

**MINUTES
of the
THIRD MEETING
of the
TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE**

**September 5, 2017
University of New Mexico Comprehensive Cancer Center
Albuquerque**

The third meeting of the Tobacco Settlement Revenue Oversight Committee (TSROC) was called to order by Representative Elizabeth "Liz" Thomson, co-chair, on September 5, 2017 at 9:45 a.m. at the University of New Mexico (UNM) Comprehensive Cancer Center (CCC) in Albuquerque.

Present

Sen. Cisco McSorley, Co-Chair
Rep. Elizabeth "Liz" Thomson, Co-Chair
Rep. Joanne J. Ferrary
Sen. John Arthur Smith

Absent

Sen. Sander Rue
Rep. Monica Youngblood

Advisory Members

Rep. Gail Chasey
Sen. Linda M. Lopez
Rep. Jim R. Trujillo

Sen. Candace Gould
Sen. Mary Kay Papen

Staff

Celia Ludi, Staff Attorney, Legislative Council Service (LCS)
Kathleen Dexter, Researcher, LCS
Maria Alaena Romero, Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are on the website and in the meeting file.

Monday, September 5

Welcome; UNM Health Sciences Center (HSC) Tobacco Settlement Revenue Program Overview and Specialty Education Programs

Richard S. Larson, M.D., Ph.D., executive vice chancellor and vice chancellor for research, UNM HSC, welcomed the committee and provided an overview of programs at the HSC that are funded with tobacco settlement revenue, including specialty education programs.

Dr. Larson opened his presentation with the HSC's fiscal year (FY) 2019 funding request. He noted that the center first received funding from tobacco settlement revenue in 2000 and 2001. The amount has varied since then, reaching a high in 2009 and declining since then. After adjusting for inflation, the HSC would need an 80 percent increase in tobacco settlement funding over its appropriation in FY 2018 to match the funding it received in 2009. The center received \$2.86 million in FY 2018 from tobacco settlement revenue, a reduction of \$103,000 from its FY 2016 appropriation. Dr. Larson requested that the center's funding for FY 2019 be restored to its FY 2016 level. The HSC uses tobacco settlement revenue funding to leverage federal grants, receiving between \$8.00 and \$21.00 in federal dollars for every \$1.00 of the tobacco settlement revenue.

Referring to his handout, Dr. Larson explained that as an academic health center, the HSC's charge is to deliver health care, provide education and conduct research. Supported by tobacco settlement revenue, the center hosts 579 activities, such as providing patient care, education and research in 246 communities across all counties in the state. Additional core projects supported by the revenue include the following.

- ◆ *New Mexico Poison and Drug Information Center (NMPDIC)*. The center's hotline receives 30,000 calls per year and is the only poison center in the state.
- ◆ *Pediatric Oncology Program*. This program is the only source of tertiary care, specialized consultative health care and advanced medical investigation and treatment for children with cancer in the state. The program includes numerous clinical trials, which provide treatment for 96 percent of young cancer patients in New Mexico.
- ◆ *Biomedical research in genomics, biocomputing and environmental health*. Many research efforts at the center that began with pilot funding through tobacco settlement funds have led to additional federal and extramural grant funding, as well as commercialization of technology developed through the research.

Tobacco settlement revenue is also used for instruction and general purposes, including specialty trauma and pediatric care education. The funds support additional faculty positions in these fields and supplement faculty compensation rates, which are below the national average. Faculty recruitment and retention are ongoing issues.

Dr. Larson noted the threat to tobacco settlement funding posed by legal challenges from tobacco manufacturers. If the funding were to be significantly diminished or completely disappear, New Mexico would lose critical patient services, jobs and economic activity.

On questioning, Dr. Larson and committee members addressed the following topics.

Higher education system. Members expressed concern that the general public does not fully understand the positive impact that the state's higher education system in general, and UNM in particular, has statewide. UNM experienced steeper funding cuts than other state schools. If funding for higher education had not been restored in the special session, many services would

have been lost, such as the state's crime laboratory and health care research, education and treatment. The full effect of the higher education budget standoff on faculty and student recruitment remains to be seen. Reconfiguring the higher education system to establish a buffer between it and the executive branch could protect higher education from funding cuts due to philosophical differences with the governor.

One way to educate the public on the value and impact of the higher education system would be to erect signs at rural clinics stating, "Your tax dollars at work — UNM Health Sciences Center working in your community".

Tobacco settlement revenue is not a reliable funding source for instruction and general purposes and should be considered temporary.

Public sector versus private sector. The public and private sectors serve complementary purposes. Public sector facilities, such as the HSC, provide foundational research; private sector entities develop that research into technology and take it to market, ideally sharing the return on investment with the public sector.

Bioscience. New Mexico is in a good position to build its bioscience industry, but it loses out to other locations that can more quickly demonstrate readiness to receive, develop and support new businesses. The New Mexico Bioscience Authority is developing a community-readiness rating system.

On the federal level, severe funding cuts are proposed for the National Institutes of Health, which provide grant funding for bioscience research. Cuts to funding for research of all kinds are also proposed.

Tobacco Settlement Permanent Fund. The fund has been eroding for years because as a reserve fund, it has been used to shore up the General Fund. The Master Settlement Agreement payment for FY 2019 is projected to be \$36 million, a decrease of \$3 million from the previous payment. The State Investment Council (SIC), which manages the permanent fund, is keeping the balance of approximately \$110 million liquid in case it is needed for the General Fund.

HSC funding. A portion of cigarette tax revenue goes to the HSC. The center has received \$90 million since 2011 in federal funding for research through the federal Patient Protection and Affordable Care Act (ACA).

Health care education internships and residencies. Some rural communities are advocating that one-half of the internships and residencies in the HSC education programs be served outside of Albuquerque in smaller, more rural communities with less access to health care. The challenge of placing that many residents in rural areas is that there are not enough health care facilities and not enough population in rural areas that meet the resident accreditation

requirements. The HSC is working on ways to support placing residents in rural health care facilities. Another issue is housing residents in rural areas.

- ★ Dr. Larson will prepare a memo outlining the challenges posed by moving one-half of the HSC internships to rural areas of the state.
- ★ Ruby Ann Esquibel, principal fiscal analyst, Legislative Finance Committee, will provide information on what sort of tax would be necessary to support the HSC's One-Plus-Two residency programs statewide.

Pediatric Oncology Program

John Kuttesch, M.D., Ph.D., division chief, Pediatric Hematology/Oncology, UNM HSC, gave an overview of the mission and work in the center's pediatric oncology program, which serves patients from all around the state.

The program's mission is to provide clinical service, research and education to decrease the burden of childhood cancer to children and families in New Mexico. The program served more than 400 active patients through approximately 5,000 clinic and inpatient visits in the last fiscal year alone. Its clinical services include pediatric hematology/oncology services, a survivorship clinic, pediatric neuro-oncology services and the Mariposa Program for pediatric hospice services. The pediatric oncology program also conducts research; mentors and educates medical residents and students; and has developed specialty programs in brain tumors, adolescent and young adult oncology and vascular-lymphatic malformations.

Ten percent — \$250,000 — of the pediatric oncology program's FY 2018 budget came from tobacco settlement funds, which are being used to cover the cost of clinical trials.

On questioning, Dr. Kuttesch, Dr. Larson and committee members addressed the following topics.

Pediatric cancer incidence. Rates of pediatric cancer in New Mexico are approximately the same as national rates. There is no clear relationship to environmental factors, and some data are not available, such as pediatric cancer rates in the vicinity of uranium mining operations.

"Right to Try" legislation. The HSC evaluated the "Right to Try" bill from the 2017 session, which would have allowed participation in prescription drug trials at an early stage of development. The center took the position that the legislation did not adequately protect participants.

Insurance coverage. New Mexico is one of 18 states that require insurance coverage for participation in clinical trials.

Cancer survival rate. The cancer survival rate has improved significantly since the 1970s and is now 85 percent, due in part to clinical trial development and strong enrollment in those trials.

Minutes

On a motion duly made, seconded and unanimously adopted, the minutes from the August 11, 2017 meeting were approved without amendment.

UNM CCC Update

Cheryl Willman, M.D., director and chief executive officer, UNM CCC, gave an update on work at the CCC, which was designated in 2015 as a National Cancer Institute comprehensive cancer center.

The CCC's goals go beyond providing cancer treatment to include conducting research; providing education and training, with an emphasis on minority students; and economic development through expansion of health care. The CCC provided care to more than 12,500 patients in FY 2017 at its UNM facility and its facilities in Las Cruces, and it projects an increase to more than 14,000 patients in FY 2018. Included in the FY 2017 numbers are more than 1,100 patients who traveled from out of state.

The CCC's 2020 strategic plan includes an expansion to its clinic facilities, new cancer clinical service lines and a research strategy under which the CCC will:

- ◆ develop a New Mexico cancer patient cohort centered on cancers with significant health disparities in the state;
- ◆ develop a formal research collaborative with pueblos and the Department of Health for a Native American cancer genome project;
- ◆ determine the impact of environmental exposures on cancer causation, including genome mutations; and
- ◆ conduct genome sequencing across multiple ethnic groups on cancers with health disparities in the state, with the aim of developing targeted cancer therapies.

Research efforts at the CCC focus on cancers that affect New Mexicans at a higher rate than the national average, such as liver cancer. The CCC will continue its work to map cancer incidence in the state through registries that track tumors, human papillomavirus and colorectal cancer, as well as its work with Project ECHO. It will also continue its immunotherapy research and development under the direction of Olivier Rixe, M.D., Ph.D., an internationally renowned cancer researcher who was recruited from France with state matching funds designated for endowed chairs.

On questioning, Dr. Willman and committee members addressed the following topics.

Cancer incidence and outcomes. Cancer rates vary by the type of cancer and by ethnicity. Some rates are increasing for minorities and some are decreasing. The rates reported in Dr. Willman's handout differentiate between ethnicities but not between rural and urban populations. In some cases, the incidence of a cancer may go down while the outcomes go down as well. New Mexico has a high rate of pancreatic cancer, especially in women, and outcomes are very poor.

Clinical trials. The five-year survival rate for trial participants has increased to 70 percent due to better drugs, better trials and better care for participants. The CCC has several clinical trial sites outside of Albuquerque and plans to open an additional site in Clovis.

Out-of-state cancer patients. Patients who come from out of state — "oncotourists" — pay the full price for their treatment. Some states are trying to negotiate interstate treatment reciprocity agreements to cover these patients.

Cowboys for Cancer Research. Funds raised by a Cowboys for Cancer Research event no longer go entirely to the CCC now that it has built up a \$1 million endowment; funds are now also going to New Mexico State University (NMSU) to build an endowment there. When NMSU has the same size endowment, the two universities will split the funds raised equally.

Cancer screening. Screening programs, which are required under the ACA, have been shown to provide significant savings in health care costs.

Budget. The CCC's budget request for FY 2019 is the same as it was for FY 2018.

SIC funding. Start-up ventures in the state's biomedical sector can get seed money from the SIC; however, they often leave the state to pursue further funding. Adding a requirement that these businesses remain in the state for a certain length of time after receiving SIC money would help create and maintain jobs in New Mexico.

Insurance coverage and uncompensated care. Some insurance plans prevent patients from receiving treatments at the CCC; however, if the CCC provides treatment that is not available elsewhere, insurance companies sometimes pay for it. The CCC does not refuse to treat patients who are underinsured, and it provides \$12 million per year in uncompensated care. Dr. Willman noted that Medicare has the "best" cancer insurance coverage while the "worst" coverage is currently found on the insurance exchanges.

NMPDIC; E-Cigarette Research

Susan Smolinske, Pharm.D., director, NMPDIC, reported on the dramatic increase in calls received by poison information centers nationwide concerning exposure to the components of e-cigarettes.

From 2010 to 2014, the NMPDIC saw a seven-fold increase in calls related to e-cigarette exposure, an increase that slowed slightly after new requirements for child-resistant packaging were signed into law in 2015. Most calls concern exposure to the liquid nicotine used in e-cigarette devices and have included poisoning from skin exposure from spills, ingesting the liquid and eye exposure from mistaking the liquid nicotine containers for eyedrop containers. Some calls have concerned malfunctions in e-cigarette mechanisms, including spontaneous battery explosions.

In 2015, U.S. poison centers received nearly 3,600 reports of e-cigarette and liquid nicotine exposure, more than one-half of them concerning children under six years of age. While liquid nicotine is extremely toxic, particularly to children, closed-system e-cigarettes and the liquid nicotine used in them can be child-proofed; open systems cannot be child-proofed, and open systems are becoming increasingly popular, especially with teenagers.

On questioning, Ms. Smolinske and committee members addressed the following topics.

Labeling. There are currently no laws in the country governing how liquid nicotine is labeled and no consistent notation across brands showing how much nicotine they contain. The federal Food and Drug Administration (FDA) has the authority to regulate e-cigarette liquids that are sold; however, any custom liquids mixed by users are beyond the FDA's purview.

Contents. Sweet-flavored e-cigarette liquids tend to have ingredients that are toxic to the lungs. Liquids that produce a lot of smoke contain formaldehyde.

Dee Johnson Clean Indoor Air Act. E-cigarettes are not included in the Dee Johnson Clean Indoor Air Act. A 2017 bill that would have added them to the act was vetoed by the governor.

Funding. Twenty-five percent of the NMPDIC's budget — \$590,000 — comes from tobacco settlement revenue; the balance comes from the General Fund and from federal funding.

Referrals to child protective services. The NMPDIC will make a referral to child protective services only if a call regarding a minor "screams of abuse".

Indian Affairs Department (IAD) Tobacco Cessation and Prevention Program

Suzette Shije, acting secretary, IAD, and Allie Moore, Keres Consulting, Inc., gave a presentation on programs to educate Native American youth about the dangers of tobacco use. The programs are funded with annual appropriations from tobacco settlement revenue.

According to the New Mexico Youth Risk and Resiliency Survey, the smoking rate for Native American high school students in New Mexico continues to be higher (17 percent) than the rate for New Mexico high school students overall (11 percent), despite a marked decrease in

smoking in all populations since 2003. Electronic vapor products are the tobacco product most commonly used by Native American high school students, followed by cigarettes and hookahs.

The IAD first received tobacco settlement revenue funding in 2008 and established a tobacco cessation and prevention grant program for tribes that apply for funding. Twenty tribes have received tobacco grants since then. In FY 2017, the IAD distributed its \$249,300 tobacco settlement appropriation to 11 community-based tobacco cessation and prevention programs hosted by tribes and pueblos around the state. Of those programs, seven received FY 2018 funding, along with two new programs. Combined, the programs engaged more than 9,500 youth and adults, with reductions in smoking in both groups, improved health outcomes and strengthened cultural identities.

Eric Chang, who works with the cessation and prevention program at the Pueblo of Pojoaque Wellness Center, joined the presenters to describe that program's sports-based approach to educating youth about the dangers of tobacco.

On questioning, the presenters and committee members addressed the following topics.

Staffing. One full-time IAD employee handles the cessation and prevention program grant applications. The tribes and pueblos that host the programs employ 18 part-time staff. Some programs include elders as volunteers.

Discontinued programs. The programs that received funding in FY 2017 but not in FY 2018 either closed or received federal funding and did not pursue tobacco settlement funding.

Funding allocations. The IAD sets aside \$50,000 of tobacco settlement revenue for emerging cessation and prevention programs and uses the rest for established programs. Any funding that is not used within a fiscal year reverts to the Tobacco Settlement Program Fund.

Public Comment

Skip Wardlow, Healthy Family Services, Pueblo of Nambe, described that pueblo's use of talking circles to educate youth about the differences between historical ceremonial use of tobacco, which was low in nicotine, and the dangers posed by use of current tobacco products.

Adjournment

There being no further business before the committee, the third meeting of the TSROC for the 2017 interim adjourned at 4:15 p.m.