

1 SENATE BILL 116

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

3 INTRODUCED BY

4 Martin Hickey and Debra M. Sariñana

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7  
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;  
13 STRIKING OUTDATED PROVISIONS IN SECTION 6-4-9 NMSA 1978 (BEING  
14 LAWS 1999, CHAPTER 207, SECTION 1, AS AMENDED).

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

17 SECTION 1. Section 6-4-9 NMSA 1978 (being Laws 1999,  
18 Chapter 207, Section 1, as amended) is amended 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 is not a reserve fund  
23 of the state. The fund shall consist of money distributed to  
24 the state pursuant to the master settlement agreement entered  
25 into between tobacco product manufacturers and various states,

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1 including New Mexico, and executed November 23, 1998 or any  
2 money released to the state from a qualified escrow fund or  
3 otherwise paid to the state as authorized by Section 6-4-13  
4 NMSA 1978, enacted pursuant to the master settlement agreement  
5 or as otherwise authorized by law. 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 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]~~  
21 four and seven-tenths percent of the average of the year-end  
22 market 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, 2018 and 2022, the remaining fifty percent of the~~  
7 ~~total amount of money distributed to the tobacco settlement~~  
8 ~~permanent fund in that fiscal year shall be distributed from~~  
9 ~~the tobacco settlement permanent fund to the tobacco settlement~~  
10 ~~program 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.]~~

4 C. Money in the tobacco settlement permanent fund  
5 may be expended [~~(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 Laws 2017, Chapter 2, Section 7]."~~

17 SECTION 2. EFFECTIVE DATE.--The effective date of the  
18 provisions of this act is July 1, 2024.

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