

LFC Requestor: Brendon Gray

2026 LEGISLATIVE SESSION
AGENCY BILL ANALYSIS

Section I: General

Chamber: Senate

Category: Bill

Number: 121

Type: Introduced

Date (of THIS analysis): 01/26/2026

Sponsor(s): Martin Hickey

Short Title: Increase Tobacco Products Tax

Reviewing Agency: Agency 665 - Department of Health

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Section II: Fiscal Impact

APPROPRIATION (dollars in thousands)

Appropriation Contained		Recurring or Nonrecurring	Fund Affected
FY 26	FY 27		
\$0	\$0	NA	NA

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY 26	FY 27	FY 28		
\$6400	\$6700	\$7200	Recurring	Nicotine Use Prevention and Control

SB121 would generate additional revenue from an increase to the tobacco products tax.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY 26	FY 27	FY 28	3 Year Total Cost	Recurring or Non-recurring	Fund Affected
Total	\$93.7	\$93.7	\$93.7	\$281.1	Recurring	General

One FTE would be required 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.

Pay Band C6 = \$30.20/hr. x 2080 hours x 1.36 benefits = \$85,430 + \$4,628 yearly IT Cost + Rent \$3,644 = \$93,702

Section III: Relationship to other legislation

Duplicates: None

Conflicts with: None

Companion to: None

Relates to: None

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

Section IV: Narrative

1. BILL SUMMARY

a) Synopsis

Senate Bill 121 (SB121) proposes to increase the rate of the tobacco products tax; amend definitions in the Tobacco Products Tax Act; and distribute revenue from the increase in the tobacco products 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

SB121 proposes to increase the existing tax on tobacco products from 25% to 40% of the wholesale price, with exceptions noted in the bill summary. With this increase to the rate of tobacco products tax, 35% of the net receipts attributable shall be distributed to a new Nicotine Use Prevention and Control Fund. Increasing funding to the Tobacco Settlement Program Fund and building a new Nicotine Use Prevention and Control Fund, as proposed in SB121, would promote sustainability of current and future nicotine prevention and control efforts in the state. These efforts could help decrease morbidity and mortality associated with tobacco product use. Additional funding would help expand the current program activities and increase their reach.

According to the American Lung Association, (ALA), tobacco use remains the leading cause of preventable death and disease in the United States and in New Mexico. The percent of people alive after five years after being diagnosed with lung cancer in New

Mexico is 24.8%, which is significantly lower than the national rate of 29.7%. (<https://www.lung.org/research/state-of-lung-cancer/states/new-mexico>)

In New Mexico, 12.2% of adults smoked cigarettes in 2023 (<https://www.cdc.gov/tobacco/stateandcommunity/state-fact-sheets/index.htm#NM>). Additionally, 18.8% of New Mexico High School youth used e-cigarettes, and 22.2% of youth used at least one form of tobacco (e-cigarettes, cigarettes, cigars, spit tobacco or hookah) (New Mexico Youth Risk and Resiliency Survey, 2023).

In FY25, total tobacco revenue for New Mexico was estimated at \$26.5 million, and the Tobacco Settlement Permanent Fund totaled about \$422 million. Of this, \$5.4 million was allocated to the Department of Health for Tobacco Cessation and Prevention, or about 24% of the Centers for Disease Control and Prevention (CDC) recommended funding level.

According to The Campaign for Tobacco-Free Kids (TFK), to drive down tobacco use, states should significantly increase tobacco taxes and allocate some of the revenue to boost funding for tobacco prevention and cessation programs ([Factsheet](#)). A 2024 report by the Surgeon General concluded: “The evidence is sufficient to conclude that increases in tobacco product prices will reduce tobacco use to a greater extent among people of lower SES [socio-economic status] than they do for people of higher SES. Youth are especially price-sensitive, and price increases could help reduce tobacco use among people from all population groups at the age when they are most likely to begin smoking.” ([Eliminating Tobacco-Related Disease and Death: Addressing Disparities](#))

Additionally, 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. The health and economic benefits of prevention and cessation can significantly impact New Mexico’s population, especially youth and people experiencing poverty (<https://www.who.int/activities/raising-taxes-on-tobacco>).

Tobacco tax increases represent one of the most cost-effective tobacco control interventions for New Mexico, where adult smoking prevalence is around 12.2% (one in eight adults), one in eleven youth smoke cigarettes, and youth overall tobacco product use is around 22.2% in 2023. SB 121's hike from 25% to 40% on key products would reduce consumption through established price elasticities (drop 4% per 10% price rise, youth 7-10% per 10% price rise), boost dollar amounts available for prevention by directing 35% of new revenue to the Nicotine Use Prevention and Control Fund, and deliver up to over \$200 million in annual healthcare cost savings given New Mexico's \$900 million smoking-related medical expenses. ([Chaloupka et al., 2012](#)).

CDC guidelines state that every \$1 invested in comprehensive tobacco prevention yields up to \$55 in reduced healthcare expenditures and hospitalizations, with greater returns from sustained funding. SB 121 supports this by funding programs, educational materials, and media campaigns targeting ages 5 to 25. A full statewide program includes preventing youth initiation, promoting quit attempts, eliminating secondhand smoke exposure, and addressing disparities with expanded quit services ([CDC, 2025](#)).

Even accounting for smuggling, tax benefits exceed losses per major reviews. Industry regressivity claims are overstated since low-income groups quit more due to higher price sensitivity, yielding long-term Medicaid savings and productivity gains (e.g., \$1.4 million

in 2018 morbidity-related losses from adult smokers), especially with designated prevention funding. ([Chaloupka et al., 2012](#), [World Bank, 2019](#), [Shrestha, 2022](#), [NM DOH, 2023](#), and [Tobacco Free Kids, 2025](#)).

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2. PERFORMANCE IMPLICATIONS

- Does this bill impact the current delivery of NMDOH services or operations?

Yes No

Performance Measures:

- Percent of adolescents who smoke
- Percent of adolescents who use nicotine products
- Percent of adults who smoke
- Percent of adults who use nicotine products
- Percent of New Mexico adult cigarette smokers who access New Mexico department of health cessation services

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
See above

4. ADMINISTRATIVE IMPLICATIONS

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

See above

5. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

None

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

8. DISPARITIES ISSUES

Equity-Focused Youth Prevention

By increasing the taxation on tobacco and nicotine products from 25% to 40% and directing 35% of that revenue to the Nicotine Use Prevention and Control Fund, as proposed by SB121, New Mexico could further prevent children and young adults from starting nicotine use. With this revenue, the Nicotine Use Prevention and Control Fund could be used to develop programs, educational materials, and social and traditional media advertising for nicotine prevention and control for people 5 to 25 years of age, , especially critical for low-income youth in rural/tribal areas where economic hardships like food insecurity and housing instability double nicotine product odds, with 37% e-cigarette use among vulnerable high schoolers versus 15% statewide ([Mantey et al., 2024](#)).

By increasing taxes, youth smoking (under age 18) could decrease by 6.7%, with a projected reduction of 300 young adults (18–24) who would quit smoking. Around 3,900 adults ages 24 and above are expected to quit nicotine usage, and nearly 1,400 premature, smoking-caused

deaths among infants and during pregnancies could be prevented. Nicotine is considerably harmful to developing brains, and dependence has been shown to negatively impact mental health by amplifying feelings of anxiety, depression, and stress. There is no safe level of nicotine use for youth, and most products do not have FDA authorization (<https://truthinitiative.org/press/press-release/significant-drop-youth-e-cigarette-use-marks-progress-nearly-40-teens-who-vape>).

Increasing taxes would decrease nicotine usage effects on mental health and increase educational attainment and responsiveness in youth education. Furthermore, taxation improves livelihoods across various income levels; individuals with a yearly salary of \$49,999 and above are expected to be more responsive to nicotine tax increases, resulting in a higher reduction in tobacco use and nicotine addiction.

Economic and Social Drivers of Youth Nicotine Use

Economic hardships in rural/tribal New Mexico areas (food insecurity, housing instability) double youth nicotine product odds, with 37% e-cigarette use among vulnerable high schoolers vs. 15% statewide, while household income, pocket money, parental smoking, and school-proximate retailers strongly predict initiation in low-resource communities ([Mantey et al., 2024](#), [Mangrio et al., 2024](#), and NM DOH, 2023).

Hispanic/Native American Disparities

Finally, regarding race and ethnicity, New Mexico's Hispanic and Native American populations have tobacco use rates 1.5–2 times higher than non-Hispanic whites ([NM DOH, 2021](#) and [NM DOH, 2023](#)), increasing disease burden and making price-targeted taxes under SB 121 equitably effective. Hispanic individuals also demonstrate higher sensitivity to cigarette taxes, reducing their smoking prevalence. Males, older students, and Black, Hispanic, and multiracial youth are the groups most likely to stop using nicotine compared to White and Asian youth (Diaz MC, Kierstead EC, Khatib BS, Schillo BA, Tauras JA. Investigating the Impact of E-Cigarette Price and Tax on E-Cigarette Use Behavior. *Am J Prev Med.* 2023 Jun;64(6):797-804. doi:10.1016/j.amepre.2023.01.015. Epub 2023 Feb 24. PMID: 36841634.).

Progressive Tax Benefits

Low-income New Mexicans bear a disproportionate share of the state's \$1.5 billion annual tobacco productivity losses but stand to gain most from SB 121 tax hikes due to their higher price sensitivity and quit rates (2.5x greater prevalence drop vs. high-income), averting severe health costs, reducing poverty traps, smoking-attributable disparities, and generating net progressive health and economic outcomes. ([Donovan et al., 2025](#), [Tobacco Free Kids, 2025](#) and [World Bank, 2019](#)).

9. HEALTH IMPACT(S)

Increasing the rate of the tobacco products tax, updating definitions, and distributing revenue to a new Nicotine Use Prevention and Control Fund, as proposed in SB121, would substantially benefit tobacco and nicotine control efforts in New Mexico. Tax increases have been proven to have substantial benefits. For example, just a 10% increase in cigarette prices reduces cigarette use by approximately 4% among adults and around 7–8.6% among youth in the short term (Diaz MC, Donovan E, Tauras J, Stephens D, Schillo B, Phillips S, Chaloupka FJ, Pesko M. Effect of e-cigarette taxes on e-cigarette and cigarette retail prices

and sales, USA, 2014-2019. Tob Control. 2025 Jan 2;34(1):34-40. doi: 10.1136/tc-2022-057743. PMID: 37479474; PMCID: PMC11478753.).

SB121 will positively impact adult and youth populations in New Mexico by decreasing the appeal of tobacco products, especially in underserved areas and populations at greater risk for tobacco use and nicotine addiction. Despite the decrease in e-cigarette and electronic vapor products usage rates from 33.4% in 2019 to 18.8% in 2023, rates among American Indian/Alaska Native (18.9%) and Hispanic (19.0%) youth remain high, and even middle schoolers from 6th to 8th grade currently use e-cigarettes at a rate of 10.4% (NM Youth Risk and Resilience Survey, 2023). The usage of overall tobacco products has been declining among youth from 37.2% in 2019 to 22.2% in 2023, but usage rates in counties like Hidalgo (35.9%), McKinley (70.3%), Sandoval (32.2%), Socorro (31.9%), Taos (30.6%), and Union (37.2%) remain high.

SB121 will positively impact the health of New Mexicans. The American Cancer Society Cancer Action Network (ACSCAN) has noted that by increasing the tobacco tax by \$1.00, we could expect to generate \$18 million in the first 12 months of implementation. Aside from revenue, the health impacts would also be substantial. In youth alone, ACSCAN estimates that a tax increase would prevent approximately 1,700 individuals under the age of 18 from becoming smokers, and almost 300 individuals aged 18–24 could be expected to quit smoking. Additionally, approximately \$760,000 in healthcare costs would be saved from smoking-related lung cancers, approximately 200 pregnancies and births would be protected from the effects of smoking, and New Mexico would be set to save around \$2.25 million in state healthcare funds.

10. ALTERNATIVES

None

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

If Senate Bill 121 (SB 121) does not pass, the rate of tobacco products tax will not increase; the definitions in tobacco products tax act will not be amended; and the revenue from the increase in the tobacco products tax will not be distributed to a new nicotine use prevention and control fund.

12. AMENDMENTS

None