

SENATE EDUCATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 392

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

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

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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

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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

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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. APPROPRIATION.--Upon certification by the
17 state treasurer that the balance of the lottery tuition fund is
18 not sufficient to meet the scholarship obligations for fiscal
19 year 2014, 2015 or 2016, the governor shall transfer to the
20 lottery tuition fund the amount necessary to meet that fiscal
21 year's scholarship obligations from the general fund operating
22 reserve; provided that the amount of the transfer shall not
23 exceed one percent of the balance of the general fund operating
24 reserve as of July 1, 2013.

25 SECTION 4. EFFECTIVE DATE.--The effective date of the

1 provisions of this act is July 1, 2013.

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