

LFC Requester:	Aurora Sanchez
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**AGENCY BILL ANALYSIS
2015 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply: Date 2/22/2015
Original **Amendment** **Bill No:** HB 527
Correction **Substitute**

Sponsor: Rep. Paul Pacheco **Agency Code:** Attorney General's Office
Short Title: Medical Cannabis Employee Background Checks **Person Writing:** Clara M. Moran
Title: Background Checks **Phone:** 222-9027 **Email:** cmoran@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

BILL SUMMARY

Synopsis:

The proposed legislation would give authority to the Department of Health to deny, suspend, or revoke the license of any current and future medical cannabis producer or employee of a cannabis producer if that person has either one (1) felony conviction for trafficking a controlled substance, distribution of any narcotic to a minor, or possession/distribution of any counterfeit narcotic drug or that person has two (2) felony convictions for a violation of any subsection of the Controlled Substances Act.

FISCAL IMPLICATIONS

N/A

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

The proposed legislation would require current and future medical cannabis producers, employees, contractors, and couriers to submit to a background check, performed by the Federal Bureau of Investigation. The proposed legislation would preclude a producer or employee of a producer or organization from working with that organization if that person has either one (1) felony conviction for trafficking a controlled substance, distribution of any narcotic to a minor, or possession/distribution of any counterfeit narcotic drug or that person has two (2) felony convictions for a violation of any subsection of the Controlled Substances Act. In the event a person has one conviction under the Controlled Substances Act, but not for either trafficking a controlled substance, distribution of any narcotic to a minor, or possession/distribution of any counterfeit narcotic drug or that person, that person could not be an employee until 5 years had passed from the date of conviction. Additionally, proposed subsection (C)(3) makes a conviction of “any equivalent federal statute or statute from any other jurisdiction” a basis to deny a person employment.

Under the bill, a person who has been denied employment due to felony convictions would be entitled to review the documents supporting the Department’s decision and appeal that decision

under the Department's regulations. The Department is further authorized to promulgate regulations concerning the administration of this proposed legislation.

The proposed legislation does not define conviction. In this regard, a possible issue to consider is whether the proposed legislation would consider a person who has received a conditional discharge, which is a non-adjudication of guilt, as being precluded from being an employee or producer.

Given the scope of the proposed bill's definition of "approved entity," opponents to this bill will likely argue there will be administrative challenges associated with operating a medical cannabis program, as the proposed bill would impact ever variety of person coming into contact with the business. For instance, under this proposed legislation, contractors would be required to submit to background checks. The proposed legislation defines a contractor as one who works on the premises, where cannabis is manufactured or distributed, and may reasonably be anticipated to come into contact with cannabis. Under this definition, any skilled trade contractor, such as a plumber or electrician, would need to have a background check or be warned that they cannot have any contact with cannabis, in any manner.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

Addressed above

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

AMENDMENTS