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FISCAL IMPACT REPORT

SPONSOR:	Feldman DATE TYPED:	2/12/02	НВ	
SHORT TITLE	: Eliminate Volume Cigarrette Discount		SB	37/aSCORC
		ANALY	YST:	Neel

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY02	FY03] -		
	\$270.0		Recurring	General Fund
	\$37.0		Recurring	County & Muni. Cigarette Funds
	\$28.0		Recurring	New Mexico Finance Authority
	\$19.0		Recurring	County & Muni. Recreation Funds
	\$19.0		Recurring	UNM Cancer Center

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of SCORC Amendment

The repeal of Section 7-12-7 removes the references in present law to the sale of tax stamps. This is the financial transaction by which the tax is actually collected. The proposal substitutes a requirement for the Department or its agent to affix stamps. Without further clarification, TRD notes that it would have to develop regulations clarifying the method of payment for the stamps. This could be interpreted as an overreach of the Department's regulatory authority. A tax is imposed, and some sort of stamp must be affixed, but it is technically not specified that a "tax stamp" sold by the Department must be sold and affixed. To avoid legal uncertainty the proposal should include a more explicit set of requirements for who is responsible for paying the tax and how it is to be collected.

Synopsis of Original Bill

SB 37 eliminates the volume discount allowed cigarette distributors when they purchase cigarette stamps. The discount rates allowed in current law are as follows: 4% on the first \$30,000 of stamps purchased; 3% on the second \$30,000, and 2% on purchases over \$60,000.

FISCAL IMPLICATIONS

TRD has assumed that stamp purchasers will "stock up" on enough stamps by June 30, 2002 while the discount still applies to cover the first three months of the year.

TECHNICAL ISSUES

TRD notes that the title of section 7-12-7 includes the word "Prices" although the section makes no reference to prices. This wording could be stricken by an amendment to this bill since it is amending that section of statute.

OTHER SUBSTANTIVE ISSUES

TRD makes the following observations:

- 1. Some amount of discount has been allowed in New Mexico on the purchase of cigarette stamps since the 1940's. The current rate scheme was adopted in 1963 and the dollar thresholds were adopted in 1971.
- 2. Only 2 of the 47 states that require cigarette tax stamps do not allow some type of discount to cigarette taxpayers. The discount is usually considered either compensation for affixing tax stamps or compensation for pre-collection of a tax on the consumer.
- 3. Several proposals to significantly increase the cigarette tax have been suggested during this legislative session. Because the stamping discount is a percentage of the face value of the stamps, the value of the discount increases with the rate of the tax.

SN/njw:ar