

LFC Requester:	Jennifer Faubion
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**AGENCY BILL ANALYSIS
2023 REGULAR SESSION**

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment** _____
Correction _____ **Substitute** _____

Date 01/20/2023
Bill No: HB 123

Sponsor: E. Thomson, J. Ferrary, T. Jaramillo, K. Cates, G. Chasey
Short Title: TOBACCO TAX RATES & DEFINITIONS

Agency Name and Code 305–Office of the Attorney General
Number: _____
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General Opinion nor an Attorney General Advisory Letter. This is a staff analysis in response to a committee or legislator's request. The analysis does not represent any official policy or legal position of the Office of the Attorney General.

BILL SUMMARY

Synopsis: HB 123 seeks to amend the Tax Administration Act, NMSA 1978, 7-1-1 *et seq.*, the Cigarette Tax Act, NMSA 1978, 7-12-1 *et seq.* and the Tobacco Products Tax Act, NMSA 1978, 7-12A-1 *et seq.*

SECTION 1. Proposed changes to distributions of current taxes in § 7-1-6.11 Tax Administration Act:

- Decrease to UNM Board of Regents from seventy-one hundredths (0.71) to four-tenths (0.4) percent;
- Decrease to UNM health science center from seven and fifty-two (7.52) to four and fifteen (4.15) hundredths percent;
- Decrease to NM finance Authority for land acquisition and planning designing construction and equipping of health facilities or improvement of the same, from three and seventeen (3.17) to one and seventy-six hundredths (1.76) percent;
- Decrease to NM Finance Authority for deposit to the credit enhancement account from eight and twenty-six (8.26) to four and fifty-five (4.55) hundredths percent; and
- Decrease to NM Finance Authority for the benefit of rural county cancer treatment fund from fifty-three(0.53) to thirty-one (0.31) hundredths percent

SECTION 2. Proposed changes to “Imposition and Rates of Tax”, § 7-12-3 Cigarette Tax Act:

- Increase Excise Tax rate from ten cents (\$0.10) to twenty cents (\$0.20) per cigarette sold, given or consumed in the State
- Deletes any reference to “modified risk tobacco products”
- Deletes reference to reduction of tax on “modified risk tobacco products”

SECTION 3. Proposed changes to “Sale of Stamp Taxes”, § 7-12-7 of the Cigarette Tax Act

- Reduces the discounts from the face value of tax stamps:
 - From forty-six (0.46) to twenty-three (0.23) hundredths on the first \$30,000;
 - From thirty-six (0.36) to eighteen (0.18) hundredths percent on the second \$30,000;
 - From twenty-two (0.22) to eleven (0.11) hundredths percent less than the face value of stamps purchased in excess of \$60,000 in one calendar month.

SECTION 4. Proposed changes to “Definitions” § 7-12A-2, of the Tobacco Products Tax Act,

- Amends the definition of “e-cigarette”
- Amends the definition of “e-liquid”
- Amends the definition of “tobacco products”

SECTION 5. Proposed changes to “Imposition and Rates of Tax”, § 7-12A-3 of the Tobacco Products Tax Act

- Changes the excise tax rate from twenty-five (25%) to seventy-one (71%) percent of the wholesale price of tobacco products
- Deletes specific references to cigars, e-liquid and closed-system cartridges
- Renames section to “tobacco products tax”
- Provides the date for tobacco products tax to be paid on the 25th day of the month following the month of taxable event

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

None

SIGNIFICANT ISSUES

None

PERFORMANCE IMPLICATIONS

None

ADMINISTRATIVE IMPLICATIONS

None

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 124 is related to this bill, (HB 123). HB 124 proposes changes to the Definitions Section of the Tobacco Products Tax Act, § 7-12A-2. These changes are identical to those proposed in the definitions section in HB 123.

HB 124 also seeks to amend § 7-12A-3(A) of the Tobacco Products Tax Act, NMSA 1978, § 7-12A-3 similarly to HB123, though its proposal is to modify the current tax from twenty-five (25) percent to thirty-one (31) percent. (The proposed change in HB 123 is to seventy-one (71) percent).

TECHNICAL ISSUES

HB 123 seeks to amend three different statutes, the Tax Administration Act, NMSA 1978, 7-1-1 *et seq.*, the Cigarette Tax Act, NMSA 1978, §§ 7-12-1 and the Tobacco Products Tax Act, NMSA 1978, 7-12A-1 *et seq.* It might be clearer to separate bills for each of the three statutes.

OTHER SUBSTANTIVE ISSUES

None
ALTERNATIVES

None
WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo
AMENDMENTS

None