

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

**August 16, 2011  
Room 311, State Capitol  
Santa Fe, New Mexico**

The third meeting of the Tobacco Settlement Revenue Oversight Committee (TSROC) was called to order by Representative Gail Chasey, co-chair, on August 16, 2011 at 10:15 a.m. in Room 311 of the State Capitol in Santa Fe.

**Present**

Rep. Gail Chasey, Co-Chair  
Sen. Mary Jane M. Garcia, Co-Chair  
Rep. Jim W. Hall  
Rep. Danice Picraux

**Absent**

Sen. Dede Feldman  
Sen. John C. Ryan

**Advisory Members**

Sen. Sue Wilson Beffort  
Rep. Ray Begaye  
Sen. Mary Kay Papen

Sen. Linda M. Lopez

**Staff**

Alise Rudio  
Roxanne Knight  
Zelda Abeita

**Guests**

The guest list is in the meeting file.

**Handouts**

Handouts and other written testimony are in the meeting file.

**Tuesday, August 16**

**Department of Health (DOH) Report**

Dr. Catherine Torres, secretary of health, reported on the DOH's progress and opportunities for fiscal years 2011 and 2012 with respect to the following programs: tobacco use prevention and control (TUPAC); hepatitis and harm reduction services; diabetes prevention and control; and breast and cervical cancer (BCC) screening and diagnosis. She was assisted by David M. Vigil, M.B.A., chief, Chronic Disease Prevention and Control Bureau, DOH, Dominick V. Zurlo, program manager, harm reduction and medical cannabis program, DOH, and Patty Morris, Ph.D., director, Office of Nutrition and Physical Activity, DOH.

Secretary Torres told the committee that the DOH saw a 36.4 percent cut in tobacco settlement revenue from fiscal year 2009 to fiscal year 2012. In fiscal year 2012, there was an additional 2.5 percent reduction from the original appropriation due to revenue shortfall. It has

not yet been determined whether there will be any additional reductions to the fiscal year 2012 appropriation, as the revenue will not be collected until April 2012.

### **TUPAC Program**

Secretary Torres said that funding for the TUPAC program has decreased from \$8,394,915 in fiscal year 2010 to \$5,685,000 in fiscal year 2012. Due to funding shortfalls, the DOH is giving priority to program activities that are more efficient at reaching the targeted populations. The DOH used guidance from the federal Centers for Disease Control and Prevention (CDC) to select the most efficient activities for the funding level. Secretary Torres reported that calls to Quitline increased from 9,173 in fiscal year 2008 to 12,451 in fiscal year 2011. She presented statistics about tobacco use in New Mexico. Among adults, the rate of cigarette smoking has declined from 23.8 percent in 2001 to 18.5 percent in 2010 while the percentage of adults who use spit or chew tobacco has gone up from 3.2 percent in 2003 to 4.2 percent in 2009. Among high school-age youth, the DOH reported that the rate of cigarette smoking was 25 percent in 2001, 30.1 percent in 2003 and 24 percent in 2009. Smoking is most prevalent among adults ages 25 to 34 (25 percent) and among those whose annual household income is less than \$15,000 (29.6 percent). Secretary Torres discussed a new youth tobacco use prevention media campaign called "SHOW UR NO", which tries to use social media to encourage youth not to smoke.

### **Hepatitis and Harm Reduction Program**

Mr. Zurlo discussed funding for the DOH's hepatitis and harm reduction programs over the past three fiscal years. HIV/AIDS services received \$70,000 in fiscal year 2010 and nothing in fiscal year 2011 and fiscal year 2012. The hepatitis program received \$106,000 in fiscal year 2010, \$46,080 in fiscal year 2011 and \$43,400 in fiscal year 2012. The harm reduction program received \$256,870 in fiscal year 2010, \$252,620 in fiscal year 2011 and \$249,600 in fiscal year 2012. Due to nurse contracts that are funded by tobacco settlement revenue, the DOH was able to investigate 1,000 cases of hepatitis C, obtain 3,726 adult blood specimens for hepatitis tests and provide 1,676 hepatitis vaccinations to high risk clients in county jails and harm reduction sites. In addition, the DOH was able to give syringes to 31,080 people, collect an anticipated three million syringes and have about 4,000 active patients enrolled in the program. Mr. Zurlo explained that hepatitis and harm reduction activities include HIV/AIDS counseling, education and referrals.

### **Diabetes Prevention and Control Program**

Mr. Vigil reported that in fiscal year 2011, the tobacco settlement revenue for the diabetes prevention and control program was spent on staff, services, professional development and other projects, including: producing guides for implementing community walking programs; developing a shared strategic plan required by the CDC to address diabetes, heart disease and stroke prevention and tobacco use; creating diabetes and pre-diabetes modules for New Mexico's Behavioral Risk Factor Surveillance System annual survey; and producing a media campaign about tobacco use and diabetes for the Navajo Nation as well as radio spots and newspaper ads about pre-diabetes. He reported that the number of adults with diabetes in New Mexico has risen from 121,194 in 2000 to 164,795 in 2009. He said that the rate is increasing due to an aging population and unhealthy lifestyles.

### **Healthy Kids New Mexico**

Dr. Morris discussed the healthy kids healthy communities program, which aims to create and sustain healthy policies and environments to motivate people to eat healthier, be more physically active and achieve healthy weights. She said that she oversees the new Office of Nutrition and Physical Activity, which is implementing a five-year strategic plan to reduce obesity and diabetes, especially among children. The model uses a local and state collaborative effort composed of leaders representing government, education, health care, human and social services, agriculture, nonprofit and faith-based organizations, academia, foundations and businesses. Dr. Morris said that the healthy kids program started as a pilot program in Las Cruces in 2007 and was replicated in other communities. In 2009, Healthy Kids Las Cruces was named one of the top 10 models in the nation for helping to reduce childhood obesity. Funding from tobacco settlement revenue for Healthy Kids New Mexico is being used to fund healthy kids programs in five communities: Las Cruces, Chaves County, McKinley County, the Pueblo of San Ildefonso and the Pueblo of Santa Clara. The DOH is no longer funding a program at the Pueblo of Cochiti. Tobacco settlement revenue funds are also used to conduct training in assessing nutrition and physical activities in the schools and best practices for health care provider obesity prevention.

### **BCC Early Detection Program**

Mr. Vigil told the committee that the DOH's BCC early detection program receives tobacco settlement funds for the direct provision of clinical care. The funds are used to help the program provide mammograms and make the match required by the CDC for the federal grant. Mr. Vigil said that since the program was established in 1991, it has provided comprehensive BCC screening and diagnostic services to more than 149,000 women in New Mexico. He further discussed the impact of screening and diagnosis and the requirements for being eligible for the BCC program. He said that in fiscal year 2011, the BCC program served 14,453 women from all funding sources combined. With tobacco settlement revenue funds, he said that an estimated 1,099 women were served in fiscal year 2012 due to the appropriation of \$128,600, compared to 2,105 women served in fiscal year 2010 due to the appropriation of \$184,200. Mr. Vigil said that the DOH is limited in its ability to increase efficiencies because 100 percent of the funds from tobacco settlement revenue already go to direct clinical care. However, the DOH is integrating a colorectal cancer screening program into the existing BCC infrastructure and increasing integration with other DOH chronic disease control programs.

Upon inquiry from the committee, Mr. Vigil discussed the request for proposals (RFP) process for the TUPAC program. Mr. Vigil explained that the DOH developed an RFP in the spring but, due to the change in administration and the need to address funding cuts and CDC requirements, the contracts were not awarded on July 1, 2011. When asked if there was an interruption in the programs, Mr. Vigil said that the contracts ended on June 30, 2011. He said that the DOH has issued a new RFP for contractors for the TUPAC program and that he does not think that there will be any lapses in the future.

The committee discussed at length the importance of nutrition and physical activity for children and asked about ways to promote health in the schools and to reach out to the community for volunteers. Dr. Morris discussed how the DOH works with local coalitions and schools by initiating programs such as the fruit and vegetable tasting program in the schools and encouraging children to take 10 minutes out of the school day for physical activity. The discussion addressed the need to make communities safer so that children can get outside and

play. The discussion also addressed the problems of fast food, soda and closed school yards. Committee members commented on the importance of using schools to provide a safe, active environment for recreation. Dr. Morris suggested that nutrition and exercise are cultural issues and that the same thing has to be done with food and activity that was done with tobacco cessation.

Other issues discussed by the committee included: the source for the smoking rate statistics; the result of the needle exchange program on drug use and harm prevention; the need for coordination among institutions to promote healthy children; the need for consistency in funding; and whether there is a correlation between activity and smoking rates.

Upon a motion made by Representative Picraux, seconded by Senator Garcia, the minutes from the previous meeting were adopted.

### **Human Services Department (HSD) BCC Program Report**

Dr. Anne Foster-Rosales, M.D., M.P.H., medical director, Medical Assistance Division, HSD, and Virginia Alcon, staff manager, Medical Assistance Division, HSD, discussed the history of the Medicaid BCC category of eligibility. Dr. Foster-Rosales said that 1,738 women have been enrolled in the Medicaid BCC treatment program. In fiscal year 2011, there were 449 BCC individuals with paid claims and total expenditures of \$6,848,112; however, the data are not complete because of a lag in the claims adjustment period. Dr. Foster-Rosales provided a breakdown of costs for fiscal year 2011, noting that the largest costs are for outpatient services and practitioner and physician services. She discussed several cost-containment efforts of the last two years that potentially affect BCC members, but noted that benefits for BCC members have not been reduced.

Upon inquiry from the committee, Ms. Alcon explained that the Medicaid benefits provided are full Medicaid benefits, including dental services, and are not limited to cancer-related services. Ms. Alcon also said that the HSD receives a higher federal match for the BCC program, but that the HSD does have to match the state share from the appropriation. When asked if money could be saved by using generic drugs, Dr. Foster-Rosales said that the majority of the savings come from the drug rebate program, which goes back into the Medicaid program.

### **University of New Mexico Health Sciences Center (UNM/HSC) Report**

Dr. Richard Larson, M.D., Ph.D., vice chancellor for research, senior associate dean for research, UNM, reviewed the history of the UNM/HSC's use of tobacco settlement funds. He said that the original intent was to use the funds for tobacco-related illnesses, to support biomedical research and to fund other needed health-related programs. He said the critical needs programs for New Mexico focus on patient care, education and research. Dr. Larson presented a chart showing the funding of programs at the UNM/HSC from tobacco settlement funds since 2001 and discussed the effects of continued cuts on core programs in fiscal years 2010 and 2011. In 2001, the UNM/HSC started its core programs; Lovelace Respiratory Research Institute (LRRI) also received funding through UNM. Beginning in 2007, tobacco settlement funds were used to augment instruction and general (I & G) funding. Dr. Larson explained that the core programs absorbed progressive reductions in funding and attempts were made to modify programs to make them more efficient. In fiscal year 2012, when no additional efficiencies were possible, the UNM/HSC asked for a single appropriation, which it received. Dr. Larson said that

through the single appropriation, the UNM/HSC was granted flexibility to make its own allocations among the historic tobacco settlement programs.

Dr. Larson then provided an overview of the programs supported by tobacco settlement funds. The core projects include the New Mexico Poison and Drug Informatics Center, the UNM/HSC biomedical research (genomics, biocomputing and environmental health research) and the pediatric oncology program. The replacement of I & G funds is used for specialty education trauma. Core programs not receiving tobacco settlement funds in 2012 include the area health education centers, Los Pasos and the Center for Telemedicine, which are being funded through alternative means. He explained that state funding, which was as high as \$5,400,000 in fiscal year 2007 and fiscal year 2009, was reduced to \$2,767,127 in fiscal year 2012. The effects of state funding reduction include lost clinical and research jobs, reduced recruitment of health professionals to rural and medically underserved areas, increased health care costs to New Mexico, reduced federal funding for research and clinical care, reduced clinical care, staff cuts resulting in fewer services provided to children with cancer and decreased outreach resulting in increased health care costs. Dr. Larson described the benefits of sustaining the core programs and I & G replacement programs and explained how the funds are used. He discussed the effect of funding reductions on the core programs from fiscal year 2009 to fiscal year 2011.

Dr. Larson explained that pilot funding is the primary mechanism for obtaining federal support and returns \$8.00 to \$20.00 for every \$1.00 invested. He provided an example of pilot funding used to develop a device for the rapid diagnosis of infection or other diseases. He presented a chart to show how funds that are used to support salaries create more jobs at UNM and in the local economy through the leveraging of federal funds. He also explained that since 2001, 34 new private companies either spun off from the university or used university technology to start up, which resulted in 1,272 new sustainable jobs in the private sector. He described how clinical and intervention trials bring the latest treatments and technologies to New Mexico and how tobacco settlement funding has provided infrastructure support to 176 trials. He then reviewed the evaluation process, which was presented to the TSROC from 2005 to 2010. He said that further reductions in funding will result in reduction of services, loss of federal matching funds, a loss of new federal funds and loss of jobs and will compromise clinical, research and education missions. To address funding reductions, the UNM/HSC is asking for stable funding and no midyear cuts.

The committee asked about telemedicine funding and the UNM/HSC's total budget. Dr. Larson explained that telehealth has no tobacco settlement funds this year but has federal funding for the next three years. He said that the total budget for the hospital and the HSC is \$1.2 billion. He said that half of the tobacco settlement funds go into research and half into clinical programs and education. He said that the total research budget is \$146 million, which includes no state dollars. He explained that although the tobacco settlement funds are not a significant part of the budget, they are important for "seed" funding. Of the \$1 million in research, 30 percent goes to seed money and is critical because of leveraging. In response to questions from the committee, he discussed licensing and royalty rights. He also described Project ECHO (extension for community healthcare outcomes), although tobacco settlement funds have not gone to Project ECHO. Dr. Larson explained that New Mexico has one of the best developed telemedicine programs in the country. The committee noted that the presentation

of the economic impact of funding in terms of jobs and commercialization was very powerful and noted the importance of trying to minimize cuts.

### **LRRI Report**

Dr. Robert W. Rubin, Ph.D., president and chief executive officer, LRRI, provided an historical perspective regarding research on tobacco products and the history of the LRRI, which he said is the only private basic-science, biomedical research organization totally dedicated to the study of respiratory diseases. Dr. Rubin said that historically, funds have been appropriated to the LRRI through the UNM/HSC appropriation from the tobacco settlement funds. These funds have been used to create infrastructure at the LRRI that supports more than 1,000 jobs in New Mexico. Jobs are created by leveraging technologies to service more than 250 commercial clients in the biotechnology and pharmaceutical and device industries.

Dr. Rubin explained that the LRRI lacks the ability to close the loop and marry capabilities with the discovery and clinical trial infrastructure at the UNM/HSC that would then keep the discovery in-state and create new companies and high-paying jobs. This year, the LRRI is partnering with the UNM/HSC to propose a joint drug development program. Under the proposal, funds would be used to pay scientists to design protocols for individual therapies coming out of the UNM/HSC. Funds would then be used to keep the discoveries in state for formulation and animal testing. The LRRI would then find the appropriate manufacturer for final production of the product. Dr. Rubin explained that together, the LRRI and UNM/HSC possess all of the technology and infrastructure necessary to develop new drugs and devices for medical use. He said that the two organizations have never had the resources to merge the capabilities together and offer start-up companies the support necessary to create biotechnology and pharmaceutical companies in New Mexico. Under the proposal, the LRRI and UNM/HSC request tobacco settlement funding to be reinstated at the original level of \$1 million to create a new combined drug and device development center.

Upon inquiry from the committee, Dr. Rubin said that the LRRI does not provide smoking cessation services but does conduct studies on smoking cessation drugs. Committee members discussed the budget impacts to the LRRI and UNM/HSC, how tobacco settlement funds are used at the LRRI and the need to avoid redundancy among programs.

### **Indian Affairs Department (IAD) TUPAC Program Report**

Arthur P. Allison, secretary-designate of Indian affairs, briefly introduced himself and gave an overview of the IAD's TUPAC program. He explained that the program contracts with Keres Consulting, Inc., which provides reporting, monitoring and other administrative activities. Allie Thompson and L. Stephine Poston of Keres Consulting, Inc., reported statistics about state and national cigarette smoking rates among adults and youth. In 1999, high school-age American Indian youth had the highest rate (27 percent) of smokers of any racial or ethnic group in New Mexico. Ms. Thompson provided a history of the IAD TUPAC program, which was established in 2008 through a \$500,000 appropriation. The program's overall goals are to promote the cessation and prevention of commercial tobacco abuse in Native American communities while also promoting cultural awareness of traditional and ceremonial uses of tobacco among Native Americans. Ms. Thompson explained how the funds were used in 2011. Grantees included the Albuquerque Indian Center, Pueblo of Isleta, Jicarilla Apache Nation, Pueblo of Laguna, Oso Vista Ranch Project, Pueblo of Pojoaque, Pueblo of Santa Clara, Pueblo of Tesuque and Tohatchi (District 14) in the Navajo Nation. In reviewing the performance data

for the grantees, Ms. Thompson described the number of people served, the nature of the programs offered and how the grants align with the New Mexico Tobacco-Related Disparities Strategic Plan focus areas. Ms. Thompson noted that despite decreased funding, more people are being served by the IAD's TUPAC program. She said that 20 tribal program managers, IAD representatives and program facilitators met on August 18, 2010 to discuss ways to: (1) further the impact of tobacco cessation programs directed toward Native Americans; (2) gain a clear understanding of state reimbursement and reporting requirements; and (3) focus on collaboration in 2010-2011. Ms. Thompson reported that the IAD received \$293,800 in tobacco settlement revenue for programs in fiscal year 2011 and used 100 percent of the money appropriated. The IAD also supplemented the funds with \$106,200 from its general operating funds. She provided a breakdown of money spent by Keres Consulting, Inc., which was the only contractor.

The committee members asked how ceremonial tobacco is sold, whether tribal smoke shops require identification and whether tribal law enforcement agents conduct sting operations. The committee also asked whether certain cessation rates are sustainable and why the number of people served was low for the Jicarilla Apache Nation and Tohatchi. The committee briefly discussed a discrepancy between the smoking rate for American Indian adults quoted by the IAD versus the one quoted by the DOH. It was pointed out that the state's data might be more current than data from national sources. The committee also noted that the IAD used to receive \$500,000 for its TUPAC program but now only receives a little under half of that. Larry Elmore, the former program manager of the DOH's TUPAC program, noted that the IAD has been much more successful with implementing its TUPAC program than the DOH was. Upon inquiry from the committee, Lillian Brooks, administrative services director, chief financial officer, IAD, explained that the IAD is systematically reducing the allotments proportionately between the nine programs based on the reduced appropriations. The committee asked if IAD programs are using CDC guidelines as part of their best practices. Ms. Poston said that they have discussed implementing evaluation tools.

The committee recognized Mr. Elmore, who recently retired from the DOH, and thanked him for his years of service to the state. Representative Hall said that the success of the committee depends on outstanding staff members like Mr. Elmore. Mr. Elmore thanked the committee for its work and for saving lives.

### **Adjournment**

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