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FISCAL IMPACT REPORT

ORIGINAL DATE 3/17/15

SPONSOR SFI LAST UPDATED _____ HB _____

SHORT TITLE Decrease Marijuana Possession Penalties SB 383/SFIS

ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	None	Unknown	Unknown	Unknown	Recurring	General

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

- Administrative Office of the Courts (AOC)
- Attorney General’s Office (AGO)
- New Mexico Corrections Department (NMCD)
- Public Defender Department (PDD)
- Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

The Senate Floor substitute for the Senate Judiciary Committee substitute for Senate Bill 383 decreases the criminal penalties for possession of marijuana and separates penalties for possession of marijuana and synthetic cannabinoids. The provisions of SB 383CS include notwithstanding language to ensure that possession of up to eight ounces of marijuana is not punishable with a period of incarceration, though, if convicted, an individual would still be guilty of a misdemeanor. For possession of more than eight ounces of marijuana, an individual would face a 4th degree felony charge and the possibility of imprisonment commensurate with the charge.

Additionally, SB 383CS would make the use or possession with intent to use drug paraphernalia subject to civil penalty of up to \$50.

The table below provides the penalties for marijuana possession under SB 383CS.

Amount Possessed	Crime	Penalty
1 Ounce or Less	Penalty Assessment	\$50 fine
Between 1 and 4 Ounces	Petty Misdemeanor	\$200 Fine
Between 4 and 8 Ounces	Misdemeanor	\$300 Fine
Over 8 Ounces	4th Degree Felony	Up To 18 Months Incarceration and \$5,000 Fine

SB 383CS adds a section to the criminal code to create a penalty assessment. A penalty assessment is a citation issued to an individual found to be in violation of the criminal code requiring the individual to either agree to pay the prescribed fine or appear in court. Payment of a penalty assessment is not considered a criminal conviction.

FISCAL IMPLICATIONS

Enactment of SB 383CS may result in minimal savings to county detention centers and the PDD and DA's statewide as a result of fewer prosecutions and incarcerations. However, because SB 383CS does not change the penalties for possession of marijuana in excess of 8 ounces, the threshold for a fourth degree felony conviction, there will be no impact on the NMCD.

Currently, fines imposed on individuals as part of sentencing for marijuana possession are directed to the general fund. It is unclear what effect, if any, passage of SB 383CS may have on fine collection, and thus, on the general fund.

SIGNIFICANT ISSUES

The penalty assessment misdemeanor is crime for which an individual is presented the option to pay a fine or appear in court in a procedure similar to that of an issuance of a traffic citation.

SB 383CS removes reference to marijuana when prescribing penalties for synthetic cannabinoids. The effect of the removal of marijuana will be to prescribe more severe penalties for the possession of synthetic cannabinoids than for marijuana.

CJ/aml