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FISCAL IMPACT REPORT

SPONSOR Lujan **LAST UPDATED** _____
ORIGINAL DATE 1/31/25
SHORT TITLE Cannabis Licensure Changes **BILL**
NUMBER House Bill 112
ANALYST Montano

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
OSE	No fiscal impact	\$300	\$300	\$600	Recurring	General Fund
Total	No fiscal impact	\$300	\$300	\$600	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)
 Department of Public Safety (DPS)
 Office of the State Engineer (OSE)
 Attorney General (AG)
 Economic Development Department (EDD)

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

Agency Declined to Respond
 Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of House Bill 112

House Bill 112 (HB112) introduces several new provisions to the Cannabis Regulation Act, primarily focusing on criminal history background checks, stricter licensing requirements, and environmental compliance for cannabis businesses. The bill defines “applicant” as any person seeking a cannabis license, increasing the pool of applicants who must prove access to legal water. Additionally, it mandates that all cannabis business license applications must be signed by the applicant or an authorized officer, establishing greater accountability in the licensing process. Once an application is deemed complete, the Cannabis Control Division (CCD) of the Regulation and Licensing Department (RLD) has 90 days to approve or deny the license.

A key provision in HB112 is the requirement for state and national criminal history background checks for all applicants seeking a cannabis license. Applicants must submit fingerprints to the Department of Public Safety (DPS), which will conduct a state-level check and forward them to the Federal Bureau of Investigation (FBI) for a national-level background check. The CCD will then use this information to determine whether an applicant qualifies for a cannabis business license. The bill ensures that criminal history information remains confidential; it is not considered a public record and can only be accessed by licensing personnel directly involved in the decision-making process.

The bill also expands the grounds for denying, suspending, or revoking a cannabis license. Under the new provisions, the CCD may deny, suspend, or revoke a license if an applicant or controlling person has a pending investigation, felony indictment, or conviction involving fraud, deceit, or embezzlement, or has a tax lien related to cannabis activity. A license can also be denied if an applicant has previously had a cannabis license revoked in another state or is under investigation for using forced labor, human trafficking, or underage workers in cannabis production. However, a past conviction alone cannot be the sole reason for license denial if the applicant has completed their sentence, in accordance with the Criminal Offender Employment Act.

HB112 also introduces new environmental compliance requirements for cannabis producers, particularly regarding water usage and energy efficiency. The bill mandates that every cannabis related licensee must provide proof of a legal water source before obtaining a license. This can be demonstrated through a valid water rights document from the Office of the State Engineer (OSE) or a statement from a water provider confirming compliance with its regulations. Additionally, cannabis producers must submit a plan outlining efforts to reduce water and energy consumption, including the use of drip irrigation, natural lighting, energy-efficient measures, and renewable energy sources whenever feasible.

FISCAL IMPLICATIONS

RLD anticipates that the additional administrative tasks need to adequately process and evaluate an applicant's federal criminal history will be absorbed by the Cannabis Control Division's current resources.

This bill may have fiscal implications relating to the Office of the State Engineer (OSE) because OSE's responsibility will increase due to this bill changing the definition of applicants to include any affiliated cannabis licensee, which would increase the count of individuals that have to show proof of having access to a legal water source. OSE had this commentary to add:

The OSE works with the Regulation and Licensing Department to review and check the water supply paperwork submitted by applicants. Because many additional license applicants would need to demonstrate their water supply, the OSE estimates that it would need an additional two (2) FTEs to process the additional applications. With indirect costs and the cost of benefits, OSE is estimating each FTE to cost the agency \$150,000 per year.

The Department of Public Safety (DPS) will assume additional responsibility for criminal background checks, which will increase the number of finger-print based background checks. DPS highlights that this increases workload and costs, including a potential need for two additional automated fingerprint technicians. DPS also added this commentary regarding the

fiscal implications of HB112:

Currently, two employees process fingerprints for NMDPS. In 2024 they handled about 200,000 fingerprint submissions, each employee averaging 396 quality assurance checks on submission per day. Adding new ORIs [Originating Agency Identifiers], including civil agencies like the Regulation and Licensing Department (RLD), will increase the volume of work to this already overstretched unit. Increased submissions will lead to longer processing times and delays in providing results, potentially compromising efficiency and regulatory compliance.

There are no direct implications related to revenue generated because of this bill, but there could be a loss of generated revenue for CCD from increased barrier of entries to receive a license in all aspects related to cannabis. The increased requirements that all applicants must achieve, such as completing a federal background check and having access to a legal water system may dissuade potential applicants. Under current regulations, only certain actors in the cannabis market are required to provide proof of access to a legal water source. If the total number of applicants in all sectors decreases, then expected revenue should also decrease due to the lower number of possible licenses.

SIGNIFICANT ISSUES

Extending the pool of applicants that are required to demonstrate a legal water supply may slow down the licensure process for applicants who may not actually require a water supply. OSE highlights that the Cannabis Regulation Act currently requires applicants for licensure as cannabis producers or cannabis producer microbusinesses to demonstrate that they have legal access to sufficient water to support their operations. Cannabis producers are required to have proof of water access because of the substantial use of water in the cultivating process of cannabis. As the bill reads currently, cannabis laboratories and cannabis retailers will also be required to show a legal supply source of water, even though OSE believes that there is no reason that a cannabis laboratory or retail establishment would use appreciably more water than any other laboratory or retail establishment, which typically receive their water from municipal water sources.

Requiring mandated rigorous fingerprint based criminal background check aligns with federal standards under 28 CFR part 20, which governs criminal justice information systems and restricts access to non-public criminal history data. DPS highlights that CCD will require an Originating Agency Identifier (ORI), which is a unique identifier assigned by the FBI to agencies that are authorized to access criminal justice information. ORIs are intended to track and request background checks, criminal records, and other law enforcement data. DPS added this commentary on the process CCD must take to obtain an ORI:

To obtain an ORI, CCD must comply with Public Law 92-544, which establishes strict guidelines for the use and dissemination of criminal history information. This law ensures that only agencies with legitimate governmental functions such as law enforcement, licensing boards, and other regulatory bodies—can access sensitive criminal records. Compliance typically requires state legislation or executive order affirming the agency’s authority to conduct background checks for specific purposes, ensuring adherence to privacy and security regulations. Once legislation is approved, it must be reviewed by the FBI’s Criminal Justice Information Law Unit (CJILU) to ensure compliance with federal law and regulations. CJILU evaluates whether the law aligns with Public Law 92-544 and meets the requirements for access to criminal justice information. If the legislation is

deemed compliant, CJILU will authorize the issuance of an Originating Agency Identifier (ORI). Due to the thorough review process and federal oversight, obtaining an ORI can take more than 365 days before final approval and issuance.

PERFORMANCE IMPLICATIONS

DPS had this to say about performance implications:

The primary impact includes strengthening the regulatory framework around cannabis operations to ensure accountability and public safety. Additionally, it supports promoting equitable representation and participation within the cannabis industry, targeting underserved communities. The bill includes measures for environmental and product safety, along with provisions to prevent illegal cannabis production and distribution. For public safety and law enforcement, the bill necessitates coordination with the Department of Public Safety to enforce licensing compliance, conduct background checks, and regulate the legal cannabis market. Law enforcement may play a more prominent role in addressing violations under the revised cannabis regulatory framework.

ADMINISTRATIVE IMPLICATIONS

If HB112 is enacted, the CCD will be required to conduct an administrative rulemaking process to address the changes to existing statutes in the Cannabis Regulation Act and create necessary records handling and evaluation guidelines. DPS will also be required to carry out provisions of this section, however, the attorney general adds that the bill does not clearly divide or assign which areas the CCD and DPS are responsible for. DPS also adds that once the CCD is approved for an ORI, then they would have to work with DPS to establish and ensure that fingerprinting systems are transmitting data to DPS and the FBI.

NM/hj/SR