CITY of ALBUQUERQUE
TWENTY FOURTH COUNCIL

COUNCIL BILL NO. M-20-4 ENACTMENT NO. _____

SPONSORED BY: Isaac Benton and Cynthia D. Borrego

MEMORIAL

Urging The Legislature Of The State Of New Mexico To Repeal Statutory Provisions Preempting Stricter County And Municipal Regulation Of The Sale Of Cigarettes, Tobacco Products, And Electronic Smoking Devices (Benton, Borrego)

WHEREAS, the American Heart Association reports approximately 2,600 New Mexico residents die from smoking each year and 40,000 New Mexico children alive today will die prematurely from smoking if nothing is done to reduce tobacco use, indicating tobacco use continues to be a public health problem in New Mexico; and

WHEREAS, the New Mexico 2019 Youth Risk and Resiliency Survey (YRRS) indicated that 8.9% of New Mexico high school students smoked cigarettes on at least one day in the past 30 days, higher than the national rate of 5.8% that year; and

WHEREAS, the 2019 YRRS indicated 34.0% of high school students in New Mexico used electronic vapor products on at least one day in the past 30 days, higher than the national rate of 27.5% that year; and

WHEREAS, in 2019 5.9% of New Mexico high school students used chewing tobacco, snuff or dip on at least one day in the past 30 days, higher than the national rate of 4.8% in 2019; and

WHEREAS, 8.3% of high school students in New Mexico in 2019 smoked cigars, cigarillos or little cigars on at least one day in the past 30 days, higher than the national rate of 7.6% in 2019; and

WHEREAS, in 2020 the New Mexico State Legislature passed Senate Bill 131, later signed

into law on March 4, 2020 as Chapter 46, part of which declares the sale of cigarettes, tobacco products, and electronic smoking devices are matters of statewide concern; and

WHEREAS, by designating regulatory authority to the State, Chapter 46 preempts all local ordinances or regulations that govern the sale of cigarettes, tobacco products, and electronic smoking devices, thereby nullifying and voiding all conflicting, existing local laws and regulations and restricting the ability of local communities to address their own burden of tobacco use and addiction; and

WHEREAS, the New Mexico 2015 State Legislature passed Senate Bill 433, signed into law on April 8, 2015 which appealed the provision (Section 30-49-11 NMSA 1978 being Laws 1993, Chapter 244, Section 11) to read, provided that local ordinances that pertain to the sale of e-cigarettes or nicotine liquid containers must be consistent with the provisions of the Tobacco Products, E-Cigarette and Nicotine Liquid Container Act; after "county", added "including a home rule municipality or urban county", after "tobacco products", added "e-cigarette or nicotine liquid containers", and after "Tobacco Products", added "E-Cigarette and Nicotine Liquid Container"; and

WHEREAS, prior to the enactment of SB 433, New Mexico counties issued their own smoking and tobacco control ordinances, some of which were more stringent than State laws regulating the sale or use of tobacco products; and

WHEREAS, one of the top objectives of the "Healthy People 2020" campaign as conducted by the Federal Office of Disease Prevention and Health Promotion is to "eliminate state laws that preempt stronger local tobacco control laws"; and

WHEREAS, the City of Albuquerque believes statistical variations in tobacco use by the public demonstrate its people are unique and the City should not be prevented from adopting its own tobacco control laws and regulations to address the specific needs of the its communities; and

WHEREAS, the City of Albuquerque further believes that authorizing counties and municipalities to further regulate the sale or use of cigarettes, tobacco products, and electronic smoking devices, is necessary to combat this public health problem.

BE IT MEMORIALIZED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE: The City Council of Albuquerque urges The New Mexico State Legislature to repeal the statutory provisions preempting stricter local and county regulation of the sale of cigarettes, tobacco products, and electronic smoking devices, and that copies of this memorial be transmitted to the Bernalillo County Commissioners, the New Mexico State Governor, and the

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