

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
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 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:

.193573.4

underscored material = new
[bracketed material] = delete

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

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

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

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

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1 amount of money distributed to the tobacco settlement permanent
2 fund in that fiscal year until that amount is less than an
3 amount equal to four and seven-tenths percent of the average of
4 the year-end market values of the tobacco settlement permanent
5 fund for the immediately preceding five calendar years.

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

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

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

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1 fund in that fiscal year shall be distributed from the tobacco
2 settlement permanent fund to the lottery tuition fund.

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

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

24 SECTION 2. APPROPRIATION.--

25 A. Nine million seven hundred fifty thousand

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1 dollars (\$9,750,000) is appropriated from the tobacco
2 settlement program fund to the children, youth and families
3 department for direct services provided by early childhood care
4 and education programs that the department administers for
5 expenditure in fiscal year 2014 to be allocated as follows:

6 (1) two million dollars (\$2,000,000) for
7 reimbursement of licensed child care providers that the
8 department has determined meet one of the top three levels of a
9 tiered quality rating and improvement system that includes
10 educational components;

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

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

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

18 **SECTION 3. EFFECTIVE DATE.**--The effective date of the
19 provisions of this act is July 1, 2013.