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HOUSE MEMORIAL 01

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Ray Begaye

A MEMORIAL

REQUESTING THAT EACH INDIAN NATION, TRIBE AND PUEBLO WORK WITH THE TAXATION AND REVENUE DEPARTMENT AND THE ATTORNEY GENERAL TO ESTABLISH GOVERNMENT- TO- GOVERNMENT AGREEMENTS TO PROMOTE CIGARETTE TAXATION PARITY.

WHEREAS, exempted from the cigarette tax are sales of cigarettes to the governing body or an enrolled tribal member licensed by the governing body of any Indian nation, tribe or pueblo for use or sale on a reservation or pueblo grant; and

WHEREAS, competing needs and interests of tribal, state and local governments with partially overlapping taxing jurisdictions must be accommodated; and

WHEREAS, dual taxation does not affect the state but threatens to cripple the economies of New Mexico's Indian nations, tribes and pueblos; and

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1 WHEREAS, the burden of unfair competition falls not on
2 off-reservation or pueblo grant businesses but on reservation
3 or pueblo grant enterprises saddled with both state and tribal
4 taxes; and

5 WHEREAS, Indian nations, tribes and pueblos object to the
6 imposition of state taxes because they contribute to the loss
7 of revenue; and

8 WHEREAS, taxation issues on Indian reservations and pueblo
9 grants have been effectively resolved through negotiated
10 agreements at the tribal-state level for many years in other
11 states because those states have adequate legal remedies to
12 collect taxes on sales to nontribal members that occur on
13 Indian lands; and

14 WHEREAS, New Mexico has the necessary legal authority to
15 resolve its taxation issues with Indian nations, tribes and
16 pueblos;

17 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
18 REPRESENTATIVES OF THE STATE OF NEW MEXICO that each Indian
19 nation, tribe and pueblo be requested to work with the taxation
20 and revenue department and the attorney general to establish
21 government-to-government agreements to promote cigarette
22 taxation parity; and

23 BE IT FURTHER RESOLVED that each Indian nation, tribe and
24 pueblo consider raising its tax on tobacco in parity with the
25 state's tax increase on tobacco; and

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BE IT FURTHER RESOLVED that each Indian nation, tribe and pueblo consider raising its tax on smoke shop products; and

BE IT FURTHER RESOLVED that each Indian nation, tribe and pueblo consider depositing tobacco taxes in an escrow account to fund community smoking cessation programs; and

BE IT FURTHER RESOLVED that each Indian nation, tribe and pueblo shall retain its sovereignty in any tribal-state negotiations and government-to-government agreements; and

BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the governor, the taxation and revenue department, the attorney general, legislative finance committee members, the department of health and the human services department.