F I S C A L   I M P A C T   R E P O R T

SPONSOR Chasey

ORIGINAL DATE 02/10/09
LAST UPDATED 02/16/09

HB 298/aHCPAC

SHORT TITLE Tobacco Settlement Fund Reversions

SB

ANALYST Francis

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	$0.1		Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Department of Health (DOH)
Higher Education Department (HED)
NM State Investment Council (NMSIC)

SUMMARY

Synopsis of HCPAC Amendment

The House Consumer and Public Affairs Committee amended House Bill 298 to exclude higher education institutions from the end of fiscal year reversion. This addresses concerns raised by the higher education department. The amendment also strikes the word “unencumbered” requiring encumbered but unexpended funds to revert.

Synopsis of Original Bill

House Bill 298 would make unexpended and unencumbered appropriations out of the tobacco settlement program fund revert back to the program fund rather than the general fund as is now the case.

There is no effective date stated so the provisions will be effective June 19, 2009.

FISCAL IMPLICATIONS

Requiring the unexpended appropriations to revert to the program fund rather than the general fund will reduce general fund revenues by an indeterminate amount. Appropriations for 2009 were $21.0 million and the LFC recommendation is $44.9 million in FY10, reflecting passage of SB79 which distributes all of the revenue from the master settlement payment to the program fund. It is unknown and DFA did not report how much of each appropriation goes unexpended.
DOH:

> The TSPF supports programs in a number of agencies including Indian Affairs, Human Services, the Department of Health, Veterans Services and the University of New Mexico Health Sciences Center. The Department of Health (DOH) has received funding from the TSPF since FY01 and in FY09, received $9.115M for the Tobacco Prevention and Control Program, $1M for the Diabetes Prevention and Control Program, $470,000 for HIV/AIDS Services, and $200,000 for the Breast and Cervical Cancer Program. At present, the law is silent on where unexpended appropriations from the Fund revert.

SIGNIFICANT ISSUES

Laws 2009, Chapter 3 (SB79), distributes 100 percent of the annual payment per the master settlement agreement between states' attorneys general and major tobacco manufacturers to the program fund for FY09 and FY10. The additional distribution is appropriated to Medicaid in FY09 and the LFC recommendation appropriates to Medicaid in FY10 as well. The annual payment is expected to be $44.9 million in FY09 and FY10.

The appropriation to HED from the tobacco settlement program fund has been around 25 percent in recent years.

OTHER SIGNIFICANT ISSUES

NMSIC reports on the investments of the Tobacco Settlement Permanent fund which is not subject to appropriation:

> The Tobacco Settlement Permanent Fund is invested in a manner similar to the Land Grant Permanent Fund. The following shows the amounts distributed from the State Investment Office to DFA and indirectly, the Tobacco Settlement Program Fund on an annualized basis.

Date	Distributions (Stated in $000's)
1/1/03 to 6/30/03	43,759
FY 04	37,449
FY 05	38,009
FY 06	34,892
FY 07	18,119
FY 08	22,431
thru 12/31/08	0
Total	**194,659**

While these totals are helpful in assessing the overall size of annual distributions, the Investment Office is not privy to the amounts expended or encumbered under the programs, so cannot estimate how much unspent funding would revert to the Permanent Fund with any reliable level of accuracy.

Performance data for the TSPF, 1/3/5 yr returns, as of 9/30/08:
1yr: (-8.1)%
3yr: 4.3%
5yr: 7.6%

The extreme market turmoil of 4Q CY2008 has significantly affected these historic returns, and it is unclear how long a recovery or move to "normal" market conditions might take. Generally, investment professionals expect the process to take years. Final performance numbers through 12/31/08 are not yet available, but are *estimated* to be in the range of -28% for 1 year, -3.5% for 3-year, and 1.5% for 5-year average returns. These numbers, as well as the historical target of 8.5% annual average returns may be useful in estimating impact of unexpended funds being returned to the TSPF for ongoing investment.

NF/svb:mt

The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:

1. ***Adequacy:*** *revenue should be adequate to fund government services.*
2. ***Efficiency:*** *tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.*
3. ***Equity****: taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.*
4. ***Simplicity****: taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.*
5. ***Accountability/Transparency:*** *Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.*

More information about the LFC tax policy principles will soon be available on the LFC website at www.nmlegis.gov/lcs/lfc