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SENATE BILL 2

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

INTRODUCED BY

John Arthur Smith and Steven P. Neville

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 .204863.1

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

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

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1 immediately preceding five calendar years. In the event that  
2 the actual amount distributed to the tobacco settlement program  
3 fund in a fiscal year is insufficient to meet appropriations  
4 from that fund for that fiscal year, the secretary of finance  
5 and administration shall proportionately reduce each  
6 appropriation accordingly.

7 C. In addition to the distribution made pursuant to  
8 Subsection B of this section, in fiscal years 2009 through 2013  
9 and 2016, the remaining fifty percent of the total amount of  
10 money distributed to the tobacco settlement permanent fund in  
11 that fiscal year shall be distributed from the tobacco  
12 settlement permanent fund to the tobacco settlement program  
13 fund.

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

21 E. In addition to the distribution made pursuant to  
22 Subsections B and D of this section, in fiscal year 2014,  
23 twenty-five percent of the total amount of money distributed to  
24 the tobacco settlement permanent fund in that fiscal year shall  
25 be distributed from the tobacco settlement permanent fund to

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1 the tobacco settlement program fund for appropriation for  
2 direct services provided by early childhood care and education  
3 programs administered by the children, youth and families  
4 department.

5 F. The tobacco settlement permanent fund [~~shall be~~  
6 ~~considered~~] is a reserve fund of the state [~~and, as a reserve~~].  
7 Money in the tobacco settlement permanent fund may be expended:

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

18 (2) as provided in Section 2 of this 2016  
19 act."

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

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

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

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

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

12 A. Notwithstanding any restriction on the use of  
13 money in the funds or accounts, the following amounts from the  
14 following funds or accounts are transferred to the fiscal year  
15 2017 appropriation account of the general fund:

16 (1) one million dollars (\$1,000,000) is  
17 transferred from the legislative cash balances;

18 (2) one hundred thousand dollars (\$100,000) is  
19 transferred from the municipal court automation fund;

20 (3) one hundred thousand dollars (\$100,000) is  
21 transferred from the water rights adjudication fund of the  
22 administrative office of the courts;

23 (4) three million six hundred forty-five  
24 thousand dollars (\$3,645,000) is transferred from the local DWI  
25 grant fund;

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

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

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

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

11 (7) two million six hundred thousand dollars  
12 (\$2,600,000) is transferred from the state purchasing  
13 enterprise fund of the general services department;

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

16 (9) three million dollars (\$3,000,000) is  
17 transferred from the public liability fund;

18 (10) two million five hundred thousand dollars  
19 (\$2,500,000) is transferred from the workers' compensation  
20 retention fund;

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

24 (12) two hundred forty-nine thousand five  
25 hundred dollars (\$249,500) is transferred from the board of

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1 acupuncture and oriental medicine fund;

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

5 (14) thirty-two thousand five hundred dollars  
6 (\$32,500) is transferred from the athletic trainer practice  
7 board fund;

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

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

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

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

20 (19) eighteen thousand nine hundred dollars  
21 (\$18,900) is transferred from the landscape architects fund;

22 (20) three hundred twenty-seven thousand one  
23 hundred dollars (\$327,100) is transferred from the massage  
24 therapy fund;

25 (21) fifty-six thousand three hundred dollars

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1 (\$56,300) is transferred from the nursing home administrators  
2 fund;

3 (22) sixty thousand five hundred dollars  
4 (\$60,500) is transferred from the nutrition and dietetics fund;

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

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

10 (25) fifty-seven thousand two hundred dollars  
11 (\$57,200) is transferred from the osteopathic medical examiners  
12 fund;

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

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

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

22 (29) six hundred twenty-one thousand four  
23 hundred dollars (\$621,400) is transferred from the real estate  
24 commission fund;

25 (30) one hundred fourteen thousand five

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1 hundred dollars (\$114,500) is transferred from the respiratory  
2 care fund;

3 (31) three hundred four thousand dollars  
4 (\$304,000) is transferred from the board of social work  
5 examiners fund;

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

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

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

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

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

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

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

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1 fund;

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

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

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

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

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

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

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

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

25 (2) three million one hundred thousand dollars

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1 (\$3,100,000) of the total general fund appropriation in Item  
2 (73) of Section 5 of Chapter 227 of Laws 2013; and

3 (3) the total general fund appropriation of  
4 three million dollars (\$3,000,000) in Item (75) of Section 5 of  
5 Chapter 63 of Laws 2014.

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

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

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