

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

**November 30, 2017
State Capitol, Room 311
Santa Fe**

The fourth meeting of the Tobacco Settlement Revenue Oversight Committee (TSROC) was called to order by Senator Cisco McSorley, co-chair, on November 30, 2017 at 10:10 a.m. in Room 311 of the State Capitol in Santa Fe.

Present

Sen. Cisco McSorley, Co-Chair
Rep. Joanne J. Ferrary
Sen. Sander Rue
Rep. Monica Youngblood

Absent

Rep. Elizabeth "Liz" Thomson, Co-Chair
Sen. John Arthur Smith

Advisory Members

Sen. Linda M. Lopez

Rep. Gail Chasey
Sen. Candace Gould
Sen. Mary Kay Papen
Rep. Jim R. Trujillo

Guest Legislators

Rep. Alonzo Baldonado
Sen. Nancy Rodriguez

Minutes Approval

Because the committee will not meet again this year, the minutes for this meeting have not been officially approved by the committee.

Staff

Celia Ludi, Staff Attorney, Legislative Council Service (LCS)
Kathleen Dexter, Researcher, LCS
Sara Wiedmaier, Intern, LCS
Maria Alaena Romero, Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are on the website and in the meeting file.

Thursday, November 30

Tobacco Settlement Funds Update

Ruby Ann Esquibel, principal analyst, Legislative Finance Committee (LFC), and Dawn Iglesias, economist, LFC, gave a three-year review of the Tobacco Settlement Permanent Fund (permanent fund) and presented the LFC's fiscal year (FY) 2019 recommendations for appropriations from the Tobacco Settlement Program Fund (program fund).

The permanent fund balance at the close of FY 2018 is projected to be \$156 million, a gain of nearly \$46 million since FY 2016, when more than \$109 million was transferred from the fund to shore up the General Fund, but it is still \$60 million shy of its balance prior to the transfer. No such transfers were made from the permanent fund in FY 2017, and no transfers are projected for FY 2018 or FY 2019. As of October 31 of this year, the fund's balance had already risen to nearly \$152 million.

Appropriations from the program fund for FY 2016 through FY 2018 were \$40.1 million, \$37 million and \$39 million, respectively. The LFC recommends that FY 2019 appropriations total \$36 million, based on the attorney general's estimate for settlement revenue due to the state in the coming year. To make up for the \$3 million decrease in funding over FY 2018, the LFC appropriation recommendations remain flat for all programs except the Human Services Department contingent Medicaid appropriation, which is reduced by \$3 million.

On questioning, the presenters and committee members addressed the following topics.

Fund management. The State Investment Council (SIC) manages investment of the permanent fund, which had higher returns in FY 2017 than were expected and is projected to see 5.5 percent returns in FY 2018.

LFC funding recommendations. The LFC bases its funding recommendations on a review of annual agency budget requests, as well as on its own program evaluations. The LFC staff submits its recommendations to the LFC for a vote; the final LFC recommendations go to the legislature for a vote. Members and presenters discussed the value of and processes for prioritizing cessation and prevention programs for program fund spending. The committee may suggest that if extra money becomes available, it should be appropriated for tobacco cessation and prevention programs.

Medicaid. A member expressed concerns that the federal budget currently under debate might cut Medicaid by \$300 billion and noted that when a similar cut was made in the past, the reduction was taken from Medicaid spending for cancer treatment.

Minutes

On a motion duly made, seconded and unanimously adopted, the minutes from the committee's September 5, 2017 meeting were approved.

Funding Requests for FY 2019

Referring to the funding requests table handout, Ms. Ludi presented a list of agency requests for funding from the program fund, noting that the requests from the Department of Health (DOH) for the Tobacco Use Prevention and Control Program and the Hepatitis and Harm Reduction Program and from the University of New Mexico (UNM) Health Sciences Center are higher than the amounts recommended by the LFC in its presentation. The funding requests table handout summarizes the information provided by the applicants on the Tobacco Settlement Funding Revenue Request forms. The table and forms are posted on the legislature's website, linked to item 2 of the agenda.

Speaking from the audience in support of the requests presented on the list were Cathy Roche, deputy director of programs, Public Health Division, DOH; Benjamin Jacquez, manager, Tobacco Use Prevention and Cessation Program, Public Health Division, DOH; Paul Sanchez-Hindi, executive director, New Mexico Cancer Center Foundation; Allie Moore, project manager, Keres Consulting, Inc.; Mathew Munoz, government relations manager, UNM; Judy Towers, ambassador, American Cancer Society Cancer Action Network; and Janna Vallo, commercial tobacco control and prevention coordinator, Albuquerque Area Southwest Tribal Epidemiology Center. In discussion, the advocates pointed out that:

- reversions from FY 2017 funding totaled \$1.5 million for the Public Health Division of the DOH and \$20,039 for the Indian Affairs Department;
- the UNM Health Sciences Center's original request, which was reduced in the LFC recommendations, would restore the center's funding level to its FY 2016 amount; and
- while the annual cost to New Mexico of tobacco-related illnesses is \$1.4 billion, the state spends on average \$39 million on prevention, cessation and research programs.

On a motion duly made, seconded and unanimously adopted, the funding requests as presented by Ms. Ludi were approved.

Legislation Endorsement

Bill to Increase the Cigarette Tax (.208818.2)

Senator Howie C. Morales and Sandra Adondakis, New Mexico government relations director, American Cancer Society Cancer Action Network, requested endorsement from the committee for a bill that would increase the cigarette tax and tobacco products tax; include e-cigarettes in the scope of the Tobacco Products Tax Act; and distribute revenue from the tax increases to the Public School Fund for the state equalization guarantee distribution. In discussion, the presenters and committee members noted that:

- while the bill creates a revenue source, its intent is to decrease tobacco use;
- cigar shops might go out of business if the tax is increased;
- a broader revision of the state's tax code is needed; and

- increasing tobacco taxes is a popular measure with the public.

On a motion duly made, seconded and unanimously adopted, the committee endorsed the bill.

Bill to Prohibit Tobacco Sales to Persons Under 21 (.208819.1)

Senator McSorley requested endorsement from the committee for a bill that would ban the sale of tobacco products, e-cigarettes and nicotine liquid containers to persons under 21 years of age.

On a motion duly made, seconded and unanimously adopted, the committee endorsed the bill.

House Memorial 64 Prosperity Kids Working Group Report

Ona Porter, president and chief executive officer, Prosperity Works; Janelle Johnson, senior analyst, Office of the State Auditor; David Buchholtz, Esq., board member, Prosperity Works; and Charles Wollmann, director of communications and legislative affairs, SIC, presented a report on child savings accounts (CSAs) for higher education expenses from the working group formed pursuant to House Memorial 64 of the 2017 regular session.

The memorial's focus on the value of CSAs centers on Prosperity Works, a privately funded program that establishes accounts for children born to mothers on Medicaid with an opening deposit of \$100 and matches up to \$200 per year of deposits made to those accounts for 10 years. The working group cited research showing that CSAs have been an effective way to combat poverty, in part because their accompanying "incentive accounts", which are set up for parents to use in an emergency, reduce the likelihood that a family will engage with predatory lenders. CSAs also have been found to increase savings, education outcomes, including higher education, and financial literacy. A pilot project in Albuquerque's South Valley area generated the highest savings rate in the nation.

The presenters requested, in accordance with statutory authority to appropriate tobacco settlement revenue funds for health and education programs, that a portion of the state's annual tobacco settlement funds be directed to the Prosperity Works program to expand the program beyond what has been done to date with private money. Other possible structures for creating a revenue stream to expand CSAs include tax credits for donations to the program. Mr. Buchholtz suggested that using public funds for the CSA program might not violate the Anti-Donation Clause of the Constitution of New Mexico. While the presenters did not bring a piece of legislation for the committee to consider on the topic, they noted that legislation might be introduced during the 2018 session.

On questioning, the presenters and committee members discussed the value of CSAs in fighting poverty and the possibility of having the CSA program later return its earnings to the state if an appropriation is made from the program fund.

Public Comment

Laurel McCloskey, Chronic Disease Prevention Council (CDPC), spoke in support of Senator Morales' bill to increase the cigarette tax, citing tobacco use as one of the risk factors in chronic disease and tax increases as a proven way to decrease smoking incidence in youth.

Suzanne Lawson, CDPC, spoke in support of the tax increase as well, citing her experience with family members who died from lung cancer and tumors.

Adjournment

There being no further business before the committee, the fourth meeting of the TSROC for the 2017 interim adjourned at 12:05 p.m.