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## FISCAL IMPACT REPORT

<b>SPONSOR</b>	<u>Duhigg</u>	<b>LAST UPDATED</b>	<u>1/28/25</u>
	<u>Remove Cannabis Tax Incremental</u>	<b>ORIGINAL DATE</b>	<u>1/28/25</u>
<b>SHORT TITLE</b>	<u>Increases</u>	<b>BILL</b>	
		<b>NUMBER</b>	<u>Senate Bill 89</u>
		<b>ANALYST</b>	<u>Torres</u>

### REVENUE\* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Cannabis Excise Tax		(\$2,700.0)	(\$6,000.0)	(\$9,600.0)	(\$13,400.0)	Recurring	General Fund
Cannabis Excise Tax		(\$1,400.0)	(\$2,900.0)	(\$4,800.0)	(\$6,600.0)	Recurring	Local Governments

Parentheses ( ) indicate revenue 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)

## SUMMARY

### Synopsis of Senate Bill 89

Senate Bill 89 eliminates the current statutory increases in the cannabis excise tax rate in favor of maintaining the current 12 percent cannabis excise tax rate in perpetuity.

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

## FISCAL IMPLICATIONS

The fiscal impact is estimated using the current revenue estimate for cannabis excise tax revenues published by the consensus revenues estimating group in December 2024. Under current law, total cannabis excise tax revenues to the general fund are estimated to climb from \$32.7 million in the previous year (FY24) to \$41.1 million in FY29. By reducing the tax rate in future years, revenues to the general fund will be reduced by \$2.7 million to \$13.4 million a year.

Similarly, local governments share in revenues from cannabis excise tax collections. By reducing the tax rate from scheduled rate increases in current law, the distributions to local governments

are also estimated to be reduced by \$1.4 million to \$6.6 million a year.

Analysis includes a consideration of the elasticity for demand of 0.53<sup>1</sup>, which estimates slightly higher demand for cannabis due to the reduction in future tax rates. Costs on page 1 include the estimated offsetting increase in demand for cannabis from the reduction in tax rate for a net loss in total revenue.

## SIGNIFICANT ISSUES

Current law provides for the cannabis excise tax to increase from the current level of 12 percent by 1 percent per year in FY26-30, for a total final rate of 18 percent. This bill keeps the rate of cannabis excise tax at the current rate of 12 percent. Preventing future tax increases will negatively impact general fund and local government cannabis excise tax revenue because two-thirds of cannabis excise tax revenue is distributed to the general fund, and the remaining one-third is distributed to the associated municipalities and counties. Current law schedules the tax rate as follows:

- Prior to July 1, 2025, 12 percent;
- Beginning July 1, 2025, 13 percent;
- Beginning July 1, 2026, 14 percent;
- Beginning July 1, 2027, 15 percent;
- Beginning July 1, 2028, and prior to July 1, 2029, 16 percent;
- Beginning July 1, 2029, and prior July 1, 2030, 17 percent;
- Beginning July 1, 2030, 18 percent.

The Taxation and Revenue Department highlights the following issues:

Taxation can be used to generate revenue or to limit the harms associated with the consumption of “sin” goods. While preventing the increase in cannabis taxes could stimulate this sector, making it more profitable and attracting more competition, lower cannabis prices could also increase demand, particularly in adolescents, influencing the age of cannabis initiation. Studies suggest that monetary price is important for younger consumers and negatively associated with initiation. On the other side, considering cannabis demand is price-inelastic, a tax reduction will negatively impact revenues accruing from cannabis. A fiscal policy aimed at maximizing tax revenues generally leads to the continued co-existence of legal and illegal markets as consumption moves to the illegal market to avoid higher taxes and prices.

Recreational adult-use cannabis in New Mexico is subject to both the cannabis excise tax as well as the gross receipts tax. The average gross receipts tax rate is currently 6.94 percent. This bill would keep the total tax on cannabis at about 18.94 percent, rather than allowing it to rise to a total of 24.94 percent by fiscal year 2030. The higher the tax, the more likely cannabis sales will be to escape tax either through use of medical cannabis or through the illegal market.

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<sup>1</sup> Pacula RL, Lundberg R. Why Changes in Price Matter When Thinking About Marijuana Policy: A Review of the Literature on the Elasticity of Demand. *Public Health Rev.* 2014;35(2):1-18. doi: 10.1007/BF03391701.

Medical cannabis sales are not subject to the cannabis excise tax or the gross receipts tax.

IT/sgs/hg