EXHIBIT 7
DATE Jan. 28, 2005
HB

DEPARTMENT OF JUSTICE
FTE to Enforce Montana's Tobacco Manufacturer Escrow Law

Background

Montana's 1998 tobacco settlement produces revenues in excess of $25 million annually for the State. Of this amount, 11% or approximately $3 million is deposited to the general fund.

The settlement provides for a significant reduction in the payments made by the tobacco companies that participated in the settlement if, as a result of the financial obligations and marketing restrictions agreed to in the settlement, they lose significant market share to manufacturers that did not join the settlement (non-participating manufacturers or NPMs).

The participating companies agreed, however, that the effect of these reductions in payments would not apply to the settlement funds received by states that enacted and diligently enforced a "qualifying escrow statute." If a manufacturer invokes the NPM adjustment provisions of the settlement, Montana and all other states will be required to demonstrate that we have made diligent efforts to enforce the NPM qualifying statutes (Sections 16-11-401 to 404, MCA.) **If Montana cannot demonstrate diligent enforcement of these statutes, the settlement provides that Montana may lose its entire $25 million annual settlement payment.**

Staff Resources

Montana has filed several dozen enforcement actions under these statutes and the Department expends substantial resources to work with manufacturers, wholesalers and retailers to ensure compliance with these laws. These efforts are now undertaken through counsel retained from the Agency Legal Services Bureau (ALSB).

The need for legal support for this enforcement is ongoing, since the original settlement requires that the Department monitor tobacco sales in Montana for new entrants into the state and pursue litigation against those parties.

FTE Request

The Department requests 1 FTE from the general fund in the "Elected Official: New Proposals" section to support the tobacco settlement litigation. This proposal would fund one attorney to work full time on tobacco settlement enforcement issues. The staff attorney now working on this is employed by the Agency Legal Services Bureau (ALSB). ALSB is a proprietary agency that bills the department for the staff attorney's legal services at a rate of $71.80 per hour. The cost of the ALSB attorney working on tobacco settlement enforcement is now billed to the Major Litigation fund.

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This proposal would:

- create a new position for a staff attorney specializing in tobacco settlement enforcement, and
- replace the expenditures for the ALSB attorney with a less expensive FTE position funded from the general fund receipts under the tobacco settlement.

Funding

Fiscal Year	ALSB Expenses
2002	$70,126
2003	$98,189
2004	$155,183

Fiscal Year	Proposed FTE Funding
2006	$75,639
2007	$72,618