LFC Requester:	Caroline Malone

AGENCY BILL ANALYSIS
2016 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

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and

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{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

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

Check all that apply:

Original X **Amendment** ____
Correction ____ **Substitute** ____

Date 01/18/2016
Bill No: SJR 6

Sponsor: Sen. Gerald Ortiz y Pino
Short Title: Use, Regulation, Sale & Tax of Marijuana, CA

Agency Code: 305
Person Writing James C. Jacobsen
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(Parenthesis ( ) Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Senate Joint Resolution 5
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Letter. This is a staff analysis in response to an agency's, committee's, or legislator's request.

Synopsis:

The Joint Resolution proposes submitting to the electors an amendment to Article 20 of the New Mexico State Constitution, the miscellaneous article, providing that personal use and possession of marijuana by persons over the age of twenty-one is lawful. The proposed amendment would then direct the Legislature to provide by law for, "the production, processing, transportation, sale, taxation and acceptable quantities and places of use of marijuana and hemp to protect the public health and safety." This Joint Resolution differs from proposed Senate Joint Resolution 5 in that it does not direct any revenue thereby generated by the State to the Medicaid program or drug and alcohol rehabilitation programs.

FISCAL IMPLICATIONS

Beyond the scope of this analysis.

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

The proposed amendment would constitutionalize the tension between New Mexico and federal drug law. The federal government regulates marijuana (and cannabis products) through the Controlled Substances Act (CSA) (21 U.S.C. § 811). Under current federal law, cannabis is treated like every other controlled substance, such as cocaine and heroin. The federal government places every controlled substance in a schedule, in principle according to its relative potential for abuse and medicinal value. Under the CSA, cannabis is classified as a Schedule I drug, which means that the federal government views cannabis as highly addictive and having no medical value.

The proposed amendment references marijuana without defining it, and its subsections draw in "hemp," again without definition. The terms are defined in the New Mexico Controlled Substances Act. Marijuana is defined in the New Mexico Controlled Substances Act, §30-31-2(N), NMSA 1978, as *…all parts of the plant cannabis , including any and all varieties, species and subspecies of the genus Cannabis , whether growing or not, the seeds thereof and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds. It does not include the mature stalks of the plant, hashish, tetrahydrocannabinols extracted or*

isolated from marijuana, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. If the intent is to restrict the effect of the proposed Amendment to the statutory defined substance, some reference would be appropriate. Hashish, separately defined in the New Mexico Controlled Substances Act as *the resin extracted from any part of marijuana , whether growing or not, and every compound, manufacture, salt, derivative, mixture or preparation of such resins,* arguably would be encompassed with the scope of the substances permitted by the amendment, being a mere derivative of marijuana.

"Hemp" is a commonly used term for high-growing industrial varieties of the cannabis plant and its products, which include fiber, oil, and seed. Hemp is refined into products such as hemp seed foods, hemp oil, wax, resin, rope, cloth, pulp, paper, and fuel. It also appears on federal list of controlled substances. Efforts in Congress to remove hemp from regulation have not progressed towards passage.

PERFORMANCE IMPLICATIONS
Use of marijuana is commonly believed to reduce cognitive performance and motor skills.

ADMINISTRATIVE IMPLICATIONS
The existing regime for medical marijuana, if not nullified, would require extensive revision.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP
The proposed Constitutional Amendment conflicts with federal drug law, enforcement of which is subject to greater or lesser emphasis by the federal administrators then holding office. It would nullify current state drug law.

TECHNICAL ISSUES
The proposed Constitutional Amendment set out in the Joint Resolution is susceptible to a reading which would require the State to produce, process, transport, and sell marijuana.

Passage of the amendment would require revision of New Mexico's criminal drug statutes.

OTHER SUBSTANTIVE ISSUES
Effectiveness of the Amendment, if passed, is not predicated on enactment of the contemplated statutory or regulatory schemes for producing, processing, transporting, selling, taxing or determining lawful quantities and places of use.

ALTERNATIVES
Repeal of New Mexico's criminal statutes related to marijuana.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL
Status quo.

AMENDMENTS