

**FINAL REPORT OF THE
STATE PERMANENT FUND TASK FORCE**

December 2004

**New Mexico Legislative Council Service
Santa Fe, New Mexico**

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REPORT OF THE STATE PERMANENT FUND TASK FORCE

Introduction

This is the first interim report of the state permanent fund task force that was created pursuant to Senate Joint Memorial 14 of the 46th legislature, first session, 2003. The task force undertook a broad examination of the land grant and severance tax permanent funds, the public employees retirement fund and the educational retirement fund. The task force received testimony from expert witnesses concerning the history and current status of trust fund investments, investment practices, future projections for fund balances and unfunded liabilities. In the course of its deliberations, the task force identified potential areas for improving the operations and performance of the agencies managing these trust funds.

Background

The task force was created in recognition of the fact that the land grant and severance tax permanent funds "are an integral and necessary ingredient for the future prosperity of New Mexico's citizens" and because the "actuarial soundness of the retirement funds are absolutely necessary in order to maintain a healthy work environment in the public sector". Moreover, investment losses incurred by the aforesaid trust funds gave concern as to the safeguards in place to protect the fiscal integrity of these funds.

Duties

The task force was charged with examining the controls and safeguards applicable to investment of the land grant and severance tax permanent funds, the public employees retirement fund and the educational retirement fund.

Membership

The task force consisted of 11 members, including members of the legislature and certain designated public officials. The individuals originally appointed as members of the task force during the 2004 interim included the following:

Chair

Senator Joseph J. Carraro

Vice Chair

Representative Luciano "Lucky" Varela

Legislative Members

Senator Joseph A. Fidel

Senator Timothy Z. Jennings

Representative Larry A. Larranaga

Representative Henry Kiki Saavedra

Public Officials

Gary Bland, State Investment Office

Frank Foy, Educational Retirement Fund

Deborah Gallegos, State Investment Office

Robert Gish, Public Employees Retirement Fund

James Jimenez, Secretary of Finance and Administration

Senator Fidel, Senator Jennings and Deborah Gallegos did not participate during the 2004 interim. Senator John Grubescic was appointed to the task force by the legislative council. Other frequent participants included Robert Jacksha of the state investment office and Scott Stovall and Mark Valdes of department of finance and administration.

Work During the 2004 Interim

The task force convened on four occasions in Santa Fe. At these meetings, the task force received testimony on the history of the severance tax and its relationship with severance tax bonds, the permanent fund and public school capital outlay. Also, the task force received testimony concerning the sources and uses of funds associated with the land grant permanent fund. The two retirement funds were explored in depth with emphasis on unfunded liabilities, contribution rates and investment performance. The task force also received testimony concerning investment instruments, market performance, banking practices and alternative

strategies for financing capital projects.

The task force was assisted by staff from the legislative council service, legislative finance committee, and public school facilities authority.

Highlights of Recommendations and Proposed Legislative Changes

The task force recognized the importance of the trust funds to New Mexico's future and that the scope of operations of the several investment agencies is very complex. Therefore, the task force is recommending that it continue its work during the 2005 interim. To this end, the task force endorsed a joint memorial (see Appendix C).

The task force focused on four areas intended to assist the investment agencies in the performance of their duties. These are:

- removal of statutory limitations on investment instruments in favor of the higher standard imposed by the Prudent Investor Act;
- exempting the investment agencies from the lengthy bid process required by the procurement Code in the case of personal service investment advisor contracts;
- revision of the statutes that prohibit the use of out-of-state custodial banks; and
- permitting custodial banks to serve as securities lenders.

Draft legislation addressing these issues is contained in Appendix C.

Finally, the task force is requesting the opportunity to conduct an informational workshop for all members of the legislature in January 2005. The purpose of the workshop is to educate and inform the members as to the status of the trust funds and the importance of the issues outlined above.

Appendix A

2004 Interim Work Plan

**2004 PROPOSED
WORK PLAN AND BUDGET
for the
STATE PERMANENT FUND TASK FORCE**

Membership

The state permanent fund task force was created by the legislative council in response to Senate Joint Memorial 14 of the First Session, 2003. The task force consists of 10 members, including members of the legislature and certain designated public officials. The members are:

Senator Joseph J. Carraro, Chairman	
Representative Luciano “Lucky” Varela, Vice-Chairman	
Gary Bland, State Investment Council	Senator Joseph A. Fidel
Frank Foy, Education Retirement Board	Bob Gish, PERA
James Jimenez, Finance and Administration	Senator Timothy Z. Jennings
Representative Larry A. Larranaga	Representative Henry Kiki Saavedra

Work Plan

The task force proposes to examine the controls and safeguards applicable to investment of New Mexico's permanent funds. In order to accomplish the duties set for in the legislation, the task force proposes to complete its work during the 2004 interim by focusing on the following areas:

The task force will receive testimony concerning current fund balances, investment performance, portfolio composition, and growth expectations. The task force will examine the variety of investment opportunities currently available in the market place, including derivatives. The task force will review the sources of revenue for the funds and distributions made from them.

The task force will explore alternative strategies for ensuring that the principal balances of the several permanent funds are adequately safeguarded and for minimizing investment expense. The task force will solicit suggestions from the general public concerning safeguards.

Budget

May 13-14 in Santa Fe	\$1,300.71
July 8-9 in Albuquerque	\$2,004.00
September 9-10 in Las Vegas	\$2,371.50
November 4-5 in Las Cruces	\$2,813.50
Total	\$8,489.75

Appendix B

Meeting Agendas and Minutes of Meetings

May 13, 2004

**TENTATIVE AGENDA
for the
STATE PERMANENT FUND TASK FORCE**

**May 13-14, 2004
State Capitol, Room 307**

Thursday, May 13

- 1:00 p.m. **CALL TO ORDER**
—Approval of minutes of the January 17, 2004 meeting
—Review of materials presented at the April SIC meeting
—Review NEPC March 31, 2004 performance report
- 3:00 p.m. **COMMITTEE DISCUSSION**
—Selection of dates for future meetings
—Discussion of task force objectives
—Agenda topics for the next meeting
- 6:00 p.m. **RECESS**

Friday, May 14

- 10:00 a.m. **CALL TO ORDER**
—Internal equity portfolio review
—External equity managers
—Fixed income portfolio
—High yield RFP
- 12:00 noon **LUNCH**
- 1:15 p.m. **CONTINUE MORNING AGENDA**
—Real estate
—Private equity
—Film investments
—Hedge funds
- 4:00 p.m. **ADJOURN**

**MINUTES
of the
FIRST MEETING
of the
STATE PERMANENT FUND TASK FORCE**

**May 13-14, 2004
Santa Fe**

The first meeting of the State Permanent Fund Task Force was called to order by Gary Bland, acting chair, at 1:40 p.m. on May 13, 2004 in Room 307 of the State Capitol in Santa Fe.

PRESENT

Gary Bland, Acting Chair
Sen. Joseph J. Carraro
Frank Foy
Bob Gish
Bob Jacksha
Sec. James Jimenez
Rep. Larry A. Larranaga
Rep. Henry Kiki Saavedra
Rep. Luciano "Lucky" Varela

ABSENT

Sen. Joseph A. Fidel
Deborah Gallegos
Sen. Timothy Z. Jennings

Staff

Douglas Williams
Larry Matlock

Guests

The guest list is in the meeting file.

Thursday, May 13

The minutes of the January 17, 2004 meeting were approved by unanimous consent.

Gary Bland made a motion nominating Senator Carraro as chair and Representative Varela as vice chair of the task force. The motion passed unanimously.

Task force members discussed the importance of bringing the meetings to population centers of New Mexico, including Santa Fe, Las Vegas, Albuquerque and Las Cruces, so that they can take advantage of local universities and the investments professionals working nearby. Four two-day meetings were agreed upon as follows:

May 13-14: State Capitol, Santa Fe
July 8-9: Anderson School, Albuquerque
Sept. 9-10: New Mexico Highlands University, Las Vegas

Nov. 4-5: Las Cruces

STATE INVESTMENT COUNCIL

Gary Bland and Bob Jacksha reviewed the March 2004 State Investment Council report. The discussion included a description of active versus index investments, a description of typical large cap equities, emerging markets, bond funds, etc., and an explanation of specific investment allocations in the Land Grant Permanent Fund (LGPF), Severance Tax Permanent Fund (STPF) and tobacco settlement funds.

Discussion topics of the committee included:

- investment management contracts and the process involved when it is determined that a particular portfolio is under-performing. It was noted that it takes 120 days to change investment managers;
- trading costs associated with changing portfolio managers, with the chair indicating an interest in draft legislation that would exempt the Public Employees Retirement Association (PERA), the Education Retirement Board (ERB) and the State Investment Council (SIC) from the Procurement Code. This would exempt them from the request for proposal (RFP) process; and
- Representative Varela indicated an interest in seeing a flow chart that shows the allocation of severance tax revenue in order to understand the flow of money into the permanent fund.

The committee recessed at 4:45 p.m.

Friday, May 14

The meeting was called to order by Senator Carraro at 10:25 a.m.

Legislative Council Service (LCS) staff made a presentation concerning the allocation of severance tax revenue in response to Representative Varela's request from the previous day.

Senator Carraro requested staff to prepare a presentation describing the function of and relationship between the Public School Capital Outlay Council (PSCOC) and Public School Capital Outlay Task Force (PSCOTF).

Senator Carraro also requested staff to calculate the percent of severance tax revenue that has flowed to the STPF over the past 10 years.

STATE INVESTMENT COUNCIL

Gary Bland and Bob Jacksha reviewed the SIC asset allocation report. A discussion of derivatives followed. Scott Smith presented an overview of the SIC investments in real estate.

Discussion topics of the committee included the following:

- Representative Saavedra suggested that the task force conduct an information session for

- the legislature.
- Frank Foy suggested that the investment statutes be made more flexible with respect to authorized investment vehicles.
 - Frank Foy noted that ERB is currently paying more in benefits than it is receiving in contributions (deficit= \$120 million annually).
 - Concerning future agendas, it was agreed that Janet Peacock will be scheduled for the July meeting.
 - SIC will develop a resource document containing definitions, and the administration will have an opportunity to present concerns.
 - Senator Carraro indicated that the task force will return to the subject of derivatives; the final meeting will focus on draft legislation.

The meeting adjourned at 2:00 p.m.

Revised: June 29, 2004

**TENTATIVE AGENDA
for the
STATE PERMANENT FUND TASK FORCE**

**July 8-9, 2004
State Capitol, Room 321**

Thursday, July 8

- 10:00 a.m. CALL TO ORDER
—Approval of minutes of the May 13-14, 2004 meeting
- 10:15 a.m. PUBLIC SCHOOL CAPITAL OUTLAY
—Janet Peacock, Legislative Council Service
- 10:45 a.m. HEDGE FUNDS
—Bob Jacksha, State Investment Council
- 12:00 noon LUNCH
- 1:30 p.m. LAND GRANT PERMANENT FUND
—Patrick Lyons, Commissioner, State Land Office
—Duffy Rodriguez, State Land Office
- 2:30 p.m. REQUEST FOR PROPOSAL PROCESS
—Round table discussion: ERB, PERA, SIC
- 3:30 p.m. PUBLIC COMMENT AND QUESTIONS
- 4:30 p.m. RECESS

Friday, July 9

- 10:00 a.m. CALL TO ORDER
- 10:15 a.m. INVESTMENT POLICIES
—Round table discussion: ERB, PERA, SIC
- 12:00 noon LUNCH
- 1:30 p.m. SEVERANCE TAX PERMANENT FUND

—Doug Williams, Legislative Council Service

2:00 p.m. COMMITTEE DISCUSSION
—Agenda topics for the next meeting

2:30 p.m. PUBLIC COMMENT AND QUESTIONS

4:00 p.m. ADJOURN

**MINUTES
of the
SECOND MEETING
of the
STATE PERMANENT FUND TASK FORCE**

**July 8-9, 2004
Santa Fe**

The second meeting of the State Permanent Fund Task Force was called to order by Senator Joseph Carraro, at 10:15 a.m. on July 8, 2004 in Room 321 of the State Capitol in Santa Fe.

PRESENT

Sen. Joseph J. Carraro, Chair
Rep. Luciano "Lucky" Varela, Vice Chair
Frank Foy
Bob Gish
Bob Jacksha
Rep. Larry A. Larranaga
Rep. Henry "Kiki" Saavedra
Scott Stovall, (July 8)
Mark Valdes (July 9)

ABSENT

Gary Bland
Sen. Joseph A. Fidel
Deborah Gallegos
Sen. Timothy Z. Jennings
James Jimenez

Staff

Douglas Williams
Larry Matlock
Janet Peacock

Guests

The guest list is in the meeting file.

Thursday, July 8

The minutes of the May 13-14, 2004 meeting were approved by unanimous consent. A letter was received from Secretary Jimenez designating Scott Stovall as the Department of Finance and Administration (DFA) representative on July 8 and Mark Valdes as the DFA representative on July 9.

A motion was made to request the Legislative Council to replace Senators Jennings and Fidel with two other senate members. The motion was adopted unanimously.

The task force requested staff to prepare a flow chart that depicts the flow of funds into and out of the permanent funds.

Mrs. Peacock reviewed the history of severance tax revenues and the issuance of severance tax bonds (see handout).

- Annually, 4.7 percent of the average 5 year balance in the Severance Tax Permanent Fund (STPF) is transferred to the general fund.
- Sponge bonds are issued by the Finance Board, purchased by the State Treasurer, and redeemed by the Finance Board one day later. The Finance Board pays one day of interest at the rate of 1 percent.
- Supplemental severance tax bonds are subordinate to severance tax bonds and pay higher interest to the bond holder.

Mrs. Peacock reviewed the background of public school capital outlay, the Zuni law suit and the creation of the capital outlay council and public school facilities authority (see handout). A decision was made that the state would not appeal the Zuni law suite because the likely outcome would be a consent decree. Accordingly, the legislature delegated capital outlay responsibility to the PSCOC. At present up to 95 percent of prior year severance tax revenue may be used for a combination of severance, supplemental severance and short term supplemental severance tax bonds to finance capital outlay.

Dominic Garcia of the Public Employees Retirement Association (PERA) distributed a chart showing STPF performance (see handout).

Bob Jacksha reviewed the State Investment Council (SIC) hedge fund investment policy (see handout).

- SIC has statutory authority to use up to 10 percent of the severance tax permanent fund, but not the land grant permanent fund, for investment in hedge funds.
- Neither PERA or ERB have the authority to invest in hedge funds.
- Hedge funds are like an insurance policy in protecting from market ups and downs.
- Hedge funds generally specialize in one area , i.e. stocks or bonds or commodities.
- SIC cannot invest in commodity hedge funds.

The State Investment Council has two private equity funds: private equity and national equity. The private equity fund is targeted at the STPF only and may invest in New Mexico real estate; the national equity fund is almost like a mutual fund and the LGPF may participate.

Steve Jerge of the SIC reviewed the normal process for issuing a request for proposal (see handout).

- Representative Larranaga asked why the SIC isn't selecting multiple professional service contractors as the result of a single RFP. The procurement code allows for "yearly price agreements" with 3 one year extensions.
- Bob Gish observed that the procurement code was designed to address price when purchasing commodities.

- It was observed that there are extraordinary delays in obtaining contract approval from the Department of Finance and Administration and the Attorney General's office after selection of the contractor.

Commissioner Pat Lyons provided a background on the State Land Office. The federal government created the Land Grant Permanent Fund (LGPF) in 1910. The purpose of the fund is to finance higher education. Revenue comes from land royalties, e.g., farmer and rancher payments for the right to use federal land (see handout).

The committee recessed at 4:30 p.m.

Friday, July 9

The meeting was called to order by Senator Carraro at 10:00 a.m.

Representative Larranaga suggests an exemption from the procurement code for investment organizations.

Frank Foy reviewed Education Retirement Board's (ERB) investment policies (see handout).

- With respect to real estate investments, ERB does not directly own real estate but invests in companies that own real estate. SIC does directly own real estate.
- ERB would like to change the statute to remove all current restrictions and require them to be governed by the "prudent investor" rule.
- ERB lost approximately \$22 million on ENRON.

Bob Gish observed that Public Employee Retirement Association (PERA) is 100 percent externally managed unlike SIC or ERB.

- PERA suggests that its current statutory restrictions be lifted and replaced with the "prudent investment act" (see handout).
- The PERA investment plan was reviewed (see handout).
- PERA lost approximately \$12 million on ENRON.
- Retired state employees may return to state employment and not pay into the retirement fund on the first \$25,000 of income (return to work program).
- Approximately 1,200 state employees are retirees from NM state government.

Representative Saavedra proposes a mandatory legislative workshop during the first week of the session to educate the members with respect to the trust funds and any proposed legislation.

Bob Jacksha reviewed the SIC investment programs (see handout).

LCS staff made a presentation concerning severance tax collections and deposits to the STPF.

The task force discussed the agenda for the September meeting.

The meeting adjourned at 4:00 p.m.

**TENTATIVE AGENDA
for the
STATE PERMANENT FUND TASK FORCE**

**September 9-10, 2004
State Capitol, Room 322**

Thursday, September 9

- 10:00 a.m. **CALL TO ORDER**
—Approval of minutes of the July 8-9, 2004 meeting
- 10:05 a.m. **PUBLIC SCHOOL CAPITAL OUTLAY (continued from July)**
—Paula Tackett, Legislative Council Service
—Janet Peacock, Legislative Council Service
—Robert Gorrell, Public School Facilities Administration
- 11:00 a.m. **SECURITIES LENDING**
—Dave Tentinger, Northern Trust
- 12:00 noon **LUNCH**
- 1:30 p.m. **ALTERNATIVE FUNDING FOR CAPITAL PROJECTS**
—Scott Stovall, Department of Finance and Administration
 Discussion of the bonding capacity outlook, “pay-as-you-go” financing,
 cash financing, and debt retirement.
—David Paul, State Financial Advisor
- 3:30 p.m. **PUBLIC COMMENT AND QUESTIONS**
- 4:30 p.m. **RECESS**

Friday, September 10

- 9:30 a.m. **CALL TO ORDER**
- 9:00 a.m. **STATUS OF RETIREMENT FUNDS**
—Evalynne Hunemuller, Acting Director, Education Retirement Board
—Terry Slattery, Public Employees Retirement Association
 Discussion of the current actuarial opinion of the retirement funds,
 unfunded liability and pension fund bonds.

- 10:00 a.m. **SIMILARITIES AND DIFFERENCES AMONG INVESTMENT AGENCIES**
—Frank Foy, Education Retirement Board
—Bob Gish, Public Employees Retirement Association
—Bob Jacksha, State Investment Office
 Round table discussion of common ground and differences in allowable
 investment practices amongst the investment agencies.
- 11:00 a.m. **INVESTMENT PRACTICES AND ACCOUNTABILITY**
—Robert Vigil, State Treasurer
—Domingo Martinez, State Auditor
- 12:00 noon **ADJOURN**

**MINUTES
of the
THIRD MEETING
of the
STATE PERMANENT FUND TASK FORCE**

**September 9-10, 2004
Santa Fe**

The third meeting of the State Permanent Fund Task Force was called to order by Senator Joseph Carraro, at 10:20 a.m. on September 9, 2004 in Room 322 of the State Capitol in Santa Fe.

PRESENT

Sen. Joseph J. Carraro, Chair
Rep. Luciano "Lucky" Varela, Vice Chair
Gary Bland
Frank Foy
Bob Gish
Sen. John Grubestic
Bob Jacksha
Rep. Larry A. Larrañaga
Rep. Henry "Kiki" Saavedra
Scott Stovall (In lieu of Sec. James Jimenez)

ABSENT

Sen. Joseph A. Fidel
Deborah Gallegos

Staff

Douglas Williams
Larry Matlock

Guests

The guest list is in the meeting file.

Thursday, September 9

Paula Tackett provided a background on the history of the Public School Capital Outlay Council (PSCOC). The PSCOC:

- is responding to statutory deficiencies;
- created a standards based system;
- monitors maintenance;
- created the Public School Facilities Authority (PSFA), the successor to the Deficiency Corrections Unit (DCU) ;
- has a standing authorization to use supplemental severance tax bonds (SSTB) to finance capital outlay.

- Rep. Varela requested an organization chart describing the relationship among the PSCOC, PSFA and PSCOTF.

Bob Gorrell provided an overview of the organization and function of the PSFA and the interaction with local schools (see handout).

- standards were adopted in August 2002;
- projects are ranked according to the New Mexico Condition Index (NMCI);
- deficiency projects must be identified (and funded) by June 2005 and completed by June 2001;

Mrs. Peacock described the equity component of the capital outlay process as defined by the state share formula.

Dave Tentinger, Michael Vardas, and Michael Pettit of Northern Trust Global Investments made a presentation concerning securities lending (see handout):

- Northern Trust is the custodial bank for the State Treasurer, Public Employees Retirement Association (PERA), Education Retirement Board (ERB), and State Investment Council (SIC);
- in practice, Wells Fargo acts as fiscal agent between the State of New Mexico and Northern Trust because of a prohibition in current law concerning dealing with out-of-state banks as a custodial;
- no in-state New Mexico bank has the capacity to act as custodial agent;
- current law prevents the custodial bank from acting as the securities lending agent because of a principle known as "duty of loyalty";
- both PERA and ERB earn approximately \$1.5 million per year through lending of securities;
- earnings are actually the result of investing cash collateral in a short term money fund;

Rep. Saavedra suggested a two day workshop in January to brief the members on the work of the SPFTF and proposed legislation.

Scott Stovall and David Paul made a presentation concerning bond capacity and alternative methods of financing capital projects (see handout):

- severance tax bonds (STB) are classified as revenue bonds and are not backed by the full faith of the state; unlike general obligation bonds, there is no promise to raise taxes to pay the debt service on STB's; instead, STB's are backed by a dedicated revenue stream;
- projected total bonding capacity for FY 2005 is \$305.435 million with \$172.261 available for legislative appropriations and \$133.175 available for use by the PSCOC;

- if no new senior STB's or long-term supplemental STB's were issued commencing in FY 2005, then in 10 years, bonding capacity would exceed the capacity that is forecast pursuant to the current practice;
- there are substantial benefits to using the issuance of commercial paper to finance capital projects when a project is ready in all respects to commence; the interest rate on commercial paper is very low (0.8% - 1.2%) compared to 10 year bonds (~4.0%); also, no debt is issued if the money is not going to be used (currently 30% of bonded debt issued goes unspent);
- technically, the commercial paper would be a "bond anticipation note" and would require a legislative debt/bond authorization; commercial paper would be issued incrementally to finance projects and once a year the commercial paper would be redeemed through the issuance of 10 year severance tax bonds;

The meeting recessed at 4:30 pm.

Friday, September 10

The meeting convened at 9:40 am. on Friday September 10, 2004.

Evalynne Hunnemuller made a presentation concerning the status of the Education Retirement Fund (see handout):

- until 1955 retirement contributions were 100% employer paid;
- there are significant disparities between ERB and PERA employer contributions and COLA benefits;
- the number of retirees receiving benefits is growing faster than the number of active employees contributing to the fund;
- fund investments are recovering but the fund is paying out more in pensions because retirees are living longer and active employees are retiring with higher average salaries;
- the current unfunded liability is \$2.3 billion;
- the period for paying off the unfunded liability has increased from 78 years to infinity, i.e., given current contributions, investment performance and benefit payments, the unfunded liability will never be paid;
- solutions include increased contributions from employees, increased contributions from the legislature, mandatory 30 year retirement, and issuance of pension obligation bonds;
- Rep. Varela would like to take additional testimony on methods to reduce the unfunded liability; the LESC or LFC may take the lead on this issue.

Terry Slattery made a presentation concerning the status of PERA (see handout):

- 73% of the funding for retirement benefits comes from investments;
- the current period for paying off the unfunded liability is 17 years;

Domingo Martinez, State Auditor, made a presentation concerning audits of the trust funds:

- the State Auditor is responsible for approving the audits prepared by outside CPA firms contracted by the investment agencies;
- contract CPA auditors must be changed every 6 years;
- the state auditor primarily reviews outside audits for GASB compliance;
- the State Auditor establishes guidelines for selection of contract CPA's but does not have the expertise (or staff) to conduct audits of the trust funds;

The meeting adjourned at 1:00 p.m.

**TENTATIVE AGENDA
for the
STATE PERMANENT FUND TASK FORCE
November 4-5, 2004
State Capitol, Room 322**

Thursday, November 4

- 10:00 a.m. **CALL TO ORDER**
—Approval of Minutes of the September 9-10, 2004 Meeting
- 10:05 a.m. **SIMILARITIES AND DIFFERENCES AMONG INVESTMENT AGENCIES**
— Roundtable Discussion of Common Ground and Differences in Allowable Investment Practices Among the Investment Agencies
 —Frank Foy, Educational Retirement Board
 —Bob Gish, Public Employees Retirement Association
 —Bob Jacksha, State Investment Office
- 10:45 a.m. **COMMITTEE DISCUSSION OF PROPOSED JANUARY WORKSHOP**
- 11:15 a.m. **COMMITTEE DISCUSSION OF PROPOSED LEGISLATION**
—Memorial to Continue the Work of the State Permanent Fund Task Force in 2005
- 12:00 noon **LUNCH**
- 1:30 p.m. **COMMITTEE DISCUSSION OF PROPOSED LEGISLATION (continued)**
—Consider Changing Current Law Regarding Custodial Bank Rules, i.e., Remove the Out-of-State Prohibition and Allow a Custodial Bank to Also Serve as a Securities Lender
—Revise the Investment Limitations in Current Law by Adopting New Standards for Prudent Investment of State Funds
- 3:30 p.m. **PUBLIC COMMENT AND QUESTIONS**
- 4:30 p.m. **RECESS**

Friday, November 5

- 10:00 a.m. **CALL TO ORDER**

10:05 a.m. COMMITTEE DISCUSSION OF PROPOSED LEGISLATION (continued)
—Revise Current Law to Permit Financing of Capital Projects Through Use of
Short-Term Commercial Paper in Addition to Traditional Long-Term Bonds

—Consider Revising the State Procurement Procedures to Exempt the Investment
Agencies from Bid Requirements Pertaining to Personal Services Contracts

3:00 p.m. ADJOURN

**MINUTES
of the
FOURTH MEETING
of the
STATE PERMANENT FUND TASK FORCE**

**November 4-5, 2004
Santa Fe**

The fourth meeting of the State Permanent Fund Task Force was called to order by Representative Luciano "Lucky" Varela, at 10:20 a.m. on November 4, 2004 in Room 322 of the State Capitol in Santa Fe.

PRESENT

Sen. Joseph J. Carraro, Chair
Rep. Luciano "Lucky" Varela, Vice Chair
Gary Bland
Frank Foy
Bob Gish
Sen. John Grubestic
Bob Jacksha
Rep. Larry A. Larrañaga
Rep. Henry "Kiki" Saavedra
Mark Valdes (In lieu of Sec. James Jimenez)

ABSENT

Sen. Joseph A. Fidel
Deborah Gallegos

Staff

Douglas Williams
Larry Matlock
Amy Chavez

Guests

The guest list is in the meeting file.

Thursday, November 4

The minutes of the September meeting were adopted unanimously.

There followed a discussion of the similarities and differences among the several trust funds (see handout).

- SIC can invest in hedge funds, real estate and private equity while ERB and PERA cannot.
- 37 states operate pursuant to the prudent investor rule; New Mexico has a statutory list of allowable investments.
- Gary Bland made an argument for adoption of the prudent investor act.
- The definition of "hedging" is "to reduce risk".

- The use of hedge funds results in reduced income in an up market, but cuts losses in a down market.
- PERA cannot invest in hedge funds, derivatives, real estate or private equity.

Sen. Carraro proposed a January workshop to educate legislators regarding the work of the SPFTF and proposed legislation.

- Gary Bland recommended the use of outside experts to make presentations.
- Rep. Saavedra recommended a special briefing for press.
- Rep. Varela requested assistance from the LCS in setting a date and preparing an agenda for the member briefing.
- Gary Bland suggested using a consultant to prepare a presentation to members.
- There were no objections from the members of the task force.
- Sen. Carraro proposed a continuation of the SPFTF in 2005 through joint memorial.
- Sen. Carraro suggested broadening the scope of the task force so as to become an "oversight" committee.
- Rep. Larranaga and Gary Bland recommended remaining a task force.
- Rep. Saavedra recommended 4 representatives and 4 senators to include members from each of the education (Rick Miera) and finance committees.
- Rep. Varela endorsed continuation of the work of the task force, perhaps under a different name.
- Mark Valdes suggested including the State Treasurer as a member of the new task force. The recommendation was withdrawn because the Treasurer does not deal in long term investments.
- The task force adopted the draft memorial with amendment.

Ms. Chavez reviewed the discussion draft allowing custodial banks to serve as securities lenders and allowing out of state banks to serve as a custodial bank. The task force adopted the draft with amendment.

Ms. Chavez reviewed two drafts addressing the prudent investor rule, one for the SIC and a second for PERA and ERB.

- The task force requested that the two drafts be combined into one bill and that the bill will contain a severability clause. In this way, if the bill passes by a simple majority, rather than a super majority, ERB, PERA and the Severance Tax Permanent Fund will be governed by the prudent investor rule. Amy will prepare a second, combined draft for consideration on Friday, November 5, 2004.

Bill Taylor suggested that FIR's should be prepared for each of the proposed bills and requested assistance from the investment agencies.

There followed a general discussion of the retirement funds, a moratorium on enhanced benefits, and judicial retirement plans.

The meeting recessed at 3:30 pm.

Friday, November 5

- Ms. Chavez presented a revised draft of the proposed prudent investor legislation.
- There followed a discussion concerning the severability of the LGPF from the remaining three trust funds. As drafted, the single bill version is *not* severable.
 - Bob Gish would prefer a severable version of the bill.
 - Gary Bland suggested that, if the LGPF component of the bill is not successful, the governor would veto the bill.
 - Rep. Saavedra recommended introducing a single bill; if not successful in the first two weeks of the session, he suggests introducing two separate bills at that time.
 - The task force endorsed the single bill version of the prudent investor rule, however, introduction of a bill will wait until both house and senate caucus.
 - The Chair requested staff to prepare a summary of the bill for use in making a presentation to the press and members.

The task force discussed travel to conferences during 2005.

Mark Valdes made a presentation concerning the use of incremental financing and commercial paper.

- The Board of Finance has requested bond council to calculate bond capacity if smaller, incremental bond issues were sold; the assumption is that, in the first year of the initiative, 30% of authorized bonds would be issued, in the second year 40% would be issued and in the third year 30% of the original authorization would be issued.
- Preliminary estimates indicate that an additional \$60 million in bond capacity would be added over a five year period because of lower debt service requirements on the smaller bond issues.
- The only statutory change required to implement incremental financing would be a change in the language of the capital outlay bill to the effect that bonds would not be issued until a project had already begun and reimbursement is requested as opposed to the existing language that only requires a simple certification from the intended recipient. (See the Short Term Financing Act).

Ms. Chavez presented a draft proposal that would exempt the investment agencies from the procurement code. There followed a discussion lead by Bob Gish and Bob Jacksha.

- It was suggested that the proposed exemption be combined with a requirement that the several investment boards of directors adopt procurement rules.
- At a minimum, if a complete exemption cannot be achieved, Bob Gish suggested that the limitation on the life of a contract be extended from four years to eight.

The task force further amended the joint memorial (see attachment) to continue the work of the task force next year.

The meeting adjourned at 1:00 p.m.

Appendix C

Draft Legislation Endorsed by the Task Force

An Act Removing Investment Limitations And Raising Certain Standards For
Prudent Investment

BILL
47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005
INTRODUCED BY

DISCUSSION DRAFT

FOR THE STATE PERMANENT FUND TASK FORCE

AN ACT

RELATING TO PUBLIC FINANCE; REMOVING INVESTMENT LIMITATIONS AND RAISING CERTAIN STANDARDS FOR PRUDENT INVESTMENT OF LAND GRANT PERMANENT FUNDS; REMOVING INVESTMENT LIMITATIONS AND ESTABLISHING STANDARDS FOR PRUDENT INVESTMENT OF CERTAIN STATE FUNDS; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 6-8-7 NMSA 1978 (being Laws 1957, Chapter 179, Section 7, as amended) is amended to read:

"6-8-7. POWERS AND DUTIES OF STATE INVESTMENT OFFICER--
INVESTMENT POLICY--INVESTMENT MANAGERS.--

A. Subject to the limitations, conditions and restrictions contained in policymaking regulations or resolutions adopted by the council and subject to prior authorization by the council, the state investment officer may make purchases, sales, exchanges, investments and reinvestments of the assets of all funds administered under the supervision of the council. The state investment officer shall see that money invested is at all times handled in the best interests of the state.

B. Securities or investments purchased or held may be sold or exchanged for other securities and investments; provided, however, that no sale or exchange shall be at a price less than the going market at the time the securities or investments are sold or exchanged.

C. In purchasing bonds, the state investment officer shall require a certified or original written opinion of a reputable bond attorney or the attorney general of the state certifying the legality of the bonds to be purchased; provided, however, this written opinion may be the approving legal opinion ordinarily furnished with the bond issue.

D. The state investment officer shall formulate and recommend to the council for approval investment regulations or resolutions pertaining to the kind or nature of investments and limitations, conditions and restrictions upon the methods, practices or procedures for investment, reinvestment, purchase, sale or exchange transactions that should govern the activities of the investment office.

E. The council shall meet at least once each month, and as often as exigencies may demand, to consult with the state investment officer concerning the work of the investment office. The council shall have access to all files and records of the investment office and shall require the state investment officer to report on and provide information necessary to the performance of council functions. The council may hire one or more investment management firms to advise the council with respect to the council's overall investment plan for

the investment of all funds managed by the investment office and pay reasonable compensation for such advisory services from the assets of the applicable funds, subject to budgeting and appropriation by the legislature. The terms of any such investment management services contract shall incorporate the statutory requirements for investment of funds under the council's jurisdiction.

F. ~~[For the purposes of the investment of all funds managed by the investment office, the state investment officer shall manage the funds in accordance with the prudent investor rule set forth in the Uniform Prudent Investor Act.]~~ With the approval of the council, the state investment officer may employ investment management services to invest the funds managed by the investment office and may pay reasonable compensation for investment management services from the assets of the applicable funds, subject to budgeting and appropriation by the legislature.

G. For funds available for investment for more than one year, the state investment officer may contract with any state agency to provide investment advisory or investment management services, separately or through a pooled investment fund; provided the state agency enters into a joint powers agreement with the council and that state agency pays at least the direct cost of such services. Notwithstanding any statutory provision governing state agency investments, the state investment officer may invest funds available from a state agency pursuant to a joint powers agreement in any type of investment permitted for the land grant permanent funds under the prudent investor rule. In performing investment services for a state

agency, the council and the state investment officer are exempt from the New Mexico Securities Act of 1986. As used in this subsection, "state agency" means any branch, agency, department, board, instrumentality, institution or political subdivision of the state, the New Mexico finance authority and any tax-exempt private endowment entity whose sole beneficiary is a state agency."

Section 2. Section 6-8-10 NMSA 1978 (being Laws 1957, Chapter 179, Section 10, as amended) is amended to read:

"6-8-10. INVESTMENT STANDARDS.--~~[Investments made pursuant to Sections 6-8-1 through 6-8-16 NMSA 1978 shall be made in accordance with the prudent investor rule set forth in the Uniform Prudent Investor Act.]~~

A. The state investment officer shall invest and manage the money available for investment from the land grant permanent funds as a prudent investor would by considering the purposes, terms, distribution requirements and other circumstances of the land grant permanent funds. In satisfying this standard, the state investment officer shall exercise reasonable care, skill and caution.

B. An investment or management decision of the state investment officer respecting money available for investment from the land grant permanent funds shall not be evaluated in isolation, but in the context of the portfolios of the land grant permanent funds and as part of an overall investment strategy having risk and return objectives reasonably suited to the land grant permanent funds.

C. In making and implementing an investment decision, the state investment officer shall:

(1) diversify the investments of the money available for investment from the land grant permanent funds, unless it is not prudent to diversify the investments under the circumstances;

(2) act with prudence in deciding whether and how to delegate authority to others and in the selection and supervision of an investment manager; and

(3) incur only costs that are reasonable in amount and appropriate to the investment and administrative responsibilities of the state investment officer."

Section 3. Section 6-8-20 NMSA 1978 (being Laws 1987, Chapter 219, Section 3, as amended) is amended to read:

"6-8-20. PRIVATE EQUITY INVESTMENT ADVISORY COMMITTEE CREATED--MEMBERSHIP--DUTIES--TERMS--LIABILITIES--CONFLICT OF INTEREST.--

A. There is created the "private equity investment advisory committee" to the council. The committee consists of the state investment officer, a member of the council appointed by the governor and three members who are qualified by competence and experience in finance and investment and knowledgeable about the private equity investment process and who are appointed by the governor.

B. Members appointed by the governor, except the council member, shall be appointed for three-year terms; provided that the terms of the initial committee members shall be staggered so that the term of one member expires each year. After the initial appointments, all governor-appointed members shall be appointed for three-year terms. Members shall serve until their successors are appointed. A vacancy occurring other than by expiration of term shall be filled in

the same manner as the original appointment, but only for the unexpired term.

C. The committee shall review and make recommendations to the council on investments authorized pursuant to Sections [~~6-8-21, 7-27-5.6~~] 7-27-5.15 and 7-27-5.26 NMSA 1978 and shall advise the council in matters and policies related to such investments. The committee shall establish policies for national private equity fund investments, New Mexico private equity fund investments and New Mexico film private equity fund investments not less often than annually and shall make copies available to interested parties.

D. Members of the committee shall receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

E. The committee shall elect annually a chairman from among its members and may elect other officers as necessary. The committee shall meet upon the call of the chairman or the state investment officer.

F. Members of the committee are public employees within the meaning of the Tort Claims Act and are entitled to all immunity and indemnification provided under that act.

G. No person may be a member of the committee if any recommendation, action or decision of the committee will or is likely to result in direct, measurable economic gain to that person or [~~his~~] that person's employer.

H. The state investment officer may enter into contracts with investment advisors for private equity fund investments and film fund investments authorized pursuant to Sections [~~6-8-21, 7-27-5.6~~] 7-27-5.15 and 7-27-5.26 NMSA 1978 and may pay budgeted expenses for the advisors from the assets of any fund administered under the supervision of the council, as applicable."

Section 4. Section 7-27-5 NMSA 1978 (being Laws 1983, Chapter 306, Section 7, as amended) is amended to read:

"7-27-5. INVESTMENT OF SEVERANCE TAX PERMANENT FUND--PRUDENT INVESTOR STANDARD.--

A. The severance tax permanent fund shall be invested for two general purposes, to provide income to the fund and to stimulate the economy of New Mexico, preferably on a continuing basis. [~~The investments in Sections 7-27-5.1 and 7-27-5.6 NMSA 1978 shall be those intended to provide maximum income to the fund and shall be referred to as the market rate investments.~~] The investments permitted in Sections 7-27-5.3 through 7-27-5.5, 7-27-5.13 through 7-27-5.17, 7-27-5.22 and 7-27-5.24 through 7-27-5.26 NMSA 1978 shall be those intended to stimulate the economy of New Mexico and shall be referred to as the differential rate investments. [~~The prudent man rule shall be applied to the market rate investments, and the state investment officer shall keep separate records of the earnings of the market rate investments.~~] Investments that are not differential rate investments and that are not investments permitted in Sections 7-27-5.19 through 7-27-5.21 and 7-27-5.23 NMSA 1978 shall be referred to as market rate investments. All transactions [~~entered into on or after July 1, 1991~~] shall be

accounted for in accordance with generally accepted accounting principles.

B. The state investment officer shall make market rate investments as a prudent investor would, by considering the purposes, terms, distribution requirements and other circumstances of the severance tax permanent fund. In satisfying this standard, the state investment officer shall exercise reasonable care, skill and caution.

C. An investment or management decision of the state investment officer respecting a market rate investment of the severance tax permanent fund shall not be evaluated in isolation, but in the context of the portfolio of the severance tax permanent fund as a whole and as part of an overall investment strategy having risk and return objectives reasonably suited to the fund.

D. In making and implementing an investment decision respecting a market rate investment, the state investment officer shall:

(1) diversify the investments of the severance tax permanent fund, unless it is not prudent to diversify the investments under the circumstances;

(2) act with prudence in deciding whether and how to delegate authority to others and in the selection and supervision of an investment advisor or investment manager; and

(3) incur only costs that are reasonable in amount and appropriate to the investment responsibilities of the state investment officer."

Section 5. Section 10-11-132 NMSA 1978 (being Laws 1987, Chapter

253, Section 132, as amended) is amended to read:

"10-11-132. INVESTMENT OF FUNDS [~~TYPES OF INVESTMENTS~~]~~--~~
INDEMNIFICATION OF BOARD MEMBERS.~~--~~The funds created by the state
retirement system acts are trust funds of which the retirement board
is trustee. Members of the retirement board jointly and individually
shall be indemnified by the state from the funds [~~by the state~~]
administered by the retirement board from all claims, demands, suits,
actions, damages, judgments, costs, charges and expenses, including
court costs and attorney fees and against all liability losses and
damages of any nature [~~whatsoever~~] that members shall or may [~~at any~~
~~time~~] sustain by reason of any decision made in the performance of
their duties pursuant to the state retirement system acts. [~~The~~
~~retirement board may invest and reinvest the funds in the following~~
~~classes of securities and investments:~~

A. ~~bonds, notes or other obligations of the United States~~
~~treasury or those guaranteed by or for which the credit of the United~~
~~States government is pledged for the payment of the principal and~~
~~interest;~~

B. ~~bonds, notes or other obligations of a municipality or~~
~~other political subdivision of this state that are registered by the~~
~~United States securities and exchange commission, are publicly traded~~
~~and are issued pursuant to a law of this state if the issuer, within~~
~~ten years prior to making the investment, has not been in default in~~
~~payment of any part of the principal or interest on any debt evidenced~~
~~by its bonds, notes or other obligations. If any bonds are municipal~~
~~or county utility revenue bonds or utility district revenue bonds, the~~

~~revenues of the utility, except for operation and maintenance expenses, shall be pledged wholly to the payment of the interest and principal of the indebtedness and the utility project shall have been completely self-supporting for a period of five years next preceding the date of investment;~~

~~G. stocks, bonds, debentures or other obligations issued by any agency or corporation of the United States government under the authority of acts of the United States congress;~~

~~D. collateralized obligations held in trust that:~~

~~(1) are publicly traded and are registered with the United States securities and exchange commission; and~~

~~(2) have underlying collateral that is either an obligation of the United States government or else has a credit rating above or equal to BBB according to the Standard and Poor's rating system or Baa according to the Moody's investors rating system;~~

~~E. bonds, notes, commercial paper or other obligations of any corporation organized and operating within the United States; provided that the securities shall have a minimum credit rating of B according to the Standard and Poor's rating system or B according to the Moody's investors rating system or their equivalents; and provided that not more than ten percent of the funds for which the retirement board is trustee shall at any one time be invested in debt obligations of corporations with a credit rating less than BBB according to the Standard and Poor's rating system or Baa according to the Moody's investors rating system of their equivalents;~~

~~F. preferred stock, common stock, any security convertible~~

~~to common stock or American depository receipts that are registered by the United States securities and exchange commission of any corporation organized and operating within the United States whose securities are listed on at least one stock exchange that has been approved by or is controlled by the United States securities and exchange commission or on the national association of securities dealers national market; provided that the corporations shall have minimum shareholders' equity of twenty-five million dollars (\$25,000,000) and that the funds of which the retirement board is trustee shall not be invested in more than ten percent of the voting stock of a company; and further provided that investing with enhanced index managers using futures and options is permitted solely for the purpose of adding incremental value and controlling risk and not for speculation;~~

~~G. obligations of non-United States governmental or quasi-governmental entities, and these may be denominated in foreign currencies; obligations, including but not limited to bonds, notes or commercial paper of any corporation organized outside of the United States, and these may be denominated in foreign currencies; or preferred stock or common stock of any corporation organized outside of the United States whose securities are listed on at least one national or foreign stock exchange or are traded in an over-the-counter market, and these may be denominated in foreign currencies. Currency transactions, including spot or cash basis currency transactions, forward contracts and buying or selling options or futures on foreign currencies, shall be permitted but only for the~~

~~purposes of hedging foreign currency risk and not for speculation;~~

~~H. stocks or shares of a diversified investment company registered under the federal Investment Company Act of 1940, provided that the investment company has total assets under management of at least one hundred million dollars (\$100,000,000); individual, common or collective trust funds of banks or trust companies, provided that the investment manager has assets under management of at least one hundred million dollars (\$100,000,000); provided that the board may allow reasonable administrative and investment expenses to be paid directly from the income or assets of these investments;~~

~~I. contracts, including contracts through its designated agent, for the temporary exchange of securities for the use by broker-dealers, banks or other recognized institutional investors, for periods not to exceed one year, for a specified fee or consideration; provided no such contracts shall be entered into unless the contracts are fully secured by a collateralized, irrevocable letter of credit running to the retirement board, cash or equivalent collateral of at least one hundred two percent of the market value of the securities plus accrued interest temporarily exchanged, which collateral shall be delivered to the state fiscal agent or its designee contemporaneously with the transfer of funds or delivery of the securities; and further provided that such contracts may authorize the retirement board to invest cash collateral in instruments or securities that are authorized investments for the funds and may authorize payment of a fee from the funds or from income generated by the investment of cash collateral to the borrower of securities providing cash as collateral,~~

~~and the retirement board may apportion income derived from the investment of cash collateral to pay its agent in securities lending transactions; and~~

~~J. contracts for the present purchase and resale at a specified time in the future, not to exceed one year, of specific securities at specified prices at a price differential representing the interest income to be earned by the retirement board. No such contract shall be entered into unless the contract is fully secured by obligations of the United States, or other securities backed by the United States, having a market value of at least one hundred two percent of the amount of the contract. The collateral required in this section shall be delivered to the state fiscal agent or his designee contemporaneously with the transfer of funds or delivery of the securities, at the earliest time industry practice permits, but in all cases settlement shall be on a same day basis. No such contract shall be entered into unless the contracting bank, brokerage firm or recognized institutional investor has a net worth in excess of five hundred million dollars (\$500,000,000).]"~~

Section 6. Section 10-11-133 NMSA 1978 (being Laws 1987, Chapter 253, Section 133, as amended) is amended to read:

"10-11-133. INVESTMENT OF FUNDS--PRUDENT INVESTOR STANDARD--
CONDITIONS.--

A. Commissions paid for the purchase and sale of any security shall not exceed brokerage rates prescribed and approved by stock exchanges that have been approved by or are under the control of the United States securities and exchange commission or by industry

practice.

~~[B. Investments of money from any fund of the association shall be made with the exercise of that degree of judgment and care, under the circumstances then prevailing, that persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived. All purchases of securities shall be made at or below the current market price at the time of purchase.]~~

B. The retirement board shall invest and manage the funds administered by the retirement board as a prudent investor would, by considering the purposes, terms, distribution requirements and other circumstances of the trust. In satisfying this standard, the retirement board shall exercise reasonable care, skill and caution.

C. An investment or management decision of the retirement board respecting a fund that it administers shall not be evaluated in isolation, but in the context of the fund portfolio as a whole and as part of an overall investment strategy having risk and return objectives reasonably suited to the fund.

D. In making and implementing an investment decision, the retirement board shall:

(1) diversify the investments of each fund that it administers, unless it is not prudent to diversify the investments under the circumstances;

(2) act with prudence in deciding whether and how to delegate authority to others and in the selection and supervision of

an investment manager; and

(3) incur only costs that are reasonable in amount and appropriate to the investment and administrative responsibilities of the retirement board and the association.

~~[C.]~~ E. Securities purchased with money from or held for any fund administered by the retirement board and for which the retirement board is trustee shall be in the custody of the state treasurer who shall, at the direction of the retirement board, deposit with a bank or trust company the securities for safekeeping or servicing.

~~[D.]~~ F. The retirement board may consult with the state investment council or state investment officer and request information or advice with respect to the retirement board's overall investment plan, may utilize the services of the state investment council and state investment officer and may act on their advice concerning the plan. The state investment council and state investment officer shall render investment services to the retirement board without expense to the retirement board. The retirement board may also employ the investment management services of a trust company or national bank exercising trust powers or of an investment counseling firm and pay reasonable compensation for such services from funds administered by the retirement board. The terms of any such investment management services contract shall incorporate the statutory requirements for investment of funds under the retirement board's jurisdiction.

~~[E.]~~ G. Except as provided in the Public Employees Retirement Act, ~~[no]~~ a member of the retirement board, employee of the

retirement board or any person connected with the retirement board in any manner shall not:

(1) have any direct or indirect interest in the gains or profits of any investment made by the retirement board;

(2) receive any direct or indirect pay or emolument for services provided to the retirement board or the association;

(3) directly or indirectly, for the member, employee or person, for themselves or as agent or partner of others, borrow any of the funds or deposits of the association or in any manner use them except to make current and necessary payments authorized by the retirement board; or

(4) become an endorser or surety or become in any manner an obligor for money of the retirement board loaned or borrowed."

Section 7. Section 22-11-13 NMSA 1978 (being Laws 1967, Chapter 16, Section 137, as amended) is amended to read:

"22-11-13. [~~INVESTMENT OF~~] BOARD AUTHORITY TO INVEST THE FUND--PRUDENT INVESTOR STANDARD--INDEMNIFICATION OF BOARD.--

~~[A. The board is authorized to invest or reinvest the fund and may invest the fund only in the following:~~

~~(1) obligations, including but not limited to bills, bonds or notes of the United States, United States government-sponsored enterprises or federal agency securities;~~

~~(2) obligations, including but not limited to bills, bonds and notes of governments other than the United States or their political subdivisions, agencies or instrumentalities, and these may~~

~~be denominated in foreign currencies;~~

~~(3) obligations, including but not limited to bonds or notes of a municipality or political subdivision of the state that were issued pursuant to law; provided the issuer has not, within ten years prior to making the investment, been in default for more than three months in the payment of any part of the principal or interest on any debt evidenced by its bonds, notes or obligations; and provided the bonds are city or county utility, or utility-district revenue bonds with the revenue of such utility, other than for payment of operation and maintenance expenses, pledged wholly to payment of the interest on and the principal of such indebtedness, and the utility project has been completely self-supporting for a period of five years preceding the date of the investment;~~

~~(4) contracts for the present purchase and resale at a specified time in the future, not to exceed one year, of specific securities at specified prices at a price differential representing the interest income to be earned by the board. No such contract shall be entered into unless the contract is fully secured by obligations of the United States, or other securities backed by the United States, having a market value of at least one hundred two percent of the amount of the contract. The collateral required in this section shall be delivered to the state fiscal agent or his designee contemporaneously with the transfer of funds or delivery of the securities, at the earliest time industry practice permits, but in all cases settlement shall be on a same-day basis. No such contract shall be entered into unless the contracting bank, brokerage firm or~~

~~recognized institutional investor has a net worth in excess of five hundred million dollars (\$500,000,000);~~

~~(5) obligations, including but not limited to bonds, notes, debentures, instruments, conditional sales agreements, securities or other evidence of indebtedness of any corporation, partnership or trust organized within the United States; preferred stock or common stock or any security convertible to common stock of any corporation, partnership or trust organized within the United States whose securities are listed on at least one national stock exchange or on the N.A.S.D. national market or American depositary receipts of any corporation organized outside the United States whose securities are listed on at least one national stock exchange or on the N.A.S.D. national market; provided that the fund shall not at any one time own more than ten percent of the voting stock of a company;~~

~~(6) prime bankers' acceptances issued by money center banks;~~

~~(7) obligations, including but not limited to bonds, notes, debentures, instruments, conditional sales agreements, securities or other evidence of indebtedness of any corporation, partnership or trust organized outside of the United States, and these may be denominated in foreign currencies; preferred stock or common stock or any security convertible to common stock of any corporation, partnership or trust organized outside of the United States whose securities are listed on at least one national or foreign stock exchange, and these may be denominated in foreign currencies; provided that the fund shall not at any one time own more than ten percent of~~

~~the voting stock of a company;~~

~~(8) currency transactions, including spot or cash basis currency transactions, forward currency contracts and buying or selling options or futures on foreign currencies, but only for the purposes of hedging foreign currency risk and not for speculation;~~

~~(9) stocks or shares of a diversified investment company registered under the Investment Company Act of 1940, as amended, which invests primarily in United States or non-United States fixed income securities, equity securities or short-term debt instruments pursuant to Paragraphs (1), (2), (4), (5) and (7) of this subsection, provided that the investment company has total assets under management of at least one hundred million dollars (\$100,000,000); individual, common or collective trust funds of banks or trust companies, which invest primarily in United States or non-United States fixed income securities, equity securities or short-term debt instruments pursuant to Paragraphs (1), (2), (4), (5) and (7) of this subsection, provided that the investment manager has assets under management of at least one hundred million dollars (\$100,000,000); the board may allow reasonable administrative and investment expenses to be paid directly from the income or assets of these investments; or~~

~~(10) industrial revenue bonds issued pursuant to the Industrial Revenue Bond Act, where both the principal and interest of the bonds are fully and unconditionally guaranteed by a lease agreement executed by a corporation organized and operating within the United States and has issued securities traded on one or more national stock exchanges and where the senior securities of the guaranteeing~~

~~corporation would have the equivalent of a BAA rating.]~~

A. The board is authorized to invest or reinvest the fund. The board shall invest and manage the fund as a prudent investor would, by considering the purposes, terms, distribution requirements and other circumstances of the trust. In satisfying this standard, the board shall exercise reasonable care, skill and caution.

B. An investment or management decision of the board concerning the fund shall not be evaluated in isolation, but in the context of the fund portfolio as a whole and as part of an overall investment strategy having risk and return objectives reasonably suited to the fund.

~~[B.]~~ C. The board or its designated agent may enter into contracts for the temporary exchange of securities for the use by broker-dealers, banks or other recognized institutional investors, for periods not to exceed one year, for a specified fee or consideration. ~~[No]~~ Such a contract shall not be entered into unless the contract is fully secured by a collateralized, irrevocable letter of credit running to the board, cash or equivalent collateral of at least one hundred two percent of the market value of the securities plus accrued interest temporarily exchanged. This collateral shall be delivered to the state fiscal agent or its designee contemporaneously with the transfer of funds or delivery of the securities. Such contract may authorize the board to invest cash collateral in instruments or securities that are authorized fund investments and may authorize payment of a fee from the fund or from income generated by the investment of cash collateral to the borrower of securities providing

cash as collateral. The board may apportion income derived from the investment of cash collateral to pay its agent in securities lending transactions.

[~~C.~~] D. Commissions paid for the purchase or sale of any securities pursuant to the provisions of the Educational Retirement Act shall not exceed brokerage rates prescribed and approved by national stock exchanges or by industry practice.

~~[D. Investment of the fund shall be made with the exercise of that degree of judgment and care, under the circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived.]~~

E. Securities purchased for the fund shall be held in the custody of the state treasurer. At the direction of the board, the state treasurer shall deposit with a bank or trust company the securities for safekeeping or servicing.

F. The board may consult with the state investment council or the state investment officer; may request from the state investment council or the state investment officer any information, advice or recommendations with respect to investment of the fund; may utilize the services of the state investment council or the state investment officer; and may act upon any advice or recommendations of the state investment council or the state investment officer. The state investment council or the state investment officer shall render investment advisory services to the board upon request and without

expense to the board. The board may employ investment advisory services and pay reasonable compensation from the fund for the services. The board may also employ investment management services and pay reasonable compensation from the fund for the services to make investment decisions on behalf of the board, within the investment objectives, policies and operating guidelines as directed by the board to the investment manager.

G. Members of the board, jointly and individually, shall be indemnified from the fund by the state from all claims, demands, suits, actions, damages, judgments, costs, charges and expenses, including court costs and ~~[attorneys']~~ attorney fees, and against all liability, losses and damages of any nature whatsoever that members shall or may at any time sustain by reason of any decision made in the performance of their duties pursuant to this section."

Section 8. REPEAL.--

A. Sections 6-8-9, 6-8-19 and 6-8-21 NMSA 1978 (being Laws 1957, Chapter 179, Section 9, Laws 1987, Chapter 126, Section 1 and Laws 1997, Chapter 183, Section 5, as amended) are repealed.

B. Sections 7-27-5.1 and 7-27-5.6 NMSA 1978 (being Laws 1983, Chapter 306, Section 8 and Laws 1987, Chapter 219, Section 2, as amended) are repealed.

Section 9. ACT NOT SEVERABLE.--If any part or application of this act is held invalid, the remainder or its application to other situations or persons shall likewise be invalid. The provisions of this act are not severable.

Section 10. EFFECTIVE DATE.--The effective date of the

provisions of this act is July 1, 2005.

An Act Broadening The Scope Of Financial Institutions That May Serve As
Securities Lenders Or That May Perform Custodial Functions For Public Funds

BILL

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

DISCUSSION DRAFT

FOR THE STATE PERMANENT FUND TASK FORCE

AN ACT

RELATING TO PUBLIC FINANCES; BROADENING THE SCOPE OF FINANCIAL INSTITUTIONS THAT MAY SERVE AS SECURITIES LENDERS OR THAT MAY PERFORM CUSTODIAL FUNCTIONS FOR PUBLIC FUNDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 6-10-10 NMSA 1978 (being Laws 1933, Chapter 175, Section 4, as amended) is amended to read:

"6-10-10. DEPOSIT AND INVESTMENT OF FUNDS.--

A. Upon the certification or designation of a bank, savings and loan association or credit union whose deposits are insured by an agency of the United States to receive public money on deposit, the state treasurer and county or municipal treasurers who have on hand any public money by virtue of their offices shall make deposit of that money in banks and savings and loan associations, and may make deposit

of that money in credit unions whose deposits are insured by an agency of the United States, designated by the authority authorized by law to so designate to receive the deposits of all money thereafter received or collected by the treasurers.

B. County or municipal treasurers may deposit money in one or more accounts with any such bank, savings and loan association or credit union located in their respective counties, subject to limitation on credit union accounts.

C. The state treasurer may deposit money in one or more accounts with any such bank, savings and loan association or credit union, subject to the limitation on credit union accounts.

D. Duplicate receipts or deposit slips shall be taken for each deposit made pursuant to Subsection A, B or C of this section. When deposits are made by the state treasurer, one copy of the receipt or deposit slip shall be retained by the state treasurer and the other copy shall be filed monthly on the first day of each month with the financial control division of the department of finance and administration. When deposits are made by the treasurer or any other authorized person making the deposits for a board of finance of a public or educational institution, one copy of the receipt or deposit slip shall be retained by the treasurer or authorized person making the deposit and the other copy shall be filed monthly on the first day of each month with that board of finance. When

deposits are made by a county or municipal treasurer, one of the duplicate receipts or deposit slips shall be retained by the treasurer making the deposit and the other copy shall be filed monthly on the first day of each month with the secretary of the board of finance of the county or municipality for which that treasurer is acting.

E. "Deposit", as used in this section, means either investment or deposit and includes share, share certificate and share draft.

F. County or municipal treasurers, with the advice and consent of their respective boards of finance charged with the supervision and control of the respective funds, have the power to invest all sinking funds or money remaining unexpended from the proceeds of any issue of bonds or other negotiable securities of any county, municipality or school district that is entrusted to their care and custody and all money not immediately necessary for the public uses of the counties, municipalities or school districts not invested or deposited in banks, savings and loan associations or credit unions in:

(1) bonds or negotiable securities of the United States, the state or a county, municipality or school district that has a taxable valuation of real property for the last preceding year of at least one million dollars (\$1,000,000) and has not defaulted in the payment of any interest or sinking fund obligation or failed to meet any bonds

at maturity at any time within five years last preceding; or

(2) securities that are issued by the United States government or by its agencies or instrumentalities and that are either direct obligations of the United States, the federal home loan mortgage association, the federal national mortgage association, the federal farm credit bank or the student loan marketing association or are backed by the full faith and credit of the United States government.

G. The treasurer of a class A county or the treasurer of a municipality having a population of more than sixty-five thousand according to the most recent federal decennial census and located within a class A county, with the advice and consent of the boards of finance charged with the supervision and control of the funds, has the power to invest all sinking funds or money remaining unexpended from the proceeds of any issue of bonds or other negotiable securities of the county or municipality that is entrusted to ~~[his]~~ the treasurer's care and custody and all money not immediately necessary for the public uses of the county or municipality not invested or deposited in banks, savings and loan associations or credit unions in:

(1) shares of a diversified investment company registered pursuant to the federal Investment Company Act of 1940 that invests in fixed income securities or debt instruments that are listed in a nationally recognized, broad-

market, fixed-income-securities market index; provided that the investment company or manager has total assets under management of at least one hundred million dollars (\$100,000,000) and provided that the board of finance of the county or municipality may allow reasonable administrative and investment expenses to be paid directly from the income or assets of these investments;

(2) individual, common or collective trust funds of banks or trust companies that invest in fixed income securities or debt instruments that are listed in a nationally recognized, broad-market, fixed-income-securities market index; provided that the investment company or manager has total assets under management of at least one hundred million dollars (\$100,000,000) and provided that the board of finance of the county or municipality may allow reasonable administrative and investment expenses to be paid directly from the income or assets of these investments; or

(3) shares of pooled investment funds managed by the state investment officer, as provided in Subsection G of Section 6-8-7 NMSA 1978; provided that the board of finance of the county or municipality may allow reasonable administrative and investment expenses to be paid directly from the income or assets of these investments.

H. A local public body, with the advice and consent of the body charged with the supervision and control of the

local public body's respective funds, has the power to invest all sinking funds or money remaining unexpended from the proceeds of any issue of bonds or other negotiable securities of the investor that is entrusted to the local public body's care and custody and all money not immediately necessary for the public uses of the investor and not otherwise invested or deposited in banks, savings and loan associations or credit unions in contracts with banks, savings and loan associations or credit unions for the present purchase and resale at a specified time in the future of specific securities at specified prices at a price differential representing the interest income to be earned by the investor. The contract shall be fully secured by obligations of the United States or other securities backed by the United States having a market value of at least one hundred two percent of the contract. The collateral required for investment in the contracts provided for in this subsection shall be shown on the books of the financial institution as being the property of the investor and the designation shall be contemporaneous with the investment. As used in this subsection, "local public body" includes all political subdivisions of the state and agencies, instrumentalities and institutions thereof; provided that home rule municipalities that prior to July 1, 1994 had enacted ordinances authorizing the investment of repurchase agreements may continue investment in repurchase agreements pursuant to

those ordinances.

I. The state treasurer, with the advice and consent of the state board of finance, has the power to invest money held in demand deposits and not immediately needed for the operation of state government and money held in the short-term investment fund, except as provided in Section 6-10-10.1 NMSA 1978. The investments shall be made only in securities that are issued by the United States government or by its departments or agencies and are either direct obligations of the United States or are backed by the full faith and credit of the United States government or agencies sponsored by the United States government.

J. The state treasurer, with the advice and consent of the state board of finance, may also invest in contracts for the present purchase and resale at a specified time in the future, not to exceed one year or, in the case of bond proceeds, not to exceed three years, of specific securities at specified prices at a price differential representing the interest income to be earned by the state. [~~No~~] Such contract shall not be invested in unless the contract is fully secured by obligations of the United States or other securities backed by the United States having a market value of at least one hundred two percent of the amount of the contract.

K. The state treasurer, with the advice and consent of the state board of finance, may also invest in contracts for

the temporary exchange of state-owned securities for the use of broker-dealers, banks or other recognized institutional investors in securities, for periods not to exceed one year for a specified fee rate. [~~No~~] Such contract shall not be invested in unless the contract is fully secured by exchange of an irrevocable letter of credit running to the state, cash or equivalent collateral of at least one hundred two percent of the market value of the securities plus accrued interest temporarily exchanged.

L. The collateral required for either of the forms of investment in Subsection J or K of this section shall be delivered to the fiscal agent of New Mexico or its designee contemporaneously with the transfer of funds or delivery of the securities at the earliest time industry practice permits, but in all cases, settlement shall be on a same-day basis.

M. Neither of the contracts in Subsection J or K of this section shall be invested in unless the contracting bank, brokerage firm or recognized institutional investor has a net worth in excess of five hundred million dollars (\$500,000,000).

N. The state treasurer, with the advice and consent of the state board of finance, may also invest in any of the following investments in an amount not to exceed forty percent of any fund that the state treasurer invests:

(1) commercial paper rated "prime" quality by a national rating service, issued by corporations organized and

operating within the United States;

(2) medium-term notes and corporate notes with a maturity not exceeding five years that are rated A or its equivalent or better by a nationally recognized rating service and that are issued by a corporation organized and operating in the United States; or

(3) an asset-backed obligation with a maturity not exceeding five years that is rated AAA or its equivalent by a nationally recognized rating service.

0. The state treasurer, with the advice and consent of the state board of finance, may also invest in:

(1) shares of a diversified investment company registered pursuant to the federal Investment Company Act of 1940 that invests in United States fixed income securities or debt instruments authorized pursuant to Subsections I, J and N of this section, provided that the investment company has total assets under management of at least one billion dollars (\$1,000,000,000) and the investments made by the state treasurer pursuant to this paragraph are less than five percent of the assets of the investment company; or

(2) individual, common or collective trust funds of banks or trust companies that invest in United States fixed income securities or debt instruments authorized pursuant to Subsections I, J and N of this section, provided that the investment manager has assets under management of at least one

billion dollars (\$1,000,000,000) and the investments made by the state treasurer pursuant to this paragraph are less than five percent of the assets of the individual, common or collective trust fund.

P. ~~[No]~~ Public funds to be invested in negotiable securities or loans to financial institutions fully secured by negotiable securities at current market value shall not be paid out unless there is a contemporaneous transfer of the securities at the earliest time industry practice permits, but in all cases, settlement shall be on a same-day basis either by physical delivery or, in the case of uncertificated securities, by appropriate book entry on the books of the issuer, to the purchaser or to a reputable ~~[third-party]~~ safekeeping financial institution acting as agent or trustee for the purchaser, which agent or trustee shall furnish timely confirmation to the purchaser."

Section 2. Section 6-10-21 NMSA 1978 (being Laws 1927, Chapter 87, Section 1, as amended) is amended to read:

"6-10-21. SECURITY FOR DEPOSITS--SAFEKEEPING--REGULATIONS OF STATE BOARD OF FINANCE.--The state board of finance is authorized and directed to regulate, by general regulation or by special orders applicable to individual cases, the safekeeping of bonds or other securities delivered by any bank or savings and loan association as security for deposits of public money. The bonds or securities shall be delivered to a

[~~third-party~~] custodian, which shall be a federal reserve bank or branch thereof or [~~in~~] any other bank designated by the state board of finance and qualified to perform custodial functions in [~~the~~] any state [~~of New Mexico~~]. The bank or savings and loan association delivering securities to that custodial bank shall enter into a written agreement with the custodial bank containing such conditions that will adequately protect the interests of the state, county, city, school district or institution interested in the bonds and securities."

An Act Exempting From The Procurement Code Contracts For Financial
Advisor Services Entered Into By The Educational Retirement Board, The
State Investment Officer Or The Public Employees Retirement Board

BILL

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

DISCUSSION DRAFT

FOR THE STATE PERMANENT FUND TASK FORCE

AN ACT

RELATING TO PROCUREMENT; EXEMPTING FROM THE PROCUREMENT CODE CONTRACTS FOR FINANCIAL ADVISOR SERVICES ENTERED INTO BY THE EDUCATIONAL RETIREMENT BOARD, THE STATE INVESTMENT OFFICER OR THE RETIREMENT BOARD CREATED PURSUANT TO THE PUBLIC EMPLOYEES RETIREMENT ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 13-1-98 NMSA 1978 (being Laws 1984, Chapter 65, Section 71, as amended) is amended to read:

"13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The provisions of the Procurement Code shall not apply to:

A. procurement of items of tangible personal property or services by a state agency or a local public body from a state agency, a local public body or external procurement unit except as otherwise provided in Sections

13-1-135 through 13-1-137 NMSA 1978;

B. procurement of tangible personal property or services for the governor's mansion and grounds;

C. printing and duplicating contracts involving materials that are required to be filed in connection with proceedings before administrative agencies or state or federal courts;

D. purchases of publicly provided or publicly regulated gas, electricity, water, sewer and refuse collection services;

E. purchases of books and periodicals from the publishers or copyright holders thereof;

F. travel or shipping by common carrier or by private conveyance or to meals and lodging;

G. purchase of livestock at auction rings or to the procurement of animals to be used for research and experimentation or exhibit;

H. contracts with businesses for public school transportation services;

I. procurement of tangible personal property or services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978, by the corrections industries division of the corrections department pursuant to regulations adopted by the corrections commission, which shall be reviewed by the purchasing division of the general services department prior to adoption;

J. minor purchases not exceeding five thousand dollars (\$5,000) consisting of magazine subscriptions, conference registration fees and other similar purchases where prepayments are required;

K. municipalities having adopted home rule charters and having enacted their own purchasing ordinances;

L. the issuance, sale and delivery of public securities pursuant to the applicable authorizing statute, with the exception of bond attorneys and general financial consultants;

M. contracts entered into by a local public body with a private independent contractor for the operation, or provision and operation, of a jail pursuant to Sections 33-3-26 and 33-3-27 NMSA 1978;

N. contracts for maintenance of grounds and facilities at highway rest stops and other employment opportunities, excluding those intended for the direct care and support of persons with handicaps, entered into by state agencies with private, nonprofit, independent contractors who provide services to persons with handicaps;

O. contracts and expenditures for services or items of tangible personal property to be paid or compensated by money or other property transferred to New Mexico law enforcement agencies by the United States department of justice drug enforcement administration;

P. contracts for retirement and other benefits pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

Q. contracts with professional entertainers;

R. contracts and expenditures for litigation expenses in connection with proceedings before administrative agencies or state or federal courts, including experts, mediators, court reporters, process servers and witness fees, but not including attorney contracts;

S. contracts for service relating to the design, engineering, financing, construction and acquisition of public improvements undertaken in improvement districts pursuant to Subsection L of Section 3-33-14.1 NMSA 1978 and in county improvement districts pursuant to Subsection L of Section 4-55A-12.1 NMSA 1978;

T. works of art for museums or for display in public buildings or places;

U. contracts entered into by a local public body with a person, firm, organization, corporation or association or a state educational institution named in Article 12, Section 11 of the constitution of New Mexico for the operation and maintenance of a hospital pursuant to Chapter 3, Article 44 NMSA 1978, lease or operation of a county hospital pursuant to the Hospital Funding Act or operation and maintenance of a hospital pursuant to the Special Hospital District Act;

V. purchases of advertising in all media, including

radio, television, print and electronic;

W. purchases of promotional goods intended for resale by the tourism department; [~~and~~]

X. procurement by or through the public education department from the federal department of education relating to parent training and information centers designed to increase parent participation; projects and initiatives designed to improve outcomes for students with disabilities; and other projects and initiatives relating to the administration of improvement strategy programs pursuant to the federal Individuals with Disabilities Education Act; provided that the exemption applies only to procurement of services not to exceed two hundred thousand dollars (\$200,000); and

Y. contracts for investment advisory services, investment management services or other investment-related services entered into by the educational retirement board, the state investment officer or the retirement board created pursuant to the Public Employees Retirement Act."

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2005.

A Joint Memorial Requesting The New Mexico Legislative Council To

Create The State Investment Funds Task Force

_____ JOINT MEMORIAL

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

DISCUSSION DRAFT

FOR THE STATE PERMANENT FUND TASK FORCE

A JOINT MEMORIAL

REQUESTING THE NEW MEXICO LEGISLATIVE COUNCIL TO CREATE THE STATE INVESTMENT FUNDS TASK FORCE TO CONTINUE THE WORK OF THE STATE PERMANENT FUND TASK FORCE.

WHEREAS, the corpus of New Mexico's land grant permanent funds and the severance tax permanent fund is approximately twelve billion dollars (\$12,000,000,000); and

WHEREAS, the distributions from these funds, now and in perpetuity, are an integral and necessary ingredient for the future prosperity of New Mexico and its citizens; and

WHEREAS, the corpus of the retirement funds for educational and public employees is more than seventeen billion dollars (\$17,000,000,000); and

WHEREAS, the actuarial soundness of the retirement funds is necessary to maintain a healthy work environment in the

public sector; and

WHEREAS, in 2004, as a result of Senate Joint Memorial 14, the state permanent fund task force was created by the New Mexico legislative council to examine the controls and safeguards applicable to investments of the permanent funds; and

WHEREAS, during the 2004 interim, the state permanent fund task force made significant strides in educating interested parties as to the financial integrity of the permanent funds of the state;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the New Mexico legislative council be requested to appoint members of the legislature to a task force, to be known as the "state investment funds task force", to continue the work of the state permanent fund task force and to further examine the controls and safeguards applicable to investments of the funds of the state; and

BE IT FURTHER RESOLVED that the department of finance and administration, the state investment council, the public employees retirement association and the educational retirement board each be requested to appoint members to the state investment funds task force; and

BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the New Mexico legislative council, the department of finance and administration, the state investment

council, the public employees retirement association and the educational retirement board.

Appendix D

Miscellaneous Exhibits