

BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

January 23, 2024

Bill: SB-99

Sponsor: Senator Katy M. Duhigg

Short Title: Remove Incremental Cannabis Tax

Description: This bill amends Section 7-42-3 NMSA 1978 to permanently set the rate of cannabis excise tax at 12%.

Effective Date: July 1, 2024

Taxation and Revenue Department Analyst: Pedro Clavijo

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2024	FY2025	FY2026	FY2027	FY2028		
--	--	(\$2,000)	(\$4,300)	(\$6,800)	R	General Fund
--	--	(\$1,000)	(\$2,100)	(\$3,300)	R	Local Governments

* In thousands of dollars. Parentheses () indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Methodology for Estimated Revenue Impact: Current law provides for the cannabis excise tax to increase from the current level of 12% by one percent per year in FY26-30, for a total final rate of 18%. This bill keeps the rate of cannabis excise tax at the current rate of 12%. Preventing future tax increases will negatively impact general fund and local government cannabis excise tax revenue. The Taxation and Revenue Department (Tax & Rev) estimated revenues under current law and then under the bill’s proposal to set the tax rate at 12%. If the cannabis excise tax decreases, this can be modeled as a decline in its price, presuming tax changes are fully passed through to prices at the retail level. Because the price of cannabis declines under the bill’s proposal, it is necessary to choose a value of the price\tax elasticity of demand for cannabis to determine how revenues on it respond. Tax & Rev used an average value for the elasticity of 0.53, taken from the literature,¹ data from Tax & Rev’s cannabis distribution report, and the cannabis revenue growth from the December 2023 CREG forecast to calculate the fiscal impact. Two-thirds of cannabis excise tax revenue is distributed to the General Fund, and the remaining one-third is distributed to the associated municipalities and counties.

It is essential to mention that deviations from the impact estimated here will be mainly driven by the price differences between low-, medium-, and high-quality cannabis products and their respective price elasticities. Furthermore, it is expected that age groups respond differently given variations between income elasticities. The tax revenues accruing from cannabis will also depend on the response of cannabis users in the illegal cannabis sector to the proposed tax change and the market linkages between ‘sin’ goods (e.g., alcohol and tobacco).

Policy Issues: Taxation has been a standard policy lever used to generate revenue or limit the harms associated with the consumption of ‘sin’ goods. While a reduction in cannabis taxes could stimulate this sector, making it more profitable and attracting more competition, lower cannabis prices could also increase demand, particularly in adolescents, influencing the age of cannabis initiation. Studies suggest that monetary price is important in this age group and negatively associated with initiation. On the other

¹ Pacula RL, Lundberg R. Why Changes in Price Matter When Thinking About Marijuana Policy: A Review of the Literature on the Elasticity of Demand. Public Health Rev. 2014;35(2):1-18. doi: 10.1007/BF03391701.

side, considering cannabis demand is price-inelastic, a tax reduction will negatively impact revenues accruing from cannabis. However, a fiscal policy aimed at maximizing tax revenues generally leads to the continued co-existence of legal and illegal markets as consumption moves to the illegal market to avoid higher taxes and prices.

Technical Issues: None

Other Issues: None

Administrative & Compliance Impact: Tax & Rev will update forms, instructions, and publications and make information system changes. Tax & Rev’s Administrative Services Division (ASD) anticipates this bill will take approximately 40 hours split between two full-time employees. Tax & Rev’s Information Technology Division (ITD) estimates that implementing the bill will require approximately 220 hours or about a month and a half and \$12,210 of staff workload costs.

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY2024	FY2025	FY2026	3 Year Total Cost		
--	\$2.4	--	\$2.4	NR	Tax & Rev – ASD – staff workload
\$12.2	--	--	\$12.2	NR	Tax & Rev – ITD - staff workload costs

* In thousands of dollars. Parentheses () indicate a cost saving. ** Recurring (R) or Non-Recurring (NR).