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FISCAL IMPACT REPORT

ORIGINAL DATE 1/26/22

SPONSOR Steinborn LAST UPDATED _____ HB _____

SHORT TITLE Substance Use Disorder Treatment Fund SB 47

ANALYST Chilton

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY22	FY23	FY24		
	(\$2,790.0)	(\$3,190.0)	Recurring	General Fund
	(\$1,395.0)	(\$1,595)	Recurring	County and Municipal Governments
	\$4,185.0	\$4,785.0	Recurring	Substance Use Disorder Treatment Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY22	FY23	FY24	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$5.2			\$5.2	Nonrecurring	General Fund

Relates to Senate Bill 100 and 2021 First Special Session HB 2.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Regulation and Licensing Department (RLD)

Human Services Department (HSD)

Office of the Attorney General (NMAG)

Department of Public Safety (DPS)

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

Senate Bill 47 (SB47) creates a new fund, the substance use disorder treatment fund, to provide statewide substance abuse treatment. Funds deposited in the fund would be paid out on warrants approved by the Human Services Department, which is to administer the fund, and then signed by the Secretary of the Department of Finance and Administration.

SB47 specifies that 10 percent of the proceeds of the cannabis excise tax will be paid into the fund.

The effective date of this bill is July 1, 2022.

FISCAL IMPLICATIONS

This bill creates a new fund and provides for continuing appropriations, in this case from the excise tax on cannabis products. LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the Legislature to establish spending priorities.

This bill creates a tax expenditure with a cost equal to 10 percent of the excise tax on cannabis, which the Consensus Revenue Estimating Group has estimated to total \$41.85 million in FY23, with estimated growth in subsequent years. LFC has serious concerns about the significant risk to state revenues from tax expenditures and the increase in revenue volatility from erosion of the revenue base. The committee recommends the bill adhere to the LFC tax expenditure policy principles for vetting, targeting, and reporting or be held for future consideration.

The amounts represented in the table above are based on 10 percent of the predicted income from the cannabis excise tax in 2023 and 2023, from the estimation of the Consensus Revenue Estimating Group. As proceeds from the excise tax are to be distributed in a 2:1 ratio two parts to state government and one part to counties and municipalities, the table reflects that distribution of decreases in revenue from this bill.

TRD notes that “Earmarks may not be the best form of funding as the monies received by the fund may not match the appropriate expenditures for the fund. If the earmark is too high, monies can accumulate that otherwise could have been used for other purposes, and if the earmark is too low, it will be insufficient to support the needs of the fund.”

TRD estimates its costs in implementing provisions of the bill as follows: “The Administrative Services Department (ASD) and Information Technology Division (ITD) of TRD will be working through any identified issues with this implementation of a new tax program. Based on this uncertainty there may be additional costs that cannot be estimated at this time. ITD estimates approximately 100 hours or about 1 month and \$5,164 of staff workload costs.”

HSD estimates its costs to administer the fund as follows: “In order to administer this funding, the Behavioral Health Services Division (BHSD) would require two (2) FTE calculated at a pay band 70, for an annual cost of \$76,400 per position or \$152,800. These positions would also require be supervised by one (1) FTE supervisor at a pay band 75 for an annual cost of \$84,300.

The total needed for these three (3) positions would be \$237,100.” It is assumed that these costs would be paid out of the fund.

SIGNIFICANT ISSUES

Substance abuse remains a very important problem facing New Mexicans, with, for example, 129 deaths due to fentanyl overdoses and 50 deaths due to misuse of methadone annually among the most severe manifestations of substance abuse. Substance abuse is also implicated in property crime, child abuse and neglect, spousal abuse, automobile crashes and other serious outcomes.

HSD states that “specific to Opioid Treatment Programs, 10,365 (unduplicated) individuals were served with Opioid Use Disorder (OUD) during fiscal year 2021. This year, there have been 25,598 individuals (both Medicaid and non-Medicaid) diagnosed with Opioid Use Disorder.” HSD indicates that 77 percent of its persons with behavioral health problems have Medicaid coverage; Medicaid would undoubtedly pick up a proportion of treatment costs for those with opioid use disorder.

HSD estimates that “With the additional substance use disorder treatment fund having a potential to increase access to care, remove barriers, and create new programs and services, the number of persons served is likely to increase by 17 percent.”

ADMINISTRATIVE IMPLICATIONS

HSD notes that “Statewide there is a deficit of workforce for SUD treatment. Providing funds for treatment may increase this deficit if new programs and services are not created. Some providers, primarily for profit, may be reluctant to enter into a Scope of Work due to the requirement of submission of financial audits. There current challenges in attracting and/or retaining new providers, particularly in rural areas related to the overall statewide shortage of behavioral health workforce.”

RELATIONSHIP to 2022 Senate Bill 100, which deals with certain issues having to do with the legalization of cannabis. Relates to 2021 Special Session House Bill 2, which set the excise tax structure for the cannabis industry, including the provision that one-third of the proceeds would go to county and municipal governments.

TECHNICAL ISSUES

SB47 does not make clear which programs that treat all substance use disorders would be eligible for funding through the substance abuse treatment fund.

LC/rl/acv