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HOUSE BILL 52

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Luciano "Lucky" Varela

ENDORSED BY THE INVESTMENTS OVERSIGHT COMMITTEE

AN ACT

RELATING TO PUBLIC FINANCES; CLARIFYING THE INVESTMENT
STANDARDS FOR INVESTMENT OF THE TOBACCO SETTLEMENT PERMANENT
FUND.

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
distributed to the state pursuant to the master settlement
agreement entered into between tobacco product manufacturers
and various states, including New Mexico, and executed November
23, 1998 or any money released to the state from a qualified

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1 escrow fund or otherwise paid to the state as authorized by the
2 model statute, Sections 6-4-12 and 6-4-13 NMSA 1978, enacted
3 pursuant to the master settlement agreement. Money in the fund
4 shall be invested by the state investment officer [~~as land~~
5 ~~grant permanent funds are invested pursuant to Chapter 6,~~
6 ~~Article 8 NMSA 1978]~~ in accordance with the limitations in
7 Article 12, Section 7 of the constitution of New Mexico.

8 Income from investment of the fund shall be credited to the
9 fund. Money in the fund shall not be expended for any purpose,
10 except as provided in this section.

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

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

25 Thereafter, the amount of the annual distribution shall be four

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

9 D. In addition to the distribution made pursuant to
10 Subsection C of this section, in fiscal year 2009, fiscal year
11 2010 and fiscal year 2011, the remaining fifty percent of the
12 total amount of money distributed to the tobacco settlement
13 permanent fund in that fiscal year shall be distributed from
14 the tobacco settlement permanent fund to the tobacco settlement
15 program fund.

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

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1 to the general fund but only in an amount necessary to meet
2 general fund appropriations."

3 Section 2. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is July 1, 2011.