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## FISCAL IMPACT REPORT

**SPONSOR** Ortiz y Pino **ORIGINAL DATE** 9/30/2016  
**LAST UPDATED** 10/1/2016 **HB** \_\_\_\_\_

**SHORT TITLE** No Medical Marijuana Plant Limits **SB** 3/aSFC/aSFL#1

**ANALYST** Chenier

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
	\$2,760	\$2,760	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

### SUMMARY

#### Synopsis of Senate Floor Amendment #1

Senate floor amendment number 1 would add a limit to the number of plants a licensed nonprofit producer could possess at any given time to a number that is equal to 15 percent of qualified patients statewide at the time of application for licensure.

#### Synopsis of SFC Amendment

The Senate Finance Committee amendment to Senate Bill 3 clarifies that cannabis plant restrictions still apply to licensed personal production licenses and also limits fees paid on this type of license to \$30.00. The amendment also reduces the maximum per plant fee charged to licensed nonprofit producers to \$200.00.

#### Synopsis of Original Bill

Senate Bill 3 removes the Department of Health’s authority to restrict the number of cannabis plants a licensed medical cannabis producer may possess and requires producers to annually submit an application for license, or renewal for license, with a plan specifying the number of plants the applicant intends to possess. The bill also allows the department to assess a licensing fee not exceeding \$2,000 per plant.

## FISCAL IMPLICATIONS

Currently, Section 26-2B-1 NMSA 1978 provides the Department of Health with administrative flexibility to limit the number of licensed nonprofit producers (currently set at 35) and limit the number of cannabis plants a producer is allowed to possess (currently set at 450). Licensed producers are charged a fee of \$200 per plant and at any given time as many as 15,750 plants are legally allowed to be in production. In FY18 licensed producers are expected to pay fees on about 13,800 plants amounting to \$2.76 million. The sole source of revenue for the Medical Cannabis Program is licensing. Expenditures are expected to match revenues.

It is presumed that if per plant licensing fees were maintained at the current rate but plant limits were eliminated, production would increase precipitously. Doubling the plant count by the end of FY17 and maintaining current license fee rates would add about \$2.76 million to the program.

Unexpended revenue to the program reverts to the general fund. If plant counts were doubled, at least \$2.76 million would be reverted to the general fund.

## SIGNIFICANT ISSUES

Some states have restrictions on the number of plants producers are allowed to have and other states such as Nevada and Arizona have none. California and Washington limit the square footage of plant production facilities and other states such as Delaware, Maine, and New Hampshire limit plant counts based on patient need.

During the first quarter of 2016, the most recent period for which data are available, producers averaged 286 plants in production. The number of plants ranged from 0 to 450, the maximum allowed under current state regulations. The number of plants harvested by licensed nonprofit producer in the same period ranged from 0 to 310, yielding total production of 1.3 million grams.

The Medical Cannabis Program licenses two classes of producers. The first class of producers are Personal Production License (PPL) holders. The second class of producers are licensed nonprofit producers (LNPPs).

The Department of Health provided the following:

Plant count limits for PPLs and LNPPs serve to limit the potential for additional scrutiny from Federal law enforcement. Cannabis remains a Schedule I controlled substance under the U.S. Controlled Substances Act, meaning that it is not recognized by the U.S. government as having any beneficial use, and cannot be prescribed.

The Department also anticipates that HB3 would create significant administrative burdens for the Program. With increased plant totals, the Department anticipates having greater difficulty in monitoring LNPP production and distribution.