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HOUSE BILL 12

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 2009**

INTRODUCED BY

Brian F. Egolf

AN ACT

RELATING TO REVENUE; INCREASING THE CIGARETTE TAX RATE;  
INCREASING THE TOBACCO PRODUCTS TAX RATE; ADJUSTING THE  
DISTRIBUTIONS OF CIGARETTE TAX; ADJUSTING THE DISCOUNTS ON  
CIGARETTE STAMP SALES; DECLARING AN EMERGENCY.

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

Section 1. Section 7-1-6.11 NMSA 1978 (being Laws 1983,  
Chapter 211, Section 16, as amended) is amended to read:

"7-1-6.11. DISTRIBUTIONS OF CIGARETTE TAXES.--

A. A distribution pursuant to Section 7-1-6.1 NMSA  
1978 shall be made to the county and municipality recreational  
fund in an amount equal to [~~one and thirty-five hundredths~~]  
ninety-three hundredths percent of the net receipts, exclusive  
of penalties and interest, attributable to the cigarette tax.

B. A distribution pursuant to Section 7-1-6.1 NMSA

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1 1978 shall be made to the county and municipal cigarette tax  
2 fund in an amount equal to [~~two and sixty-nine hundredths~~] one  
3 and eighty-five hundredths percent of the net receipts,  
4 exclusive of penalties and interest, attributable to the  
5 cigarette tax.

6 C. A distribution pursuant to Section 7-1-6.1 NMSA  
7 1978 shall be made to the cancer research and treatment center  
8 at the university of New Mexico health sciences center in an  
9 amount equal to [~~one and thirty-five hundredths~~] ninety-three  
10 hundredths percent of the net receipts, exclusive of penalties  
11 and interest, attributable to the cigarette tax.

12 D. A distribution pursuant to Section 7-1-6.1 NMSA  
13 1978 shall be made to the New Mexico finance authority in an  
14 amount equal to [~~two and two hundredths~~] one and thirty-nine  
15 hundredths percent of the net receipts, exclusive of penalties  
16 and interest, attributable to the cigarette tax.

17 E. A distribution pursuant to Section 7-1-6.1 NMSA  
18 1978 in an amount equal to [~~fourteen and thirty-seven~~  
19 ~~hundredths~~] nine and eighty-seven hundredths percent of the net  
20 receipts, exclusive of penalties and interest, attributable to  
21 the cigarette tax, shall be made, on behalf of and for the  
22 benefit of the university of New Mexico health sciences center,  
23 to the New Mexico finance authority.

24 F. A distribution pursuant to Section 7-1-6.1 NMSA  
25 1978 in an amount equal to [~~six and five hundredths~~] four and  
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1 sixteen-hundredths percent of the net receipts, exclusive of  
2 penalties and interest, attributable to the cigarette tax shall  
3 be made to the New Mexico finance authority for land  
4 acquisition and the planning, designing, construction and  
5 equipping of department of health facilities or improvements to  
6 such facilities.

7 G. A distribution pursuant to Section 7-1-6.1 NMSA  
8 1978 in an amount equal to [~~fifteen and seventy-nine~~  
9 ~~hundredths~~] ten and eighty-five hundredths percent of the net  
10 receipts, exclusive of penalties and interest, attributable to  
11 the cigarette tax shall be made to the New Mexico finance  
12 authority for deposit in the credit enhancement account created  
13 in the authority.

14 H. A distribution pursuant to Section 7-1-6.1 NMSA  
15 1978 in an amount equal to [~~one~~] sixty-nine hundredths percent  
16 of the net receipts, exclusive of penalties and interest,  
17 attributable to the cigarette tax shall be made, on behalf of  
18 and for the benefit of the rural county cancer treatment fund,  
19 to the New Mexico finance authority."

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

22 "7-12-3. EXCISE TAX ON CIGARETTES--RATES.--

23 A. For the privilege of selling, giving or  
24 consuming cigarettes in New Mexico, there is levied an excise  
25 tax at the following rates for each cigarette sold, given or  
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1 consumed in this state:

2 (1) [~~four and fifty-five hundredths cents~~  
3  ~~(\$.0455)~~] nine and fifty-five hundredths cents (\$.0955) if the  
4 cigarettes are packaged in lots of twenty or twenty-five;

5 (2) [~~nine and ten hundredths cents (\$.091)~~]  
6 nineteen and ten-hundredths cents (\$.191) if the cigarettes are  
7 packaged in lots of ten; or

8 (3) [~~eighteen and twenty hundredths cents~~  
9  ~~(\$.182)~~] thirty-eight and twenty-hundredths cents (\$.382) if  
10 the cigarettes are packaged in lots of five.

11 B. The tax imposed by this section shall be  
12 referred to as the "cigarette tax".

13 Section 3. Section 7-12-7 NMSA 1978 (being Laws 1971,  
14 Chapter 77, Section 7, as amended by Laws 2006, Chapter 89,  
15 Section 3 and by Laws 2006, Chapter 91, Section 6) is amended  
16 to read:

17 "7-12-7. SALE OF STAMPS--PRICES.--

18 A. Only the department shall sell stamps. Stamps  
19 may be sold by the department only to a distributor.

20 B. Stamps shall display a serial number. Stamps  
21 bearing the same serial number shall not be sold to more than  
22 one distributor. The department shall keep records of the  
23 serial numbers of the stamps provided to each distributor.

24 C. A stamp shall be affixed to a package of  
25 cigarettes in such a manner as to clearly display the serial

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1 number at the point of sale.

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

4 (1) [~~one~~] forty-eight hundredths percent less  
5 than the face value of the first thirty thousand dollars  
6 (\$30,000) of stamps purchased in one calendar month;

7 (2) [~~eight-tenths~~] thirty-eight hundredths  
8 percent less than the face value of the second thirty thousand  
9 dollars (\$30,000) of stamps purchased in one calendar month;  
10 and

11 (3) [~~one-half~~] twenty-four hundredths percent  
12 less than the face value of stamps purchased in excess of sixty  
13 thousand dollars (\$60,000) in one calendar month.

14 E. If the face value of tax stamps sold in a single  
15 sale is less than one thousand dollars (\$1,000), the discount  
16 provided for in this section shall not be allowed.

17 F. Payment for tax stamps shall be made on or  
18 before the twenty-fifth day of the month following the month in  
19 which the sale of stamps by the department is made.

20 G. Tax-exempt stamps shall be provided only to  
21 distributors and shall be free of charge; provided that the  
22 distributor is in full compliance with the reporting  
23 requirements of the Cigarette Tax Act and rules adopted  
24 pursuant to that act."

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

2 "7-12A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS  
3 "TOBACCO PRODUCTS TAX"--DATE PAYMENT OF TAX DUE.--

4 A. For the manufacture or acquisition of tobacco  
5 products in New Mexico to be distributed in the ordinary course  
6 of business and for the consumption of tobacco products in New  
7 Mexico, there is imposed an excise tax at the rate of [~~twenty-~~  
8 ~~five~~] forty percent of the product value of the tobacco  
9 products.

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

12 C. The tobacco products tax shall be paid by the  
13 first purchaser on or before the twenty-fifth day of the month  
14 following the month in which the taxable event occurs."

15 Section 5. APPLICABILITY.--The distributions pursuant to  
16 the provisions of Section 1 of this act that are to become  
17 effective on the effective date of this act apply to revenue  
18 earned on a modified accrual basis on or after that date.

19 Section 6. CONTINGENT EFFECTIVE DATE.--The effective date  
20 of the provisions of this act is January 1, 2010; provided that  
21 the act is adopted by a vote of two-thirds' vote of each house.  
22 If either house fails to adopt this act by a two-thirds' vote,  
23 the effective date shall be February 1, 2010.

24 Section 7. EMERGENCY.--It is necessary for the public  
25 peace, health and safety that this act take effect immediately.

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