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 APPROPRIATION 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--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 Sections 6-4-12 and 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. 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 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 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.

C. In addition to the distribution made pursuant
to Subsection 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,
twenty-five percent of the total amount of money distributed
pursuant to the master settlement agreement to the tobacco
settlement permanent fund in that fiscal year shall be
distributed from the tobacco settlement permanent fund to the
lottery tuition fund.

E. In addition to the distribution made pursuant
to Subsections B and D of this section, in fiscal year 2014,
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 appropriation
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. 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 3. TEMPORARY PROVISION--TRANSFER OF FUNDS. --On the effective date of this act, fifty million dollars ($50,000,000) is transferred from the general fund operating reserve to the tobacco settlement permanent fund. This transfer represents a restoration of funds diverted from the tobacco settlement permanent fund to meet state fiscal solvency requirements.

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013.