F I S C A L   I M P A C T   R E P O R T

ORIGINAL DATE 2/18/15
SPONSOR Candelaria **LAST UPDATED** **HB**

SHORT TITLE Severance Tax Fund in NM Credit Unions **SB** 533

ANALYST van Moorsel

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY15	**FY16**	**FY17**	**FY18**	**FY19**		
Indeterminate, Potentially Negative – See "Fiscal Implications"					Recurring	STPF Investment Earnings

Parenthesis ( ) indicate revenue decreases

SOURCES OF INFORMATION
LFC Files

Responses Received From
State Investment Council (SIC)
Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

Senate Bill 533 amends the Severance Tax Bonding Act to require that at least 5 percent of the value of cash holdings of the Severance Tax Permanent Fund (STPF) be invested in New Mexico financial institutions and credit unions.

The bill defines a credit union as a nonprofit member owned financial cooperative that is chartered in New Mexico only and is qualified as an insured public depository.

Current law provides no minimum, and merely places an upper limit of 20 percent of the STPF book value on the investment in deposits in New Mexico financial institutions only.

There is no effective date of this bill. It is assumed that the new effective date is 90 days after this session ends.

FISCAL IMPLICATIONS

According to the SIC, the bill could have a negative impact on the STPF investment returns if the

Council were to pursue these types of investments. The council states the magnitude of the impact is indeterminate. The SIC has a long-term cash target of 0 percent or as close to that position as it can achieve. SIC states it currently holds all cash in a US Treasuries-only cash management account at Custodian Bank JPMorgan, with conservative duration guidelines. SIC adds the council made the strategic decision that cash reserves are not assets with which to take risk for return. SIC explains it is only interested in the liquidity aspects of this allocation and is not seeking significant returns regarding these assets, citing previous negative experience in securities lending and corporate credit risk taking in cash management accounts.

The SIC also cautions that CD investments in New Mexico banks could hamper the council's ability to properly administer other investments of the STPF by tying up the cash holdings and limiting liquidity.

To the extent that the potentially negative effects on overall STPF returns would reduce the corpus of the fund, the bill could have a negative impact on the annual distributions from the STPF to the general fund.

SIGNIFICANT ISSUES

The SIC analysis of the bill questions the accuracy of the short title's use of the word 'requiring.' The title reads "…r*equiring* at least five percent of the value of the cash holdings of the Severance Tax Permanent Fund to be invested in deposits in New Mexico credit unions, banks and savings and loan institutions." However, page 1, line 21-24 of the bill states "At least five percent of the value of the cash holdings but no more than twenty percent of the book value of the severance tax permanent fund *may* be invested in deposits in New Mexico financial institutions and credit unions" SIC notes language in the bill appears to permit, rather than require, the investment in New Mexico credit unions or financial institutions.

SIC adds that current statute includes multiple legislatively authorized "carve-outs" for New Mexico-centered investments to be made out of the STPF. These economically-targeted investments (ETIs) or New Mexico-focused investments potentially allow for more than 70 percent of the STPF corpus to be invested in this manner, at both differential and market rates. Of 70 percent that may be invested, SIC points only one percent is specifically required, namely namely the 1 percent allocation required from the STPF to the Small Business Investment Corporation (SBIC).

SIC's analysis goes on to say that, based on the council's current view on investments of this nature with New Mexico banks (none have been made since 2006), and the longer-term track record surrounding previous investments of that kind during the 1990s, it is highly questionable whether the council would be inclined to pursue such investments at this time.

PERFORMANCE IMPLICATIONS

SIC highlights the inability of the STPF to grow due to limited in-flows, adding the council is seeking statutory changes to restore a consistent revenue source to the fund. SIC is concerned that requiring the council to act as economic developers could adversely affect the long-term health of the STPF.

The analysis adds that the potentially low returns would further strain the council's ability to achieve its long-term portfolio-wide return target of 7.5 percent, perhaps pressuring the council to take on more risk to offset lower expected returns from investments in New Mexico banks.

ADMINISTRATIVE IMPLICATIONS

The SIC states there is a significant administrative burden in managing a program such as this with many types of qualifications, assessments of new loans, levels of required banking assets, and monitoring duties which would need to be continuously satisfied to properly and efficiently run such an allocation. The agency analysis therefore notes the bill would require the council to hire additional staff to manage such a program.

TECHNICAL ISSUES

The Regulation and Licensing Department points out the bill's definitions of "Financial Institutions" and "Credit Unions" conflict with the definitions provided in the Banking Act and the Credit Union Act. RLD adds the term "financial institutions" is referred to throughout the bill, however, the term "credit union" has not been added in each instance.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

PvM/aml