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FISCAL IMPACT REPORT

SPONSOR <u>HCEDC</u>	LAST UPDATED _____
	ORIGINAL DATE <u>02/07/2025</u>
SHORT TITLE <u>RLD Cannabis Enforcement</u>	BILL NUMBER <u>CS/House Bill 10/HCEDC</u>
	ANALYST <u>Montano</u>

REVENUE* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
	\$0	\$150 to \$300	\$150 to \$300	\$150 to \$300	\$150 to \$300	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	No fiscal impact	\$465	Nonrecurring	General Fund
RLD/CCD	No fiscal impact	At least \$1,313	At least \$1,313	At least \$2,626	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
Total	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)
 New Mexico Attorney General (NMAG)
 Administrative Office of the Courts (AOC)
 Department of Public Safety (DPS)

Agency Analysis was Solicited but Not Received From
 Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of House Bill 10

House Bill 10 (HB10) establishes the Enforcement Bureau within the Regulation and Licensing Department (RLD) and grants it law enforcement authority to investigate and enforce violations under the Cannabis Regulation Act. The bill defines the structure and responsibilities of the Enforcement Bureau, outlines its investigative powers, and establishes procedures for product embargo, recall, and seizure. It also provides penalties for violations related to cannabis products and grants authority to take disciplinary actions against licensees.

The bill creates the Enforcement Bureau within the Office of the Superintendent of RLD and requires it to be directed by a Bureau Chief, appointed by the superintendent of RLD. The Bureau will employ enforcement agents who are classified as peace officers and are responsible for investigating violations of the Cannabis Regulation Act. These enforcement agents must meet certification requirements under Section 29-7-6 NMSA 1978 and will report to the Bureau Chief. The Enforcement Bureau will work in coordination with the Cannabis Control Division to investigate alleged violations and enforce state cannabis regulations.

The bill grants the Enforcement Bureau and the Cannabis Control Division authority to conduct inspections, both announced and unannounced, of businesses licensed under the Cannabis Regulation Act. It allows them to initiate investigations based on complaints or on their own initiative. If a cannabis product is suspected of being adulterated, fraudulently mislabeled, or otherwise illegal, the bureau may issue an embargo order, restricting the movement of the product until an investigation is completed. If necessary, the bureau may also take possession of a product, seize the premises where it is stored, or petition the district court for injunctive relief. The bill also allows the division to issue product recalls and provides procedures for notifying licensees of embargo, recall, or seizure actions.

If a cannabis product is determined to be illegal, adulterated, or misbranded, the division must petition the district court for condemnation of the product. If the court orders condemnation, the product must be destroyed at the licensee's expense. If the court does not order condemnation, the bureau must release the product to the licensee or remove the embargo notice.

HB10 establishes criminal penalties for removing, concealing, destroying, or disposing of embargoed cannabis products, as well as for selling or transferring products under recall orders. These offenses are classified as fourth-degree felonies under Section 31-18-15 NMSA 1978. The bill also grants the Cannabis Control Division the authority to impose administrative penalties, including license suspension, revocation, and fines up to \$10,000 per violation after an administrative hearing under the Uniform Licensing Act.

The New Mexico Department of Agriculture, the Environment Department, and other state agencies are required to cooperate with the Enforcement Bureau at RLD's request to assist with investigations and regulatory enforcement.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

The 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 \$10,000, then the Agency should expect to make \$150,000 from administrative penalties. However, due to an increase in legal enforcement power, it will be rational to assume that the CCD may discover more violations. Realistically, CCD at could see twice the violations which in turn creates a soft ceiling of \$300,000.

Relative to the Fiscal Implications of RLD, RLD had this to comment:

Staffing necessary to stand up the new enforcement bureau within the RLD will consist of six (6) enforcement agents and one (1) enforcement bureau chief. Personnel and operational support costs are expected to total one million three hundred and thirteen thousand dollars (\$1,313,000) annually/recurring beginning in FY26. In addition, a special request for vehicles for the enforcement agents and bureau chief will require four hundred sixty-five thousand dollars (\$465,000) in FY26.

Regarding administrative and court costs, this is what AOC had to comment:

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 presents several significant issues related to law enforcement authority, regulatory oversight, and administrative impact. The bill creates the Enforcement Bureau within RLD and grants its agents peace officer status, requiring them to meet state law enforcement certification standards. This expansion of authority raises concerns about jurisdictional overlap with the Department of Public Safety (DPS) and local law enforcement agencies, which also investigate

cannabis-related offenses. Additionally, the bill establishes a new fourth-degree felony for individuals who remove, conceal, destroy, or transfer embargoed or recalled cannabis products, which could increase burdens on the criminal justice system and raise questions about the proportionality of punishment for regulatory violations.

The bill enhances state enforcement authority by allowing the Enforcement Bureau and the Cannabis Control Division to conduct unannounced inspections, issue embargo orders restricting product movement, and petition courts to seize or destroy noncompliant products. While these measures aim to ensure compliance with cannabis regulations, they may impose significant compliance costs on businesses and raise due process concerns for licensees facing enforcement actions. The recall and seizure provisions could also be subject to legal challenges if the process of disputing regulatory actions is unclear or overly burdensome.

Furthermore, HB10 requires RLD to hire and train new law enforcement personnel, which may increase financial and administrative costs for the department. The bill also mandates cooperation with agencies such as the New Mexico Department of Agriculture and the Environment Department, potentially creating interagency coordination challenges that require additional rulemaking or procedural adjustments.

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 consistent they are able to 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 percent of cases filed and percent change in case filings by case type.

ADMINISTRATIVE IMPLICATIONS

RLD had this to comment regarding administrative implications regarding HB10:

The enforcement bureau created by HB10 will be located within the Office of the Superintendent of RLD, and the bureau chief of the enforcement bureau will report to the superintendent. This structure, with the superintendent of the RLD being directly involved in the oversight and direction of the new enforcement bureau, is intentional and designed to ensure accountability for the enforcement bureau at the highest level. The superintendent, and the bureau chief appointed by the superintendent, will be responsible for making certain the law enforcement authority and resources entrusted to the RLD under HB10 are utilized only in appropriate cases and to prudent effect.

Under 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 and keep those materials out of the black market.

