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| LFC Requester: | Jorgensen, Connor |
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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:
Original **Amendment**
Correction **Substitute**

Date 01/30/15
Bill No: SB 383

Sponsor: Senator Joseph Cervantes
Short Title: DECREASE MARIJUANA POSSESSION PENALTIES

Agency Code: Attorney General's Office
Person Writing: Sharon L. Pino, SDAG
Phone: 827-6930 **Email:** spino@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:

SB 383 is directly contrary to existing Federal Law under the Controlled Substance Act, under which possession of all amounts of marijuana are subject to criminal penalties.

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:

SB 383 amends 30-31-23 of the Controlled Substances Act by adding a new section, which decriminalizes possession of certain amounts of marijuana for adults.

- Possession of one ounce or less would now be classified as an offense subject to a civil penalty of \$50.00 for a first offense. A second or subsequent offense would be a petty misdemeanor, but subject only to a mandatory fine of up to \$100.00, without the possibility of jail time.
- Possession of more than one ounce, but not more than four ounces is subject to a civil penalty of up to \$100.00. A second or subsequent offense would be a petty misdemeanor subject to a mandatory fine of up to \$200.00, without the possibility of jail time.
- Possession of more than four ounces but not more than eight ounces would be a misdemeanor, subject to a mandatory fine of up to \$300.00, without the possibility of jail time.
- Possession of more than eight ounces would be a felony offense subject to sentencing for a fourth degree felony offense as provided in 31-18-15.

SB 383 also amends 30-31-25.1 of the Controlled Substances Act, which relates to possession, delivery or manufacture of drug paraphernalia by making the use or possession with intent to use drug paraphernalia in a manner detailed in Section 30-31-25.1(A) subject to a civil penalty of \$50.00. For a second or subsequent offense, it is a petty misdemeanor punishable by a mandatory fine of up to \$100.00.

FISCAL IMPLICATIONS

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

SB 383 contemplates decriminalization of small amounts of marijuana, rather than legalization of marijuana.

Any person, who has a legitimate medical need for marijuana, may already obtain that through New Mexico's Lynn and Erin Compassionate Use Act.

Decriminalization of smaller amounts of marijuana may increase its usage and the illegal sale and distribution of this controlled substance throughout the state. This raises the following issues:

1. It is well known that New Mexico currently has a limited amount of substance abuse treatment centers available to address alcohol abuse (a legal and highly regulated substance) and other forms of substance abuse. Under these circumstances it would be fair to say that New Mexico is ill equipped to provide treatment to persons developing addictions to marijuana
2. As New Mexico is a border state, an unintended consequence, should this bill become law, could be an influx of transnational gang activity relating to the sale and distribution of cannabis/marijuana. This would serve to negatively impact law enforcement's efforts around the state to enforce laws relating to the sale and distribution of marijuana and may have a negative social impact.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

AMENDMENTS