REPORT OF THE

INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

January 2008

New Mexico Legislative Council Service
Santa Fe, New Mexico

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REPORT OF THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

Introduction

This is the third interim report of the Investments and Pensions Oversight Committee. The committee was created by the Legislative Council as the successor to the State Permanent Fund Task Force. That task force was originally created in 2003 by Senate Joint Memorial 14 and was continued pursuant to Senate Joint Memorial 13 of the 2005 first session. House Bill 212 of the 2006 session would have created a committee much like the Investments and Pensions Oversight Committee; however, the bill was pocket-vetoed by Governor Richardson. Notwithstanding, the committee took upon itself the broad responsibilities outlined in House Bill 212.

During the interim, the committee examined the investment and financial management practices of the State Investment Council, the Small Business Investment Corporation, the Public Employees Retirement Association and the Educational Retirement Board. Specifically, the committee reviewed investment policies and practices, reporting procedures and benchmarks, alternative investment opportunities and the actuarial condition of the retirement funds. Finally, the committee received testimony from several groups of employees who are seeking a change in retirement benefits.

Background

The original State Permanent Fund 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, passage of Senate Bill 181 of the 2005 first session focused attention on the unfunded liability of the Educational Retirement Board and the need for the committee to explore strategies to guarantee the ability of the public pension funds to meet their statutory obligation.

The Investments and Pensions Oversight Committee followed through with the mission of that task force; however, in accordance with the provisions of House Bill 728 of the 2007 session, the committee focused attention on the solvency of the Retiree Health Care Authority (RHCA) and explored strategies to return the fund to financial stability.

Statutory Duties

The committee has no mandate in statute, but, as discussed earlier, the committee followed the precepts of House Bill 212 of the 2006 session.

Membership

The committee consisted of 10 voting members and 15 advisory members, including members of the legislature and certain designated public officials. The voting members appointed by the Legislative Council for the 2006 interim included:

- Senator John Arthur Smith, Chair;
- Representative John A. Heaton, Vice Chair;
- Representative Donald E. Bratton;
- Senator Joseph J. Carraro;
- Senator Phil A. Griego;
- Representative Larry A. Larrañaga;
- Senator Carroll H. Leavell;
- Senator Mary Kay Papen;
- Representative Jim R. Trujillo;
- Representative Henry Kiki Saavedra; and
- Representative Luciano "Lucky" Varela.

The advisory members appointed by the Legislative Council for the 2006 interim included:

Legislative Members

- Representative Andrew J. Barreras;
- Senator Pete Campos;
- Senator Carlos R. Cisneros;
- Representative Miguel P. Garcia;
- Senator Stuart Ingle;
- Representative Patricia A. Lundstrom;

- Representative John Pena;
- Representative Jane E. Powdrell-Culbert;
- Senator Leonard Lee Rawson;
- Senator Michael S. Sanchez;
- Senator H. Diane Snyder;
- Representative Sheryl Williams Stapleton;
- Representative Eric A. Youngberg;

Public Officials

- Gary Bland, State Investment Council;
- Robert Gish, Public Employees Retirement Association;
- Robert Jacksha, Educational Retirement Board;
- James Lewis, State Treasurer; and
- Olivia Padilla-Jackson, State Board of Finance.
- The committee received staff support from the Legislative Council Service (LCS) and Legislative Finance Committee (LFC).

Work During the 2007 Interim

The committee convened on six occasions, meeting in Santa Fe. The committee continued to exercise oversight of the Public Employees Retirement Association, Educational Retirement Board and State Investment Council with respect to investment performance, receiving routine quarterly reports by asset class and fund. Also, the committee received an update on the actuarial status of the Public Employees Retirement Fund. The committee also received a report on equity investments and loans administered by the Small Business Investment Corporation.

This interim, the committee explored in depth the subject of hedge funds, real estate investing, subprime lending and equity strategies. The committee was briefed on the status of State Investment Council economically targeted investments with emphasis on motion picture and television investments. With respect to New Mexico film producers, the committee received suggestions from the task group formed in connection with House Memorial 43 of the 2007 session.

A major activity during the interim was tracking the progress of the task group created by House Bill 728 of the 2007 session concerning the RHCA. On no less than five occasions, the committee received a briefing from the task group on the solvency of the RHCA Fund and the numerous interlocking strategies that would extend the solvency of the fund and satisfy new accounting standards adopted by the Government Accounting Standards Board.

Finally, the committee received testimony from several groups that are seeking enhanced retirement benefits. These groups included the Department of Public Safety's Motor Transportation Division, the state fire marshal, the New Mexico volunteer firefighters and service credit for legislative employees.

Highlights of Recommendations and Proposed Legislative Changes

The committee adopted five bills as follows:

1. Legislation designed to remediate RHCA financial difficulties by extending the solvency of the fund; highlights include:

- The $3 million transfer from the state of New Mexico, scheduled to terminate on June 30, 2010, would be extended indefinitely. Beginning July 1, 2010, the $3 million would be used for prefunding of future liabilities.
- An additional $1 million annual assessment would be obtained from nonstate participating entities, except for public schools. This assessment would begin July 1, 2008.
- A new annual report would be required from the RHCA on December 15 of each year.
- The composition of the RHCA board of directors would be expanded to include the secretary of finance and administration and the chief financial officer of a public post-secondary educational institution.
- Active employer contributions would be increased from 1.3% of payroll to 1.6%, and active employee contributions would be increased from 0.65% of payroll to 0.8%.
- The health care premium subsidy for retirees and spouses would follow a sliding scale based on age.

2. Legislation identical to House Bill 315 from the 2007 session. This legislation, which was vetoed in 2007, would create a permanent State Investment and Retirement Systems Oversight Committee.

3. Legislation that would expand the board of directors of the State Investment Council to include a public member with no less than 15 years of professional experience in the field of investment finance.

4. Legislation that had been requested by the state treasurer. This legislation would expand eligibility for participation in the Local Government Investment Pool.

5. Legislation that would amend the return-to-work provisions for members of the Public Employees Retirement Association. This legislation would only impact non-state government employees seeking to return to work.

Appendix A

2007 Interim Work Plan

2007 APPROVED

WORK PLAN AND MEETING SCHEDULE

for the

INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

Members

Sen. John Arthur Smith, Chair

Rep. John A. Heaton, Vice Chair

Rep. Donald E. Bratton

Sen. Joseph J. Carraro

Sen. Phil A. Griego

Rep. Larry A. Larrañaga

Sen. Carroll H. Leavell

Sen. Mary Kay Papen

Rep. Henry Kiki Saavedra

Rep. Jim R. Trujillo

Rep. Luciano "Lucky" Varela

Advisory Members

Rep. Andrew J. Barreras

Gary Bland, State Investment Council

Sen. Pete Campos

Sen. Carlos R. Cisneros

Rep. Miguel P. Garcia

Robert Gish, Public Employees Retirement Association

Sen. Stuart Ingle

Robert Jacksha, Educational Retirement Board

James Lewis, State Treasurer

Rep. Patricia A. Lundstrom

Olivia Padilla-Jackson, State Board of Finance

Rep. John Peña

Rep. Jane E. Powdrell-Culbert

Sen. Leonard Lee Rawson

Sen. Michael S. Sanchez

Sen. H. Diane Snyder

Rep. Sheryl Williams Stapleton

Rep. Eric A. Youngberg

Work Plan

During the 2007 interim, the committee will focus on the following activities.

1. The committee will continue its examination of the investment and financial management practices of the state investment council, the state treasurer, the public employees retirement association and the educational retirement board.

2. The committee will review reporting procedures and benchmarks and alternative investment opportunities, including economically targeted investments, to ensure the highest rate of return on investment of public funds.

3. The committee will receive testimony on the actuarial condition of the retirement funds and the retiree health care authority (RHCA) and review recommendations from the House Bill 728 RHCA study group on how to improve the short-term and long-term conditions of the retiree health care fund.

4. The committee will analyze and provide recommendations on any requests to change retirement benefits.

MEETING SCHEDULE

Date	**Location**
June 14, 2007	Santa Fe
July 3, 2007	Santa Fe
August 14, 2007	Santa Fe
September 5, 2007	Santa Fe
October 17, 2007	Santa Fe
November 7, 2007	Santa Fe

Appendix B

Agendas and Minutes of Meetings

TENTATIVE AGENDA
for the
FIRST MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

June 14, 2007
Room 321, State Capitol
Santa Fe

<u>Thursday, June 14</u>

1:00 p.m. **Call to Order**

1:10 p.m. **Adoption of Interim Work Plan**

1:30 p.m. **Review of Committee-Sponsored 2007 Legislation**
—Cleo Griffith, Legislative Council Service

2:00 p.m. **Fiscal Year 2007 Update on Investment Performance**
—Gary Bland, State Investment Council
—Robert Gish, Public Employees Retirement Association
—Robert Jacksha, Educational Retirement Board

3:00 p.m. **Other Business**

4:00 p.m. **Adjourn**

TENTATIVE AGENDA
for the
SECOND MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

July 3, 2007
Room 307, State Capitol
Santa Fe

Tuesday, July 3

10:00 a.m.	**Call to Order**
10:10 a.m.	**Approval of the June 14, 2007 Minutes**
10:15 a.m.	**Retiree Health Care Authority (RHCA)** —Marie Thames, Executive Director, RHCA —Gary Petersen, Siegal Company
11:15 a.m.	**HB 728 Working Group Update** —David Abbey, Director, Legislative Finance Committee —Dannette Burch, Deputy Secretary, Department of Finance and Administration
12:00 noon	**Lunch**
1:00 p.m.	**Work Force Demographics** —Mark Lautman, Mesa del Sol
1:45 p.m.	**In Depth Examination of Hedge Funds** —Gary Bland, State Investment Council —Bob Gish, Public Employees Retirement Association —Steve Neel, Educational Retirement Board
3:00 p.m.	**Committee Discussion of Agenda Items for the August 14, 2007 Meeting** —Single Payer Health Care —In Depth Examination of Private Equity Investing
3:30 p.m.	**Other Business**
4:00 p.m.	**Adjourn**

Revised: July 23, 2007

TENTATIVE AGENDA
for the
THIRD MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

August 14, 2007
Room 307, State Capitol
Santa Fe

Tuesday, August 14

10:00 a.m.	**Call to Order**
10:10 a.m.	**Approval of the July 3, 2007 Minutes**
10:15 a.m.	**Health Care Options** —Raúl Burciaga, Assistant Director, Legislative Council Service (LCS) —Ruby Ann Esquibel, Health Policy Coordinator, Human Services Department
12:00 noon	**Lunch**
1:00 p.m.	**Small Business Investment Corporation (SBIC)** —Paul Goblet, Financial Advisor, SBIC
2:00 p.m.	**Sub-Prime Lending Investments** —Gary Bland, State Investment Council (SIC) —Bob Gish, Pubic Employees Retirement Association (PERA) —Bob Jacksha, Educational Retirement Board (ERB)
2:45 p.m.	**In-Depth Examination of Real Estate Investing** —Gary Bland, SIC —Bob Gish, PERA —Bob Jacksha, ERB
3:30 p.m.	**Committee Discussion of Agenda Items for the September 5, 2007 Meeting**
3:45 p.m.	**Other Business**
4:00 p.m.	**Adjourn**

Revised: August 28, 2007

TENTATIVE AGENDA
for the
FOURTH MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

September 5, 2007
Room 307, State Capitol
Santa Fe

Wednesday, September 5

10:00 a.m.	**Call to Order**
10:10 a.m.	**Approval of the August 14, 2007 Minutes**
10:15 a.m.	**New Mexico State Firefighters Association (NMSFFA); Retirement** —Ronnie Walls, Secretary/Treasurer, NMSFFA —Vernon Muller, Deputy State Fire Marshal
11:15 a.m.	**New Mexico Retiree Health Care Authority (NMRHCA); Update** —Danielle Wilson, Chair, NMRHCA Board —David Abbey, Director, Legislative Finance Committee —Katherine Miller, Secretary, Department of Finance and Administration
12:00 noon	**Lunch**
1:00 p.m.	**State Treasurer's Office; Proposed Legislation** —James Lewis, State Treasurer
1:45 p.m.	**Investment Performance Update; June 30, 2007 Quarterly Reports** —Gary Bland, State Investment Council (SIC) —Bob Gish, Public Employees Retirement Association —Bob Jacksha, Educational Retirement Board
2:45 p.m.	**In-Depth Examination of Equity Strategies** —Gary Bland, SIC
3:30 p.m.	**Discussion of Agenda Items for the October 17, 2007 Meeting** • State Fire Marshal; Retirement —Vernon Muller, Deputy State Fire Marshal • Department of Public Safety, Motor Transportation Division; Retirement —Lt. Colonel Mark C. Rowley • Other

3:45 p.m. **Other Business**

4:00 p.m. **Adjourn**

Revised: October 16, 2007

TENTATIVE AGENDA
for the
FIFTH MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

October 17, 2007
Room 307, State Capitol
Santa Fe

<u>Wednesday, October 17</u>

10:00 a.m. **Call to Order**

10:10 a.m. **Approval of the September 5, 2007 Minutes**

10:15 a.m. **State Fire Marshal Retirement**
—Vernon Muller, Deputy State Fire Marshal

10:45 a.m. **Department of Public Safety, Motor Transportation Division; Retirement**
—Lt. Colonel Mark C. Rowley

11:15 a.m. **Management Fees; Alternative Investments**
—Bob Gish, Public Employees Retirement Association (PERA)

12:15 p.m. **Lunch**

1:30 p.m. **New Mexico Film Investments; House Memorial 43**
—Eric Witt, Director, Legislative/Political Affairs, Office of the Governor
—New Mexico Producers Coalition

2:45 p.m. **Examination of Equity Strategies**
—Gary Bland, State Investment Council

3:45 p.m. **Discussion of Agenda Items for the November 7, 2007 Meeting**
- Proposed Legislation
- Actuarial Update; Educational Retirement Board and PERA

4:00 p.m. **Other Business**

4:15 p.m. **Adjourn**

Revised: November 5, 2007

TENTATIVE AGENDA
for the
SIXTH MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

November 7, 2007
Room 307, State Capitol
Santa Fe

<u>Wednesday, November 7</u>

10:00 a.m.	**Call to Order**
10:10 a.m.	**Approval of the October 17, 2007 Minutes**
10:15 a.m.	**Retiree Health Care Authority; Report of the HB 728 Group** —David Abbey, Director, Legislative Finance Committee —Danielle Wilson, Chair, Retiree Health Care Authority Board
11:15 a.m.	**Public Employees Retirement Association (PERA); Actuarial Update** —Terry Slattery, Executive Director, PERA
12:00 noon	**Lunch**
1:00 p.m.	**PERA Service Credit for Legislative Employees** —Steven Arias, Chief Clerk of the House
1:30 p.m.	**New Mexico Film Investments; House Memorial 43** —Eric Witt, Director, Legislative/Political Affairs, Office of the Governor
2:00 p.m.	**Review of Proposed Legislation** —Cleo Griffith, Legislative Council Service House Bill 313 (Return to Work) House Bill 315 (IPOC) House Bill 532 (State Treasurer; Local Government Investment Pool) Senate Joint Memorial 6 (Moratorium on Benefit Enhancements)
3:00 p.m.	**Other Business**
3:30 p.m.	**Adjourn**

Revised: November 27, 2007

TENTATIVE AGENDA
for the
SIXTH MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

December 10, 2007
Room 322, State Capitol
Santa Fe

<u>Monday, December 10</u>

1:30 p.m. **Call to Order**

1:40 p.m. **Approval of the November 7, 2007 Minutes**

1:45 p.m. **Review of Proposed Legislation**
—Cleo Griffith, Legislative Council Service

4:00 p.m. **Adjourn**

MINUTES
of the
FIRST MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

June 14, 2007
State Capitol
Santa Fe

The first meeting of the Investments and Pensions Oversight Committee for the 2007 interim was called to order by Senator John Arthur Smith, chair, on Thursday, June 14, 2007, at 1:00 p.m. at the State Capitol in Santa Fe.

Present
Sen. John Arthur Smith, Chair
Rep. John A. Heaton, Vice Chair
Rep. Donald E. Bratton
Sen. Phil A. Griego
Rep. Larry A. Larrañaga
Rep. Henry Kiki Saavedra
Rep. Jim R. Trujillo
Rep. Luciano "Lucky" Varela

Absent
Sen. Joseph J. Carraro
Sen. Carroll H. Leavell
Sen. Mary Kay Papen

Advisory Members
Rep. Andrew J. Barreras
Gary Bland, State Investment Council
Sen. Carlos R. Cisneros
Rep. Miguel P. Garcia
Dominic Garcia, Public Employees Retirement Association
Robert Jacksha, Educational Retirement Board
James Lewis, State Treasurer
Rep. Patricia A. Lundstrom
Rep. John Peña
Rep. Jane E. Powdrell-Culbert
Sen. Leonard Lee Rawson
Sen. Pete Campos
Sen. Stuart Ingle
Olivia Padilla-Jackson, State Board of Finance
Sen. Michael S. Sanchez
Sen. H. Diane Snyder
Rep. Sheryl Williams Stapleton
Rep. Eric A. Youngberg

Staff
Michelle Aubel, Legislative Finance Committee (LFC)
Doris Faust, Legislative Council Service (LCS)
Norton Francis, LFC
Cleo Griffith, LCS
Larry Matlock, LCS
Doug Williams, LCS

Guests

The guest list is in the meeting file.

Thursday, June 14

Mr. Williams presented the proposed work plan and explained that the main difference between the scope of the plan this year, compared to prior years, is oversight of the Retiree Health Care Authority (RHCA).

Ms. Griffith reviewed the legislation sponsored by the committee during the 2007 session. The disposition is summarized as follows:

- Sunsetting of Public Employees Retirement Association (PERA) and Educational Retirement Board (ERB) Return-to-Work Provisions
  HB 313 (Heaton) - Amended version, applying just to PERA, passed both houses, pocket veto.
  SB 310 (Griego) - Died in House Judiciary Committee.

- Permanent State Investment and Retirement Systems Oversight Committee
  HB 315 (Heaton) - Died on Senate floor.
  SB 319 (Smith) - Died in Senate Finance Committee.

- State Treasurer Bill on Local Government Investment Pool Changes
  HB 532 (Varela) - Died on Senate floor.

- Moratorium on Enhancements to Retirement Benefits
  SJM 6 (Smith) - Died in Senate Finance Committee.

- Make Retiree Health Care Fund an Irrevocable Trust
  RHCA (Retiree Health Care Authority Board) insisted on changes to the committee-approved bill, so committee endorsement was dropped. A revised RHCA bill was introduced by Speaker of the House Ben Lujan as HB 1086 - Did not pass.

Mr. Bland presented the first quarter 2007 investment performance for the State Investment Council (SIC).

- For the 12 months ending March 31, 2007, the combined funds experienced a net investment gain of $2.0 billion with $29.0 million in net contributions. For the quarter, the combined funds recorded a net investment gain of $331.0 million. Total assets increased from $14.8 billion at the beginning of the quarter to $15.1 billion at quarter end with $34.0 million in net distributions.

- For the five-year period, the Land Grant Permanent Fund (LGPF) returned 8.4%, outperforming its policy index by 0.1%. Over the same period, the Severance Tax Permanent Fund (STPF) lagged its policy index by 0.3%, with a return of 8.1%.

- For the year, LGPF returned 10.9%, lagging its policy index by 0.2%, while the STPF returned 10.2%, trailing its policy by 1.0%. For the quarter, LGPF returned 2.3%, surpassing its policy return by 0.3%. Over the same period, STPF outperformed its policy index by 0.2%, with a return of 2.2%.

- Total equity exposure for LGPF was 62.9%. STPF's equity exposure was 62.4%, with a structural overweight to fixed income while the private equity program is still being developed. All allocations are within policy limits.

The status of the permanent funds is summarized in the following table:

New Mexico Permanent Funds
Investment Results Since 12/31/2002 (stated in $000s)

	Land Grant	Severance Tax	Tobacco	Total
Balance 12/31/02	6,255,967	3,123,175	56,602	9,435,744
Contributions				
1/01/03 to 6/30/03	127,427	1,031	43,759	
FY04	236,277	16,318	37,449	
FY05	320,809	12,371	38,009	
FY06	414,694	123,217	34,892	
7/01/06 to 4/30/07	336,870	24,065	36,239	
Total Contributions	1,436,077	177,002	190,348	1,803,427
Distributions				
1/01/03 to 6/30/03	166,392	85,476	43,759	
FY04	352,525	172,434	37,449	
FY05	422,798	173,249	38,009	
FY06	426,444	171,798	34,892	
7/01/06 to 4/30/07	365,787	142,477	0	
Total Distributions	1,733,946	745,434	154,109	2,633,489
Net Contributions-Distributions	-297,869	-568,432	36,239	-830,062
Adjusted Net Assets	5,958,098	2,554,743	92,841	8,605,682
Assets as of April 30, 2007	10,401,281	4,595,521	132,554	15,129,356
Investment Returns Since 12/31/02	4,442,583	2,040,778	39,713	6,523,074

Representative Larrañaga asked about the status of the SIC real estate investments. Mr. Bland stated that the expected returns are 5% to 6% over the next two to three years.

Representative Larrañaga asked about the status of the SIC private equity investments. Mr. Bland stated that only one out of every 20 companies meets the criteria for SIC to invest in the company. The ideal company is Advent Solar because of the high-tech, nonpolluting nature of the product, low water use and many high-paying jobs created.

Representative Larrañaga asked about investments in the film industry. Mr. Bland stated that there are currently six full-time film crews working in New Mexico. Charles Wollmann, public information officer, SIC, stated that there are currently eight motion picture projects in progress and that film crews move from project to project.

Senator Rawson asked about the rate of return on film industry investments. Mr. Bland said that, to date, the SIC has not lost any money and has received approximately $800,000, which represents a small percent return.

Dominic Garcia made a presentation of PERA's investment performance.

- As of December 31, 2006, total private equity commitments of PERA were $71.8 million to three partnerships. The net internal rate of return generated since inception through December 31, 2006 was not meaningful due to the short lifespan of the portfolio. Due to the young age of the PERA private equity portfolio, the net internal rate of return may experience fluctuations as new capital commitments are made during the next three to four years. PERA did not receive any distributions during the fourth quarter of 2006. The market value of the plan's current investments is equal to 1.0 times contributed capital.

- As illustrated in the Quarterly Highlights section, the plan made contributions totaling $3.7 million during the quarter. Total value was reduced by $0.1 million, attributed to the drawdown of fees. The payment of fees will negatively affect the net internal rate during the initial years of a partnership. Private equity partnerships typically start to generate meaningful distributions during year four.

- During the fourth quarter, PERA made commitments of $25 million to Cerberus Series Four, a distressed debt fund, $25 million to Coller International V, a secondary fund, and $21.8 million to Hellman & Friedman VI, a large buyout fund. During the first quarter of 2007, PERA made commitments of $25 million to Providence VI, a large buyout fund focused on media and communications investments, $25 million to Resolute II, a middle-market buyout fund, and $20.5 million to Sun Capital V, a middle-market buyout fund.
- The benchmark for the underlying partnerships in the portfolio is the Venture Economics' median return for the respective strategies and vintage years. PERA made three partnership commitments as of year end; however, only Coller International V and Cerberus Series Four became active during 2006. Resolute II and Providence VI were both activated during the first quarter of 2007.

Senator Griego asked about the risk associated with hedge funds. Mr. Garcia stated that PERA expects S&P 500 returns with bond risk. Mr. Garcia also stated that hedge funds move in the opposite direction from stocks and add considerable diversification to a portfolio.

Representative Bratton observed that hedge funds do not create anything. They simply use a computer program to guess what will happen in the marketplace, and the state is using taxpayer dollars to finance hedge fund managers who create nothing.

Mr. Jacksha presented the first quarter 2007 investment performance for the ERB.

- Over the last 12 months, the fund experienced a gross investment gain of $973.9 million, easily outpacing the $145.7 million in net distributions. The fund recorded a gross investment gain of $178.8 million for the quarter. Total assets increased from

$8.97 billion at the beginning of the quarter to $9.12 billion, with $36.1 million in net distributions.

- Over the past five years, the fund returned 9.3% per annum, beating its policy index by 0.1% and ranking in the thirty-fifth percentile of the Independent Consultant Cooperative's public fund universe.

- For the year, the fund returned 11.9%, trailing its policy benchmark by 0.4% and ranking in the nineteenth percentile of public funds.

- For the quarter, the fund posted a 2.0% return, beating its policy index by 0.1% and ranking in the sixtieth percentile of public funds.

- Total equity exposure is slightly above target by 0.3% (58.3% versus 58%), and under the upper limit of 63%. This is a significant change from last quarter, when total equity exposure was 7.1% more than the current target. Reallocation of assets from domestic equities to hedge funds and fixed income during the quarter accounted for the change. Hedge funds are now overweight by 1.4% and private equity continues to be underweight relative to its target as the program is implemented.

Representative Larrañaga asked how many active and retired employees are involved with the retirement funds. Jeff Riggs, ERB, stated that there are 29,000 retirees and 66,000 active employees. Terry Slattery, PERA, stated that there are 25,000 retirees and 47,000 active employees.

Representative Larrañaga asked about the ERB unfunded liability. Mr. Riggs stated that as of December 31, 2006, the unfunded liability was $3.6 billion; however, the actuarial evaluation indicates that this liability is within GASB standards and will be retired in the next 30 years. The actuarial evaluation includes the impact of three-tier licensure.

Senator Rawson asked about the impact of the collapse of the sub-prime lending market. Mr. Jacksha said that there was very little impact on ERB's equity portfolio and that one of its hedge fund investments benefited significantly. Mr. Bland and Mr. Garcia noted similar performance results.

Norton Francis presented the joint LFC - Department of Finance and Administration third quarter fiscal year 2007 investment performance report.

- Year ending March 31, 2007: For the one-year period ending March 31, 2007, the investment program returns all exceeded 10%, with ERB having the highest return of 11.9%. Contrary to the quarterly returns, all funds performed below their respective benchmarks, indicating that active management failed to keep up with a passive basket of similar investments. Indeed, for the year ending 3/31/2007, manager impact was slightly negative across all funds. However, the returns were all higher than a straight 60/40 stock and bond portfolio, which returned 9.8% for the year.

- Five years ending March 31, 2007: For the five years ending March 31, 2007, only PERA notably beat its benchmark, which it did by 133 basis points. LGPF slightly outperformed its benchmark return with an 8.4% performance while STPF returned 8.1%, 30 basis points behind its benchmark. ERB beat its five-year benchmark for the first time in several years and, assuming continued good performance, should show sustained improvement in this market as poor-performing quarters through 2001-2003 drop off. Over this longer term, all of the funds performed better than if they had been in a 60/40 index, which returned only 6.1%.

Other Business

There was no other business brought before the committee.

The committee adjourned at 4:00 p.m.

MINUTES
of the
SECOND MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

July 3, 2007
State Capitol
Santa Fe

The second meeting of the Investments and Pensions Oversight Committee for the 2007 interim was called to order by Senator John Arthur Smith, chair, on Tuesday, July 3, 2007, at 10:15 a.m. at the State Capitol in Santa Fe.

Present
Sen. John Arthur Smith, Chair
Sen. Joseph J. Carraro
Rep. Larry A. Larrañaga
Sen. Carroll H. Leavell
Sen. Mary Kay Papen
Rep. Henry Kiki Saavedra
Rep. Jim R. Trujillo
Rep. Luciano "Lucky" Varela

Absent
Rep. John A. Heaton, Vice Chair
Rep. Donald E. Bratton
Sen. Phil A. Griego

Advisory Members
Rep. Andrew J. Barreras
Gary Bland, State Investment Council
Sen. Carlos R. Cisneros
Rep. Miguel P. Garcia
Robert Gish, Public Employees Retirement Association
James Lewis, State Treasurer
Rep. Patricia A. Lundstrom
Rep. John Pena
Rep. Jane E. Powdrell-Culbert
Sen. H. Diane Snyder
Rep. Sheryl Williams Stapleton
Sen. Pete Campos
Sen. Stuart Ingle
Bob Jacksha, Educational Retirement Board
Olivia Padilla-Jackson, State Board of Finance
Sen. Leonard Lee Rawson
Sen. Michael S. Sanchez
Rep. Eric A. Youngberg

Staff
David Abbey, Legislative Finance Committee (LFC)
Doris Faust, Legislative Council Service (LCS)
Norton Francis, LFC
Larry Matlock, LCS
Wayne Probst, LFC
Doug Williams, LCS

Guests
The guest list is in the meeting file.

Tuesday, July 3

The committee adopted the minutes of the June 14, 2007 meeting.

Retiree Health Care Authority (RHCA)

—Marie Thames, Executive Director, RHCA
—Gary Petersen, Siegal Company

Mr. Petersen began with the following glossary of terms that would be used in the presentation:

- Actuarial Present Value (APVB): Present value of all future benfit payments for current retirees and active employees taking into account assumptions about demographics, turnover, mortality, disability, retirement, health care trends and other actuarial assumptions. The Government Accounting Standards Board (GASB) does not require disclosure of this number.

- Actuarial Accrued Liability (AAL): The portion of the APVB allocated to years of employment prior to the measurement date.

- Actuarial Value of Assets (AVA): The value of assets used by the actuary in the valuation. These may be at market value or some other method used to smooth variations in market value from one valuation to the next.

- Funded Ratio: The ratio AVA/AAL.

- Unfunded Actuarial Accrued Liability (UAAL): The difference between the AAL and the AVA.

- Normal Cost (NC): The portion of the APVB allocated to the valuation year of service. Annual Required Contribution (ARC): The NC plus amortization of the UAAL (must be amortized over a period of no more than 30 years).

- Net OPEB Obligation (NOO): The amount of ARC that was not funded and that is accumulated from year to year with interest. Note: This number and its progression over time is likely to be focused on by financial analysts.

Mr. Petersen summarized the GASB situation as follows:

GASB 43 Results (in millions)

Discount Rate	3.50%
Actuarial Accrued Liability	**$5,081.2**
Less: Actuarial Value of Assets (per GASB)	$0.0
Unfunded Actuarial Accrued Liability	**$5,081.2**
Amortized over 30 Years	$157.8

Plus Normal Cost	$308.7
Annual Required Contribution (Beginning of Year)	$466.5
Annual Required Contribution (Adjusted for Payment Throughout the Year)	**$474.7**
Percent of Pay	11.65%
Funded Ratio (per GASB)	0.00%

Mr. Petersen outlined several benefit plan design changes as follows:

- Savings projections for all options assume 6% growth in retirees over 02/07/2007.

- A. Increase prescription mail order copay for preferred brands from $25.00 to $35.00 and nonpreferred from $45.00 to $60.00 on all self-funded plans.
    - 1. With no change in $12.00 generic copay.
    - 2. With increase of generic copay to $15.00.

- B. Increase prescription mail order copay for preferred brands from $25.00 to $60.00 and nonpreferred from $45.00 to $100 on all self-funded plans.
    - 1. With no change in $12.00 generic copay.
    - 2. With increase of generic copay to $15.00.

- C. Gold Plan: Increase in-network coinsurance to 15% (current OOP max).

- D. Gold Plan: Modify deductible from $100 to $200 out-of-network, and out-of-pocket from $500 to $1,000 in-network and $2,000 out-of-network.

- E. Gold Plan: Add $100 Copay for high-tech radiology prior to coinsurance, i.e., MRI, PET and CT scan.

- F. Gold Plan: Add $500 copay per admission to hospitalization prior to coinsurance.

The financial impact of these plan changes is summarized in the following table:

Plan Change	2007 per member per month	2008 per member per month	02/07 members x 1.06	2008 savings	Impact on solvency in years
A.1. Mail copay $12/35/60	$3.30	$3.60	36,141	$1,561,291	0.75
A.2. Mail copay $15/35/60	$4.29	$4.68	36,141	$2,029,679	0.98
B.1. Mail copay $12/60/100	$11.64	$12.69	36,141	$5,503,551	2.66
B.2. Mail copay $15/60/100	$13.50	$14.72	36,141	$6,383,946	3.08
C. 15% IN coinsurance	$3.48	$3.79	10,148	$461,531	0.22
D. $200 OON Deductible/$1,000 IN OOP / $2,000 OON OOP	$22.63	$24.67	10,148	$3,004,214	1.45
E. $100 Copay - high-tech radiology	$1.74	$1.90	10,148	$231,374	0.11
F. $500 copay per admission - hospital	$6.09	$6.64	10,148	$808,593	0.39
Assume $2,070,000 in annual savings = 1 additional year solvency					
(Measured in 2008 dollars that trend forward at health care trend rates)					

Representative Larrañaga noted the $5 billion unfunded liability over the next 30 years and asked about the nearer term 15-year outlook. Ms. Thames stated that RHCA will become insolvent in nine years.

Representative Varela asked about the unfunded liability if the RHCA Fund was converted to an irrevocable trust. Mr. Petersen responded that the actuarial assumptions would change and the unfunded liability would be reduced to approximately $4 billion.

Representative Powdrell-Culbert asked about the impact of mortality on the unfunded liability. Mr. Petersen responded that mortality results in contributions remaining in the fund and reduces the unfunded liability.

Representative Larrañaga asked about the impact of return to work. Ms. Thames responded that, upon return to work, a member is required to use any employer-offered health plan, and the member no longer represents a cost to the RHCA. This includes retirees who return to state government employment. Also, it is advantageous for a return-to-work employee to use the state government benefit because the premium is less than RHCA premiums.

Representative Larrañaga asked about the advantages of the plan changes being considered by the RHCA Board. Mr. Petersen responded that the Gold Plan contains no incentive for retirees to use in-network medical providers.

Representative Lundstrom asked why the legislature did not create an irrevocable trust. Senator Smith stated that the Senate Finance Committee received conflicting legal opinions concerning the potential creation of a property right. Ms. Thames stated that the RHCA will request a written legal opinion from the Siegal Company.

Senator Leavell asked about the impact of federal Medicare reimbursements on the unfunded liability. Mr. Petersen responded that the 28% reimbursement reduces the unfunded liability by approximately $10 million per year. Ms. Thames stated that the RHCA is exploring the possibility of becoming its own prescription drug provider (PDP), which could reduce cost and increase federal funds.

Mr. Lewis asked about the utilization rate of RHCA benefits by retirees. Mr. Petersen noted that approximately 75% of retirees use RHCA benefits.

Mr. Lewis inquired about the qualifications of certified actuaries. Mr. Petersen outlined the mathematical skills required.

Senator Snyder asked about changes in plan benefits and who would be making health care decisions. Mr. Petersen responded that, in all cases, the physician would be making the decision. Mr. Petersen noted that the only change contemplated is an increase in co-payments.

Senator Snyder asked if the RHCA has an appeals process. Ms. Thames noted that the executive directer has the authority to waive fees through an existing appeals process.

Representative Powdrell-Culbert asked about the profile of illness on the unfunded liability. Mr. Petersen responded that the actuary uses an average of health care expenditures rather than individual illnesses. He noted that this approach works well with over 30,000 members.

Senator Smith asked about enrollment of municipalities in the RHCA plan. Ms. Thames responded that, as of January 2007, municipalities submitting an application are required by administrative rule to submit a statement of their accrued actuarial liability and are required to pay that amount prior to joining the plan.

Representative Varela asked about the status of Santa Fe. Ms. Thames stated that Santa Fe has paid in full.

HB 728 Working Group Update

—David Abbey, Director, LFC

—Dannette Burch, Deputy Secretary, Department of Finance and Administration

Mr. Abbey outlined the problem as follows.

The RHCA was created in 1990 to provide health care benefits to eligible retirees, their spouses and dependents of certain public participating entities.

It is now clear that, from its inception, the benefit commitment was not adequately prefunded, which has contributed to the authority's current unsustainable financial position. The following factors have compounded the impact of the funding deficiencies:

- rising costs of health care;
- increasing membership;
- over-generous service requirements, benefits packages and subsidies, insufficient premiums;
- recent mandates from the GASB;
- ineffective and inefficient internal controls and systems; and
- management lapses prior to January 2006.

Specific challenges include the following.

Financial

- Revenue shortfall:
  - membership expected to increase 7% to 8% per year;
  - claims cost expected to increase at 8% to 20%+ per year; and
  - expenditures outpacing revenue streams.
- Premium subsidy inequity:
  - premium subsidy provided to retirees, spouses and dependents applied without a clear correlation to the underlying, true cost or to the amount an individual paid into the system;
  - younger retirees receive a greater subsidy than Medicare-eligible retirees; and
  - the amount of subsidy applied by years of credible service is established in an administrative rule, but implemented by the board of directors.
- "Pay as you go":
  - system expected to operate on a "pay-as-you-go" basis. This approach is at opposition with the concept of the significant prefunding of benefits. Currently, all of the active employer/employee contributions are being spent to provide benefits to the retirees and their families.

These challenges, combined with administrative lapses and faulty actuarial assumptions in past years, have led to a reduced solvency period projection from 25 years to nine years.

Internal Systems

A recent review of the internal eligibility and billing system revealed that the internal accounting system does not work. For example, the system does not have the ability to place a value on the employer accounts receivable, only on the member accounts receivable. As a result, the collection of active employer/employee contributions, as well as employer "buy ins" has been inconsistent and without the ability to report out such inconsistencies.

In addition, an administrative rule allowed political subdivisions to buy into the system at insufficient rates prior to December 31, 2006 and, in a few cases, allowing noneligible entities to enter the system.

Total Compensation

The retiree health care system must be viewed in light of total compensation for state employees. New Mexico has a high ratio of benefits to total compensation compared to other public sector comparator markets.

Ms. Burch noted that the HB 728 Working Group is considering six areas of remediation as follows:

- subsidies, e.g., setting premiums to match benefits;
- eligibility requirements, e.g., age and service changes;
- benefit design, e.g., limit out-of-network benefits;
- revenue enhancements, e.g., increase premiums;
- administrative cost savings, e.g., agency and/or plan consolidation; and
- GASB 43, e.g., arbitrage bonds.

Representative Varela asked what the next step would be after the HB 728 Working Group develops its recommendations. Mr. Abbey responded that there may be some recommendations that can be implemented administratively by the RHCA Board and others that may have to be implemented through legislation.

Representative Varela asked if the $3 million per year general fund appropriation from the 2007 session has been included in the current actuarial evaluation. Mr. Petersen stated that the appropriation has not yet been factored in; however, even when it is, there will be minimal reduction in the unfunded liability.

Representative Lundstrom asked staff to evaluate the cost impact of each of the options in the matrix. Ms. Thames noted that she is working with Paula Tackett to develop a request for proposals for the services of an actuary.

Senator Smith suggested that it will be important for the legislature to deal with the unfunded liability in a comprehensive manner, not in a piecemeal fashion.

Representative Trujillo indicated that the core problem is the rising cost of health care and that the ultimate solution is a single-payer system.

Workforce Demographics

—Mark Lautman, Mesa del Sol

Mr. Lautman describes the crisis in the emerging workforce as follows.

Economic development occurs when the economic base grows faster than the population. The economic base is made of jobs where the products and services being produced are sold outside the economy—bringing the new money into the economy every day. If the economic base of a community grows slower than its population, each year local government, public schools, business enterprises and households will have to serve more people with less revenue.

In most communities, the population will continue to grow because people are living so much longer. However, falling birth rates and lower educational attainment mean that beginning next year, for the first time in human history, new generations coming into the workforce will be smaller in number and less educated than the generations ahead of them. For the next 20 years, as the boomers retire, the workforce will steadily shrink in proportion to the population, making economic base growth increasingly difficult and eventually impossible in most places. Few if any community leaders in New Mexico understand the nature and scale of this demographic reality and the imminent economic, social and environmental consequences.

A new hierarchy of location factors:

- The war for talent — workforce crisis; after 2008, boomers retire faster than new workers can replace them;
- inflation — all major cost categories; labor, tax burden, energy, capital, strategic materials, insurance, real estate;
- increasing importance of security; natural disasters, terrorism, intellectual property and crime.
- accelerating technological innovation; staying on the cutting edge and ahead of competitors.

Signs that the metro labor market is beginning to tighten:

- falling unemployment rate: 4.9% to 3.5% (2005 to 2006);
- rising labor participation at 64%;
- reduced elasticity between supply and demand; and
- respondents confirm that staff recruiting is becoming more difficult (2006 WDG Labor Study).

Suggested initiatives:

- pioneer the development of a supply/demand forecast and gap analysis model for local communities. Fund a state-of-the-art labor market benchmark and survey program with a resident labor expert in each local market;
- choose specific economic base job targets for each community. Elevate state and local economic development programs. Set numerical goals for local talent needed for those career paths; and
- realign discretionary resources at New Mexico universities, community colleges and public school districts to fill predicted gaps in the high-value job targets. Promote strategic careers to local P-20 students, mid career change candidates and the gradually retiring worker. Adopt work keys as a statewide standard for education and workforce readiness.

Barriers to action:

- ignorance of the economic consequences of a labor-constrained economy;
- a lack of honest, relevant predictive data;
- educators and employers are polarized and estranged;
- there is no common nomenclature, methodology, standard or data for determining both educational attainment and workforce readiness;
- no common measurable mission;
- leaders too close to retirement to risk major change; and

- eventually, resources to solve the problem will begin to dry up.

In-Depth Examination of Hedge Funds

—Gary Bland, State Investment Council
—Robert Gish, Public Employees Retirement Association
—Steve Neel, Educational Retirement Board

Hedge funds feature the following characteristics:

- private investment partnership run by professional investment managers;
- invest in a variety of securities;
- can use various investment strategies;
- do not necessarily have to "hedge"; some use leverage and derivatives while others use little or none;
- wide variation of risk profile from fund to fund;
- LPs are investors, GP runs the fund;
- managers incentivized by share of profits;
- $1 trillion industry, 20% growth; estimated 8,300+ active hedge funds;
- highly specialized, requiring significant expertise;
- historic returns: the greater the equities, the less the equity risk;
- performance often not specifically correlated to equities and bond markets; and
- favored by investors who have experienced major stock market corrections.

The State Investment Council strategy includes:

- fund of hedge funds allocation mitigates risk through diversification;
- 14 managers with 16 fund of hedge funds;
- exposure to 400+ individual/single strategy hedge funds;
- additional layer of fees;
- market value $1.45 billion (9% SIC assets); and
- target returns of Libor + 200 bps.

Definitions of different hedge fund stategies:

- equity hedge strategies are stock selection funds that contain long and short equity securities with varying degrees of exposure and leverage;
- Equity long/short; funds with primarily long undervalued equities that also use short selling opportunistically but are typically net long;
- long-biased equity funds: funds containing long undervalued equities; short selling used sparingly; virtually always net long; and
- short-biased equity funds: funds containing long and short equities with the ability to be net short;
- relative value strategies:
    - seek to isolate alpha from mispricing of related financial instruments and target a beta of zero to all markets;
    - typically use quantitative and qualitative analysis to identify securities or spreads between securities that deviate from their fair value and/or historical norms; and

    - many arbitrage strategies fall into the relative value category;
- event-driven strategies:
    - focus on corporate events such as restructurings, takeovers, mergers, liquidations, bankruptcies or other special situations;
    - attempt to profit from security price changes responding to the occurrence or nonoccurrence of an extraordinary event; and
- global macro strategies:
    - also referred to as directional traders, invest opportunistically in long and short financial or nonfinancial assets in global markets; and
    - attempt to capitalize on macroeconomic factors and events, ranging from currency movements to foreign equity markets and interest rates.

Hedge fund strategy risk (in declining order):

- global macro hedge funds;
- long/short equity hedge funds;
- event driven funds; and
- relative value I arbitrage hedge funds.

fundamental hedge fund criteria risk:

- operational and management risk;
- business risk;
- strategy risk (market and nonmarket related factors); and
- liquidity risk.

Mr. Bland invited the committee members to visit the State Investment Council offices.

Committee Discussion of Agenda Items for the August 14, 2007 Meeting

—Single-Payer Health Care
—In Depth Examination of Private Equity Investing
—Small Business Investment Corporation.

Other Business

There was no other business brought before the committee.

The committee adjourned at 4:30 p.m.

MINUTES
of the
THIRD MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

August 14, 2007
State Capitol
Santa Fe

The second meeting of the Investments and Pensions Oversight Committee for the 2007 interim was called to order by Senator John Arthur Smith, chair, on Tuesday, August 14, 2007, at 10:15 a.m. at the State Capitol in Santa Fe.

Present
Sen. John Arthur Smith, Chair
Rep. John A. Heaton, Vice Chair
Rep. Donald E. Bratton
Sen. Joseph J. Carraro
Sen. Phil A. Griego
Rep. Larry A. Larrañaga
Sen. Mary Kay Papen
Rep. Henry Kiki Saavedra
Rep. Jim R. Trujillo
Rep. Luciano "Lucky" Varela

Absent
Sen. Carroll H. Leavell

Advisory Members
Rep. Andrew J. Barreras
Gary Bland, State Investment Council (SIC)
Mark Canavan for James Lewis, State Treasurer
Rep. Miguel P. Garcia
Bob Gish, Public Employees Retirement Association
Bob Jacksha, Educational Retirement Board
Olivia Padilla-Jackson, State Board of Finance
Sen. Leonard Lee Rawson
Rep. Sheryl Williams Stapleton
Sen. Pete Campos
Sen. Carlos R. Cisneros
Sen. Stuart Ingle
Rep. Patricia A. Lundstrom
Rep. John Pena
Rep. Jane E. Powdrell-Culbert
Sen. Michael S. Sanchez
Sen. H. Diane Snyder
Rep. Eric A. Youngberg

Staff
David Abbey, Legislative Finance Committee (LFC)
Doris Faust, Legislative Council Service (LCS)
Norton Francis, LFC
Stephanie Schardin, LFC
Doug Williams, LCS

Guests

The guest list is in the meeting file.

<u>Tuesday, August 14</u>

The committee adopted the minutes of the July 3, 2007 meeting.

Health Care Options

-Raúl Burciaga, Assistant Director, LCS
-Ruby Ann Esquibel, Health Policy Coordinator, Human Services Department (HSD)

The current state of health care in New Mexico was summarized as follows:

- over 400,000 (21.1%) people in New Mexico do not have health insurance;
- 41% of New Mexico employers do not provide health insurance;
- 85,000 (16.3%) children under 18 are uninsured;
- 26% of New Mexicans are uninsured six months or more (under 65, noninstitutionalized);
- most part-year uninsured are children six-18 and adults under age 30;
- half of New Mexicans who are uninsured six months or more during the year are now Medicaid/SCHIP eligible; and
- churning increases administrative cost and may compromise access and quality.

In 2003 and 2004, the Health Care Coverage and Access Task Force identified issues with coverage and access and recommended legislation. In 2005 and 2006, the Insure New Mexico Council, chaired by the lieutenant governor, recommended legislation designed to reduce the number of people in New Mexico without health insurance and to increase the number of small employers, including nonprofits, offering health insurance to their employees.

This initiative expanded the State Coverage Insurance (SCI) Program for small employers and self-employed individuals currently without insurance, now serving 8,000 New Mexicans, and lowered the premiums for the Health Insurance Alliance (HIA), now enrolling 6,000 New Mexicans. Also, it created the Small Employer Insurance Program (SEIP), targeted toward nonprofits and small employers not currently offering insurance, with 50 groups in the enrollment process (in 2007, nonprofits were excluded from having to be uninsured prior to enrolling). Specifically, the initiative did the following:

- expanded health coverage for unmarried dependents by allowing them to stay on parents' individual and group health plans until 25 years old;
- required insurers to offer health insurance plans for part-time employees when employers choose to offer this coverage;
- expanded Medicaid eligibility for pregnant women to 185% FPL;
- created Premium Assistance for Kids (PAK) and Premium Assistance for

  Maternity (PAM) programs for uninsured children and pregnant women who are not Medicaid eligible;
- funded enhanced Medicaid outreach to children, with a special initiative for

Native American and Hispanic children;

- provided enhanced Medicaid outreach to the Navajo Nation and now enhancing to urban Indians and Apache tribes;
- changed Medicaid recertification and income disregards to encourage easier enrollment into the program for children who can document eligibility;
- expanded New MexiKids income disregards for children ages 0 to 19 with family incomes of up to 235% FPL; and
- expanded Medicaid eligibility to foster children to age 21 and took the first steps toward expanding Medicaid for adults up to 100% FPL.

Governor Richardson is offering the following five-point proposal:

- Vendors of the state will offer employees insurance — Phase-in requirement that employers doing business with the state will offer health coverage to their employees.
- Assure state employees are insured — Identify state employees who decline state health insurance coverage; encourage their coverage through the state, a spouse or elsewhere.
- Maximize Medicaid for low-income adults — Increase Medicaid coverage for adults up to 100% FPL.
- Expand the SCI Program — Cover more working adults up to 300% FPL with cost-sharing based on income
- Analyze models for universal health coverage for New Mexico — Creation of Health Coverage for New Mexicans Committee (HCNMC) to identify and analyze three to five universal health coverage models and recommend next steps.

The following is an overview of three health coverage models:

New Mexico Health Security Plan (HSP)

- Single, statewide comprehensive health insurance plan for all residents who enroll; services mirroring those of New Mexico state employees.
- Premiums scaled to income.
- Employers pay a percentage of payroll.
- Self-insured employers elect to participate.
- Administered by an appointed commission that would negotiate provider fees and facility budgets.
- Cost savings through reduction in administration of multiple health insurance companies and through provider rate negotiations and oversight.

New Mexico Health Choices Plan (HCP)

- Market-based universal coverage through government-subsidized vouchers provided to individuals.
- Single, statewide risk pool replaces individual and group health insurance. markets.
- Range of private and government options to obtain health insurance.
- New Mexicans not covered by public programs such as Medicaid would be given vouchers to buy insurance through commercial carriers preselected by a newly created alliance.
- Version 1 coverage offered on an individual basis and employers contribute via

payroll tax.
- Version 2 employers continue to offer coverage and are exempted from payroll tax for workers enrolled in their health plan; insurance coverage would be mandatory for all residents.

New Mexico Health Coverage Plan (NMHCP)
- Combined public and market-based universal coverage plan that preserves roles for both the current public and private health care system.
- Focuses on coverage for currently uninsured New Mexicans.
- Includes expansion of Medicaid for low-income families and workers.
- Financial incentives for employers to provide health insurance for workers (tax credits and fair-share contributions).
- Requires all people living in New Mexico to buy commercial insurance, enroll in employer-sponsored insurance or enroll in state- or federally subsidized insurance if eligible.
- Enhanced funding for primary care clinics and FQHCs Cost, Access and Quality Council.

The highlights of the Mathematica cost study are as follows:
- $6.11 billion will be spent in New Mexico on health care for this population in 2007 (excluding Medicare).
- Cost are $5.93 billion (HSP), $6.3 billion (HCP) or $6.7 billion (NMHCP) to cover all nonelderly noninstitutionalized New Mexicans.
- Costs of each model might be lowered (or increased) by changing the assumptions about rates paid to providers; the type and amount of services or benefits offered; wellness and public health initiatives; and actions to reduce nonmedical costs.
- Models have positive impacts on the state's economy due to increased federal dollars and spending, especially in rural areas.
- Many New Mexicans are currently or will soon be eligible for employer-sponsored or public programs of health coverage, if adequate state general funds are appropriated to draw available federal match and if efforts are made to require those eligible to enroll.
- ERISA and federal tax laws may affect (but not necessarily impede) implementation of some aspects of each of the models and need to be considered to avoid unintended consequences.
- Within five years, it will cost more to do nothing and have the number of uninsured New Mexicans grow than to implement some form of coverage for all residents of New Mexico.

The next steps in the process are to:
- create a single statewide appointed health care authority;
- manage products to increase coverage and set minimum benefits;
- serve as a connector for coverage products;
- set standards for performance by insurance carriers and providers;
- identify and implement activities to increase quality and access and control growth in costs;
- consolidate state and quasi-state health coverage/policy agencies;

- create a "culture of coverage";
- require individuals to have coverage by 2010;
- require employers to offer insurance or contribute;
- create a package within Medicaid that persons not covered by public programs can buy into based on income under 400% FPL. Allow individuals without employer-sponsored insurance and not eligible for public programs to buy into state employees risk pool;
- require that insurance companies spend 85% of premiums on medical services;
- require insurance companies to offer coverage to anyone, with limits on what they can charge, above average cost;
- phased reduction of rating up based on experience of individuals/groups;
- require providers to accept any form of insurance coverage with limits on common data reporting for all insurance company products;
- require brokers and agents to offer public products;
- require phased-in electronic health transactions;
- increase provider recruitment/retention activities; and
- offer a moratorium on insurance benefit mandates until 2010.

Representative Trujillo asked if all New Mexicans would have to purchase health care. Ms. Esquibel responded that everyone would have to buy health care. She noted that the state of Maine created a plan without a mandate and the population did not sign up for health care. Representative Trujillo noted that many people work for cash and he does not understand how people in the cash economy are going to be compelled to purchase health care. He also noted that the state has an illegal alien population and that it could be difficult to compel them to purchase health care and prevent them from using the emergency room. Mr. Burciaga responded that it is necessary to create a "culture of coverage" and that one mechanism for enforcement might be a requirement to show proof of health care when registering a car.

Senator Rawson stated that there is a lot of turnover in the construction industry. As a result, business usually has a waiting period for beginning coverage. He also asked how workers' compensation factors into the universal health care plans.

Representative Bratton noted that large insurers negotiate with providers and that some providers are beginning to refuse to accept certain insurance plans. Indeed, some providers refuse to accept Medicare patients. Mr. Burciaga responded that, to avoid cost shifting, everyone would have coverage that would eliminate uncompensated care. Ms. Esquibel noted that part of the solution is insurance reform that would direct more of the premium dollars to direct care and that would allow the providers to receive higher compensation.

Senator Jennings stated that mandating employers to provide health care coverage could put New Mexico at a competitive disadvantage. He also noted that any universal plan would need to include a transportation component so that people can afford to travel from rural areas to major population centers. Senator Jennings stated that people are skeptical about surrendering control of health care to the Richardson administration. The administration has been issuing mandates and is not responsive to questions from legislators.

Senator Smith noted that the state does not have the luxury of running a deficit like the federal government and cannot afford to make an error with the budget for universal health care. He asked what interaction there might be between the New Mexico universal health care proposal and a federal plan. Mr. Burciaga stated that the federal plan currently under consideration deals primarily with children and may or may not continue to allow state waivers. Mathematica did not take into consideration any federal plans.

Senator Smith stated that the state has not adequately funded existing retirement plans and that he is very concerned about jumping into a new, very expensive program that has a lot of unknowns.

Representative Heaton stated that he does not believe that the federal government will provide a universal health care plan and that it will be up to the states to find solutions. He noted that the American health care system is grossly inefficient. He said that the system is a "procedure-driven" system and that providers are not paid to make people well, they are paid to perform procedures. He stated that we have experience with Medicare and Medicaid and that these are essentially single-payer plans. He stated that New Mexico has 400,000 uninsured citizens. Even if many of the uninsured can be covered by Medicaid, the state would need to spend $280 million to cover the rest. He said that the estimate of uncompensated care is $500 million. Accuracy of this estimate is very important because the success of a universal health care plan depends upon elimination of uncompensated care.

Representative Heaton asked if a universal care plan would be an obligation of the state from the GASB rules. Ms. Esquibel said she is not familiar with the GASB implications.

Senator Carraro stated that the obligations of the state are such that it is essentially broke. He cautioned that the state must not embark on a program that will cause the legislature to raid the permanent funds.

Senator Papen reiterated the need for a transportation component to the universal plan. She expressed concern about providers accepting universal health care and remaining in the state.

Representative Varela stated that the first thing that needs to be done is to bring existing health care costs under control. The same needs to be done with the insurance industry. He believes that this issue cannot be dealt with during a thirty-day session of the legislature.

Small Business Investment Corporation (SBIC)

-Paul Goblet, Financial Advisor, SBIC

The chronological history of the SBIC is summarized as follows:

2000

- Enabling legislation to create SBIC passed in session.
- Granted 1/4% of Severance Tax Permanent Fund (STPF).

- Board appointed by Governor Johnson.
- Purpose: make equity investments in New Mexico businesses for land, buildings and equipment in support of SBA- or USDA-approved loans.

2001

- $10 million distributed to SBIC.
- Board creates/adopts bylaws and investment policy.
- Board retains financial advisor to develop a marketing and investment strategy.
- Board determines best investment strategy is to partner with financial.
- Partners versus making direct investments to broaden distribution of capital and to expand scope of activity to include lending.

2002

- Board seeks amendment of statute to utilize financial partners.
- Board approves first equity investment in Santa Fe business.
- Legislature approves amendments to statute.
- Board develops and approves expanded investment policy.
- Board begins development of formal relationships with financial partners.

2003

- SBIC signs agreement with ACCION NM to provide up to $5 million in capital for micro-loans.
- SBIC becomes first limited partner investor in Flywheel Ventures to provide seed stage equity to technology companies. Commits $1.3 million.
- SBIC established micro-loan lending pool with the New Mexico Community Development Loan Fund for $2 million.
- SBIC becomes initial institutional limited partner investor in Verge Fund to make early-stage investments in technology companies. Commits $1.3 million.

2004

- SBIC seeks and receives an increase from 1/4% from to 1/2% from STPF.
- SBIC helps to create new equity fund to invest in traditional businesses and becomes primary limited partner in New Mexico Growth Fund. Commits $1.5 million.
- SBIC expands commitments to Verge Fund to $1.8 million, helps to start parallel Verge 1.5 Fund. Commits $3 million.
- SBIC creates micro-lending relationship with WESST Corp. for $500,000.

2005

- SBIC seeks and receives additional 1/4% from STPF.
- SBIC helps to create new social fund in New Mexico. Becomes catalyst in creation of New Mexico Community Capital. Commits $6 million in capital as founding Limited Partner.
- SBIC increases commitment to New Mexico Growth Fund to $5 million.

2006

- SBIC aids New Mexico Community Capital and New Mexico Growth Fund in sourcing additional limited partner investors. Increases commitments to both funds.
- SBIC helps create New Mexico Growth Fund II. Commits $3.5 million.

2007

- SBIC seeks and receives increase to 1% of STPF.
- SBIC helps to create New Mexico Gap Fund to make incubation-type equity investments in technology startups.
- SBIC expands relationship with the loan fund to provide $3.5 million in micro-loans.
- SBIC increases commitments in New Mexico Growth Fund I and New Mexico Community Capital.
- SBIC begins dialogue with two additional lending financial partners.
- SBIC board agrees to lead financial education initiative in cooperation with the Small Business Development Corporation and others to assist businesses in becoming more likely to secure business loans or equity investments.

The goals of SBIC are summarized as follows:

- SBIC hopes to identify and fill the funding gaps in New Mexico versus competing with traditional, efficient sources of capital.
- SBIC endeavors to be catalytic in the formation of financial partners to provide equity capital to small, emerging New Mexico businesses.
- SBIC tries to ensure the delivery of capital outside of the Albuquerque metro market via its agreements with financial partners.
- SBIC hopes to be a primary source of capital to New Mexico small businesses, most of which would not receive loans or equity investments from traditional sources.
- SBIC strives to achieve attractive financial returns to the taxpayers while being a driver of economic development and community enhancement.

The current status of investments and finances is summarized as follows:

- SBIC, through its partnerships with ACCION NM, the loan fund and WESST Corp., has made over 1,300 micro-loans to business in over 100 communities.
- SBIC has been catalytic in the creation of seven New Mexico domiciled equity investment funds.
- SBIC has made equity investments as small as $75,000 and as large as $3 million in 22 New Mexico businesses.
- SBIC has actively participated in Lieutenant Governor Denish's small business forums in 24 communities around the state.
- SBIC has committed nearly $9 million to micro-lenders, which has led to over $15 million in loans over four years, and has committed over $23 million to seven equity investment funds.
- Annual loan loss experience of approximately 3%.
- Too early to gauge equity investments. All but one is carried at cost.
- Annual administrative expenses of approximately $150,000.

- After all administrative expenses, additions to loan loss reserves and management fees for equity funds, the SBIC should generate a small positive return to the STPF.
- 1,300 micro-loans have not added a significant number of jobs, but they have strengthened numerous businesses and aided dozens of start-up businesses in over 100 communities.
- Equity investments in 22 businesses have helped create nearly 200 jobs, but these are rapidly growing businesses. For example, Aridien, Inc., in Belen employed three people in 2005. It just moved into a new 9,000 sq. ft. manufacturing facility, currently employs 15 people and anticipates increasing employment to over 30 people in the next year.
- Most of these businesses would not have been able to secure traditional capital.
- Only two of the seven equity funds would exist today without the SBIC playing a critical role in their formation and funding.

Senator Smith expressed concern about informing businesses in rural areas about the availability of loans. Mr. Goblet explained that the SBIC has contractual relationships with financial partners that actually make loans. The contracts require that less than 50% of loans be made in the Albuquerque area; the balance must be made in other communities.

Senator Carraro congratulated staff for scheduling the SBIC presentation. He appreciates the update because this is a program that legislators seldom hear about. He noted that the SBIC is making loans to for-profit partners who, in turn, actually make loans to small businesses. Mr. Goblet responded that the SBIC is a cost-effective conduit for money. The SBIC does not have the infrastructure to make and manage loans.

Senator Carraro asked about the current assets of the SBIC. Mr. Goblet responded that the balance is $30 million. Senator Carraro also asked about earnings. Mr. Goblet stated that the SBIC earns 3% on loans and is expecting to receive 20% on private equity investments; however, it is too soon to have actual earnings on the private equity investments.

Senator Carraro stated that the way the SBIC is functioning is not what he envisioned when he co-sponsored the legislation that created the SBIC.

Representative Larrañaga asked about the amount or number of loans outside of Albuquerque. Mr. Goblet responded that approximately one-third of loans are outside of Albuquerque; the dollar volume is lower than one-third.

Representative Bratton noted that passing taxpayer money to for-profit lenders may be a violation of the anti-donation clause of the constitution.

Subprime Lending Investments

-Gary Bland, SIC
-Kay Chippeaux, Fund Manager, SIC
-Bob Gish, Public Employees Retirement Association (PERA)
-Bob Jacksha, Educational Retirement Board (ERB)

Subprime lending is defined as loans made to credit-impaired borrowers. Borrowers may have any combination of the following:

- low FICO (creditworthiness) scores, generally below 620, an impaired payment history or bankruptcy;
- unable to document income;
- low income;
- low collateral value; or
- high ratio of total expenses (including debt payments) to income.

Borrowers are generally charged higher interest rates, points and origination fees. Documentation and verification of income and collateral are much less stringent than with prime loans. Loans are generally smaller, have higher loan-to-value ratios and have prepayment penalties, making it difficult for the borrower to refinance to more attractive prime mortgages.

The types of subprime mortgages issued include:

- hybrid ARMs (adjustable rate mortgages) loans that generally have an initial low teaser rate for two to 10 years, then reset to a floating interest rate that is usually much higher;
- interest-only loans that require a borrow to pay interest for a set number of years, then switch to a higher payment to amortize the balance over the remaining life of the loan;
- traditional mortgages at higher rates; and
- loans with a high loan-to-value ratio.

Factors causing distress in subprime investments include:

- late 2005 and all of 2006 saw peak origination volumes and sharply decreased underwriting quality, partially caused by overall global liquidity. Too much money chasing too few deals lowering the required reward for the risk taken;
- hybrid ARM loans made in 2005 are resetting, and homeowners are unable to pay the higher mortgage payments;
- house price appreciation is down, making refinancing difficult or impossible; and
- increased underwriting requirements and decreased mortgage liquidity today make it difficult to refinance and/or modify mortgages.

The outlook for investors includes:

- borrowers delinquent on their mortgage payments for 2006 are high, especially for this early in the seasoning process;
- expectations for losses in 2006 vintage subprime collateral are expected to be in the 10%-15% range;
- some banks are using "Mod Squads" for loan modification of existing mortgages. This is expected to have limited success;
- the most at-risk subprime collateral in CDOs is from late 2005, all of 2006 and early 2007 collateral;
- the rating agencies will continue to downgrade ABS collateral and tranches in ABS CDOs;
- there may continue to be pricing pressure and market value volatility due to forced selling because of downgrades, margin calls and overall lack of liquidity (no willing

buyers in the short term) in the current ABS markets; and
- risks: contagion, unemployment increases and impact on economy.

Delinquencies have increased due to the following factors:
- lax underwriting procedures: many mortgage lenders loosened lending procedures and many loans were given based on poor documentation, no verification of income and no money down. In response, lenders have tightened lending standards;
- a correction in the housing market: from January 2006 to January 2007, data show housing prices have declined nationally by 4.7%; and
- resetting rates of ARMs: many subprime borrowers borrowed at adjustable rates with low introductory rates that have risen and make payments less affordable.

The investments most affected are:
- lower-rated mortgage backed securities (MBS), with the collateral of subprime loans:
  - MBS securities are packaged together and "securitized" or pooled together and sold on the open market. Purpose is to pool together exposures and risks of various assets (in this case, mortgages) and sell to investors;
  - MBS securities with larger tranches of subprime loans or with very low quality subprime loans are rated below investment grade; and
  - lower rated MBS with subprime loans as collateral most at risk; and
- collateralized debt obligations (CDOs) with large subprime exposure: CDOs are structured investment products with underlying collateral from debt instruments. Most at risk are the equity tranches of CDOs that have no investor protections.

Senator Griego asked about the impact of the federal reserve's infusion of funds in the market. Mr. Bland responded that the infusion of funds did not go into the subprime market and that it will take time for the infusion to have an impact. Mr. Bland also noted that defaults on prime loans are running higher than defaults on subprime loans. Defaults on prime loans are at a current rate of 4.0% compared to a normal rate of 0.4%. These defaults are typically on expensive vacation homes, e.g., in Vail and Aspen, and occur in the course of divorce.

Mr. Bland and Mr. Jacksha both observed that the greater worry than the performance of subprime investments is the overall impact on the equity market resulting from uncertainty.

In-Depth Examination of Real Estate Investing

-Steven Novick, Courtland Partners, Ltd.

Institutional real estate includes the traditional, such as office, retail, residential (apartments), industrial and hotels. Nontraditional property types include for-sale residential housing, senior housing, student housing, self-storage and structured finance (mezzanine loans).

Investors in institutional real estate include:
- pension funds and large institutions (endowments, corporations, etc.):

    - typically, 6-10% of portfolio allocated to real estate;
    - tend to own direct holdings and invest through pooled fund vehicles;
    - invest in both real estate debt and equity investments; and
    - usually outsource their real estate investing to an investment manager.
- private equity funds (private real estate):
    - seek value add - opportunistic returns;
    - perform acquisition, management, and disposition of assets; and
    - usually -5-8+ year time horizon.
- real estate investment trusts "REITs" (public real estate); and
    - usually publicly traded - some investors view these more as common equity than real estate.
    - not taxable at a corporate level;
    - own portfolios of real estate assets, usually in particular sectors; and
    - typically subject to corporate governance rules and regulations (e.g., the Sarbanes-Oxley Act).

Public vs. Private Real Estate	
Private real estate	Public real estate
Control of property assets	Greater liquidity
More stable income stream	More informational efficiency in asset pricing
High transactions costs	Greater geographical/property diversification for a given amount invested
Appraisal-based valuations	Increasing popularity with international legislation and increasing capital flows
Lower volatility of returns	Higher volatility of returns
More market inefficiencies create opportunity for value and opportunistic returns	

The types of private real estate investments are:

- open ended funds
    - typically core (8% return objective); and
    - can invest and redeem at certain times (no control except redemption timing).
- closed ended funds:
    - typically value or opportunistic (-12-20% + return objective); and
    - 7 - 10 year investment cycle (limited to no control).
- joint ventures (separate accounts):
    - can choose joint-value partner based on risk/return parameters;
    - maintain major control rights; and
    - term varies and controlled by pension fund.

The function of a real estate consultant is to:

- advise institutions on their real estate allocations;
- advisors do not invest their own funds; they earn fees based on assets under

advisement; and

- review policies, procedures, allocations and recommended investments for pension fund and other clients.

The LFC reported on the status of real estate investments.

SIC and ERB have target allocations to real estate while PERA has allocations to real estate and real assets. Real estate can be direct or indirect investments in properties, including but not limited to: apartments, hotels, office buildings and industrial sites. Real assets are investments in tangible assets other than property such as timber, energy and natural resources and commodities. SIC has been investing in real estate since 2003, while retirement funds only started investing in 2007. Allocations as of March 31, 2007 are as follows:

	Real Estate		Real Assets	
	Actual	Target	Actual	Target
SIC-LGPF	1.3%	3.0%		0.0%
SIC-STPF	2.2%	3.0%		0.0%
ERB	4.3%	5.0%		0.0%
PERA	0.0%	2.5%	0.0%	2.5%

SIC, as of 3/31/07, has $245 million invested and has committed $601.8 million. PERA has committed $30 million to an opportunist real estate fund (Carlyle Real Estate V). The main benchmark for real estate is the National Council of Real Estate Investment Fiduciaries (NCREIF) index, which is an index of property operating information. Courtland Partners, real estate advisor to SIC and ERB, also maintains a database separated into value and opportunistic strategies. As the chart shows below, the historic range of annualized returns for each category is between 10% and 17%.

Investments within the real estate class can be diversified in three ways: strategy, geography and property type. Strategy diversification categorizes investments as core, value or opportunistic in order of risk.

Geographic diversification is categorized by region (national versus international, west versus east) or by size (urban versus rural). Property type diversification is categorized by the mix of properties: apartments, office buildings, hotels, etc.

A comprehensive comparison of agency investments can be found on the LFC web site (http://legis.state.nm.us/lcs/lfc/lfcpublications.asp) under the heading "Quarterly Investment Reports".

Representative Larrañaga asked about the geographic location of real estate investments. Mr. Novick stated that the most promising markets are on the east and west coasts. Urban retail properties are very desirable.

Other Business

There was no other business brought before the committee.

The committee adjourned at 4:30 p.m.

MINUTES
of the
FOURTH MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

September 5, 2007
State Capitol
Santa Fe

The fourth meeting of the Investments and Pensions Oversight Committee for the 2007 interim was called to order by Senator John Arthur Smith, chair, on Wednesday, September 5, 2007, at 10:15 a.m. at the State Capitol in Santa Fe.

Present
Sen. John Arthur Smith, Chair
Rep. Donald E. Bratton
Rep. Larry A. Larrañaga
Sen. Carroll H. Leavell
Sen. Mary Kay Papen
Rep. Henry Kiki Saavedra
Rep. Jim R. Trujillo
Rep. Luciano "Lucky" Varela

Absent
Rep. John A. Heaton, Vice Chair
Sen. Joseph J. Carraro
Sen. Phil A. Griego

Advisory Members
Sen. Carlos R. Cisneros
Robert Gish, Public Employees Retirement Association (PERA)
Bob Jacksha Educational Retirement Board (ERB)
Adam Levine for Gary Bland, State Investment Council
James Lewis, State Treasurer
Rep. Patricia A. Lundstrom
Olivia Padilla-Jackson, Board of Finance
Rep. John Pena
Rep. Jane E. Powdrell-Culbert
Sen. Leonard Lee Rawson
Rep. Sheryl Williams Stapleton

Rep. Andrew J. Barreras
Sen. Pete Campos
Rep. Miguel P. Garcia
Sen. Stuart Ingle
Sen. Michael S. Sanchez
Sen. H. Diane Snyder
Rep. Eric A. Youngberg

Staff
David Abbey, Legislative Finance Committee (LFC)
Michelle Aubel, LFC
Cleo Griffith, Legislative Council Service (LCS)
Larry Matlock, LCS
Wayne Probst, LFC

Stephanie Schardin, LFC
Doug Williams, LCS

Guests

The guest list is in the meeting file.

<u>Wednesday, September 5</u>

The committee adopted the minutes of the August 14, 2007 meeting.

New Mexico State Firefighters Association (NMSFFA); Retirement

—Ronnie Walls, Secretary/Treasurer, NMSFFA
—Vernon Muller, Deputy State Fire Marshal

There are approximately 6,500 volunteer firefighters in New Mexico; however, the PERA database contains 16,000 names of volunteer firefighters. PERA initiated a process in an attempt to purify its database. The deadline for responses has passed and only 222 of 367 volunteer fire departments responded to the PERA questionnaire.

The PERA maintained that the Volunteer Firefighter Retirement Fund has a current balance of approximately $43 million. The annual new revenue to the fund is $750,000, and the annual payout is $450,000.

Approximately 350 firefighters are currently receiving retirement benefits.

Mr. Walls suggested that the PERA database might be examined for entries with no activity for over two years. Names with no activity could be transferred to an inactive list. In this way, the actuary might be able to provide a more accurate estimate of the impact of an improvement in retirement benefits.

Mr. Muller suggested that database purification might be accomplished by the Office of the State Fire Marshal working through local governments.

Representative Varela asked if fire chiefs can be informed of the fact that the volunteer benefit does not affect other retirement benefits. Mary Frederick, PERA, responded that such a notification could be mailed.

Senator Leavell asked if legislation is required to purify the database. Mr. Muller responded that he will consult legal counsel at the Office of the State Fire Marshall's Office.

Senator Papen asked if individual firefighters can self-identify to the PERA rather than depending upon the local fire chief. Mr. Slattery, PERA, responded that current law requires certification by the fire chief.

Senator Rawson asked if volunteer firefighters are covered by workers' compensation. Mr. Muller said that he would investigate workers' compensation eligibility.

Senator Rawson suggested imposing an annual filing fee to be submitted by volunteer firefighters as a way of annual certification of active status.

Representative Trujillo suggested legislation requiring local governments to file the necessary annual certification. Mr. Muller said that the Office of the State Fire Marshal's Office is investigating the need for legislation.

Senator Smith suggested examining volunteer firefighter practices in other states. He noted that the legislature wants to help, but does not know how to proceed. Senator Smith requested staff to research the issue and indicated that model legislation may be needed. He also noted that the New Mexico Municipal League and New Mexico Association of Counties should be involved.

New Mexico Retiree Health Care Authority (NMRHCA); Update

—David Abbey, Director, LFC
—Katherine Miller, Secretary, Department of Finance and Administration
—Marie Thames, Executive Director, NMRHCA
—Danielle Wilson, Chair, NMRHCA Board

Two major issues were discussed:

- the solvency period has declined from 25 years in FY06 to nine years in FY08; and
- as the result of a recent reporting requirement, GASB 45, the state has a $5 billion unfunded accrued actuarial liability (UAAL).

The factors affecting solvency include:

- the rising costs of health care and increasing membership;
- overly generous service and eligibility requirements, benefits packages and subsidies;
- premium increases have not kept up with rises in health care costs;
- the relatively young age of retirees;
- membership is expected to increase 7% to 8% per year;
- claims costs are expected to increase at 8% to 20%+ per year; and
- expenditures are outpacing revenue streams.

Additional factors involving the amount and type of subsidy include:

- premium subsidies provided to retirees, spouses and dependents are applied without a clear correlation to the underlying, true cost or to the amount an individual paid into the system;
- younger retirees receive a greater subsidy than Medicare-eligible retirees; and
- the amount of the subsidy applied by years of credible service is established in an administrative rule, but implemented by the Board of Directors.

Finally, the system was not adequately funded at inception; therefore, all of the active employer/employee contributions are being spent to provide benefits to the retirees and their families.

The work group considered numerous options and will recommend those that are deemed to have the greatest impact on the solvency of the fund and that raise the greatest amount of revenue. Possible work group recommendations include:

Action	Savings (in millions)	Additional Solvency (in years)
A fully insured Medicare benefit	$4.0	2.0
Decreasing retiree and spouse subsidy by 10%	$14.0	7.0
Implementing age and service: rule of 70 for public safety, rule of 80 for all other retirees	$6.0	3.0
Increasing contributions: active employee 0.05%, employer 0.10%	$4.0	2.0
Maintaining general fund appropriation	$3.0	1.5
Subtotal, including changes already made by the NMRHCA board	$38.6	19.1
Existing solvency period		9.0
Total solvency if all recommendations are implemented		28.1

Other potential recommendations include:

- adopting effective disease management;
- contracting with fewer carriers;
- attestation regarding other coverage;
- implementing a statewide formulary;
- consolidating administrative functions (GSD, PSIA, RHCA);
- consolidating "pools"; and
- rebalancing board composition.

Mr. Abbey suggested that increasing active employee/employer contributions diverts available funds that might be directed toward salaries. New Mexico state government already has a high benefit overhead of approximately 39%, and this places the state at a competetive disadvantage compared to other employers.

Ms. Miller noted that a multipronged approach is needed to solve the problem. It will require participation by retirees, active employees, the legislature and the NMRHCA board.

Representative Bratton asked about the savings associated with implementation of the rule of 80. Mr. Abbey responded that the rule of 80 would result in a $6 million annual savings.

Representative Bratton asked if retirees who return to work are required to use health care coverage provided by a new employer rather than RHCA benefits. Ms. Thames responded that there is currently such a requirement.

Senator Smith asked about the working group's recommendations concerning the composition of the NMRHCA board. Mr. Abbey responded that the group has discussed greater representation by state officials such as the secretary of finance and administration.

Representative Varela requested Mr. Abbey to obtain the most current NMRHCA financial reports.

Representative Varela stated that he wants retirees to be informed about the working group's recommendations before the legislature takes any action. Ms. Wilson responded that the NMRHCA will use its periodic newsletter to keep retirees informed.

State Treasurer's Office; Proposed Legislation

—James Lewis, State Treasurer

The Local Government Investment Pool (LGIP) was established by the legislature in 1988. The LGIP has a current market value of $1 billion. As of August 31, 2007, the LGIP had a gross yield of 5.3748% and a weighted average maturity of 31 days. The LGIP has a Standard & Poors rating of AAAm.

Currently, participants in the pool include:

- 42 cities, towns and villages;
- four judicial districts;
- 18 counties;
- 39 school districts;
- 16 special districts;
- eight universities and colleges; and
- eight quasi-governmental agencies.

The proposed 2008 LGIP legislation would:

- allow direct participation by Indian pueblos and tribes and other new participants (such as the Renewal Energy Transmission Authority, a newly created quasi-governmental agency) without having to amend the statute each time a new entity wants to invest in the fund;
- create a medium-term fund (maximum 3-year maturity) for eligible governing bodies to invest bond proceeds of local bond issues. Arbitrage rebate calculation services will be offered to participants;
- eliminate the 181-day maximum investment term for participating entities, allowing longer investment periods at their discretion;
- extend the state treasurer's maximum portfolio maturity from 13 months to three years;
- allow enhanced local government investment services; and

- allow the state treasurer to invest the general fund in the LGIP for liquidity management purposes. The general fund investment would be limited to no more than 5% of the LGIP fund market value.

Senator Smith noted that, last year, this legislation passed the House and was voted favorably by the Senate Finance Committee but failed to pass the Senate because of time considerations. He also stated that the legislation was not controversial.

Investment Performance Update; June 30, 2007 Quarterly Reports

—Bob Jacksha, ERB
—Robert Gish, PERA
—Adam Levine, State Investment Council (SIC)

Mr. Jacksha reported the ERB investment results as follows.

- Over the last 12 months, the fund experienced a gross investment gain of $1.4 billion, easily outpacing the $146.1 million in net distributions. The fund recorded a gross investment gain of $348.0 million for the quarter. Total assets increased from $9.1 billion at the beginning of the quarter to $9.4 billion, with $26.3 million in net distributions.

- Over the past five years, the fund returned 11.5% per year, beating its policy index by 0.1% and ranking in the thirtieth percentile of the Independent Consultant Cooperative's Public Funds Universe.

- For the year, the fund returned 17.6%, trailing its policy benchmark by 0.3% and ranking in the thirty-fourth percentile of public funds.

- For the quarter, the fund posted a 3.9% return, beating its policy index by 0.4% and ranking in the fifty-second percentile of public funds.

- Total equity exposure was 61.1%, which is above the target by 3.1% and under the upper limit of 63%. This exposure is higher than the first quarter and can be attributed to a strong quarter for both domestic and international equities. An additional $330 million was funded to hedge fund managers, bringing hedge fund exposure to 8.2%, which is 3.2% over its current target. Private equity continues to be underweight relative to its target as the program is implemented.

A summary of market value for fiscal year 2007 is as follows:

Beginning market value	$8,167,083
Net external growth	-146,068
Return on investment	1,418,112
Income received	181,163
Gain/loss	1,236,949

Ending market value	$9,439,127

Senator Smith asked about ERB's accrued liability. Mr. Jacksha responded that it stands at $3.6 billion and is expected to decline.

Representative Larrañaga asked about the return on investment compared to the ERB 8% benchmark. Mr. Jacksha stated that total annual return was 17.6%, or 9.6% over the benchmark.

Representative Larrañaga asked how the PERA's assets may be invested in alternative investments. Mr. Gish stated that the board policy is to permit 5% in hedge funds, 5% in private equity and 5% in real estate.

Representative Bratton expressed concern over sub-prime lending investments.

Representative Larrañaga noted that there are differences in the asset allocations for the Land Grant and Severance Tax Permanent funds. Mr. Levine responded that, for the most part, the two funds have identical asset allocations; however, the Severance Tax Permanent Fund (STPF) was designated by the legislature for participation in the New Mexico private equity program.

Mr. Levine reported the SIC investment results as follows.

- Over the last 12 months, the combined funds experienced a net investment gain of $2.4 billion with $924.8 million coming in the quarter. Net contributions totaled $86.3 million for the year. Total assets increased from $15.1 billion at the beginning of the quarter to $16.1 billion at quarter end with $31.2 million in net contributions.

- Over the past five years, LGPF returned 11.1% per year, outperforming its policy index by 0.3% and ranking in the forty-sixth percentile of the Independent Consultant Cooperative's Endowments and Foundations Universe. Over the same period, STPF returned 10.9% per year, lagging its policy index by 0.2% and ranking in the fifty-fourth percentile.
- For the year, LGPF returned 17.9%, outperforming its policy index by 0.6%, while the STPF returned 17.8%, performing in line with its policy. For the quarter, LGPF returned 6.1%, surpassing its policy return by 1.5%. Over the same period, STPF outperformed its policy index by 1.7%, with a return of 6.5%.

A summary of market value for fiscal year 2007 is as follows:

Beginning market value	$13,624,701,792
Contributions	786,043,211
Distributions	-699,752,306
Net transfers	86,209,905

Fees	-18,183,332
Income	438,233,259
Capital appreciation	1,973,577,975
Net investment gains	2,393,627,902
Ending market value	$16,104,620,599

Mr. Gish reported that the PERA's fiscal year 2007 investment return was 18.08% compared to a benchmark of 16.71%.

In-Depth Examination of Equity Strategies
—Gary Bland, SIC

This agenda item was postponed until the October 17, 2007 meeting.

Discussion of Agenda Items for the October 17, 2007 Meeting

- **State Fire Marshal; Retirement**
  —Vernon Muller, Deputy State Fire Marshal
- **Department of Public Safety, Motor Transportation Division; Retirement**
  —Lt. Colonel Mark C. Rowley
- **Other**

Other Business
There was no other business brought before the committee.

The committee adjourned at 4:00 p.m.

MINUTES
of the
FIFTH MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

October 17, 2007
Room 307, State Capitol
Santa Fe

The fifth meeting of the Investments and Pensions Oversight Committee (IPOC) for the 2007 interim was called to order by Senator John Arthur Smith, chair, on Tuesday, October 17, 2007, at 10:15 a.m. at the State Capitol in Santa Fe.

Present
Sen. John Arthur Smith, Chair
Rep. Donald E. Bratton
Rep. Larry A. Larrañaga
Sen. Mary Kay Papen
Rep. Henry Kiki Saavedra
Rep. Luciano "Lucky" Varela

Absent
Rep. John A. Heaton, Vice Chair
Sen. Joseph J. Carraro
Sen. Phil A. Griego
Sen. Carroll H. Leavell
Rep. Jim R. Trujillo

Advisory Members
Rep. Andrew J. Barreras
Gary Bland, State Investment Council
Amy Chavez for Olivia Padilla-Jackson, State Board of Finance
Rep. Miguel P. Garcia
Bob Gish, Public Employees Retirement Association
Bob Jacksha, Educational Retirement Board
Rep. Patricia A. Lundstrom
Joelle Mevi for James Lewis, State Treasurer
Rep. John Pena
Rep. Jane E. Powdrell-Culbert
Rep. Sheryl Williams Stapleton

Sen. Pete Campos
Sen. Carlos R. Cisneros
Sen. Stuart Ingle
Sen. Leonard Lee Rawson
Sen. Michael S. Sanchez
Sen. H. Diane Snyder
Rep. Eric A. Youngberg

Staff
Norton Francis, Legislative Finance Committee (LFC)
Cleo Griffith, Legislative Council Service (LCS)
Larry Matlock, LCS
Doug Williams, LCS

Guests

The guest list is in the meeting file.

Wednesday, October 17

The committee adopted the minutes of the September 5, 2007 meeting.

State Fire Marshal Retirement — Vernon Muller, Deputy State Fire Marshal

The Fire Marshal's Office is seeking 20-year retirement. The change in benefits would affect 25 employees.

Senator Smith commented that before the legislature makes any changes in retirement benefits, it must be demonstrated that the state will be able to honor its commitment to the retirees. He stressed that he is not opposed to the enhancement of benefits, but wants to be certain that the state can afford the long-term cost.

Representative Larrañaga asked about the status of an actuarial study. Mr. Muller responded that negotiations with the Public Employees Retirement Association (PERA) have begun, and it is anticipated that a study will be completed in November. Terry Slattery, executive director, PERA, added that the study will examine the impact of adding the Fire Marshal's Office to the state police plan. If the fire marshal employees join the state police plan, the employee contribution will increase from 7.14% to 7.60%. The employer contribution will increase from 16.14% to 25%.

Representative Bratton noted that the change would also affect the Retiree Health Care Authority solvency. He also stated that there are high-risk jobs in the private sector, but 20-year retirement is not typical. He commented that the legislature needs to be fair to the tax-paying public.

Representative Lundstrom commented that she believes the enhanced retirement benefit is a recruitment and retention incentive.

Representative Varela noted that the legislature needs to examine the total package of enhanced retirement benefits, including municipal firefighters, correctional officers, etc.

Representative Pena agreed with Representative Varela that a comprehensive review is needed.

Representative Lundstrom requested that a list of all proposals be prepared for consideration by the legislature.

Department of Public Safety, Motor Transportation Division (MTD); Retirement — Lt. Colonel Mark C. Rowley

The MTD is having a difficult time in attracting and/or retaining competent law enforcement officers due to the recent trend of other police agencies offering 20-year retirement and higher entry-level or competitive lateral-entry salaries and bonuses. The MTD is very concerned at the high employee turnover rate coupled with the increasing difficulty in recruiting and retaining employees, as evidenced by nearly a 26% turnover in trained commissioned personnel within a 30-month period.

Up until several years ago, the MTD had been a training ground for those applicants who sought to get their foot the door and then move on to better-paying law enforcement jobs. Commissioned officer turnover rates were as high as 19.5% during calendar year 2003. Significant salary increases allowed the division to retain employees and become more competitive in attracting qualified applicants. Unfortunately, the MTD is again competing with other law enforcement agencies in a highly competitive environment for both entry-level and experienced police officers. Police agencies within New Mexico and around the country are offering highly competitive salary and bonus incentives to encourage experienced police officers to lateral into their agencies. The MTD is now seeing a new trend of losing well-trained senior commissioned officers to other agencies that offer 20-year retirement and bonuses, in addition to being unable to attract qualified entry-level officers because the division does not participate in a 20-year retirement program.

Exit interviews indicate that the majority of employees who left the agency enjoyed working for the Department of Public Safety (DPS) and would have remained with the MTD if it offered 20-year retirement. This high turnover rate of experienced officers has resulted in a high degree of institutional memory loss and in an inefficient utilization of resources and appropriated funding for hiring and training these employees. It costs roughly $50,000 to train a new employee to the point where the officer is able to perform the duties necessary to contribute to the overall mission of the agency.

In addition, different retirement plans among divisions within the DPS, coupled with an aggressive recruitment and lateral-entry program within the New Mexico State Police, is resulting in the potential loss of additional experienced MTD officers.

In an effort to ameliorate this situation, it is necessary to establish a compensation and benefit system for MTD police officers that will provide an avenue to attract qualified applicants, retain employees who contribute to the overall mission of the organization, motivate employees to maintain high standards, productivity and service and reward employees for exemplary achievement. This compensation and benefit system should recognize internal equity within the department and external competitiveness with other state and federal governments' pay and benefits.

Mr. Rowley believes that the DPS and the New Mexico Legislature have already taken bold and significant steps in resolving the law enforcement compensation problem during the last several legislative sessions. Developing alternative pay bands and significant salary increases for the MTD and Special Investigations Division (SID) officers did not disrupt the separate personnel systems while simultaneously approaching parity within the law enforcement program and developing a competitive salary structure within the law enforcement community.

The second part of the equation to remain competitive within the law enforcement community is to designate legislatively Motor Transportation Police (MTP) officers and SID agents as "hazardous duty members" and move them into the State Police and Adult Correctional Officer Coverage Plan I during the upcoming 30-day legislative session. This action will place DPS officers in a retirement plan that is consistent with retirement benefits found in the majority of New Mexico law enforcement agencies. The actuarial study necessary to accomplish this is estimated to be completed during November, at which point it will be made available for review.

Mr. Rowley believes that the most pressing issue facing the MTP and SID today is the disparity in retirement plans within the DPS and within the New Mexico law enforcement community. Placing the MTP and SID officers into the State Police and Adult Correctional Officer Coverage Plan I will bring the law enforcement program closer toward parity, in addition to enhancing the agency's ability to retain trained, experienced officers and to recruit qualified officers to fill vacancies.

Mr. Rowley stated that the lack of 20-year retirement places the MTD at a competitive disadvantage with respect to recruitment and retention. He noted it costs approximately $50,000 to train each officer and it is difficult to retain trained officers because of the retirement benefits.

Representative Lundstrom asked about port-of-entry enforcement. Mr. Rowley responded that the MTD has increased enforcement significantly and has identified 800 carriers that are not remitting weight distance tax.

Representative Larrañaga asked how much of the MTD's efforts are devoted to commercial vehicles. Mr. Rowley stated that 80% of the MTD's time is devoted to commercial vehicles. The remaining 20% is devoted to such activities as officer assist calls, altercations at truck stops, general vehicle safety, burglary, etc. These activities are appropriate because the MTD officers are police officers.

Representative Larrañaga asked if all divisions of the state police are included in the state police retirement plan. Mr. Rowley responded that only the MTD and the SID are not in the state police retirement plan.

Representative Varela suggested that, if retention is the problem, perhaps salary enhancement should be pursued. Mr. Rowley responded that survey data show that the number one reason people do not join the MTD is the absence of 20-year retirement, not salary.

Representative Garcia asked about the history of the MTD. Mr. Rowley responded, that over the years, the MTD has been a stand-alone department or a division within the state police, taxation and revenue, tourism and transportation departments.

Representative Garcia asked how often the MTD has approached the legislature for enhanced retirement. Mr. Rowley stated that the MTD has attempted four times to achieve

20-year retirement. Representative Garcia stated that it is important for the executive branch to make the retirement enhancement a priority.

Representative Garcia stated that he is opposed to return-to-work and asked how many MTD employees are return-to-work employees. Mr. Rowley responded that, of 125 employees, one is return-to-work.

Representative Garcia asked about urine-bomb enforcement. Mr. Rowley responded that if an MTD officer witnesses a urine bomb, the incident is cited as a hazardous material violation.

Senator Smith observed that the MTD retirement enhancement inequity is the fault of the legislature and executive.

Management Fees Alternative Investments — Bob Gish, PERA

Mr. Gish summarized the difference in fees between traditional and alternative investments as follows:

Traditional Assets vs. Alternative Investment Assets
(Private Equity, Hedge Funds, Real Estate, Others)
per $100,000 Assets

COST	RETURN/RISK
Traditional Investments	Traditional Investments
Stocks ($300)	Stocks 8% with 17% Std. Dev.
Bonds ($200)	Bonds 5% with 4% Std. Dev.
Alternative Assets (AIAs)	Alternative Assets (AIAs)
Base Fees: $1,500-$2,000	Low Correlation to Stocks & Bonds
Private Equity	Private Equity 11% with 25% Risk
Hedge Funds	Hedge Funds 7.5% with 5-6% Risk
Real Estate	Real Estate 7.5% with 9% Risk

Whether using performance fees or flat-rate/standard fees, returns "SHOULD" be the same as other clients using the same manager for the same mandate. If over the long term (three to five years) the normal fee (NF) is not earned, the "expected" added value or the objective has not been achieved, lower fees do not justify lower returns. If an underperforming manager's contract is not terminated, it is in the funds' best interest to have the lower fee via a performance fee, where the manager will earn the base fee (BF), which typically is less than the NF. A manager does not have to outperform the whole universe of investments, just the benchmark. The benchmark should reflect the manager's area of expertise. The fund should have other investment manager choices.

Representative Varela asked if the payment of fees is a separate transaction. Mr. Gish responded that the fees are deducted from the return on investment by the fund manager.

Representative Varela asked about criticisms he has heard about PERA investment in hedge funds. Mr. Gish responded that he believes that criticism is coming from those who would like to see the retirement system converted to defined contribution and who would like to benefit from such a conversion. He also noted that PERA is only investing in premier hedge funds (about 200 out of the 10,000 existing hedge funds) with large capitalization and an excellent track record for returns. PERA is seeking higher returns than from bonds and lower returns than from equities while significantly reducing risk from 17% in equities to 5% in hedge funds.

Representative Bratton asked if hedge funds create anything. Mr. Gish responded that hedge funds create wealth in the same sense that trading equities creates wealth. Representative Bratton urged caution with investing retirement money in hedge funds. He also noted that alternative investments totaling 15% of PERA assets will result in a doubling of management fees, from $25 million to $50 million annually.

Representative Larrañaga asked why alternative investment management fees are higher than those of traditional fund managers. Mr. Gish responded that traditional managers are limited to very specific investments, e.g., U.S. only, large cap, growth equities or foreign, small cap or value equities. Alternative investment managers are not limited in this way, and investors must pay for their expertise.

Representative Garcia stated that there is no regulation of hedge funds and urged caution when investing public funds.

New Mexico Film Investments; House Memorial 43 — Eric Witt, Director, Legislative/Political Affairs, Office of the Governor and New Mexico Producers Coalition (NMPC)

Mr. Witt stated that a majority of film production loans have been made to out-of-state production companies. One of the reasons is because of statutory requirements, such as the ability for local companies to demonstrate distribution capabilities and prudent investor standards. He said that the Governor's Office is exploring ways of providing other incentives to local producers.

Bill Conway and Karen Koch of the NMPC noted that only $2 million has been made available to New Mexico producers. Ms. Koch stated that New Mexico producers believed they were in compliance with State Investment Council (SIC) rules, but they feel the rules were changed.

Representative Larrañaga asked if the Governor's Office has any recommendations. Mr. Witt said that the House Memorial 43 working group has prepared preliminary recommendations; however, the report needs further work before it can be released. He noted that the safeguards in current law are strict in order to protect taxpayer money. Ironically, if a production company satisfies all the requirements, the less likely it is to need a loan from the SIC. At the same time, Mr. Witt stated, it is in the interest of the state to encourage and support local production companies.

Representative Larrañaga asked if the Governor's Office would be recommending that a certain amount of money be set aside in a New Mexico-only fund. Mr. Witt responded that he believes the film investment program should be market-driven and not be a subsidy for marginal productions. He said that one alternative might be a tax credit rather than a loan.

Senator Smith asked when a draft of the working group report would be available. Mr. Witt indicated that a draft could be available in about a week.

Examination of Equity Strategies — Gary Bland, SIC

Mr. Bland summarized the financial condition of the land grant, severance tax and tobacco settlement permanent funds as follows:

New Mexico Permanent Funds
Investment results since 12/31/2002
(stated in $000s)

	Land Grant	Severance	Tobacco	TOTAL
Assets				
Balance 12/31/02	6,255,967	3,123,175	56,602	9,435,744
Contributions				
1/01/03 to 6/30/03	127,427	1,031	43,759	
FY04	236,277	16,318	37,449	
FY05	320,809	12,371	38,009	
FY06	414,694	123,217	34,892	
FY07	398,602	24,073	36,239	
through 8/31/07	66211			
Total Contributions	1,564,020	177,010	190,348	1,931,378
Distributions				
1/01/03 to 6/30/03	166,392	85,476	43,759	
FY04	352,525	172,434	37,449	
FY05	422,198	173,249	38,009	
FY06	426,444	171,798	34,892	
7/01/06 to 06/30/07	438,945	170,972	18,119	
through 8/31/07	78,333	29,528		
Total Distributions	1,884,837	803,457	172,228	2,860,522
Net Contri/Dist	(320,817)	(626,447)	18,120	(929,144)
Adjusted Net Assets	5,935,150	2,496,728	74,722	8,506,600
Assets as of August 31, 2007	10,498,665	4,597,129	116,029	15,211,823
Investment Returns Since 12/31/02	4,563,515	2,100,401	41,307	6,705,223

Representative Varela asked about the cause of the subprime market problem. Mr. Bland responded that a major problem was collateral damage resulting from panic. He stated that a no-bid market emerged in which no investors were willing to purchase mortgages. Mr. Jacksha commented that some of the original problem was fraud on the part of lenders who overvalued property and borrowers who overstated earnings.

Senator Smith asked to what extent "flipping" was responsible for the subprime crisis. Mr. Bland presented anecdotal evidence of a "flipper" in Seattle who purchased five homes using equity from his primary residence. Now, he is unable to sell the five houses because lenders will not make mortgages to potential buyers. If the situation persists, the "flipper" may have to walk away from three of the properties.

Discussion of Agenda Items for the November 7, 2007 Meeting — Proposed Legislation; Actuarial Update; PERA

Senator Smith requested that the committee be presented with drafts of the bills that the committee endorsed during the 2006 interim, e.g., House Bill 313 regarding return-to-work.

Other Business

There was no other business brought before the committee.

Adjourn

The committee adjourned at 4:00 p.m.

MINUTES
of the
SIXTH MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

November 7, 2007
State Capitol
Santa Fe

The sixth meeting of the Investments and Pensions Oversight Committee (IPOC) for the 2007 interim was called to order by Senator John Arthur Smith, chair, on Wednesday, November 7, 2007, at 10:15 a.m. at the State Capitol in Santa Fe.

Present
Sen. John Arthur Smith, Chair
Rep. Donald E. Bratton
Rep. Larry A. Larrañaga
Sen. Mary Kay Papen
Rep. Henry Kiki Saavedra
Rep. Jim R. Trujillo
Rep. Luciano "Lucky" Varela

Absent
Rep. John A. Heaton, Vice Chair
Sen. Joseph J. Carraro
Sen. Phil A. Griego
Sen. Carroll H. Leavell

Advisory Members
Rep. Andrew J. Barreras
Sen. Carlos R. Cisneros
Rep. Miguel P. Garcia
Bob Gish, Public Employees Retirement Association
James Lewis, State Treasurer
Olivia Padilla-Jackson, State Board of Finance
Rep. Jane E. Powdrell-Culbert
Sen. Leonard Lee Rawson
Charles Wollman for Gary Bland, State Investment Council
Sen. Pete Campos
Sen. Stuart Ingle
Bob Jacksha, Educational Retirement Board
Rep. Patricia A. Lundstrom
Rep. John Pena
Sen. Michael S. Sanchez
Sen. H. Diane Snyder
Rep. Sheryl Williams Stapleton
Rep. Eric A. Youngberg

Staff
Doris Faust, Legislative Council Service (LCS)
Cleo Griffith, LCS
Stephanie Schardin, Legislative Finance Committee (LFC)
Doug Williams, LCS

Guests
The guest list is in the meeting file.

Wednesday, November 7

The committee adopted the minutes of the October 17, 2007 meeting.

Retiree Health Care Authority; Report of the HB 728 Group
—David Abbey, Director, LFC
—Stephanie Lenhart, Department of Finance and Administration
—Danielle Wilson, Chair, Retiree Health Care Authority (RHCA) Board

The RHCA was created in 1990 to provide health insurance benefits to eligible retirees, their spouses and dependents of certain public participating entities. RHCA was prefunded for six months prior to providing benefits. This brief period is in contrast to other retirement benefits for state employees that had much longer periods before benefits were paid out, and this has had significant ramifications as discussed below.

The RHCA provides benefits to approximately 42,000 members and has an annual budget for FY08 of $216,628,900. The RHCA is governed by an 11-member Board of Directors (Board) comprised of representatives of retirees, current employees and public employers. The Board sets overall policy for the agency, oversees the procurement of insurance benefits and approves premium adjustments and benefit designs.

The RHCA is facing three significant challenges. The first is the projected future insolvency of the RHCA Fund in as few as seven years because annual revenues have fallen short of expenditures, and RHCA has taken funding from its reserves and long-term investments to cover costs. The second challenge is that new accounting standards now require the state to publish the unfunded liability associated with nonpension retirement benefits and a significant unfunded actuarial accrued liability could eventually affect the state's bond rating. Finally, because of increasing medical costs and increasing numbers of retirees entering the system, little if any prefunding of benefits is occurring, thereby leaving the future viability of the system in doubt.

In 2006 and many previous years, the solvency of the RHCA Fund was projected by contracted actuaries to be 25 years. However, as of September 2007, the solvency was projected to be seven years, with insolvency anticipated to occur by June 30, 2014 unless significant changes are made to the system. This dramatic revision in the solvency estimates was the result of a change in the expected program participation rate, which was increased from 35% to 75%. In other words, for many years, RHCA and the state of New Mexico have been operating under an inadequate participation assumption resulting in unrealistic projections of the financial stability and long-term viability of the system.

Additionally, in 2004 the General Accounting Standards Board (GASB) issued Statements 45 and 43 requiring that states and other governmental entities publish, as part of their audited financial statements, their unfunded actuarial accrued liability (UAAL) for nonpension retirement benefits such as health insurance. Initial estimates of New Mexico's UAAL were as high as $5 billion. The level of UAAL depends on the amount of annual revenue received and whether or not the fund it is placed in is an irrevocable trust or its equivalent, thereby allowing the state to take advantage of a lower discount rate. Based upon the presumption that the RHCA operates as an "equivalent arrangement" to an irrevocable trust, the most recent estimates place New Mexico's UAAL at $4.1 billion.

However, the annual required contribution (ARC) necessary to prefund the state's current obligation is $373.9 million without interest. It should be noted that the gap between the ARC necessary to fund fully the UAAL over 30 years and the forecasted FY08 budget is $200.5 million.

In 2007, the legislature passed HB 728, introduced by Representative Varela, that established a work group to study how to preserve health care benefits for retirees. HB 728 also appropriated an additional $3 million per year for fiscal years 2008 through 2010 to the existing flow of revenue to the RHCA from the suspense fund. Membership in the work group included the Office of the Governor, the Department of Finance and Administration, the LFC, the LCS and staff and Board members from the RHCA.

HB 728 tasked the work group to:

- examine the long-term actuarial trend and condition of the RHCA Fund;
- examine the equitable nature of the current contribution rates between retirees and current employees;
- determine the percent of the fund balance derived from state sources versus the percent derived from the sources of political subdivisions, compare those percentages with the expenditures from the fund for state retirees versus retirees of the political subdivisions and study the feasibility of creating two separate programs for the two classes of retirees;
- examine options to improve the actuarial soundness of the RHCA Fund; and
- evaluate the need for, and the feasibility of, securing the RHCA Fund as an irrevocable trust.

In order to extend the solvency period and to reduce New Mexico's UAAL, the HB 728 work group considered a wide range of options. While the RHCA Board has general authority to make changes in areas such as premiums and benefit design, other changes, such as increasing the employer/employee contribution, require legislative action. Therefore, the work group placed recommendations in the following categories: changes recently enacted by the RHCA Board, recommendations that would increase the fund by $4 million or more, recommendations that would increase the fund by $2 million to $4 million, low-impact recommendations of $2 million or less and recommendations for future consideration.

In August 2007, the RHCA Board approved a number of measures intended to extend the solvency period. The Board:

- moved the self-funded Medicare prescription drug coverage to an RHCA-sponsored prescription drug plan;
- adjusted benefit designs, including increases to certain co-payments and out-of-pocket expenses; and
- approved an average 9% increase in premiums across the benefit plans while committing to tying future premium increases to medical and pharmacy trends.

In addition to the changes enacted by the RHCA Board, the work group agreed on the following recommendations that, if enacted, are expected to extend the solvency period to 17.5 years at an assumed ultimate annual health care trend rate of 8% for FY10 and after, and add approximately $54 million in revenues.

- Focus on solvency, ARC and UAAL: Develop a comprehensive set of actions that will focus not only on extending solvency but also significant prefunding for future retirees and reducing the UAAL, thereby protecting the state's financial position.
- Solvency period: Establish a 25-year solvency period with provision for regular adjustments to premiums and other revenue streams that maintain that solvency period going forward.
- Employer/employee contribution increase: Increase the employer/employee contribution to a total of 2.4% of pay for nonpublic safety personnel and 3.0% for public safety personnel to recognize the fact that full retirement is earned for the latter after 20 years rather than 25. The current employer/employee contribution is a total of 1.95% of pay based on 1.3% of pay for the employer share and .65% of pay for the employee share, with the recommended increase to a total of 2.4% pay resulting in partial prefunding of unfunded liabilities for active employees.
- Suspense fund allocation: Extend the $3 million per year increase from the suspense fund that was authorized in HB 728. For nonstate participating entities, assess an equivalent percentage of their general revenue.
- Adjust retiree and spouse subsidies: Require a retiree's cost share for the base benefit plans to 50% of projected costs and 75% for spouses (current average is 32.4% for retirees and 52.4% for spouses). It is further recommended that the subsidy percentage for the base plans be set in statute.
- Age and service adjustments: Implement the rule of 70 for public safety retirees and rule of 80 for all other retirees effective January 1, 2009. Rule of 70 means that a retiree's age plus years of service must equal 70 or greater before benefits can be taken.
- In addition to these changes, the HB 728 work group recommends the following changes that, while not having significant impact on the long-term solvency or UAAL, will improve the operations of the RHCA and the prospects for the state's retiree health care system:
    - Board composition: Rebalance the Board to add representation by the secretary of finance and administration and increase active employee representatives.
    - Annual GASB valuations and solvency modeling: Provide annual valuations each December 31 to the legislature that update GASB 43 disclosures and long-term solvency projections and model the impact of changes being recommended by the RHCA Board (including the expected impact of the total package of changes on the UAAL).
    - Health and disease management: Provide health and disease management programs from contracted insurance vendors that include measurable health outcomes and mandate health risk

assessments for members as a condition of initial and ongoing enrollment.

- Statewide consolidation: Explore economies of scale that can be gained from consolidating administrative functions of the RHCA, the General Services Department's Group Benefits Division, other smaller publicly financed health insurance pools, the Public School Insurance Authority and the Albuquerque Public Schools.
- Attestation requirement: Require that all enrollees attest that they are not eligible for other health care coverage due to other employment as a condition of initial and ongoing enrollment.

No single action by the executive, the legislature or the RHCA will restore the balance needed to the current retiree health insurance system. The HB 728 work group realized early on in its study that all participants in the system, the retirees, active employees and employers, will need to participate in addressing the state's unfunded liability and in moving the system into permanent solvency. While it is not feasible or prudent to prefund fully the program in a single year, the work group developed short-term recommendations to move the system into solvency and longer-term recommendations that will need to be considered as the state develops an approach for addressing the ARC and UAAL in a manner and over a time period that is fiscally responsible.

Representative Bratton expressed concern over the 8% growth rate used for projecting health care costs. Mr. Abbey responded that the actuary used 8% over the 30-year projection based on the reality that health care costs cannot continue to grow in double digits or else health care will consume the entire economy. Marie Thames, executive director, RHCA, stated that current actual growth is 9%, and the actuary used a 9% growth for the first five years and then 8% for the balance of the projection.

Senator Smith requested staff to explore the possibility of scheduling one additional meeting to consider the RHCA-proposed legislation.

Representative Larrañaga asked if nonstate participating employers can have their employer contribution increased by action of the RHCA Board. Ms. Wilson responded that legislation would be required.

Representative Trujillo observed that creation of a universal health care plan can have an impact on the RHCA.

Senator Smith expressed concern that difficulties with the RHCA might be used during the upcoming legislative session to rush into health care legislation.

Senator Smith asked the committee if anyone had thoughts on adopting a rule of 70 for retirees receiving RHCA benefits. There was no response.

Public Employees Retirement Association (PERA); Actuarial Update
—Terry Slattery, Executive Director, PERA

The PERA statutory obligations are:

- pension payments to current and future retired members and vested former members;
- survivor pension beneficiaries; and
- refunds of member contributions to nonvested former members and administrative and investment expenses incurred in the operation of the PERA.

The PERA statutory funding resources are:

- member contributions (fixed statutory rates);
- affiliated public employer contributions (fixed statutory rates); and
- investment earnings of the PERA assets.

The basic funding objective of the PERA is to avoid transfers of the cost of statutory obligations between generations of taxpayers. This objective will be realized if the PERA funding resources are sufficient to finance:

- costs allocated to the current year attributable to service rendered by the PERA members in the current year (normal cost); and
- costs allocated to prior years attributable to service rendered by the PERA members in prior years (UAAL).

Board policy is to finance unfunded actuarial accrued liability over a period not to exceed 30 years. This policy was adopted in October 1996. The actuarial valuation measures: (1) the relationship between the PERA obligations and funding resources to determine if the funding objective is being met; and (2) the contribution rate needed to comply with the 30-year objective for financing the UAAL. The June 30, 2007 actuarial valuation indicates that the PERA funding resources are sufficient to fund the normal cost and finance the UAAL over an aggregate period of 13 years.

Mr. Slattery noted that the PERA's overall funded ratio is 93% with a $930 million unfunded liability.

Representative Bratton asked if each fund is independent or if fund balances can be moved from one plan to another. Mr. Slattery responded that within the PERA family of plans, funds can be moved; however, the judiciary and legislative plans are completely stand-alone and those fund balances cannot be moved.

Representative Powdrell-Culbert asked what happens to retirement contributions when a police officer is killed in the line of duty. Mr. Slattery responded that the PERA provides a lifetime death benefit to a beneficiary or, if no beneficiary has been designated, the PERA pays the employee contributions to the estate.

Mr. Slattery noted that the nine new positions authorized by the legislature last year have all been filled and that data purification on some 50,000 records is in progress.

Representative Varela asked what action is recommended to address the unfunded liability in the judicial plan. Mr. Slattery stated that the board recommends that retirement contributions be funded through payroll and supplemented by docket fees. Currently, there is a gap of 7.5% between actual contributions and the annual required contribution.

Representative Larrañaga asked about the outlook for the solvency of the PERA. Mr. Gish stated that the definition of a "mature fund" is one in which the benefits being paid exceed annual contributions. Mr. Slattery responded that the PERA is designed to pay benefits in perpetuity.

PERA Service Credit for Legislative Employees
—Steven Arias, Chief Clerk of the House

Mr. Arias presented the results of a 2005 survey, summarized as follows.

Arizona: Legislative Council has no session-only staff, only part-time employees, and most are retired. They do not receive benefits. In the House, full-time, session-only staff receive sick and vacation time as well as benefits (medical, vision, dental). They also can participate in a deferred compensation program. Most session-only staff are secretaries, and roughly 80 to 90% return each session. In order to retain the benefits offered by the state, during the interim the accounting department takes pay from employees via the vacation time they accrue during session. If employees' vacation times are depleted during the interim, they are allowed to pay for benefits out-of-pocket. If employees do not plan to return at the start of the next session, they can receive benefits via COBRA. Part-time, session-only staff (mostly pages) do not receive benefits. This method has not always been used and is subject to change, based on budget matters and leadership.

Colorado: Legislative Council has a small number of session-only staff and has been hiring retired personnel. Contracts with these employees have differed person to person. These employees can only work 110 days in order to retain their retirement benefits. The clerk's and secretary's offices hire most session-only staff. In the House, once session is over, session-only staff can elect to pay both the state share and the employee share to continue their benefits. A few full-time positions are shared by four session-only staff so that their benefits are covered.

Indiana: Part-time staff or temporary staff accrue vacation, sick, personal and holiday time at half the rate as full-time staff. They are not provided with medical, vision or dental benefits. Full-time, session-only staff receive benefits and pension, but only during the time period in which they work. They can collect unemployment when they are let go at the end of session.

Nevada: Session-only staff in Nevada receive insurance benefits if they work for at least three months. The insurance begins the first day of the month following three-months of employment. If employment is reinstated within one year of the termination date, the employee is classified as a reinstatement. The three-month waiting period is waived and coverage is effective on the first day of the month concurrent with or following the hire date. An employee who is rehired 12 months or more after the termination date, or who is rehired within 12 months but moves from a nonstate to a state agency. Coverage begins the first of the month following three months of full-time employment. If staff work for six months or more, they will be paid annual leave and employee or employer-paid retirement. (Most work from January until June or so.) The insurance coverage terminates on the last day of employment. Any state employee is offered this, and it can be found in Nevada's public employees benefit program (see link above). The coverage is for employees; however, they can opt to pay $5.00 or $10.00 from their paychecks to receive additional coverage for spouses or children. Employees can receive insurance after they leave legislative employment through COBRA.

New Hampshire: Examples of session-only staff in New Hampshire are committee secretaries and research secretaries. These employees are not provided benefits.

Ohio: Ohio does not employ session-only staff. Part-time staff receive benefits as if they are full-time staff; however, they accrue benefits such as vacation and sick time at a rate proportional to the amount they work.

Oregon: Oregon's benefit plan changes every session, depending upon factors such as the budget, managers, the current benefit plan for full-time staff and leadership. There is always something provided for session-only staff. The benefits plan is the same, regardless of position and place of employment within the legislature. In 2005, session-only staff received the same benefits as continuing employees, which was full coverage (i.e., medical, dental, vision). These benefits were available to the employee only. The state contribution ended at the end of session; however, employees could continue to receive benefits through COBRA.

South Dakota: South Dakota does not provide benefits to session-only employees, only salaries.

Mr. Arias stated that approximately 25 session employees in the House would be eligible for the proposed vested benefit plan.

Senator Rawson observed that legislative employees are not paid time-and-a-half for overtime.

New Mexico Film Investments; House Memorial 43
—Eric Witt, Director, Legislative/Political Affairs, Office of the Governor

The state of New Mexico has been remarkably successful in attracting film and television production to the state through an impressive array of financial incentives, so much so that it has become a preeminent destination for movies shot outside of California. Last year, the state recorded close to one-half billion dollars in economic impact from film production. Through a wide range of educational programs, the state has already begun educating students and local filmmakers to work not only on film projects in New Mexico, but also to initiate them.

In an effort to build further on the local film industry, House Memorial 43 (Representative Peter Wirth, 2007 regular session) requested that the administration work with representatives of the New Mexico film community to examine possible financial structures to support and enable resident, smaller-cap, independent filmmakers to produce feature films in the state. The working group's resulting proposal, set forth below, would provide financial incentives specifically targeted to New Mexico resident filmmakers and underrepresented filmmakers outside of the state. It may also provide an opportunity for the state to establish a significant presence in the Hispanic and Native American film markets by bringing a growing niche of minority filmmakers to New Mexico. The ideas set forth below are the results of the working group's deliberations in response to House Memorial 43 and do not necessarily reflect the position of the administration. Suggestions include:

- New Mexico filmakers production fund: A $25 million, zero-interest loan fund to provide production funding for local filmmakers and underrepresented minority filmmakers for films in New Mexico. Because of relaxed qualifying criteria, this fund would likely have to be established by a general fund allocation as opposed to the permanent fund, which is the funding source of the current production investment loan program.

- Investment tax credit: Establish a 10% tax credit available to individuals or corporations with New Mexico tax liability, in return for an investment in a local New Mexico film production or a New Mexico film fund.

The goals are to:

- increase participation of both independent New Mexico filmmakers and underrepresented minority filmmakers in the local film industry; and
- promote professional training for New Mexico residents in the entertainment industry, both above- and below-the-line.

Mr. Witt stated that the administration does not necessarily support the recommendations contained in the report.

Representative Powdrell-Culbert observed that it is not the state's responsibility to finance a hobby.

Representative Bratton is opposed to a $25 million appropriation for film projects that do not meet the prudent investor criteria.

Senator Smith noted that the latest consensus forecast is showing a slowing in revenue growth and there are serious needs for increased funding.

Review of Proposed Legislation
—Cleo Griffith, LCS

- House Bill 313 (return to work);
- House Bill 315 (IPOC);
- House Bill 532 (state treasurer; local government investment pool); and
- Senate Joint Memorial 6 (moratorium on benefit enhancements).

Representative Saavedra noted that Senator Rawson's bill might be subject to political problems in that the speaker and/or the pro tem might want to make the appointment rather than allowing the LFC to make the appointment.

Representative Trujillo observed that the proposed legislation might be viewed as an infringement on the powers of the executive.

Representative Bratton stated that he believes that members of the IPOC should attend financial seminars each year in order to exercise oversight properly.

Mr. Wollman stated that the State Investment Council (SIC) has an open door policy and is always willing to meet with legislators to educate them and answer questions.

Senator Smith recalled that the LFC identified problems in the State Treasurer's Office five to seven years before the problems finally became public and notified the attorney general, federal prosecutor and others. However, the LFC had no enforcement authority and nothing was ever done.

The committee requested that financial qualifications for the proposed new SIC board member be defined in the bill, and then the bill will be considered at the special meeting on December 11, 2007.

Senator Smith asked if there is any support for reintroducing the moratorium on retirement benefit enhancements. There was no support and the moratorium will not be endorsed.

The committee deferred action on the creation of a permanent IPOC until a special meeting of the committee on December 11, 2007.

The committee endorsed the treasurer's proposed legislation.

The committee endorsed the proposed "return-to-work" legislation.

Bill sponsors will be assigned at the December 11, 2007 meeting.

Other Business

Representative Saavedra discussed the potential combining of interim committees.

There was no other business brought before the committee.

The committee adjourned at 4:00 p.m.

MINUTES
of the
SEVENTH MEETING
of the
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

December 10, 2007
State Capitol
Santa Fe

The seventh meeting of the Investments and Pensions Oversight Committee for the 2007 interim was called to order by Senator John Arthur Smith, chair, on Monday, December 10, 2007, at 1:30 p.m. at the State Capitol in Santa Fe.

Present
Sen. John Arthur Smith, Chair
Rep. John A. Heaton, Vice Chair
Rep. Donald E. Bratton
Rep. Larry A. Larrañaga
Sen. Carroll H. Leavell
Rep. Jim R. Trujillo
Rep. Luciano "Lucky" Varela

Absent
Sen. Joseph J. Carraro
Sen. Mary Kay Papen
Rep. Henry Kiki Saavedra

Advisory Members
Rep. Andrew J. Barreras
Sen. Carlos R. Cisneros
Rep. Miguel P. Garcia
Bob Jacksha, Educational Retirement Board
James Lewis, State Treasurer
Olivia Padilla-Jackson, State Board of Finance
Rep. John Pena
Rep. Jane E. Powdrell-Culbert
Rep. Sheryl Williams Stapleton
Charles Wollman for Gary Bland, State Investment Council
Rep. Eric A. Youngberg

Sen. Pete Campos
Bob Gish, Public Employees Retirement Association
Sen. Stuart Ingle
Rep. Patricia A. Lundstrom
Sen. Leonard Lee Rawson
Sen. H. Diane Snyder

Special Guests
Sen. Rod Adair
Sen. Dianna J. Duran

Staff
Doris Faust, Legislative Council Service (LCS)
Cleo Griffith, LCS
Wayne Propst, Legislative Finance Committee (LFC)

Doug Williams, LCS

Guests

The guest list is in the meeting file.

<u>Monday, December 10</u>

The committee adopted the minutes of the November 7, 2007 meeting.

Review of Proposed Legislation
—Wayne Propst, LFC
—Doug Williams, LCS
—Cleo Griffith, LCS

Mr. Williams and Mr. Propst explained the Retiree Health Care Authority (RHCA) legislation. The changes to current law are summarized as follows.

- The $3 million transfer from the state of New Mexico, scheduled to terminate on June 30, 2010, would be extended indefinitely. Beginning July 1, 2010, the $3 million would be used for prefunding of future liabilities.
- An additional $1 million annual assessment would be obtained from nonstate participating entities, except for public schools. The assessment would begin July 1, 2008.
- A new annual report would be required from the RHCA on December 15 of each year.
- The composition of the RHCA board of directors would be expanded to include the secretary of finance and administration and the chief financial officer of a public post-secondary educational institution.
- Active employer contributions would be increased from 1.30% of payroll to 1.60% and active employee contributions would be increased from 0.65% of payroll to 0.80%.
- The health care premium subsidy for retirees and spouses would follow a sliding scale based on age.

The committee requested a copy of the House Bill 728 task force report and a listing of the nonstate participating entities that would be assessed $3 million in the aggregate. After general discussion and clarification of the issues, the committee endorsed the legislation on a 7-0 vote.

Ms. Griffith presented House Bill 315 from the 2007 session for the committee's consideration. This legislation, which was vetoed in 2007, would create a permanent State Investment and Retirement Systems Oversight Committee. The committee endorsed the legislation on a 7-0 vote.

Ms. Griffith presented draft legislation that had been requested by Senator Rawson. This legislation would expand the board of directors of the State Investment Council to include a public member with no less than 15 years of professional experience in the field of investment finance. The committee endorsed the legislation on a 7-0 vote.

Ms. Griffith presented draft legislation that had been requested by the state treasurer. This legislation would expand eligibility for participation in the local government investment pool. The committee endorsed the legislation on a 7-0 vote.

Ms. Griffith presented draft legislation that would amend the return-to-work provisions for members of the Public Employees Retirement Association. This legislation would only affect nonstate government employees seeking to return to work. The committee endorsed the legislation on a 7-0 vote.

The committee adjourned at 3:00 p.m.

Appendix C

Draft Legislation Endorsed by the Committee

BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

FOR THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

RELATING TO RETIREE HEALTH CARE; CHANGING PROVISIONS REGARDING THE MEMBERSHIP AND DUTIES OF THE RETIREE HEALTH CARE BOARD; PROVIDING FOR ADDITIONAL DISTRIBUTIONS AND CONTRIBUTIONS TO THE RETIREE HEALTH CARE FUND; AMENDING PROVISIONS REGARDING RETIREE AND DEPENDENT PREMIUM AMOUNTS; MAKING AN APPROPRIATION.

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

Section 1. Section 7-1-6.56 NMSA 1978 (being Laws 2007, Chapter 168, Section 1) is amended to read:

"7-1-6.56. DISTRIBUTION--RETIREE HEALTH CARE FUND.--In addition to the distribution made pursuant to Section 7-1-6.30 NMSA 1978, [~~for the period~~] beginning July 1, 2007 [~~and ending June 30, 2010~~], a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the retiree health care fund in the amount of two hundred fifty thousand dollars ($250,000)."

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Section 2. Section 10-7C-1 NMSA 1978 (being Laws 1990, Chapter 6, Section 1) is amended to read:

"10-7C-1. SHORT TITLE.--[~~Sections 1 through 16 of this act~~] Chapter 10, Article 7C NMSA 1978 may be cited as the "Retiree Health Care Act"."

Section 3. Section 10-7C-5 NMSA 1978 (being Laws 1990, Chapter 6, Section 5, as amended by Laws 2002, Chapter 75, Section 1 and by Laws 2002, Chapter 80, Section 1) is amended to read:

"10-7C-5. AUTHORITY CREATED--DUTIES.--

A. There is created the "retiree health care authority", which is established to provide for comprehensive group health insurance programs under the Retiree Health Care Act. The authority shall be administratively attached to the public school insurance authority until December 31, 1993. The director of the public school insurance authority shall be the executive director of the retiree health care authority until December 31, 1993. The board created by Section 10-7C-6 NMSA 1978 shall remain fully independent of the board of the public school insurance authority.

B. The authority shall also administer the senior prescription drug program in conjunction with or through the consolidated purchasing process pursuant to the Health Care Purchasing Act.

C. By December 15 of each year, the authority shall submit a report to the legislative finance committee and the governor on the condition of the fund. The report shall include at a minimum the following information:

(1) the fund balance;

(2) the amount of the unfunded accrued actuarial liability;

(3) the annual required contribution;

(4) the current level of contributions from participating employers; and

(5) the current premium structure."

Section 4. Section 10-7C-6 NMSA 1978 (being Laws 1990, Chapter 6, Section 6, as amended) is amended to read:

"10-7C-6. BOARD CREATED--MEMBERSHIP--AUTHORITY.--

A. There is created the "board of the retiree health care authority". The board shall be composed of not more than [~~twelve~~] fourteen members.

B. The board shall include:

(1) one member who is not employed by or on behalf of or contracting with an employer participating in or eligible to participate in the Retiree Health Care Act and who shall be appointed by the governor to serve at the pleasure of the governor;

(2) the educational retirement director or the educational retirement director's designee;

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(3) one member to be selected by the [~~public school superintendents' association of~~] New Mexico coalition of school administrators;

(4) one member who is a teacher who is certified and teaching in elementary or secondary education to be selected by a committee composed of one person designated by the New Mexico association of classroom teachers, one person designated by the national education association of New Mexico and one person designated by the [~~New Mexico~~] American federation of teachers-New Mexico;

(5) one member who is an eligible retiree of a public school and who is selected by the New Mexico association of [~~retired educators~~] educational retirees;

(6) the executive secretary of the public employees retirement association or the executive secretary's designee;

(7) one member who is an eligible retiree receiving a benefit from the public employees retirement association and who is selected by the retired public employees of New Mexico;

(8) one member who is an elected official or employee of a municipality participating in the Retiree Health Care Act and who is selected by the New Mexico municipal league;

(9) the state treasurer or the state

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treasurer's designee; [~~and~~]

(10) the secretary of finance and administration or the secretary's designee;

(11) the chief financial officer of a public post-secondary educational institution to be appointed by the governor; and

[~~(10)~~] (12) one member who is a classified state employee selected by the personnel board.

C. The board, in accordance with the provisions of Paragraph (3) of Subsection D of Section 10-7C-9 NMSA 1978, shall include, if they qualify:

(1) one member who is an eligible retiree of an institution of higher education participating in the Retiree Health Care Act and who is selected by the New Mexico association of [~~retired educators~~] educational retirees; and

(2) one member who is an elected official or employee of a county participating in the Retiree Health Care Act and who is selected by the New Mexico association of counties.

D. Every member of the board shall serve at the pleasure of the party that selected that member.

E. The members of the board shall begin serving their positions on the board on the effective date of the Retiree Health Care Act or upon their selection, whichever occurs last, unless that member's corresponding position on the

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board has been eliminated pursuant to Subsection D of Section 10-7C-9 NMSA 1978.

F. The board shall elect from its membership a president, vice president and secretary.

G. The board may appoint such officers and advisory committees as it deems necessary. The board may enter into contracts or arrangements with consultants, professional persons or firms as may be necessary to carry out the provisions of the Retiree Health Care Act.

H. The members of the board and its advisory committees shall receive per diem and mileage as provided in the Per Diem and Mileage Act but shall receive no other compensation, perquisite or allowance."

Section 5. Section 10-7C-8 NMSA 1978 (being Laws 1990, Chapter 6, Section 8) is amended to read:

"10-7C-8. FUND CREATED--INVESTMENT--PREMIUMS--APPROPRIATION.--

A. There is created the "retiree health care fund". All money in the fund shall be invested as provided for in Subsection [~~D~~] E of this section. All income earned from investment of the fund shall be credited to the fund. Except as otherwise specifically provided [~~herein~~] in the Retiree Health Care Act, the money in the fund is appropriated to the board to carry out the provisions of [~~the Retiree Health Care~~] that act. Any funds remaining at the end of any fiscal year

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shall not revert to the general fund.

B. The board shall provide for the collection of premiums from eligible retirees and eligible dependents, which money when combined with other money appropriated to the fund shall be sufficient to provide the required insurance coverage and to pay the expenses of the authority. All premiums and other money appropriated to the fund shall be credited to the fund.

C. Money in the fund from the following sources shall be used exclusively for prefunding of future liabilities:

(1) the additional contributions to the fund pursuant to Subsection C of Section 10-7C-15 NMSA 1978; and

(2) beginning July 1, 2010, the distribution to the fund pursuant to Section 7-1-6.56 NMSA 1978.

[~~C.~~] D. All premiums and other money collected by the authority shall be received and disbursed directly by the authority. Receipts and disbursements are subject to audit by the state auditor.

[~~D.~~] E. The board shall determine which money in the fund constitutes the long-term reserves of the authority. The state investment officer shall invest the long-term reserves of the authority in accordance with the provisions of Sections 6-8-1 through 6-8-16 NMSA 1978. The state treasurer shall invest the money in the fund that does not constitute the long-term reserves of the fund in accordance with the

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applicable provisions of Chapter 6, Article 10 NMSA 1978."

Section 6. Section 10-7C-13 NMSA 1978 (being Laws 1990, Chapter 6, Section 13, as amended) is amended to read:

"10-7C-13. PAYMENT OF PREMIUMS ON HEALTH CARE PLANS.--

A. Except as otherwise provided in this section, each eligible retiree shall pay a monthly premium for the basic plan in an amount set by the board not to exceed fifty dollars ($50.00) plus the amount, if any, of the compounded annual increases authorized by the board, which increases shall not exceed nine percent until fiscal year 2008 [~~after which the increases shall not exceed the authority's group health care trend~~]. Beginning in fiscal year 2009, the monthly premium shall be set by the board in an amount based on the age of the retiree that will result in the aggregate amount paid by all retirees in the designated age category totaling not less than the specified percentage of the total projected cost of the basic plan for those retirees, as follows:

retiree under age 50	one hundred percent
retiree aged 50 to 54	seventy-five percent
retiree aged 55 to 59	sixty percent
retiree aged 60 and over	fifty percent.

B. In addition to the monthly premium for the basic plan, each current retiree and nonsalaried eligible participating entity governing authority member who becomes an eligible retiree shall also pay monthly an additional

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participation fee set by the board. That fee shall be five dollars ($5.00) plus the amount, if any, of the compounded annual increases authorized by the board, which increases shall not exceed nine percent until fiscal year 2008, after which the increases shall not exceed the authority's group health care trend. The additional monthly participation fee paid by the current retirees and nonsalaried eligible participating entity governing authority members who become eligible retirees shall be a consideration and a condition for being permitted to participate in the Retiree Health Care Act.

C. A legislative member or a former participating employer governing authority member shall pay a monthly premium for any selected plan equal to one-twelfth of the annual cost of the claims and administrative costs of that plan allocated to the member by the board. In addition, a legislative member or a former participating employer governing authority member shall pay the additional monthly participation fee set by the board pursuant to [~~this~~] Subsection B of this section as a consideration and condition for participation in the Retiree Health Care Act.

D. Eligible dependents shall pay monthly premiums in amounts that with other money appropriated to the fund shall cover the cost of the basic plan for the eligible dependents. Beginning in fiscal year 2009, the monthly premium to be paid by eligible dependents shall be set by the board in an amount based on the age of the retiree that will result in the aggregate amount paid by all dependents in the designated age category totaling not less than the specified percentage of the total projected cost of the basic plan for those dependents, as follows:

retiree under age 50 one hundred percent

retiree 50 and over seventy-five percent.

[~~B.~~] E. Eligible retirees and eligible dependents shall pay monthly premiums to cover the cost of the optional plans that they elect to receive, and the board shall adopt rules for the collection of additional premiums from eligible retirees and eligible dependents participating in the optional plans. An eligible retiree or eligible dependent may authorize the authority in writing to deduct the amount of these premiums from the monthly annuity payments, if applicable.

[~~C.~~] F. The participating employers, active employees and retirees are responsible for the financial viability of the program. The overall financial viability is not an additional financial obligation of the state.

[~~D.~~] G. For eligible retirees who become eligible for participation on or after July 1, 2001, the board may determine monthly premiums based on the retirees' years of credited service with participating employers."

Section 7. Section 10-7C-15 NMSA 1978 (being Laws 1990, Chapter 6, Section 15, as amended) is amended to read:

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"10-7C-15. RETIREE HEALTH CARE FUND CONTRIBUTIONS.--

A. Following completion of the preliminary contribution period, each participating employer shall make contributions to the fund in the amount of:

(1) one percent of each participating employee's annual salary for the period July 1, 1990 through June 30, 2002; [~~and~~]

(2) up to one and three-tenths percent of each participating employee's annual salary beginning July 1, 2002; and

(3) beginning July 1, 2008, an additional three-tenths percent of each participating employee's annual salary to be used exclusively for prefunding of unfunded liabilities for active employees.

Each employer that chooses to become a participating employer after January 1, 1998 shall make contributions to the fund in the amount determined to be appropriate by the board.

B. Following completion of the preliminary contribution period, each participating employee, as a condition of employment, shall contribute to the fund an employee contribution in an amount equal to:

(1) one-half of one percent of the employee's salary for the period July 1, 1990 through June 30, 2002; [~~and~~]

(2) up to sixty-five hundredths of one percent beginning July 1, 2002; and

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(3) beginning July 1, 2008, an additional fifteen-hundredths percent of the employee's annual salary to be used exclusively for prefunding of unfunded liabilities for active employees.

As a condition of employment, each participating employee of an employer that chooses to become a participating employer after January 1, 1998 shall contribute to the fund an amount that is determined to be appropriate by the board. Each month, participating employers shall deduct the contribution from the participating employee's salary and shall remit it to the board as provided by any procedures that the board may require.

C. Beginning July 1, 2008, each participating employer, other than the state or a school district, shall make an additional contribution to the fund, in an amount determined by the board, to be used exclusively for prefunding of future liabilities. The aggregate amount of the additional contribution pursuant to this subsection shall be one million dollars ($1,000,000) annually.

[~~C.~~] D. A participating employer that fails to remit before the tenth day after the last day of the month all employer and employee deposits required by the Retiree Health Care Act to be remitted by the employer for the month shall pay to the fund, in addition to the deposits, interest on the unpaid amounts at the rate of six percent per year compounded monthly.

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[~~D.~~] E. The employer and employee contributions shall be paid in monthly installments based on the percent of payroll certified by the employer.

[~~E.~~] F. Except in the case of erroneously made contributions or as may be otherwise provided in Subsection D of Section 10-7C-9 NMSA 1978, contributions from participating employers and participating employees shall become the property of the fund on receipt by the board and shall not be refunded under any circumstances, including termination of employment or termination of the participating employer's operation or participation in the Retiree Health Care Act.

[~~F.~~] G. Notwithstanding any other provision in the Retiree Health Care Act and at the first session of the legislature following July 1, 2010, the legislature shall review and adjust the distribution pursuant to Section 7-1-6.1 NMSA 1978 and the employer and employee contributions to the authority in order to ensure the actuarial soundness of the benefits provided under the Retiree Health Care Act."

Section 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2008.

HOUSE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

FOR THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

CREATING A JOINT INTERIM LEGISLATIVE COMMITTEE TO OVERSEE STATE INVESTMENTS AND RETIREMENT SYSTEMS; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

Section 1. STATE INVESTMENT AND RETIREMENT SYSTEMS OVERSIGHT COMMITTEE CREATED.--The "state investment and retirement systems oversight committee" is created as a joint interim legislative committee.

Section 2. MEMBERSHIP--APPOINTMENT--VACANCIES.--

A. The state investment and retirement systems oversight committee shall be composed of ten voting members and five nonvoting members.

B. Five members of the house of representatives shall be appointed as voting members of the committee by the speaker of the house of representatives, and five members of the senate shall be appointed as voting members of the committee by the committees' committee of the senate or, if the senate appointments are made in the interim, by the president pro tempore of the senate after consultation with and agreement of a majority of the members of the committees' committee. Members shall be appointed from each house so as to give the two major political parties in each house the same proportionate representation on the committee as prevails in each house. An appointed member may designate a legislator from the member's party to serve in the member's place at a committee meeting at which the member is going to be absent. The member shall select the designee from a list of four potential designees from each house, appointed in the same manner as the appointment of the members.

C. The five nonvoting members of the committee shall be: the state investment officer or the officer's designee; the secretary of finance and administration or the secretary's designee; the state treasurer or the treasurer's designee; the investment director of the public employees retirement association or the director's designee; and the chief investment officer of the educational retirement board or the officer's designee.

D. Vacancies on the committee shall be filled by appointment in the same manner as the original appointments.

The speaker of the house of representatives and the president pro tempore of the senate shall each designate one co-chair of the committee.

E. No action shall be taken by the committee if a majority of the total membership from either house on the committee rejects such action.

Section 3. POWERS AND DUTIES.--After its appointment, the state investment and retirement systems oversight committee shall hold one organizational meeting to develop a work plan and budget for the ensuing interim. The work plan and budget shall be submitted to the New Mexico legislative council for approval. Upon approval of the work plan and budget by the legislative council, the committee shall:

A. monitor and oversee the investment and financial management practices used by the state investment council, the state board of finance and the state treasurer with respect to all public funds, including the permanent funds, and by the public employees retirement association and the educational retirement board with respect to their retirement funds;

B. undertake a continuing analysis of the financial and actuarial status of the retirement systems, including the benefit structure, of the public employees retirement association and the educational retirement board;

C. develop recommendations as appropriate to improve state investment practices and to ensure the financial and actuarial soundness of the retirement funds;

D. make referrals of matters needing further attention to the appropriate public official, agency, oversight board or the attorney general for investigation, corrective action and penalties if warranted;

E. request that all proposed legislation affecting state investment practices, the permanent funds or the retirement funds be presented to the committee for review and analysis in the interim prior to the legislative session in which the legislation will be introduced; and

F. report to the legislature prior to the start of each regular legislative session any recommendations that the committee may have for legislative action.

Section 4. ASSISTANCE TO COMMITTEE.--The public employees retirement association, the educational retirement board, the state investment council, the department of finance and administration and the state treasurer shall assist the committee in the performance of its duties and shall make available records and information requested.

Section 5. STAFF.--The staff for the state investment and retirement systems oversight committee shall be provided by the legislative council service, but actuarial and other outside consultants are authorized as necessary to assist the committee in carrying out its duties.

Section 6. APPROPRIATION.--One hundred fifty thousand dollars ($150,000) is appropriated from the general fund to the legislative council service for expenditure in fiscal years 2007 and 2008 for the purpose of paying for technical and legal assistance and actuarial and other outside consultants to assist the state investment and retirement systems oversight committee, for necessary equipment and supplies used in carrying out the provisions of this act and for reimbursing the per diem and mileage expenses of the committee. Any unexpended or unencumbered balance remaining at the end of fiscal year 2008 shall revert to the general fund. Payments from the appropriation shall be made upon vouchers signed by the director of the legislative council service or the director's authorized representative.

Section 7. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PUBLIC FINANCE; PROVIDING FOR AN ADDITIONAL MEMBER OF THE STATE INVESTMENT COUNCIL TO BE APPOINTED BY THE CHAIR OF THE LEGISLATIVE FINANCE COMMITTEE.

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

Section 1. Section 6-8-2 NMSA 1978 (being Laws 1957, Chapter 179, Section 2, as amended) is amended to read:

"6-8-2. STATE INVESTMENT COUNCIL.--

A. There is created a "state investment council". The council shall be composed of:

[~~A.~~] (1) the governor;

[~~B.~~] (2) the state treasurer;

[~~C.~~] (3) the commissioner of public lands;

[~~D.~~] (4) the secretary;

[~~E.~~] (5) three public members appointed by the governor with the advice and consent of the senate;

[~~F.~~] (6) the state investment officer; [~~and~~

~~G.~~] (7) the chief financial officer of a state institution of higher education appointed by the governor with the advice and consent of the senate; and

(8) a public member with no less than fifteen years of professional experience in the field of investment or finance, to be appointed by the chair of the legislative finance committee.

B. The [~~chairman~~] chair of the council shall be the governor. All actions of the council shall be by majority vote, and at least [~~three~~] four members appointed pursuant to [~~Subsections E and G~~] Paragraphs (5), (7) and (8) of Subsection A of this section must be present to constitute a quorum.

C. Members of the council appointed pursuant to Paragraph (5) or (8) of Subsection [~~E~~] A of this section shall be reimbursed per diem and mileage pursuant to the provisions of the Per Diem and Mileage Act."

Section 2. Section 6-8-3 NMSA 1978 (being Laws 1957, Chapter 179, Section 3, as amended) is amended to read:

"6-8-3. COUNCIL TERMS AND QUALIFICATIONS.--

A. Members of the council appointed by the governor, with the advice and consent of the senate, or by the chair of the legislative finance committee shall serve for staggered terms of five years. Members of the council shall serve until their successors are appointed and have qualified.

B. The members of the council appointed pursuant to Paragraph (5) of Subsection [~~E~~] A of Section 6-8-2 NMSA 1978 shall be qualified by competence and experience in the field of investment or finance. During tenure, a member of the council shall not be engaged in any capacity in the sale of securities to the state. Members of the council and officers and employees of the council shall be governed by the provisions of the [~~Conflict of Interest~~] Governmental Conduct Act. Nothing in this section or in the [~~Conflict of Interest~~] Governmental Conduct Act shall be construed as prohibiting an officer of a financial institution from participating as a member of the council in setting general policies of the council, nor shall any provision of the [~~Conflict of Interest~~] Governmental Conduct Act prohibit the council or the state treasurer from depositing funds under the jurisdiction of the council in any financial institution. A council member shall not hold an office or employment in a political party.

C. Any member of the council appointed pursuant to Paragraph (5) or (7) of Subsection [~~E or G~~] A of Section 6-8-2 NMSA 1978 may be removed from the council by the governor, for cause, in the manner provided for removal of members of boards

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of regents under Article 12, Section 13 of the constitution of New Mexico. A vacancy in the membership of the council occurring other than by expiration of term shall be filled in the same manner as the original appointment but for the unexpired term only."

BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PUBLIC FUNDS; CLARIFYING THE PROVISION REGARDING INVESTMENTS OF PUBLIC FUNDS OF LOCAL GOVERNING BODIES AND OTHER ELIGIBLE GOVERNING BODIES; EXPANDING PARTICIPATION OF PARTICIPATING GOVERNMENTS IN CERTAIN INVESTMENT FUNDS; AMENDING SECTIONS OF THE NMSA 1978; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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

Section 1. Section 6-10-1.1 NMSA 1978 (being Laws 1987, Chapter 79, Section 3, as amended) is amended to read:

"6-10-1.1. DEFINITIONS.--As used in Chapter 6, Article 10 NMSA 1978:

[~~A. "deposit" includes share, share certificate and share draft;~~

~~B.~~] A. "department" means the department of finance

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and administration; [~~and~~]

B. "deposit" includes share, share certificate and share draft;

C. "eligible governing body" means a local governing body, the governing authority of a tribe or any other governmental or quasi-governmental body created or authorized to be created pursuant to New Mexico statutes;

D. "finance officer" means the chief financial officer of an eligible governing body or a participating government;

E. "local governing body" means a political subdivision of the state, including a school district or a post-secondary educational institution;

F. "participating government" means an eligible governing body or the state treasurer on behalf of the general fund that has invested money in the participating government investment fund;

[~~C.~~] G. "secretary" means the secretary of finance and administration; and

H. "tribe" means a federally recognized Indian nation, tribe or pueblo or a subdivision or agency of a federally recognized Indian nation, tribe or pueblo, located wholly or partially in New Mexico."

Section 2. Section 6-10-10 NMSA 1978 (being Laws 1933, Chapter 175, Section 4, as amended) is amended to read:

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"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, may 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 that 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, federal home loan banks or the student loan marketing association or that 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, may 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 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~~] E 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, may 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, may invest money held in demand deposits and not immediately needed for the operation of state government and money held in the [~~short-term~~] participating government investment fund, except as provided in Section 6-10-10.1 NMSA 1978. The investments may be made 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

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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. Such contract shall not be invested in unless the contract is fully secured by obligations of the United States or its agencies or instrumentalities or by other securities backed by the United States or its agencies or instrumentalities having a market value of at least one hundred two percent of the amount of the contract. The securities required as collateral under this subsection shall be delivered to a third-party custodian bank pursuant to a contract with the state and the counterparty or to the fiscal agent of New Mexico or its designee. Delivery shall be made simultaneously with the transfer of funds or as soon as practicable, but no later than the same day that the funds are transferred.

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. 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. The collateral required by this subsection shall be delivered to the fiscal agent of New Mexico or its designee simultaneously with the transfer of funds or as soon as practicable, but no later than the same day that the state-owned securities are transferred.

L. 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).

M. 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.

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

(1) shares of an open-ended diversified investment company that:

(a) is registered with the United States securities and exchange commission;

(b) complies with the diversification, quality and maturity requirements of Rule 2a-7, or any successor rule, of the United States securities and exchange commission applicable to money market mutual funds; and

(c) assesses no fees pursuant to Rule 12b-1, or any successor rule, of the United States securities and exchange commission, no sales load on the purchase of shares and no contingent deferred sales charge or other similar charges, however designated, provided that the state shall not, at any time, own more than five percent of a money market mutual fund's assets; [~~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 M 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; <u>or</u>

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(3) the participating government investment fund managed by the office of the state treasurer. Investments made pursuant to this paragraph shall be less than five percent of the total assets of the participating government investment fund.

O. 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 safekeeping financial institution acting as agent or trustee for the purchaser, which agent or trustee shall furnish timely confirmation to the purchaser."

Section 3. Section 6-10-10.1 NMSA 1978 (being Laws 1988, Chapter 61, Section 2, as amended) is amended to read:

"6-10-10.1. [~~SHORT-TERM~~] PARTICIPATING GOVERNMENT INVESTMENT FUND CREATED--DISTRIBUTION OF EARNINGS--REPORT OF INVESTMENTS.--

A. There is created in the state treasury the [~~short-term~~] "participating government investment fund". The fund shall consist of all deposits from [~~governmental entities and Indian tribes or pueblos~~] participating governments,

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including revenues dedicated to repaying bonds, that are placed in the custody of the state treasurer for [~~short-term~~] investment purposes pursuant to this section. The state treasurer shall maintain [~~a~~] one or more separate [~~account~~] accounts for each [~~governmental entity and Indian tribe or pueblo~~] participating government having deposits in the participating government investment fund and may divide the fund into two or more subfunds, as the state treasurer deems appropriate, for short-term and medium-term investment purposes, including one or more subfunds for bond proceeds deposited by participating governments.

B. If [~~a local public~~] an eligible governing body is unable to receive payment on public money at the rate of interest as set forth in Section 6-10-36 NMSA 1978 from financial institutions within the geographic boundaries of the [~~governmental unit, then a local public~~] eligible governing body, or if the eligible governing body is not bound by the terms of Section 6-10-36 NMSA 1978, the finance [~~official~~] officer having control of the money of that [~~local public~~] eligible governing body [~~in that official's custody~~] not required for current expenditure may, with the consent of the [~~appropriate local~~] board of finance [~~if any~~] of the eligible governing body if consent is required by the laws or rules of the eligible governing body, remit some or all of [~~such~~] the money to the state treasurer for deposit for the purpose of

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[~~short-term~~] investment as allowed by this section.

C. Before [~~local~~] funds are invested or reinvested [~~for the purpose of short-term investment~~] pursuant to this section, [~~the local public body~~] a finance [~~official~~] officer shall notify and make [~~such~~] the funds available for investment to banks, savings and loan associations and credit unions located within the geographical boundaries of [~~their respective governmental unit~~] the participating government or the eligible governing body, subject to the limitation on credit union accounts. To be eligible for [~~such~~] deposit of the government funds, the financial institution shall pay to the [~~local public~~] participating government or eligible governing body the rate established by the state treasurer pursuant to a policy adopted by the state board of finance for [~~such short-term~~] the investments.

D. [~~The local public body~~] A finance [~~official~~] officer shall specify the length of time a deposit shall be in the [~~short-term~~] participating government investment fund [~~but in any event the deposit shall not be made for more than one hundred eighty-one days~~]. The state treasurer through the use of the state fiscal agent shall separately track each [~~such~~] deposit and shall make [~~such~~] information regarding the deposit available to the public upon written request.

E. The state treasurer shall invest the [~~short-term~~] participating government investment fund as provided [~~for~~

~~state funds under~~] in Section 6-10-10 NMSA 1978 regarding the investment of state funds in investments with a maturity at the time of purchase that does not exceed three [~~hundred ninety-seven days~~] years. The state treasurer may elect to have the [~~short-term~~] participating government investment fund consolidated for investment purposes with the state funds under the control of the state treasurer; provided that accurate and detailed accounting records are maintained for the account of each participating [~~entity and Indian tribe or pueblo~~] government and that a proportionate amount of interest earned is credited to each of the separate [~~government~~] accounts of a participating government. The fund shall be invested to achieve its objective, which is to realize the maximum return consistent with safe and prudent management.

F. At the end of each month, all net investment income or losses from investment of the [~~short-term~~] participating government investment fund shall be distributed by the state treasurer to the [~~contributing entities and Indian tribes or pueblos~~] accounts of participating governments in amounts directly proportionate to the respective amounts deposited by them in the participating government investment fund and the length of time the amounts in [~~the fund~~] each account were invested.

G. The state treasurer shall charge participating [~~entities, Indian tribes and pueblos~~] governments reasonable

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audit, administrative and investment expenses [~~to be paid~~] and shall deduct those expenses directly from [~~their~~] the net investment income for the investment and administrative services provided pursuant to this [~~section~~] subsection. The amount of the charges, the manner of the use by the state treasurer and the nature of bond-related services to be offered shall be established in rules adopted and promulgated by the state treasurer subject to approval by the state board of finance.

H. Subject to appropriation by the legislature, amounts deducted from the accounts of participating governments for charges permitted pursuant to this section shall be expended by the state treasurer in fiscal year 2008 and in subsequent fiscal years for the administration and management of the participating government investment fund, services provided to participating governments related to investment of their money in that fund and other services authorized by this section. Balances remaining at the end of a fiscal year from the amounts deducted pursuant to this section shall revert to the general fund. Balances in the state treasurer's operating account resulting from deductions taken pursuant to this section in excess of the amount required to provide administration, management and related services required by this subsection or other services authorized by this section shall be offset by reductions in the charges made by the state

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treasurer to the accounts of participating governments in subsequent deductions from participating governments' accounts.

[~~G.~~] I. Investments of the [~~short-term~~] participating government investment fund shall be made in such a manner that the portion of the fund invested in short-term investments maintains a "AA" or higher rating. Each fiscal year and at such other times as directed by the state board of finance, the state treasurer shall cause to have the short-term investment portion of the participating government investment fund rated by a nationally recognized statistical rating organization. If the rating received by the short-term investment portion of the fund is lower than "AA", the state treasurer shall immediately submit a plan to the state board of finance detailing the steps that will be taken to obtain a "AA" or higher rating.

[~~H. As used in this section, "local public body" means a political subdivision of the state, including school districts and post-secondary educational institutions.~~

~~I. In addition to the deposit of funds of local public bodies, the state treasurer may also accept for deposit, deposit and account for, in the same manner as funds of local public bodies, funds of the following governmental entities if the governing authority of the entity approves by resolution the deposit of the funds for the short-term investment:~~

~~(1) the agricultural commodity commission~~

~~established under the Agricultural Commodity Commission Act;~~

~~(2) the Albuquerque metropolitan arroyo flood control authority established under the Arroyo Flood Control Act;~~

~~(3) the business improvement district management committee established under the Business Improvement District Act;~~

~~(4) the New Mexico community development council established under the New Mexico Community Assistance Act;~~

~~(5) the governing authority of only special districts authorized under Chapter 73 NMSA 1978;~~

~~(6) the board of trustees established under the Economic Advancement District Act;~~

~~(7) the board of directors of a corporation or foundation established under the Educational Assistance Act;~~

~~(8) a board of directors established under the Flood Control District Act;~~

~~(9) the New Mexico hospital equipment loan council established under the Hospital Equipment Loan Act;~~

~~(10) the authority established under the Industrial and Agricultural Finance Authority Act;~~

~~(11) the authority established under the Las Cruces Arroyo Flood Control Act;~~

~~(12) the authority established under the~~

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~~Mortgage Finance Authority Act;~~

~~(13) the authority established under the Municipal Mortgage Finance Act;~~

~~(14) the authority established under the Public School Insurance Authority Act;~~

~~(15) the authority established under the Southern Sandoval County Arroyo Flood Control Act;~~

~~(16) a board of trustees established under the Special Hospital District Act;~~

~~(17) the authority established under the New Mexico Finance Authority Act; and~~

~~(18) the corporation established under the Small Business Investment Act.~~

~~J. In addition to the deposit of funds of local public bodies, the state treasurer may also accept for deposit and deposit and account for, in the same manner as funds of local public bodies, funds of any Indian tribe or pueblo in the state if authorized to do so under a joint powers agreement executed by the state treasurer and the governing authority of the Indian tribe or pueblo under the provisions of the Joint Powers Agreements Act.~~]

J. The state treasurer may offer to provide to participating governments services related to requirements of the federal income tax laws applicable to the investment of bond proceeds.

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K. A tribe or quasi-governmental body created pursuant to New Mexico statute may become a participating government only if the governing authority of the tribe or quasi-governmental body has adopted a resolution authorizing the tribe or quasi-governmental body to remit money to the state treasurer for investment in the participating government investment fund.

L. Deposits by the state treasurer on behalf of the general fund shall not exceed five percent of the total amount in the participating government investment fund at any time."

Section 4. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

BILL

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO RETURN TO EMPLOYMENT; AMENDING PROVISIONS OF THE PUBLIC EMPLOYEES RETIREMENT ACT CONCERNING RETIREES WHO RETURN TO EMPLOYMENT; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2004 BY REPEALING LAWS 2004, CHAPTER 2, SECTION 1.

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

Section 1. Section 10-11-8 NMSA 1978 (being Laws 1987, Chapter 253, Section 8, as amended by Laws 2004, Chapter 2, Section 1 and by Laws 2004, Chapter 68, Section 4) is amended to read:

"10-11-8. NORMAL RETIREMENT--RETURN TO EMPLOYMENT--BENEFITS CONTINUED <u>FOR CERTAIN RETIRED MEMBERS</u>--EMPLOYER CONTRIBUTIONS.--

A. A member may retire upon fulfilling the following requirements prior to the selected date of retirement:

(1) a written application for normal retirement, in the form prescribed by the association, is filed with the association;

(2) employment is terminated with all employers covered by any state system or the educational retirement system;

(3) the member selects an effective date of retirement that is the first day of a calendar month; and

(4) the member meets the age and service credit requirement for normal retirement specified in the coverage plan applicable to the member.

B. The amount of normal retirement pension is determined in accordance with the coverage plan applicable to the member.

C. Except as provided in Subsection D, [~~or~~] E or F of this section, a retired member may be subsequently employed by an affiliated public employer if the following conditions apply:

(1) either:

(a) the subsequent employment of the retired member commences prior to July 1, 2008; or

(b) the affiliated public employer is a political subdivision of the state whose governing body has adopted a resolution declaring that the subsequent employment of the retired member will fill a critical need of the political subdivision and the subsequent employment is for a term of two years; provided, however, that the governing body may renew the subsequent employment by passing a resolution declaring continuing need;

[~~(1)~~] (2) the member has not been employed as an employee or retained as an independent contractor of an affiliated public employer for at least ninety consecutive days from the date of retirement to the commencement of employment or re-employment with an affiliated public employer. If the retired member returns to employment without first completing ninety consecutive days of retirement:

(a) the retired member's pension shall be suspended immediately and the previously retired member shall become a member; and

(b) upon termination of the subsequent employment, the previously retired member's pension shall be calculated pursuant to Paragraph (2) of Subsection [~~E~~] G of this section;

[~~(2) effective the first day of the month following the month in which the retired member's earnings total twenty-five thousand dollars ($25,000) during a calendar year, a retired member who returns to employment shall be required to make contributions to the fund as specified in the~~

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[~~Public Employees Retirement Act; provided, however, that after December 31, 2006, no additional contributions shall be required pursuant to this paragraph;~~]

(3) until the subsequent employment is terminated, the affiliated public employer that employs the retired member shall make contributions to the fund in the amount specified in the Public Employees Retirement Act or in a higher amount adjusted for full actuarial cost as determined annually by the association. No employee contributions shall be required pursuant to this paragraph; and

(4) a retired member who returns to employment during retirement pursuant to this subsection is entitled to receive retirement benefits but is not entitled to acquire service credit or to acquire or purchase service credit in the future for the period of the retired member's re-employment with an affiliated public employer.

D. If a member who does not meet the requirements of Subsection C of this section retires and is subsequently employed by an affiliated public employer on or after July 1, 2008, the retired member's pension shall be suspended the first day of the month following the month in which the retired member's earnings for a calendar year from that subsequent employment exceed fifteen thousand dollars ($15,000).

[~~D.~~] E. The provisions of [~~Paragraphs (2) and~~] Paragraph (3) of Subsection C of this section [~~that require~~

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~~employee or employer contributions~~] and the provisions of Subsection D of this section do not apply to:

(1) a retired member who is appointed chief of police of an affiliated public employer, other than the affiliated public employer from which the retired member retired, or who is appointed undersheriff; provided that:

(a) the retired member files an irrevocable exemption from membership with the association within thirty days of appointment;

(b) each sheriff's office shall be limited to one undersheriff qualifying pursuant to this paragraph;

(c) the irrevocable exemption shall be for the chief of police's or the undersheriff's term of office; and

(d) filing an irrevocable exemption shall irrevocably bar the retired member from acquiring service credit for the period of exemption from membership; or

(2) a retired member employed by the legislature for legislative session work.

[~~E.~~] F. At any time during a retired member's subsequent employment pursuant to Subsection C or D of this section, the retired member may elect to suspend the pension. [~~When the pension is suspended, the following conditions shall apply~~]

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G. When a pension is suspended pursuant to Subparagraph (a) of Paragraph (2) of Subsection C of this section or Subsection D or F of this section, the following conditions apply:

(1) the retired member who is subsequently employed by an affiliated public employer shall become a member. The previously retired member and the subsequent affiliated public employer shall make the required employee and employer contributions, and the previously retired member shall accrue service credit for the period of subsequent employment; and

(2) when a previously retired member terminates the subsequent employment with an affiliated public employer, [~~he~~] the previously retired member shall retire according to the provisions of the Public Employees Retirement Act, subject to the following conditions:

(a) payment of the pension shall resume in accordance with the provisions of Subsection A of this section;

(b) unless the previously retired member accrued at least three years of service credit on account of the subsequent employment, the recalculation of pension shall: 1) employ the form of payment selected by the previously retired member at the time of the first retirement; and 2) use the provisions of the coverage plan applicable to the member on the date of the first retirement; and

(c) the recalculated pension shall not be less than the amount of the suspended pension.

[~~F.~~] H. The pension of a member who has three or more years of service credit under each of two or more coverage plans shall be determined in accordance with the coverage plan that produces the highest pension. The pension of a member who has service credit under two or more coverage plans but who has three or more years of service credit under only one of those coverage plans shall be determined in accordance with the coverage plan in which the member has three or more years of service credit. If the service credit is acquired under two different coverage plans applied to the same affiliated public employer as a consequence of an election by the members, adoption by the affiliated public employer or a change in the law that results in the application of a coverage plan with a greater pension, the greater pension shall be paid a member retiring from the affiliated public employer under which the change in coverage plan took place regardless of the amount of service credit under the coverage plan producing the greater pension; provided the member has three or more years of continuous employment with that affiliated public employer immediately preceding or immediately preceding and immediately following the date the coverage plan changed. The provisions of each coverage plan for the purpose of this subsection shall be those in effect at the time the member ceased to be covered by the coverage plan. "Service credit", for the purposes of this subsection, shall be only personal service rendered an affiliated public employer and credited to the member under the provisions of Subsection A of Section 10-11-4 NMSA 1978. Service credited under any other provision of the Public Employees Retirement Act shall not be used to satisfy the three-year service credit requirement of this subsection."

Section 2. REPEAL.--Laws 2004, Chapter 2, Section 1 is repealed.

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