State of New Mexico
LEGISLATIVE FINANCE COMMITTEE

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MEMORANDUM

TO: Representative Patty Lundstrom, Chair, LFC
Senator George Munoz, Vice Chair, LFC

FROM: Connor Jorgensen, Principal Fiscal Analyst, LFC

THRU: David Abbey, Director, LFC
Charles Sallee, Deputy Director, LFC

Subject: PERA Governance

At the July, 2021 LFC hearing, conversation centered on perceived poor performance of the state's pension funds relative to peer funds and how better results could be achieved. Public Employees Retirement Association (PERA) staff noted that low investment performance, which was in the bottom 10 percent compared to peers for most reporting periods, is linked to asset allocation targets which are set by the board; a 12-member body made up of 10 elected members and two ex-officio members, the State Treasurer and the Secretary of State. The asset allocation targets adopted by the board tend to value limiting risk rather than higher returns.

The PERA board has been without a chair for the past seven months and the agency is currently functioning without an executive director or Chief Investment Officer (CIO). Staff attrition and the lack of a consistent investment strategy is likely aggravated by dysfunction of the board. Following the presentation of the investment staff, Legislators requested additional information on how changes in governance may improve investment performance and how New Mexico compares with other states. To answer these questions, this memo provides a brief overview of prior analysis of PERA's governance structure and a survey of the governance structures of the best funded pension plans in the nation.

Review of Prior Reports.

In 2010, the state contracted with Ennis Knupp to provide a fiduciary review of the state's three investment agencies. The analysis compared current PERA practices to industry standard as well as established best practices and focused on board governance and investment activities.
The report found:

- "board members would benefit from intensive orientation and more on-going education…so they can effectively monitor the investment program. More experienced and knowledgeable boards can better evaluate information they are given and recommendations that are made."
- PERA does not have the autonomy of many other pensions to fill key positions (e.g. CIO) without approval from the Department of Finance and Administration. This caused delays in filling key positions.
- Best practice for pension funds allows boards the authority to set their own budgets; the PERA board does not have the authority to set a budget for the agency.

Since the report was published in 2010, the inability of PERA to maintain high-level staff has continued. The agency has had three CIOs in the past seven years. The board is currently deadlocked and unable to elect a chair. Additionally, board members have made criminal and civil complaints against staff and there has recently been litigation between PERA and retiree organizations represented on the board.

While the review did not find the PERA board composition to be particularly problematic, the review did note that having a knowledgeable board is a desirable. The PERA board does not currently have skills requirements, though it does provide educational opportunities for board members through conference participation and access to other resources.

Comparison of Pension Board Structures.

LFC analysis of the six best-funded pension plans in the country shows the majority of state retirement boards rely are made up of appointed or ex-officio members.

Board Composition of Best-Funded Pension Plans in U.S.

	Idaho	Nebraska	South Dakota	Tennessee	Washington	Wisconsin	New Mexico
Funded Ratio*	92%	90%	100%	98%	94%	97%	70%
Elected	0	0	14	2	0	0	10
Appointed	5	8	2	9	7	8	0
Ex-Officio	0	0	1	7	3	1	2
Non-Voting	0	1	0	2	5	0	0
Total Members	**5**	**9**	**17**	**20**	**15**	**9**	**12**

*Based on Pew state data from 2018.

Source: LFC Files

The results of the LFC analysis suggest there is opportunity to restructure the PERA board to increase the professional financial knowledge of board members while maintaining representation of pension plan participants.

Idaho's public employee retirement system covers state, local government, public safety, public school, and higher education employees. Idaho has the smallest pension board which is entirely appointed and consists of two active public employee participants and three members who are Idaho citizens not covered under the plan. All are appointed by the governor.

Nebraska's Public Employees Retirement Board oversees retirement plans for school employees, state employees, judges and the State Patrol. The board consists of eight members appointed by the Governor for five year terms. Six members are participants in the retirement systems administered by the PERB. Two are at-large (Public) members and are not employees of the State of Nebraska or any of its political subdivisions. The State Investment Officer is also a member of the board in a non-voting, ex-officio capacity.

South Dakota Retirement System (SDRS) provides retirement, disability, and survivor benefits for employees of the state of South Dakota and its political subdivisions. The SDRS board includes elected members participating in the following plans: teachers, state employees, local government, public safety, and judicial members as well as one retiree member. The board includes two governor appointees and an ex-officio member from the State Investment Council.

The Tennessee Consolidated Retirement System (TCRS) provides retirement benefits to public education, higher education, public safety, local government, and state employees. Tennessee has the largest board with the widest representation. Only two members are elected, both state employees. Of the appointed members, two each are appointed by the Governor, Speaker of the House, and Speaker of the Senate while three are appointed by municipal and county associations. Ex-officio members represent the treasury, division of retirement, department of finance and administration, courts, secretary of state, and human resources office.

The Washington Department of Retirement Systems administers benefits for all public employees, but the State Investment Board (SIB) oversees investment activities for all state funds including retirement funds. The SIB is composed of three ex-officio members including the State Treasurer and directors of the Department of Retirement Systems and Department of Labor and Industry. There are two legislative members, one appointed by the Speaker of the House and another by the President of the Senate. In addition, there are active employees of each of the covered employee plans and a retiree representative appointed by the governor as well as five non-voting members who are required to have knowledge in investments but are not required to be plan participants.

In Wisconsin, the public pension system covers state, public and higher education, local government, and public safety employees. Retirement benefits are administered by the Wisconsin Department of Employee Trust Funds (ETF). The ETF board is comprised of 13 members appointed to the board as follows: four members from the Wisconsin Retirement Board, four members from the Teachers Retirement Board, two governor appointees, one elected retiree member, one elected educational support member, and the Director of the State Office of Employment Relations.

Prior Reform Effort

Senate Bill 201 of the 2020 Session proposed to change the 12-member elected board with a 9 member appointed board and provide that select members have a background in investments and includes members that are not members of a pension plan. The legislation included the following members:

Member Type	Plan	Appointing Entity
Active	State General	State Personnel Board
Active	Municipal General	New Mexico Counties
Active	Municipal General	Municipal League
Active	Not Specified	AFSCME
Public	Non-member	Speaker of the House
Public	Non-member	President Pro Tempore
Ex-officio		DFA Secretary
Retired	Not Specified	RPENM
Retired	Not Specified	AFSCME

Members are appointed to 4 year terms with a two term limit. The original bill did not provide for staggered terms so that the board could turnover every four years. The two public members appointed by the Speaker of the House and the President Pro Tempore of the Senate are required to have "skill, knowledge and experience related to investing".

Senate Bill 201 was endorsed by the Investments and Pension Oversight Committee but died in committee.