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FISCAL IMPACT REPORT

SPONSOR Nava/Hall **ORIGINAL DATE** 02/03/11
LAST UPDATED _____ **HB** _____
SHORT TITLE School Personnel "Ethical Conduct" Definition **SB** 143
ANALYST Haug

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)

SUMMARY

Synopsis of Bill

Senate Bill 143, introduced on behalf of the Legislative Education Study Committee, amends section 22-10A-5 of the New Mexico statutes regarding background checks and ethical misconduct. It amends paragraph A to specifically include the terms “financial malfeasance or misfeasance” in the definition of ethical misconduct.

FISCAL IMPLICATIONS

Senate Bill 203 has no financial implications.

SIGNIFICANT ISSUES

While no definition of “financial malfeasance or misfeasance” is contained in SB203, common definitions of these terms are:

Malfeasance is a wrongful act;

Misfeasance is a proper act done in a wrongful manner.

According to the PED:

Under this bill the term “ethical misconduct” in regards to school personnel will specifically

include the terms “financial malfeasance or misfeasance”. Under law, instances of ethical misconduct have consequences as far as continued employment and licensure of school personnel. Technically, under the current language of 22-10A-5, ethical misconduct already includes financial malfeasance or misfeasance, although these terms are not specifically mentioned. The current statute reads:

As used in this section, “ethical misconduct” means *unacceptable behavior or conduct* engaged in by a licensed school employee and includes inappropriate touching, sexual harassment, discrimination and behavior intended to induce a child into engaging in illegal, immoral or prohibited behavior.

Since financial malfeasance and misfeasance are both unacceptable behaviors, they are considered ethical misconduct under the current act. Currently, instances of malfeasance or misfeasance done by a licensed school employee are investigated by the PED Ethics Bureau.

It should be noted that while technically financial malfeasance and misfeasance or unacceptable behaviors under the current act, the examples under the current act would lead one to believe that the statute is directed to non-financial inappropriate activity on the part of an employee.

TECHNICAL ISSUES

The PED states that a definition of financial malfeasance or misfeasance should be included. It may be unclear what activities fall under the category of financial malfeasance or misfeasance without a definition.

GH/bym