

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE
LAST UPDATED 01/19/07 **HB** _____

SPONSOR Carraro _____

SHORT TITLE Limiting the Amount of Nicotine in Cigarettes **SB** 166 _____

ANALYST Hanika Ortiz _____

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files
Responses Received From
 Attorney General's Office (AG)
 Department of Health (DOH)
 Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

Senate Bill 166 amends New Mexico state law governing cigarette sales and distribution (NMSA 57-2A-3) to prohibit the acquisition, ownership, possession, transportation, sale or importation of cigarettes with greater than three-tenths (.3) milligrams of nicotine per gram of tobacco per cigarette rod after January 1, 2010.

FISCAL IMPLICATIONS

Senate Bill 166 may create an additional fiscal impact on law enforcement that will be proportional to the enforcement of this new law and commenced prosecutions. There will also be additional costs for the Taxation and Revenue Department (which enforces the Cigarette Enforcement Act) in staff time and other resources associated with the implementation of an acceptable method of testing cigarette nicotine content on a "per gram" basis.

SIGNIFICANT ISSUES

Based upon data from philipmorrisusa.com the average cigarette contains approximately one gram of tobacco, and nicotine content varies between .5 and 1.2 milligrams per cigarette. Senate Bill 166 will require a significant reduction in the amount of nicotine which could be lawfully contained in cigarettes possessed, sold or distributed in New Mexico. DOH reports the average nicotine yield for cigarettes labeled “full flavor” is 2.16 milligrams, and for cigarettes labeled “medium” is 2.01 milligrams according to a Massachusetts Department of Public Health Measurement. The PRC reports that the Federal Trade Commission produces an annual report on the amount of nicotine in various cigarette brands but it is unclear whether the nicotine content is measured on a “per gram” basis.

DOH reports that lowering the amount of nicotine in cigarettes is unlikely to reduce overall smoking and may increase smoking as nicotine-dependent tobacco users strive to maintain the blood levels of nicotine required to avoid withdrawal thereby getting as much tar (which contains the carcinogens) as found in higher nicotine cigarettes.

PERFORMANCE IMPLICATIONS

The AGO reports it is unlikely state legislation will affect the ability of Indian Tribes to sell tobacco products containing higher nicotine amounts. The AGO further states the bill appears to make possession of cigarettes containing higher amounts of nicotine a fourth degree felony, which they feel may be difficult to enforce.

ADMINISTRATIVE IMPLICATIONS

The Taxation and Revenue Department will need to dedicate staff time and resources that may be currently directed at or planned for other activities.

TECHNICAL ISSUES

Senate Bill 166 appears to make an assumption that each cigarette rod contains one gram of tobacco. DOH states that nicotine content is typically described either by the total milligrams per cigarette as opposed to “per gram of tobacco” per cigarette rod.

OTHER SUBSTANTIVE ISSUES

AGO reports that according to the Harvard School of Public Health, cigarette manufacturers have steadily increased the nicotine content in cigarettes approximately 1.5% per year to make it easier to obtain a sufficient nicotine dose per single puff.

ALTERNATIVES

The PRC suggests the NM state legislature consider requiring cigarette manufacturers to file an annual report detailing the nicotine content as is done in other states.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The nicotine content of cigarettes sold or distributed in New Mexico will continue to be unregulated.