

LFC Requester:**Ginger Anderson**

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

Analysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute, or a correction of a previous bill}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date February 5, 2024

Bill No: HB226

Sponsor: Tara L. Lujan; William R. Rehm; Pamelya Herndon; Andrea Reeb
Short Title: Cannabis Licensure Background Checks

Agency Name and Code Number: Regulation and Licensing Department - 420

Person Writing: Robert Sachs

Phone: 5059488609 **Email:** Robert.Sachs@rld.nm

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
N/A	N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	N/A	N/A	N/A	N/A	Recurring	Cannabis Regulation Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Senate Judiciary Committee Substitute for SB6 (SJCSUBSB6); HB128

SECTION III: NARRATIVE

BILL SUMMARY

House Consumer and Public Affairs Committee (HCPAC) Substitute for HB226 Bill Synopsis:

The intent of the HCPAC substitute for HB226 remains the same as the original bill, which is to provide the Cannabis Control Division (CCD) of the New Mexico Regulation and Licensing Department (RLD) with a statutory mechanism to receive an “originating agency identifier” (ORI) number from the Federal Bureau of Investigation (FBI) so that the CCD will be able to obtain federal criminal history background check data on applicants for licensure under the Cannabis Regulation Act (CRA). The committee substitute takes a different approach from its predecessor. The original version of the bill amended Section 7 of the CRA, which currently holds all provisions related to the CCD conducting federal criminal history background checks. The committee substitute amends that same section, by removing existing language deemed insufficient by the FBI for an ORI number to issue and replaces it with entirely new language. The committee substitute also amends the definitions section and the section defining the powers and duties of the RLD as it relates to cannabis regulation. While the language and structure of the committee substitute is different from the original bill, the goal remains the same.

Original Bill Synopsis:

This bill amends Section 7 of the Cannabis Regulation Act (“CRA”), “Commercial Cannabis Activity Licensing – Application – Issuance and Denial of a License.” This proposed change would remove language that has thus far prevented the RLD from getting an originating agency identifier (“ORI”) number for cannabis applicants, which would allow for federal background checks. The bill then proposes new language that would ideally be sufficient for the Federal Bureau of Investigations (“FBI”) to issue an ORI number for cannabis applicants.

FISCAL IMPLICATIONS

If the RLD is able to run federal criminal history background checks, the RLD has reviewed the additional workload that would be involved for its licensing team and has determined that the existing staff will be able to absorb that workload, at least for the coming fiscal year. The RLD

will have to re-evaluate its staffing for this section based upon its experience over the following year and will then be in a better position to determine if additional staffing will need to be requested moving forward.

SIGNIFICANT ISSUES

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HCPACSubHB226 duplicates the intent of the current SJCSUB6 (the RLD's agency bill addressing this issue) and HB128 (identical language on this issue to SJCSUB6). While all three bills have the same goal of providing the CCD with the ability to obtain FBI criminal history background checks on applicants and licensees under the CRA, the proposed wording of the bills to achieve that goal are substantially different. The RLD certainly supports the goal of this bill, but believes the solution to the problem is better addressed by the wording within the agency bill, SJCSUB6.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

SJCSUB6.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The RLD will not be able to conduct federal criminal background checks, as is currently the case.

AMENDMENTS