

Urging The Legislature Of The State Of New Mexico To Repeal The Statutory Provisions Preempting Stricter County And Municipal Regulation Of The Sale Of Cigarettes, Tobacco Products, And Electronic Smoking Devices

Albuquerque Public Schools Board of Education
2021 NMSBA Resolution

WHEREAS, tobacco use continues to be a public health problem in New Mexico, as the American Heart Association reports that approximately 2,600 New Mexico residents die from smoking each year, and 40,000 New Mexico children alive today will die prematurely from smoking if nothing is done to reduce tobacco use;

WHEREAS, the New Mexico 2019 Youth Risk and Resiliency Survey (YRRS) indicated that 8.9 percent of New Mexico high school students smoked cigarettes on at least one day in the past 30 days, higher than the national rate of 5.8 percent that year; and

WHEREAS, the 2019 YRRS indicated 34.0 percent of high school students in New Mexico used electronic vapor products on at least one day in the past 30 days, higher than the national rate of 27.5 percent that year; and

WHEREAS, in 2019 5.9 percent of New Mexico high school students used chewing tobacco, snuff or dip on at least one day in the past 30 days, higher than the national rate of 4.8 percent in 2019; and

WHEREAS, 8.3 percent of high school students in New Mexico in 2019 smoked cigars, cigarillos or little cigars on at least one day in the past 30 days, higher than the national rate of 7.6 percent in 2019; and

WHEREAS, in 2020, the New Mexico State Legislature passed Senate Bill 131, later signed into law on March 4, 2020, as Chapter 46, part of which declares that the sales of cigarettes, tobacco products, and electronic smoking devices are matters of statewide concern; and,

WHEREAS, by designating regulatory authority to the State, Chapter 46 preempts all local ordinances or regulations that govern the sale of cigarettes, tobacco products, and electronic smoking devices, thereby nullifying and voiding all conflicting existing local laws and regulations and restricting the ability of communities to address their own burden of tobacco use and addiction; and,

WHEREAS, in 2015, the New Mexico Legislature passed Senate Bill 433 later signed into law on April 8, 2015, which repealed the provision (Section 30-49-11 NMSA 1978 being Laws 1993, Chapter 244, Section 11) to read, provided that local ordinances that

pertain to the sale of e-cigarettes or nicotine liquid containers must be consistent with the provisions of the Tobacco Products, E-Cigarette and Nicotine Liquid Container Act; after "county," added "including a home rule municipality or urban county," after "tobacco products," added "e-cigarette or nicotine liquid containers," and after "Tobacco Products," added "E-Cigarette and Nicotine Liquid Container;" and,

WHEREAS, prior to the enactment of SB 433, the counties had their own smoking and tobacco control ordinances, some of which were more stringent than the State laws regulating the sale or use of tobacco products; and,

WHEREAS, one of the top objectives of the federal Office of Disease Prevention and Health Promotion's "Healthy People 2020" campaign is to "eliminate state laws that preempt stronger local tobacco control laws;" and,

WHEREAS, the Albuquerque Public Schools Board of Education believes that statistical variations in tobacco usage by the public demonstrate that its people are unique and that the city/county should not be prevented from adopting their own tobacco control laws and regulations to address the specific needs of their communities; and,

WHEREAS, the Albuquerque Public Schools Board of Education further believes that authorizing the counties and municipalities to further regulate the sale or use of cigarettes, tobacco products, and electronic smoking devices, is necessary to combat this public health problem; now, therefore,

BE IT RESOLVED by the Albuquerque Public Schools Board of Education that the Legislature of the State of New Mexico is urged to repeal the statutory provisions preempting stricter county regulation of the sale of cigarettes, tobacco products, and electronic smoking devices; and

BE IT FINALLY RESOLVED that copies of this resolution be transmitted to mayors, County Commission presidents, the Governor, the Speaker of the House of Representatives, and the President Pro Temp of the Senate.