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FISCAL IMPACT REPORT

ORIGINAL DATE 1/28/17
LAST UPDATED _____

SPONSOR Smith **HB** _____

SHORT TITLE Tobacco Settlement Fund Distribution **SB** 154

ANALYST Boerner

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
	≈ (\$19,500.0)		Non-recurring	Tobacco Settlement Permanent Fund
	≈ \$19,500.0		Non-recurring	Tobacco Settlement Program Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

SUMMARY

Synopsis of Bill

Under the 1998 tobacco Master Settlement Agreement (“MSA”) between New Mexico and most other states, and the nation’s largest cigarette manufacturers, those cigarette companies must make annual settlement payments to the states in perpetuity.

The Legislature established a “tobacco settlement permanent fund” into which all settlement payments from a given year are deposited, and designated the tobacco settlement permanent fund as a reserve fund. NMSA 1978, § 6-4-9(A) and (F). Existing law provides that in a typical fiscal year, 50% of the money deposited in the tobacco settlement permanent fund is then transferred to the tobacco settlement program fund, id. § 6-4-9(B), which was created as a source for the ultimate distribution of settlement money to various health and educational purposes. See id. § 6-4-10(A) and (B).

SB154 would allow the Legislature to appropriate all of the MSA settlement funds in fiscal year 2018, i.e. 100 percent (rather than 50 percent) of the funds in the tobacco settlement permanent fund would be transferred to the tobacco settlement program fund. The Legislature has made

similar exceptions to the default 50/50 formula before; current law provides for a 100 percent distribution to the tobacco settlement program fund for “fiscal years 2009 through 2013 and 2016.” Id. § 6-4-9(C); see also id. § 6-4-9(D) and (E) (providing a different appropriations formula for fiscal year 2014).

FISCAL IMPLICATIONS

Tobacco settlement agreement revenue decreased in fiscal years 2014 and 2015 due to a reduction in the settlement payment pursuant to a successful challenge by participating manufacturers of New Mexico’s enforcement of the agreement. However, in October 2016, New Mexico was notified it obtained partial refund of a 2003 reduction to be paid in FY17; consequently, the FY17 estimated revenue increased \$7 million to about \$48 million for the year. Total tobacco revenue is projected to be approximately \$39 million in FY18. The revenue forecast for this revenue remains subject to uncertainty surrounding the nature and timing of any subsequent challenges by participating manufacturers of New Mexico’s enforcement of the MSA.

SIGNIFICANT ISSUES

This bill would allow the legislature to spend down more tobacco settlement revenue for fiscal year 2018 spending priorities and reserve less for future years as part of the tobacco settlement permanent fund. The above \$19.5 million is the estimated amount expected to be available.

CEB/al