

LFC Requester: _____

AGENCY BILL ANALYSIS
2018 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original Amendment _____
Correction _____ Substitute _____

Date 01/24/18
Bill No: SB25

Sponsor: Senator Howie C. Morales
Short Title: INCREASE CIGARETTE & E-CIGARETTE TAXES

Agency Code: 924
Person Writing: Marian Rael
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SECTION II: FISCAL IMPACT

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		
Indeterminate (Increase; See below)	Indeterminate (Increase; See below)	Indeterminate (Increase; See below)	Recurring	Public School Fund for SEG Distribution

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB 25 raises state and tribal taxes on cigarettes, raises the tobacco products tax rate (a privilege to do business tax), and expands the tobacco products tax to apply to e-cigarettes. SB 25 also defines e-cigarettes for the purposes of these changes to law and adds a distribution of net tax receipts from these taxes to the Public School Fund for distribution to the State Equalization Guarantee (SEG), which is the state’s public school funding formula.

FISCAL IMPLICATIONS

This bill analysis focuses on those aspects of SB 25 that directly impact public schools. SB 25 amends the section of law related to tobacco tax receipt distribution to require a new distribution equal to 45.56 percent of net receipts from cigarette taxes to be made to the public school fund for the state equalization guarantee (SEG) distribution. It also adds a new section for a distribution to be made to the public school fund for the SEG distribution in an amount equal to 60.0 percent of the net receipts of the tobacco products tax.

According to an analysis of a similar bill, SB231 from 2017 Regular Session by the Tax and Revenue Department (TRD), which required a distribution equal to 44.28 percent of net receipts from cigarette taxes, and 67.1 percent of the net receipts of the tobacco products tax, to be made to the public school fund for the state SEG distribution, estimated SEG distributions were to increase by \$83.9 million (divided between \$60.7 million in distributions from the cigarette taxes and \$23.2 million from the distributions related to the tobacco products tax proceeds). Updated estimates from TRD were unavailable at the time of this analysis, but estimated fiscal impacts are assumed to be in this range.

If the provisions of SB 25 result in an extra approximately \$83.9 million dollars, or a similar amount, available for program cost, it will accordingly increase the unit value and therefore the SEG amounts that are allotted to school districts and charter schools.

It is important to note that historically, increased distributions to the Public School Fund from various sources intended to grow the SEG have been used by legislative budgeters to supplant existing general fund appropriations to education and have not been used to increase funding to the total education funding pot. This increase would only occur if the existing SEG commitment remained flat and the new revenue source was not offset or supplanted by redirecting existing SEG appropriation amounts to other needs. If existing appropriation commitments to the SEG distribution from the General Fund are both reduced and increased by approximately \$83.9 million or a similar amount, the impact on SEG distributions may be flat or non-consequential.

SIGNIFICANT ISSUES

If the additional appropriations to the SEG are increased by amounts projected by TRD, they could impact the state level of maintenance of effort (MOE) under the provisions of the Individuals with Disabilities Education Act (IDEA). Increased revenue to the SEG will have the effect of growing the level of funding associated with the special education lines of the SEG thus increasing the MOE level.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

There would be minimal administrative impact to PED; PED would distribute any additional revenues through the SEG distribution.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS