

LFC Requester: Rommel

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

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

Date Prepared: Feb 24 2025 Check all that apply:
Bill Number: HB531csHHSC Original Correction ___
Amendment _x Substitute _x

Sponsor: Rep. Lujan Agency Name and Code: 337 State Investment Council
Short Title: Santa Fe College of Osteopathic Medicine Fund Agency Number: _____
Person Writing: Wollmann
Phone: 5052313334 Email: charlesw@state.nm.us

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
	(\$40,000)	NR/temporary	Tobacco Settlement Permanent Fund
	\$40,000	NR/temporary	SF College of Osteopathic Medicine Fund

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
			R/temporary	Tobacco Settlement Permanent Fund
			Recurring	Tobacco Program Funds

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY27	FY28	FY29	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	(\$390)	(\$790)	(\$1,200)	(\$2,380)	Recurring	Tobacco Settlement Permanent Fund distributions

(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

Synopsis:

Based on HHSC Committee Substitute:

HB 531 seeks to create an escrow fund using a \$40 million temporary transfer from the Tobacco Settlement Permanent Fund (TSPF) to create the “Santa Fe college of osteopathic medicine escrow fund” to establish a college of osteopathic medicine in Santa Fe. The money would be held in escrow as an unencumbered reserve fund managed by the State Treasurer (STO) until the graduation of the college’s first class of medical students and the full accreditation of the Santa Fe college of osteopathic medicine, or July 1, 2032, should that date arrive first. The trigger date or prescribed circumstance will result in the escrow fund being reverted to the TSPF. Should the bill pass and be signed, the law would take effect 90 days after the legislative session, or June 20, 2025.

FISCAL IMPLICATIONS

The substitute bill calls for \$40 million to be transferred from the TSPF to create a new escrow fund for the purposes of establishing a new college of osteopathic medicine in Santa Fe.

The transfer would result in \$40 million not being included in the annual calculation of TSPF distributions, which are now 4.7% of the fund’s 5-year average value as of 12/31 and are delivered for the subsequent fiscal year starting 6 months later. If approved, the bill’s transfer will negatively impact TSPF program funding starting in FY27.

The bill notes that STO would manage the \$40 million, with its earnings to be deposited in the TSPF biannually as an offset. Those earnings – on average – are going to be substantially lower than the estimated standard TSPF earnings, which are currently expected to be 6.8% annually over a full market cycle. The TSPF earned 7.67% in CY2024 and 6.78% annualized, net of fees over the past 10-years. That compares to current US Treasury bill returns, which are currently 4.1%, though the long-term average on T-bills is ~3%. A conservative estimate on the lesser earnings is between -2.5% and -3.5% per year on average, though those numbers will likely be much higher should it be a year when stocks rally; the converse also applies, in that TSPF losses would be amplified on a relative basis to T-bills in a year when the stock market pulls back.

The following chart below shows an estimate on potential reduction in TSPF distributions to tobacco programs that would result from removing \$40 million from the TSPF starting in CY25, with the reduced earnings of that \$40 million (3%/year less) still being compounded.

Impact would first be felt in FY27 with a projected -\$390,000 in lower distributions and would grow annually until the escrow account is returned in FY33. Because of the 5-year fund average value determining distributions from the TSPF, impact would be extended during those subsequent years as well, ultimately resulting in approximately \$14 million less in aggregate distributions to tobacco fund program beneficiaries through FY40.

TSPF Distributions			
	Current Law	HB 531	Difference
FY25	\$13.58	\$13.58	\$0.00
FY26	\$14.94	\$14.94	\$0.00
FY27	\$16.46	\$16.08	(\$0.39)
FY28	\$18.06	\$17.27	(\$0.79)
FY29	\$20.00	\$18.80	(\$1.20)
FY30	\$22.03	\$20.41	(\$1.62)
FY31	\$24.10	\$22.07	(\$2.03)
FY32	\$26.21	\$24.15	(\$2.06)
FY33	\$28.34	\$26.27	(\$2.07)
FY34	\$30.51	\$28.82	(\$1.69)
FY35	\$32.69	\$31.41	(\$1.28)
FY36	\$34.89	\$34.04	(\$0.85)
FY37	\$37.12	\$36.71	(\$0.41)
FY38	\$39.37	\$39.40	\$0.03
FY39	\$41.64	\$41.74	\$0.10
FY40	\$43.94	\$44.08	\$0.14
		Cumulative Total:	(\$14.12)

dollars in millions

Impact could be mitigated by higher STO earnings, or completion of the new college's accreditation process and graduation of its first class prior to the closing window date of July 1, 2032.

SIGNIFICANT ISSUES

It is not clear that bill – which appears to be attempting to borrow monies for the purpose of fulfilling an escrow requirement related to establishing the college – can avoid New Mexico's anti-donation clause. If a private entity gains a benefit – even indirectly – from the \$40 million escrow account, which arguably also benefits the state, there is a potential legal gray area that should be explored prior to entering such an agreement.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

Escrow funds are generally held as a safeguard to facilitate a transaction and remain in place until certain conditions are met. This raises the question as to whether the \$40 million directed by HB531 could be expended as part of that obligation, should other requirements fail to be achieved? The bill indicates that the escrow fund may be "...considered an unencumbered escrow and operating reserve fund of the Santa Fe college of osteopathic medicine." The bill also calls for the escrow agreement to be entered into by the STO, the Santa Fe college of osteopathic medicine and the commission on osteopathic college accreditation.

While there is a provision in the bill that indicates should the college accrediting agency need to draw against the escrow fund, that "the company" shall hold the state harmless and replace any amount withdrawn from the escrow to ultimately be returned to the TSPF.

The "company" though not specifically linked/defined in the bill, appears to be "access health initiative LLC". An LLC is defined as a "limited liability corporation". While the held harmless requirement language offers some comfort that the state, through a properly supervised escrow agreement, should get its money back from this privately-held entity, there is no stated penalty should the limited liability corporation not have sufficient assets to pledge against dollars previously drawn down from the escrow account. Dollars taken out of the escrow by the accrediting agency during the escrow term would also negatively impact the STO's ability to continue to invest the escrow to help offset the diminished earnings of the TSPF.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS