

SENATE MEMORIAL ____

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INTRODUCED BY

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A MEMORIAL

BITCOIN STRATEGIC RESERVE FEASIBILITY STUDY MEMORIAL; REQUESTING THE NEW MEXICO STATE INVESTMENT COUNCIL TO STUDY THE FEASIBILITY, RISKS, BENEFITS, LEGAL REQUIREMENTS AND FIDUCIARY IMPLICATIONS OF ESTABLISHING A BITCOIN STRATEGIC RESERVE FUND OR BITCOIN INVESTMENT SLEEVE WITHIN ELIGIBLE LONG-TERM STATE INVESTMENT FUNDS; REQUESTING LONG-TERM SCENARIO ANALYSIS; AND REQUESTING THE STATE INVESTMENT COUNCIL TO IDENTIFY THE OBJECTIVE CONDITIONS UNDER WHICH BITCOIN COULD BE CONSIDERED PRUDENTLY INVESTABLE OR SHOULD REMAIN UNSUITABLE FOR INVESTMENT.

This working draft is intended for policy discussion and committee review. It does not constitute final drafting by the New Mexico Legislative Council Service.

WHEREAS, the state investment council oversees and manages New Mexico's permanent funds, reserve funds, endowment funds and other long-term investment assets for the benefit of current and future generations of New Mexicans; and

WHEREAS, New Mexico's permanent funds were established to convert finite natural-resource wealth and other public assets into durable, long-term financial resources for public schools, universities, state institutions, public programs and other beneficiaries; and

WHEREAS, the severance tax permanent fund was created to save and invest revenues derived from oil, gas and other natural resources severed from the state; and

WHEREAS, the land grant permanent fund receives revenues derived from state trust lands and associated minerals and natural resources and provides substantial annual distributions to New Mexico public schools, universities and other beneficiaries; and

WHEREAS, the constitution of New Mexico requires the state investment officer, under the supervision of the state investment council, to invest and manage the land grant permanent funds in accordance with the Uniform Prudent Investor Act; and

WHEREAS, the state investment council has a fiduciary responsibility to evaluate investments based on prudence, diversification, risk-adjusted return, liquidity, protection of beneficiaries and preservation of long-term purchasing power; and

WHEREAS, New Mexico's long-term financial strength depends in part on converting current natural-resource revenues into diversified assets capable of supporting future generations as commodity markets, monetary conditions, federal policy, technology, inflation, energy demand and global capital markets change over time; and

WHEREAS, Bitcoin is a decentralized digital asset operating on a distributed network, with a predetermined issuance schedule and a maximum supply of twenty-one million Bitcoin, and has developed into a globally traded digital asset with increasing participation by institutional investors and regulated financial-market participants; and

WHEREAS, Bitcoin does not generate cash flow, dividends or interest and cannot be valued through traditional discounted cash flow methodologies commonly applied to equities, fixed-income securities, real estate or infrastructure investments; and

WHEREAS, Bitcoin remains highly volatile and presents material risks, including severe market drawdowns, custody risk, cybersecurity risk, counterparty risk, regulatory uncertainty, valuation risk, liquidity risk, operational risk and reputational risk; and

WHEREAS, these characteristics require careful consideration of whether Bitcoin should be evaluated using traditional productive-asset valuation methodologies, alternative reserve-asset or commodity frameworks, or other institutional investment methodologies; and

WHEREAS, the absence of traditional cash flows does not, by itself, resolve whether an asset may have value for diversification, preservation of purchasing power, liquidity, scarcity, portfolio resilience or other reserve purposes, and those potential characteristics should be evaluated together with the risks of the asset; and

WHEREAS, any consideration of Bitcoin by the state of New Mexico should be grounded in fiduciary duty, disciplined portfolio construction, institutional custody, legal review, public reporting, risk management and beneficiary protection rather than short-term price expectations or speculation; and

WHEREAS, because New Mexico's permanent funds are long-duration assets intended to benefit multiple generations, an evaluation of Bitcoin should examine potential outcomes over ten-year, twenty-year and thirty-year periods rather than focusing primarily on short-term price movements; and

WHEREAS, long-term scenario analysis should not assume that Bitcoin's historical rates of appreciation will continue and should instead evaluate multiple return assumptions, including substantially reduced future returns, severe drawdowns, prolonged periods of underperformance and near-total-loss scenarios; and

WHEREAS, evaluating limited hypothetical allocations of one-quarter percent, one-half percent, three-quarters percent and one percent would allow the state investment council to assess Bitcoin's potential portfolio effects without presuming that any allocation should ultimately be made; and

WHEREAS, the state investment council has identified volatility and drawdown risk, absence of cash flows and conventional valuation methodology, digital-asset custody and cryptographic risks, counterparty risks and the need for specialized staff expertise as material considerations in evaluating Bitcoin; and

WHEREAS, a comprehensive feasibility study should therefore identify measurable criteria by which those concerns could be evaluated and should define the conditions under which Bitcoin could potentially satisfy fiduciary requirements as well as the conditions under which Bitcoin should remain unsuitable for investment; and

WHEREAS, a Bitcoin strategic reserve fund or investment sleeve, if ever authorized, should be evaluated only as a limited portion of eligible long-term investment assets and should not be relied upon to fund recurring operating expenses of state government; and

WHEREAS, the potential use of Bitcoin holdings as collateral for state liquidity or borrowing purposes presents additional risks requiring analysis of loan-to-value limits, counterparty protections, legal enforceability, market stress, collateral calls and potential forced liquidation; and

WHEREAS, before the legislature considers authorizing any Bitcoin strategic reserve, it is prudent for the state investment council to conduct a comprehensive, objective and transparent feasibility study; and

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NEW MEXICO that the state investment council be requested to conduct a Bitcoin strategic reserve feasibility study examining the potential benefits, risks, legal requirements, operational requirements and fiduciary implications of establishing a Bitcoin strategic reserve fund or Bitcoin investment sleeve within eligible long-term state investment funds; and

BE IT FURTHER RESOLVED that the study expressly not be construed as a directive or presumption that the state investment council should invest public funds in Bitcoin but instead be conducted to determine objectively whether Bitcoin exposure could ever satisfy New Mexico's fiduciary, legal, operational and investment requirements; and

BE IT FURTHER RESOLVED that the study evaluate whether a Bitcoin strategic reserve fund or investment sleeve could be structured consistently with the Uniform Prudent Investor Act, the constitution of New Mexico, applicable state investment policies, applicable federal and state law and the fiduciary obligations owed to the beneficiaries of each affected fund; and

BE IT FURTHER RESOLVED that the study include, at a minimum, an evaluation of the following:

- A. whether current state law and the constitution of New Mexico authorize the state investment council to obtain Bitcoin exposure through direct ownership, regulated exchange-traded products, separately managed accounts, institutional custody arrangements or other lawful investment vehicles;
- B. whether additional statutory or constitutional authority would be necessary or advisable before the state investment council could establish a Bitcoin strategic reserve fund or Bitcoin investment sleeve;
- C. the investment case both for and against Bitcoin as a limited, long-term allocation within eligible state investment funds, including an examination of scarcity, liquidity, diversification, volatility, correlation with other asset classes, market depth, preservation of purchasing power and potential portfolio resilience;
- D. hypothetical allocation scenarios equal to one-quarter percent, one-half percent, three-quarters percent and one percent of eligible long-term assets and the projected effect of each allocation on total portfolio return, risk-adjusted return, volatility, liquidity, diversification, drawdown risk and long-term purchasing-power preservation;
- E. long-term scenario analyses over ten-year, twenty-year and thirty-year periods using multiple assumptions, including historical-return reference scenarios, reduced-growth scenarios, adoption-based scenarios, inflation-adjusted scenarios, severe-drawdown scenarios, prolonged bear-market scenarios, extended periods of zero or negative real return and near-total-loss scenarios;
- F. the effect of each long-term scenario on eligible fund balances, annual beneficiary distributions, portfolio volatility, liquidity, purchasing-power preservation and potential collateral value;
- G. comparison of the hypothetical Bitcoin allocations against appropriate portfolio benchmarks, including existing state investment council portfolio allocations, United States dollar purchasing power, inflation and, where appropriate, other reserve or scarce assets such as gold;
- H. whether a Bitcoin allocation, if ever determined to be prudent, should initially be implemented as a limited pilot program and, if so, the appropriate allocation, duration, performance metrics, review requirements and conditions for continuation, expansion, reduction or termination;

- I. the appropriate definition of eligible state funds and whether certain funds or investment pools should be excluded because of liquidity requirements, legal restrictions, beneficiary obligations, distribution requirements, investment horizons or other fiduciary considerations;
- J. the risks, benefits and costs of direct Bitcoin custody compared with exposure through regulated spot Bitcoin exchange-traded products, institutional separately managed accounts or other regulated investment vehicles;
- K. institutional custody requirements, including qualified custodians, cold-storage practices, multi-signature authorization, insurance coverage, cybersecurity controls, disaster recovery, auditability, asset segregation, private-key governance and other safeguards necessary to protect state assets;
- L. accounting, audit, valuation, tax and financial-reporting requirements, including relevant governmental accounting standards and applicable federal or state regulatory requirements;
- M. cybersecurity, fraud, counterparty, custodian, vendor, exchange, liquidity, market-manipulation, operational, technological and reputational risks;
- N. potential rebalancing policies, acquisition schedules, disposition policies, fee structures, benchmark selection and methods for measuring risk-adjusted performance;
- O. stress-test scenarios that include severe Bitcoin price declines, prolonged bear markets, rapid liquidity contractions, custody failures, cybersecurity events, counterparty failures, regulatory changes and market conditions in which Bitcoin becomes highly correlated with other risk assets;
- P. whether and under what circumstances Bitcoin holdings could lawfully and prudently be used as collateral for state borrowing, liquidity management or other state financial purposes;
- Q. if collateral use is determined to merit further consideration, appropriate safeguards including maximum loan-to-value ratios, overcollateralization requirements, limitations on margin calls or forced-liquidation structures, counterparty requirements, legal enforceability, public reporting and prohibitions or limitations on borrowing for recurring operating expenses;
- R. whether any Bitcoin strategic reserve should be prohibited from being lent, rehypothecated, pledged or otherwise encumbered except pursuant to specifically defined conditions consistent with fiduciary obligations and approved state investment council policy;
- S. governance requirements, including approval thresholds, reporting requirements, internal controls, public transparency, legislative oversight and beneficiary protections;
- T. ethical, procurement and conflict-of-interest safeguards applicable to investment managers, custodians, brokers, consultants, exchange-traded product sponsors and other service providers;
- U. approaches taken by other United States states, public pension systems, sovereign investment entities, governments and institutional investors in evaluating or holding Bitcoin or other digital reserve assets;
- V. the personnel, specialized expertise, investment systems, legal support, custody expertise, cybersecurity resources, external consultants or additional staffing that would be required for the state investment council to competently evaluate, implement and oversee a Bitcoin investment strategy;
- W. any recommended legislation, constitutional considerations, regulatory changes, investment-policy amendments or other actions that would be necessary before the state investment council could implement a Bitcoin strategic reserve fund or Bitcoin investment sleeve in a prudent and transparent manner;

and

BE IT FURTHER RESOLVED that, as a central element of the feasibility study, the state investment council be requested to establish and report objective criteria for determining whether Bitcoin could become suitable for consideration as an investment within eligible state funds; and

BE IT FURTHER RESOLVED that those objective criteria include, at a minimum:

- A. acceptable thresholds for volatility, maximum drawdown, liquidity, market depth and correlation with other portfolio assets;
- B. minimum custody, cybersecurity, private-key management, insurance, audit and asset-segregation standards;
- C. appropriate measures of market maturity, including institutional participation, regulated market infrastructure, trading liquidity, price discovery and availability of qualified service providers;
- D. the investment, legal, accounting, cybersecurity, custody and operational expertise that the state investment council would require internally or through qualified external advisers;
- E. the statutory, constitutional and regulatory authorities that would need to exist before an investment could be undertaken;
- F. the valuation, portfolio-construction or reserve-asset methodologies that the state investment council would consider appropriate for evaluating an asset that does not generate traditional cash flows;
- G. the minimum historical, institutional or market evidence the state investment council would require to conclude that Bitcoin may function as a long-term store of value or portfolio diversifier;
- H. acceptable levels of counterparty, technological, regulatory and operational risk;
- I. the fiduciary findings that would be necessary for the state investment council to conclude that a limited Bitcoin allocation could be consistent with the Uniform Prudent Investor Act and the interests of fund beneficiaries;
- J. any additional objective conditions the state investment council considers necessary before Bitcoin exposure could be considered prudent;

and

BE IT FURTHER RESOLVED that the state investment council also identify the objective circumstances under which Bitcoin should remain unsuitable for investment, including risk levels, market conditions, custody deficiencies, legal or regulatory barriers, insufficient market maturity, lack of necessary expertise or other fiduciary concerns that would prevent the state investment council from prudently making an allocation; and

BE IT FURTHER RESOLVED that the study distinguish between risks that are inherent to Bitcoin and cannot reasonably be mitigated and risks that may be reduced through allocation limits, investment vehicles, institutional custody, diversification, governance, technology, insurance or other risk-management practices; and

BE IT FURTHER RESOLVED that the state investment council be requested to examine whether a Bitcoin strategic reserve fund or Bitcoin investment sleeve, if ever established, should be limited exclusively to Bitcoin and exclude other digital assets, cryptocurrencies, tokens, staking arrangements, decentralized-finance protocols, crypto lending arrangements and other speculative digital-asset instruments unless separately authorized by law; and

BE IT FURTHER RESOLVED that the state investment council be requested to evaluate Bitcoin as a potential long-term reserve asset and not as a short-term trading vehicle; and

BE IT FURTHER RESOLVED that the state investment council consult, as appropriate, with the department of finance and administration, state treasurer, legislative finance committee, legislative council service, attorney general, independent fiduciary counsel, institutional investment consultants, governmental accounting experts, qualified digital-asset custodians, cybersecurity experts, economists, institutional asset managers and other persons or organizations possessing relevant expertise; and

BE IT FURTHER RESOLVED that the state investment council identify in its study any additional personnel, consultant resources, appropriations or other funding that would be necessary to perform the study adequately or to implement any future recommendation resulting from the study; and

BE IT FURTHER RESOLVED that the state investment council be requested to present its findings, supporting analysis and recommendations to the legislative finance committee and the investments and pensions oversight committee no later than November 1, 2027; and

BE IT FURTHER RESOLVED that the final report clearly identify whether the state investment council concludes that:

- A. Bitcoin currently satisfies the conditions necessary to merit consideration as a limited investment;
- B. Bitcoin does not currently satisfy those conditions but could do so if specified measurable conditions are met;
- C. Bitcoin is unsuitable for investment by the state investment council under the fiduciary, legal or investment standards identified in the study;

and

BE IT FURTHER RESOLVED that any finding that Bitcoin may merit investment consideration shall not constitute authorization or direction to purchase Bitcoin but shall instead provide the legislature and state investment council with an analytical foundation for determining whether further legislative, regulatory or investment-policy action is warranted; and

BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the chair of the state investment council, the state investment officer, the secretary of finance and administration, the state treasurer, the attorney general, the director of the legislative finance committee and the director of the legislative council service.