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Governor's Veto Damages Health, Tobacco Permanent Fund

SB 113 Would Have Offset Money Drained from Fund for Non-Health Related Purposes

[SANTA FE, NM] – April 8, 2013 – Cancer control advocates expressed strong objections to Governor Martinez's targeted line-item veto April 5 that negated a \$50 million transfer from the state's operating reserves to the state's embattled Tobacco Settlement Permanent Fund. The American Cancer Society Cancer Action Network (ACS CAN), which had opposed earlier versions of the legislation that sought to tap Tobacco Settlement Permanent Fund monies for budget shortfalls in programs unrelated to health or tobacco, had supported the reinfusion of money into the imperiled fund.

Governor Martinez's partial veto of SB 113 dealt a significant blow to the Tobacco Settlement Permanent Fund and frustrated many cancer control advocates who had fought to defend the permanent fund from being drained in late-session budget negotiations. More than 100 ACS CAN volunteers had recently sent emails to Governor Martinez lobbying her to sign SB 113 in regards to the bill's commitment to replace monies otherwise drained from the Tobacco Settlement Permanent Fund.

"By vetoing the transfer of monies to the tobacco permanent fund, Governor Martinez created a self-imposed obstacle for future health and tobacco control efforts in the state," said ACS CAN's State Lead Ambassador Lynda Evans Ricci. "The only beneficiaries of this veto are tobacco companies and the cancer-causing products they will continue to ply in the state due to a lack of committed tobacco control resources."

The final bill sent to the Governor's desk included an unprecedented redistribution of \$50 million from the state's operating reserve to the Tobacco Settlement Permanent Fund, an amount that more than offset \$20 million in spending from the fund as part of a one-time budget fix for early childhood and higher education programs. The net effect of the legislation for the coming fiscal year would have been a gain of \$30 million for the state's embattled Tobacco Settlement Permanent Fund. None of the state's Master Settlement Agreement (MSA) payments have been invested in the Tobacco Settlement Permanent Fund since 2008.

"Governor Martinez's veto of a critical funding mechanism for future tobacco control efforts in New Mexico was a major setback in the fight against cancer for residents of the state," said Sandra Adondakis, New Mexico government relations director, ACS CAN. "Despite our disappointment, we applaud those state lawmakers on both sides of the aisle who joined us during the session in fighting to defend future tobacco settlement payments from diversions to non-health programs."

The Tobacco Settlement Permanent Fund was created by statute in 2000 and was designed to receive and retain each year an amount equal to 50 percent, totaling approximately \$20 million, of the state's approximately \$40 million annual payment from the MSA. The attorneys general in 46 states settled legal claims against the tobacco industry in 1998, resulting in the settlement agreement, in which the states had argued that tobacco companies had caused billions of dollars in damages to state-funded health programs throughout the country. Under the terms of the MSA, New Mexico receives a payment of approximately \$40 million each year in perpetuity provided that both the state and those tobacco companies named in the MSA uphold their obligations under the agreement. The agreement itself does

not specify that the states must spend their annual payments on tobacco control programs or other cancer-related measures, an oft-cited aspect of the agreement that is considered by many to be a victory for the tobacco industry.

ACS CAN, the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society, supports evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. ACS CAN works to encourage elected officials and candidates to make cancer a top national priority. ACS CAN gives ordinary people extraordinary power to fight cancer with the training and tools they need to make their voices heard. For more information, visit www.acscan.org.

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