

LFC Requester:	Eric Chanier
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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}

Bill Number: 2.21.25 *Check all that apply:*
HB527 Original Correction
 Amendment Substitute

Sponsor: Cristina Parajón **Agency Name and Code** New Mexico Retiree Health Care Authority 34300
Short Title: Insurance Coverage for Medical Cannabis Costs **Person Writing** Mark Hayden
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(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						

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: The Bill enacts new sections of the Health Care Purchasing Act, the Public Assistance Act and the New Mexico Insurance Code to require coverage for an adequate supply of medical cannabis to treat debilitating conditions of qualified patients and provide direct payment to cannabis retailers or reimbursement to qualified patients.

FISCAL IMPLICATIONS

New Mexico Retiree Health Care Authority (NMRHCA) is unable to project a fiscal impact for cannabis coverage as we are unable to include in medical expenses amounts paid for controlled substances (such as marijuana, laetrile, etc.) that aren't legal under federal law, even if such substances are legalized by state law. In addition, per the Internal Revenue Service under Publication 502 (2024), Medical and Dental Expenses for medical cannabis would not meet an eligible expense.

Regulatory guidance from New Mexico's authorities is essential for NMRHCA's commercial plans to determine coverage implications. The effect on plan premiums remains uncertain without concrete utilization data.

Medicare plans, which adhere strictly to federal regulations, would be unable to provide coverage unless cannabis is legalized at the federal level.

SIGNIFICANT ISSUES

Marijuana is listed as a controlled substance on Schedule I of the Controlled Substances Act (CSA), Title 21 U.S.C. Sections 801-971. 21 and specifically Title U.S.C. Section 812(c). Except as authorized by the CSA, it is unlawful for any person to manufacture, distribute, dispense, or possess with intent to manufacture, distribute, or dispense a controlled substance. Title 21 U.S.C. Section 841(a). Further, it is unlawful for any person knowingly or intentionally to possess a controlled substance except as authorized by the CSA. Title 21 U.S.C. Section 844(a). Generally, the CSA does not permit the possession of controlled substances listed on Schedule I, even for medical purposes, and even with a physician's prescription." Under the Controlled Substances Act (CSA) and federal law, cannabis was classified as a Schedule I substance, meaning it was considered to have a high potential for abuse and no accepted medical use.

Purchase of a controlled substance for medical purposes, in violation of federal law but permitted under state law, isn't "legally procured" medicine or drug within the meaning of IRS Regulation. §1.213-1 and isn't deductible as a medical expense.

An amount paid to obtain a controlled substance (such as marijuana) for medical purposes, in violation of federal law, is not a deductible expense for medical care under IRS Regulation. §1.213-1. This regulation applies even if the state law requires a physician to obtain and use the controlled substance and the taxpayer receives a prescription.

Currently, cannabis does not have a National Drug Code (NDC) for pharmacy prescriptions. The NDC is a unique identifier for drugs in the United States, and the FDA assigns it to approved drugs. Since cannabis is still classified as a Schedule I substance under federal law, it does not have an NDC. However, there are specific drug codes for certain cannabis-related products, such as marijuana extracts, which are used for regulatory purposes.

Despite the rescheduling efforts, there is still a conflict between state and federal laws. While many states have legalized medical cannabis, it remains illegal under federal law. This creates legal and regulatory challenges for businesses and patients.

PERFORMANCE IMPLICATIONS

Under federal law, cannabis is still classified as a Schedule I substance under the Controlled Substance Act. This creates a potential conflict of laws.

ADMINISTRATIVE IMPLICATIONS

The department of health will need to promulgate a rule to determine "debilitating medical condition" and the reasonably necessary amount of cannabis to ensure the uninterrupted availability of cannabis for a period of three months to a qualified patient which is derived solely from an intrastate source if

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

Despite the rescheduling efforts, there is still a conflict between state and federal laws. While many states have legalized medical cannabis, it remains illegal under federal law. This creates legal and regulatory challenges for businesses and patients.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

None.

AMENDMENTS