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FISCAL IMPACT REPORT

SPONSOR SCORC DATE TYPED 2/25/05 HB _____
 SHORT TITLE State Investments In Fine Art SB 141/SCORCS
 ANALYST Padilla-Jackson

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
	\$0.1			Severance Tax Permanent Fund

(Parenthesis () Indicate Revenue Decreases)

Could potentially conflict with: SB 60, SB 392, and HB 389

SOURCES OF INFORMATION

LFC Files

Responses Received From
 State Investment Council (SIC)

SUMMARY

Synopsis of Bill

The Senate Corporations and Transportation Committee substitute for Senate Bill 141 adds a new section to the Severance Tax Permanent Fund (STPF) investments statutes to permit the State Investment Officer to invest up to three percent of the market value of the STPF in New Mexico fine art and fine musical instrument private equity funds. The bill would cap investments in a single fine art private equity fund at \$60 million and investments in a single fine musical instrument private equity fund at \$40 million. The bill requires that the fund must be located in and has a majority of its employees in New Mexico; and is a reputable investment company with sufficient expertise in fine art or fine musical instruments. Additionally, the bill would require the SIC private equity investment advisory committee to review each of these newly proposed investments and financial reporting requirements to ensure the investment funds are reputable with proper expertise.

The bill defines New Mexico fine art and fine musical instrument equity fund to means any lim-

ited partnership, limited liability company, or corporation organized and operating in New Mexico that:

- has its primary business activity the use of funds to acquire fine art and fine musical instruments and has a value between \$50 thousand and \$5 million for fine art and \$100 thousand and \$8 million for fine musical instruments equity funds;
- will hold the its acquisitions for sale opportunistically, not later than ten years from the date of acquisition, with the objective of capital appreciation; and
- accepts investments only from accredited investors

The bill employs an emergency clause calling for its provisions to take effect immediately.

Significant Issues

According to the SIC, many institutional investors consider investments in fine art and fine musical instrument private equity funds to be a prudent investment with an expectation of reasonable return and risk characteristics when used in conjunction with other asset classes for portfolio optimization. SIC also notes that since the funds must be located and managed within New Mexico, this provides not only employment opportunities in art appraisal, but also showcases the art heritage of New Mexico.

The bill states that these investments are intended to stimulate the economy of New Mexico and shall be referred to as differential rate investments. As such, it is unclear what the impact on these differential rate investments if any of the various bill related to the Uniform Prudent Investor Act (UPIA) pass.

PERFORMANCE IMPLICATIONS

Since the proposed investments are differential rate investments (meant to stimulate the economy of New Mexico), and no specific rate of return range was provided, it is unclear what impact the investments will have on the return for STPF, which is a primary performance measure.

FISCAL IMPLICATIONS

Since no expected rate of return was provided for these new investments, it is not possible to estimate the fiscal impact to the STPF.

ADMINISTRATIVE IMPLICATIONS

The SIC notes that enacting this legislation would most likely require the hiring of an additional advisor to choose and perform due diligence on any prospective funds in this category which could increase administrative costs and may require additional personnel to run this program.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Since the bill characterizes these new investments as differential rate investments, it is unclear how the proposed bills (i.e. SB 60, SB 392, HB 389) related to the removal of the legal list and the adoption of the UPIA will change the ability to invest in these investments. Presumably, UPIA will continue to allow these types of investments.

POSSIBLE QUESTIONS

How many of these fund exist in New Mexico and meet the specified requirements of the bill? If there are very few of these types of equity funds, this may lead to a less than optimal investment, as the investment choices would be very limited.

OPJ/yr:lg