

LFC Requester:	Torres
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

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

Date Prepared: Feb 5 *Check all that apply:*
Bill Number: SB 202 Original Correction
 Amendment Substitute

Sponsor: Sen. Roberto Gonzales **Agency Name and Code** 337 – State Investment Council
Short Title: Standardize State Investment fund language **Number:** _____
Person Writing Wollmann
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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		
NFI	NFI	NFI		General 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						

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB202 is a statutory language clean-up bill that seeks to standardize terminology in New Mexico laws related to investment funds managed by the State Investment Officer and overseen by the State Investment Council for statutory consistency and to better accurately reflect the day-to-day processes underlying these investments. The bill would update the definition for investment funds, while removing a dated definition of permanent fund for clarifying purposes. The bill also seeks changes that will move the capital development program fund to the state treasury while reducing the amount of time money in the fund reverts by one year. The bill also seeks to reduce the amount of time unreserved and undesignated funds held by state agencies revert by one month. The bill would also require that fees collected by the Cannabis Control Division be deposited with the Regulation and Licensing Operating Fund.

FISCAL IMPLICATIONS

The SIC believes that the changes this bill is looking to make in relation to the funds it manages will have no fiscal impact. We are unable to identify meaningful input regarding impact of language and operational changes related to the Capital Development Program Fund or the reversion rule changes related to funds to be held in the Regulation and Licensing Operating Fund.

SIGNIFICANT ISSUES

SIC staff met with the Legislative Council Service during the interim to discuss drafting and language issues related to new, existing and potential future fund proposals, and this bill was drafted in part based on those collaborative discussions.

The following summarizes changes in the bill:

Section 1: The language changes update the legal status of the Tobacco Settlement Permanent Fund as no longer being a reserve fund for the state. The update removes a reference that the TSPF is to be managed under the limitations of the Land Grant Permanent Fund, to a more accurate statement that it is governed under the Uniform Prudent Investment Act (as are all funds managed by the SIC).

Section 2: This update aligns the language regarding fund management for the Opioid Settlement Restricted Fund, to also be managed to the prudent investor rule as set out under the Uniform Prudent Investor Act (UPIA).

Section 3: Regarding the Higher Education Trust Fund, this change would require the SIC to consult with the Secretary of the Higher Education Department relating to the management of the Higher Education Trust Fund. The language replaces the State Treasurer with the HED Secretary, but in actual practice, the Treasurer would still be consulted and would vote as will the other 10 members of the Council regarding the asset allocation & strategy of this fund. The problematic language was drafted this way for another fund where the additional input from the Treasurer was appropriate, but it doesn't make sense here and this change will improve the

statute.

Section 4: This change involves state agency reversions, which calls for unreserved undesignated fund balances in the central financial reporting and accounting system as of June 30, to revert as of August 31, instead of the current September 30.

Section 5: This change will establish the definition for “investment fund” as any fund managed or invested by the SIC, excluding governmental client investments. This change also strikes the definition of “permanent fund”, which had become a growing laundry list of SIC-managed funds, which also includes funds that technically should not be considered permanent due to their structure, status or investment horizon. The edit will provide additional clarity regarding the currently 12 different state reserve funds, endowment funds and permanent funds SIC oversees.

Section 6: This language addition clarifies that all funds managed by the State Investment Officer and/or the Council shall be managed to the Uniform Prudent Investment Act standard, which has been true since about 2005, and that those involved with the investment of these funds, including the SIC, its staff and advisors and anyone with discretionary authority over the funds is a fiduciary.

Section 7: Clarifies that monthly holdings reports shall be produced for all investment funds, not just “permanent funds”, which is consistent with current SIC practices.

Section 8: Clarifies contingent fees related to investment funds should be deposited in the appropriate investment fund, not limited to just certain permanent funds.

Section 9: Clarifies that the colonias infrastructure trust fund is a non-reverting fund in the Treasury, and that any money that flows into the colonias fund is to be invested by the state investment officer under the UPIA standard. This fund account currently has no assets.

Section 10: This clean-up language again removes the duplicative reference that the SIC shall consult with the Treasurer, and replaces it with a requirement that SIC consult with the “client”, in this case, regarding the Capital Development and Reserve Fund, is appropriately the Director of the Board of Finance at the Department of Finance and Administration. The Treasurer will still be consulted as a member of the SIC.

Section 11: This strikes a notation that the Capital Development Program Fund is a “...subaccount of the severance tax bonding fund.” And replaces the language noting it is a non-reverting fund in the state treasury, and that for any appropriated dollars out of this fund that are unexpended or unencumbered will revert to the Severance Tax Permanent Fund at the end of the project.

Section 12: Clarifies that money received by the cannabis control division as well as the administrative services division, the construction industries division, and the manufactured housing division will be deposited into the regulation and licensing department operating fund in separately held accounts.

Section 13: This language strikes the statutory directive that the state investment officer is to invest the “mortgage regulatory fund” overseen by the Financial Institutions Division of RLD. The SIC has never managed this fund, which appears to be a “program fund” which will generally require high liquidity and is better invested by the Treasurer’s Office, as STO focuses on short-term securities, while SIC investments should have investment horizons of one-year or longer.

Section 14: Clarifies that the Workforce Development and Apprenticeship Trust (WDAT) is a non-reverting fund in the state treasury, and that it shall be managed in consultation with the secretary of workforce solutions, rather than the Treasurer, who as a SIC member will already be involved in the fund’s oversight. The section also strikes the tobacco settlement permanent fund (TSPF) from a list of funds to be tapped prior to the WDAT to meet a budgetary shortfall.

Section 15: Clarifies that the Early Childhood Education and Care Fund (ECECF) is a non-reverting fund in the state treasury, and that it shall be managed in consultation with the secretary of the early childhood education and care department secretary, rather than the Treasurer, who is

already involved in the process as an elected member of the SIC. This section also strikes the TSPF from the list of funds to be accessed for budgetary shortfall, prior to using the ECECF.

Section 16: Clarifies that the Rural Libraries Endowment Fund is non-reverting and is to be invested in accordance with the prudent investor rule set forth in the UPIA. This section also advances the standardization of the RLEF's distribution formula to a 5% of 5-year fund's average value, something that is to occur under current law as of FY28. This change has the practical effect of simplifying the distribution formula to a widely accepted and standardized spending policy two years ahead of schedule. Under the existing formula, should markets have negative returns either of those two years, the RLEF would not make distributions during those years. This more conservative approach may have been warranted to protect a very small fund of a few million from future impairment, but at its current value of \$33 million, the current formula for RLEF has the potential to hinder rural library operations it is intended to fund.

Section 17: Clarifies that "public buildings at the capital permanent fund" is considered one of the 21 beneficiaries that comprise the Land Grant Permanent Fund.

Section 18: Clarifies that the Vaccine Purchasing Fund designated under Section 24-5A-4 NMSA 1978 is a non-reverting fund in the treasury and that income from the investment of the fund shall be credited to the fund. The change removes language preventing reversion of the fund. The bill removes a reference that the fund is to be invested by the State Investment Officer to the limitations stipulated for the LGPF. The fund is not managed by the Investment Officer/SIC.

Section 19: Similar to the previous section, this section removes a stipulation that the Money Services Regulatory Fund is to be invested by the State Investment Officer in a manner similar to the LGPF. The SIC does not manage the money services regulatory fund.

Section 20: Clarifies that the State Investment Officer shall invest the Water Trust Fund in accordance with the UPIA.

Section 21: Clarifies that the State Investment Officer shall invest the Conservation Legacy Permanent Fund in accordance with the UPIA.

Section 22: repeals Section 6-8-6 NMSA 1978, which relates to the transfer of investment powers and custody of the permanent funds from the Treasurer to the State Investment Officer for investment purposes.

Section 23: the effective date of this legislation is July 1, 2025.

PERFORMANCE IMPLICATIONS

SIC perceives none related to the various clean-up language related to SIC investments or operations.

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

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