

**MINUTES
of the
SECOND MEETING
of the**

TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE

**July 29, 2013
UNM-West
Rio Rancho**

The second meeting of the Tobacco Settlement Revenue Oversight Committee (TSROC) for the 2013 interim was called to order by Representative Elizabeth "Liz" Thomson, co-chair, on Monday, July 29, at 10:19 a.m. at the University of New Mexico (UNM) West campus of UNM in Rio Rancho, New Mexico.

Present

Sen. Cisco McSorley, Co-Chair
Rep. Elizabeth "Liz" Thomson, Co-Chair
Rep. Gail Chasey
Sen. John C. Ryan
Sen. John Arthur Smith

Absent

Rep. Monica Youngblood

Advisory Members

Rep. Kelly K. Fajardo
Sen. Linda M. Lopez
Sen. Lisa A. Torraco
Rep. Jim R. Trujillo

Rep. Paul C. Bandy
Sen. Mary Kay Papen

Staff

Shawn Mathis, Legislative Council Service (LCS)
Alexandria Tapia, LCS
Jennifer Dana, LCS

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts are in the meeting file.

Monday, July 29

Call to Order

Representative Thomson called the meeting to order and welcomed the committee members, staff, presenters and audience members to the meeting. Upon her request, committee members and staff introduced themselves.

Welcome

Kevin Rogels, president and chief executive officer of the Sandoval Regional Medical Center (SRMC), welcomed the committee members to UNM-West and provided the committee with information and highlights about the facility. The SRMC has been open for about one year, providing care to its first patient on July 17, 2012. The facility features 72 acute care beds, six operating rooms and surgical theaters, and ambient environmental systems designed to increase the level of comfort and to lower the anxiety levels of patients. The SRMC is staffed by approximately 400 full-time-equivalent physicians, 275 of whom are UNM faculty and 95 of whom are community physicians; and the staff are specialized in a broad range of medical disciplines. The facility boasts high patient satisfaction rates, indicating 89% patient satisfaction and inpatient satisfaction scores as high as 92%. Mr. Rogels attributes the high patient satisfaction rates in part to staff hiring practices. Staff are screened through a behavioral interview process, and hiring managers seek out five specific qualities in potential staff: service, quality and safety, excellence, integrity and teamwork. Only 20% of interviewees are hired.

Questions and Comments

A committee member asked about the traffic in the emergency room at the SRMC. Mr. Rogels said that the emergency department is the busiest department at the SRMC. It has recently added a second provider during peak hours, and patient turnaround time is approximately 2.5 hours. Mr. Rogels added that patients come from central New Mexico, with the majority coming from Bernalillo and Sandoval counties. The SRMC is in the process of becoming a designated level III trauma center. At the facility, the emergency room is equipped to handle any single-system trauma; however, multiple-system trauma patients are transported via ambulance to the UNM Hospital. Mr. Rogels informed the committee that approximately 22% of the SRMC's patients are indigent. Because the SRMC is a safety-net hospital, approximately 36% of contracts are managed care contracts.

Another committee member asked if the SRMC competes with Presbyterian Hospital. Mr. Rogels said that there is really not competition because the service areas of the two facilities are different. Mr. Rogels added that the services offered by Presbyterian Hospital and the SRMC are complementary.

A committee member asked about the cost of the SRMC, including real estate and equipment. Mr. Rogels answered that the total cost for the facility was \$143 million. The mortgage is for 30 years with Build America Bonds; this covers the land and physical plant. Mr. Rogels said that the land is valued at \$135 million, with \$8 million in financing costs; \$76

million went into construction and \$42 million went into purchasing equipment. The useful life of the equipment varies between seven and 15 years, depending on the machine.

Another committee member asked about the indigent fund tax for Sandoval County. Mr. Rogels said there is a mill levy of one-eighth cent to pay for indigent care; the money is matched by Medicaid. The committee member encouraged Mr. Rogels to seek tax funds from the county for indigent care.

A committee member asked a question about patient census and growth trends for the SRMC. Mr. Rogels said that of the 12 senior behavioral health beds, eight are full, on average, and of the 48 medical surgery beds, 25 are full, on average. Mr. Rogels also pointed out that because the SRMC is a small facility, there are significant peaks and valleys and variations in patient traffic; the hospital usually has its peak activity on Thursdays. The SRMC trends metrics daily, and the facility shows strong growth trends.

Breast and Cervical Cancer Programs

Gena Love, program manager of the Breast and Cervical Cancer (BCC) Early Detection program in the Department of Health (DOH), began her presentation to the committee by providing statistics of the rates of BCC diagnoses in New Mexico and outlining some of the barriers to BCC screening. (The specific BCC numbers provided can be found on slides 2 through 5 in the handout, marked as agenda item 1.) Ms. Love informed the committee of the eligibility requirements for the program and provided some historical background of the program. She updated the committee on the ways that the tobacco settlement funds (TSFs) have been used to help the BCC Early Detection program achieve its goals; the program has used the funds to serve more women, serve younger women and make the three-to-one match required by the Centers for Disease Control and Prevention (CDC) in order to continue to receive funding. Ms. Love concluded her presentation by providing the committee with raw numbers of women served through the BCC Early Detection program using tobacco settlement money since 2010 (see slide 7 of the handout for more information). Additional information provided by Ms. Love included: program expansion plans; partnership plans; and information on the ways the federal Patient Protection and Affordable Care Act (PPACA) will benefit women in New Mexico.

Anne Foster, Medicaid program medical director in the Human Services Department (HSD), presented to the committee on the topics of Medicaid BCC program enrollment, costs and future care. Ms. Foster told the committee that 2,274 women have been enrolled in the Medicaid BCC program within the last three fiscal years. Since fiscal year (FY) 2008, just over 500 BCC program individuals have netted approximately \$8 million in paid claims each year. The majority of expenditures for FY 2013 were for outpatient hospital services (\$3.1 million), physician charges (\$2.7 million) and pharmaceutical (\$783,000), inpatient (\$714,000) and laboratory/x-ray (\$192,000) services (see second handout for agenda item 1, slides 3 to 5). Ms. Foster concluded her presentation by providing information on future care for individuals enrolled in the BCC program prior to December 2013 and how care and services will be made available to women enrolling in the New Mexico Health Insurance Exchange after October 2014.

Ms. Foster placed emphasis on the income benchmarks required for women to be enrolled in the Medicaid BCC program.

Questions and Comments

A committee member asked Ms. Foster to talk to the committee about the level of Medicaid match for the BCC program, and asked a question about the screening process for BCC and the BCC Early Detection program. Ms. Foster said that the Medicaid match for the program is 90%. She informed the committee that for a woman to receive treatment through the Medicaid BCC program after a confirmed diagnosis of breast or cervical cancer, the screening must have been completed by a provider signed up for screening with the DOH. The committee member said that public awareness of the BCC Early Detection program and the Medicaid BCC program should be increased, since prevention of BCC is more cost-effective than treatment. The committee member would encourage all providers to participate in DOH screening.

Another committee member asked how women are screened for BCC and what the budget request is for 2014 from the TSROC. Ms. Foster said that providers recommend screening for BCC to women. Also, community partners of the BCC Early Detection program do the best job of identifying and recommending people who should be tested and who qualify for the program. If the women are enrolled in the Medicaid BCC program, all costs are covered by the program. Ms. Foster stated that the same level of funding for the program will be requested for 2014 as was requested in 2013.

Several committee members asked about access to services for women located in rural areas. The presenters said that there are over 240 contracted providers across the state and that all federally qualified health centers and community health centers participate in the program. Barriers to care for women located in rural areas exist in the areas of follow-up and treatment following screening. The presenters did point out that the program does pay for travel expenses incurred in obtaining treatment.

A committee member asked for data on the number of women who qualify and need services from the program, as well as survival rates for women with BCC in the program. The presenter said that there are women enrolled in the program who do not access all of the services for which they are eligible. Additionally, approximately 80% of women who need to be screened through the program are not screened due to insufficient funding, and 50% of those who would have been eligible are not being screened through the DOH. Those not screened through the DOH become self-pay cancer patients, which creates a familial and social financial disaster. The presenter pointed out that once the Medicaid expansion happens, any woman who qualifies for expansion will be covered or will be able to buy insurance on the exchange. The presenters informed the committee that the survival rate of women in the program with BCC is slightly lower than that of the entire state, owing largely to the fact that the women in the program are not regularly being screened for BCC, so they enter the program with more advanced BCC.

Another committee member asked how income affects the population likely to have BCC and if there is a method for breaking down the racial and socioeconomic status of those with abnormal screenings. The presenter said that enrollment takes place at community health centers, so all that is known is that the women who qualify for the program are below the federal poverty level (FPL). Those with income at 138% of the FPL will be screened and then enrolled into a special category of Medicaid. If a woman has a higher income and qualifies for the exchange, she will be directed there. Under the PPACA, screening will have to be provided, but diagnostic follow-up will not be covered without cost-sharing. When women register, they do have access to where the reported domicile is located, so geographic trends could be observed.

A committee member asked if future efforts are being planned to increase enrollment in Medicaid BCC. The presenter said that the HSD is working to conduct 178 outreach meetings for the Medicaid expansion and the New Mexico Health Insurance Exchange. Funding for outreach is coming from federal grants. Additionally, there is \$80,000 for outreach to rural communities.

Several committee members asked the presenters for more information regarding human papillomavirus (HPV) vaccinations. The presenter said that the HPV vaccine is directed toward children; for that reason, the majority of women currently accessing the BCC program have not been vaccinated. The presenter said that it takes approximately 10 years to develop invasive cervical cancer after exposure to HPV, which is the primary cause of cervical cancer. Gardasil vaccinations are offered until age 26. Guidelines recommend initial screenings at age 21. Earlier screening is not a good use of funds. The vaccine covers the two most common strains of HPV, but there are about two dozen strains.

Update on DOH Programs

Benjamin Jacquez, program manager of the Tobacco Use Prevention and Control program (TUPAC), presented best practices for tobacco control from the CDC, trends in tobacco use by New Mexico youth, the strategic plan for tobacco control for FY 2014 in New Mexico, the ways in which the program utilizes the TSFs and TUPAC media campaigns for tobacco control. Mr. Jacquez educated the committee on the trends of tobacco use by New Mexico youth. Cigarette and cigar use have been trending downward since 2003; however, the use of emerging tobacco products such as a hookah, flavored tobacco products and e-cigarettes continues to rise. Among youth tobacco users in New Mexico, 60% are using hookah and 65% use multiple tobacco products; 12.6% of youth tobacco users use cigarettes only. In light of these statistics, Mr. Jacquez highlighted the TUPAC's tobacco control plan for FY 2014; the plan includes QUIT NOW and DEJELO YA telephone- and web-based cessation services, includes increased efforts to educate the public on the dangers of secondhand smoke and further attempts to regulate the time, place and manner in which tobacco can be advertised and sold. (Please refer to the handout, slides 2 through 11, marked as agenda item 2, for more information.)

Judith Gabriele, program manager of the Diabetes Prevention and Control program (DPP), spoke to the committee about the prevalence of diabetes and pre-diabetes in New Mexico,

the role of the National DPP in New Mexico and how DPP funds have been utilized to achieve the goals of the program. Ms. Gabriele presented data revealing that approximately 170,000 adult New Mexicans were diagnosed with diabetes between 2008 and 2012, and an additional 530,000 adult New Mexicans were diagnosed with pre-diabetes during this period; this upward trend has held true since 2001. Ms. Gabriele informed the committee that New Mexico was one of only eight states to receive funding from the National Diabetes Prevention program, and she spoke on the manner in which DPP funds were allocated in FY 2013. Funds were used to employ staff, to implement two major initiatives (health systems improvement and the National DPP), to support Kitchen Creations programs, for professional development/training and to coordinate efforts with other chronic disease programs. There are 20 DPP sites located throughout New Mexico. (Please refer to the handout, slides 13 through 18, marked as agenda item 2, for more information.)

Patty Morris, program manager of Healthy Kids New Mexico, presented information to the committee on New Mexico childhood obesity trends, Healthy Kids New Mexico programs and communities, the manner in which Healthy Kids New Mexico has used the TSFs and the early successes of this program. Ms. Morris informed the committee that in 2012, 14.6% of incoming kindergarten students and 21.4% of incoming third grade students were obese. From the same data pool, Native American kindergarten and third grade students were significantly more likely to be obese than their Hispanic and White counterparts. Healthy Kids New Mexico programs are based in more than 10 communities throughout New Mexico (Healthy Kids Healthy Communities, Healthy Kids Healthy Childcare and Healthy Kids Surveillance System, among others) and have achieved some measure of success: the Robert Wood Johnson Foundation reports that the state has seen a 5.3% decline in obesity among third grade students. Ms. Morris presented the TSFs allocated for FY 2013; funds were distributed among the Healthy Kids Las Cruces and Healthy Kids Chaves County programs, as well as to conduct nutritional and physical activity surveys of elementary school children and to support community efforts for reducing exposure to secondhand smoke in multi-unit housing. (Please refer to slides 20 through 25 of the handout, marked as agenda item 2, for more information.)

Andrew Gans, program manager of the HIV Prevention program, spoke about allocations from the TSFs to the Harm Reduction and Hepatitis programs and how the money has been used and presented achievements of the programs for FY 2013. Mr. Gans said that TSROC support is essential to these programs because neither program receives any federal money for contractual services, which include delivery of hepatitis vaccinations, substance abuse treatment, hepatitis C treatment and HIV/sexually transmitted disease testing. The Harm Reduction program, coupled with the statewide Syringe Services program (SSP), has achieved a collection rate of 95% to 97%; in annual re-enrollment interviews, 84% to 87% of program participants report not sharing syringes. Mr. Gans also said that the Overdose Prevention program in New Mexico is growing rapidly. More than 1,200 persons were trained to administer the overdose-reversal drug Narcan in 2012, doubling the number of overdose reversals for 2012 (there were 175 overdose reversals in 2011 and 510 overdose reversals in 2012). (Please refer to slides 27 through 32 in the handout, marked as agenda item 2, for more information.)

Questions and Comments

A committee member asked why the number of individuals enrolling in the QUIT NOW program decreased during the past year. Mr. Jacquez said that the number of people enrolling has decreased because there are currently a wider variety of cessation services available, including home- and web-based services.

Another committee member, commenting on the trends of tobacco use by New Mexico youth, said that New Mexico has been unsuccessful recently in raising taxes on tobacco products, which is unfortunate because studies show that increasing taxes leads to a decline in tobacco use. The committee member also recommended that the TUPAC look into the Media Literacy Project; she suggested that the program might utilize a tool similar to the project to educate New Mexico youth about hookahs and other emerging tobacco products.

A committee member asked about national childhood obesity trends. Ms. Morris informed the committee that national childhood obesity trends show that obesity levels are leveling off or decreasing; however, feelings of cautious optimism should be tempered because this trend is based on only three years of data.

Another committee member commented on the amount of tobacco settlement funding for the DPP. He noted that the program's funding would be down to \$200,000 (from \$430,000) in the coming year because the program does not have any state funding. The committee member recommended that the TSROC provide support for the DPP.

Several committee members asked questions about barriers to getting children to eat healthy foods and barriers to getting healthy foods into schools. Ms. Morris said that the key to getting children to eat healthy foods is exposure to healthy foods; literature states that children must be exposed 21 times before they are likely to enjoy these foods. Several school districts implement a "21-Day Challenge" to encourage students to eat healthy foods. The creation of school gardens has also proven effective in getting children to eat healthy foods. Making a connection to where food comes from is also important in getting children to want to eat healthy foods; they should understand that food comes from the earth, not the grocery store. In regard to getting healthy foods into schools, Ms. Morris said that the ease with which this can be done varies by school district. Food service directors must be involved; there are also bidding systems, purchase order forms and other paperwork to overcome. However, some farm-to-table programs have been successful in getting fresh, healthy foods into middle schools and high schools.

A committee member commented that ranchers should be involved in getting healthy, locally grown food into schools. A committee member noted that the Farm Bureau has been looking into this matter because it often facilitates the process to have a third party involved. Ms. Morris explained that farm-to-table programs are working with ranchers; however, problems arise in tracking disease paths if there should be an outbreak of disease.

Another committee member recommended that a memorial be passed to encourage or require school districts to buy locally grown foods. The memorial should give preference to New Mexico schools in competitive bid situations and should reduce the paperwork burdens on districts that buy local.

Other committee members asked questions about the number of times individuals attempt to quit tobacco or other drugs before achieving long-term success and what are the barriers to success. Regarding addictions to nicotine, Mr. Gans informed the committee that it often takes about seven to 10 attempts for an individual to quit smoking; for this reason, no one is ever discouraged from seeking help. Mr. Gans told the committee that a significant barrier for an individual wanting access to treatment is being on a waiting list for a facility. Often, individuals will be discouraged or lose interest in recovery if there is a wait time for services.

Committee members also asked about the overdose-reversal drug Narcan. Mr. Gans explained that Narcan is a drug that can be used to counteract an overdose of opiates; the drug can be administered intravenously or as a nasal spray. After revival with Narcan, an individual should go to the hospital for treatment. One dose of Narcan costs approximately \$14.00. There are no known liability concerns for administering Narcan. It is not uncommon for police and emergency medical services personnel to carry Narcan.

Several committee members expressed concern about the rising popularity of e-cigarettes. Mr. Jacquez explained that e-cigarettes fall under the category of emerging tobacco products, and the use of e-cigarettes is expected to overtake the use of cigarettes within 20 years. Regarding quitting e-cigarettes, there has been little research on the difficulty of this with respect to their nicotine and flavor content.

There was discussion on the graduation rates of students who are self-reported smokers compared with students who do not smoke.

Report on New Mexico Higher Education Campus Tobacco Policies

Ms. Mathis reported on Senate Memorial 63. A list of New Mexico secondary educational institutions and their tobacco policies will be forwarded to the committee members in the future. Ms. Mathis also provided committee members with three handouts concerning tobacco control policies, programs and trends published by the federal Department of Health and Human Services, the CDC and the American Lung Association.

Tobacco Settlement Arbitration

Ari Biernoff, New Mexico Attorney General's Office, informed the committee on the status of arbitration for the tobacco settlement. Mr. Biernoff reported that, as of the TSROC meeting date, there had not been a final decision reached by the arbitration panel but that a decision is expected by the end of the summer; the absolute cutoff for a decision is November 2013.

Questions and Comments

A committee member asked about the level of cooperation between the administration and the Taxation and Revenue Department (TRD) regarding the arbitration. Mr. Biernoff said that there has been much cooperation, with two of the witnesses coming from the TRD. The Attorney General's Office covered the travel and hotel costs for the witnesses.

Another committee member asked about the strength of the state's presentation in the case. Mr. Biernoff said that the state put on a strong case and that there are many facts in favor of the state. He further stated that there was good expert testimony on tribal law and economics presented on behalf of the state.

Approval of Minutes of June 11, 2013 Meeting

A motion by Representative Chasey to approve the minutes of the previous meeting was seconded by Senator McSorley and unanimously approved.

Public Comment

Anna Hatanaka Otero spoke in support of the Family Infant Toddler program (FIT). She wanted the committee to recognize that the program has not been fully funded in the past and that the FIT has drafted a proposal to the DOH requesting \$4 million for supplemental deficiencies. Ms. Otero informed the committee that the FIT program has not seen a funding rate increase in the last 10 years. Ms. Otero urged the committee to support an appropriation from the TSFs of \$2 million for the FIT to help fund service providers for the retention of staff, to recruit new staff and to maintain the quality services that benefit children and families.

State Investment Council (SIC) Primer, Update and Socially Responsible Investment

Steve Moise, state investment officer, State Investment Council (SIC), and Vince Smith, deputy state investment officer, SIC, presented an overview of the SIC's role in managing the Tobacco Settlement Permanent Fund (TSPF), a fund investment update and challenges with asset allocation. The overview included information about the SIC members, operations and recent reforms and the assets under SIC management. (Please refer to slides 2 through 5 in the handout, marked as agenda item 4, for more information.) The SIC invests approximately \$14 billion each year. Mr. Moise and Mr. Smith presented data revealing that the TSPF grew by approximately \$21.2 million in FY 2013 (an investment return of approximately 12.5%), and the fund currently has a balance of approximately \$170.2 million. The majority of holdings reside in public equities (slide 6). In FY 2013, the SIC's funds saw approximately a 13.3% return on investments (ROI); other large state funds saw a 12% ROI on average. The presenters recommended two options for restructuring the TSPF, with intergenerational equity as the ultimate goal: 1) improved, but similar, allocation of investments; and 2) increased diversification of investments into alternative asset classes (slide 8). Mr. Moise and Mr. Smith explained to the committee that there is still much for the SIC to accomplish regarding the TSPF. They requested a land grant permanent funds (LGPF) amendment to remove statutory or constitutional conflict and a cap on international investments; requested a study of the benefits of consolidating New Mexico investments in the future; and recommended that fund in-flows be increased and protected to

increase distributions and benefits each year (slide 11). Along with the consolidation of investment management in New Mexico, the presenters recommended that the committee consider increasing the retention of severance tax funds in the TSPF.

Questions and Comments

A committee member asked about the overall performance of the LGPFs. The presenter said that the five-year performance is still under 5% because it includes data from 2008.

Several legislators discussed the status of the TSPF as a reserve fund. A legislator said that the TSPF is about one-third of the state's reserve. His long-term conservative approach would be to grow the fund and not use the TSPF as part of the reserve. Another committee member suggested managing the fund more aggressively because although the fund is a reserve fund, it is one of the last funds to be accessed in an emergency.

There was discussion about using the TSPF to support programs, including Medicaid and TUPAC. A committee member suggested that increasing the fund through aggressive investments would be good, so that the earnings from the fund could be used to support various programs.

A committee member posed the question of constitutionally protecting the TSPF. Another member cautioned against this because the fund may be needed for "rainy day" purposes in the future, and constitutional protections would make it difficult to access the fund in an emergency situation.

Another committee member commented that, nationally, endowments distribute about 5% of their funds, while New Mexico is distributing about 5.8%. Additionally, Arizona distributes 2.5% of its permanent fund. North Dakota has expressed interest in talking to New Mexico because North Dakota recently established a permanent fund.

Committee members expressed concern over investing in projects where the cost of mortgages exceeds the useful life of any equipment or technology involved and asked the SIC how to handle this situation. The presenters said that the SIC does not get directly involved in these situations but will participate in these types of discussions. Mr. Moise and Mr. Smith recommended legislative restraint on spending to avoid depletion of capital outlay and severance tax funds.

Regarding the presenters' recommendation for the consolidation of investment management in New Mexico, a committee member noted that this question has been put to the SIC by the Investments and Pensions Oversight Committee in the past. The overall recommendation from the committee members and presenters is to keep all committees and program boards in place and to ask an investment consultant to provide an objective assessment on the positive and negative aspects of consolidation.

Concerns about partisanship in state investment strategy were expressed.

Several committee members asked questions about how the SIC views and manages fees and hidden fees in the investment process. Mr. Moise and Mr. Smith said that the current SIC membership views fees differently than the previous membership. Fees are viewed as an investment. The SIC strives to hire the best managers possible; for every \$1.00 spent in management fees, the SIC expects \$2.00 to \$3.00 back in additional returns. Another strategy the SIC has employed is to make larger investments and to hire fewer managers. The SIC no longer pays third-party marketing fees or finder's fees.

A committee member asked about the SIC's decision to invest TSPF money in tobacco. The presenter said that the tobacco investments are index funds; tobacco companies are still very large and are a part of most major portfolios.

Another committee member asked about the performance of socially responsible investments. The presenters said that there are studies that show both positive and negative returns on socially responsible investments.

Adjourn

The meeting adjourned at 5:30 p.m., at which time various staff and committee members toured the SRMC.

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