

LFC Requester:

Torres

AGENCY BILL ANALYSIS - 2026 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: Jan 26

Check all that apply:

Bill Number: HB 121Original Correction Amendment Substitute Sponsor: Rep. Sarah SilvaShort Title: State Investment Officer andFund ChangesAgency Name
and CodeState Investment Council - 337

Number:

Person Writing

Wollmann/IglesiasPhone: 5052313334Email Charles.wollmann@sic.nm.gov**SECTION II: FISCAL IMPACT****REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
NFI - Improves statutory clarity around investment fund management			Recurring	Various SIC-Managed Investment Funds
\$400.0			Nonrecurring	Tax Stabilization Reserve
	\$34.0	\$34.0	Recurring	General Fund
	(\$34.0)	(\$34.0)	Recurring	Mortgage Regulatory Fund
	\$53.0	\$70.0	Recurring	Rural Libraries Endowment Fund
	(\$608.0)	(\$320.0)	Recurring*	Rural Libraries Grant Fund
	(\$32.0)	(\$17.0)	Recurring*	Cultural Affairs Department
	(\$119.0)	(\$119.0)	Recurring	Money Services Regulatory Fund
	\$119.0	\$119.0	Recurring	General Fund

(Parenthesis () indicate revenue decreases)

**impact to Rural Libraries Grant Fund and Cultural Affairs Department is estimated to be temporarily negative but gradually turning positive over time.*

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB121 is in part a statutory language clean-up bill that seeks, among other things, 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. The bill also seeks to reduce the amount of time unreserved and undesignated funds held by state agencies revert by one month.

FISCAL IMPLICATIONS

Most of the changes this bill is looking to make in relation to the funds SIC manages should have no fiscal impact and will improve basic clarity and efficiencies around how various investment funds are managed by Council.

The changes made in Section 2 of the bill regarding state reserve fund calculations for the purposed of calculating oil and gas school tax distributions to the Tax Stabilization Reserve (TSR) could result in an additional \$400 thousand to the TSR in FY26 [*see discussion in significant issues section below*].

Section 15 *removes* the Mortgage Regulatory Fund's ability to earn interest income on fund balances, meaning that any interest earned on the balance would instead flow to the general fund. According to LFC's Volume III Report for FY27, the cash balance of this fund as of November 2025 was about \$1.4 million. Assuming a 2.5% return, this would mean about \$34 thousand in annual interest income going to the general fund rather than the MRF.

Section 18 standardizes the distribution from the Rural Libraries Endowment Fund (RLEF) to a set 5% of the prior 5 calendar year average value of the fund. Under current law, distributions through FY27 are equal to the difference between investment income and fund distributions in the prior calendar year, which is about \$1.8 million for FY27. Starting in FY28, the fund would begin distributing 5 years of average investment income, capped at 5% of the immediately preceding calendar year-end total fund market value. While the change would improve the long-term sustainability of distributions from the RLEF, the immediate impact would be a \$640 thousand reduction in the FY27 distribution, which is based on the very strong investment earnings (over 10%) in 2025 – 95% of the impact is to the rural libraries grant program and 5% is to the Cultural Affairs Department. This demonstrates the volatility of the current distribution calculation, which can be unexpectedly large in years of strong market performance, and much smaller in years of subdued performance (e.g. the fund

Projected RLEF Distribution				
Fiscal Year	Distrib Date	Current Law	HB121	Diff
FY22	Mar-25	\$ 0.084	\$ 0.084	\$ -
FY23	Apr-25	\$ 0.165	\$ 0.165	\$ -
FY24	May-25	\$ 0.094	\$ 0.094	\$ -
FY25	Jun-25	\$ 0.772	\$ 0.772	\$ -
FY26	Jul-25	\$ 1.469	\$ 1.469	\$ -
FY27	Jul-26	\$ 1.787	\$ 1.147	\$ (0.640)
FY28	Jul-27	\$ 1.823	\$ 1.486	\$ (0.337)
FY29	Jul-28	\$ 1.860	\$ 1.734	\$ (0.125)
FY30	Jul-29	\$ 1.897	\$ 1.835	\$ (0.062)
FY31	Jul-30	\$ 1.935	\$ 1.904	\$ (0.031)
FY32	Jul-31	\$ 1.974	\$ 1.957	\$ (0.017)
FY33	Jul-32	\$ 2.013	\$ 2.006	\$ (0.008)
FY34	Jul-33	\$ 2.054	\$ 2.052	\$ (0.002)
FY35	Jul-34	\$ 2.095	\$ 2.098	\$ 0.003
FY36	Jul-35	\$ 2.137	\$ 2.146	\$ 0.008
FY37	Jul-36	\$ 2.180	\$ 2.193	\$ 0.013
FY38	Jul-37	\$ 2.224	\$ 2.242	\$ 0.018
FY39	Jul-38	\$ 2.269	\$ 2.292	\$ 0.024
FY40	Jul-39	\$ 2.314	\$ 2.344	\$ 0.029

only distributed \$94 thousand in FY24). The changes to the RLEF distribution would also have a positive fiscal impact on the fund’s investment earnings, as smaller initial distributions would create additional compound interest earnings. The table on page 1 of this analysis reflects staff’s estimate of the additional investment earnings under this bill using the 7.19% expected annual return estimated in our latest asset allocation study.

Section 21 *removes* the ability of the Money Services Regulatory Fund to earn interest income. According to LFC’s Volume III Report for FY27, the cash balance of this fund as of November 2025 was about \$4.8 million. Assuming a 2.5% return, this would mean about \$119 thousand in annual interest income going to the general fund rather than the money services fund.

SIGNIFICANT ISSUES

SIC staff met with the Legislative Council Service during the interim 2024 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 stipulates that the Tobacco Settlement Permanent Fund be a non-reverting fund of the state, which will align statute with current practice. The update removes a requirement that the fund be managed in accordance with constitutional requirements the same as the Land Grant Permanent Fund, to the more universal and modern investment standards governed under the Uniform Prudent Investment Act (as are all funds managed by the SIC already).

Section 2: pertaining to distributions of excess oil and gas emergency school tax dollars, amends the definition of state reserves, removing the state-support reserve fund from the list of state reserve funds for the purposes of calculating whether distributions of excess school tax revenue should be distributed to the Tax Stabilization Reserve (TSR).

Under current law, if “state reserves” (as defined in Section 6-4-27) are less than 25% of recurring general fund appropriations, school tax revenues are to be distributed to the TSR until the state reserve balance gets back to 25%. Removing the state-support reserve fund from the “state reserves” calculation effectively lowers the threshold by which the TSR may need to be replenished in the future. Per LFC’s Volume I Report for FY27, the balance of the state-support reserve fund was \$400 thousand in FY25, and estimated reserve fund balances and appropriations for FY26 suggest distributions to the TSR could be required to replenish reserves to the 25% requirement. Therefore, removing the state-support reserve fund from the calculation could increase the potential FY26 school tax distribution to the TSR by \$400 thousand.

"State Reserve" Funds for purpose of TSR Distribution Calculation (Section 6-24-7)			
Reserve Fund	FY25 Actual	FY26 Est.	FY27 est.
General Fund Operating Reserve	\$ 246.5	\$ 138.5	\$ 845.3
Approp. Contingency Fund	\$ 68.4	\$ 30.0	\$ 60.0
State Support Reserve Fund	\$ 0.4	\$ 0.4	\$ 0.4
Tax Stabilization Reserve	\$ 2,335.3	\$ 2,320.4	\$ 2,413.2
Subtotal "State Reserves"	\$ 2,650.6	\$ 2,489.3	\$ 3,318.9
Recurring General Fund Appropriations	\$ 10,234.6	\$ 10,838.6	\$ 11,094.5
State Reserves as % of Recurring Approp.	26%	23%	30%

Source: LFC General Fund Financial Summary, FY27 Volume I Report

Section 3: This update aligns and improves the statutory 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 4: 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 along with 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 (Tax Stabilization Reserve) where the additional input from the Treasurer was appropriate. This change will improve governance due to added investment input from the client (HED) to the fund manager (SIC) regarding long-term uses, intent, investment horizon, risk and return expectations.

Section 5: 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 6: 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 statutory clarification will provide additional clarity regarding the currently 14 different state reserve funds, endowment funds and permanent funds SIC oversees.

Section 7: 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. Also includes various language clean up and clarification, such as replacing “permanent” with “investment” and “website” for “web site”, etc.

Section 8: Clarifies that monthly holdings reports shall be produced for all investment funds, not just “permanent funds”, which is consistent with current SIC practices.

Section 9: Clarifies contingent fees related to investment funds should be deposited in the appropriate “investment fund,” rather than “permanent fund” as not all the funds managed by the SIC are permanent funds.

Section 10: Relating to NMSA 1978, 6-12-2, this appears to clean up language clarifying that the State Treasurer may only use surplus money in the interest on deposits fund – and not the surplus of any other funds – to pay a certificate of indebtedness prior to borrowing to pay.

Section 11: Requires balances in the Tribal Infrastructure Project Fund to be subject to appropriation by the legislature, rather than being automatically appropriated to the Department of Finance and Administration.

Section 12: Relating to the Colonias Infrastructure Trust Fund, this language proposal would define that the Colonias fund is a non-reverting fund in the Treasury, and it is to be invested by the State Investment Officer in accordance with the UPIA, rather than as the LGPF. Currently, this trust fund has a \$0 balance, as the Legislature has not transferred monies to this trust fund since its creation.

Section 13: Relating to the Capital Development and Reserve Fund, this change clarifies that the money in this fund is to be invested with oversight from the State Investment Council, and adds the “client” – the Director of the Board of Finance under the Department of Finance and Administration – to be consulted on risk/return allocation, rather than specifically the State Treasurer, who will already be consulted as a member of the State Investment Council.

Section 14: This clarifies that the Capital Development Program Fund is a non-reverting fund in the state treasury, rather than a subaccount of the severance tax bonding fund. The proposed edit also expands the program fund’s uses to appropriations for capital projects or functional project phases costing less than \$25 million, rather than the previous threshold of \$5 million, or for planning and design of capital projects with a total cost greater than \$2 million (rather than \$5 million). The language clarifies that any laws appropriating from the project fund must stipulate that unexpended or unencumbered balances at the end of those projects shall revert to the Severance Tax Permanent Fund. This section also provides a new definition of “functional phase” of a project.

Section 15: Clarifies that the Mortgage Regulatory Fund (MRF) is managed by the State Treasurer rather than SIC, aligning statute with current practice since the MRF operates as an expenditure fund. This section removes the MRF’s ability to earn interest income, therefore interest on fund balances will go the general fund rather than continue to be credited to the MRF. The bill also strikes what appears to be duplicative language stating this fund’s unexpended balances shall **not** revert to the general fund, but the fund remains defined as a “nonreverting” fund in the treasury and therefore will continue to keep its year-end balances *[though this may be a technical issue if the intent was to have the MRF’s balances revert to the general fund]*.

Section 16: Clarifies that the workforce development and apprenticeship trust fund (WDAF) is a non-reverting fund within the treasury; adds the Secretary for Workforce Solutions to be consulted by the Council when determining proper risk/return expectations for this fund, rather than specifically the State Treasurer, who will already be consulted as a member of the State Investment Council. Also removes the tobacco settlement permanent fund (TSPF) and state-support reserve fund from the list of funds that must be exhausted prior to tapping the WDAF to shore up general fund budgetary shortfall, aligning with legislation passed in 2024 that clarified the TSPF is not a reserve fund of the state.

Section 17: 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 and state-support reserve fund from the list of funds to be accessed for budgetary shortfall, prior to using the ECECF.

Section 18: 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 standardizes the RLEF’s distribution formula to be 5% of the fund’s 5-year average value. This

change has the practical effect of simplifying the distribution formula to a widely accepted and standardized spending policy one year ahead of schedule. Without change, the current formula for RLEF has the potential to hinder rural library operations it is intended to fund.

Section 19: Clarifies existing statutory language that “public buildings at the capital permanent fund” is considered one of the 21 beneficiaries that comprise the Land Grant Permanent Fund.

Section 20: Clarifies that under 24-5A-4 NMSA 1978 the Vaccine Purchasing Fund is a non-reverting fund in the treasury, and that income it earns will continue to be credited to the fund. This section also clarifies that the Vaccine Purchasing Fund is managed by the State Treasurer rather than SIC, aligning statute with current practice since it operates as an expenditure fund.

Section 21: Clarifies the Money Services Regulatory Fund is managed by the State Treasurer rather than SIC, aligning statute with current practice since it operates as an expenditure fund. This section also removes the fund’s ability to earn interest income, therefore interest on fund balances will go the general fund rather than continue to be credited to the money services fund.

Section 22: Clarifies that the Water Trust Fund is to be invested in accordance with the prudent investor rule set forth in the Uniform Prudent Investor Act.

Section 23: This recommended language clean up clarifies statutory language in 73-17-14 as pertaining to state lands impacted by the Conservancy Act of New Mexico.

Section 24: Clarifies and makes uniform statutory language related to 73-18-11 and State Lands.

Section 25: Clarifies that the Conservation Legacy Permanent Fund is to be invested in accordance with the prudent investor rule set forth in the Uniform Prudent Investor Act.

Section 26: Repeals 6-8-6 NMSA 1978, which stipulates: “...*Transfer of investment powers: The functions, powers and duties vested by law relating to the investment or reinvestment of money and the purchase sale or exchange of investments or securities of the permanent fund are transferred to the state investment officer. The State Treasurer shall maintain custody of the state permanent fund but shall at all times render the fund or any part of it available for investment in accordance with provisions of Sections 6-8-1 through 6-8-18, NMSA 1978.*” This language was effectively a temporary provision that transferred investment management and custody of the LGPF from the State Treasurer to the SIC in 1957. This clean-up recommendation will not have a practical effect on how the permanent funds are currently managed.

Section 27: the effective date of this legislation is July 1, 2026.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill is very similar to Senate Bill 202 from the 2025 legislative session, which passed the Senate unanimously.