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FISCAL IMPACT REPORT

SPONSOR Garcia DATE TYPED 1/28/04 HB _____

SHORT TITLE Escrow Fund Quarterly Deposit Requirements SB 66

ANALYST Neel

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
			NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to:

- HB 59, Increase Tobacco Products Tax
- HB 86, Tobacco Stamp Procedure Changes
- HB 220, Tobacco Settlement Revenue Appropriation
- SB 192, Smart Moves Smoking Cessation Program Funding
- HM 1, Promote Cigarette Taxation Parity

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General Office (AGO)

SUMMARY

Synopsis of Bill

Senate Bill 66 amends statute to allow the AG the discretion to require non-participating tobacco manufactures, those not included in the 1998 Master Settlement Agreement (MSA), to make quarterly payments into an escrow fund rather than the current annual payments. Further, it gives the Attorney General the ability to exercise this discretion without first having to promulgate regulations.

Significant Issues

The following was excerpted from the November/December 2003 edition of *State Government News*:

As part of Phase I of the MSA, tobacco manufacturers that signed on the agreement are required to make annual payments to state governments in perpetuity. It was originally estimated that over the first 25 years of the agreement, the cumulative total of those payments would be approximately \$200 billion.

The base amounts are subject annually to three adjustments: inflation accounting for the change in the value of a dollar each year; volume, ensuring that payments to the states are based on the total number of cigarettes sold by the participating manufacturers; and market share, to take account of gains in the market share by companies that haven't signed the MSA....

The size of the volume reduction has grown by 14 percent in 2000 to more than 23 percent in 2003. ... By 2018 more than half of each annual payment will be lost to volume adjustments. Two trends are responsible for this volume decline. First, cigarette consumption is down. Fewer people are smoking, and those who continue to smoke are smoking less. The United States' overall cigarette consumption continues to drop at an annual rate of roughly 1.5 percent... The second trend, however, is less positive. Smoking statistics are down, but not as much as sales figures would indicate. The decline in the volume of cigarettes sold is several percentage points greater than the decline in consumption. This suggests that an increasing number of cigarettes are being sold through illegitimate unmonitored channels. These sales artificially inflate the reductions applied to MSA payments, undermining the MSA's health goals and cutting the size of states settlement payments.

FISCAL IMPLICATIONS

SB 66 does not include an appropriation.

SN/yr