



Post-Session Update: Tobacco Settlement Permanent and Program Funds

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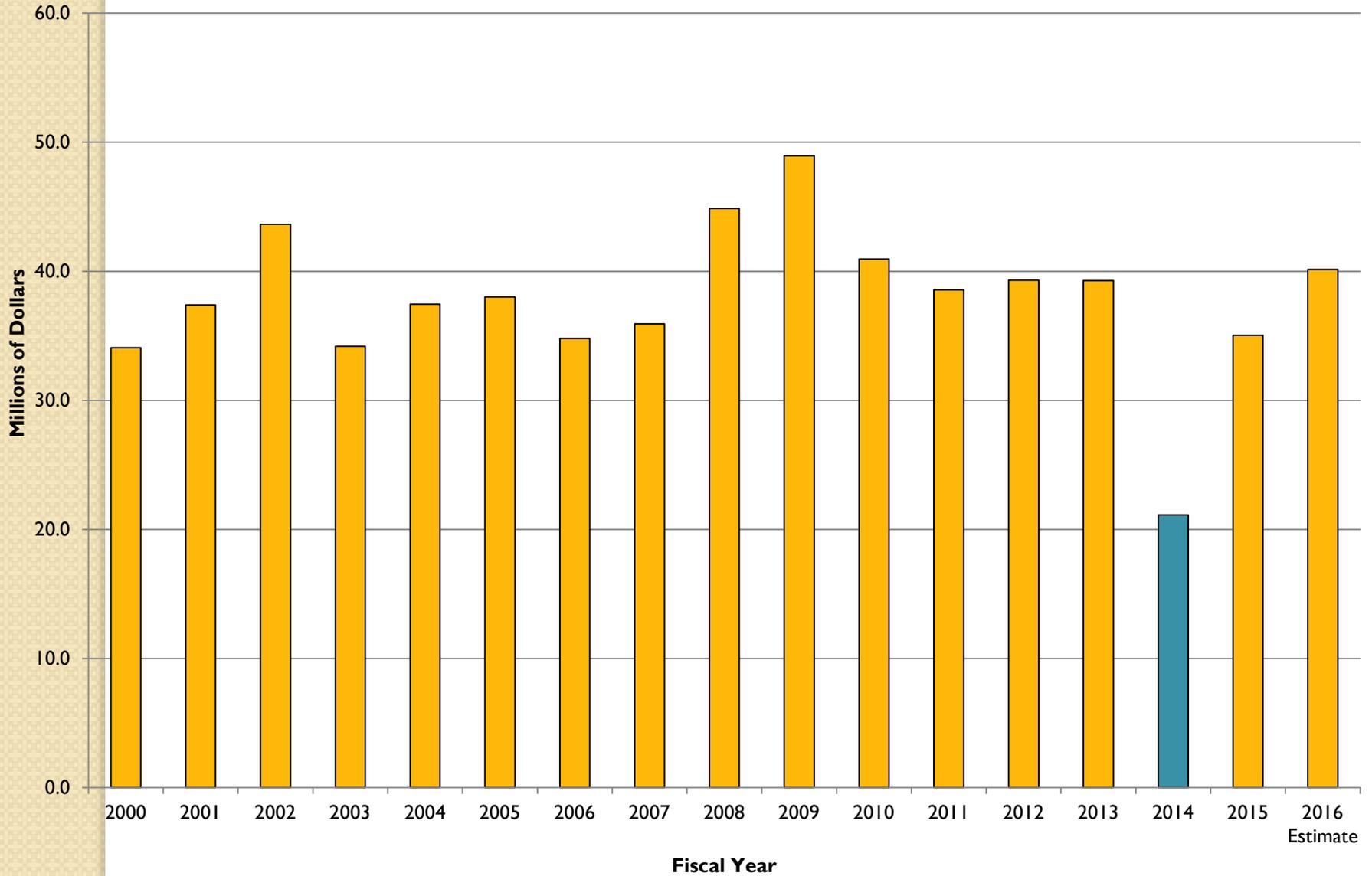
Presentation to the Tobacco Settlement Revenue Oversight Committee

June 24, 2015

Tobacco MSA Funding

- The FY13 payment was \$39.3 million.
- The FY14 payment of \$21.2 million due to a reduction after a successful challenge by manufacturers participating in the settlement agreement of New Mexico's enforcement of the provisions of the agreement in 2003.
- The FY15 estimate was \$39.8 million, above the FY14 amount because it did not assume a reduction in the transfer amount - no successful challenge of state's enforcement of MSA in 2004 was anticipated before the expected transfer in April 2015.
- After correction of an initial underpayment the FY15 payment was \$35 million. The AG's office reported this amount was reduced by approximately \$3.5 million because an auditor for Pricewaterhouse Coopers determined New Mexico had received an overpayment in FY14. Staff of the AG's office have reported this reduction is being challenged.

Tobacco MSA Payment History



Budget Development

- The revenue estimate for FY16 was \$40.1 million.
- Based on this estimate, the Legislature began developing a spending plan for the MSA payment.
- The appropriations from the tobacco settlement program fund are flat compared with FY15.
- The LFC budget recommendation also included spending the remaining 50 percent of the MSA payment to supplement the general fund appropriation to Medicaid.
- Base appropriation already included \$9.2 million to Medicaid, in addition to other programs, including smoking cessation and prevention.
- (See table on slide 6)

2015 Legislature

- Spending the second 50 percent of the MSA payment would require the enactment of legislation to make this transfer, as current statute provided that the remaining 50 percent would transfer to the tobacco settlement permanent fund.
- Laws 2015, chapter 36 authorizes spending the remaining 50 percent of the tobacco MSA payment. This additional transfer also occurred in FY09-FY13 as a solvency measure.
- For both FY15 and FY16 the GAA contains language requiring DFA to transfer from the TSPF to the tobacco settlement program fund the difference between appropriations made from the tobacco settlement program fund and the amount of the MSA payment transferred to the tobacco settlement program fund.
- (Laws 2014, Chapter 63, Section 12, and Laws 2015, Chapter 101, Section 11)

TOBACCO SETTLEMENT PROGRAM FUND APPROPRIATIONS

(in thousands)

Agency	Purpose	FY 14 Laws 2013 Chapter 227 and Chapter 228 (1)	FY14 Revised Budget (2)	FY15 Laws 2014, Chapter 63 (3)	FY16 LFC Rec. (4)	FY16 Exec Rec.	FY16 Laws 2015, Chapter 101
609 Indian Affairs	Tobacco Cessation Programs	\$ 249.3	\$ 249.3	\$ 249.3	\$ 249.3	\$ 249.3	\$ 249.3
630 Human Services Department	Medicaid -- Breast and Cervical Cancer Treatment	\$ 1,312.4	\$9,219.7	\$ 1,312.4	\$ 1,312.4	\$ 1,312.4	\$ 1,312.4
630 Human Services Department	Medicaid	\$ 7,907.3	\$7,907.3	\$ 7,907.3	\$ 7,907.3	\$ 7,907.3	\$ 7,907.3
630 Human Services Department	Medicaid, Contingent on Legislation	\$ -			\$20,800.0		\$20,800.0
665 Department of Health	Tobacco Cessation and Prevention	\$ 5,682.0	\$5,682.0	\$ 5,682.0	\$ 5,682.0	\$ 5,682.0	\$ 5,682.0
665 Department of Health	Diabetes Prevention and Control	\$ 748.0	\$ 748.0	\$ 748.0	\$ 748.0	\$ 748.0	\$ 748.0
665 Department of Health	HIV/AIDS Services	\$ 293.0	\$ 293.0	\$ 293.0	\$ 293.0	\$ 293.0	\$ 293.0
665 Department of Health	Breast and Cervical Cancer Screening	\$ 128.6	\$ 128.6	\$ 128.6	\$ 128.6	\$ 128.6	\$ 128.6
665 Department of Health	Family Infant Toddler Program						
665 Department of Health	BCC Screening Program - 3D Mammograms						
690 Children, Youth & Families	Early Childhood Funding	\$ 9,750.0	\$4,875.0				
950 Higher Education Department	Transfer to Lottery Tuition Fund for Scholarships	\$ 9,875.0	\$4,875.0				
952 University of New Mexico HSC	Instruction and General Purposes	\$ 607.9	\$ 607.9	\$ 607.9	\$ 607.9	\$ 607.9	\$ 607.9
952 University of New Mexico HSC	Research in Genomics and Environmental Health	\$ 979.8	\$ 979.8	\$ 979.8	\$ 979.8	\$ 979.8	\$ 979.8
952 University of New Mexico HSC	Poison Control Center	\$ 590.2	\$ 590.2	\$ 590.2	\$ 590.2	\$ 590.2	\$ 590.2
952 University of New Mexico HSC	Pediatric Oncology Program	\$ 261.4	\$ 261.4	\$ 261.4	\$ 261.4	\$ 261.4	\$ 261.4
952 University of New Mexico HSC	Specialty Education in Trauma	\$ 261.4	\$ 261.4	\$ 261.4	\$ 261.4	\$ 261.4	\$ 261.4
952 University of New Mexico HSC	Specialty Education in Pediatrics	\$ 261.4	\$ 261.4	\$ 261.4	\$ 261.4	\$ 261.4	\$ 261.4
Sub-total University of New Mexico HSC		\$ 2,962.1	\$2,962.1	\$ 2,962.1	\$ 2,962.1	\$ 2,962.1	\$ 2,962.1
Total Appropriations		\$38,907.7	\$36,940.0	\$19,282.7	\$40,082.7	\$19,282.7	\$40,082.7

(1) Chapter 228 of Laws 2013 (SB 113/392) makes an appropriation of \$9.75 million to CYFD for early childhood programs and transfers \$9.875 million to the Lottery Tuition Fund.

Source: LFC Files

(2) The Department of Finance and Administration reduced FY14 funding allocations based on the anticipated reduction in April 2014 tobacco distributions due to tobacco company legal action.

(3) Section 12 of the General Appropriation Act of 2014 includes provisions to transfer funding to cover any shortfalls in either 2014 or 2015 tobacco fund appropriations contained in Section 4 of the General Appropriation Acts for FY14 and FY15 due to a reduction in transfers from the tobacco companies due to arbitration decisions or other legal issues.

(4) The \$20.8 million appropriation for Medicaid was contingent on enactment of Senate Bill 270 or similar legislation during the first session of the fifty-second legislature.

General Fund Financial Summary

- Language in the GAA of 2014 provides that the tobacco settlement permanent fund transfer the difference between tobacco funding appropriations and the transfer to the tobacco settlement program fund in FY15
- This excess transfer is estimated to be approximately \$1.8 million in FY15.
- Similar language exists for FY16, should the transfer fall short of the estimate.
- Gains/Losses are from the SIC's investment of the TSPF. Assumed to be 7.5% for FY15 and FY15, but actual earnings in FY14 were in excess of 18 percent.
- TSPF is a significant contributor to GF reserves - FY16 projected ending balance of \$240.5 million contributes 3.9 percent to general fund reserves, a significant portion of the projected FY16 total of 7.5 percent.

TOBACCO PERMANENT FUND

Beginning Balance	\$170.3	\$193.5	\$227.9
Transfers In	\$21.1	\$39.9	\$40.1
Appropriation to Tobacco Settlement Program Fund	\$(10.6)	\$(20.0)	\$(20.1)
Gains/Losses	\$31.5	\$14.5	\$17.1
Additional Transfers from TSPF (4)	\$(18.8)	\$-	\$(20.1)
Ending Balance	\$193.5	\$227.9	\$245.0

General Fund Financial Summary: General Appropriation Act of 2015 and Other Enacted Legislation
(in millions of dollars)

July 8, 2015	Audited Actual FY2014	Estimated FY2015	Estimated FY2016
<u>APPROPRIATION ACCOUNT</u>			
REVENUE			
Recurring Revenue			
December 2014 Consensus Forecast	\$ 6,040.1	\$ 6,120.0	\$ 6,291.9
February 2015 Consensus Revenue Update	\$ -	\$ (5.3)	\$ (57.8)
2015 Legislation	\$ -	\$ -	\$ 4.3
Total Recurring Revenue	\$ 6,040.1	\$ 6,114.7	\$ 6,238.4
Nonrecurring Revenue			
December 2014 Consensus Forecast	\$ 0.4	\$ -	\$ -
2015 Legislation (1)	\$ -	\$ 5.1	\$ -
Total Non-Recurring Revenue	\$ 0.4	\$ 5.1	\$ -
TOTAL REVENUE	\$ 6,040.5	\$ 6,119.8	\$ 6,238.4
APPROPRIATIONS			
Recurring Appropriations			
General Appropriation (2)	\$ 5,899.0	\$ 6,151.2	\$ 6,235.3
2015 Legislative Session Costs - Feed Bill		\$ 10.1	
2015 Special Session - Supplementals		\$ 4.3	
Total Recurring Appropriations	\$ 5,899.0	\$ 6,165.6	\$ 6,235.3
Nonrecurring Appropriations			
Prior Year Appropriations	\$ 41.7	\$ 13.4	\$ -
2014 Audit Adjustment (3)	\$ (4.5)	\$ 3.0	\$ -
2015 Deficiencies, Supplementals, Specials	\$ -	\$ 81.4	\$ -
2015 IT Appropriations	\$ -	\$ 13.8	\$ -
2015 Special Session - Capital Outlay			\$ 30.0
Total Nonrecurring Appropriations	\$ 37.2	\$ 111.5	\$ 30.0
TOTAL APPROPRIATIONS	\$ 5,936.0	\$ 6,277.1	\$ 6,265.3
Transfer to (from) Reserves	\$ 104.6	\$ (157.3)	\$ (26.9)
GENERAL FUND RESERVES			
Beginning Balances	\$ 671.4	\$ 638.0	\$ 493.5
Transfers from (to) Appropriations Account	\$ 104.6	\$ (157.3)	\$ (26.9)
Revenue and Reversions	\$ 73.9	\$ 69.4	\$ 77.2
Appropriations, Expenditures and Transfers Out	\$ (211.8)	\$ (56.6)	\$ (76.1)
Ending Balances	\$ 638.0	\$ 493.5	\$ 467.7
<i>Reserves as a Percent of Recurring Appropriations</i>	<i>10.8%</i>	<i>8.0%</i>	<i>7.5%</i>

Notes:

- (1) A special appropriation to the State Land Office (SLO) from other state funds reduces SLO general fund revenue distribution. Fund transfers include \$5.5 million from the General Services Department unemployment compensation fund.
- (2) Pursuant to FY14 audit, includes encumbrance of \$10 million for special education maintenance-of-effort (MOE) contingency.
- (3) Pursuant to FY14 audit: \$3 million special education MOE contingency available for expenditure in FY15; and \$1.5 million to the Public Education Department for school bus fuel not expended.

General Fund Financial Summary: General Appropriation Act of 2015 and Other Enacted Legislation
RESERVE DETAIL
(in millions of dollars)

	Audited Actual FY2014	Estimated FY2015	Estimated FY2016
OPERATING RESERVE			
Beginning Balance	\$ 327.2	\$ 274.6	\$ 100.2
BOF Emergency Appropriations/Reversions	\$ (0.5)	\$ (2.0)	
Contingent Liability - Cash Management (1)	\$ (30.0)	\$ -	\$ -
Transfers from/to Appropriation Account	\$ 104.6	\$ (157.3)	\$ (26.9)
Transfer to HSD for Overstated Receivable (2)	\$ (73.7)	\$ -	
Restricted Fund Balance for PED MOE (3)	\$ (36.0)		\$ -
Transfer to ACF/Other Appropriations	\$ (17.0)	\$ (15.0)	\$ (20.0)
Ending Balance	\$ 274.6	\$ 100.2	\$ 53.3
APPROPRIATION CONTINGENCY FUND			
Beginning Balance	\$ 16.4	\$ 18.4	\$ 16.9
Disaster Allotments	\$ (19.2)	\$ (16.0)	\$ (16.0)
Other Appropriations		\$ (0.5)	
Transfers In	\$ 17.0	\$ 15.0	\$ 20.0
Revenue and Reversions	\$ 4.2	\$ -	
Ending Balance	\$ 18.4	\$ 16.9	\$ 20.9
Education Lock Box			
Beginning Balance	\$ 9.1	\$ 3.1	\$ (0.0)
Appropriations	\$ (6.0)	\$ (3.1)	\$ -
Transfers In	\$ -	\$ -	\$ -
Ending Balance	\$ 3.1	\$ (0.0)	\$ (0.0)
Total of Appropriation Contingency Fund	\$ 21.5	\$ 16.9	\$ 20.9
STATE SUPPORT FUND			
Beginning Balance	\$ 1.0	\$ 1.0	\$ 1.0
Revenues	\$ -	\$ -	\$ -
Appropriations	\$ -	\$ -	\$ -
Ending Balance	\$ 1.0	\$ 1.0	\$ 1.0
TOBACCO PERMANENT FUND			
Beginning Balance	\$ 170.3	\$ 193.5	\$ 227.9
Transfers In	\$ 21.1	\$ 39.9	\$ 40.1
Appropriation to Tobacco Settlement Program Fund	\$ (10.6)	\$ (20.0)	\$ (20.1)
Gains/Losses	\$ 31.5	\$ 14.5	\$ 17.1
Additional Transfers from TSPF (4)	\$ (18.8)	\$ -	\$ (20.1)
Ending Balance	\$ 193.5	\$ 227.9	\$ 245.0
TAX STABILIZATION RESERVE			
Beginning Balance	\$ 147.5	\$ 147.5	\$ 147.5
Transfers In	\$ -	\$ -	\$ -
Ending Balance	\$ 147.5	\$ 147.5	\$ 147.5
GENERAL FUND ENDING BALANCES	\$ 638.0	\$ 493.5	\$ 467.7
<i>Percent of Recurring Appropriations</i>	<i>10.8%</i>	<i>8.0%</i>	<i>7.5%</i>

Notes:

- (1) The FY14 general fund audit includes a \$30 million provision for a potential loss on the state general fund investment pool in FY14 in addition to the \$70 million contingent liability recognized in FY12 for SHARE reconciliation to the cash account.
- (2) The GAA includes \$73.7 million in transfer authority from the operating reserve to HSD for overstated Medicaid receivable to reconcile with FY14 general fund audit.
- (3) The FY14 general fund audit includes a restricted operating reserve fund balance reflecting the \$36 million contingent appropriation to the Public Education Department to meet federal special education MOE requirements. This summary shows these restricted operating reserves as reductions to the operating reserve.
- (4) Additional transfer in FY16 is contingent on passage of SB270, which passed both houses.