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FISCAL IMPACT REPORT

SPONSOR Taylor, JG DATE TYPED 02/11/04 HB 563

SHORT TITLE School Vending Machine Excise Tax Act SB _____

ANALYST Neel

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY04	FY05			
		Indeterminate	Recurring	Vending Machine Excise Tax
		Indeterminate	Recurring	PED for Physical Ed and Nutrition Programs

(Parenthesis () Indicate Revenue Decreases)

Relates to:

- HB 303, Nutrition Act;
- SB 273, Nutrition Act;
- SB 339, Nutrition in Schools Act;
- SB 374, Soft drink Tax Act.

SOURCES OF INFORMATION

LFC Files

Responses Received From:

- Department of Health (DOH)
- Health Policy Commission (HPC)
- Public Education Department (PED)

No Response Received From:

- Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 563 amends NMSA 1978, the Tax Administration Act, to create a School Vending Machine Excise Tax on low nutrition foods and beverages sold by vending machines on school

district property. The excise tax shall be 10% of the gross receipts attributed to the sale of low nutrition foods sold from vending machines on school district property. The tax shall be paid by the 25th day following the month in which the taxable event occurs. The New Mexico Tax and Revenue Department shall administer the collection of the excise tax and shall enforce collection.

Funds generated by the School Vending Machine Excise Tax shall be distributed to the Public Education Department to support nutrition physical education programs.

Low nutrition foods are defined as:

- Providing less than five percent of the recommended daily allowance per serving of protein, vitamin A, vitamin C, niacin, riboflavin, thiamine, calcium and iron;
- One deriving more than thirty-five percent of its total calories from fat, excepting nuts or seeds;
- One deriving more than ten percent of its total calories from saturated fats; or
- Is composed of more than twenty percent sugar by weight, other than fresh fruits or berries; and
- "Non-healthy beverage" means a nonalcoholic flavored beverage, but does not include an unsweetened beverage that contains greater than fifty percent by volume of vegetable or fruit juice or one hundred percent milk, soy, rice or similar milk substitute.

Significant Issues

The HPC noted the following significant issues:

Obesity in children is a growing national problem and may be related to chronic disease such as diabetes, hypertension and heart disease. Foods and beverages currently being offered in public schools may be contributing to obesity.

According to the 1999-2000 National Health and Nutrition Examination Survey from the National Center for Health Statistics, obesity trends in children are as follows:

- Among children ages 6 to 19, 15% (almost 9 million) are overweight, up from 5% in 1980.
- Over 10% of preschool children between ages 2 and 5 are overweight, up from 7% in 1994.
- Non-Hispanic black and Mexican-American adolescents ages 12 to 19 were more likely to be overweight (24%) than non-Hispanic white adolescents (13%).
- Trends show that another 15 % of children and teens ages 6 to 19 are considered at risk of becoming overweight.

The U.S. Department of Agriculture launched a program in the late 1990's called Team Nutrition. The program encourages schools to follow dietary guidelines for Americans by educating children about nutritious foods and encouraging physical activity. 98 schools in New Mexico in 48 schools districts are participating in Team Nutrition.

Other states have instituted policies banning vending machines in public schools and defining areas in public schools where foods of minimal nutritional value are not allowed. Schools violating the policy face losing school lunch subsidies.

Federal legislation was introduced in July of 2002 aimed at reducing obesity among children. The Improved Nutrition and Physical Activity Act (IMPACT) focuses on health education and research. IMPACT proposes spending over \$200 million next year, and additional money in future years, on a variety of programs to encourage better nutrition, physical activity, and further research on obesity.

Nutrition and health classes will teach children fundamental lessons about lifestyle changes that may develop into healthier daily habits for children and young adults. The poor state of health that children and adults are currently experiencing has taken a couple of generations to reach this condition. By teaching children and giving them the knowledge to make healthy choices, we may ultimately end up with healthier adult populations. One proactive way to cut health care costs in the elderly population may be to make adults and the elderly more health conscious.

FISCAL IMPLICATIONS

Without tangible data from TRD, it is difficult to ascertain a fiscal impact for HB 563.

TECHNICAL ISSUES

The creation of a School Vending Machine Excise Tax and the subsequent collection of taxes under the Act, may require the creation of a fund in the State Treasury's Office for the specific holding of, and disbursement of, funds collected for public school nutrition and physical education programs.

SN/yr