

SENATE BILL 2

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SPECIAL SESSION, 2016

INTRODUCED BY

John Arthur Smith and Steven P. Neville

This document incorporates House Floor Amendment #1 (sponsored by Representative Roch) adopted during the Houses's consideration of this measure. It is a tool to show the amendments in context and is not to be used for introduction, amendment or substitution.

AN ACT

RELATING TO STATE EXPENDITURES; TRANSFERRING MONEY FROM THE TOBACCO SETTLEMENT PERMANENT FUND TO THE FISCAL YEAR 2016 AND FISCAL YEAR 2017 APPROPRIATION ACCOUNTS OF THE GENERAL FUND; PROVIDING FOR CERTAIN DISTRIBUTIONS, TRANSFERS AND REVERSIONS TO THE FISCAL YEAR 2017 APPROPRIATION ACCOUNT OF THE GENERAL FUND FROM OTHER FUNDS AND ACCOUNTS; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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) 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

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distributed to the state pursuant to the master settlement 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 Sections 6-4-12 and 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

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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 and 2016, 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

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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 [~~shall be considered~~] is a reserve fund of the state [~~and, as a reserve~~]. 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 Section 2 of this 2016 act."

SECTION 2. TOBACCO SETTLEMENT PERMANENT FUND TRANSFER TO THE GENERAL FUND--FISCAL YEARS 2016 AND 2017.--The governor, with state board of finance approval, may transfer from the tobacco settlement permanent fund:

A. to the fiscal year 2016 appropriation account of the general fund, the amount necessary to meet the

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appropriations authorized by law from the general fund for fiscal year 2016, but not exceeding two hundred nineteen million four hundred thousand dollars (\$219,400,000); and

B. to the fiscal year 2017 appropriation account of the general fund, the amount necessary to meet the appropriations authorized by law from the general fund for fiscal year 2017, but not exceeding two hundred nineteen million four hundred thousand dollars (\$219,400,000) less the amount transferred pursuant to Subsection A of this section.

SECTION 3. FUND AND OTHER ACCOUNT TRANSFERS AND REVERSIONS TO GENERAL FUND--FISCAL YEAR 2017.--

A. Notwithstanding any restriction on the use of money in the funds or accounts, the following amounts from the following funds or accounts are transferred to the fiscal year 2017 appropriation account of the general fund:

- (1) one million dollars (\$1,000,000) is transferred from the legislative cash balances;
- (2) one hundred thousand dollars (\$100,000) is transferred from the municipal court automation fund;
- (3) one hundred thousand dollars (\$100,000) is transferred from the water rights adjudication fund of the administrative office of the courts;
- (4) three million six hundred forty-five thousand dollars (\$3,645,000) is transferred from the local DWI grant fund;

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(5) six million dollars (\$6,000,000) is transferred from the enhanced 911 fund;

(6) ~~five million dollars (\$5,000,000)~~ six million dollars (\$6,000,000) is transferred from the public school insurance fund; provided that the amount transferred shall not include money:

(a) identified by the board of directors of the public school insurance authority as long-term reserves of the authority; or

(b) reserved for group health insurance or due process reimbursement;

(7) two million six hundred thousand dollars (\$2,600,000) is transferred from the state purchasing enterprise fund of the general services department;

(8) one million dollars (\$1,000,000) is transferred from the public property reserve fund;

(9) ~~three million dollars (\$3,000,000)~~ seven million five hundred thousand dollars (\$7,500,000) is transferred from the public liability fund;

(10) ~~two million five hundred thousand dollars (\$2,500,000)~~ three million dollars (\$3,000,000) is transferred from the workers' compensation retention fund;

(11) six hundred forty-eight thousand one hundred dollars (\$648,100) is transferred from the public accountancy fund;

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(12) two hundred forty-nine thousand five hundred dollars (\$249,500) is transferred from the board of acupuncture and oriental medicine fund;

(13) one hundred seventy-two thousand seven hundred dollars (\$172,700) is transferred from the athletic commission fund;

(14) thirty-two thousand five hundred dollars (\$32,500) is transferred from the athletic trainer practice board fund;

(15) nine hundred thirty-five thousand seven hundred dollars (\$935,700) is transferred from the barbers and cosmetologists fund;

(16) two hundred forty-nine thousand five hundred dollars (\$249,500) is transferred from the body art practitioners fund;

(17) one hundred eighty-one thousand five hundred dollars (\$181,500) is transferred from the chiropractic fund;

(18) five hundred sixty-three thousand two hundred dollars (\$563,200) is transferred from the counseling and therapy practice board fund;

(19) eighteen thousand nine hundred dollars (\$18,900) is transferred from the landscape architects fund;

(20) three hundred twenty-seven thousand one hundred dollars (\$327,100) is transferred from the massage

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therapy fund;

(21) fifty-six thousand three hundred dollars (\$56,300) is transferred from the nursing home administrators fund;

(22) sixty thousand five hundred dollars (\$60,500) is transferred from the nutrition and dietetics fund;

(23) one hundred sixty-one thousand five hundred dollars (\$161,500) is transferred from the board of examiners for occupational therapy fund;

(24) thirty-five thousand eight hundred dollars (\$35,800) is transferred from the optometry fund;

(25) fifty-seven thousand two hundred dollars (\$57,200) is transferred from the osteopathic medical examiners fund;

(26) three hundred twenty-nine thousand seven hundred dollars (\$329,700) is transferred from the physical therapy fund;

(27) one hundred fifty-seven thousand eight hundred dollars (\$157,800) is transferred from the psychology fund;

(28) four hundred seventeen thousand six hundred dollars (\$417,600) is transferred from the appraiser fund;

(29) six hundred twenty-one thousand four hundred dollars (\$621,400) is transferred from the real estate

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commission fund;

(30) one hundred fourteen thousand five hundred dollars (\$114,500) is transferred from the respiratory care fund;

(31) three hundred four thousand dollars (\$304,000) is transferred from the board of social work examiners fund;

(32) two hundred eighty-three thousand four hundred dollars (\$283,400) is transferred from the speech-language pathology, audiology and hearing aid dispensing practices board fund;

(33) one hundred four thousand one hundred dollars (\$104,100) is transferred from the funeral services fund;

(34) five hundred ninety-eight thousand eight hundred dollars (\$598,800) is transferred from the board of dental health care fund;

(35) one million four hundred sixty-five thousand nine hundred dollars (\$1,465,900) is transferred from the pharmacy fund;

(36) five hundred thousand dollars (\$500,000) is transferred from the New Mexico medical board fund;

(37) two million nine hundred forty-four thousand eight hundred dollars (\$2,944,800) is transferred from the professional engineers' and surveyors' fund;

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(38) five hundred thousand dollars (\$500,000) is transferred from the interim receipts and disbursements fund;

(39) eight hundred thousand dollars (\$800,000) is transferred from the trauma system fund;

(40) one million dollars (\$1,000,000) is transferred from the rural infrastructure revolving loan fund;

(41) three million dollars (\$3,000,000) is transferred from the state air quality permit fund;

(42) ~~three million dollars (\$3,000,000)~~ five million dollars (\$5,000,000) is transferred from the college affordability endowment fund;

(43) three million dollars (\$3,000,000) is transferred from the post-secondary educational institution fund; ~~and~~

(44) six hundred thirty-two thousand six hundred dollars (\$632,600) is transferred from the capital projects fund;

(45) two million five hundred thousand dollars (\$2,500,000) is transferred from the art in public places fund;

(46) one million dollars (\$1,000,000) is transferred from the workers' compensation administration fund;

(47) three hundred thousand dollars (\$300,000) is transferred from the trail safety fund;

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(48) one million dollars (\$1,000,000) is transferred from the public buildings repair fund;

(49) five hundred thousand dollars (\$500,000) is transferred from the state transportation pool account of the general services department;

(50) three hundred thousand dollars (\$300,000) is transferred from the litter control and beautification fund;

(51) eight hundred thousand dollars (\$800,000) is transferred from the corrective action fund; and

(52) one million dollars (\$1,000,000) is transferred from the concealed handgun carry fund.

B. The following appropriations to the public education department to meet special education maintenance of effort requirements pursuant to the federal Individuals with Disabilities Education Act shall be disencumbered and transferred to the fiscal year 2017 appropriation account of the general fund:

(1) the total general fund appropriation of ten million dollars (\$10,000,000) in Laws 2013, Chapter 227, Section 4;

(2) three million one hundred thousand dollars (\$3,100,000) of the total general fund appropriation in Item (73) of Section 5 of Chapter 227 of Laws 2013; and

(3) the total general fund appropriation of three million dollars (\$3,000,000) in Item (75) of Section 5 of

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Chapter 63 of Laws 2014.

C. Notwithstanding provisions in Sections 6-21-6, 6-21-6.1 and 6-21-6.2 NMSA 1978 to the contrary, ~~ten million dollars (\$10,000,000)~~ fifteen million five hundred thousand dollars (\$15,500,000) shall be transferred from the public project revolving fund to the fiscal year 2017 appropriation account of the general fund; provided that, except as otherwise provided in the Tax Administration Act, the amount transferred is from the fiscal year 2017 portion of the governmental gross receipts tax distributed to the public project revolving fund pursuant to Section 7-1-6.38 NMSA 1978 and that is not otherwise pledged for payment of obligations of the New Mexico finance authority.

~~————— D. Notwithstanding provisions in Section 6-21-6.4 NMSA 1978 to the contrary, three million dollars (\$3,000,000) shall be transferred from the local government planning fund to the fiscal year 2017 appropriation account of the general fund; provided that the money transferred is not otherwise pledged for payment of obligations of the New Mexico finance authority.~~

SECTION 4. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.