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\_\_\_\_\_ BILL

**55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO THE TOBACCO SETTLEMENT PERMANENT FUND; REQUIRING  
THE REMAINING FIFTY PERCENT OF DISTRIBUTIONS TO THE TOBACCO  
SETTLEMENT PERMANENT FUND FOR FISCAL YEAR 2022 TO BE  
DISTRIBUTED 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 by Laws 2017, Chapter 2,  
Section 6 and by Laws 2017, Chapter 80, 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

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

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

22 Thereafter, the amount of the annual distribution shall be four  
23 and seven-tenths percent of the average of the year-end market  
24 values of the tobacco settlement permanent fund for the  
25 immediately preceding five calendar years. In the event that

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1 the actual amount distributed to the tobacco settlement program  
2 fund in a fiscal year is insufficient to meet appropriations  
3 from that fund for that fiscal year, the secretary of finance  
4 and administration shall proportionately reduce each  
5 appropriation accordingly.

6 C. In addition to the distribution made pursuant to  
7 Subsection B of this section, in fiscal years 2009 through  
8 2013, 2016, ~~[and]~~ 2018 and 2022, the remaining fifty percent of  
9 the total amount of money distributed to the tobacco settlement  
10 permanent fund in that fiscal year shall be distributed from  
11 the tobacco settlement permanent fund to the tobacco settlement  
12 program fund.

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

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

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1 direct services provided by early childhood care and education  
2 programs administered by the children, youth and families  
3 department.

4 F. The tobacco settlement permanent fund is a  
5 reserve fund of the state. Money in the tobacco settlement  
6 permanent fund may be expended:

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

17 (2) as provided in Laws 2016 (2nd S.S.),  
18 Chapter 4, Section 2 and in Laws 2017, Chapter 2, Section 7 [~~of~~  
19 ~~this 2017 act~~]."