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HOUSE BILL

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

DISCUSSION DRAFT

FOR THE TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE

AN ACT

RELATING TO PUBLIC FINANCES; REMOVING THE DESIGNATION OF THE TOBACCO SETTLEMENT PERMANENT FUND AS A RESERVE FUND; MAKING TECHNICAL CHANGES.

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 by Laws 2017, Chapter 2, Section 6 and by Laws 2017, Chapter 80, Section 1) 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 shall consist of money distributed to the state pursuant to the master settlement agreement entered into between tobacco product manufacturers

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1 and various states, including New Mexico, and executed November
2 23, 1998 or any money released to the state from a qualified
3 escrow fund or otherwise paid to the state as authorized by
4 Section 6-4-13 NMSA 1978, enacted pursuant to the master
5 settlement agreement or as otherwise authorized by law. Money
6 in the fund shall be invested by the state investment officer
7 in accordance with the limitations in Article 12, Section 7 of
8 the constitution of New Mexico. Income from investment of the
9 fund shall be credited to the fund. Money in the fund shall
10 not be expended for any purpose, except as provided in this
11 section.

12 B. In fiscal year [2007] 2020 and in each fiscal
13 year thereafter, an ~~[annual distribution shall be made from the~~
14 ~~tobacco settlement permanent fund to the tobacco settlement~~
15 ~~program fund of an amount equal to fifty percent of the total~~
16 ~~amount of money distributed to the tobacco settlement permanent~~
17 ~~fund in that fiscal year until that amount is less than an~~
18 ~~amount equal to four and seven-tenths percent of the average of~~
19 ~~the year-end market values of the tobacco settlement permanent~~
20 ~~fund for the immediately preceding five calendar years.~~

21 ~~Thereafter, the amount of the]~~ annual distribution shall be
22 made from the tobacco settlement permanent fund to the tobacco
23 settlement program fund of an amount equal to four and seven-
24 tenths percent of the average of the year-end market values of
25 the tobacco settlement permanent fund for the immediately

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1 preceding five calendar years. In the event that the actual
2 amount distributed to the tobacco settlement program fund in a
3 fiscal year is insufficient to meet appropriations from that
4 fund for that fiscal year, the secretary of finance and
5 administration shall proportionately reduce each appropriation
6 accordingly.

7 ~~[G.— In addition to the distribution made pursuant~~
8 ~~to Subsection B of this section, in fiscal years 2009 through~~
9 ~~2013, 2016 and 2018, the remaining fifty percent of the total~~
10 ~~amount of money distributed to the tobacco settlement permanent~~
11 ~~fund in that fiscal year shall be distributed from the tobacco~~
12 ~~settlement permanent fund to the tobacco settlement program~~
13 ~~fund.~~

14 ~~D.— In addition to the distribution made pursuant to~~
15 ~~Subsections B and E of this section, in fiscal year 2014,~~
16 ~~twenty-five percent of the total amount of money distributed~~
17 ~~pursuant to the master settlement agreement to the tobacco~~
18 ~~settlement permanent fund in that fiscal year shall be~~
19 ~~distributed from the tobacco settlement permanent fund to the~~
20 ~~lottery tuition fund.~~

21 ~~E.— In addition to the distribution made pursuant to~~
22 ~~Subsections B and D of this section, in fiscal year 2014,~~
23 ~~twenty-five percent of the total amount of money distributed to~~
24 ~~the tobacco settlement permanent fund in that fiscal year shall~~
25 ~~be distributed from the tobacco settlement permanent fund to~~

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1 ~~the tobacco settlement program fund for appropriation for~~
2 ~~direct services provided by early childhood care and education~~
3 ~~programs administered by the children, youth and families~~
4 ~~department.~~

5 ~~F. The tobacco settlement permanent fund is a~~
6 ~~reserve fund of the state. Money in the tobacco settlement~~
7 ~~permanent fund may be expended:~~

8 ~~(1) in the event that general fund balances,~~
9 ~~including all authorized revenues and transfers to the general~~
10 ~~fund and balances in the general fund operating reserve, the~~
11 ~~appropriation contingency fund and the tax stabilization~~
12 ~~reserve, will not meet the level of appropriations authorized~~
13 ~~from the general fund for a fiscal year. In that event, in~~
14 ~~order to avoid an unconstitutional deficit, the legislature may~~
15 ~~authorize a transfer from the tobacco settlement permanent fund~~
16 ~~to the general fund but only in an amount necessary to meet~~
17 ~~general fund appropriations; or~~

18 ~~(2) as provided in Laws 2016 (2nd S.S.),~~
19 ~~Chapter 4, Section 2 and in Section 7 of this 2017 act.]"~~

20 SECTION 2. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2019.