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HOUSE BILL 271

**52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

INTRODUCED BY

Larry A. Larrañaga

AN ACT

RELATING TO FINANCE; MAKING A DISTRIBUTION FROM THE TOBACCO SETTLEMENT PERMANENT FUND TO THE TOBACCO SETTLEMENT PROGRAM FUND.

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) 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

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1 escrow fund or otherwise paid to the state as authorized by  
2 Sections 6-4-12 and 6-4-13 NMSA 1978, enacted pursuant to the  
3 master settlement agreement or as otherwise authorized by law.  
4 Money in the fund shall be invested by the state investment  
5 officer in accordance with the limitations in Article 12,  
6 Section 7 of the constitution of New Mexico. Income from  
7 investment of the fund shall be credited to the fund. Money in  
8 the fund shall not be expended for any purpose, except as  
9 provided in this section.

10 B. In fiscal year 2007 and in each fiscal year  
11 thereafter, an annual distribution shall be made from the  
12 tobacco settlement permanent fund to the tobacco settlement  
13 program fund of an amount equal to fifty percent of the total  
14 amount of money distributed to the tobacco settlement permanent  
15 fund in that fiscal year until that amount is less than an  
16 amount equal to four and seven-tenths percent of the average of  
17 the year-end market values of the tobacco settlement permanent  
18 fund for the immediately preceding five calendar years.

19 Thereafter, the amount of the annual distribution shall be four  
20 and seven-tenths percent of the average of the year-end market  
21 values of the tobacco settlement permanent fund for the  
22 immediately preceding five calendar years. In the event that  
23 the actual amount distributed to the tobacco settlement program  
24 fund in a fiscal year is insufficient to meet appropriations  
25 from that fund for that fiscal year, the secretary of finance

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1 and administration shall proportionately reduce each  
2 appropriation accordingly.

3 C. In addition to the distribution made pursuant to  
4 Subsection B of this section, in fiscal years 2009 through 2013  
5 [~~and~~], 2016 and 2017, the remaining fifty percent of the total  
6 amount of money distributed to the tobacco settlement permanent  
7 fund in that fiscal year shall be distributed from the tobacco  
8 settlement permanent fund to the tobacco settlement program  
9 fund.

10 D. In addition to the distribution made pursuant to  
11 Subsections B and E of this section, in fiscal year 2014,  
12 twenty-five percent of the total amount of money distributed  
13 pursuant to the master settlement agreement to the tobacco  
14 settlement permanent fund in that fiscal year shall be  
15 distributed from the tobacco settlement permanent fund to the  
16 lottery tuition fund.

17 E. In addition to the distribution made pursuant to  
18 Subsections B and D of this section, in fiscal year 2014,  
19 twenty-five percent of the total amount of money distributed to  
20 the tobacco settlement permanent fund in that fiscal year shall  
21 be distributed from the tobacco settlement permanent fund to  
22 the tobacco settlement program fund for appropriation for  
23 direct services provided by early childhood care and education  
24 programs administered by the children, youth and families  
25 department.

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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."