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## FISCAL IMPACT REPORT

**SPONSOR** Sandoval      **DATE TYPED** 01/25/05      **HB** 305

**SHORT TITLE** Cigarette Taxes to Behavioral Health Fund      **SB** \_\_\_\_\_

**ANALYST** Kehoe

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	\$7,000.0			Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates Senate Bill 52.

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
	(\$1,183.0)		Recurring	General Fund
	\$1,183.0		Recurring	Behavioral Health Capital Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation & Revenue Department (TRD)  
 Department of Health (DOH)  
 New Mexico Finance Authority (NMFA)

## SUMMARY

### Synopsis of Bill

House Bill 305 appropriates \$7 million from the general fund and authorizes an annual distribution of the cigarette tax to the behavioral health capital fund for the purpose of making loans to eligible entities for capital projects.

### Significant Issues

The 2004 Legislature created the behavioral health capital fund within the Behavioral Health Capital Funding Act as a revolving fund to provide for low-cost financing to non-profit organizations for the acquisition, repair, alteration and construction of infrastructure and capital equipment. The revolving fund was created within the New Mexico Finance Authority (NMFA) for the purpose of making loans to eligible entities, provided the Department of Health (DOH) finds the project will provide behavioral health services to sick and indigent persons; and that the New Mexico Finance Authority (NMFA) finds there is adequate protection, including loan guarantees, real property liens, title insurance, security interests, assets, etc., for repayment of the loan. DOH and NMFA are required to develop and adopt rules to administer and implement the provisions of the Act. However, no funding was provided for the fund.

House Bill 305 creates a financing mechanism for the revolving loan fund by appropriating an annual appropriation of \$7 million from the general fund combined with a distribution of 2 percent of net cigarette tax revenues to the fund effective July 1, 2005.

## FISCAL IMPLICATIONS

The appropriation of \$7 million contained in this bill is a recurring expense to the general fund in fiscal year 2006 and succeeding years. Any unexpended or unencumbered balance remaining at the end of the fiscal year shall not revert to the general fund.

According to the Consensus Revenue Estimating Group of the Taxation and Revenue Department, it is projected "taxable cigarette sales will be 64.9 million packs for fiscal year 2006. At \$0.91 per pack, total revenues will be \$59.1 million. A distribution of 2 percent, or \$1.18 million, of net cigarette tax receipts will be made to the behavioral health capital fund. The distribution amount may decline in future years because of the decline in cigarette consumption. The distribution will reduce the general fund distribution of net cigarette receipts by 3.6 percent." Current distributions of the cigarette tax to NMFA, UNM Cancer Center, counties and municipalities will not be affected.

### Continuing Appropriations

This bill provides for continuing appropriations. The LFC objects to including continuing appropriation language in the statutory provisions for newly created funds. Earmarking reduces the ability of the legislature to establish spending priorities.

**ADMINISTRATIVE IMPLICATIONS**

The Behavioral Health Capital Funding Act provides that DOH and NMFA enter into joint powers agreements with each other or other appropriate public agencies to carry out the provisions of the Act. The Act defines the powers and duties of both DOH and NMFA.

The Taxation and Revenue Department will have to make one-time changes in its computer systems at a modest cost, and modify its recurring processes for distributing the net cigarette tax revenue at a modest cost.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

House Bill 305 duplicates Senate Bill 52 in its entirety.

**LMK/lg**