

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

**SPONSOR** Varela **ORIGINAL DATE** 01/22/11  
**LAST UPDATED** \_\_\_\_\_ **HB** 52  
**SHORT TITLE** Tobacco Fund Investment Practices **SB** \_\_\_\_\_  
**ANALYST** Hoffmann

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
NFI	NFI	N/A	None

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to House Bill 31.

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
State Investment Council (SIC)

### SUMMARY

#### Synopsis of Bill

House Bill 52 would amend Section 6-4-9 NMSA 1978 which currently calls for the Tobacco Settlement Permanent Fund (TSPF) to be invested “as land grant permanent funds pursuant to Chapter 6 Article 8, NMSA 1978”, and changes that language to “in accordance with limitations in Article 12, Section 7 of the constitution of New Mexico”.

This language change requires the TSPF be invested with the same statutory limitations that currently exist on the investment of the Land Grant Permanent Fund (LGPF) under the Uniform Prudent Investor Act, but does not require the TSPF to be invested in a mirror image of the LGPF.

House Bill 52 is endorsed by the Investments Oversight Committee.

### FISCAL IMPLICATIONS

The SIC claims there will be no fiscal impact as a result of this legislation, though the TSPF may be invested in a more conservative manner over time.

**SIGNIFICANT ISSUES**

The SIC states that due to the reserve nature of the TSPF, as well as it being of insufficient size to avoid possible erosion due to distribution outpacing contributions, there are certain types of long-term investments made in the Land Grant Permanent Fund (LGPF), like private equity, real estate and hedge funds, which may simply not be prudent for the TSPF.

**PERFORMANCE IMPLICATIONS**

The SIC provided the following comment.

Over the past two years and three out of the last five years, distributions from the Tobacco Settlement Permanent Fund have matched contributions to the fund, which flow in from the legal settlement that created the fund in 2000. Unlike distributions for the Water, Severance and Land Grant Permanent Fund, distributions for the Tobacco Fund are not set by statute or constitution. As a reserve fund, legislators have the ability to use the fund to cover state budgetary shortfalls if necessary, and it is frankly not prudent for this fund to be invested in long-term investment vehicles like private equity, hedge funds or real estate, where the investment horizon is several years or more and various lock-up and legally binding commitments come into play.

**ADMINISTRATIVE IMPLICATIONS**

There is no additional administrative burden reported by the SIC in shifting the way the TSPF will be managed.

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

According to the SIC if House Bill 52 is not passed the TSPF will continue to be managed in accordance with the Land Grant Permanent Fund, potentially to the long term detriment and risk of the fund.

JCH/mew/bym