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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

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(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: 2/7/25 *Check all that apply:*
Bill Number: SB 234 Original Correction
 Amendment Substitute

Sponsor: Sen. Pinto **Agency Name and Code** 337 – State Investment Council
Short Title: Tribal Education Trust Fund **Number:** _____
Title: _____ **Person Writing** Wollmann/Iglesias
Phone: 5052313334 **Email** Charlesw@state.nm.us

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
	\$100,000	Recurring	Tribal Education Trust Fund
	(\$100,000)	Recurring	General Fund

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
		(\$12,600.0)	Recurring	Tribal Education Trust Fund
		\$12,600.0	Recurring	Public Education Department

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	This bill will require additional time from investment, accounting, and administrative staff (see administrative implications)				Recurring	SIC (LGPF/STPF)

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB234 seeks to create the Tribal Education Trust Fund (“the Trust Fund”), a non-reverting fund in the state treasury, with an initial \$100 million general fund appropriation to be invested by the State Investment Officer under the Uniform Prudent Investor Act standard and administered by the Public Education Department (PED).

The bill creates the Tribal Education Trust Fund Disbursement Formula Task Force within the PED to develop a formula for how Trust Fund distributions are to be structured and expended to support tribal education pursuant to the Indian Education Act.

The Task Force will be comprised of 9-members appointed by New Mexico’s Indian nations, tribes and pueblos through the PED, including three members of the Navajo Nation, one from the Jicarilla Apache Nation, one from the Mescalero Apache Nation, one from the southern pueblos, one from the northern pueblos and one from the western pueblos as nominated by leadership of New Mexico’s Indian nations.

Beginning July 1, 2025 (FY26), the lesser of \$100 thousand or 1% of the value of the Trust Fund will be distributed to PED for administrative costs.

Beginning July 1, 2026 (FY27) the Trust Fund will distribute the greater of \$12.5 million or 5% of the fund’s 5-year average year-end market value to PED, which will disburse the funds according to the formula set by the Task Force.

The PED will administer disbursements pursuant to the Indian Education Act or intergovernmental agreements to be established with New Mexico tribes. Dollars disbursed to tribal entities will not revert to the general fund at each fiscal year end, though unspent administrative costs will revert to the Trust Fund.

The Fund may be also appropriated by the legislature to address budgetary shortfalls only after exhausting other funding sources including the general fund operating reserve, the tax stabilization reserve and the appropriation contingency fund.

The bill outlines budgeting, and assessment requirements and deadlines for both tribal entities and the PED to ensure annual reporting to the Legislative Education Study Committee and any other appropriate legislative committees.

The bill, if passed and signed, would go into effect on July 1, 2025.

FISCAL IMPLICATIONS

The new Trust Fund is seeded with a \$100 million appropriation from the general fund in FY26. The first distribution of \$100 thousand from the Trust Fund to PED for administrative costs will occur in FY26, and the first distribution of \$12.5 million from the Trust Fund to PED for disbursement to New Mexico tribes would occur in FY27.

The table below provides a simplified example of potential investment returns for the Trust Fund and subsequent distributions to PED.

Tribal Education Trust Fund (\$millions)							Distribution to PED (\$MM)		
Calendar Year	Beginning Balance	Contrib.	Gains & Losses	Distrib.	Ending Balance	YOY Fund Growth	Fiscal Year	Distrib Date	Amount
2025	\$0.0	\$100.0	\$2.4	-\$0.1	\$102.3		FY25	Jul-24	\$0.0
2026	\$102.3	\$0.0	\$4.7	-\$12.6	\$94.5	-7.7%	FY26	Jul-25	\$0.1
2027	\$94.5	\$0.0	\$4.3	-\$12.6	\$86.2	-8.8%	FY27	Jul-26	\$12.6
2028	\$86.2	\$0.0	\$3.9	-\$12.6	\$77.5	-10.1%	FY28	Jul-27	\$12.6
2029	\$77.5	\$0.0	\$3.5	-\$12.6	\$68.4	-11.8%	FY29	Jul-28	\$12.6
2030	\$68.4	\$0.0	\$3.0	-\$12.6	\$58.8	-14.0%	FY30	Jul-29	\$12.6
2031	\$58.8	\$0.0	\$2.6	-\$12.6	\$48.8	-17.0%	FY31	Jul-30	\$12.6
2032	\$48.8	\$0.0	\$2.1	-\$12.6	\$38.3	-21.6%	FY32	Jul-31	\$12.6
2033	\$38.3	\$0.0	\$1.6	-\$12.6	\$27.2	-28.8%	FY33	Jul-32	\$12.6
2034	\$27.2	\$0.0	\$1.0	-\$12.6	\$15.7	-42.5%	FY34	Jul-33	\$12.6
2035	\$15.7	\$0.0	\$0.5	-\$12.6	\$3.5	-77.5%	FY35	Jul-34	\$12.6
2036	\$3.5	\$0.0	\$0.2	-\$0.1	\$3.6	2.0%	FY36	Jul-35	\$12.6
2037	\$3.6	\$0.0	\$0.2	-\$0.1	\$3.7	2.0%	FY37	Jul-36	\$0.1
2038	\$3.7	\$0.0	\$0.2	-\$0.1	\$3.7	2.1%	FY38	Jul-37	\$0.1
2039	\$3.7	\$0.0	\$0.2	-\$0.1	\$3.8	2.2%	FY39	Jul-38	\$0.1
2040	\$3.8	\$0.0	\$0.2	-\$0.1	\$3.9	2.2%	FY40	Jul-39	\$0.1

The Trust Fund is required to distribute the greater of \$12.5 million or 5% of the five-year average market value. To distribute more than \$12.5 million, the Trust Fund would need a five-year average value of at least \$250 million.

Because the initial appropriation to the Trust Fund is \$100 million, the Trust Fund would likely be able to make the minimum required distribution of \$12.5 million for about 8-11 years, depending on the fund’s investment earnings.

Given the Trust Fund’s spending policy, which is effectively 12.5 percent of the fund’s value in the first year and growing in scale thereafter, two different arguments could be made regarding the appropriate risk/return profile for the new Trust Fund. First, one could argue the Trust Fund would likely need to be invested conservatively to avoid potential market losses which could have oversized effects on the fund’s corpus and ultimately shorten the life and benefits of the fund. On the other hand, one could argue management of the Trust Fund take a more aggressive, growth-oriented approach to try to match or exceed the relatively high annual distribution rate.

The Council and the Workforce Solutions Department had to consider a similar tradeoff for the Workforce Development and Apprenticeship Trust Fund (WDAF) created in the 2024 legislative session. Ultimately, a more conservative approach was taken, in which a substantive portion of the fund is held in cash and lower-risk liquid assets to protect the corpus of the fund, with minimal additional risk taken on the remaining investments in attempt to extend the life of the fund. Based on the 2024 Asset Allocation Study and RVK’s capital market assumptions, the expected compound returns for the WDAF are about 4.9%.

Using the same 4.9% annual average return assumption for the purpose of this analysis, the Trust Fund could potentially sustain about 10 years of minimum distributions before the fund balance would be exhausted.

SIGNIFICANT ISSUES

Assuming passage, the initial \$100 million appropriation would have less than a year of investment time to grow prior to its initial distribution of \$12.5 million. The Trust Fund would need a 5-year average value of \$250 million to maintain an annual spending/distribution policy of \$12.5 million without those annual distributions cutting into the fund's corpus. Even should the markets deliver well-above average, double-digit returns for many years in a row at the onset – a very unrealistic expectation - without additional contributions, the fund simply cannot deliver enough investment returns to grow the level needed to sustain its required minimum distribution into perpetuity.

PERFORMANCE IMPLICATIONS

The State Investment Officer, with the approval of the State Investment Council would manage the Fund in accordance with the Uniform Prudent Investor Act and would seek to ethically optimize risk-adjusted returns and grow the fund over time.

The Council does not currently have a “boilerplate” asset allocation for any fund, including the proposed Fund, but it is a fair assumption that the new fund could/would be constructed in a manner similar to other permanent/trust funds managed by the SIC.

Funds that are structured with high, or unsustainable spending policies, have in the past been managed conservatively by the SIC in an effort to avoid substantial market losses that could accelerate and shorten the life of the fund and its years of distributions. This strategy however, is a double-edged sword, as funds invested conservatively may not have enough earning power to add much runway to a fund on a terminal path. Market losses can also amplify the effects of an aggressive spending policy.

ADMINISTRATIVE IMPLICATIONS

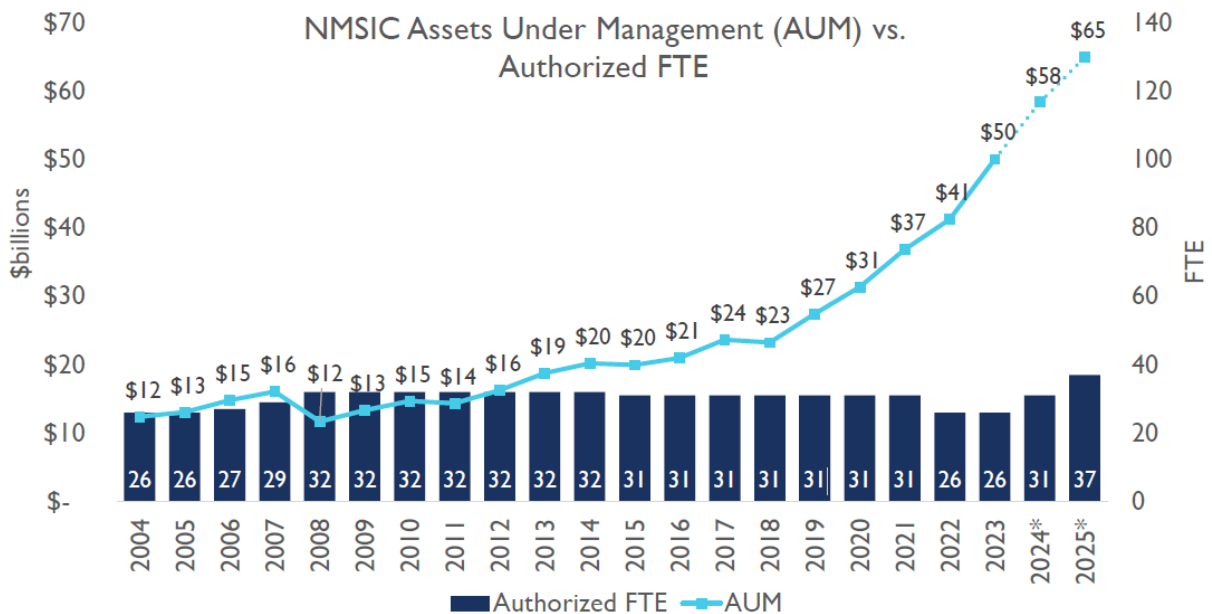
The bill will require additional time from investment, accounting, and administrative staff at the SIC. The SIC's budget is funded out of the land grant and severance tax permanent funds and does not receive general fund support.

Historically, the SIC managed 4 permanent funds (the land grant permanent fund, severance tax permanent fund, water trust fund, and tobacco settlement permanent fund). Since 2019, the Legislature placed 8 additional funds under SIC management, bringing total funds under SIC management to 12 and growing total assets under management (AUM) to over \$58 billion as of December 2024 (more than double the \$27.4 billion total AUM at the end of December 2019).

Growth in AUM requires increasing staff time to implement the funds' asset allocation strategies, which rely heavily on private market investments (e.g. private equity, private credit, real estate, etc.) in addition to traditional stock and bond exposures. About 30 percent of total AUM is invested in private market strategies, which seek to enhance returns and diversify exposures, and the Council's strategic asset allocations target over 50 percent private assets. More assets allocated to these strategies requires staff to source and diligence a growing number of new private fund commitments each year, which is a time-intensive and rigorous process.

Despite rapid growth in AUM, authorized FTE for the State Investment Office has not kept pace, as shown in the chart below. The SIC's budget request for FY26 included full funding for all 37

authorized FTE, and expert, external opinions discussed at the SIC’s strategic retreat in December 2024 suggested a need to double the number of investment staff and increase the number of legal and accounting staff to facilitate increased workloads, mitigate risk and maintain proper ongoing due diligence of investments.



*Estimated AUM

Note: AUM reflects total assets under management, including all permanent endowment trust funds, reserve funds, and third party client assets. AUM reported as of calendar year end, except 2004-2007 which reflect fiscal year end balances for TSPF, WTF, and third party clients. FTE reported as of fiscal year end.

Source: NMSIC files, RVK, LFC Volume II reports

This bill is one of several bills introduced so far this session that seek to create new funds to be placed under SIC management:

- House Bill 11 seeks to create a new Paid Family Medical Leave Fund to be managed by the SIC (however, SIC noted in its fiscal impact report that this is an expenditure fund that would be best managed by the State Treasurer’s Office).
- House Bill 25 creates a new Land Grant-Merced Infrastructure Trust Fund to be managed by the SIC. The bill seeks to seed the trust fund with a \$20 million general fund appropriation.
- House Bill 113 creates a new Animal Welfare Trust Fund to be managed by the SIC. The bill seeks to seed the trust fund with a \$10 million general fund appropriation.
- Senate Bill 1 creates a new Behavioral Health Trust Fund to be managed by the SIC. The bill seeks to seed the trust fund with a \$1 billion general fund appropriation.
- Senate Bill 88 creates a new Medicaid Trust Fund to be managed by the SIC. The bill seeks to seed the trust fund with a \$300 million general fund appropriation.

TECHNICAL ISSUES

Section 1-A (page 1, lines 21-25) states the “*The tribal education trust fund shall be used for any purpose enumerated in Section 22-23A-2 NMSA 1978 or in an intergovernmental agreement between a New Mexico tribe and the public education department.*” Given the structure of the bill, which does not allow for direct appropriations from the corpus of the Trust Fund for this purpose, this provision may need to be amended to read: “*Distributions from the tribal education trust fund shall be used for any purpose enumerated in Section 22-23A-2 NMSA 1978 or in an*

intergovernmental agreement between a New Mexico tribe and the public education department.”

Section 1-N (page 6, lines 1-2) states the appropriation from the Trust Fund to PED for administrative costs “*is appropriated to administer the tribal education trust fund. Administrative costs include staff salaries and expenses related to administration of the tribal education trust fund.*” However, the rest of Section 1 reads such that PED would not administer the trust fund itself but would administer the disbursements from the trust fund. Therefore, this provision may need to be amended to clarify the funds are “*appropriated to administer disbursements from the tribal education trust fund. Administrative costs include staff salaries and expenses related to administration of the disbursements from the tribal education trust fund.*”