

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE HEALTH AND HUMAN SERVICES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 12

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

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO CANNABIS; ENACTING THE CANNABIS REGULATION ACT;
ENACTING THE CANNABIS TAX ACT; CREATING THE CANNABIS CONTROL
DIVISION IN THE REGULATION AND LICENSING DEPARTMENT; PROVIDING
DUTIES; CREATING THE CANNABIS REGULATORY ADVISORY COMMITTEE;
CREATING THE PUBLIC HEALTH AND SAFETY ADVISORY COMMITTEE;
ESTABLISHING THE MEDICAL CANNABIS SUBSIDY PROGRAM; REVISING LAW
ENFORCEMENT REPORTING REQUIREMENTS; REVISING SECTIONS OF LAW

.220070.5AIC March 19, 2021 (10:48am)

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RELATED TO CANNABIS; AUTHORIZING THE REGULATION AND LICENSING DEPARTMENT TO ENTER INTO INTERGOVERNMENTAL AGREEMENTS WITH INDIAN NATIONS, TRIBES AND PUEBLOS REGARDING IMPLEMENTATION AND COMPLIANCE IN CONNECTION WITH THE LYNN AND ERIN COMPASSIONATE USE ACT AND THE CANNABIS REGULATION ACT; CREATING A PUBLIC EDUCATION CAMPAIGN; CREATING THE COMMUNITY GRANTS REINVESTMENT FUND; CREATING THE COMMUNITY GRANTS REINVESTMENT PROGRAM; CREATING THE LOW-INCOME MEDICAL PATIENT SUBSIDY FUND; CREATING THE CANNABIS EXCISE TAX; SJC→~~CREATING THE COUNTY CANNABIS TAX;~~ ~~CREATING THE MUNICIPAL CANNABIS TAX~~←SJC SJC→DISTRIBUTING A PORTION OF THE CANNABIS EXCISE TAX TO MUNICIPALITIES AND COUNTIES←SJC ; AMENDING THE LYNN AND ERIN COMPASSIONATE USE ACT; SJC→AMENDING THE CRIMINAL RECORD EXPUNGEMENT ACT;←SJC PROVIDING AND REVISING PENALTIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING APPROPRIATIONS.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through SJC→~~STBTC~~→47←~~STBTC~~ STBTC→46←~~STBTC~~←SJC SJC→47←SJC of this act may be cited as the "Cannabis Regulation Act".

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

A. "advertisement":

(1) means a statement or a depiction that is intended to induce the purchase of cannabis products and that

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is displayed in printed material or on a sign or other outdoor display or presented in a radio, television or other media broadcast or in digital media; and

(2) does not include:

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

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

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

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

C. "cannabis":

(1) means all parts of the plant genus Cannabis containing a delta-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

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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;

D. "cannabis consumption area" means an area STBTC→~~within a vertically integrated cannabis establishment's, integrated cannabis microbusiness's or cannabis retailer's licensed premises~~←STBTC STBTC→**designated by the division**←STBTC where cannabis products may be consumed;

E. "cannabis courier" means a person that transports cannabis products from a cannabis establishment to any or all of the following:

- (1) a qualified patient;
- (2) a primary caregiver;
- (3) another cannabis establishment; or
- (4) directly to consumers;

F. "cannabis establishment" means:

- (1) a cannabis courier;

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

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

G. "cannabis extract":

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

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

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

I. "cannabis manufacturer" means a person that:

- (1) manufactures cannabis products;
- (2) packages, transports or couriers cannabis products;
- (3) has cannabis products tested by a cannabis testing laboratory;

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(4) purchases, acquires, obtains, possesses, sells or transports cannabis products to other cannabis establishments; or

(5) prepares products for personal production license holders pursuant to the Lynn and Erin Compassionate Use Act;

J. "cannabis producer" means a person that:

(1) possesses, ~~STBTC~~→**produces,**
dispenses,←~~STBTC~~ distributes and manufactures cannabis products;

(2) cultivates cannabis plants;

(3) has unprocessed cannabis products tested by a cannabis testing laboratory; or

(4) sells cannabis products wholesale;

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

(1) produce cannabis products; provided that the person shall not possess at any one time more than ~~STBTC~~→**ninety-nine mature**←~~STBTC~~ ~~STBTC~~→**two hundred total**←~~STBTC~~ cannabis plants;

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

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

L. "cannabis product" means a product that is or

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that contains cannabis or cannabis extracts, including edible or topical products that may also contain other ingredients;

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

N. "cannabis retailer" means a person or entity that is licensed by the division to sell or courier cannabis products to a person who purchases, acquires, possesses or uses a cannabis product for a purpose other than resale;

O. "cannabis server permit" means an authorization issued by the director to allow a person to directly offer, sell or serve cannabis or cannabis products as part of commercial cannabis activity in a cannabis consumption area;

P. "cannabis server permit education provider" means a person or a public or private school that is licensed by the division to provide cannabis server education courses and examinations;

Q. "cannabis testing laboratory" means a person authorized by the division to sample, collect or test cannabis products and to transport cannabis products for the purpose of testing;

R. "cannabis training and education program" means a practical or academic curriculum offered by a New Mexico public post-secondary educational institution designed to

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prepare students for participation in the cannabis industry;

S. "commercial cannabis activity":

(1) means the cultivation, production, possession, manufacture, storage, testing, researching, labeling, transportation, couriership, purchase and sale of cannabis products; and

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

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

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

V. "controlling person":

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

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

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

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

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

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

AA. "evidence-based drug education program" means a research-based and scientific-evidence-based education program that has been thoroughly tested and has been shown to significantly reduce problematic use of substances such as nicotine, alcohol or drugs or reduce student suspensions or expulsions related to alcohol or drug use;

BB. "facility" means any building, space or grounds licensed for the production, possession, testing, manufacturing or distribution of cannabis, concentrates or cannabis products;

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

DD. "homegrown" or "homemade" means grown or made for purposes that are not dependent or conditioned upon the

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provision or receipt of financial consideration;

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

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

GG. "industry standards" means the prevailing customary standards of business practice in the cannabis industry in jurisdictions within the United States;

HH. "integrated cannabis microbusiness" means a person that is licensed by the division to conduct one or more of the following:

(1) produce cannabis; provided that the person shall not possess at any one time more than STBTC→~~ninety-nine~~ ~~mature~~←STBTC STBTC→two hundred total←STBTC cannabis plants;

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

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

(4) operate only one retail establishment; or

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

II. "licensed premises" means a location that is

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designated by the division to engage in commercial cannabis activity pursuant to the Cannabis Regulation Act and includes:

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

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

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

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

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

LL. "local jurisdiction" means a municipality, home rule municipality or county;

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

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

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

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

QQ. "medical cannabis program" means licensed activity as authorized by the Lynn and Erin Compassionate Use Act;

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

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

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TT. "produce" or "production" means any activity involving the cultivation of cannabis or performing any action intended to result in making cannabis products available to consumers;

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

VV. "qualified patient" means a STBTC→**person**←STBTC STBTC→**resident of New Mexico**←STBTC who has been diagnosed by a practitioner as having a debilitating medical condition and has received written certification and a registry identification card STBTC→~~as part of the medical cannabis program~~←STBTC STBTC→**pursuant to the Lynn and Erin Compassionate Use Act**←STBTC ;

STBTC→**WW. "reciprocal participant" means an individual who is not a resident of New Mexico and who holds proof of enrollment by a governmental regulatory authority to participate in the medical cannabis program of another state of the United States, the District of Columbia or a territory or commonwealth of the United States in which the individual resides or an individual who holds proof of enrollment by a**

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governmental regulatory authority of a New Mexico Indian nation, tribe or pueblo to participate in its medical cannabis program; ←STBTC

STBTC → ~~WW.~~ ←STBTC STBTC → ~~XX.~~ ←STBTC "retail establishment" means a single location, not to exceed ten thousand square feet in total area, operated by an integrated cannabis microbusiness for the purpose of performing all licensed activities;

STBTC → ~~XX.~~ ←STBTC STBTC → ~~YY.~~ ←STBTC "shortage of cannabis supply in the medical cannabis program" means that the average number of STBTC → ~~cannabis~~ ←STBTC plants in production in the medical cannabis program per qualified patient after the effective date of the Cannabis Regulation Act is substantially less than the average number of STBTC → ~~cannabis~~ ←STBTC plants in production in the medical cannabis program per qualified patient as of the effective date of the Cannabis Regulation Act, where:

(1) the average number of STBTC → ~~cannabis~~ ←STBTC plants in production after the effective date of the Cannabis Regulation Act is measured over a period of three consecutive months; and

(2) the average number of STBTC → ~~cannabis~~ ←STBTC plants in production as of the effective date of the Cannabis Regulation Act is measured over a period of three consecutive months immediately preceding the effective

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date of the Cannabis Regulation Act;

STBTC→ZZ. "superintendent" means the superintendent of regulation and licensing; and←STBTC

STBTC→YY.←STBTC STBTC→STBTC→ZZ.←STBTC←STBTC

STBTC→AAA←STBTC "vertically integrated cannabis establishment" means a licensee that is authorized under a vertically integrated cannabis establishment license issued by the division to act, without additional licensure and in the licensee's discretion, as any of the following:

(1) a cannabis courier;

SJC→(2)←a cannabis testing laboratory;←SJC

SJC→(3)←SJC SJC→(2)←SJC a cannabis

manufacturer;

SJC→(4)←SJC SJC→(3)←SJC a cannabis producer;

SJC→(5)←SJC SJC→(4)←SJC a cannabis retailer;

SJC→(6)←SJC SJC→(5)←SJC a cannabis research

laboratory; or

SJC→(7)←SJC SJC→(6)←SJC a person that

engages in any other activity authorized by the division

STBTC→; and

STBTC→ZZ.←STBTC STBTC→STBTC→AAA.←STBTC←STBTC

STBTC→BBB←STBTC "superintendent" means the superintendent of regulation and licensing.←STBTC STBTC→.←STBTC

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

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A. The "cannabis control division" is created in the department.

B. The division shall execute the provisions delegated to it under this 2021 act and administer and enforce the provisions of rules adopted under the Cannabis Regulation Act.

C. No later than January 1, 2022, the STBTC→~~division~~←STBTC STBTC→~~director~~←STBTC shall promulgate reasonable rules STBTC→**pursuant to the State Rules Act that** ~~are~~←STBTC consistent with industry standards necessary for the division to carry out its duties as provided in the Cannabis Regulation Act as follows:

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

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

(3) security requirements for a cannabis establishment;

(4) requirements related to:

(a) inspection and monitoring of a cannabis establishment;

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

(c) prevention of the sale or diversion

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of cannabis products in commercial cannabis activity to a person under the age of twenty-one;

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

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

(5) rules providing that:

(a) any adult who is twenty-one years old or older shall be permitted to purchase at least two ounces of cannabis flowers and at least sixteen grams of cannabis extract at one time;

(b) a qualified patient ~~STBTC~~, a reciprocal participant ~~STBTC~~ or a primary caregiver shall not be limited in possession of the amount of cannabis flowers or cannabis extract purchased and obtained pursuant to the medical cannabis program; and

(c) as to commercial cannabis activity: ~~STBTC~~ 1) ~~except for limits set in place in statute for an integrated cannabis microbusiness or a cannabis producer microbusiness, the division shall not limit the number of plants the licensee may possess, cultivate or manufacture; 2) a consumer shall be~~ ~~STBTC~~

~~STBTC~~ 1) a consumer shall be ~~STBTC~~ permitted to possess at least two ounces of cannabis flowers and at least sixteen grams of cannabis extract purchased and obtained pursuant to the

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commercial cannabis activity authorized by the Cannabis Regulation Act outside of the consumer's private residence; STBTC→3)←STBTC STBTC→2)←STBTC any cannabis flower in excess of two ounces of cannabis flowers or cannabis extract in excess of sixteen grams shall be stored in the person's residence in a locked space and shall not be visible from a public place; and STBTC→4)←STBTC STBTC→3)←STBTC the division STBTC→shall not←STBTC STBTC→may←STBTC limit the amount of tetrahydrocannabinol concentration in a cannabis product;

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

(7) rules on how a licensee may display cannabis products for sale;

(8) procedures that promote and encourage full participation in the cannabis industry governed by the Cannabis Regulation Act by representatives of communities that have been disproportionately harmed by rates of arrest through the enforcement of cannabis prohibitions in law and policy;

(9) procedures that promote and encourage racial, ethnic, gender and geographic diversity among license applicants, licensees and cannabis industry employees;

(10) development of a certification to identify products for consumers from licensees that are integrated cannabis microbusinesses or cannabis producer microbusinesses or owned by representatives of communities that

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have been disproportionately harmed by rates of arrest through the enforcement of cannabis prohibitions in law and policy;

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

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

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

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

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

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

D. No later than January 1, 2022, the division

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shall promulgate reasonable rules STBTC→pursuant to the State Rules Act that are←STBTC consistent with industry standards relating to cannabis training and education programs, including:

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

(2) qualifications for licensure;

STBTC→and←STBTC

(3) physical security, cybersecurity and, if applicable, security of information collected under the federal Health Insurance Portability and Accountability Act of 1996 requirements STBTC→; and←STBTC STBTC→.←STBTC

STBTC→(4) rules developed←STBTC

STBTC→E. No later than January 1, 2022, the division shall promulgate rules pursuant to the State Rules Act←STBTC in consultation with the New Mexico department of agriculture and the department of environment to establish:

STBTC→(a)←STBTC STBTC→(1)←STBTC

environmental protections; and

STBTC→(b)←STBTC STBTC→(2)←STBTC protocols to ensure licensees' compliance with state and local laws and ordinances governing STBTC→food and product safety, occupational health and safety,←STBTC environmental impacts, natural resource protection, water quality, water supply, hazardous materials, pesticide use and wastewater discharge.

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STBTC→**F.** No later than January 1, 2022, the division shall adopt rules pursuant to the State Rules Act in consultation with the department of health to establish standards and determinations on requirements for the reservation of cannabis products reserved for sale to qualified patients, primary caregivers and reciprocal participants.←STBTC

STBTC→~~E.~~←STBTC STBTC→**G.**←STBTC The division shall collect and publish annually on the division's website, and present to the appropriate interim committee of the legislature, a report describing demographic data on license applicants, controlling persons and employees of cannabis establishments, including race, ethnicity, gender and age.

STBTC→~~F.~~←STBTC STBTC→**H.**←STBTC No later than September 1, 2021, the STBTC→~~division~~←STBTC STBTC→**director**←STBTC shall convene a "cannabis regulatory advisory committee" to advise the division on the development of rules pursuant to the Cannabis Regulation Act, including best practices and guidelines that promote economic and cultural diversity in licensing and employment opportunities and protect public health and safety while ensuring a regulated environment for commercial cannabis activity that does not impose unreasonable barriers that would perpetuate, rather than reduce and eliminate, the illicit market for cannabis.

SJC→~~STBTC→An individual appointed to the cannabis regulatory advisory committee shall not hold any ownership interest or~~

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~~investment in a licensed entity pursuant to the Cannabis Regulation Act. The cannabis~~~~←STBTC~~~~→The cannabis~~~~←STBTC~~~~←SJC~~ SJC~~→An individual appointed to the cannabis regulatory advisory committee shall not hold any ownership interest or investment in a licensed entity pursuant to the Cannabis Regulation Act. The cannabis~~~~←SJC~~ regulatory advisory committee shall consist of the following individuals or their designees:

- (1) the chief public defender;
- (2) a district attorney appointed by the New Mexico district attorney association;
- (3) a county sheriff appointed by the executive director of the New Mexico association of counties; and
- (4) members appointed by the director with the approval of the superintendent for four-year terms, including a representative:

- (a) of a cannabis policy advocacy organization;
- (b) of a labor organization;
- (c) who is a qualified patient;
- (d) from a state or local agency with relevant expertise as the director and the superintendent deem appropriate;
- (e) with expertise in public health;

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- (f) with expertise in regulating commercial activity for adult-use intoxicating substances;
- (g) from a community disproportionately affected by past federal and state drug policies;
- (h) with expertise and experience in cannabis laboratory science;
- (i) with expertise in environmental science;
- (j) from an Indian nation, tribe or pueblo with relevant expertise as the director and the superintendent deem appropriate;
- (k) with expertise in small business development; SJC→~~STBTC→and←STBTC~~

~~STBTC→(l) who is a cannabis retailer;~~

~~(m) who is a cannabis producer;~~

~~(n) who is a cannabis manufacturer;~~

~~and←STBTC←SJC~~ SJC→~~SJC→and←SJC←SJC~~

SJC→(1) who has previous experience as a cannabis retailer, cannabis producer or cannabis manufacturer;

and←SJC

SJC→~~STBTC→(1)←STBTC~~

~~STBTC→(o)←STBTC←SJC~~ SJC→~~SJC→(1)←SJC←SJC~~ SJC→(2)←SJC with expertise in other relevant areas as the director and the superintendent deem appropriate.

STBTC→I. The cannabis regulatory advisory committee

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shall elect from among its members a chair and such other officers as it deems necessary. The committee shall meet at the call of the chair, the director or the superintendent. A majority of members currently serving constitutes a quorum for the conduct of business. Members shall serve at the pleasure of the director with the approval of the superintendent.

STBTC → G. ← STBTC STBTC → STBTC → I. ← STBTC ← STBTC

STBTC → J. ← STBTC Public members of the cannabis regulatory advisory committee shall not be paid but are entitled to receive per diem and mileage as provided for non-salaried public officers in the Per Diem and Mileage Act.

STBTC → H. ← STBTC STBTC → STBTC → J. ← STBTC ← STBTC

STBTC → K. ← STBTC The division shall monitor the supply and demand of cannabis products produced in New Mexico by licensees and present annually to the appropriate interim committee of the legislature on the impacts of supply on illicit cannabis products markets and adequate supply of cannabis products for qualified patients.

STBTC → I. ← STBTC STBTC → STBTC → K. ← STBTC ← STBTC

STBTC → L. ← STBTC The director is responsible for the operation of the division. The director shall supervise all operations of the division and shall:

- (1) administer the laws that the division administers, including the Cannabis Regulation Act. The director shall request the department of public safety to

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enforce the provisions of the Cannabis Regulation Act as deemed necessary; STBTC→and←STBTC

~~STBTC→(2) exercise general supervisory authority over all employees of the division;~~

~~(3) organize the division into bureaus to enable it to function effectively for the operation of the division;~~

~~(4) confer authority, delegate responsibility and hire personnel as necessary to carry out the powers and duties of the division;~~

~~(5) undertake studies and conduct courses of instruction for division employees that will improve the operations of the division and advance its purposes; and~~

~~(6) require compliance by employees of the division with the director's verbal and written instructions by whatever disciplinary means appropriate.←STBTC~~

STBTC→(2) undertake studies and conduct courses of instruction for division employees that will improve the operations of the division and advance its purposes.←STBTC

STBTC→J.←STBTC STBTC→STBTC→L.←STBTC←STBTC

STBTC→M.←STBTC The director, through the legal counsel for the division, is vested with the power to issue subpoenas. In no case shall a subpoena be made returnable less than five days from the date of service. After service of a subpoena upon a person, if the person neglects or refuses to appear or produce

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records or other evidence in response to the subpoena or neglects or refuses to give testimony, as required, the director may invoke the aid of a district court in the enforcement of the subpoena. In appropriate cases, the court shall issue its order requiring the person to appear and testify or produce the person's books or records and may, upon failure of the person to comply with the order, punish the person for contempt. A subpoena issued by the legal counsel for the division shall state with reasonable certainty the nature of the evidence required to be produced, the time and place of the hearing, the nature of the inquiry or investigation and the consequences of failure to obey the subpoena and shall bear the seal of the department and be attested to by the director.

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

A. No later than January 1, 2022, the department of health shall:

(1) establish the "medical cannabis subsidy program" through which the department of health shall make distributions to provide medical cannabis or subsidies to qualified patients who are New Mexico residents and who need assistance in obtaining medical cannabis; and

(2) promulgate rules to govern the medical

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cannabis subsidy program.

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

C. No later than September 1, 2021, the secretary of health shall appoint a "public health and safety advisory committee" composed of professionals with expertise related to cannabis products through work, training or research in public health, epidemiology, medicine, medical toxicology, poison control, road safety, occupational safety, environmental safety and emergency medicine.

D. Beginning December 1, 2024, the public health and safety advisory committee shall provide to the legislature, and the department of health shall publish on its website, an annual report on the health effects of legalizing cannabis products for adult use. The report shall include the following elements relating to cannabis products use and, as applicable, the demographics of persons who are the subject of the event or report relating to the element:

- (1) child access;
- (2) road safety and driving while impaired;
- (3) workplace safety;

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- (4) the percentage of emergency room visits and outcomes;
- (5) educational needs for children and adults;
- (6) consumer and product safety;
- (7) the percentage of poison control center calls; and
- (8) the impact of cannabis use on rates of alcohol, opioid and other substance abuse.

E. In consultation with qualified patients and primary caregivers, the department of health shall produce an assessment report annually that shall be available to the public and that includes at a minimum an evaluation of the affordability and accessibility of medical cannabis pursuant to the Lynn and Erin Compassionate Use Act.

F. Public members of the public health and safety advisory committee are entitled to per diem and mileage as provided for non-salaried public officers in the Per Diem and Mileage Act.

SECTION 5. [NEW MATERIAL] DEPARTMENT OF HEALTH--DUTIES.--
 Except for administration of the medical cannabis registry under the Lynn and Erin Compassionate Use Act **STBTC→, and as otherwise provided by law←STBTC**, the power, duty and authority of the department of health related to commercial cannabis activity and the medical cannabis program shall be transferred to the division on July 1, 2021.

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

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

- (1) commercial cannabis activity and licensing related to commercial cannabis activity;
- (2) the medical cannabis program, except for the medical cannabis registry; and
- (3) all aspects of cannabis relating to cannabis training and education programs.

STBTC→~~B. The division shall begin issuing licenses in accordance with the rules promulgated by the division for commercial cannabis activities no later than January 1, 2022.~~←STBTC

STBTC→~~C.~~←STBTC STBTC→~~B.~~←STBTC Within
STBTC→~~sixty~~←STBTC STBTC→~~one hundred eighty~~←STBTC days of the effective date of the Cannabis Regulation Act, the division shall adopt procedures to:

- (1) promote and encourage full participation in the cannabis industry by representatives of communities that have been disproportionately harmed by rates of arrest through the enforcement of cannabis prohibitions in law; and
- (2) promote and encourage racial, ethnic, gender and geographic diversity among license applicants, licensees and cannabis industry employees.

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STBTC→~~D.~~←STBTC STBTC→C.←STBTC The division shall administer a licensing program in accordance with the rules promulgated by the STBTC→division←STBTC STBTC→director←STBTC for commercial cannabis activities provided for in the Cannabis Regulation Act, the medical cannabis program provided for in the Lynn and Erin Compassionate Use Act and cannabis training and education programs that shall include licenses for:

(1) vertically integrated cannabis establishments;

(2) cannabis testing laboratories;

(3) cannabis couriers;

(4) cannabis producers;

STBTC→(5) cannabis consumption areas;←STBTC

STBTC→(5)←STBTC STBTC→(6)←STBTC cannabis manufacturers;

STBTC→(6)←STBTC STBTC→(7)←STBTC integrated cannabis microbusinesses;

STBTC→(7)←STBTC STBTC→(8)←STBTC cannabis producer microbusinesses;

STBTC→(8)←STBTC STBTC→(9)←STBTC cannabis training and education programs;

STBTC→(9)←STBTC STBTC→(10)←STBTC cannabis retailers; and

STBTC→(10)←STBTC STBTC→(11)←STBTC cannabis research laboratories.

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STBTC→E.←STBTC STBTC→D.←STBTC The division shall include a clear designation on all licenses that indicates whether the license is for medical cannabis activity, both medical and commercial cannabis activity or cannabis training and education programs.

STBTC→E. The division shall not license a cannabis retailer unless the cannabis retailer agrees as a condition of its license to accept cannabis products on consignment for resale from any manufacturer or producer licensed pursuant to the Cannabis Regulation Act.←STBTC

STBTC→F.←STBTC STBTC→STBTC→E.←STBTC←STBTC
STBTC→F.←STBTC A license is valid for twelve months from the date the license is issued and may be renewed annually; provided that a license issued for a cannabis training and education program is valid until terminated by the licensee or suspended or revoked by the division.

STBTC→G.←STBTC STBTC→STBTC→F.←STBTC←STBTC
STBTC→G.←STBTC The director shall not renew a license issued pursuant to the provisions of the Cannabis Regulation Act until the director receives notification from the secretary of taxation and revenue or the secretary's delegate that on a certain date:

- (1) there is no assessed tax liability from engaging in business authorized by the license or, if there is assessed tax liability, the licensee is not a delinquent

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taxpayer; and

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

STBTC→~~H.~~←STBTC STBTC→~~STBTC→G.~~←STBTC←STBTC

STBTC→~~H.~~←STBTC No license shall be transferable or assignable from a licensee to another person or entity.

STBTC→~~STBTC→I.~~←STBTC STBTC→~~STBTC→H.~~←STBTC←STBTC

~~STBTC→I.~~←STBTC The division shall allow only a vertically integrated cannabis establishment, a cannabis retailer or an integrated cannabis microbusiness to operate a cannabis consumption area.←STBTC

STBTC→~~J.~~←STBTC STBTC→~~STBTC→I.~~←STBTC←STBTC

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

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viability of the cannabis industry or adequate supply of cannabis, the superintendent may impose temporary moratoria on new licensure, issue new licenses or allow greater production by current licensees. The decision to impose temporary moratoria on new licensure, issue new licenses or allow greater production by current licensees shall be made with input from the university of New Mexico bureau of business and economic research and the director of the New Mexico department of agriculture←SJC .

SJC→K. The division shall not allow a person that is licensed as any type of cannabis establishment other than a cannabis research laboratory to own, directly or indirectly, a cannabis testing laboratory license.←SJC

STBTC→K.←STBTC STBTC→STBTC→J.←STBTC←STBTC

STBTC→STBTC→K.←STBTC←STBTC SJC→STBTC→J.←STBTC←SJC

SJC→K.←SJC Except for verification of age, the division shall not require licensees to request information from consumers or impose any residency requirement upon consumers for the purchase of cannabis products pursuant to the commercial cannabis activity authorized by the Cannabis Regulation Act

SJC→~~or the medical cannabis program~~←SJC SJC→. The division may require licensees to request information from consumers for the purchase of cannabis products pursuant to the medical cannabis program, which may include the presentation of legal identification issued by an authorized governmental entity or

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other documents as required by the division as required by the medical cannabis program ←SJC .

STBTC → L. ←STBTC STBTC → STBTC → K. ←STBTC ←STBTC

STBTC → STBTC → L. ←STBTC ←STBTC SJC → STBTC → K. ←STBTC ←SJC

SJC → L. ←SJC Except as otherwise provided in the Cannabis Regulation Act, the division shall not limit the number of licensed premises a licensee may occupy or operate under a license. Multiple licensees may occupy a single licensed premises, and the division shall not place any restriction or prohibition on the number of licensees occupying a single licensed premises or on the number of licensed premises of a cannabis establishment except as otherwise specifically provided for by the Cannabis Regulation Act. A licensee may conduct any lawful activity or any combination of lawful activities at a licensed premises; provided that the licensee is not a licensee pursuant to the Liquor Control Act.

STBTC → M. ←STBTC

STBTC → STBTC → STBTC → L. ←STBTC ←STBTC ←STBTC

STBTC → STBTC → M. ←STBTC ←STBTC SJC → STBTC → L. ←STBTC ←SJC

SJC → M. ←SJC Licensees pursuant to the Cannabis Regulation Act shall be specifically permitted to conduct any other licensed activities, including activities pursuant to the Hemp Manufacturing Act.

STBTC → N. ←STBTC STBTC → STBTC → M. ←STBTC ←STBTC

STBTC → STBTC → N. ←STBTC ←STBTC SJC → STBTC → M. ←STBTC ←SJC

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SJC→N.←SJC Any person properly licensed and in good standing
SJC→~~as a licensed cannabis producer~~←SJC pursuant to the Lynn
and Erin Compassionate Use Act on STBTC→~~the effective date of~~
~~the Cannabis Regulation Act~~←STBTC STBTC→October 1, 2021←STBTC
shall be issued a license by the division allowing the licensee
SJC→of comparable class and privileges←SJC to conduct
commercial cannabis SJC→~~activity and medical cannabis activity~~
~~as a vertically integrated cannabis establishment~~
SJC→STBTC→~~beginning on January 1, 2022~~←STBTC STBTC→, provided
~~that retail sale of commercial cannabis shall not begin until~~
~~March 1, 2022~~←STBTC←SJC SJC→~~beginning on January 1, 2022~~←SJC
. ~~Any other person properly licensed and in good standing~~
~~pursuant to the Lynn and Erin Compassionate Use Act on the~~
~~effective date of the Cannabis Regulation Act shall be issued a~~
~~license of comparable class and privileges to conduct~~
~~commercial cannabis activity under the Cannabis Regulation~~
~~Act.~~←SJC SJC→activity under the Cannabis Regulation Act;
provided that retail sale of commercial cannabis shall not
begin until April 1, 2022.←SJC Any facility of such a
licensee, upon issuance of the cannabis establishment license,
shall constitute licensed premises of the licensee and the
licensee shall be entitled to continued and uninterrupted
operations of the licensed premises. As to activity under the
medical cannabis program, the licensee shall continue to
operate under rules promulgated for the medical cannabis
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program until the division promulgates rules for medical cannabis activity, except that a qualified patient ~~STBTC~~, a reciprocal patient ~~STBTC~~ and a primary caregiver shall not be prohibited from purchasing and obtaining cannabis products pursuant to the medical cannabis program nor shall such a person be prohibited from purchasing up to ~~STBTC~~ two ounces of cannabis flowers and ~~STBTC~~ sixteen grams of cannabis extract purchased and obtained pursuant to the medical cannabis program. The division shall not limit ~~STBTC~~:

~~(1) the number of plants the licensee shall be permitted to possess, cultivate or manufacture; or~~

~~(2)~~ ~~STBTC~~ a consumer from purchasing and obtaining pursuant to the commercial cannabis activity authorized by the Cannabis Regulation Act up to two ounces of cannabis flowers ~~STBTC~~ or ~~STBTC~~ ~~STBTC~~ and ~~STBTC~~ sixteen grams of cannabis extract each day.

~~STBTC~~ ~~0.~~ ~~STBTC~~ ~~STBTC~~ ~~N.~~ ~~STBTC~~ ~~STBTC~~ ~~STBTC~~ ~~0.~~ ~~STBTC~~ ~~STBTC~~ ~~SJC~~ ~~STBTC~~ ~~N.~~ ~~STBTC~~ ~~SJC~~ ~~SJC~~ ~~0.~~ ~~SJC~~ Any nonprofit corporation issued a license under Subsection ~~STBTC~~ ~~N~~ ~~STBTC~~ ~~STBTC~~ ~~M~~ ~~STBTC~~ of this section shall be converted into a corporation by the secretary of state upon the filing of articles of organization by the nonprofit corporation, which shall be approved pursuant to an agreement of conversion in the manner provided for the conversion of a limited liability company in Section 53-19-60.1 NMSA 1978. To

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be valid, the agreement of conversion must be approved by all directors of the nonprofit corporation. Upon conversion, all property owned by the converting entity remains in the newly converted entity. All obligations of the converting entity continue as obligations of the newly converted entity. Any action or proceeding pending against the converting entity may be continued as if the conversion had not occurred.

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

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

B. The division may:

- (1) suspend or revoke a license;
- (2) impose any intermediate sanction

established by rule;

- (3) impose a directed plan of correction; or
- (4) assess a civil monetary penalty

established by rule; provided that a civil monetary penalty shall not exceed ten thousand dollars (\$10,000) per violation; and further provided that penalties and interest recovered pursuant to the Cannabis Regulation Act on behalf of the state shall be remitted to the state treasurer for deposit in the general fund.

C. The division shall adopt and promulgate

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reasonable rules consistent with industry standards specifying the criteria for imposition of any sanction and civil monetary penalty.

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

E. A person aggrieved by an action taken by the division pursuant to this section may request and receive a hearing with the division for the purpose of reviewing the action. To obtain a hearing with the division, the aggrieved person shall file a request for a hearing with the director within thirty days after the date the action is taken. The division hearings shall be conducted in accordance with the provisions of the Uniform Licensing Act.

F. After the hearing conducted according to the Uniform Licensing Act, a person who is aggrieved by an adverse decision of the division may obtain review of the decision in the court of appeals, notwithstanding the review procedures set out in the Uniform Licensing Act.

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

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

B. SJC→~~The~~←SJC SJC→**Except as otherwise provided in**

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the Cannabis Regulation Act, the SJC division shall not limit the number of licenses of any kind, the scope of licenses or the activities a licensee is authorized to conduct under the Cannabis Regulation Act; provided that to address a shortage of cannabis supply in the medical cannabis program, the division may:

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

STBTC (1) STBTC (2) STBTC initially take reasonable measures to expeditiously incentivize increased production of cannabis plants to remedy a shortage of cannabis supply in the medical cannabis program;

STBTC (2) STBTC (3) STBTC after having first exhausted measures to increase production of cannabis plants to address the shortage of cannabis supply in the medical cannabis program, exclude commercial cannabis activity from the scope of new licenses issued to initial applicants for a vertically integrated cannabis establishment, cannabis producer, integrated cannabis microbusiness, cannabis producer microbusinesses or cannabis manufacturer license, which limitation shall be in force for a period of at least six months; and

STBTC (3) STBTC (4) STBTC after having

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exhausted reasonable efforts to increase production of cannabis plants, including expediting applications for additional licensed premises, the division may then require licensees who are licensed to produce cannabis to produce a specified quota of mature cannabis plants to be designated for use in the medical cannabis program; provided that:

(a) the division may require a licensee to devote no more than ~~STBTC~~→**five**←~~STBTC~~ ~~STBTC~~→**twenty-five**←~~STBTC~~ percent of the licensee's cultivated cannabis plants ~~STBTC~~→**on a monthly basis**←~~STBTC~~ for use in the medical cannabis program; ~~STBTC~~→**and**←~~STBTC~~

~~SJC~~→~~STBTC~~→~~(b) the total number of plants to be produced from such a quota shall not exceed the number necessary to eliminate the shortage of cannabis supply in the medical cannabis program; and~~←~~STBTC~~←~~SJC~~

~~SJC~~→~~SJC~~→~~(b) the total number of plants to be produced from such a quota shall not exceed the number necessary to eliminate the shortage of cannabis supply in the medical cannabis program; and~~←~~SJC~~

~~SJC~~→~~STBTC~~→~~STBTC~~→~~(c)~~←~~STBTC~~
~~STBTC~~→~~(b)~~←~~STBTC~~ the division shall not require specific tracking of produced particular plants, but shall instead permit a licensee to produce any sufficient number of plants to meet a quota imposed under this subsection.←~~STBTC~~

~~STBTC~~→~~(c)~~ the division may require

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~~specific tracking of cannabis plants.~~ ←STBTC←SJC

~~SJC→(c) the division shall not require specific tracking of produced particular plants, but shall instead permit a licensee to produce any sufficient number of plants to meet a quota imposed under this subsection.~~ ←SJC←SJC

SJC→(b) the division may require specific tracking of cannabis plants." ←SJC

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

~~SJC→(1) SJC→STBTC→beginning on←STBTC STBTC→no later than←STBTC←SJC SJC→beginning on←SJC September 1, 2021, accept and begin processing license applications for cannabis producers;~~

~~(2) SJC→STBTC→beginning on←STBTC STBTC→no later than←STBTC←SJC SJC→beginning on←SJC January 1, 2022, SJC→STBTC→issue licenses←STBTC STBTC→accept and begin processing license applications←STBTC←SJC SJC→issue license←SJC for integrated cannabis microbusinesses SJC→STBTC→and←STBTC STBTC→, ←STBTC←SJC SJC→and←SJC cannabis producer microbusinesses SJC→STBTC→, cannabis producers and any person properly licensed and in good standing as a licensed cannabis producer pursuant to the Lynn and Erin Compassionate Use Act; provided that retail sale of commercial cannabis shall not begin until March 1, 2022←STBTC←SJC ;~~

~~(3) beginning on July 1, 2022,~~

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~~SJC→STBTC→accept license applications for all licenses←STBTC~~

~~STBTC→issue licenses for all license types←STBTC←SJC~~

~~SJC→accept license applications for all licenses←SJC~~; ←SJC

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

(2) no later than January 1, 2022, accept and begin processing license applications for all license types; provided that retail sale of commercial cannabis shall not begin until April 1, 2022;←SJC

SJC→(4)←SJC SJC→(3)←SJC issue a license or a written notice detailing why an application was denied no later than ninety days following the day on which the complete application was submitted to the division;

SJC→(5)←SJC SJC→(4)←SJC in consultation with the cannabis regulatory advisory committee, develop a plan to promote and encourage racial, ethnic, gender and geographic diversity among licensees;

SJC→(6)←SJC SJC→(5)←SJC require as a condition of licensing pursuant to the Cannabis Regulation Act that the applicant demonstrate that the applicant has a legal right to a commercial water supply, water rights or another source of water sufficient to meet the water needs related to

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the license, and, if an applicant applies for a cannabis producer license or a cannabis manufacturer license, submit a plan to utilize, or demonstrate to the division that the applicant cannot feasibly utilize, energy and water reduction opportunities, including:

- (a) for a cannabis producer, drip irrigation and water collection;
- (b) natural lighting and energy efficiency measures; and
- (c) renewable energy generation; and

SJC→(7)←SJC SJC→(6)←SJC permit retail sales under the commercial cannabis activity authorized by the Cannabis Regulation Act by any licensee whose license allows such activity no earlier than SJC→STBTC→January 1, 2022←STBTC STBTC→March 1, 2022←STBTC←SJC SJC→SJC→January 1, 2022←SJC←SJC SJC→April 1, 2022←SJC and otherwise permit any activity authorized by the Cannabis Regulation Act or the medical cannabis program as of the time of licensure of a licensee STBTC→, so long as a minimum of twenty-five percent of monthly cannabis sales are to qualified patients, primary caregivers and reciprocal participants or sold wholesale to other licensees who meet or exceed the twenty-five percent sales to qualified patients, primary caregivers and reciprocal participants until December 31, 2022←STBTC .

D. The department has ninety days from the date an

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application is deemed complete to process a license application.

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

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

(2) the applicant or a controlling person in the applicant's entity has been convicted of an offense that is substantially related to the qualifications, functions or duties of the applicant entity's business; provided that if the division determines that the controlling person and the applicant entity are otherwise qualified for a license and that issuing a license to the applicant entity would not compromise public safety, the division shall conduct a thorough review of the conviction, including the nature of the offense, surrounding circumstances and any evidence of the controlling person's rehabilitation following the conviction, and based on that review, determine whether the applicant entity should be issued a license; SJC→or←SJC

(3) the applicant or a controlling person in the applicant's entity has had a license issued pursuant to the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act revoked by the division or the department of health in the three years immediately preceding the date on which the application was filed SJC→.←SJC SJC→; or

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(4) the applicant or a controlling person in the applicant's entity is a current licensee or an owner, director or officer of a current licensee. ←SJC

F. For purposes of Subsection E of this section, the following are considered substantially related to the qualifications, functions or duties of a business seeking a license:

- (1) a felony conviction involving fraud, deceit or embezzlement;
- (2) a felony conviction for hiring, employing or otherwise using a person younger than eighteen years of age to:
 - (a) prepare for sale, transport or carry a controlled substance; or
 - (b) sell, give away or offer to sell a controlled substance to any person; and
- (3) any other offense as determined by the division.

G. A conviction for which the related sentence, including any term of probation or parole, is completed for the possession, use, manufacture, distribution, dispensing or the possession with the intent to manufacture, distribute or dispense a controlled substance is not considered substantially related to the qualifications, functions or duties of a business seeking a license and shall not be the sole ground on

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which an application is denied.

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

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

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

A. The division shall establish application and licensing fees applicable to licenses for commercial cannabis activity and activity related to medical cannabis consistent with the provisions of this section. Money collected for the fees shall not exceed the cost of administering and enforcing the programs established in the Cannabis Regulation Act and the Lynn and Erin Compassionate Use Act SJC→, ~~including the administration of the medical cannabis registry by the department of health.~~

~~B. SJC→STBTC→The division shall assess and collect fees.←STBTC←SJC For fees assessed through January 1, 2026, the fees shall consist of a base annual fee of two thousand five hundred dollars (\$2,500) per year, an additional fee of one~~

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~~thousand dollars (\$1,000) for each licensed premises of the licensee and for a vertically integrated cannabis establishment licensee, an initial application fee and an annual renewal fee.~~ ←SJC

SJC→~~STBTC~~→C. ~~A licensee cultivating cannabis plants shall be assessed an additional annual fee no greater than fifty dollars (\$50.00) per cannabis plant at the time of licensing or renewal, except for cannabis producer microbusinesses and integrated cannabis microbusinesses.~~

~~D. A licensee may increase the number of plants licensed at the time of renewal and one other time per year in increments of five hundred plants. Fees may be prorated for the remainder of the licensing year.~~

~~E.~~ ←STBTC ←SJC

SJC→B. Every application for the issuance or renewal of the following licenses shall be accompanied by a license fee in the following specified amounts:

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

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

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

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

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

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

(7) a vertically integrated cannabis establishment license, two thousand five hundred dollars (\$2,500) per year and an additional fee of one thousand dollars (\$1,000) per year for each licensed premises of the licensee;

(8) a cannabis producer microbusiness license, one thousand five hundred dollars (\$1,500) per year and an additional fee of five hundred dollars (\$500) per year for each licensed premises of the licensee; and

(9) an integrated cannabis microbusiness

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license, one thousand five hundred dollars (\$1,500) per year and an additional fee of five hundred dollars (\$500) per year for each licensed premises of the licensee.

C. A licensee cultivating cannabis plants shall be assessed an additional annual fee no greater than fifty dollars (\$50.00) per cannabis plant at the time of licensing or renewal, except for cannabis producer microbusinesses and integrated cannabis microbusinesses.

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

E. ←SJC The initial application fee and the annual renewal fee for a vertically integrated cannabis establishment license shall not exceed one hundred twenty-five thousand dollars (\$125,000) for a license for both medical cannabis activity and commercial cannabis activity. The initial application fee and the annual renewal fee for a license or renewal of a license that authorizes only medical cannabis activity shall be one-half the fee applicable to a license authorizing both medical cannabis activity and commercial cannabis activity.

SJC→STBTC→F.←STBTC←SJC SJC→~~The division shall charge five percent of the maximum fee assessed for a vertically integrated cannabis establishment licensee as the~~

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~~licensing fee for a cannabis producer microbusiness or an integrated cannabis microbusiness; provided that if~~←SJC

SJC→F. If←SJC a cannabis producer microbusiness or an integrated cannabis microbusiness enters into any business arrangement with another such entity with the purpose or having the effect of evading the limitations of the licensee's license, such licensee shall not be eligible for the lower fee prescribed for by this subsection.

SJC→~~STBTC→G.←STBTC~~ STBTC→G.←STBTC←SJC

SJC→~~SJC→G.←SJC~~←SJC SJC→G.←SJC The division shall collect all renewal fees, including the renewal fees for all licensed premises, at the time of renewal of a license.

SJC→~~STBTC→D.←STBTC~~ STBTC→H.←STBTC←SJC

SJC→~~SJC→D.←SJC~~←SJC SJC→H.←SJC For fees assessed on or after July 1, SJC→~~2022~~←SJC SJC→2026←SJC , the division shall annually adjust the fees set by this section by multiplying the prior year's fees by the percentage, if any, by which the average of the monthly consumer price indices for the twelve months ending on December 31 of the prior fiscal year exceeds the average monthly consumer price indices for the twelve months ending on December 31 of the fiscal year preceding the prior fiscal year.

SJC→~~STBTC→E.←STBTC~~ STBTC→I.←STBTC←SJC

SJC→~~SJC→E.←SJC~~←SJC SJC→I.←SJC The fee for the issuance of a cannabis server permit shall not exceed thirty-five dollars

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(\$35.00).

SJC→~~STBTC~~→~~F.~~←~~STBTC~~ ~~STBTC~~→~~J.~~←~~STBTC~~←SJC

SJC→~~SJC~~→~~F.~~←~~SJC~~←SJC SJC→~~J.~~←SJC The division shall deposit all fees collected pursuant to the Cannabis Regulation Act in the cannabis regulation fund.

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

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

B. The division shall administer a licensing program for cannabis training and education programs.

C. A violation of a provision of the Cannabis Regulation Act is grounds for suspension or revocation of a license issued pursuant to Subsection B of this section. The division may also suspend a license for repeated violations of the same, serious and substantial rule promulgated pursuant to the Cannabis Regulation Act pertaining to public health and safety.

SECTION 11. [NEW MATERIAL] CANNABIS INDUSTRY MANDATORY EDUCATION--APPLICATIONS--PERMIT REQUIRED--EDUCATION PROGRAM APPROVAL REQUIRED--ISSUANCE OR DENIAL OF A PERMIT OR APPROVAL--DEFINITIONS--PENALTIES.--

A. No later than January 1, 2022, the division shall promulgate reasonable rules consistent with this section and industry standards for issuance of a cannabis server permit

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STBTC→ and licenses for a cannabis consumption area ←STBTC ;

provided that a cannabis research laboratory or an employee of the laboratory is not required to obtain or possess a cannabis server permit while performing activities authorized pursuant to a cannabis research laboratory.

B. The program curriculum shall include the following subjects:

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

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

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

(4) methods of recognizing problem cannabis products users and techniques for intervening with problem cannabis products users;

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

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(6) harm reduction practices related to cannabis use.

C. Beginning no later than January 1, 2022, the division shall issue cannabis server permits to persons twenty-one years of age or older who satisfy the requirements of this section and the rules promulgated by the division. Cannabis server permits shall not be issued to graduates of programs that are not approved by the division.

D. No person shall be employed as a server on a licensed premises unless that person obtains a cannabis server permit pursuant to the provisions of this section within thirty days of employment.

E. A cannabis server permit is the property of the state and shall be immediately returned to the division upon termination of employment or upon revocation or termination of a permit holder's permit or license.

F. Cannabis server permits shall be valid for a period of three years from the date the permit is issued and may be renewed upon providing proof that the permit holder has successfully completed up to four and one-half hours of continuing education and an examination as determined by the director.

G. In addition to any other penalties provided by law, the following penalties may be imposed for sales to a person under twenty-one years of age in violation of the

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provisions of the Cannabis Regulation Act or rules of the division:

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

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

(3) the director shall permanently revoke a cannabis server permit when the director finds that the server is guilty of a third offense of selling, serving or dispensing a cannabis product to a person under twenty-one years of age in violation of the Cannabis Regulation Act arising separately from the incidents giving rise to the server's first and second offenses; and

(4) no person whose cannabis server permit is suspended pursuant to the provisions of this section shall offer, sell or serve cannabis or a cannabis product as part of commercial cannabis activity in a cannabis consumption area

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during the period of suspension.

H. As used in this section, "program" means a cannabis server education course and examination approved by the director to be administered by cannabis server permit education providers.

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

A. A local jurisdiction may:

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

(2) allow for the smoking, vaporizing and ingesting of cannabis products within an indoor or outdoor cannabis consumption area on the licensed premises of a cannabis establishment or integrated cannabis microbusiness if:

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

(b) the cannabis establishment or integrated cannabis microbusiness is located at a minimum distance from a school or daycare center as determined by the local jurisdiction, but which minimum distance shall not be set at any more than three hundred feet from a school or daycare

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center that was in existence at the time the establishment or microbusiness was licensed.

B. A local jurisdiction shall not:

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

(2) completely prohibit the operation of a licensee;

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

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

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

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

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

A. Conduct by a licensee or a licensee representative that is allowed pursuant to a license and conduct by a person that allows property to be used by a licensee or a licensee representative for conduct allowed pursuant to a license is lawful, not a violation of state or

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local law and is not a basis for seizure or forfeiture of any property or assets under state or local law.

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

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

A. Except as allowed in the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act, it is a violation of the Cannabis Regulation Act for a person, including a person licensed pursuant to the provisions of the Cannabis Regulation Act, or an employee, agent or lessee of that person, if the person knows or has reason to know that the person is violating the provisions of this section, to knowingly and intentionally:

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

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

(3) deliver cannabis products to a person

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under twenty-one years of age; or

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

B. It is not a violation of the Cannabis Regulation Act when:

(1) a parent, legal guardian or adult spouse of a person under twenty-one years of age serves cannabis products to that person under twenty-one years of age on real property, other than licensed premises, under the control of the parent, legal guardian or adult spouse; or

(2) cannabis products are used in the practice of religious beliefs.

C. Except as provided in the Lynn and Erin Compassionate Use Act, a licensee shall not employ a person younger than twenty-one years of age to engage in a commercial cannabis activity.

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

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E. The establishment of all of the following facts by a licensee prosecuted for a violation of Subsection D of this section and a cannabis server for a violation of Subsection G of Section 11 of this 2021 act shall constitute a defense:

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

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

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

F. Nothing in this section shall be construed or interpreted to prevent:

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- (1) the division from enforcing its rules against a licensee;
- (2) a state agency from enforcing a law or rule that does not conflict with the Cannabis Regulation Act or rules promulgated pursuant to that act; or
- (3) a local jurisdiction from enforcing a local ordinance that does not conflict with the Cannabis Regulation Act or rules promulgated pursuant to that act.

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

A. A vertically integrated cannabis establishment, cannabis retailer or integrated cannabis microbusiness may courier cannabis products.

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

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

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

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

SECTION 17. [NEW MATERIAL] CANNABIS PRODUCTS--PACKAGING

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AND LABELING--DEPARTMENT RULEMAKING.--

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

B. The department shall adopt and promulgate reasonable rules consistent with industry standards for cannabis products that establish labeling and packaging requirements, including that:

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

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

(3) labels shall include:

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

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

(c) potency and pesticide use;

(d) a list of pharmacologically active

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ingredients;

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

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

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

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

STBTC→(i) an expiration date; and

(j) other information as required by

rules promulgated pursuant to the Cannabis Regulation Act and published pursuant to the State Rules Act.←STBTC

SECTION 18. [NEW MATERIAL] TESTING CANNABIS PRODUCTS--

HEALTH AND SAFETY OF EMPLOYEES STBTC→--DEPARTMENT OF ENVIRONMENT←STBTC .--

A. A cannabis testing laboratory's testing of cannabis products shall comply with the requirements set forth

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in applicable law and rules.

B. The division shall ~~STBTC~~→develop reasonable rules and procedures←~~STBTC~~ STBTC→provide notice and adopt and file rules pursuant to the State Rules Act, in consultation with the department of environment and←~~STBTC~~ consistent with industry standards to:

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

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

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

(4) provide for recordkeeping;

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

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

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

(8) require destruction of a tested batch of cannabis or of cannabis products if the testing samples from

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the tested batch or items indicate noncompliance with applicable health and safety standards promulgated by the division, unless remedial measures can bring the cannabis or cannabis products into compliance with the standards or the cannabis or cannabis products can be used for research purposes.

C. Beginning no later than April 1, 2022, the STBTC → ~~department of environment shall identify and annually provide to the division~~ ← STBTC STBTC → **division shall identify, in consultation with the department of environment,** ← STBTC a set of updated certified reference materials for laboratory testing to be measured against.

D. The division shall STBTC → **inspect** ← STBTC STBTC → **work cooperatively with the department of environment to implement the inspection of** ← STBTC cannabis establishments to ensure the health and safety of employees in accordance with the Occupational Health and Safety Act and to determine compliance with rules promulgated by the environmental improvement board.

SECTION 19. [NEW MATERIAL] RESEARCHING CANNABIS--
RULEMAKING.--

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

B. The division shall develop reasonable rules and

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procedures consistent with industry standards to provide for recordkeeping to ensure that cannabis products are not removed from the cannabis research laboratory premises.

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

A. prohibit the advertisement and marketing of cannabis products:

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

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

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

(2) that depicts consumption by children or other persons who appear to be younger than twenty-one years of age;

(3) that uses predatory marketing and advertising practices targeting minors; or

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

B. require:

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

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

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

SECTION 22. [NEW MATERIAL] PROVISION OF PROFESSIONAL SERVICES.--An attorney, accountant, insurance agent, real estate agent, security guard or other person engaged in a profession subject to state licensure shall not be subject to disciplinary action by a professional association, a state professional board or a state licensing entity because the professional provides professional services or assistance to prospective or licensed cannabis establishments or another person in connection with activity that the professional

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reasonably believes complies with the Cannabis Regulation Act and rules promulgated pursuant to that act.

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

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

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

B. An applicant for a professional or occupational license shall not be denied a license based solely on previous employment related to cannabis establishments. An employer may not refuse to employ or discipline an employee solely for conduct that is lawful pursuant to the Cannabis Regulation Act unless the person used, possessed or was impaired by cannabis

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products on the premises of the place of employment or during the hours of employment or unless failing to do so would put the employer in noncompliance with or violation of federal law or federal regulations or cause it to lose a federal contract or funding.

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

D. A person currently under parole, probation or other state supervision or released awaiting trial or other hearing shall not be punished or otherwise penalized based solely on conduct that is permitted by the Cannabis Regulation Act.

E. A person shall not be denied eligibility in public assistance programs or denied health care based solely on conduct that is permitted by the Cannabis Regulation Act unless required by federal law.

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

A. Notwithstanding any other provision of law, the following conduct is lawful for a person who is twenty-one years of age or older and shall not constitute grounds for detention, search or arrest of a person or property, and

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cannabis products that relate to the conduct are not contraband or subject to seizure or forfeiture pursuant to the Controlled Substances Act or the Forfeiture Act:

(1) possessing, using, being under the influence of, displaying, purchasing, obtaining or transporting not more than two ounces of cannabis flowers or not more than sixteen grams of cannabis extract authorized by the Cannabis Regulation Act or the medical cannabis program;

(2) possession in excess of two ounces of cannabis flowers or sixteen grams of cannabis extract; provided that such excess is stored in the person's private residence in a locked space and not visible from a public place;

(3) transferring, without financial consideration, to a person who is twenty-one years of age or older not more than two ounces of cannabis flowers or not more than sixteen grams of cannabis extract purchased and obtained pursuant to the commercial cannabis activity authorized by the Cannabis Regulation Act or the medical cannabis program;

(4) ingesting or otherwise consuming cannabis or cannabis products purchased and obtained pursuant to the commercial cannabis activity authorized by the Cannabis Regulation Act or the medical cannabis program;

(5) possessing, using, displaying, purchasing, obtaining or manufacturing cannabis extracts using nonvolatile solvents, alcohol or carbon dioxide or no solvents;

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

(7) in a single day, purchasing and obtaining pursuant to the commercial cannabis activity authorized by the Cannabis Regulation Act or the medical cannabis program up to two ounces of cannabis flowers and up to sixteen grams of cannabis extract;

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

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

(10) possessing, planting, cultivating, harvesting, drying, manufacturing cannabis products using nonvolatile solvents, alcohol or carbon dioxide or no solvents or transporting not more than six mature cannabis plants and six immature plants per person; provided that despite a household having multiple residents, no more than twelve mature STBTC→cannabis←STBTC plants may be present in one household; and further provided that if the person does not exceed the maximum number of cannabis plants, the person may possess the cannabis produced by the STBTC→cannabis←STBTC plants

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notwithstanding any weight limits; and

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

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

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

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

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

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

(4) the possession of cannabis or cannabis extracts in proximity to any amount of cash or currency without

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evidence of cannabis quantity in excess of two ounces of cannabis flowers or cannabis extracts quantity in excess of sixteen grams.

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

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

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

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

(2) restrict the ability of an individual or private entity to prohibit conduct otherwise allowed in the Cannabis Regulation Act on the individual's or private entity's privately owned property.

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

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

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for inhalation, whether natural or synthetic, in any manner or in any form.

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

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

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

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

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

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

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

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

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

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

D. A person who is less than eighteen years of age who intentionally produces:

(1) up to six mature or immature cannabis plants is guilty of civil violation and shall be subject to:

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

(b) four hours of community service; and

(2) six mature or immature cannabis plants or more shall be punished pursuant to the provisions of Section

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32A-2-19 NMSA 1978.

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

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

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

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

(2) four hours of community service.

C. Except as otherwise provided in Section 14 of the Cannabis Regulation Act, a person eighteen years of age or older who violates Subsection A of this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

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

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pursuant to the provisions of Section 31-18-15 NMSA 1978.

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

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

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

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

SECTION 30. [NEW MATERIAL] UNLAWFUL POSSESSION OF CANNABIS--PENALTIES.--Except as allowed in the Cannabis Regulation Act and the Lynn and Erin Compassionate Use Act:

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

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to:

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

(2) four hours of community service; and

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

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

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

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

SECTION 32. [NEW MATERIAL] EXPUNGEMENT OF ARREST AND CONVICTION RECORDS--PROCEDURE.--If a person is charged with any

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offense provided in Sections 27 through 31 of the Cannabis Regulation Act and the amount of cannabis product that is the basis of the charge is two ounces of cannabis flowers, sixteen grams of cannabis extract or less or six mature and six immature cannabis plants or less, whether or not the person is convicted, under the direction and review of the attorney general, all records held by a court, an agency of the state or a local jurisdiction that relate to the person's arrest or conviction shall be automatically expunged two years after the date of the person's conviction or the date of the person's arrest if there was no conviction. If the person is or was under eighteen years of age at the time of the arrest or conviction, the records shall be retained for two years or until the person is eighteen years of age, whichever comes first, and shall then be expunged. The records shall also be removed from any statewide criminal databases.

SECTION 33. [NEW MATERIAL] REVIEW OF ARREST AND CONVICTION RECORDS--PROCEDURE.--

A. Under the direction and review of the attorney general, records held by a court, an agency of the state or a local jurisdiction that relate to a person's arrest or conviction for trafficking cannabis in violation of Section 30-31-20 NMSA 1978, distribution of cannabis or possession with intent to distribute cannabis in violation of Section 30-31-22 NMSA 1978 or possession of cannabis in violation of Section

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30-31-23 NMSA 1978 shall be expunged after two years from the date of the person's conviction or from the date of the person's arrest if there was no conviction. If the person was under eighteen years of age at the time of the arrest or conviction, the records shall be retained until the offender is eighteen years of age and shall then be expunged. The records shall also be removed from any statewide criminal databases.

B. As used in this section, "records" includes records of arrests resulting in a criminal proceeding and records relating to other offenses charged in the accusatory pleading, whether the defendant was acquitted or convicted or the charges were dismissed.

SECTION 34. [NEW MATERIAL] RECALL OR DISMISSAL OF SENTENCES--INCARCERATED PERSONS.--

A. Within thirty days following the effective date of the Cannabis Regulation Act, under the direction and review of the attorney general, a correctional facility, a county jail or a juvenile correctional facility in which a person is currently incarcerated for an offense that is no longer a crime pursuant to the provisions of the Cannabis Regulation Act, or that would have resulted in a lesser offense if that act had been in effect at the time of the offense, shall notify the court that the convicted person's case may be:

- (1) reopened to consider possible recall or dismissal of the person's sentence; or

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(2) expunged pursuant to the provisions of the Criminal Record Expungement Act.

B. A judge may enter an order deferring the imposition of a sentence or enter an order suspending the execution of a sentence pursuant to Section 31-20-3 NMSA 1978.

C. A person who is currently or in the past was incarcerated for an offense that is no longer a crime may at any time petition to modify the person's criminal sentence or to have the person's conviction vacated.

D. A court shall reopen a case pursuant to Subsection A of this section and dismiss the person's sentence because it is legally invalid.

E. A person who has completed the person's sentence for a conviction, whether by trial or negotiated plea, who would not have been guilty of an offense or who would have been guilty of a lesser offense if the Cannabis Regulation Act had been in effect at the time of the offense is entitled to have the conviction dismissed and destroyed because the prior conviction is now legally invalid or redesignated as a penalty assessment citation. The court shall dismiss and destroy the records of the conviction as legally invalid because of the enactment of the Cannabis Regulation Act, unless the court makes a finding that the conviction is not legally invalid or was not redesignated as a penalty assessment citation pursuant to that act.

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F. On or before January 1, 2022, the department of public safety shall review the records in the state criminal history databases and shall identify all past convictions that are potentially eligible for recall or dismissal of sentence, dismissal and sealing or redesignation pursuant to the Cannabis Regulation Act. The department shall notify the corrections department, prosecutors and the public defender department of all cases that are eligible for recall or dismissal of sentence, dismissal and sealing or redesignation.

G. The prosecutor of the case shall have until July 1, 2022, to review all cases and determine whether to challenge the recall or dismissal of sentence, dismissal and sealing or redesignation.

H. The prosecutor of the case may challenge the resentencing of a person pursuant to this section when the person does not meet the criteria established under the Cannabis Regulation Act.

I. On or before July 1, 2022, the prosecutor of the case shall inform the court and the public defender's office in the prosecutor's county when the prosecutor of the case is challenging a particular recall or dismissal of sentence, dismissal and sealing or redesignation. The prosecutor of the case shall inform the court when the prosecutor of the case is not challenging a particular recall or dismissal of sentence, dismissal and sealing or redesignation.

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J. The public defender's office, upon receiving notice from the prosecutor of the case, shall make a reasonable effort to notify the person whose resentencing or dismissal is being challenged.

K. If the prosecutor of the case does not challenge the recall or dismissal of sentence, dismissal and sealing or redesignation by July 1, 2022, the court shall notify the department of public safety that a case has been dismissed. Upon notice, the department of public safety shall erase the arrest record pertaining to the offense; provided that if the arrest included multiple charges, only the related charge shall be expunged.

L. Nothing in this section is intended to diminish or abrogate any rights or remedies otherwise available to a person who was convicted of or incarcerated for an offense.

M. The provisions of this section shall apply equally to juvenile delinquency adjudications and convictions of a juvenile person if the juvenile would not have been guilty of an offense or would have been guilty of a lesser offense as provided in the Cannabis Regulation Act.

N. No fee or cost of any kind shall be imposed upon a person whose sentence is reviewed pursuant to this section.

SECTION 35. [NEW MATERIAL] WRIT OF MANDAMUS.--Any person may commence a legal action for a writ of mandamus to compel the division to perform its duties pursuant to the Cannabis

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Regulation Act.

SECTION 36. [NEW MATERIAL] EXEMPTION FROM CRIMINAL AND CIVIL PENALTIES--RESEARCHERS.--A person shall not be subject to arrest or prosecution, penalized in any manner or denied any right or privilege solely because the person produced, possessed, distributed, dispensed or purchased cannabis products from a person licensed pursuant to the Lynn and Erin Compassionate Use Act or the Cannabis Regulation Act if the person produced, possessed, distributed, dispensed or purchased the cannabis products solely for the purpose of research conducted pursuant to the Lynn and Erin Compassionate Use Act or the Cannabis Regulation Act.

SECTION 37. [NEW MATERIAL] REPORTING REQUIREMENTS FOR CANNABIS-RELATED VIOLATIONS.--

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

- (1) category and penalty level; and
- (2) race, ethnicity, age and gender.

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

C. The department of public safety shall compile the reports submitted and shall issue by November 1 of each

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

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

**SECTION 38. [NEW MATERIAL] EMPLOYER PROTECTIONS--
EXEMPTIONS.--**

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

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

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

(3) prevent or infringe upon the rights of an

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

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

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

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

SECTION 39. [NEW MATERIAL] APPEALS.--

A. No rule shall be adopted by a state agency or board pursuant to the Cannabis Regulation Act until after a public hearing by the state agency, in accordance with the

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State Rules Act.

B. Any person who is or may be affected by a rule or decision adopted by a state agency or the division pursuant to the Cannabis Regulation Act may appeal to the court of appeals for further relief.

C. An appeal of a rule or decision adopted by an agency or the division shall be de novo.

D. All appeals pursuant to Subsection B of this section shall be taken to the court of appeals within thirty days after filing of the rule under the State Rules Act or final decision of the division.

E. The procedure for perfecting an appeal to the court of appeals under this section consists of the timely filing of a notice of appeal with a copy attached of the rule or the final decision of the division from which the appeal is taken pursuant to NMRA 12-601.

SECTION 40. [NEW MATERIAL] DIVISION TRANSPARENCY.--

Records of the division are subject to the Inspection of Public Records Act. Proceedings of the division are subject to the Open Meetings Act.

SECTION 41. [NEW MATERIAL] INTRASTATE SOURCE.--Except as

provided in Section 42 of the Cannabis Regulation Act, all cannabis products pursuant to the commercial cannabis activity authorized by the Cannabis Regulation Act or the medical cannabis program shall be derived from a source originating

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within New Mexico.

SECTION 42. [NEW MATERIAL] IMPORTS AND EXPORTS.--

A. Notwithstanding the provisions of Section 41 of the Cannabis Regulation Act or any other provision of law, the governor STBTC→~~may enter into an agreement with another jurisdiction~~←STBTC STBTC→shall enter into agreements with other jurisdictions←STBTC within STBTC→ or outside of←STBTC the United States for the purposes of cross-jurisdictional delivery of cannabis products between this state and the other STBTC→~~jurisdiction. Any such agreement~~←STBTC STBTC→jurisdictions. Such agreements←STBTC shall:

- (1) ensure enforceable public health and safety standards;
- (2) include a system to regulate and track the interstate STBTC→or international←STBTC delivery of cannabis products; and
- (3) ensure that any cannabis products delivered into this state, prior to sale to a consumer, are tested, packaged and labeled pursuant to New Mexico statutes and rules.

B. Notwithstanding any other provision of law and in accordance with an agreement described in Subsection A of this section:

- (1) a licensee permitted to courier cannabis products may deliver cannabis products to a person located in,

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and authorized to receive cannabis products by, another jurisdiction in the United States; and

(2) a licensee permitted to receive cannabis products may receive cannabis products from a person located in, and authorized to export cannabis products by, another jurisdiction in the United States ~~STBTC~~**or internationally**~~STBTC~~ .

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

(1) federal law is amended to allow for the interstate ~~STBTC~~**or international**~~STBTC~~ transfer of cannabis products items between authorized cannabis-related businesses; or

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

SECTION 43. [NEW MATERIAL] CANNABIS REGULATION FUND.--

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

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the general fund.

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

SECTION 44. [NEW MATERIAL] COMMUNITY GRANTS REINVESTMENT FUND--COMMUNITY GRANTS REINVESTMENT PROGRAM.--

A. The "community grants reinvestment fund" is created in the state treasury. The fund consists of appropriations, other money deposited in the fund and money otherwise accruing to the fund. Income from the fund shall be credited to the fund. The department STBTC→of health←STBTC shall administer the fund, and money in the fund is subject to appropriation by the legislature to the department STBTC→of health←STBTC to administer the community grants reinvestment program as described in this section. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund. Money in the community grants reinvestment fund shall be disbursed on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the STBTC→secretary of health or the secretary's←STBTC STBTC→superintendent or the

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superintendent's ←STBTC authorized representative.

B. STBTC → ~~The secretary of health~~ ←STBTC

STBTC → superintendent ←STBTC shall establish the "community grants reinvestment program". The community grants reinvestment program shall provide grants to qualified community-based nonprofit organizations and governmental entities for the purposes of:

(1) developing and executing a comprehensive and sustained multilingual public education campaign that is aimed to reduce drug-related harms for persons under twenty-one years of age and educates about responsible use of cannabis products by adults;

(2) reinvesting in communities disproportionately affected by past federal and state drug policies by supporting housing, job placement, mental health treatment, substance use disorder treatment and legal services to address barriers faced by formerly incarcerated persons, including for the expungement of records;

(3) funding public health and substance abuse prevention programming;

(4) funding housing that prioritizes people in treatment or who are currently using substances;

(5) funding promising practices or evidence-based drug education programming based on the principles of harm reduction, including leadership development, family

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engagement and youth development, that is designed to prevent and reduce substance use, improve access to early childhood education, improve grades kindergarten through twelve school retention and performance and create economic security for families;

(6) funding research related to medical and adult cannabis use effects or efficacy of medical and commercial cannabis; impacts on public health, health costs associated with cannabis use and whether cannabis use is associated with an increase or decrease in the use of alcohol or other drugs; the effectiveness of treatment for maladaptive cannabis use and the effectiveness of different treatment programs; public safety issues related to cannabis use; the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions on the prevention of underage access to and use of cannabis products; cannabis use rates and maladaptive cannabis use rates for adults and youth and diagnosis rates of cannabis-related substance use disorders; and environmental issues related to cannabis production and the criminal prohibition of cannabis production;
STBTC→and←STBTC

(7) funding research and development of products related to medical and commercial use of cannabis products STBTC→.←STBTC STBTC→; and←STBTC

STBTC→(8) funding tuition and fee expenses

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for department-approved higher education courses of study related to licenses issued pursuant to the Cannabis Regulation Act; provided that the tuition and fees shall only benefit people who have demonstrated financial need as determined by the higher education department. ←STBTC

C. A qualified community-based nonprofit organization or governmental entity may apply for a grant from the community grants reinvestment fund. Applications shall be reviewed by the department STBTC→of health←STBTC .

SECTION 45. [NEW MATERIAL] LOW-INCOME MEDICAL PATIENT SUBSIDY FUND.--

A. The "low-income medical patient subsidy fund" is created in the state treasury. The fund consists of appropriations, other money deposited in the fund and money otherwise accruing to the fund. Income from the fund shall be credited to the fund. The department of health shall administer the fund, and money in the fund is subject to appropriation by the legislature to the department of health to administer the low-income medical patient subsidy fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

B. The low-income medical patient subsidy fund is created for the purpose of supporting qualified patients who participate in the medical cannabis subsidy program created pursuant to Section 4 of the Cannabis Regulation Act.

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C. The department of health STBTC→, ~~in consultation with the division,~~ ←STBTC shall promulgate rules to govern the eligibility and process for determining the amounts of assistance for qualified patients and the method for administering the medical cannabis subsidy program STBTC→no later than July 1, 2022 ←STBTC .

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

SJC→STBTC→SECTION 46. ~~[NEW MATERIAL] NO PLANT LIMIT.--No state agency shall limit the number of cannabis plants that a licensee pursuant to the Cannabis Regulation Act may produce, except for limits set in statute for an integrated cannabis microbusiness or a cannabis producer microbusiness.~~ ←STBTC ←SJC

SJC→SECTION 46. [NEW MATERIAL] SJC→NO PLANT LIMIT.--No state agency shall limit the number of cannabis plants that a licensee pursuant to the Cannabis Regulation Act may produce, except for limits set in statute for an integrated cannabis microbusiness or a cannabis producer microbusiness. ←SJC

SJC→PLANT LIMIT.--No later than January 1, 2022, and each January 1 thereafter, the division shall promulgate rules that limit the number of cannabis plants that a licensee that is not an integrated cannabis microbusiness or a cannabis producer

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microbusiness may produce pursuant to the Cannabis Regulation Act. The rules shall set the number of permitted cannabis plants per licensee at a value that reflects the median number of cannabis plants produced nationwide by individuals or entities licensed to produce recreational cannabis in states other than New Mexico during the preceding year, adjusted by population.

SECTION ~~STBTC~~ ~~47.~~ ~~STBTC~~ SJC ~~STBTC~~ ~~46.~~ ~~STBTC~~ SJC

SJC ~~47.~~ ~~STBTC~~ [NEW MATERIAL] INDIAN NATIONS, TRIBES AND PUEBLOS--INTERGOVERNMENTAL AGREEMENTS.--

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

- (1) criminal and civil law enforcement;
- (2) regulatory issues relating to the possession, delivery, production, processing or use of cannabis products;
- (3) the administration of laws relating to taxation;
- (4) any immunity, preemption or conflict of

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law relating to the possession, delivery, production, processing or use of cannabis products; and

(5) the resolution of any disputes between a tribal government and the state, which may include, without limitation, the use of mediation or other nonjudicial processes.

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

(1) provide for the preservation of public health and safety;

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

(3) establish provisions regulating business involving cannabis that passes between tribal land and non-tribal land in New Mexico; and

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

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

SECTION ~~STBTC~~→48.←~~STBTC~~ SJC→~~STBTC~~→47.←~~STBTC~~←SJC
SJC→48.←SJC A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] SUBSTANCE ABUSE EDUCATION.--The department shall require that by January 1, 2023 all public schools

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annually provide to students in sixth through twelfth grades evidence-based drug education programs that are based on principles of harm reduction and are designed to prevent and reduce the harms of substance use and improve school retention and performance."

SECTION STBTC→49.←STBTC SJC→STBTC→48.←STBTC←SJC SJC→49.←SJC [NEW MATERIAL] COOPERATION OF AGENCIES.--All state agencies shall cooperate with the cannabis control division of the regulation and licensing department in carrying out the provisions of the Cannabis Regulation Act.

SECTION STBTC→50.←STBTC SJC→STBTC→49.←STBTC←SJC SJC→50.←SJC [NEW MATERIAL] SHORT TITLE.--Sections SJC→STBTC→50←STBTC STBTC→49←STBTC←SJC SJC→SJC→50←SJC←SJC SJC→49←SJC through SJC→STBTC→57←STBTC STBTC→56←STBTC←SJC SJC→SJC→57←SJC←SJC SJC→53←SJC of this act may be cited as the "Cannabis Tax Act".

SECTION STBTC→51.←STBTC SJC→STBTC→50.←STBTC←SJC SJC→51.←SJC [NEW MATERIAL] DEFINITIONS.--As used in the Cannabis Tax Act:

A. "cannabis":

(1) means all parts of the plant genus Cannabis containing a delta-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,

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manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin; and

(2) does not include:

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

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

B. "cannabis extract":

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

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

C. "cannabis product" means a product that is or that contains cannabis or cannabis extracts, including edible or topical products that may also contain other ingredients;

D. "cannabis retailer" means a person or entity that is licensed by the cannabis control division of the

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regulation and licensing department to sell or courier cannabis products to a person who purchases, acquires, possesses or uses a cannabis product for a purpose other than resale;

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

SJC→~~F.~~←SJC SJC→~~E.~~←SJC "department" means the taxation and revenue department;

SJC→~~G.~~←SJC SJC→~~F.~~←SJC "dry weight basis", in the context of taxation of commercial cannabis activity, means a process by which delta-tetrahydrocannabinol concentration is measured relative to the aggregate weight of all parts of the plant genus Cannabis, whether growing or not, including the leaves of the plant, the flowers and buds of the plant, the seeds of the plant and the resin of the plant at the point of harvest by a licensee and with no moisture added to the harvested plant; and

SJC→~~H.~~←SJC SJC→~~G.~~←SJC "licensee" means a person who holds a license issued pursuant to the Cannabis Regulation Act.

SECTION STBTC→~~52.~~←STBTC SJC→~~STBTC→51.~~←~~STBTC~~←SJC
SJC→~~52.~~←SJC [NEW MATERIAL] CANNABIS EXCISE TAX.--

A. An excise tax is imposed on a cannabis retailer that sells cannabis products in this state. The tax imposed by

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this section may be referred to as the "cannabis excise tax".

B. The rate of the cannabis excise tax is SJC→**eight**←SJC SJC→**twelve**←SJC percent and shall be applied to the price paid for a cannabis product.

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

~~SJC→SECTION STBTC→53.←STBTC STBTC→52.←STBTC [NEW MATERIAL] MUNICIPAL CANNABIS TAX.--~~

~~A. A majority of the members of the governing body of a municipality may enact an ordinance imposing an excise tax on a cannabis retailer that sells cannabis products in the municipality. The tax imposed pursuant to this section may be referred to as the "municipal cannabis tax".~~

~~B. The rate of the municipal cannabis tax shall be no more than four percent, which shall be applied to the price paid for the cannabis product.~~

~~C. The governing body of a municipality, at the time of enacting an ordinance imposing a municipal cannabis tax, may dedicate the revenue for any municipal purpose. The imposition of an increment of the municipal cannabis tax shall not be subject to referendum.~~

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~~D. An ordinance imposing, amending or repealing a tax or an increment of tax authorized by the Cannabis Tax Act shall be effective on July 1 or January 1, whichever date occurs first after the expiration of at least three months from the date the adopted ordinance is mailed or delivered to the department. The ordinance shall include that effective date.~~

~~E. The municipal cannabis tax shall not apply to retail sales of medical cannabis products sold to a qualified patient SJC→STBTC→or a reciprocal participant←STBTC←SJC or to a primary caregiver who presents a registry identification card issued pursuant to the Lynn and Erin Compassionate Use Act at the time of the sale.~~

~~SECTION STBTC→54.←STBTC STBTC→53.←STBTC [NEW MATERIAL]
COUNTY CANNABIS TAX.--~~

~~A. The majority of the members of the governing body of a county may enact an ordinance imposing an excise tax on a cannabis retailer that sells cannabis products in the county area. The tax imposed pursuant to this section may be referred to as the "county cannabis tax".~~

~~B. The rate of the county cannabis tax shall be no more than four percent and is applied to the price paid for the cannabis product.~~

~~C. The governing body of a county, at the time of enacting an ordinance imposing a county cannabis tax, may dedicate the revenue for any county purpose. The imposition of~~

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~~an increment of the county cannabis tax shall not be subject to referendum.~~

~~D. An ordinance imposing, amending or repealing a tax or an increment of tax authorized by the Cannabis Tax Act shall be effective on July 1 or January 1, whichever date occurs first after the expiration of at least three months from the date the adopted ordinance is mailed or delivered to the department. The ordinance shall include that effective date.~~

~~E. The county cannabis tax shall not apply to retail sales of medical cannabis products sold to a qualified patient SJC→STBTC→or a reciprocal participant←STBTC←SJC or to a primary caregiver who presents a registry identification card issued pursuant to the Lynn and Erin Compassionate Use Act at the time of the sale.←SJC~~

SECTION STBTC→55.←STBTC SJC→STBTC→54.←STBTC←SJC

SJC→53.←SJC [NEW MATERIAL] DATE PAYMENT DUE.--The SJC→taxes imposed pursuant to the Cannabis Tax Act are←SJC SJC→cannabis excise tax is←SJC to be paid on or before the twenty-fifth day of the month following the month in which the taxable sale occurs.

SJC→SECTION STBTC→56.←STBTC STBTC→55.←STBTC [NEW MATERIAL] ADMINISTRATIVE CHARGE.--The department may deduct an amount not to exceed three percent of the proceeds of the municipal cannabis tax and county cannabis tax for the reasonable costs for administering those taxes.←SJC

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SECTION STBTC→57.←STBTC SJC→STBTC→56.←STBTC←SJC
 SJC→54.←SJC [NEW MATERIAL] INTERPRETATION OF THE CANNABIS TAX
 ACT--ADMINISTRATION AND ENFORCEMENT OF TAX.--The department
 shall administer and enforce the collection of the cannabis
 excise tax SJC→, ~~municipal cannabis tax and county cannabis~~
~~tax~~←SJC pursuant to the Tax Administration Act.

SJC→SECTION STBTC→58.←STBTC STBTC→57.←STBTC A new
 section of the Tax Administration Act is enacted to read:

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

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

B. ~~A transfer pursuant to Section 7-1-6.1 NMSA 1978~~
~~shall be made to each county for which the department collects~~
~~a county cannabis tax imposed by that county in an amount,~~
~~subject to any increase or decrease made pursuant to Section~~
~~7-1-6.15 NMSA 1978, equal to the net receipts attributable to~~
~~the county cannabis tax, less any deduction for administrative~~
~~costs determined and made by the department pursuant to the~~

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~~Cannabis Tax Act.~~ ←SJC

SECTION STBTC →59. ←STBTC SJC →STBTC →58. ←STBTC ←SJC

SJC →55. ←SJC Section 7-1-2 NMSA 1978 (being Laws 1965, Chapter 248, Section 2, as amended by Laws 2019, Chapter 47, Section 1 and by Laws 2019, Chapter 53, Section 10 and also by Laws 2019, Chapter 270, Section 1) is amended to read:

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

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

- (1) Income Tax Act;
- (2) Withholding Tax Act;
- (3) Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act;
- (4) Gross Receipts and Compensating Tax Act, Interstate Telecommunications Gross Receipts Tax Act and Leased Vehicle Gross Receipts Tax Act;
- (5) Liquor Excise Tax Act;
- (6) Local Liquor Excise Tax Act;
- (7) any municipal local option gross receipts tax or municipal compensating tax;
- (8) any county local option gross receipts tax or county compensating tax;
- (9) Special Fuels Supplier Tax Act;

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(10) Gasoline Tax Act;

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

(12) Alternative Fuel Tax Act;

(13) Cigarette Tax Act;

(14) Estate Tax Act;

(15) Railroad Car Company Tax Act;

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

(17) Corporate Income and Franchise Tax Act;

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

(19) Multistate Tax Compact;

(20) Tobacco Products Tax Act;

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

(22) the Insurance Premium Tax Act;

(23) the Health Care Quality Surcharge Act;

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(24) the Cannabis Tax Act;

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

- (1) Resources Excise Tax Act;
- (2) Severance Tax Act;
- (3) any severance surtax;
- (4) Oil and Gas Severance Tax Act;
- (5) Oil and Gas Conservation Tax Act;
- (6) Oil and Gas Emergency School Tax Act;
- (7) Oil and Gas Ad Valorem Production Tax Act;
- (8) Natural Gas Processors Tax Act;
- (9) Oil and Gas Production Equipment Ad

Valorem Tax Act;

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

by any act specified in this subsection, which advance payment shall be considered a tax for the purposes of the Tax Administration Act;

- (12) Enhanced Oil Recovery Act;
- (13) Natural Gas and Crude Oil Production

Incentive Act; and

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

C. the administration and enforcement of the

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following taxes, surcharges, fees or acts as they now exist or may hereafter be amended:

- (1) Weight Distance Tax Act;
- (2) the workers' compensation fee authorized by Section 52-5-19 NMSA 1978, which fee shall be considered a tax for purposes of the Tax Administration Act;
- (3) Uniform Unclaimed Property Act (1995);
- (4) 911 emergency surcharge and the network and database surcharge, which surcharges shall be considered taxes for purposes of the Tax Administration Act;
- (5) the solid waste assessment fee authorized by the Solid Waste Act, which fee shall be considered a tax for purposes of the Tax Administration Act;
- (6) the water conservation fee imposed by Section 74-1-13 NMSA 1978, which fee shall be considered a tax for the purposes of the Tax Administration Act; and
- (7) the gaming tax imposed pursuant to the Gaming Control Act; and

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

SJC → ~~SECTION STBTC → 60. ← STBTC STBTC → 59. ← STBTC Section 7-1-6.15 NMSA 1978 (being Laws 1983, Chapter 211, Section 20,~~

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~~as amended by Laws 2015, Chapter 89, Section 1 and by Laws 2015, Chapter 100, Section 1) is amended to read:~~

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

~~A. The provisions of this section apply to:~~

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

~~(2) any transfer to a municipality with respect to any local option gross receipts tax, municipal compensating tax or municipal cannabis tax imposed by that municipality;~~

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

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

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

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

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

~~(8) any distribution to a municipality of~~

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~~gasoline taxes pursuant to Section 7-1-6.27 NMSA 1978; and~~

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

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

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

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~~amount for the current month plus the revised total for prior periods; and~~

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

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

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

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

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~~distributions or transfers to the municipality or county;~~

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

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

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

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

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

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

~~(b) except as provided in Paragraphs (2) and (3) of this subsection, if the municipality or county fails~~

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~~to act within the ninety days, decreasing the amount of the next six distributions or transfers to the municipality or county following expiration of the ninety-day period in increments as nearly equal as practicable and sufficient to recover the amount;~~

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

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

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

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

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~~subject to approval by the state board of finance.~~

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

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

~~H. The secretary is authorized to decrease a distribution or transfer to a municipality or county upon being directed to do so by the secretary of finance and administration pursuant to the State Aid Intercept Act or to redirect a distribution or transfer to the New Mexico finance authority pursuant to an ordinance or a resolution passed by the county or municipality and a written agreement of the municipality or county and the New Mexico finance authority. Upon direction to decrease a distribution or transfer or notice to redirect a distribution or transfer to a municipality or county, the secretary shall decrease or redirect the next~~

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

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

~~(2) after an adjustment of a distribution or~~

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

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

~~J. As used in this section:~~

~~(1) "amounts relating to the current month"~~

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

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

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

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

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

~~(c) if a municipality or county has not~~

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~~received distributions or transfers of net receipts for twelve or more months, the monthly average of net receipts distributed or transferred to the municipality or county preceding the current month multiplied by twelve;~~

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

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

SJC→SECTION SJC→55.←SJC SJC→56.←SJC A new section of the Tax Administration Act is enacted to read:

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

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

B. A distribution pursuant to Section 7-1-6.1 NMSA

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1978 shall be made to each county in an amount equal to thirty-three and thirty-three hundredths percent of the net receipts attributable to the cannabis excise tax from cannabis retailers within the county area of the county.

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

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

SECTION STBTC→61.←STBTC SJC→STBTC→60.←STBTC←SJC

SJC→57.←SJC Section 7-2-2 NMSA 1978 (being Laws 1986, Chapter 20, Section 26, as amended) is amended to read:

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

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

B. "base income":

(1) means, for estates and trusts, that part of the estate's or trust's income defined as taxable income and upon which the federal income tax is calculated in the Internal Revenue Code for income tax purposes plus, for taxable years beginning on or after January 1, 1991, the amount of the net

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operating loss deduction allowed by Section 172(a) of the Internal Revenue Code, as that section may be amended or renumbered, and taken by the taxpayer for that year;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) compensation;
- (2) net profit from business;
- (3) gains from dealings in property;
- (4) interest;
- (5) net rents;

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

M. "modified gross income" excludes:

- (1) payments for hospital, dental, medical or drug expenses to or on behalf of the taxpayer;
- (2) the value of room and board provided by federal, state or local governments or by private individuals or agencies based upon financial need and not as a form of compensation;

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

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

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

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

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

(3) an amount equal to the product of the exemption amount allowed for the taxpayer's taxable year by

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Section 151 of the Internal Revenue Code, as that section may be amended or renumbered, multiplied by the number of personal exemptions allowed for federal income tax purposes;

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

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

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

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

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

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

(a) in the case of a timely filed return, in the taxable year immediately following the taxable

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year for which the return is filed; or

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

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

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

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

(b) in the case of amended returns or

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

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

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

0. "net operating loss" means any net operating loss, as defined by Section 172(c) of the Internal Revenue

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Code, as that section may be amended or renumbered, for a taxable year as further increased by the income, if any, from obligations of the United States for that year less related expenses;

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

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

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

S. "resident" means an individual who is domiciled in this state during any part of the taxable year or an individual who is physically present in this state for one hundred eighty-five days or more during the taxable year; but any individual, other than someone who was physically present in the state for one hundred eighty-five days or more during the taxable year, who, on or before the last day of the taxable year, changed the individual's place of abode to a place

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without this state with the bona fide intention of continuing actually to abide permanently without this state is not a resident for the purposes of the Income Tax Act for periods after that change of abode;

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

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

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

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

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

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

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

SECTION ~~STBTC~~→62.←~~STBTC~~ SJC→~~STBTC~~→61.←~~STBTC~~←SJC
SJC→58.←SJC Section 7-2A-2 NMSA 1978 (being Laws 1986, Chapter 20, Section 33, as amended) is amended to read:

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

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

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

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

(1) adding to that income:

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- (a) interest received on a state or local bond exempt under the Internal Revenue Code;
 - (b) the amount of any deduction claimed in calculating taxable income for all expenses and costs directly or indirectly paid, accrued or incurred to a captive real estate investment trust; and
 - (c) the amount of any deduction, other than for premiums, for amounts paid directly or indirectly to a commonly controlled entity that is exempt from corporate income tax pursuant to Section 7-2A-4 NMSA 1978;
- (2) subtracting from that income:
- (a) income from obligations of the United States net of expenses incurred to earn that income;
 - (b) other amounts that the state is prohibited from taxing because of the laws or constitution of this state or the United States net of any related expenses;
 - (c) an amount equal to one hundred percent of the subpart F income, as that term is defined in Section 952 of the Internal Revenue Code, as that section may be amended or renumbered, included in the income of the corporation; and
 - (d) an amount equal to one hundred percent of the income of the corporation under Section 951A of the Internal Revenue Code, after allowing the deduction provided in Section 250 of the Internal Revenue Code; [~~and~~]

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

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

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

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

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

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

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

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

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

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

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

H. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully

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delegated to that employee by the secretary;

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

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

K. "grandfathered net operating loss carryover" means:

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

(2) reduced by:

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

(b) the amount of net operating loss deductions taken prior to January 1, 2020 that would be charged

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against those losses consistent with the Internal Revenue Code and provisions of the Corporate Income and Franchise Tax Act applicable to the year of the deduction; and

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

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

M. "net income" means:

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

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

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

(1) plus:

(a) the portion of an apportioned net loss properly reported to New Mexico for a taxable year beginning on or after January 1, 2020, on a separate year

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return, to the extent the taxpayer would have been entitled to include the portion of such apportioned net loss in the taxpayer's consolidated net operating loss carryforward under the Internal Revenue Code if the taxpayer filed a consolidated federal return; and

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

(2) minus:

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

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

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

P. "person" means any individual, estate, trust,

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receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, joint venture, syndicate or other association; "person" also means, to the extent permitted by law, any federal, state or other governmental unit or subdivision or agency, department or instrumentality thereof;

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

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

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

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

U. "separate year return" means a properly filed original or amended return for a taxable year beginning on or after January 1, 2020 by a taxpayer reporting a loss, a portion

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of which is claimed as part of the net operating loss carryover by another taxpayer in a subsequent return period;

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

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

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

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

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

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Franchise Tax Act;

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

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

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

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

CC. "worldwide combined group" means all members of

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

STBTC → ~~Hf11~~ → ~~SECTION 63. Section 7-9-73.2 NMSA 1978 (being Laws 1998, Chapter 95, Section 2 and Laws 1998, Chapter 99, Section 4, as amended) is amended to read:~~

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

~~A. Receipts from the sale of prescription drugs and oxygen [and], oxygen services provided by a licensed medicare durable medical equipment provider and, on or after January 1, 2022, cannabis products that are purchased in accordance with the Lynn and Erin Compassionate Use Act may be deducted from gross receipts and governmental gross receipts.~~

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

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

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

~~(3) subject to the restrictions on sale contained in Subparagraph 1 of Subsection (b) of 21-USA~~

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~~353.~~ ← Hf11 ← STBTC

STBTC → SECTION SJC → ~~62.~~ ← SJC SJC → 59. ← SJC Section 7-9-73.2

NMSA 1978 (being Laws 1998, Chapter 95, Section 2 and Laws 1998, Chapter 99, Section 4, as amended) is amended to read:

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

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

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

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

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

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

~~353.~~ ← STBTC

SECTION STBTC → ~~Hf11~~ → ~~63.~~ ← ~~Hf11~~ ~~Hf11~~ → ~~64.~~ ← ~~Hf11~~ ← STBTC

SJC → ~~STBTC~~ → ~~63~~ ← ~~STBTC~~ ← SJC SJC → 60. ← SJC Section 9-16-4 NMSA 1978

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(being Laws 1983, Chapter 297, Section 20, as amended) is amended to read:

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

- A. the administrative services division;
- B. the construction industries division;
- C. the financial institutions division;
- D. the securities division;
- E. the manufactured housing division; ~~and~~
- F. the alcoholic beverage control division; and
- G. the cannabis control division."

STBTC→SECTION SJC→64.←SJC SJC→61.←SJC Section 9-16-6

NMSA 1978 (being Laws 1983, Chapter 297, Section 22, as amended) is amended to read:

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

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

B. To perform the superintendent's duties, the superintendent has every power expressly enumerated in the

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laws, whether granted to the superintendent or the department or any division of the department, except where authority conferred upon any division is explicitly exempted from the superintendent's authority by statute. In accordance with these provisions, the superintendent shall:

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

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

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

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

(5) take administrative action by issuing orders and instructions, not inconsistent with the law, to assure implementation of and compliance with the provisions of

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law for whose administration or execution the superintendent is responsible and to enforce those orders and instructions by appropriate administrative action or actions in the courts;

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

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

(8) prepare an annual budget of the department;

(9) provide ~~cooperation, at the request of heads of~~ administratively attached agencies assistance as necessary ~~[in order]~~ to:

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

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

(c) ~~[resolve by agreement the manner and extent to which the department shall]~~ provide implementation of licensure processes, budgeting, recordkeeping, procurement, contracting, hiring and supervision of staff and related administrative and clerical assistance ~~[to]~~ for

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administratively attached agencies; and

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

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

~~(12) require performance bonds of such department employees and officers as the superintendent deems necessary, as provided in the Surety Bond Act. The department shall pay the costs of these bonds.]~~

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

D. The superintendent may make and adopt such reasonable and procedural rules [and regulations] as may be necessary to carry out the duties of the department and its divisions; provided that where a licensing entity requires

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submission of fingerprints as part of the initial license application, and a licensee has provided fingerprints and the license has been issued, the licensing entity shall not require a licensee to submit fingerprints again to renew the license, but a licensee shall submit to a background investigation if required; and provided further that the prohibition against requiring additional fingerprints shall not apply to the financial institutions division of the department when utilizing the nationwide multistate licensing system and registry.

E. No rule ~~[or regulation]~~ promulgated by the director of any division in carrying out the functions and duties of the department or a division shall be effective until approved by the superintendent, unless otherwise provided by statute. Unless otherwise provided by statute, ~~[no regulation affecting any person or agency outside the department shall be adopted, amended or repealed without a public hearing on the proposed action before the superintendent or a hearing officer designated by the superintendent. The public hearing shall be held in Santa Fe unless otherwise permitted by statute. Notice of the subject matter of the regulation, the action proposed to be taken, the time and place of the hearing, the manner in which interested persons may present their views and the method by which copies of the proposed regulation, proposed amendment or repeal of an existing regulation may be obtained shall be~~

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~~published once at least thirty days prior to the hearing date in a newspaper of general circulation and mailed at least thirty days prior to the hearing date to all persons who have made a written request for advance notice of hearing. All rules and regulations shall be] all rules adopted, amended or repealed by the superintendent or the director of any division shall have notice provided and be conducted and filed in accordance with the State Rules Act."←STBTC~~

SECTION STBTC→~~Hf11→64.←Hf11 Hf11→65.←Hf11~~←STBTC

STBTC→~~HTRC→64←HTRC~~←STBTC SJC→~~STBTC→65←STBTC~~←SJC

SJC→~~62.~~←SJC Section 24-16-12 NMSA 1978 (being Laws 2007, Chapter 20, Section 4, as amended) is amended to read:

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

A. a private residence, unless it is used commercially to provide child care, adult care or health care or any combination of those activities;

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

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

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

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

F. designated outdoor smoking areas;

G. private clubs;

H. hotel and motel rooms that are rented to guests and are designated as smoking-permitted rooms; provided that not more than ten percent of rooms rented to guests in a hotel or motel may be so designated;

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

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

K. an indoor or outdoor cannabis consumption area

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STBTC→~~located on the licensed premises of a cannabis establishment authorized pursuant to the Cannabis Regulation Act.~~←STBTC STBTC→pursuant to the Cannabis Regulation Act."←STBTC

SECTION STBTC→Hf11→65.←Hf11 Hf11→66.←Hf11←STBTC

STBTC→HTRC→65←HTRC←STBTC SJC→STBTC→66←STBTC←SJC

SJC→63.←SJC A new section of the Dee Johnson Clean Indoor Air Act is enacted to read:

"[NEW MATERIAL] LIABILITY FOR ALLOWING THE SMOKING, VAPORIZING OR INGESTING OF CANNABIS PRODUCTS.--

A. A person who allows another person to smoke, vaporize or otherwise use, ingest or consume cannabis or cannabis products is not liable in a civil action for any damages caused by the person that smokes, vaporizes or otherwise uses, ingests or consumes cannabis products as a result of the use, ingestion or consumption of the cannabis or cannabis products unless a cannabis server or licensee allows a person to smoke, vaporize or otherwise use, ingest or consume cannabis or cannabis products in a cannabis consumption area when the cannabis server or licensee has actual knowledge that the other person is under the age of twenty-one.

B. A plaintiff who prevails in an action brought pursuant to Subsection A of this section is limited to recovery of the plaintiff's actual damages."

STBTC→SECTION HTRC→Hf11→66.←Hf11 Hf11→67.←Hf11←HTRC

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~~HTRC → 66 ← HTRC A new section of the Lynn and Erin Compassionate Use Act is enacted to read:~~

~~"[NEW MATERIAL] NO PLANT LIMIT.--Except for licensees under the Lynn and Erin Compassionate Use Act, no state agency shall limit the number of cannabis plants that may be produced."~~ ← STBTC

SECTION STBTC → Hf11 → 67. ← Hf11 Hf11 → 68. ← Hf11 ← STBTC

SJC → STBTC → 67 ← STBTC ← SJC SJC → 64. ← SJC Section 26-2B-3 NMSA 1978 (being Laws 2007, Chapter 210, Section 3, as amended) is amended to read:

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

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

B. "cannabis":

(1) means all parts of the plant Cannabis [~~sativa L.~~] 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

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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 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; the sterilized seed of the plant that is incapable of germination; the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or another product; or hemp;

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

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

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

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

- ~~(1) a licensed cannabis courier;~~
- ~~(2) a licensed cannabis testing facility;~~

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~~(3) a licensed cannabis manufacturer;~~
~~(4) a licensed cannabis producer; or~~
~~(5) such other person that the department may~~
~~by rule approve for participation in the medical cannabis~~
~~program;~~

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

~~(1) manufacture cannabis products;~~
~~(2) package, transport or courier cannabis~~
~~products;~~
~~(3) have cannabis products tested by a~~
~~cannabis testing facility;~~
~~(4) purchase, obtain, sell and transport~~
~~cannabis products to other cannabis establishments; and~~
~~(5) prepare products for personal production~~
~~license holders;~~

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

C. "cannabis extract":

(1) means a product obtained by separating
resins from cannabis by solvent extraction using solvents other
than vegetable glycerin, such as butane, hexane, isopropyl

alcohol, ethanol or carbon dioxide; and

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

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

[H.] E. "cannabis product":

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

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

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

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

- (1) cancer;
- (2) glaucoma;
- (3) multiple sclerosis;
- (4) damage to the nervous tissue of the spinal cord, with objective neurological indication of intractable

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spasticity;

(5) seizure disorder, including epilepsy;

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

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

(8) amyotrophic lateral sclerosis;

(9) Crohn's disease;

(10) hepatitis C infection;

(11) Huntington's disease;

(12) inclusion body myositis;

(13) inflammatory autoimmune-mediated arthritis;

(14) intractable nausea or vomiting;

(15) obstructive sleep apnea;

(16) painful peripheral neuropathy;

(17) Parkinson's disease;

(18) posttraumatic stress disorder;

(19) severe chronic pain;

(20) severe anorexia or cachexia;

(21) spasmodic torticollis;

(22) ulcerative colitis; or

(23) any other medical condition, medical treatment or disease as approved by the department;

[K.] G. "department" means the department of

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health;

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

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

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

~~N.]~~ J. "licensee" means a person that holds a personal production license;

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

~~P.]~~ K. "manufacture" means to prepare a cannabis product for a qualified patient's use;

~~[Q.]~~ L. "medical cannabis program" means the program established pursuant to the Lynn and Erin Compassionate

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Use Act for authorization and regulation of the medical use of cannabis in the state;

[R-] M. "personal production license" means a license issued to a qualified patient or to a qualified patient's primary caregiver participating in the medical cannabis program to permit the qualified patient or the qualified patient's primary caregiver to produce or manufacture cannabis for the qualified patient's use at an address approved by the department;

[S-] N. "practitioner" means a person licensed in New Mexico to prescribe and administer drugs that are subject to the Controlled Substances Act;

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

[U-] P. "produce" means to engage in any activity related to the planting or cultivation of cannabis;

[V-] Q. "qualified patient" means a resident of New Mexico who has been diagnosed by a practitioner as having a debilitating medical condition and has received written certification and a registry identification card pursuant to the Lynn and Erin Compassionate Use Act on the basis of having

been diagnosed, in person or via telemedicine, by a practitioner as having a debilitating medical condition; ~~[provided that a practitioner may only issue a written certification on the basis of an evaluation conducted via telemedicine if the practitioner has previously examined the patient in person;~~

~~W.]~~ R. "reciprocal participant" means an individual STBTC→~~who holds proof of authorization to participate in the medical cannabis program of another state of the United States, the District of Columbia, a territory or commonwealth of the United States or a New Mexico Indian nation, tribe or pueblo;~~←STBTC STBTC→~~who is not a resident of New Mexico and who holds proof of enrollment by a governmental regulatory authority to participate in the medical cannabis program of another state of the United States, the District of Columbia or a territory or commonwealth of the United States in which the individual resides or an individual who holds proof of enrollment by a governmental regulatory authority of a New Mexico Indian nation, tribe or pueblo to participate in its medical cannabis program;~~←STBTC

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

- (1) to a qualified patient that identifies the bearer as a qualified patient and authorizes the qualified patient to use cannabis for a debilitating medical condition;

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or

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

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

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

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

~~[BB.]~~ W. "written certification" means a statement made on a department-approved form and signed by a patient's practitioner that indicates, in the practitioner's professional opinion, that the patient has a debilitating medical condition and the practitioner believes that the potential health

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benefits of the medical use of cannabis would likely outweigh the health risks for the patient."

SECTION STBTC→Hf11→68.←Hf11 Hf11→69.←Hf11←STBTC

SJC→STBTC→68←STBTC←SJC SJC→65.←SJC Section 26-2B-4 NMSA

1978 (being Laws 2007, Chapter 210, Section 4, as amended) is amended to read:

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

A. A qualified patient or a qualified patient's primary caregiver shall not be subject to arrest, prosecution or penalty in any manner for the possession of or the medical use of cannabis if the quantity of cannabis does not exceed an adequate supply; provided that a qualified patient or the qualified patient's primary caregiver may possess that qualified patient's harvest of cannabis; and further provided that a qualified patient or the qualified patient's primary caregiver may possess at least two ounces of cannabis flowers and at least sixteen grams of cannabis extract purchased and obtained pursuant to the Lynn and Erin Compassionate Use Act.

B. A reciprocal participant shall not be subject to arrest, prosecution or penalty in any manner for the possession of or the medical use of cannabis if the quantity of cannabis ~~[does not exceed the limit identified by department rule]~~ is not more than two ounces of cannabis flowers or more than sixteen grams of cannabis extract purchased and obtained

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pursuant to the Lynn and Erin Compassionate Use Act.

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

(1) a qualified patient or primary caregiver possessing or transporting not more than an adequate supply or a reciprocal participant possessing or transporting not more than ~~[the limit identified by department rule]~~ two ounces of cannabis flowers or more than sixteen grams of cannabis extract purchased and obtained pursuant to the Lynn and Erin Compassionate Use Act;

(2) a qualified patient or primary caregiver purchasing or obtaining not more than an adequate supply from a lawful source or a reciprocal participant purchasing or obtaining not more than ~~[the limit identified by department rule]~~ two ounces of cannabis flowers or more than sixteen grams of cannabis extract purchased and obtained pursuant to the Lynn and Erin Compassionate Use Act;

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

(4) a qualified patient or primary caregiver

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transferring, without financial consideration, to a qualified patient or primary caregiver not more than [~~two ounces of cannabis~~] two ounces of cannabis flowers or more than sixteen grams of cannabis extract purchased and obtained pursuant to the Lynn and Erin Compassionate Use Act; or

(5) with respect to cannabis cultivated under a personal production license, a qualified patient or primary caregiver possessing, planting, cultivating, harvesting, drying, manufacturing or transporting cannabis plants or cannabis products as allowed by department rule; provided that a qualified patient or primary caregiver who possesses a personal production license shall not manufacture cannabis products using an oil extractor solvent that is stored under pressure [~~unless the qualified patient or primary caregiver holds a separate license from the department permitting the person to manufacture cannabis products using an oil extractor solvent that is under pressure~~].

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

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

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

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- (a) allow the qualified patient's medical use of cannabis;
- (b) serve as the qualified patient's primary caregiver; and
- (c) control the dosage and the frequency of the medical use of cannabis by the qualified patient.

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

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

~~[G. A licensee or licensee representative shall not be subject to arrest, prosecution or penalty, in any manner, for the production, possession, manufacture, distribution, dispensing or testing of cannabis pursuant to the Lynn and Erin Compassionate Use Act. Conduct by a licensee or a licensee~~

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~~representative that is allowed pursuant to a license and conduct by a person that allows property to be used by a licensee or a licensee representative for conduct allowed pursuant to a license is lawful, is not a violation of state or local law and is not a basis for seizure or forfeiture of property or assets under state or local law.~~

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

~~[I.]~~ H. A state or local government shall not impose a criminal, civil or administrative penalty on a licensee [~~or a licensee representative~~], or on a person that

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allows property to be used by a licensee [~~or a licensee representative~~] pursuant to a license, solely for conduct that is allowed pursuant to a license.

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

SECTION ~~STBTC~~ ~~Hf11~~ ~~→69.~~ ~~←Hf11~~ ~~Hf11~~ ~~→70.~~ ~~←Hf11~~ ~~←STBTC~~

~~SJC~~ ~~→STBTC~~ ~~→69~~ ~~←STBTC~~ ~~←SJC~~ ~~SJC~~ ~~→66.~~ ~~←SJC~~ Section 26-2B-5 NMSA 1978 (being Laws 2007, Chapter 210, Section 5, as amended by Laws 2019, Chapter 247, Section 5 and by Laws 2019, Chapter 261, Section 2) is amended to read:

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

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

- (1) criminal prosecution or civil penalties for activities not authorized in the Lynn and Erin Compassionate Use Act;
- (2) liability for damages or criminal prosecution arising out of the operation of a vehicle while under the influence of cannabis; or
- (3) criminal prosecution or civil penalty for possession or use of cannabis:

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

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

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

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

SECTION STBTC→Hf11→70.←Hf11 Hf11→71.←Hf11←STBTC

SJC→STBTC→70←STBTC←SJC SJC→67.←SJC Section 26-2B-6.1 NMSA 1978 (being Laws 2019, Chapter 247, Section 8) is amended to read:

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

A. The department shall [~~(1)~~] regulate and administer the medical cannabis program; and

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

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

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

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

- ~~(1) cannabis couriers;~~
- ~~(2) cannabis manufacturers;~~
- ~~(3) cannabis producers;~~
- ~~(4) cannabis testing facilities; and~~
- ~~(5) any other activity or person as deemed~~

~~necessary by the department.~~

~~E. The department shall not issue any other license provided for in this section to a cannabis testing facility licensee] establish an application and licensing fee for~~

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personal production licenses.

~~[F-]~~ B. The department shall administer personal production licenses.

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

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

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

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

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

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

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

SECTION STBTC ~~→Hf11→71.←Hf11 Hf11→72.←Hf11←~~STBTC

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SJC→~~STBTG~~→71←~~STBTG~~←SJC SJC→68.←SJC Section 26-2B-7 NMSA
1978 (being Laws 2007, Chapter 210, Section 7, as amended) is
amended to read:

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

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

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

(2) define the amount of cannabis that is
necessary to constitute an adequate supply, including amounts
for topical treatments;

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

(4) set forth additional medical conditions,
medical treatments or diseases to the list of debilitating
medical conditions that qualify for the medical use of cannabis

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as recommended by the advisory board;

(5) identify requirements for the licensure of ~~[cannabis producers and cannabis production facilities, cannabis couriers, cannabis manufacturers, cannabis testing facilities and any other cannabis establishments that the department may license]~~ qualified patients to produce cannabis for personal medical use and set forth procedures to obtain licenses;

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

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

~~(b) distribution of cannabis to qualified patients or their primary caregivers to take place at locations that are designated by the department and that are not within three hundred feet of any school, church or daycare center that were in existence in that location before the licensee distributing medical cannabis nearby was licensed; provided that this distance requirement shall not apply to distribution at the home of the qualified patient or primary caregiver;~~

~~(7) identify requirements for testing and labeling of cannabis and cannabis products for quality assurance. The department shall adopt and promulgate rules~~

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~~pursuant to this paragraph by December 20, 2019;~~

~~(8)]~~ (6) determine additional duties and responsibilities of the advisory board; and

~~[(9)]~~ (7) be revised and updated as necessary.

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

- (1) a written certification;
- (2) the name, address and date of birth of the patient;
- (3) the name, address and telephone number of the patient's practitioner; and
- (4) the name, address and date of birth of the patient's primary caregiver, if any.

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

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D. The department shall issue a registry identification card within five days of approving an application, and a card shall expire STBTC→~~three~~←STBTC STBTC→two←STBTC years after the date of issuance.

E. A registry identification card shall contain:

- (1) the name and date of birth of the qualified patient and primary caregiver, if any;
- (2) the date of issuance and expiration date of the registry identification card; and
- (3) other information that the department may require by rule.

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

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

H. The department shall maintain a confidential file containing the names and addresses of the persons who have either applied for or received a registry identification card.

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Individual names on the list shall be confidential and not subject to disclosure, except:

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

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

(3) to the cannabis control division of the regulation and licensing department; or

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

I. By ~~[March 1, 2020]~~ January 1, 2022, the secretary of health shall adopt and promulgate rules relating to medical cannabis program reciprocity. The department may identify requirements for the granting of reciprocity, including provisions limiting the period of time in which a reciprocal participant may participate in the medical cannabis program.

J. A reciprocal participant:

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

(2) shall not be required to comply with the

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registry identification card application and renewal requirements established pursuant to this section and department rules;

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

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

SECTION ~~STBTC~~~~→Hf11→72.~~~~←Hf11~~ ~~Hf11→73.~~~~←Hf11~~←STBTC
SJC→~~STBTC→72.~~~~←STBTC~~←SJC SJC→69.←SJC Section 30-31-2 NMSA 1978 (being Laws 1972, Chapter 84, Section 2, as amended) is amended to read:

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

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

B. "agent" includes an authorized person who acts on behalf of a manufacturer, distributor or dispenser. It does

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not include a common or contract carrier, public warehouseperson or employee of the carrier or warehouseperson;

C. "board" means the board of pharmacy;

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

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

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

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

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

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

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

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

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

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

N.] L. "manufacture" means the production, preparation, compounding, conversion or processing of a controlled substance or controlled substance analog by

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

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

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

~~[0. "marijuana" means all parts of the plant cannabis, including any and all varieties, species and subspecies of the genus Cannabis, whether growing or not, the seeds thereof and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds. It does not include the mature stalks of the plant, hashish, tetrahydrocannabinols extracted or isolated from marijuana, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination; or the plant Cannabis sativa L. and~~

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~~any part of the plant, whether growing or not, containing a delta-9-tetrahydrocannabinol concentration of no more than three-tenths percent on a dry weight basis;~~

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

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

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

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

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

[Q.] N. "opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to

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morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. "Opiate" does not include, unless specifically designated as controlled under Section 30-31-5 NMSA 1978, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts, dextromethorphan.

"Opiate" does include its racemic and levorotatory forms;

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

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

[F-] Q. "prescription" means an order given individually for the person for whom is prescribed a controlled substance, either directly from a licensed practitioner or the practitioner's agent to the pharmacist, including by means of electronic transmission, or indirectly by means of a written order signed by the prescriber, bearing the name and address of the prescriber, the prescriber's license classification, the name and address of the patient, the name and quantity of the

drug prescribed, directions for use and the date of issue and in accordance with the Controlled Substances Act or rules adopted thereto;

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

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

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

- (1) kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting any species of plant that is a controlled substance

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or controlled substance analog or from which a controlled substance can be derived;

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

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

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

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

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

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

(8) blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in

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compounding controlled substances or controlled substance analogs;

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

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

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

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

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

(b) water pipes;

(c) carburetion tubes and devices;

(d) smoking and carburetion masks;

(e) roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has

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become too small to hold in the hand;

(f) miniature cocaine spoons and cocaine vials;

(g) chamber pipes;

(h) carburetor pipes;

(i) electric pipes;

(j) air-driven pipes;

(k) chilams;

(l) bongs; or

(m) ice pipes or chillers; and

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

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

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

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

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

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- (e) instructions, written or oral, provided with the object concerning its use;
- (f) descriptive materials accompanying the object that explain or depict its use;
- (g) the manner in which the object is displayed for sale; and
- (h) expert testimony concerning its use;

~~[X.]~~ U. "controlled substance analog" means a substance other than a controlled substance that has a chemical structure substantially similar to that of a controlled substance in Schedule I, II, III, IV or V or that was specifically designed to produce effects substantially similar to that of controlled substances in Schedule I, II, III, IV or V. Examples of chemical classes in which controlled substance analogs are found:

(1) include ~~[the following]~~:

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

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

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

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

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

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

SECTION STBTC→Hf11→73.←Hf11 Hf11→74.←Hf11←STBTC

SJC→STBTC→73.←STBTC←SJC SJC→70.←SJC Section 30-31-6 NMSA 1978 (being Laws 1972, Chapter 84, Section 6, as amended) is amended to read:

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

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

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

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- (21) ethylmethylthiambutene;
- (22) etonitazene;
- (23) etoxeridine;
- (24) furethidine;
- (25) hydroxypethidine;
- (26) ketobemidone;
- (27) levomoramide;
- (28) levophenacymorphan;
- (29) morpheridine;
- (30) noracymethadol;
- (31) norlevorphanol;
- (32) normethadone;
- (33) norpipanone;
- (34) phenadoxone;
- (35) phenampromide;
- (36) phenomorphan;
- (37) phenoperidine;
- (38) piritramide;
- (39) proheptazine;
- (40) properidine;
- (41) racemoramide; and
- (42) trimeperidine;

B. any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically exempted, whenever the existence of these salts, isomers and

salts of isomers is possible within the specific chemical designation:

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

C. any material, compound, mixture or preparation

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that contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically exempted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) 3,4-methylenedioxy amphetamine;
 - (2) 5-methoxy-3,4-methylenedioxy amphetamine;
 - (3) 3,4,5-trimethoxy amphetamine;
 - (4) bufotenine;
 - (5) diethyltryptamine;
 - (6) dimethyltryptamine;
 - (7) 4-methyl-2,5-dimethoxy amphetamine;
 - (8) ibogaine;
 - (9) lysergic acid diethylamide;
 - ~~(10)~~ marijuana;
 - ~~(11)~~ (10) mescaline;
 - ~~(12)~~ (11) peyote, except as otherwise
- provided in the Controlled Substances Act;
- ~~(13)~~ (12) N-ethyl-3-piperidyl benzilate;
 - ~~(14)~~ (13) N-methyl-3-piperidyl benzilate;
 - ~~(15)~~ (14) psilocybin;
 - ~~(16)~~ (15) psilocyn;
 - ~~(17)~~ tetrahydrocannabinols;
 - ~~(18)~~ hashish;
 - ~~(19)~~ (16) synthetic cannabinoids, including:

- (a) 1-[2-(4-(morpholinyl)ethyl)-3-(1-naphthoyl)indole;
- (b) 1-butyl-3-(1-naphthoyl)indole;
- (c) 1-hexyl-3-(1-naphthoyl)indole;
- (d) 1-pentyl-3-(1-naphthoyl)indole;
- (e) 1-pentyl-3-(2-methoxyphenylacetyl)indole;
- (f) cannabicyclohexanol (CP 47, 497 and homologues: 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP-47,497); and 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol;
- (g) 6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol);
- (h) dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;
- (i) 1-pentyl-3-(4-chloro naphthoyl)indole;
- (j) (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone; and
- (k) 5-(1,1-dimethylheptyl)-2-(3-hydroxycyclohexyl)-phenol;

~~(17)~~ (17) 3,4-methylenedioxymethcathinone;

~~(18)~~ (18) 3,4-methylenedioxypyrovalerone;

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- ~~[(22)]~~ (19) 4-methylmethcathinone;
- ~~[(23)]~~ (20) 4-methoxymethcathinone;
- ~~[(24)]~~ (21) 3-fluoromethcathinone; and
- ~~[(25)]~~ (22) 4-fluoromethcathinone;

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

STBTC→~~and~~←STBTC

STBTC→~~[E. The enumeration of marijuana, tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinol as Schedule I controlled substances does not apply to:~~

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

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

~~(3) tetrahydrocannabinols or chemical~~

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

~~(4) tetrahydrocannabinols or chemical~~

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

STBTC→E. The enumeration of marijuana,

tetrahydrocannabinols or chemical derivatives of

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tetrahydrocannabinol as Schedule I controlled substances does not apply to:

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

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

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

(4) tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinols, including tetrahydrocannabinols or chemical derivatives of

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

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

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

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

SECTION ~~STBTC~~ ~~Hf11~~ ~~74.~~ ~~Hf11~~ ~~Hf11~~ ~~75.~~ ~~Hf11~~ ~~STBTC~~

~~SJC~~ ~~STBTC~~ ~~74.~~ ~~STBTC~~ ~~SJC~~ ~~SJC~~ ~~71.~~ ~~SJC~~ Section 30-31-7 NMSA 1978 (being Laws 1972, Chapter 84, Section 7, as amended) is

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amended to read:

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

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

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

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

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

(c) opium poppy and poppy straw; and

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

~~[(e) marijuana, but only for the use by~~

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~~certified patients pursuant to the Controlled Substances Therapeutic Research Act or by qualified patients pursuant to the provisions of the Lynn and Erin Compassionate Use Act; and~~

~~(f) tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinol, but only for the use by certified patients pursuant to the Controlled Substances Therapeutic Research Act or by qualified patients pursuant to the provisions of the Lynn and Erin Compassionate Use Act. Marijuana, tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinol shall be considered Schedule II controlled substances only for the purposes enumerated in the Controlled Substances Therapeutic Research Act or the Lynn and Erin Compassionate Use Act;]~~

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

- (a) alphaprodine;
- (b) anileridine;
- (c) bezitramide;
- (d) dihydrocodeine;
- (e) diphenoxylate;
- (f) fentanyl;
- (g) hydromorphone;
- (h) isomethadone;

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- (i) levomethorphan;
- (j) levorphanol;
- (k) meperidine;
- (l) metazocine;
- (m) methadone;
- (n) methadone--intermediate,
4-cyano-2-dimethylamino-4, 4-diphenyl butane;
- (o) moramide--intermediate,
2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;
- (p) oxycodone;
- (q) pethidine;
- (r) pethidine--intermediate--A,
4-cyano-1-methyl-4-phenylpiperidine;
- (s) pethidine--intermediate--B,
ethyl-4-phenyl-piperidine-4-carboxylate;
- (t) pethidine--intermediate--C,
1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (u) phenazocine;
- (v) piminodine;
- (w) racemethorphan; and
- (x) racemorphan;

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

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system:

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

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

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

SECTION STBTC ~~Hf11~~ ~~75.~~ ~~Hf11~~ ~~Hf11~~ ~~76.~~ ~~Hf11~~ STBTC

SJC ~~STBTC~~ ~~75.~~ ~~STBTC~~ SJC SJC ~~72.~~ SJC Section 30-31-21 NMSA 1978 (being Laws 1972, Chapter 84, Section 21, as amended) is amended to read:

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

~~[A. marijuana is:~~

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

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

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

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

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

SECTION STBTC→Hf11→76.←Hf11 Hf11→77.←Hf11←STBTC
SJC→STBTC→76.←STBTC←SJC SJC→73.←SJC Section 30-31-22 NMSA 1978 (being Laws 1972, Chapter 84, Section 22, as amended) is amended to read:

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

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

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

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

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

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

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

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

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

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

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

B. It is unlawful for a person to distribute gamma hydroxybutyric acid or flunitrazepam to another person without that person's knowledge and with intent to commit a crime against that person, including criminal sexual penetration. For the purposes of this subsection, "without that person's knowledge" means the person is unaware that a substance with the ability to alter that person's ability to appraise conduct or to decline participation in or communicate unwillingness to participate in conduct is being distributed to that person. Any person who violates this subsection is:

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

(2) for the second and subsequent offenses, guilty of a second degree felony and shall be sentenced

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pursuant to the provisions of Section 31-18-15 NMSA 1978.

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

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

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

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

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

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

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

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

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

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

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

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

(3) a controlled substance enumerated in

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

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

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

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

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

SECTION HTRC→~~Hf11~~→~~77.~~←~~Hf11~~ Hf11→~~78.~~←~~Hf11~~←HTRC

SJC→~~STBTC~~→~~77.~~←~~STBTC~~←SJC SJC→~~74.~~←SJC Section 30-31-23 NMSA 1978 (being Laws 1972, Chapter 84, Section 23, as amended) is amended to read:

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

PROHIBITED.--

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

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

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

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

~~(3) more than one ounce but less than eight~~

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

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

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

(1) one ounce or less of synthetic cannabinoids is, for the first offense, guilty of a petty misdemeanor and shall be punished by a fine of not less than fifty dollars (\$50.00) or more than one hundred dollars (\$100) and by imprisonment for not more than fifteen days, and, for the second and subsequent offenses, is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000) or by imprisonment for a definite term less than one year, or both;

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

(3) eight ounces or more of synthetic

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cannabinoids is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

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

- (1) synthetic cannabinoids;
- (2) any of the substances listed in Paragraphs [~~(20) through (25)~~] (17) through (22) of Subsection C of Section 30-31-6 NMSA 1978; or
- (3) a substance added to Schedule I by a rule of the board adopted on or after March 31, 2011 if the board determines that the pharmacological effect of the substance, the risk to the public health by abuse of the substance and the potential of the substance to produce psychic or physiological dependence liability is similar to the substances described in

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Paragraph (1) or (2) of this subsection.

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

~~[F-]~~ E. A person who violates this section with respect to phencyclidine as enumerated in Schedule III or a controlled substance analog of phencyclidine; methamphetamine, its salts, isomers or salts of isomers as enumerated in Schedule II or a controlled substance analog of methamphetamine, its salts, isomers or salts of isomers; flunitrazepam, its salts, isomers or salts of isomers as enumerated in Schedule I or a controlled substance analog of flunitrazepam, including naturally occurring metabolites, its salts, isomers or salts of isomers; gamma hydroxybutyric acid and any chemical compound that is metabolically converted to gamma hydroxybutyric acid, its salts, isomers or salts of isomers as enumerated in Schedule I or a controlled substance analog of gamma hydroxybutyric acid, its salts, isomers or

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salts of isomers; gamma butyrolactone and any chemical compound that is metabolically converted to gamma hydroxybutyric acid, its salts, isomers or salts of isomers as enumerated in Schedule I or a controlled substance analog of gamma butyrolactone, its salts, isomers or salts of isomers; 1-4 butane diol and any chemical compound that is metabolically converted to gamma hydroxybutyric acid, its salts, isomers or salts of isomers as enumerated in Schedule I or a controlled substance analog of 1-4 butane diol, its salts, isomers or salts of isomers; or a narcotic drug enumerated in Schedule I or II or a controlled substance analog of a narcotic drug enumerated in Schedule I or II is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

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

(1) one ounce or less of [~~marijuana or~~] synthetic cannabinoids is, for the first offense, guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) or more than one thousand dollars

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(\$1,000) or by imprisonment for a definite term less than one year, or both, and for the second or subsequent offense, is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

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

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

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

(5) phencyclidine as enumerated in Schedule III, a narcotic drug enumerated in Schedule I or II, a controlled substance analog of phencyclidine or a controlled substance analog of a narcotic drug enumerated in Schedule I or II is guilty of a third degree felony and shall be sentenced pursuant

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to the provisions of Section 31-18-15 NMSA 1978."

SECTION STBTC→~~Hf11~~→78.~~←Hf11~~ ~~Hf11~~→79.~~←Hf11~~←STBTC

SJC→~~STBTC~~→78.~~←STBTC~~←SJC SJC→75.←SJC Section 30-31-34 NMSA 1978 (being Laws 1972, Chapter 84, Section 33, as amended) is amended to read:

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

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

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

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

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

E. narcotics paraphernalia or money that is a fruit

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or instrumentality of the crime; and

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

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

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

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

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

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

SJC→SECTION SJC→79.←SJC SJC→76.←SJC Section 29-3A-4 NMSA 1978 (being Laws 2019, Chapter 203, Section 4) is amended to read:

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"29-3A-4. EXPUNGEMENT OF RECORDS UPON RELEASE WITHOUT CONVICTION.--

A. One year from the date of the final disposition in the case, a person released without conviction for a violation of a municipal ordinance, misdemeanor [or], felony, Motor Vehicle Code violations and penalty assessments may petition the district court in the district in which the charges against the person originated for an order to expunge arrest records and public records related to that case.

B. A petitioner shall provide notice by first-class United States mail of the filed petition to the following parties, which parties shall be given ~~[an opportunity]~~ thirty days in which to provide to the district court any objections to the petition:

- (1) the district attorney for that district; and**
- (2) the department of public safety ~~[and~~**
- ~~(3) the law enforcement agency that arrested the~~ petitioner].**

C. A single petition filed pursuant to Subsection A of this section may include a request to expunge multiple arrest records and public records that originated within the jurisdiction of a district. A petition shall be filed under seal or under pseudonym. Petitions brought pursuant to the Criminal Record Expungement Act and all records of proceedings thereunder shall be expunged upon the conclusion of

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proceedings. The petitioner shall attach to and file with the petition copies of the petitioner's record of arrest and prosecutions from the department of public safety dated no earlier than ninety days prior to the date the petition is filed.

D. A party that seeks to object to a petition on the basis of the contents of a petitioner's record of arrest and prosecutions from the federal bureau of investigation must provide a copy of that record to a petitioner at no charge within the deadline set forth in subsection C of this section.

[G-] E. After a hearing on the petition, the court shall issue an order within thirty days of the hearing requiring that all arrest records and public records related to the case be expunged if it finds that no other charge or proceeding is pending against the petitioner and if the petitioner was released without a conviction, including:

- (1) an acquittal or finding of not guilty;
- (2) a nolle prosequi, a no bill or other dismissal;
- (3) a referral to a preprosecution diversion program;
- (4) an order of conditional discharge pursuant to Section 31-20-13 NMSA 1978; or
- (5) the proceedings were otherwise discharged.

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[D-] F. The court shall cause a copy of the order to be delivered to all relevant law enforcement agencies and courts. The order shall prohibit all relevant law enforcement agencies and courts from releasing copies of the records to any person, except upon order of the court."

SECTION SJC→80.←SJC SJC→77.←SJC Section 29-3A-5 NMSA 1978 (being Laws 2019, Chapter 203, Section 5) is amended to read:

"29-3A-5. EXPUNGEMENT OF RECORDS UPON CONVICTION.--

A. A person convicted of a violation of a municipal ordinance, misdemeanor or felony, following the completion of the person's sentence and the payment of any fines or fees owed to the state for the conviction, may petition the district court in which the person was convicted for an order to expunge arrest records and public records related to that conviction.

B. A petitioner shall provide notice by first-class United States mail of the filed petition to the following parties, which parties shall be given an opportunity to provide to the district court any objections to the petition:

- (1) the district attorney for that district; and
- (2) the department of public safety [and
- (3) ~~the law enforcement agency that arrested the petitioner~~].

C. After a hearing on a petition, the court shall issue an order within thirty days of the hearing requiring that

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all arrest records and public records related to the conviction be expunged if the court finds that:

(1) no other charge or proceeding is pending against the petitioner;

(2) justice will be served by an order to expunge;

(3) the petitioner has fulfilled any victim restitution ordered by the court in connection with the petitioner's conviction; and

(4) no other criminal conviction of the petitioner has occurred for a period of:

(a) two years if the petition relates to a conviction for a violation of a municipal ordinance or a misdemeanor not otherwise provided in this paragraph;

(b) four years if the petition relates to a misdemeanor conviction for aggravated battery as provided in Subsection B of Section 30-3-5 NMSA 1978 or to a conviction for a fourth degree felony not otherwise provided in this paragraph;

(c) six years if the petition relates to a conviction for a third degree felony not otherwise provided in this paragraph;

(d) eight years if the petition relates to a conviction for a second degree felony not otherwise provided in this paragraph; or

.220070.5AIC March 19, 2021 (10:48am)

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(e) ten years if the petition relates to a conviction for a first degree felony or for any offense provided in the Crimes Against Household Members Act.

D. The court shall cause a copy of the order to be delivered to all relevant law enforcement agencies and courts. The order shall prohibit all relevant law enforcement agencies and courts from releasing copies of such records to any person, except upon order of the court.

E. To determine whether justice will be served by an order to expunge, the court shall consider:

(1) the nature and gravity of the offense or conduct that resulted in the petitioner's conviction;

(2) the petitioner's age, criminal history and employment history;

(3) the length of time that has passed since the offense was committed and the related sentence was completed;

(4) the specific adverse consequences the petitioner may be subject to if the petition is denied; and

(5) any reasons to deny expungement of the records submitted by the district attorney.

F. For the purposes of determining the time lapsed since a criminal conviction as required in Subsection C of this section, time shall be measured from the last date on which a person completed a sentence for a conviction in any jurisdiction.

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G. The provisions of Subsection A of this section do not apply to an offense committed against a child, an offense that caused great bodily harm or death to another person, a sex offense as defined in Section 29-11A-3 NMSA 1978, embezzlement pursuant to Section 30-16-8 NMSA 1978 or an offense involving driving while under the influence of intoxicating liquor or drugs."←SJC

SECTION STBTC→Hf11→79.←Hf11 Hf11→80.←Hf11←STBTC

SJC→STBTC→79.←STBTC←SJC SJC→78.←SJC TEMPORARY

PROVISION--TRANSFER.--

A. On July 1, 2021, any unexpended or unencumbered balance in the medical cannabis fund is transferred to the cannabis regulation fund.

B. Except to the extent any administrative rules are inconsistent with the provisions of this act, any administrative rules adopted by an officer, agency or other entity whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity remain in force until amended by the officer, agency or other entity to which the responsibility for the adoption of the rules has been transferred. To the extent any administrative rules are inconsistent with the provisions of this act, such rules are null and void.

SECTION STBTC→Hf11→80.←Hf11 Hf11→81.←Hf11←STBTC

SJC→STBTC→80.←STBTC←SJC SJC→79.←SJC REPEAL.--Section

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

SJC→SECTION SJC→81.←SJC SJC→80.←SJC DELAYED REPEAL.--

Section 46 of this act is repealed effective December 31, 2025.←SJC

SECTION STBTC→Hf11→81.←Hf11 Hf11→82.←Hf11←STBTC

STBTC→81←STBTC EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.

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