F I S C A L I M P A C T R E P O R T

SPONSOR O'Neill **ORIGINAL DATE** 2/05/18 **LAST UPDATED** **HB**

SHORT TITLE Marijuana Derivative Drug Exemptions **SB** 249

ANALYST Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Minimal	Minimal	Minimal	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates HB 139
Relates to SJR 4

SOURCES OF INFORMATION
LFC Files

Responses Received From
Administrative Office of the Courts (AOC)
Attorney General's Office (NMAG)
Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

The Senate Bill 249 exempts the use, dispensing, possession, prescribing, storage, or transport of a prescription drug approved by the U.S. Food and Drug Administration (FDA) containing marijuana, a tetrahydrocannabinol derivative, or a chemical derivative of a tetrahydrocannabinol, as a schedule I controlled substance in the Controlled Substances Act. It becomes effective 30 days after the board of pharmacy certifies to the New Mexico compilation commission and the director of the Legislative Council Service that the FDA has approved a drug containing a marijuana derivative. The bill also contains compilation instructions.

FISCAL IMPLICATIONS

AOC states 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

AOC reports that 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

RLD provides 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 advises:

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/)

NMAG notes that the only marijuana use that is exempt under state law from Schedule I penalties is use pursuant to the Lynn and Erin Compassionate Use Act (the state's medical marijuana law) and the Controlled Substances Therapeutic Research Act.

DUPLICATION, RELATIONSHIP

This bill duplicates HB 139. It is also related to SJR 4, which allows for possession and personal use of marijuana.

MD/al