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FISCAL IMPACT REPORT

LAST UPDATED _____
ORIGINAL DATE 02/25/2025

SPONSOR Lujan
Santa Fe College of Osteopathic Medicine

SHORT TITLE Fund BILL NUMBER House Bill 531

ANALYST Rommel

REVENUE* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Fund Transfer		\$(40,000.0)				Nonrecurring	Tobacco Settlement Fund
Fund Transfer		\$40,000.0				Nonrecurring	Osteopathic Medicine Escrow Fund

Parentheses () indicate revenue decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From

Health Care Authority (HCA)

New Mexico Medical Board (NMMB)

Higher Education Department (HED)

SUMMARY

Synopsis of House Bill 531

House Bill 531 (HB531) creates an unencumbered Santa Fe College of Osteopathic Medicine escrow fund. The bill transfers \$40 million from the tobacco settlement permanent fund to the escrow fund to be held until the graduation of the first class of medical students and the full accreditation of the college, or no later than July 1, 2032, then the balance of the fund must be transferred back to the tobacco settlement permanent fund.

The Santa Fe College of Osteopathic Medicine is required to submit data annually to the Higher Education Department (HED) for the first five years of operation, including the number of applications received, the number of students accepted, the number of students with passing grades each semester, the number of students who return each semester, the number of students who graduate on time, and a list of residency placements.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns.

FISCAL IMPLICATIONS

HB531 transfers \$40 million from the tobacco settlement fund to a new Santa Fe college of osteopathic medicine fund but no funds are appropriated for the purpose of an escrow account.

SIGNIFICANT ISSUES

The Commission on Osteopathic College Accreditation (COCA) is recognized by the U.S. Department of Education as the accreditor of colleges of osteopathic medicine. COCA accreditation signifies that a college has met or exceeded the Commission's standards for educational quality. A proposed college of osteopathic medicine (COM) seeking candidate status is required to submit evidence of an escrow account as specified in 2023 COM New and Developing Standards, Element 3.3. The purpose of this account is to ensure that a COM has sufficient resources to fulfill its obligations to its enrolled students should it fail to achieve accreditation within a five-year period. While a formal teach-out plan is not required for the commission, the resources to continue its educational program for the duration of its students' matriculation are ensured by the escrowed funds. Upon graduation of its first class, and the related commission action to award accreditation, the escrow funds will be released to the COM.¹

Candidate Element 3.3: Escrowed Reserve Funds

A proposed COM must demonstrate the existence of a minimum segregated, unencumbered reserve fund escrowed until graduation of the first class of students and achieving accreditation equal to the greater cash value of 1) \$30,000,000; or 2) tuition multiplied by the approved number of students for the proposed COM multiplied by four years. Any future increase in tuition will require recalculation of the escrow amount and an increase in the amount of the escrowed funds. The escrowed reserve funds must: *1) not be borrowed or pledged funds; and 2) be funded by immediately available liquid assets that are wholly owned assets of the proposed COM or its parent institution [emphasis added].* The proposed COM may not withdraw any interest that accrues in the escrowed funds. A proposed COM must replenish the escrow fund account in the event the value of the account decreases below the required minimum amounts stated above.

The fund transfer in HB531 does not appear to meet the accreditation criteria referenced above. The Legislature would retain control of the fund and assets within. Moreover, HB531 transfers but does not appropriate the funds. The Legislature would need to take further action to make the funds available for teach-out should the COM fail to attain accreditation.

HED comments on the purposes of the tobacco settlement fund:

The Santa Fe College of Osteopathic Medicine does not meet any of the purposes as defined within NMSA 6-4-10 B. Money may be appropriated from the tobacco settlement program fund for health and educational purposes, including:

- (1) support of additional public-school programs, including extracurricular and after-school programs designed to involve students in athletic, academic, musical, cultural,

¹ <https://osteopathic.org/index.php?aam-media=/wp-content/uploads/2023-COM-New-and-Developing-Accreditation-Standards.pdf>

- civic, mentoring and similar types of activities;
- (2) any health or health care program or service for prevention or treatment of disease or illness;
- (3) basic and applied research conducted by higher educational institutions or state agencies addressing the impact of smoking or other behavior on health and disease;
- (4) public health programs and needs; and
- (5) tobacco use cessation and prevention programs, including statewide public information, education and media campaigns.

OTHER SUBSTANTIVE ISSUES

The transfer in HB531 is made without consultation with the Tobacco Settlement Revenue Oversight Committee. State statute 2-19-1 NMSA 1978 (Laws 2000 Chapter 9) establishes responsibilities of the committee, including monitoring use of the fund; developing program evaluations; making funding recommendations; and recommending changes in legislation regarding use of tobacco settlement revenue.

HED also notes a potential issue with the Anti-Donation Clause of the New Mexico Constitution. In accordance with the Constitution of New Mexico Section 14, neither the state nor any county, school district or municipality, except as otherwise provided in this constitution, shall directly or indirectly lend or pledge its credit or make any donation to or in aid of any person, association or public or private corporation or in aid of any private enterprise for the construction of any railroad except as provided in Subsections A through H of this section. The Santa Fe College of Osteopathic Medicine does not meet any of the exemptions as defined within sections A through H. Section 6-4-10 Section A.

HR/hj/SL2