

1 SENATE BILL 178

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Martin Hickey

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8 FOR THE LEGISLATIVE FINANCE COMMITTEE

9
10 AN ACT

11 RELATING TO STATE RESERVES; PROVIDING THAT THE TOBACCO
12 SETTLEMENT PERMANENT FUND IS NOT A RESERVE FUND OF THE STATE.

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

15 SECTION 1. Section 6-4-9 NMSA 1978 (being Laws 1999,
16 Chapter 207, Section 1, as amended) is amended to read:

17 "6-4-9. TOBACCO SETTLEMENT PERMANENT FUND--INVESTMENT--
18 DISTRIBUTION.--

19 A. The "tobacco settlement permanent fund" is
20 created in the state treasury. The fund is not a reserve fund
21 of the state. The fund shall consist of money distributed to
22 the state pursuant to the master settlement agreement entered
23 into between tobacco product manufacturers and various states,
24 including New Mexico, and executed November 23, 1998 or any
25 money released to the state from a qualified escrow fund or

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1 otherwise paid to the state as authorized by Section 6-4-13
2 NMSA 1978, enacted pursuant to the master settlement agreement
3 or as otherwise authorized by law. Money in the fund shall be
4 invested by the state investment officer in accordance with the
5 limitations in Article 12, Section 7 of the constitution of New
6 Mexico. Income from investment of the fund shall be credited
7 to the fund. Money in the fund shall not be expended for any
8 purpose, except as provided in this section.

9 B. In ~~[fiscal year 2007 and in]~~ each fiscal year,
10 ~~[thereafter]~~ an annual distribution shall be made from the
11 tobacco settlement permanent fund to the tobacco settlement
12 program fund of an amount equal to fifty percent of the total
13 amount of money distributed to the tobacco settlement permanent
14 fund in that fiscal year until that amount is less than an
15 amount equal to four and seven-tenths percent of the average of
16 the year-end market values of the tobacco settlement permanent
17 fund for the immediately preceding five calendar years.

18 Thereafter, the amount of the annual distribution shall be four
19 and seven-tenths percent of the average of the year-end market
20 values of the tobacco settlement permanent fund for the
21 immediately preceding five calendar years. In the event that
22 the actual amount distributed to the tobacco settlement program
23 fund in a fiscal year is insufficient to meet appropriations
24 from that fund for that fiscal year, the secretary of finance
25 and administration shall proportionately reduce each

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1 appropriation accordingly.

2 ~~[G. In addition to the distribution made pursuant~~
3 ~~to Subsection B of this section, in fiscal years 2009 through~~
4 ~~2013, 2016, 2018 and 2022, the remaining fifty percent of the~~
5 ~~total amount of money distributed to the tobacco settlement~~
6 ~~permanent fund in that fiscal year shall be distributed from~~
7 ~~the tobacco settlement permanent fund to the tobacco settlement~~
8 ~~program fund.~~

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

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

25 ~~F. The tobacco settlement permanent fund is a~~

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1 ~~reserve fund of the state.]~~

2 C. Money in the tobacco settlement permanent fund
3 may be expended [~~(1)~~] in the event that general fund balances,
4 including all authorized revenues and transfers to the general
5 fund and balances in the general fund operating reserve, the
6 appropriation contingency fund and the tax stabilization
7 reserve, will not meet the level of appropriations authorized
8 from the general fund for a fiscal year. In that event, in
9 order to avoid an unconstitutional deficit, the legislature may
10 authorize a transfer from the tobacco settlement permanent fund
11 to the general fund but only in an amount necessary to meet
12 general fund appropriations [~~or~~

13 ~~(2) as provided in Laws 2016 (2nd S.S.),~~
14 ~~Chapter 4, Section 2 and in Laws 2017, Chapter 2, Section 7]."~~

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