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**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**56th Legislature, 2nd Session, 2024**

<b>Bill Number</b>	<u>SB159/aSEC</u>	<b>Sponsor</b>	<u>Campos</u>
<b>Tracking Number</b>	<u>.226796.4</u>	<b>Committee Referrals</b>	<u>SCC/SEC/SFC; HEC/HAFC</u>
<b>Short Title</b>	<u>Higher Education Trust Fund</u>		
<b>Analyst</b>	<u>Estupiñan</u>	<b>Original Date</b>	<u>1/29/2024</u>
		<b>Last Updated</b>	<u>2/7/2024</u>

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**FOR THE LEGISLATIVE FINANCE COMMITTEE**

**BILL SUMMARY**

Synopsis of SEC Amendment

The Senate Education Committee (SEC) amendment to SB159/aSEC increases the distribution from the proposed higher education trust fund to \$47.95 million in FY25.

Synopsis of Original Bill

Senate Bill 159 (SB159) would create a higher education trust fund and a higher education program fund, from which an annual distribution would be made to support scholarships for tuition and fees at public postsecondary educational institutions in New Mexico.

This bill does not contain an effective date and, as a result, would go into effect on May 15, 2024.

**FISCAL IMPACT**

In FY25, SB159/aSEC would transfer \$959 million from the tax stabilization reserve to the proposed higher education trust fund.

Funds in the proposed higher education trust fund would only be distributed to the proposed higher education program fund, except to avoid an unconstitutional deficit in the event that general fund balances do not meet the level of appropriations authorized from the general fund for a fiscal year.

All funds in the trust fund would be invested by the state investment officer with approval by the State Investment Council (SIC) with the goal of generating returns that may be subsequently used to support the recurring costs of paying scholarships for tuition and fees at public postsecondary educational institutions, as provided by law. This annual distribution would be limited to five percent of the average of the fund's year-end market values for the immediately preceding three calendar years, or five percent of the average of the fund's year-end market values for the

immediately preceding number of calendar years, if the trust fund has been in effect for less than three years.

The trust fund would initially distribute \$47.95 million in FY25 and the annual distribution may increase to \$52.4 million by FY32. In that same time frame, the Legislative Finance Committee (LFC) estimates the balance of the trust fund may reach \$1.069 billion at the end of FY32, assuming a 6 percent average annual return and no additional legislative appropriations to the trust fund.

As the costs of the legislative lottery and opportunity scholarships continue to grow, the investment returns from the proposed higher education trust fund would be leveraged to meet the current shortfall in revenue for the opportunity scholarship and the expected shortfall in revenue for the legislative lottery scholarship beginning in FY28.

**Substantive Issues.** Since the Legislature provides considerable financial support to residents who attend a public postsecondary educational institution in New Mexico through the Legislative Lottery Scholarship and the Opportunity Scholarship, SB159/aSEC would create a dedicated funding source for paying tuition and fees for eligible students. The higher education trust fund would be a permanent fund in which the state investment officer, subject to the approval of SIC, would invest the fund's monies in accordance with the Uniform Prudent Investor Act and in consultation with the state treasurer. The state investment officer would be required to report SB159 investments quarterly to the LFC and SIC. The fund would be similar in function to the land grant permanent fund, but would only make distributions to the higher education program fund.

**Legislative Lottery Scholarship.** To qualify for the Legislative Lottery Scholarship, a student must be a resident of New Mexico, and have graduated from a public or accredited private school in New Mexico or completed the requirements of a home-based or non-public-school primary educational program in the state, or have earned a high school equivalency credential. Upon enrolling at a public post-secondary educational institution in New Mexico, the student must earn a minimum of 15 credit hours per semester, or 12 credit hours if they enroll at a community college. To maintain eligibility, the student must maintain a cumulative grade point average (GPA) of 2.5 each semester of their enrollment.

The program may pay up to 100 percent of a student's tuition, beginning in the second semester of their enrollment, for a maximum of seven semesters at a four-year institution, or three semesters at a community college.

In FY25, the program is estimated to cost approximately \$73.4 million, of which \$47.2 million could be provided by transfers from the Lottery Authority.

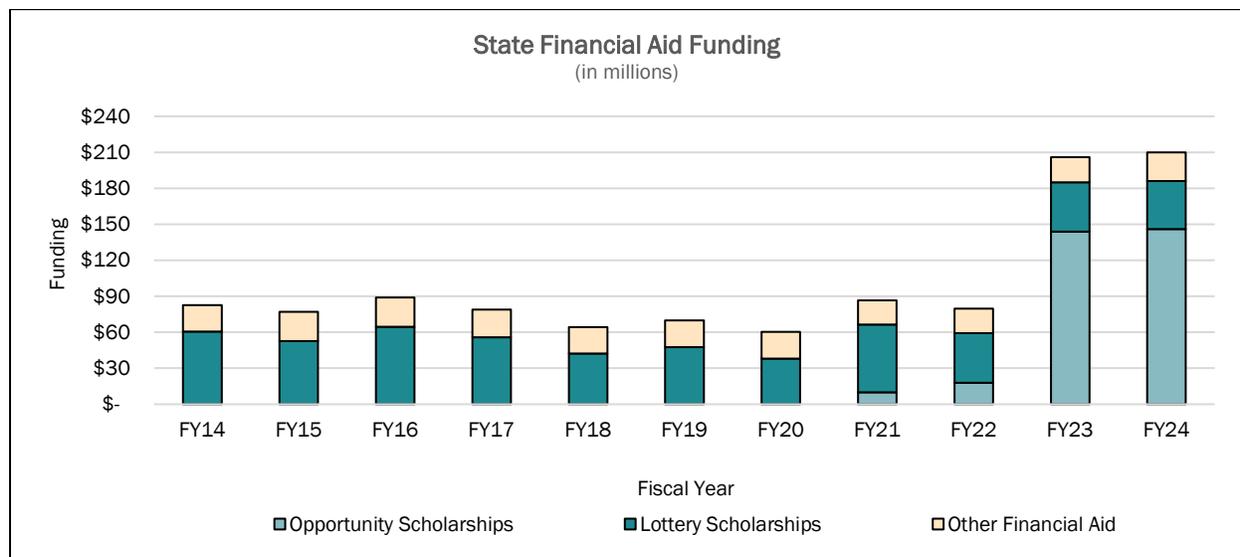
**Opportunity Scholarship.** To qualify for the Opportunity Scholarship, a student must be a resident of New Mexico, and have graduated from a public or accredited private high school, or have earned a high school equivalency credential. Upon enrolling at a public postsecondary educational institution in New Mexico, a recent high school graduate must earn a minimum of 12 credit hours each semester, while a returning student must earn a minimum of 6 credit hours each semester in the fall or spring semester. Qualified students may enroll in no fewer than three credit hours, but not more than nine credit hours in the summer semester. To maintain eligibility, the student must maintain a GPA of 2.5 each semester of their enrollment.

The program pays 100 percent of tuition and required fees and up to \$50 per credit hour for course specific fees, until the student has attempted 90 credit hours for an associate’s degree or 160 credit hours for a bachelor degree.

In FY25, the opportunity scholarship is estimated to cost \$161.9 million.

**Historical Increases in the Cost of Postsecondary Scholarships.** Since FY14, there has been a significant increase in the cost of tuition and fee supports for public postsecondary students, including those provided by the Lottery Scholarship and the Opportunity Scholarship. As shown in the chart below, the cost of the Lottery Scholarship was approximately \$60.5 million in FY14, with the cost of the program having fallen to approximately \$40 million in FY24. However, the cost of the Opportunity Scholarship rose to be \$146 million in FY24.

In total, the state will allocate approximately \$210 million for student financial aid in FY24.



Source: LESC Files

**Tax Stabilization Reserve.** Because statute requires a balanced budget, the Legislature maintains five general fund reserves that may be used to meet a potential shortfall in revenue or to supplement revenues when they are exceeded by appropriations in any given fiscal year. If revenues exceed appropriations, the excess funds are transferred to the operating reserve, a portion of which the governor may use to meet statutorily authorized expenses in certain extraordinary circumstances. When the operating reserve fund exceeds 8 percent of the prior year’s recurring appropriations, the excess amount is then transferred to the tax stabilization reserve. In addition to these transfers, the tax stabilization reserve also receives revenue from the oil and gas emergency school tax if annual revenue from the tax exceeds the five-year average and total general fund reserves are more than 25 percent of recurring appropriations.

All revenues deposited into the tax stabilization fund are managed by SIC, which invests the funds in highly liquid assets that have a long-term return expectation of between 4.5 and 5 percent. As of the end of the 2023 calendar year, SIC reported a fund balance of approximately \$2.39 billion, a substantial increase from its \$527 million balance in 2019. Much of that increase is attributed to the inflow of \$1.2 billion to the tax stabilization fund in 2020 and an additional \$460 million in 2022.

The tax stabilization reserve is expected to receive an additional \$723.9 in inflows in January 2024.

**SOURCES OF INFORMATION**

- LESC Files
- Legislative Finance Committee (LFC)
- State Investment Council (SIC)

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