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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/21/07

SPONSOR Chasey LAST UPDATED \_\_\_\_\_ HB 965

SHORT TITLE Cigarette Tax Increase & Distribution SB \_\_\_\_\_

ANALYST Francis

### REVENUE (dollars in thousands)

| Estimated Revenue |         |         | Recurring<br>or Non-Rec | Fund<br>Affected             |
|-------------------|---------|---------|-------------------------|------------------------------|
| FY07              | FY08    | FY09    |                         |                              |
|                   | 9,747.0 | 9,650.0 | Recurring               | General Fund                 |
|                   | 8,290.0 | 8,207.0 | Recurring               | Other Funds<br>(see Table 1) |

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to SB166 and SB888

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)

Department of Health (DOH)

Higher Education Department (HED)

### SUMMARY

#### Synopsis of Bill

House Bill 965 makes several changes regarding cigarette and tobacco revenues and programs.

- Increase the rate on cigarettes to \$0.0755 per cigarette (\$1.51 per pack) effective July 1, 2007.
- Increase the rate on tobacco products to 40 percent effective July 1, 2007.
- Allows the use of the credit enhancement account (where cigarette tax proceeds are distributed) and NMFA revenue bond proceeds for land acquisition, planning and new facilities for the University of NM hospital and cancer research center. (Effective August 1, 2007)
- Changes distribution rates to add a distribution for department of health to support public health programs and hold all other beneficiaries harmless. (Effective August 1, 2007)

## FISCAL IMPLICATIONS

The changes to include land acquisition, planning, and new buildings for UNM facilities does not have any impact as any of the funds going toward these new purposes will come from other uses and not from any change in distributions.

The changes in the tax rates and distributions increase general fund revenues by \$9.7 million in FY08 and FY09 (Table 1). The increase in total revenues is \$18 million from the increase in the cigarette tax and an additional \$1.5 million from the increase in the tobacco products tax.

**Table One: Fiscal Impacts**

|  | Current Distributions |                 |                 | Proposed Distributions |                 |                 | Estimated Impact on Revenues |                 |
|--|-----------------------|-----------------|-----------------|------------------------|-----------------|-----------------|------------------------------|-----------------|
|  | Dist Rate             | 2008            | 2009            | Dist Rate              | 2008            | 2009            | FY 2008                      | FY 2009         |
| County Muni Recreation Fund            | 1.350%                | \$794           | \$786           | 0.790%                 | \$607           | \$601           | (\$187)                      | (\$185)         |
| County Muni Cigarette Fund             | 2.690%                | \$1,582         | \$1,566         | 1.590%                 | \$1,222         | \$1,210         | (\$360)                      | (\$356)         |
| UNM Cancer Center                      | 1.350%                | \$794           | \$786           | 6.090%                 | \$4,680         | \$4,633         | \$3,886                      | \$3,847         |
| NMFA                                   | 2.020%                | \$1,188         | \$1,176         | 1.190%                 | \$914           | \$905           | (\$273)                      | (\$271)         |
| NMFA /Credit Enhancement Account       | 15.790%               | \$9,286         | \$9,193         | 25.430%                | \$19,543        | \$19,347        | \$10,256                     | \$10,154        |
| NMFA/UNM Health Sciences Center        | 14.370%               | \$8,451         | \$8,366         | 17.550%                | \$13,487        | \$13,352        | \$5,036                      | \$4,986         |
| NMFA / Department of Health Facilities | 6.050%                | \$3,558         | \$3,522         | 3.640%                 | \$2,797         | \$2,769         | (\$761)                      | (\$753)         |
| Rural County Cancer Treatment Fund     | 1.000%                | \$588           | \$582           | 0.695%                 | \$534           | \$529           | (\$54)                       | (\$53)          |
| DOH Public Health                      |                       |                 |                 | 3.310%                 | \$2,544         | \$2,518         | \$2,544                      | \$2,518         |
| General Fund (Cigarette Taxes)         | 55.380%               | \$32,569        | \$32,243        | 39.715%                | \$30,520        | \$30,215        | (\$2,048)                    | (\$2,028)       |
| <b>TOTAL</b>                           | <b>100.000%</b>       | <b>\$58,810</b> | <b>\$58,221</b> | <b>100.000%</b>        | <b>\$76,848</b> | <b>\$76,080</b> | <b>\$18,039</b>              | <b>\$17,858</b> |
| <b>General Fund Impact</b>             |                       |                 |                 |                        |                 |                 |                              |                 |
| General Fund (Cigarette Taxes)         |                       | \$32,569        | \$32,243        |                        | \$30,520        | \$30,215        | (\$2,048)                    | (\$2,028)       |
| CEA Reversion                          |                       | \$9,286         | \$9,193         |                        | \$19,543        | \$19,347        | \$10,256                     | \$10,154        |
| Tobacco Products Tax                   |                       | \$4,863         | \$4,815         |                        | \$6,404         | \$6,340         | \$1,541                      | \$1,525         |
| <b>TOTAL</b>                           |                       | <b>\$46,718</b> | <b>\$46,251</b> |                        | <b>\$56,467</b> | <b>\$55,902</b> | <b>\$9,749</b>               | <b>\$9,651</b>  |

Source: TRD

## SIGNIFICANT ISSUES

HB 965 significantly increases the tax on cigarettes and other tobacco products. The estimates shown above are derived using an “elasticity,” which is a response adjustment factor to a change in prices. For many products, particularly those without good substitutes such as tobacco, there is a negative demand response to an increase in the price of the good. In the case of cigarette prices, the increase in the price due to the increased tax decreases consumption by 21 percent. Likewise, the increase in the tobacco tax leads to a decrease in consumption of tobacco products by 18 percent. According to the Department of Health, increasing the price is one of the best ways to lower consumption:

Raising cigarette taxes is widely regarded as one of the most effective tobacco prevention strategies, with such increases leading to “substantial long-run improvements in health” (Reducing Tobacco Use, Surgeon General, 2000). Increasing the state cigarette excise tax and tobacco products tax could result in an increase in revenue for the state General Fund and an anticipated decrease in tobacco consumption by youth and adults

The downside of decreased consumption is that revenues begin to decline making the revenue source unreliable over the long term. Current estimates indicate that cigarette demand is declining by at least 1 percent per year. Another downside is that the terms “consumption” and “demand” that have been used so far refer to the consumption and demand of the taxable goods—i.e. cigarettes and tobacco products under TRD jurisdiction. In other words, part of the decrease in demand is not a decrease in the *use* of these products but a transfer of the

consumption to nontaxable goods such as those cigarettes and tobacco products sold by tribal entities. In other words, many of the health benefits from smoking cessation may not materialize if the use of tobacco does not go down because of increased demand for nontaxable product.

## **PERFORMANCE IMPLICATIONS**

Higher Education Department (HED):

Revenue generated from HB965 will be used for land acquisition, planning, designing, construction, equipping, and furnishing additions and/or improvements to the new facilities for the UNM Hospital and CRTC at the UNM Health Sciences Center.

In 2005, the UNM CRTC was named a National Cancer Institute (NCI)-designated center. NCI accredits and designates only those centers that conduct outstanding cancer research focused on translating discoveries into better cancer treatments and tools for cancer diagnosis and prevention, that provide outstanding state-of-the-art cancer care to patients, and that reach out to their communities to form partnerships for cancer education and prevention. This same year, legislation was passed that raised the cigarette tax in New Mexico to generate additional funds for the UNM CRTC.

Per information from the UNM CRTC, in 2005, the center provided care to over 35% of the adults and 100% of the children in New Mexico affected by cancer in over 70,000 ambulatory clinic visits. The UNM CRTC has more than 150 cancer physicians and research scientists.

According to a report issued by the BioTeP Initiative Task Force, a group spearheaded by the Department of Economic Development Office of Science and Technology with input from various public/private enterprises making up the bioscience community in New Mexico, the new Cancer Research and Treatment Center is part of a strategy to grow the state's convergent bioscience sector. The new center, with a targeted opening in 2008, would provide New Mexicans with state-of-the-art cancer treatments on par with the leading cancer centers across the U.S.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

SB166 is a related bill which regulates nicotine levels.  
SB888 duplicates this bill's tobacco products tax increase.

## **OTHER SUBSTANTIVE ISSUES**

DOH:

Higher cigarette taxes may help decrease the tobacco use disparity in New Mexico because low-income smokers are more likely to quit as a result of cigarette price increases ([www.cdc.gov/mmwr/preview/mmwrhtml/00054047.htm](http://www.cdc.gov/mmwr/preview/mmwrhtml/00054047.htm)). Low-income New Mexico residents smoke at about twice the rate of higher income residents (30% of people in households < \$20,000 annual income vs. 15% of people in households > \$50,000; 2001-2003 NM Behavioral Risk Factor Surveillance System data).

TRD:

In fiscal year 2007 all cigarettes were required to have a stamp affixed to the package,

including tax free stamps sold by Tribal retailers. The department has issued 19.3 millions tax free stamps through November 2006; an average of 3.86 million stamps per month, 46 million projected for the year. The increase in price will not necessarily force people to quit smoking but will provide them with a greater incentive to purchase tax free cigarettes. The price increase would also increase internet sales of cigarettes. Cigarettes can be purchased tax free from internet retailers. For consumers that are not in close proximity of a Tribal retailer, this would be another option to avoid the tax.

If the tax increase is passed NM will have the 12<sup>th</sup> highest cigarette tax in the nation, currently NM ranks 24<sup>th</sup>. Data was obtained from the Tax Foundation website, taxfoundation.org.

**Cigarette Taxes by State Highlights**

| <u>Ranking</u> | <u>State</u>      | <u>Tax per Pack</u> |
|----------------|-------------------|---------------------|
| 1              | New Jersey        | \$2.58              |
| 6              | Arizona           | \$2.00              |
| <b>12</b>      | <b>New Mexico</b> | <b>\$1.51</b>       |
| 17             | Texas             | \$1.41              |
| 26             | Colorado          | \$0.84              |

The proposed increase in tobacco products taxes would bring NM up to national average rate. Most states have tax rates of 35% - 45%. Many states have separate taxes for snuff and cigars; this makes a consistent comparison and ranking difficult. Data was obtained from the Federal Tax Administrators website, taxadmin.org

**Tobacco Products Taxes by State Highlights**

| <u>State</u>      | <u>Snuff</u>  | <u>Cigars &amp; Other</u>   |
|-------------------|---------------|-----------------------------|
| Washington        | 75%           | 75%                         |
|                   |               | \$0.263 - \$2.60 / 20       |
| Arizona           | \$ 0.133 / oz | Cigars                      |
| <b>New Mexico</b> | <b>40%</b>    | <b>40%</b>                  |
| Texas             | 35.21%        | \$.01 - \$ 0.15 / 10 Cigars |
| Colorado          | 40%           | 40%                         |