



**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Conflicts with HB 128 and SB 6, also amending Section 26-2C-2 and 26-2C-7 NMSA 1978.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: The HCPAC Substitute for HB 226 amends statutory sections within the Cannabis Regulation Act (CRA), Section 26-2C-1 NMSA 1978, et. seq., as follows:

- **Section 26-2C-2 NMSA 1978:** provides definitions for “applicant” and “licensee.”
- **Section 26-2C-3 NMSA 1978:** requires the Cannabis Control Division (“division”) of the Regulation and Licensing Department (“department”) to receive and maintain information and data from the Dept. of Public Safety (DPS) and the Federal Bureau of Investigation relating to licensing disqualifications based on criminal history.
- **Section 26-2C-7 NMSA 1978:** requires signing of an application for licensure by the applicant or signed by an officer or other person with legal authority to sign documents for the corporation or other legal entity. The substitute bill also authorizes the division to have access to criminal history records information furnished by DPS and the FBI, to investigate the suitability of an applicant for licensure for the medical cannabis program or commercial cannabis activity, subject to any restrictions imposed by federal law. Under the substitute bill, if the division considers an applicant’ criminal history record, the division shall also consider information provided by the applicant about the criminal history record, including evidence of rehabilitation, character references and educational achievements. The HCPAC Substitute for HB 266 requires an applicant for a license to conduct commercial cannabis activity to undergo a state and federal criminal history records check, and specifies procedures on the part of the application, DPS and the division, which is to use information provided by DPS and resulting from the fingerprint-based criminal history records check to investigate and determine whether an applicant is qualified to hold a cannabis license. The substitute bill requires criminal history information received that is not already a matter of public record:
  - (1) Be confidential;
  - (2) Be restricted to the exclusive use of the division for evaluating the applicant’s eligibility or disqualification for licensure;
  - (3) Not be considered a public record pursuant to the Public Records Act; and
  - (4) Not be disclosed to anyone other than public employees directly involved in the decision affecting the applicant.

**FISCAL IMPLICATIONS**

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions for disclosure of confidential information, and appeals from convictions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

### **SIGNIFICANT ISSUES**

- 1) The HCPAC substitute for HB 266 requires criminal history information received that is not already a matter of public record not be disclosed to anyone other than public employees directly involved in the decision affecting the applicant. There is no penalty, however, for disclosure of information. Unlike some other Acts, there does not appear to be a general penalty section for violations of the CRA for which a specific penalty is not provided.
- 2) The substitute bill appears to correct for the previously-noted concerns of DPS, both in 2024 and 2023, of a statutory section regarding background checks with insufficient detail and specificity, such that the FBI deems it overbroad.

### **PERFORMANCE IMPLICATIONS**

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

### **ADMINISTRATIVE IMPLICATIONS**

See “Fiscal Implications,” above.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Conflicts with HB 128 and SB 6, also amending Section 26-2C-2 and 26-2C-7 NMSA 1978.

### **TECHNICAL ISSUES**

### **OTHER SUBSTANTIVE ISSUES**

### **ALTERNATIVES**

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

### **AMENDMENTS**

- 1) Either provide a specific penalty for disclosure of criminal record information received or create a general penalty section within the CRA for violations of that Act for which a specific penalty is not provided.