LFC Reque	ester:
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Jorgensen

AGENCY BILL ANALYSIS 2024 REGULAR SESSION

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SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:		Date	1/24/24		
Original	x Amendment	Bill No:	SB 159		
Correction	Substitute				

		Agency Name and Code SI	C-337
Sponsor:	Campos	Number:	
Short		Person Writing	Iglesias
Title:	Higher Education Trust Fund	Phone: 5055007486	Email Dawn.iglesias@sic.nm.gov

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropr	iation	Recurring	Fund Affected	
FY24	FY25	or Nonrecurring		
\$959,000.0		Nonrecurring	Tax Stabilization Reserve	

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

]	Estimated Reven	nue	Recurring	Fund
FY24	FY25	FY26	or Nonrecurring	Affected
\$959,000.0			Nonrecurring	Higher Education Trust Fund (NEW)
		\$49,400.0	Recurring	Higher Education Program Fund (NEW)

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the LFC Budget Recommendation for the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

Senate Bill 159 transfers \$959 million from the Tax Stabilization Reserve to a newly created Higher Education Trust Fund ("HETF" or "trust fund") to be invested by the State Investment Officer with approval by the State Investment Council. The funds are to be managed in accordance with the Uniform Prudent Investor Act and in consultation with the State Treasurer.

On July 1 each year, the new HETF will distribute 5 percent of a rolling 3-year average to the Higher Education Program Fund ("program fund") that is also created in this bill. The program fund is subject to appropriation by the legislature to provide money for scholarships for tuition and fees at public post-secondary educational institutions. Any unexpended/unencumbered balances in the program fund at the end of the fiscal year revert to the trust fund.

In addition to the regular distribution, money in the trust fund may be appropriated to cover budgetary shortfalls following complete expenditure of the general fund, the general fund operating reserve, the appropriation contingency fund, and tax stabilization reserve.

This bill has no effective date and, if signed, would become effective May 15, 2024.

FISCAL IMPLICATIONS

The new Higher Education Trust Fund is seeded with a \$959 million transfer from the Tax Stabilization Reserve in FY24. Distributions from the HETF are set at 5 percent of the fund's average market value for the prior 3 calendar years, except for the first 3 years in which the distribution will be 5 percent of the average value for the number of calendar years the bill has been in effect. Therefore, we interpret this to mean the first distribution from HETF to the program fund will be in FY26 (see technical issues).

The balance of the Tax Stabilization Reserve (TSR) as of December 31, 2023 was \$2.391 billion, with an additional contribution of \$723.9 million expected to be received at the end of January 2024. At the end of CY23, the TSR had \$235 million in cash and cash equivalents, \$1.4 billion in public market fixed income strategies (core bonds, credit plus, and short-duration fixed income) and \$748 million in private investments (private debt and real estate). With the current cash holdings and the expected cash transfer to the TSR in January, the fund should have enough cash available to make the transfer the new HETF, potentially subject to relatively small transaction costs. After this bill's transfer of \$959 million from the TSR to the new trust fund, the estimated ending balance of the TSR in CY24 would be approximately \$2.3 billion, assuming positive investment returns for the year.

Return expectations for funds the Council manages range from 5.1 percent (Tax Stabilization Reserve) to 7 percent (the long-term return target for the Land Grant Permanent Fund. Because the TSR operates as a "rainy day fund" for the state, the Council targets a 55 percent allocation to more liquid assets such as core bonds and short-duration fixed income. Such assets are

generally less risky than other asset classes like stocks or private investments, and as such they also tend to be lower returning. This asset allocation reflects the uncertainty of potential need to access the fund's corpus and the goals of capital preservation and liquidity within the TSR should the state need to access those funds.

Unlike the TSR, the new trust fund would function more like an endowment model with a stable and predictable spending policy, which could allow the Council to invest the funds in assets with higher return potential and more like the asset allocations of other permanent/trust funds under the Council's management.

For the purpose of this sample analysis, staff assume a 6 percent average annual return for the HETF; however, actual return expectations would ultimately depend on the fund's asset allocation. The table below provides a simplified example of potential investment returns for the HETF and subsequent estimated distributions to the higher education program fund.

Higher Education Trust Fund (\$millions)							ition to High rogram Fund	er Education (\$MM)	
	Beginning		Gains &		Ending	YOY Fund	Fiscal	Distrib	
Calendar Year	Balance	Contributions	Losses	Distrib	Balance	Growth	Year	Date	Amount
2024	\$0.0	\$959.0	\$28.8	\$0.0	\$987.8		FY24	Jul-23	\$0.0
2025	\$987.8	\$0.0	\$57.8	-\$49.4	\$996.2	0.8%	FY25	Jul-24	\$0.0
2026	\$996.2	\$0.0	\$58.3	-\$49.6	\$1,004.8	0.9%	FY26	Jul-25	\$49.4
2027	\$1,004.8	\$0.0	\$58.8	-\$49.8	\$1,013.8	0.9%	FY27	Jul-26	\$49.6
2028	\$1,013.8	\$0.0	\$59.3	-\$50.2	\$1,022.9	0.9%	FY28	Jul-27	\$49.8
2029	\$1,022.9	\$0.0	\$59.9	-\$50.7	\$1,032.1	0.9%	FY29	Jul-28	\$50.2
2030	\$1,032.1	\$0.0	\$60.4	-\$51.1	\$1,041.3	0.9%	FY30	Jul-29	\$50.7
2031	\$1,041.3	\$0.0	\$60.9	-\$51.6	\$1,050.6	0.9%	FY31	Jul-30	\$51.1
2032	\$1,050.6	\$0.0	\$61.5	-\$52.1	\$1,060.0	0.9%	FY32	Jul-31	\$51.6
2033	\$1,060.0	\$0.0	\$62.0	-\$52.5	\$1,069.5	0.9%	FY33	Jul-32	\$52.1
2034	\$1,069.5	\$0.0	\$62.6	-\$53.0	\$1,079.1	0.9%	FY34	Jul-33	\$52.5
2035	\$1,079.1	\$0.0	\$63.1	-\$53.5	\$1,088.8	0.9%	FY35	Jul-34	\$53.0
2036	\$1,088.8	\$0.0	\$63.7	-\$54.0	\$1,098.5	0.9%	FY36	Jul-35	\$53.5
2037	\$1,098.5	\$0.0	\$64.3	-\$54.4	\$1,108.4	0.9%	FY37	Jul-36	\$54.0
2038	\$1,108.4	\$0.0	\$64.9	-\$54.9	\$1,118.3	0.9%	FY38	Jul-37	\$54.4
2039	\$1,118.3	\$0.0	\$65.4	-\$55.4	\$1,128.3	0.9%	FY39	Jul-38	\$54.9
2040	\$1,128.3	\$0.0	\$66.0	-\$55.9	\$1,138.4	0.9%	FY40	Jul-39	\$55.4

Under these assumptions, the HETF could potentially distribute approximately \$50 million to the higher education program fund in FY26, and depending on the returns earned on the HETF's investments (and any additional appropriations to the trust fund subsequent years) the distribution may be expected to increase over time. Any increase in the trust fund's market value (and subsequent distributions), however, would be wholly dependent upon actual returns in the future market environment and cannot be predicted with certainty.

SIGNIFICANT ISSUES

It is important for the Council as manager of the new Higher Education Trust Fund to properly understand the long-term goals and risk/return appetite of the fund's "client" to appropriately allocate the funds in question. In this case, we would suggest the Secretary for the Higher Education Department (HED) be properly consulted in this regard, and could replace the state treasurer (page 2, line 5), who will already be involved in the management process around the new trust fund due to her ex-officio role on the State Investment Council.

The SIC supports public policy that encourages maximizing the long-term benefits that

endowments can and do provide to the state and its various needs. The endowment model acts not only to stabilize budgets for planning purposes, but also as a revenue engine to benefit current and future generations.

PERFORMANCE IMPLICATIONS

The State Investment Officer, with the approval of the State Investment Council would manage the new trust fund in accordance with the Uniform Prudent Investor Act and would seek to ethically optimize risk-adjusted returns and grow the fund over time.

The Council does not currently have a "boilerplate" asset allocation for any fund, including the proposed trust fund, but it is a fair assumption that the new fund could/would be constructed in a manner similar to other permanent/trust funds managed by the SIC.

ADMINISTRATIVE IMPLICATIONS

This bill will require additional time from investment and administrative staff at the State Investment Office. However, the additional resources required can be addressed through the SIO's ordinary budgeting process.

TECHNICAL ISSUES

Section 1-D reads:

On July 1 of each year, 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 yearend 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.

Without an effective date, we would expect the bill's effective date, if signed would be May 15, 2024. On July 1, 2024 (FY25) the trust fund will not have been in effect the prior calendar year, therefore no distribution to the program fund would be made. Instead, distributions would begin in FY26. If this is not the intent, we would suggest an amendment to clarify the intended start date for distributions.

ALTERNATIVES

This bill draws language identical to that in existing statute 6-4-2.2, which calls for the state investment officer to invest the Tax Stabilization Reserve (TSR) "...in consultation with the state treasurer."

When the legislature changed law to transfer management of the TSR from the State Treasurer's Office to the State Investment Council several years ago, the inclusion of the Treasurer as a special advisor to the State Investment Officer was deemed appropriate. However, in this case, this bill's trust fund will be a completely new fund, to be managed and overseen by the 11-member Council, which already includes the State Treasurer. For the new Trust Fund, there is no particular reason to grant the Treasurer additional powers over and above the other 10-members

of the Council.

As mentioned above, for the Council to properly understand the long-term goals and risk/return appetite of the fund's "client", we suggest the Secretary for the Higher Education Department could replace the state treasurer (page 2, line 5), who will already be involved in the management process around the new Trust Fund due to her ex-officio role on the State Investment Council.