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FISCAL IMPACT REPORT

SPONSOR Kidd DATE TYPED 2-6-04 HB _____

SHORT TITLE Soft Drink Tax Act SB 374

ANALYST Neel

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
	\$9,000.0			Recurring	HSD (Medicaid)

(Parenthesis () Indicate Expenditure Decreases)

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY04	FY05			
	\$9,000.0	\$9,200.0	Recurring	Soft Drink Medicaid Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Department of Health (DOH)

Health Policy Commission (HPC)

Human Services Department (HSD)

SUMMARY

Synopsis of Bill

Senate Bill 374 (SB 374) proposes to enact a tax on soft drinks, providing for distribution to support the Medicaid Program through a newly created Soft Drink Medicaid Fund. SB 374

would impose an excise tax to be known as the soft drink tax on any wholesalers selling soft drinks as follows:

- two dollars (\$2.00) per gallon of soft drink or soft drink syrup sold or offered for sale in New Mexico;
- twenty-one cents (\$0.21) per gallon of bottled soft drink sold or offered for sale in NM; and
- on the sale of a package of container of soft drink powder, syrup or other base product, twenty-one cents per gallon of soft drink that may be produced from each package or container according to the manufacturer's directions.

The effective date of the provisions of the act would be July 1, 2004. Proceeds of the tax are appropriated to HSD for the Medicaid program. Deductions are allowed for wholesalers distributing soft drinks out of state. Exemptions are made for wholesalers of the United States armed forces.

Significant Issues

DOH provided the following information:

Childhood obesity is one of the most critical public health issues facing New Mexico today. An estimated 30% of children in New Mexico are overweight or at risk of being overweight. Poor nutrition and physical inactivity lead to more preventable deaths (28%) than anything other than tobacco - more than AIDS, violence, car crashes, alcohol and drugs combined. Because childhood obesity is an early indicator of future chronic diseases, if left unchecked, the long-term impact of this epidemic on New Mexico's families, economy, and the prevalence of cardiovascular disease, cancer, and diabetes will be staggering.

SB 374 takes an important step towards addressing one significant contributing factor of the childhood obesity epidemic: the excessive consumption of soda by children. Soda consumption among children and teens has almost doubled in the last twenty years. Twenty years ago, boys consumed more than twice as much milk as soft drinks, and girls consumed 50% more milk than soft drinks. By 1996, both boys and girls consumed twice as much soda as milk.

One out of every five New Mexicans receives health care through Medicaid. The Medicaid budget has grown dramatically each year and the state's ability to continue funding Medicaid at the current rate of growth of the budget is limited.

With successful passage of SB 374, New Mexico will be joining other states or municipalities around the country that tax soda. As the State faces budget shortfalls, SB 374 is a creative way to protect the health of New Mexico's most vulnerable people by providing an additional source of funds for the Medicaid program.

The HPC states:

Approximately 1 in 11 adults in New Mexico has diabetes, according to the NM Behavioral Risk Surveillance System, (BRFSS) 2000 data.

- 120,563 New Mexicans have diabetes. Of these:
 - ✓ 70% know they have diabetes.
 - ✓ 30% do not know they have diabetes.
- American Indians are about 3 times more likely to have diagnosed diabetes than non-Hispanic Whites.
- Hispanics, as well as African-Americans, are about 2 times more likely to have diagnosed diabetes than non-Hispanic Whites.
- In New Mexico in 2000, diabetes was the 6th leading cause of death and represented 3.7% of all deaths in the state. Nationally, diabetes was also the 6th leading cause of death but represented only 2.9% of all deaths in the United States.

FISCAL IMPLICATIONS

TRD notes the following assumptions in determining the fiscal impact that was derived using the 1997 Census of Wholesale Trade in New Mexico and industry reports from the National Soft Drink Association. Census data indicate that there are thirty-four (34) soft drink wholesalers operating in New Mexico. The National Soft Drink Association reports that as of 1998, Americans consume fifty-four (54) gallons of soft drinks per person per year. This estimate assumes more than 90 million gallons of soft drink would be subject to the new excise tax. For comparison, the \$0.41 per gallon excise tax on beer annually raises about \$20 million on sales of nearly 49 million gallons.

Continuing Appropriations

This bill creates a new fund and provides for continuing appropriations. The LFC objects to including continuing appropriation language in the statutory provisions for newly created funds. Earmarking reduces the ability of the legislature to establish spending priorities.

Revenue derived from the imposition of the tax on soft drinks is earmarked to HSD for the Medicaid program.

ADMINISTRATIVE IMPLICATIONS

TRD states significant impacts would result from the adoption of the bill. Systems must be modified to incorporate the new tax program; forms and instructions must be developed; education and training of staff and taxpayers would be required. The department would require an additional FTE in order to effectively administer these provisions. *Therefore, the July 1, 2004 effective date does not allow the department enough time for the transition. An effective date of January 1, 2005 should give the department enough time to incorporate the changes:*

TECHNICAL ISSUES

TRD suggests changing the definition of soft drink wholesaler to: *“a person whose place of business is located in New Mexico and who sells any soft drink for resale.”*