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FISCAL IMPACT REPORT

SPONSOR Ferrary ORIGINAL DATE 1/29/2021
LAST UPDATED _____ HB 97
SHORT TITLE Local Gov't Tobacco Product Sale Ordinances SB _____
ANALYST Nichols

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Centers for Disease Control and Prevention

Responses Received From

Regulation and Licensing Department (RLD)

Department of Health (DOH) (response for SB 95, an identical bill)

SUMMARY

Synopsis of Bill

House Bill 97 amends the Tobacco Products Act (Section 61-37-24 NMSA 1978) to include a provision that would allow counties and municipalities to enact ordinances, charter amendments, or other tobacco regulations that are stricter than, but not in conflict with, the provisions of the Tobacco Products Act.

There is no effective date of this bill. It is assumed the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

There is no anticipated fiscal impact to the state. RLD does not anticipate any costs related to amendment of the Tobacco Products Act.

SIGNIFICANT ISSUES

The Tobacco Products Act currently allows municipalities and counties to adopt an ordinance,

charter amendment, or regulation relating to the sale of tobacco products if it is consistent with the provisions of the act. Currently, counties and municipalities cannot adopt tobacco ordinances or regulations that are stricter than the act. The proposed amendment would make the Tobacco Products Act the minimum standard but allow local government to enact stricter tobacco-regulated regulations. Currently, the Tobacco Products Act restricts sales of tobacco products to minors under 21.

According to the Department of Health (DOH), amending the Tobacco Products Act could allow local communities to develop tobacco ordinances and regulations that address unique characteristics of tobacco use in that community.

According to the federal Centers for Disease Control and Prevention (CDC), some states preempt, or prevent, local communities from passing local laws that are more stringent or differ from a state's tobacco control policies related to advertising, smoke-free indoor air, and youth access. A state may preempt local tobacco control laws in all or only in some categories. The tobacco industry has historically supported state preemption laws as a way to reverse existing local tobacco control laws and prevent future enactment of such laws. According to the CDC, as of September 30, 2020, 23 states have laws preempting local ordinances related to youth access to tobacco, including preempting restrictions on selling tobacco products to youth or restrictions on tobacco product vending machines.

PERFORMANCE IMPLICATIONS

DOH indicates that amendment of the Tobacco Products Act to allow local governments to enact stricter tobacco ordinances would align with one of its four strategic goals (improving health status for New Mexicans) and could also address two performance measures – percent of adolescents who smoke and percent of adults who smoke.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB97 is a duplicate of Senate Bill 95.

OTHER SUBSTANTIVE ISSUES

Youth tobacco use varies significantly by county. For example, the use of any tobacco product is lowest in De Baca (27 percent), Colfax (29 percent), and Quay (29 percent) counties, but is significantly higher in Taos (61 percent), Guadalupe (49 percent), and Rio Arriba (48 percent) counties. E-cigarette also varies significantly by county: De Baca (23 percent) and Mora (23 percent) counties versus Taos (57 percent) and Guadalupe (46 percent) counties.

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