controlled  
23 substance enumerated in Schedule V is guilty of a misdemeanor  
24 and shall be punished by a fine of not less than one hundred  
25 dollars (\$100) or more than five hundred dollars (\$500) or by

.221014.5GLG

1 imprisonment for a definite term not less than one hundred  
2 eighty days but less than one year, or both.

3 B. It is unlawful for a person to distribute gamma  
4 hydroxybutyric acid or flunitrazepam to another person without  
5 that person's knowledge and with intent to commit a crime  
6 against that person, including criminal sexual penetration.  
7 For the purposes of this subsection, "without that person's  
8 knowledge" means the person is unaware that a substance with  
9 the ability to alter that person's ability to appraise conduct  
10 or to decline participation in or communicate unwillingness to  
11 participate in conduct is being distributed to that person.

12 Any person who violates this subsection is:

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

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

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

24 (1) a counterfeit substance enumerated in  
25 Schedule I, II, III or IV is guilty of a fourth degree felony

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

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

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

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

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

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

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

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

24 (d) for the second and subsequent  
25 offenses, if more than one hundred pounds is possessed with

.221014.5GLG

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

1 intent to distribute or distributed or both, guilty of a first  
2 degree felony and shall be sentenced pursuant to the provisions  
3 of Section 31-18-15 NMSA 1978;

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

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

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

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

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

.221014.5GLG



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

1 (a) a counterfeit substance enumerated  
2 in Schedule I, II, III or IV is guilty of a third degree felony  
3 and shall be sentenced pursuant to the provisions of Section  
4 31-18-15 NMSA 1978; and

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

11 E. Notwithstanding the provisions of Subsection A  
12 of this section, distribution of a small amount of [~~marijuana~~  
13 ~~or~~] synthetic cannabinoids for no remuneration shall be treated  
14 as provided in Paragraph (1) of Subsection B of Section  
15 30-31-23 NMSA 1978."

16 SECTION 68. Section 30-31-23 NMSA 1978 (being Laws 1972,  
17 Chapter 84, Section 23, as amended) is amended to read:

18 "30-31-23. CONTROLLED SUBSTANCES--POSSESSION  
19 PROHIBITED.--

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

.221014.5GLG

underscored material = new  
[bracketed material] = delete

1 possess a controlled substance analog.

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

4 ~~(1) up to one-half ounce of marijuana shall be~~  
5 ~~issued a penalty assessment, pursuant to Section 31-19A-1 NMSA~~  
6 ~~1978 and is subject to a fine of fifty dollars (\$50.00);~~

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

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

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

25 ~~G.] B.~~ A person who violates this section with

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

1 respect to:

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

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

17 (3) eight ounces or more of synthetic  
18 cannabinoids is guilty of a fourth degree felony and shall be  
19 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
20 1978.

21 ~~[D.]~~ C. A minor who violates this section with  
22 respect to the substances listed in this subsection is guilty  
23 of a petty misdemeanor and, notwithstanding the provisions of  
24 Sections 32A-1-5 and 32A-2-19 NMSA 1978, shall be required to  
25 perform no more than forty-eight hours of community service.

.221014.5GLG

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

1 For the third or subsequent violation by a minor of this  
2 section with respect to those substances, the provisions of  
3 Section 32A-2-19 NMSA 1978 shall govern punishment of the  
4 minor. As used in this subsection, "minor" means a person who  
5 is less than eighteen years of age. The provisions of this  
6 subsection apply to the following substances:

7 (1) synthetic cannabinoids;

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

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

18 [~~E.~~] D. Except as provided in Subsections B [~~G~~] and  
19 [~~G~~] F of this section, and for those substances listed in  
20 Subsection [~~F~~] E of this section, a person who violates this  
21 section with respect to any amount of any controlled substance  
22 enumerated in Schedule I, II, III or IV or a controlled  
23 substance analog of a substance enumerated in Schedule I, II,  
24 III or IV is guilty of a misdemeanor and shall be punished by a  
25 fine of not less than five hundred dollars (\$500) or more than

.221014.5GLG

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

1 one thousand dollars (\$1,000) or by imprisonment for a definite  
2 term less than one year, or both.

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

.221014.5GLG

underscoring material = new  
[bracketed material] = delete

1 salts of isomers; or a narcotic drug enumerated in Schedule I  
2 or II or a controlled substance analog of a narcotic drug  
3 enumerated in Schedule I or II is guilty of a fourth degree  
4 felony and shall be sentenced pursuant to the provisions of  
5 Section 31-18-15 NMSA 1978.

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

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

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

25 (3) eight ounces or more of ~~[marijuana or]~~

.221014.5GLG

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

1 synthetic cannabinoids is guilty of a third degree felony and  
2 shall be sentenced pursuant to the provisions of Section  
3 31-18-15 NMSA 1978;

4 (4) any amount of any other controlled  
5 substance enumerated in Schedule I, II, III or IV or a  
6 controlled substance analog of a substance enumerated in  
7 Schedule I, II, III or IV, except phencyclidine as enumerated  
8 in Schedule III, a narcotic drug enumerated in Schedule I or II  
9 or a controlled substance analog of a narcotic drug enumerated  
10 in Schedule I or II, is guilty of a fourth degree felony and  
11 shall be sentenced pursuant to the provisions of Section  
12 31-18-15 NMSA 1978; and

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

19 SECTION 69. Section 30-31-34 NMSA 1978 (being Laws 1972,  
20 Chapter 84, Section 33, as amended) is amended to read:

21 "30-31-34. FORFEITURES--PROPERTY SUBJECT.--The following  
22 are subject to forfeiture pursuant to the provisions of the  
23 Forfeiture Act:

24 A. all raw materials, products and equipment of any  
25 kind, including firearms that are used or intended for use in

.221014.5GLG

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

1 manufacturing, compounding, processing, delivering, importing  
2 or exporting any controlled substance or controlled substance  
3 analog in violation of the Controlled Substances Act;

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

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

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

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

17 F. notwithstanding Subsection C of this section and  
18 the provisions of the Forfeiture Act:

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

25 (2) a conveyance shall not be subject to

.221014.5GLG



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

1 forfeiture pursuant to this section by reason of an act or  
2 omission established for the owner to have been committed or  
3 omitted without the owner's knowledge or consent;

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

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

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

13 SECTION 70. TEMPORARY PROVISION--TRANSFER--FUNCTIONS,  
14 PERSONNEL, MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS AND  
15 STATUTORY REFERENCES--MEDICAL CANNABIS FUND--RULES.--

16 A. On the effective date of this act, all  
17 functions, personnel, money, appropriations, records,  
18 furniture, equipment and other property of the department of  
19 health's medical cannabis program that are not part of the  
20 department's medical cannabis registry powers and duties shall  
21 be transferred to the regulation and licensing department.

22 B. On the effective date of this act, all  
23 contractual obligations and other agreements of the department  
24 of health as they pertain to the department's medical cannabis  
25 program that are not part of the department's medical cannabis

.221014.5GLG

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

1 registry powers and duties are binding on the regulation and  
2 licensing department.

3 C. Statutory references to the department of health  
4 that pertain to the department's medical cannabis program that  
5 are not part of the department's medical cannabis registry  
6 powers and duties shall be deemed to be references to the  
7 cannabis control division of the regulation and licensing  
8 department.

9 D. On the effective date of this act, any  
10 unexpended or unencumbered balance in the medical cannabis fund  
11 is transferred to the cannabis regulation fund.

12 E. Except to the extent any administrative rules  
13 are inconsistent with the provisions of this act, any  
14 administrative rules adopted by an officer, agency or other  
15 entity whose responsibilities have been transferred pursuant to  
16 the provisions of this act to another officer, agency or other  
17 entity remain in force until amended by the officer, agency or  
18 other entity to which the responsibility for the adoption of  
19 the rules has been transferred. To the extent any  
20 administrative rules are inconsistent with the provisions of  
21 this act, such rules are null and void.

22 SECTION 71. REPEAL.--Section 9-7-17.1 NMSA 1978 (being  
23 Laws 2012, Chapter 42, Section 1) is repealed.

24 SECTION 72. DELAYED REPEAL.--Section 40 of this act is  
25 repealed effective December 31, 2025.

.221014.5GLG