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**FISCAL IMPACT REPORT**

SPONSOR: Carraro DATE TYPED: 03/07/03 HB \_\_\_\_\_

SHORT TITLE: Prohibit Smoking in Prisons and Schools SB 568

ANALYST: Reynolds-Forte

**APPROPRIATION**

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			Indeterminate		
			(See Fiscal Implications)	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

**SOURCES OF INFORMATION**

Responses Received From  
 NM Department of Education  
 NM Department of Health  
 NM Children, Youth and Families Department  
 NM Corrections Department

**SUMMARY**

Synopsis of Bill

SB 568 would make it unlawful for any person to smoke in the following places:

1. Publicly operated correctional facilities
2. Privately operated correctional facilities
3. Public school campuses
4. Certified juvenile detention facilities

The bill also requires that “No Smoking” signs be conspicuously posted on all public entrances, or in a position where the sign is clearly visible upon entry at the designated institutions.

Significant Issues

- The New Mexico Department of Education notes that smoking is already prohibited on public school campuses.
- CYFD does not believe they are impacted by SB568 because the bill references “certified juvenile detention facility”. They do note that CYFD already prohibits smoking inside all its buildings and facilities.
- The Department of Corrections is concerned that an immediate smoking ban would likely cause a significant amount of inmate (and to a lesser extent, staff) stress, tension and unrest. A large percentage of Department inmates smoke. The Department recently attempted implementation of a total smoking ban, in conjunction with advance notice as well as a smoking cessation program, and was still forced to retreat from such a policy.

The bill could have a significant negative impact on the Department’s prison programs in the short-term, due to inmate stress and dissatisfaction. In both the short-term and long-term, cigarettes would become contraband and they would be smuggled in and traded on the “black market.”

On the other hand, if a total smoking ban was implemented it could, in the long term, eliminate the possibility of civil liability for second hand smoke lawsuits. Such a ban could also reduce healthcare costs in the future.

While the bill is not absolutely clear, it seems to prohibit smoking even outdoors on prison grounds. If so, it could impinge on Native Americans religious rights and practices, which involve smoking.

## **FISCAL IMPLICATIONS**

The New Mexico Corrections Department believes that in the short-term, the bill could result in minor to substantial increases in costs to the Department to provide smoking cessation programs and to quell inmate disturbances and unrest.

## **ADMINISTRATIVE IMPLICATIONS**

The New Mexico Corrections Department states that in both the short-term and long-term, there will be an increased administrative burden upon correctional staff who will be required to deal with cigarettes as contraband. Staff who provide cigarettes to inmates will be disciplined.

## **TECHNICAL ISSUES**

The Corrections Department believes that the bill somewhat ambiguous Section I of the bill prohibits smoking “in” correctional facilities; which seems to imply that smoking is prohibited indoors, but not outdoors. On the other hand, Section 2 of the bill requires posting signs to advise that smoking is prohibited “in” the entire institution and its grounds.

The Department of Health recommends that because of the health impact of spit/chew tobacco, SB568 be amended to include use of all tobacco products as follows:

Page 1, Line 11 – change “smoking” to “tobacco use”

Page 1, Line 17 – change “smoke” to “use tobacco”

Page 1, Line 25 – change “smoking” to “tobacco use”

Page 2, Line 2 & 3 – change “No Smoking” to “No Tobacco Use” and strike “or the international no-smoking symbol or both”

### **OTHER SUBSTANTIVE ISSUES**

The Department of Health made the following comments regarding SB568:

There are a number of benefits to smoke-free policies in corrections facilities. They include the following: 1) protecting guards and inmates from exposure to SHS; 2) fewer false smoke alarms; 3) elimination of potential fire hazards, and 4) reduced building maintenance (Smoke-free Jails: Collected Resources, National Institute of Corrections, 1991). However, banning or restricting smoking may lead to increased tension among inmates and guards as well as increased contra-band trafficking.

Resources for implementation and enforcement of smoke-free policies must be provided. Providing appropriate cessation services, including nicotine replacement therapy, support groups, facilitator and counselor training, and no smoking signs should be a part of any comprehensive cessation program. This concern applies to all facilities identified and affected by SB 568.

The U.S. Department of Health and Human Services notes that spit tobacco is not a safe alternative to cigarettes, is highly addictive, and toxic chemicals can cause damage to the gums. Research has shown that it takes 6 months of regular use to develop mouth problems like leukoplakia. It is also responsible for an increased risk of oral cancer. A concerning finding from 1999 data showed that 11.1% of New Mexico high school students used smokeless tobacco—a much higher usage than the national rate of 7.8%.

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