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FISCAL IMPACT REPORT

ORIGINAL DATE 2/27/09

SPONSOR E. Griego LAST UPDATED _____ HB _____

SHORT TITLE Appoint Equitable NM Investment Task Force SJM 59

ANALYST White

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non- Rec	Fund Affected
Total		Indeterminate	Indeterminate	Indeterminate		General Fund and Permanent Funds

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 420, SB 460, HB 876

SOURCES OF INFORMATION

LFC Files

Responses Received From

State Investment Council (SIC)
 Department of Health (DOH)
 Department of Workforce Solutions (DWS)
 Economic Development Department (EDD)

Responses Not Received From

New Mexico Association of Counties
 New Mexico Municipal League

SUMMARY

Synopsis of Joint Memorial

Senate Joint Memorial directs the Legislative Council Service (LCS) to appoint an “equitable New Mexico investment task force to study the investment policies of the State Investment Council (SIC) of the permanent funds.” LCS is directed to compose the task force with:

- Legislators
- The State Investment Officer or designee
- The Secretary of Workforce Solutions or designee
- The Secretary of the Economic Development or designee
- The Director of the Department of Agriculture or designee
- The Secretary of Health or Designee
- Entrepreneurs
- Municipal, County, Environmental, and Labor leaders
- Other Interested Persons

FISCAL IMPLICATIONS

The fiscal implications of this joint memorial should be extremely minor. Because there is no appropriation included in the joint memorial there will be a minor additional operating budget impact on the Legislative Council Service in FY10. It is unknown how long this additional budget impact will last because this legislation does not set any timeline for the existence of the “equitable investment task force.” The bill also does not provide for any per diem expenses for appointed members of the task force which may necessitate additional travel expenditures for state employees and private citizens.

State Investment Council (SIC):

Recommendations from this task force to invest in designated investments could impose significant additional costs onto the State Investment Office (SIO) for the purpose of consulting, due diligence, and external legal fees with outside contractors. Additionally, SJM 0059 also recommends that an outcome of the study could result in statutory and administrative changes in order to facilitate investing the state’s permanent funds in NM; this could result in employment changes to the SIO which could cause an impact to the agency’s budget.

SIGNIFICANT ISSUES

The State Investment Council (SIC) is in charge of investing the state’s permanent funds, the two largest of which are the Land Grant Permanent Fund (LGPF) and Severance Tax Permanent Fund (STPF). The LGPF consisted of approximately \$7.8 billion as of December 31, 2008 and annually distributes 5.8 percent of its average 5 year calendar year end fund value to the general fund and various other state entities. The STPF consisted of approximately \$3.1 billion as of December 31, 2008 and annually distributes 4.7 percent of its average 5 year calendar end fund value to the general fund. The two funds receive contributions from various revenue sources related to the State Land Office (SLO) and state severance taxes.

State Investment Council (SIC):

The fact that SJM 0059 asserts a generalized statement that investing in New Mexico nondiscretionary infrastructure is more practical than securities markets is invalid because the downturn of the economy affects the nation as a whole, and there is no proof that concentrating investments in NM will yield better performance.

Also, where SJM 0059 recommends that the permanent fund investments should be concentrated in municipal-scale nondiscretionary infrastructure, it is crucial to note that one of the riskiest types of investments in this context are infrastructure bonds for municipal projects. The reason that they are prone to defaulting is because these are revenue bonds where repayment of the principal and interest is dependent on revenue streams, which is not guaranteed in light of the current economic situation.

The composition of the task force that SJM 0059 suggests is highly problematic for two main reasons: 1) the membership is an undetermined number of individuals; and 2) the number of individuals on this task force to study and recommend new investment options to the SIO with a required background of investment experience is one (1). For certain groups of individuals, SJM 0059 allows for unlimited persons to be a member of this task force to the study of the State Investment Council's investments and policies, including "[all] other interested persons". Too many individuals absent of organization and order on a task force runs the risk of inefficiency can even sabotage the goal. Secondly, the State Investment Officer is the only individual listed by SJM 0059 to have a proven background of investment experience; there is no other membership of other state investment-related officers such as the State Treasurer's Office, the New Mexico Educational Retirement Board, the New Mexico Public Employees Retirement Association, the New Mexico Finance Authority, or the New Mexico State Board of Finance. As such, having a task force consisting of individuals with no substantial, professional experience in the field of investing, or in the running of a public fund, to recommend new investment decisions to the SIO and even potentially make statutory and administrative changes to the SIO would not be prudent and would likely be detrimental. Lastly, having a task force that imposes substantial recommendations of how the permanent fund is invested imposes upon the SIO's fiduciary duty by overriding his duty and decisions as the state's investment officer.

As noted in SJM 0059, the multiplier effect of "tripl[ing]" the NM economy through local investment strategies is a measurement that has not been proven as a standard for the state, and thus, cannot be relied upon as an accurate effect upon the NM economy.

The objective of the task force in SJM 0059 is based upon the implication that the state's permanent funds have been neglected to be invested in NM. This is incorrect. Currently; the SIC has \$380 million invested in NM companies (under Section 7-27-5 NMSA 1978) in various economically-targeted investments, NM private equity, and film, the latter two of which also has a significant impact on job creation in the state.

RELATIONSHIP

Senate Bill 420 would allow SIC to invest up to 6 percent of the STPF in "green industries" throughout New Mexico.

Senate Bill 460 proposes to change the makeup of the State Investment Council.

House Bill 876 attempts to provide more transparency to the alternative investment process by requiring firms seeking public investment to disclose the use of any third-party marketer.

TECHNICAL ISSUES

Senate Joint Memorial 59 is unclear in its intentions from a number of different perspectives. The proposed legislation does not specify the total size of the task force or provide any funding for its operation. The task force is directed to be made up of a number of cabinet secretaries, an unidentified number of legislators, entrepreneurs, “municipal, county, environmental and labor leaders; and other interested persons.” The joint memorial also does not specify what or if the task force is required to report its findings to an appropriate legislative committee, the Governor, or any other governmental entity. Additionally the makeup of the task force, as noted by SIC in its analysis, includes only one individual with financial expertise, the State Investment Officer. While the majority of the other task force participants may be stakeholders in the permanent funds, few if any have any experience with the investment of public funds.

This legislation could be amended to provide for a specific number of task force participants required to report specific findings to the appropriate legislative committee, the Governor, and possibly the State Investment Council. The legislation could also be amended to require members of the task force to have a certain level of expertise and experience with the investment of public funds in order to ensure that its findings are applicable and feasible.

OTHER SUBSTANTIVE ISSUES

Department of Health (DOH):

The Tobacco Settlement Permanent Fund (TSPF) was established by New Mexico statute during Fiscal Year 2000 as the result of a legal settlement between most states and tobacco companies. The settlement provides ongoing annual payments, which currently go to the State’s general fund for government operations. The Department of Health currently receives a total of \$10,785,000 from the Tobacco Settlement Fund for a variety of health-related programs (\$9,115,000 for tobacco cessation, \$1 million for diabetes prevention and control, \$470,000 for HIV/AIDS services and \$200,000 for breast and cervical cancer screening. The Secretary of Health would be part of the task force in order to represent the interests related to the Tobacco Settlement Fund.

Department of Workforce Solutions (DWS):

This bill contains duties that require a relatively small commitment of time for the Department of Workforce Solutions...The Joint Memorial does not set out any compensation method (such as per diem) for members of the task force that includes many private citizens. The Joint Memorial does not require that the Task Force produce any final reports or other documentation of its findings.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

No “equitable New Mexico investment task force” would be created, and SIC would continue to manage the permanent funds as provided for in statute.