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FISCAL IMPACT REPORT

ORIGINAL DATE 02/20/07

SPONSOR Foley LAST UPDATED _____ HB 1267

SHORT TITLE Health Care Reform Initiatives SB _____

ANALYST Hanika Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$.1			recurring	general fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)
 Public Regulation Department/Insurance Division (PRC)
 Department of Health (DOH)

SUMMARY

Synopsis of Bill

House Bill 1267 proposes various statutory changes as follows:

Amends Section 6-4-10 NMSA, the Tobacco Settlement Program Fund, to restrict the purposes for which funds may be used and eliminates the use of funds for additional public school programs; health or health care programs or services for prevention or treatment of disease or illness; or, public health programs unless its for tobacco cessation programs.

Adds a new Section to the Income Tax Act to allow a deduction from net income for long- term care insurance.

Amends Section 22-13-1.1 NMSA, requiring high school graduation requirements to include a required unit in physical education with a major emphasis on the long-range benefits of proper nutrition and exercise.

Adds a new section of Chapter 59A Article 2 NMSA, Electronic Submission of Claims and Associated Data, to require electronic submission of health insurance related information.

Amends Sections 59A-18-13.1, 59A-23B-6 and 59A-23C-5.1 NMSA, Adjusted Community Rating, to allow insurers providing a qualified wellness program to use a rating factor that takes into account the anticipated effect the program will have on utilization and claims costs.

FISCAL IMPLICATIONS

The balance in the Tobacco Settlement Permanent Fund for FY06 was \$84.6 million. It is estimated that for FY07 an additional estimated \$18.1 million will be deposited from the permanent fund into the program fund. To the extent that any Tobacco Settlement Program Fund expenditures for state programs are discontinued, other sources of funding will be needed for those programs. Most likely this will be through a general fund appropriation and will be determined by the magnitude and current uses of the expenditures that are being eliminated.

It is unclear what the financial cost and benefit will be for the Tax Act for the long term care insurance deduction proposed. The PRC notes premium payments for qualified long term care insurance policies can be itemized on federal income tax returns and deducted from federal and state net taxable income. Those individuals who do not itemize cannot deduct those premiums; and, those who cannot afford long term care insurance will not benefit from any deduction. However, individuals with long term care insurance policies are less likely to utilize Medicaid, since they have private insurance allocated for that purpose.

The FY07 budget approved by the Legislature and signed by Governor Bill Richardson appropriated \$7.7 million from the tobacco settlement program fund for comprehensive tobacco control programs, an increase in spending of \$1.7 million from FY06. The increase included a first-time, \$500,000 set-aside for tobacco control programs specifically targeting the state's 22 distinct American Indian tribes.

SIGNIFICANT ISSUES

It has been argued that tobacco settlement fund money should be restricted to the study, cessation and prevention of tobacco use. For FY07 NM tobacco control programs are funded at approximately \$9 million (\$7.7 million from the tobacco settlement program fund, \$1.3 million from CDC), which is 64% of the CDC recommended minimum. The smoking rate among youth in New Mexico still remains higher than the national average (25.7% versus 23%). In comparison, states that spend at least the CDC recommended minimum have youth smoking rates lower than the national average.

The bill will eliminate the tobacco settlement fund's support of health or health care program services for prevention or treatment of disease or illness. Currently there are prevention programs in the DOH, such as chronic disease and diabetes programs, funded through the tobacco settlement fund. (See table under other substantive issues).

PRC reports that premium payments for qualified long term care insurance policies can be itemized on federal income tax returns and deducted from federal and state net taxable income. However, those who don't itemize cannot deduct those premiums. Provisions of the bill will permit deduction from state net payable income. Persons with long term care insurance policies are less likely to utilize Medicaid, since they have private insurance.

While high school graduation requirements include one unit of physical education, some argue

that an increased emphasis on exercise and nutrition ought to be included as a part of this unit. PED reports that both the PE Content Standards with Benchmarks and Performance Standards and the Health Education Standards with Benchmarks and Performance Standards require schools to teach about the long-range benefits of proper nutrition and exercise, track, identify and draw conclusions about personal nutrition and physical activity and how it relates to their personal health.

PRC notes that many believe there needs to be a requirement for uniform electronic filing related to health insurance claim filings.

Wellness programs are believed to be a proactive way to deal with health care and lower the costs of health insurance programs. Employers and others would like to receive consideration in the pricing of their health insurance if they have active wellness programs. Current New Mexico law restricts factors that can be employed in the rating of health insurance. PRC believes that amending the law to permit rating factors for wellness programs will address this issue.

PERFORMANCE IMPLICATIONS

New Mexico's tobacco settlement funds are governed by a 2000 law passed by the Legislature and signed by then-Governor Gary E. Johnson that placed 50 percent of the state's tobacco settlement payments in a permanent trust fund, and allowed the other half to be placed into a tobacco settlement program fund to be spent on a variety of health-related programs appropriated through the state's annual budget process. However, legislation passed in 2003 diverted all settlement payments for a four-year period (FY03-06) into the state's General Fund.

ADMINISTRATIVE IMPLICATIONS

There is a clear link between health and academic achievement. By eliminating the ability of the tobacco settlement fund to support prevention and intervention program as well as extracurricular and after-school programs there could be a negative impact on both the PED and DOH performance measures.

The PRC's insurance division believes that any rule making can be accomplished with existing staff and resources and will have no fiscal or performance implications for the Department.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with: HB584 and SB561, which proposes changes to the graduation requirements.

Duplicates: SB 1173

Relates to:

- HB 89, which appropriates \$150,000 annually to the Indian Affairs Department for programming in southwestern Cibola County.
- HB 90, which appropriates \$100,000 annually to the Indian Affairs Department to promote tobacco cessation in southwestern Cibola County.
- HB 283, which prohibits smoking in indoor work areas.

- HB 335, which establishes a \$25 million maximum bond amount while appeals are pending in a civil action by signatories of the Tobacco Master Settlement Agreement (MSA).
- HB 353, which appropriates \$1.3 million to the Veterans Affairs Department to study early detection of lung cancer.

TECHNICAL ISSUES

PRC further reports that Section 4 requires that the superintendent of insurance conduct a rule making to establish requirements for insurers, HMOs, nonprofit health care plans, TPAs, individual and institutional health care providers. The superintendent has substantial authority over its licensees; however, has no authority over individual and institutional providers. This lack of authority through licensure will make it hard for the superintendent to enforce these rules on providers. These providers are licensed by other agencies and their inclusion in a joint rulemaking could eliminate this problem.

OTHER SUBSTANTIVE ISSUES

Tobacco Settlement Program Fund Distribution
(dollars in thousands)

Appropriations	FY04	FY05	FY06	FY07 Final	DFA Rec.	FY08 LFC Rec.
	General Fund	General Fund	General Fund			
609 IAD Tobacco Cessation Programs	0	0	0	500	500	500
630 HSD Breast and cervical cancer	1,300	1,300	1,300	1,300	1,500	1,500
630 HSD Medicaid expansion				0	0	3,515
665 DOH Tobacco cessation and prevention	6,000	6,000	6,000	7,216	10,800	9,115
665 DOH Diabetes prevention and control	1,000	1,000	1,000	1,000	1,000	1,000
665 DOH HIV/AIDS services	470	470	470	470	470	470
665 DOH Breast and cervical cancer screening				0	200	200
952 UNM/HSC Research and clinical care programs in lung and tobacco-related illness	1,000	1,000	1,000	0	1,500	1,000
952 UNM/ HSC Instruction and General Purposes	0	0	0	1,000	0	1,000
952 UNM/HSC Research in genomics and environmental health	1,500	1,500	1,500	1,500	2,000	1,500
952 UNM/HSC Poison control center	450	450	450	450	450	450
952 UNM/HSC Pediatric oncology program	400	400	400	400	800	400
952 UNM/HSC Telemedicine program	150	150	150	150	300	150
952 UNM/HSC Los Pasos program	50	50	50	50	50	50
952 UNM/HSC Area health education centers	50	50	50	50	50	50
952 UNM/HSC Specialty education in trauma	400	400	400	400	400	400
952 UNM/HSC Specialty education in pediatrics	400	400	400	400	400	400
Total Appropriations/Recommendation	13,170	13,170	13,170	14,886	20,420	21,700

ALTERNATIVES

Allow for the tobacco settlement fund to continue to providing funding for school programs as well as health programs; but, include a requirement that tobacco use prevention information and tobacco cessation strategies be incorporated into existing programs that target middle and high school students.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

- Proceeds from the tobacco settlement program fund will continue as is.
- An income tax deduction for the purchase of long-term insurance may not exist.
- Submission of health care claims and associated data may continue in its present form.
- An insurance rating factor for qualified wellness programs may not be established.

AMENDMENTS

On Page 1, line 13, after “research and cessation” insert “and prevention” before “programs”.

AHO/nt