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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
53rd Legislature, 2nd Session, 2018

Bill Number	<u>SB25</u>	Sponsor	<u>Morales</u>
Tracking Number	<u>.208818.2</u>	Committee Referrals	<u>SEC/SCORC/ SFC</u>
Short Title	<u>Increase Cigarette & E-Cigarette Taxes</u>		
Analyst	<u>Simon</u>	Original Date	<u>1/23/18</u>
		Last Updated	<u></u>

FOR THE TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE

BILL SUMMARY

Synopsis of Bill

Senate Bill 25 (SB25) creates distributions from cigarette tax revenue and tobacco products tax revenue to the public school fund for the state equalization guarantee. The bill increases the cigarette tax and tobacco products tax to account for the new distribution and expands the tobacco products tax to cover e-cigarettes. SB25 carries an effective date of July 1, 2018.

FISCAL IMPACT

SB25 increases the excise tax on cigarettes from \$1.66 per pack of 20 cigarettes to \$3.16 per pack. The qualifying tribal cigarette tax is increased from \$0.75 per pack of 20 cigarettes to \$2.25 per pack. The bill increases the excise tax on other tobacco products from 25 percent of the product value to 76 percent of the product value and includes e-cigarettes in the definition of tobacco products.

The Legislative Finance Committee (LFC) estimates that changes in SB25 will result in \$80.2 million in distributions to the public school fund in FY19. In FY18, general fund appropriations for public schools totaled \$2.696 billion, or 44.3 percent of total general fund appropriations. The intent of the bill appears to be growing the overall share of general fund appropriations for public schools; however, appropriations are subject to legislative priorities so it is unclear if additional cigarette and tobacco tax revenue would supplant other general fund appropriations. Although SB25 earmarks additional cigarette and tobacco tax revenues for public schools, annual appropriations for public school support far exceed earmarked funds.

Due to projected decreases in cigarette usage, LFC estimates distributions to the public school fund will fall to \$74.8 million in FY22. According to LFC, cigarette sales fell by 0.5 percent in FY17. While price increases related to SB25 will likely impact the consumption of tobacco products, decreasing tax revenue over time, LFC's estimates account for a decrease in cigarette consumption of 3 percent and larger decreases in tobacco product consumption.

The December 2017 consensus revenue estimates projected \$77.8 million in tobacco and cigarette taxes in FY19. LFC estimates SB25 will increase total cigarette and tobacco tax revenues by \$81.1 million, decreasing to \$75.8 million in FY22. LFC estimates the inclusion of e-cigarettes in the definition of tobacco products will increase tax revenue by \$5.8 million in FY19.

SUBSTANTIVE ISSUES

Currently, most cigarette taxes are distributed to the general fund; however four other entities benefit from small distributions from cigarette taxes. SB25 amends these distributions to provide for a lesser percentage of cigarette tax distributions to add a new distribution for the public school fund. Because the increased tax rate is projected to bring in additional cigarette tax revenue, the LFC estimates each of these beneficiaries will still receive a small increase in distributions. The proposed changes to these distributions are listed in Table 1.

Table 1: Distribution of Cigarette Taxes

Entity	Current Distribution	SB25 Proposed Distribution
UNM Health Sciences Center	0.83%	0.46%
NMFA for UNM Health Sciences Center	8.89%	4.83%
NMFA for Department of Health facilities or improvements	3.74%	2.04%
NMFA for credit enhancement account	9.77%	5.03%
NMFA for rural county cancer treatment fund	0.62%	0.35%
Public school fund		45.56%
General fund	76.15%	41.73%

Source: LESC

The New Mexico Finance Authority (NMFA) notes it has issued bonds with outstanding balances of \$47.4 million that depends on cigarette tax revenues for repayment. NMFA notes Section 6-21-6.7(F) NMSA 1978 states:

“Any law authorizing the imposition, collection, or distribution of the cigarette tax or that affects the cigarette tax shall not be amended, repealed or otherwise directly or indirectly modified so as to impair or reduce debt service coverage for any outstanding revenue bonds...”

NMFA further notes SB25 could have an impact on NMFA’s bond rating and lead to higher interest rates “due to a market perception that the New Mexico Legislature has impaired NMFA’s obligations to its bond holders.” However, LFC estimates that although the percentage of cigarette taxes distributed for revenue bonds will decrease, the amount of money received for revenue bonds will increase due to the higher tax rate. In total, LFC is projecting an additional \$82 thousand for cigarette tax distributions for bond repayment in FY19, decreasing to \$74 thousand in FY22.

OTHER SUBSTANTIVE ISSUES

New Mexico remains involved in two lawsuits alleging the amount of revenue appropriated for public education is insufficient to meet the constitutional mandate to establish and maintain a “uniform system of free public schools sufficient for the education of, and open to, all the children of school age in the state.” The cases were argued this summer and a ruling is expected in the spring of 2018.

SOURCES OF INFORMATION

- LESC Files
- Legislative Finance Committee
- New Mexico Finance Authority

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