

**MINUTES**  
**of the**  
**TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE**  
**September 8, 2006**  
**Santa Fe**

The second meeting of the Tobacco Settlement Revenue Oversight Committee (TSROC) was called to order on September 8, 2006 at 9:00 a.m. in Room 311, State Capitol, by Representative Gail Chasey, co-chair.

**Present**

Rep. Gail Chasey, co-chair  
Rep. Danice Picraux  
Sen. John C. Ryan  
Rep. Gloria C. Vaughn

**Absent**

Sen. Mary Jane M. Garcia, co-chair  
Sen. John T.L. Grubestic

**Advisory Members**

Sen. Rod Adair  
Rep. Ray Begaye  
Sen. Joseph J. Carraro  
Sen. Dede Feldman  
Sen. Linda M. Lopez

Sen. James G. Taylor  
Rep. Teresa A. Zanetti

**Guest**

Rep. Luciano "Lucky" Varela

**Staff**

Ramona Schmidt  
Cristina Martinez

**Friday, September 8**

Representative Chasey welcomed all attendees to the TSROC meeting and asked the members of the committee and support staff to introduce themselves.

**Overview of Past Recommendations**

Cleo Griffith, Legislative Council Service staff, gave a history on the origination of the Master Settlement Agreement, the funding and the original intent for funding on health and education. She noted that 40 states were parties to the Master Settlement Agreement in November 1998, which required the nation's largest tobacco companies to make annual payments to states in perpetuity for reimbursement for past tobacco-related costs. An estimate of the payments that New Mexico would receive over the next 25 years was \$1.2 billion. The amount that manufacturers would actually pay is adjusted annually based on inflation and the number of cigarettes sold. Ms. Griffith shared two interesting provisions: (1) payments are based on volume of sales in the United States, not on profits; and (2) the settlement agreement did not address state appropriation of funds, leaving states free to use the funds as they chose. She stated the committee began presenting its requests before the Legislative Finance Committee

(LFC) in 2000 in order to have the legislature support the program payments.

A chart of the five-year calendar year market value calculations and distributions under the 4.7 percent formula was reviewed. It was noted that if funding had not been diverted from the permanent fund, in 2025, the corpus of the fund could be protected and larger distributions could occur.

Ms. Griffith noted that, in 2003, the governor wanted to abolish the permanent fund and put the settlement revenue in the general fund. A compromise was reached to suspend deposits to the permanent fund for four years and treat the balance in the permanent fund as part of reserves. She stated that as of FY07 100 percent of the payment is going into the Tobacco Permanent Fund. The amount for FY05 was \$77.3 million, for FY06 it was \$83.6 million and for FY07 it is \$106.5 million. Ms. Griffith reminded the committee that it was the Medicaid crisis that resulted in the legislation to move the funds into the general fund rather than putting 100 percent in the permanent fund. In respect to Medicaid funding, Representative Varela said the LFC is looking at the budget request from the Human Services Department and the revenue picture for 2010 looks positive. Committee members asked that a presentation occur at the next meeting to review how the State Investment Council is investing the Tobacco Settlement Fund money. Ms. Griffith stated the committee is still charged with oversight of needs and has the capability to change what programs are funded.

### **University of New Mexico (UNM) Health Sciences Center Evaluation and RFP Process Report**

The UNM Health Sciences Center (HSC) presentation was made by Dr. Roth, who gave a general overview of the UNM Health Sciences Center, which was created in 1994. The HSC is made up of the College of Nursing, College of Pharmacy, the School of Medicine, the Health Sciences Library and Informatics Center and UNM hospitals. Dr. Roth stated that the primary mission of the HSC is to prepare the next generation of New Mexico's health care providers. He noted that the Cancer Center had recently been recognized as one of the top 50 in the country. Dr. Roth stated the research at the HSC focuses on the collaborative, interdisciplinary efforts of the School of Medicine, College of Nursing and College of Pharmacy faculty. This model promotes the inclusion of scientists from both clinical and basic science disciplines into programs of translational research that are dedicated to finding ways to improve health care outcomes. Dr. Roth stated they are working with the Department of Health (DOH) on research. Dr. Richard S. Larson, senior associate dean for research, said that there is a project he leads on the detection of viruses, including the West Nile virus and that he is currently developing a prototype of a hand-held device to be used for virus detection.

It was noted that the allocation of the Tobacco Settlement Fund for FY07 appropriations to UNM HSC for special programs, I&G programs and research programs was for a total of \$4.4 million. Dr. Larson reviewed the tobacco-related research FY06 allocations. He reviewed various areas, including the genomics core facilities, epidemiology, enhanced tobacco-related research, clinical research and trials, and biocomputing. Dr. Larson stated HSC is evaluated yearly with internal evaluation criteria and external measures of success. He then reviewed the publications and grants supported by tobacco settlement funds, clinical and translational science

center (CTSC) and signature programs, the CTSC objective, an organizational schematic of the UNM CTSC, the CTSC status and the highlights of supported activities.

Discussion occurred as to determination of what actually causes tobacco-related disease. It was noted compounds in the tobacco cause disease but with no specific compound as of yet identified.

### **Lovelace Respiratory Research Institute (LRRI) Status and Outcomes Report**

Dr. Robert Rubin, Lovelace Respiratory Research Institute (LRRI), stated LRRI is the only private basic-science, biomedical research organization totally dedicated to the study of respiratory diseases. He stated the original major goal was to develop a test that can identify people who are at greatest risk for lung cancer, so these people could receive further clinical evaluation to determine if they have early-stage lung cancer. Dr. Rubin stated that there is a program at LRRI to identify a panel of genes whose detection in sputum predicts lung cancer up to 18 months prior to diagnosis by a physician in some persons. Dr. Yohannes Tesfaigzi addressed the committee on chronic obstructive pulmonary disease (COPD) and the genes associated with emphysema. Dr. Rubin stated these two programs are what tobacco funds are used for. Representative Chasey noted the committee is aware of the funding failure to LRRI during the current fiscal year and stated the committee would work to address this to ensure it does not occur in the upcoming year. Representative Varela said he or someone from LFC would research the LRRI funding failure and report the findings to the TSROC. Committee members noted this program has been one of the most beneficial use of funds and stated that when the funding recommendations are made for FY08, LRRI should be fully funded. Discussion occurred on the shared partnership between UNM and LRRI, the need for stability in funding, the possibility to restore the lost funding and the proposal of changing the fiscal agent from UNM to DOH.

A motion was made to approve the minutes from the June 14, 2006 meeting, which was seconded, and the minutes were adopted.

### **Tobacco Use Prevention and Control (TUPAC) Program Evaluation and RFP Process Report**

David Vigil, bureau chief, and Larry Elmore, program manager, DOH, presented before the committee on the Tobacco Use Prevention and Control (TUPAC) Program. The request for proposal (RFP) process was discussed. Mr. Elmore reviewed the tobacco performance measures that were put in place at the request of the committee. Mr. Elmore stated the first performance measure is per capita consumption, which has a 25-pack decrease over the past 10 years. The second performance measure is the adult smoking rate with a statistically significant decline in adult smoking between the inception of the TUPAC Program and 2004. The benefits of these decreases were reviewed. Mr. Elmore noted a funding change from last year included a Spit Tobacco Use Prevention Program, in part due to the increase in marketing by the tobacco industry, and increased funding for cessation programs. The TUPAC FY07 contract distribution and TUPAC Native American-focused funding were reviewed. Mr. Elmore stated the RFP process in place ensures effective providers but can be challenging for organizations that are not experienced in the area of the department's TUPAC Program or proposal writing. Mr. Elmore

reviewed ways DOH has improved processes so tribes can access funding, including providing instructional DVDs and a web site, conducting a preproposal conference, providing technical assistance and capacity-building mini-grants, setting aside funding for tribes for capacity building that does not involve an RFP process and awarding money to tribes exempt from the RFP process.

In response to a question on the youth smoking measurement, Mr. Elmore noted this measurement has been changed to track middle school rather than high school students, which has resulted in a lack of significant statistics. He said because it is illegal for youth under the age of 18 to purchase cigarettes, it is difficult to track to see if raising the cigarette tax has had an impact on teen smoking. Discussion occurred on the youth media campaign and what gets teens' attention. The various methods for cessation tracking were reviewed.

### **Diabetes Program Evaluation and RFP Process Report**

Judith Gabriele, program manager, DOH, discussed the diabetes program evaluation. Ms. Gabriele spoke about diabetes in New Mexico and reviewed the risk factors, the cost to the state and how the department spent the Tobacco Settlement Fund money in FY06. She stated the program goals are to improve diabetes practice in rural New Mexico, improve diabetes self-management, support indigent diabetes care and improve nutrition and physical activity for people at risk for type 2 diabetes.

Ms. Gabriele reviewed the following project summaries:

- a professional, materials and system development to improve self-management;
- the kitchen creations cooking school project, developed with 49 kitchen creations schools that reached 995 participants during 2006;
- the Active and Alive Program, featuring physical activity classes and walking clubs for people with diabetes with limited mobility;
- the Meters and Strips Program to provide glucose meters and strips;
- the Harm Reduction Program that allows people with diabetes to safely dispose of used syringes;
- CATCH, a coordinated approach to child health;
- Walk Dona Ana, which is a walking program in Las Cruces; and
- public education and media with a web site and ad campaign in selected locations publicizing the toll-free phone number.

Ms. Gabriele will provide committee members with information on the schools by region that offer the CATCH Program. Committee members discussed the need for increasing physical activity and training in the school system and certification of diabetes educators.

### **HIV/AIDS Program Evaluation and RFP Process Report**

Daryl Smith, bureau chief with the DOH, presented before the committee on the HIV/AIDS Program. He stated that as of June 30, 2006, there were 3,171 persons on record, cumulatively, living with HIV/AIDS in New Mexico and, of this number, 2,085 were diagnosed in-state. In FY06, there were 156 new diagnosed cases of HIV/AIDS in New Mexico and 12

deaths related to HIV/AIDS. Mr. Smith stated tobacco funds are utilized to support the department's Harm Reduction Program, which provides syringe exchange, overdose prevention training, auricular detoxification and substance use referrals to approximately 4,300 people. The DOH HIV/AIDS services work with the HIV-positive population, providing medical treatment and counseling, case management and other services primarily through the Health Management Alliance (HMA) provider agreements.

Committee members raised issues, including required testing for HIV, the types of tests used to detect HIV and the cost per client in the program. Mr. Smith stated the tobacco funds received support 74 clients in New Mexico.

### **Breast and Cervical Cancer Program Evaluation**

Larry Heyeck, deputy director, and Virginia Alcon, staff manager, Human Services Department, presented before the committee on the Breast and Cervical Cancer Program. Mr. Heyeck stated that DOH receives a federal grant from the Centers for Disease Control (CDC) to perform screenings for breast and cervical cancer and that Medicaid administers the program once DOH has determined a woman is eligible for the program. He reviewed eligibility criteria; federal criteria for eligibility; DOH breast and cervical cancer data; and the costs for state FY06 and FY05. He stated that the goal of the program is to increase services and noted that women in the program receive full Medicaid coverage through fee for service. Mr. Heyeck stated that administrative costs for the Medicaid program are completed as an aggregate amount since costs are primarily funded from a single funding stream.

Discussion occurred as to federally matched funds.

### **Indian Affairs Department TUPAC Program Update**

Benny Shendo, Jr., secretary, and Teresa C. Gomez, deputy director, Indian Affairs Department (IAD), addressed the committee on the funding through the committee for tobacco cessation programs that impact Native American communities throughout the state. Secretary Shendo stated that they met with Mr. Elmore from DOH to discuss evaluation models and best practices. They agreed to develop a curriculum that looks at the commercial use of tobacco not associated with the use of tobacco in Native American religious practices. He stated that there are many issues in the Native American community to address ongoing health issues of which this could be a part. Secretary Shendo said IAD is looking at dividing funding into two parts, with approximately half of the \$500,000 to be used for an RFP for tribes or organizations to partner among tribes or nonprofit organizations addressing this on a larger scale, and the remaining amount to be divided into mini-grants for the tribes. He informed the committee of various needs among the 22 tribes for youth and stated that he is unsure as to any restrictions on use of the funds. Secretary Shendo stated that due to the issues with the SHARE system, it will take some time to put out the RFP. Discussion occurred on taxation on Indian trust land and within the checkerboard area.

Committee members clarified part of the intent in partnering the IAD with the DOH TUPAC Program was to mirror some of the CDC recommendations. The interpretation is that the funding was to go to direct services for tobacco prevention programs for children. Secretary

Shendo noted that one challenge facing the IAD will be the understanding by youth and elders regarding tobacco use for religious and ceremonial purposes as opposed to recreational use and the conversations that will need to occur to meet this objective. Concern was raised by the committee on providing individual communities with smaller grants of \$10,000 rather than working with those entities already involved in the TUPAC Program. In response to the concern, Deputy Director Gomez stated performance outcomes and measures would be tracked on any mini-grants awarded. Secretary Shendo asked audience members working with the IAD TUPAC Program to introduce themselves and share their roles.

### **SmartMoves Program Evaluation**

Mr. Elmore updated the committee members on the concerns between the Santa Fe Boys' and Girls' Club and the New Mexico Alliance. He noted an independent evaluator was hired who did site visits with all the Boys' and Girls' Clubs throughout the state. This resulted in a report being drafted and shared, but after review, it was decided there was additional input that should be gathered. Mr. Elmore stated that this had been accomplished and an executive summary will be shared with the members of the committee.

Having no further business, the committee adjourned at 3:45 p.m.