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FISCAL IMPACT REPORT

LAST UPDATED _____

SPONSOR Hickey **ORIGINAL DATE** 1/31/2025

BILL _____

SHORT TITLE Increase Cigarette & Tobacco Products Taxes **NUMBER** Senate Bill 20

ANALYST Gray

APPROPRIATION* (dollars in thousands)

FY25	FY26	Recurring or Nonrecurring	Fund Affected
	\$500.0	Recurring	General Fund

Parentheses () indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

REVENUE* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Cigarette Tax	\$0.0	(\$8,300.0)	(\$7,800.0)	(\$7,600.0)	(\$7,400.0)	Recurring	General Fund
Cigarette Tax	\$0.0	\$100.0	\$100.0	\$100.0	\$100.0	Recurring	UNM Cancer Center
Cigarette Tax	\$0.0	(\$600.0)	(\$600.0)	(\$500.0)	(\$500.0)	Recurring	UNM Health Sciences Center
Cigarette Tax	\$0.0	\$40.0	\$50.0	\$50.0	\$50.0	Recurring	New Mexico Finance Authority – DOH
Cigarette Tax	\$0.0	(\$500.0)	(\$400.0)	(\$400.0)	(\$400.0)	Recurring	New Mexico Finance Authority – DOH
Cigarette Tax	\$0.0	\$100.0	\$100.0	\$100.0	\$100.0	Recurring	Rural County Cancer Treatment Fund
Cigarette Tax	\$0.0	\$21,400.0	\$21,000.0	\$20,400.0	\$19,900.0	Recurring	Nicotine Use Prevention and Control Fund
Tobacco Products Tax	\$0.0	\$800.0	\$1,800.0	\$3,200.0	\$5,200.0	Recurring	General Fund
Tobacco Products Tax	\$0.0	\$23,000.0	\$26,300.0	\$30,900.0	\$37,000.0	Recurring	Nicotine Use Prevention and Control Fund
Total	\$0.0	(\$7,500.0)	(\$6,000.0)	(\$4,400.0)	(\$2,200.0)	Recurring	General Fund
Total	\$0.0	\$45,400.0	\$47,700.0	\$51,900.0	\$57,400.0	Recurring	Nicotine Use Prevention and Control Fund

Parentheses () indicate revenue decreases.
*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
TRD	\$161.0	\$6.6	No fiscal impact	\$167.6	Nonrecurring	General Fund
DOH	No fiscal impact	\$100.0	\$100.0	\$200.0	Recurring	General Fund
HED	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
RLD	No fiscal impact	\$500.0	\$500.0	\$1,000.0	Recurring	General Fund
Total	\$161.0	\$606.6	\$600.0	\$1,367.6	Recurring	General Fund

Parentheses () indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
Taxation and Revenue Department (TRD)
Regulation and Licensing Department (RLD)
Department of Health (DOH)
Higher Education Department (HED)

Agency Analysis was Solicited but Not Received From
Public Education Department (PED)

SUMMARY

Synopsis of Senate Bill 20

Senate Bill 20 (SB20) raises the tax on cigarettes and tobacco products. The bill also changes the distribution of cigarette and tobacco tax revenues.

SB20 Tax Changes

Product	Current Tax	Proposed Tax	Percent Increase
Cigarettes	\$0.10 per cigarette	\$0.15 per cigarette	50%
Cigar ¹	\$0.50 per cigar	\$1.50 per cigar	200%
"Cheap" cigars ¹	25 percent	37.5 percent	50%
Little Cigar	\$0.10 per cigar	\$0.15 per cigar	50%
E-liquid	12.5 percent	67.5 percent	440%
Closed-System Cartridges	\$0.50 per cartridge	67.5 percent	varies by price
Other tobacco products	25 percent	67.5 percent	170%

¹Cigars that cost more than \$2 are taxed at 50 cents per cigar. Cigars that are cheaper than \$2 are taxed at 25 percent.

Source: LFC Analysis

Distribution changes

SB20 changes the distribution of both cigarette tax revenues and tobacco products tax revenues. SB20 also creates the nicotine use prevention and control fund, administered by the Department of Health (DOH) and subject to appropriation by the Legislature, to provide funds to develop programs, educational materials, and social and traditional media advertising on nicotine use prevention and control for persons five to 25 years of age.

SB20 Cigarette and Tobacco Products Tax Revenue Distribution Changes

Revenue Type	Fund/Beneficiary	Current	Proposed
Cigarette Tax Revenues	General fund	79.81%	55.76%
	UNM Cancer Center (7-1-6.11 (A))	0.71%	0.71%
	UNM Health Sciences Center (7-1-6.11 (B))	7.52%	5.5%
	New Mexico Finance Authority - DOH (7-1-6.11 (C))	3.17%	2.7%
	New Mexico Finance Authority - credit enhancement fund (7-1-6.11 (D))	8.26%	6.3%
	Rural County Cancer Treatment Fund (7-1-6.11 (E))	0.53%	0.53%
	Nicotine Use Prevention and Control Fund (7-1-6.11 (F))	<i>new</i>	28.5%
Tobacco Products Tax Revenues	General fund	100%	35%
	Nicotine Use Prevention and Control Fund (7-1-6.11 (F))	<i>new</i>	65%

Definition Changes

The bill changes the definition of an e-cigarette from:

any “electronic oral device” that uses a heating element and a battery to provide a vapor of nicotine or any other substance that simulates smoking.

to:

a device that can be used to “deliver aerosolized or vaporized nicotine” to the user.

Appropriation

SB20 appropriates \$500 thousand from the general fund to the Regulation and Licensing Department (RLD) for licensure and enforcement duties.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

The appropriation of \$500 thousand contained in this bill is a recurring expense to the general fund. Although this bill does not specify future appropriations, providing funding to expand a department’s duties creates an expectation the funding will continue in future fiscal years; therefore, this cost could become recurring after the funding period.

SB20 is estimated to reduce total net general fund revenues by \$7.5 million in FY26. The fiscal impact is based on a Taxation and Revenue Department (TRD) estimate. The agency’s methods are reflected below.

Methods

The agency applied an elasticity of -0.40 for cigarette consumption and assumed no substitution impacts. TRD applied an elasticity of -0.05 for tobacco products consumption, and no cross-tax elasticities were used. The agency notes that the consumption decrease could be higher because age groups respond differently to tax and price increases due to variations between income elasticities.

TRD also notes tax revenue could be impacted depending on how retailers choose to pass-through taxes to consumers. The retailer’s decision may vary considerably depending on market concentration and tax structures. The agency writes:

Studies show that when the industry overpasses a given tax increase to price, (i.e.,

increases the price more than would be indicated by the increase in tax), tobacco consumption decreases by a larger amount than it would under a 1:1 pass-through scenario. In contrast, when the industry absorbs part of a given tax increase, tobacco consumption decreases by a smaller amount compared to the case of a 1:1 scenario. Thus, the extent of the pass-through may impact tax collections.

DOH notes that the agency would need to employ an FTE at a cost of \$100 thousand annually to “administer the fund and effectively provide interventions to promote tobacco cessation, prevent tobacco use initiation, eliminate secondhand smoke exposure, and identify and eliminate tobacco-related disparities.”

The Higher Education Department (HED) notes that it does not currently have the capacity to develop the outreach required under SB20 and would require additional staffing. However, the agency did not furnish an estimate of this cost. LFC staff believe HED could implement SB20 with minimal fiscal impact.

TRD estimates the nonrecurring administrative and IT changes required by this bill will cost approximately \$167 thousand in FY25 and FY26.

RLD writes:

RLD does not anticipate any direct fiscal impact to the Department if SB20 is enacted.

SIGNIFICANT ISSUES

Increasing the price of a good generally decreases the demand for that good. By increasing the tax on cigarettes and tobacco products, it is expected that consumption of those products will decrease.

However, the bill increases the tax on tobacco products more than it increases the tax on cigarettes, which could shift consumption from tobacco products to cigarettes. TRD notes that this could have a greater impact on younger New Mexicans who make up a larger share of e-cigarette users and are more sensitive to price increases. LFC joins with TRD in encouraging policymakers to consider the overall interaction of all taxes on vaping products, cigarettes, and other tobacco products.

TRD notes:

New Mexico's current cigarette tax of \$2 per pack is slightly above the national average of \$1.9. The proposal to increase the tax to \$3 per pack would place the State close to the 80th percentile amongst the States, but still far from New York's \$5.35 per pack. Regarding tobacco products, New Mexico's position depends mainly on the type of product. For example, New Mexico taxes little cigars more heavily than Utah but less than Arizona. However, the overall proposed tax rate increases would place New Mexico above its neighbors.

Large increases in taxes may encourage consumers to buy products on the black market, which raises safety and quality concerns.

DOH notes “smoking-related health care costs are estimated at \$981 million per year and smoking-related losses in productivity at \$1.5 billion per year.” According to the federal Centers

for Disease Control, tobacco remains the leading cause of preventable death and disability among New Mexicans. Nearly 2,630 people die from tobacco use annually in the state, according to the agency.

Agency analysis from DOH asserts that SB20 would promote sustainability of current and future nicotine prevention and control efforts in the state. “These efforts could help decrease morbidity and mortality associated with tobacco product use,” the agency writes. “Additional funding would help expand the current program activities and increase their reach.”

DOH notes:

Data has shown that increasing taxes on cigarettes results in fewer youth starting to smoke and more adults quitting. Every 10% increase in the price of cigarettes reduces consumption by about 4% among adults and about 7% among youth.

TECHNICAL ISSUES

TRD notes two technical issues.

On page 7, lines 17-25 and page 8, lines 1-6, the definition of “e-cigarette” does not include a “battery or battery charger” as detailed on page 8, lines 5-6. Many e-cigarettes (vape pens) are purchased as a “set” in which the box will include the cartridge, the battery contained within the vape pen, a mouthpiece, and the battery charger (these boxes may also include a storage case). The bill does not include any methodology for computing the value of the battery or battery charger to deduct from the product's wholesale price. Furthermore, there are lower and high-end vape pens, and with no methodology to deduct the battery accessories taxpayers may apply different deduction amounts. TRD recommends removing the following language on page 8, lines 5 and 6, “but does not include a battery or battery charger.”

On page 8, lines 7-9, the definition of “e-liquid” has been amended to remove “not including any substance containing cannabis or oil derived from cannabis.” It is unclear what the bill intended when removing this language. TRD suggests the following definition: “e-liquid means liquid or other substance containing nicotine intended for use in an e-cigarette.”

OTHER SUBSTANTIVE ISSUES

In assessing all tax legislation, LFC staff considers whether the proposal is aligned with committee-adopted tax policy principles. Those five principles:

- **Adequacy:** Revenue should be adequate to fund needed government services.
- **Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
- **Equity:** Different taxpayers should be treated fairly.
- **Simplicity:** Collection should be simple and easily understood.
- **Accountability:** Preferences should be easy to monitor and evaluate