

<b>LFC Requester:</b>	<b>Brendon Gray</b>
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**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:**

**AgencyAnalysis.nmlegis.gov**

*{Analysis must be uploaded as a PDF}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

*Check all that apply:*

**Original**     **Amendment**      
**Correction**     **Substitute**   

**Date** January 18, 2024

**Bill No:** SB 72

**Sponsor:** Martin Hickey  
**Short Title:** Tobacco Product Tax & Definitions

**Agency Name and Code Number:** Regulation and Licensing Department - 420

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
NA	NA		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
	Unknown	Unknown	Recurring	Nicotine Use Prevention and Control Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	NFI	NFI	NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis: SB 72 amends the tax administration act and tobacco products tax act and creates the nicotine use prevention and control fund with an effective date of July 1, 2024.

- The Bill requires a distribution be made to the nicotine use prevention and control fund (“the fund”) in an amount equal to the net receipts attributable to the tobacco products tax.
  - The fund will be administered by the department of health, subject to appropriation by the legislature to provide money to that department to, in collaboration with the public education department and the higher education department, develop programs, educational materials and social and traditional media advertising on nicotine use prevention and control for persons age five (5) to twenty-five (25) years of age.
  - Any unexpended balance remaining at the end of a fiscal year shall revert to the general fund.
- The Bill amends the definition of “e-cigarette” within the tobacco products tax act to mean, any device that can be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device and includes any component, part or accessory of such a device that is used during the operation of the device but does not include a battery or battery charger.
  - “Tobacco product” is defined as any product, other than cigarettes, made from or containing tobacco or nicotine, whether natural or synthetic, that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved or inhaled; e-liquid; e-cigarettes; and closed system cartridges; and does not mean any product regulated as a drug or device by the U.S. food and drug administration.
- The excise tax imposed on tobacco products remains at twenty-five percent (25%) of the product value, provided that for “cigars”, the twenty-five percent is not to exceed fifty (\$.50) per cigar; for “little cigars” the rate remains equal to the rate imposed on a cigarettes.
  - “E-liquid” (currently twelve and one-half percent of the product value), and “e-cigarettes” will have an excise tax of forty-four percent; “closed system cartridges” tax remains at fifty cents (\$.50) per closed system cartridge.

## **FISCAL IMPLICATIONS**

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

## **SIGNIFICANT ISSUES**

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

- Little cigars, e-liquid, e-cigarettes and other tobacco products will continue to be taxed at their current rates, remaining cheaper and more available to consumers and minors.

## **AMENDMENTS**