

<b>LFC Requester:</b>	<b>Ismael Torres</b>
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**AGENCY BILL ANALYSIS  
2025 REGULAR SESSION**

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**SECTION I: GENERAL INFORMATION**

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

*Check all that apply:*

**Original**     **Amendment**      
**Correction**     **Substitute**   

**Date** February 4, 2025  
**Bill No:** SB 202

**Sponsor:** Roberto “Bobby” J. Gonzales    **Agency Name and Code** Regulation and Licensing Dept. - 420  
**Short Title:** Standardize State Investment Fund Language    **Number:** \_\_\_\_\_  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
n/a	n/a	n/a	

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
2,900,000	2,900,000	2,900,000	Partially Recurring*	Mortgage Regulatory Fund
800,000	800,000	800,000	Partially Recurring*	Money Services Regulatory Fund
3,900,000	3,900,000	3,900,000	Recurring	Cannabis Regulation Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

\*Monies currently in these funds have accumulated over a period of time due to the funds currently being nonreverting funds. While it is anticipated there will be recurring income into these funds in future years, the amount of income to each fund will vary from year to year and will very likely not total as much each year as the amount currently in each fund.

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

	<b>FY25</b>	<b>FY26</b>	<b>FY27</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	9,501,500.00	4,602,100.00	4,786,184.00	18,889,784.00	Recurring	Mortgage Regulatory Fund
<b>Total</b>	3,950,000.00	6,227,200.00	6,478,288.00	16,653,488.00	Recurring	Cannabis Regulation Fund
<b>Total</b>	n/a	n/a	n/a	n/a	Recurring	Money Services Regulatory Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: The Cannabis Regulation Act, §§26-2C-1 through 26-2C-41 NMSA 1978, *see particularly* §26-2C-39 NMSA 1978.

Duplicates/Relates to: Appropriations in the General Appropriation Act of 2024.

**SECTION III: NARRATIVE**

**BILL SUMMARY** Senate Bill 202 (SB202)

- SB202 revises requirements of specifically identified funds managed by the state investment officer, removes the state investment officer as the manager of other specifically identified funds; changes conditions, time frames, and locations in which various monies revert and/or are deposited; adds the term “investment fund” as a defined term, and removes the term “permanent funds” as a defined term.
- SB202 requires monies collected by the Cannabis Control Division (CCD) of the Regulation and Licensing Department (RLD) be deposited into the RLD operating fund, except money earmarked for revolving funds (p. 22).
- SB202 revises the management requirements of the Mortgage Regulatory Fund (MRF) by removing the requirement that the money must be invested by the state investment officer in the manner that land grant permanent funds are invested (p. 23). Additionally, SB202 removes the requirement that income from the investment of the MRF be credited to the MRF (p. 23). SB202 removes the requirement that any unexpended or unencumbered balance remaining in the MRF at the end of the fiscal year not revert to the general fund (p. 24).
- SB202 revises the Money Services Regulatory Fund (MSRF) by removing the requirement that the money must be invested by the state investment officer in the manner that land grant permanent funds are invested.

**FISCAL IMPLICATIONS**

**Financial Institutions Division (FID)**

For the FID of the RLD, the majority of the funding for the FID in FY25 (and for some prior

years) comes from appropriations taken from the MRF. In FY25, for its total budget the FID received only ninety-three thousand four hundred dollars in (\$93,400) in General Funds, but two million eight hundred seventy-nine thousand four hundred dollars (\$2,879,400) appropriated from the MRF. If any significant portion of the FID's yearly budget continues to be funded from the MRF in FY26 or beyond, unexpended and unencumbered balances should remain in the MRF at the end of the fiscal year, or the fund will swiftly be depleted. Without the MRF as a funding source, funding for all operations of the FID will have to be funded either from the General Fund, or some other source.

There appears to be an error (or at least conflicting/contradictory language) within SB202 regarding the non-reverting status of the MRF. On page 23 of SB202, lines 7-8, the MRF is established as a non-reverting fund under current law, and that provision is not amended by SB202. However, on page 24, lines 5-7 of SB202, language in the current law (§9-16-15 (C) NMSA 1978) requiring any "unexpended or unencumberd balance remaining at the end of a fiscal year shall not revert to the general fund" is struck from the statute. It is notable that the striking of the language on page 24, lines 5 – 7, is not consistent how the bill addresses at least one other non-reverting fund later in the bill. *See* Section 19 of the bill, page 33, lines 2 – 4, dealing with the Money Services Regulatory Fund. On the other hand, the striking of this language (concerning funds not reverting at the end of a fiscal year) is consistent with Section 18 of SB202, at page 31, lines 18 – 20, which amends §24-5A-4 NMSA 1978 of the Vaccine Purchasing Fund.

As noted above, SB202 also makes amendments to the MSRF. The MSRF is another statutorily created non-reverting fund for an industry regulated by the FID, which fund is intended be utilized to carry out the provisions of the Uniform Money Services Act. The language designating the MSRF as a non-reverting fund is left unaltered by SB202. *See* §58-32-1004 NMSA 1978. The only language of the MSRF that is amended by SB202 is the striking of the language concerning money in the MSRF being invested by the state investment officer. *See* SB202, page 32, lines 13 – 17. Also as noted above, the language in the MSRF concerning "unexpended or unencumberd balance remaining at the end of a fiscal year shall not revert" is not stricken or amended by SB202.

### Cannabis Control Division

SB202 requires monies collected by the CCD of the RDL to be deposited in the RLD Operating Fund, except money earmarked for revolving funds. However, §§ 26-2C-1 through 26-2C-41, NMSA 1978 of the Cannabis Regulation Act (CRA) creates the Cannabis Regulation Fund. Money in the Cannabis Regulation Fund is subject to appropriation by the legislature to fund the CCD, New Mexico Department of Health, Environment Department, Department of Agriculture, Taxation and Revenue Department and the Department of Public Safety for the purposes of carrying out the provisions of the Cannabis Regulation Act and the Lynn and Erin Compassionate Use Act.

With respect to the CCD, approximately fifty percent (50%) of the division's FY2025 budget is funded through the Cannabis Regulation Fund. If all the monies received by CCD are deposited into the RLD operating fund as required by SB202, then the Cannabis Regulation Fund will quickly be depleted and an alternative funding source must be designated to provide the approximate fifty percent (50%) of the CCD's budget, which totals just less than four million dollars (\$4,000,000) in FY25. The remaining state agencies identified in the CRA as receiving funds from the Cannabis Regulation Fund will almost certainly also be significantly fiscally impacted by the Cannabis Regulation Fund's depletion resulting from SB202.

## **SIGNIFICANT ISSUES**

SB202 proposes to strike language on page 24, lines 5-7 that allows unexpended or unencumbered balances to remain in the MRF after the fiscal year. It is not entirely clear from the bill if this change to the law would result in the MRF essentially losing its current status as a nonreverting fund or not. If the proposed change in law would result in all unexpended or unencumbered monies remaining in the fund at the end of a fiscal year being reverted to the General Fund (or some other fund) that would strip the stability in the MRF and therefore strip stability in consumer protections supervised and enforced by the FID.

The MRF, a historically non-reverting fund, was established on July 31, 2009, during the Great Recession and associated housing crisis. At that time, mortgage fees were split into two sections – those that went to the general fund and those that went to MRF. That system of split fees remains to this day. The purpose of the MRF is to provide stable funding to the FID for regulation, supervision, and consumer protection related to mortgage lending in New Mexico. The reason this is important is that the number of licensed mortgage loan companies, branches, and originators varies dramatically with changes in the interest rate environment; therefore, the level of fee income is inversely related to the level of interest rates. The U.S. experienced an unprecedented low interest rate for over a decade following the 2008-2009 downturn. With mortgage rates at their current levels, there is virtually no refinance market and the housing market in general has cooled significantly.

If striking the language on page 24, lines 5-7 of SB202 regarding the non-reversion of funds results in the MRF funds being reverted at the end of each fiscal year, the FID would no longer have the stability provided by the MRF during economic downturns, a time when FID's workload increases exponentially, and would instead put a strain on the General Fund when the state can least afford to add to the burden. If the FID did not receive appropriations from either the MRF or the General Fund, many consumer protections for the citizens of New Mexico would have no way of being supervised or enforced, potentially costing citizens millions of dollars.

SB202 requires monies collected by the CCD of the RDL to be deposited in the RLD operating fund, except money earmarked for revolving funds. The current Cannabis Regulation Fund is a reverting fund that consists of appropriations, gifts, grants, donations and fees collected by the Cannabis Control Division in its capacity as an administrative agency that conducts the licensing and regulation of the statutory provisions of the Cannabis Regulation Act. Money in the Cannabis Regulation Fund is subject to appropriation by the legislature to fund the CCD, New Mexico Department of Health, Environment Department, Department of Agriculture, Taxation and Revenue Department and the Department of Public Safety for the purposes of carrying out the provisions of the Cannabis Regulation Act and the Lynn and Erin Compassionate Use Act. The funding mechanism contained in the Cannabis Regulation Act is highly flexible and practical, as it authorizes the legislature to fund various departments in order to effectuate the policy and purpose of the Cannabis Regulation and Lynn and Erin Compassionate Use Acts. By requiring monies collected by the CCD be deposited in the RLD operating fund, SB202 prevents the legislative funding of RLD and the above identified agencies in the manner designed and specifically codified in the Cannabis Regulation Act.

## **PERFORMANCE IMPLICATIONS**

Reverting funds in the MRF, if that is the impact of the change made on page 24, lines 5-7 of SB202, may cause the FID to be unable to fulfil its obligations under the law. This would, in turn, create a likely scenario where unchecked financial activity and consumer harm could be

perpetrated with no regulatory oversight. Bad actors in the space would have nothing to fear without regulatory oversight and could easily take advantage of New Mexico citizens.

Requiring monies collected by the CCD get deposited in the RLD operating fund, instead of the Cannabis Regulation Fund, prevents the flexible and practical funding of the CCD, the New Mexico Department of Health, Environment Department, Department of Agriculture, Taxation and Revenue Department and the Department of Public Safety, potentially depriving various state agencies of a funding source.

#### **ADMINISTRATIVE IMPLICATIONS**

See the “Fiscal Implications,” “Significant Issues,” and “Performance Implications” sections, above.

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

See the “Significant Issues” section, above, for conflicting language issues.

#### **TECHNICAL ISSUES**

#### **OTHER SUBSTANTIVE ISSUES**

#### **ALTERNATIVES**

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

The FID will continue to receive appropriations from the MRF, therefore receive stable funding for regulation, supervision, and consumer protection related to mortgage lending in New Mexico.

Cannabis Regulation Fund will continue, subject to appropriation by the legislature, to fund the CCD, New Mexico Department of Health, Environment Department, Department of Agriculture, Taxation and Revenue Department, and the Department of Public Safety.

#### **AMENDMENTS**

Restore the language struck on page 24, lines 5-7.

Omit the addition of the cannabis control division on page 22, lines 11-12.