

SENATE BILL 159

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

INTRODUCED BY

Pete Campos

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

FOR THE LEGISLATIVE FINANCE COMMITTEE

AN ACT

RELATING TO HIGHER EDUCATION; CREATING THE HIGHER EDUCATION TRUST FUND AND THE HIGHER EDUCATION PROGRAM FUND; PROVIDING AN ANNUAL DISTRIBUTION FROM THE TRUST FUND TO THE PROGRAM FUND; MAKING A TRANSFER FROM THE TAX STABILIZATION RESERVE TO THE TRUST FUND.

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

SECTION 1. A new section of Chapter 6, Article 4 NMSA

.226796.4AIC January 31, 2024 (9:25pm)

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1978 is enacted to read:

"[NEW MATERIAL] HIGHER EDUCATION TRUST FUND.--

A. The "higher education trust fund" is created as a nonreverting fund in the state treasury. The fund consists of distributions, appropriations, gifts, grants and donations. Income from investment of the fund shall be credited to the fund. Money in the fund shall be expended only as provided in this section.

B. The state investment officer, subject to the approval of the state investment council, shall invest money in the fund:

(1) in accordance with the prudent investor rule set forth in the Uniform Prudent Investor Act; and

(2) in consultation with the state treasurer.

C. The state investment officer shall report quarterly to the legislative finance committee and the state investment council on the investments made pursuant to this section. Annually, a report shall be submitted no later than October 1 each year to the legislative finance committee, the revenue stabilization and tax policy committee and any other appropriate interim committees.

SEC→D. On July 1, 2024, a distribution shall be made from the trust fund to the higher education program fund in an amount equal to forty-seven million nine hundred fifty thousand dollars (\$47,950,000).←SEC

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SEC→~~D.~~←SEC SEC→~~E.~~←SEC On July 1 SEC→~~of each~~  
~~year~~←SEC SEC→, 2025 and each July 1 thereafter←SEC , a  
 distribution shall be made from the trust fund to the higher  
 education program fund in an amount equal to five percent of  
 the average of the year-end market values of the trust fund for  
 the immediately preceding three calendar years. If, on July 1  
 of a year, the trust fund has been in effect for less than  
 three calendar years, the distribution shall be in an amount  
 equal to five percent of the average of the year-end market  
 values of the trust fund for the immediately preceding number  
 of calendar years that the trust fund has been in effect.

SEC→~~E.~~←SEC SEC→~~F.~~←SEC In addition to the  
 distribution pursuant to SEC→~~Subsection D~~←SEC SEC→~~Subsections~~  
~~D and E~~←SEC of this section, money in the higher education  
 trust fund may be expended in the event that general fund  
 balances, including all authorized revenues and transfers to  
 the general fund and balances in the general fund operating  
 reserve, the appropriation contingency fund and the tax  
 stabilization reserve, will not meet the level of  
 appropriations authorized from the general fund for a fiscal  
 year. In that event, to avoid an unconstitutional deficit, the  
 legislature may appropriate from the trust fund to the general  
 fund only in the amount necessary to meet general fund  
 appropriations for that fiscal year and only if the legislature  
 has authorized transfers from the appropriation contingency

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fund, the general fund operating reserve and the tax stabilization reserve that exhaust those fund balances."

SECTION 2. A new section of Chapter 6, Article 4 NMSA 1978 is enacted to read:

"[NEW MATERIAL] HIGHER EDUCATION PROGRAM FUND.--The "higher education program fund" is created in the state treasury. The fund consists of distributions, appropriations, gifts, grants, donations and income from investment of the fund. The higher education department shall administer the fund. Money in the fund is subject to appropriation by the legislature to provide money for scholarships for tuition and fees at public post-secondary educational institutions, as provided by law. Expenditures from the fund shall be by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of higher education or the secretary's authorized representative. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall revert to the higher education trust fund."

SECTION 3. Section 6-4-2.2 NMSA 1978 (being Laws 1987, Chapter 264, Section 3 and Laws 1987, Chapter 347, Section 3, as amended) is amended to read:

"6-4-2.2. GENERAL FUND TAX STABILIZATION RESERVE.--

- A. The "tax stabilization reserve" is created within the state treasury as a reserve fund of the state.
- B. The tax stabilization reserve consists of money

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directed or appropriated to it by law and all income from investment of the reserve. The state investment officer, subject to the approval of the state investment council, shall invest money in the reserve:

(1) in accordance with the prudent investor rule set forth in the Uniform Prudent Investor Act; and

(2) in consultation with the state treasurer.

C. The state investment officer shall report quarterly to the legislative finance committee and the state investment council on the investments made pursuant to this section. Annually, a report shall be submitted no later than October 1 each year to the legislative finance committee, the revenue stabilization and tax policy committee and any other appropriate interim committees.

D. Except as otherwise provided in Subsection E of this section, [~~and~~] Subsection B of Section 6-4-4 NMSA 1978 and Section 4 of this 2024 act, any balance of the tax stabilization reserve may be:

(1) appropriated only by a two-thirds' majority vote of both houses of the legislature following receipt by the legislature of a declaration of the governor that such an appropriation is necessary for the public peace, health and safety; or

(2) expended by the governor only:

(a) pursuant to an appropriation made by

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a two-thirds' majority vote of both houses of the legislature specifying the amount of the appropriation and the purpose of the expenditure; and

(b) if the governor declares that the expenditure is necessary for the public peace, health and safety.

E. If general fund revenues, including all transfers to the general fund authorized by law, are projected by the governor to be insufficient either to meet the level of appropriations authorized by law from the general fund for the current fiscal year or to meet the level of appropriations recommended in the budget and appropriations bill submitted in accordance with Section 6-3-21 NMSA 1978 for the next fiscal year, the balance in the tax stabilization reserve may be appropriated by the legislature up to the amount of the projected insufficiency for either or both fiscal years."

SECTION 4. TRANSFER.--Nine hundred fifty-nine million dollars (\$959,000,000) is transferred from the tax stabilization reserve to the higher education trust fund.