

LFC Requester:

Gray

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

Analysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

Check all that apply:

Original Amendment

Correction Substitute

Date 01/19/24

Bill No: [SB72](#)

Sponsor: <u>Hickey</u>	Agency Name and Code Number: <u>PED-924</u>
Short Title: <u>TOBACCO PRODUCTS TAX RATE</u>	Person Writing: <u>Denise Terrazas</u>
	Phone: <u>(505) 470-5303</u> Email: <u>Denise.Terrazas@ped.nm.gov</u>

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
N/A	N/A	N/A	NFA

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
N/A	N/A	N/A	N/A	NFA

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	N/A	N/A	N/A	N/A	Nonrecurring	NFA

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Relates to Appropriation in the General Appropriation Act: House Bill 2 proposes an appropriation from the internal service funds/interagency to the public health program of the department of health include five million four hundred thirty-five thousand two hundred dollars

(\$5,435,200) from the tobacco settlement program fund for smoking cessation and prevention programs.

HB2/aHAFC also proposes an appropriation to the Indian affairs program of the Indian affairs department that includes two hundred forty-nine thousand three hundred dollars (\$249,300) from the tobacco settlement program fund for tobacco cessation and prevention programs for Native American communities throughout the state.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Senate Bill 72 (SB72) would modify the rates of the Tobacco Products Tax. The bill would require the Department of Health (DOH) to work in collaboration with the Public Education Department (PED) and the Higher Education Department (HED) to develop programs, educational materials, and advertising on nicotine use prevention and control for persons five to 25 years of age. The bill also provides for updated definitions for e-cigarette, e-liquid, and tobacco products.

The bill has an effective date of July 1, 2024.

FISCAL IMPLICATIONS

The bill does not contain an appropriation.

SB72 proposes to adjust the excise tax rate of certain tobacco products in the state; the bill retains the current excise tax of 25 percent of the value of tobacco products, but also sets a minimum rate for \$.50 for each cigar sold; for little cigars, a rate equal to that for cigarettes; for e-liquids and e-cigarettes, forty-four percent; and for closed system cartridges, \$.50 each.

The bill also proposes to create the nicotine use prevention and control fund and proposes a distribution from the fund of an amount equal to net receipts equal to the tobacco products tax. The fund is to be administered by DOH, and will be subject to legislative appropriation to provide funds to DOH to work with PED and HED on the development of programs, advertisements, etc., to counter nicotine use by persons aged five to 25. Any disbursed funds remaining at the end of a fiscal year shall revert to the general fund.

SIGNIFICANT ISSUES

Although SB72 would require collaboration between DOH and PED to develop programs, educational materials, and advertising materials for the prevention of nicotine use by persons between five and 25 years of age, the specific nature of that collaboration was not defined. The Safe and Healthy Schools bureau of PED currently collaborates with DOH on tobacco use prevention programs, and in 2023 PED updated the administrative rule [6.12.4 NMAC, Tobacco, Alcohol, and Drug Free Schools](#), with input from DOH. The rule was updated to include electronic cigarettes and nicotine delivery devices and requires each local school board or governing body to establish a tobacco, alcohol, and drug free school policy.

Currently, the Safe and Healthy Schools Bureau provides informational resources to schools, parents, and community members through its webpage for [E-Cigarettes and Vaping](#), including

links to resources from the Center for Disease Control, American Lung Association, and other professional organizations.

PERFORMANCE IMPLICATIONS

According to a 2023 study published in the [Substance Abuse and Rehabilitation Journal](#), students that consume nicotine have lower GPAs, higher rates of absenteeism, and generally more academic warnings. If the collaboration between DOH, PED, and HED proves effective, students' performance in school may improve.

ADMINISTRATIVE IMPLICATIONS

PED may need to consider updating Rule 6.12.4 NMAC to reflect the updated definitions included in the bill.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to: [SB80, No Sale of Flavored Tobacco Products](#), which would prohibit the sale of flavored tobacco products.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

None.

AMENDMENTS

None.