

AN ACT

RELATING TO PUBLIC FINANCES; CLARIFYING THE INVESTMENT STANDARDS FOR INVESTMENT OF THE TOBACCO SETTLEMENT PERMANENT 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 escrow fund or otherwise paid to the state as authorized by the model statute, Sections 6-4-12 and 6-4-13 NMSA 1978, enacted pursuant to the master settlement agreement. Money in the fund shall be invested by the state investment officer in accordance with the limitations in Article 12, Section 7 of the constitution of New Mexico. Income from investment of the fund shall be credited to the fund. Money in the fund shall not be expended for any purpose, except as provided in this section.

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

C. In fiscal year 2007 and in each fiscal year thereafter, an annual distribution shall be made from the tobacco settlement permanent fund to the tobacco settlement program fund of an amount equal to fifty percent of the total amount of money distributed to the tobacco settlement permanent fund in that fiscal year until that amount is less than an amount equal to four and seven-tenths percent of the average of the year-end market values of the tobacco settlement permanent fund for the immediately preceding five calendar years. Thereafter, the amount of the annual distribution shall be four and seven-tenths percent of the average of the year-end market values of the tobacco settlement permanent fund for the immediately preceding five calendar years. In the event that the actual amount distributed to the tobacco settlement program fund in a fiscal year is insufficient to meet appropriations from that fund for that fiscal year, the secretary of finance and administration shall proportionately reduce each appropriation accordingly.

D. In addition to the distribution made pursuant to Subsection C of this section, in fiscal year 2009, fiscal

year 2010 and fiscal year 2011, the remaining fifty percent of the total amount of money distributed to the tobacco settlement permanent fund in that fiscal year shall be distributed from the tobacco settlement permanent fund to the tobacco settlement program fund.

E. 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."

**SECTION 2. EFFECTIVE DATE.**--The effective date of the provisions of this act is July 1, 2011. \_\_\_\_\_