FISCAL IMPACT REPORT

		LAST UPDATED	1/25/24
SPONSOR	Hickey	**ORIGINAL DATE**	1/24/24
SHORT TITLE	Tobacco Fund is Not a Reserve Fund	**BILL NUMBER**	Senate Bill 116
		ANALYST	Gray/Chenier

REVENUE*
(dollars in thousands)

Type	FY24	FY25	FY26	FY27	FY28	Recurring or Nonrecurring	Fund Affected
Earnings		$1,500.0	$2,000.0	$2,500.0	$3,000.0	Recurring	Tobacco Settlement Permanent Fund
TSPF Distributions				$100.0	$200.0	Recurring	Tobacco Settlement Program Fund

Parentheses ( ) indicate revenue decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
State Investment Council (SIC)
Health Care Authority (HCA)

SUMMARY

Synopsis of Senate Bill 116

Senate Bill 116 removes the tobacco settlement permanent fund balance from the general fund reserves so the fund may be invested with higher return targets, provide increasing distributions for programmatic uses, and to accurately reflect reserve balances.

The bill also stabilizes revenue going to the tobacco settlement program fund, improving budgetary planning and program stability for treatment, cession, and prevention efforts which should support programmatic effectiveness. The bill was sponsored by the LFC.

This bill does not contain an effective date, and as a result, will go into effect 90 days after the Legislature adjourns.

FISCAL IMPLICATIONS

The tobacco settlement permanent fund has been unable to provide increasing distributions to treatment, cessation, and prevention efforts due to low returns resulting from its reserve fund status. By removing the fund from reserves, the tobacco settlement permanent fund will likely earn a higher return over the long run which will in turn generate more revenue for programmatic uses.

Analysis from the State Investment Council (SIC) notes that "removing the fund from reserves will allow the Council greater investment flexibility which will result in risk/return optimization and greater returns in the long-term, which will lead to more funding distributions for health-related programs which should also save the state and New Mexicans costs associated with a healthier population."

This analysis uses the annualized returns for the tobacco settlement permanent fund for the most recent quarter. To estimate potential revenues, this analysis assumes returns will be 0.5 percentage points higher, on average. This analysis estimates new program fund revenues could be up to $1 million higher by FY33.

Pursuant to the tobacco master settlement agreement (MSA), each year the state receives a monetary distribution for use on treatment, cessation, and prevention efforts. These distributions are based on national and state level information. Statute currently provides that the tobacco program fund receives either 50 percent of these ongoing revenues or 4.7 percent of the average year-end balance of the tobacco settlement permanent fund over the previous five calendar years, whichever is greater. Since the provision was created, the program fund has generally received 50 percent of ongoing revenue. This amount can fluctuate greatly year-to-year because negotiations can alter how much the state receives. The bill would change this provision to stabilize program fund revenues at 4.7 percent of the permanent fund's balance, leading to more consistent funding for treatment, cessation, and prevention efforts that will likely improve efficiency.

The program fund is not likely to receive less revenue because of this change. After several years of healthy fund growth and prudent fiscal management, current estimates indicate that 4.7 percent of the ending balance of the last five years of the permanent fund is greater than 50 percent of the expected FY25 revenue under the MSA. The permanent fund will also benefit from this change. Increased contributions to the permanent fund will improve the long-term viability of the fund and improve the ability for the program fund to meet the treatment, cessation, and prevention needs of the state. The table on page 3 shows the FY25 LFC recommendation for the tobacco settlement program fund and the FY25 estimate based on the changes proposed in SB116. This analysis uses the December 2023 TSPF balance for the end of 2023 and the end of year balance for the previous five calendar years to estimate the FY25 distribution to the program fund.

Tobacco Settlement Funds Projection
(in thousands of dollars)

		FY24 Operating Budget	FY25 LFC Recommendation	FY25 SB116 Scenario
1	*Tobacco Settlement Permanent Fund*			
2	**Beginning Balance Permanent Fund**	**$330,837.4**	**$365,287.4**	**$365,287.4**
3	Total Tobacco Revenue	$32,500.0	$25,957.7	$25,957.7
4	Distribution to Program Fund	$(16,250.0)	$(12,978.9)	$(13,577.0)
5	Gains/Losses	$18,200.0	$14,611.5	$14,611.5
6	**Ending Balance Permanent Fund**	**$365,287.4**	**$392,877.7**	**$386,114.3**
7	*Tobacco Settlement Program Fund*			
8	**Beginning Balance**	**$24,471.2**	**$8,194.2**	**$8,194.2**
9	Revenue from Tobacco Settlement	$16,250.0	$12,978.9	$13,434.0
10	Appropriation from Program Fund Revenues	$(16,250.0)	$(12,978.9)	$(12,978.9)
11	Appropriation. From Program Fund Balances	$(16,277.0)	$(3,551.9)	$ (3,551.9)
12	**Program Fund Ending Balance**	**$8,194.2**	**$4,642.3**	**$5,240.6**

The bill is estimated to have no negative fiscal impact to agency operating budgets as it simply provides instructions to DFA and LFC on how to calculate the state's reserve position and to SIC in how to begin distributions from the permanent fund. The tobacco settlement permanent fund currently has a balance of $341 million as of December 2023, which represents 3.5 percent of recurring general fund spending in FY24. The calculated general fund reserve position will be reduced by the balance of the fund, likely less than 4 percent in FY24 and FY25.

SIGNIFICANT ISSUES

Currently, five accounts are included in the state's reserves: the operating reserve, the appropriation contingency fund, the state support fund, the tobacco settlement permanent fund, and the tax stabilization reserve. As reserves are intended to be liquid and ready to cover shortfalls in revenues, these accounts earn inferior investment returns compared to other investments made by the state and are often identified and used for nonrecurring spending. Only two funds, the operating reserve, and the tax stabilization reserve, are true reserve funds in their purpose to backfill general fund revenues during downturns. Other funds are limited to schools (state support fund), primarily used for disaster allotments (appropriation contingency fund) or are intended to be permanent funds for programmatic uses (tobacco settlement permanent fund).

By including ancillary funds, the state's reserve position is inflated as a significant portion of the funds are not intended to be available for general fund revenue replacement. This bill would clarify the reserve position to properly reflect the state's current financial status.

BG/EC/rl/ne/al/ss