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SENATE BILL 13

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

INTRODUCED BY

Daniel A. Ivey-Soto

AN ACT

RELATING TO CONTROLLED SUBSTANCES; ENACTING THE CANNABIS
REGULATION ACT; ENACTING THE CANNABIS TAX ACT; CREATING THE
CANNABIS REGULATION DIVISION IN THE REGULATION AND LICENSING
DEPARTMENT; PROVIDING DUTIES; CREATING THE CANNABIS POLICY AND
REGULATORY ADVISORY COMMITTEE; CREATING THE CANNABIS REGULATION
FUND; ESTABLISHING THE MEDICAL CANNABIS ASSISTANCE PROGRAM;
CREATING THE LOW-INCOME MEDICAL PATIENT ASSISTANCE FUND;
PROVIDING FOR DISTRIBUTIONS TO LOCAL GOVERNMENTS FROM CANNABIS
SALES TAX REVENUE; AMENDING, REPEALING AND ENACTING SECTIONS OF
THE NMSA 1978; MAKING APPROPRIATIONS.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 28 of this act may be cited as the "Cannabis Regulation
Act".

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

3 A. "advertisement":

4 (1) means a statement or a depiction that is
5 intended to induce the sale of cannabis and that is displayed
6 in printed material or on a sign or other outdoor display or
7 presented in a radio, television or other media broadcast or in
8 digital media; and

9 (2) does not include:

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

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

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

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

24 C. "cannabis":

25 (1) means all parts of the plant genus

1 Cannabis containing a delta-9-tetrahydrocannabinol
2 concentration of more than three-tenths percent on a dry weight
3 basis, whether growing or not; the seeds of the plant; the
4 resin extracted from any part of the plant; and every compound,
5 manufacture, salt, derivative, mixture or preparation of the
6 plant, its seeds or its resin; and

7 (2) does not include:

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

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

17 (c) cannabis sold by licensees under the
18 provisions of the Lynn and Erin Compassionate Use Act;

19 D. "cannabis courier" means a person who is
20 licensed by the division only to transport cannabis and
21 cannabis products directly to consumers;

22 E. "cannabis establishment" means:

- 23 (1) a cannabis courier;
24 (2) a cannabis testing laboratory;
25 (3) a cannabis manufacturer;

- 1 (4) an integrated cannabis microbusiness;
- 2 (5) a cannabis producer;
- 3 (6) a cannabis retailer;
- 4 (7) a cannabis research laboratory; or
- 5 (8) a cannabis producer microbusiness;

6 F. "cannabis extract":

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

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

14 G. "cannabis flowers" means only the flowers of a
15 cannabis plant;

16 H. "cannabis manufacturer" means a person that is
17 licensed by the division 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 laboratory; and
- 23 (4) sell and transport cannabis products to
24 other cannabis establishments;

25 I. "cannabis producer" means a person that is

1 licensed by the division to:

2 (1) produce cannabis;

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

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

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

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

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

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

16 K. "cannabis product":

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

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

24 L. "cannabis research laboratory" means a facility
25 that is licensed by the division to produce or possess cannabis

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1 and all parts of the plant genus cannabis for the purpose of
2 studying cannabis cultivation, characteristics or uses;

3 M. "cannabis retailer" means a person that is
4 licensed by the division to sell and courier cannabis products
5 to a consumer in this state;

6 N. "cannabis sales tax" means a tax on the price
7 paid for cannabis products at the final point of sale for
8 nonmedical cannabis products sold under the provisions of the
9 Cannabis Regulation Act;

10 O. "cannabis testing laboratory" means a facility
11 that is licensed by the division to sample, collect, transport
12 and test cannabis products;

13 P. "commercial cannabis activity":

14 (1) means the production, possession,
15 manufacture, storage, testing, researching, labeling,
16 transportation, couriating and sale of cannabis and cannabis
17 products; and

18 (2) does not include activities related only
19 to the medical cannabis program or to the personal use of
20 cannabis;

21 Q. "consumer" means a person who purchases,
22 acquires, owns, possesses or uses a cannabis product for a
23 purpose other than resale;

24 R. "controlling person":

25 (1) means a person that controls ten percent

1 or more of, or an officer or board member of, a cannabis
2 establishment; and

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

5 S. "department" means the regulation and licensing
6 department;

7 T. "director" means the director of the division;

8 U. "division" means the cannabis control division
9 of the department;

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

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

15 X. "integrated cannabis business or microbusiness"
16 means a person that is licensed by the division to:

17 (1) produce cannabis; provided that the
18 person, if licensed as a cannabis microbusiness, shall not
19 possess at any one time more than ninety-nine mature cannabis
20 plants;

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

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

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1 (4) operate only one cannabis establishment;
2 and

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

5 Y. "licensed premises" means a location that is
6 licensed to engage in commercial cannabis activity pursuant to
7 the Cannabis Regulation Act and includes:

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

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

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

21 Z. "licensee" means a person issued a license
22 pursuant to the Cannabis Regulation Act;

23 AA. "licensee representative" means an owner,
24 director, officer, manager, employee, agent or other
25 representative of a licensee, to the extent that person acts in

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1 a representative capacity;

2 BB. "manufacture" means to prepare a cannabis
3 product;

4 CC. "marketing" means the act of promoting or
5 selling a cannabis product or a cannabis-related product or
6 service;

7 DD. "mature cannabis plant" means a cannabis plant
8 that is not an immature cannabis plant;

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

12 FF. "medical cannabis program" means the regulated
13 system allowing for the beneficial use of medical cannabis as
14 established in the Lynn and Erin Compassionate Use Act;

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

22 HH. "person" means an individual or a firm,
23 partnership, joint venture, association, corporation, limited
24 liability company, estate, trust, business trust, receiver or
25 any other legal or commercial entity;

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

8 JJ. "produce" or "production" means any activity
9 involving the cultivation of cannabis;

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

17 LL. "qualified patient" means a person who has been
18 diagnosed by a practitioner as having a debilitating medical
19 condition and has received written certification and a registry
20 identification card as part of the medical cannabis program;
21 and

22 MM. "superintendent" means the superintendent of
23 regulation and licensing.

24 SECTION 3. [NEW MATERIAL] CANNABIS REGULATION DIVISION--
25 DUTIES--RULEMAKING--CANNABIS POLICY AND REGULATORY ADVISORY

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1 COMMITTEE--CREATING THE CANNABIS REGULATION FUND.--

2 A. The "cannabis regulation division" is created in
3 the regulation and licensing department.

4 B. The division shall regulate and administer and
5 collect fees and fines in connection with the administration
6 of:

7 (1) commercial cannabis activity and licensing
8 related to the activity;

9 (2) the medical cannabis program, except for
10 the medical cannabis registry and qualifying conditions; and

11 (3) all aspects of cannabis relating to
12 occupational licensure and training.

13 C. No later than July 1, 2022 or earlier by
14 executive order, the division shall promulgate rules necessary
15 for the division to carry out its duties provided in the
16 Cannabis Regulation Act, including:

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

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

22 (3) security requirements for a cannabis
23 establishment;

24 (4) requirements related to:

25 (a) inspection and monitoring of a

1 cannabis establishment;

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

4 (c) prevention of the diversion and
5 illegal sales of cannabis products in commercial cannabis
6 activity to a person under the age of twenty-one;

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

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

11 (5) a provision requiring that each cannabis
12 retailer maintain at all times a supply of medical cannabis
13 products suitable and sufficient to meet the reasonably
14 foreseeable needs of qualified patients as determined by the
15 cannabis policy and regulatory advisory committee; provided
16 that in the event of a shortage of cannabis products, qualified
17 patients shall be served before commercial consumers; and
18 further provided that unused plants or products reserved for
19 medical cannabis use may be offered to other consumers upon
20 receiving division approval that all reasonably foreseeable
21 medical cannabis needs have been met;

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

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

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1 (8) rules developed in consultation with the
2 department of environment and the cannabis policy and
3 regulatory advisory committee to establish:

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

7 (b) standards for quality control,
8 inspection and testing of cannabis products;

9 (c) standards for food and product
10 safety applicable to cannabis products; and

11 (d) which additives and ingredients are
12 approved for and prohibited from inclusion in cannabis
13 products; provided that nicotine shall be prohibited;

14 (9) health and safety standards developed in
15 consultation with the department of health to meet the needs of
16 qualified patients, including those who are immunosuppressed;

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

20 (a) standards for the use of pesticides
21 in the production of cannabis, including the maximum allowances
22 for pesticides and other foreign material, such as hair,
23 insects or other similar adulterants, in harvested cannabis,
24 except for cannabis produced or harvested for research purposes
25 and not for ingestion;

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1 (b) environmental protections that apply
2 to all licensees; and

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

8 (11) a rule providing that each person to whom
9 a license is issued shall be fully liable and accountable for
10 the use of the license, including liability for all violations
11 of the Cannabis Regulation Act and for all taxes charged in
12 connection with the license.

13 D. The division shall collect and publish no less
14 than annually to the appropriate committees of the legislature
15 and on the division's website a report including aggregate data
16 regarding demographics on license applicants, controlling
17 persons and employees of cannabis establishments.

18 E. No later than the effective date of the Cannabis
19 Regulation Act, the division shall convene the "cannabis policy
20 and regulatory advisory committee" to advise the division on
21 the development of rules pursuant to the Cannabis Regulation
22 Act, including best practices and guidelines that promote
23 economic and cultural diversity in licensing and employment
24 opportunities and protect public health and safety while
25 ensuring a regulated environment for commercial cannabis

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1 activity that does not impose unreasonable barriers that would
2 perpetuate, rather than reduce and eliminate, the illicit
3 market for cannabis. The cannabis policy and regulatory
4 advisory committee shall consist of the following individuals
5 or their designees:

6 (1) two members who work as law enforcement
7 officers, one representing the state and one from a local
8 government;

9 (2) a representative from the department of
10 health;

11 (3) a medical cannabis licensee;

12 (4) two commercial cannabis licensees;

13 (5) a member of the judiciary recommended by
14 the supreme court;

15 (6) a representative from the New Mexico
16 department of agriculture;

17 (7) a representative from the department of
18 environment;

19 (8) two members recommended by the speaker of
20 the house of representatives;

21 (9) two members appointed by the president pro
22 tempore of the senate;

23 (10) a member representing cannabis consumers;

24 and

25 (11) a commercial cannabis microbusiness

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1 licensee.

2 F. Beginning January 1, 2023, and each January 1
3 thereafter, the cannabis policy and regulatory advisory
4 committee shall publish and provide to the superintendent and
5 the legislature a report detailing its activities and
6 recommendations made to the division during the preceding year
7 and noting whether the division implemented the
8 recommendations. The report shall include a review of the
9 demographics and geographic diversity of the cannabis industry
10 workforce and licensees and shall include recommendations, if
11 necessary, to promote diversity of the workforce and licensees.
12 The report shall include a recommendation on whether the
13 legislature should adjust the cannabis sales tax based on the
14 following considerations:

- 15 (1) demand for and supply of cannabis
16 products;
- 17 (2) controlling and curtailing the illicit
18 cannabis market;
- 19 (3) preventing the commercial cannabis market
20 from negatively impacting the medical cannabis market;
- 21 (4) preventing cannabis use by a person
22 younger than twenty-one years of age;
- 23 (5) preventing cannabis use disorder; and
- 24 (6) results from an independent market and
25 economic analysis relative to market conditions, tax policy,

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1 consumption and production trends and conditions.

2 G. Public members of the cannabis policy and
3 regulatory advisory committee shall not be paid but are
4 entitled to receive per diem and mileage as provided for state
5 employees in the Per Diem and Mileage Act.

6 H. At least biannually, the division shall convene
7 public meetings to review developments and to coordinate
8 efforts to improve economic and social outcomes related to the
9 legalization and use of commercial cannabis and the medical
10 cannabis program.

11 I. The "cannabis regulation fund" is created in the
12 state treasury. The fund consists of appropriations, gifts,
13 grants, donations and fees collected by the division pursuant
14 to the Cannabis Regulation Act and the medical cannabis program
15 administered by the division. Any unexpended or unencumbered
16 balances remaining in the fund at the end of a fiscal year
17 shall not revert, but may be subjected to reappropriation by
18 the legislature to specific cannabis-related programs.

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

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1 SECTION 4. [NEW MATERIAL] DEPARTMENT OF HEALTH--DUTIES--
2 MEDICAL CANNABIS ASSISTANCE PROGRAM.--

3 A. No later than the effective date of the Cannabis
4 Regulation Act, the department of health shall:

5 (1) establish the "medical cannabis assistance
6 program", by which the department of health shall make
7 distributions to provide medical cannabis or financial
8 assistance to qualified patients who are New Mexico residents
9 and who are sick and indigent persons and low-income and
10 higher-use patients who need assistance in obtaining medical
11 cannabis; and

12 (2) promulgate rules to govern the medical
13 cannabis assistance program.

14 B. In consultation with qualified patients and
15 primary caregivers, the department of health shall produce a
16 report annually, which shall be available to the public and
17 shall include at a minimum an evaluation of the:

18 (1) affordability and accessibility of medical
19 cannabis pursuant to the Lynn and Erin Compassionate Use Act;

20 (2) needs of qualified patients who live in
21 rural areas; and

22 (3) results of a survey of qualified patients,
23 caregivers and medical cannabis licensees to assess program
24 weaknesses and strengths.

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

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1 REPORTING REQUIREMENTS.--

2 A. Within sixty days following the end of each
3 fiscal year, the department of public safety in conjunction
4 with the administrative office of the courts shall compile a
5 report on the total number of arrests, citations and penalty
6 assessments for cannabis-related violations broken down by:

- 7 (1) category and penalty level;
- 8 (2) race, ethnicity, age and gender; and
- 9 (3) jurisdiction.

10 B. The department of public safety shall make all
11 past and current annual reports available on the department of
12 public safety's website.

13 C. For purposes of this section, "cannabis-related
14 violation" means a violation of any of Sections 20 through 24
15 of the Cannabis Regulation Act or a violation of Section
16 66-8-102 or 66-13-3 NMSA 1978 if the basis for the arrest or
17 citation is intoxication due to the use of cannabis.

18 SECTION 6. [NEW MATERIAL] CANNABIS REGULATION DIVISION--
19 LICENSING CANNABIS ACTIVITIES--LIMITATIONS--MEDICAL CANNABIS
20 LICENSING.--

21 A. Except as otherwise provided in Subsection H of
22 this section, the division shall begin issuing transitional
23 licenses for commercial cannabis activities no later than July
24 1, 2021; provided that a person that is not licensed pursuant
25 to Subsection H of this section shall not courier or sell

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1 cannabis products until January 1, 2022.

2 B. The division shall administer a licensing
3 program for commercial cannabis activities provided for in the
4 Cannabis Regulation Act and the medical cannabis program
5 provided for in the Lynn and Erin Compassionate Use Act, which
6 shall include licenses for:

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

16 C. The division shall include a clear designation
17 on all licenses that indicates whether the license is for
18 medical cannabis activity or for medical and commercial
19 cannabis activity.

20 D. A license is valid for two years from the date
21 the license is issued and may be renewed unless suspended or
22 revoked by the division for cause.

23 E. The division shall not issue a license to a
24 natural person who cannot demonstrate continuous residency in
25 New Mexico for at least two years prior to the date on which

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1 the person submits a license application. If an applicant is
2 an entity, at least sixty percent of the ownership in the
3 entity shall be held by persons who shall demonstrate
4 continuous residency in New Mexico for two years prior to the
5 date on which the entity submits the license application;
6 provided that the provisions of this subsection shall not apply
7 to an applicant for a cannabis research laboratory or cannabis
8 testing laboratory or a person licensed pursuant to the Lynn
9 and Erin Compassionate Use Act prior to the effective date of
10 the Cannabis Regulation Act.

11 F. A person may demonstrate continuous residency by
12 providing to the division the following indicating at least two
13 years of residency in the state:

14 (1) a current license, permit or
15 identification card issued by the motor vehicle division of the
16 taxation and revenue department;

17 (2) proof of voter registration, business
18 pursuits, employment, income sources, marital status,
19 leaseholds, situs of personal and real property, motor vehicle
20 registration or residence of parents, spouse and children; and

21 (3) other evidence as determined by the
22 division.

23 G. The division shall not limit the type or number
24 of licenses that a licensee may be issued pursuant to the
25 Cannabis Regulation Act; provided that, upon a finding and the

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1 recommendation of the cannabis policy and regulatory advisory
2 committee that market equilibrium is deficient and threatens
3 the economic viability of the industry or adequate supply of
4 cannabis, the division may impose temporary moratoria on new
5 licensure and impose production limitations, issue new licenses
6 or allow greater production by current licensees.

7 H. Any person properly licensed and in good
8 standing pursuant to the Lynn and Erin Compassionate Use Act on
9 the effective date of the Cannabis Regulation Act and who meets
10 the criteria for licensure under the Cannabis Regulation Act
11 shall be issued a transitional license or licenses, as
12 available, pursuant to the provisions of the Cannabis
13 Regulation Act to allow the licensee to conduct medical and
14 commercial cannabis activity.

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

17 A. Any violation of a provision of the Cannabis
18 Regulation Act or a rule adopted by the division by a holder of
19 a license issued pursuant to Subsection B of Section 6 of the
20 Cannabis Regulation Act is grounds for disciplinary action.

21 The division may:

- 22 (1) suspend or revoke a license;
- 23 (2) impose any intermediate sanction
24 established by rule;
- 25 (3) impose a directed plan of correction; or

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

8 B. The division shall adopt and promulgate rules
9 specifying the criteria for imposition of any sanction and
10 civil monetary penalty.

11 C. A licensee is liable for the reasonable costs of
12 enforcing a directed plan of correction developed pursuant to
13 rule.

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

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

20 A. The holder of a license issued pursuant to the
21 Cannabis Regulation Act has no vested property right in the
22 license, which is the property of the state. A license issued
23 pursuant to the Cannabis Regulation Act is not transferrable
24 from person to person, shall not be leased and shall not be
25 considered property subject to execution, attachment, a

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1 security transaction, liens, receivership or all other
2 incidents of tangible personal property under the laws of this
3 state.

4 B. Beginning no later than July 1, 2021, the
5 division shall issue a transitional license or licenses to
6 conduct commercial cannabis activity to a person that holds a
7 license issued pursuant to Subsection H of Section 6 of the
8 Cannabis Regulation Act that has applied for a license pursuant
9 to Subsection C of this section. The requirements to be a
10 licensee shall include standards for determining whether the
11 person has the financial and operational ability to engage in
12 commercial cannabis activities. A person operating under a
13 transitional license shall continue to operate under rules
14 promulgated for the medical cannabis program until the division
15 promulgates rules for commercial cannabis activity. A
16 transitional license to conduct commercial cannabis activity
17 shall expire on the date that a license is issued or denied to
18 the transitional license holder pursuant to Subsection C of
19 this section.

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

22 (1) no later than the effective date of the
23 Cannabis Regulation Act, accept and begin processing
24 transitional and regular license applications;

25 (2) issue a license, or a written notice

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1 detailing why an application was denied, no later than
2 forty-five days following the day on which the complete
3 application was submitted to the division; and

4 (3) require as a condition of licensing that
5 the applicant:

6 (a) comply with all applicable state and
7 local laws and ordinances;

8 (b) if applying for a cannabis producer
9 license or cannabis manufacturer license, submit a plan to
10 utilize energy and water conservation measures; and

11 (c) document that the applicant has a
12 legal right and access to a public or private commercial water
13 supply, owned or leased water rights or another source of water
14 sufficient to meet the water needs related to the license.

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

17 (1) the application does not include all
18 information required by the division;

19 (2) the applicant or a controlling person in
20 the applicant's entity has been convicted of an offense that is
21 substantially related to the qualifications, functions or
22 duties of the applicant entity's business; provided that if the
23 division determines that the controlling person and the
24 applicant entity are otherwise qualified for a license and that
25 issuing a license to the applicant entity would not compromise

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1 public safety, the division shall conduct a thorough review of
2 the conviction, including the nature of the offense,
3 surrounding circumstances and any evidence of the controlling
4 person's rehabilitation following the conviction, and based on
5 that review, determine whether the applicant entity should be
6 issued a license; or

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

13 E. For the purposes of Subsection D of this
14 section:

15 (1) the following are considered substantially
16 related to the qualifications, functions or duties of a
17 business seeking a license:

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

20 (b) a felony conviction for hiring,
21 employing or otherwise using a person younger than eighteen
22 years of age to: 1) prepare for sale, transport or carry a
23 controlled substance; or 2) sell, give away or offer to sell a
24 controlled substance to any person; and

25 (c) any other offense as determined by

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1 the division, except as provided in Paragraph (2) of this
2 subsection; and

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

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

15 SECTION 9. [NEW MATERIAL] LICENSING FEES.--

16 A. The division shall establish application and
17 licensing fees applicable to licenses for commercial cannabis
18 activity and activity related to medical cannabis; provided
19 that the fees shall be scaled based primarily on cannabis
20 production and annual actual or, in the case of new licensees,
21 projected revenues. For a license or renewal of a license that
22 authorizes only medical cannabis activity, the fee shall not
23 exceed one-half of the fee charged for a license or renewal of
24 a license for a similarly sized business that authorizes
25 commercial cannabis activities.

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1 B. License fees shall be recommended to the
2 division annually by the cannabis policy and regulatory
3 advisory committee.

4 **SECTION 10. [NEW MATERIAL] CANNABIS OCCUPATIONAL**
5 **LICENSE.--**

6 A. As used in this section, "cannabis occupational
7 license" means a license issued by the director to allow a
8 person to offer, sell, serve, dispense, cultivate, manufacture,
9 test or transport cannabis or cannabis products.

10 B. Beginning on the effective date of the Cannabis
11 Regulation Act, no person shall offer, sell, serve, dispense,
12 cultivate, manufacture, test or transport cannabis or cannabis
13 products in connection with a commercial cannabis activity
14 unless that person has obtained a cannabis occupational license
15 issued pursuant to this section; provided that a cannabis
16 research laboratory or an employee of a cannabis research
17 laboratory is not required to obtain or possess a cannabis
18 occupational license while performing activities authorized
19 pursuant to a cannabis research laboratory.

20 C. Beginning no later than the effective date of
21 the Cannabis Regulation Act, the division shall begin the
22 issuance of cannabis occupational licenses to persons twenty-
23 one years of age or older who satisfy the requirements for
24 licensure as determined by rule of the division. Requirements
25 shall include a requirement for cannabis occupational license

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1 applicants to have completed online training by the division
2 that ensures that cannabis occupational licensees have a basic
3 knowledge of the laws and rules governing the cannabis business
4 in the state.

5 D. The director shall within ten business days of
6 receipt of a completed application issue or deny a cannabis
7 occupational license.

8 E. The division shall maintain a public registry of
9 all persons with valid cannabis occupational licenses.

10 F. The division may stratify the types of cannabis
11 occupational licenses based on the types of jobs and duties
12 related to cannabis employees and establish fees for licenses
13 sufficient to cover the cost of issuance and administration of
14 the cannabis occupational licensing program.

15 SECTION 11. [NEW MATERIAL] TRANSPORT VIA COURIER.--

16 A. Only a cannabis retailer, cannabis manufacturer,
17 integrated cannabis microbusiness or cannabis courier may
18 courier cannabis products.

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

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

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

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

6 A. Cannabis products shall be homogenized to ensure
7 uniform disbursement of cannabinoids throughout the product.

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

12 C. The department of environment shall adopt and
13 promulgate rules for cannabis products that establish labeling
14 and packaging requirements, including that:

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

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

20 (3) labels shall include:

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

24 (b) identification of the licensee or
25 licensees that produced or manufactured the cannabis product,

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1 the date on which the cannabis was harvested, the type of
2 cannabis product and the date on which the cannabis product was
3 manufactured and packaged;

4 (c) serving size, potency and pesticide
5 use;

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

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

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

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

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

23 SECTION 14. [NEW MATERIAL] DEPARTMENT OF ENVIRONMENT--
24 OCCUPATIONAL HEALTH AND SAFETY.--The department of environment
25 shall review and, if necessary, prepare proposed occupational

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1 health and safety rules for persons working in the cannabis
2 industry for consideration by the environmental improvement
3 board.

4 SECTION 15. [NEW MATERIAL] CANNABIS MANUFACTURERS AND
5 RESEARCH AND TESTING LABORATORIES--DEPARTMENT OF ENVIRONMENT--
6 RULEMAKING--LICENSING.--

7 A. The division, with the assistance of the
8 department of environment, shall promulgate rules to govern the
9 licensing of a cannabis manufacturer, a cannabis research
10 laboratory and a cannabis testing laboratory.

11 B. The division shall issue licenses as follows:

12 (1) "cannabis manufacturer" for a site that
13 manufactures cannabis products;

14 (2) "cannabis research laboratory" for a
15 facility that produces or possesses cannabis, including all
16 parts of the plant genus Cannabis, for the purpose of studying
17 cannabis cultivation, characteristics or uses. An owner or
18 person with an ownership interest in a cannabis research
19 laboratory license shall not own or have ownership interest in
20 a non-laboratory cannabis establishment licensed pursuant to
21 the Cannabis Regulation Act; and

22 (3) "cannabis testing laboratory" for a
23 licensee that tests cannabis products. An owner or person with
24 an ownership interest in a cannabis testing laboratory license
25 shall not own or have ownership interest in a non-laboratory

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1 cannabis establishment licensed pursuant to the Cannabis
2 Regulation Act.

3 C. Except as otherwise provided by law, a cannabis
4 product shall not be sold by a licensee unless a representative
5 sample of the cannabis product has been tested by a cannabis
6 testing laboratory to determine:

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

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

15 (2) that the presence of contaminants does not
16 exceed harmful levels, including:

17 (a) residual solvents or chemicals,
18 including explosive gases such as butane and propane, and
19 poisons, toxins or carcinogens, such as methanol, methylene
20 chloride, acetone, benzene, toluene and trichloroethylene;

21 (b) foreign material, including hair,
22 insects or other similar adulterants; and

23 (c) microbiological impurity, including
24 total aerobic microbial count; total yeast mold count;
25 pseudomonas aeruginosa; aspergillus species; staphylococcus

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1 aureus; aflatoxin B1, B2, G1 or G2; or ochratoxin A.

2 D. Residual levels of volatile organic compounds
3 shall not exceed harmful levels.

4 E. The testing required by this section shall be
5 performed in a manner consistent with general requirements for
6 the competence of testing and calibration activities, including
7 sampling, using standard methods to ensure conformity,
8 competence and impartiality to test cannabis products.

9 SECTION 16. [NEW MATERIAL] TESTING CANNABIS PRODUCTS--
10 DEPARTMENT OF ENVIRONMENT.--

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

14 B. The department shall develop rules and
15 procedures to:

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

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

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

23 (4) provide for recordkeeping;

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

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

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

8 (8) require destruction and specify allowable
9 means of destruction of a harvested batch of cannabis or of
10 cannabis products if the testing samples from the batch or
11 items indicate noncompliance with applicable health and safety
12 standards promulgated by the division, unless remedial measures
13 can bring the cannabis or cannabis products into compliance
14 with the standards.

15 C. Beginning no later than July 1, 2021, 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 17. [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 rules and procedures
25 to provide for recordkeeping to ensure that cannabis is not

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1 removed from the cannabis research laboratory premises.

2 SECTION 18. [NEW MATERIAL] PERSONAL USE OF CANNABIS.--

3 A. Notwithstanding any other provision of law, the
4 following conduct is lawful for a person who is twenty-one
5 years of age or older and shall not constitute grounds for
6 detention, search or arrest of a person or for a violation of
7 probation or parole, and cannabis products that relate to the
8 conduct are not contraband or subject to seizure or forfeiture
9 pursuant to the Controlled Substances Act or the Forfeiture
10 Act:

11 (1) possessing, using, being under the
12 influence of, displaying, purchasing, obtaining or transporting
13 not more than two ounces of cannabis flowers or sixteen grams
14 of cannabis extract;

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

19 (3) possessing not more than two ounces of
20 cannabis flowers and sixteen grams of cannabis extract within
21 the person's private residence;

22 (4) smoking, ingesting or otherwise consuming
23 cannabis or cannabis products;

24 (5) possessing, using, displaying, purchasing,
25 obtaining, manufacturing, transporting or giving away to a

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1 person twenty-one years of age or older cannabis paraphernalia;
2 and

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

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

12 C. Except as provided in Subsection D of this
13 section, none of the following shall, individually or in
14 combination with each other, constitute reasonable articulable
15 suspicion of a crime:

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

18 (2) the possession of or the suspicion of
19 possession of cannabis without evidence of quantity in excess
20 of two ounces of cannabis flowers;

21 (3) the possession of multiple containers of
22 cannabis without evidence of quantity in excess of two ounces
23 of cannabis flowers;

24 (4) the possession of or the suspicion of
25 possession of cannabis extracts without evidence of quantity in

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1 excess of sixteen grams;

2 (5) the possession of multiple containers of
3 cannabis extracts without evidence of quantity in excess of
4 sixteen grams; or

5 (6) the possession of cannabis or cannabis
6 extracts in proximity to any amount of cash or currency without
7 evidence of cannabis quantity in excess of two ounces of
8 cannabis flowers or cannabis extracts quantity in excess of
9 sixteen grams.

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

16 SECTION 19. [NEW MATERIAL] LIMITS ON PERSONAL
17 CONSUMPTION--PENALTIES.--

18 A. Nothing in Section 18 of the Cannabis Regulation
19 Act shall be construed to:

20 (1) allow a person to smoke cannabis or
21 cannabis products in a public place; or

22 (2) restrict the ability of an individual or
23 private entity to prohibit conduct otherwise allowed in Section
24 18 of the Cannabis Regulation Act on the individual's or
25 private entity's privately owned property.

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

4 C. As used in this section, "smoke" means to
5 inhale, exhale, burn or carry any lighted or heated device or
6 pipe or any other lighted or heated cannabis product intended
7 for inhalation in any manner or in any form.

8 SECTION 20. [NEW MATERIAL] PERSONAL PRODUCTION OF
9 CANNABIS PROHIBITED--PENALTIES.--

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

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

15 (1) up to three mature female cannabis plants
16 and any combination of six seedlings or male plants shall be
17 issued a penalty assessment pursuant to Section 31-19A-1 NMSA
18 1978 and is subject to a fine of five hundred dollars (\$500);
19 and

20 (2) more than three mature female cannabis
21 plants and any combination of six seedlings or male plants is
22 guilty of a fourth degree felony and shall be sentenced
23 pursuant to the provisions of Section 31-18-15 NMSA 1978.

24 C. A minor who violates this section with respect
25 to:

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1 (1) up to three mature female cannabis plants
2 and any combination of six seedlings or male plants shall be
3 issued a penalty assessment pursuant to Section 31-19A-1 NMSA
4 1978 and is subject to a fine of five hundred dollars (\$500);
5 and

6 (2) more than three mature female cannabis
7 plants and any combination of six seedlings or male plants
8 shall be punished pursuant to the provisions of Section
9 32A-2-19 NMSA 1978.

10 D. As used in this section:

11 (1) "mature female cannabis plant" means a
12 female cannabis plant that has an observable flower or bud; and

13 (2) "minor" means a person who is less than
14 eighteen years of age.

15 SECTION 21. [NEW MATERIAL] UNLICENSED SALES OF CANNABIS--
16 PENALTIES.--

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

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

23 (1) a fine of one hundred dollars (\$100);

24 (2) attendance at a four-hour evidence-based
25 drug education program;

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1 (3) four hours of community service; or

2 (4) restorative justice mediation.

3 C. Except as otherwise provided in Section 18 of
4 the Cannabis Regulation Act, a person eighteen years of age or
5 older who violates Subsection A of this section is guilty of a
6 misdemeanor and shall be sentenced pursuant to the provisions
7 of Section 31-19-1 NMSA 1978.

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

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

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

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

21 SECTION 22. [NEW MATERIAL] CANNABIS WITHIN RESTRICTED
22 AREA--PENALTY.--Except as allowed in the Cannabis Regulation
23 Act and the Lynn and Erin Compassionate Use Act, a person shall
24 not possess or intentionally distribute any amount of a
25 cannabis product on the premises of a school, church or daycare

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1 center unless the person is a qualified patient or a qualified
2 patient's primary caregiver. A person who violates this
3 section is guilty of a misdemeanor and shall be sentenced
4 pursuant to the provisions of Section 31-19-1 NMSA 1978.

5 SECTION 23. [NEW MATERIAL] UNLAWFUL POSSESSION OF
6 CANNABIS--PENALTIES.--Except as allowed in the Cannabis
7 Regulation Act and the Lynn and Erin Compassionate Use Act:

8 A. a person eighteen years of age or older and
9 younger than twenty-one years of age shall not possess cannabis
10 products. A person who violates this subsection shall be
11 subject to:

- 12 (1) a fine of one hundred dollars (\$100);
- 13 (2) attendance at a four-hour evidence-based
14 drug education program;
- 15 (3) four hours of community service; or
- 16 (4) restorative justice mediation;

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

- 20 (1) a fine of fifty dollars (\$50.00);
- 21 (2) attendance at a four-hour evidence-based
22 drug education program;
- 23 (3) four hours of community service; or
- 24 (4) restorative justice mediation; and

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

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1 not possess more than two ounces of cannabis flowers or more
2 than sixteen grams of cannabis extracts. A person who violates
3 this subsection with respect to:

4 (1) more than two and up to eight ounces of
5 cannabis flowers or more than sixteen and up to sixty-four
6 grams of cannabis extracts is guilty of a misdemeanor and shall
7 be sentenced pursuant to the provisions of Section 31-19-1 NMSA
8 1978; or

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

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

20 SECTION 25. [NEW MATERIAL] LOW-INCOME MEDICAL PATIENT
21 ASSISTANCE FUND.--

22 A. The "low-income medical patient assistance fund"
23 is created in the state treasury. The fund consists of
24 appropriations, other money deposited in the fund and money
25 otherwise accruing to the fund. Income from the fund shall be

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1 credited to the fund. The department of health shall
2 administer the fund, and money in the fund is subject to
3 appropriation to the department of health. Any unexpended or
4 unencumbered balance remaining at the end of a fiscal year
5 shall not revert to the general fund.

6 B. The low-income medical patient assistance fund
7 is created for the purpose of assisting qualified patients
8 participating in the medical cannabis program in accordance
9 with the Lynn and Erin Compassionate Use Act who also
10 participate in the medical cannabis assistance program created
11 pursuant to the Cannabis Regulation Act.

12 C. Money in the low-income medical patient
13 assistance fund shall be disbursed monthly to medical cannabis
14 licensees on warrants signed by the secretary of finance and
15 administration pursuant to vouchers signed by the secretary of
16 health or the secretary's authorized representative.

17 D. The department of health in consultation with
18 the division shall promulgate rules to govern the eligibility
19 and process for determining the amounts of assistance for
20 eligible patients and the method for administering the program.

21 SECTION 26. [NEW MATERIAL] EXEMPTION FROM CRIMINAL AND
22 CIVIL PENALTIES--RESEARCHERS.--A person shall not be subject to
23 arrest or prosecution, penalized in any manner or denied any
24 right or privilege solely because the person produced,
25 possessed, distributed, dispensed or purchased cannabis from a

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1 person licensed pursuant to the Lynn and Erin Compassionate Use
2 Act or the Cannabis Regulation Act if the person produced,
3 possessed, distributed, dispensed or purchased the cannabis
4 solely for the purpose of research conducted pursuant to the
5 Lynn and Erin Compassionate Use Act or the Cannabis Regulation
6 Act.

7 SECTION 27. [NEW MATERIAL] CONTRACTS.--A contract,
8 including contracts with persons holding licenses for the
9 provision of professional services and licensed pursuant to
10 state law or rule, related to the operation of a license is
11 enforceable, and a contract entered into by a licensee or a
12 licensee representative for conduct allowed pursuant to a
13 license or entered into by a person who allows property to be
14 used by a licensee or a licensee representative for conduct
15 allowed pursuant to a license shall not be deemed unenforceable
16 on the basis that the conduct allowed pursuant to the license
17 is prohibited by federal law.

18 SECTION 28. [NEW MATERIAL] COOPERATION OF AGENCIES.--All
19 state agencies shall cooperate with the cannabis regulation
20 division of the regulation and licensing department in carrying
21 out the provisions of the Cannabis Regulation Act.

22 SECTION 29. [NEW MATERIAL] SHORT TITLE.--Sections 29
23 through 34 of this act may be cited as the "Cannabis Tax Act".

24 SECTION 30. [NEW MATERIAL] DEFINITIONS.--As used in the
25 Cannabis Tax Act:

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1 A. "cannabis":

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

9 (2) does not include:

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

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

19 (c) any cannabis product sold for
20 medical purposes under the provisions of the Lynn and Erin
21 Compassionate Use Act;

22 B. "cannabis extract":

23 (1) means a product obtained by separating
24 resins from cannabis by solvent extraction using solvents other
25 than vegetable glycerin, such as butane, hexane, isopropyl

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1 alcohol, ethanol or carbon dioxide; and

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

5 C. "cannabis product":

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

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

13 D. "cannabis retailer" means a person that is
14 licensed by the cannabis regulation division of the regulation
15 and licensing department to sell and courier cannabis products
16 to a person who purchases, acquires, possesses or uses a
17 cannabis product for a purpose other than resale;

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

21 F. "department" means the taxation and revenue
22 department; and

23 G. "licensee" means a person who holds a license
24 issued pursuant to the Cannabis Regulation Act.

25 SECTION 31. [NEW MATERIAL] CANNABIS SALES TAX.--

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1 A. A sales tax is imposed on a cannabis retailer
2 that sells cannabis products in this state on which the tax
3 imposed by this section has not been paid. The tax imposed by
4 this section may be referred to as the "cannabis sales tax".

5 B. The rate of the cannabis sales tax is twenty
6 percent and is applied to the price paid for the cannabis
7 product. The state rate is thirteen percent. The local
8 government rate is seven percent.

9 C. The cannabis sales tax shall not apply to retail
10 sales of medical cannabis products sold to a qualified patient
11 or to a primary caregiver who presents a registry
12 identification card issued pursuant to the Lynn and Erin
13 Compassionate Use Act at the time of the sale.

14 D. As used in this section, "local government rate"
15 means a cannabis sales tax rate of seven percent within the
16 boundaries of an incorporated municipality or in counties
17 outside the boundaries of incorporated municipalities.

18 SECTION 32. [NEW MATERIAL] DATE PAYMENT DUE.--The taxes
19 imposed pursuant to the Cannabis Tax Act are to be paid on or
20 before the twenty-fifth day of the month following the month in
21 which the taxable event occurred.

22 SECTION 33. [NEW MATERIAL] ADMINISTRATIVE CHARGE.--The
23 department may deduct an amount not to exceed one percent of
24 the proceeds of the state, municipal and county cannabis sales
25 taxes as a charge for the administrative costs of collection,

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1 which amount shall be retained by the department for use in
2 administration of those taxes.

3 SECTION 34. [NEW MATERIAL] INTERPRETATION OF ACT--
4 ADMINISTRATION AND ENFORCEMENT OF TAX.--The department shall
5 administer and enforce the collection of the cannabis sales
6 tax, municipal cannabis tax and county cannabis tax pursuant to
7 the Tax Administration Act.

8 SECTION 35. A new section of the Tax Administration Act
9 is enacted to read:

10 "[NEW MATERIAL] MUNICIPAL CANNABIS TAX.--The department
11 under the provisions of the Tax Administration Act shall
12 distribute thirty-five percent of the tax revenue from the
13 retail sales of commercial cannabis within the boundaries of a
14 municipality to that municipality."

15 SECTION 36. A new section of the Tax Administration Act
16 is enacted to read:

17 "[NEW MATERIAL] COUNTY CANNABIS TAX.--The department under
18 the provisions of the Tax Administration Act shall distribute
19 thirty-five percent of the tax revenue from the retail sales of
20 commercial cannabis within the unincorporated county area to
21 that county."

22 SECTION 37. A new section of the Tax Administration Act
23 is enacted to read:

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

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1 A. A transfer pursuant to Section 7-1-6.1 NMSA 1978
2 shall be made to each municipality in which the department is
3 collecting a municipal cannabis tax, set at seven percent less
4 any deduction for administrative costs determined and made by
5 the department pursuant to the Cannabis Tax Act.

6 B. A transfer pursuant to Section 7-1-6.1 NMSA 1978
7 shall be made to each county in which the department is
8 collecting a county cannabis tax in an amount set at seven
9 percent and subject to any increase or decrease made pursuant
10 to Section 7-1-6.15 NMSA 1978, less any deduction for
11 administrative costs determined and made by the department
12 pursuant to the Cannabis Tax Act."

13 **SECTION 38.** Section 7-1-2 NMSA 1978 (being Laws 1965,
14 Chapter 248, Section 2, as amended by Laws 2019, Chapter 47,
15 Section 1 and by Laws 2019, Chapter 53, Section 10 and also by
16 Laws 2019, Chapter 270, Section 1) is amended to read:

17 "7-1-2. APPLICABILITY.--The Tax Administration Act
18 applies to and governs:

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

- 22 (1) Income Tax Act;
- 23 (2) Withholding Tax Act;
- 24 (3) Oil and Gas Proceeds and Pass-Through
25 Entity Withholding Tax Act;

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1 (4) Gross Receipts and Compensating Tax Act,
2 Interstate Telecommunications Gross Receipts Tax Act and Leased
3 Vehicle Gross Receipts Tax Act;

4 (5) Liquor Excise Tax Act;

5 (6) Local Liquor Excise Tax Act;

6 (7) any municipal local option gross receipts
7 tax or municipal compensating tax;

8 (8) any county local option gross receipts tax
9 or county compensating tax;

10 (9) Special Fuels Supplier Tax Act;

11 (10) Gasoline Tax Act;

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

15 (12) Alternative Fuel Tax Act;

16 (13) Cigarette Tax Act;

17 (14) Estate Tax Act;

18 (15) Railroad Car Company Tax Act;

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

24 (17) Corporate Income and Franchise Tax Act;

25 (18) Uniform Division of Income for Tax

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

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

5 (12) Enhanced Oil Recovery Act;

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

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

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

13 (1) Weight Distance Tax Act;

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

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

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

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

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

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1 for the purposes of the Tax Administration Act; and

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

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

9 SECTION 39. Section 7-1-3 NMSA 1978 (being Laws 1965,
10 Chapter 248, Section 3, as amended by Laws 2019, Chapter 270,
11 Section 2 and by Laws 2019, Chapter 274, Section 10) is amended
12 to read:

13 "7-1-3. DEFINITIONS.--Unless the context clearly
14 indicates a different meaning, the definitions of words and
15 phrases as they are stated in this section are to be used, and
16 whenever in the Tax Administration Act these words and phrases
17 appear, the singular includes the plural and the plural
18 includes the singular:

19 A. "automated clearinghouse transaction" means an
20 electronic credit or debit transmitted through an automated
21 clearinghouse payable to the state treasurer and deposited with
22 the fiscal agent of New Mexico;

23 B. "business location" means the location where a
24 taxpayer's gross receipts and deductions are required to be
25 reported pursuant to Section 7-1-14 NMSA 1978;

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1 C. "county cannabis tax" means a sales tax of seven
2 percent of the retail sales of commercial cannabis in the
3 county area;

4 [~~E.~~] D. "department" means the taxation and revenue
5 department, the secretary or any employee of the department
6 exercising authority lawfully delegated to that employee by the
7 secretary;

8 [~~D.~~] E. "electronic payment" means a payment made
9 by automated clearinghouse deposit, any funds wire transfer
10 system or a credit card, debit card or electronic cash
11 transaction through the internet;

12 [~~E.~~] F. "employee of the department" means any
13 employee of the department, including the secretary, or any
14 person acting as agent or authorized to represent or perform
15 services for the department in any capacity with respect to any
16 law made subject to administration and enforcement under the
17 provisions of the Tax Administration Act;

18 [~~F.~~] G. "financial institution" means any state or
19 federally chartered, federally insured depository institution;

20 [~~G.~~] H. "hearing officer" means a person who has
21 been designated by the chief hearing officer to serve as a
22 hearing officer and who is:

- 23 (1) the chief hearing officer;
24 (2) an employee of the administrative hearings
25 office; or

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1 (3) a contractor of the administrative
2 hearings office;

3 [~~H.~~] I. "Internal Revenue Code" means the Internal
4 Revenue Code of 1986, as that code may be amended or its
5 sections renumbered;

6 [~~F.~~] J. "levy" means the lawful power, hereby
7 invested in the secretary, to take into possession or to
8 require the present or future surrender to the secretary or the
9 secretary's delegate of any property or rights to property
10 belonging to a delinquent taxpayer;

11 [~~J.~~] K. "local option gross receipts tax" means a
12 tax authorized to be imposed by a county or municipality upon a
13 taxpayer's gross receipts, as that term is defined in the Gross
14 Receipts and Compensating Tax Act, and required to be collected
15 by the department at the same time and in the same manner as
16 the gross receipts tax;

17 [~~K.~~] L. "managed audit" means a review and analysis
18 conducted by a taxpayer under an agreement with the department
19 to determine the taxpayer's compliance with a tax administered
20 pursuant to the Tax Administration Act and the presentation of
21 the results to the department for assessment of tax found to be
22 due;

23 M. "municipal cannabis tax" means a sales tax of
24 seven percent of the retail sales of commercial cannabis inside
25 the boundaries of an incorporated municipality;

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1 ~~[H.]~~ N. "net receipts" means the total amount of
2 money paid by taxpayers to the department in a month pursuant
3 to a tax or tax act less any refunds disbursed in that month
4 with respect to that tax or tax act;

5 ~~[M.]~~ O. "overpayment" means an amount paid,
6 pursuant to any law subject to administration and enforcement
7 under the provisions of the Tax Administration Act, by a person
8 to the department or withheld from the person in excess of tax
9 due from the person to the state at the time of the payment or
10 at the time the amount withheld is credited against tax due;

11 ~~[N.]~~ P. "paid" includes the term "paid over";

12 ~~[O.]~~ Q. "pay" includes the term "pay over";

13 ~~[P.]~~ R. "payment" includes the term "payment over";

14 ~~[Q.]~~ S. "person" means any individual, estate,
15 trust, receiver, cooperative association, club, corporation,
16 company, firm, partnership, limited liability company, limited
17 liability partnership, joint venture, syndicate, other
18 association or gas, water or electric utility owned or operated
19 by a county or municipality; "person" also means, to the extent
20 permitted by law, a federal, state or other governmental unit
21 or subdivision, or an agency, department or instrumentality
22 thereof; and "person", as used in Sections 7-1-72 through
23 7-1-74 NMSA 1978, also includes an officer or employee of a
24 corporation, a member or employee of a partnership or any
25 individual who, as such, is under a duty to perform any act in

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1 respect of which a violation occurs;

2 [R.] T. "property" means property or rights to
3 property;

4 [S.] U. "property or rights to property" means any
5 tangible property, real or personal, or any intangible property
6 of a taxpayer;

7 [F.] V. "return" means any tax or information
8 return, application or form, declaration of estimated tax or
9 claim for refund, including any amendments or supplements to
10 the return, required or permitted pursuant to a law subject to
11 administration and enforcement pursuant to the Tax
12 Administration Act and filed with the secretary or the
13 secretary's delegate by or on behalf of any person;

14 [U.] W. "return information" means a taxpayer's
15 name, address, government-issued identification number and
16 other identifying information; any information contained in or
17 derived from a taxpayer's return; any information with respect
18 to any actual or possible administrative or legal action by an
19 employee of the department concerning a taxpayer's return, such
20 as audits, managed audits, denial of credits or refunds,
21 assessments of tax, penalty or interest, protests of
22 assessments or denial of refunds or credits, levies or liens;
23 or any other information with respect to a taxpayer's return or
24 tax liability that was not obtained from public sources or that
25 was created by an employee of the department; but "return

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1 information" does not include statistical data or other
2 information that cannot be associated with or directly or
3 indirectly identify a particular taxpayer;

4 [V-] X. "secretary" means the secretary of taxation
5 and revenue and, except for purposes of Subsection B of Section
6 7-1-4 NMSA 1978, also includes the deputy secretary or a
7 division director or deputy division director delegated by the
8 secretary;

9 [W-] Y. "secretary or the secretary's delegate"
10 means the secretary or any employee of the department
11 exercising authority lawfully delegated to that employee by the
12 secretary;

13 [X-] Z. "security" means money, property or rights
14 to property or a surety bond;

15 [Y-] AA. "state" means any state of the United
16 States, the District of Columbia, the commonwealth of Puerto
17 Rico and any territory or possession of the United States;

18 [Z-] BB. "tax" means the total amount of each tax
19 imposed and required to be paid, withheld and paid or collected
20 and paid under provision of any law made subject to
21 administration and enforcement according to the provisions of
22 the Tax Administration Act, including the amount of any
23 interest or civil penalty relating thereto; "tax" also means
24 any amount of any abatement of tax made or any credit, rebate
25 or refund paid or credited by the department under any law

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1 subject to administration and enforcement under the provisions
2 of the Tax Administration Act to any person contrary to law,
3 including the amount of any interest or civil penalty relating
4 thereto;

5 ~~[AA-]~~ CC. "tax return preparer" means a person who
6 prepares for others for compensation or who employs one or more
7 persons to prepare for others for compensation any return of
8 income tax, a substantial portion of any return of income tax,
9 any claim for refund with respect to income tax or a
10 substantial portion of any claim for refund with respect to
11 income tax; provided that a person shall not be a "tax return
12 preparer" merely because such person:

13 (1) furnishes typing, reproducing or other
14 mechanical assistance;

15 (2) is an employee who prepares an income tax
16 return or claim for refund with respect to an income tax return
17 of the employer, or of an officer or employee of the employer,
18 by whom the person is regularly and continuously employed; or

19 (3) prepares as a trustee or other fiduciary
20 an income tax return or claim for refund with respect to income
21 tax for any person; and

22 ~~[BB-]~~ DD. "taxpayer" means a person liable for
23 payment of any tax; a person responsible for withholding and
24 payment or for collection and payment of any tax; a person to
25 whom an assessment has been made, if the assessment remains

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1 unabated or the amount thereof has not been paid; or a person
2 who entered into a special agreement pursuant to Section
3 7-1-21.1 NMSA 1978 to assume the liability of gross receipts
4 tax or governmental gross receipts tax of another person and
5 the special agreement was approved by the secretary pursuant to
6 the Tax Administration Act."

7 **SECTION 40.** Section 7-2A-2 NMSA 1978 (being Laws 1986,
8 Chapter 20, Section 33, as amended) is amended to read:

9 "7-2A-2. DEFINITIONS.--For the purpose of the Corporate
10 Income and Franchise Tax Act and unless the context requires
11 otherwise:

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

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

21 C. "base income" means the federal taxable income
22 or the federal net operating loss of a corporation for the
23 taxable year calculated pursuant to the Internal Revenue Code,
24 after special deductions provided in Sections 241 through 249
25 of the Internal Revenue Code but without any deduction for net

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

3 (1) adding to that income:

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

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

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

14 (2) subtracting from that income:

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

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

20 (c) an amount equal to one hundred
21 percent of the subpart F income, as that term is defined in
22 Section 952 of the Internal Revenue Code, as that section may
23 be amended or renumbered, included in the income of the
24 corporation; ~~and~~

25 (d) an amount equal to one hundred

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1 percent of the income of the corporation under Section 951A of
2 the Internal Revenue Code, after allowing the deduction
3 provided in Section 250 of the Internal Revenue Code; and

4 (e) for cannabis businesses licensed
5 under state law, an amount equal to any expenditures disallowed
6 by Section 280e of the Internal Revenue Code due to the
7 designation of cannabis as a controlled substance under federal
8 law; 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 D. "captive real estate investment trust" means a
14 corporation, trust or association taxed as a real estate
15 investment trust pursuant to Section 857 of the Internal
16 Revenue Code, the shares or beneficial interests of which are
17 not regularly traded on an established securities market;
18 provided that more than fifty percent of any class of
19 beneficial interests or shares of the real estate investment
20 trust are owned directly, indirectly or constructively by the
21 taxpayer during all or a part of the taxpayer's taxable year;

22 E. "common ownership" means the direct or indirect
23 control or ownership of more than fifty percent of the
24 outstanding voting stock, ownership of which is determined
25 pursuant to Section 1563 of the Internal Revenue Code, as that

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1 section may be amended or renumbered, of:

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

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

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

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

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

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

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

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

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underscoring material = new
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1 employee of the department exercising authority lawfully
2 delegated to that employee by the secretary;

3 I. "filing group" means a group of corporations
4 properly included in a return pursuant to Section 7-2A-8.3 NMSA
5 1978 for a particular taxable year;

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

9 K. "grandfathered net operating loss carryover"
10 means:

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

19 (2) reduced by:

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

25 (b) the amount of net operating loss

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1 deductions taken prior to January 1, 2020 that would be charged
2 against those losses consistent with the Internal Revenue Code
3 and provisions of the Corporate Income and Franchise Tax Act
4 applicable to the year of the deduction; and

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

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

10 M. "net income" means:

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

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

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

23 (1) plus:

24 (a) the portion of an apportioned net
25 loss properly reported to New Mexico for a taxable year

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1 beginning on or after January 1, 2020, on a separate year
2 return, to the extent the taxpayer would have been entitled to
3 include the portion of such apportioned net loss in the
4 taxpayer's consolidated net operating loss carryforward under
5 the Internal Revenue Code if the taxpayer filed a consolidated
6 federal return; and

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

9 (2) minus:

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

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

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

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

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

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

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

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

24 U. "separate year return" means a properly filed
25 original or amended return for a taxable year beginning on or

1 after January 1, 2020 by a taxpayer reporting a loss, a portion
2 of which is claimed as part of the net operating loss carryover
3 by another taxpayer in a subsequent return period;

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

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

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

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

24 Z. "taxpayer" means any corporation or group of
25 corporations filing a return pursuant to Section 7-2A-8.3 NMSA

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underscoring material = new
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1 1978 subject to the taxes imposed by the Corporate Income and
2 Franchise Tax Act;

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

11 (1) related through common ownership; and

12 (2) economically interdependent with one
13 another as demonstrated by the following factors:

14 (a) centralized management;

15 (b) functional integration; and

16 (c) economies of scale;

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

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

21 (2) corporations wherever organized or
22 incorporated that have less than twenty percent of their
23 property, payroll and sales sourced to locations within the
24 United States, following the sourcing rules of the Uniform
25 Division of Income for Tax Purposes Act; and

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

6 SECTION 41. Section 7-9-3.5 NMSA 1978 (being Laws 2003,
7 Chapter 272, Section 3, as amended) is amended to read:

8 "7-9-3.5. DEFINITION--GROSS RECEIPTS.--

9 A. As used in the Gross Receipts and Compensating
10 Tax Act:

11 (1) "gross receipts" means the total amount of
12 money or the value of other consideration received from selling
13 property in New Mexico, from leasing or licensing property
14 employed in New Mexico, from granting a right to use a
15 franchise employed in New Mexico, from selling services
16 performed outside New Mexico, the product of which is initially
17 used in New Mexico, or from performing services in New Mexico.
18 In an exchange in which the money or other consideration
19 received does not represent the value of the property or
20 service exchanged, "gross receipts" means the reasonable value
21 of the property or service exchanged;

22 (2) "gross receipts" includes:

23 (a) any receipts from sales of tangible
24 personal property handled on consignment;

25 (b) the total commissions or fees

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1 derived from the business of buying, selling or promoting the
2 purchase, sale or lease, as an agent or broker on a commission
3 or fee basis, of any property, service, stock, bond or
4 security;

5 (c) amounts paid by members of any
6 cooperative association or similar organization for sales or
7 leases of personal property or performance of services by such
8 organization;

9 (d) amounts received from transmitting
10 messages or conversations by persons providing telephone or
11 telegraph services;

12 (e) amounts received by a New Mexico
13 florist from the sale of flowers, plants or other products that
14 are customarily sold by florists where the sale is made
15 pursuant to orders placed with the New Mexico florist that are
16 filled and delivered outside New Mexico by an out-of-state
17 florist;

18 (f) the receipts of a home service
19 provider from providing mobile telecommunications services to
20 customers whose place of primary use is in New Mexico if: 1)
21 the mobile telecommunications services originate and terminate
22 in the same state, regardless of where the services originate,
23 terminate or pass through; and 2) the charges for mobile
24 telecommunications services are billed by or for a customer's
25 home service provider and are deemed provided by the home

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1 service provider. For the purposes of this section, "home
2 service provider", "mobile telecommunications services",
3 "customer" and "place of primary use" have the meanings given
4 in the federal Mobile Telecommunications Sourcing Act; and

5 (g) receipts collected by a marketplace
6 provider engaging in business in the state from sales, leases
7 and licenses of tangible personal property, sales of licenses
8 and sales of services or licenses for use of real property that
9 are sourced to this state and are facilitated by the
10 marketplace provider on behalf of marketplace sellers,
11 regardless of whether the marketplace sellers are engaging in
12 business in the state; and

13 (3) "gross receipts" excludes:

14 (a) cash discounts allowed and taken;
15 (b) New Mexico gross receipts tax,
16 governmental gross receipts tax and leased vehicle gross
17 receipts tax payable on transactions for the reporting period;

18 (c) taxes imposed pursuant to the
19 provisions of any local option gross receipts tax that is
20 payable on transactions for the reporting period;

21 (d) any tax imposed pursuant to the Lynn
22 and Erin Compassionate Use Act and the Cannabis Tax Act;

23 ~~(d)~~ (e) any gross receipts or sales
24 taxes imposed by an Indian nation, tribe or pueblo; provided
25 that the tax is approved, if approval is required by federal

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1 law or regulation, by the secretary of the interior of the
2 United States; and provided further that the gross receipts or
3 sales tax imposed by the Indian nation, tribe or pueblo
4 provides a reciprocal exclusion for gross receipts, sales or
5 gross receipts-based excise taxes imposed by the state or its
6 political subdivisions;

7 ~~(e)~~ (f) any type of time-price
8 differential;

9 ~~(f)~~ (g) amounts received solely on
10 behalf of another in a disclosed agency capacity; and

11 ~~(g)~~ (h) amounts received by a New
12 Mexico florist from the sale of flowers, plants or other
13 products that are customarily sold by florists where the sale
14 is made pursuant to orders placed with an out-of-state florist
15 for filling and delivery in New Mexico by a New Mexico florist.

16 B. When the sale of property or service is made
17 under any type of charge, conditional or time-sales contract or
18 the leasing of property is made under a leasing contract, the
19 seller or lessor may elect to treat all receipts, excluding any
20 type of time-price differential, under such contracts as gross
21 receipts as and when the payments are actually received. If
22 the seller or lessor transfers the seller's or lessor's
23 interest in any such contract to a third person, the seller or
24 lessor shall pay the gross receipts tax upon the full sale or
25 leasing contract amount, excluding any type of time-price

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1 differential."

2 SECTION 42. Section 7-9-73.2 NMSA 1978 (being Laws 1998,
3 Chapter 95, Section 2 and Laws 1998, Chapter 99, Section 4, as
4 amended) is amended to read:

5 "7-9-73.2. DEDUCTION--GROSS RECEIPTS TAX AND GOVERNMENTAL
6 GROSS RECEIPTS TAX--PRESCRIPTION DRUGS--OXYGEN--CANNABIS.--

7 A. Receipts from the sale of prescription drugs,
8 [~~and~~] oxygen and oxygen services provided by a licensed
9 medicare durable medical equipment provider and cannabis that
10 is purchased in accordance with the Lynn and Erin Compassionate
11 Use Act and the Cannabis Regulation Act may be deducted from
12 gross receipts and governmental gross receipts.

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

15 (1) dispensed by or under the supervision of a
16 licensed pharmacist or by a physician or other person
17 authorized under state law to do so;

18 (2) prescribed for a specified person by a
19 person authorized under state law to prescribe the substance;
20 and

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

23 SECTION 43. Section 9-16-4 NMSA 1978 (being Laws 1983,
24 Chapter 297, Section 20, as amended) is amended to read:

25 "9-16-4. DEPARTMENT ESTABLISHED.--The "regulation and
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1 licensing department" is created in the executive branch. The
2 department shall not be a cabinet department. The department
3 shall consist of but not be limited to the following divisions:

- 4 A. the administrative services division;
- 5 B. the construction industries division;
- 6 C. the financial institutions division;
- 7 D. the securities division;
- 8 E. the manufactured housing division; ~~and~~
- 9 F. the alcoholic beverage control division; and
- 10 G. the cannabis regulation division."

11 SECTION 44. Section 26-2B-4 NMSA 1978 (being Laws 2007,
12 Chapter 210, Section 4, as amended) is amended to read:

13 "26-2B-4. EXEMPTION FROM CRIMINAL AND CIVIL PENALTIES FOR
14 THE MEDICAL USE OF CANNABIS.--

15 A. A qualified patient or a qualified patient's
16 primary caregiver shall not be subject to arrest, prosecution
17 or penalty in any manner for the possession of or the medical
18 use of cannabis if the quantity of cannabis does not exceed an
19 adequate supply; provided that a qualified patient or the
20 qualified patient's primary caregiver may possess that
21 qualified patient's harvest of cannabis.

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

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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;

11 (2) a qualified patient or primary caregiver
12 purchasing or obtaining not more than an adequate supply from a
13 lawful source or a reciprocal participant purchasing or
14 obtaining not more than the limit identified by department
15 rule;

16 (3) a qualified patient using or being under
17 the influence of cannabis; provided that the qualified patient
18 is acting consistent with law;

19 (4) a qualified patient or primary caregiver
20 transferring, without financial consideration, to a qualified
21 patient or primary caregiver not more than two ounces of
22 cannabis; or

23 (5) with respect to cannabis cultivated under
24 a personal production license, a qualified patient or primary
25 caregiver possessing, planting, cultivating, harvesting,

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1 drying, manufacturing or transporting cannabis plants or
2 cannabis products as allowed by department rule; provided that
3 a qualified patient or primary caregiver who possesses a
4 personal production license shall not manufacture cannabis
5 products using an oil extractor solvent that is stored under
6 pressure [~~unless the qualified patient or primary caregiver~~
7 ~~holds a separate license from the department permitting the~~
8 ~~person to manufacture cannabis products using an oil extractor~~
9 ~~solvent that is under pressure~~].

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

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

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

18 (a) allow the qualified patient's
19 medical use of cannabis;

20 (b) serve as the qualified patient's
21 primary caregiver; and

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

24 E. A qualified patient or a primary caregiver shall
25 be granted the full legal protections provided in this section

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1 if the qualified patient or primary caregiver is in possession
2 of a registry identification card. If the qualified patient or
3 primary caregiver is not in possession of a registry
4 identification card, the qualified patient or primary caregiver
5 shall be given an opportunity to produce the registry
6 identification card before any arrest or criminal charges or
7 other penalties are initiated.

8 F. A practitioner shall not be subject to arrest or
9 prosecution, penalized in any manner or denied any right or
10 privilege for recommending the medical use of cannabis or
11 providing written certification for the medical use of cannabis
12 pursuant to the Lynn and Erin Compassionate Use Act.

13 ~~[G. A licensee or licensee representative shall not~~
14 ~~be subject to arrest, prosecution or penalty, in any manner,~~
15 ~~for the production, possession, manufacture, distribution,~~
16 ~~dispensing or testing of cannabis pursuant to the Lynn and Erin~~
17 ~~Compassionate Use Act. Conduct by a licensee or a licensee~~
18 ~~representative that is allowed pursuant to a license and~~
19 ~~conduct by a person that allows property to be used by a~~
20 ~~licensee or a licensee representative for conduct allowed~~
21 ~~pursuant to a license is lawful, is not a violation of state or~~
22 ~~local law and is not a basis for seizure or forfeiture of~~
23 ~~property or assets under state or local law.~~

24 H.] G. Any property interest that is possessed,
25 owned or used in connection with the medical use of cannabis,

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

15 ~~[F.]~~ H. A state or local government shall not
16 impose a criminal, civil or administrative penalty on a
17 licensee ~~[or a licensee representative]~~, or on a person that
18 allows property to be used by a licensee ~~[or a licensee~~
19 ~~representative]~~ pursuant to a license, solely for conduct that
20 is allowed pursuant to a license.

21 ~~[J.]~~ I. A person shall not be subject to arrest or
22 prosecution for a cannabis-related offense for simply being in
23 the presence of the medical use of cannabis as permitted under
24 the provisions of the Lynn and Erin Compassionate Use Act."

25 SECTION 45. Section 26-2B-5 NMSA 1978 (being Laws 2007,

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1 Chapter 210, Section 5, as amended by Laws 2019, Chapter 247,
2 Section 5 and by Laws 2019, Chapter 261, Section 2) is amended
3 to read:

4 "26-2B-5. PROHIBITIONS, RESTRICTIONS AND LIMITATIONS ON
5 THE MEDICAL USE OF CANNABIS--CRIMINAL PENALTIES.--

6 A. Participation in a medical use of cannabis
7 program by a qualified patient or primary caregiver does not
8 relieve the qualified patient or primary caregiver from:

9 (1) criminal prosecution or civil penalties
10 for activities not authorized in the Lynn and Erin
11 Compassionate Use Act;

12 (2) liability for damages or criminal
13 prosecution arising out of the operation of a vehicle while
14 under the influence of cannabis; or

15 (3) criminal prosecution or civil penalty for
16 possession or use of cannabis:

17 (a) in the workplace of the qualified
18 patient's or primary caregiver's employment; or

19 (b) at a public park, recreation center,
20 youth center or other public place.

21 B. A person who makes a fraudulent representation
22 to a law enforcement officer about the person's participation
23 in a medical use of cannabis program to avoid arrest or
24 prosecution for a cannabis-related offense is guilty of a petty
25 misdemeanor and shall be sentenced in accordance with the

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1 provisions of Section 31-19-1 NMSA 1978.

2 ~~[G. If a licensee or the licensee's representative~~
3 ~~sells, distributes, dispenses or transfers cannabis to a person~~
4 ~~not approved by the department pursuant to the Lynn and Erin~~
5 ~~Compassionate Use Act or obtains or transports cannabis outside~~
6 ~~New Mexico, the licensee or the licensee's representative shall~~
7 ~~be subject to arrest, prosecution and civil or criminal~~
8 ~~penalties pursuant to state law.]"~~

9 SECTION 46. 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.] L. "hemp" means the plant Cannabis sativa L.
10 and any part of that plant, including seeds and all
11 derivatives, extracts, cannabinoids, isomers, acids, salts and
12 salts of 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.] M. "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

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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.] N. "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-] O. "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-] P. "person" means an individual, partnership,
25 corporation, association, institution, political subdivision,

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1 government agency or other legal entity;

2 ~~[S.]~~ Q. "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.]~~ R. "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.]~~ S. "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.]~~ T. "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~~

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;~~

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~~(l) bongs; or~~

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

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

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

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

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

~~(d) the existence of any residue of a controlled substance or controlled substance analog on the object;~~

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

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

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

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

~~X.] U. "controlled substance analog":~~

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1 (1) means a substance other than a controlled
2 substance that has a chemical structure substantially similar
3 to that of a controlled substance in Schedule I, II, III, IV or
4 V or that was specifically designed to produce effects
5 substantially similar to that of controlled substances in
6 Schedule I, II, III, IV or V. Examples of chemical classes in
7 which controlled substance analogs are found include the
8 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 those]~~

18 (2) does not include 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 ~~[Y.]~~ V. "human consumption" includes application,

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1 injection, inhalation, ingestion or any other manner of
2 introduction;

3 ~~[Z.]~~ W. "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.]~~ X. "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 47. 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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~~[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) levophenacylmorphane;
- 24 (29) morpheridine;
- 25 (30) noracymethadol;

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- 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;

- 1 (9) etorphine;
- 2 (10) heroin;
- 3 (11) hydromorphinol;
- 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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[bracketed material] = delete

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)-9-
6 (hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a
7 -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)-1-
11 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

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[bracketed material] = delete

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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[bracketed material] = delete

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

1 1978."

2 SECTION 48. 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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~~[bracketed material] = delete~~

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~~
12 ~~of tetrahydrocannabinol shall be considered Schedule II~~
13 ~~controlled substances only for the purposes enumerated in the~~
14 ~~Controlled Substances Therapeutic Research Act or the Lynn and~~
15 ~~Erin 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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~~[bracketed material]~~ = delete

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

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 49. TEMPORARY PROVISION--TRANSFER.--On July 1,
9 2021, any unexpended or unencumbered balance in the medical
10 cannabis fund is transferred to the cannabis regulation fund.

11 SECTION 50. REPEAL.--Section 9-7-17.1 NMSA 1978 (being
12 Laws 2012, Chapter 42, Section 1) is repealed.