SENATE BILL 187

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

INTRODUCED BY

Pete Campos

FOR THE LEGISLATIVE FINANCE COMMITTEE AND THE TOBACCO
SETTLEMENT REVENUE OVERSIGHT COMMITTEE

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
.218526.1
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
Section 6-4-13 NMSA 1978, enacted pursuant to the master
settlement agreement or as otherwise authorized by law. 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 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.

C. In addition to the distribution made pursuant to
Subsection B of this section, in fiscal years 2009 through
2013, 2016, [and] 2018 and 2022, 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.

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

E. In addition to the distribution made pursuant to
Subsections B and D of this section, in fiscal year 2014,
twenty-five 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 for appropriation for
direct services provided by early childhood care and education
programs administered by the children, youth and families
department.

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

(1) 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; or

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

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