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FISCAL IMPACT REPORT

SPONSOR Smith DATE TYPED 03/15/05 HB _____
 SHORT TITLE Expand Educational Retirement Board SB 194/aSFC/aHEC
 ANALYST Geisler

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			Minimal	Recurring	Educational Retirement Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates: HB 330

SOURCES OF INFORMATION

LFC Files
 Educational Retirement Board (ERB)
 State Auditor (SA)

SUMMARY

Synopsis of HEC Amendment

The House Education Committee Amendments to Senate Bill 194 increase the size of the board from nine to eleven members. The two additional members are:

- 1) One member to be appointed by the New Mexico federation of educational employees for a term of four years;
- 2) One member who possesses at least ten years of investment or public finance experience to be appointed by the New Mexico coalition of school administrators for a term of four years.

The HEC amendments added a requirement for new board members to receive training on fiduciary responsibility, investing and financial expertise during the first year of their new term. The HEC amendments also clarified procedures for filling vacancies for appointed and elected members.

RELATIONSHIP

As amended, SB 194 and HB 330 now have the same eleven members. However, SB 194 amended requires the appointee of the New Mexico coalition of school administrators to have ten years of investment or public finance experience – HB 330 does not include the same experience requirement.

Synopsis of SFC Amendment

The Senate Finance Committee Amendment to Senate Bill 194 strikes the addition of the state auditor to the ERB board.

Synopsis of Original Bill

Senate Bill 194 is Legislative Finance Committee sponsored legislation to increase the number of board members on the Educational Retirement Board (ERB) from seven (7) to ten (10) and to increase the financial expertise of the board. The three additional members are:

- 1) the state auditor;
- 2) one member to be appointed by the governor for a term of four years who possesses at least ten years of investment or public finance experience;
- 3) one member to be appointed by the university president's council for a term of four years who possesses at least ten years of investment or public finance experience

Significant Issues

1) Current Board Structure

The performance of the board has been under scrutiny given the funds investment performance and actuarial position. The current board is comprised of seven members: three educators, two governors appointees, the State Treasurer and the Secretary of Education. The only other major finance related organizations with boards this size are the Board of Finance and the Mortgage Finance Authority, chaired by the governor and lieutenant governor, respectively. Most other finance related state boards have 10 to 12 members. Since it is not uncommon for the ERB to meet with the minimum quorum of four members, a increase in board members is warranted to reduce the workload of the current board members and provide additional financial expertise.

2) State Auditor Concern about Conflict of Interest

The State Auditor believes that making the state auditor an Educational Retirement Board member would impair his auditor independence for purposes of the annual financial and compliance audit of the Educational Retirement Board. The state auditor provided the following:

The state auditor is required by *Government Auditing Standards* (GAGAS 3.03) to be independent of the agencies he is required by statute to audit. A personal impairment of an auditor's independence results from relationships and beliefs that might cause auditors to limit the extent of the inquiry, limit disclosure, or weaken or slant audit findings in any way. The standards cite as an example of personal impairment to auditor independence having the "responsibility for managing an entity or decision making that could affect operations of the entity or program being

audited; for example as a director; officer; or other senior position of the entity.” (GAGAS 3.07)

FISCAL IMPLICATIONS

Adding additional board members would likely cause a slight increase in annual board related costs such as travel expenses and per-diem

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Duplicates HB 330.

ALTERNATIVES

ERB has studied this issue of board expansion and recommends an increase from seven (7) to eleven (11) members. Two of the new members would be as suggested above: the additional governor’s appointee and the member appointed by the university president’s council, both with the ten years of fiscal experience. The board also recommends adding one member who is elected for a term of four years by the New Mexico Federation of Educational Employees and one member who is elected for a term of four years by the New Mexico Coalition of School Administrators. Eleven board members will also facilitate breaking tie votes.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

The number of board members will remain at seven.

GG/sb