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SENATE BILL 18

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Timothy M. Keller

FOR THE INVESTMENTS OVERSIGHT COMMITTEE

AN ACT

RELATING TO STATE INVESTMENTS; PROVIDING FOR THE STATE
INVESTMENT COUNCIL TO APPOINT THE STATE INVESTMENT OFFICER AND
TO APPOINT MEMBERS TO THE PRIVATE EQUITY INVESTMENT ADVISORY
COMMITTEE; CHANGING MEMBERSHIP OF THE STATE INVESTMENT COUNCIL,
THE PUBLIC EMPLOYEES RETIREMENT BOARD AND THE EDUCATIONAL
RETIREMENT BOARD; PROVIDING FOR ADVISORY COMMITTEES TO THE
STATE INVESTMENT COUNCIL, THE PUBLIC EMPLOYEES RETIREMENT BOARD
AND THE EDUCATIONAL RETIREMENT BOARD; PROVIDING THE STATE
INVESTMENT COUNCIL, THE PUBLIC EMPLOYEES RETIREMENT BOARD AND
THE EDUCATIONAL RETIREMENT BOARD THE POWER TO HIRE CONTRACTORS,
ADVISORS AND FUND MANAGERS; RECONCILING MULTIPLE AMENDMENTS TO
THE SAME SECTION OF LAW IN LAWS 2005.

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

Section 1. Section 6-8-2 NMSA 1978 (being Laws 1957,

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1 Chapter 179, Section 2, as amended) is amended to read:

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

3 A. There is created a "state investment council".

4 The council shall be composed of:

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

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

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

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

9 ~~[E. three public members appointed by the~~
10 ~~governor with the advice and consent of the senate;~~

11 ~~F. the state investment officer; and~~

12 ~~G.]~~ (5) the chief financial officer of a
13 state institution of higher education appointed by the governor
14 with the advice and consent of the senate;

15 (6) one public member appointed by the
16 president pro tempore of the senate with the advice and consent
17 of the senate;

18 (7) one public member appointed by the
19 minority floor leader of the senate with the advice and consent
20 of the senate;

21 (8) one public member appointed by the speaker
22 of the house of representatives with the advice and consent of
23 the senate;

24 (9) one public member appointed by the
25 minority floor leader of the house of representatives with the

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1 advice and consent of the senate; and

2 (10) three public members appointed by the
3 majority of the other nine members, with the advice and consent
4 of the senate.

5 B. The [~~chairman~~] chair of the council shall be the
6 governor.

7 C. All actions of the council shall be by majority
8 vote, and at least [~~three~~] five members appointed pursuant to
9 [~~Subsections E and G~~] Paragraphs (6) through (10) of Subsection
10 A of this section must be present to constitute a quorum.

11 D. Members of the council appointed pursuant to
12 Paragraphs (6) through (10) of Subsection [E] A of this section
13 shall be reimbursed per diem and mileage pursuant to the
14 provisions of the Per Diem and Mileage Act."

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

17 "6-8-3. COUNCIL TERMS AND QUALIFICATIONS.--

18 A. Members of the council appointed [~~by the~~
19 ~~governor~~] pursuant to Paragraphs (6) through (10) of Subsection
20 A of Section 6-8-2 NMSA 1978, with the advice and consent of
21 the senate, shall serve for staggered terms of five years.
22 Members of the council shall serve until their successors are
23 appointed and have qualified.

24 B. The members of the council appointed pursuant to
25 Paragraphs (6) through (10) of Subsection [E] A of Section

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1 6-8-2 NMSA 1978 shall be qualified by competence and no fewer
2 than ten years' experience in the field of investment or
3 finance. During tenure, a member of the council shall not be
4 engaged in any capacity in the sale of securities to the state.
5 Members of the council and officers and employees of the
6 council shall be governed by the provisions of the [~~Conflict of~~
7 ~~Interest~~] Governmental Conduct Act. Nothing in this section or
8 in the [~~Conflict of Interest~~] Governmental Conduct Act shall be
9 construed as prohibiting an officer of a financial institution
10 from participating as a member of the council in setting
11 general policies of the council, nor shall any provision of the
12 [~~Conflict of Interest~~] Governmental Conduct Act prohibit the
13 council or the state treasurer from depositing funds under the
14 jurisdiction of the council in any financial institution. A
15 council member shall not hold an office or employment in a
16 political party.

17 C. Any member of the council appointed pursuant to
18 Paragraphs (6) through (10) of Subsection [E or G] A of Section
19 6-8-2 NMSA 1978 may be removed from the council by the
20 governor, for cause, in the manner provided for removal of
21 members of boards of regents under Article 12, Section 13 of
22 the constitution of New Mexico. A vacancy in the membership of
23 the council occurring other than by expiration of term shall be
24 filled in the same manner as the original appointment but for
25 the unexpired term only."

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1 Section 3. Section 6-8-4 NMSA 1978 (being Laws 1957,
2 Chapter 179, Section 4, as amended) is amended to read:

3 "6-8-4. INVESTMENT OFFICE--STATE INVESTMENT OFFICER--
4 TERMS.--

5 A. There is established an "investment office".
6 The chief administrative officer of the office shall be known
7 as the "state investment officer".

8 B. The state investment officer shall be appointed
9 by ~~[the governor]~~ a majority of the council with the advice and
10 consent of the senate. ~~[Recommendations as to his appointment~~
11 ~~shall be made to the governor by the investment council.]~~ The
12 state investment officer shall devote ~~[his]~~ the officer's
13 entire time and attention to the duties of ~~[his]~~ that office
14 and shall not engage in any other occupation or profession ~~[nor~~
15 ~~shall he]~~ or hold any other public office, appointive or
16 elective. ~~[He]~~ The state investment officer shall be a person
17 qualified, by training and investment experience, to direct the
18 work of the investment ~~[division and]~~ office, shall have had at
19 least five years' professional experience as an investment
20 officer ~~[He]~~ and shall receive a salary to be determined by the
21 state investment council but in no case less than fifty
22 thousand dollars (\$50,000) annually.

23 C. The state investment officer shall serve for an
24 initial term of two years beginning July 1, 1981 and thereafter
25 for terms of four years. The state investment officer may be

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1 removed from office by the ~~[governor]~~ council for cause in the
2 manner provided for removal of members of boards of regents
3 under Article 12, Section 13 of the constitution of New
4 Mexico."

5 Section 4. Section 6-8-7 NMSA 1978 (being Laws 1957,
6 Chapter 179, Section 7, as amended by Laws 2005, Chapter 194,
7 Section 1 and by Laws 2005, Chapter 240, Section 1) is amended
8 to read:

9 "6-8-7. POWERS AND DUTIES OF THE STATE INVESTMENT COUNCIL
10 AND STATE INVESTMENT OFFICER--INVESTMENT POLICY--INVESTMENT
11 MANAGERS.--

12 A. Subject to the limitations, conditions and
13 restrictions contained in policy-making regulations or
14 resolutions adopted by the council, ~~[and subject to prior~~
15 ~~authorization by]~~ the council ~~[the state investment officer]~~
16 may make purchases, sales, exchanges, investments and
17 reinvestments of the assets of all funds ~~[administered under~~
18 ~~the supervision of the council]~~ in accordance with the Uniform
19 Prudent Investor Act. The ~~[state investment officer]~~ council
20 shall see that money invested is at all times handled in the
21 best interests of the state.

22 B. The state investment officer shall formulate and
23 recommend to the council for approval investment regulations or
24 resolutions pertaining to the kind or nature of investments and
25 limitations, conditions and restrictions upon the methods,

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1 practices or procedures for investment, reinvestment, purchase,
2 sale or exchange transactions that should govern the activities
3 of the investment office.

4 C. The council shall meet at least once each month,
5 and as often as exigencies may demand, to consult with the
6 state investment officer concerning the work of the investment
7 office. The council shall have access to all files and records
8 of the investment office and shall require the state investment
9 officer to report on and provide information necessary to the
10 performance of council functions. The council may hire one or
11 more investment management firms to advise the council with
12 respect to the council's overall investment plan for the
13 investment of all funds managed by the investment office and
14 pay reasonable compensation for such advisory services from the
15 assets of the applicable funds, subject to budgeting and
16 appropriation by the legislature. The terms of any such
17 investment management services contract shall incorporate the
18 statutory requirements for investment of funds under the
19 council's jurisdiction.

20 D. All funds managed by the state investment
21 officer shall be managed in accordance with the Uniform Prudent
22 Investor Act. [~~With the approval of~~] The council [~~the state~~
23 ~~investment officer~~] may employ investment management services
24 to invest the funds and may pay reasonable compensation for
25 investment management services from the assets of the

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1 applicable funds, subject to budgeting and appropriation by the
2 legislature.

3 E. For funds available for investment for more than
4 one year, the [~~state investment officer~~] council may contract
5 with any state agency to provide investment advisory or
6 investment management services, separately or through a pooled
7 investment fund, provided the state agency enters into a joint
8 powers agreement with the council and that state agency pays at
9 least the direct cost of such services. Notwithstanding any
10 statutory provision governing state agency investments, the
11 [~~state investment officer~~] council may invest funds available
12 from a state agency pursuant to a joint powers agreement in any
13 type of investment permitted for the land grant permanent funds
14 under the prudent investor rule. In performing investment
15 services for a state agency, the council and the state
16 investment officer are exempt from the New Mexico Uniform
17 Securities Act [~~of 1986~~]. As used in this subsection, "state
18 agency" means any branch, agency, department, board,
19 instrumentality, institution or political subdivision of the
20 state, the New Mexico finance authority, the New Mexico
21 mortgage finance authority and any tax-exempt private endowment
22 entity whose sole beneficiary is a state agency.

23 F. The state investment officer shall provide
24 quarterly performance reports to the legislative finance
25 committee. Annually, the state investment officer shall ratify

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1 and provide written investment policies, including any
2 amendments, to the legislative finance committee."

3 Section 5. Section 6-8-20 NMSA 1978 (being Laws 1987,
4 Chapter 219, Section 3, as amended) is amended to read:

5 "6-8-20. PRIVATE EQUITY INVESTMENT ADVISORY COMMITTEE
6 CREATED--MEMBERSHIP--DUTIES--TERMS--LIABILITIES--CONFLICT OF
7 INTEREST.--

8 A. There is created the "private equity investment
9 advisory committee" to the council. The committee consists of
10 the state investment officer, a member of the council appointed
11 by the [~~governor~~] council and three members who are qualified
12 by competence and experience in finance and investment and
13 knowledgeable about the private equity investment process and
14 who are appointed by the [~~governor~~] council.

15 B. Members appointed by the [~~governor~~] council,
16 except the council member, shall be appointed for three-year
17 terms; provided that the terms of the initial committee members
18 shall be staggered so that the term of one member expires each
19 year. After the initial appointments, all [~~governor~~] appointed
20 members shall be appointed for three-year terms. Members shall
21 serve until their successors are appointed. A vacancy
22 occurring other than by expiration of term shall be filled in
23 the same manner as the original appointment, but only for the
24 unexpired term.

25 C. The committee shall review and make

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1 recommendations to the council on investments authorized
2 pursuant to Sections 7-27-5.15 and 7-27-5.26 NMSA 1978 and all
3 other private equity investments and shall advise the council
4 in matters and policies related to such investments. The
5 committee shall establish policies for national private equity
6 fund investments, New Mexico private equity fund investments
7 and New Mexico film private equity fund investments not less
8 often than annually and shall make copies available to
9 interested parties.

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

14 E. The committee shall elect annually a ~~[chairman]~~
15 chair from among its members and may elect other officers as
16 necessary. The committee shall meet upon the call of the
17 ~~[chairman]~~ chair or the state investment officer.

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

21 G. A person shall not be a member of the committee
22 if any recommendation, action or decision of the committee will
23 or is likely to result in direct, measurable economic gain to
24 that person or that person's employer.

25 ~~[H. The state investment officer may enter into~~

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1 ~~contracts with investment advisors for private equity fund~~
2 ~~investments and film fund investments authorized pursuant to~~
3 ~~Sections 7-27-5.15 and 7-27-5.26 NMSA 1978 and all other~~
4 ~~private equity investments and may pay budgeted expenses for~~
5 ~~the advisors from the assets of any fund administered under the~~
6 ~~supervision of the council, as applicable.~~

7 ~~F.]~~ H. As used in this section, "private equity
8 investments" means any legal entity that has as its primary
9 business activity the investment of funds in return for equity
10 in or debt of businesses for the purpose of providing capital
11 for startup, expansion, new product development,
12 recapitalization or a similar business purpose."

13 Section 6. Section 10-11-130 NMSA 1978 (being Laws 1987,
14 Chapter 253, Section 130, as amended) is amended to read:

15 "10-11-130. RETIREMENT BOARD--AUTHORITY--MEMBERSHIP.--

16 A. The "retirement board" is created and is the
17 trustee of the association and the funds created by the state
18 retirement system acts and has all the powers necessary or
19 convenient to carry out and effectuate the purposes and
20 provisions of the state retirement system acts, including, in
21 addition to any specific powers provided for in the Public
22 Employees Retirement Act but without limiting the generality of
23 the foregoing, the power to:

24 (1) administer the state retirement system
25 acts, including the management of the association and making

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1 effective the provisions of those acts, as well as to
2 administer and manage any other employee benefit acts as
3 provided by law;

4 (2) in addition to utilizing services of the
5 attorney general and notwithstanding any other provision of
6 law, employ or contract with and compensate competent legal
7 counsel to handle the legal matters and litigation of the
8 retirement board and the association and to give advice and
9 counsel in regard to any matter connected with the duties of
10 the retirement board;

11 (3) administer oaths;

12 (4) adopt and use a seal for authentication of
13 records, processes and proceedings;

14 (5) create and maintain records relating to
15 all members, affiliated public employers and all activities and
16 duties required of the retirement board;

17 (6) issue subpoenas and compel the production
18 of evidence and attendance of witnesses in connection with any
19 hearings or proceedings of the retirement board;

20 (7) make and execute contracts;

21 (8) make purchases, sales, exchanges,
22 investments and reinvestments of all funds and employ
23 contractors, advisors or investment management services;

24 [~~8~~] (9) purchase, acquire or hold land
25 adjacent to the state capitol grounds or other suitable

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1 location and build thereon a building to house the association
2 and its employees and, in the event additional office space is
3 available in the building after the retirement board and its
4 employees have been housed, to rent or lease the additional
5 space to any public agency or private person; provided that
6 first priority for the rental or leasing shall be to public
7 agencies and further provided that for the purpose of
8 purchasing, acquiring or holding the land and the building
9 thereon, the retirement board may use funds from the income
10 fund and any other funds controlled by the retirement board the
11 use of which for such purposes is not prohibited by law;

12 [~~(9)~~] (10) after the sale of the land and
13 building acquired pursuant to Paragraph [~~(8)~~] (9) of this
14 subsection, acquire land and build thereon a new building to
15 house the association and its employees and hold the building
16 and land in fee simple in the name of the association. In
17 order to acquire the land and plan, design and construct the
18 building, the retirement board may expend the proceeds of the
19 sale of the land and building acquired pursuant to Paragraph
20 [~~(8)~~] (9) of this subsection or any funds controlled by the
21 board, the use of which for such purposes is not otherwise
22 prohibited by law;

23 [~~(10)~~] (11) make and adopt such reasonable
24 rules as may be necessary or convenient to carry out the duties
25 of the retirement board and activities of the association,

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1 including any rules necessary to preserve the status of the
2 association as a qualified pension plan under the provisions of
3 the Internal Revenue Code of 1986, as amended, or under
4 successor or related provisions of law; and

5 ~~[(11)]~~ (12) designate committees and designate
6 committee members, including individuals who may not be members
7 of the association.

8 B. The retirement board consists of:

9 (1) the secretary of state;

10 (2) the state treasurer;

11 (3) the state auditor;

12 ~~[(3)]~~ (4) four members under a state coverage
13 plan to be elected by the members under state coverage plans;

14 ~~[(4)]~~ (5) four members under a municipal
15 coverage plan to be elected by the members under municipal
16 coverage plans, provided one member shall be a municipal member
17 employed by a county; ~~and~~

18 ~~(5)]~~ (6) two retired members to be elected by
19 the retired members of the association; and

20 (7) three members appointed by a majority of
21 the other members for terms of four years who possess at least
22 ten years of investment or public finance experience.

23 C. The results of elections of elected members of
24 the retirement board shall be certified at the annual meeting
25 of the association. Elections shall be conducted according to

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1 rules the retirement board adopts from time to time.

2 D. The regular term of office of the elected
3 members of the retirement board is four years. The term of one
4 retirement board member under a state coverage plan expires
5 annually on December 31. The terms of retirement board members
6 under a municipal coverage plan expire on December 31 of
7 noncoinciding years in the pattern set by the retirement board.
8 Members of the retirement board serve until their successors
9 have qualified.

10 E. A member elected to the retirement board who
11 fails to attend four consecutively scheduled meetings of the
12 retirement board, unless in each case excused for cause by the
13 retirement board members in attendance, is considered to have
14 resigned from the retirement board, and the retirement board
15 shall by resolution declare the office vacated as of the date
16 of adoption of the resolution. A vacancy occurring on the
17 retirement board, except in the case of an elected official,
18 shall be filled by the remaining retirement board members,
19 without requirement that a quorum be present. The member
20 appointed to fill the vacancy serves for the remainder of the
21 vacated term.

22 F. Members of the retirement board serve without
23 salary for their services as retirement board members, but they
24 shall receive those amounts authorized under the Per Diem and
25 Mileage Act.

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1 G. The retirement board shall hold four regular
2 meetings each year and shall designate in advance the time and
3 place of the meetings. Special meetings and emergency meetings
4 of the retirement board may be held upon call of the [~~chairman~~]
5 chair or any three members of the retirement board. Written
6 notice of special meetings shall be sent to each member of the
7 retirement board at least seventy-two hours in advance of the
8 special meeting. Verbal notice of emergency meetings shall be
9 given to as many members as is feasible at least eight hours
10 before the emergency meeting, and the meeting shall commence
11 with a statement of the nature of the emergency. The
12 retirement board shall adopt its own rules of procedure and
13 shall keep a record of its proceedings. All meetings of the
14 retirement board shall comply with the Open Meetings Act. A
15 majority of retirement board members shall constitute a quorum.
16 Each attending member of the retirement board is entitled to
17 one vote on each question before the retirement board, and at
18 least a majority of a quorum shall be necessary for a decision
19 by the retirement board.

20 H. Annual meetings of the members of the
21 association shall be held in Santa Fe at such time and place as
22 the retirement board shall from time to time determine.
23 Special meetings of the members of the association shall be
24 held in Santa Fe upon call of any seven retirement board
25 members. The retirement board shall send a written notice to

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1 the last known residence address of each member currently
2 employed by an affiliated public employer at least ten days
3 prior to any meeting of the members of the association. The
4 notice shall contain the call of the meeting and the principal
5 purpose of the meeting. All meetings of the association shall
6 be public and shall be conducted according to procedures the
7 retirement board shall from time to time adopt. The retirement
8 board shall keep a record of the proceedings of each meeting of
9 the association.

10 I. Neither the retirement board nor the association
11 shall allow public inspection of, or disclosure of, information
12 from any member or retiree file unless a prior release and
13 consent, in the form prescribed by the association, has been
14 executed by the member or retiree; except that applicable
15 coverage plans, amounts of retirement plan contributions made
16 by members and affiliated public employers, pension amounts
17 paid and the names and addresses of public employees retirement
18 association members or retirees requested for election purposes
19 by candidates for election to the retirement board may be
20 produced or disclosed without release or consent."

21 Section 7. Section 22-11-3 NMSA 1978 (being Laws 1967,
22 Chapter 16, Section 127, as amended) is amended to read:

23 "22-11-3. EDUCATIONAL RETIREMENT BOARD--MEMBERS--TERMS--
24 VACANCIES.--

25 A. The "educational retirement board" is created.

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B. The board shall be composed of [~~seven~~] ten
members, consisting of the following:
(1) the [~~superintendent~~] secretary of public
[~~instruction~~] education;
(2) the state treasurer;
[~~(3) one member to be elected for a term of~~
~~four years by members of the New Mexico association of~~
~~educational retirees;~~]
(3) the state auditor;
(4) the chief financial officer of a four-year
state institution of higher education appointed by the
governor;
[~~(4)~~] (5) one member to be elected for a term
of four years by the members of the [~~New Mexico~~] national
education association of New Mexico;
[~~(5)~~] (6) one member to be elected for a term
of four years by the New Mexico members of the American
association of university professors; [~~and~~
~~(6)~~] (7) two members to be appointed by the
governor for terms of four years each;
(8) one member to be appointed by the governor
for a term of four years who possesses at least ten years of
investment or public finance experience; and
(9) one member to be appointed by the council
of university presidents for a term of four years who possesses

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1 at least ten years of investment or public finance experience.

2 C. In the initial composition of the board, the
3 member elected by the members of the American association of
4 university professors shall serve for a term of three years;
5 one member appointed by the governor shall serve for a term of
6 two years; and the other member appointed by the governor shall
7 serve for a term of one year.

8 D. Vacancies occurring in the [~~term~~] terms of
9 office of those members appointed by the governor or the
10 council university presidents or elected by an association
11 shall be filled either by the governor or council appointing,
12 or the association electing, a new member to fill the unexpired
13 term."

14 Section 8. Section 22-11-13 NMSA 1978 (being Laws 1967,
15 Chapter 16, Section 137, as amended) is amended to read:

16 "22-11-13. BOARD AUTHORITY TO INVEST THE FUND--PRUDENT
17 INVESTOR STANDARD--INDEMNIFICATION OF BOARD.--

18 A. The board is authorized to invest or reinvest
19 the fund in accordance with the Uniform Prudent Investor Act
20 and may employ contractors, advisors or investment management
21 services in any investment or reinvestment.

22 B. The board shall provide quarterly performance
23 reports to the legislative finance committee and the department
24 of finance and administration. Annually, the board shall
25 ratify and provide its written investment policy, including any

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1 amendments, to the legislative finance committee and the
2 department of finance and administration.

3 C. The board or its designated agent may enter into
4 contracts for the temporary exchange of securities for the use
5 by broker-dealers, banks or other recognized institutional
6 investors, for periods not to exceed one year, for a specified
7 fee or consideration. Such a contract shall not be entered
8 into unless the contract is fully secured by a collateralized,
9 irrevocable letter of credit running to the board, cash or
10 equivalent collateral of at least one hundred two percent of
11 the market value of the securities plus accrued interest
12 temporarily exchanged. This collateral shall be delivered to
13 the state fiscal agent or its designee contemporaneously with
14 the transfer of funds or delivery of the securities. Such
15 contract may authorize the board to invest cash collateral in
16 instruments or securities that are authorized fund investments
17 and may authorize payment of a fee from the fund or from income
18 generated by the investment of cash collateral to the borrower
19 of securities providing cash as collateral. The board may
20 apportion income derived from the investment of cash collateral
21 to pay its agent in securities lending transactions.

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

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

5 F. The board may consult with the state investment
6 council or the state investment officer; may request from the
7 state investment council or the state investment officer any
8 information, advice or recommendations with respect to
9 investment of the fund; may utilize the services of the state
10 investment council or the state investment officer; and may act
11 upon any advice or recommendations of the state investment
12 council or the state investment officer. The state investment
13 council or the state investment officer shall render investment
14 advisory services to the board upon request and without expense
15 to the board. The board may also employ the investment
16 management services and related management services of a trust
17 company or national bank exercising trust powers or of an
18 investment counseling firm or brokers for the purchase and sale
19 of securities, commission recapture and transitioning services
20 and may pay reasonable compensation for those services from
21 funds administered by the board.

22 G. The board shall annually provide for its members
23 no less than eight hours of training in pension fund investing,
24 fiduciary obligations or ethics. A member elected or appointed
25 to the board who fails to attend the training for two

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1 consecutive years shall be deemed to have resigned from the
2 board.

3 H. Members of the board, jointly and individually,
4 shall be indemnified from the fund by the state from all
5 claims, demands, suits, actions, damages, judgments, costs,
6 charges and expenses, including court costs and attorney fees,
7 and against all liability, losses and damages of any nature
8 whatsoever that members shall or may at any time sustain by
9 reason of any decision made in the performance of their duties
10 pursuant to this section."

11 Section 9. A new section of Chapter 6, Article 8 NMSA
12 1978 is enacted to read:

13 "[NEW MATERIAL] ALTERNATIVE INVESTMENT ADVISORY
14 COMMITTEE.--

15 A. An alternative investment advisory committee
16 shall be appointed by the council for any separate alternative
17 investment asset class when the percentage of the portfolio
18 invested by the council in that alternative investment asset
19 class exceeds five hundred million dollars (\$500,000,000) or
20 ten percent. An alternative investment advisory committee
21 shall consist of five members, one of whom shall be the state
22 investment officer and four of whom shall be appointed by the
23 council. Of the members appointed to the committee by the
24 council, at least one, but not more than two, shall be a member
25 of the council and the remainder of the members appointed by

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underscored material = new
[bracketed material] = delete

1 the council shall be public members who are not members of the
2 council. All members appointed by the council shall be
3 qualified by competence, experience and knowledge of the
4 alternative investment asset class for which the advisory
5 committee is created and shall have no less than five years of
6 experience in the field of investment or finance.

7 B. Public members shall be appointed for three-year
8 terms; provided that the terms of the initial committee members
9 shall be staggered so that the term of one member expires each
10 year. After the initial appointments, all public members shall
11 be appointed for three-year terms. Members shall serve until
12 their successors are appointed. A vacancy occurring other than
13 by expiration of term shall be filled in the same manner as the
14 original appointment but only for the unexpired term.

15 C. The council may dissolve an alternative
16 investment advisory committee when the percentage of the
17 portfolio invested by the council in that alternative
18 investment asset class falls below five percent for a period of
19 more than one year.

20 D. An alternative investment advisory committee
21 shall review and make recommendations to the council on its
22 designated alternative investment asset class and shall advise
23 the council in matters and policies related to such
24 investments.

25 E. Members of an alternative investment advisory

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

4 F. An alternative investment advisory committee
5 shall elect annually a chair from among its members and may
6 elect other officers as necessary. The committee shall meet
7 upon the call of the chair.

8 G. Members of an alternative investment advisory
9 committee are public employees within the meaning of the Tort
10 Claims Act and are entitled to all immunity and indemnification
11 provided under that act.

12 H. A person shall not be a member of an alternative
13 investment advisory committee if any recommendation, action or
14 decision of the committee will or is likely to result in
15 direct, measurable economic gain to that person or that
16 person's employer.

17 I. As used in this section, "alternative
18 investment" means an asset class other than private equity
19 investments as defined in Section 6-8-20 NMSA 1978, a
20 traditional public equity or a fixed income mutual fund and
21 includes New Mexico economic development investments, hedge
22 funds, real estate and real assets."

23 Section 10. A new section of the Public Employees
24 Retirement Act is enacted to read:

25 "[NEW MATERIAL] ALTERNATIVE INVESTMENT ADVISORY

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1 COMMITTEE.--

2 A. An alternative investment advisory committee
3 shall be appointed by the retirement board for any separate
4 alternative investment asset class when the percentage of the
5 portfolio invested by the retirement board in that alternative
6 investment asset class exceeds five hundred million dollars
7 (\$500,000,000) or ten percent. An alternative investment
8 advisory committee shall consist of five members, one of whom
9 shall be the chief investment officer of the association and
10 four of whom shall be appointed by the retirement board. Of
11 the members appointed to the committee by the retirement board,
12 at least one, but not more than two, shall be a member of the
13 retirement board and the remainder of the members appointed by
14 the retirement board shall be public members who are not
15 members of the retirement board. All members appointed by the
16 retirement board shall be qualified by competence, experience
17 and knowledge of the alternative investment asset class for
18 which the advisory committee is created and shall have no less
19 than five years of experience in the field of investment or
20 finance.

21 B. Public members shall be appointed for three-year
22 terms; provided that the terms of the initial committee members
23 shall be staggered so that the term of one member expires each
24 year. After the initial appointments, all public members shall
25 be appointed for three-year terms. Members shall serve until

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[bracketed material] = delete

1 their successors are appointed. A vacancy occurring other than
2 by expiration of term shall be filled in the same manner as the
3 original appointment but only for the unexpired term.

4 C. The retirement board may dissolve an alternative
5 investment advisory committee when the percentage of the
6 portfolio invested by the retirement board in that alternative
7 investment asset class falls below five percent for a period of
8 more than one year.

9 D. An alternative investment advisory committee
10 shall review and make recommendations to the retirement board
11 on its designated alternative investment asset class and shall
12 advise the retirement board in matters and policies related to
13 such investments.

14 E. Members of an alternative investment advisory
15 committee shall receive per diem and mileage as provided for
16 nonsalaried public officers in the Per Diem and Mileage Act and
17 shall receive no other compensation, perquisite or allowance.

18 F. An alternative investment advisory committee
19 shall elect annually a chair from among its members and may
20 elect other officers as necessary. The committee shall meet
21 upon the call of the chair.

22 G. Members of an alternative investment advisory
23 committee are public employees within the meaning of the Tort
24 Claims Act and are entitled to all immunity and indemnification
25 provided under that act.

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1 H. A person shall not be a member of an alternative
2 investment advisory committee if any recommendation, action or
3 decision of the committee will or is likely to result in
4 direct, measurable economic gain to that person or that
5 person's employer.

6 I. As used in this section, "alternative
7 investment" means an asset class other than a traditional
8 public equity or fixed income mutual fund and includes New
9 Mexico economic development investments, hedge funds, private
10 equity, real estate and real assets."

11 Section 11. A new section of the Educational Retirement
12 Act is enacted to read:

13 "[NEW MATERIAL] ALTERNATIVE INVESTMENT ADVISORY
14 COMMITTEE.--

15 A. An alternative investment advisory committee
16 shall be appointed by the board for any separate alternative
17 investment asset class when the percentage of the portfolio
18 invested by the board in that alternative investment asset
19 class exceeds five hundred million dollars (\$500,000,000) or
20 ten percent. An alternative investment advisory committee
21 shall consist of five members, one of whom shall be the
22 director and four of whom shall be appointed by the board. Of
23 the members appointed to the committee by the board, at least
24 one, but not more than two, shall be a member of the board and
25 the remainder of the members appointed by the retirement board

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1 shall be public members who are not members of the board. All
2 members appointed by the board shall be qualified by
3 competence, experience and knowledge of the alternative
4 investment asset class for which the advisory committee is
5 created and shall have no less than five years of experience in
6 the field of investment or finance.

7 B. Public members shall be appointed for three-year
8 terms; provided that the terms of the initial committee members
9 shall be staggered so that the term of one member expires each
10 year. After the initial appointments, all public members shall
11 be appointed for three-year terms. Members shall serve until
12 their successors are appointed. A vacancy occurring other than
13 by expiration of term shall be filled in the same manner as the
14 original appointment but only for the unexpired term.

15 C. The board may dissolve an alternative investment
16 advisory committee when the percentage of the portfolio
17 invested by the board in that alternative investment asset
18 class falls below five percent for a period of more than one
19 year.

20 D. An alternative investment advisory committee
21 shall review and make recommendations to the board on its
22 designated alternative investment asset class and shall advise
23 the board in matters and policies related to such investments.

24 E. Members of an alternative investment advisory
25 committee shall receive per diem and mileage as provided for

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1 nonsalaried public officers in the Per Diem and Mileage Act and
2 shall receive no other compensation, perquisite or allowance.

3 F. An alternative investment advisory committee
4 shall elect annually a chair from among its members and may
5 elect other officers as necessary. The committee shall meet
6 upon the call of the chair.

7 G. Members of an alternative investment advisory
8 committee are public employees within the meaning of the Tort
9 Claims Act and are entitled to all immunity and indemnification
10 provided under that act.

11 H. A person shall not be a member of an alternative
12 investment advisory committee if any recommendation, action or
13 decision of the committee will or is likely to result in
14 direct, measurable economic gain to that person or that
15 person's employer.

16 I. As used in this section, "alternative
17 investment" means an asset class other than a traditional
18 public equity or fixed income mutual fund and includes New
19 Mexico economic development investments, hedge funds, private
20 equity, real estate and real assets."

21 Section 12. TEMPORARY PROVISION--TRANSITION MEMBERSHIP OF
22 STATE INVESTMENT COUNCIL.--

23 A. The three public members serving on the state
24 investment council on July 1, 2010 shall continue to serve on
25 the council until their term expires.

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1 B. On July 1, 2010, members may be appointed
2 pursuant to Paragraphs (6) through (9) of Subsection A of
3 Section 6-8-2 NMSA 1978 and shall serve on an interim basis
4 until confirmed by the senate; provided that the initial
5 appointees shall, by lot, determine the terms of office for
6 each position so that one position will be for an initial term
7 of one year, two positions will be for initial terms of three
8 years and one position will be for an initial term of five
9 years. Thereafter, the terms shall be for five years.

10 C. After the appointments pursuant to Subsection B
11 of this section, the members, including the members serving on
12 an interim basis, shall select one of the members pursuant to
13 Paragraph (10) of Subsection A of Section 6-8-2 NMSA 1978, who
14 shall serve on an interim basis until confirmed by the senate
15 and whose term shall be for five years. The other three
16 members shall be appointed pursuant to Paragraph (10) of
17 Subsection A of Section 6-8-2 NMSA 1978 as the terms of the
18 public members serving on July 1, 2010 expire.

19 Section 13. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is January 1, 2011.