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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
54th Legislature, 1st Session, 2019

Bill Number	<u>HB261</u>	Sponsor	<u>Romero, Andrea/Thomson</u>
Tracking Number	<u>.212351.1</u>	Committee Referrals	<u>HHHC/HTRC</u>
Short Title	<u>Increase Cigarette Taxes</u>		
Analyst	<u>Sena</u>	Original Date	<u>2/1/19</u>
		Last Updated	<u></u>

**FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE AND
FOR THE TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE**

BILL SUMMARY

Synopsis of Bill

House Bill 261 (HB261) would create 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. HB261 carries an effective date of July 1, 2019.

FISCAL IMPACT

HB261 would increase 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 HB261 would result in \$75.5 million in distributions to the public school fund in FY20. In FY19, general fund appropriations for public schools totaled \$2.8 billion, or 44.2 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.

Due to projected decreases in cigarette usage, LFC estimates distributions to the public school fund will fall to \$70.9 million in FY23. Price increases related to HB261 would likely impact the consumption of tobacco products, decreasing tax revenue over time.

The December 2018 consensus revenue estimates projected \$76 million in tobacco and cigarette taxes in FY20. LFC estimates HB261 would increase total cigarette and tobacco tax revenues by \$71.7 million, decreasing to \$68.4 million in FY23.

SUBSTANTIVE ISSUES

Judge Sarah Singleton, in her Findings of Fact and Conclusions of Law in the *Martinez* and *Yazzie* consolidated lawsuit, cited testimony that funding for New Mexico’s at-risk students is inadequate. She found that New Mexico has failed to raise sufficient revenue to fund education. The findings reinforce the judge’s original Decision and Order in which she wrote, “the remedy for lack of funds is not to deny public school children a sufficient education, but rather the answer is to find more funds.” She cited a list of possible sources of additional revenue, including increasing “consumption taxes on gasoline, alcohol, and cigarettes.”

Currently, most cigarette taxes are distributed to the general fund; however, four other entities benefit from small distributions from cigarette taxes. HB261 would amend 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 would 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	HB261 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	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 \$41.7 million that depend on cigarette tax revenues for repayment.

NMFA further notes HB261 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.”

SOURCES OF INFORMATION

- LESC Files
- Legislative Finance Committee (LFC)
- New Mexico Finance Authority (NMFA)