

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 12

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

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  
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

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1 THE CANNABIS EXCISE TAX; CREATING THE COUNTY CANNABIS TAX;  
2 CREATING THE MUNICIPAL CANNABIS TAX; PROVIDING FOR  
3 DISTRIBUTIONS FROM CANNABIS EXCISE TAX REVENUE; AMENDING THE  
4 LYNN AND ERIN COMPASSIONATE USE ACT; PROVIDING AND REVISING  
5 PENALTIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE  
6 NMSA 1978; MAKING APPROPRIATIONS.

7  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

9 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
10 through 47 of this act may be cited as the "Cannabis Regulation  
11 Act".

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

14 A. "advertisement":

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

20 (2) does not include:

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

25 (b) a label affixed to a cannabis

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1 product or the covering, wrapper or container of a cannabis  
2 product; or

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

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

10 C. "cannabis":

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

18 (2) does not include:

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

25 (b) the weight of any other ingredient

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1 combined with cannabis products to prepare topical or oral  
2 administrations, food, drink or another product;

3 D. "cannabis consumption area" means an area within  
4 a vertically integrated cannabis establishment's, integrated  
5 cannabis microbusiness's or cannabis retailer's licensed  
6 premises where cannabis products may be consumed;

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

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

14 F. "cannabis establishment" means:

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

25 G. "cannabis extract":

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

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

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

10 I. "cannabis manufacturer" means a person that:

11 (1) manufactures cannabis products;

12 (2) packages, transports or couriers cannabis  
13 products;

14 (3) has cannabis products tested by a cannabis  
15 testing laboratory;

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

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

22 J. "cannabis producer" means a person that:

23 (1) possesses, produces, dispenses,  
24 distributes and manufactures cannabis products;

25 (2) cultivates cannabis plants;

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

3 (4) sells cannabis products wholesale;

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

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

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

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

13 L. "cannabis product":

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

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

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

25 N. "cannabis retailer" means a person that sells or

1 couriers cannabis products to a consumer in this state;

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

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

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

14 R. "cannabis training and education program" means  
15 a practical or academic curriculum offered by a New Mexico  
16 public post-secondary educational institution designed to  
17 prepare students for participation in the cannabis industry;

18 S. "commercial cannabis activity":

19 (1) means the cultivation, production,  
20 possession, manufacture, storage, testing, researching,  
21 labeling, transportation, couriering, purchase and sale of  
22 cannabis products; and

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

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1 cannabis;

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

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

8 V. "controlling person":

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

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

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

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

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

19 Z. "dry weight basis", when used in the context of  
20 regulation of commercial cannabis activity, means a process by  
21 which delta-tetrahydrocannabinol concentration is measured  
22 relative to the aggregate weight of all parts of the plant  
23 genus Cannabis, whether growing or not, including the leaves of  
24 the plant, the flowers and buds of the plant, the seeds of the  
25 plant, the resin of the plant and the stalks of the plant at

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1 the point of harvest by a licensee and with no moisture added  
2 to the harvested plant;

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

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

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

15 DD. "homegrown" or "homemade" means grown or made  
16 for purposes that are not dependent or conditioned upon the  
17 provision or receipt of financial consideration;

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

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

24 GG. "industry standards" means the prevailing  
25 customary standards of business practice in the cannabis

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1 industry in jurisdictions within the United States;

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

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

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

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

13 (4) operate only one retail establishment; or

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

16 II. "licensed premises" means a location that is  
17 designated by the division to engage in commercial cannabis  
18 activity pursuant to the Cannabis Regulation Act and includes:

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

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

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1 products; and

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

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

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

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

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

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

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

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

25 QQ. "medical cannabis program" means licensed

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1 activity as authorized by the Lynn and Erin Compassionate Use  
2 Act;

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

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

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

21 UU. "public place" means a place to which the  
22 general public has access and includes hallways, lobbies and  
23 other parts of apartment houses and hotels that do not  
24 constitute rooms or apartments designed for actual residence;  
25 highways; streets; schools; places of amusement; parks;

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1 playgrounds; and places used in connection with public  
2 passenger transportation;

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

7 WW. "retail establishment" means a single location,  
8 not to exceed ten thousand square feet in total area, operated  
9 by an integrated cannabis microbusiness for the purpose of  
10 performing all licensed activities;

11 XX. "shortage of cannabis supply in the medical  
12 program" means that the average number of plants in production  
13 in the medical cannabis program per qualified patient after the  
14 effective date of the Cannabis Regulation Act is substantially  
15 less than the average number of plants in production in the  
16 medical cannabis program per qualified patient as of the  
17 effective date of the Cannabis Regulation Act, where:

18 (1) the average number of plants in production  
19 after the effective date of the Cannabis Regulation Act is  
20 measured over a period of three consecutive months; and

21 (2) the average number of plants in production  
22 as of the effective date of the Cannabis Regulation Act is  
23 measured over a period of three consecutive months immediately  
24 preceding the effective date of the Cannabis Regulation Act;

25 YY. "vertically integrated cannabis establishment"

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1 means a licensee that is authorized under a vertically  
2 integrated cannabis establishment license issued by the  
3 division to act, without additional licensure and in the  
4 licensee's discretion, as any of the following:

- 5 (1) a cannabis courier;
- 6 (2) a cannabis testing laboratory;
- 7 (3) a cannabis manufacturer;
- 8 (4) a cannabis producer;
- 9 (5) a cannabis retailer;
- 10 (6) a cannabis research laboratory; or
- 11 (7) a person that engages in any other

12 activity authorized by the division; and

13 ZZ. "superintendent" means the superintendent of  
14 regulation and licensing.

15 SECTION 3. [NEW MATERIAL] DIVISION--DUTIES--RULEMAKING.--

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

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

22 C. No later than January 1, 2022, the division  
23 shall promulgate reasonable rules consistent with industry  
24 standards necessary for the division to carry out its duties as  
25 provided in the Cannabis Regulation Act as follows:

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- 1 (1) procedures for the issuance, renewal,  
2 suspension and revocation of a license;
- 3 (2) qualifications for licensure that are  
4 directly and demonstrably related to the operation of a  
5 cannabis establishment;
- 6 (3) security requirements for a cannabis  
7 establishment;
- 8 (4) requirements related to:
- 9 (a) inspection and monitoring of a  
10 cannabis establishment;
- 11 (b) a cannabis establishment's  
12 recordkeeping and tracking of cannabis from seed until sale;
- 13 (c) prevention of the sale or diversion  
14 of cannabis products in commercial cannabis activity to a  
15 person under the age of twenty-one;
- 16 (d) labeling of cannabis products  
17 packaged, sold or distributed by a cannabis establishment; and
- 18 (e) language for labels of cannabis  
19 products regarding potential adverse effects;
- 20 (5) rules providing that:
- 21 (a) any adult who is twenty-one years  
22 old or older shall be permitted to purchase at least two ounces  
23 of cannabis flowers and at least sixteen grams of cannabis  
24 extract at one time;
- 25 (b) a qualified patient or a primary

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1 caregiver shall not be limited in possession of the amount of  
2 cannabis flowers or cannabis extract purchased and obtained  
3 pursuant to the medical cannabis program; and

4 (c) as to commercial cannabis activity:  
5 1) except for limits set in place in statute for an integrated  
6 cannabis microbusiness or a cannabis producer microbusiness,  
7 the division shall not limit the number of plants the licensee  
8 may possess, cultivate or manufacture; 2) a consumer shall be  
9 permitted to possess at least two ounces of cannabis flowers  
10 and at least sixteen grams of cannabis extract purchased and  
11 obtained pursuant to the commercial cannabis activity  
12 authorized by the Cannabis Regulation Act outside of the  
13 consumer's private residence; 3) any cannabis flower in excess  
14 of two ounces of cannabis flowers or cannabis extract in excess  
15 of sixteen grams of cannabis extract shall be stored in the  
16 person's residence in a locked space and shall not be visible  
17 from a public place; and 4) the division shall not limit the  
18 amount of tetrahydrocannabinol concentration in a cannabis  
19 product;

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

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

24 (8) procedures that promote and encourage full  
25 participation in the cannabis industry governed by the Cannabis

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1 Regulation Act by representatives of communities that have been  
2 disproportionately harmed by rates of arrest through the  
3 enforcement of cannabis prohibitions in law and policy;

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

7 (10) development of a certification to  
8 identify products for consumers from licensees that are  
9 integrated cannabis microbusinesses or cannabis producer  
10 microbusinesses or owned by representatives of communities that  
11 have been disproportionately harmed by rates of arrest through  
12 the enforcement of cannabis prohibitions in law and policy;

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

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

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

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

23 (12) rules developed in consultation with the  
24 New Mexico department of agriculture and the department of  
25 environment to establish standards for quality control,

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1 inspection and testing of cannabis products for potency and  
2 contaminants, except for cannabis produced or harvested for  
3 research purposes and not for ingestion; provided that all such  
4 rules and standards must be consistent with the rules and  
5 standards for testing of medical cannabis products.

6 D. No later than January 1, 2022, the division  
7 shall promulgate reasonable rules consistent with industry  
8 standards relating to cannabis training and education programs,  
9 including:

- 10 (1) procedures for the issuance, renewal,  
11 suspension and revocation of a license;  
12 (2) qualifications for licensure;  
13 (3) physical security, cybersecurity and, if  
14 applicable, security of information collected under the federal  
15 Health Insurance Portability and Accountability Act of 1996  
16 requirements; and

17 (4) rules developed in consultation with the  
18 New Mexico department of agriculture and the department of  
19 environment to establish:

- 20 (a) environmental protections; and  
21 (b) protocols to ensure licensees'  
22 compliance with state and local laws and ordinances governing  
23 environmental impacts, natural resource protection, water  
24 quality, water supply, hazardous materials, pesticide use and  
25 wastewater discharge.

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1           E. The division shall collect and publish annually  
2 on the division's website, and present to the appropriate  
3 interim committee of the legislature, a report describing  
4 demographic data on license applicants, controlling persons and  
5 employees of cannabis establishments, including race,  
6 ethnicity, gender and age.

7           F. No later than September 1, 2021, the division  
8 shall convene a "cannabis regulatory advisory committee" to  
9 advise the division on the development of rules pursuant to the  
10 Cannabis Regulation Act, including best practices and  
11 guidelines that promote economic and cultural diversity in  
12 licensing and employment opportunities and protect public  
13 health and safety while ensuring a regulated environment for  
14 commercial cannabis activity that does not impose unreasonable  
15 barriers that would perpetuate, rather than reduce and  
16 eliminate, the illicit market for cannabis. An individual  
17 appointed to the cannabis regulatory advisory committee shall  
18 not hold any ownership interest or investment in a licensed  
19 entity pursuant to the Cannabis Regulation Act. The cannabis  
20 regulatory advisory committee shall consist of the following  
21 individuals or their designees:

- 22                   (1) the chief public defender;  
23                   (2) a district attorney appointed by the New  
24 Mexico district attorney association;  
25                   (3) a county sheriff appointed by the

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1 executive director of the New Mexico association of counties;  
2 and

3 (4) members appointed by the director with the  
4 approval of the superintendent for four-year terms, including a  
5 representative:

6 (a) of a cannabis policy advocacy  
7 organization;

8 (b) of a labor organization;

9 (c) who is a qualified patient;

10 (d) from a state or local agency with  
11 relevant expertise as the director and the superintendent deem  
12 appropriate;

13 (e) with expertise in public health;

14 (f) with expertise in regulating  
15 commercial activity for adult-use intoxicating substances;

16 (g) from a community disproportionately  
17 affected by past federal and state drug policies;

18 (h) with expertise and experience in  
19 cannabis laboratory science;

20 (i) with expertise in environmental  
21 science;

22 (j) from an Indian nation, tribe or  
23 pueblo with relevant expertise as the director and the  
24 superintendent deem appropriate;

25 (k) with expertise in small business

1 development; and

2 (1) with expertise in other relevant  
3 areas as the director and the superintendent deem appropriate.

4 G. Public members of the cannabis regulatory  
5 advisory committee shall not be paid but are entitled to  
6 receive per diem and mileage as provided for non-salaried  
7 public officers in the Per Diem and Mileage Act.

8 H. The division shall monitor the supply and demand  
9 of cannabis products produced in New Mexico by licensees and  
10 present annually to the appropriate interim committee of the  
11 legislature on the impacts of supply on illicit cannabis  
12 products markets and adequate supply of cannabis products for  
13 qualified patients.

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

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

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

24 (2) promulgate rules to govern the medical  
25 cannabis subsidy program.

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

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

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

- 22                   (1) child access;
- 23                   (2) road safety and driving while impaired;
- 24                   (3) workplace safety;
- 25                   (4) the percentage of emergency room visits

1 and outcomes;

2 (5) educational needs for children and adults;

3 (6) consumer and product safety;

4 (7) the percentage of poison control center  
5 calls; and

6 (8) the impact of cannabis use on rates of  
7 alcohol, opioid and other substance abuse.

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

14 F. Public members of the public health and safety  
15 advisory committee are entitled to per diem and mileage as  
16 provided for nonsalaried public officers in the Per Diem and  
17 Mileage Act.

18 SECTION 5. [NEW MATERIAL] DEPARTMENT OF HEALTH--DUTIES.--  
19 Except for administration of the medical cannabis registry  
20 under the Lynn and Erin Compassionate Use Act, the power, duty  
21 and authority of the department of health related to commercial  
22 cannabis activity and the medical cannabis program shall be  
23 transferred to the division on July 1, 2021.

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

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

3                   (1) commercial cannabis activity and licensing  
4 related to commercial cannabis activity;

5                   (2) the medical cannabis program, except for  
6 the medical cannabis registry; and

7                   (3) all aspects of cannabis relating to  
8 cannabis training and education programs.

9           B. The division shall begin issuing licenses in  
10 accordance with the rules promulgated by the division for  
11 commercial cannabis activities no later than January 1, 2022.

12           C. Within sixty days of the effective date of the  
13 Cannabis Regulation Act, the division shall adopt procedures  
14 to:

15                   (1) promote and encourage full participation  
16 in the cannabis industry by representatives of communities that  
17 have been disproportionately harmed by rates of arrest through  
18 the enforcement of cannabis prohibitions in law; and

19                   (2) promote and encourage racial, ethnic,  
20 gender and geographic diversity among license applicants,  
21 licensees and cannabis industry employees.

22           D. The division shall administer a licensing  
23 program in accordance with the rules promulgated by the  
24 division for commercial cannabis activities provided for in the  
25 Cannabis Regulation Act, the medical cannabis program provided

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1 for in the Lynn and Erin Compassionate Use Act and cannabis  
2 training and education programs that shall include licenses  
3 for:

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

15 E. The division shall include a clear designation  
16 on all licenses that indicates whether the license is for  
17 medical cannabis activity, both medical and commercial cannabis  
18 activity or cannabis training and education programs.

19 F. A license is valid for twelve months from the  
20 date the license is issued and may be renewed annually;  
21 provided that a license issued for a cannabis training and  
22 education program is valid until terminated by the licensee or  
23 suspended or revoked by the division.

24 G. The division shall allow only a vertically  
25 integrated cannabis establishment, a cannabis retailer or an

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1 integrated cannabis microbusiness to operate a cannabis  
2 consumption area.

3 H. The division shall not limit the type or number  
4 of licenses that a licensee may be issued pursuant to the  
5 Cannabis Regulation Act.

6 I. Except for verification of age, the division  
7 shall not require licensees to request information from  
8 consumers or impose any residency requirement upon consumers  
9 for the purchase of cannabis products pursuant to the  
10 commercial cannabis activity authorized by the Cannabis  
11 Regulation Act or the medical cannabis program.

12 J. Except as otherwise provided in the Cannabis  
13 Regulation Act, the division shall not limit the number of  
14 licensed premises a licensee may occupy or operate under a  
15 license. Multiple licensees may occupy a single licensed  
16 premises, and the division shall not place any restriction or  
17 prohibition on the number of licensees occupying a single  
18 licensed premises or on the number of licensed premises of a  
19 cannabis establishment except as otherwise specifically  
20 provided for by the Cannabis Regulation Act. A licensee may  
21 conduct any lawful activity or any combination of lawful  
22 activities at a licensed premises; provided that the licensee  
23 is not a licensee pursuant to the Liquor Control Act.

24 K. Licensees pursuant to the Cannabis Regulation  
25 Act shall be specifically permitted to conduct any other

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1 licensed activities, including activities pursuant to the Hemp  
2 Manufacturing Act.

3 L. Any person properly licensed and in good  
4 standing as a licensed cannabis producer pursuant to the Lynn  
5 and Erin Compassionate Use Act on the effective date of the  
6 Cannabis Regulation Act shall be issued a license by the  
7 division allowing the licensee to conduct commercial cannabis  
8 activity and medical cannabis activity as a vertically  
9 integrated cannabis establishment beginning on October 1, 2021.  
10 Any other person properly licensed and in good standing  
11 pursuant to the Lynn and Erin Compassionate Use Act on the  
12 effective date of the Cannabis Regulation Act shall be issued a  
13 license of comparable class and privileges to conduct  
14 commercial cannabis activity under the Cannabis Regulation Act.  
15 Any facility of such a licensee, upon issuance of the cannabis  
16 establishment license, shall constitute licensed premises of  
17 the licensee and the licensee shall be entitled to continued  
18 and uninterrupted operations of the licensed premises. As to  
19 activity under the medical cannabis program, the licensee shall  
20 continue to operate under rules promulgated for the medical  
21 cannabis program until the division promulgates rules for  
22 medical cannabis activity, except that a qualified patient and  
23 a primary caregiver shall not be prohibited from purchasing and  
24 obtaining cannabis products pursuant to the medical cannabis  
25 program nor shall such a person be prohibited from purchasing

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1 up to sixteen grams of cannabis extract purchased and obtained  
2 pursuant to the medical cannabis program. The division shall  
3 not limit:

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

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

10 M. Any nonprofit corporation issued a license under  
11 Subsection L of this section shall be converted into a  
12 corporation by the secretary of state upon the filing of  
13 articles of organization by the nonprofit corporation, which  
14 shall be approved pursuant to an agreement of conversion in the  
15 manner provided for the conversion of a limited liability  
16 company in Section 53-19-60.1 NMSA 1978. To be valid, the  
17 agreement of conversion must be approved by all directors of  
18 the nonprofit corporation. Upon conversion, all property owned  
19 by the converting entity remains in the newly converted entity.  
20 All obligations of the converting entity continue as  
21 obligations of the newly converted entity. Any action or  
22 proceeding pending against the converting entity may be  
23 continued as if the conversion had not occurred.

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

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

4           B. The division may:

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

16           C. The division shall adopt and promulgate  
17 reasonable rules consistent with industry standards specifying  
18 the criteria for imposition of any sanction and civil monetary  
19 penalty.

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

23           E. A person aggrieved by an action taken by the  
24 division pursuant to this section may request and receive a  
25 hearing with the division for the purpose of reviewing the

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1 action. To obtain a hearing with the division, the aggrieved  
2 person shall file a request for a hearing with the director  
3 within thirty days after the date the action is taken. The  
4 division hearings shall be conducted in accordance with the  
5 provisions of the Uniform Licensing Act.

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

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

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

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

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

25 (2) after having first exhausted measures to

1 increase production of cannabis plants to address the shortage  
2 of cannabis supply in the medical cannabis program, exclude  
3 commercial cannabis activity from the scope of new licenses  
4 issued to initial applicants for a vertically integrated  
5 cannabis establishment, cannabis producer, integrated cannabis  
6 microbusiness, cannabis producer microbusinesses or cannabis  
7 manufacturer license, which limitation shall be in force for a  
8 period of at least six months; and

9 (3) after having exhausted reasonable efforts  
10 to increase production of cannabis plants, including expediting  
11 applications for additional licensed premises, the division may  
12 then require licensees who are licensed to produce cannabis to  
13 produce a specified quota of mature cannabis plants to be  
14 designated for use in the medical cannabis program; provided  
15 that:

16 (a) the division may require a licensee  
17 to devote no more than five percent of the licensee's  
18 cultivated cannabis plants for use in the medical cannabis  
19 program;

20 (b) the total number of plants to be  
21 produced from such a quota shall not exceed the number  
22 necessary to eliminate the shortage of cannabis supply in the  
23 medical cannabis program; and

24 (c) the division shall not require  
25 specific tracking of produced particular plants, but shall

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1 instead permit a licensee to produce any sufficient number of  
2 plants to meet a quota imposed under this subsection.

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

5 (1) beginning on September 1, 2021, accept and  
6 begin processing license applications for cannabis producers;

7 (2) beginning on October 1, 2021, issue  
8 licenses for integrated cannabis microbusinesses and cannabis  
9 producer microbusinesses;

10 (3) beginning on July 1, 2022, accept license  
11 applications for all licenses;

12 (4) issue a license or a written notice  
13 detailing why an application was denied no later than ninety  
14 days following the day on which the application was submitted  
15 to the division;

16 (5) no later than January 1, 2022, in  
17 consultation with the cannabis regulatory advisory committee,  
18 develop a plan to promote and encourage racial, ethnic, gender  
19 and geographic diversity among licensees;

20 (6) require as a condition of licensing  
21 pursuant to the Cannabis Regulation Act that the applicant  
22 demonstrate that the applicant has a legal right to a  
23 commercial water supply, water rights or another source of  
24 water sufficient to meet the water needs related to the  
25 license, and, if an applicant applies for a cannabis producer

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1 license or a cannabis manufacturer license, submit a plan to  
2 utilize, or demonstrate to the division that the applicant  
3 cannot feasibly utilize, energy and water reduction  
4 opportunities, including:

5 (a) for a cannabis producer, drip  
6 irrigation and water collection;

7 (b) natural lighting and energy  
8 efficiency measures; and

9 (c) renewable energy generation; and

10 (7) permit retail sales under the commercial  
11 cannabis activity authorized by the Cannabis Regulation Act by  
12 any licensee whose license allows such activity no later than  
13 October 1, 2021 and otherwise permit any activity authorized by  
14 the Cannabis Regulation Act or the medical cannabis program as  
15 of the time of licensure of a licensee.

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

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

20 (2) the applicant or a controlling person in  
21 the applicant's entity has been convicted of an offense that is  
22 substantially related to the qualifications, functions or  
23 duties of the applicant entity's business; provided that if the  
24 division determines that the controlling person and the  
25 applicant entity are otherwise qualified for a license and that

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1 issuing a license to the applicant entity would not compromise  
2 public safety, the division shall conduct a thorough review of  
3 the conviction, including the nature of the offense,  
4 surrounding circumstances and any evidence of the controlling  
5 person's rehabilitation following the conviction, and based on  
6 that review, determine whether the applicant entity should be  
7 issued a license; or

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

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

18 (1) a felony conviction involving fraud,  
19 deceit or embezzlement;

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

23 (a) prepare for sale, transport or carry  
24 a controlled substance; or

25 (b) sell, give away or offer to sell a

1 controlled substance to any person; and

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

4 F. A conviction for which the related sentence,  
5 including any term of probation or parole, is completed for the  
6 possession, use, manufacture, distribution, dispensing or the  
7 possession with the intent to manufacture, distribute or  
8 dispense a controlled substance is not considered substantially  
9 related to the qualifications, functions or duties of a  
10 business seeking a license and shall not be the sole ground on  
11 which an application is denied.

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

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

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

23 A. The division shall establish application and  
24 licensing fees applicable to licenses for commercial cannabis  
25 activity and activity related to medical cannabis consistent

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1 with the provisions of this section. Money collected for the  
2 fees shall not exceed the cost of administering and enforcing  
3 the programs established in the Cannabis Regulation Act and the  
4 Lynn and Erin Compassionate Use Act, including the  
5 administration of the medical cannabis registry by the  
6 department of health.

7           B. For fees assessed through January 1, 2026, the  
8 fees shall consist of a base annual fee of two thousand five  
9 hundred dollars (\$2,500) per year, an additional fee of one  
10 thousand dollars (\$1,000) for each licensed premises of the  
11 licensee and for a vertically integrated cannabis establishment  
12 licensee, an initial application fee and an annual renewal fee.  
13 The initial application fee and the annual renewal fee for a  
14 vertically integrated cannabis establishment license shall not  
15 exceed one hundred twenty-five thousand dollars (\$125,000) for  
16 a license for both medical cannabis activity and commercial  
17 cannabis activity. The initial application fee and the annual  
18 renewal fee for a license or renewal of a license that  
19 authorizes only medical cannabis activity shall be one-half the  
20 fee applicable to a license authorizing both medical cannabis  
21 activity and commercial cannabis activity. The division shall  
22 charge five percent of the maximum fee assessed for a  
23 vertically integrated cannabis establishment licensee as the  
24 licensing fee for a cannabis producer microbusiness or an  
25 integrated cannabis microbusiness; provided that if a cannabis

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1 producer microbusiness or an integrated cannabis microbusiness  
2 enters into any business arrangement with another such entity  
3 with the purpose or having the effect of evading the  
4 limitations of the licensee's license, such licensee shall not  
5 be eligible for the lower fee prescribed for by this  
6 subsection.

7 C. The division shall collect all renewal fees,  
8 including the renewal fees for all licensed premises, at the  
9 time of renewal of a license.

10 D. For fees assessed on or after July 1, 2022, the  
11 division shall annually adjust the fees set by this section by  
12 multiplying the prior year's fees by the percentage, if any, by  
13 which the average of the monthly consumer price indices for the  
14 twelve months ending on December 31 of the prior fiscal year  
15 exceeds the average monthly consumer price indices for the  
16 twelve months ending on December 31 of the fiscal year  
17 preceding the prior fiscal year.

18 E. The fee for the issuance of a cannabis server  
19 permit shall not exceed thirty-five dollars (\$35.00).

20 F. The division shall deposit all fees collected  
21 pursuant to the Cannabis Regulation Act in the cannabis  
22 regulation fund.

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

25 A. The division shall begin licensing cannabis

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1 training and education programs no later than January 1, 2022.

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

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

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

15 A. No later than January 1, 2022, the division  
16 shall promulgate reasonable rules consistent with this section  
17 and industry standards for issuance of a cannabis server  
18 permit; provided that a cannabis research laboratory or an  
19 employee of the laboratory is not required to obtain or possess  
20 a cannabis server permit while performing activities authorized  
21 pursuant to a cannabis research laboratory.

22 B. The program curriculum shall include the  
23 following subjects:

24 (1) the effect cannabis products have on the  
25 body and behavior, including the effect on a person's ability

1 to operate a motor vehicle when under the influence of cannabis  
2 products;

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

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

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

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

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

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

25 D. No person shall be employed as a server on a

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1 licensed premises unless that person obtains a cannabis server  
2 permit pursuant to the provisions of this section within thirty  
3 days of employment.

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

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

14 G. In addition to any other penalties provided by  
15 law, the following penalties may be imposed for sales to a  
16 person under twenty-one years of age in violation of the  
17 provisions of the Cannabis Regulation Act or rules of the  
18 division:

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

24 (2) the director shall suspend a cannabis  
25 server permit for a period of one year when the director finds

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1 that the server is guilty of a second offense of selling,  
2 serving or dispensing a cannabis product to a person under  
3 twenty-one years of age in violation of the Cannabis Regulation  
4 Act arising separately from the incident giving rise to the  
5 server's first offense;

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

13 (4) no person whose cannabis server permit is  
14 suspended pursuant to the provisions of this section shall  
15 offer, sell or serve cannabis or a cannabis product as part of  
16 commercial cannabis activity in a cannabis consumption area  
17 during the period of suspension.

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

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

23 A. A local jurisdiction may:

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

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1 the Dee Johnson Clean Indoor Air Act, including rules that  
2 reasonably limit density of licenses and operating times  
3 consistent with neighborhood uses; and

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

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

12 (b) the cannabis establishment or  
13 integrated cannabis microbusiness is located at a minimum  
14 distance from a school or daycare center as determined by the  
15 local jurisdiction, but which minimum distance shall not be set  
16 at any more than three hundred feet from a school or daycare  
17 center that was in existence at the time the establishment or  
18 microbusiness was licensed.

19 B. A local jurisdiction shall not:

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

23 (2) completely prohibit the operation of a  
24 licensee;

25 (3) prohibit or limit signage attached to or

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1 located on licensed premises that identify the premises as a  
2 cannabis establishment;

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

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

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

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

12 A. Conduct by a licensee or a licensee  
13 representative that is allowed pursuant to a license and  
14 conduct by a person that allows property to be used by a  
15 licensee or a licensee representative for conduct allowed  
16 pursuant to a license is lawful, not a violation of state or  
17 local law and is not a basis for seizure or forfeiture of any  
18 property or assets under state or local law.

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

25 SECTION 14. [NEW MATERIAL] PROTECTION OF UNDERAGE

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1 PERSONS--PROVIDING CANNABIS PRODUCTS TO MINORS--PENALTIES.--

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

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

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

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

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

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

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

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1 the parent, legal guardian or adult spouse; or

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

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

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

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

22 (1) that the purchaser falsely represented in  
23 writing; by producing a driver's license bearing the  
24 purchaser's photograph; by producing a photographic  
25 identification card issued by the motor vehicle division of the

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1 taxation and revenue department; or by producing a similar  
2 identification card issued pursuant to the laws of this state,  
3 another state, the federal government or the government of an  
4 Indian nation, tribe or pueblo that the person was twenty-one  
5 years of age or older;

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

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

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

17 (1) the division from enforcing its rules  
18 against a licensee;

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

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

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

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

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

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

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

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

16           SECTION 17. [NEW MATERIAL] CANNABIS PRODUCTS--PACKAGING  
17 AND LABELING--DEPARTMENT RULEMAKING.--

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

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

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

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

6 (3) labels shall include:

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

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

15 (c) potency and pesticide use;

16 (d) a list of pharmacologically active  
17 ingredients;

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

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

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

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

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

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

13 B. The division shall develop reasonable rules and  
14 procedures consistent with industry standards to:

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

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

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

22 (4) provide for recordkeeping;

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

25 (6) ensure that testing samples are

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1 transported and stored in a manner that prevents degradation,  
2 contamination, tampering or diversion;

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

7 (8) require destruction of a tested batch of  
8 cannabis or of cannabis products if the testing samples from  
9 the tested batch or items indicate noncompliance with  
10 applicable health and safety standards promulgated by the  
11 division, unless remedial measures can bring the cannabis or  
12 cannabis products into compliance with the standards or the  
13 cannabis or cannabis products can be used for research  
14 purposes.

15 C. Beginning no later than April 1, 2022, the  
16 department of environment shall identify and annually provide  
17 to the division a set of updated certified reference materials  
18 for laboratory testing to be measured against.

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

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

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

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

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

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

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

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

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

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

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

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

24 B. require:

25 (1) all advertisements and marketing to

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1 accurately and legibly identify all persons responsible for its  
2 content; and

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

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

16 SECTION 22. [NEW MATERIAL] PROVISION OF PROFESSIONAL  
17 SERVICES.--An attorney, accountant, insurance agent, real  
18 estate agent, security guard or other person engaged in a  
19 profession subject to state licensure shall not be subject to  
20 disciplinary action by a professional association, a state  
21 professional board or a state licensing entity because the  
22 professional provides professional services or assistance to  
23 prospective or licensed cannabis establishments or another  
24 person in connection with activity that the professional  
25 reasonably believes complies with the Cannabis Regulation Act

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1 and rules promulgated pursuant to that act.

2 SECTION 23. [NEW MATERIAL] MEDICAL CANNABIS PROVISIONS

3 UNAFFECTED.--Nothing in the Cannabis Regulation Act shall be  
4 construed to limit a privilege or right of a qualified patient  
5 or a primary caregiver participating in the medical cannabis  
6 program or the use, dispensing, possession, prescribing,  
7 storage or transport of a prescription drug containing cannabis  
8 that is approved pursuant to the Federal Food, Drug, and  
9 Cosmetic Act.

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

11 CANNABIS.--

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

19 B. An applicant for a professional or occupational  
20 license shall not be denied a license based on previous  
21 employment related to cannabis establishments may not refuse to  
22 employ or discipline an employee solely for conduct that is  
23 lawful pursuant to the Cannabis Regulation Act unless the  
24 person used, possessed or was impaired by cannabis products on  
25 the premises of the place of employment or during the hours of

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1 employment or unless failing to do so would put the employer in  
2 violation of federal law or cause it to lose a federal contract  
3 or funding.

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

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

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

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

20 A. Notwithstanding any other provision of law, the  
21 following conduct is lawful for a person who is twenty-one  
22 years of age or older and shall not constitute grounds for  
23 detention, search or arrest of a person or property, and  
24 cannabis products that relate to the conduct are not contraband  
25 or subject to seizure or forfeiture pursuant to the Controlled

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1 Substances Act or the Forfeiture Act:

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

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

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

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

21 (5) possessing, using, displaying, purchasing,  
22 obtaining, manufacturing cannabis extracts using nonvolatile  
23 solvents, alcohol or carbon dioxide or no solvents,  
24 transporting or giving away to a person twenty-one years of age  
25 or older cannabis paraphernalia;

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

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

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

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

23 (10) transporting homegrown cannabis or mature  
24 or immature cannabis plants when the person is moving the  
25 person's residence to another location or for purposes of

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1 testing or manufacturing.

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

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

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

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

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

20 (4) the possession of or the suspicion of  
21 possession of cannabis extracts without evidence of quantity in  
22 excess of sixteen grams;

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

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

6 D. Subsection C of this section shall not apply  
7 when a law enforcement officer is investigating whether a  
8 person is operating a vehicle or watercraft while intoxicated  
9 or under the influence of or impaired by alcohol or a drug or  
10 any combination thereof in violation of Section 66-8-102 or  
11 66-13-3 NMSA 1978.

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

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

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

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

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

25 C. As used in this section, "smoke" means to

1 inhale, exhale, burn or carry any lighted or heated device or  
2 pipe or any other lighted or heated cannabis products intended  
3 for inhalation, whether natural or synthetic, in any manner or  
4 in any form.

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

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

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

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

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

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

25 (1) up to six mature cannabis plants shall be

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underscoring material = new  
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1 issued a penalty assessment pursuant to Section 31-19A-1 NMSA  
2 1978 and is subject to a fine of fifty dollars (\$50.00);

3 (2) more than six mature or immature cannabis  
4 plants and up to twelve mature or immature cannabis plants is  
5 guilty of a misdemeanor and shall be sentenced pursuant to the  
6 provisions of Section 31-18-15 NMSA 1978; and

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

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

13 (1) up to six mature cannabis plants shall be  
14 subject to:

15 (a) a fine of one hundred dollars (\$100)  
16 unless the person is unable to pay;

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

20 (c) four hours of community service; and

21 (2) six mature or immature cannabis plants or  
22 more shall be punished pursuant to the provisions of Section  
23 32A-2-19 NMSA 1978.

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

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

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

7                   (1) a fine of one hundred dollars (\$100)  
8 unless the person is unable to pay;

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

12                   (3) four hours of community service.

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

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

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

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

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

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

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

21 A. a person under twenty-one years of age shall not  
22 possess cannabis products. A person who violates this  
23 subsection shall be subject to:

24 (1) a fine of fifty dollars (\$50.00) unless  
25 the person is unable to pay;

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

4 (3) four hours of community service; and

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

9 (1) more than two and up to eight ounces of  
10 cannabis flowers or more than sixteen and up to sixty-four  
11 grams of cannabis extracts is guilty of a misdemeanor and shall  
12 be sentenced pursuant to the provisions of Section 31-19-1 NMSA  
13 1978; or

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

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

25 SECTION 32. [NEW MATERIAL] EXPUNGEMENT OF ARREST AND

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1 CONVICTION RECORDS--PROCEDURE.--If a person is charged with any  
2 offense provided in Sections 27 through 31 of the Cannabis  
3 Regulation Act and the amount of cannabis product that is the  
4 basis of the charge is two ounces of cannabis flowers, sixteen  
5 grams of cannabis extract or less or six mature and six  
6 immature cannabis plants, whether or not the person is  
7 convicted, under the direction and review of the attorney  
8 general, all records held by a court, an agency of the state or  
9 a local jurisdiction that relate to the person's arrest or  
10 conviction shall be automatically expunged two years after the  
11 date of the person's conviction or the date of the person's  
12 arrest if there was no conviction. If the person is or was  
13 under eighteen years of age at the time of the arrest or  
14 conviction, the records shall be retained for two years or  
15 until the person is eighteen years of age, whichever comes  
16 first, and shall then be expunged. The records shall also be  
17 removed from any statewide criminal databases.

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

20 A. Under the direction and review of the attorney  
21 general, records held by a court, an agency of the state or a  
22 local jurisdiction that relate to a person's arrest or  
23 conviction for trafficking cannabis in violation of Section  
24 30-31-20 NMSA 1978, distribution of cannabis or possession with  
25 intent to distribute cannabis in violation of Section 30-31-22

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1 NMSA 1978 or possession of cannabis in violation of Section  
2 30-31-23 NMSA 1978 shall not be kept beyond two years from the  
3 date of the person's conviction or from the date of the  
4 person's arrest if there was no conviction. If the person was  
5 under eighteen years of age at the time of the arrest or  
6 conviction, the records shall be retained until the offender is  
7 eighteen years of age and shall then be destroyed. The records  
8 shall also be removed from any statewide criminal databases.

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

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

16 A. Within thirty days following the effective date  
17 of the Cannabis Regulation Act, under the direction and review  
18 of the attorney general, a correctional facility, a county jail  
19 or a juvenile correctional facility in which a person is  
20 currently incarcerated for an offense that is no longer a crime  
21 pursuant to the provisions of the Cannabis Regulation Act, or  
22 that would have resulted in a lesser offense if that act had  
23 been in effect at the time of the offense, shall notify the  
24 court that the convicted person's case should be reopened to  
25 consider possible recall or dismissal of the person's sentence.

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

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

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

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1           E. The prosecutor of the case shall have until July  
2 1, 2022, to review all cases and determine whether to challenge  
3 the recall or dismissal of sentence, dismissal and sealing or  
4 redesignation.

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

9           G. On or before July 1, 2022, the prosecutor of the  
10 case shall inform the court and the public defender's office in  
11 the prosecutor's county when the prosecutor of the case is  
12 challenging a particular recall or dismissal of sentence,  
13 dismissal and sealing or redesignation. The prosecutor of the  
14 case shall inform the court when the prosecutor of the case is  
15 not challenging a particular recall or dismissal of sentence,  
16 dismissal and sealing or redesignation.

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

21           I. If the prosecutor of the case does not challenge  
22 the recall or dismissal of sentence, dismissal and sealing or  
23 redesignation by July 1, 2022, the court shall notify the  
24 department of public safety that a case has been dismissed.  
25 Upon notice, the department of public safety shall erase the

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1 arrest record pertaining to the offense; provided that if the  
2 arrest included multiple charges, only the related charge shall  
3 be expunged.

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

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

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

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

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

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1 the cannabis products solely for the purpose of research  
2 conducted pursuant to the Lynn and Erin Compassionate Use Act  
3 or the Cannabis Regulation Act.

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

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

11 (1) category and penalty level; and

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

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

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

23 D. For purposes of this section, "cannabis-related  
24 violation" means a violation of any of Sections 27 through 31  
25 of the Cannabis Regulation Act or a violation of Section

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1 66-8-102 or 66-13-3 NMSA 1978 if the basis for the arrest or  
2 citation is impairment due to the use of cannabis products.

3 SECTION 38. [NEW MATERIAL] EMPLOYER PROTECTIONS--  
4 EXEMPTIONS.--

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

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

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

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

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

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

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

13 SECTION 39. [NEW MATERIAL] APPEALS.--

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

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

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

24 D. All appeals pursuant to Subsection B of this  
25 section shall be taken to the court of appeals within thirty

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1 days after filing of the rule under the State Rules Act or  
2 final decision of the division.

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

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

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

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

13 provided in Section 42 of the Cannabis Regulation Act, all  
14 cannabis products pursuant to the commercial cannabis activity  
15 authorized by the Cannabis Regulation Act or the medical  
16 cannabis program shall be derived from a source originating  
17 within New Mexico.

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

19 A. Notwithstanding the provisions of Section 41 of  
20 the Cannabis Regulation Act or any other provision of law, the  
21 governor may enter into an agreement with another jurisdiction  
22 within the United States for the purposes of cross-  
23 jurisdictional delivery of cannabis products between this state  
24 and the other jurisdiction. Any such agreement shall:

- 25 (1) ensure enforceable public health and



1 safety standards;

2 (2) include a system to regulate and track the  
3 interstate delivery of cannabis products; and

4 (3) ensure that any cannabis products  
5 delivered into this state, prior to sale to a consumer, are  
6 tested, packaged and labeled pursuant to New Mexico statutes  
7 and rules.

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

11 (1) a licensee permitted to courier cannabis  
12 products may deliver cannabis products to a person located in,  
13 and authorized to receive cannabis products by, another  
14 jurisdiction in the United States; and

15 (2) a licensee permitted to receive cannabis  
16 products may receive cannabis products from a person located  
17 in, and authorized to export cannabis products by, another  
18 jurisdiction in the United States.

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

21 (1) federal law is amended to allow for the  
22 interstate transfer of cannabis products items between  
23 authorized cannabis-related businesses; or

24 (2) the United States department of justice  
25 issues an opinion or memorandum allowing or tolerating the

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1 interstate transfer of cannabis products between cannabis-  
2 related businesses as authorized by state law.

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

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

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

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

20 A. The "community grants reinvestment fund" is  
21 created in the state treasury. The fund consists of  
22 appropriations, other money deposited in the fund and money  
23 otherwise accruing to the fund. Income from the fund shall be  
24 credited to the fund. The department of health shall  
25 administer the fund, and money in the fund is subject to

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1 appropriation by the legislature to the department of health to  
2 administer the community grants reinvestment program as  
3 described in this section. Any unexpended or unencumbered  
4 balance remaining at the end of a fiscal year shall not revert  
5 to the general fund. Money in the community grants  
6 reinvestment fund shall be disbursed on warrants signed by the  
7 secretary of finance and administration pursuant to vouchers  
8 signed by the secretary of health or the secretary's authorized  
9 representative.

10 B. The secretary of health shall establish the  
11 "community grants reinvestment program". The community grants  
12 reinvestment program shall provide grants to qualified  
13 community-based nonprofit organizations and governmental  
14 entities for the purposes of:

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

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

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

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

5 (5) funding promising practices or evidence-  
6 based drug education programming based on the principles of  
7 harm reduction, including leadership development, family  
8 engagement and youth development, that is designed to prevent  
9 and reduce substance use, improve access to early childhood  
10 education, improve grades kindergarten through twelve school  
11 retention and performance and create economic security for  
12 families;

13 (6) funding research related to medical and  
14 adult cannabis use effects or efficacy of medical and  
15 commercial cannabis; impacts on public health, health costs  
16 associated with cannabis use and whether cannabis use is  
17 associated with an increase or decrease in the use of alcohol  
18 or other drugs; the effectiveness of treatment for maladaptive  
19 cannabis use and the effectiveness of different treatment  
20 programs; public safety issues related to cannabis use; the  
21 effectiveness of the packaging and labeling requirements and  
22 advertising and marketing restrictions on the prevention of  
23 underage access to and use of cannabis products; cannabis use  
24 rates and maladaptive cannabis use rates for adults and youth  
25 and diagnosis rates of cannabis-related substance use

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1 disorders; and environmental issues related to cannabis  
2 production and the criminal prohibition of cannabis production;  
3 and

4 (7) funding research and development of  
5 products related to medical and commercial use of cannabis  
6 products.

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

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

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

23 B. The low-income medical patient subsidy fund is  
24 created for the purpose of supporting qualified patients who  
25 participate in the medical cannabis subsidy program created

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1 pursuant to Section 4 of the Cannabis Regulation Act.

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

7 SECTION 46. [NEW MATERIAL] NO PLANT LIMIT.--No state  
8 agency shall limit the number of cannabis plants that a  
9 licensee pursuant to the Cannabis Regulation Act may produce.

10 SECTION 47. [NEW MATERIAL] INDIAN NATIONS, TRIBES AND  
11 PUEBLOS--INTERGOVERNMENTAL AGREEMENTS.--

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

- 20 (1) criminal and civil law enforcement;  
21 (2) regulatory issues relating to the  
22 possession, delivery, production, processing or use of cannabis  
23 products;  
24 (3) the administration of laws relating to  
25 taxation;

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1 (4) any immunity, preemption or conflict of  
2 law relating to the possession, delivery, production,  
3 processing or use of cannabis products; and

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

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

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

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

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

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

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

22 SECTION 48. A new section of the Public School Code is  
23 enacted to read:

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

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

6 SECTION 49. [NEW MATERIAL] COOPERATION OF AGENCIES.--All  
7 state agencies shall cooperate with the cannabis control  
8 division of the regulation and licensing department in carrying  
9 out the provisions of the Cannabis Regulation Act.

10 SECTION 50. [NEW MATERIAL] SHORT TITLE.--Sections 50  
11 through 57 of this act may be cited as the "Cannabis Tax Act".

12 SECTION 51. [NEW MATERIAL] DEFINITIONS.--As used in the  
13 Cannabis Tax Act:

14 A. "cannabis":

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

22 (2) does not include:

23 (a) the mature stalks of the plant;  
24 fiber produced from the stalks; oil or cake made from the seeds  
25 of the plant; any other compound, manufacture, salt,

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1 derivative, mixture or preparation of the mature stalks, fiber,  
2 oil or cake; or the sterilized seed of the plant that is  
3 incapable of germination; or

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

7 B. "cannabis extract":

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

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

15 C. "cannabis product":

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

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

23 D. "cannabis retailer" means a person that is  
24 licensed by the cannabis control division of the regulation and  
25 licensing department to sell or courier cannabis products to a

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1 person who purchases, acquires, possesses or uses a cannabis  
2 product for a purpose other than resale;

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

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

8 G. "dry weight basis", in the context of taxation  
9 of commercial cannabis activity, means a process by which  
10 delta-tetrahydrocannabinol concentration is measured relative  
11 to the aggregate weight of all parts of the plant genus  
12 Cannabis, whether growing or not, including the leaves of the  
13 plant, the flowers and buds of the plant, the seeds of the  
14 plant, the resin of the plant and the stalks of the plant at  
15 the point of harvest by a licensee and with no moisture added  
16 to the harvested plant; and

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

19 SECTION 52. [NEW MATERIAL] CANNABIS EXCISE TAX.--

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

23 B. The rate of the cannabis excise tax is nine  
24 percent and shall be applied to the price paid for a cannabis  
25 product. If the price paid does not represent the value of the

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1 cannabis product, the tax rate shall be applied to the  
2 reasonable value of the cannabis product at the time the  
3 product was purchased.

4 C. The cannabis excise tax shall not apply to:

5 (1) retail sales of medical cannabis products  
6 sold to a qualified patient or to a primary caregiver who  
7 presents a registry identification card issued pursuant to the  
8 Lynn and Erin Compassionate Use Act at the time of the sale; or

9 (2) receipts of cannabis producers from  
10 selling cannabis products wholesale.

11 SECTION 53. [NEW MATERIAL] MUNICIPAL CANNABIS TAX.--

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

17 B. The rate of the municipal cannabis tax shall be  
18 no more than three percent, which may be imposed in any number  
19 of one-sixteenth percent increments, and shall be applied to  
20 the price of the cannabis product. If the price of the  
21 cannabis product does not represent the value of the cannabis  
22 product, the tax rate shall be applied to the reasonable value  
23 of the cannabis product at the time the cannabis product was  
24 purchased.

25 C. The governing body of a municipality, at the

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1 time of enacting an ordinance imposing a municipal cannabis  
2 tax, may dedicate the revenue for any municipal purpose. The  
3 imposition of an increment of the municipal cannabis tax shall  
4 not be subject to referendum.

5 D. An ordinance enacted pursuant to this section  
6 shall include an effective date of July 1 or January 1.

7 E. The municipal cannabis tax shall not apply to:

8 (1) retail sales of medical cannabis products  
9 sold to a qualified patient or to a primary caregiver who  
10 presents a registry identification card issued pursuant to the  
11 Lynn and Erin Compassionate Use Act at the time of the sale; or

12 (2) receipts of cannabis producers from  
13 selling cannabis products wholesale.

14 SECTION 54. [NEW MATERIAL] COUNTY CANNABIS TAX.--

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

20 B. The rate of the county cannabis tax shall be no  
21 more than four percent, which may be imposed in any number of  
22 one-sixteenth percent increments and is applied to the price of  
23 the cannabis product. If the price of the cannabis product  
24 does not represent the value of the cannabis product, the tax  
25 rate shall be applied to the reasonable value of the cannabis

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1 product at the time the cannabis product was purchased.

2 C. The governing body of a county, at the time of  
3 enacting an ordinance imposing a county cannabis tax, may  
4 dedicate the revenue for any county purpose. The imposition of  
5 an increment of the county cannabis tax shall not be subject to  
6 referendum.

7 D. An ordinance enacted pursuant to this section  
8 shall include an effective date of July 1 or January 1.

9 E. The county cannabis tax shall not apply to any  
10 of the following:

11 (1) retail sales of medical cannabis products  
12 sold to a qualified patient or to a primary caregiver who  
13 presents a registry identification card issued pursuant to the  
14 Lynn and Erin Compassionate Use Act at the time of the sale; or

15 (2) receipts of cannabis producers from  
16 selling cannabis products wholesale.

17 SECTION 55. [NEW MATERIAL] DATE PAYMENT DUE.--The taxes  
18 imposed pursuant to the Cannabis Tax Act are to be paid on or  
19 before the twenty-fifth day of the month following the month in  
20 which the taxable event occurs.

21 SECTION 56. [NEW MATERIAL] ADMINISTRATIVE CHARGE.--The  
22 department may deduct an amount not to exceed three percent of  
23 the proceeds of the municipal cannabis tax and county cannabis  
24 tax for the reasonable costs for administering those taxes.

25 SECTION 57. [NEW MATERIAL] INTERPRETATION OF THE CANNABIS

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1 TAX ACT--ADMINISTRATION AND ENFORCEMENT OF TAX.--The department  
2 shall administer and enforce the collection of the cannabis  
3 excise tax, municipal cannabis tax and county cannabis tax  
4 pursuant to the Tax Administration Act.

5 SECTION 58. A new section of the Tax Administration Act  
6 is enacted to read:

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

8 A. A distribution pursuant to Section 7-1-6.1 NMSA  
9 1978 shall be made to the low-income medical patient subsidy  
10 fund in an amount equal to twenty percent of the net receipts  
11 attributable to the cannabis excise tax.

12 B. A distribution pursuant to Section 7-1-6.1 NMSA  
13 1978 shall be made to the community grants reinvestment fund in  
14 an amount equal to thirty-five percent of the net receipts  
15 attributable to the cannabis excise tax."

16 SECTION 59. A new section of the Tax Administration Act  
17 is enacted to read:

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

20 A. A transfer pursuant to Section 7-1-6.1 NMSA 1978  
21 shall be made to each municipality for which the department  
22 collects a municipal cannabis tax imposed by that municipality  
23 in an amount, subject to any increase or decrease made pursuant  
24 to Section 7-1-6.15 NMSA 1978, equal to the net receipts  
25 attributable to the municipal cannabis tax, less any deduction

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1 for administrative costs determined and made by the department  
2 pursuant to the Cannabis Tax Act.

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

11 SECTION 60. Section 7-1-2 NMSA 1978 (being Laws 1965,  
12 Chapter 248, Section 2, as amended by Laws 2019, Chapter 47,  
13 Section 1 and by Laws 2019, Chapter 53, Section 10 and also by  
14 Laws 2019, Chapter 270, Section 1) is amended to read:

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

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

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

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

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

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

8 and

9 (24) the Cannabis Tax Act;

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

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

22 Valorem Tax Act;

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

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

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

3 (12) Enhanced Oil Recovery Act;

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

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

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

11 (1) Weight Distance Tax Act;

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

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

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

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

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

25 (7) the gaming tax imposed pursuant to the

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1 Gaming Control Act; and

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

7 SECTION 61. Section 7-1-6.15 NMSA 1978 (being Laws 1983,  
8 Chapter 211, Section 20, as amended by Laws 2015, Chapter 89,  
9 Section 1 and by Laws 2015, Chapter 100, Section 1) is amended  
10 to read:

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

13 A. The provisions of this section apply to:

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

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

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

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

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

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

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

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

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

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

25 (1) all negative amounts relating to any

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

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

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

24 D. Prior to or concurrently with the distribution  
25 or transfer to the municipality or county of the adjusted net

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1 receipts, the department shall notify the municipality or  
2 county whose distribution or transfer has been adjusted  
3 pursuant to Paragraph (2) of Subsection B of this section:

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

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

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

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

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

25 (1) the department may collect the recoverable

1 amount by:

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

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

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

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

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

24 (3) if, after application of a refund claim,  
25 audit adjustment, correction of a mistake by the department or

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

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

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

22 H. The secretary is authorized to decrease a  
23 distribution or transfer to a municipality or county upon being  
24 directed to do so by the secretary of finance and  
25 administration pursuant to the State Aid Intercept Act or to

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

- 25 (1) prior to an adjustment of a distribution

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

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

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

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1 until distributed to the municipality or county and shall not  
2 be distributed to the general fund. An amount withheld  
3 pursuant to this subsection shall be distributed to the  
4 municipality or county upon direction of the secretary of  
5 finance and administration.

6 J. As used in this section:

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

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

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

24 (a) the annual average of the total  
25 amount distributed or transferred to a municipality or county

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1 in each of the three twelve-month periods preceding the current  
2 month;

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

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

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

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

22 SECTION 62. Section 7-2-2 NMSA 1978 (being Laws 1986,  
23 Chapter 20, Section 26, as amended) is amended to read:

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

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

4           B. "base income":

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 applied;

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

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

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

2 (21) gifts;

3 M. "modified gross income" excludes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 exclusion first applies; and

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

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

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

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

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

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1 instrumentality thereof;

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

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

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

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

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

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

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

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

12           **SECTION 63.** Section 7-2A-2 NMSA 1978 (being Laws 1986,  
13 Chapter 20, Section 33, as amended) is amended to read:

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

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

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

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

8                   (1) adding to that income:

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

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

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

19                   (2) subtracting from that income:

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

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

25                           (c) an amount equal to one hundred

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

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

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

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

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

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

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

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

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

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

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

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

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

25 G. "corporation" means corporations, joint stock

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

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

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

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

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

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

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1 (2) reduced by:

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

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

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

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

17 M. "net income" means:

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

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

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

5 (1) plus:

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

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

16 (2) minus:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 SECTION 64. [NEW MATERIAL] EXEMPTION--GROSS RECEIPTS TAX  
14 AND GOVERNMENTAL GROSS RECEIPTS TAX--CANNABIS PRODUCTS.--The  
15 receipts of cannabis producers from selling cannabis products  
16 wholesale pursuant to the Cannabis Regulation Act are exempt  
17 from the gross receipts tax and from the governmental gross  
18 receipts tax.

19 SECTION 65. Section 7-9-73.2 NMSA 1978 (being Laws 1998,  
20 Chapter 95, Section 2 and Laws 1998, Chapter 99, Section 4, as  
21 amended) is amended to read:

22 "7-9-73.2. DEDUCTION--GROSS RECEIPTS TAX AND GOVERNMENTAL  
23 GROSS RECEIPTS TAX--PRESCRIPTION DRUGS--OXYGEN--CANNABIS.--

24 A. Receipts from the sale of prescription drugs  
25 [~~and~~], oxygen and oxygen services provided by a licensed

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1 medicare durable medical equipment provider and cannabis  
2 products that are purchased in accordance with the Lynn and  
3 Erin Compassionate Use Act may be deducted from gross receipts  
4 and governmental gross receipts.

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

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

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

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

15 SECTION 66. Section 9-16-4 NMSA 1978 (being Laws 1983,  
16 Chapter 297, Section 20, as amended) is amended to read:

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

- 21 A. the administrative services division;  
22 B. the construction industries division;  
23 C. the financial institutions division;  
24 D. the securities division;  
25 E. the manufactured housing division; [~~and~~]

- 1 F. the alcoholic beverage control division; and  
2 G. the cannabis control division."

3 SECTION 67. Section 24-16-12 NMSA 1978 (being Laws 2007,  
4 Chapter 20, Section 4, as amended) is amended to read:

5 "24-16-12. SMOKING-PERMITTED AREAS.--Notwithstanding any  
6 other provision of the Dee Johnson Clean Indoor Air Act,  
7 smoking-permitted areas include the following:

8 A. a private residence, unless it is used  
9 commercially to provide child care, adult care or health care  
10 or any combination of those activities;

11 B. a retail tobacco store; provided that, for a  
12 retail tobacco store established on or after the effective date  
13 of this 2019 act, the store shall be located in a standalone  
14 building;

15 C. a cigar bar; provided that, for a cigar bar  
16 established on or after ~~[the effective date of this]~~ June 14,  
17 2019 ~~[act]~~, the bar shall be located in a standalone building;

18 D. the facilities of a tobacco manufacturing  
19 company licensed by the United States to manufacture tobacco  
20 products that are operated by the company in its own name and  
21 that are used exclusively by the company in its business of  
22 manufacturing, marketing or distributing its tobacco products;  
23 provided that secondhand smoke does not infiltrate other indoor  
24 workplaces or other indoor public places where smoking is  
25 otherwise prohibited under the Dee Johnson Clean Indoor Air

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1 Act;

2 E. a state-licensed gaming facility, casino or  
3 bingo parlor;

4 F. designated outdoor smoking areas;

5 G. private clubs;

6 H. hotel and motel rooms that are rented to guests  
7 and are designated as smoking-permitted rooms; provided that  
8 not more than ten percent of rooms rented to guests in a hotel  
9 or motel may be so designated;

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

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

17 K. an indoor or outdoor cannabis consumption area  
18 located on the licensed premises of a cannabis establishment  
19 authorized pursuant to the Cannabis Regulation Act."

20 SECTION 68. A new section of the Dee Johnson Clean Indoor  
21 Air Act is enacted to read:

22 "[NEW MATERIAL] LIABILITY FOR ALLOWING THE SMOKING,  
23 VAPORIZING OR INGESTING OF CANNABIS PRODUCTS.--

24 A. A person who allows another person to smoke,  
25 vaporize or otherwise use, ingest or consume cannabis or

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1 cannabis products is not liable in a civil action for any  
2 damages caused by the person that smokes, vaporizes or  
3 otherwise uses, ingests or consumes cannabis products as a  
4 result of the use, ingestion or consumption of the cannabis or  
5 cannabis products unless a cannabis server or licensee allows a  
6 person to smoke, vaporize or otherwise use, ingest or consume  
7 cannabis or cannabis products in a cannabis consumption area  
8 when the cannabis server or licensee has actual knowledge that  
9 the other person is under the age of twenty-one.

10 B. A plaintiff who prevails in an action brought  
11 pursuant to Subsection A of this section is limited to recovery  
12 of the plaintiff's actual damages."

13 SECTION 69. A new section of the Lynn and Erin  
14 Compassionate Use Act is enacted to read:

15 "[NEW MATERIAL] NO PLANT LIMIT.--Except for licensees  
16 under the Lynn and Erin Compassionate Use Act, no state agency  
17 shall limit the number of cannabis plants that may be  
18 produced."

19 SECTION 70. Section 26-2B-3 NMSA 1978 (being Laws 2007,  
20 Chapter 210, Section 3, as amended) is amended to read:

21 "26-2B-3. DEFINITIONS.--As used in the Lynn and Erin  
22 Compassionate Use Act:

23 A. "adequate supply" means an amount of cannabis,  
24 in any form approved by the department, possessed by a  
25 qualified patient or collectively possessed by a qualified

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1 patient and the qualified patient's primary caregiver that is  
2 determined by rule of the department to be no more than  
3 reasonably necessary to ensure the uninterrupted availability  
4 of cannabis for a period of three months and that is derived  
5 solely from an intrastate source;

6 B. "cannabis":

7 (1) means all parts of the plant Cannabis  
8 [~~sativa L.~~] containing a delta-9-tetrahydrocannabinol  
9 concentration of more than three-tenths percent on a dry weight  
10 basis, whether growing or not; the seeds of the plant; the  
11 resin extracted from any part of the plant; and every compound,  
12 manufacture, salt, derivative, mixture or preparation of the  
13 plant, its seeds or its resin; and

14 (2) does not include the mature stalks of the  
15 plant; fiber produced from the stalks; oil or cake made from  
16 the seeds of the plant; any other compound, manufacture, salt,  
17 derivative, mixture or preparation of the mature stalks, fiber,  
18 oil or cake; the sterilized seed of the plant that is incapable  
19 of germination; the weight of any other ingredient combined  
20 with cannabis to prepare topical or oral administrations, food,  
21 drink or another product; or hemp;

22 [~~C. "cannabis consumption area" means an area~~  
23 ~~within a licensed premises approved by the department where~~  
24 ~~cannabis may be consumed that complies with rule as established~~  
25 ~~by the department;~~

1           D. ~~"cannabis courier" means a person that is~~  
2 ~~licensed by the department to transport usable cannabis and~~  
3 ~~cannabis products within the state from a cannabis~~  
4 ~~establishment to:~~

- 5                     (1) ~~a qualified patient;~~
- 6                     (2) ~~a primary caregiver; or~~
- 7                     (3) ~~another cannabis establishment;~~

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

- 9                     (1) ~~a licensed cannabis courier;~~
- 10                    (2) ~~a licensed cannabis testing facility;~~
- 11                    (3) ~~a licensed cannabis manufacturer;~~
- 12                    (4) ~~a licensed cannabis producer; or~~
- 13                    (5) ~~such other person that the department may~~  
14 ~~by rule approve for participation in the medical cannabis~~  
15 ~~program;~~

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

- 18                    (1) ~~manufacture cannabis products;~~
- 19                    (2) ~~package, transport or courier cannabis~~  
20 ~~products;~~
- 21                    (3) ~~have cannabis products tested by a~~  
22 ~~cannabis testing facility;~~
- 23                    (4) ~~purchase, obtain, sell and transport~~  
24 ~~cannabis products to other cannabis establishments; and~~
- 25                    (5) ~~prepare products for personal production~~

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underscoring material = new  
[bracketed material] = delete

1 ~~license holders;~~

2 ~~G. "cannabis producer" means a person that is~~  
3 ~~licensed by the department to possess, produce, dispense,~~  
4 ~~distribute and manufacture cannabis and cannabis products and~~  
5 ~~sell wholesale or by direct sale to qualified patients and~~  
6 ~~primary caregivers;]~~

7 C. "cannabis extract":

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

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

15 D. "cannabis flowers" means only the flowers of a  
16 cannabis plant;

17 ~~[H.]~~ E. "cannabis product":

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

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

25 ~~[I. "cannabis testing facility" means a person that~~



1 ~~is licensed by the department to perform tests of cannabis~~  
2 ~~products to analyze the strength or purity of the items and to~~  
3 ~~collect cannabis samples and transport cannabis products to the~~  
4 ~~cannabis testing facility from cannabis establishments;~~

5 ~~J.]~~ F. "debilitating medical condition" means:

- 6 (1) cancer;
- 7 (2) glaucoma;
- 8 (3) multiple sclerosis;
- 9 (4) damage to the nervous tissue of the spinal  
10 cord, with objective neurological indication of intractable  
11 spasticity;
- 12 (5) seizure disorder, including epilepsy;
- 13 (6) positive status for human immunodeficiency  
14 virus or acquired immune deficiency syndrome;
- 15 (7) admitted into hospice care in accordance  
16 with rules promulgated by the department;
- 17 (8) amyotrophic lateral sclerosis;
- 18 (9) Crohn's disease;
- 19 (10) hepatitis C infection;
- 20 (11) Huntington's disease;
- 21 (12) inclusion body myositis;
- 22 (13) inflammatory autoimmune-mediated  
23 arthritis;
- 24 (14) intractable nausea or vomiting;
- 25 (15) obstructive sleep apnea;

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- 1 (16) painful peripheral neuropathy;  
2 (17) Parkinson's disease;  
3 (18) posttraumatic stress disorder;  
4 (19) severe chronic pain;  
5 (20) severe anorexia or cachexia;  
6 (21) spasmodic torticollis;  
7 (22) ulcerative colitis; or  
8 (23) any other medical condition, medical  
9 treatment or disease as approved by the department;

10 [K.] G. "department" means the department of  
11 health;

12 H. "dry weight basis" means a process by which  
13 delta-tetrahydrocannabinol concentration is measured relative  
14 to the aggregate weight of all parts of the plant genus  
15 Cannabis, whether growing or not, including the leaves of the  
16 plant, the flowers and buds of the plant, the seeds of the  
17 plant, the resin of the plant and the stalks of the plant, at  
18 the point of harvest by a licensee and with no moisture added  
19 to the harvested plant;

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

24 [~~M. "license" means a license issued pursuant to~~  
25 ~~the Lynn and Erin Compassionate Use Act;~~

1           ~~N.]~~ J. "licensee" means a person that holds a  
2           personal production license;

3           ~~[O.] "licensee representative" means an owner,~~  
4           ~~director, officer, manager, employee, agent or other~~  
5           ~~representative of a licensee, to the extent that person acts in~~  
6           ~~a representative capacity;~~

7           ~~P.]~~ K. "manufacture" means to prepare a cannabis  
8           product for a qualified patient's use;

9           ~~[Q.]~~ L. "medical cannabis program" means the  
10          program established pursuant to the Lynn and Erin Compassionate  
11          Use Act for authorization and regulation of the medical use of  
12          cannabis in the state;

13          ~~[R.]~~ M. "personal production license" means a  
14          license issued to a qualified patient or to a qualified  
15          patient's primary caregiver participating in the medical  
16          cannabis program to permit the qualified patient or the  
17          qualified patient's primary caregiver to produce or manufacture  
18          cannabis for the qualified patient's use at an address approved  
19          by the department;

20          ~~[S.]~~ N. "practitioner" means a person licensed in  
21          New Mexico to prescribe and administer drugs that are subject  
22          to the Controlled Substances Act;

23          ~~[T.]~~ O. "primary caregiver" means a resident of New  
24          Mexico who is at least eighteen years of age and who has been  
25          designated by the patient's practitioner as being necessary to

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1 take responsibility for managing the well-being of a qualified  
2 patient with respect to the medical use of cannabis pursuant to  
3 the provisions of the Lynn and Erin Compassionate Use Act;

4 ~~[U.]~~ P. "produce" means to engage in any activity  
5 related to the planting or cultivation of cannabis;

6 ~~[V.]~~ Q. "qualified patient" means a resident of New  
7 Mexico who has been diagnosed by a practitioner as having a  
8 debilitating medical condition and has received written  
9 certification and a registry identification card pursuant to  
10 the Lynn and Erin Compassionate Use Act on the basis of having  
11 been diagnosed, in person or via telemedicine, by a  
12 practitioner as having a debilitating medical condition;

13 ~~[provided that a practitioner may only issue a written~~  
14 ~~certification on the basis of an evaluation conducted via~~  
15 ~~telemedicine if the practitioner has previously examined the~~  
16 ~~patient in person;~~

17 ~~W.]~~ R. "reciprocal participant" means an individual  
18 who holds proof of authorization to participate in the medical  
19 cannabis program of another state of the United States, the  
20 District of Columbia, a territory or commonwealth of the United  
21 States or a New Mexico Indian nation, tribe or pueblo;

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

24 (1) to a qualified patient that identifies the  
25 bearer as a qualified patient and authorizes the qualified

1 patient to use cannabis for a debilitating medical condition;  
2 or

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

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

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

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

22 [~~BB.~~] W. "written certification" means a statement  
23 made on a department-approved form and signed by a patient's  
24 practitioner that indicates, in the practitioner's professional  
25 opinion, that the patient has a debilitating medical condition

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1 and the practitioner believes that the potential health  
2 benefits of the medical use of cannabis would likely outweigh  
3 the health risks for the patient."

4 SECTION 71. Section 26-2B-4 NMSA 1978 (being Laws 2007,  
5 Chapter 210, Section 4, as amended) is amended to read:

6 "26-2B-4. EXEMPTION FROM CRIMINAL AND CIVIL PENALTIES FOR  
7 THE MEDICAL USE OF CANNABIS.--

8 A. A qualified patient or a qualified patient's  
9 primary caregiver shall not be subject to arrest, prosecution  
10 or penalty in any manner for the possession of or the medical  
11 use of cannabis if the quantity of cannabis does not exceed an  
12 adequate supply; provided that a qualified patient or the  
13 qualified patient's primary caregiver may possess that  
14 qualified patient's harvest of cannabis; and further provided  
15 that a qualified patient or the qualified patient's primary  
16 caregiver may possess at least two ounces of cannabis flowers  
17 and at least sixteen grams of cannabis extract purchased and  
18 obtained pursuant to the Lynn and Erin Compassionate Use Act.

19 B. A reciprocal participant shall not be subject to  
20 arrest, prosecution or penalty in any manner for the possession  
21 of or the medical use of cannabis if the quantity of cannabis  
22 [~~does not exceed the limit identified by department rule~~] is  
23 not more than two ounces of cannabis flowers or more than  
24 sixteen grams of cannabis extract purchased and obtained  
25 pursuant to the Lynn and Erin Compassionate Use Act.

1 C. The following conduct is lawful and shall not  
2 constitute grounds for detention, search or arrest of a person  
3 or for a violation of probation or parole, and cannabis  
4 products that relate to the conduct are not contraband or  
5 subject to seizure or forfeiture pursuant to the Controlled  
6 Substances Act or the Forfeiture Act:

7 (1) a qualified patient or primary caregiver  
8 possessing or transporting not more than an adequate supply or  
9 a reciprocal participant possessing or transporting not more  
10 than ~~[the limit identified by department rule]~~ two ounces of  
11 cannabis flowers or more than sixteen grams of cannabis extract  
12 purchased and obtained pursuant to the Lynn and Erin  
13 Compassionate Use Act;

14 (2) a qualified patient or primary caregiver  
15 purchasing or obtaining not more than an adequate supply from a  
16 lawful source or a reciprocal participant purchasing or  
17 obtaining not more than ~~[the limit identified by department~~  
18 ~~rule]~~ two ounces of cannabis flowers or more than sixteen grams  
19 of cannabis extract purchased and obtained pursuant to the Lynn  
20 and Erin Compassionate Use Act;

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

24 (4) a qualified patient or primary caregiver  
25 transferring, without financial consideration, to a qualified

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1 patient or primary caregiver not more than [~~two ounces of~~  
2 ~~cannabis~~] two ounces of cannabis flowers or more than sixteen  
3 grams of cannabis extract purchased and obtained pursuant to  
4 the Lynn and Erin Compassionate Use Act; or

5 (5) with respect to cannabis cultivated under  
6 a personal production license, a qualified patient or primary  
7 caregiver possessing, planting, cultivating, harvesting,  
8 drying, manufacturing or transporting cannabis plants or  
9 cannabis products as allowed by department rule; provided that  
10 a qualified patient or primary caregiver who possesses a  
11 personal production license shall not manufacture cannabis  
12 products using an oil extractor solvent that is stored under  
13 pressure [~~unless the qualified patient or primary caregiver~~  
14 ~~holds a separate license from the department permitting the~~  
15 ~~person to manufacture cannabis products using an oil extractor~~  
16 ~~solvent that is under pressure)].~~

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

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

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

25 (a) allow the qualified patient's



1 medical use of cannabis;

2 (b) serve as the qualified patient's  
3 primary caregiver; and

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

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

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

20 ~~[G. A licensee or licensee representative shall not~~  
21 ~~be subject to arrest, prosecution or penalty, in any manner,~~  
22 ~~for the production, possession, manufacture, distribution,~~  
23 ~~dispensing or testing of cannabis pursuant to the Lynn and Erin~~  
24 ~~Compassionate Use Act. Conduct by a licensee or a licensee~~  
25 ~~representative that is allowed pursuant to a license and~~

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1 ~~conduct by a person that allows property to be used by a~~  
2 ~~licensee or a licensee representative for conduct allowed~~  
3 ~~pursuant to a license is lawful, is not a violation of state or~~  
4 ~~local law and is not a basis for seizure or forfeiture of~~  
5 ~~property or assets under state or local law.~~

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

22           ~~[F.]~~ H. A state or local government shall not  
23 impose a criminal, civil or administrative penalty on a  
24 licensee ~~[or a licensee representative]~~, or on a person that  
25 allows property to be used by a licensee ~~[or a licensee~~

1 ~~representative~~] pursuant to a license, solely for conduct that  
2 is allowed pursuant to a license.

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

7 **SECTION 72.** Section 26-2B-5 NMSA 1978 (being Laws 2007,  
8 Chapter 210, Section 5, as amended by Laws 2019, Chapter 247,  
9 Section 5 and by Laws 2019, Chapter 261, Section 2) is amended  
10 to read:

11 "26-2B-5. PROHIBITIONS, RESTRICTIONS AND LIMITATIONS ON  
12 THE MEDICAL USE OF CANNABIS--CRIMINAL PENALTIES.--

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

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

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

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

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

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

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

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

16 SECTION 73. Section 26-2B-6.1 NMSA 1978 (being Laws 2019,  
17 Chapter 247, Section 8) is amended to read:

18 "26-2B-6.1. PROGRAM REGULATION AND ADMINISTRATION--FEES--  
19 LIMITATIONS [RULEMAKING]--LICENSURE--ISSUANCE--REPORTING.--

20 A. The department shall ~~[(1) regulate and  
21 administer the medical cannabis program; and~~

22 ~~(2) collect fees from licensees; provided that  
23 the department shall not charge a fee relating to the medical  
24 cannabis registry.~~

25 B. ~~By December 20, 2019, the secretary of health~~

1 ~~shall adopt and promulgate rules to establish fees for licenses~~  
2 ~~for cannabis producers, cannabis manufacturers, cannabis~~  
3 ~~couriers, cannabis testing facilities or any other cannabis~~  
4 ~~establishments whose operations are authorized pursuant to the~~  
5 ~~Lynn and Erin Compassionate Use Act.~~

6 ~~C. The department shall establish application and~~  
7 ~~licensing fees applicable to licenses for activity related to~~  
8 ~~the medical cannabis program.~~

9 ~~D. The department shall administer licensure for~~  
10 ~~medical cannabis program activity provided for in the Lynn and~~  
11 ~~Erin Compassionate Use Act, which shall include personal~~  
12 ~~production licenses and licenses for:~~

13 ~~(1) cannabis couriers;~~

14 ~~(2) cannabis manufacturers;~~

15 ~~(3) cannabis producers;~~

16 ~~(4) cannabis testing facilities; and~~

17 ~~(5) any other activity or person as deemed~~  
18 ~~necessary by the department.~~

19 ~~E. The department shall not issue any other license~~  
20 ~~provided for in this section to a cannabis testing facility~~  
21 ~~licensee] establish an application and licensing fee for~~  
22 ~~personal production licenses.~~

23 ~~[F.] B. The department shall administer personal~~  
24 ~~production licenses.~~

25 C. In consultation with qualified patients and

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1 primary caregivers, the department shall produce an assessment  
2 report annually, which shall be published to the public and  
3 that includes at a minimum an evaluation of:

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

7 (2) the needs of qualified patients who live  
8 in rural areas, federal subsidized housing or New Mexico Indian  
9 nations, tribes or pueblos.

10 ~~[G. The department shall allow for the smoking,~~  
11 ~~vaporizing and ingesting of cannabis products within a cannabis~~  
12 ~~consumption area on the premises if:~~

13 ~~(1) access is restricted to qualified patients~~  
14 ~~and their primary caregivers;~~

15 ~~(2) cannabis consumption is not visible from~~  
16 ~~any public place or from outside the cannabis consumption area;~~  
17 ~~and~~

18 ~~(3) qualified patients who consume cannabis on~~  
19 ~~the premises have a designated driver or other means of~~  
20 ~~transportation consistent with current law.]"~~

21 SECTION 74. Section 26-2B-7 NMSA 1978 (being Laws 2007,  
22 Chapter 210, Section 7, as amended) is amended to read:

23 "26-2B-7. REGISTRY IDENTIFICATION CARDS--DEPARTMENT  
24 RULES--DUTIES--RECIPROCITY.--

25 A. After consultation with the advisory board, the

1 department shall promulgate rules in accordance with the State  
2 Rules Act to implement the purpose of the Lynn and Erin  
3 Compassionate Use Act. The rules shall:

4 (1) govern the manner in which the department  
5 will consider applications for registry identification cards  
6 and for the renewal of identification cards for qualified  
7 patients and primary caregivers;

8 (2) define the amount of cannabis that is  
9 necessary to constitute an adequate supply, including amounts  
10 for topical treatments;

11 (3) identify criteria and set forth procedures  
12 for including additional medical conditions, medical treatments  
13 or diseases to the list of debilitating medical conditions that  
14 qualify for the medical use of cannabis. Procedures shall  
15 include a petition process and shall allow for public comment  
16 and public hearings before the advisory board;

17 (4) set forth additional medical conditions,  
18 medical treatments or diseases to the list of debilitating  
19 medical conditions that qualify for the medical use of cannabis  
20 as recommended by the advisory board;

21 (5) identify requirements for the licensure of  
22 ~~[cannabis producers and cannabis production facilities,~~  
23 ~~cannabis couriers, cannabis manufacturers, cannabis testing~~  
24 ~~facilities and any other cannabis establishments that the~~  
25 ~~department may license]~~ qualified patients to produce cannabis

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1 for personal medical use and set forth procedures to obtain  
2 licenses;

3 ~~[(6) develop a distribution system for the~~  
4 ~~medical cannabis program that provides for:~~

5 ~~(a) cannabis production facilities~~  
6 ~~within New Mexico housed on secured grounds and operated by~~  
7 ~~licensees; and~~

8 ~~(b) distribution of cannabis to~~  
9 ~~qualified patients or their primary caregivers to take place at~~  
10 ~~locations that are designated by the department and that are~~  
11 ~~not within three hundred feet of any school, church or daycare~~  
12 ~~center that were in existence in that location before the~~  
13 ~~licensee distributing medical cannabis nearby was licensed;~~  
14 ~~provided that this distance requirement shall not apply to~~  
15 ~~distribution at the home of the qualified patient or primary~~  
16 ~~caregiver;~~

17 ~~(7) identify requirements for testing and~~  
18 ~~labeling of cannabis and cannabis products for quality~~  
19 ~~assurance. The department shall adopt and promulgate rules~~  
20 ~~pursuant to this paragraph by December 20, 2019;~~

21 ~~(8)] (6) determine additional duties and~~  
22 ~~responsibilities of the advisory board; and~~

23 ~~[(9)] (7) be revised and updated as necessary.~~

24 B. The department shall issue registry  
25 identification cards to a patient and to the primary caregiver



1 for that patient, if any, who submit the following, in  
2 accordance with the department's rules:

- 3 (1) a written certification;
- 4 (2) the name, address and date of birth of the  
5 patient;
- 6 (3) the name, address and telephone number of  
7 the patient's practitioner; and
- 8 (4) the name, address and date of birth of the  
9 patient's primary caregiver, if any.

10 C. The department shall verify the information  
11 contained in an application submitted pursuant to Subsection B  
12 of this section and shall approve or deny an application within  
13 thirty days of receipt. The department may deny an application  
14 only if the applicant did not provide the information required  
15 pursuant to Subsection B of this section or if the department  
16 determines that the information provided is false. A person  
17 whose application has been denied shall not reapply for six  
18 months from the date of the denial unless otherwise authorized  
19 by the department.

20 D. The department shall issue a registry  
21 identification card within five days of approving an  
22 application, and a card shall expire three years after the date  
23 of issuance.

24 E. A registry identification card shall contain:

- 25 (1) the name and date of birth of the

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1 qualified patient and primary caregiver, if any;

2 (2) the date of issuance and expiration date  
3 of the registry identification card; and

4 (3) other information that the department may  
5 require by rule.

6 F. A person who possesses a registry identification  
7 card shall notify the department of any change in the person's  
8 name, qualified patient's practitioner, qualified patient's  
9 primary caregiver or change in status of the qualified  
10 patient's debilitating medical condition within ten days of the  
11 change.

12 G. Possession of or application for a registry  
13 identification card shall not constitute probable cause or give  
14 rise to reasonable suspicion for a governmental agency to  
15 search the person or property of the person possessing or  
16 applying for the card.

17 H. The department shall maintain a confidential  
18 file containing the names and addresses of the persons who have  
19 either applied for or received a registry identification card.  
20 Individual names on the list shall be confidential and not  
21 subject to disclosure, except:

22 (1) to authorized employees or agents of the  
23 department as necessary to perform the duties of the department  
24 pursuant to the provisions of the Lynn and Erin Compassionate  
25 Use Act;

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1 (2) to authorized employees of state or local  
 2 law enforcement agencies, but only for the purpose of verifying  
 3 that a person is lawfully in possession of a registry  
 4 identification card; [~~or~~]

5 (3) to the cannabis control division of the  
 6 regulation and licensing department; or

7 [~~(3)~~] (4) as provided in the federal Health  
 8 Insurance Portability and Accountability Act of 1996.

9 I. By [~~March 1, 2020~~] January 1, 2022, the  
 10 secretary of health shall adopt and promulgate rules relating  
 11 to medical cannabis program reciprocity. The department may  
 12 identify requirements for the granting of reciprocity,  
 13 including provisions limiting the period of time in which a  
 14 reciprocal participant may participate in the medical cannabis  
 15 program.

16 J. A reciprocal participant:

17 (1) may participate in the medical cannabis  
 18 program in accordance with department rules;

19 (2) shall not be required to comply with the  
 20 registry identification card application and renewal  
 21 requirements established pursuant to this section and  
 22 department rules;

23 (3) shall at all times possess proof of  
 24 authorization to participate in the medical cannabis program of  
 25 another state, the District of Columbia, a territory or

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1 commonwealth of the United States or a New Mexico Indian  
2 nation, tribe or pueblo and shall present proof of that  
3 authorization when purchasing cannabis from a [~~licensee~~] person  
4 licensed pursuant to the Cannabis Regulation Act; and

5 (4) shall register with a [~~licensee~~] person  
6 licensed pursuant to the Cannabis Regulation Act for the  
7 purpose of tracking sales to the reciprocal participant in an  
8 electronic system that is accessible to the department."

9 SECTION 75. Section 30-31-2 NMSA 1978 (being Laws 1972,  
10 Chapter 84, Section 2, as amended) is amended to read:

11 "30-31-2. DEFINITIONS.--As used in the Controlled  
12 Substances Act:

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

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

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

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

24 E. "controlled substance" means a drug or substance  
25 listed in Schedules I through V of the Controlled Substances

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1 Act or rules adopted thereto;

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

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

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

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

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

24 K. "drug" or "substance" means substances  
25 recognized as drugs in the official United States

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1 pharmacopoeia, official homeopathic pharmacopoeia of the United  
2 States or official national formulary or any respective  
3 supplement to those publications. It does not include devices  
4 or their components, parts or accessories;

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

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

15 ~~N.] L.~~ "manufacture" means the production,  
16 preparation, compounding, conversion or processing of a  
17 controlled substance or controlled substance analog by  
18 extraction from substances of natural origin or independently  
19 by means of chemical synthesis or by a combination of  
20 extraction and chemical synthesis and includes any packaging or  
21 repackaging of the substance or labeling or relabeling of its  
22 container, except that this term does not include the  
23 preparation or compounding of a controlled substance:

24 (1) by a practitioner as an incident to  
25 administering or dispensing a controlled substance in the

1 course of the practitioner's professional practice; or

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

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

21 P.] M. "narcotic drug" means any of the following,  
22 whether produced directly or indirectly by extraction from  
23 substances of vegetable origin or independently by means of  
24 chemical synthesis or by a combination of extraction and  
25 chemical synthesis:

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

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

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

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

16 [Q+] N. "opiate" means any substance having an  
17 addiction-forming or addiction-sustaining liability similar to  
18 morphine or being capable of conversion into a drug having  
19 addiction-forming or addiction-sustaining liability. "Opiate"  
20 does not include, unless specifically designated as controlled  
21 under Section 30-31-5 NMSA 1978, the dextrorotatory isomer of  
22 3-methoxy-n-methylmorphinan and its salts, dextromethorphan.  
23 "Opiate" does include its racemic and levorotatory forms;

24 [R+] O. "person" means an individual, partnership,  
25 corporation, association, institution, political subdivision,

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1 government agency or other legal entity;

2           ~~[S.]~~ P. "practitioner" means a physician, certified  
3 advanced practice chiropractic physician, doctor of oriental  
4 medicine, dentist, physician assistant, certified nurse  
5 practitioner, clinical nurse specialist, certified nurse-  
6 midwife, prescribing psychologist, veterinarian, euthanasia  
7 technician, pharmacist, pharmacist clinician or other person  
8 licensed or certified to prescribe and administer drugs that  
9 are subject to the Controlled Substances Act;

10           ~~[F.]~~ Q. "prescription" means an order given  
11 individually for the person for whom is prescribed a controlled  
12 substance, either directly from a licensed practitioner or the  
13 practitioner's agent to the pharmacist, including by means of  
14 electronic transmission, or indirectly by means of a written  
15 order signed by the prescriber, bearing the name and address of  
16 the prescriber, the prescriber's license classification, the  
17 name and address of the patient, the name and quantity of the  
18 drug prescribed, directions for use and the date of issue and  
19 in accordance with the Controlled Substances Act or rules  
20 adopted thereto;

21           ~~[U.]~~ R. "scientific investigator" means a person  
22 registered to conduct research with controlled substances in  
23 the course of the person's professional practice or research  
24 and includes analytical laboratories;

25           ~~[V.]~~ S. "ultimate user" means a person who lawfully

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1 possesses a controlled substance for the person's own use or  
2 for the use of a member of the person's household or for  
3 administering to an animal under the care, custody and control  
4 of the person or by a member of the person's household;

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

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

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

24 ~~(3) isomerization devices used, intended for~~  
25 ~~use or designed for use in increasing the potency of any~~

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1 ~~species of plant that is a controlled substance;~~

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

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

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

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

16 ~~(8) blenders, bowls, containers, spoons and~~  
17 ~~mixing devices used, intended for use or designed for use in~~  
18 ~~compounding controlled substances or controlled substance~~  
19 ~~analog;~~

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

24 ~~(10) containers and other objects used,~~  
25 ~~intended for use or designed for use in storing or concealing~~

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underscored material = new  
[bracketed material] = delete

1 ~~controlled substances or controlled substance analogs;~~

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

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

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

13 ~~(b) water pipes;~~

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

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

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

19 ~~(f) miniature cocaine spoons and cocaine~~  
20 ~~vials;~~

21 ~~(g) chamber pipes;~~

22 ~~(h) carburetor pipes;~~

23 ~~(i) electric pipes;~~

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

25 ~~(k) chilams;~~

1                   ~~(l) bongs; or~~  
2                   ~~(m) ice pipes or chillers; and~~  
3                   ~~(13) in determining whether an object is drug~~  
4 ~~paraphernalia, a court or other authority should consider, in~~  
5 ~~addition to all other logically relevant factors, the~~  
6 ~~following:~~

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

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

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

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

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

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

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

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

25                   ~~X.] T. "controlled substance analog" means a~~

1 substance other than a controlled substance that has a chemical  
2 structure substantially similar to that of a controlled  
3 substance in Schedule I, II, III, IV or V or that was  
4 specifically designed to produce effects substantially similar  
5 to that of controlled substances in Schedule I, II, III, IV or  
6 V. Examples of chemical classes in which controlled substance  
7 analogs are found:

8 (1) include ~~[the following]:~~

9 ~~[(1)]~~ (a) phenethylamines;

10 ~~[(2)]~~ (b) N-substituted piperidines;

11 ~~[(3)]~~ (c) morphinans;

12 ~~[(4)]~~ (d) ecgonines;

13 ~~[(5)]~~ (e) quinazolinones;

14 ~~[(6)]~~ (f) substituted indoles; and

15 ~~[(7)]~~ (g) arylcycloalkylamines; and

16 ~~[Specifically excluded from the definition of "controlled~~  
17 ~~substance analog" are]~~

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

25 ~~[-]~~ U. "human consumption" includes application,

1 injection, inhalation, ingestion or any other manner of  
2 introduction;

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

8 ~~[AA.]~~ W. "valid practitioner-patient relationship"  
9 means a professional relationship, as defined by the  
10 practitioner's licensing board, between the practitioner and  
11 the patient."

12 **SECTION 76.** Section 30-31-6 NMSA 1978 (being Laws 1972,  
13 Chapter 84, Section 6, as amended) is amended to read:

14 "30-31-6. SCHEDULE I.--The following controlled  
15 substances are included in Schedule I:

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

- 21 (1) acetylmethadol;
- 22 (2) allylprodine;
- 23 (3) alphacetylmethadol;
- 24 (4) alphameprodine;
- 25 (5) alphamethadol;

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

- 1 (6) benzethidine;
- 2 (7) betacetylmethadol;
- 3 (8) betameprodine;
- 4 (9) betamethadol;
- 5 (10) betaprodine;
- 6 (11) clonitazene;
- 7 (12) dextromoramide;
- 8 (13) dextrorphan;
- 9 (14) diampromide;
- 10 (15) diethylthiambutene;
- 11 (16) dimenoxadol;
- 12 (17) dimepheptanol;
- 13 (18) dimethylthiambutene;
- 14 (19) dioxaphetyl butyrate;
- 15 (20) dipipanone;
- 16 (21) ethylmethylthiambutene;
- 17 (22) etonitazene;
- 18 (23) etoxeridine;
- 19 (24) furethidine;
- 20 (25) hydroxypethidine;
- 21 (26) ketobemidone;
- 22 (27) levomoramide;
- 23 (28) levophenacymorphan;
- 24 (29) morpheridine;
- 25 (30) noracymethadol;



- 1 (31) norlevorphanol;  
2 (32) normethadone;  
3 (33) norpipanone;  
4 (34) phenadoxone;  
5 (35) phenampromide;  
6 (36) phenomorphan;  
7 (37) phenoperidine;  
8 (38) piritramide;  
9 (39) proheptazine;  
10 (40) properidine;  
11 (41) racemoramide; and  
12 (42) trimeperidine;

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

- 18 (1) acetorphine;  
19 (2) acetyldihydrocodeine;  
20 (3) benzylmorphine;  
21 (4) codeine methylbromide;  
22 (5) codeine-N-oxide;  
23 (6) cyprenorphine;  
24 (7) desomorphine;  
25 (8) dihydromorphine;

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- 1 (9) etorphine;
- 2 (10) heroin;
- 3 (11) hydromorphenol;
- 4 (12) methyldesorphine;
- 5 (13) methyldihydromorphine;
- 6 (14) morphine methylbromide;
- 7 (15) morphine methylsulfonate;
- 8 (16) morphine-N-oxide;
- 9 (17) myrophine;
- 10 (18) nicocodeine;
- 11 (19) nicomorphine;
- 12 (20) normorphine;
- 13 (21) pholcodine; and
- 14 (22) thebacon;

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

- 21 (1) 3,4-methylenedioxy amphetamine;
- 22 (2) 5-methoxy-3,4-methylenedioxy amphetamine;
- 23 (3) 3,4,5-trimethoxy amphetamine;
- 24 (4) bufotenine;
- 25 (5) diethyltryptamine;

- 1 (6) dimethyltryptamine;
- 2 (7) 4-methyl-2,5-dimethoxy amphetamine;
- 3 (8) ibogaine;
- 4 (9) lysergic acid diethylamide;
- 5 ~~[(10) marijuana;~~
- 6 ~~(11)]~~ (10) mescaline;
- 7 ~~[(12)]~~ (11) peyote, except as otherwise
- 8 provided in the Controlled Substances Act;
- 9 ~~[(13)]~~ (12) N-ethyl-3-piperidyl benzilate;
- 10 ~~[(14)]~~ (13) N-methyl-3-piperidyl benzilate;
- 11 ~~[(15)]~~ (14) psilocybin;
- 12 ~~[(16)]~~ (15) psilocyn;
- 13 ~~[(17) tetrahydrocannabinols;~~
- 14 ~~(18) hashish;~~
- 15 ~~(19)]~~ (16) synthetic cannabinoids, including:
- 16 (a) 1-[2-(4-(morpholinyl)ethyl]
- 17 -3-(1-naphthoyl)indole;
- 18 (b) 1-butyl-3-(1-naphthoyl)indole;
- 19 (c) 1-hexyl-3-(1-naphthoyl)indole;
- 20 (d) 1-pentyl-3-(1-naphthoyl)indole;
- 21 (e) 1-pentyl-3-(2-methoxyphenylacetyl)
- 22 indole;
- 23 (f) cannabicyclohexanol (CP 47, 497 and
- 24 homologues: 5-(1,1-dimethylheptyl)-2-[(1R,3S)
- 25 -3-hydroxycyclohexyl]-phenol (CP-47,497); and 5-(1,

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1 1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol;

2 (g) 6aR,10aR)-9-(hydroxymethyl)  
3 -6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,  
4 10a-tetrahydrobenzo[c]chromen-1-ol);

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

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

10 (j) (2-methyl-1-propyl-1H-indol-3-yl)  
11 -1-naphthalenyl-methanone; and

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

14 [~~(20)~~] (17) 3,4-methylenedioxymethcathinone;

15 [~~(21)~~] (18) 3,4-methylenedioxypyrovalerone;

16 [~~(22)~~] (19) 4-methylmethcathinone;

17 [~~(23)~~] (20) 4-methoxymethcathinone;

18 [~~(24)~~] (21) 3-fluoromethcathinone; and

19 [~~(25)~~] (22) 4-fluoromethcathinone;

20 D. the enumeration of peyote as a controlled  
21 substance does not apply to the use of peyote in bona fide  
22 religious ceremonies by a bona fide religious organization, and  
23 members of the organization so using peyote are exempt from  
24 registration. Any person who manufactures peyote for or  
25 distributes peyote to the organization or its members shall

1 comply with the federal Comprehensive Drug Abuse Prevention and  
2 Control Act of 1970 and all other requirements of law; and

3 ~~[E.—The enumeration of marijuana,~~  
4 ~~tetrahydrocannabinols or chemical derivatives of~~  
5 ~~tetrahydrocannabinol as Schedule I controlled substances does~~  
6 ~~not apply to:~~

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

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

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

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1 ~~agriculture or the department of environment;~~

2 ~~(4) tetrahydrocannabinols or chemical~~  
3 ~~derivatives of tetrahydrocannabinols, including~~  
4 ~~tetrahydrocannabinols or chemical derivatives of~~  
5 ~~tetrahydrocannabinols in any concentration possessed by a~~  
6 ~~person in connection with the extraction of~~  
7 ~~tetrahydrocannabinols or chemical derivatives of~~  
8 ~~tetrahydrocannabinols, if authorized pursuant to rules~~  
9 ~~promulgated, pursuant to the Hemp Manufacturing Act, by the~~  
10 ~~board of regents of New Mexico state university on behalf of~~  
11 ~~the New Mexico department of agriculture or the department of~~  
12 ~~environment;~~

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

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

24 ~~F.] E.~~ controlled substances added to Schedule I by  
25 rule adopted by the board pursuant to Section 30-31-3 NMSA

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1 1978."

2 SECTION 77. Section 30-31-7 NMSA 1978 (being Laws 1972,  
3 Chapter 84, Section 7, as amended) is amended to read:

4 "30-31-7. SCHEDULE II.--

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

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

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

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

20 (c) opium poppy and poppy straw; and

21 (d) coca leaves and any salt, compound,  
22 derivative or preparation of coca leaves, and any salt,  
23 compound, derivative or preparation thereof that is chemically  
24 equivalent or identical with any of these substances, but not  
25 including decocainized coca leaves or extractions that do not

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1 contain cocaine or ecgonine;

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

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

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

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

- 20 (a) alphaprodine;
- 21 (b) anileridine;
- 22 (c) bezitramide;
- 23 (d) dihydrocodeine;
- 24 (e) diphenoxylate;
- 25 (f) fentanyl;



- 1 (g) hydromorphone;  
2 (h) isomethadone;  
3 (i) levomethorphan;  
4 (j) levorphanol;  
5 (k) meperidine;  
6 (l) metazocine;  
7 (m) methadone;  
8 (n) methadone--intermediate,  
9 4-cyano-2-dimethylamino-4, 4-diphenyl butane;  
10 (o) moramide--intermediate,  
11 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid;  
12 (p) oxycodone;  
13 (q) pethidine;  
14 (r) pethidine--intermediate--A,  
15 4-cyano-1-methyl-4-phenylpiperidine;  
16 (s) pethidine--intermediate--B,  
17 ethyl-4-phenyl-piperidine-4-carboxylate;  
18 (t) pethidine--intermediate--C,  
19 1-methyl-4-phenylpiperidine-4-carboxylic acid;  
20 (u) phenazocine;  
21 (v) piminodine;  
22 (w) racemethorphan; and  
23 (x) racemorphan;

24 (3) unless listed in another schedule, any  
25 material, compound, mixture or preparation that contains any

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1 quantity of the following substances having a potential for  
2 abuse associated with a stimulant effect on the central nervous  
3 system:

4 (a) amphetamine, its salts, optical  
5 isomers and salts of its optical isomers;

6 (b) phenmetrazine and its salts;

7 (c) methamphetamine, its salts, isomers  
8 and salts of isomers; and

9 (d) methylphenidate; and

10 (4) controlled substances added to Schedule II  
11 by rule adopted by the board pursuant to Section 30-31-3 NMSA  
12 1978.

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

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

8 SECTION 78. Section 30-31-22 NMSA 1978 (being Laws 1972,  
9 Chapter 84, Section 22, as amended) is amended to read:

10 "30-31-22. CONTROLLED OR COUNTERFEIT SUBSTANCES--  
11 DISTRIBUTION PROHIBITED.--

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

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

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

25 (b) for the second and subsequent

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1 offenses, guilty of a third degree felony and shall be  
2 sentenced pursuant to the provisions of Section 31-18-15 NMSA  
3 1978;

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

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

14 (2) any other controlled substance enumerated in  
15 Schedule I, II, III or IV or a controlled substance analog of a  
16 controlled substance enumerated in Schedule I, II, III or IV  
17 except a substance enumerated in Schedule I or II that is a  
18 narcotic drug, a controlled substance analog of a controlled  
19 substance enumerated in Schedule I or II that is a narcotic  
20 drug or methamphetamine, its salts, isomers and salts of  
21 isomers, is:

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

25 (b) for the second and subsequent offenses,

1 guilty of a second degree felony and shall be sentenced  
2 pursuant to the provisions of Section 31-18-15 NMSA 1978; and

3 (3) a controlled substance enumerated in  
4 Schedule V or a controlled substance analog of a controlled  
5 substance enumerated in Schedule V is guilty of a misdemeanor  
6 and shall be punished by a fine of not less than one hundred  
7 dollars (\$100) or more than five hundred dollars (\$500) or by  
8 imprisonment for a definite term not less than one hundred  
9 eighty days but less than one year, or both.

10 B. It is unlawful for a person to distribute gamma  
11 hydroxybutyric acid or flunitrazepam to another person without  
12 that person's knowledge and with intent to commit a crime  
13 against that person, including criminal sexual penetration.  
14 For the purposes of this subsection, "without that person's  
15 knowledge" means the person is unaware that a substance with  
16 the ability to alter that person's ability to appraise conduct  
17 or to decline participation in or communicate unwillingness to  
18 participate in conduct is being distributed to that person.

19 Any person who violates this subsection is:

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

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

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

6                   (1) a counterfeit substance enumerated in  
7 Schedule I, II, III or IV is guilty of a fourth degree felony  
8 and shall be sentenced pursuant to the provisions of Section  
9 31-18-15 NMSA 1978; and

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

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

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

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

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

25                           (c) for the first offense, if more than one

1 hundred pounds is possessed with intent to distribute or  
2 distributed or both, guilty of a second degree felony and shall  
3 be sentenced pursuant to the provisions of Section 31-18-15  
4 NMSA 1978; and

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

10 (2) any other controlled substance enumerated in  
11 Schedule I, II, III or IV or a controlled substance analog of a  
12 controlled substance enumerated in Schedule I, II, III or IV  
13 except a substance enumerated in Schedule I or II that is a  
14 narcotic drug, a controlled substance analog of a controlled  
15 substance enumerated in Schedule I or II that is a narcotic  
16 drug or methamphetamine, its salts, isomers and salts of  
17 isomers, is:

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

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

24 (3) a controlled substance enumerated in  
25 Schedule V or a controlled substance analog of a controlled

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

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

6 (a) a counterfeit substance enumerated in  
7 Schedule I, II, III or IV is guilty of a third degree felony  
8 and shall be sentenced pursuant to the provisions of Section  
9 31-18-15 NMSA 1978; and

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

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

21 SECTION 79. Section 30-31-23 NMSA 1978 (being Laws 1972,  
22 Chapter 84, Section 23, as amended) is amended to read:

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

25 A. It is unlawful for a person intentionally to



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

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

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

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

22 ~~(3) more than one ounce but less than eight~~  
23 ~~ounces of marijuana is guilty of a misdemeanor and shall be~~  
24 ~~punished by a fine of not less than one hundred dollars (\$100)~~  
25 ~~or more than one thousand dollars (\$1,000) or by imprisonment~~

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1 ~~for a definite term of less than one year, or both; or~~

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

5 ~~G.]~~ B. A person who violates this section with  
6 respect to:

7 (1) one ounce or less of synthetic cannabinoids  
8 is, for the first offense, guilty of a petty misdemeanor and  
9 shall be punished by a fine of not less than fifty dollars  
10 (\$50.00) or more than one hundred dollars (\$100) and by  
11 imprisonment for not more than fifteen days, and, for the  
12 second and subsequent offenses, is guilty of a misdemeanor and  
13 shall be punished by a fine of not less than one hundred  
14 dollars (\$100) or more than one thousand dollars (\$1,000) or by  
15 imprisonment for a definite term less than one year, or both;

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

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

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

- 13                   (1) synthetic cannabinoids;
- 14                   (2) any of the substances listed in Paragraphs  
15 [~~(20) through (25)~~] (17) through (22) of Subsection C of  
16 Section 30-31-6 NMSA 1978; or
- 17                   (3) a substance added to Schedule I by a rule of  
18 the board adopted on or after March 31, 2011 if the board  
19 determines that the pharmacological effect of the substance,  
20 the risk to the public health by abuse of the substance and the  
21 potential of the substance to produce psychic or physiological  
22 dependence liability is similar to the substances described in  
23 Paragraph (1) or (2) of this subsection.

24           ~~[E.]~~ D. Except as provided in Subsections [~~B, C and~~  
25 G] B and F of this section, and for those substances listed in

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1 Subsection [F] E of this section, a person who violates this  
2 section with respect to any amount of any controlled substance  
3 enumerated in Schedule I, II, III or IV or a controlled  
4 substance analog of a substance enumerated in Schedule I, II,  
5 III or IV is guilty of a misdemeanor and shall be punished by a  
6 fine of not less than five hundred dollars (\$500) or more than  
7 one thousand dollars (\$1,000) or by imprisonment for a definite  
8 term less than one year, or both.

9           ~~[F-]~~ E. A person who violates this section with  
10 respect to phencyclidine as enumerated in Schedule III or a  
11 controlled substance analog of phencyclidine; methamphetamine,  
12 its salts, isomers or salts of isomers as enumerated in  
13 Schedule II or a controlled substance analog of  
14 methamphetamine, its salts, isomers or salts of isomers;  
15 flunitrazepam, its salts, isomers or salts of isomers as  
16 enumerated in Schedule I or a controlled substance analog of  
17 flunitrazepam, including naturally occurring metabolites, its  
18 salts, isomers or salts of isomers; gamma hydroxybutyric acid  
19 and any chemical compound that is metabolically converted to  
20 gamma hydroxybutyric acid, its salts, isomers or salts of  
21 isomers as enumerated in Schedule I or a controlled substance  
22 analog of gamma hydroxybutyric acid, its salts, isomers or  
23 salts of isomers; gamma butyrolactone and any chemical compound  
24 that is metabolically converted to gamma hydroxybutyric acid,  
25 its salts, isomers or salts of isomers as enumerated in

.219734.3

1 Schedule I or a controlled substance analog of gamma  
2 butyrolactone, its salts, isomers or salts of isomers; 1-4  
3 butane diol and any chemical compound that is metabolically  
4 converted to gamma hydroxybutyric acid, its salts, isomers or  
5 salts of isomers as enumerated in Schedule I or a controlled  
6 substance analog of 1-4 butane diol, its salts, isomers or  
7 salts of isomers; or a narcotic drug enumerated in Schedule I  
8 or II or a controlled substance analog of a narcotic drug  
9 enumerated in Schedule I or II is guilty of a fourth degree  
10 felony and shall be sentenced pursuant to the provisions of  
11 Section 31-18-15 NMSA 1978.

12 ~~[G.]~~ F. Except for a minor as defined in Subsection  
13 ~~[D]~~ C of this section, a person who violates Subsection A of  
14 this section while within a posted drug-free school zone,  
15 excluding private property residentially zoned or used  
16 primarily as a residence and excluding a person in or on a  
17 motor vehicle in transit through the posted drug-free school  
18 zone, with respect to:

19 (1) one ounce or less of ~~[marijuana or]~~  
20 synthetic cannabinoids is, for the first offense, guilty of a  
21 misdemeanor and shall be punished by a fine of not less than  
22 one hundred dollars (\$100) or more than one thousand dollars  
23 (\$1,000) or by imprisonment for a definite term less than one  
24 year, or both, and for the second or subsequent offense, is  
25 guilty of a fourth degree felony and shall be sentenced

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

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

6 (3) eight ounces or more of [~~marijuana or~~]  
7 synthetic cannabinoids is guilty of a third degree felony and  
8 shall be sentenced pursuant to the provisions of Section  
9 31-18-15 NMSA 1978;

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

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

24 **SECTION 80.** Section 30-31-34 NMSA 1978 (being Laws 1972,  
25 Chapter 84, Section 33, as amended) is amended to read:

.219734.3

1           "30-31-34. FORFEITURES--PROPERTY SUBJECT.--The following  
2 are subject to forfeiture pursuant to the provisions of the  
3 Forfeiture Act:

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

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

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

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

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

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

24                 (1) a conveyance used by a person as a common  
25 carrier in the transaction of business as a common carrier

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

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

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

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

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

18 SECTION 81. TEMPORARY PROVISION--TRANSFER.--

19 A. On July 1, 2021, any unexpended or unencumbered  
20 balance in the medical cannabis fund is transferred to the  
21 cannabis regulation fund.

22 B. Except to the extent any administrative rules are  
23 inconsistent with the provisions of this act, any  
24 administrative rules adopted by an officer, agency or other  
25 entity whose responsibilities have been transferred pursuant to

underscoring material = new  
[bracketed material] = delete



1 the provisions of this act to another officer, agency or other  
2 entity remain in force until amended by the officer, agency or  
3 other entity to which the responsibility for the adoption of  
4 the rules has been transferred. To the extent any  
5 administrative rules are inconsistent with the provisions of  
6 this act, such rules are null and void.

7 SECTION 82. REPEAL.--Section 9-7-17.1 NMSA 1978 (being  
8 Laws 2012, Chapter 42, Section 1) is repealed.

9 SECTION 83. EFFECTIVE DATE.--The effective date of the  
10 provisions of this act is July 1, 2021.

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