

1 HOUSE BILL 132

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Elizabeth "Liz" Thomson

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7  
8 FOR THE TOBACCO SETTLEMENT REVENUE OVERSIGHT COMMITTEE

9  
10 AN ACT

11 RELATING TO PUBLIC FINANCES; REMOVING THE DESIGNATION OF THE  
12 TOBACCO SETTLEMENT PERMANENT FUND AS A RESERVE FUND.

13  
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 by Laws 2017, Chapter 2,  
17 Section 6 and by Laws 2017, Chapter 80, Section 1) is amended  
18 to read:

19 "6-4-9. TOBACCO SETTLEMENT PERMANENT FUND--INVESTMENT--  
20 DISTRIBUTION.--

21 A. The "tobacco settlement permanent fund" is  
22 created in the state treasury. The fund shall consist of money  
23 distributed to the state pursuant to the master settlement  
24 agreement entered into between tobacco product manufacturers  
25 and various states, including New Mexico, and executed November

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

11 B. In fiscal year 2007 and in each fiscal year  
12 thereafter, an annual distribution shall be made from the  
13 tobacco settlement permanent fund to the tobacco settlement  
14 program fund of an amount equal to fifty percent of the total  
15 amount of money distributed to the tobacco settlement permanent  
16 fund in that fiscal year until that amount is less than an  
17 amount equal to four and seven-tenths percent of the average of  
18 the year-end market values of the tobacco settlement permanent  
19 fund for the immediately preceding five calendar years.  
20 Thereafter, the amount of the annual distribution shall be four  
21 and seven-tenths percent of the average of the year-end market  
22 values of the tobacco settlement permanent fund for the  
23 immediately preceding five calendar years. In the event that  
24 the actual amount distributed to the tobacco settlement program  
25 fund in a fiscal year is insufficient to meet appropriations

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1 from that fund for that fiscal year, the secretary of finance  
2 and administration shall proportionately reduce each  
3 appropriation accordingly.

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

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

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

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1 department.

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

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

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

17 SECTION 2. EFFECTIVE DATE.--The effective date of the  
18 provisions of this act is July 1, 2019.