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**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**54th Legislature, 2nd Session, 2020**

<b>Bill Number</b>	<u>SB276</u>	<b>Sponsor</b>	<u>Sedillo Lopez/Ortiz y Pino</u>
<b>Tracking Number</b>	<u>.217015.2</u>	<b>Committee Referrals</b>	<u>SEC/SJC</u>
<b>Short Title</b>	<u>Medical Cannabis in Schools</u>		
<b>Analyst</b>	<u>Waite</u>	<b>Original Date</b>	<u>2/14/2020</u>
		<b>Last Updated</b>	<u></u>

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## **BILL SUMMARY**

### Synopsis of Bill

Senate Bill 276 (SB276) makes changes to the public school code related to the storage, handling and administration of medical cannabis in school. First, it clarifies that both parents/guardians *and* designated school personnel may administer, store, and possess medical cannabis for distribution to qualified students. Second, it removes a restriction on the types of designated school personnel who may administer medical cannabis to qualified students. Third, it requires that a school wait to receive written notification from a federal agency that it would lose federal funding as a result of implementing the provisions of this law before being exempt. Finally, SB276 prohibits a public school or charter school from discouraging or disciplining a school employee who volunteers to administer medical cannabis.

## **FISCAL IMPACT**

SB276 does not carry an appropriation.

## **SUBSTANTIVE ISSUES**

In 2019, New Mexico became one of a few states to allow specific uses of cannabis on school grounds, however the 2019 law created confusion when it left some decision-making up to schools. For example, some Albuquerque, Rio Rancho and Estancia schools have policies that prohibit any school employees from administering medical cannabis. Analysis from the Administrative Office of the Courts notes SB276 may be seeking to remedy the inconsistencies in implementation of this law.

Schools reported concerns about losing federal funding – including money for school lunches and breakfasts – that is contingent on schools being drug-free zones. According to a November 2019 report by the National School Boards Association (NSBA), *Drugs, Substance Abuse and Public Schools*, there is a possibility that funding could be threatened, as marijuana is still listed on Schedule I of the federal Controlled Substances Act. States can mitigate this potential problem by including an exemption for schools that lose or might lose federal funding, as in New Mexico's

case. The NSBA report also notes, “State courts have started to address the interaction of state and federal law regarding marijuana use. Some have ruled that medical marijuana laws do not conflict with federal law because they merely carve out a narrow exemption to criminal prosecution under state law, leaving federal authorities to prosecute at their discretion.”

States with similar laws are Colorado, Delaware, Florida, Illinois, Maine, New Jersey, Oklahoma, Pennsylvania, Washington, and West Virginia. According to the national non-profit Americans for Safe Access, no school or school district in the United States has ever lost any federal funding for allowing safe access to medical cannabis at school.

No substantive issues have been identified in analyses from the Office of Attorney General, the Regulation and Licensing Department and the Department of Public Safety.

### **ADMINISTRATIVE IMPLICATIONS**

Pursuant to Laws 2019, Chapters 247 and 261 (SB406 and SB204) the Public Education Department (PED) engaged in a rulemaking process to develop New Mexico Administrative Code 6.12.10. In August 2019, PED released a Policy Framework for Medical Cannabis in Schools which provides information for compliance with this new rule. Some aspects of the rule may need to be revised.

### **RELATED BILLS**

Relates to HB160, Cannabis Regulation Act, which would legalize and regulate the use of recreational marijuana.

Relates to SB115, Cannabis Regulation Act, which duplicates HB160.

Relates to SB139, Medical Marijuana Qualified Patient, which amends the definition of “qualified patient” in the LECUA to limit medical cannabis patients to New Mexico residents.

Relates to SB271, Tribe and Pueblo Medical Marijuana Agreements, which addresses intergovernmental agreements between tribes or pueblos and the state related to medical cannabis.

### **SOURCES OF INFORMATION**

- LESC Files
- Office of the Attorney General (NMAG)
- Regulation and Licensing Department (RLD)
- Department of Public Safety (DPS)
- Administrative Office of the Courts (AOC)

**JLW/tb/mc/sgs**