

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL 392

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

Michael S. Sanchez

AN ACT

RELATING TO PUBLIC MONEY; INCREASING DISTRIBUTIONS TO THE  
LOTTERY TUITION FUND; RECONCILING MULTIPLE AMENDMENTS TO THE  
SAME SECTION OF LAW IN LAWS 2011; 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 by Laws 2011, Chapter 3,  
Section 1 and by Laws 2011, Chapter 167, 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  
agreement entered into between tobacco product manufacturers

underscoring material = new  
~~[bracketed material] = delete~~

underscored material = new  
[bracketed material] = delete

1 and various states, including New Mexico, and executed November  
2 23, 1998 or any money released to the state from a qualified  
3 escrow fund or otherwise paid to the state as authorized by  
4 Sections 6-4-12 and 6-4-13 NMSA 1978, enacted pursuant to the  
5 master settlement agreement. Money in the fund shall be  
6 invested by the state investment officer in accordance with the  
7 limitations in Article 12, Section 7 of the constitution of New  
8 Mexico. Income from investment of the fund shall be credited  
9 to the fund. Money in the fund shall not be expended for any  
10 purpose, except as provided in this section.

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

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

25 Thereafter, the amount of the annual distribution shall be four

.191439.2

underscored material = new  
[bracketed material] = delete

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

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

16 D. In addition to the distribution made pursuant to  
17 Subsection B of this section, in fiscal year 2014 and in each  
18 fiscal year thereafter, twenty-five percent of the total amount  
19 of money distributed to the tobacco settlement permanent fund  
20 in that fiscal year shall be distributed from the tobacco  
21 settlement permanent fund to the lottery tuition fund.

22 E. The tobacco settlement permanent fund shall be  
23 considered a reserve fund of the state and, as a reserve fund,  
24 may be expended in the event that general fund balances,  
25 including all authorized revenues and transfers to the general

.191439.2

underscored material = new  
[bracketed material] = delete

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

9 SECTION 2. A new section of the Tax Administration Act  
10 is enacted to read:

11 "[NEW MATERIAL] DISTRIBUTION--LOTTERY TUITION FUND.--A  
12 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be  
13 made to the lottery tuition fund in an amount equal to the  
14 amounts automatically withheld pursuant to the Withholding Tax  
15 Act on lottery winnings that are subject to withholding."

16 SECTION 3. EFFECTIVE DATE.--The effective date of the  
17 provisions of this act is July 1, 2013.