

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 303

50th Legislature, 1st Session, 2011

Tracking Number: .182695.6

Short Title: Enact “Clean Air on Campus Act”

Sponsor(s): Representative Danice R. Picraux and Others

Analyst: James Ball

Date: February 20, 2011

Bill Summary:

HB 303 creates the *Clean Air on Campus Act*.

Among its provisions, the act:

- prohibits smoking on the campuses of all public postsecondary educational institutions except for designated smoking areas for use by patients admitted to the University of New Mexico Hospital;
- defines the term “campus” to mean all property, including buildings and grounds, owned or operated by a public postsecondary educational institution;
- directs postsecondary institutions to provide public notice of the prohibition of smoking and to adopt rules for enforcement of the policy; and
- provides penalties in the form of fines ranging from \$100 to \$300 for non-compliance.

Fiscal Impact:

HB 303 does not contain an appropriation.

Fiscal Issues:

As the analysis by the Higher Education Department (HED) notes, HB 303 will generate revenue through fines imposed on violators of the act; however, the bill does not specify if the money collected by public colleges and universities shall be used solely for expenditures related to the administration of the act or if the money so generated may be spent at the discretion of the institutions.

Technical Issues:

Public postsecondary institutions in New Mexico own or operate numerous properties away from the main campus to carry out a wide variety of programs. These properties can include stadiums, gymnasiums, arenas, rodeo grounds, parking lots, community facilities owned by municipalities but operated by a college or university, store-fronts in malls, and facilities operated on federal enclaves such as military bases, among others. Prohibiting smoking on all such properties and situations could prove problematic.

Substantive Issues:

The analysis by HED notes that:

- the National Cancer Institute contends that there are at least 69 chemicals in tobacco smoke that are known to cause cancer;
- the effects of tobacco smoke are not limited to smokers. The United States Environmental Protection Agency, the United State Toxicology Program, and the United States Surgeon General have all classified secondhand tobacco smoke as a known cancer-causing agent;
- by prohibiting smoking at all public postsecondary educational institutions, the number of individuals exposed to secondhand smoke while on the campuses of these institutions would be reduced;
- the bill's provisions might interfere with the authority provided in the *Dee Johnson Clean Indoor Air Act*;
- instead of being able to create stronger policies than state law, HB 303 could establish a maximum standard to which the institutions would need to adhere;
- in areas where public postsecondary institutions are located, local governments may have already established ordinances prohibiting smoking in certain areas, including public institutions of higher education; and
- it is unknown whether this legislation might create redundancies or conflict with local laws or policies.

Background:

According to HED:

- effective June 15, 2007, New Mexico enacted the *Dee Johnson Clean Indoor Air Act* to establish a minimum standard for places where citizens are protected from secondhand smoke;
- this act (1) eliminates smoking in enclosed indoor workspaces including restaurants, bars, other workplaces, and indoor public spaces; (2) prohibits smoking tobacco near all entrances to any indoor workspace, public place, or means of public transit, including doors, windows, or ventilation systems; and (3) allows local governing bodies to enact stronger provisions than the statute;
- the University of New Mexico (UNM) Board of Regents has adopted a more stringent no-smoking policy than that provided in the *Dee Johnson Clean Indoor Air Act*.
- under the UNM policy, smoking and the use of tobacco products are prohibited on all UNM property except a small number of designated outdoor areas authorized by the President;
- it is UNM's intent to provide designated smoking areas as a transition for individuals who currently use tobacco as UNM phases into a totally tobacco-free environment;
- UNM policy is not binding on branches of UNM, however; and
- students, faculty, and staff violating the act are subject to disciplinary action, although campus police cannot enforce the smoke-free policies at UNM without a state statute providing for smoke-free campuses.

According to the Department of Health, in 2005, the American College Health Association urged all colleges and universities across the nation to implement no-smoking policies on their campuses in an effort to reduce the number of smokers between the ages of 18 to 24. While it

has become increasingly common for these institutions to have policies requiring that all buildings, including residential housing, be smoke-free indoors, no less than 466 of those colleges and universities are now 100 percent smoke-free campuses.

Related Bills:

SB 212a *Prohibit Smoking in Cars with Children*