



Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:	LLS 24-0079	Date:	July 11, 2024
Prime Sponsors:	Sen. Sullivan	Bill Status:	Postponed Indefinitely
		Fiscal Analyst:	Emily Dohrman 303-866-3687 emily.dohrman@coleg.gov

Bill Topic: **TAXATION PREMIUM CIGARS**

Summary of Fiscal Impact:	<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> State Transfer	<input type="checkbox"/> Local Government
	<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> TABOR Refund	<input type="checkbox"/> Statutory Public Entity

The bill would have reduced taxation of premium cigars to 40 percent of the manufacturer’s list price. It would have increased state expenditures and decreases state revenue and transfers beginning in FY 2024-25.

Appropriation Summary: For FY 2024-25, the bill would have required an appropriation of \$42,685 to the Department of Revenue.

Fiscal Note Status: The final fiscal note reflects the introduced bill. The bill was postponed indefinitely by the Senate Finance Committee on February 29, 2024; therefore, the impacts identified in this analysis do not take effect,

Table 1
State Fiscal Impacts Under SB 24-102

		Budget Year FY 2024-25	Out Year FY 2025-26
Revenue	General Fund	(\$9,200,000)	(\$9,700,000)
	Total Revenue	(\$9,200,000)	(\$9,700,000)
Expenditures	General Fund	\$42,685	\$7,328
	Total Expenditures	\$42,685	\$7,328
Transfers	General Fund	\$9,200,000	\$9,700,000
	Preschool Programs Cash Fund	(\$9,200,000)	(\$9,700,000)
	Net Transfer	\$0	\$0
Other Budget Impacts	General Fund Reserve	\$6,403	\$1,099

Summary of Legislation

The bill defines premium cigars and reduces their tax rate. Under current law, premium cigars are assessed a tax equal to 50 percent of the manufacturer's list price, increasing to 56 percent on July 1, 2024, and again to 62 percent on July 1, 2027. The bill changes the tax rate to be 40 percent of the manufacturer's list price, beginning on July 1, 2024. The tax rate reduction affects Proposition EE revenue credited to the Preschool Programs Cash Fund.

Background

Tobacco taxation. Under current law, all tobacco products other than cigarettes are subject to taxation at a rate of 50 percent of the manufacturer's list price. This is made up of three separate taxes:

1. a statutory tax of 20 percent established in 1986;
2. a constitutional tax of 20 percent established in 2005 by Amendment 35; and
3. an increase in the statutory tax beginning in 2021, established by Proposition EE.

The Proposition EE tax rate is currently 10 percent, but is scheduled to increase to 16 percent on July 1, 2024, and to 22 percent on July 1, 2027.

Revenue from each of the three taxes has a different distribution formula. Revenue from the taxes created by Amendment 35 and Proposition EE are exempt from TABOR.

Proposition EE revenue distribution. Revenue from Proposition EE is initially credited to the General Fund, and transferred into the 2020 Tax Holding Fund. In FY 2024-25, revenue is distributed from the 2020 Tax Holding Fund such that \$10.95 million is transferred to the Tobacco Tax Cash Fund, \$4.05 million is transferred back to the General Fund, \$20 million is transferred to the Tobacco Education Programs Fund, and the remainder is distributed to the Preschool Programs Cash Fund.

Assumptions

The fiscal note assumes that the Department of Revenue (DOR) will be able to complete necessary programming for premium cigar taxes to be filed electronically by July 1, 2024. If programming cannot be completed on time, DOR will require additional personnel to review tax returns manually until taxes are able to be reported electronically.

State Revenue

The bill reduces General Fund revenue by \$9.2 million in FY 2024-25, \$9.7 million in FY 2025-26, and increasing amounts in future years. The fiscal note assumes that 48 percent of the Proposition EE tax revenue on tobacco products (excluding cigarettes) comes from taxation of premium cigars. To the extent that the actual portion of tobacco revenue coming from premium cigars is higher or lower than 48 percent, the revenue impact will differ from what is estimated here. Proposition EE revenue is exempt from TABOR as a voter approved revenue change.

State Transfers

The bill reduces transfers from the General Fund to the Preschool Programs Cash Fund, via the 2020 Tax Holding Fund, in the same amounts as the revenue impact identified above.

State Expenditures

The bill increases General Fund expenditures in the Department of Revenue by \$42,685 in FY 2024-25 and \$7,328 in FY 2025-26 and later years.

Department of Revenue. The DOR requires computer programming and data reporting costs to implement the bill.

- **Computer programming and testing.** For FY 2024-25 only, DOR will have one-time costs of \$35,293 for computer programming and testing. Programming costs are estimated at \$32,445, representing 140 hours of contract programming at a rate of \$231.75 per hour. Costs for testing to ensure that programming changes are functioning properly are estimated at \$2,848, representing 89 hours of user acceptance testing at a rate of \$32 per hour.
- **Research and analysis.** The Office of Research and Analysis within DOR will expend \$7,392 in FY 2024-25 and \$7,328 in FY 2025-26 and ongoing to collect and report data on the new tax.

Department of Early Childhood. The bill reduces revenue available to spend or save in the Preschool Programs Cash Fund by \$9.2 million in FY 2024-25, \$9.7 million in FY 2025-26, and increasing amounts in later years.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2024-25, the bill requires a General Fund appropriation of \$42,685 to the Department of Revenue.

State and Local Government Contacts

Early Childhood

Revenue

Personnel

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).