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FISCAL IMPACT REPORT

ORIGINAL DATE 1/23/08

SPONSOR Heaton LAST UPDATED _____ HB 198

SHORT TITLE State Investment and Retirement Committee SB _____

ANALYST Aubel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	\$150.0	Recurring	Legislative Cash Balance General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

State investment Council (SIC)
 Retiree Health Care Authority (RHCA)
 Educational Retirement Board (ERB)
 State Treasurers office (STO)

No Response

Department of Finance and Administration (DFA)
 Public Employees Retirement Association (PERA)
 Legislative Council Services (LCS)

SUMMARY

Synopsis of Bill

House Bill 198 establishes a standing joint interim legislative committee to monitor the investment and financial management practices used by the state's agencies for public funds, retirement plans, and the retiree health care insurance program. The committee shall consist of five voting members from the House of Representatives and five voting members from the Senate, in numbers appropriately weighted to align with current party ratio of each legislative body. In addition, five non-voting members or their designees will include the Chief Investment Officers from the SIC, ERB, PERA, State Treasurer and the Secretary of the Department of Finance and Administration. The committee will perform the function it has for three years to

oversee investment and financial practices of the state's institutional funds and develop recommendations to improve state investment practices and to strengthen actuarial soundness of the funds. The agencies managing the funds are to provide assistance and information to the committee as requested.

FISCAL IMPLICATIONS

HB 198 appropriates \$150 thousand from legislative cash balances to the Legislative Council Service to pay for technical and legal assistance, equipment and supplies, and for reimbursing the per diem and mileage expenses of the committee. Any unexpended or unencumbered balance remaining as the end of fiscal year 2009 shall revert to legislative cash balances. The expense will be recurring.

SIC notes that the committee, through input and monitoring, should assist New Mexico's investment agencies pass legislation that could have a positive impact on fund returns. An example is the 2005 Prudent Investor Rule that allowed greater diversification for state funds.

SIGNIFICANT ISSUES

HB 198 will provide for a permanent interim committee to oversee approximately \$38 billion invested by the state endowment funds, state pension funds, and State Treasurer as well as monitor issues relating to the Retiree Health Care Authority. It will replace the State Permanent Fund Task Force that met during the interim in 2004 and 2005 and replace the Investments and Pension Committee that met during the interim in 2006 and 2007.

The State Investment and Retirement Systems Oversight Committee will have the following functions:

1. Monitor and oversee the investment and financial management practices used by state investing agencies;
2. Undertake a continuing analysis of the financial and actuarial status of the retiree health care insurance program of the RHCA and the retirement systems, including benefit structures;
3. Develop recommendations to improve state investment practices and to ensure the financial and actuarial soundness of the retirement funds;
4. Make referrals of matters needing further attention to appropriate authorities;
5. Review and analyze proposed legislation received in the interim;
6. Report to the legislature prior to the start of each regular session any recommendations that the committee may have for legislative action.

The increasing complexity of both investment portfolios and financial markets makes legislative review imperative for informed policy decisions relating to investments and pensions. The SIC maintains that the committee creates a very useful forum for state investment agencies to discuss issues relating to the state funds with legislative representatives as well as each other.

PERFORMANCE IMPLICATIONS

SIC notes that past activities of the interim legislative committees examining policies and practices of the state's permanent and pension funds have resulted in positive legislation benefiting the New Mexico by allowing its investment agencies to further diversify their

portfolios with alternative asset classes and modern investment tools.

ADMINISTRATIVE IMPLICATIONS

Staff for the State Investment and Retirement Systems Oversight Committee shall be provided by the Legislative Council Service. In addition, HB 198 will have a minor impact on the related investment and pension agencies to generate additional data, reports and presentations for committee hearings.

OTHER SUBSTANTIVE ISSUES

SIC and ERB state some concern that the bill would be interpreted beyond its intention of monitoring to include advising, supervising, or directing the agencies in the performance of their duties, and that oversight in this context might infer a fiduciary responsibility. However, HB 198 does not include language other than overseeing, or monitoring, the activities of the various investment and pension agencies to perform the essential public service of being informed of these agencies' policies, investment performance, fund solvency and related issues. In addition, SIC expressed some concern over possible issues relating to the committee's request for information, including a possible conflict with the Inspection of Public Records Act or a possible conflict with confidentiality agreements with fund managers. However, similar language in statute exists for interim committees to request information from agencies with no apparent conflicts.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Oversight of the various state funds and pension plans will be marginalized. Expenses incurred by the Legislative Council Service for a "task force"-type legislative interim investment and pension oversight committee will remain unfunded. Improved legislation resulting from informed legislators may be curtailed. The forum for improved communication among the various investment and pension agencies will not be provided.

MA/jp