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FISCAL IMPACT REPORT

ORIGINAL DATE 02/02/12
LAST UPDATED 02/11/12 **HB** _____

SPONSOR McSorley

SHORT TITLE Create Medical Cannabis Fund **SB** 240/aSFC/aSFI#1

ANALYST Esquibel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY12	FY13		
	\$598.0	Recurring	Other State Funds/Medical Cannabis Fund

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY12	FY13	FY14		
	\$598.0	\$598.0	Recurring	Other State Funds/Medical Cannabis Fund

(Parenthesis () Indicate Revenue Decreases)

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)

Human Services Department (HSD)

SUMMARY

Synopsis of SFI Amendment #1

The Senate Floor amendment to Senate Bill 240 as amended by the Senate Finance Committee declares an emergency to make the provisions of the bill effective upon signing by the Governor.

Synopsis of SFC Amendment

The Senate Finance Committee amendment to Senate Bill 240 stipulate that the newly created medical cannabis fund shall revert annually to the general fund any unexpended or unencumbered balances, and that the Department of Health shall report annually to the Legislative Finance Committee on the medical cannabis fund's income and expenditures.

Synopsis of Original Bill

Senate Bill 240 creates the medical cannabis fund. The bill would create a non-reverting fund in the state treasury to be administered by the Department of Health. Revenue in the fund would be generated from fees collected by the medical cannabis program and interest income. The bill stipulates the fund cannot be used for capital expenditures. Money in the fund shall be disbursed on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the secretary of health or the secretary of health's designee.

FISCAL IMPLICATIONS

The bill creates a "medical cannabis fund" which would accrue revenue generated by the medical cannabis program and interest income. Unencumbered or unexpended balances remaining in the fund at the end of the fiscal year shall revert to the general fund (see SFC amendments).

Continuing Appropriations Language

This bill creates a new fund and provides for continuing appropriations. The 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.

Both the LFC and Executive recommendations for the FY13 budget for the Department of Health's (DOH) medical cannabis program include \$598 thousand in other revenue generated from the medical cannabis program as well as funding for seven terms FTE. The DOH estimates the medical cannabis program will generate \$598 thousand from fees in FY13.

SIGNIFICANT ISSUES

The DOH indicates SB240 would allow for the creation of a designated Medical Cannabis Fund within the state treasury. Fees related to patient/producer applications, licensure of medical cannabis producers and production facilities that are administered and collected by the Medical Cannabis Program would be designated to the proposed Medical Cannabis Fund. The fund would be used to support the administration and operations of the DOH Medical Cannabis Program, and any unexpended revenue shall revert to the general fund.

The New Mexico DOH Medical Cannabis Program has expanded since implementation in 2007. As of January 2012, there are 5,726 active patients enrolled in the program with approximately 250 new patient applications and 140 patient renewals processed per month. Per existing statute, an applicant must complete a medical certification annually to continue program participation. This requires a significant amount of DOH staff time to process applications and to provide customer service in order to process and approve applications on an ongoing and timely basis. Individual enrollees may also apply for personal production licenses to self-produce medical cannabis. As of December 2011, 48% of enrolled clients hold personal production licenses, adding to the volume of application processing and oversight required for program operations. Additionally, the DOH Medical Cannabis Program licenses non-profit producers to supply medical cannabis to program enrollees. There are currently 23 licensed non-profit producers (LNPPs). Oversight and maintenance of LNPPs by the DOH Medical Cannabis Program includes review of new applications; annual re-licensing applications; quarterly site visits; review of state-wide production capacity and output; and fiscal oversight. With the wide geographic distribution of LNPPs, these functions require significant DOH staff numbers and time to complete. DOH staff also serves as key educators and liaisons to the medical and law enforcement communities.

The provision of funding for program operation through the payment and collection of application and licensing fees would support the integral functions and operations of the DOH Medical Cannabis Program as required by statute (NMSA 26-2B) and rules and regulations (7.34.2 to 7.34.4 NMAC). Maintenance and ongoing growth of the DOH Medical Cannabis Program is anticipated, which requires permanent funding and staffing to achieve compliance and necessary oversight. SB240 would provide a mechanism for an ongoing source of funding to support the functions of the Medical Cannabis Program.

TECHNICAL ISSUES

A possible suggested amendment would be to make the medical cannabis fund subject to annual appropriation by the Legislature.

RAE/lj:amm:svb