

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

SPONSOR McCamley ORIGINAL DATE 1/25/18  
LAST UPDATED \_\_\_\_\_ HM 5

SHORT TITLE Federal Law to Protect Medical Cannabis SB \_\_\_\_\_

ANALYST Daly

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

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	NFI	NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SJR 4

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the District Attorneys (AODA)

New Mexico Medical Board (NMMB)

New Mexico Attorney General (NMAG)

### SUMMARY

#### Synopsis of Bill

House Memorial 5 resolves that a formal request be made to the New Mexico congressional delegation to create new legislation protecting medical cannabis users in New Mexico from the threat of being sent to federal prison.

### FISCAL IMPLICATIONS

LFC staff anticipates no fiscal impact on the State from this memorial.

### SIGNIFICANT ISSUES

Although marijuana use is illegal under federal law, New Mexico has legalized the use of cannabis for medical purposes since 2007 under the Lynn and Erin Compassionate Use Act. As described in HM 5, until recently the Department of Justice has refrained from enforcing federal cannabis laws in states that have legalized its use. However, as reported by AODA, in January 2018, United States Attorney General Jeff Sessions reinstated a policy of enforcing the federal marijuana laws in states that have legalized its use.

## House Memorial 5 – Page 2

A number of states have legalized marijuana for medicinal or recreational purposes. AODA advises that as to the apparent conflict between federal and state law, the United States Supreme Court has held that Congress' authority under the Commerce Clause includes the power to prohibit the local cultivation and use of marijuana – even where that cultivation and use is completely intrastate and complies with state law. See *Gonzales v. Raich*, 545 U.S. 1 (2005). See also *Gonzales v. Oregon*, 546 U.S. 243 (2006).

According to HM 5, over forty thousand patients in this state legally use medicinal cannabis, which use is authorized by New Mexico law. In an effort to protect those users, HM 5 requests New Mexico's congressional delegation enact federal legislation for that purpose.

### RELATIONSHIP

HM 5 is related to SJR 4, which amends the New Mexico Constitution to authorize recreational use of marijuana by persons 21 years of age and older.

### TECHNICAL ISSUES

NMAG suggests for purposes of clarity insertion of the word “federal” following the word “new” in the phrase “create new legislation” on page 2, lines 16-17.

### OTHER SUBSTANTIVE ISSUES

NMMB reports there is a general lack of scientific data characterizing the appropriate medical use, effects, complications, and toxicity of cannabis; good clinical studies show cannabinoids effective only for chemo-therapy-induced vomiting, cachexia in HIV/AIDS, spasticity in multiple sclerosis, and neuropathic pain.

For a detailed discussion of the legal implications between state and federal law addressing medical marijuana, AODA recommends a 2012 report prepared by the Congressional Research Service, “Medical Marijuana: The Supremacy Clause, federalism, and the Interplay Between State and Federal Laws.” <https://fas.org/sgp/crs/misc/R42398.fdf>.

MD/sb/jle