AN ACT

RELATING TO PUBLIC MONEY; INCREASING DISTRIBUTIONS TO THE
LOTTERY TUITION FUND; MAKING A DISTRIBUTION FROM THE TOBACCO
SETTLEMENT PERMANENT FUND TO THE LOTTERY TUITION FUND; MAKING A
DISTRIBUTION FROM THE TOBACCO SETTLEMENT PERMANENT FUND TO THE
TOBACCO SETTLEMENT PROGRAM FUND FOR EARLY CHILDHOOD CARE AND
EDUCATION PROGRAMS ADMINISTERED BY THE CHILDREN, YOUTH AND
FAMILIES DEPARTMENT; RECONCILING MULTIPLE AMENDMENTS TO THE
SAME SECTION OF LAW IN LAWS 2011; MAKING APPROPRIATIONS.

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 2011, Chapter 3,
Section 1 and by Laws 2011, Chapter 167, Section 1) is amended
to read:

"6-4-9. TOBACCO SETTLEMENT PERMANENT FUND--INVESTMENT--
.193573.3
1 DISTRIBUTION.--

2 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 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 in accordance with the limitations in Article 12, Section 7 of the constitution of New Mexico. Income from investment of the fund shall be credited to the fund. Money in the fund shall not be expended for any purpose, except as provided in this section.

[B. In fiscal years 2003 through 2006, 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 2007 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.]

.193573.3
fund in 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-C] C. In addition to the distribution made
pursuant to Subsection [6] B of this section, in fiscal years
2009 through 2013, the remaining fifty percent of the total
amount of money distributed to the tobacco settlement permanent
fund in that fiscal year shall be distributed from the tobacco
settlement permanent fund to the tobacco settlement program
fund.

D. In addition to the distribution made pursuant to
Subsections B and E of this section, in fiscal year 2014 and in
each fiscal year thereafter, twenty-five percent of the total
amount of money distributed to the tobacco settlement permanent
fund in that fiscal year shall be distributed from the tobacco
E. In addition to the distribution made pursuant to Subsections B and D of this section, in fiscal years 2014 through 2018, twenty-five percent of the total amount of money distributed to the tobacco settlement permanent fund in that fiscal year shall be distributed from the tobacco settlement permanent fund to the tobacco settlement program fund for direct services provided by early childhood care and education programs administered by the children, youth and families department.

F. 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."

SECTION 2. A new section of the Tax Administration Act is enacted to read:

"[NEW MATERIAL] DISTRIBUTION--LOTTERY TUITION FUND.--A
distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the lottery tuition fund in an amount equal to the amounts automatically withheld pursuant to the Withholding Tax Act on lottery winnings that are subject to withholding."

SECTION 3. Appropriation.--Upon certification by the state treasurer that the balance of the lottery tuition fund is not sufficient to meet the scholarship obligations for fiscal year 2014, 2015 or 2016, the governor shall transfer to the lottery tuition fund the amount necessary to meet that fiscal year's scholarship obligations from the general fund operating reserve; provided that the amount of the transfer shall not exceed one percent of the balance of the general fund operating reserve as of July 1, 2013.

SECTION 4. Appropriation.--

A. Nine million seven hundred fifty thousand dollars ($9,750,000) is appropriated from the tobacco settlement program fund to the children, youth and families department for direct services provided by early childhood care and education programs that the department administers for expenditure in fiscal year 2014 to be allocated as follows:

(1) two million dollars ($2,000,000) for reimbursement of licensed child care providers that the department has determined meet one of the top three levels of a tiered quality rating and improvement system that includes educational components;
(2) five million seven hundred fifty thousand dollars ($5,750,000) for pre-kindergarten; and
(3) two million dollars ($2,000,000) for home visiting programs.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2014 shall revert to the tobacco settlement program fund.

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.