

SENATE FINANCE COMMITTEE SUBSTITUTE FOR  
SENATE BILL 113 AND  
SENATE EDUCATION COMMITTEE SUBSTITUTE FOR  
SENATE BILL 392

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

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--

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underscored material = new  
[bracketed material] = delete

1 DISTRIBUTION.--

2 A. The "tobacco settlement permanent fund" is  
3 created in the state treasury. The fund shall consist of money  
4 distributed to the state pursuant to the master settlement  
5 agreement entered into between tobacco product manufacturers  
6 and various states, including New Mexico, and executed November  
7 23, 1998 or any money released to the state from a qualified  
8 escrow fund or otherwise paid to the state as authorized by  
9 Sections 6-4-12 and 6-4-13 NMSA 1978, enacted pursuant to the  
10 master settlement agreement. Money in the fund shall be  
11 invested by the state investment officer in accordance with the  
12 limitations in Article 12, Section 7 of the constitution of New  
13 Mexico. Income from investment of the fund shall be credited  
14 to the fund. Money in the fund shall not be expended for any  
15 purpose, except as provided in this section.

16 ~~[B. In fiscal years 2003 through 2006, a~~  
17 ~~distribution shall be made from the tobacco settlement~~  
18 ~~permanent fund to the general fund in an amount equal to one~~  
19 ~~hundred percent of the total amount of money distributed to the~~  
20 ~~tobacco settlement permanent fund in that fiscal year.~~

21 G.] B. In fiscal year 2007 and in each fiscal year  
22 thereafter, an annual distribution shall be made from the  
23 tobacco settlement permanent fund to the tobacco settlement  
24 program fund of an amount equal to fifty percent of the total  
25 amount of money distributed to the tobacco settlement permanent

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

14 ~~[D.]~~ C. In addition to the distribution made  
 15 pursuant to Subsection ~~[G]~~ B of this section, in fiscal years  
 16 2009 through 2013, the remaining fifty percent of the total  
 17 amount of money distributed to the tobacco settlement permanent  
 18 fund in that fiscal year shall be distributed from the tobacco  
 19 settlement permanent fund to the tobacco settlement program  
 20 fund.

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

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1 settlement permanent fund to the lottery tuition fund.

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

11 ~~[E.]~~ F. The tobacco settlement permanent fund shall  
12 be considered a reserve fund of the state and, as a reserve  
13 fund, may be expended in the event that general fund balances,  
14 including all authorized revenues and transfers to the general  
15 fund and balances in the general fund operating reserve, the  
16 appropriation contingency fund and the tax stabilization  
17 reserve, will not meet the level of appropriations authorized  
18 from the general fund for a fiscal year. In that event, in  
19 order to avoid an unconstitutional deficit, the legislature may  
20 authorize a transfer from the tobacco settlement permanent fund  
21 to the general fund but only in an amount necessary to meet  
22 general fund appropriations."

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

25 "[NEW MATERIAL] DISTRIBUTION--LOTTERY TUITION FUND.--A

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1 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be  
2 made to the lottery tuition fund in an amount equal to the  
3 amounts automatically withheld pursuant to the Withholding Tax  
4 Act on lottery winnings that are subject to withholding."

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

14 **SECTION 4. APPROPRIATION.--**

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

21 (1) two million dollars (\$2,000,000) for  
22 reimbursement of licensed child care providers that the  
23 department has determined meet one of the top three levels of a  
24 tiered quality rating and improvement system that includes  
25 educational components;

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1 (2) five million seven hundred fifty thousand  
2 dollars (\$5,750,000) for pre-kindergarten; and

3 (3) two million dollars (\$2,000,000) for home  
4 visiting programs.

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

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