LFC Requester:	Chenier

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}

Date Prepared: *01/26/25*
Bill Number: *SB 88*

Check all that apply:
Original _x Correction _x
Amendment __ Substitute __

Sponsor: Munoz, Sharer, Woods
Short Title: Medicaid Trust Fund & State Supported Fund

Agency Name and Code Number: 337 – State Investment Council
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	**FY26**		
$300,000.0		Nonrecurring	**General Fund** (to Medicaid Trust Fund)

(Parenthesis ( ) indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	**FY26**	**FY27**		
Minimal	**($279,700.0)**	**($262,800.0)**	Recurring	**General Fund** *(treasury earnings)*
	($100,000.0)	**($100,000.0)**	Recurring	**General Fund** *(state agency reversions)*
Potentially significantly negative (tens to hundreds of millions)			Recurring	**General Fund** *(capital outlay reversions)*
Potentially significantly negative (tens to hundreds of millions)			Recurring	**General Fund** *(unexpended/unencumbered balances of prior year appropriations)*
Minimal	**$279,700.0**	**$262,800.0**	Recurring	**Medicaid Trust Fund** *(treasury earnings)*
	$100,000.0	**$100,000.0**	Recurring	**Medicaid Trust Fund** *(agency reversions)*
Potentially significantly positive; tens to hundreds of millions			Recurring	**Medicaid Trust Fund** *(capital outlay reversions)*
Potentially significantly positive; tens to hundreds of millions			Recurring	**Medicaid Trust Fund** *(unexpended/unencumbered balances of prior year appropriations)*
Distributions from Medicaid Trust Fund beginning in FY30; up to $70+ million			Recurring	**State-Supported Medicaid Fund**

(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:

Senate Bill 88 creates a new Medicaid Trust Fund ("MTF"), which would be seeded with a $300 million appropriation from the general fund. The new MTF would also receive revenues from state agency reversions, unexpended/unencumbered balances from prior year general appropriation acts, and interest earnings on state treasury balances, until the fund reaches $2 billion.

Additionally, the MTF would receive all reversions from general fund capital outlay appropriations made between 2021-2024 that have not already reverted to the general fund before the bill's effective date.

Starting in FY30, the MTF will make annual distributions to a newly created State-Supported Medicaid Fund ("SSMF"), which would be administered by the Health Care Authority and available for appropriation by the legislature to support and match federal funds for the state Medicaid program.

This bill has no effective date; the assumed effective date is 90 days following the end of the session (June 20, 2025).

FISCAL IMPLICATIONS

Appropriation: The bill makes a $300 million appropriation from the general fund to the Medicaid Trust Fund ("MTF"). Since the bill has no effective date, this appropriation is assumed to occur in FY25.

Medicaid Trust Fund (MTF) Revenues: The bill provides several recurring sources of revenue into the MTF:

1. *State Agency Reversions.* Section 3 of the bill redirects state agency reversions from the general fund to the MTF, until the balance of the MTF reaches $2 billion. Reversions over the last 5 years have ranged from $81 million to $310 million. The December 2024 consensus revenue estimate projects reversions to be $100 million each year from FY25-FY29. Therefore, the estimated fiscal impact of this provision is a general fund cost of $100 million/year and an MTF inflow of $100 million/year, until the MTF reaches $2 billion.

2. *State Treasury Earnings.* Section 4 of the bill redirects treasury earnings from the general fund to the MTF,[1] until the balance of the MTF reaches $2 billion. Since treasury earnings accrue to the general fund monthly, and since the effective date of this bill is assumed to be June 20, 2024, there is minimal expected impact on FY25. The December 2024 consensus revenue estimate includes the following estimates for general fund revenues from state treasury earnings:

FY26	FY27	FY28	FY29
$279.9 million	$262.8 million	$264.9 million	$267.8 million

The above table reflects the annual cost to the general fund, and annual inflow to the MTF, for each fiscal year in which the MTF is below $2 billion.

While the treasury return estimates are positive, it is important to note this is not always the case. For example, in FY22, treasury balances lost a total of $118.6 million due to market conditions at the time. Additionally, while total earnings over the fiscal year can be positive, earnings for a particular month during the fiscal year may be negative. For example, there has been at least one month of negative earnings in every one of the last five fiscal years – those monthly losses ranged from $222 thousand to nearly $48 million.

This bill would require all earnings, including realized and unrealized gains <u>and losses</u>, to be credited to the Medicaid Trust Fund. It is unclear exactly how the MTF would absorb losses on treasury earnings. Presumably, the MTF would have to make a transfer to the state treasury for each month in which treasury earnings were negative. Additionally, it is possible the MTF could experience its own market losses at the same time as the state treasury, increasing the MTF's risk exposures and complicating the fund's optimal asset allocation. [see *Technical Issues and Performance Implications sections]*

3. *Unspent Recurring Appropriations.* At the end of each fiscal year, Section 5(A)(1) of the bill transfers 1 percent of all unexpended/unencumbered balances of recurring appropriations for state agency operating budgets from the prior year's general appropriations act (GAA) to the MTF.[2] This transfer would only occur until the balance of the MTF reaches $2 billion. [*see Technical Issues section*]

   SIC staff are unable to estimate how much revenue this provision could send to the MTF, but it is reasonable to assume it could result in tens of millions of dollars to the trust fund.

4. *Unspent Nonrecurring General Fund Appropriations*. At the end of each fiscal year, Section 5(A)(2) of the bill transfers all unexpended/unencumbered balances of all other general fund appropriations from the prior year's GAA to the Medicaid Trust Fund, not including appropriations made to nonreverting funds. This transfer will only occur until the balance of the MTF reaches $2 billion. [*see Technical Issues section*]

[1] Note, this would not affect funds in treasury in which the law specifically credits to those funds their own interest earnings, or where such transfer would otherwise be prohibited by law.
[2] The bill directs "one percent of the unexpended or unencumbered balances of appropriations made in Section 4 of the prior year's general appropriation act" to the Medicaid Trust Fund at the end of each fiscal year. Section 4 of the GAA is typically reserved for recurring appropriations for state agency budgets.

SIC staff are unable to estimate how much revenue this provision could send to the MTF, but it is reasonable to assume it could result in tens to hundreds of millions of dollars to the trust fund.

5. *Unspent General Fund Capital Outlay*. Section 5(A)(3) of the bill reverts the unspent balances of general fund appropriations for capital outlay projects to the MTF, until the balance of the MTF reaches $2 billion. [*see Technical Issues section*]

   Sections 6-9 also directs unexpended balances from the capital outlay bills passed between 2021-2024 to revert to the MTF in accordance with the timeframes outlined in those bills.[3] [*see Technical Issues section*]

   SIC staff are unable to estimate how much revenue this provision could send to the MTF, but it is reasonable to assume it could result in tens to hundreds of millions of dollars to the trust fund.

6. *Investment Earnings*. The MTF is an interest-earning fund that would be invested by the State Investment Officer under supervision of the State Investment Council. The bill states the funds are to be managed in accordance with the Uniform Prudent Investor Act and in consultation with the Health Care Authority (HCA). *[see Performance Implications section]*

MTF Spending Policy: Beginning July 1, 2029 (FY30), the new MTF will make an annual distribution of 5 percent of the prior 3-year average ending balance to a newly created State-Supported Medicaid Fund, provided that the MTF has a balance of at least $500 million.

The bill also allows the MTF to be appropriated for *any purpose* should federal matching funds for the state Medicaid program (1) decline by at least 7.5% from the previous fiscal year, or (2) are less than a 1:1 match with money appropriated by the legislature for the Medicaid program.

In addition to the regular distribution, money in the trust fund may be appropriated to cover budgetary shortfalls following complete expenditure of the general fund, the general fund operating reserve, appropriation contingency fund, tax stabilization reserve, and early childhood education and care fund (commonly known as the “Early Childhood Trust Fund”).

State Supported Medicaid Fund: The new State-Supported Medicaid Fund (SSMF) is an interest-earning fund in the state treasury that will be administered by the Health Care Authority. Unspent balances in the SSMF at the end of a fiscal year revert to the MTF.

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

[3] Chapter 138 in 2021 (HB285), Chapter 53 in 2022 (SB212), Chapter 199 in 2023 (HB505), Chapter 66 in 2024 (SB275)

Medicaid Trust Fund ($millions)								Distribution to State-Supported Medicaid Fund		
Calendar Year	Beginning Balance	Approp.	Contrib. from treasury earnings	Contrib. from Agency Reversions	Gains & Losses	Distrib. to SSMF	Ending Balance	Fiscal Year	Distrib Date	Amount ($MM)
2025	$0	$300	$174	$100	$16	$0	$591	FY25	Jul-24	$0
2026	$591	$0	$271	$100	$47	$0	$1,009	FY26	Jul-25	$0
2027	$1,009	$0	$264	$100	$73	$0	$1,445	FY27	Jul-26	$0
2028	$1,445	$0	$266	$100	$100	$0	$1,912	FY28	Jul-27	$0
2029	$1,912	$0	$268	$100	$127	-$73	$2,334	FY29	Jul-28	$0
2030	$2,334	$0	$0	$0	$143	-$95	$2,382	FY30	Jul-29	$73
2031	$2,382	$0	$0	$0	$145	-$110	$2,416	FY31	Jul-30	$95
2032	$2,416	$0	$0	$0	$147	-$119	$2,445	FY32	Jul-31	$110
2033	$2,445	$0	$0	$0	$149	-$121	$2,473	FY33	Jul-32	$119
2034	$2,473	$0	$0	$0	$150	-$122	$2,501	FY34	Jul-33	$121
2035	$2,501	$0	$0	$0	$152	-$124	$2,529	FY35	Jul-34	$122
2036	$2,529	$0	$0	$0	$154	-$125	$2,558	FY36	Jul-35	$124
2037	$2,558	$0	$0	$0	$156	-$126	$2,588	FY37	Jul-36	$125
2038	$2,588	$0	$0	$0	$157	-$128	$2,617	FY38	Jul-37	$126
2039	$2,617	$0	$0	$0	$159	-$129	$2,647	FY39	Jul-38	$128
2040	$2,647	$0	$0	$0	$161	-$131	$2,677	FY40	Jul-39	$129

Expected long-term compound returns for funds under the Council's management range from 5.2 percent (Tax Stabilization Reserve) to 7 percent (the long-term return target for the Land Grant Permanent Fund). For 2025 and 2026, staff assume MTF returns are similar to that of the Capital Development and Reserve Fund (6.2 percent) because the two funds would have similar characteristics.[4] However, actual return expectations would ultimately depend on the fund's asset allocation.

The table above only assumes revenues from state treasury earnings, state agency reversions, and investment gains/losses, which are the only revenue sources for which SIC staff have estimates. Estimates for state treasury earnings and state agency reversions are derived from the December 2024 consensus revenue estimate and apportioned by calendar year in the table above. Estimates for investment gains/losses are derived using the long-term compound return assumptions described above.

Under these assumptions, both the balance of the Medicaid Trust Fund and the size of the distributions to the State-Supported Medicaid Fund have potential to grow over time. The MTF has could reach the $2 billion threshold by FY29, and could potentially deliver over $70 million to the SSMF when it makes its first distribution in FY30.

Given the potential for the MTF to also receive revenues from unspent appropriations (which is not included in the analysis above), the $2 billion threshold could be reached sooner, and the SSMF distributions could be higher, than the current estimate.

[4] Expected long-term compound returns for the Capital Development and Reserve Fund (CDRF) are estimated at 6.2 percent based on RVK's 2024 capital market assumptions and the fund's current asset allocation. Like the proposed Medicaid Trust Fund, the CRDF contains provisions for unlimited appropriation authority from the corpus of the fund under certain conditions.

PERFORMANCE IMPLICATIONS

The State Investment Officer, with the approval of the State Investment Council would manage the Trust 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 MTF, 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.

As noted above, the bill gives the legislature unlimited authority to appropriate from the Medicaid Trust Fund under certain conditions, which may lead the Council to allocate MTF assets more conservatively to ensure capital preservation and enhanced liquidity while this provision is in effect.

Additional Risk from State Treasury Earnings Exposures. Notably, the Council would need to make special considerations for this fund's asset allocation given the MTF will be exposed to the economic and market risk of state treasury investments. For example, the MTF could be requried to make transfers to shore up state treasury losses at the same time in which the MTF is experiencing its own market losses. While the Council may try to mitigate these effects by diversifying the MTF's asset allocation away from assets similar to those in the state treasury, there are practical limits to this approach, and certain economic events can still cause diversified assets to experience losses simultaneously. Therefore, regardless of asset allocation, the MTF would be exposed not only to the risks of its own investments but also the entirety of the risk, and reward, of state treasury investments. *[see Technical Issues and Fiscal Implications sections]*

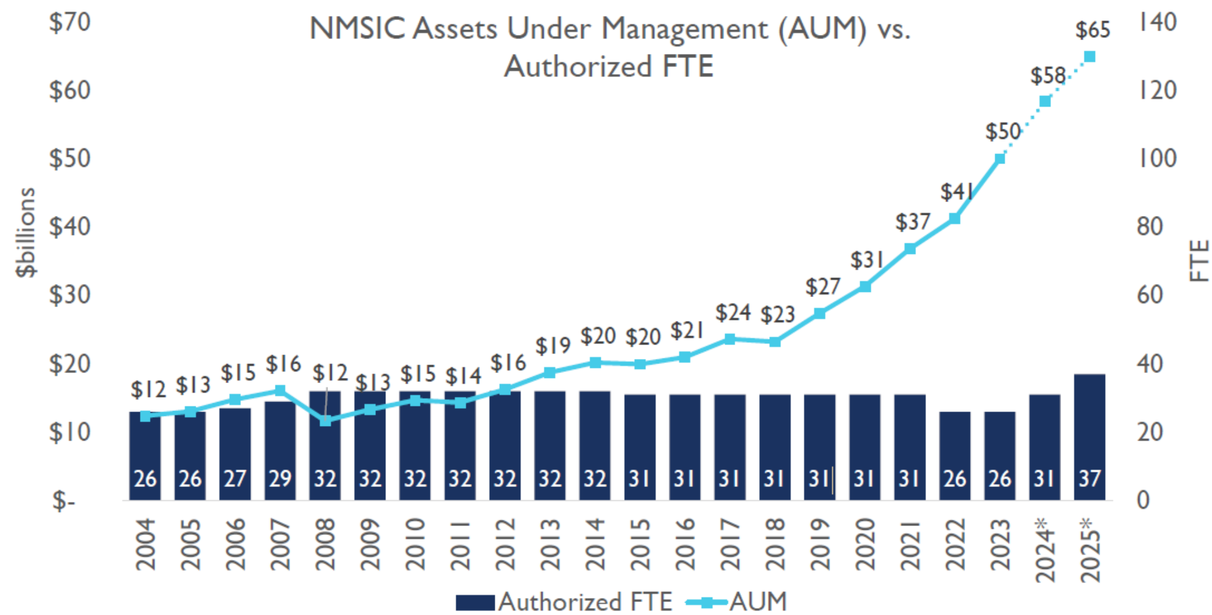
ADMINISTRATIVE IMPLICATIONS

This 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 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

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

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

- 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.
- 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.
- 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).

Senate Bill 97 appropriates $19.7 million from the general fund to HCA in FY26 to increase the Medicaid reimbursement rates for nursing homes.

House Bill 42 appropriates $6.3 million from the general fund to HCA in FY26 to provide rates increases to service providers that receive reimbursement from certain Medicaid waiver programs.

House Bill 53 appropriates $370 thousand from the general fund to HCA in FY26 to ensure that health care providers who provide vagus nerve stimulation to Medicaid recipients are fully reimbursed for their services.

House Bill 55 appropriates $20.8 million from the general fund to HCA in FY26 to update the Medicaid personal care services fee schedule and increase Medicaid reimbursements for personal care services.

House Bill 56 requires HCA to ensure that Medicaid reimbursement for services provided at birth centers is at the same rate as that for services provided at hospitals.

House Bill 70 creates the Behavioral Health Medicaid Waiver Act, requiring HCA to submit an application to the Federal Centers for Medicare and Medicaid Services to operate a Medicaid Waiver Program for persons with behavioral health disabilities that is comparable to New Mexico's home and community-based Medicaid Waiver Programs for persons with developmental disabilities.

House Bill 119 amends the Procurement Code to address state agency contract adjustments for employees whose benefits and compensation are subject to adjustment due to changes in state statutes, and also applies to the HCA's reimbursement rate adjustments for Medicaid and Medicare health care providers.

Senate Bill 103 requires each personal care service provider agency and each Medicaid managed care organization and financial management agency to report annually to the Health Care Authority on direct care workers providing certain services to Medicaid recipients. The bill also directs the Authority to perform a study to determine the cost of providing personal care services and recommend reimbursement rates, with the advice of an advisory group.

TECHNICAL ISSUES

MTF $2 Billion Threshold

The bill provides several revenue sources (most of which divert revenue from the general fund) for the Medicaid Trust Fund that would only be in effect only until the MTF reaches $2 billion at the end of a fiscal year. However, the bill does not specify what would happen if the MTF's fund balance was close to the threshold and only one or two of these transfers would push the fund above $2 billion. It is unclear which revenue source would take priority, or whether all transfers would occur regardless as long as the pre-transfer balance at the end of the year was less than $2 billion.

- For example, agencies have until September 30 to submit reversions for the completed fiscal year. If the balance of the MTF as of June 30 was less than $2 billion, and a handful of the initial reversions would push the MTF balance above that threshold, would the remainder of that fiscal year's reversions continue to flow into the MTF?

Additionally, it is unclear, once the $2 billion threshold is met, whether (1) the MTF would no longer receive revenues from those sources, regardless of whether the fund falls back below the threshold in later years (e.g. due to market losses or legislative appropriations directly from the fund's corpus), or (2) if these revenue transfers would 'kick-in' every time the MTF balance drops below $2 billion.

Crediting State Treasury Earnings to the MTF

While allocating state treasury earnings to the Medicaid Trust Fund could result in substantive funding for the MTF, it creates potential issues wherein the MTF must also absorb all market losses on treasury fund balances. Such losses can occur monthly even if total treasury earnings for the fiscal year are positive. Presumably, monies would have to be transferred out of the MTF to the State Treasurer for each month in which market losses on state treasury balances occur.

Additionally, the MTF may have to absorb state treasury market losses at the same time its own portfolio experiences losses, which adds additional risk exposures the Council must consider when setting the fund's asset allocation. However, the Council may encounter limits in its ability to use a diversified asset allocation to reduce this enhanced risk, particularly given the fund's potential enhanced liquidity needs should the legislature need to make appropriations directly from the fund's corpus. Many of the liquid assets in which the Council has investments would be exposed to the same economic and market risks as state treasury investments. *[see discussion in Fiscal Implications and Performance Implications sections]*

Transfers of Unspent Appropriations to the MTF

The bill contains several provisions in Section 5 to transfer unexpended and unencumbered balances of appropriations the Medicaid Trust Fund.

At the end of each fiscal year, Section 5(A)(1) of the bill transfers 1 percent of all unexpended/unencumbered balances of recurring appropriations for state agency operating budgets from the prior year's general appropriations act (GAA) to the MTF.[5] However, it is unclear how exactly this provision would work in practice.

- Because the bill does not specify that this provision applies only to unspent balances of *general fund* appropriations, this provision could presumably include unspent balances of appropriations made from other state funds as well.
- It is unclear whether and how this provision could affect state agencies that still had authorization to spend those appropriations (e.g. if the GAA contains authorization for the agency to spend the appropriation across multiple fiscal years).
- It is also unclear whether the exception on page 6, line 6 specifying this transfer would occur "unless otherwise provided by law" would sufficiently address these issues.

Section 5(A)(2) of the bill sends to the MTF all unexpended/unencumbered balances of all other general fund appropriations (e.g. specials and supplementals, IT, and other nonrecurring general fund appropriations) from the prior year's GAA, not including appropriations made to nonreverting funds. As with the recurring appropriations discussed above, it is unclear how exactly this provision would work in practice and whether the language would capture all intended unspent funds.

- It is unclear whether and how this provision could affect state agencies that still had authorization to spend those appropriations (e.g. if the GAA contains authorization for the agency to spend the appropriation across multiple fiscal years). It is also unclear whether the exception on page 6, line 6 specifying this transfer would occur "unless otherwise provided by law" would sufficiently address this issue.

[5] The bill directs "one percent of the unexpended or unencumbered balances of appropriations made in Section 4 of the prior year's general appropriation act" to the Medicaid Trust Fund at the end of each fiscal year. Section 4 of the GAA is typically reserved for recurring appropriations for state agency budgets.

- For example, if the 2025 GAA included a special appropriation for expenditure in fiscal years 2025 through 2027, would the unspent balance of this appropriation revert to the MTF in FY26? And if not, would the unspent balance be eligible for reversion to the MTF in FY27, since at that point the appropriation would no longer be from the prior year's GAA?

Sections 5-9 also contain provisions to revert unexpended balances of capital outlay appropriations to the MTF. The reversions described in Section 5(A)(3) appear to be much broader that of Sections 6-9, and a plain reading of Section 5(A)(3) suggests it could incorporate not only all appropriations described in Sections 6-9, but also any and all other unspent general fund capital outlay appropriations regardless of what year or in what bill those appropriations were made.

- For this reason, it is unclear why this bill would need to include both Section 5(A)(3) as well as Sections 6-9.
- Additionally, while Sections 6-9 of the bill requires those capital outlay reversions to the MTF to occur in the timeframes outlined in the original appropriation bill, Section 5(A)(3) of this bill makes no such requirement.
    - Presumably, this could mean any unspent balances of general fund capital outlay appropriations made in 2025 or future legislative sessions could potentially revert to the MTF at the end of each fiscal year.
    - Again, it is unclear whether the exception on page 6, line 6 specifying this transfer would occur "unless otherwise provided by law" would sufficiently address this issue.

OTHER SUBSTANTIVE ISSUES

Unlike other trust funds that have provisions to shore up general fund budgets to avoid a fiscal deficit, this bill includes the Early Childhood Trust Fund in this provision and requires the balances of that fund to be exhausted before the MTF could accessed for this purpose. The Early Childhood Trust Fund is not technically considered a "reserve fund" of the state at this time.