

LFC Requester:

Brendon Gray

### AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

#### SECTION I: GENERAL INFORMATION

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

Date Prepared: 02/25/2025

Check all that apply:

Bill Number: SB 162

Original  Correction   
Amendment  Substitute

Sponsor: Sen. Pete Campos

Agency Name and Code Number: 305 – New Mexico Department of Justice

Short Title: SEVERANCE TAX PERMANENT FUND INVESTMENTS

Person Writing Analysis: Tessa Ryan  
Phone: 505-537-7676  
Email: legisfir@nmag.gov

#### SECTION II: FISCAL IMPACT

##### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis ( ) indicate expenditure decreases)

##### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis ( ) indicate revenue decreases)

##### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

*This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.*

**BILL SUMMARY**

Synopsis: As amended by the Senate Finance Committee, Senate Bill 162 (“SB162” or the Bill”) proposes to amend NMSA 1978, Section 7-27-5.15 to change the amount of money in the Severance Tax Permanent Fund that may be invested in New Mexico private equity funds and businesses.

Section 1. At present: (1) 2% of the fund’s market value must be committed for investment by the Small Business Investment Corporation (SBIC); (2) \$500 million of the fund must be committed for investment in accordance with the Small Business Recovery and Stimulus Act (SBRSA); and (3) up to 11% of the market value of the fund—not including the aforementioned investments—may be invested in entities that meet the statutory definitions of New Mexico private equity funds or New Mexico businesses.

SB162 amendment proposes to change the limit on investments in New Mexico private equity funds and businesses to a fixed amount: \$700 million. It is unclear, however, whether this limit would include those portions of the SBIC and SBRSA investments that are made in entities meeting the definitions of New Mexico private equity funds and businesses.

Section 2. SB162 would take effect on July 1, 2025.

**FISCAL IMPLICATIONS**

N/A

**SIGNIFICANT ISSUES**

If enacted in its current form, two aspects of NMSA 1978, Section 7-27-5.15 would be at odds due to the deletion of the text at the beginning of Subsection A that reads “In addition to the investments required by Subsections F and G of this section[.]” With that deletion, the \$700 million cap on investments in New Mexico private equity funds and businesses would apply to those portions of the SBIC and SBRSA investments meeting the definitions of those terms. This is because the limit applies to such investments “under this section”—i.e., Section 7-27-5.15 in its entirety.

This would seemingly conflict with what Subsections F and G say, which is that the SBIC and

SBRSA investments are “in addition to” the investments contemplated in Subsection A.

In other words, Subsection A contemplates that the absolute limit on New Mexico private equity funds and businesses is \$700 million. Meanwhile, Subsections F and G contemplate that the absolute limit is \$700 million plus whatever amount is invested in such entities by the SBIC and under the SBRSA.

#### **PERFORMANCE IMPLICATIONS**

N/A

#### **ADMINISTRATIVE IMPLICATIONS**

N/A

#### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Conflict: Senate Bill 413 that proposes to amend NMSA 1978, Section 7-27-5.15 by increasing the limit on investments in New Mexico private equity funds or businesses from 11% to 14%.

Relationship: Senate Bill 275 which proposes to allow the State Investment Council to invest money from the Severance Tax Permanent Fund in bitcoin.

#### **TECHNICAL ISSUES**

The amendment proposes to reinsert somewhat inaccurate language in Subsection F, namely, “In addition to the investments required by Subsections A and G of this section . . .” Subsection A does not require that any investments be made; it merely limits the amount that may be invested.

#### **OTHER SUBSTANTIVE ISSUES**

N/A

#### **ALTERNATIVES**

N/A

#### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo.

#### **AMENDMENTS**

To more clearly express, and help carry out, the intent behind the measure, the text of Subsection A, F, or G—or some combination of these—should be amended as appropriate.

To improve accuracy (and consistency with Subsection G), Subsection F could be amended to say “provided for in” instead of “required by.”