

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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 1978 is enacted to read:

"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

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

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

11 E. On July 1, 2025 and each July 1 thereafter, a  
12 distribution shall be made from the trust fund to the higher  
13 education program fund in an amount equal to five percent of  
14 the average of the year-end market values of the trust fund  
15 for the immediately preceding three calendar years. If, on  
16 July 1 of a year, the trust fund has been in effect for less  
17 than three calendar years, the distribution shall be in an  
18 amount equal to five percent of the average of the year-end  
19 market values of the trust fund for the immediately preceding  
20 number of calendar years that the trust fund has been in  
21 effect.

22 F. In addition to the distribution pursuant to  
23 Subsections D and E of this section, money in the higher  
24 education trust fund may be expended in the event that  
25 general fund balances, including all authorized revenues and

1 transfers to the general fund and balances in the general  
2 fund operating reserve, the appropriation contingency fund  
3 and the tax stabilization reserve, will not meet the level of  
4 appropriations authorized from the general fund for a fiscal  
5 year. In that event, to avoid an unconstitutional deficit,  
6 the legislature may appropriate from the trust fund to the  
7 general fund only in the amount necessary to meet general  
8 fund appropriations for that fiscal year and only if the  
9 legislature has authorized transfers from the appropriation  
10 contingency fund, the general fund operating reserve and the  
11 tax stabilization reserve that exhaust those fund balances."

12 SECTION 2. A new section of Chapter 6, Article 4 NMSA  
13 1978 is enacted to read:

14 "HIGHER EDUCATION PROGRAM FUND.--The "higher education  
15 program fund" is created in the state treasury. The fund  
16 consists of distributions, appropriations, gifts, grants,  
17 donations and income from investment of the fund. The higher  
18 education department shall administer the fund. Money in the  
19 fund is subject to appropriation by the legislature to  
20 provide money for scholarships for tuition and fees at public  
21 post-secondary educational institutions, as provided by law.  
22 Expenditures from the fund shall be by warrant of the  
23 secretary of finance and administration pursuant to vouchers  
24 signed by the secretary of higher education or the  
25 secretary's authorized representative. Any unexpended or

1 unencumbered balance remaining at the end of a fiscal year  
2 shall revert to the higher education trust fund."

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

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

7 A. The "tax stabilization reserve" is created  
8 within the state treasury as a reserve fund of the state.

9 B. The tax stabilization reserve consists of money  
10 directed or appropriated to it by law and all income from  
11 investment of the reserve. The state investment officer,  
12 subject to the approval of the state investment council,  
13 shall invest money in the reserve:

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

16 (2) in consultation with the state  
17 treasurer.

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

25 D. Except as otherwise provided in Subsection E of SB 159  
Page 4

1 this section, Subsection B of Section 6-4-4 NMSA 1978 and  
2 Section 4 of this 2024 act, any balance of the tax  
3 stabilization reserve may be:

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

9 (2) expended by the governor only:

10 (a) pursuant to an appropriation made  
11 by a two-thirds' majority vote of both houses of the  
12 legislature specifying the amount of the appropriation and  
13 the purpose of the expenditure; and

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

17 E. If general fund revenues, including all  
18 transfers to the general fund authorized by law, are  
19 projected by the governor to be insufficient either to meet  
20 the level of appropriations authorized by law from the  
21 general fund for the current fiscal year or to meet the level  
22 of appropriations recommended in the budget and  
23 appropriations bill submitted in accordance with Section  
24 6-3-21 NMSA 1978 for the next fiscal year, the balance in the  
25 tax stabilization reserve may be appropriated by the

1 legislature up to the amount of the projected insufficiency  
2 for either or both fiscal years."

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

SB 159  
Page 6

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25