

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 01/25/10
LAST UPDATED 02/04/10 **HB** _____

SPONSOR Sanchez, B.

SHORT TITLE Increase Cigarette Tax **SB** 121

ANALYST Gutierrez

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
\$6,400.0	\$19,300.0	\$19,300.0	Recurring	General Fund
\$22.0	\$66.0	\$66.0	Recurring	County & Muni Recreation Fund
(\$34.0)	(\$102.0)	(\$102.0)	Recurring	County & Muni Cigarette Fund
\$22.0	\$66.0	\$66.0	Recurring	UNM Cancer Center
\$32.0	\$95.0	\$95.0	Recurring	NMFA
\$234.0	\$702.0	\$702.0	Recurring	NMFA for UNM Health
\$99.0	\$298.0	\$298.0	Recurring	NMFA for DOH
\$16.0	\$49.0	\$49.0	Recurring	Rural County Cancer Treatment

(Parenthesis () Indicate Revenue Decreases)

Relates to SB30 and HB35

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)
 New Mexico Health Policy Commission (HPC)
 Department of Health (DOH)

SUMMARY

Synopsis of Bill

Senate Bill 121 increases the excise tax rate on cigarettes by 50 cents a pack and adjusts the distributions to the beneficiaries so that the revenue from the increase goes to the States' general fund but leaves the distributions to the other beneficiaries approximately at their current revenue levels. This bill also adjusts the discounts allowed on the sales price of cigarette tax stamps to maintain the current value of the discount.

New Distributions under SB121

	Current Law	SB121
County/Municipal Recreational Fund	1.35%	1.08%
County/Municipal Cigarette Tax Fund	2.69%	1.85%
UNM HSC	1.35%	1.08%
NMFA	2.02%	1.61%
NMFA/HSC	14.37%	11.49%
NMFA/DOH	6.05%	4.84%
NMFA/CEA (general fund)	15.79%	11.49%
NMFA/rural county cancer treatment	1.00%	0.80%
General Fund	55.38%	65.76%

Changes to Excise Taxes and Vendor Discounts

<i>Changes tax rate on cigarettes</i>	Current Law	SB121
Cigarette	\$ 0.0455	\$ 0.0705
Pack of 20	\$ 0.9100	\$ 1.4100
Cigarette in packs of five	\$ 0.1820	\$ 0.2820
Pack of 5	\$ 0.9100	\$ 1.4100

<i>Changes the discounts for stamps</i>	Current Law	SB121
Less than \$30,000 of stamps	1.00%	0.65%
\$30,000 to 60,000	0.80%	0.50%
\$60,000 or more	0.50%	0.32%

The effective date of this bill’s provisions is March 1, 2010 provided that the act is adopted by a two-third’s vote of each house, otherwise the effective date is July 1, 2010.

FISCAL IMPLICATIONS

TRD assumed that revenue generated from an increased tax rate would be partially offset by a decline in demand for cigarettes in general and *taxable* cigarettes in particular. The percentage distributions are adjusted so that the current beneficiaries, other than the general fund, are not impacted by the increase.

The FY10 estimate assumes the bill will be enacted on March 1, 2010. Subsequent years are similar with no growth expected in Cigarette Tax revenue.

TRD:

The “Cigarette Inventory Tax” (Section 7-12-3.1 NMSA 1978) is distinctly separate from the “Cigarette Tax” and is distributed entirely to the State General Fund. The estimate has assumed that less than one-half of the first month of additional revenue may be collected as inventory tax, and that retailer purchases

in the first month will be weaker than normal after stocking to capacity in June to beat the tax increase. Thus, some strength in FY2010 June revenue may be expected, but that impact has not been included in the estimated revenue.

Cigarette Tax revenue to the NMFA Credit Enhancement Account is ultimately forwarded to the State General Fund. The total General Fund impact with inclusion of the NMFA Credit Enhancement Account is shown as “General Fund”. The direct impact on the NMFA Credit Enhancement Account is (111) thousand (negative) per year.

SIGNIFICANT ISSUES

The increase in the state tax would move New Mexico from 31st highest excise tax to 20th. Colorado has an 84 cent tax, Arizona taxes at \$2.00, Utah taxes at \$0.695, and Texas taxes \$1.41 per pack (see Attachment 1).

TRD:

An increase in the state Cigarette Tax rate would probably result in the shifting of a significant volume of additional cigarette sales to tax-exempt Tribal retail sellers. Currently, state taxable cigarette volume is 67% of total consumption and tax-exempt Tribal cigarette volume is 33% of total consumption. It is estimated that with the tax increase, tax-exempt Tribal cigarette volume would be almost 40% of total consumption.

The Cigarette Tax rate was last increased in 2003 when the rate was increased from \$0.21 per pack to \$0.91 per pack. Prior to that, the tax rate was increased from \$0.15 per pack to \$0.21 per pack in 1993. The \$0.15 per pack tax had been in effect from 1986 through 1993.

On March 31, 2009 the federal cigarette tax rate increased from 39 cents per pack to \$1.01 per pack, which was expected to decrease cigarette consumption by about 8%. The federal tax increase was expected to affect the volume of both state taxable cigarettes and tax-exempt Tribal sales.

ADMINISTRATIVE IMPLICATIONS

TRD:

High impact if new rate goes into effect on March 1 because of the short time period in which to revise forms, instructions and publications and inform taxpayers. The impact is moderate if the effective date is July 1.

RELATIONSHIP

Senate Bill 121 relates to:

- SB30 which increases the cigarette and tobacco taxes and distributes the additional revenue to the county-supported Medicaid fund
- HB35 which increases the cigarette and tobacco taxes and distributes the additional revenue to the public school fund

TECHNICAL ISSUES

TRD:

Section 1, Subsection B (page 2, line 1 and 2): rather than “one and eighty-five hundredths”, the sponsor may have intended the distribution to be something closer to “two and fifteen hundredths”.

Section 1, Subsection G (page 3, line 8): rather than “eleven and forty-nine hundredths”, the sponsor may have intended the distribution to be something closer to “twelve and sixty-three hundredths”.

Section 2, Subsection A, Paragraph (2): the number “(\$.0141)” should be “(\$.141)”.

The distribution changes in Section 1 should be referenced by an APPLICABILITY Section specifying applicability to receipts from the cigarette tax attributable to sales that occur on or after the effective date of the bill (either under an Emergency Clause – March 1, 2010, or without the Emergency Clause – July 1, 2010).

OTHER SUBSTANTIVE ISSUES

DOH:

Raising cigarette taxes is widely regarded as one of the most effective tobacco prevention strategies. The U.S. Surgeon General has concluded that such tax increases will lead to “substantial long-run improvements in health” (Reducing Tobacco Use, Surgeon General, 2000).

BLG/svb

The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:

- 1. Adequacy:*** revenue should be adequate to fund government services.
- 2. Efficiency:*** tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.
- 3. Equity:*** taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.
- 4. Simplicity:*** taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.
- 5. Accountability/Transparency:*** Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.

More information about the LFC tax policy principles will soon be available on the LFC website at www.nmlegis.gov/lcs/lfc

State Cigarette Tax Rates (as of July 1, 2009)

State	Cigarette Tax (Per Pack)	State Ranking (Highest = 1)	State	Cigarette Tax (Per Pack)	State Ranking (Highest = 1)
Alabama	\$0.425	45	Rhode Island	\$3.460	1
Alaska	\$2.000	9	New York	\$2.750	2
Arizona	\$2.000	10	New Jersey	\$2.700	3
Arkansas	\$1.150	26	Hawaii	\$2.600	4
California	\$0.870	32	Wisconsin	\$2.520	5
Colorado	\$0.840	33	Massachusetts	\$2.510	6
Connecticut	\$2.000	11	Vermont	\$2.240	7
D.C.	\$2.000	12	Washington	\$2.025	8
Delaware	\$1.150	27	Alaska	\$2.000	9
Florida	\$1.339	23	Arizona	\$2.000	10
Georgia	\$0.370	46	Connecticut	\$2.000	11
Hawaii	\$2.600	4	D.C.	\$2.000	12
Idaho	\$0.570	42	Maine	\$2.000	13
Illinois	\$0.980	30	Maryland	\$2.000	14
Indiana	\$0.995	29	Michigan	\$2.000	15
Iowa	\$1.360	21	New Hampshire	\$1.780	16
Kansas	\$0.790	35	Montana	\$1.700	17
Kentucky	\$0.600	40	S. Dakota	\$1.530	18
Louisiana	\$0.360	47	Minnesota	\$1.504	19
Maine	\$2.000	13	Texas	\$1.410	20
Maryland	\$2.000	14	Iowa	\$1.360	21
Massachusetts	\$2.510	6	Pennsylvania	\$1.350	22
Michigan	\$2.000	15	Florida	\$1.339	23
Minnesota	\$1.504	19	Ohio	\$1.250	24
Mississippi	\$0.680	37	Oregon	\$1.180	25
Missouri	\$0.170	50	Arkansas	\$1.150	26
Montana	\$1.700	17	Delaware	\$1.150	27
N. Carolina	\$0.350	48	Oklahoma	\$1.030	28
N. Dakota	\$0.440	44	Indiana	\$0.995	29
Nebraska	\$0.640	38	Illinois	\$0.980	30
Nevada	\$0.800	34	New Mexico	\$0.910	31
New Hampshire	\$1.780	16	California	\$0.870	32
New Jersey	\$2.700	3	Colorado	\$0.840	33
New Mexico	\$0.910	31	Nevada	\$0.800	34
New York	\$2.750	2	Kansas	\$0.790	35
Ohio	\$1.250	24	Utah	\$0.695	36
Oklahoma	\$1.030	28	Mississippi	\$0.680	37
Oregon	\$1.180	25	Nebraska	\$0.640	38
Pennsylvania	\$1.350	22	Tennessee	\$0.620	39
Rhode Island	\$3.460	1	Kentucky	\$0.600	40
S. Carolina	\$0.070	51	Wyoming	\$0.600	41
S. Dakota	\$1.530	18	Idaho	\$0.570	42
Tennessee	\$0.620	39	West Virginia	\$0.550	43
Texas	\$1.410	20	N. Dakota	\$0.440	44
Utah	\$0.695	36	Alabama	\$0.425	45
Vermont	\$2.240	7	Georgia	\$0.370	46
Virginia	\$0.300	49	Louisiana	\$0.360	47
Washington	\$2.025	8	N. Carolina	\$0.350	48
West Virginia	\$0.550	43	Virginia	\$0.300	49
Wisconsin	\$2.520	5	Missouri	\$0.170	50
Wyoming	\$0.600	41	S. Carolina	\$0.070	51

Source: The Tax Foundation