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FISCAL IMPACT REPORT

SPONSOR: Godbey DATE TYPED: 2/13/03 HB 461

SHORT TITLE: Repeal Lynn Pierson Research Program SB _____

ANALYST: Dunbar

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

Relates to: House Bill 242

SOURCES OF INFORMATION

Responses Received From

Department of Health (DOH)
 Health Policy Commission (HPC)
 Attorney General (AG)

SUMMARY

Synopsis of Bill

House Bill 461 (HB 461) would repeal NMSA 1978, Sections 26-2A-4 through 26-2A-7, the Lynn Pierson Therapeutic Research Program.

Significant Issues

In 1978, the New Mexico Legislature enacted the Controlled Substances Therapeutic Research Act that mandated the establishment of clinical research programs (“the Lynn Pierson Therapeutic Research Program”) to study smoked marijuana as a therapeutic agent. That program has been inactive since 1981, and it is unlikely that implementation of the Lynn Pierson Act at this time would accomplish the goals for which it was intended. Medical marijuana clinical research was conducted at the University of New Mexico between 1978 and 1986, but was then discontinued.

DOH notes that a law that would provide for the compassionate use of medical marijuana in a regulated environment would accomplish the goals for which the Lynn Pierson Act was intended but would provide more ready access to individuals suffering with debilitating diseases. DOH suggests that repeal of the Lynn Pierson Act should occur only in conjunction with passage of House Bill 242 (Lynn Pierson Compassionate Use Act).

According to DOH sources, this program has never been fully implemented and to date there have been no participants. Possible explanations for this include, the difficulty of meeting federal standards and guidelines for receiving federal funds, acquiring marijuana, and establishing the eligibility of prospective patients.

The New Mexico Department of Health has extensively discussed reinitiating medical cannabis research under the Lynn Pierson Therapeutic Research Program with investigators at the University of New Mexico Health Sciences Center and the Southwest CARE Center (the second largest provider of HIV/AIDS care in the state.) However, the investigators feel that the relatively small number of potential study participants, and the difficulty of acquiring the approvals required by the federal government, make it unlikely that a useful research program could be sustained. The investigators indicate the programs underway at larger research institutions would be more likely to provide information on the role of medical marijuana. Additionally, New Mexico investigators who were also the primary care physicians of cancer and HIV/AIDS patients stated that compassionate access to medical marijuana would provide more benefit to patients than a clinical research program. This consideration further reduced the motivation of investigators or patients to participate in research trials of limited value

RELATIONSHIP

HB 461 relates to HB 242. HB 242 would enact the Lynn Pierson Compassionate Use Program. The Program would provide for the regulated use of medical cannabis by individuals suffering from specific debilitating illnesses including cancer, HIV/AIDS, glaucoma and epilepsy. Physicians would make application to the program on behalf of patients who suffer from the defined debilitating illnesses and who might benefit from medical cannabis.

OTHER SUBSTANTIVE ISSUES

Current New Mexico Law

HB461 would eliminate the following from Chapter 26, Drugs and Cosmetics:

26-2A-4, of the Lynn Pierson Therapeutic Research Program section states –

- The Department of Health (DOH) shall administer the program, adhering to the rules and regulations promulgated by the Drug Enforcement Administration, Food and Drug Administration, and the National Institute on Drug Abuse.
- The Pierson program shall be limited to cancer chemotherapy patients and glaucoma patient who have been certified by a “qualification review board of physicians” as having a “life-threatening or sense-threatening” situation, and who are not responding to conventional medical treatment.
- The DOH administrator, based on the recommendations of the NM Medical Society, shall appoint to the Review Board the following certified and board certified physicians:
 - Ophthalmologist

- Internist with medical oncology sub-specialty
- Psychiatrist
- The PQRB shall review all applicants to the Pierson program.
 - The PQRB “may include other disease groups for participation after pertinent medical data have been presented,” and upon the necessary approval of the Drug Enforcement Administration, Food and Drug Administration, and the National Institute on Drug Abuse.

26-2A-6 addresses distribution.

- The DOH administrator “shall obtain marijuana through whatever means he deems most appropriate, consistent with regulations promulgated by the National Institute on Drug Abuse, Drug Enforcement Administration, and the Food and Drug Administration.
- The marijuana shall be transferred to a certified state-operated pharmacy for distribution to the certified patient, pursuant to the Controlled Substance Therapeutic Research Act.

26-2A-7 specifies that an annual report shall be provided to the Governor and the Legislature regarding recommendations and the effectiveness of the Pierson research program.

Federal regulation of therapeutic research programs is very specific as to where and how marijuana may be obtained and distributed for use in a State program, and while the US Supreme Court has consistently failed to uphold State Medical Use of Marijuana laws, the federal therapeutic use guidelines for distributing marijuana to be used for medicinal purposes include:

- Legal sources of marijuana for research purposes are: 1) Receiving it from the National Institute on Drug Abuse (NIDA); 2) Importing it from specific sources with permission from the DEA; 3) DEA permission to cultivate it; and 4) Using confiscated marijuana supplied by the State police.
- Using marijuana confiscated by State police for the purposes of a medicinal use of marijuana program requires that the marijuana must be tested to meet federal requirements on impurity, which is cost prohibitive.

BD/yr:sb