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AN ACT  
RELATING TO STATE RESERVES; PROVIDING THAT THE TOBACCO  
SETTLEMENT PERMANENT FUND IS NOT A RESERVE FUND OF THE STATE;  
STRIKING OUTDATED PROVISIONS IN SECTION 6-4-9 NMSA 1978  
(BEING LAWS 1999, CHAPTER 207, SECTION 1, AS AMENDED).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 6-4-9 NMSA 1978 (being Laws 1999,  
Chapter 207, Section 1, as amended) is amended to read:

"6-4-9. TOBACCO SETTLEMENT PERMANENT FUND--INVESTMENT--  
DISTRIBUTION.--

A. The "tobacco settlement permanent fund" is  
created in the state treasury. The fund is not a reserve  
fund of the state. The fund shall consist of money  
distributed to the state pursuant to the master settlement  
agreement entered into between tobacco product manufacturers  
and various states, including New Mexico, and executed  
November 23, 1998 or any money released to the state from a  
qualified escrow fund or otherwise paid to the state as  
authorized by Section 6-4-13 NMSA 1978, enacted pursuant to  
the master settlement agreement or as otherwise authorized by  
law. Money in the fund shall be invested by the state  
investment officer in accordance with the limitations in  
Article 12, Section 7 of the constitution of New Mexico.

1 Income from investment of the fund shall be credited to the  
2 fund. Money in the fund shall not be expended for any  
3 purpose, except as provided in this section.

4 B. In each fiscal year, an annual distribution  
5 shall be made from the tobacco settlement permanent fund to  
6 the tobacco settlement program fund of an amount equal to  
7 four and seven-tenths percent of the average of the year-end  
8 market values of the tobacco settlement permanent fund for  
9 the immediately preceding five calendar years. In the event  
10 that the actual amount distributed to the tobacco settlement  
11 program fund in a fiscal year is insufficient to meet  
12 appropriations from that fund for that fiscal year, the  
13 secretary of finance and administration shall proportionately  
14 reduce each appropriation accordingly.

15 C. Money in the tobacco settlement permanent fund  
16 may be expended in the event that general fund balances,  
17 including all authorized revenues and transfers to the  
18 general fund and balances in the general fund operating  
19 reserve, the appropriation contingency fund and the tax  
20 stabilization reserve, will not meet the level of  
21 appropriations authorized from the general fund for a fiscal  
22 year. In that event, in order to avoid an unconstitutional  
23 deficit, the legislature may authorize a transfer from the  
24 tobacco settlement permanent fund to the general fund but  
25 only in an amount necessary to meet general fund

