

Executive Summary

Tellez-Humble LLC conducted focus groups and interviews with advocates and community stakeholders to gather feedback on the Cannabis Regulatory Advisory Committee's approach to cannabis equity in New Mexico.

Themes

1. **The focus on equity is coming late, and community leaders and organizations expect it to fail.** Without a funding source in the CRA, people are pessimistic about New Mexico's chances to achieve equity in the industry.
2. **Rural communities have unique needs.** Rural communities need provisions to support small producers and growers, or they may be "overrun" by large producers.
3. **Participants are worried about the impact of the cannabis industry on groundwater.** They see water usage as an equity issue and are "terrified" that it is not sufficiently addressed in the CRA or regulation.
4. **The state needs clear eligibility criteria for equity applicants** to support applications from individuals that represent communities harmed by criminalization.
5. **Federal regulations create complexity.** Until the federal status of cannabis changes, some individuals and communities will face legal uncertainty, limiting participation.
6. **Barriers to entry favor larger out-of-state producers.** Participants are excited about the potential new industry but fear New Mexicans, particularly those from communities harmed by criminalization, are already a step behind.

Recommendations from Participants

- A. **Create a clear definition of "equity applicant" that provides opportunities for New Mexicans who have been hurt by criminalization.** Participants asked for a definition that includes specific indicators of equity, such as race, gender, and income, while being broad enough to include New Mexicans harmed by the war on drugs in their youth.
- B. **Ensure regulations protect workers.** Most people involved in the industry will be workers, not owners. The Advisory Committee and CCD can promote equity by requiring businesses—particularly large producers—to commit to worker protections.
- C. **Secure funding for equity programs.** Participants urge the Advisory Committee and CCD to fund equity initiatives, or to advocate for funding, to help applicants navigate the complexity of the industry and the significant barriers businesses face.
- D. **Use funds to support equity.** If funds are available, they could be used to provide access to seed capital, support culturally-competent technical assistance programs, and develop state-funded incubator and cooperative models.

Full Report

Background

New Mexico's Cannabis Regulation Act (CRA) legalizes the possession of cannabis and taxes and regulates the sale of cannabis for adults 21 and older. The CRA creates a comprehensive licensing, taxing, and enforcement regulatory structure administered by the Cannabis Control Division (CCD). The Act also establishes the Cannabis Regulatory Advisory Committee to advise the CCD in developing rules and procedures to implement this regulatory structure. The Advisory Committee is composed of 14 members from across New Mexico, representing a wide range of professional backgrounds.

In developing the regulatory structure, the CRA requires the CCD and the Advisory Committee to consider the impact of cannabis prohibition on communities, stating:

The division shall promulgate rules that...(7) promote and encourage full participation in the cannabis industry...by representatives of communities that have been disproportionately harmed by rates of arrest through the enforcement of cannabis prohibition in law and policy, rural communities likely to be impacted by cannabis production and agricultural producers from economically disadvantaged communities. (CRA Section III, (7))

Further, the CRA requires “procedures that promote and encourage racial, ethnic, gender, and geographic diversity and New Mexico residency” across all aspects of the industry, as well as a certification process for micro-businesses that are “owned by representatives of communities that have been disproportionately harmed by rates of arrest through the enforcement of cannabis prohibitions in law and policy and underserved communities that include tribal, acequia, land grant-merced and other rural historic communities (CRA Section III, (8) and (9)).”

The CRA does not define the mechanism(s) for promoting full participation in the industry, instead tasking the Advisory Committee with providing recommendations to the CCD.

The Advisory Committee first convened in September 2021 and has prioritized gathering public input from across the state to inform its recommendations on promoting economic and cultural diversity in cannabis licensing and employment. A public-opinion survey commissioned by Drug Policy Action Fund of New Mexico and Weedmaps in November 2021 gathered feedback from over 600 registered voters. The Advisory Committee also invited the public to complete a “Social and Economic Equity” survey, which received more than 400 responses, and welcomed public comment at the November 4th meeting. Finally, the Advisory Committee contracted with Tellez-Humble LLC to gather detailed feedback from community stakeholders through focus groups and one-on-one interviews.

This report summarizes the findings of those interviews. Together, Emily Kaltenbach, the Chair of the Advisory Committee, Harold Trujillo, chair of the Equity subcommittee, and Tellez-Humble

LLC invited representatives from 41 organizations to participate, reflecting the perspectives named in the statute: representatives of communities disproportionately impacted by prohibition, rural communities, and tribal, acequia, and land grant-merced communities. Twelve organizations accepted the invitation and joined small group or one-on-one interviews, which were conducted November 16-17, 2021. The perspectives in this report reflect the input of those participants:

Henry Jake Foreman, NM Community Capital , Native - Absentee Shawnee, He/His	Oriana Sandoval, Center for Civic Policy , Chicana/Mexicana, She/Her
Lupe Salazar, Barrios Unidos NM , Chicana/Hispanic, She/Her	Anzia Bennett, Three Sisters Kitchen , white, She/Her
George Lujan, Southwest Organizing Project , Latino He/His	Rosalie Flores, NM Cannabis Justice Project, Chicana, Mexican, She/Her
Julia Fay Bernal, Pueblo Action Alliance , Sandia, Taos Pueblo and Yuchi-Creek, She/Her	Shawna Brown, City of Albuquerque Cannabis Equity Working Group, Black, She/They
Paula Garcia, NM Acequia Association , Chicana, She/Her	Tina Garcia Shams, Street Food Institute , Hispanic/Chicana, She/Her
Andrea Serrano, OLÉ (to be interviewed next week)	Charlene Bencomo, Bold Futures (to be interviewed next week)

The Advisory Committee and the CCD can make rules to address many of the recommendations shared through these interviews. Some recommendations, however, require additional legislative action.

The Importance of an Equity-Centered Approach

Almost every interview emphasized that the War on Drugs—and specifically, cannabis prohibition—has had devastating impacts on Black, Indigenous, and Latinx communities in New Mexico. Low-income people and people of color have been disproportionately prosecuted for cannabis related crimes. While white and Black people use cannabis at similar levels, Black people have been nearly four times more likely to be arrested for marijuana possession.¹ Criminalization and incarceration have trapped many individuals and families in cycles of poverty and discrimination, making people sick, limiting educational opportunities, and creating barriers to employment.² Criminalization has been particularly damaging in the context of limited economic opportunity; New Mexico has the third-highest poverty rate in the nation at 18.2%, with significantly higher rates in many Black, Indigenous, Hispanic, and rural communities.³

¹ <https://www.aclu.org/report/report-war-marijuana-black-and-white>

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https://www.santafenewmexican.com/opinion/my_view/lets-end-50-years-of-the-war-on-drugs/article_eb3439c0-cfba-11eb-be95-9be13556325d.html

³ https://www.dws.state.nm.us/Portals/0/DM/LMI/Poverty_in_NM_2019.pdf

Decriminalization and expungement represent significant steps that offer an opportunity to repair some of this damage. Interviewees asked the Advisory Committee and CCD to encourage full participation in the industry by individuals and communities harmed by criminalization.

Participants also noted that New Mexico has an opportunity to create successful equity initiatives. Several states have implemented equity programs. New Mexico can learn from those states' experiences. New Mexico can also break new ground. Few states have considered rural equity. As one interviewee put it, "rural equity hasn't been really discussed in the cannabis space. New Mexico brought that to the front...This is a whole different issue...New Mexico has a unique opportunity to bring some really, really important issues that need to be taken into consideration."

Yet, despite the opportunity, the tone of the interviews was cautious. Equity advocates are concerned that the new industry will create challenges for Black, Indigenous, Latinx, rural, and low-income communities. Cannabis growing, processing, selling is complex. Large, out-of-state corporations have the knowledge and resources to navigate the process of starting a new cannabis business. They are moving quickly, sometimes without regard for water rights or workers' rights, often leveraging capital that is not available to entrepreneurs from the communities most impacted by cannabis criminalization. Without solid equity programs, participants believe the communities harmed by cannabis criminalization will be left behind.

Themes from Interviews

The focus on equity is coming late, and many community leaders and organizations expect it to fail, particularly without funding. Despite statutory provisions focused on ensuring full participation in the industry, considerations of social and economic equity are not central to the CRA's language. One participant said "we're having this call a year after we should have. Multiple participants expressed that New Mexico is attempting to "back equity in after the fact," and are skeptical that a regulatory approach to equity will succeed. As one participant put it, "if you're not addressing equity at the forefront, you have a mess on your hands. Equity can't be an afterthought. It has to be the center of policymaking." Some participants described that they tried to raise equity considerations during the legislative process, with limited success, saying "it felt like we were somehow getting in the way of progress." Now, attempts to address equity are coming through rulemaking, with the associated constraints.

Some participants encouraged the Advisory Committee to learn from the experiences of other states, such as California and Illinois, which have made equity considerations central to cannabis legislation. Both states have funded equity programming, but even so, their equity efforts have struggled. A recent investigative report called California's attempt "a farce of social equity," noting that equity applicants have faced challenges securing adequate capital and navigating the complex regulatory environment.⁴ Illinois, which created a social equity program

⁴ <https://www.theguardian.com/us-news/2021/nov/04/cannabis-california-black-businesses>

as part of its decriminalization legislation, faced multiple lawsuits over its social equity application process,⁵ eventually passing new legislation in 2021 to address equity challenges.⁶

These states have struggled to achieve social and economic equity with funding; New Mexico does not have a funding stream for equity initiatives. Some participants hoped tax revenue generated by decriminalization could support equity applicants. Others, from an understanding of the CRA, were troubled that no funding is dedicated to equity programs. As one participant stated:

We're talking about how we're going to build an equity program with absolutely no money. ... To build a technical program after the fact will take a year or two years. Are we talking about a social equity program that will potentially roll out in a few years with funding? ... Is this even practical, or are we just spinning our wheels because the state wants to make it look like they care about equity?

Rural communities have unique needs

Cannabis has the potential to be a beneficial industry for rural communities, but rural communities need regulatory provisions that support smaller growers and small business owners. Absent such provisions, “we’re going to get overrun. The economic forces that are challenging for rural communities are exacerbated by the emerging cannabis industry...Rural communities aren’t ready for it, in terms of the natural resources, [or] in terms of the capacity of some of the smaller growers to get into the industry.”

Rural equity will require access to capital, infrastructure improvements, robust technical assistance to navigate the complexities of the industry, and clear protections for water.

Participants are worried about the impact of the cannabis industry on groundwater

The new industry’s water usage was one of the most common topics raised across interviews. Participants want to protect groundwater, one of New Mexico’s most precious resources, and want the regulatory framework to address water usage. Appendix B addresses this significant issue in more depth.

The state needs clear eligibility criteria for equity applicants

Participants hope the regulatory framework will include a well-defined process to identify and support applicants that qualify for equity assistance. Participants recommend that this definition include specific indicators of economic and social equity, while ensuring the definition is broad enough that New Mexicans from communities impacted by criminalization are not excluded.

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<https://www.chicagotribune.com/marijuana/illinois/ct-biz-illinois-marijuana-dispensary-licenses-social-equity-20200904-azjslasc2zbsxnpttteea7vali-story.html>

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<https://www.sj-r.com/story/news/2021/05/26/illinois-bill-gives-minorities-more-chances-to-win-dispensary-licenses/7441063002/>

Federal regulations create complexity

Participants described that existing entities that receive federal funds, such as incubator programs for food businesses, cannot participate in cannabis production or training programs. Even when they have the skill, expertise, and desire to support equity applicants with space or technical assistance, they cannot do so. And, because of regulatory confusion across agencies and between federal, state, tribal, city, and county-level governments, many potential equity applicants are hesitant to touch the industry. Potential producers and workers are unsure who to approach with questions and whether asking questions will raise concerns from federal authorities. These challenges are compounded in tribal communities, as highlighted by the recent federal raid of a home garden on Picuris Pueblo.⁷

Barriers to entry favor larger out-of-state producers

The cannabis industry operates in a uniquely complex business and regulatory environment, making it challenging for small businesses. Participants described that it is a highly technical industry. Large corporations have access to capital, legal advice, expertise, and experience from other states that helps them get started and navigate the regulatory process. New Mexican small businesses and micro-producers do not have access to these resources. Participants believe this will limit opportunity for New Mexicans from communities harmed by criminalization, describing that “we already have large corporations based out of state that have gotten in on the ground level. New Mexicans are already a step behind.” Participants are skeptical of the ability of small businesses to compete with national and international corporations, and are concerned about workers at large corporations, noting they have limited protections.

Participants hope decriminalization will improve the state’s economy, but believe it is more likely that the cannabis industry will benefit large corporations and not New Mexicans in the communities most impacted by prohibition.

Recommendations from Participants

Create a clear definition of “equity applicant” that provides opportunities for the many New Mexicans who have been hurt by the criminalization of cannabis

Participants request that the regulatory structure clearly define qualifying characteristics for equity applicants by identifying communities that have been disproportionately harmed by cannabis prohibition. Participants want clear language that is easy to understand, and suggested some criteria, including identifying as BIPOC and/or LGBTQ, being a woman, living in a census tract that lost population, attending a school that lacked diverse teaching staff or had a police presence, and having a household income below 80% of the AMI.

Most frequently, participants asked that the criteria name race, gender, and other identity markers reflective of communities that have faced disproportionate cannabis arrest rates. As one participant put it, “a must-have for me is indicating who an [equity] applicant is, not being fearful of excluding race, gender, LGBTQ, etc from who gets to qualify.” The Advisory

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<https://abcnews.go.com/Health/wireStory/cannabis-bust-indigenous-land-highlights-legal-divide-81270108>

Committee may want to investigate the legality of giving priority to individuals from these directly-impacted groups.

Participants also advocated for broader equity criteria. One participant asked “how many criteria need to be met?” and described a conversation hosted by Albuquerque’s Cannabis Equity Working group:

We were looking at each other and the makeup of our group and saying, ‘based upon these qualifications, how many of us would be able to be part of this program? ... Every person in there would be a perfect equity applicant because of other criteria. But saying people need to meet three of the criteria may be too much. Saying they had to meet four was absolutely too much. And so, thinking about what will be the opportunities as an ‘equity applicant,’ and can it be a little wider to provide the most opportunity to people?’

Other participants agreed that the draft criteria are too narrow. For instance, the proposed criterion that an individual “have lived in a New Mexico census tract for the past 5 years where at least 17% of the households have incomes at or below the federal poverty level” could be exclusionary, ruling out New Mexicans who were negatively impacted by cannabis prohibition earlier in their lives. One participant said, “I grew up in the 90s in the war on drugs. We were at war on the streets. It was horrible. When I saw that crime and education weren’t better, I moved to give my son a different opportunity...if I did [want to get into cannabis], I think that would rule me out. And now I’m prepared and could actually thrive.” Participants recommended that equity criteria be comprehensive enough to allow those who were negatively impacted by cannabis prohibition in their youth to take part, noting that a vast majority of New Mexicans live in communities where the average income is below 80% of the Area Median Income (AMI).

CCD could open equity applications to individuals who grew up in communities with poor public education outcomes, high crime areas, high policing areas, and high overdose rates, which would allow many individuals who grew up in New Mexico to qualify. As one participant said, “this program can’t be open to everybody, but there are parts of it that should be free and open to everybody because New Mexico has a lot to make up for.”

Finally, participants expressed interest in a holistic approach to assessing equity applications. One participant said, “There’s also a way to have a holistic lens, to see the full person outside of ‘check the boxes’, which requires more staff, and more nuance, and more people power behind reading through who that person is and what are they going to be bringing and what is their commitment.”

CCD and the Advisory Committee could meet the needs articulated by participants in the interview process by following certain principles in crafting the definition of an “equity applicant,” including:

1. Name the communities and groups that have been hurt by the criminalization of cannabis, and allow individuals from those communities and groups to qualify as equity applicants.
2. Write the criteria in plain language that are easy for potential applicants to understand.
3. Create a broad definition to maximize participation from New Mexicans. Remove references to restrictive “past 5 year” residency stipulations. Ensure that applicants that meet a small number of equity criteria qualify for at least some equity assistance.

Participants shared some ideas for additional criteria that CCD could include in the definition of an equity applicant:

- You live in a community that lost population in the most recent census.
- You attended school in a New Mexico public school district.
- You identify as Black, Indigenous, or a Person of Color.
- You are a woman.
- You are disabled.
- You identify as LGBTQIA+.

Ensure regulations protect workers

CCD should ensure the cannabis industry creates good jobs that benefit New Mexicans who have been hurt by cannabis prohibition. As a recent report from the Economic Policy Institute states, “no matter how many business owners of color the industry creates, there will be many multiples more rank-and-file workers in the industry. Policies must be put in place at the outset to ensure that cannabis employees share equitably in the growth of the industry, with good-paying, safe, family- and community-sustaining jobs.”⁸

CCD’s licensure process provides a starting point for guaranteeing workers’ rights, requiring applicants to include a social and economic equity plan. But, a senior official with the Regulation and Licensing Department, which oversees CCD, recently said that CCD is not rejecting any applicants based on weak equity plans.⁹

Participants want to see large businesses held to the equity provisions of their applications. Equity plans that are not reviewed, evaluated, or enforced do not serve the individuals and communities harmed by cannabis prohibition. As one participant asked, “what are the guarantees for New Mexico’s workforce and workers?”

The equity plans required in the licensure applications should be evaluated at the time a producer applies, and CCD should reject applications with weak equity plans. Then, CCD should build monitoring infrastructure to enforce equity plans for approved applicants, with consequences for non-compliance. CCD should prioritize monitoring and enforcement of the largest providers, which impact the most workers and are most equipped to navigate compliance requirements.

⁸ <https://www.epi.org/publication/ensuring-the-high-road-in-cannabis-jobs/>

⁹ <https://www.krqe.com/plus/data-reporting/whos-applying-to-be-new-mexicos-first-cannabis-producers/>

The Advisory Committee can assist CCD, and help potential applicants, by setting out criteria for strong equity plans. At a minimum, participants suggest that equity plans and protections for workers include:

- Hiring requirements. In alignment with the CRA, equity plans should require producers to prioritize hiring New Mexicans from communities disproportionately harmed by cannabis prohibition. If a mandate is not possible, then CCD may find ways through the regulatory structure to incentivize hiring New Mexicans from directly-impacted communities. But, as one participant said, “incentives are great, but instead of incentives..for hiring, it needs to be mandatory, especially from any out-of-state entity coming in and establishing [a business].”
- Protections and guarantees for workers. Those who enter the workforce take significant risks by working in an industry that is still criminalized at the federal level. Working in cannabis is unlike any other industry, and it creates day-to-day challenges. For instance, it can be hard for a cannabis worker to cash a paycheck or buy a house when their income comes from a cannabis company. And, because cannabis is still criminalized federally, workers are not always clear whether federal employment protections apply to them. Participants emphasized that cannabis employees are in a vulnerable position, which increases the risk that employers take advantage of them. CCD’s equity plans should require producers to describe how they will provide a living wage and benefits, safe working conditions, and training for workers. Equity plans should describe the steps the company will take to adhere to state and federal labor laws, and articulate how the business will protect workers against liability associated with the emerging industry.
- Evidence of responsible water use. Access to clean, available groundwater is an equity issue for New Mexicans. Equity plans should require large producers to demonstrate they are adhering to water regulations, will use water responsibly, and ensure that their water usage will not impact Pueblo and traditional water users.

CCD can also take action outside of the application process. CCD should ensure that the regulatory structure protects workers’ rights to organize collectively in a union. “Unionization is key to ensuring that the emerging cannabis industry provides safe, good-paying, and community-sustaining jobs.”¹⁰

Finally, CCD should consider waiving or reducing some application, implementation, or monitoring requirements for equity applicants themselves, as these are likely to be smaller businesses that are already navigating a complex regulatory environment.

Secure funding for equity programs

Participants urge the Advisory Committee and CCD to identify ways to fund equity initiatives. As one participant wondered, “Is there going to be consistent funding to an equity program?”

Funding is necessary because of the complexity of the industry and the significant barriers businesses face.

¹⁰ <https://www.epi.org/publication/ensuring-the-high-road-in-cannabis-jobs/>

The costs are prohibitive to enter into a competitive arena. That's what has happened in other states. The smaller people who have entered really can't survive the first year or two. They don't have the resources. And meanwhile, the larger facilities or distributors keep growing. They come in as "top dog" and just start growing. Even though you have a lot of people applying on the ground level that meet certain criteria of income level, etc, they're not really set up for any long-term success. How do we prop them up?

Equity applicants need significant startup capital, specialized legal advice, and support navigating regulator compliance. Workers need workforce development programs and effective training. All of this requires funding. One participant said "if there's no money for this, there's really nothing that's going to happen. So, that's my concern."

Use funds to support equity

If CCD or the Legislature can identify funding sources, interview participants have the following recommendations for how to use the funds:

Provide access to seed capital. A business license is not useful without the funding to start a business, and loans are often not available in the cannabis space, particularly for those most impacted by cannabis criminalization. Without money, start-up businesses are likely to fail in the first few years. Participants noted that New Mexico can learn from other states. In California, "most of the people who started with the first round of social equity licensing no longer exist. They couldn't get access to the capital."¹¹ NMFA and RLD's recent announcement of a \$5M lending program for microbusinesses is a welcome start. Participants noted that new businesses need at least \$150,000, per person, in support to have a chance at a strong start.

Pair funding with culturally-competent technical assistance programs. "It's highly technical to grow cannabis and take it to market. There's a need for training for that segment of the industry," said one participant. We need "technical assistance," said another. "It's a tough industry to get into...this is not a get rich quick scheme. This is hard work." Participants asked for a place for people "to be able to ask questions," including legal questions. But, interviewees do not want to see New Mexico bring in large, out-of-state service providers that do not know New Mexico's context. They described unsuccessful efforts in other states that were generic and not specific to the community context. "Equity applicants share it wasn't applicable, it wasn't helpful, and the funds that were supposed to go to equity applicants go to outside consultants." Instead, interview participants want to see CCD build technical assistance programs, or contract with local technical assistance providers that can provide technical support that will work for New Mexico's communities.

¹¹Christine De La Rosa, co-founder and CEO of cannabis company The People's Ecosystem, quoted in <https://www.theguardian.com/us-news/2021/nov/04/cannabis-california-black-businesses>

Remove barriers to entry through state-funded incubator and cooperative models for microbusinesses and licensees. Many equity applicants and microbusinesses will have similar needs, which can be addressed efficiently and cost-effectively through community-based models. With funding, CCD could support the development of an ecosystem of cannabis organizations by creating shared spaces, funded through state funds to avoid restrictions associated with federal funding, that meet the unique needs of the cannabis industry. These could include:

- A. Shared manufacturing spaces. Commercial kitchens that receive federal funding are prohibited from working with cannabis products. Even those that do not receive federal funds are hesitant because of liability, insurance, public relations, and contamination concerns. Multiple interview participants advocated for the state to fund production spaces specific to the cannabis industry. These spaces would support microbusinesses and equity applicants by providing a place to produce products, and by sharing knowledge around intricacies of chemistry, dosing, strains, etc used in products.
- B. Legal and training hubs, which could support equity applicants in completing applications and navigating regulations. These could provide deep legal training classes, one-on-ones with lawyers, support building pitch decks for fundraising, and other skill development that would support equity applicants in succeeding in the industry.
- C. Land, purchased by the city or state, and dedicated to cannabis production. A public body could allow equity applicants to use such land at no or low cost, which would decrease the start-up costs for equity applicants and would represent an investment by the state in the people most harmed by cannabis prohibition.
- D. Publicly-supported shelf space, through either pop-up storefronts or prioritized shelf space at retailers, which could be incentivized by either state or local funds.

Interview participants want to ensure that rural communities benefit from any of these initiatives and that they are not centered in urban communities. “What we can do differently than any other state is any fund that we create, and any technical assistance, we focus on legacy farmers, ranchers, in these acequia communities.”

Interview participants are excited by the possibilities of these community-based models to build the cannabis industry. One said, “let’s make opportunities for our people to invest in our people...we’re not shooting high enough.” Another added, “there’s an opportunity to build wealth creation in this model.”

Appendix A: Remaining Questions

The participants raised many questions beyond the scope of this report, but which may be beneficial topics for further conversation and study. These include:

- A. Could future legislation require Community Benefits Agreements to strengthen protections for workers and communities, especially when dealing with out-of-state operators?

- B. What regulatory and legislative mechanisms are available to provide legal clarity or protections to equity applicants and workers based in tribal communities?

Appendix B: Water

The cannabis industry could harm rural and low-income communities because of the impact on surface and groundwater supplies and community water systems. While the topic of cannabis water use, and the interplay with New Mexico water rights and water needs, is highly technical and a detailed analysis of the issue is beyond the scope of this report, many of the focus group participants brought up water usage as one of their top concerns. As one participant wrote in a follow-up email, “equity in NM translates as water equity.”

The CRA requires CCD to consider water usage as part of the licensing process.

In carrying out its commercial cannabis activity licensing duties, the division shall ... require as a condition of licensing pursuant to the Cannabis Regulation Act that the applicant demonstrate that the applicant has a legal right to a commercial water supply, water rights or another source of water sufficient to meet the water needs as determined by the division related to the license as evidenced by documentation from the office of the state engineer of a valid water right or from a water provider that the use of water for cannabis production is compliant with that water provider's rules. (CRA, 7.B.3)

The CRA also requires licensees to demonstrate a commitment to water-conserving technologies such as drip irrigation, and requires CCD to promulgate rules that “ensure licensees' compliance with state and local laws and ordinances governing ... water use and quality, water supply, hazardous materials, pesticide use and wastewater discharge.”

Focus group participants said that these requirements in the CRA are weak given the magnitude of the challenge, and critiqued the implementation so far through licensing and regulation. They noted the reality that cannabis can be a water-intensive crop, with water usage varying depending on the growing setup and irrigation system. They have experience with the significant negative impacts of medical cannabis production, sharing the example of farms at Peña Blanca and Sile, which stressed local community water systems while using 463% more water than the average household. Participants were united in their belief that the cannabis industry will need more water than New Mexico can provide, and expressed significant concern that water issues are not being adequately addressed. “This was a rushed bill with resource and logistical needs not considered beforehand,” wrote one participant. “Water systems are scrambling to figure out how to allocate water for cannabis correctly as the state has provided no assistance or even attempted to understand the issues.”

Participants emphasize that water in New Mexico is limited, water rights are fully appropriated, and new uses of water typically come through water transfers or water leases. This exacerbates the commodification of water, which worries many interview participants. “The underlying

problem of the commodification of water is going to be exacerbated by cannabis,” said one participant. Another said, “the water part terrifies me a bit.” A third lamented that “the water issue feels overwhelming.”

Focus group participants are adamant that New Mexico must not replace one public health crisis—the criminalization of cannabis—with another, caused by an extractive industry that takes from low-income and rural communities while harming communities’ water supplies. They also emphasize the need to protect tribal water rights and to create regulations that allow pueblo and traditional water users to benefit from the new industry. They note the complexity of water systems, and that pumping groundwater can deplete streamflows and affect tribal water rights.

Participants recommend that CCD enforce the existing provisions and regulations and that the Advisory Committee advocate for additional water usage provisions in future legislation. In the focus groups and follow-up communications, participants made the following suggestions related to water:

- Recognize that water is an equity issue.
- Promulgate rules regarding environmental impacts, natural resources, public health, and safety before adopting producer regulations
- Require evidence of responsible water use from all applicants and particularly large producers.
- Remove the “variance mechanism” language from the draft rules that would “allow any applicant or licensee to evade water, equity, plant limits and environmental requirements.” Instead, fund the Office of the State Engineer so that it can properly review applications for water usage and enforce water requirements.
- Require consultation between CCD and the Office of the State Engineer, which has more experience with water usage.
- Require consultation with tribes on any licensure applications that could impact tribal water rights.
- Provide clarity to community water systems, which are chartered to provide safe drinking water to their communities, and ensure them that requirements will for cannabis producers will be enforced by the state

The following interview participants would be particularly interested in connecting with the Advisory Committee to share perspective and expertise on water-related issues:

- Julia Bernal, Director of the Pueblo Action Alliance
- Rosalie Flores, NM Cannabis Justice Project
- Paula Garcia, Executive Director of the New Mexico Acequia Association

Appendix C: Invited Community Leaders

ACLU Smart Justice	Barron	Jones
APCD-ED	Amber	Carillo
Barrios Unidos NM	Lupe	Salazar
Bold Futures	Charlene	Bencomo
Center for Civic Policy	Oriana	Sandoval
Center of Southwest Culture	Arturo	Sandoval
CESSOS	Jorge	Garcia
City of Albuquerque Cannabis Equity Working Group	Shawna	Brown
City of Albuquerque Cannabis Equity Working Group	Paul	Haidle
City of Albuquerque Cannabis Equity Working Group, Seven Point Farms	Robert	Jackson
Consultant	Laurie	Weahkee
Disability Rights New Mexico	Jim	Jackson
Equality NM	Marshal	Martinez
Forward Together	Diana	Lugo-Martinez
Generation Justice	Roberta	Rael
International District Economic Devp Center	Alex	Horton
La Plazita Institute	Albino	Garcia
Los Jardines Institute	Richard	Moore
NAVA	Ahtza	Chavez
New Mexico Cannabis Justice Project	Rosalie	Flores
NM Acequia Association	Paula	Garcia
NM CAFÉ	Johana	Bencomo
NM Community Capital	Henry Jake	Foreman
NM Land Grant Council and UNM Land Grant Studies Program	James	Aranda
NM Main Street	Daniel	Gutierrez
NM Voices for Children	James	Jimenez
NMCAN	Ezra	Spitzer
OLé	Andrea	Serrano
Partnership for Community Action	Javier	Martinez
Pueblo Action Alliance	Julia Fay	Bernal

Rio Grande Community Development Corporation & South Valley Economic Dev. Ctr.	Josue	Olivares
Roanhorse Consulting	Vanessa	Roanhorse
Sixth World*	Janene	Yazzie
Somos un Pueblo Unido	Marcela	Diaz
Southwest Organizing Project	George	Lujan
Street Food Institute	Tina	Garcia Shams
Tewa Women United	Corrine	Sanchez
Three Sisters Kitchen	Anzia	Bennett
Together for Brothers	Christopher	Ramirez
Transgender Resource Center	Adrien	Lawyer