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## FISCAL IMPACT REPORT

SPONSOR HHC ORIGINAL DATE 1/30/2018  
LAST UPDATED 2/01/2018 HB 139/HHCS  
SHORT TITLE Marijuana Derivative Drug Exemptions SB \_\_\_\_\_  
ANALYST Chenier

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

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		Minimal	Minimal	Minimal	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to House Executive Message 70

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)

Attorney General's Office (NMAG)

### SUMMARY

#### Synopsis of Substitute

The House Health and Human Services Committee Substitute for House Bill 139 would exempt the use, dispensing, possession, prescribing, storage, or transport of a prescription drug approved by the U.S. Food and Drug Administration containing marijuana, a tetrahydrocannabinol derivative, or a chemical derivative of a tetrahydrocannabinol, as a schedule I substance in the Controlled Substances Act. The bill contains compilation instructions and contingent effective date sections.

### FISCAL IMPLICATIONS

AOC said to date, no products containing marijuana derivatives have been approved by the FDA. (For a thorough discussion of the intersection of cannabinoids, state and federal Controlled Substance Acts and the potential for rescheduling cannabis/marijuana by the DEA and the FDA, see <https://www.sciencedirect.com/science/article/pii/S1525505016305856>)

AOC also stated that 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 a reduction in prosecutions for offenses involving marijuana derivatives.

## **SIGNIFICANT ISSUES**

RLD provided the following:

In accordance with the Controlled Substances Act, the NM Board of Pharmacy (“board”) may add by regulation any substance designated as a controlled substance under federal law. This includes FDA-approved prescription drugs classified as controlled substances. The addition, by regulation, of said drug to a given controlled substance schedule, would serve to exempt the drug from another schedule. In this case, FDA approval of a marijuana or marijuana derivative prescription drug would be scheduled by the board through regulation, which would exempt the FDA approved drug from Schedule I, and thus provide the same exemptions from prosecution as for other drugs in Schedules II through V.

AOC provided the following:

In 2016, the DEA denied recent marijuana scheduling petitions, finding that marijuana has no currently accepted medical use and a high potential for abuse. See “Denial of Petition to Initiate Proceedings to Reschedule Marijuana”

@ <https://www.federalregister.gov/documents/2016/08/12/2016-17954/denial-of-petition-to-initiate-proceedings-to-reschedule-marijuana>. See also, “Still Not Ready for Prime Time: DEA Denies Joint Petitions to Reschedule Marijuana” @ <http://www.fdalawblog.net/2016/08/still-not-ready-for-prime-time-dea-denies-petitions-to-reschedule-marijuana/>)

EC/al/sb