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FISCAL IMPACT REPORT

ORIGINAL DATE 2/26/19
 SPONSOR SPAC LAST UPDATED 3/3/19 HB _____

SHORT TITLE Investment Performance Based Compensation SB 235/SPACS

ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Unknown	Unknown	Unknown	Recurring	PERA and ERB Retirement Funds

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

- New Mexico Attorney General (NMAG)
- Educational Retirement Board (ERB)
- Public Employees Retirement Association (PERA)

SUMMARY

Synopsis of Bill

The Senate Public Affairs Committee substitute for Senate Bill 235 (SB235) authorizes the PERA and ERB Boards and the State Investment Council (SIC) to develop and implement a framework for compensation for their Chief Investment Officers and investment staff that includes a base compensation component and a variable, investment performance-based component aligned with investment industry norms for the following fiscal year. SB235 requires compensation frameworks be reported annually to the Legislative Finance Committee and to one or more interim committees.

SB235 excludes The SIC, PERA and ERB Chief Investment Officers (CIO) and investment staff covered by the performance-based compensation framework from the State Personnel Act and from the annual exempt employee salary plan.

Investment performance-based compensation would not be included in the calculation of the final average salary for the purposes of determining a pension for covered positions.

FISCAL IMPLICATIONS

Providing an investment performance-based compensation structure to investment professionals will likely cost the agencies more. However, PERA and ERB believe the ability to recruit and retain highly-skilled investment professionals will allow the agencies to reduce reliance on external investment managers and consultants creating a cost savings to the funds. Because the legislation does not provide requirements (such as maximum amounts) on additional compensation and the impact on hiring and other business practices (such as use of consultant services) is to be determined, the fiscal impact of this legislation is unknown.

SIGNIFICANT ISSUES

PERA and ERB investment staff are currently exempt from the State Personnel Act. Because investment staff are already considered at will employees, their removal from the State Personnel Act will not result in a loss of employee protections. SB235 will allow the board of PERA and ERB to create a salary plan for their investment staff independently of the governor's exempt salary plan.

PERFORMANCE IMPLICATIONS

The AGO notes: Depending on what the respective base compensation and incentive based frameworks are, performance of each trust fund may be subjected to unnecessary risk in order to achieve the incentive pay; which could lead to significant losses in investments.

OTHER SUBSTANTIVE ISSUES

PERA reports that 26 other U.S. public pension plans use a variable pay-for-performance compensation model.

SB235 does not provide for legislative input into the development of a compensation framework and performance-based could refer to many different metrics. For example, a board policy of limiting risk may result in performance payments for funds that significantly under-perform broader markets but are successful in limiting risk. Conversely, they may incentivize excessive risk taking. Alternatively, the introduction of performance-based compensation may not change behavior or fund performance, but could still result in significant increases.

Should SB235 be enacted, the Legislature and PERA, ERB, and SIC must work to develop robust accountability measures to ensure the provisions of this legislation serve to improve performance.

CJ/gb/al