

1 AN ACT

2 RELATING TO THE TOBACCO SETTLEMENT PERMANENT FUND; REQUIRING  
3 THE REMAINING FIFTY PERCENT OF DISTRIBUTIONS TO THE TOBACCO  
4 SETTLEMENT PERMANENT FUND FOR FISCAL YEAR 2022 TO BE  
5 DISTRIBUTED TO THE TOBACCO SETTLEMENT PROGRAM FUND.

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

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

12 "6-4-9. TOBACCO SETTLEMENT PERMANENT FUND--INVESTMENT--  
13 DISTRIBUTION.--

14 A. The "tobacco settlement permanent fund" is  
15 created in the state treasury. The fund shall consist of  
16 money distributed to the state pursuant to the master  
17 settlement agreement entered into between tobacco product  
18 manufacturers and various states, including New Mexico, and  
19 executed November 23, 1998 or any money released to the state  
20 from a qualified escrow fund or otherwise paid to the state  
21 as authorized by Section 6-4-13 NMSA 1978, enacted pursuant  
22 to the master settlement agreement or as otherwise authorized  
23 by law. Money in the fund shall be invested by the state  
24 investment officer in accordance with the limitations in  
25 Article 12, Section 7 of the constitution of New Mexico.

1 Income from investment of the fund shall be credited to the  
2 fund. Money in the fund shall not be expended for any  
3 purpose, except as provided in this section.

4 B. In fiscal year 2007 and in each fiscal year  
5 thereafter, an annual distribution shall be made from the  
6 tobacco settlement permanent fund to the tobacco settlement  
7 program fund of an amount equal to fifty percent of the total  
8 amount of money distributed to the tobacco settlement  
9 permanent fund in that fiscal year until that amount is less  
10 than an amount equal to four and seven-tenths percent of the  
11 average of the year-end market values of the tobacco  
12 settlement permanent fund for the immediately preceding five  
13 calendar years. Thereafter, the amount of the annual  
14 distribution shall be four and seven-tenths percent of the  
15 average of the year-end market values of the tobacco  
16 settlement permanent fund for the immediately preceding five  
17 calendar years. In the event that the actual amount  
18 distributed to the tobacco settlement program fund in a  
19 fiscal year is insufficient to meet appropriations from that  
20 fund for that fiscal year, the secretary of finance and  
21 administration shall proportionately reduce each  
22 appropriation accordingly.

23 C. In addition to the distribution made pursuant  
24 to Subsection B of this section, in fiscal years 2009 through  
25 2013, 2016, 2018 and 2022, the remaining fifty percent of the

1 total amount of money distributed to the tobacco settlement  
2 permanent fund in that fiscal year shall be distributed from  
3 the tobacco settlement permanent fund to the tobacco  
4 settlement program fund.

5 D. In addition to the distribution made pursuant  
6 to Subsections B and E of this section, in fiscal year 2014,  
7 twenty-five percent of the total amount of money distributed  
8 pursuant to the master settlement agreement to the tobacco  
9 settlement permanent fund in that fiscal year shall be  
10 distributed from the tobacco settlement permanent fund to the  
11 lottery tuition fund.

12 E. In addition to the distribution made pursuant  
13 to Subsections B and D of this section, in fiscal year 2014,  
14 twenty-five percent of the total amount of money distributed  
15 to the tobacco settlement permanent fund in that fiscal year  
16 shall be distributed from the tobacco settlement permanent  
17 fund to the tobacco settlement program fund for appropriation  
18 for direct services provided by early childhood care and  
19 education programs administered by the children, youth and  
20 families department.

21 F. The tobacco settlement permanent fund is a  
22 reserve fund of the state. Money in the tobacco settlement  
23 permanent fund may be expended:

24 (1) in the event that general fund balances,  
25 including all authorized revenues and transfers to the

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

10 (2) as provided in Laws 2016 (2nd S.S.),  
11 Chapter 4, Section 2 and in Laws 2017, Chapter 2, Section 7."=

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