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

ORIGINAL DATE 02/13/13
SPONSOR Trujillo, J. **LAST UPDATED** 02/14/13 **HB** 412

SHORT TITLE General Fund Dollars to Tobacco Fund **SB**

ANALYST Walker-Moran

REVENUE (dollars in thousands)

Estimated Revenue		Recurring or Nonrecurring	Fund Affected
FY13	FY14		
($150,000.0)	$0.0	Nonrecurring	General Fund Operating Reserve
$150,000.0	$0.0	Nonrecurring	Tobacco Settlement Permanent Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to SB 113, SM 22, and SB 392

Conflicts with HB 341

SOURCES OF INFORMATION
LFC Files

Responses Received From
Attorney General's Office (AGO)
State Investment Council (SIC)
State Treasurer's Office (STO)
Department of Health (DOH)
Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

House Bill 412 transfers $150 million dollars from the general fund operating reserve to the tobacco settlement permanent fund. This transfer represents a restoration of funds diverted from the tobacco settlement permanent fund to meet state fiscal solvency requirements.

There is no effective date of this bill. It is assumed that the new effective date is 90 days after this session ends (June 14, 2013).

FISCAL IMPLICATIONS

This bill transfers $150 million from the general fund operating reserve to the tobacco settlement permanent fund. Per the general fund financial summary released in volume I of the LFC budget documents, FY13 ending balances were $653.2 or 11.6 percent of recurring appropriations. If funds are transferred to the tobacco settlement permanent fund the operating reserve will be reduced but the overall general fund reserve level will remain the same.

According to the State Treasurer's Office (STO), if adopted, the removal of funds from the general fund operating reserve to be transferred to the tobacco settlement permanent fund will decrease the amount under management by the STO. This decrease will reduce the investment earnings within the general fund.

Using a proxy interest rate of 0.25 percent, the effective decrease to the general fund will be the following:

Decrease in Annual Interest Earnings=	Par Amount	times	Assumed Interest Rate
Decrease in Annual Interest Earnings=	$150,000,000	times	0.25%/year
Decrease in Annual Interest Earnings=	$375,000/Yr		

In the current interest rate environment, the net effect to the general fund is an opportunity cost of $375,000.

According to the State Investment Council (SIC), the $150 million would be managed as the Tobacco Fund is currently, in highly liquid, primarily public investments. The TSPF is managed this way because as a reserve fund, it could still be accessed legislatively to address annual state budgetary shortfalls, and requires liquidity for potential disbursement. The TSPF's valuation has no fiscal impact to other funds, as it does not make annual distributions from the corpus.

Over time, assuming the SIC can achieve expected growth rates to the TSPF, the $150 million contributed in FY 2014 could grow to approximately $200 million over the next five fiscal years and $275 million over a decade. Obviously, there is no way to predict the positive or negative impact of market returns, inflation or other wide-ranging investment variables during such time periods.

SIGNIFICANT ISSUES

Revenues left at the end of the fiscal year are transferred to the operating reserve. If revenues come up short, the governor may transfer money from the operating reserve to cover authorized expenses. The amount the governor can transfer is capped by the Legislature each year in the General Appropriation Act. Once the operating reserve fund hits 8 percent of the prior budget year's recurring appropriations, the excess must be transferred to the tax stabilization reserve by law.

The tobacco settlement permanent fund was created to hold payments to New Mexico from cigarette companies under the master settlement agreement of 1998. Under the enabling legislation, the settlement payments are split, with half going to the permanent fund and half spent directly on health and education programs. However, during economic hard times, the Legislature has temporarily suspended deposits into the permanent fund and put the entire

amount into direct spending.
Money in the tobacco settlement permanent fund is invested by the SIC and interest is credited to the fund. The Legislature may authorize spending from the fund for a budget shortfall only after balances in all other reserve accounts have been exhausted.

According to the STO, in bond documents prepared by the state, rating agencies and bondholders see the operating fund reserve as a significant portion of the credit structure of the state. As such, bondholders look to the balances in the operating fund reserve as additional security for their bonds. Decreasing the balances in the reserve may decrease the bond rating of the state.

As reported by the DOH, the Tobacco Master Settlement Agreement (MSA) is intended to compensate states for the economic burden that tobacco use creates, and to lessen this burden by reducing tobacco use. Estimated annual smoking costs in New Mexico are $954 million ($461 million for direct medical costs and $493 million for lost productivity. Tobacco use is the single most preventable cause of death in the United States. Each year in the United States, cigarette smoking and exposure to secondhand smoke causes 443,000 (or, 1 in 5) deaths. Smoking-caused diseases result annually in $96 billion in health care costs.

Since its inception in 1998, the MSA payments from tobacco manufacturers have been allocated into the TSPF, from which 50 percent was intended to be distributed into the Tobacco Settlement Program Fund. The Tobacco Settlement Permanent Fund was established for long-term support of the Tobacco Settlement Program Fund in New Mexico, as the MSA payments from participating tobacco manufacturers decrease and eventually will end altogether. At that time, the Tobacco Settlement Permanent Fund would become the only source of perpetual MSA funding available to the programs that rely on these revenues. Allowing for additional growth of the Tobacco Settlement Permanent Fund would sustain tobacco-related and other health programs for future years.

Some states have significantly improved the health of their citizens by reducing smoking rates, thereby decreasing smoking-related diseases, deaths, and health care costs. Even in economically challenging times, states can make a significant difference in public health by employing high-impact, cost-effective tobacco control and prevention strategies.

RELATIONSHIP, CONFLICT

Relates to SB 113, which would make a distribution from the Tobacco Settlement Permanent Fund to the Tobacco Settlement Program Fund in Fiscal Years 2014 (FY14) through FY18 for early childhood care and education programs administered by the Children, Youth and Families Department (CYFD).

Relates to SM 22, which proposes to create a task force to study the relationship between tobacco use and employer costs, including the impacts on organizations that employ tobacco users.

Relates to SB 392 Lottery Tuition Fund distributions, provides 25 percent additional annual settlement inflows to Lottery Scholarship permanently.

Conflicts with HB 341, which would provide that the Tobacco Settlement Permanent Fund shall not be considered a reserve fund of the state.

OTHER SUBSTANTIVE ISSUES

The TSPF is slated to receive 50 percent of the tobacco settlement in-flows for FY13. This would be the first time since FY 2008 the TSPF will receive "new" money.

EWM/svb:blm