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FISCAL IMPACT REPORT

SPONSOR	Senate Tax, Business, and Transportation Committee	LAST UPDATED	
		ORIGINAL DATE	2/20/2025
SHORT TITLE	Increase Cigarette & Tobacco Products Taxes	BILL NUMBER	CS/Senate Bill 20/STBTC
		ANALYST	Gray

REVENUE* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Tobacco Products Tax	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	Recurring	General Fund
Tobacco Products Tax	\$0.0	\$6,400.0	\$6,700.0	\$6,900.0	\$7,200.0	Recurring	Nicotine Use Prevention and Control Fund

Parentheses () indicate revenue decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

LFC has yet to receive analysis from state, education, or judicial agencies on this substitute bill. This analysis could be updated if that analysis is received.

SUMMARY

Synopsis of STBTC Substitute for Senate Bill 20

The Senate Tax, Business, and Transportation Committee substitute for Senate Bill 20 (SB20) raises the tax on tobacco products. The bill distributes the additional new revenue generated by the tax increase to the Nicotine Use Prevention and Control Fund.

SB20 Tax Changes

Product	Current Tax	Proposed Tax	Percent Increase
E-liquid	12.5 percent	40 percent	220%
Closed-System Cartridges	\$0.50 per cartridge	40 percent	varies by price
Other tobacco products	25 percent	40 percent	60%

Source: LFC Analysis

Distribution changes

SB20 changes the distribution of tobacco products tax revenues and 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 Tobacco Products Tax Revenue Distribution Changes

Revenue Type	Fund/Beneficiary	Current	Proposed
Tobacco Products Tax Revenues	General fund	100%	65%
	Nicotine Use Prevention and Control Fund (7-1-6.11 (F))	<i>new</i>	35%

Because the tobacco product tax is increased on certain tobacco products, the new distribution to the nicotine use prevention and control fund is not estimated to have a general fund impact.

Definition Changes

The bill changes the definition of a tobacco product, adding products that contain nicotine but that are not regulated by the United States food and drug administration. The bill also adds a definition of nicotine.

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

FISCAL IMPLICATIONS

SB20 is estimated to generate about \$6 million for distribution to the nicotine use prevention and control fund. This estimate is based on LFC analysis. Analysis from the Taxation and Revenue Department (TRD) has yet to be received and this analysis could be updated upon receipt from that agency.

Methods

This analysis applied an elasticity of -0.05 for tobacco products consumption, and no cross-tax elasticities were used. This analysis notes that the consumption decrease could be higher because age groups respond differently to tax and price increases due to variations between income elasticities. Additionally, this analysis does not consider the potential impact adding nicotine could have on the taxable base. This is an upside risk to the estimate revenue impact.

In its analysis for the original version of SB20, TRD noted 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.

In its analysis for the original version of SB20, DOH noted 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.”

In its analysis for the original version of SB20, the Higher Education Department (HED) noted 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.

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 e-liquid products more than it increases the tax on other tobacco products, which could shift consumption from e-liquid to other tobacco products.

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.

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

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