

**2024 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS**

Section I: General

Chamber: Senate
Number: 0072

Category: Bill
Type: Introduced

Date (of THIS analysis): 01/19/2024
Sponsor(s): Martin Hickey
Short Title: Tobacco Products Tax Rate

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Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

| Appropriation Contained | | Recurring or Nonrecurring | Fund Affected |
|-------------------------|-------|---------------------------|---------------|
| FY 24 | FY 25 | | |
| \$0 | N/A | N/A | N/A |
| | | | |

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|-------|-------|---------------------------|---------------|
| FY 24 | FY 25 | FY 26 | | |
| \$0 | N/A | N/A | N/A | |
| | | | | |

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY 24 | FY 25 | FY 26 | 3 Year Total Cost | Recurring or Non-recurring | Fund Affected |
|--------------|-------|-------|-------|-------------------|----------------------------|---------------|
| Total | N/A | N/A | N/A | N/A | N/A | N/A |
| | | | | | | |

Section III: Relationship to other legislation

Duplicates: None

Conflicts with: None

Companion to: None

Relates to: HB0099

Duplicates/Relates to an Appropriation in the General Appropriation Act: None

Section IV: Narrative

1. BILL SUMMARY

a. Synopsis

Senate Bill 0072 (SB0072) proposes to increase the rate of tobacco products tax on e-cigarettes; including nicotine, regardless of source, in the definition of “tobacco product” in the tobacco products tax act; distributing revenue from tax to a new nicotine use prevention and control fund.

Is this an amendment or substitution? Yes No

Is there an emergency clause? Yes No

b) Significant Issues

According to the Centers for Disease Control and Prevention (CDC), cigarette smoking kills more than 480,000 Americans each year. Cigarette smoking cost the United States more than \$600 billion in 2018, including more than \$240 billion in healthcare spending and nearly \$372 billion in lost productivity. Furthermore, 28.3 million United States adults smoked in excess of 100 cigarettes during their lifetime as of 2021.

(<https://www.cdc.gov/tobacco/campaign/tips/resources/data/cigarette-smoking-in-united-states.html>)

In New Mexico specifically, data showed there were an estimated 2,600 related deaths annually and 23.8% cancer deaths in New Mexico are attributable to smoking. Cigarette smoking costs the state \$981 million in direct health care costs and \$1.5 billion in lost productivity costs annually (https://www.tobaccofreekids.org/problem/toll-us/new_mexico). In 2021, 25.3% of New Mexico high school youth used e-cigarettes, and 27.3% of youth used at least one form of tobacco (e-cigarettes, cigarettes, cigars, spit tobacco or hookah) (<https://youthrisk.org/publications/county-reports/2021-high-school-county-report-bernalillo/>).

To assist in reducing health care costs as a result of smoking, increasing taxes on cigarettes results in fewer kids starting to smoke, and in more adults quitting. Every 10% increase in the price of cigarettes reduces consumption by about 4% among adults and about 7% among youth (<https://www.lung.org/policy-advocacy/tobacco/tobacco-taxes#:~:text=Increasing%20Cigarette%20and%20Tobacco%20Product%20Taxes&text=Every%2010%20percent%20increase%20in,about%20seven%20percent%20among%20youth>).

To further support the increase in taxes, the World Health Organization shows that significantly increasing tobacco excise taxes and prices is the single most effective and cost-effective measure for reducing tobacco use. “Raising taxes on tobacco products,

which lead to increases in their price, makes tobacco less affordable. When tobacco becomes less affordable, people use it less and youth initiation is prevented. Because youth and low-income groups are more responsive to increases in tobacco prices, they disproportionately enjoy the health and economic benefits of quitting and not starting (<https://www.who.int/activities/raising-taxes-on-tobacco>).”

CDC recommends that state and community interventions promote tobacco use cessation, prevent tobacco use initiation, eliminate secondhand smoke exposure, and identify and eliminate tobacco-related disparities. This also includes marketing that counteracts the tobacco industry’s marketing tactics to increase in tobacco use initiation. Counter marketing can be a valuable tool that aims to reduce the prevalence rate of tobacco use. Achieving equity by reducing tobacco-related disparities is a key goal for comprehensive tobacco control programs. Programs can achieve this goal through surveillance, partnerships (including funding) with disparate population groups and organizations that serve these groups, strategic plans that address disparities, and culturally competent technical assistance and training (<https://www.cdc.gov/tobacco/stateandcommunity/tobacco-control/>).

2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?
 Yes No
- Is this proposal related to the NMDOH Strategic Plan? Yes No

- Goal 1:** We expand equitable access to services for all New Mexicans
- Goal 2:** We ensure safety in New Mexico healthcare environments
- Goal 3:** We improve health status for all New Mexicans
- Goal 4:** We support each other by promoting an environment of mutual respect, trust, open communication, and needed resources for staff to serve New Mexicans and to grow and reach their professional goals

Program Objective: Work with health system and surveillance partners to monitor health status to identify community problems

Decrease diseases of despair (suicide & drug and alcohol related deaths), decrease mortality rates and thereby reduce SHIP priorities by 5%

1. Performance Measure: Percent of adolescents who smoke
 2. Performance Measure: Percent of adolescents who vape
 2. Performance Measure: Percent of adults who smoke
- (<https://www.nmhealth.org/publication/view/plan/7187/>)

3. FISCAL IMPLICATIONS

- If there is an appropriation, is it included in the Executive Budget Request?
 Yes No N/A
- If there is an appropriation, is it included in the LFC Budget Request?
 Yes No N/A
- Does this bill have a fiscal impact on NMDOH? Yes No

4. ADMINISTRATIVE IMPLICATIONS

Will this bill have an administrative impact on NMDOH? Yes No

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

SB0072 relates to:

- House Bill 0099 (HB0099) proposes to eliminate racinos from smoking-permitted areas allowed in the Dee Johnson Clean Indoor Act.

6. TECHNICAL ISSUES

Are there technical issues with the bill? Yes No

7. LEGAL/REGULATORY ISSUES (OTHER SUBSTANTIVE ISSUES)

- Will administrative rules need to be updated or new rules written? Yes No
- Have there been changes in federal/state/local laws and regulations that make this legislation necessary (or unnecessary)? Yes No
- Does this bill conflict with federal grant requirements or associated regulations?
 Yes No
- Are there any legal problems or conflicts with existing laws, regulations, policies, or programs? Yes No

None

8. DISPARITIES ISSUES

This bill will serve all New Mexicans in the prevention and cessation of tobacco product use. It will provide an opportunity for additional outreach to communities in New Mexico that experience more barriers to health care services and live at higher risk for health conditions attributable to tobacco product use.

In 2021, 25.3% of NM high school youth used e-cigarettes *in the past month*. This percentage is particularly higher among Black or African American (28.3%), Hispanic (28.6%), and LGBQ (32.0%) high school students. There is a similar disparity among those who have *ever used* e-cigarettes with 46.7% being Hispanic and 52.6% LGBQ, in comparison to 42.6% of New Mexico high school students overall. In addition, 56.9% of high school students who have experienced bullying due to housing status have used e-cigarettes. (<https://nccd.cdc.gov/Youthonline/App/Results.aspx?LID=NM>)

There is very little likelihood that high school students would move to smoking cigarettes if taxes on e-cigarettes are increased. In addition to the state *and federal* increased taxes and costs that already exist for cigarettes, youth surveyed do not care for tobacco or menthol-flavored cigarettes (<https://truthinitiative.org/sites/default/files/media/files/2024/01/Flavored-tobacco-policy-restrictions-Sept.30.2023.pdf>).

The prevalence of current e-cigarette use decreases with age. In 2022, adults 18-44 were the most likely to be current e-cigarette users (13.1%) and adults 65+ were least likely (1.8%). LGB/Other adults had a higher prevalence of current e-cigarette use (15.9%) than straight adults (6.5%). (<https://www.cdc.gov/brfss/index.html>, 2022)

9. HEALTH IMPACT(S)

E-cigarettes contain toxic chemicals, such as nicotine, heavy metals (like lead), volatile organic compounds, and cancer-causing agents. E-cigarettes produce a number of dangerous

chemicals including acetaldehyde, acrolein, and formaldehyde. These aldehydes can cause lung disease, as well as cardiovascular (heart) disease. E-cigarettes also contain acrolein, a herbicide primarily used to kill weeds. It can cause acute lung injury and COPD and may cause asthma and lung cancer. Children and adults have been poisoned by swallowing, breathing, or absorbing e-cigarette liquid through their skin or eyes.

(<https://www.lung.org/quit-smoking/e-cigarettes-vaping/impact-of-e-cigarettes-on-lung>)

A study from the University of North Carolina found that the two primary ingredients found in e-cigarettes—propylene glycol and vegetable glycerin—are toxic to cells and that the more ingredients in an e-liquid, the greater the toxicity. (<https://www.lung.org/quit-smoking/e-cigarettes-vaping/impact-of-e-cigarettes-on-lung>)

10. ALTERNATIVES

None

11. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

If Senate Bill 0072 (SB0072) is not enacted, there would not be an increase on the rate of tobacco products tax on e-cigarettes, including nicotine, regardless of source, in the definition of “tobacco product” in the tobacco products tax act. In addition, there will be no distribution of revenue from the tax to a new nicotine use prevention and control fund.

12. AMENDMENTS

None