

1 SENATE BILL 154

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 John Arthur Smith

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8 FOR THE LEGISLATIVE FINANCE COMMITTEE

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10 AN ACT

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

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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 6-4-9 NMSA 1978 (being Laws 1999,
17 Chapter 207, Section 1, as amended) is amended to read:

18 "6-4-9. TOBACCO SETTLEMENT PERMANENT FUND--INVESTMENT--
19 DISTRIBUTION.--

20 A. The "tobacco settlement permanent fund" is
21 created in the state treasury. The fund shall consist of money
22 distributed to the state pursuant to the master settlement
23 agreement entered into between tobacco product manufacturers
24 and various states, including New Mexico, and executed November
25 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
5 2013, ~~[and]~~ 2016 and 2018, the remaining fifty percent of the
6 total amount of money distributed to the tobacco settlement
7 permanent fund in that fiscal year shall be distributed from
8 the tobacco settlement permanent fund to the tobacco settlement
9 program 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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1 F. The tobacco settlement permanent fund is a
2 reserve fund of the state. Money in the tobacco settlement
3 permanent fund may be expended:

4 (1) in the event that general fund balances,
5 including all authorized revenues and transfers to the general
6 fund and balances in the general fund operating reserve, the
7 appropriation contingency fund and the tax stabilization
8 reserve, will not meet the level of appropriations authorized
9 from the general fund for a fiscal year. In that event, in
10 order to avoid an unconstitutional deficit, the legislature may
11 authorize a transfer from the tobacco settlement permanent fund
12 to the general fund but only in an amount necessary to meet
13 general fund appropriations; or

14 (2) as provided in Laws 2016 (2nd S.S.),
15 Chapter 4, Section 2 [~~of this 2016 act~~]."