



**Colorado  
Legislative  
Council  
Staff**

**SB17-139**

**FINAL  
FISCAL NOTE**

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 17-0870  
**Prime Sponsor(s):** Sen. Hill; Williams A.  
Rep. Pabon

**Date:** May 16, 2017  
**Bill Status:** Veto Sustained  
**Fiscal Analyst:** Greg Sobetski (303-866-4105)

**BILL TOPIC:** EXTEND CREDIT FOR OUT-OF-STATE TOBACCO SALES

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019	FY 2019-2020
<b>State Revenue</b>		<b>(\$9,700)</b>	<b>(\$12,100)</b>
General Fund		(4,850)	(6,050)
Cash Funds		(4,850)	(6,050)
<b>State Expenditures</b>			
<b>TABOR Impact</b>		(\$4,850)	Not estimated.
<b>Appropriation Required:</b> None.			
<b>Future Year Impacts:</b> State revenue decrease through FY 2021-22.			

**NOTE:** This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

**Summary of Legislation**

This bill extends the excise tax credit for sales of non-cigarette tobacco products to out-of-state consumers through August 2021. Under current law, the credit is set to repeal effective September 1, 2018.

**Background**

Non-cigarette tobacco products are subject to an excise tax equal to 40 percent of the manufacturers' list price. Examples of non-cigarette tobacco products include cigars, chewing tobacco, and loose tobacco used for roll-your-own cigarettes. The tax is assessed at the time when tobacco products are brought into the state and is remitted by distributors. Effective September 1, 2015, distributors are able to claim a credit against the tobacco excise tax equal to excise taxes paid on products sold to out-of-state consumers.

Half of the tobacco excise tax is deposited in the General Fund and available for annual appropriation at the discretion of the General Assembly. Pursuant to Amendment 35, the other half of tobacco excise tax revenue is deposited in the Tobacco Tax Cash Fund and expended as follows:

- 46 percent to the Department of Health Care Policy and Financing (HCPF) for the Children's Basic Health Plan and Medicaid;
- 19 percent to HCPF for comprehensive primary care;
- 16 percent to the Department of Public Health and Environment (CDPHE) for tobacco education programs;
- 16 percent to CDPHE for cancer, cardiovascular, and pulmonary programs; and
- 3 percent to state and local governments.

Only the General Fund share of the tobacco excise tax is subject to TABOR.

## State Revenue

The bill decreases state revenue by **\$9,700 in FY 2018-19**, **\$12,100 in FY 2019-20**, and by a similar amount in FY 2020-21. One half of these amounts represents tobacco excise tax revenue to the General Fund, and one half represents Amendment 35 revenue to the Tobacco Tax Cash Fund.

**Assumptions.** In 2016, distributors sold \$28,000 in non-cigarette tobacco products to out-of-state consumers and claimed a total of \$11,200 in credit. This amount was grown by expectations for tobacco tax revenue published in the December 2016 Legislative Council Staff forecast. The amount for FY 2018-19 represents a ten month impact, as the bill extends the credit set to repeal on September 1, 2018.

**Distribution.** The bill reduces revenue to each of the General Fund and the Tobacco Tax Cash Fund by \$4,850 and \$6,050 in FY 2018-19 and FY 2019-20, respectively. Distributions from the Tobacco Tax Cash Fund to HCPF and CDPHE for health-related programs will be reduced in both years in accordance with their percentage allocations in Amendment 35.

## TABOR Impact

This bill reduces state revenue from the tobacco excise tax, which will reduce the amount of money required to be refunded under TABOR for FY 2018-19. The TABOR refund obligation for FY 2019-20 is not estimated.

TABOR refunds are paid out of the General Fund. Since the bill reduces both revenue to the General Fund and the refund obligation by equal amounts, there is no net impact on the amount of money available in the General Fund for the budget. However, the bill will reduce money available for the General Fund budget in the future during years when the state does not collect money above the TABOR limit.

Because the Amendment 35 share of tobacco tax revenue is a voter-approved revenue change, reducing revenue from this source has no TABOR impact.

## Local Government Impact

The bill reduces tobacco tax distributions to counties and municipalities by about \$50 annually. Counties and municipalities receive 30 percent of 3 percent, or less than 1 percent, of Amendment 35 tobacco tax revenue.

**Effective Date**

The bill was vetoed by the Governor on April 28, 2017. On May 3, 2017, a Senate motion to override the veto did not win the two-thirds majority required to pass; therefore, the veto was sustained.

**State and Local Government Contacts**

Counties  
Information Technology  
Public Health and Environment

Health Care Policy and Financing  
Municipalities  
Revenue