

<b>LFC Requester:</b>	LFC
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**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

**[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)**

*and*

**[DFA@STATE.NM.US](mailto:DFA@STATE.NM.US)**

*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

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

*Click all that apply:*

**Original**     **Amendment**      
**Correction**     **Substitute**   

**Date** 2024-01-23

**Bill No:** SB159

**Sponsor:** Campos, Pete  
**Short**    HIGHER EDUCATION  
**Title:**    TRUST FUND

**Agency Name  
and Code**    NMHED  
**Number:**    \_\_\_\_\_

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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
N/A	(\$959,000.00)	Nonrecurring	Tax Stabilization Reserve Fund
N/A	\$959,000.00	Nonrecurring	Higher Education Trust Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue	Recurring	Fund
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<b>FY23</b>	<b>FY24</b>	<b>FY25</b>	<b>or Nonrecurring</b>	<b>Affected</b>
N/A	\$47,950.00	\$47,154.90	Higher Education Trust Fund	Higher Education Trust Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY23</b>	<b>FY24</b>	<b>FY25</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	N/A	N/A	N/A	N/A	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act:

**SECTION III: NARRATIVE**

**BILL SUMMARY**

SB159 creates the Higher Education Trust Fund (Trust Fund) as a non-reverting fund in the state treasury. SB159 also creates the Higher Education Program Fund (Program Fund) administered by the New Mexico Higher Education Department (NMHED) to provide money for scholarships, tuition, and fees at public postsecondary institutions. SB159 transfers nine hundred fifty-nine million dollars (\$959,000,000) from the Tax Stabilization Reserve to the Higher Education Trust Fund.

The State Investment Officer invests money in the Trust Fund and reports quarterly to the Legislative Finance Committee (LFC) and the State Investment Council. LFC, the Revenue Stabilization and Tax Policy Committee, and other appropriate interim committees receive an annual report by October 1 each year.

Annually, a distribution shall be made from the Trust Fund to the Program Fund equal to five percent of the average year-end market values of the Trust Fund for the immediately preceding three calendar years. Until the fund has been in existence for three years, the distribution shall equal five percent of the average year-end market values for the immediately preceding calendar years since inception.

Money in the Trust Fund may be expended to avoid an unconstitutional deficit if General Fund revenues including balances in the General Fund Operating Reserve and the Appropriation Contingency Fund will not meet the level of General Fund appropriations for a fiscal year.

SB159 also makes conforming amendments to the General Fund Tax Stabilization Reserve.

## FISCAL IMPLICATIONS

SB159 creates two new state funds. The Higher Education Trust Fund (Trust Fund) is non-reverting and is invested in by the state investment officer, subject to the approval of the State Investment Council. A specified amount of money is allocated from the Trust Fund into the Higher Education Program Fund (Program Fund) on July 1 of each year. The New Mexico Higher Education Department (NMHED) manages the Program Fund, and the money in 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 funds from the Program Fund at the end of the fiscal year revert to the Trust Fund.

The amount necessary to fully fund both the Lottery and Opportunity Scholarships over the next few years is uncertain and depends both on institutional tuition increases and enrollment growth. The Trust Fund should generate approximately fifty million dollars (\$50,000,000) per year for the Program Fund. This additional funding could go toward meeting the increased annual funding required for these scholarships and help to ensure tuition-free and fee-free college for eligible New Mexico students for the next several years.

## SIGNIFICANT ISSUES

For the first few years, the transfer of money from the Higher Education Trust Fund (Trust Fund) to the Higher Education Program Fund (Program Fund) should be sufficient to continue to fully fund the Lottery and Opportunity Scholarships.

Eventually tuition increases and possible enrollment growth could result in more money being needed than is accounted for in the annual payout from the Trust Fund to the Program Fund. When that time comes, either a new source of revenue will be needed or the full coverage of tuition and fees from the Lottery and Opportunity Scholarships may need to be reduced.

## PERFORMANCE IMPLICATIONS

SB159 calls for both quarterly and annual reports of the status of the Higher Education Trust Fund (Trust Fund). The New Mexico Higher Education Department (NMHED) also provides annual reports on both the Lottery and Opportunity Scholarships regarding the number of awards and the performance of students who receive the awards.

## ADMINISTRATIVE IMPLICATIONS

Two new state funds will need to be created and managed. The Higher Education Trust Fund (Trust Fund) will also need to be invested so that annual growth exceeds the amount transferred annually to the Higher Education Program Fund (Program Fund).

#### CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

#### TECHNICAL ISSUES

N/A

#### OTHER SUBSTANTIVE ISSUES

N/A

#### ALTERNATIVES

Annual appropriations could be made, as needed, from the General Fund to fully fund the Lottery and Opportunity Scholarships.

#### WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If SB159 is not enacted, then additional annual sources of revenue for the Lottery and Opportunity Scholarships will need to be found.

#### AMENDMENTS

N/A