

Tobacco Settlement Revenue Oversight Committee

2004 INTERIM REPORT



New Mexico State Legislature
Legislative Council Service
411 State Capitol
Santa Fe, New Mexico

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**2004 APPROVED
WORK PLAN, MEETING SCHEDULE AND BUDGET
for the
TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE**

Membership

The tobacco settlement revenue oversight committee was created pursuant to Section 2-19-1 NMSA 1978. The committee members are:

Rep. Gail C. Beam, Co-chair
Sen. Mary Jane M. Garcia, Co-chair
Sen. Ramsay L. Gorham

Sen. Richard C. Martinez
Rep. J. Paul Taylor
Rep. Gloria C. Vaughn

Advisory Members

Sen. Manny M. Aragon
Sen. Joseph J. Carraro
Sen. Dede Feldman
Sen. Steve Komadina

Sen. Linda M. Lopez
Rep. Danice Picraux
Rep. Luciano "Lucky" Varela
Rep. Teresa A. Zanetti

Work Plan

Section 6-4-9 NMSA 1978, as amended in 2003, transfers all tobacco settlement revenues received in fiscal years 2003 through 2006 to the general fund, discontinuing the transfer of fifty percent of the revenues to the tobacco settlement program fund until fiscal year 2007. However, since many of the programs previously funded by the tobacco settlement program fund continue to be funded through the general fund, the committee will continue its oversight duties for those programs.

During the 2004 interim, the tobacco settlement revenue oversight committee proposes to:

- (1) monitor the use of tobacco settlement revenue by maintaining oversight of those programs recommended by the committee and funded by the legislature;
- (2) prepare recommendations, based on its program evaluation process, for program funding levels for fiscal year 2006;
- (3) examine issues relating to tobacco possession by minors;
- (4) examine issues and legislation to enhance the collection of tobacco taxes;
- (5) examine the status of the revenue and reserve fund relating to the sunset provision for tobacco settlement revenue;
- (6) work with the attorney general's office, as necessary, to ensure that New Mexico

continues to receive the highest possible revenue from the tobacco settlement; and

(7) recommend legislation or changes to existing legislation, if any.

2004 SCHEDULE AND BUDGET

One-day meeting in Santa Fe (June 17)	\$ 2,156.00
One-day meeting in Santa Fe (September 29)	2,156.00
One-day meeting in Santa Fe (November 10)	<u>2,156.00</u>
TOTAL	*\$6,468.00

*This amount does not include the \$3,846.75 budget required for advisory members.

Agendas

Revised: June 15, 2004

**TENTATIVE AGENDA
for the
TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE**

**June 17, 2004
Room 311
State Capitol**

Thursday, June 17

- 9:00 a.m. CALL TO ORDER
—Senator Mary Jane M. Garcia and Representative Gail C. Beam,
Co-Chairs
- 9:05 a.m. DEVELOPMENT OF COMMITTEE WORK PLAN AND
MEETING SCHEDULE
- 9:30 a.m. RECAP OF 2003 SESSION
—Programs Funded
—Bills Introduced
- 9:45 a.m. TAXATION AND REVENUE DEPARTMENT COMMENTS
ON HB 83 AND HB 86 AND A PROPOSAL
—Jan Goodwin, Secretary of Taxation and Revenue
—Richard Anklam
—Ricky Bejarano
- 11:00 a.m. ADJOURNMENT

Revised: September 27, 2004

**TENTATIVE AGENDA
for the
SECOND MEETING
of the
TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE**

**September 29, 2004
Room 311, State Capitol**

Wednesday, September 29

- 10:00 a.m. CALL TO ORDER
—Representative Gail C. Beam and Senator Mary Jane M. Garcia,
Co-Chairs
- 10:05 a.m. APPROVAL OF MINUTES
- 10:10 a.m. TOBACCO USE PREVENTION AND CONTROL (TUPAC)
PROGRAM STATUS REPORT, UPDATE AND EVALUATION
—David Vigil, Bureau Chief, Chronic Disease Prevention and Control,
Department of Health (DOH)
—Larry Elmore, Program Manager, TUPAC Program, DOH
- 11:00 a.m. DIABETES PROGRAM UPDATE AND EVALUATION
—Mary Frerichs, Program Manager, Diabetes Prevention and
Control Program, DOH
- 11:30 a.m. HIV/AIDS PROGRAM UPDATE AND EVALUATION
—Susan Eastman, Bureau Chief, Infectious Disease Bureau, DOH
- 12:00 noon LUNCH
- 1:30 p.m. BREAST AND CERVICAL CANCER PROGRAM UPDATE
—Carolyn Ingram, Director, Medical Assistance Division, Human
Services Department
- 2:00 p.m. UNM HEALTH SCIENCES CENTER STATUS REPORT, UPDATES
AND PERFORMANCE MEASURES
—R. Philip Eaton, M.D., Vice President for Health Sciences

- 2:45 p.m. LOVELACE RESPIRATORY RESEARCH INSTITUTE STATUS
REPORT AND PERFORMANCE OUTCOMES
—Dr. Robert W. Rubin, President and CEO
—Dr. Yohannes Tesfaigzi, Scientific Director
- 3:30 p.m. TOBACCO SETTLEMENT REVENUE ESTIMATES; UPDATE
ON PERMANENT FUND
—Melissa Vigil, Department of Finance and Administration
- 4:00 p.m. RECOMMENDATIONS FOR PROGRAM FUNDING
—Committee Members
- 4:30 p.m. PUBLIC COMMENT
- 5:00 p.m. ADJOURN

Revised: November 10, 2004

**TENTATIVE AGENDA
for the
THIRD MEETING
of the
TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE**

**November 10, 2004
Room 311, State Capitol**

Wednesday, November 10

- 10:00 a.m. CALL TO ORDER
—Senator Mary Jane M. Garcia and Representative Gail C. Beam,
 Co-chairs
- 10:05 a.m. APPROVAL OF MINUTES
- 10:10 a.m. TUPAC PROGRAM FUNDS TRANSFER TO BEHAVIORAL HEALTH
SERVICES DIVISION (BHSD)
—Don Maestas, Bureau Chief, Prevention Services Bureau (PSB), BHSD
—Pilo Bueno, Staff Supervisor, PSB, BHSD
—Amy Buchanan, Staff Supervisor, PSB, BHSD
—Bob Horwitz, Chief Financial Officer, Public Health Division (PHD)
—Patsy Nelson, Deputy Director, PHD
- 11:15 a.m. SMARTMOVES PROGRAM — OVERVIEW, EVALUATION AND
FUNDING OF THE PROGRAM
—Al Padilla, Chief Professional Officer for Santa Fe Boys and Girls
Clubs
 (SFBGC) and Administrator for Smartmoves Program, New
 Mexico State Alliance for Boys and Girls Clubs
—Concha Montano, Prevention Programs Evaluator, SFBGC
- 12:00 noon LUNCH
- 1:30 p.m. UPDATE FROM THE OFFICE OF THE ATTORNEY GENERAL
—Glenn Smith, Deputy Attorney General
- 2:00 p.m. TOBACCO POSSESSION BY MINORS
 FOR CRIMINALIZATION:
 —Valentina Galvan, Counselor, Chama Schools
 —Students from Chama Schools

- 2:30 p.m. **AGAINST CRIMINALIZATION:**
—Shelley Mann-Lev, MPH, Drug Prevention Coordinator, Santa Fe
Public Schools, Office of Student Wellness
- 3:00 p.m. **TOBACCO SETTLEMENT PERMANENT FUND PROJECTION**
—Janet Peacock, Research and Fiscal Policy Analyst, Legislative Council
Service
- 3:30 p.m. **FY06 AND FY07 GENERAL FUND REVENUE AND EXPENDITURE
OUTLOOK — IMPLICATIONS FOR TOBACCO SETTLEMENT
REVENUE SUNSET (SECTION 6-4-9 NMSA 1978)**
—Bill Taylor, Assistant Director, Legislative Finance Committee
- 4:00 p.m. **COMMITTEE DISCUSSION ON FY06 PROGRAM FUNDING
RECOMMENDATIONS AND PROPOSED LEGISLATION**
- 4:30 p.m. **PUBLIC COMMENT**
- 4:45 p.m. **ADJOURN**

Minutes

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

**June 17, 2004
Room 311, State Capitol
Santa Fe**

The first meeting of the Tobacco Settlement Revenue Oversight Committee for the 2004 interim was called to order by Representative Gail C. Beam, co-chair, on June 17, 2004 at 9:15 a.m. in Room 311 of the State Capitol.

PRESENT

Rep. Gail C. Beam, co-chair
Sen. Mary Jane M. Garcia, co-chair
Sen. Richard C. Martinez
Rep. J. Paul Taylor
Rep. Gloria C. Vaughn

ABSENT

Sen. Ramsay L. Gorham

Advisory members

Sen. Linda M. Lopez
Rep. Danice Picraux
Rep. Luciano "Lucky" Varela

Sen. Manny M. Aragon
Sen. Joseph J. Carraro
Sen. Dede Feldman
Sen. Steve Komadina
Rep. Teresa A. Zanetti

Staff

Maha Khoury
Kathleen Dexter

Guests

The guest list is in the meeting file.

Thursday, June 17

The committee initially convened as a special subcommittee; a sufficient number of voting members subsequently arrived to constitute a quorum.

WORK PLAN, MEETING SCHEDULE AND BUDGET

Maha Khoury of the Legislative Council Service reviewed the proposed work plan, meeting schedule and budget to be presented to the New Mexico Legislative Council for approval. In addition to the topics listed in the work plan, members discussed whether to look at the status of reserve revenue and the budget, and the possible repeal of the 2007 sunset for the tobacco funds.

The committee chose the following dates and locations for its 2004 meeting schedule:

September 29	Santa Fe
November 10	Santa Fe

RECAP OF 2004 SESSION

Ms. Khoury reviewed the four major pieces of tobacco-related legislation introduced during the 2004 regular session, including House Bill 84 (Chapter 90) and Senate Bill 66 (Chapter 103), regarding escrow deposits and nonparticipating tobacco manufacturers; House Taxation and Revenue Committee Substitute for House Bill 86 (HTRC/HB 86), regarding cigarette tax stamps; and House Bill 83 (HB 83), regarding internet cigarette sales. The committee discussed which of its proposed programs were funded for fiscal year 2005 and the amount of the funding. The state budget director or representatives from the agencies that received funding will verify funding amounts at the next committee meeting.

TAXATION AND REVENUE DEPARTMENT COMMENTS

Jan Goodwin, secretary of taxation and revenue, and Ricky Bejerano, director of audit and compliance for the Taxation and Revenue Department (TRD), gave a presentation on the TRD's need for additional funds to carry out duties assigned to it in HTRC/HB 86 and HB 83. Ms. Goodwin projected that a \$70,000 appropriation added to HB 83 for two full-time employees could result in a revenue gain of \$450,000 in previously uncollected taxes on internet cigarette sales; likewise, an appropriation of approximately \$500,000 added to HTRC/HB 86 for employees and a system upgrade could net \$1.032 million in revenue that is currently being lost due to sales of unstamped cigarettes. Ms. Goodwin also proposed an increase in enforcement and collection of cigarette taxes that would cost \$1.3 million but would bring in approximately \$14 million in tax revenue.

The committee discussed the possibility of joint sponsorship of these bills with the Revenue Stabilization and Tax Policy Committee in the 2005 session, as well as the possibility of an exception to the Department of Finance and Administration's directive that agencies submit flat budgets for fiscal year 2006, thus allowing the TRD to incorporate some of the additional funds it needs into its general operating budget.

Vanessa Hawker of the University of New Mexico Health Sciences Center (UNMHSC) gave an update on the status of revenue bonds issued for the UNMHSC expansion and reported that construction bids are due by June 30.

The committee adjourned at 10:25 a.m.

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

**September 29, 2004
Room 311, State Capitol
Santa Fe**

The second meeting of the Tobacco Settlement Revenue Oversight Committee for the 2004 interim was called to order by Senator Mary Jane M. Garcia, co-chair, on September 29, 2004 at 10:20 a.m. in Room 311 of the State Capitol.

PRESENT

Rep. Gail C. Beam, co-chair
Sen. Mary Jane M. Garcia, co-chair
Sen. Richard C. Martinez
Rep. Gloria C. Vaughn

ABSENT

Sen. Ramsay L. Gorham
Rep. J. Paul Taylor

Advisory Members

Rep. Luciano "Lucky" Varela
Rep. Teresa A. Zanetti

Sen. Joseph J. Carraro
Sen. Dede Feldman
Sen. Steve Komadina
Sen. Linda M. Lopez
Rep. Danice Picraux

Staff

Maha Khoury
Sarah Salazar
Kathleen Dexter

Guests

The guest list is in the meeting file.

Wednesday, September 29

The committee initially convened as a special subcommittee and voted to recommend that the minutes of the June 17, 2004 meeting be adopted. A sufficient number of voting members subsequently arrived to constitute a quorum, and upon motion duly made, seconded and approved, the recommendation to adopt the minutes was approved.

TOBACCO USE PREVENTION AND CONTROL (TUPAC) PROGRAM STATUS REPORT

Larry Elmore, TUPAC program manager, and Dr. Susan Baum, epidemiologist with the Chronic Disease Prevention and Control Bureau of the Department of Health (DOH), gave an update on the TUPAC program, as well as national and state tobacco use trends. In the past decade, annual per capita cigarette consumption in New Mexico has dropped from 64 packs to 45, with more than half of that drop occurring in the year immediately following a 70-cent increase in the state cigarette tax. In spite of the tax increase, the youth smoking rate in the state is approximately 25 to 30 percent, and the adult smoking rate is comparable to national levels at about 22 percent. Tobacco manufacturing companies currently spend \$38.78 per New Mexican to advertise their products while the state spends \$2.75 per New Mexican to counter those industry efforts. In addition, smoking-related costs to the state total approximately \$7.75 per pack of cigarettes sold. The TUPAC program is currently funded with \$5 million from the general fund and \$1.1 million from the Centers for Disease Control and Prevention (CDC), a funding level that falls short of the CDC's recommendation of \$14.2 million for tobacco control in New Mexico. On questioning from committee members, the presenters noted that:

- state revenue rose in spite of a drop in sales following the cigarette tax increase;
- Montana experienced immediate savings following a ban on indoor smoking when state health care costs declined;
- tobacco control programs are not funded equally around the state;
- TUPAC has program contracts with tribal entities throughout the state;
- the current request for proposal for quit line services includes expanded hours, bilingual and web-based services and chewing tobacco programs;
- increases in tribal cigarette sales following tax increases are temporary; and
- the current price of cigarettes on tribal land is \$2.70 per pack compared to \$4.25 elsewhere.

Committee members noted that the tobacco products tax increase initially included chewing tobacco, but this provision was amended out of the final bill; a federal lawsuit has been filed against tobacco manufacturing companies for deceptive practices; performance measures need to be included in TUPAC contracts; smoking should be banned in all public schools; and the administration needs to address tobacco taxation issues with tribes. Issues were raised concerning the geographic distribution of TUPAC program funds; statistics on the success of TUPAC programs in different ethnic communities; and the Legislative Finance Committee audit of the TUPAC contract.

DIABETES PROGRAM UPDATE

Mary Frerichs, DOH diabetes prevention and control program manager, gave a presentation on diabetes trends and statewide prevention and treatment efforts. Approximately one in 11 adults in New Mexico has diabetes, and the annual cost for direct and indirect medical expenses related to diabetes in the state totals more than \$1 billion. While Native Americans have been the population at the highest risk for the disease in the state, recent CDC studies have

shown diabetes increasing in Hispanic women at a rate that may soon place this population at the highest risk. The diabetes prevention and control program operates on a budget of \$2 million, half of which comes from tobacco settlement money with the remainder split between the general fund and CDC funding. Successful outreach efforts include the Kitchen Creations Cooking School, which teaches meal planning and cooking strategies for diabetics; the Coordinated Approach to Child Health (CATCH), a school health program; and rural primary care clinic diabetes support, which provides glucose meters and test strips to more than 30 clinics statewide. New projects in 2004 include a needle exchange and disposal program, foot exam training for promotores and a study through the Miners' Colfax Medical Center on why certain patients do not follow up on health care visits. On questioning from committee members, Ms. Frerichs, who was joined by Carol Marr of the DOH Public Health Division and Dr. Baum, stated that:

- \$2 million is needed to meet the statewide need for glucose meters and test strips;
- the growing rate of diabetes in children is tied to the growing rate of obesity;
- a shortage of school nurses makes it difficult to conduct effective diabetes education and prevention programs in schools; and
- the CATCH program includes the topic of sugar intake in its curriculum.

HIV/AIDS PROGRAM UPDATE

Susan Eastman, DOH Infectious Disease Bureau chief, thanked the committee for the tobacco settlement funds the bureau has received in the past five years for the HIV health management alliance program and for general HIV prevention programs. For fiscal year (FY) 2005, the funds are being used primarily to build the capacity of the prevention programs and to implement the CDC's program evaluation monitoring system in order to better assess the effectiveness of the programs in each participating clinic.

BREAST AND CERVICAL CANCER PROGRAM UPDATES

Carolyn Ingram, director, Medical Assistance Division (MAD), Human Services Department, and Rosemary Madrano of the joint DOH-MAD breast and cervical cancer program explained eligibility criteria for and participation in the program. The program is 82 percent funded with federal funds and is administered through Medicaid, though DOH performs the initial eligibility screenings. Extensive outreach efforts are included, and the number of women enrolled in the program doubled between FY 2003 and FY 2004. On questioning from committee members, the presenters stated that:

- the increase in enrollment is due primarily to successful outreach, not to an increase in the incidence of cancer;
- the cervical cancer vaccine being developed at the University of New Mexico (UNM) is not available to women in this program because Medicaid does not cover experimental treatments and because vaccines are preventatives;
- federal funding is being cut for the program;
- mammograms and PAP smears have been very effective screening tools; and
- the program is probably not high on the list of Medicaid programs to be cut at the

state level because the federal match is so high.

UNM HEALTH SCIENCES CENTER STATUS REPORT

Dr. Philip Eaton, vice president for health services, UNM Health Sciences Center (HSC), gave a report on performance measures in UNM HSC programs receiving tobacco settlement funds, including the Area Health Education Center, Los Pasos, pediatric oncology, the New Mexico Poison and Drug Information Center, telemedicine, specialty education in pediatrics, specialty education in trauma and tobacco-related research. On questioning from committee members, Dr. Eaton added that, because of past legislative funding, UNM also has faculty who specialize in identifying and treating West Nile virus.

LOVELACE RESPIRATORY RESEARCH INSTITUTE (LRR) STATUS REPORT

Dr. Robert Rubin, LRR president, and Dr. Edmundo Gonzales, LRR director of external affairs, reviewed the institute's recent work, including a study of 2,500 New Mexicans at risk for emphysema and lung cancer. LRR is also developing tests for early detection of lung cancer and detection of a gene mutation that increases the likelihood of emphysema, and has requested support from the federal Department of Health and Human Services to establish a minority respiratory health center. On questioning from committee members, the presenters stated that:

- participants in the study also receive smoking cessation and health education;
- one difficulty in addressing smoking cessation is the attitude in the United States that smoking is a moral issue rather than a medical issue;
- some additives in cigarettes, including flavorings, can accelerate addiction; and
- past research on lung-tissue regeneration shows that it worked on mice but not on humans.

TOBACCO SETTLEMENT REVENUE ESTIMATES

Melissa Vigil of the Department of Finance and Administration presented revenue estimates for the Tobacco Settlement Permanent Fund projected through FY 2025. Deposits to the fund from the master settlement agreement are projected to decline from nearly \$36 million in FY 2005 to approximately \$32 million in FY 2025, a figure that is derived based on a projected decline in cigarette sales and that is also adjusted for inflation. The current balance in the fund is \$70.6 million. In general discussion, committee members noted that the master settlement agreement is tied only to domestic sales of tobacco and that the governor has agreed to continue funding those programs that had been funded in the past through the Tobacco Settlement Program Fund.

Representative Beam requested a fiscal analysis of the original proposal for tobacco settlement revenue showing the point at which the permanent fund becomes large enough to sustain the programs indefinitely, to be supplied by the Legislative Council Service.

PUBLIC COMMENT

Cynthia Serna of New Mexico Citizens Concerned About Tobacco urged the committee to increase TUPAC funding to meet the CDC recommendation of \$14 million and cited results from a recent poll of 500 registered voters showing strong support for an increase in the tobacco products tax and the cigarette tax, as well as support for tobacco cessation program funding.

RECOMMENDATIONS FOR PROGRAM FUNDING

Representative Beam presented a list of tobacco-related programs funded for FY 2005 and the committee agreed to her proposal that the same amounts be requested for FY 2006 with an increase in funding for TUPAC programs to \$8 million. Representative Varela requested an explanation from DOH on how and why \$1 million was moved from TUPAC to the Behavioral Health Services Division. Representative Beam also suggested that a representative from DOH be present at the next meeting to explain the disposition of those FY 2005 funds intended for the TUPAC program.

Having no further business, the committee adjourned at 4:00 p.m.

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

**November 10, 2004
Room 311, State Capitol
Santa Fe**

The third meeting of the Tobacco Settlement Revenue Oversight Committee (TSROC) for the 2004 interim was called to order by Representative Gail C. Beam, co-chair, on November 10, 2004 at 10:30 a.m. in Room 311 of the State Capitol.

PRESENT

Rep. Gail C. Beam, co-chair
Sen. Mary Jane M. Garcia, co-chair
Sen. Richard C. Martinez

ABSENT

Sen. Ramsay L. Gorham
Rep. J. Paul Taylor
Rep. Gloria C. Vaughn

Advisory Members

Sen. Dede Feldman
Sen. Linda M. Lopez
Rep. Danice Picraux
Rep. Luciano "Lucky" Varela
Rep. Teresa A. Zanetti

Sen. Joseph J. Carraro
Sen. Steve Komadina

Staff

Maha Khoury
Ramona Schmidt
Sarah Salazar
Kathleen Dexter

Guests

The guest list is in the meeting file.

Wednesday, September 29

The committee initially convened as a special subcommittee; when a sufficient number of voting members subsequently arrived to constitute a quorum, the minutes to the September 29, 2004 meeting were approved upon motion duly made, seconded and passed without objection.

**TUPAC PROGRAM FUNDS TRANSFER TO BEHAVIORAL HEALTH SERVICES
DIVISION (BHSD)**

Pilo Bueno, staff supervisor for the Prevention Services Bureau (PSB), BHSD; Michael Fiero, director of the Office of Policy Planning and Evaluation, Department of Health (DOH); Patsy Nelson, deputy director of the Public Health Division (PHD); and Bob Horwitz, chief

financial officer, PHD, gave an explanation of a perceived transfer of tobacco settlement funds from one division to another contrary to the intent of the legislature. As part of DOH's performance-based budgeting reorganization, certain programs within PHD and BHSD were combined in order to emphasize the prevention aspects of each division's work. The money in question — \$1 million appropriated to the TUPAC program in PHD — was allocated for the SmartMoves prevention program and other programs within BHSD. On questioning from committee members, the presenters stated that:

- BHSD programs are subject to standards and evaluation procedures as rigorous as those set by the Centers for Disease Control and Prevention;
- up to 10 percent of each prevention program contract is earmarked for evaluation, which is required for evidence-based programs; evaluations are conducted annually by Behavioral Assessment, Inc.; if all programs within DOH were evaluated similarly, it would be easier to track the most effective programs; and
- the Department of Public Safety has contracted for an investigation into sales of tobacco to minors.

In general discussion, members expressed concern that legislative intent for appropriations might be lost in reorganization efforts and that past appropriations for certain programs were line-item vetoed because they were not specific to prevention.

SMARTMOVES PROGRAM

Marco Gonzales, Al Padilla, Concha Montano, Peter Gomez and Francisco Cavazos, all of the New Mexico Alliance for Boys and Girls Clubs (BGC) and the Santa Fe BGC, gave a presentation on the SmartMoves program, a national prevention program that has received tobacco settlement funds in several states. The program currently serves nearly 1,500 youth statewide, ages 6 through 17, and addresses risk factors for tobacco, alcohol and drug use as well as teen pregnancy in the family, individual, community and school domains. Ms. Montano, who acts as the local program evaluator, explained the program's evaluation framework and cited statistically significant positive outcomes in the majority of areas measured, noting that the New Mexico SmartMoves program has the highest success rate of all SmartMoves programs nationwide. On questioning from committee members, the presenters stated that:

- the Albuquerque BGC did not participate this year but intends to in the future; all BGCs in the state are invited to participate in SmartMoves, and even some other entities are making inquiries about starting their own programs;
- a pilot program, SmartGirls, was developed in response to results showing that the SmartMoves program is less effective for girls than for boys; national evaluations show that girls need more support in prevention efforts than boys;
- girls are now more likely to use diet pills than to take up smoking to stay thin;
- the SmartMoves program in Dona Ana County had the best results in the state;
- media literacy for both youth and tobacco merchants is included in the program;
- because the intent of the program is education rather than enforcement, program facilitators are reluctant to attempt "sting" operations on retailers who sell tobacco to minors; and

- SmartMoves received a federal match for its state appropriation four years ago but the match is no longer available.

UPDATE FROM THE OFFICE OF THE ATTORNEY GENERAL

Glenn Smith, deputy attorney general, gave a presentation on lawsuits filed against tobacco manufacturers and their potential effect on payments to states under the master settlement agreement (MSA). A Department of Justice lawsuit based on the Racketeer Influenced and Corrupt Organizations Act, or RICO, seeks \$280 billion; additional lawsuits are under way in Illinois and Florida. A previous lawsuit that could have affected MSA payments was modified by the judge in order to avoid pushing tobacco manufacturers into Chapter 11 bankruptcy, and Mr. Smith stated that there is a possibility the federal lawsuit could send the companies into bankruptcy as well. If manufacturers do file for Chapter 11, there would be a significant impact on MSA payments. On questioning from committee members, Mr. Smith added that:

- though the \$280 billion would go to the federal government, states might influence use of the settlement through their congressional delegations;
- foreign sales would not be considered in a Chapter 11 filing for some manufacturers because of how the companies are structured; and
- Utah and Minnesota have enacted surcharges that must be paid regardless of whether a company is bankrupt.

CRIMINALIZATION OF TOBACCO POSSESSION BY MINORS

The committee heard arguments on both sides of the issue of criminalization of tobacco possession by minors. Speaking in favor of criminalization were James Ulibarri, a student at Escalante High School, and Valentina Galvan, counselor for the Chama Schools. They were joined by Representative Debbie A. Rodella, who presented a bill she had sponsored in the 2003 session that would have amended the Tobacco Products Act to make tobacco possession by a minor a petty misdemeanor, with completion of a tobacco use prevention and cessation program as an alternative penalty. On questioning from committee members, the presenters stated that:

- current law sends mixed signals by making it illegal for a minor to purchase tobacco while tobacco possession is not illegal;
- prevention and cessation programs can be provided by community clinics;
- some schools still have smoking areas; and
- enforcement of the law would involve citing a youth caught with tobacco; searches would only take place if there is a suspicion of tobacco possession.

In general discussion, committee members expressed concern that the law would not be enforced that the judicial system might be overloaded and that penalties associated with petty misdemeanors are too high.

Shelley Mann-Lev, drug prevention coordinator for the Office of Student Wellness at the Santa Fe Public Schools, spoke against criminalization. She cited national studies showing that criminalization is not effective in reducing smoking rates, and she urged the committee to focus its efforts and appropriations on programs that have proven positive results.

TOBACCO SETTLEMENT PERMANENT FUND

Janet Peacock, research and fiscal policy analyst for the Legislative Council Service, presented a distribution analysis for the tobacco settlement permanent fund through the year 2026. With the current distribution schedule, which temporarily redirects all of the tobacco settlement money to the general fund until 2007, the tobacco settlement permanent fund will be self-sustaining by 2018, with programs funded solely by earnings on the fund thereafter. This date would be significantly delayed if the current 2007 sunset date for the redirection of tobacco funds is delayed or repealed. Committee members discussed the need to protect the tobacco settlement permanent fund in the next 30-day session, when state revenues will be affected by recent tax cuts.

GENERAL FUND REVENUE AND EXPENDITURE OUTLOOK

Bill Taylor, assistant director, Legislative Finance Committee (LFC), and Olivia Padilla-Jackson, fiscal analyst, LFC, presented the general fund revenue and expenditure outlook for fiscal years (FYs) 2006 and 2007 as it relates to a possible repeal of the 2007 tobacco settlement permanent fund sunset provision. While oil and gas prices contributed to stronger-than-predicted revenues for FY04, the effects of tax cuts, state employee salary increases, recently enacted school reforms, the change in the federal Medicaid match rate and other general fund obligations are expected to offset the positive revenue projection by FY07. Committee members discussed the uphill battle they expect to face in preventing a repeal of the 2007 sunset provision.

PROGRAM FUNDING RECOMMENDATIONS AND PROPOSED LEGISLATION

Committee members agreed without objection to:

- reintroduce the cigarette stamp bill (House Bill 86 from the 2004 regular session);
- add an endorsement to the Legislative Health and Human Services Committee bill to raise the tax on smokeless tobacco; and
- recommend the same funding levels for the same programs as recommended in FY05, earmarking the \$8 million for the TUPAC program, and add a line item under DOH for the SmartMoves program at \$500,000, for a total funding request of \$15,670,000.

Having no further business, the committee adjourned at 4:05 p.m.

FY 2006 Funding Recommendations

TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE (TSROC)
FISCAL YEAR 2005 APPROPRIATIONS FROM TOBACCO SETTLEMENT FUNDS AND FISCAL YEAR 2006
RECOMMENDATIONS

Agency and Program	2005 General Fund Appropriation	2006 TSROC Recommendations
Department of Health		
Tobacco use prevention control program (TUPAC)	\$5,000.0	\$8,000.0
Diabetes prevention and control program	1,000.0	1,000.0
HIV/AIDS services	470.0	470.0
NM Alliance for Boys & Girls Clubs (SMART Moves program)	470.0 *	500.0
Miscellaneous Behavioral Health Division programs	530.0 *	0.0
Total Department of Health	7,470.0	9,970.0
Human Services Department		
Breast & cervical cancer treatment program	1,300.0	1,300.0
Total Human Services Department	1,300.0	1,300.0
University of New Mexico		
Innovations in preventing and treating tobacco-related diseases		
Genomics core facilities	162.5	162.5
Epidemiology	374.8	374.8
Enhanced tobacco-related research	180.0	180.0
Clinical research and trials	329.1	329.1
Biocomputing	453.6	453.6
Subtotal UNM tobacco-related diseases	1,500.0	1,500.0
Other programs		
Area Health Education Center	50.0	50.0
Center for telehealth (formerly telemedicine)	150.0	150.0
Los Pasos program	50.0	50.0
Pediatric oncology	400.0	400.0
Poison & Information Center	450.0	450.0
Specialty education in pediatrics	400.0	400.0
Specialty education in trauma	400.0	400.0
Subtotal UNM other programs	1,900.0	1,900.0
Contract with Lovelace Respiratory Research Institute in lung and tobacco-related diseases	1,000.0	1,000.0
Total University of New Mexico	4,400.0	4,400.0
Total Recurring Programs	\$13,170.0	\$15,670.0

* TSROC did not recommend these appropriations for Fiscal Year 2005.

TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE
FISCAL YEAR 2006 RECOMMENDATIONS

1. CONTINUE AND INCREASE FUNDING FOR THE TOBACCO USE PREVENTION AND CONTROL PROGRAM (TUPAC), DEPARTMENT OF HEALTH (DOH)

Current Funding - \$5,000*

FY 2006 Recommended Funding - \$8,000

The committee is recommending that we continue to build a comprehensive tobacco cessation and prevention program that will eventually reduce the number of tobacco users, thereby reducing tobacco-related disease and treatment, which presently costs \$48 to \$70 million in Medicaid expenditures alone. The Centers for Disease Control and Prevention (CDC) recommends a minimum of \$14.2 million on such a program to significantly reduce tobacco use.

TUPAC contracts with over 60 contractors across the state to implement the goals of the program. The increase in funds would allow, among other things, a 1-800-Help line for cessation services, an increase in targeted school districts and youth activities, and tobacco cessation coverage in health plans. Contractors under this program fall into six categories:

Community Programs:

Local community programs reduce tobacco use through changes in the social environment and through community partnerships. The programs combine prevention, education and cessation efforts to mobilize communities to combat tobacco use and exposure. In addition to community health planning, the programs recruit youth into tobacco use prevention coalitions, train youth as advocates for their peers, provide media literacy and merchant education, and counter tobacco marketing activities.

Cessation Programs:

These programs focus on increasing access and availability of stop-smoking counseling and treatment, from the simplest quit technique to the most intensive. They are based upon proven intervention models. The programs include cessation interventions in schools, communities and health facilities, education on how to deliver cessation services, training for people who will lead cessation groups and media messages on quitting.

School-based Youth and Parent Programs:

These funds are awarded to school districts or allied organizations that provide programs ranging from age-specific classroom curricula to teacher training, special school projects, media literacy training, peer education programs and cessation programs for staff, parents and students. The programs are intended to prevent youth initiation of tobacco use, educate youth about the dangers of tobacco use, teach life skills and refusal skills, and provide an opportunity for youth who already smoke or use spit tobacco to quit.

* All dollar amounts are given in thousands.

Media Campaigns:

These funds are awarded to provide public awareness and education campaigns that send and reinforce powerful tobacco-free messages to promote cessation of tobacco use, promote prevention and educate about risks associated with secondhand smoke. Activities include newspaper articles featuring youth tobacco prevention, anti-tobacco banners and billboards, media literacy training, counter advertising, TV, radio, billboard and print media, and a 1-800-4-CANCER help line.

Partnerships with Disparate Populations:

These funds are awarded to assist various communities that are disproportionately affected by tobacco use, including Native Americans, Hispanics, women, rural populations and low-income individuals. Partnerships with these groups are aimed at increasing prevention and reducing tobacco use. Activities include facilitating focus groups and organizing and implementing forums to educate and inform.

Surveillance and Evaluation:

These funds are used to monitor the behaviors, attitudes and outcomes related to tobacco use and to track the progress of program elements and performance indicators, including developing a common reporting format for all TUPAC programs, providing evaluation training, conducting youth and adult tobacco surveys, and identifying, collecting and analyzing evaluation information and data.

2. CONTINUE FUNDING THE DIABETES PREVENTION AND CONTROL PROGRAM, DOH**Current Funding - \$1,000****FY 2006 Recommended Funding - \$1,000**

These funds provide public education and media on diabetes and support for rural clinics with supplies, equipment and lab tests. They would also provide diabetes education on children's health as well as activity and nutrition programs in elementary schools.

3. CONTINUE FUNDING HIV/AIDS SERVICES, DOH**Current Funding - \$470****FY 2006 Recommended Funding - \$470**

These funds provide chronic care AIDS treatment services to help people with AIDS lead longer, fuller and more productive lives. The care includes practical, psycho-social and clinical services. The funds are also used to contract with community-based organizations to implement statewide HIV prevention and education programs.

4. CONTINUE FUNDING SMART MOVES, NEW MEXICO ALLIANCE FOR BOYS & GIRLS CLUBS, DOH

Current Funding - \$470
FY 2006 Recommended Funding - \$500

SMART Moves is a national prevention program that aims at providing young people the knowledge, skills, self-worth, and peer support for avoiding alcohol, tobacco and other drugs, avoiding involvement in other drug-related programs. Based on best practices from prevention specialists, the SMART Moves curriculum has been implemented successfully in the New Mexico Alliance for Boys & Girls Clubs and has showed significant positive results during the past three years.

5. CONTINUE FUNDING RESEARCH PROGRAMS, UNIVERSITY OF NEW MEXICO (UNM) HEALTH SCIENCES CENTER (HSC)

Current Funding - \$1,500
FY 2006 Recommended Funding - \$1,500

These funds would be used for existing health care research programs by UNM HSC, to translate research findings into effective clinical care programs, disseminate scholarly work, and recruit and hire scientists and support personnel. The research funds are spent as follows:

Genomics core facilities	\$ 162.5
Epidemiology	374.8
Enhanced tobacco-related research	180.0
Clinical research and trials	329.1
Biocomputing	<u>453.6</u>
	\$ 1,500.0

6. CONTINUE FUNDING OTHER PROGRAMS ADMINISTERED BY UNM

Total Current Funding - \$1,900
Total FY 2006 Recommended Funding - \$1,900

Area Health Education Centers \$50

The purpose of these funds is to increase the number of health care professionals practicing in rural and under served areas and to expand clinical training in those areas for medical, nursing, public health, pharmacy, physician assistants and allied health students, as well as for primary care residents. Additionally, the funds are intended to increase the health profession applicant pool from under-represented ethnic minorities and from shortage areas. Finally, the funds would support and provide continuing education programs in order to retain health professionals in the under served areas.

Center for Telehealth \$150

The purpose of these funds is to improve the quality of and access to health care systems in rural New Mexico by using advanced technology to extend the resources of the UNM HSC to remote areas of the state. The funds are used to increase the number of clinical services, educational programs and administrative activities delivered to remote sites. The center collaborates with the federal government and the University of Hawaii.

Los Pasos Program **\$50**

The purpose of these funds is to provide comprehensive health services to families and to children up to age three who have been exposed in utero to alcohol and other drugs. The goals include the prevention of negative consequences of parental use of alcohol, tobacco and other drugs, as well as training support and technical assistance to agencies and community programs in northern and central New Mexico.

Pediatric Oncology **\$400**

The purpose of these funds is to provide statewide quality care, treatment, monitoring and support for children and families facing childhood cancer. The program has initiated a three-year pediatric oncology curriculum for residents and advances the treatment of childhood cancer through the pursuit of clinical and basic research at the local and national level.

Poison and Information Center **\$450**

The purpose of these funds is to reduce morbidity and mortality associated with poisoning and to encourage proper use of medications. The center provides a statewide poison prevention program, educates the public, offers first-aid information, distributes materials and provides treatment information to health professionals. The funds support 24-hour statewide expert assistance for poisoning emergencies. The center has an active research program, provides education and training to health care professionals and collaborates with local, state and federal agencies.

Specialty Education in Pediatrics **\$400**

The purpose of these funds is to pay salaries of physicians serving on the pediatrics faculty at the UNM School of Medicine. The faculty treat children as well as educate medical students, residents and community providers. They conduct research to advance pediatric health care across the state. The funds will also be used for related materials, services and travel to assist the educational program.

Specialty Education in Trauma **\$400**

The purpose of these funds is to pay salaries of physicians serving on the UNM School of Medicine faculty. The faculty educate medical students in trauma, critical care and emergency care and staff the Level I Trauma Center at the UNM Hospital emergency room.

7. LOVELACE RESPIRATORY RESEARCH INSTITUTE, EMPHYSEMA AND LUNG CANCER RESEARCH, UNM

Current Funding - \$1,000
FY 2006 Recommended Funding - \$1,000

These funds would continue the contract with Lovelace Respiratory Research Institute (LRRI) for its research in emphysema and lung cancer detection and treatment. LRRI is "leading the world" in lung cancer research. The research also includes a cohort study on women at risk for lung cancer and emphysema.

8. BREAST AND CERVICAL CANCER TREATMENT PROGRAM, HUMAN SERVICES DEPARTMENT

Current Funding - \$1,300
FY 2006 Recommended Funding \$1,300

The purpose of these funds is to provide treatment for women with breast or cervical cancer who are eligible for Medicaid. New Mexico receives an enhanced federal match for this program. Federal funds pay 82 percent and state funds 18 percent of the total cost. Since the program began in July, 2002, the number of participants continues to grow. Three hundred and thirty-three (333) women have been enrolled as of June 30, 2004. The program has been successful in early detection of cancer and pre-cancerous conditions.

Proposed Legislation

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HOUSE BILL

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

FOR THE TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE

AN ACT

RELATING TO TAX ADMINISTRATION; ENHANCING CIGARETTE STAMP PROCEDURES; PROVIDING FOR TAX-EXEMPT STAMPS; ADJUSTING CERTAIN TAX STAMP DISCOUNTS; EXPANDING REPORTING AND LICENSING REQUIREMENTS; PROVIDING CIVIL AND CRIMINAL PENALTIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE CIGARETTE TAX ACT; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-12-2 NMSA 1978 (being Laws 1971, Chapter 77, Section 2, as amended) is amended to read:

"7-12-2. DEFINITIONS.--As used in the Cigarette Tax Act:

A. "cigarette" means any roll of tobacco or any substitute ~~[therefor]~~ for tobacco wrapped in paper or ~~[any substance other than tobacco]~~ in anything that is not one hundred percent tobacco; "cigarette" includes bidis and kreteks

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[bracketed material] = delete

1 and small cigars sold in packages similar to cigarettes, unless
2 the cigar is wrapped in one hundred percent tobacco;

3 ~~[B. "person" means any individual, estate, trust,~~
4 ~~receiver, cooperative association, club, corporation, company,~~
5 ~~firm, partnership, joint venture, syndicate or other entity;]~~

6 B. "contraband cigarettes" means cigarette packages
7 with counterfeit stamps, counterfeit cigarettes, cigarettes
8 that have false or fraudulent manufacturing labels and
9 cigarette packages without the tax or tax-exempt stamps
10 required by the Cigarette Tax Act;

11 C. "department" means the taxation and revenue
12 department, the secretary of taxation and revenue or any
13 employee of the department exercising authority lawfully
14 delegated to that employee; ~~[by the secretary;~~

15 ~~D. "secretary" means the secretary of taxation and~~
16 ~~revenue;]~~

17 D. "distributor" means a person licensed pursuant
18 to the Cigarette Tax Act to sell or distribute cigarettes in
19 New Mexico. "Distributor" does not include:

20 (1) a retailer;

21 (2) a cigarette manufacturer, export warehouse
22 proprietor or an importer with a valid permit pursuant to 26
23 U.S.C. 5713, if that person sells cigarettes in New Mexico only
24 to distributors that hold valid licenses under the laws of a
25 state or sells to an export warehouse proprietor or to another

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1 manufacturer; or

2 (3) a common or contract carrier transporting
3 cigarettes pursuant to a bill of lading or freight bill, or a
4 person who ships cigarettes through the state by a common or
5 contract carrier pursuant to a bill of lading or freight bill;

6 E. "license" means a license granted pursuant to
7 the Cigarette Tax Act that authorizes the holder to conduct
8 business as a manufacturer or distributor of cigarettes;

9 F. "manufacturer" means a person that manufactures,
10 fabricates, assembles, processes or labels a cigarette or that
11 imports from outside the United States, directly or indirectly,
12 a finished cigarette for sale or distribution in the United
13 States;

14 G. "master settlement agreement" means the
15 settlement agreement and related documents entered into on
16 November 23, 1998 by the state and leading United States
17 tobacco product manufacturers;

18 H. "package" means an individual pack, box or other
19 container; "package" does not include a container that itself
20 contains other containers, such as a carton of cigarettes;

21 I. "retailer" means a person, whether located
22 within or outside of New Mexico, that sells or distributes
23 cigarettes to a consumer in New Mexico;

24 ~~[E.]~~ J. "stamp" means [any authorized label which
25 ~~is issued to cover the tax in multiples of five cigarettes] an~~

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1 adhesive label issued and authorized by the department to be
2 affixed to cigarette packages for excise tax purposes and upon
3 which is printed a serial number and the words "State of New
4 Mexico" and "tobacco tax"; [~~and which is coated with an~~
5 ~~adhesive to affix the stamp to a package so that the stamp,~~
6 ~~once affixed, cannot be removed without destroying it;~~

7 F. ~~"stamped" means a package or container of~~
8 ~~cigarettes to which a cigarette tax stamp has been affixed as~~
9 ~~provided in the Cigarette Tax Act; and~~

10 G. ~~"unstamped" means a package or container of~~
11 ~~cigarettes to which the cigarette tax stamp provided for in the~~
12 ~~Cigarette Tax Act has not been affixed.]~~

13 K. "tax stamp" means a stamp that has a specific
14 cigarette tax value pursuant to the Cigarette Tax Act; and

15 L. "tax-exempt stamp" means a stamp that indicates
16 a tax-exempt status pursuant to the Cigarette Tax Act."

17 Section 2. Section 7-12-3.1 NMSA 1978 (being Laws 1986,
18 Chapter 13, Section 3, as amended) is amended to read:

19 "7-12-3.1. CIGARETTE INVENTORY TAX--IMPOSITION OF TAX--
20 DATE PAYMENT OF TAX DUE.--

21 A. A tax that may be identified as the "cigarette
22 inventory tax" is imposed [~~measured by the quantity of~~
23 ~~cigarette stamps, whether or not affixed to packages of~~
24 ~~cigarettes, in the possession of a person who is required by~~
25 ~~Subsection C of Section 7-12-5 NMSA 1978 to affix stamps] on a~~

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1 distributor that has in its possession tax-exempt stamps or tax
2 stamps, whether or not affixed to packages of cigarettes, on
3 the date on which an increase in the [excise] cigarette tax
4 imposed by Section 7-12-3 NMSA 1978 is effective. [The taxable
5 event is the existence of an inventory of cigarette stamps,
6 whether or not affixed to packages of cigarettes, in the
7 possession of a person who is required by Subsection C of
8 Section 7-12-5 NMSA 1978 to affix stamps on the date on which
9 an increase in the excise tax imposed by Section 7-12-3 NMSA
10 1978 is effective. The rate of the cigarette inventory tax to
11 apply to cigarette stamps held in inventory shall be the amount
12 of the increase in the cigarette tax imposed by Section 7-12-3
13 NMSA 1978.]

14 B. The cigarette inventory tax due from the
15 distributor is calculated by multiplying the number of tax
16 stamps in the distributor's possession by the increase in the
17 excise tax. Tax-exempt stamps are not included in the
18 calculation to determine the amount of cigarette inventory tax
19 to be paid by a distributor.

20 [B.] C. The cigarette inventory tax is to be paid
21 to the department on or before the twenty-fifth day of the
22 month following the month in which the [taxable event occurs]
23 increase in the cigarette tax is effective."

24 Section 3. Section 7-12-3.2 NMSA 1978 (being Laws 1986,
25 Chapter 13, Section 4) is amended to read:

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1 "7-12-3.2. CIGARETTE INVENTORIES.--

2 A. On any date on which the [~~excise~~] cigarette tax
3 imposed by Section 7-12-3 NMSA 1978 is increased, each [~~person~~
4 ~~who is required by Subsection C of Section 7-12-5 NMSA 1978 to~~
5 ~~affix stamps~~] distributor shall take inventory of [~~cigarette~~]
6 tax-exempt stamps and tax stamps on hand, including stamps
7 affixed to packages of cigarettes.

8 B. Each [~~person required to take an inventory by~~
9 ~~Subsection A of this section~~] distributor shall report the
10 total number of [~~cigarette~~] tax-exempt stamps and tax stamps in
11 inventory on the date on which the cigarette tax [~~imposed by~~
12 ~~Section 7-12-3 NMSA 1978 changes~~] increases and pay [~~any~~] the
13 cigarette inventory tax due [~~imposed by Section 7-12-3.1 NMSA~~
14 ~~1978~~]."

15 Section 4. Section 7-12-5 NMSA 1978 (being Laws 1971,
16 Chapter 77, Section 5, as amended) is amended to read:

17 "7-12-5. AFFIXING STAMPS.--

18 A. Except as provided in Section 7-12-6 NMSA 1978,
19 all cigarettes [~~the sale, gift or consumption of which is~~
20 ~~subject to the cigarette tax~~] shall be placed in packages or
21 containers to which a stamp [~~may~~] shall be affixed. Only a
22 distributor with a valid license issued pursuant to the
23 Cigarette Tax Act may purchase or obtain unaffixed tax-exempt
24 stamps or tax stamps. A distributor shall not sell or provide
25 unaffixed stamps to another distributor, manufacturer, export

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1 warehouse proprietor or importer with a valid permit pursuant
2 to 26 U.S.C. 5713 or any other person.

3 B. Stamps shall be affixed by the distributor to
4 each package of cigarettes to be sold or distributed in New
5 Mexico within ten days of receipt of those packages.

6 C. A distributor shall apply stamps only to
7 packages of cigarettes that it has received directly from a
8 manufacturer or importer of cigarettes that possesses a valid
9 and current permit pursuant to 26 U.S.C. 5713.

10 ~~[B.]~~ D. Packages ~~[or containers to which a stamp is~~
11 ~~required to be affixed and which]~~ shall contain cigarettes
12 ~~[that are not in multiples of five cigarettes shall have~~
13 ~~affixed a stamp of the next higher multiple of five cigarettes]~~
14 in lots of twenty or twenty-five.

15 ~~[G.]~~ E. Unless the requirements of this section are
16 waived pursuant to Section 7-12-6 NMSA 1978, a tax stamp shall
17 be affixed to each package ~~[or container]~~ of cigarettes ~~[the~~
18 ~~sale, gift or consumption of which is subject to the cigarette~~
19 ~~tax. The stamp shall be affixed by any person who sells in New~~
20 ~~Mexico cigarettes manufactured by that person or who receives~~
21 ~~on consignment or buys unstamped cigarettes for sale, gift or~~
22 ~~consumption in New Mexico]~~ subject to the cigarette tax and a
23 tax-exempt stamp shall be affixed to each package of cigarettes
24 not subject to the cigarette tax pursuant to Section 7-12-4
25 NMSA 1978.

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1 ~~[D.]~~ F. Stamps shall be affixed inside the
2 boundaries of New Mexico, unless the department has granted a
3 license allowing a person to affix stamps outside New Mexico."

4 Section 5. Section 7-12-6 NMSA 1978 (being Laws 1971,
5 Chapter 77, Section 6, as amended) is amended to read:

6 "7-12-6. WAIVER OF REQUIREMENT THAT STAMPS BE
7 AFFIXED.--The requirement imposed in Section 7-12-5 NMSA 1978
8 that stamps be affixed to packages or containers of cigarettes
9 is waived if the cigarettes are distributed by a manufacturer
10 pursuant to federal regulations and are exempt from tax
11 pursuant to 26 U.S.C. 5704.

12 ~~[A. the cigarettes are sold on railroad passenger~~
13 ~~trains in New Mexico. When unstamped cigarettes are sold on~~
14 ~~railroad passenger trains in New Mexico, the seller shall remit~~
15 ~~to the department the tax imposed in Section 7-12-3 NMSA 1978~~
16 ~~on or before the twenty-fifth day of the month following the~~
17 ~~month in which sales of unstamped cigarettes are made on~~
18 ~~railroad passenger trains in New Mexico; or~~

19 ~~B. the cigarettes are distributed by a cigarette~~
20 ~~manufacturer to consumers within the state of New Mexico as~~
21 ~~free samples. When unstamped cigarettes are distributed by a~~
22 ~~cigarette manufacturer in New Mexico as free samples, the~~
23 ~~manufacturer shall remit to the department the tax imposed in~~
24 ~~Section 7-12-3 NMSA 1978 on or before the twenty-fifth day of~~
25 ~~the month following the month in which distributions of~~

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1 ~~unstamped cigarettes are made.]"~~

2 Section 6. Section 7-12-7 NMSA 1978 (being Laws 1971,
3 Chapter 77, Section 7, as amended) is amended to read:

4 "7-12-7. SALE OF STAMPS--PRICES.--

5 A. Only the department shall sell stamps. [~~to any~~
6 ~~person who sells in New Mexico cigarettes manufactured by that~~
7 ~~person and to any person who receives on consignment or buys~~
8 ~~unstamped cigarettes for sale, gift or consumption in New~~
9 ~~Mexico, provided such persons are registered with the~~
10 ~~department under the provisions of Section 7-1-12 NMSA 1978]~~

11 Stamps may be sold by the department only to a distributor.

12 B. Stamps shall display a serial number. Stamps
13 bearing the same serial number shall not be sold to more than
14 one distributor. The department shall keep records of the
15 serial numbers of the stamps provided to each distributor.

16 C. A stamp shall be affixed to a package of
17 cigarettes in such a manner as to clearly display the serial
18 number at the point of sale.

19 D. Tax stamps shall be sold at their face value
20 with the following discounts:

21 (1) [~~four~~] one percent less than the face
22 value of the first thirty thousand dollars (\$30,000) of stamps
23 purchased in one calendar month;

24 (2) [~~three~~] eight-tenths percent less than the
25 face value of the second thirty thousand dollars (\$30,000) of

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1 stamps purchased in one calendar month; and

2 (3) [~~two~~] one-half percent less than the face
3 value of [~~all~~] stamps purchased in excess of sixty thousand
4 dollars (\$60,000) in one calendar month.

5 [~~B-~~] E. If the face value of tax stamps sold in a
6 single sale is less than one thousand dollars (\$1,000), the
7 discount provided for in this section shall not be allowed.

8 [~~G-~~] F. Payment for tax stamps shall be made on or
9 before the twenty-fifth day of the month following the month in
10 which the sale of stamps by the department is made.

11 G. Tax-exempt stamps shall be provided only to
12 distributors and shall be free of charge; provided that the
13 distributor is in full compliance with the reporting
14 requirements of the Cigarette Tax Act and rules adopted
15 pursuant to that act."

16 Section 7. A new section of the Cigarette Tax Act,
17 Section 7-12-9.1 NMSA 1978, is enacted to read:

18 "7-12-9.1. [NEW MATERIAL] LICENSING--GENERAL LICENSING
19 PROVISIONS--REGISTRATION FOR ALL CIGARETTE SALES.--

20 A. A person shall not engage in the manufacture or
21 distribution of cigarettes in New Mexico without a license
22 issued by the department. A person who sells cigarettes at
23 retail shall register with the department and comply with the
24 provisions of Section 7-1-12 NMSA 1978.

25 B. The department shall issue a license for a term

1 not to exceed one year.

2 C. The department may charge a license fee of up to
3 one hundred dollars (\$100) for each manufacturer's or
4 distributor's license issued or renewed.

5 D. An application for a license or renewal of a
6 license shall be submitted on a form determined by the
7 department and shall include:

8 (1) the name and address of the applicant and:

9 (a) if the applicant is a firm,
10 partnership or association, the name and address of each of its
11 members; or

12 (b) if the applicant is a corporation,
13 the name and address of each of its officers;

14 (2) the address of the applicant's principal
15 place of business and every location where the applicant's
16 business is conducted; and

17 (3) any other information the department may
18 require.

19 E. The department may issue a license to distribute
20 and a license to manufacture cigarettes to the same person.

21 F. Persons licensed to manufacture or to distribute
22 cigarettes may sell stamped cigarettes at retail.

23 G. A license may not be granted, maintained or
24 renewed if one or more of the following conditions applies to
25 an applicant:

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1 (1) the applicant owes five hundred dollars
2 (\$500) or more in delinquent cigarette taxes;

3 (2) the applicant has had a manufacturer's or
4 distributor's license revoked by the department or any other
5 state within the past two years;

6 (3) the applicant is convicted of a crime
7 related to contraband cigarettes, stolen cigarettes or
8 counterfeit stamps;

9 (4) the applicant is convicted of a felony;

10 (5) the applicant is a manufacturer but not a
11 participating manufacturer as defined in Section II(jj) of the
12 master settlement agreement and the applicant is not in
13 compliance with the provisions of Section 6-4-13 NMSA 1978 or
14 the Tobacco Escrow Fund Act; or

15 (6) the applicant is a manufacturer and
16 imports cigarettes into the United States that are in violation
17 of 19 U.S.C. 1681a or manufactures cigarettes that do not
18 comply with the Federal Cigarette Labeling and Advertising Act.

19 H. In addition to a civil or criminal penalty
20 provided by law, upon a finding that a licensee has violated a
21 provision of the Cigarette Tax Act or a rule adopted pursuant
22 to that act, the department may revoke or suspend the license
23 or licenses of the licensee.

24 I. As used in this section, "applicant" includes a
25 person or persons owning, directly or indirectly, in the

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1 aggregate, more than ten percent of the ownership interest in
2 the business holding or applying for a license pursuant to the
3 Cigarette Tax Act."

4 Section 8. A new section of the Cigarette Tax Act,
5 Section 7-12-9.2 NMSA 1978, is enacted to read:

6 "7-12-9.2. [NEW MATERIAL] DISTRIBUTOR'S LICENSE.--

7 A. A person shall not distribute stamped packages
8 of cigarettes for resale or sell stamped packages of cigarettes
9 at wholesale without first obtaining a distributor's license
10 from the department.

11 B. A person licensed to distribute cigarettes is
12 authorized to:

13 (1) receive unstamped packages of cigarettes
14 from a manufacturer;

15 (2) purchase tax stamps and receive tax-exempt
16 stamps from the department;

17 (3) affix tax stamps or tax-exempt stamps to
18 unstamped packages of cigarettes;

19 (4) sell stamped packages of cigarettes to a
20 retailer for resale; and

21 (5) sell unstamped packages of cigarettes to a
22 person licensed to distribute cigarettes outside of New
23 Mexico."

24 Section 9. A new section of the Cigarette Tax Act,
25 Section 7-12-9.3 NMSA 1978, is enacted to read:

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1 "7-12-9.3. [NEW MATERIAL] MANUFACTURER'S LICENSE.--

2 A. A person shall not manufacture cigarettes in New
3 Mexico unless licensed by the department.

4 B. A person licensed to manufacture cigarettes in
5 New Mexico is authorized to:

6 (1) manufacture, produce and package
7 cigarettes;

8 (2) receive imported cigarettes;

9 (3) sell unstamped cigarettes to a
10 distributor, another manufacturer or an export warehouse
11 proprietor; and

12 (4) sell unstamped cigarettes outside of New
13 Mexico."

14 Section 10. A new section of the Cigarette Tax Act,
15 Section 7-12-9.4 NMSA 1978, is enacted to read:

16 "7-12-9.4. [NEW MATERIAL] RETAIL SALES OF CIGARETTES.--A
17 retailer of cigarettes shall:

18 A. only obtain cigarettes for resale from a
19 distributor;

20 B. only obtain stamped cigarettes;

21 C. not sell cigarettes at wholesale or for resale
22 unless that person is also a distributor;

23 D. register with the department pursuant to Section
24 7-1-12 NMSA 1978; and

25 E. comply with the provisions of the Cigarette Tax

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1 Act or any law or rule that applies to retailers of
2 cigarettes."

3 Section 11. A new section of the Cigarette Tax Act,
4 Section 7-12-10.1 NMSA 1978, is enacted to read:

5 "7-12-10.1. [NEW MATERIAL] RETENTION OF INVOICES AND
6 RECORDS--INSPECTION BY DEPARTMENT.--

7 A. A manufacturer, distributor or retailer shall
8 maintain copies of invoices for each of its facilities for
9 every transaction involving a cigarette sale, purchase,
10 transfer, receipt or consignment. A retailer need not retain
11 copies of invoices for sales of cigarettes to consumers. An
12 invoice shall show:

13 (1) the names and addresses of all persons
14 involved in the transaction, including the seller, purchaser,
15 consignor and consignee. If a transaction involves an
16 additional facility of the same manufacturer, distributor or
17 retailer, the invoice shall also show the address of the
18 additional facility;

19 (2) the date;

20 (3) the price; and

21 (4) the quantity of each brand of cigarettes
22 involved in each transaction.

23 B. Records required to be maintained pursuant to
24 Subsection A of this section shall be preserved on the premises
25 described in the license in a manner that ensures permanency

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1 and accessibility for inspection at reasonable hours by the
2 department. With the department's permission, manufacturers,
3 distributors and retailers with multiple business sites may
4 retain centralized records, but shall transmit duplicates of
5 the records to another site of the business within twenty-four
6 hours upon the request of the department.

7 C. The records required to be maintained pursuant
8 to Subsection A of this section shall be retained for a period
9 of three years from the end of the year in which the
10 transaction occurred, unless otherwise required by law to be
11 retained for a longer period of time.

12 D. The department and the secretary of the United
13 States department of the treasury, or a designee, may inspect
14 the reports and records required pursuant to the Cigarette Tax
15 Act along with any stock of cigarettes in the possession of the
16 manufacturer, distributor or retailer. The department, at its
17 sole discretion, may share those records and reports with law
18 enforcement officials of the federal government, other states
19 and international authorities.

20 E. The department shall have authority to enter and
21 inspect the facilities and records of a manufacturer,
22 distributor or retailer without a warrant during normal
23 business hours and with a warrant during non-business hours.

24 F. If the department or a law enforcement officer
25 has reasonable suspicion to believe that a vehicle is

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1 transporting cigarettes in violation of the Cigarette Tax Act,
2 the department or the law enforcement officer is authorized to
3 stop the vehicle and, with probable cause, inspect it for
4 contraband cigarettes or cigarettes in violation of the
5 provisions of the Cigarette Tax Act."

6 Section 12. Section 7-12-11 NMSA 1978 (being Laws 1971,
7 Chapter 77, Section 11) is amended to read:

8 "7-12-11. EXPORT SELLERS--PHYSICAL SEGREGATION OF
9 CIGARETTES TO BE EXPORTED.--~~[Any person]~~

10 A. A distributor selling and shipping cigarettes
11 outside New Mexico may maintain unstamped packages of
12 cigarettes on ~~[his]~~ the distributor's premises if the unstamped
13 ~~[cigarettes]~~ packages to be shipped outside the state are kept
14 in a separate part of ~~[his]~~ the distributor's place of
15 business, physically segregated from packages of cigarettes to
16 be sold inside New Mexico and clearly identified as packages of
17 cigarettes for shipment outside the state. If packages of
18 cigarettes to be sold outside New Mexico are intermingled with
19 packages of cigarettes to be sold inside New Mexico, they shall
20 be stamped and treated for purposes of the Cigarette Tax Act as
21 packages of cigarettes to be sold inside New Mexico.

22 B. Unstamped packages of cigarettes shall not be
23 transferred by a distributor to another facility of the
24 distributor's or to another person within New Mexico.

25 C. A person doing business as both a distributor

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1 and a retailer or both a distributor and a manufacturer shall
2 maintain separate areas for stamped and unstamped packages of
3 cigarettes."

4 Section 13. Section 7-12-12 NMSA 1978 (being Laws 1971,
5 Chapter 77, Section 12, as amended) is amended to read:

6 "7-12-12. SHIPMENT OF UNSTAMPED CIGARETTES IN NEW
7 MEXICO.--

8 A. A person that ships unstamped packages of
9 cigarettes into New Mexico other than to a distributor shall
10 first file a notice of the shipment with the department.

11 B. A person that transports unstamped packages of
12 cigarettes into or within New Mexico shall carry, in the
13 transporting vehicle, invoices or equivalent documents
14 applicable to all cigarettes in the shipment. The invoices or
15 documents shall show:

16 (1) the name and address of the consignor or
17 seller;

18 (2) the name and address of the consignee or
19 purchaser; and

20 (3) the quantity of each brand of cigarettes
21 transported.

22 C. The provisions of Subsections A and B of this
23 section shall not apply to a common or contract carrier
24 transporting cigarettes through New Mexico to another location
25 pursuant to a proper bill of lading or freight bill that states

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1 the quantity, source and destination of the cigarettes.

2 D. The [~~secretary~~] department may, by regulation,
3 require and prescribe the contents of reports to be filed with
4 the department by persons transporting unstamped packages of
5 cigarettes in New Mexico."

6 Section 14. A new section of the Cigarette Tax Act is
7 enacted to read:

8 "[NEW MATERIAL] REPORTS.--

9 A. A distributor shall submit periodic reports to
10 the department, in the manner and on the form prescribed by the
11 department. A distributor shall submit a separate report for
12 each of its facilities. The information in the report shall be
13 itemized and shall clearly disclose cigarette brands,
14 quantities and the type of stamp applied to the packages of
15 cigarettes. A report shall include:

16 (1) an inventory of stamped and unstamped
17 packages of cigarettes held for sale or distribution within New
18 Mexico at the beginning of the reporting period;

19 (2) the quantity of stamped packages of
20 cigarettes held for sale or distribution within New Mexico that
21 were received from another person during the reporting period
22 and the name and address of each person from whom each quantity
23 was received;

24 (3) the quantity of New Mexico stamped
25 packages of cigarettes that were distributed or shipped to

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1 another distributor or retailer within New Mexico during the
2 reporting period and the name and address of each person to
3 whom each quantity was distributed or shipped;

4 (4) the quantity of New Mexico stamped
5 packages of cigarettes that were distributed or shipped to
6 another facility of the same distributor within New Mexico
7 during the reporting period and the address of that facility;

8 (5) the quantity of stamped cigarette packages
9 that were distributed or shipped within New Mexico to an Indian
10 nation, tribe or pueblo or to a person located on the land of
11 an Indian nation, tribe or pueblo or to instrumentalities of
12 the federal government during the reporting period and the name
13 and address of each person, entity or instrumentality to whom
14 each quantity was distributed or shipped;

15 (6) an inventory of stamped and unstamped
16 packages of cigarettes held for sale or distribution within New
17 Mexico at the end of the reporting period;

18 (7) an inventory of stamped and unstamped
19 packages of cigarettes for sale or distribution outside of New
20 Mexico at the beginning of the reporting period;

21 (8) the quantity of packages of cigarettes
22 held for sale or distribution outside of New Mexico that were
23 received from another person during the reporting period and
24 the name and address of each person from whom each quantity was
25 received;

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1 (9) the quantity of packages of cigarettes
2 that were distributed or shipped outside New Mexico during the
3 reporting period;

4 (10) an inventory of packages of cigarettes
5 held for sale or distribution outside of New Mexico at the end
6 of the reporting period;

7 (11) the number of each type of stamp on hand
8 at the beginning of the reporting period;

9 (12) the number of each type of stamp
10 purchased or received during the reporting period;

11 (13) the number of each type of stamp applied
12 during the reporting period; and

13 (14) the number of each type of stamp on hand
14 at the end of the reporting period.

15 B. A manufacturer shall submit periodic reports in
16 the manner and on the form prescribed by the department. The
17 information in the report shall be itemized to clearly disclose
18 cigarette brands and quantities. The reports shall be provided
19 separately with respect to each of the facilities operated by
20 the manufacturer. A report shall contain the quantity of
21 packages of cigarettes that were distributed or shipped:

22 (1) to a manufacturer, distributor or retailer
23 within New Mexico during the reporting period and the name and
24 address of each person to whom each quantity was distributed or
25 shipped;

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1 (2) to another facility within New Mexico of
2 the same manufacturer during the reporting period and the
3 address of the facility; and

4 (3) within New Mexico to an Indian nation,
5 tribe or pueblo or to a person located on the land of an Indian
6 nation, tribe or pueblo or to instrumentalities of the federal
7 government during the reporting period and the name and address
8 of each person, entity or instrumentality to whom each quantity
9 was distributed or shipped.

10 C. The department may require additional
11 information to be submitted. The department shall establish
12 the reporting period, which shall be no longer than three
13 calendar months and no shorter than one calendar month."

14 Section 15. A new section of the Cigarette Tax Act,
15 Section 7-12-13.1 NMSA 1978, is enacted to read:

16 "7-12-13.1. [NEW MATERIAL] CIVIL PENALTIES.--

17 A. Whoever knowingly fails, neglects or refuses to
18 comply with the provisions of the Cigarette Tax Act shall be
19 liable for, in addition to any other penalty provided in that
20 act:

21 (1) for a first offense, a penalty of up to
22 one thousand dollars (\$1,000);

23 (2) for a second offense, a penalty of not
24 less than one thousand five hundred dollars (\$1,500) and no
25 more than two thousand five hundred dollars (\$2,500); and

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1 (3) for a third or subsequent offense, a
2 penalty of not less than five thousand dollars (\$5,000).

3 B. Whoever fails to pay a tax imposed pursuant to
4 the Cigarette Tax Act at the time the tax is due shall, in
5 addition to any other penalty provided in that act, be liable
6 for a penalty of five hundred percent of the tax due but
7 unpaid.

8 C. Contraband cigarettes in New Mexico and the
9 equipment used to manufacture, package or stamp them are
10 subject to seizure, forfeiture and destruction by the
11 department, its revenue officers or its agents or by other
12 state or local peace officers.

13 D. Counterfeit stamps for use in New Mexico in the
14 possession of any person and the equipment used to produce them
15 are subject to seizure by the department, its revenue officers
16 or its agents or by other state or local peace officers."

17 Section 16. A new section of the Cigarette Tax Act is
18 enacted to read:

19 "[NEW MATERIAL] CRIMINAL OFFENSES--CRIMINAL PENALTIES--
20 SEIZURE AND DESTRUCTION OF EVIDENCE.--

21 A. Whoever violates a provision of the Cigarette
22 Tax Act or a rule adopted pursuant to that act is guilty of a
23 misdemeanor and shall be sentenced in accordance with the
24 provisions of Section 31-19-1 NMSA 1978.

25 B. Whoever, with intent to defraud, fails to comply

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1 with a licensing, reporting or stamping requirement of the
2 Cigarette Tax Act or with a licensing, reporting or stamping
3 rule adopted pursuant to that act is guilty of a fourth degree
4 felony and upon conviction shall be sentenced pursuant to the
5 provisions of Section 31-18-15 NMSA 1978.

6 C. Whoever packages cigarettes for sale in New
7 Mexico or whoever sells cigarettes in New Mexico, in packages
8 of other than twenty or twenty-five cigarettes is:

9 (1) for the first offense, guilty of a
10 misdemeanor and when convicted shall be sentenced pursuant to
11 Section 31-19-1 NMSA 1978; and

12 (2) for the second or subsequent offense,
13 guilty of a fourth degree felony and when convicted shall be
14 sentenced pursuant to Section 31-18-15 NMSA 1978.

15 D. Whoever purchases or otherwise knowingly obtains
16 counterfeit stamps or whoever produces, uses or causes
17 counterfeit stamps to be used is guilty of a fourth degree
18 felony and upon conviction shall be sentenced pursuant to the
19 provisions of Section 31-18-15 NMSA 1978.

20 E. Whoever sells or possesses for the purpose of
21 sale contraband cigarettes is in violation of the Cigarette Tax
22 Act and shall have the product and related equipment seized.
23 If convicted of selling or possessing for sale contraband
24 cigarettes, the person shall be sentenced as follows:

25 (1) a violation with a quantity of fewer than

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1 two cartons of contraband cigarettes, or the equivalent, is a
2 petty misdemeanor and is punishable in accordance with the
3 provisions of Section 31-19-1 NMSA 1978;

4 (2) a first violation with a quantity of two
5 cartons or more of contraband cigarettes, or the equivalent, is
6 a misdemeanor and is punishable in accordance with the
7 provisions of Section 31-19-1 NMSA 1978; and

8 (3) a second or subsequent violation with a
9 quantity of two cartons or more of contraband cigarettes, or
10 the equivalent, is a fourth degree felony and is punishable by
11 a fine not to exceed fifty thousand dollars (\$50,000) or
12 imprisonment for a definite term not to exceed eighteen months,
13 or both, and shall also result in the revocation by the
14 department of the manufacturer's or distributor's license, if
15 any.

16 F. Contraband cigarettes or counterfeit stamps
17 seized by the department or by a law enforcement agency shall
18 be retained as evidence to the extent necessary. Contraband
19 cigarettes or counterfeit stamps no longer needed as evidence
20 shall be destroyed.

21 G. Prosecution for a violation of a provision of
22 this section does not preclude prosecution under other
23 applicable laws."

24 Section 17. APPROPRIATION.--Five hundred thousand dollars
25 (\$500,000) is appropriated from the general fund to the

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1 taxation and revenue department for expenditure in fiscal year
2 2006 to implement the provisions of Sections 1 through 16 of
3 this act. Any unexpended or unencumbered balance remaining at
4 the end of fiscal year 2006 shall revert to the general fund.

5 Section 18. REPEAL.--Sections 7-12-9, 7-12-10 and 7-12-13
6 NMSA 1978 (being Laws 1971, Chapter 77, Sections 9, 10 and 13,
7 as amended) are repealed.

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HOUSE BILL

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

FOR THE TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE AND THE
LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO TAXATION; INCREASING THE TOBACCO PRODUCTS TAX.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-12A-3 NMSA 1978 (being Laws 1986,
Chapter 112, Section 4, as amended) is amended to read:

"7-12A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
"TOBACCO PRODUCTS TAX"--DATE PAYMENT OF TAX DUE.--

A. For the manufacture or acquisition of tobacco
products in New Mexico for sale in the ordinary course of
business, there is imposed an excise tax at the rate of
[~~twenty-five~~] forty percent of the product value of the tobacco
products.

B. The tax imposed by Subsection A of this section
may be referred to as the "tobacco products tax".

C. The tobacco products tax shall be paid by the

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1 first purchaser on or before the twenty-fifth day of the month
2 following the month in which the taxable event occurs."

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