

1 SENATE BILL 187

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Pete Campos

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6
7 FOR THE LEGISLATIVE FINANCE COMMITTEE AND THE TOBACCO
8 SETTLEMENT REVENUE OVERSIGHT COMMITTEE

9
10 AN ACT

11 RELATING TO THE TOBACCO SETTLEMENT PERMANENT FUND; REQUIRING
12 THE REMAINING FIFTY PERCENT OF DISTRIBUTIONS TO THE TOBACCO
13 SETTLEMENT PERMANENT FUND FOR FISCAL YEAR 2022 TO BE
14 DISTRIBUTED TO THE TOBACCO SETTLEMENT PROGRAM FUND.

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

17 SECTION 1. Section 6-4-9 NMSA 1978 (being Laws 1999,
18 Chapter 207, Section 1, as amended by Laws 2017, Chapter 2,
19 Section 6 and by Laws 2017, Chapter 80, Section 1) is amended
20 to read:

21 "6-4-9. TOBACCO SETTLEMENT PERMANENT FUND--INVESTMENT--
22 DISTRIBUTION.--

23 A. The "tobacco settlement permanent fund" is
24 created in the state treasury. The fund shall consist of money
25 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~~]."