

1 SENATE BILL 159

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

3 INTRODUCED BY

4 Pete Campos

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7
8 FOR THE LEGISLATIVE FINANCE COMMITTEE

9
10 AN ACT

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

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. A new section of Chapter 6, Article 4 NMSA
19 1978 is enacted to read:

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

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

.226796.4

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1 this section.

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

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

7 (2) in consultation with the state treasurer.

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

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

25 E. In addition to the distribution pursuant to

.226796.4

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1 Subsection D of this section, money in the higher education
2 trust fund may be expended in the event that general fund
3 balances, including all authorized revenues and transfers to
4 the general fund and balances in the general fund operating
5 reserve, the appropriation contingency fund and the tax
6 stabilization reserve, will not meet the level of
7 appropriations authorized from the general fund for a fiscal
8 year. In that event, to avoid an unconstitutional deficit, the
9 legislature may appropriate from the trust fund to the general
10 fund only in the amount necessary to meet general fund
11 appropriations for that fiscal year and only if the legislature
12 has authorized transfers from the appropriation contingency
13 fund, the general fund operating reserve and the tax
14 stabilization reserve that exhaust those fund balances."

15 SECTION 2. A new section of Chapter 6, Article 4 NMSA
16 1978 is enacted to read:

17 "[NEW MATERIAL] HIGHER EDUCATION PROGRAM FUND.--The
18 "higher education program fund" is created in the state
19 treasury. The fund consists of distributions, appropriations,
20 gifts, grants, donations and income from investment of the
21 fund. The higher education department shall administer the
22 fund. Money in the fund is subject to appropriation by the
23 legislature to provide money for scholarships for tuition and
24 fees at public post-secondary educational institutions, as
25 provided by law. Expenditures from the fund shall be by

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1 warrant of the secretary of finance and administration pursuant
2 to vouchers signed by the secretary of higher education or the
3 secretary's authorized representative. Any unexpended or
4 unencumbered balance remaining at the end of a fiscal year
5 shall revert to the higher education trust fund."

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

9 "6-4-2.2. GENERAL FUND TAX STABILIZATION RESERVE.--

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

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

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

19 (2) in consultation with the state treasurer.

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

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1 appropriate interim committees.

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

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

11 (2) expended by the governor only:

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

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

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

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1 year, the balance in the tax stabilization reserve may be
2 appropriated by the legislature up to the amount of the
3 projected insufficiency for either or both fiscal years."

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