

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 01/19/11
LAST UPDATED 03/07/11 **HB** _____

SPONSOR Keller

SHORT TITLE Small Business Investment Corporation Board **SB** 24/aSFI#1

ANALYST Haug/Golebiewski

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
NFI	NFI	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General (AGO)

State Investment Council (SIC)

Economic Development Department (EDD)

SUMMARY

Synopsis of SFI#1

Senate Floor Amendment #1 to Senate Bill 24 delays the effective date to July 1, 2012 and requires the reappointment of three of the six public members serving as of July 1, 2012 as part of the transition membership of the SBIC.

Synopsis of Original Bill

Senate Bill 24, introduced on behalf of the Investments Oversight Committee, restructures the Small Business Investment Corporation (SBIC) board, reducing the number of Executive appointees from 6 to 3, while adding three members to be appointed by the Legislative Council. No more than 2 of the three legislative appointees may be from a single political party. The Governor's appointees shall serve at the pleasure of the Governor. Board member terms are to be 5-years, after initial staggering of those terms to allow for orderly transition and minimal annual board turnover in the future. The SBIC board will retain existing ex-officio members: the State Treasurer or a designee, and the State Investment Officer or a designee.

The bill also requires the annual SBIC performance report and the SBIC annual audit to be posted to an SBIC website.

FISCAL IMPLICATIONS

Senate Bill 24 contains no appropriation. The SIC states that Senate Bill 24 will have no additional or immediate fiscal impact on the SIC.

While the current 1% allocation of the Severance Tax Permanent Fund (STPF) is carried by the SIC at a loss, which does affect STPF performance numbers, the change in membership contemplated by SB 24 will not directly change or otherwise impact the performance of the STPF.

SIGNIFICANT ISSUES

Senate Bill 24 reduces the influence of the Governor on the SBIC. Presently all public members are appointed by the Governor. SB 24 would reduce that to half of the public members. While membership on the SBIC is not addressed the Independent Operating and Fiduciary Review (IOFR) of the State Investment Council performed by institutional investment advisor Ennis Knupp and Associates on behalf of the Legislative Council and State Board of Finance, the change proposed by Senate Bill 24 mirrors that review's recommendations for reducing the influence of the Governor on the parent State Investment Council.

Though SB 24 would limit the influence of the executive on the SBIC, it leaves some issues unaddressed. First, the required distribution of 1 percent of the STPF to the SBIC can be considered at odds with requirements of the SIC to invest the permanent funds according to the Uniform Prudent Investor Act. The SBIC has historically underperformed with respect to investment returns, and there is limited information with respect to other benefits accrued to the state as a result of the investments. In addition, there is no statutory mechanism that would hold the SBIC accountable for their investment choices and the corresponding returns, nor is there formal oversight. See more information from the State Investment Office below under Other Substantive Issues.

PERFORMANCE IMPLICATIONS

The SIC states it is notable that the majority of losses reported by SBIC to its board are from equity investments made in early stage and seed venture funds. Its small business loan program on the other hand, has lent \$28MM to 1,900 New Mexico small businesses with what appear to be a low rate of defaults. SBIC reported equity impairment as of May 31, 2010 as \$11.2MM.

ADMINISTRATIVE IMPLICATIONS

The EDD states:

The proposed legislation would hinder and delay the SBICs ability to continue workflow. Limiting the appointments to the approval of the Senate will create additional and unneeded paperwork.

OTHER SUBSTANTIVE ISSUES

The SIC reports:

Returns for the STPF were 100 basis points below Land Grant Permanent Fund (LGPF) returns

on a 5-year basis for the quarter ending 9/30/10, and have typically tracked .5%-2.0% below the LGPF over the past decade. LFC has attributed at least part of this underperformance to Economically Targeted Investment programs like SBIC, film loans and NM private equity investments, which typically may not produce a market rate of return, though do offer other ancillary benefits such as job growth and industry creation.

Improved investment performance by the SBIC translates to the STPF's bottom line, which determines annual distributions by the SIC to the general fund, though on an annual basis any change would not be significant.

The SBIC was created in 2000 under the Small Business Investment Act, 58-29-1 et seq., NMSA 1978, and has had its allocation increased three times (2004, 2005, 2007) by the legislature, now standing at 1% of the Severance Tax Permanent Fund (STPF). When funded in 2007, that 1% of the STPF was \$47,042,780.

The STPF is currently valued at \$3.59 Billion, significantly less than the \$4.7 Billion at the time of most recent SBIC funding in 2007.

The SBIC reports that it currently has approximately \$2 Million of uninvested capital in reserve.

GH:JAG/mew:svb:mew