

LFC Requester:	MERCER-GARCIA, RACHEL
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: Jan 31 *Check all that apply:*
Bill Number: HB230 Original Correction
 Amendment Substitute

Sponsor: R. Szczepanski and E. Thomson **Agency Name**
Short Title: Medical Cannabis Drug Testing **and Code** State Personnel Office 378
Title: _____ **Number:** _____
Person Writing Dylan K. Lange
Phone: 505-476-7742 **Email** Dylan.Lange@spo.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
None	None	None		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	None	Unknown	Unknown			

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

Amends Section 26-2B-9 NMSA

Prohibits random drug testing for cannabis of an employee who is a qualified patient pursuant to the Lynn and Erin Compassionate Use Act.

An employer may require a cannabis drug test if:

- the employer has a reasonable suspicion of the employee's impairment by cannabis at work
- after an accident involving the employee and at least one other person
- after an accident causing significant damage to property if the employer has reasonable suspicion of the employee's impairment by cannabis at the time of the accident.

The drug test for cannabis must be reviewed by a medical review officer, who shall determine if the reason for a positive test has a legitimate medical explanation.

An employee shall not be considered to be impaired by cannabis solely because of the presence of metabolites or components of cannabis.

Defining "cannabis impairment" is the responsibility of the employer. The Department of Health is directed to assist the Workforce Solutions Department in developing cannabis impairment guidelines. WSD shall inform private employers of their responsibilities and provide information on testing protocols. The Department of Finance and Administration shall disseminate the guidelines to state agencies and political subdivisions.

FISCAL IMPLICATIONS

SIGNIFICANT ISSUES

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

New Mexico State Personnel Board rules currently authorize random drug testing of state employees who are in safety-sensitive positions for cannabis, using federal cutoff guidelines. See 1.7.8.10 NMAC. A safety-sensitive position is a position in which performance by a person under the influence of drugs or alcohol would constitute an immediate or direct threat of injury or death to that person or another, or as otherwise provided by state or federal law. See 1.7.8.7(M) NMAC. Safety-sensitive positions include, but are not limited to, positions such as correctional officers, probation officers and health care providers. HB230 would require a change to State Personnel Board rules.

Likewise, NMSA 1978 Section 9-7-18 requires random drug testing, including THC for health care providers hired to provide direct care to patients in a state health care facility. HB230 would require a change to this statute.

Although employees in safety-sensitive positions within the meaning of the Omnibus Transportation Employee Testing Act of 1991 (“Omnibus Act” 49. U.S.C. Subtitle VI Part B § 313060) are not covered by the New Mexico State Personnel Board rules on drug and alcohol testing, the State Personnel Office provides state agencies with a random list of employees in those positions who are selected for random drug testing, including cannabis. See 1.7.8.8 NMAC.

HB230 does not address conflicts between the proposed limitations on testing and federal testing requirements. Furthermore, while the presence of cannabis in the system does not indicate impairment, cannabis in the system can potentially give rise to employer liability, particularly in safety-sensitive positions.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Duplicates/Conflicts with/Companion to/Relates to:

NMSA 1978 Section 9-7-18

1.7.8.10 NMAC

"Omnibus Act" (49 U.S.C. Subtitle VI Part B § 31306)

Duplicates/Relates to Appropriation in the General Appropriation Act

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS