

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (www.nmlegis.gov). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 3/1/17

SPONSOR Rubio LAST UPDATED _____ HM 75

SHORT TITLE Avoid Investing in Border Wall Companies SB _____

ANALYST Iglesias

REVENUE (dollars in thousands)

Estimated Revenue					R or NR **	Fund Affected
FY17	FY18	FY19	FY20	FY21		
Indeterminate - minimal					Nonrecurring	Permanent Funds

Parenthesis () indicate expenditure decreases. ** R = recurring; NR = non-recurring

SOURCES OF INFORMATION

LFC Files

Responses Received From

State Investment Council (SIC)

SUMMARY

House Memorial 75 requests that the State Investment Council study possible legislative or other changes that would need to be in place for the SIC to exclude companies that are expected to be hired to construct a US-Mexico border wall, while still remaining in compliance with the Uniform Prudent Investor Act, under which the SIC is required to operate.

FISCAL IMPLICATIONS

SIC estimates the cost of the study itself would not be significant, though there is a potential for some indeterminate costs associated with acquiring legal opinions from external independent legal counsel, if that is deemed appropriate.

SIC indicates that today, pensions, endowments, sovereign wealth funds and similar institutional investors often see stakeholder-driven policies to restrict investment in various strategies or products, including tobacco, firearms, carbon-based energy, or other investments deemed to be unacceptable for non-return related reasons. In some cases, divestment or investment restrictions can prove to be responsible, effective and profitable, though this is typically related to the timing of investment, and the level of boycotts on a broader market scale. In other cases, boycotts have proven to be ineffective and financially damaging, depending on the factors cited above, as well as other myriad circumstances.

SIGNIFICANT ISSUES

How and whether the US/Mexico wall is to ultimately be constructed and what companies might be active in this process are still to be determined. That said, there is a fair amount of speculation in this area, from which SIC can draw some potential projections.

SIC notes the following publicly-traded companies have been named in various media reports as seeing potential windfall from a US/Mexico border wall project:

Martin Marietta (MLM)	Deere & Co (DE)
Vulcan Materials (VMC)	Lafarge (LFRGY)
Granite Construction (GVA)	Caterpillar (CAT)
USG (USG)	US Steel (X)
US Concrete (USCR)	Nucor (NUE)
Summit Materials (SUM)	Steel Dynamics (STLD)
Fluor (FLR)	Tetra Tech (TTEK)
KBR (KBR)	Cemex (CX)
Eagle Materials (EXP)	

While it is impossible to know whether some or none of these companies will be used to construct the wall previously promised by President Trump, SIC looked at its current exposure to the above-mentioned companies and found some investment exposure. From the 14 companies listed above, SIC have holdings of approximately \$34 million in stocks and fixed income securities. Some of these are a result of choices by its active managers, while others can be found in the Russell 1000 index. In the aggregate, these investments have been profitable since SIC bought them over various time periods for a cost of \$28.5 million. That amount is less than 0.17 percent of SIC's assets under management.

Privately held companies may also participate in the border construction, though SIC's exposure to such companies is likely to be much less.

Until more specific information is formalized by the federal government, SIC asserts additional speculation on potential financial impact is probably not worth pursuing.

PERFORMANCE IMPLICATIONS

While there is a potential for negative impact to SIC investments should a formal ban be put in place, either through legislation or Council directive, SIC's initial expectation is that any significant impact could be mitigated through investment in similar companies employing similar strategies.

ADMINISTRATIVE IMPLICATIONS

SIC states this memorial its related study could likely be accomplished by existing investment and legal staff, as well as possible external legal review.

TECHNICAL ISSUES

This memorial does not appear to have any specific date of reporting or associated deliverables required for such a study to be accomplished.

In regards to the Land Grant Permanent Fund, SIC points out Article XII, Section 7(D) of the State Constitution, which states:

“D. The legislature may establish criteria for investing the fund if the criteria are enacted by a three-fourths' vote of the members elected to each house...”

Based on that wording, any legislation passed without a supermajority, which prevents SIC from making any prudent investments as so classified by the Uniform Prudent Investor Act, may be unconstitutional.

OTHER SUBSTANTIVE ISSUES

SIC manages the state’s permanent funds, but that is less than half of the more than \$50 billion public institutional investment capital being managed by other state entities, most notably the Educational Retirement Board (ERB), the Public Employees Retirement Association (PERA), and the State Treasurer’s Office (STO).

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

SIC would be unlikely to pursue a study to determine how it might prevent its investment of permanent fund dollars in a border wall project, and the investments would only be made should they offer the optimal risk-adjusted returns in alignment with SIC’s long-term investment strategy.

DI/jle