



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2021 Biennium

| | | | |
|-------------------------|--------------|----------------|--|
| Bill # | SB0096 | Title: | Provide for taxation of vapor products |
| Primary Sponsor: | Smith, Frank | Status: | As Introduced |

- Significant Local Gov Impact
 Needs to be included in HB 2
 Technical Concerns
 Included in the Executive Budget
 Significant Long-Term Impacts
 Dedicated Revenue Form Attached

FISCAL SUMMARY

| | <u>FY 2019</u> <u>Difference</u> | <u>FY 2020</u> <u>Difference</u> | <u>FY 2021</u> <u>Difference</u> | <u>FY 2022</u> <u>Difference</u> | <u>FY 2023</u> <u>Difference</u> |
|---|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| Expenditures: | | | | | |
| General Fund | \$12,000 | \$0 | \$0 | \$0 | \$0 |
| State Special Revenue | \$0 | \$0 | \$0 | \$0 | \$0 |
| Revenue: | | | | | |
| General Fund | \$119,800 | \$808,500 | \$895,000 | \$964,500 | \$1,029,500 |
| State Special Revenue | \$119,800 | \$808,500 | \$895,000 | \$964,500 | \$1,029,500 |
| Net Impact-General Fund Balance: | <u>\$107,800</u> | <u>\$808,500</u> | <u>\$895,000</u> | <u>\$964,500</u> | <u>\$1,029,500</u> |

Description of fiscal impact: SB 96 classifies all electronic cigarettes and vaping products as other tobacco products, making these products subject to the other tobacco products tax of 50 percent of the wholesale price. The estimated revenue generated from this bill is \$239,600 in the final 2 months of FY 2019, \$1,617,000 in FY 2020, \$1,790,000 in FY 2021, \$1,929,000 in FY 2022 and \$2,059,000 in FY2023. This revenue is split evenly between the general fund and state special revenue fund. There is an estimated one-time cost to the Department of Revenue of \$12,000 in FY 2019.

FISCAL ANALYSIS

Assumptions:

- Under current law, MCA 16-11-111, other tobacco products are taxed at a rate of 50 percent of the wholesale price. E-cigarettes and vaping products are not included in this classification, so they are not taxed.
- SB 96 proposes to include e-cigarettes, vaping products and any other product that contains nicotine or that is consumed through a device that can be used to consume nicotine in the category of other tobacco products and they will be taxed as such. The tax applies to tobacco products sold by wholesalers beginning after April 30, 2019.

3. Using forecasted e-cigarette and vaping product sales with an assumed 20% wholesale markup, the Department of Revenue (DOR) estimates the total wholesale spending in Montana under current law. This estimate increases each fiscal year from \$3,686,434 for FY 2019 to \$5,279,858 in FY 2023.
4. With the 50 percent tax proposed in this bill, and an assumed elasticity of e-cigarettes and vaping products of -0.6, the estimated wholesale spending would decrease to \$2,875,048 in FY 2019, \$3,233,812 in FY 2020, \$3,580,859 in FY 2021, \$3,858,000 in FY 2022 and \$4,117,759 in FY 2023.
5. From these wholesale estimates, the estimated tax revenue is \$239,600 in the final 2 months of FY 2019, \$1,617,000 in FY 2020, \$1,790,000 in FY 2021, \$1,929,000 in FY 2022, and \$2,059,000 in FY 2023.
6. Half of this tax revenue, in accordance with MCA 16-11-119, would be deposited in the general fund, and the other half would be deposited in the state special revenue fund account for health and Medicaid initiatives.
7. The DOR estimates a one-time IT application cost of \$12,000 in FY2019 associated with the implementation of this bill.

| | <u>FY 2019</u> <u>Difference</u> | <u>FY 2020</u> <u>Difference</u> | <u>FY 2021</u> <u>Difference</u> | <u>FY 2022</u> <u>Difference</u> | <u>FY 2023</u> <u>Difference</u> |
|---|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| <u>Fiscal Impact:</u> | | | | | |
| <u>Expenditures:</u> | | | | | |
| Operating Expenses | \$12,000 | \$0 | \$0 | \$0 | \$0 |
| TOTAL Expenditures | <u>\$12,000</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |
| <u>Funding of Expenditures:</u> | | | | | |
| General Fund (01) | \$12,000 | \$0 | \$0 | \$0 | \$0 |
| TOTAL Funding of Exp. | <u>\$12,000</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |
| <u>Revenues:</u> | | | | | |
| General Fund (01) | \$119,800 | \$808,500 | \$895,000 | \$964,500 | \$1,029,500 |
| State Special Revenue (02) | \$119,800 | \$808,500 | \$895,000 | \$964,500 | \$1,029,500 |
| TOTAL Revenues | <u>\$239,600</u> | <u>\$1,617,000</u> | <u>\$1,790,000</u> | <u>\$1,929,000</u> | <u>\$2,059,000</u> |
| <u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u> | | | | | |
| General Fund (01) | \$107,800 | \$808,500 | \$895,000 | \$964,500 | \$1,029,500 |
| State Special Revenue (02) | \$119,800 | \$808,500 | \$895,000 | \$964,500 | \$1,029,500 |

Technical Notes:

1. Currently Section 16-11-302(7), MCA defines "vapor products", 16-11-303 provides for an alternative nicotine -- vapor products license, and 16-11-308 includes the penalty for alternative nicotine -- vapor products license violations. If vapor type products are going to be included in the definition of tobacco products, then these additional statutes pertaining to vapor products should be addressed.

NO SPONSOR SIGNATURE

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|------------------------------------|----------------------|---|--|
| _____ <i>Sponsor's Initials</i> | _____ <i>Date</i> | <i>TZ</i> _____ <i>Budget Director's Initials</i> | <i>1/17/19</i> _____ <i>Date</i> |
|------------------------------------|----------------------|---|--|