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FISCAL IMPACT REPORT

SPONSOR Ortiz y Pino **ORIGINAL DATE** 02/15/21
LAST UPDATED 02/16/21 **HB** _____
SHORT TITLE Medical Marijuana Changes **SB** 340
ANALYST Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Minimal	Minimal	Minimal	Minimal	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to House Bills 12, 17 and 183 and Senate Bills 13, 216, 288 and 363

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Office of the Attorney General (NMAG)

Department of Health (DOH)

SUMMARY

Synopsis of Bill

Senate Bill 340 (SB340) redefines the term “reciprocal participant” in the medical marijuana program, which requires a change to Section 26-2B-3 NMSA 1978 of the medical marijuana act, referred to as the “Lynn and Erin Compassionate Use Act. The altered definition indicates that reciprocal participants are not residents of New Mexico and who are authorized by another state’s, the District of Columbia’s or a territory or commonwealth of the United States’ medical marijuana program to participate in that program, or who are members of a New Mexico Indian nation, tribe or pueblo and authorized by that entity’s government to participate in the medical marijuana program.

Section 28-2B-7 NMSA 1978 allows reciprocal participants to participate in New Mexico’s medical marijuana program, and Section 24-2B-4 NMSA 1978 states that reciprocal participants are exempt from prosecution or arrest for doing so.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

There is no appropriation or fiscal implications to note from passage of Senate Bill 340.

AOC notes that “There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes... To the extent, however, that the SB340 amendment expands the group of medical cannabis users and consumers not subject to civil and criminal penalties for possession, use, transport, purchase and the obtaining of cannabis products, the demand for court resources and time associated with related offenses may diminish.”

SIGNIFICANT ISSUES

Need for this amendment to the Lynn and Erin Compassionate Care act arose when New Mexico residents crossed state lines to get a certificate of medical need in a state with laxer requirements for such a certificate and then brought it back to New Mexico to use reciprocity to obtain medical marijuana in their home state. The New Mexico Department of Health ruled that this was not permissible, and suit was brought against DOH.

As noted by NMAG, “This is likely an amendment stemming from the December 2020 order in a New Mexico District Court case (No. D-101-CV-2020-02059) wherein the Court found the New Mexico Department of Health is allowed to limit who can become a reciprocal medical cannabis patient through department rules. The new definition aligns with the DOH proposed rules, clarifying who would qualify for reciprocal medical cannabis use in New Mexico if an individual obtained medical marijuana authorization in another state or Indian nation, tribe, or pueblo... The above-named case is on appeal; this amendment would likely render that appeal moot as well as clarify and solidify the issues presented in that matter.”

DOH points out that “SB340 would have the effect of preserving access to medical cannabis for qualified patients and qualifying reciprocal participants; preventing the conversion of the Medical Cannabis Program into a quasi-recreational cannabis program; and preventing NM residents from circumventing enrollment criteria for the Medical Cannabis Program, which include the requirement that a qualified patient obtain an annual medical certification.”

RELATIONSHIP with House Bill 12, House Bill 17, Senate Bill 13, Senate Bill 288, and Senate Bill 363, all of which would legalize and regulate recreational marijuana, and to House Bill 183 and Senate Bill 216, which would reduce penalties for possession of marijuana.

LAC/rl/sb