

New Hampshire Department of Revenue Administration

Fiscal Note Quick Guide

25-0642.0

HB 290, *increasing the taxes on cigarettes and electronic cigarettes and establishing a committee to study taxes on tobacco and other nicotine products.*

Ways and Means

This bill increases the taxes on cigarettes and electronic cigarettes and establishes a committee to study taxes on tobacco and other nicotine products

This proposed legislation amends RSA 78:2, I by increasing the tobacco tax (stamp) rate for each package of 20 cigarettes or little cigars from \$1.78 to \$2.78 or a proportional rate for packages containing other than 20 cigarettes or little cigars. The Tobacco Tax is a direct tax on the consumer at retail which is pre-collected and paid by a wholesaler. For packages of 20 or 25 cigarettes or little cigars, the wholesaler demonstrates that it paid the tax by affixing stamps purchased from the Department of Revenue Administration (DRA) to each package.

The proposed legislation amends RSA 78:2, II(b) by adjusting the tax rate for electronic cigarettes sold at retail for closed containers from \$0.30 per milliliter on the volume of the liquid or other substance in the cartridge or container to 65 percent of the wholesale price and the tax rate for open containers from 8 percent to 65 percent of the wholesale sales price. The proposed legislation establishes a committee to study taxes on tobacco and other nicotine products.

The proposed legislation will take effect July 1, 2025, but there is no applicability date. The DRA assumes that it will not apply to stamps or e-cigarettes purchased before July 1, 2025, even if they are affixed to packages sold at retail on or after July 1, 2025.

The proposed legislation is an indeterminable increase to the General Fund (GF) and Education Trust Fund (ETF) starting in FY2026. The DRA is unable to estimate the exact future impact of the proposed legislation because the DRA cannot predict what revenue from tobacco tax will be in future years. However, the DRA has calculated fiscal impact based on the prior year's tobacco stamp sales revenue as follows. The fiscal impact does not consider a floor tax for existing inventory, any fluctuation in sales due to the tax increase, or tobacco legislation in nearby states that may impact sales in New Hampshire.

To calculate the stamp sales revenue impact of the proposed rate change, the DRA used FY2024 tobacco stamp sales of 87,462,000 as the starting point. The following first table shows the impact of the proposed legislation using FY2024 stamp sales revenue and calculates FY2025 at the current tobacco stamp sales rate of \$1.78 and FY 2026 and forward at the increased rate of \$2.78. The second table shows the fiscal impact on the GF and ETF together.

Estimated Impact of Proposed Rate Change on Tobacco Tax (Static Analysis Using FY 2024 Sales)

Fiscal Year	Tobacco Stamps Sold (FY2024)	Current Rate	Current Law Revenue	Proposed Rate	Proposed Law Revenue	Fiscal Impact
FY 2025	87,462,000	\$1.78	\$155,682,000	\$1.78	\$155,682,000	-
FY 2026 & Forward	87,462,000	\$1.78	\$155,682,000	\$2.78	\$243,144,000	\$87,462,000

RSA 78:24 allocates stamp revenue to the ETF at any additional tax in excess of \$1.00 for each package containing 20 cigarettes or little cigar or at a rate proportional for packages containing other than 20. The current percentage to the ETF is 43.82% or \$0.78/\$1.78. Under the proposed legislation, the ETF allocation will increase to 64.03% or \$1.78/\$2.78. The table below shows the fiscal impact on the GF and ETF.

Est. Impact of Proposed Rate Change on TOB Tax General Fund and Education Trust Fund (Static Analysis Using FY 2024 Sales)

Fiscal Year	Current Law ETF Allocation	Current Law GF	Current Law ETF	Proposed ETF Allocation	Proposed Law GF	Proposed Law ETF	Fiscal Impact GF	Fiscal Impact ETF
FY 2025	43.82%	\$87,462,000	\$68,220,000	43.82%	\$87,462,000	\$68,220,000	-	-
FY 2026 & Forward	43.82%	\$87,462,000	\$68,220,000	64.03%	\$87,462,000	\$155,682,000	-	\$87,462,000

The DRA does not have data relative to the wholesale sales price of closed system electronic cigarettes and therefore cannot estimate the fiscal impact of amending the tax on closed system electronic cigarettes from the \$0.30 per milliliter-based tax to the proposed 65% of wholesale cost. However, the DRA does have data relative to the wholesale price of open system electronic cigarettes and can calculate an estimate fiscal impact of amending the tax on open system electronic cigarettes from 8% wholesale cost to 65% of the wholesale cost. Revenue generated from the electronic cigarette portion of the TOB tax is not subject to allocation to the ETF and remains 100% in the GF.

To calculate the tax impact of the proposed rate change of open system electronic cigarettes, the DRA used FY2024 reported wholesale liability of \$5.3M as a starting point. The following table shows the impact of the proposed rate using FY2024 revenues and calculates FY2025 at the current rate at 8% and FY2026 and forward at the proposed rate at 65%.

Est. Impact of Proposed Rate Change on Open System Electronic Cigarettes (Static Analysis Using FY2024)

Fiscal Year	Open System E-Cig Reported Liability (FY2024)	Current Law Rate	Current Law Revenue	Proposed Rate	Proposed Law Revenue	Fiscal Impact
FY 2025	\$5,300,000	8.0%	\$424,000	8.0%	\$424,000	-
FY 2026 & Forward	\$5,300,000	8.0%	\$424,000	65.0%	\$3,445,000	\$3,021,000

The tax on other tobacco products and e-cigarettes is assessed and collected by the filing of monthly returns by tobacco wholesalers. The proposed legislation would require the DRA to update all necessary tax return forms and the Revenue Information Management System (RIMS) to administer the tobacco tax assessed on other tobacco products and e-cigarettes. The DRA believes that we could administer this portion of the proposed legislation without any additions to our current operating budget.