

FORTY-SIXTH LEGISLATURE
FIRST SESSION, 2003

March 1, 2003

Mr. Speaker:

Your CONSUMER AND PUBLIC AFFAIRS COMMITTEE, to whom has been referred

SENATE BILL 298, as amended

has had it under consideration and reports same with recommendation that it DO PASS, amended as follows:

1. Strike all senate finance committee amendments.

2. On page 1, line 11, after the semicolon strike the remainder of the line, strike line 12 and strike line 13 through the semicolon and insert in lieu thereof:

"PROVIDING FOR AN ADDITIONAL TEMPORARY DISTRIBUTION FROM THE TOBACCO SETTLEMENT PERMANENT FUND; PROVIDING THAT THE TOBACCO SETTLEMENT PERMANENT FUND MAY, UNDER CERTAIN CIRCUMSTANCES, BE CONSIDERED A RESERVE FUND OF THE STATE; TEMPORARILY TRANSFERRING UNENCUMBERED AND UNEXPENDED BALANCES OF A CERTAIN FUND; REQUIRING AN EXTRAORDINARY MAJORITY VOTE FOR FUTURE, ADDITIONAL APPROPRIATIONS OR DISTRIBUTIONS FROM THE TOBACCO SETTLEMENT PERMANENT FUND;".

3. On page 1, lines 16 through 22, strike Sections 1 and 2 in their entirety and insert the following new sections to read:

"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 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 the model statute, Sections 6-4-12 and 6-4-13 NMSA 1978, enacted pursuant to the master settlement agreement. Money in the fund shall be invested by the state investment officer as land grant permanent funds are invested pursuant to Chapter 6, Article 8 NMSA 1978. Income from investment of the fund shall be

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credited to the fund. Money in the fund shall not be expended for any purpose, ~~[but an annual distribution shall be made to the tobacco settlement program fund in accordance with Subsection B of this section.]~~

~~B. On July 1 of fiscal year 2001 and on July 1 of] except as provided in this section.~~

B. In fiscal year 2003 and in fiscal year 2004, a distribution shall be made from the tobacco settlement permanent fund to the general fund in an amount equal to one hundred percent of the total amount of money distributed to the tobacco settlement permanent fund in that fiscal year.

C. In fiscal year 2005 and in each fiscal year thereafter, an annual distribution shall be made from the tobacco settlement permanent fund to the tobacco settlement program fund of an amount equal to fifty percent of the total amount of money distributed to the tobacco settlement permanent fund in [the immediately preceding] that fiscal year until that amount is less than an amount equal to four and seven-tenths percent of the average of the year-end market values of the tobacco settlement permanent fund for the immediately preceding five calendar years. Thereafter, the amount of the annual distribution shall be four and seven-tenths percent of the average of the year-end market values of the tobacco settlement permanent fund for the immediately preceding five calendar years. In the event that the actual amount distributed to the tobacco settlement program fund in a fiscal year is insufficient to meet appropriations from that fund for that fiscal year, the secretary of finance and administration shall proportionately reduce each appropriation accordingly.

D. The tobacco settlement permanent fund shall be considered a reserve fund of the state and, as a reserve fund, may be expended in the event that general fund balances, including all authorized revenues and transfers to the general fund and balances in the general fund operating reserve, the appropriation contingency fund and the tax stabilization reserve, will not meet the level of appropriations authorized from the general fund for a fiscal year. In that event, in order to avoid an unconstitutional deficit, the legislature may authorize a transfer from the tobacco settlement permanent fund to the general fund but only in an amount necessary to meet general fund appropriations.

E. Except as provided in Subsections B, C and D of this section, no distributions or appropriations shall be made from the

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tobacco settlement permanent fund unless authorized by a law passed by a three-fifths' vote of each house of the legislature."

Section 2. TEMPORARY PROVISION--TRANSFER OF FUND BALANCES. -- During fiscal year 2003, any unexpended or unencumbered balance of the tobacco settlement program fund shall be transferred to the general fund. "

4. Renumber the succeeding section accordingly. ,

and thence referred to the APPROPRIATIONS AND FINANCE COMMITTEE.

Respectfully submitted,

Gail C. Beam, Chairman

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____

The roll call vote was 5 For 2 Against

Yes: 5

No: Anderson, Zanetti

Excused: Park

Absent: None

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