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FISCAL IMPACT REPORT

LAST UPDATED _____
ORIGINAL DATE 2/15/23

SPONSOR Romero, A/ Martinez, J

BILL
NUMBER House Bill 315

SHORT TITLE Cannabis Tax Distributions

ANALYST Torres, I.

REVENUE* (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25	FY26	FY27		
(\$640.8)	(\$8,283.0)	(\$8,943.0)	(\$10,263.0)	(\$11,484.0)	Recurring	General Fund – Cannabis Excise Tax
(\$298.7)	(\$3,861.2)	(\$4,168.9)	(\$4,784.3)	(\$5,353.4)	Recurring	Municipalities – Cannabis Excise Tax
(\$11.6)	(\$149.7)	(\$161.7)	(\$185.5)	(\$207.6)	Recurring	Counties – Cannabis Excise Tax
\$475.5	\$6,147.0	\$6,636.8	\$7,616.4	\$8,522.5	Recurring	Community Reinvestment Grant Fund
\$475.5	\$6,147.0	\$6,636.8	\$7,616.4	\$8,522.5	Recurring	Substance Use Disorder Prevention Treatment Fund

Parenthesis () indicate revenue decreases
 *Amounts reflect most recent version of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	\$0	\$257.1	\$257.1	\$514.2	Recurring	General fund-HSD
	\$0	\$252.7	\$252.7	\$505.3	Recurring	General fund - DOH
Total	\$0	\$509.8	\$509.8	\$1,019.6	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Sources of Information

LFC Files

Responses Received From

Human Services Department (HSD)
 Department of Health (DOH)

No Response Received

Taxation and Revenue Department (TRD)
 Department of Finance and Administration (DFA)

SUMMARY

Synopsis of House Bill 315

House bill 315 (HB315) creates the community reinvestment grant fund (CRGF) and the substance use disorder prevention and treatment fund (SUDPTF) with revenue earmarks to both funds. HB315 diverts a total of 33 percent of cannabis excise tax revenue to the newly created funds, split evenly (each fund receives 16.5 percent of cannabis excise tax revenue).

The community reinvestment grant fund will be administrated by the Department of Health (DOH). The substance use disorder prevention and treatment fund will be administered by the Human Services Department (HSD). Both funds are subject to appropriation by the Legislature.

The community reinvestment grant fund may be used for a comprehensive and sustained multilingual public education campaign promoting abstinence and responsible use, to reinvest in communities disproportionately affected by historic drug policies, to provide housing, for harm reduction, and overdose prevention services, for evidence-based drug education programming, and for targeted comprehensive research on cannabis. Funding is to be awarded through applications submitted by public post-secondary educational institutions, public community schools, municipalities, and counties.

The substance use disorder prevention and treatment fund may be used to fund projects that provide substance use disorder prevention and treatment. Post-secondary education institutions, municipalities, and counties can apply for grants for projects related to substance use disorder treatment and prevention.

This bill does not contain an effective date, and as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed.

FISCAL IMPLICATIONS

The earmarks contained in this bill are a recurring expense to the general fund. Any unexpended or unencumbered balance in the funds remaining at the end of each fiscal year shall not revert to the general fund. This bill creates new funds and provides for continuing appropriations. LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds because earmarking reduces the ability of the Legislature to establish spending priorities.

Because HB315 requires a distribution shall be made “equal to sixteen and one-half percent attributable to the cannabis excise tax”, the distribution occurs on the entirety of the collections, including those revenues otherwise directed to counties and municipalities. If the intent is to distribute those portions from only the state share of cannabis excise tax, Section 1 paragraphs C and D after the words “cannabis excise tax” the following language should be added: “remaining following distributions made pursuant to paragraphs A and B.”

The impacts on page 1 are estimated from the consensus revenue estimate published in December 2022.

The Human Services Department notes:

To administer the funding distributed to the Substance Use Disorder Prevention and Treatment Fund the Behavioral Health Services Division would require 2 FTE positions calculated at a pay band 70 and .3 FTE of 2 supervisors calculated at pay band 75. Annually this would require \$257,100 including salary, fringe benefits, and operational costs.

The Department of Health adds costs to the department would include:

One FTE - Health Educator: Pay Band 65 at a cost of \$80,549.14. One FTE - Budget Analyst: Pay Band 65 at a cost of \$80,549.14. And one FTE - Program Coordinator: Pay Band 70 at a cost of \$91,524.88.

SIGNIFICANT ISSUES

The Human Services Department highlights:

According to the Department of Health 2020 Substance Use Disorder Treatment Gap Analysis, in 2018, the most recent year data is available, there were 70,303 total substance use treatment patients across all included datasets, with treatment most often provided for opioid misuse/use disorder and alcohol use disorder. The total number of medication-assisted treatment (MAT) patients was 15,948.

Multiple sources of data were used to create a synthetic estimate of the number of persons in the state who were living with any substance use disorder in 2018. This synthetic estimate yielded 204,681 (9.7 percent of state residents) persons living with a substance use disorder. Alcohol use disorder (AUD) was the most common SUD, with an estimated 101,012 persons living with an AUD. Opioid (38,989) and cannabis (17,766) were the next most common use disorders. The estimated treatment gap represents the difference between the estimated number of people living with a SUD in 2018 and the number of people who received SUD treatment in 2018. The total number of persons living with an SUD was estimated to be 204,681. Based on available data, approximately 70,303 (34.3 percent) persons received some treatment in 2018. In 2018, the calculated gap suggests an estimated 134,378 (65.7 percent) persons needing but not receiving treatment for their SUD. The largest gaps by substance type were for alcohol (73,178) and benzodiazepines (14,218).

Additional funding utilized to provide substance use disorder treatment would decrease the gap between people in need of treatment and people receiving treatment.

The Department of Health adds:

The U.S. Surgeon General's Report on Alcohol, Drugs, and Health in 2015 found that only about 1 in 10 people with a substance use disorder receive any type of specialty treatment (<https://addiction.surgeongeneral.gov/key-findings>). The report also found there are a variety of cost-effective evidence-based prevention programs and policies that prevent substance initiation, harmful use, and substance use-related problems. These programs and policies are effective at different stages of the lifespan. Lastly, the report found that communities are an important organizing force for bringing effective evidence-based intervention to scale.

In the United States, about 1 in 8 children ages 17 or younger are living in households

with at least one parent who has a substance use disorder (SUD). While these 8.7 million children will not all experience abuse or neglect, they are at increased risk for child maltreatment and child welfare involvement compared to other children. [Children and Families Affected by Parental Substance Use Disorders \(SUDs\) | National Center on Substance Abuse and Child Welfare \(NCSACW\) \(hhs.gov\)](#).

There is increasing concern about the negative effects on children when parents or other members of the household use substances (either legal or illegal) [Drug misusing parents: key points for health professionals | Archives of Disease in Childhood \(bmj.com\)](#) or engage in illegal drug-related activity, such as the manufacture of methamphetamines in home-based laboratories. Many States have responded to this problem by expanding civil definitions of child abuse or neglect to include this concern: approximately 33 States and the Virgin Islands address in their criminal statutes the issue of exposing children to illegal substance use activity, including:

- In 19 States the manufacture or possession of methamphetamine in the presence of a child is a felony;
- In 16 States the manufacture or possession of any controlled substance in the presence of a child is considered a felony;
- Exposing children to the manufacture, possession, or distribution of illegal substances is considered child endangerment in 14 States;
- The exposure of a child to substances or substance use paraphernalia is a crime in eight States;
- In North Carolina and Wyoming, selling or giving an illegal substance to a child by any person is a felony [Parental Substance Use as Child Abuse \(childwelfare.gov\)](#).

HB315 would create a mechanism for municipalities, counties, DOH, and HSD to provide substance use prevention, treatment, and research services in previously underserved areas of the state.

In 2019, a study by the National Center for Health Statistics showed that the percentage of children aged 5–17 years who had ever lived with someone who had a problem with alcohol or drugs was highest among non-Hispanic white children, and highest among non-metro, or rural areas for all groups. [Products - Data Briefs - Number 416 - September 2021 \(cdc.gov\)](#) As a result, HB315 would be expected to disproportionately affect non-Hispanic white and rural persons.

Social and economic factors such as income level, housing or food insecurity, level of education, access to healthcare, environmental factors and quality of relationships are also referred to as social determinants of health (SDOH). These conditions in which people live, work and play can influence health and well-being throughout a person's lifetime.

Individuals who have previously been incarcerated may benefit from the distributions to remove barriers related to job placement and legal services by the reinvestment in communities disproportionately affected by historical federal and state substance use policies.

Creation of a substance use prevention and treatment fund may contribute to improved

health and well-being of New Mexicans who use cannabis, alcohol or other substances or are at risk of developing substance use disorder.

- Children and adolescents maybe impacted by this bill through learning about cannabis use and inadvertent exposure.
- There may be a reduction in inadvertent and accidental exposure or ingestion of cannabis products by children and adolescents.
- There may be a reduction in the number of calls to poison control and emergency room visits due to inadvertent and accidental exposure or ingestion of cannabis products by children and adolescents.

The CDC has stated that strategies that incorporate educations on high-risk behavior such as substance use, improves protective factors and health outcomes for students. ([What Works In Schools](#) | [DASH](#) | [CDC](#))

TECHNICAL ISSUES

The new distributions created in section 1 paragraphs C and D apply to total receipts and are unclear in their interactions with paragraphs A and B. As written, HB315 could reduce municipal and county distributions which may not be the intended effect. HB315 should be amended on page 2 paragraphs C and D to clarify the distributions should be made after the distributions pursuant to paragraphs A and B, if municipalities and counties are to be unaffected.

HB315 does not contain an effective date and would take effect in the middle of June. This could make it difficult for TRD to determine the appropriate distributions of cannabis excise taxes for that month. HB315 could be amended to include an effective date of July 1, 2023 for clarity of administration.

Does the bill meet the Legislative Finance Committee tax policy principles?

- 1. Adequacy:** Revenue should be adequate to fund needed government services.
- 2. Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
- 3. Equity:** Different taxpayers should be treated fairly.
- 4. Simplicity:** Collection should be simple and easily understood.
- 5. Accountability:** Preferences should be easy to monitor and evaluate.

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