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## FISCAL IMPACT REPORT

SPONSOR Papen/Wirth ORIGINAL DATE 2/6/2019  
 LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Assisted Outpatient Treatment Act Funding SB 334

ANALYST Chenier

### APPROPRIATION (dollars in thousands)

| Appropriation |           | Recurring<br>or Nonrecurring | Fund<br>Affected |
|---------------|-----------|------------------------------|------------------|
| FY19          | FY20      |                              |                  |
|               | \$1,000.0 | Recurring                    | General Fund     |

(Parenthesis ( ) Indicate Expenditure Decreases)

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

|              | FY19 | FY20   | FY21   | 3 Year<br>Total Cost | Recurring or<br>Nonrecurring | Fund<br>Affected |
|--------------|------|--------|--------|----------------------|------------------------------|------------------|
| <b>Total</b> |      | \$75.0 | \$75.0 | \$150.0              |                              |                  |

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)

Human Services Department (HSD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 334 appropriates \$1 million from the general fund to DOH for expenditure in FY20 and thereafter to distribute to participating municipalities and counties that have entered into memoranda of understanding with their respective district courts pursuant to the Assisted Outpatient Treatment Act (AOTA).

### FISCAL IMPLICATIONS

The appropriation of \$1 million contained in this bill is a recurring expense to the general fund for two years. Any unexpended or unencumbered balance remaining at the end of FY20 shall not revert to the general fund.

The AOTA is set to be automatically repealed on July 1, 2021 making this appropriation recurring for only one year unless the provisions of the act were to be extended.

HSD said that the Administrative Office of the Courts (AOC) would be the appropriate agency to distribute AOTA funding since they are the agency that oversees the district courts.

DOH would have to use an FTE or a portion of an FTE to administer the funds. It is estimated that an FTE cost of approximately \$75 thousand annually would be incurred by DOH.

## **SIGNIFICANT ISSUES**

HSD said that the Assisted Outpatient Treatment Act (2016 Senate Bill 113) created the authority for a district court judge in New Mexico to order people diagnosed with mental illnesses who meet certain criterion into mandatory Assisted Outpatient Treatment Act (AOTA) programs for up to one year. However, the original AOTA did not appropriate funds or establish a payment mechanism. The bill establishes a recurring appropriation and payment mechanism for AOTA programs, with responsibility given to the DOH.

DOH provided the following:

The bill encourages municipalities and counties to participate in the AOTA by reimbursing these entities for the administrative expenses and legal fees associated with the memoranda of understanding entered into with the respective district courts. However, it is not clear if the appropriation is also intended to cover costs associated with the mandated services delivered to the individual pursuant to the AOTA.

The bill does not provide guidance to DOH regarding the Department's distribution of the funds other than paying for "expenditure" by the municipalities and counties. The lack of clarity may lead to confusion and conflict and may require a rule regarding prioritization of expenditure requests and eligible expenditures.

It is important to note that the Administrative Office of the Courts and HSD both have authority under AOTA, and HSD is the single state behavioral health authority, and that DOH does not have any duties, responsibilities, or authority under the AOTA. Therefore, DOH may not be the best suited agency to carry out the duties of the bill.

The original AOTA was enacted in 2016 without an appropriation and it is intended to be repealed effective July 1, 2021.

## **PERFORMANCE IMPLICATIONS**

DOH said that the bill may allow for some individuals that are currently being treated as inpatients, to be treated in an outpatient setting. The bill may also have an impact on how the New Mexico Behavioral Health Institute (NMBHI) discharges and may require additional court hearings for the individuals referred to the program.