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HOUSE BILL 341

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

INTRODUCED BY

Thomas C. Taylor

AN ACT

RELATING TO REVENUE ESTIMATES; PROVIDING THAT THE TOBACCO SETTLEMENT PERMANENT FUND SHALL NOT BE CONSIDERED A RESERVE FUND OF THE STATE; PROVIDING THAT THE TOBACCO SETTLEMENT PERMANENT FUND SHALL NOT BE INCLUDED IN AN ESTIMATE OF STATE RESERVES; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2011.

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

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1 created in the state treasury. The fund shall consist of money  
2 distributed to the state pursuant to the master settlement  
3 agreement entered into between tobacco product manufacturers  
4 and various states, including New Mexico, and executed November  
5 23, 1998 or any money released to the state from a qualified  
6 escrow fund or otherwise paid to the state as authorized by  
7 Sections 6-4-12 and 6-4-13 NMSA 1978, enacted pursuant to the  
8 master settlement agreement. Money in the fund shall be  
9 invested by the state investment officer in accordance with the  
10 limitations in Article 12, Section 7 of the constitution of New  
11 Mexico. Income from investment of the fund shall be credited  
12 to the fund. Money in the fund shall not be expended for any  
13 purpose, except as provided in this section.

14 B. In fiscal years 2003 through 2006, a  
15 distribution shall be made from the tobacco settlement  
16 permanent fund to the general fund in an amount equal to one  
17 hundred percent of the total amount of money distributed to the  
18 tobacco settlement permanent fund in that fiscal year.

19 C. In fiscal year 2007 and in each fiscal year  
20 thereafter, an annual distribution shall be made from the  
21 tobacco settlement permanent fund to the tobacco settlement  
22 program fund of an amount equal to fifty percent of the total  
23 amount of money distributed to the tobacco settlement permanent  
24 fund in that fiscal year until that amount is less than an  
25 amount equal to four and seven-tenths percent of the average of

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1 the year-end market values of the tobacco settlement permanent  
2 fund for the immediately preceding five calendar years.  
3 Thereafter, the amount of the annual distribution shall be four  
4 and seven-tenths percent of the average of the year-end market  
5 values of the tobacco settlement permanent fund for the  
6 immediately preceding five calendar years. In the event that  
7 the actual amount distributed to the tobacco settlement program  
8 fund in a fiscal year is insufficient to meet appropriations  
9 from that fund for that fiscal year, the secretary of finance  
10 and administration shall proportionately reduce each  
11 appropriation accordingly.

12 D. In addition to the distribution made pursuant to  
13 Subsection C of this section, in fiscal years 2009 through  
14 2013, the remaining fifty percent of the total amount of money  
15 distributed to the tobacco settlement permanent fund in that  
16 fiscal year shall be distributed from the tobacco settlement  
17 permanent fund to the tobacco settlement program fund.

18 E. The tobacco settlement permanent fund shall not  
19 be considered a reserve fund of the state and ~~[as a reserve~~  
20 ~~fund, may be expended in the event that general fund balances,~~  
21 ~~including all authorized revenues and transfers to the general~~  
22 ~~fund and balances in the general fund operating reserve, the~~  
23 ~~appropriation contingency fund and the tax stabilization~~  
24 ~~reserve, will not meet the level of appropriations authorized~~  
25 ~~from the general fund for a fiscal year. In that event, in~~

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1 ~~order to avoid an unconstitutional deficit, the legislature may~~  
2 ~~authorize a transfer from the tobacco settlement permanent fund~~  
3 ~~to the general fund but only in an amount necessary to meet~~  
4 ~~general fund appropriations] shall not be included in any~~  
5 estimate or document compiled by the state's professional  
6 economists that provides an estimate of state reserves  
7 available for expenditure from the general fund."

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