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FISCAL IMPACT REPORT



SPONSOR: Beam DATE TYPED: 02-05-02 HJR 10a/HVEC

SHORT TITLE: Master Settlement Permanent Fund, CA SB

ANALYST: Neel

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring Or Non-Rec	Fund Affected
FY02	FY03			
		None		

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC files

No response received

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HVEC Amendment

The House Voters and Elections Committee amendment changes the effectivity date for the resolution upon passage by the voters to July 1, 2004 or the beginning of FY05. House Bill 8a passed by both the House and Senate increases the distribution of tobacco settlement monies from the tobacco settlement permanent fund to the tobacco settlement program fund. Currently, all settlement revenue is deposited in the permanent fund. One half is then transferred to the program fund and made available for appropriation. The bill proposes to temporarily make all of the settlement revenue available for appropriation during **FY03 and FY04**. After FY04, the amount available for appropriation from the program fund will again revert to one half of settlement revenues.

Synopsis of Original Bill

House Joint Resolution 10 proposes an amendment to the New Mexico Constitution to create a “Master Settlement Permanent Fund (MSPF) consisting of funds received from the master settlement agreement with various tobacco manufactures. On July 1 of each year an annual distribution will be made from the MSPF to the Master Settlement Program Fund equal to 50 percent of the deposits made to the MSPF from the tobacco manufacturers in the preceding year or until the amount of the distribution is equal to or less than 4.7 percent of the average year-end market value of the master settlement permanent fund in the immediate preceding five years (December 31). Thereafter, the distribution from the MSPF to the Master Settlement Program Fund will be the same as the Land Grant Permanent Fund, which is currently at 4.7 percent of the average fund balance of the preceding five years.

Monies deposited in the Tobacco Settlement Permanent Fund and the Tobacco Settlement Program Fund will be credited to the MSPF and Master Settlement Program Fund respectively.

The amendment will be submitted to the voters at the next general election in November.

Significant Issues

HJR 10 shifts language regarding the Tobacco Settlement Permanent Fund (TSPF) currently in statute into the Constitution thereby giving the fund constitutional protection from Legislative appropriation. Currently, in order to appropriate funds from the TSPF the legislature must amend statute. Under the provisions of HJR 10, a constitutional amendment would need to be passed requiring voter approval. HJR 10 also renames the TSPF and the MSPF.

The Legislative Finance Committee’s FY03 budget recommendation proposes to increase the current \$19.5 million distribution to the Tobacco Settlement Program Fund by an additional \$19.5 million, or to approximately \$39 million, for FY03 and FY04. These provisions are included in HB 8a.

In the master settlement agreement between the states and the tobacco industry, \$246 billion will be distributed to the states over the next 25 years, although the agreement stipulates funding into perpetuity. New Mexico’s portion of the settlement totals \$1.2 billion for the same period. The balance of the tobacco settlement permanent fund is currently \$38 million.

FISCAL IMPLICATIONS

None

TECHNICAL ISSUES

The October estimate for tobacco settlement revenue was roughly \$44 million; the DFA now estimates revenue at \$39 million. The reasons for the change are as follows:

1. Actual volume adjustments in January have been larger than anticipated.
2. Brown and Williamson (one of the participating manufacturers) has placed over half their initial

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payment in a escrow account. This manufacturer believes that they are due an adjustment to their payment due to market share gained by non participating manufacturers; this issue will have to be adjudicated.

The DFA notes that there is a possibility that Phillip Morris may do the same with its annual payment. This would reduce the estimate by an additional \$4 million.

SN/njw