F I S C A L   I M P A C T   R E P O R T

SPONSOR McSorley **DATE TYPED** 02/11/05 **HB**

SHORT TITLE Soft Drink Tax Act **SB** 283

ANALYST Padilla-Jackson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	$25,900.0			Recurring	Soft Drink Medicaid Fund
	$1,150.0			Recurring	Taxation and Revenue Department
	$860.0			Recurring	Department of Health
	$880.0			Recurring	Public Education Department

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
	$25,900.0	Similar	Recurring	Soft Drink Medicaid Fund
	$1,150.0	Similar	Recurring	Taxation and Revenue Department
	$860.0	Similar	Recurring	Department of Health
	$880.0	Similar	Recurring	Public Education Department
	$28,800	Similar	Recurring	Total

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
New Mexico Public Education Department (PED)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

Senate Bill 283 would create an excise tax imposed on any wholesaler who sells soft drinks to support various state health initiatives, including the Medicaid program. The tax would be set to \$0.03 for each twelve fluid ounces of soft drink sold in New Mexico; \$1.92 per gallon of soft drink syrup or soft drink concentrate sold in New Mexico; on the sale of a package or container of soft drink powder or other base product, \$0.32 per gallon of soft drink that may be produced from each package. The wholesaler would not have to pay the tax on the value of soft drinks sold and shipped out of state and exemptions are made for wholesalers of the United States armed forces. The bill defines a soft drink as a nonalcoholic flavored beverage containing any sweetener additive, such as corn fructose, sugar or aspartame.

The bill would also create the "Soft Drink Medicaid Fund" in the State Treasury. The fund and income produced by the fund would be appropriated to the human services department for expenditure in FY06 and subsequent fiscal years on the Medicaid program. The bill would also support various other health-related state initiatives.

If the bill passed, the distributions of the soft drink tax would be as follows:

Soft Drink Tax Proceed Distributions	
90%	Soft Drink Medicaid Fund
4%	Retained by TRD to defray the costs of adminstering the tax
3%	Department of Health for state obesity prevention and awareness programs
2%	Public Education Department (PED) for public school wellness education initiatives
1%	PED for grants to public schools that do not permit the sale of soft drinks on campus

The effective date of the provisions of this bill is July 1, 2005.

Significant Issues

PED provided the following information:

- As noted in the 2005 Dietary Guidelines for Americans, the numbers of overweight children and adolescents of both sexes have increased, with approximately 16 percent of children and adolescents ages six to 19 years considered to be overweight (1999-2002)
- Based on data from the National Soft Drink Association, in New Mexico, the total consumption was 90 million gallons of soft drinks
- Eighty percent of school districts sell food that competes with school meal programs; most of the food is low in nutrients and high in calories

PERFORMANCE IMPLICATIONS

PED notes that the availability of food and beverages sold outside of school meal programs can decrease participation in programs that offer more nutritionally balanced foods and beverages. This may be counterproductive to school financing as funding for school meals programs declines with lower participation. And the district may lose money associated with free-and-reduced students

FISCAL IMPLICATIONS

According to the analysis provided by TRD, the total fiscal impact in FY06 is $28,800.0. TRD provided the following analysis:

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 taxed at the rate of $0.32 per gallon, for total annual revenue of $28.8 million.

<u>Continuing Appropriations</u>

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.

ADMINISTRATIVE IMPLICATIONS

PED would require a 1.0 FTE, an Education Administrator with a total expected compensation of $67.8 thousand, to monitor the PED portion of the dollars generated by the Soft Drink Medicaid Fund for the wellness education initiative.

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