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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/21/10  
 SPONSOR SFC LAST UPDATED 02/14/10 HB \_\_\_\_\_  
 SHORT TITLE Cigarette Tax Increase & Distribution SB 30/SFCS  
 ANALYST Gutierrez

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
	\$33,144.8		Recurring	General Fund
	\$4.2		Recurring	UNM Cancer Center
	\$0.2		Recurring	NMFA
	(\$4.0)		Recurring	NMFA for UNM Health
	(\$2.8)		Recurring	NMFA for DOH
	(\$3.2)		Recurring	Rural County Cancer Treatment Fund
	\$4.2		Recurring	County & Muni Recreation Fund
	(\$3.9)		Recurring	County & Muni Cigarette Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to HB35 and SB121

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)  
 New Mexico Finance Authority (NMFA)  
 New Mexico Health Policy Commission (HPC)  
 Department of Health (DOH)

### SUMMARY

#### Synopsis of SFC Substitute

The Senate Finance Committee substitute for Senate Bill 30 increases the excise tax on cigarettes by \$1.00 per pack for one year, from July 1, 2010 to June 30, 2011. Additional revenue from the tax increase is to be distributed to the general fund.

The effective date of this bill’s provisions is July 1, 2010.

**New Distributions under SB30**

	<b>Current Law</b>	<b>SB30</b>
County/Municipal Recreational Fund	1.35%	0.86%
County/Municipal Cigarette Tax Fund	2.69%	1.70%
UNM HSC	1.35%	0.86%
NMFA	2.02%	1.28%
NMFA/HSC	14.37%	9.10%
NMFA/DOH	6.05%	3.83%
NMFA/CEA (general fund)	15.79%	10.00%
NMFA/rural county cancer treatment	1.00%	0.63%
General Fund	55.38%	71.74%

**Changes to Excise Tax**

<i>Changes to tax rate on cigarettes</i>	<b>Current Law</b>	<b>SB30</b>
Cigarette in packs of twenty	\$ 0.0455	\$ 0.0955
<b>Pack of 20</b>	<b>\$ 0.9100</b>	<b>\$ 1.9100</b>
Cigarette in packs of five	\$ 0.1820	\$ 0.3820
<b>Pack of 5</b>	<b>\$ 0.9100</b>	<b>\$ 1.9100</b>

**FISCAL IMPLICATIONS**

TRD assumed that revenue generated from an increased tax rate would be partially offset by a decline in demand for cigarettes in general and *taxable* cigarettes in particular. The percentage distributions are adjusted so that the beneficiaries, other than the general fund, are not impacted by the increase.

TRD:

The “Cigarette Inventory Tax” (Section 7-12-3.1 NMSA 1978) is distinctly separate from the “Cigarette Tax” and is distributed entirely to the State General Fund. The estimate has assumed that less than one-half of the first month of additional revenue may be collected as inventory tax, and that retailer purchases in the first month will be weaker than normal after stocking to capacity in June to beat the tax increase. Thus, some strength in FY2010 June revenue may be expected, but that impact has not been included in the estimated revenue.

Cigarette Tax revenue to the NMFA Credit Enhancement Account is ultimately forwarded to the State General Fund. The total General Fund impact with inclusion of the NMFA Credit Enhancement Account is shown as “General Fund”. The impact on the direct General Fund monthly distribution is +2.5 thousand (positive) and the impact on the NMFA Credit Enhancement Account is -3.7 thousand (negative) per year.

## **SIGNIFICANT ISSUES**

The increase in the state tax would move New Mexico from 31<sup>st</sup> highest excise tax to 16th. Colorado has an 84 cent tax, Arizona taxes at \$2.00, Utah taxes at \$0.695, and Texas taxes \$1.41 per pack (see Attachment 1).

### **TRD:**

The Cigarette Tax rate was last increased in 2003 when the rate was increased from \$0.21 per pack to \$0.91 per pack. Prior to that, the tax rate was increased from \$0.15 per pack to \$0.21 per pack in 1993. The \$0.15 per pack tax had been in effect from 1986 through 1993.

The Tobacco Products Tax was first implemented in 1986 at the current tax rate of 25% of wholesale value.

On March 31, 2009 the federal cigarette tax rate increased from 39 cents per pack to \$1.01 per pack, which was expected to decrease cigarette consumption by about 8%. The federal tax increase was expected to affect the volume of both state taxable cigarettes and tax-exempt Tribal sales.

### **DOH:**

The County-Supported Medicaid Fund supports both Medicaid services through the Human Services Department and some primary care clinics through the Department of Health. The state of New Mexico is facing a substantial shortfall in the County-Supported Medicaid fund and has been considering cutting services to Medicaid recipients. Raising the tobacco and cigarette taxes and distributing the increased revenue to the County-Supported Medicaid Fund would help to close the growing gap between funds available and demand for services.

## **ADMINISTRATIVE IMPLICATIONS**

This bill will have a moderate impact on TRD.

## **RELATIONSHIP**

SB30 relates to:

- HB35 which increases the cigarette tax and the tobacco products tax, distributes the revenue attributable to the increased taxes to the public school fund and adjusts the distributors' cigarette tax stamp discounts
- SB121 which also increases the cigarette tax, adjusts the cigarette stamp discounts and adjusts the cigarette tax distribution

## **TECHNICAL ISSUES**

### **TRD:**

The original version of the pre-filed bill SB-30 includes revenue distribution language that was considered not administrable by the Department. This bill analysis has assumed the revenue distribution language in the original bill will be amended or substituted as discussed between staff of the Taxation and Revenue Department and Legislative Council Service.

## OTHER SUBSTANTIVE ISSUES

### HPC:

New Mexico carries a significant economic burden due to tobacco use. According to TUPAC, in 2009 the annual smoking-related costs in NM were \$976 million. This includes \$483 million per year in direct medical costs and another \$493 million per year resulting from lost productivity. Each pack of cigarettes sold costs the State \$14.00 in smoking-attributable medical and lost productivity costs. The average retail price of a pack of cigarettes in New Mexico is \$4.85. (SOURCE: <http://164.64.93.39/documents/Quick%20Facts%202010.pdf>)

### NMFA:

Under the current statute, the NM Finance Authority (NMFA) receives five distributions from the revenue received from the excise tax on cigarettes and tobacco products. These distributions are dedicated for payment of debt service on revenue bonds to finance facilities for: Behavioral Health Capital Fund, UNM Health Sciences Center, NM Department of Health and the Rural County Cancer Treatment Center.

### DOH:

Raising cigarette taxes is widely regarded as one of the most effective tobacco prevention strategies, with such increases leading to “substantial long-run improvements in health” (Reducing Tobacco Use, Surgeon General, 2000). Increasing the state cigarette excise tax and tobacco products tax would result in an increase in state revenue and an anticipated decrease in tobacco consumption by youth and adults. (<http://www.tobaccofreekids.org/research/factsheets/pdf/0281.pdf>).

BLG/mt

***The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:***

- 1. Adequacy:*** revenue should be adequate to fund government services.
- 2. Efficiency:*** tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.
- 3. Equity:*** taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.
- 4. Simplicity:*** taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.
- 5. Accountability/Transparency:*** Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.

***More information about the LFC tax policy principles will soon be available on the LFC website at [www.nmlegis.gov/lcs/lfc](http://www.nmlegis.gov/lcs/lfc)***

## State Cigarette Tax Rates (as of July 1, 2009)

State	Cigarette Tax (Per Pack)	State Ranking (Highest = 1)	State	Cigarette Tax (Per Pack)	State Ranking (Highest = 1)
Alabama	\$0.425	45	Rhode Island	\$3.460	1
Alaska	\$2.000	9	New York	\$2.750	2
<b>Arizona</b>	<b>\$2.000</b>	<b>10</b>	New Jersey	\$2.700	3
Arkansas	\$1.150	26	Hawaii	\$2.600	4
California	\$0.870	32	Wisconsin	\$2.520	5
<b>Colorado</b>	<b>\$0.840</b>	<b>33</b>	Massachusetts	\$2.510	6
Connecticut	\$2.000	11	Vermont	\$2.240	7
D.C.	\$2.000	12	Washington	\$2.025	8
Delaware	\$1.150	27	Alaska	\$2.000	9
Florida	\$1.339	23	<b>Arizona</b>	<b>\$2.000</b>	<b>10</b>
Georgia	\$0.370	46	Connecticut	\$2.000	11
Hawaii	\$2.600	4	D.C.	\$2.000	12
Idaho	\$0.570	42	Maine	\$2.000	13
Illinois	\$0.980	30	Maryland	\$2.000	14
Indiana	\$0.995	29	Michigan	\$2.000	15
Iowa	\$1.360	21	New Hampshire	\$1.780	16
<b>Kansas</b>	<b>\$0.790</b>	<b>35</b>	Montana	\$1.700	17
Kentucky	\$0.600	40	S. Dakota	\$1.530	18
Louisiana	\$0.360	47	Minnesota	\$1.504	19
Maine	\$2.000	13	<b>Texas</b>	<b>\$1.410</b>	<b>20</b>
Maryland	\$2.000	14	Iowa	\$1.360	21
Massachusetts	\$2.510	6	Pennsylvania	\$1.350	22
Michigan	\$2.000	15	Florida	\$1.339	23
Minnesota	\$1.504	19	Ohio	\$1.250	24
Mississippi	\$0.680	37	Oregon	\$1.180	25
Missouri	\$0.170	50	Arkansas	\$1.150	26
Montana	\$1.700	17	Delaware	\$1.150	27
N. Carolina	\$0.350	48	<b>Oklahoma</b>	<b>\$1.030</b>	<b>28</b>
N. Dakota	\$0.440	44	Indiana	\$0.995	29
Nebraska	\$0.640	38	Illinois	\$0.980	30
Nevada	\$0.800	34	<b>New Mexico</b>	<b>\$0.910</b>	<b>31</b>
New Hampshire	\$1.780	16	California	\$0.870	32
New Jersey	\$2.700	3	<b>Colorado</b>	<b>\$0.840</b>	<b>33</b>
<b>New Mexico</b>	<b>\$0.910</b>	<b>31</b>	Nevada	\$0.800	34
New York	\$2.750	2	<b>Kansas</b>	<b>\$0.790</b>	<b>35</b>
Ohio	\$1.250	24	<b>Utah</b>	<b>\$0.695</b>	<b>36</b>
<b>Oklahoma</b>	<b>\$1.030</b>	<b>28</b>	Mississippi	\$0.680	37
Oregon	\$1.180	25	Nebraska	\$0.640	38
Pennsylvania	\$1.350	22	Tennessee	\$0.620	39
Rhode Island	\$3.460	1	Kentucky	\$0.600	40
S. Carolina	\$0.070	51	Wyoming	\$0.600	41
S. Dakota	\$1.530	18	Idaho	\$0.570	42
Tennessee	\$0.620	39	West Virginia	\$0.550	43
<b>Texas</b>	<b>\$1.410</b>	<b>20</b>	N. Dakota	\$0.440	44
<b>Utah</b>	<b>\$0.695</b>	<b>36</b>	Alabama	\$0.425	45
Vermont	\$2.240	7	Georgia	\$0.370	46
Virginia	\$0.300	49	Louisiana	\$0.360	47
Washington	\$2.025	8	N. Carolina	\$0.350	48
West Virginia	\$0.550	43	Virginia	\$0.300	49
Wisconsin	\$2.520	5	Missouri	\$0.170	50
Wyoming	\$0.600	41	S. Carolina	\$0.070	51

Source: The Tax Foundation

## State Tax Rates on Other Tobacco Products

As of January 1, 2008

<u>State</u>	<u>Tax Base</u>	<u>Tax Rate (1)</u>
Alabama	Cigars (2)	4.0¢-40.5¢/ 10 cigars
	Tobacco/Snuff	0.6¢-5.25¢/ ounce
Alaska		75% Wholesale Price
Arizona	Cigars (2)	44.1¢-\$2.60/ 20 cigars
	Tobacco/Snuff	23.8¢/ounce
Arkansas		32% Manufactures Price
California (3)		45.13% Wholesale Price
Colorado		40% Manufactures Price
Connecticut (5)		20% Wholesale Price
Delaware		15% Wholesale Price
Florida		25% Wholesale Price
Georgia	Little Cigars	2.5¢/10 cigars
	Other Cigars	23% Wholesale Price
	Tobacco	10% Wholesale Price
Hawaii		40% Wholesale Price
Idaho		40% Wholesale Price
Illinois		18% Wholesale Price
Indiana		24% Wholesale Price
Iowa		50% Wholesale Price
Kansas		10% Wholesale Price
Kentucky		7.5% Wholesale Price
Louisiana	Cigars	8%-20% Manufacture Price
	Tobacco/Snuff	33% Manufactures Price
Maine	Chewing Tobacco./Snuff	78% Wholesale Price
	Smoking Tobacco/Cigars	20% Wholesale Price
Maryland		15% Wholesale Price
Massachusetts	Smokeless Tobacco	90% Wholesale Price
	Smoking Tobacco/Cigars	30% Wholesale Price
Michigan		32% Wholesale Price
Minnesota		70% Wholesale Price
Mississippi		15% Manufactures Price
Missouri		10% Manufactures Price
Montana		50% Wholesale Price
Nebraska		20% Wholesale Price
Nevada		30% Wholesale Price
New Hampshire		19% Wholesale Price

## State Tax Rates on Other Tobacco Products

As of January 1, 2008

<u>State</u>	<u>Tax Base</u>	<u>Tax Rate (1)</u>
New Jersey		30% Wholesale Price
<b>New Mexico</b>		<b>25% Product value</b>
New York		37% Wholesale Price
North Carolina		3% Wholesale Price
North Dakota	Cigars & Tobacco	28% Wholesale Price
	Chew Tobacco/Snuff	16¢-60¢/ounce
Ohio		17% Wholesale Price
Oklahoma	Cigars (2)	36¢-120¢/ 10 cigars
	Tobacco/Snuff	60%-80% factory list price
Oregon		65% Wholesale Price
Rhode Island		40% Wholesale Price
South Carolina		5% Manufactures Price
South Dakota		35% Wholesale Price
Tennessee		6.6% Wholesale Price
Texas	Cigars (2)	1.0¢-15.0¢/10 cigars
	Tobacco/Snuff	40% Manufactures Price
Utah		35% Manufactures Price
Vermont (6)		41% Manufactures Price
Virginia		10% Wholesale Price
Washington		75% Wholesale Price
West Virginia		7% Wholesale Price
Wisconsin		50% Manufactures Price
Wyoming (4)		20% Wholesale Price

Source: Compiled by the Federation of Tax Administrators from various sources.

(1) The volume based tax rates were converted to cents per 10 cigars or per ounce for consistency.

(2) Tax rate on cigars varies based on the selling price.

(3) Tax rate is adjusted annually by the state, effective July 1st of each year.

(4) or 10% of the retail price.

(5) Snuff tobacco taxed at 40 cents per ounce.

(6) Little cigars are taxed as cigarettes.