

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

## FISCAL IMPACT REPORT

<b>SPONSOR</b>	Gallegos/Martinez, J/Armstrong/Matthews/ De La Cruz	<b>LAST UPDATED</b>	
		<b>ORIGINAL DATE</b>	1/30/25
<b>SHORT TITLE</b>	RLD Cannabis Enforcement	<b>BILL NUMBER</b>	House Bill 10
		<b>ANALYST</b>	Montano

### APPROPRIATION\* (dollars in thousands)

FY25	FY26	Recurring or Nonrecurring	Fund Affected
	\$1,500.0	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### REVENUE\* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
	\$0	\$0	\$150.0 to \$300.0	\$150.0 to \$300.0	\$150.0 to \$300.0	Recurring	Education Fund

Parentheses ( ) indicate revenue decreases.

\*Amounts reflect most recent analysis of this legislation.

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

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
RLD/CCD	No fiscal impact	\$465.0	No fiscal impact	\$465.0	Nonrecurring	General Fund
RLD/CCD	No fiscal impact	At least \$1,313.0	At least \$1,313.0	At least \$2,626.0	Recurring	General Fund
NMCD	No fiscal impact	At least \$28.2	At least \$28.2	At least \$56.4	Recurring	General Fund
Cost to Counties	No fiscal impact	At least \$19.2	At least \$19.2	At least \$38.4	Recurring	General Fund
<b>Total</b>	No fiscal impact	At least \$1,825.4	At least \$1,360.4	At least \$2,720.8	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

Agency Analysis Received From  
 Regulation and Licensing Department (RLD)  
 Administrative Office of the Courts (AOC)  
 Department of Public Safety (DPS)

Agency Analysis was Solicited but Not Received From  
New Mexico Attorney General (NMAG)  
Taxation and Revenue Department (TRD)

## SUMMARY

### Synopsis of House Bill 10

House Bill 10 (HB10) aims to create a new section of the Regulation and Licensing Department Act that will establish an enforcement bureau within the Regulation and Licensing Department (RLD). The department will employ certified law enforcement agents who will be assigned to investigate potential criminal cases that arise from the industries and professions under RLD's jurisdiction. This enforcement bureau will have a primary focus of investigating potential criminal violations of New Mexico cannabis laws. These law enforcement agents will be granted the same power as other law enforcement officers. This power is the ability to maintain public order, to undertake a lawful warrantless search and seizure, and to arrest someone for a crime. The superintendent of RLD may also require these law enforcement agents to receive additional training related to cannabis and licensed actors in the cannabis market.

The second section of HB10 establishes a requirement for the Cannabis Control Division (CCD) of RLD and the enforcement bureau to enforce the provisions of the Cannabis Regulation Act (CRA). This grants the CCD and the proposed enforcement bureau to conduct announced and unannounced inspections of cannabis-related actors. Other key provisions:

- Authority to place cannabis products suspected of being adulterated, dangerously or fraudulently misbranded, or illegally possessed under administrative holds;
- Authority to seize and take custody of suspected illegal or dangerous cannabis products;
- A clear statutory path to obtain orders from the district courts to destroy cannabis products determined to be dangerous or possessed illegally.

The third section of HB10 appropriates \$1.5 million to cover the costs associated with activities of CCD and the new enforcement bureau related to investigations, seizures, and safely and thoroughly carrying out the destruction of illegal cannabis products, packaging materials, agricultural materials, production materials, solvents, and refuse found in illegal cannabis production and distribution operations.

## FISCAL IMPLICATIONS

CCD collects administrative penalties that are deposited into the education fund. In FY24, the CCD issued a total of 15 violations, if this is replicated in FY26 and the violation fee is \$10 thousand per violation, then the agency should expect to make \$15 thousand from penalties. However, due to an increase in legal enforcement power, it will be rational to assume the CCD may discover more violations. Realistically, CCD at could see twice the violations, which in turn creates a soft ceiling on the estimate of \$300,000.

RLD anticipates the following fiscal impact:

Staffing necessary to stand up the new enforcement bureau within the RLD will consist of six enforcement agents and one enforcement bureau chief. Personnel and operational

support costs are expected to total \$1,313,000 annually/recurring beginning in FY26. In addition, a special request for vehicles for the enforcement agents and bureau chief will require \$465,000 in FY26.

Regarding administrative and court costs, AOC reports:

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, and appeals from convictions, appeals from a final agency decision re: embargo, seizure or recall of a product, petitions to the district court for condemnation of a cannabis product, when the determination is made that such embargoed or seized cannabis product is illegal, adulterated or dangerously or fraudulently misbranded, and appeals from final agency decisions under both the CRA and the Uniform Licensing Act.

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.

The creation of any new crime, increase of felony degree, or increase of sentencing penalties will likely increase the population of New Mexico's prisons and jails, consequently increasing long-term costs to state and county general funds. In addition to the potential for new crimes to send more individuals to prison and jail, longer sentences could result in fewer releases relative to admissions, driving up overall populations. The Corrections Department (NMCD) reports the average cost to incarcerate a single inmate in FY24 was \$59.4 thousand; however, due to the high fixed costs of the state's prison facilities and administrative overhead, LFC estimates a marginal cost (the cost per each additional inmate) of \$28.2 thousand per year across all facilities. LFC estimates a marginal cost (the cost per each additional inmate) of \$19.2 per county jail inmate per year, based on incarceration costs at the Metropolitan Detention Center. HB10 is anticipated to increase the number of incarcerated individuals and increase the time they spend incarcerated.

## **SIGNIFICANT ISSUES**

HB10 grants enforcement agents within RLD full law enforcement authority, including the ability to conduct warrantless searches, make arrests, and seize property. Legislators may wish to examine whether these expanded powers are appropriate for a regulatory agency and how they align with existing oversight mechanisms. Additionally, the bill enhances regulatory enforcement of the cannabis industry by allowing the RLD to embargo, seize, and destroy illegal, adulterated, or misbranded cannabis products. While this provision aims to strengthen consumer safety and address black-market activity, lawmakers may consider the potential impact on licensed cannabis businesses, including compliance costs and operational uncertainty.

The bill also raises potential legal considerations, particularly regarding due process and property rights. The provisions allowing warrantless searches and administrative seizures could be subject to legal challenges, and the process for petitioning district courts to condemn seized cannabis products may lead to increased litigation. Legislators may wish to assess how these legal provisions align with existing enforcement practices in other regulated industries.

The creation of the enforcement bureau could also shift some enforcement responsibilities away from the Department of Public Safety (DPS) and other law enforcement agencies. While DPS

has indicated the new bureau may relieve some of its enforcement burden, the division of responsibilities between RLD and other agencies remains a point of consideration, particularly in large-scale investigations. Additionally, the bill allows administrative enforcement actions, such as product seizures and license revocations, to be appealed in district courts. This could increase caseloads and require additional judicial resources to process appeals.

Finally, House Bill 10 focuses primarily on cannabis enforcement but grants the new bureau authority over other industries regulated by the RLD. Legislators may wish to consider whether this expansion sets a precedent for regulatory agencies overseeing other professional or commercial sectors to assume law enforcement responsibilities. These considerations, including legal, fiscal, and operational implications, may inform the legislative discussion on the bill's scope and potential impacts.

## **PERFORMANCE IMPLICATIONS**

Performance implications for RLD would relate to how effectively the new special agents are able to utilize the new powers awarded through HB10. The performance of the special agents will be dependent on how consistently they identify cannabis products that are being adulterated or misbranded, if they are able to adequately collect and supervise the misbranded product, and how efficiently they can destroy the misbranded product after a court order is obtained.

Performance implications for the 14 district courts relate the total output of two performance measures. The two performance measures relate to cases disposed of as a percentage of cases filed and percentage change in case filings by case type.

## **ADMINISTRATIVE IMPLICATIONS**

RLD had these comments regarding the administrative implications of the passing of HB10:

The CCD's administrative authority will expand to be able to issue administrative holds and seize or embargo cannabis products when appropriate. The ability to seek and obtain orders from the district courts for the destruction of illegal, adulterated or misbranded products will result in preventing such products from causing harm to the public.