

DBILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

January 24, 2025

Bill: SB-89

Sponsor: Senator Katy M. Duhigg

Short Title: Remove Cannabis Tax Incremental Increases

Description: This bill amends Section 7-42-3 NMSA 1978 to remove the scheduled incremental increases to the cannabis excise tax to keep the rate at 12%.

Effective Date: July 1, 2025

Taxation and Revenue Department Analyst: Pedro Clavijo

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2025	FY2026	FY2027	FY2028	FY2029		
--	(\$2,700)	(\$6,000)	(\$9,600)	(\$13,400)	R	General Fund
--	(\$1,400)	(\$2,900)	(\$4,800)	(\$6,600)	R	Local Governments

* In thousands of dollars. Parentheses () indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Methodology for Estimated Revenue Impact: Current law provides for the cannabis excise tax to increase from the current level of 12% by one percent per year in FY26-30, for a total final rate of 18%. This bill keeps the rate of cannabis excise tax at the current rate of 12%. 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.

The Taxation and Revenue Department (Tax & Rev) estimated revenues under current law and then under the bill’s proposal to set the tax rate at 12%. Eliminating the scheduled tax increase on cannabis can be modeled as preventing inflation in the price of cannabis, presuming tax changes are fully passed through to prices at the retail level. Because the price of cannabis will not rise under the bill’s proposal, Tax & Rev must estimate the price\tax elasticity of demand for cannabis to determine how revenues will respond. Tax & Rev used an average value for the elasticity of 0.53, taken from the literature,¹ data from Tax & Rev’s cannabis distribution report, and the cannabis revenue growth from the December 2024 CREG forecast to calculate the fiscal impact.

Deviations from the impact estimated here will be mainly driven by the price differences between low-, medium-, and high-quality cannabis products and their respective price elasticities. Furthermore, it is expected that age groups respond differently given variations between income elasticities. The tax revenues accruing from cannabis will also depend on the response of cannabis users in the illegal cannabis sector to the proposed tax change and the market linkages between ‘sin’ goods (e.g., alcohol and tobacco).

Policy 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

¹ 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.

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%. This bill would keep the total tax on cannabis at about 18.94%, rather than allowing it to rise to a total of 24.94% 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.

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

Technical Issues: None.

Other Issues: None.

Administrative & Compliance Impact: Tax & Rev will update forms, instructions, and publications and make information system changes. Tax & Rev’s Administrative Services Division (ASD) anticipates this bill will take approximately 40 hours split between two full-time employees. Tax & Rev’s Information Technology Division (ITD) estimates that implementing the bill will require approximately 220 hours or about a month and a half and \$14,661 of staff workload costs.

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY2025	FY2026	FY2027	3 Year Total Cost		
--	\$2.5	--	\$2.5	NR	Tax & Rev – ASD – staff workload
\$14.6	--	--	\$14.6	NR	Tax & Rev – ITD - staff workload

* In thousands of dollars. Parentheses () indicate a cost saving. ** Recurring (R) or Non-Recurring (NR).