



NEW MEXICO LEGISLATURE

**TOBACCO SETTLEMENT
REVENUE OVERSIGHT
COMMITTEE**

2022 INTERIM FINAL REPORT

LEGISLATIVE COUNCIL SERVICE
411 STATE CAPITOL
SANTA FE, NEW MEXICO 87501
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WWW.NMLEGIS.GOV

TABLE OF CONTENTS

INTERIM SUMMARY

WORK PLAN AND MEETING SCHEDULE

AGENDAS AND MINUTES

ENDORSED LEGISLATION

INTERIM SUMMARY

Tobacco Settlement Revenue Oversight Committee 2022 Interim Summary

New Mexico receives approximately \$30 million to \$40 million annually in tobacco settlement revenue. Pursuant to Section 6-4-9 NMSA 1978, tobacco settlement revenue is distributed to the Tobacco Settlement Permanent Fund (TS Permanent Fund). A distribution of one-half of the annual revenue is made to the Tobacco Settlement Program Fund (TS Program Fund), and one-half of the annual revenue remains in the TS Permanent Fund, which serves as a reserve fund. Annual settlement payments may be subject to challenge through arbitration by participating tobacco manufacturers.

Section 6-4-10 NMSA 1978 requires that money in the TS Program Fund be expended for health and education purposes. Pursuant to Section 2-19-1 NMSA 1978, the Tobacco Settlement Revenue Oversight Committee (TSROC) is required to monitor the use of tobacco settlement revenue, review evaluations of programs receiving funding from tobacco settlement revenue, prepare recommendations of program funding levels for the next fiscal year and make recommendations as necessary for changes in legislation regarding the use of the tobacco settlement revenue.

At the TSROC'S August meeting, the committee heard presentations from the Regulation and Licensing Department and the University of New Mexico Health Sciences Center. Each entity addressed its current use of funding as well as the entity's funding requests for fiscal year 2024.

At the September meeting, the TSROC heard testimony from local racinos, the American Heart Association, Evolvment Youth Advocates and the American Cancer Society regarding existing struggles to address tobacco use prevention and legislation needed to allow regulation of tobacco use at a local level.

The TSROC received testimony from the Department of Health and the Human Services Department at its August, September, October and November meetings on how these departments would use additional funding to address tobacco use prevention.

At its November meeting, the TSROC voted to endorse four bills: an amendment to the preemption against counties and municipalities enacting more stringent ordinances and regulations at a local level; an amendment to the Dee Johnson Clean Indoor Air Act that would prevent smoking in racinos; and two bills that would increase nicotine product taxes. Copies of the endorsed bills are included in this report.

WORK PLAN AND MEETING SCHEDULE

2022 APPROVED
WORK PLAN AND MEETING SCHEDULE
for the
TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE

Members

Rep. Joanne J. Ferrary, Co-Chair
Sen. Martin Hickey, Co-Chair
Sen. Linda M. Lopez

Sen. Gregg Schmedes
Rep. Luis M. Terrazas
Rep. Elizabeth "Liz" Thomson

Advisory Members

Rep. Gail Chasey

Sen. Shannon D. Pinto

Work Plan

The Tobacco Settlement Revenue Oversight Committee (TSROC) was established pursuant to Section 2-19-1 NMSA 1978. The committee will continue its statutory oversight duties for the programs that request and receive funding through the Tobacco Settlement Program Fund. The committee will also receive testimony regarding the balances in and projected revenues for both the Tobacco Settlement Program Fund and the Tobacco Settlement Permanent Fund.

During the 2022 interim, the TSROC will:

- (1) review the status of the revenue for current and future fiscal years and reserves for the Tobacco Settlement Permanent Fund from the Office of the Attorney General;
- (2) receive testimony regarding tobacco settlement-related litigation and legislation;
- (3) receive testimony regarding tobacco settlement-related issues, including:
 - (A) the relationship between tobacco use and mental illness, including abuse of other substances;
 - (B) prevention methods, including curtailing use of vape or e-cigarette products through increased taxation and point-of-sale deterrents;
 - (C) cessation methods and the efficacy of those methods;
 - (D) tobacco retailer compliance with licensing requirements of the Tobacco Products Act;
 - (E) future oversight needs for opioid settlement funds; and
 - (F) other topics within the scope of the committee's oversight duties;

(4) receive reports from state agencies regarding the use of all appropriations from the Tobacco Settlement Program Fund as recommended by the committee and funded by the legislature in prior years and cessation and prevention outcomes associated with those uses;

(5) receive a report from managed care organizations addressing the ongoing care of tobacco cessation patients;

(6) prepare recommendations to the Legislative Finance Committee for program funding levels for fiscal year 2024 based on the committee's program evaluation process; and

(7) make findings and recommendations, including proposed legislation, available to the legislature as part of the TSROC's final report.

**Tobacco Settlement Revenue Oversight Committee
2022 Approved Meeting Schedule**

<u>Date</u>	<u>Location</u>
June 21	Santa Fe
August 15-16	Albuquerque
September 21	Las Cruces

AGENDAS AND MINUTES

Revised: June 21, 2022

**TENTATIVE AGENDA
for the
FIRST MEETING
of the
TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE**

**June 21, 2022
State Capitol, Room 309
Santa Fe**

Tuesday, June 21

- 1:00 p.m. **Welcome and Introductions**
—Representative Joanne J. Ferrary, Co-Chair
—Senator Martin Hickey, Co-Chair
- 1:15 p.m. (1) **[Proposed Interim Work Plan and Meeting Schedule](#)**
—Sabina Gaynor, Staff Attorney, Legislative Council Service
- 2:30 p.m. **Adjourn**

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

**June 21, 2022
State Capitol, Room 309
Santa Fe**

The first meeting of the Tobacco Settlement Revenue Oversight Committee was called to order by Senator Martin Hickey, co-chair, and Representative Joanne J. Ferrary, co-chair, on June 21, 2022 at 1:23 p.m. in Room 309 of the State Capitol in Santa Fe.

Present

Sen. Martin Hickey, Co-Chair
Rep. Joanne J. Ferrary, Co-Chair
Sen. Linda M. Lopez
Rep. Elizabeth "Liz" Thomson

Absent

Sen. Gregg Schmedes
Rep. Luis M. Terrazas

Advisory Members

Rep. Gail Chasey
Sen. Shannon D. Pinto

Guest Legislator

Sen. Nancy Rodriguez

Staff

Sabina Gaynor, Staff Attorney, Legislative Council Service (LCS)
Sean Dolan, Staff Attorney, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file and posted on the legislature's website.

References to Webcast

The time reference noted next to each agenda item in this document is cross-referenced to the webcast of the committee meeting, which can be found at www.nmlegis.gov, under the "Webcast" tab. The presentations made and committee discussions for agenda items can be found on the recorded webcast for this meeting.

Tuesday, June 21

Welcome and Introductions (1:23 p.m.)

Representative Ferrary and Senator Hickey welcomed the committee, and members of the committee and staff introduced themselves.

Proposed Interim Work Plan and Meeting Schedule (1:30 p.m.)

Ms. Gaynor provided a presentation regarding the committee's proposed 2022 interim work plan and meeting schedule. The presentation can be found here:

<https://www.nmlegis.gov/handouts/TSROC%20062122%20Item%201%20proposed%20work%20plan.22.pdf>.

Public Comment (2:34 p.m.)

A list of individuals making public comment is available in the meeting file.

Adjournment

There being no further business before the committee, the meeting adjourned at 3:03 p.m.

Revised: August 15, 2022

**TENTATIVE AGENDA
for the
SECOND MEETING
of the
TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE**

**August 15-16, 2022
University of New Mexico Comprehensive Cancer Center
1201 Camino de Salud NE
Albuquerque**

Monday, August 15

- 9:00 a.m. **Welcome and Introductions**
—Representative Joanne J. Ferrary, Co-Chair
—Senator Martin Hickey, Co-Chair
- 9:15 a.m. (1) **Human Services Department: Update on Nicotine Product Cessation and Prevention Efforts**
—Kathy Leyba, Bureau Chief, Quality Bureau, Medical Assistance Division, Human Services Department
- 10:45 a.m. (2) **Nicotine Use, Mental Illness and Addiction**
—Douglas Ziedonis, M.D., Executive Vice President, University of New Mexico (UNM) Health Sciences Center; Chief Executive Officer, UNM Health System
- 12:15 p.m. **Lunch**
- 1:15 p.m. (3) **History of Tobacco Settlement Permanent Fund and Tobacco Settlement Program Fund Expenditures**
—Ruby Ann Esquibel, Principal Fiscal Analyst, Legislative Finance Committee
- 2:30 p.m. **Recess**

Tuesday, August 16

- 9:00 a.m. **Reconvene**
- 9:15 a.m. (4) **Tobacco Licensing Updates**
—Andrew Vallejos, Director, Alcoholic Beverage Control Division, Regulation and Licensing Department

- 10:45 a.m. (5) **Department of Health (DOH): Update on Nicotine Product Cessation and Prevention Efforts**
—Esther Hoang, Program Manager, Nicotine Use Prevention and Control Program, Public Health Division, DOH
—Jeff Lara, Interim Director, Public Health Division, DOH
—Britt Levine, Deputy Director of Programs, Public Health Division, DOH
—Timothy Lopez, Bureau Chief, Population and Community Health Bureau, Public Health Division, DOH
- 12:15 p.m. **Lunch**
- 12:45 p.m. (6) **Creating a Healthier Future for New Mexico Youth**
—Linda Siegle, Lobbyist, Cancer Action Network, American Cancer Society
—Mahesh Sita, Director, Government Relations, American Heart Association
- 1:45 p.m. **Public Comment**
- 2:15 p.m. (7) **EXECUTIVE SESSION: Update on Master Settlement Agreement Litigation**
—Cholla Khoury, Chief Deputy Attorney General of Civil Affairs, Office of the Attorney General
—Scott Cameron, Director, Litigation Division, Office of the Attorney General
—Julie Meade, Assistant Attorney General, Litigation Division, Office of the Attorney General
- 3:30 p.m. **Adjourn**

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

**August 15-16, 2022
University of New Mexico Comprehensive Cancer Center
1201 Camino de Salud NE
Albuquerque**

The second meeting of the Tobacco Settlement Revenue Oversight Committee was called to order by Senator Martin Hickey, co-chair, on August 15, 2022 at 9:11 a.m. at the University of New Mexico Comprehensive Cancer Center in Albuquerque.

Present

Rep. Joanne J. Ferrary, Co-Chair
Sen. Martin Hickey, Co-Chair
Sen. Linda M. Lopez
Rep. Elizabeth "Liz" Thomson

Absent

Sen. Gregg Schmedes
Rep. Luis M. Terrazas

Advisory Members

Rep. Gail Chasey
Sen. Shannon D. Pinto

Staff

Sabina Gaynor, Staff Attorney, Legislative Council Service (LCS)
Sean Dolan, Staff Attorney, LCS

Guests

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Handouts

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Monday, August 15

Human Services Department: Update on Nicotine Product Cessation and Prevention Efforts (9:19 a.m.)

Kathy Leyba, bureau chief, Quality Bureau, Medical Assistance Division, Human Services Department, presented information regarding Medicaid appropriation, cancer programs, and cessation services in New Mexico. The presentation may be found here:

<https://www.nmlegis.gov/handouts/TSROC%20081522%20Item%201%20HSD%20TSROC%20Presentation%202022%20Final%20%2008.10.22.pdf>.

Nicotine Use, Mental Illness and Addiction (11:02 a.m.)

Douglas Ziedonis, M.D., executive vice president, University of New Mexico (UNM) Health Sciences Center, and chief executive officer, UNM Health System, presented information regarding tobacco and nicotine use with regards to mental illness and addiction, high rates of health impacts, clinical treatments and public health preventative measures. The presentation may be found here:

<https://www.nmlegis.gov/handouts/TSROC%20081522%20Item%202%20Tobacco,%20Addiction%20and%20Mental%20Health.pdf>.

History of Tobacco Settlement Permanent Fund and Tobacco Settlement Program Fund Expenditures (1:29 p.m.)

Ruby Ann Esquibel, principal fiscal analyst, Legislative Finance Committee, provided a comprehensive history of the settlement fund, how it has historically been funded, where the funds have gone and possible changes. The presentation materials may be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=TSROC&Date=8/15/2022&ItemNumber=3>.

Recess

The meeting recessed at 2:41 p.m.

Tuesday, August 16

Tobacco Licensing Updates (9:11 a.m.)

Andrew Vallejos, director, Alcoholic Beverage Control Division, Regulation and Licensing Department, provided an update on licensing and regulation regarding tobacco and nicotine products, including an update on the increased tobacco tax.

Department of Health (DOH): Update on Nicotine Product Cessation and Prevention Efforts (10:46 a.m.)

Esther Hoang, program manager, Nicotine Use Prevention and Control Program, Public Health Division, DOH; Jeff Lara, interim director, Public Health Division, DOH; Britt Levine,

deputy director of programs, Public Health Division, DOH; and Timothy Lopez, bureau chief, Population and Community Health Bureau, Public Health Division, DOH, provided an update on the DOH's cessation and prevention efforts, including efforts utilized by DOH partners and funding recipients and the health effects of smoking on the general public. The presentation can be found here:

<https://www.nmlegis.gov/handouts/TSROC%20081522%20Item%205%20NUPAC%20TSROC%20Pres%20-%20Updated%2008.15.22.pdf>.

Creating a Healthier Future for New Mexico Youth (12:45 p.m.)

Linda Siegle, lobbyist, Cancer Action Network, American Cancer Society, and Mahesh Sita, director, Government Relations, American Heart Association, provided information regarding tobacco's impact in New Mexico, effective cessation programs, budget impacts and other nicotine products. The presentation can be found here:

<https://www.nmlegis.gov/handouts/TSROC%20081522%20Item%206%20Healthier%20Future%20for%20New%20Mexico%20Youth.pdf>.

EXECUTIVE SESSION (Closed Meeting): Update on Master Settlement Agreement Litigation (2:16 p.m.)

Adjournment

Following the executive session, there being no further business before the committee, the meeting adjourned at 3:24 p.m.

**TENTATIVE AGENDA
for the
THIRD MEETING
of the
TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE**

**September 21, 2022
Stan Fulton Center
Arrowhead Drive
New Mexico State University
Las Cruces**

Wednesday, September 21

- 9:00 a.m. **Welcome and Introductions**
—Representative Joanne J. Ferrary, Co-Chair
—Senator Martin Hickey, Co-Chair
—Dr. Ken Van Winkle, Associate Vice Chancellor, New Mexico State University
- 9:15 a.m. (1) **Casino and Racino Efforts to End Indoor Smoking**
—Fred Heinrich, General Counsel and Compliance Officer, Sunland Park Racetrack and Casino
- 11:00 a.m. (2) **Issues Related to Preemption**
—Mahesh Sita, Director, Government Relations, American Heart Association
—Linda Siegle, Lobbyist, Cancer Action Network, American Cancer Society
- 12:00 noon **Lunch**
- 1:15 p.m. **Public Comment**
- 1:30 p.m. (3) **Current and Future Agency Settlement Funding Distribution**
—Kari Armijo, Deputy Secretary, Human Services Department (HSD)
—Kathy Leyba, Bureau Chief, Quality Bureau, Medical Assistance Division, HSD
—Esther Hoang, Program Manager, Nicotine Use Prevention and Control Program, Public Health Division, Department Of Health (DOH)
—Jeff Lara, Interim Director, Public Health Division, DOH
- 2:30 p.m. **Approval of Minutes and Proposal of Final Meeting Dates**

3:00 p.m. (4) [Evovement Youth Advocates](#)
—Carlye Hausbeck, M.S.W., Program Supervisor, Rescue Social Change
Group
—TBD

5:00 p.m. **Adjourn**

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

**September 21, 2022
Stan Fulton Center
Arrowhead Drive
New Mexico State University
Las Cruces**

The third meeting of the Tobacco Settlement Revenue Oversight Committee was called to order by Representative Joanne J. Ferrary, co-chair, on September 22, 2022 at 9:30 a.m. at the Stan Fulton Center at New Mexico State University in Las Cruces.

Present

Rep. Joanne J. Ferrary, Co-Chair
Sen. Linda M. Lopez
Rep. Luis M. Terrazas
Rep. Elizabeth "Liz" Thomson

Absent

Sen. Martin Hickey, Co-Chair
Sen. Gregg Schmedes

Advisory Members

Rep. Gail Chasey

Sen. Shannon D. Pinto

Guest Legislator

Sen. William P. Soules

Staff

Sabina Gaynor, Staff Attorney, Legislative Council Service (LCS)
Sean Dolan, Staff Attorney, LCS

Guests

The guest list is in the meeting file.

Handouts

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References to Webcast

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Wednesday, September 21

Casino and Racing Efforts to End Indoor Smoking (9:50 a.m.)

Fred Heinrich, general counsel and compliance officer, Sunland Park Racetrack and Casino, provided information regarding the efforts by Sunland Park Racetrack and Casino to provide separate areas for smokers and nonsmokers, the differences between tribal and nontribal gaming and future plans regarding smoking indoors at Sunland Park Racetrack and Casino.

Issues Related to Preemption (10:20 a.m.)

Mahesh Sita, director, Government Relations, American Heart Association, and Linda Siegle, lobbyist, Cancer Action Network, American Cancer Society, provided information regarding the state's role with preemption, including pros and cons. The presentation can be found here:

<https://www.nmlegis.gov/handouts/TSROC%20092122%20Item%202%20Tobacco%20Preemption.pdf>.

Public Comment (12:30 p.m.)

A list of individuals making public comment is available in the meeting file.

Current and Future Agency Settlement Funding Distribution (1:28 p.m.)

Kari Armijo, deputy secretary, Human Services Department; Esther Hoang, program manager, Nicotine Use Prevention and Control Program (NUPAC), Public Health Division, Department of Health (DOH); and Jeff Lara, interim director, Public Health Division, DOH, provided information regarding the NUPAC and the distribution of treatment and cessation money and followed up on questions remaining from the August 15-16, 2022 meeting. The presentation materials can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=TSROC&Date=9/21/2022&ItemNumber=3>.

Evolverment Youth Advocates (2:27 p.m.)

Carlye Hausbeck, M.S.W., program supervisor, Rescue Social Change Group, provided an update on Evolverment's work, including areas of focus for youth outreach, issues with flavored tobacco products and ways to counter tobacco-related advertisements directed at youth.

Adjournment

There being no further business before the committee, the meeting adjourned at 3:18 p.m.

Revised: October 7, 2022

**TENTATIVE AGENDA
for the
FOURTH MEETING
of the
TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE**

**October 11, 2022
State Capitol, Room 311
Santa Fe**

Tuesday, October 11

- 9:00 a.m. **Call to Order, Welcome and Introductions**
—Senator Martin Hickey, Co-Chair
- 9:15 a.m. **Approval of Minutes**
- 9:30 a.m. (1) **[Tobacco Settlement Revenue Oversight Committee Discussion of
Legislative Priorities](#)**
—Senator Martin Hickey, Co-Chair
—Linda Siegle, Lobbyist, Cancer Action Network, American Cancer
Society
—Mahesh Sita, Director, Government Relations, American Heart
Association
—Esther Hoang, Program Manager, Nicotine Use Prevention and Control
Program, Public Health Division, Department Of Health (DOH)
—Aryan Showers, Director, Office of Policy and Accountability, DOH
—Alanna Dancis, Medical Director, Medical Assistance Division, Human
Services Department (HSD)
—Ryan O'Connor, Project Manager, Office of the Secretary, HSD
—Alex Castillo-Smith, Manager, Strategic Planning and Special Projects,
Office of the Secretary, HSD
- 12:00 noon **Working Lunch**
- 1:00 p.m. **Adjourn**

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

**October 11, 2022
State Capitol, Room 311
Santa Fe**

The fourth meeting of the Tobacco Settlement Revenue Oversight Committee was called to order by Senator Martin Hickey, co-chair, on October 11, 2022 at 9:22 a.m. in Room 311 of the State Capitol in Santa Fe.

Present

Rep. Joanne J. Ferrary, Co-Chair
Sen. Martin Hickey, Co-Chair
Sen. Linda M. Lopez
Rep. Luis M. Terrazas
Rep. Elizabeth "Liz" Thomson

Absent

Sen. Gregg Schmedes

Advisory Members

Rep. Gail Chasey

Sen. Shannon D. Pinto

Staff

Sabina Gaynor, Staff Attorney, Legislative Council Service (LCS)
Sean Dolan, Staff Attorney, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file and are posted on the legislature's website.

References to Webcast

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Approval of Minutes (9:26 a.m.)

Upon a motion duly made and seconded, and without any objections, the committee approved the minutes of the June 21, 2022 and September 21, 2022 meetings.

**Tobacco Settlement Revenue Oversight Committee Discussion of Legislative Priorities
(9:32 a.m.)**

Senator Hickey led a discussion among committee members and a panel of experts, including Linda Siegle, lobbyist, Cancer Action Network, American Cancer Society; Mahesh Sita, director, Government Relations, American Heart Association; Esther Hoang, program manager, Nicotine Use Prevention and Control Program, Public Health Division, Department Of Health (DOH); Aryan Showers, director, Office of Policy and Accountability, DOH; Alanna Dancis, medical director, Medical Assistance Division, Human Services Department (HSD); Ryan O'Connor, project manager, Office of the Secretary, HSD; and Alex Castillo-Smith, manager, Strategic Planning and Special Projects, Office of the Secretary, HSD, regarding the use of funds for smoking cessation initiatives, taxing tobacco products, federal Centers for Disease Control and Prevention funding guidelines and how New Mexico can reach the recommended level of funding and legislative priorities of the committee members for the upcoming session.

Adjournment

There being no further business before the committee, the meeting adjourned at 11:58 a.m.

Revised: November 9, 2022

**TENTATIVE AGENDA
for the
FIFTH MEETING
of the
TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE**

**November 9, 2022
State Capitol, Room 307
Santa Fe**

Wednesday, November 9

- 10:30 a.m. **Call to Order, Welcome and Introductions**
—Senator Martin Hickey, Co-Chair
—Representative Joanne J. Ferrary, Co-Chair
- 10:45 a.m. (1) **[JUUL Settlement and State Options](#)**
—Megan A. Boelter, J.D., M.P.H., Western Regional Director, Preventing
Tobacco Addiction Foundation/Tobacco 21
- 11:15 a.m. (2) **[Future Interim Ideas](#)**
—Senator Martin Hickey, Co-Chair
- 11:45 a.m. (3) **[Consideration of Proposed Legislation for Endorsement for the 2023
Legislative Session](#)**
- 12:15 p.m. **Adjourn**

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

**November 9, 2022
State Capitol, Room 307
Santa Fe**

The fifth meeting of the Tobacco Settlement Revenue Oversight Committee was called to order by Representative Joanne J. Ferrary, co-chair, on November 9, 2022 at 10:55 a.m. in Room 307 of the State Capitol in Santa Fe.

Present

Rep. Joanne J. Ferrary, Co-Chair
Sen. Martin Hickey, Co-Chair
Sen. Linda M. Lopez
Rep. Elizabeth "Liz" Thomson

Absent

Sen. Gregg Schmedes
Rep. Luis M. Terrazas

Advisory Members

Rep. Gail Chasey

Sen. Shannon D. Pinto

Staff

Sabina Gaynor, Staff Attorney, Legislative Council Service (LCS)
Sean Dolan, Staff Attorney, LCS

Minutes Approval

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

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file and posted on the legislature's website.

References to Webcast

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Wednesday, November 9

Welcome and Introductions

Representative Ferrary welcomed everyone and invited members of the committee to introduce themselves.

Approval of Minutes (10:58 a.m.)

Upon a motion duly made and seconded, and without any objections, the TSROC approved the minutes of the October 11, 2022, meeting.

JUUL Settlement and State Options (11:02 a.m.)

Megan A. Boelter, J.D., M.P.H., western regional director, Preventing Tobacco Addiction Foundation/Tobacco 21, provided a presentation regarding the current status of litigation against Juul Labs, Inc. Ms. Boelter also advised the committee on case law relating to the issue of county and municipality preemption. She recommended language for legislation to amend the Tobacco Products Act to conform with precedent. The presentation can be found here:

<https://www.nmlegis.gov/handouts/TSROC%20110922%20Item%201%20Preemption%20NMACT.pdf>.

Future Interim Ideas (11:46 a.m.)

Senator Hickey provided a presentation on strategies for future interims to ensure settlement fund solvency and adequate funding of state agencies in the course of preventing tobacco use and promoting cessation.

Consideration of Proposed Legislation for Endorsement for the 2023 Legislative Session (11:59 a.m.)

The committee considered proposed legislation for endorsement for the 2023 legislative session. This legislation included:

- .223282.3: a bill regarding increasing the rates of cigarette and other tobacco products taxes;
- .223309.2: a bill that amends the Tobacco Products Act to allow counties and municipalities to pass ordinances, charter amendments and regulations that are stricter than state laws relating to tobacco products;
- .223316.1: a bill that increases the rate of tax on tobacco products from twenty-five percent to thirty-one percent; and
- .223325.1: a bill that amends the Dee Johnson Clean Indoor Air Act to prohibit indoor smoking in racinos.

The committee unanimously endorsed each proposed bill. These bills can be found here:

<https://www.nmlegis.gov/Committee/Handouts?CommitteeCode=TSROC&Date=11/9/2022&ItemNumber=3>.

Adjournment

There being no further business before the committee, the meeting adjourned at 12:54 p.m.

ENDORSED LEGISLATION

underscored material = new
[bracketed material] = delete

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HOUSE BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

FOR THE TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE AND
THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO TAXATION; INCREASING THE RATE OF THE CIGARETTE TAX;
INCREASING THE RATE OF TAX ON TOBACCO PRODUCTS; INCLUDING
NICOTINE, REGARDLESS OF SOURCE, IN THE DEFINITION OF "TOBACCO
PRODUCT" IN THE TOBACCO PRODUCTS TAX ACT.

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 board of regents of the university of
New Mexico for the benefit of the comprehensive cancer center
at the university of New Mexico health sciences center in an
amount equal to [~~seventy-one hundredths~~] four-tenths percent of
the net receipts, exclusive of penalties and interest,

underscored material = new
[bracketed material] = delete

1 attributable to the cigarette tax.

2 B. A distribution pursuant to Section 7-1-6.1 NMSA
3 1978 in an amount equal to [~~seven and fifty-two~~] four and
4 fifteen hundredths percent of the net receipts, exclusive of
5 penalties and interest, attributable to the cigarette tax,
6 shall be made on behalf of and for the benefit of the
7 university of New Mexico health sciences center for its
8 comprehensive cancer center, until payment of all principal,
9 interest and other expenses or obligations related to the bonds
10 authorized pursuant to Section [~~3 of this 2021 act~~] 6-21-6.15
11 NMSA 1978 and the New Mexico finance authority certifies to the
12 secretary of taxation and revenue that all obligations for the
13 bonds have been fully discharged, to the credit enhancement
14 account.

15 C. A distribution pursuant to Section 7-1-6.1 NMSA
16 1978 in an amount equal to [~~three and seventeen~~] one and
17 seventy-six hundredths percent of the net receipts, exclusive
18 of penalties and interest, attributable to the cigarette tax
19 shall be made to the New Mexico finance authority for land
20 acquisition and the planning, designing, construction and
21 equipping of department of health facilities or improvements to
22 such facilities.

23 D. A distribution pursuant to Section 7-1-6.1 NMSA
24 1978 in an amount equal to [~~eight and twenty-six~~] four and
25 fifty-five hundredths percent of the net receipts, exclusive of

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underscored material = new
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1 penalties and interest, attributable to the cigarette tax shall
2 be made to the New Mexico finance authority for deposit in the
3 credit enhancement account created in the authority.

4 E. A distribution pursuant to Section 7-1-6.1 NMSA
5 1978 in an amount equal to [~~fifty-three~~] thirty-one hundredths
6 percent of the net receipts, exclusive of penalties and
7 interest, attributable to the cigarette tax shall be made, on
8 behalf of and for the benefit of the rural county cancer
9 treatment fund, to the New Mexico finance authority."

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

12 "7-12-3. EXCISE TAX ON CIGARETTES [~~REDUCTION OF RATE FOR~~
13 ~~CERTAIN CIGARETTES~~].--

14 A. For the privilege of selling, giving or
15 consuming cigarettes in New Mexico, there is levied an excise
16 tax at a rate of [~~ten cents (\$.10)~~] twenty cents (\$.20) for
17 each cigarette sold, given or consumed in this state.

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

20 [~~G. The tax imposed by this section shall be~~
21 ~~reduced by fifty percent for a cigarette for which a modified~~
22 ~~risk tobacco product order has been issued by the United States~~
23 ~~secretary of health and human services pursuant to Section 21~~
24 ~~U.S.C. 387k(g)(1).~~

25 ~~D. The tax imposed by this section shall be reduced~~

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underscored material = new
[bracketed material] = delete

1 by ~~twenty-five percent for a cigarette for which a modified~~
2 ~~risk tobacco product order has been issued by the United States~~
3 ~~secretary of health and human services pursuant to Section 21~~
4 ~~U.S.C. 387k(g)(2).~~]"

5 SECTION 3. Section 7-12-7 NMSA 1978 (being Laws 1971,
6 Chapter 77, Section 7, as amended) is amended to read:

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

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

10 B. Stamps shall display a serial number. Stamps
11 bearing the same serial number shall not be sold to more than
12 one distributor. The department shall keep records of the
13 serial numbers of the stamps provided to each distributor.

14 C. A stamp shall be affixed to a package of
15 cigarettes in such a manner as to clearly display the serial
16 number at the point of sale.

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

19 (1) [~~forty-six~~] twenty-three hundredths
20 percent less than the face value of the first thirty thousand
21 dollars (\$30,000) of stamps purchased in one calendar month;

22 (2) [~~thirty-six~~] eighteen hundredths percent
23 less than the face value of the second thirty thousand dollars
24 (\$30,000) of stamps purchased in one calendar month; and

25 (3) [~~twenty-two~~] eleven hundredths percent

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underscoring material = new
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1 less than the face value of stamps purchased in excess of sixty
2 thousand dollars (\$60,000) in one calendar month.

3 E. Tax-credit stamps shall be provided only to
4 distributors and shall be provided free of charge; provided
5 that the distributor is in full compliance with the reporting
6 requirements of the Cigarette Tax Act and rules adopted
7 pursuant to that act.

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

11 G. Payment for tax stamps shall be made on or
12 before the twenty-fifth day of the month following the month in
13 which the sale of stamps by the department is made.

14 H. Tax-exempt stamps shall be provided only to
15 distributors and shall be free of charge; provided that the
16 distributor is in full compliance with the reporting
17 requirements of the Cigarette Tax Act and rules adopted
18 pursuant to that act."

19 SECTION 4. Section 7-12A-2 NMSA 1978 (being Laws 1986,
20 Chapter 112, Section 3, as amended) is amended to read:

21 "7-12A-2. DEFINITIONS.--As used in the Tobacco Products
22 Tax Act:

23 A. "department" means the taxation and revenue
24 department, the secretary or any employee of the department
25 exercising authority lawfully delegated to that employee by the

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underscored material = new
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1 secretary;

2 B. "cigar" means a roll for smoking made wholly or
3 in part of tobacco and weighing greater than four and one-half
4 pounds per thousand;

5 C. "distribute" means to sell or to give;

6 D. "closed system cartridge" means a single-use,
7 pre-filled disposable cartridge containing five milliliters or
8 less of e-liquid for use in an e-cigarette;

9 E. "e-cigarette" means any ~~[electronic oral device,~~
10 ~~whether composed of a heating element and battery or an~~
11 ~~electronic circuit, that provides a vapor of nicotine or any~~
12 ~~other substance the use or inhalation of which simulates~~
13 ~~smoking and includes any such device, or any part thereof,~~
14 ~~whether manufactured, distributed, marketed or sold as an~~
15 ~~e-cigarette, e-cigar, e-pipe or any other product, name or~~
16 ~~descriptor; "E-cigarette" does not include any product~~
17 ~~regulated as a drug or device by the United States food and~~
18 ~~drug administration under the Federal Food, Drug, and Cosmetic~~
19 ~~Act] device that can be used to deliver aerosolized or~~
20 ~~vaporized nicotine to the person inhaling from the device and~~
21 ~~includes any component, part or accessory of such a device that~~
22 ~~is used during the operation of the device but does not include~~
23 ~~a battery or battery charger;~~

24 F. "e-liquid" means liquid or other substance
25 intended for use in an e-cigarette ~~[not including any substance~~

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underscored material = new
~~[bracketed material] = delete~~

1 ~~containing cannabis or oil derived from cannabis];~~

2 G. "engaging in business" means carrying on or
3 causing to be carried on any activity with the purpose of
4 direct or indirect benefit;

5 H. "first purchaser" means a person engaging in
6 business in New Mexico that manufactures tobacco products or
7 that purchases or receives on consignment tobacco products from
8 any person outside of New Mexico, which tobacco products are to
9 be distributed in New Mexico in the ordinary course of
10 business;

11 I. "little cigar" means a roll for smoking made
12 wholly or in part of tobacco, using an integrated cellulose
13 acetate or other similar filter, and weighing not more than
14 four and one-half pounds per thousand;

15 J. "person" means any individual, estate, trust,
16 receiver, cooperative association, club, corporation, company,
17 firm, partnership, joint venture, syndicate, limited liability
18 company, limited liability partnership, other association or
19 gas, water or electric utility owned or operated by a county or
20 municipality or other entity of the state; "person" also means,
21 to the extent permitted by law, a federal, state or other
22 governmental unit or subdivision or an agency, department or
23 instrumentality;

24 K. "product value" means the amount paid, net of
25 any discounts taken and allowed, for tobacco products or, in

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1 the case of tobacco products received on consignment, the value
2 of the tobacco products received or, in the case of tobacco
3 products manufactured and sold in New Mexico, the proceeds from
4 the sale by the manufacturer of the tobacco products; and

5 L. "tobacco product":

6 (1) means:

7 [(1)] (a) any product, other than
8 cigarettes, [~~eigars and little cigars~~] made from or containing
9 tobacco or nicotine, whether natural or synthetic, that is
10 intended for human consumption or is likely to be consumed,
11 whether smoked, heated, chewed, absorbed, dissolved or inhaled;

12 [(2)] (b) e-liquid;

13 [(3)] (c) e-cigarettes; and

14 [(4)] (d) closed system cartridges; and

15 (2) does not mean any product regulated as a
16 drug or device by the United States food and drug
17 administration pursuant to the Federal Food, Drug, and Cosmetic
18 Act."

19 SECTION 5. Section 7-12A-3 NMSA 1978 (being Laws 1986,
20 Chapter 112, Section 4, as amended) is amended to read:

21 "7-12A-3. IMPOSITION AND RATES OF TAX--~~[REDUCTION OF RATE~~
22 ~~FOR CERTAIN TOBACCO PRODUCTS]~~ DENOMINATION AS "TOBACCO PRODUCTS
23 TAX"--DATE PAYMENT OF TAX DUE.--

24 A. For the manufacture or acquisition of tobacco
25 products in New Mexico [~~not including cigars, little cigars, e-~~

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1 ~~liquid, e-cigarettes or closed system cartridges~~] to be
2 distributed in the ordinary course of business and for the
3 consumption of tobacco products in New Mexico, there is imposed
4 an excise tax at the rate of [~~twenty-five~~] seventy-one percent
5 of the [~~product value~~] wholesale price of the tobacco products;
6 provided that for each little cigar, the rate shall be equal to
7 the rate imposed on a cigarette pursuant to Section 7-12-3 NMSA
8 1978.

9 ~~B. For the manufacture or acquisition of cigars in~~
10 ~~New Mexico to be distributed in the ordinary course of business~~
11 ~~and for the consumption of cigars in New Mexico, there is~~
12 ~~imposed an excise tax at a rate equal to twenty-five percent of~~
13 ~~the product value of the cigar, not to exceed fifty cents~~
14 ~~(\$.50) per cigar.~~

15 ~~C. For the manufacture or acquisition of little~~
16 ~~cigars in New Mexico to be distributed in the ordinary course~~
17 ~~of business and for the consumption of little cigars in New~~
18 ~~Mexico, there is imposed an excise tax at a rate equal to the~~
19 ~~rate imposed on cigarettes pursuant to Section 7-12-3 NMSA 1978~~
20 ~~per package of little cigars.~~

21 ~~D. For the manufacture or acquisition of e-liquid~~
22 ~~in New Mexico to be distributed in the ordinary course of~~
23 ~~business and for the consumption of e-liquid in New Mexico,~~
24 ~~there is imposed an excise tax at a rate equal to twelve and~~
25 ~~one-half percent of the product value of the e-liquid.~~

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underscored material = new
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~~E. For the manufacture or acquisition of closed system cartridges in New Mexico to be distributed in the ordinary course of business, there is imposed an excise tax at a rate of fifty cents (\$.50) per closed system cartridge.~~

H.] B. The taxes imposed by this section may be referred to as the "tobacco products tax".

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

SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

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SENATE BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

FOR THE TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE

AN ACT

RELATING TO TOBACCO PRODUCTS; CLARIFYING THAT MUNICIPALITIES AND COUNTIES MAY ENACT ORDINANCES, CHARTER AMENDMENTS OR REGULATIONS PERTAINING TO THE SALES OF TOBACCO PRODUCTS THAT ARE STRICTER THAN, BUT NOT IN CONFLICT WITH, THE PROVISIONS OF THE TOBACCO PRODUCTS ACT; REPEALING A SECTION OF THE TOBACCO PRODUCTS ACT.

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

SECTION 1. A new section of the Tobacco Products Act is enacted to read:

"[NEW MATERIAL] PRESERVATION OF COUNTY AND MUNICIPALITY AUTHORITY.--Nothing in state law shall be construed to limit a county or municipality, including a home rule municipality or an urban county, from licensing a tobacco retail establishment or regulating tobacco products more stringently than state law.

underscored material = new
~~[bracketed material]~~ = delete

1 Notwithstanding any other law to the contrary, a county or
2 municipality may adopt and enforce ordinances and regulations
3 related to tobacco retail establishments and tobacco products
4 if the ordinance or regulation is at least as stringent as
5 those of the Tobacco Products Act."

6 SECTION 2. REPEAL.--Section 61-37-24 NMSA 1978 (being
7 Laws 2020, Chapter 46, Section 24) is repealed.

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HOUSE BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

FOR THE TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE AND
THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO TAXATION; INCREASING THE RATE OF TAX ON TOBACCO
PRODUCTS; INCLUDING NICOTINE, REGARDLESS OF SOURCE, IN THE
DEFINITION OF "TOBACCO PRODUCT" IN THE TOBACCO PRODUCTS TAX
ACT.

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

SECTION 1. Section 7-12A-2 NMSA 1978 (being Laws 1986,
Chapter 112, Section 3, as amended) is amended to read:

"7-12A-2. DEFINITIONS.--As used in the Tobacco Products
Tax Act:

A. "department" means the taxation and revenue
department, the secretary or any employee of the department
exercising authority lawfully delegated to that employee by the
secretary;

B. "cigar" means a roll for smoking made wholly or

underscored material = new
[bracketed material] = delete

1 in part of tobacco and weighing greater than four and one-half
2 pounds per thousand;

3 C. "distribute" means to sell or to give;

4 D. "closed system cartridge" means a single-use,
5 pre-filled disposable cartridge containing five milliliters or
6 less of e-liquid for use in an e-cigarette;

7 E. "e-cigarette" means any ~~[electronic oral device,~~
8 ~~whether composed of a heating element and battery or an~~
9 ~~electronic circuit, that provides a vapor of nicotine or any~~
10 ~~other substance the use or inhalation of which simulates~~
11 ~~smoking and includes any such device, or any part thereof,~~
12 ~~whether manufactured, distributed, marketed or sold as an~~
13 ~~e-cigarette, e-cigar, e-pipe or any other product, name or~~
14 ~~descriptor; "E-cigarette" does not include any product~~
15 ~~regulated as a drug or device by the United States food and~~
16 ~~drug administration under the Federal Food, Drug, and Cosmetic~~
17 Act] device that can be used to deliver aerosolized or
18 vaporized nicotine to the person inhaling from the device and
19 includes any component, part or accessory of such a device that
20 is used during the operation of the device but does not include
21 a battery or battery charger;

22 F. "e-liquid" means liquid or other substance
23 intended for use in an e-cigarette ~~[not including any substance~~
24 ~~containing cannabis or oil derived from cannabis];~~

25 G. "engaging in business" means carrying on or

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1 causing to be carried on any activity with the purpose of
2 direct or indirect benefit;

3 H. "first purchaser" means a person engaging in
4 business in New Mexico that manufactures tobacco products or
5 that purchases or receives on consignment tobacco products from
6 any person outside of New Mexico, which tobacco products are to
7 be distributed in New Mexico in the ordinary course of
8 business;

9 I. "little cigar" means a roll for smoking made
10 wholly or in part of tobacco, using an integrated cellulose
11 acetate or other similar filter, and weighing not more than
12 four and one-half pounds per thousand;

13 J. "person" means any individual, estate, trust,
14 receiver, cooperative association, club, corporation, company,
15 firm, partnership, joint venture, syndicate, limited liability
16 company, limited liability partnership, other association or
17 gas, water or electric utility owned or operated by a county or
18 municipality or other entity of the state; "person" also means,
19 to the extent permitted by law, a federal, state or other
20 governmental unit or subdivision or an agency, department or
21 instrumentality;

22 K. "product value" means the amount paid, net of
23 any discounts taken and allowed, for tobacco products or, in
24 the case of tobacco products received on consignment, the value
25 of the tobacco products received or, in the case of tobacco

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1 products manufactured and sold in New Mexico, the proceeds from
2 the sale by the manufacturer of the tobacco products; and

3 L. "tobacco product":

4 (1) means:

5 [~~(1)~~] (a) any product, other than
6 cigarettes, [~~cigars and little cigars~~] made from or containing
7 tobacco or nicotine, whether natural or synthetic, that is
8 intended for human consumption or is likely to be consumed,
9 whether smoked, heated, chewed, absorbed, dissolved or inhaled;

10 [~~(2)~~] (b) e-liquid;

11 [~~(3)~~] (c) e-cigarettes; and

12 [~~(4)~~] (d) closed system cartridges; and

13 (2) does not mean any product regulated as a
14 drug or device by the United States food and drug
15 administration pursuant to the Federal Food, Drug, and Cosmetic
16 Act."

17 SECTION 2. Section 7-12A-3 NMSA 1978 (being Laws 1986,
18 Chapter 112, Section 4, as amended) is amended to read:

19 "7-12A-3. IMPOSITION AND RATES OF TAX--~~[REDUCTION OF RATE~~
20 ~~FOR CERTAIN TOBACCO PRODUCTS]~~ DENOMINATION AS "TOBACCO PRODUCTS
21 TAX"--DATE PAYMENT OF TAX DUE.--

22 A. For the manufacture or acquisition of tobacco
23 products in New Mexico [~~not including cigars, little cigars, e-~~
24 ~~liquid, e-cigarettes or closed system cartridges]~~ to be
25 distributed in the ordinary course of business and for the

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1 consumption of tobacco products in New Mexico, there is imposed
2 an excise tax at the rate of [~~twenty-five~~] thirty-one percent
3 of the [~~product value~~] wholesale price of the tobacco products;
4 provided that for each little cigar, the rate shall be equal to
5 the rate imposed on a cigarette pursuant to Section 7-12-3 NMSA
6 1978.

7 ~~[B. For the manufacture or acquisition of cigars in~~
8 ~~New Mexico to be distributed in the ordinary course of business~~
9 ~~and for the consumption of cigars in New Mexico, there is~~
10 ~~imposed an excise tax at a rate equal to twenty-five percent of~~
11 ~~the product value of the cigar, not to exceed fifty cents~~
12 ~~(\$.50) per cigar.~~

13 ~~C. For the manufacture or acquisition of little~~
14 ~~cigars in New Mexico to be distributed in the ordinary course~~
15 ~~of business and for the consumption of little cigars in New~~
16 ~~Mexico, there is imposed an excise tax at a rate equal to the~~
17 ~~rate imposed on cigarettes pursuant to Section 7-12-3 NMSA 1978~~
18 ~~per package of little cigars.~~

19 ~~D. For the manufacture or acquisition of e-liquid~~
20 ~~in New Mexico to be distributed in the ordinary course of~~
21 ~~business and for the consumption of e-liquid in New Mexico,~~
22 ~~there is imposed an excise tax at a rate equal to twelve and~~
23 ~~one-half percent of the product value of the e-liquid.~~

24 ~~E. For the manufacture or acquisition of closed~~
25 ~~system cartridges in New Mexico to be distributed in the~~

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~~[bracketed material] = delete~~

1 ~~ordinary course of business, there is imposed an excise tax at~~
2 ~~a rate of fifty cents (\$.50) per closed system cartridge.~~

3 ~~H.]~~ B. The taxes imposed by this section may be
4 referred to as the "tobacco products tax".

5 ~~[H.]~~ C. The tobacco products tax shall be paid by
6 the first purchaser on or before the twenty-fifth day of the
7 month following the month in which the taxable event occurs."

8 **SECTION 3. EFFECTIVE DATE.**--The effective date of the
9 provisions of this act is July 1, 2023.

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SENATE BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

FOR THE TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE

AN ACT

RELATING TO HEALTH; ELIMINATING RACINOS FROM SMOKING-PERMITTED
AREAS ALLOWED IN THE DEE JOHNSON CLEAN INDOOR AIR ACT.

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

SECTION 1. Section 24-16-12 NMSA 1978 (being Laws 2007,
Chapter 20, Section 4, as amended) is amended to read:

"24-16-12. SMOKING-PERMITTED AREAS.--Notwithstanding any
other provision of the Dee Johnson Clean Indoor Air Act,
smoking-permitted areas include the following:

A. a private residence, unless it is used
commercially to provide child care, adult care or health care
or any combination of those activities;

B. a retail tobacco store; provided that, for a
retail tobacco store established on or after [~~the effective~~
~~date of this 2019 act~~] June 14, 2019, the store shall be

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1 located in a standalone building;

2 C. a cigar bar; provided that, for a cigar bar
3 established on or after June 14, 2019, the bar shall be located
4 in a standalone building;

5 D. the facilities of a tobacco manufacturing
6 company licensed by the United States to manufacture tobacco
7 products that are operated by the company in its own name and
8 that are used exclusively by the company in its business of
9 manufacturing, marketing or distributing its tobacco products;
10 provided that secondhand smoke does not infiltrate other indoor
11 workplaces or other indoor public places where smoking is
12 otherwise prohibited under the Dee Johnson Clean Indoor Air
13 Act;

14 E. a state-licensed gaming facility, casino or
15 bingo parlor, except a racetrack licensed by the state racing
16 commission with a gaming operator's license issued by the
17 gaming control board;

18 F. designated outdoor smoking areas;

19 G. private clubs;

20 H. hotel and motel rooms that are rented to guests
21 and are designated as smoking-permitted rooms; provided that
22 not more than ten percent of rooms rented to guests in a hotel
23 or motel may be so designated;

24 I. a site that is being used in connection with the
25 practice of cultural or ceremonial activities by Native

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1 Americans and that is in accordance with the federal American
2 Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a;

3 J. a theatrical stage or a motion picture or
4 television production set when it is necessary for performers
5 to smoke as part of the production; and

6 K. an indoor or outdoor cannabis consumption area
7 pursuant to the Cannabis Regulation Act."



LEGISLATIVE COUNCIL SERVICE
SANTA FE, NEW MEXICO