# A BRIEF HISTORY OF THE TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE AND THE TOBACCO SETTLEMENT FUNDS

The Tobacco Settlement Revenue Oversight Committee (TSROC) was created by statute in 2000 as a joint interim legislative committee to monitor the use of revenues received as a result of the November 23, 1998 Master Settlement Agreement (MSA) between New Mexico and certain tobacco product manufacturers.[1] The committee meets during the interim to evaluate programs that receive appropriations from tobacco settlement revenues. Each year, the TSROC takes testimony regarding the performance of funded programs and makes recommendations for future funding. Funding recommendations for the next fiscal year are provided to the Legislative Finance Committee (LFC) before December 15 of each year.

In 1999, the Tobacco Settlement Permanent Fund (Permanent Fund), consisting of money distributed to the state pursuant to the MSA, was created in the state treasury.[2] In 2000, the Tobacco Settlement Program Fund (Program Fund), consisting of distributions from the Permanent Fund, was established.[3] Beginning in 2002, money from the Program Fund could be appropriated by the legislature for certain enumerated purposes "after receiving the recommendations of the tobacco settlement revenue oversight committee".

While money from the Program Fund may be appropriated for the general category of "health and educational purposes", the statute expressly authorizes appropriations for the following enumerated programs and activities:

(1) support of additional public school programs, including extracurricular and after-school programs designed to involve students in athletic, academic, musical, cultural, civic, mentoring and similar types of activities;

(2) any health or health care program or service for prevention or treatment of a disease or illness;

(3) basic and applied research conducted by higher educational institutions or state agencies addressing the impact of smoking or other behavior on health and disease;

(4) public health programs and needs; and

(5) tobacco use cessation and prevention programs, including statewide public information, education and media campaigns.[4]

Historically, the Department of Health, the Human Services Department (Medicaid has received the bulk of appropriations from MSA revenues) and the University of New Mexico Health Sciences Center have been the primary recipients of such appropriations.

Beginning in fiscal year 2001, the distribution to the Program Fund from the Permanent Fund was limited to 50% of the MSA funds received by the state in the preceding fiscal year, retaining 50% in the Permanent Fund until it reached a level that would generate sufficient income to support program funding. This is achieved through a formula best explained by Dr. Tom Pollard.

In 2003, an amendment made the Permanent Fund a reserve fund of the state that could be expended, under certain circumstances, to avoid an unconstitutional deficit.

At various times since, other amendments have allowed for distributions from the Permanent Fund to the general fund or for additional distributions to the Program Fund. In nine of the fiscal years since the creation of the Permanent Fund, no part of the annual MSA revenues has been retained in the Permanent Fund. Legislation passed last session will continue this practice in fiscal year 2014.

SFC/SFC/SB 113 and SEC/SB 392 (2013) transfers one-fourth of the annual fiscal year 2014 MSA distribution from the Permanent Fund to the Lottery Tuition Fund. This legislation also transfers one-fourth of the fiscal year 2014 MSA distribution from the

Permanent Fund to the Program Fund for appropriation to the Children, Youth and Families Department for early childhood education programs. The governor vetoed a temporary provision in the bill to transfer $50 million from the general fund operating reserve to the Permanent Fund to restore funds diverted in the past to meet state fiscal solvency requirements.[5]

For fiscal years 2012 through 2014, MSA revenues have been, or are projected to be, essentially flat, hovering around $39 million. According to the Office of the Attorney General, the MSA revenue was approximately $39.3 million for each of fiscal years 2012 and 2013. As of April 18, 2013, the estimated fiscal year 2013 balance in the Permanent Fund is $160,200,000. The LFC estimates the fiscal year 2014 balance will be $172,200,000.[6]

1. Section 2-19-1 NMSA 1978.

2. Section 6-4-9 (A) NMSA 1978.

3. Section 6-4-10 NMSA 1978.

4. Section 6-4-10 (B) NMSA 1978.

5. Senate Executive Message No. 59 of Governor Susana Martinez (April 5, 2013).

6. Legislative Finance Committee General Fund Financial Summary: 2013 Reserve Detail (4/18/2013).