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HOUSE BILL 79

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Don L. Tripp

FOR THE LEGISLATIVE FINANCE COMMITTEE

AN ACT

RELATING TO PUBLIC MONEY; PROVIDING FOR AN ADDITIONAL  
DISTRIBUTION FROM THE TOBACCO SETTLEMENT PERMANENT FUND TO THE  
TOBACCO SETTLEMENT PROGRAM FUND IN FISCAL YEARS 2012 AND 2013;  
MAKING AN APPROPRIATION.

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

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1 23, 1998, or any money released to the state from a qualified  
2 escrow fund or otherwise paid to the state as authorized by  
3 ~~[the model statute]~~ Sections 6-4-12 and 6-4-13 NMSA 1978,  
4 enacted pursuant to the master settlement agreement. Money in  
5 the fund shall be invested by the state investment officer as  
6 land grant permanent funds are invested pursuant to Chapter 6,  
7 Article 8 NMSA 1978. Income from investment of the fund shall  
8 be credited to the fund. Money in the fund shall not be  
9 expended for any purpose, except as provided in this section.

10 B. In fiscal years 2003 through 2006, a  
11 distribution shall be made from the tobacco settlement  
12 permanent fund to the general fund in an amount equal to one  
13 hundred percent of the total amount of money distributed to the  
14 tobacco settlement permanent fund in that fiscal year.

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

24 Thereafter, the amount of the annual distribution shall be four  
25 and seven-tenths percent of the average of the year-end market

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1 values of the tobacco settlement permanent fund for the  
2 immediately preceding five calendar years. In the event that  
3 the actual amount distributed to the tobacco settlement program  
4 fund in a fiscal year is insufficient to meet appropriations  
5 from that fund for that fiscal year, the secretary of finance  
6 and administration shall proportionately reduce each  
7 appropriation accordingly.

8 D. In addition to the distribution made pursuant to  
9 Subsection C of this section, in fiscal [~~year 2009, fiscal year~~  
10 ~~2010 and fiscal year 2011~~] years 2009 through 2013, the  
11 remaining fifty percent of the total amount of money  
12 distributed to the tobacco settlement permanent fund in that  
13 fiscal year shall be distributed from the tobacco settlement  
14 permanent fund to the tobacco settlement program fund.

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

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1 general fund appropriations."

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