

LFC Requester:

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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: 2/4/2025

Check all that apply:

Bill Number: SB 202

Original Correction
Amendment Substitute

Sponsor: Sen. Roberto J. Gonzales

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

Person Writing

Short Title: Standardize State Investment Fund Language

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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
Total						

(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:

Senate Bill 202 (“SB202”) makes numerous changes to Article 6 of the NMSA dealing with public finance. The changes are as follows:

- Section 1 amends Section 6-4-9, which regards the Tobacco Settlement Permanent Fund, by adding in subsection A that it is a nonreverting fund and changing the guidelines for investment of the fund from Art. XII, § 7 of the N.M. Constitution to those set forth in the Uniform Prudent Investor Act (“UPIA”).
- Section 2 amends Section 6-4-28(B) by replacing “law” with the prudent investor rule set forth in the UPIA.
- Section 3 amends Section 6-4-32 by replacing the state treasurer with the secretary of higher education as a person to be consulted by the State Investment Council with regard to investment of the higher education trust fund.
- Section 4 amends Section 6-5-10 by removing a reference to a non-existent subsection C, and changing the date for reversion of reverting funds from September 30 to August 31.
- Section 5 amends Section 6-8-1 by adding a definition of “investment fund” and removing a definition of “permanent funds.”
- Section 6 amends Section 6-8-7 by requiring that funds invested by the SIC be invested in accordance with the UPIA and changing all references to “permanent funds” to “investment funds.”
- Section 9 amends Section 6-30-7 by designating the colonias infrastructure fund as a nonreverting fund and amending the investment standards to comport with the UPIA.
- Section 10 amends Section 7-27-50, which addresses the capital development and reserve fund, by changing the requirement that the state investment officer consult with the state treasurer to require consultation instead with the director of the board of

finance division of finance and administration.

- Section 11 amends Section 7-27-51, which addresses the capital development program fund, by moving the fund from under the severance tax bonding fund to the state treasury and amending the reversion timeline from two years after appropriation to the end of any project for which funds were appropriated.
- Section 12 updates language related to the RLD operating fund by removing references to already-passed deadlines and adding the cannabis control division to the list of divisions for which a separate suspense account is to be created.
- Section 13 amends Section 9-16-15 by removing now-redundant language regarding investment and reversion of the mortgage regulatory fund.
- Section 14 amends Section 9-46-17 by removing the treasurer and adding the secretary of workforce solutions as an individual to be consulted by SIC when making investment decisions and removing the tobacco settlement permanent fund as a fund listed under “general fund balances.”
- Section 15 amends Section 9-29A-1 by designating the early childhood education and care fund as a nonreverting fund, removing the treasurer and adding the secretary of early childhood education and care as an individual to be consulted by SIC when making investment decisions, and deleting references to the tobacco settlement permanent fund.
- Section 16 amends Section 18-18-1 by designating the rural libraries endowment fund as a nonreverting fund and rewording certain requirements to remove references to now-expired dates.
- Section 17 amends Section 19-1-19 by changing the management scheme of the buildings at capital permanent fund to match those of the land grant permanent funds.
- Section 18 amends Section 24-5A-4 by designating the vaccine purchasing fund as a nonreverting fund, removing certain language made redundant by that designation, and cleaning up statutory references.
- Sections 20 and 21 amend Section 72-4A-8 and 75-12-1, respectively, by changing the investment standards from those applicable to land grant funds to the UPIA.
- Section 22 repeals Section 6-8-6, which vests the state investment officer with all powers and duties relating to investment of money and nullifies any provision requiring a state official to serve in an active or advisory capacity by virtue of their office.
- Changes are made to numerous other Sections by making grammatical changes (i.e. “website” for “web-site”) or changing references to “permanent funds” to “investment funds.” Several individual references to investment standards were removed, having been made redundant by the universal standards now applied to nonreverting funds.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

SB202 proposes to repeal NMSA 1978, Section 6-8-6. It is likely necessary that SB202 repeal the second paragraph of that Section to effectuate the bill's designations for certain officials to serve in an advisory capacity over certain funds. However, the first paragraph transfers investment powers over the general fund to the state investment officer. Repealing this provision would radically change and likely reduce the role of the state investment officer. It is not clear from the remaining text of SB202 that this change is intended.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 113 seeks to create a new animal welfare trust fund, the language of which does not comport with the changes proposed in SB 202.

SB 48 creates a community benefit fund and uses language that appears to comport with the changes proposed in SB 202.

SB 143 creates a utility oversight fund using language that does not appear to comport with the changes proposed in SB 202 vis a vis how the nonreverting nature of the fund is described.

SB 145 creates a housing trust fund using language that does not appear to comport with the changes proposed in SB 202 vis a vis how the nonreverting nature of the fund is described.

TECHNICAL ISSUES

For internal consistency, amending Section 5 such that "investment fund" instead says "investment funds" could be considered.

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A