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FISCAL IMPACT REPORT

SPONSOR House Commerce and Economic Development Committee LAST UPDATED _____
ORIGINAL DATE 3/3/2025
BILL CS/House Bill
SHORT TITLE Cannabis Licensure Changes NUMBER 112/HCEDCS
ANALYST Montano

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
DPS	No fiscal impact	Up to \$220.0	Up to \$220.0	Up to \$440.0	Recurring	General Fund
RLD	No fiscal impact	No fiscal impact	No fiscal impact		Recurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From

Regulation and Licensing Department (RLD)

NM Attorney general (AG)

Department of Public Safety (DPS)

Agency Analysis was Solicited but Not Received From

Office of the State Engineer (OSE)

SUMMARY

Synopsis of HCEDC Substitute for House Bill 112

The House Commerce and Economic Development Committee substitute for House Bill 112 (HB112) introduces several amendments to the Cannabis Regulation Act in New Mexico. The bill primarily focuses on criminal history background checks, licensing application requirements, and clarifications to cannabis-related definitions.

The bill requires both state and federal criminal history background checks for applicants seeking cannabis-related licenses. These checks will be conducted through the Department of Public Safety and the Federal Bureau of Investigation. The bill also establishes a process for reviewing criminal records, allowing applicants to provide evidence of rehabilitation, character references, and other mitigating factors. Additionally, it clarifies that certain prior cannabis-related convictions cannot be used as the sole reason to deny a license, aligning with New Mexico's broader efforts toward criminal justice reform.

The bill revises licensing procedures, requiring that all applications for cannabis business

licenses be signed by the applicant or an authorized representative. The Cannabis Control Division must now process applications within 90 days of receiving a completed submission. The division is also granted authority to deny, suspend, or revoke licenses if the applicant has a history of fraud, tax liens, or violations of cannabis laws in New Mexico or other states. Applicants must also demonstrate a legal water supply for cannabis cultivation and submit a plan for energy and water conservation as a condition of licensing.

Several definitions in the Cannabis Regulation Act are amended or clarified, including terms related to cannabis production, distribution, retail sales, and regulatory oversight. The bill updates language on cannabis couriers, manufacturers, testing laboratories, and microbusinesses, ensuring consistency across regulatory provisions.

Another major provision in the bill is the expansion of the Cannabis Regulatory Advisory Committee, which advises on licensing standards, industry best practices, and consumer safety measures. This committee will now include representatives from public health organizations, environmental science experts, small business advocates, and representatives from communities historically impacted by cannabis prohibition.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

RLD anticipates that the additional administrative capacity needed to adequately process and evaluate an applicant's federal criminal history can be absorbed by the Cannabis Control Division's current resources.

The Department of Public Safety (DPS) will assume additional responsibility for criminal background checks, which will increase the number of finger-print based background checks. DPS highlights that this increases workload and costs, including a potential need for up to two additional automated fingerprint technicians at a cost \$220 thousand. DPS also added this commentary regarding the fiscal implications of HB112:

Currently, two employees process fingerprints for NMDPS. In 2024 they handled about 200,000 fingerprint submissions, each employee averaging 396 quality assurance checks on submission per day. Adding new ORIs [Originating Agency Identifiers], including civil agencies like the Regulation and Licensing Department (RLD), will increase the volume of work to this already overstretched unit. Increased submissions will lead to longer processing times and delays in providing results, potentially compromising efficiency and regulatory compliance.

There are no direct implications related to revenue generated because of this bill, but there could be a loss of generated revenue for CCD from increased barrier of entries to receive a license in all aspects related to cannabis. The increased requirements that all applicants must complete a federal background check may dissuade potential applicants. If the total number of applicants in all sectors decreases, then expected revenue could also decrease due to the lower number of possible licenses.

SIGNIFICANT ISSUES

Requiring mandated rigorous fingerprint based criminal background check aligns with federal standards under 28 Code of Federal Regulations Part 20, which governs criminal justice information systems and restricts access to non-public criminal history data. DPS highlights that CCD will require an Originating Agency Identifier (ORI), which is a unique identifier assigned by the FBI to agencies that are authorized to access criminal justice information. ORIs are intended to track and request background checks, criminal records, and other law enforcement data. DPS adds this commentary on the process CCD must take to obtain an ORI:

To obtain an ORI, CCD must comply with Public Law 92-544, which establishes strict guidelines for the use and dissemination of criminal history information. This law ensures that only agencies with legitimate governmental functions such as law enforcement, licensing boards, and other regulatory bodies—can access sensitive criminal records. Compliance typically requires state legislation or executive order affirming the agency’s authority to conduct background checks for specific purposes, ensuring adherence to privacy and security regulations. Once legislation is approved, it must be reviewed by the FBI’s Criminal Justice Information Law Unit (CJILU) to ensure compliance with federal law and regulations. CJILU evaluates whether the law aligns with Public Law 92-544 and meets the requirements for access to criminal justice information. If the legislation is deemed compliant, CJILU will authorize the issuance of an ORI. Due to the thorough review process and federal oversight, obtaining an ORI can take more than 365 days before final approval and issuance.

The New Mexico Attorney General notes:

The substitute bill, in Section 3, varies from the original bill in that it uses the phrase *all controlling persons of an applicant* when referencing that information submitted by the applicant must be considered. However, in other parts of that same paragraph or subsection, the phrase *all controlling persons of an applicant* is not used, and applicant continues to be used. This appears to be inconsistent and unclear as to why not every reference to applicant is changed to *all controlling persons of an applicant* in that paragraph or subsection.

DPS notes:

The primary impact includes strengthening the regulatory framework around cannabis operations to ensure accountability and public safety. Additionally, it supports promoting equitable representation and participation within the cannabis industry, targeting underserved communities. The bill includes measures for environmental and product safety, along with provisions to prevent illegal cannabis production and distribution. For public safety and law enforcement, the bill necessitates coordination with the Department of Public Safety to enforce licensing compliance, conduct background checks, and regulate the legal cannabis market. Law enforcement may play a more prominent role in addressing violations under the revised cannabis regulatory framework.

ADMINISTRATIVE IMPLICATIONS

If HB112 is enacted, the CCD will be required to conduct an administrative rulemaking process to address the changes to existing statutes in the Cannabis Regulation Act and create necessary records handling and evaluation guidelines. DPS will also be required to carry out provisions of

this section, however, the attorney general adds that the bill does not clearly divide or assign which areas the CCD and DPS are responsible for. DPS also adds that once the CCD is approved for an ORI, then they would have to work with DPS to establish and ensure that fingerprinting systems are transmitting data to DPS and the FBI.

TECHNICAL ISSUES

NMAG highlights:

Section 2 of the substitute bill, just as in the original bill, removes the word license applicants. This appears to be intended as a non-substantive change. However, the term license applicants appears in another page in the bill. Section 3 of the substitute bill, just as in the original bill, references that the criminal history information shall not be considered a public record pursuant to the Public Records Act. However, the proposed language is likely to be intended to be that the criminal history information shall not be considered a public record pursuant to the Inspection of Public Records Act or IPRA found at 14-2-1, NMSA, which differs from the Public Records Act, 14-3-1, NMSA.

NM/hj