

BILL ANALYSIS AND FISCAL IMPACT REPORT
Rick Homans, Secretary, Taxation and Revenue Department

January 20, 2010

Bill: SB-30

Sponsor: Senators Dede Feldman and Danice Picraux

Related Bills: HB-35

Short Title: Cigarette Tax Increase & Distribution

Description: The bill increases the excise tax on cigarettes by \$1.00 per pack (from \$0.91 per pack to be \$1.91 per pack), and increases the Tobacco Products Tax rate from twenty-five percent (25%) of wholesale value to be forty percent (40%) of wholesale value. Additional revenue from the tax increases are directed to the County-Supported Medicaid Fund.

NOTE: 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 assumes 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.**

Effective Date: July 1, 2010

Estimated Revenue Impact*						R or NR**	Fund(s) Affected
FY2010	FY2011	FY2012	FY2013	FY2014	FY 10-14		
None	36,206.5	36,298.3	36,424.4	36,522.7	145,451.9	R	County-supported Medicaid Fund ⁽¹⁾
None	(1.3)	(1.3)	(1.3)	(1.3)	(5.2)	R	General Fund ⁽¹⁾⁽²⁾
None	(5.3)	(5.3)	(5.3)	(5.3)	(21.2)	R	Other Recipient Funds ⁽¹⁾⁽³⁾

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

- (1) Also see the “Detailed Discussion” of Revenue Impact, below, for impact by tax program.
- (2) 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”.
- (3) Also see the “Detailed Discussion” of Revenue Impact, below, for details on Other Recipients of Cigarette Tax revenue.

Policy Issues:

- An increase in the state Cigarette Tax rate would probably result in the shifting of a significant volume of additional cigarette sales to tax-exempt Tribal retail sellers. Currently, state taxable cigarette volume is 67% of total consumption and tax-exempt Tribal cigarette volume is 33% of total consumption. It is estimated that with the tax increase, tax-exempt Tribal cigarette volume would be almost 50% of total consumption.
- Cigarette consumption imposes significant costs on non-smokers through second hand smoke and health-related costs that are paid directly or indirectly by non-smokers.
- Higher cigarette taxes would discourage non-smokers from becoming smokers.

Technical Issues:

- 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 Issues:

- The new proposed tax Cigarette Tax rate of \$1.91 per pack would be about the 16th highest state tax rate among states (see page 4 State Tax Rate Comparison).
- 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.

Administrative Impact:

- Moderate

Estimated Revenue Impact – Detailed Discussion:

Estimated Revenue Impact*						R or NR**	Fund(s) Affected
FY2010	FY2011	FY2012	FY2013	FY2014	FY 10-14		
none	33,146.1	33,146.1	33,146.1	33,146.1	132,584.4	R	County-supported Medicaid Fund (cigarette)
none	3,060.4	3,152.2	3,278.3	3,376.6	12,867.5	R	County-supported Medicaid Fund (tobacco products)
none	(1.2)	(1.2)	(1.2)	(1.2)	(4.8)	R	General Fund ⁽²⁾ (cigarette)
none	(0.1)	(0.1)	(0.1)	(0.1)	(0.4)	R	General Fund (tobacco products)
none	4.2	4.2	4.2	4.2	16.8	R	Co/Mun Recreation Fund
none	(3.9)	(3.9)	(3.9)	(3.9)	(15.6)	R	Co/Mun Cigarette Fund
none	4.2	4.2	4.2	4.2	16.8	R	UNM Cancer Center
none	0.2	0.2	0.2	0.2	0.8	R	NMFA
none	(4.0)	(4.0)	(4.0)	(4.0)	(16.0)	R	NMFA for UNM Health
none	(2.8)	(2.8)	(2.8)	(2.8)	(11.2)	R	NMFA for DOH
none	(3.2)	(3.2)	(3.2)	(3.2)	(12.8)	R	Rural Co Cancer Treatment

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

(1) 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.

(2) 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.

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
Arizona	\$2.000	10	New Jersey	\$2.700	3
Arkansas	\$1.150	26	Hawaii	\$2.600	4
California	\$0.870	32	Wisconsin	\$2.520	5
Colorado	\$0.840	33	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	Arizona	\$2.000	10
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
Kansas	\$0.790	35	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	Texas	\$1.410	20
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	Oklahoma	\$1.030	28
N. Dakota	\$0.440	44	Indiana	\$0.995	29
Nebraska	\$0.640	38	Illinois	\$0.980	30
Nevada	\$0.800	34	New Mexico	\$0.910	31
New Hampshire	\$1.780	16	California	\$0.870	32
New Jersey	\$2.700	3	Colorado	\$0.840	33
New Mexico	\$0.910	31	Nevada	\$0.800	34
New York	\$2.750	2	Kansas	\$0.790	35
Ohio	\$1.250	24	Utah	\$0.695	36
Oklahoma	\$1.030	28	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
Texas	\$1.410	20	N. Dakota	\$0.440	44
Utah	\$0.695	36	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
New Jersey		30% Wholesale Price
New Mexico		25% Product value

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 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 FTA 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.