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

June 20, 2012
Room 322, State Capitol

The first meeting of the Investments and Pensions Oversight Committee (IPOC) was called to order by Senator George K. Munoz, chair, on Wednesday, June 20, 2012, at 9:15 a.m. in Room 322 of the State Capitol in Santa Fe.

Present	**Absent**
Sen. George K. Munoz, Chair	Rep. Henry Kiki Saavedra, Vice Chair
Rep. William "Bill" J. Gray	Rep. David L. Doyle
Rep. Larry A. Larrañaga	Sen. Timothy M. Keller
Rep. Jim R. Trujillo	Sen. Carroll H. Leavell
Rep. Luciano "Lucky" Varela	Sen. Steven P. Neville
	Sen. Mary Kay Papen
	Sen. John M. Sapien

Advisory Members

Sen. Carlos R. Cisneros	Rep. Donald E. Bratton
Rep. Miguel P. Garcia	Sen. Tim Eichenberg
Rep. Roberto "Bobby" J. Gonzales	Sen. Stuart Ingle
Rep. Rhonda S. King	Rep. Patricia A. Lundstrom
Rep. Jane E. Powdrell-Culbert	Sen. William H. Payne
Rep. William "Bill" R. Rehm	Sen. John C. Ryan
Rep. Mimi Stewart	Sen. Michael S. Sanchez
Rep. Shirley A. Tyler	Rep. Sheryl Williams Stapleton
Rep. Richard D. Vigil	

Staff
Tom Pollard, Legislative Council Service (LCS)
Doris Faust, LCS
Sean Sullivan, LCS

Guests
The guest list is in the archived meeting file.

Handouts
Copies of all handouts are in the archived meeting file.

Wednesday, June 20

Call to Order

Senator Munoz called the meeting to order at 9:15 a.m. and welcomed the committee and members of the audience to the meeting. He then asked committee members to introduce themselves, which they did.

Update on the Compromise of Public Employees Retirement Association (PERA) Employee Information

Susan Pittard, general counsel, PERA, addressed committee members regarding the stolen laptop with potentially compromising information about PERA employees. She stated that the information on the laptop contained names and banking account information of retirees and beneficiaries, but not social security numbers.

Ms. Pittard added that by the close of business on Tuesday, June 19, 2012, PERA had contacted each retiree and beneficiary on the payroll regarding the incident. Ms. Pittard also stressed that PERA is in contact with an information technology (IT) company that is walking PERA through the data breach notification process.

Ms. Pittard went on to inform committee members that PERA is dealing with the external auditor's insurance company and presently negotiating an agreement with a credit reporting agency to provide retirees a credit monitoring program free of charge. She explained further steps that PERA is taking to assist retirees, including providing customer service and entering into an agreement with financial institutions to provide alerts on banking accounts.

A question was asked as to why auditors must take computers with them, and whether any investment accounts or deferred compensation information was stored on the laptop. Ms. Pittard explained that the laptop did not contain any information regarding deferred compensation. She went on to state that the information on the laptop was not encrypted, which is unacceptable to PERA, and that PERA is investigating the auditor's internal procedures.

Another question was asked as to whether the auditor needed a password to log into the laptop. Ms. Pittard responded that while there were two levels of passwords required to enter into the data files, an IT specialist circumvented these password protections relatively easily on a mock computer. She suggested that anyone with IT skills could likely have accessed the information.

Ms. Pittard stated further that the independent auditing company, Atkinson, is based in Albuquerque and is on the state auditor's list. Further, she affirmed that PERA is determining the costs for labor, customer service, credit alerting and other steps being taken to mitigate the situation, and PERA is working with Atkinson's insurance agency to ensure payment.

Update on Investment Policy and Governance Developments: State Investment Council (SIC)

Steven K. Moise, state investment officer, SIC, introduced himself and his senior management team to the committee. Present senior management included Vince Smith, deputy state investment officer, Evan Land, general counsel, Charles Wollmann, director of communications, and Brent Schipp, chief financial officer.

Mr. Moise first addressed the operational reforms at the SIC and discussed further action the council is taking to institutionalize positive change. Mr. Moise noted that since the SIC was reconstituted by the legislature in 2010, the council has retained a new investment officer and a new management team and has replaced three of four investment advisors, a private equity consultant and a real estate consultant. In addition to governance reforms, Mr. Moise explained that the SIC reduced its earnings expectation from a target of 8.5% to a target of 7.5% and embarked on a three-year portfolio reconstruction in 2011. Mr. Moise asserted that the SIC has traditionally been highly allocated to equities and stocks, but is now trying to shift a portion of the portfolio to real return assets, including real estate, infrastructure, energy and timber. He added that this focus on income-producing real assets would reduce the portfolio's volatility and exposure to equity markets. Mr. Moise noted that in order to accomplish this restructuring, the SIC has retained new, best-in-class managers through a rigorous request for proposals process.

Mr. Moise informed committee members that the SIC had adopted two dozen new policies, including a new code of conduct, code of ethics, mission vision, values statement and a renewed emphasis on transparency. Mr. Moise went on to detail the 2010 recommendations made by an investment consulting firm, EnnisKnupp, noting that the SIC has implemented 55 of the 82 recommendations. He added that the SIC asked the company (now Hewitt-EnnisKnupp) to return and conduct a follow-up study and provide new recommendations. Mr. Moise then explained that of the 11 SIC positions, 10 members are currently serving, including Linda Eitzen, who was appointed by Governor Susana Martinez in May, and Leonard Lee Rawson, who was reappointed by the New Mexico Legislative Council.

Mr. Moise reiterated that preserving and growing the permanent funds are the most important goals of the SIC, and stated that the funds have grown by nearly $1.5 billion over the last two years. Mr. Moise went on to summarize the distributions from and the contributions to the land grant permanent funds (LGPF) and the Severance Tax Permanent Fund (STPF). Relating to the LGPF, Mr. Moise noted that contributions over the past two years totaling roughly $883 million have been made to the LGPF from numerous sources, including oil and gas leases, royalty payments and bonus payments. He added that distributions from the LGPF have been about $1.1 billion over that same time period, meaning that the state is receiving less into the LGPF than it is paying out. Mr. Moise explained that the STPF contributed nearly $375 million to the general fund over the last two years, while only $11 million has trickled into the STPF. He indicated that this spread makes it difficult to maintain and impossible to grow the STPF, and that if inflation is taken into account, the corpus of the STPF is actually eroding.

Mr. Moise finished by updating the committee on the SIC's legal matters. Mr. Moise explained that the SIC had hired a law firm on a contingent-fee basis, which has a successful track record in dealing with New York pay-to-play issues. He also added that the SIC is the only governmental entity that is pursuing recoveries. Mr. Moise reported that the SIC has served all of the defendants it has named, and none have been dismissed. He concluded by stating that the SIC will likely name more defendants, and he expressed to the committee that the litigation will last through at least 2014.

A question was asked as to whether the SIC will propose any legislation during the session to fix the issues with the STPF. Mr. Moise responded that there are more structural changes to be made relating to the way the SIC operates, but pointed out that it would be premature to discuss these changes prior to the SIC meeting with EnnisKnupp and the governance committee.

A question was asked concerning the current vacancy on the council. Mr. Moise responded that there should be a governor appointee soon to fill the remaining vacancy.

In response to a question from the committee regarding diversion of severance taxes for the Public School Capital Outlay Fund, Tribal Infrastructure Fund and Water Trust Fund from the STPF, Mr. Moise stated that there are ideas being discussed, but that they have not been vetted by the SIC. However, Mr. Moise mentioned that one worthwhile endeavor could be to gradually increase the percentage of money being directed into the permanent fund.

An inquiry was made into the status of the ongoing litigation, asking specifically about who is prosecuting these cases and whether the statute of limitations is at risk of running out in any of these matters. Mr. Land first noted that there is no statute of limitations if the SIC sues in state court. He went on to explain that while the federal Securities and Exchange Commission could bring a securities fraud case, or the federal Department of Justice or the state attorney general could bring a criminal case, the SIC is the only agency pursuing legal remedies at this time. Mr. Land recounted that the law firm hired by the SIC has incurred over $5 million in billing, while the SIC has only paid it $200,000 to cover expenses. Mr. Land expressed that the SIC's goal is to get settlements or guilty verdicts regarding the 18 defendants. He added that the SIC is launching discovery, has survived every motion to dismiss and is moving the case forward without having any defendant dropped from the suit. The committee member questioned whether there is a criminal suit being considered. Mr. Land stated that while there are no criminal cases pending at this point, the SIC is aggressively pursuing the 18 most egregious individuals.

The question was asked as to whether the revenue from land leases was included in the LGPF contribution amount. Mr. Moise stated that this revenue was reflected in the contribution and explained that the sources of revenue to the State Land Office from oil and gas leases include bonus payments, royalties and rental payments. Mr. Smith added that the LGPF earned 9.45% for the quarter ending in March, the highest rate of return among comparable funds in the country. Mr. Smith reiterated, however, that the goal is not to be the best in the country, but rather consistently earn prudent returns over periods of three, five, 10 and 20 years.

The question was asked as to whether there was any legislation introduced in 2012 regarding the SIC. Mr. Moise stated that SB 53, which ultimately failed in the house, was crafted to remove the governor from the SIC. Mr. Pollard affirmed to the committee that SB 53 was an IPOC-endorsed bill that was designed to remove elected officials from the SIC and replace them with members appointed by these officials. Mr. Smith pointed out that a resolution was also introduced to expand the existing cap on international equity investments from 15% to 25%. He noted that this resolution ultimately died on the last day of the session.

Mr. Moise discussed additional legislation to remove statutory authority for the Private Equity Investment Advisory Committee. Mr. Moise explained that when this committee was created in statute, the legislature believed that it was a new asset class that should have its own vetting process. Mr. Smith added that private equity assets have made their way into the mainstream and stated that New Mexico has 10% of its portfolio in this asset class. He remarked that private equity assets can be handled within the Private Equity Investment Committee. Mr. Land went on to state that the SIC is held to the highest fiduciary standard, which requires a risk analysis of the portfolio as a whole. He explained that if these assets are bifurcated by type, the prudent investor standard is not being complied with.

In response to a question from the committee, Mr. Wollmann discussed distributions from the LGPF. Mr. Wollmann informed the committee that the LGPF has 21 beneficiaries, the largest of which is the Common School Fund, which gets 83% of the distribution. He added that the LGPF distribution rates have been 5.8% since fiscal year (FY) 2005, will drop to 5.5% for FY 2013 through FY 2016 and will reach a base of 5% by FY 2017. Mr. Wollmann stated that the remaining 17% of the LGPF distributions go to various universities, public buildings and prisons. Mr. Wollmann stated that a downward adjustment to 5.5% would result in a dollar reduction of around $30 million.

Update on Recent Investment Performance: SIC

Mr. Smith explained that although the LGPF earned a high return of 9.45% in the quarter to date, the fund's long-term performance lags behind its peers. He added that the 10-year return target was 5.45%, and the actual return average was 5.55%.

Mr. Smith went on to discuss the asset allocation of the LGPF. Mr. Smith said that, as recently as March of this year, the LGPF was heavily invested in U.S. equities, with 47.98% of the fund being allocated to those assets. He added that over 10 years, these assets only returned an average of 5.27%. Mr. Smith informed the committee that as of June, the state has allocated only 39% to U.S. equities and that the percentage will be reduced to 31% in the near term. He noted that the state is investing more in treasury inflation-protected securities (TIPS) and floating rate debt in order to provide a smoother rate of return. Mr. Smith detailed other allocation changes, including reducing the portfolio allocation in fixed-income assets and increasing the allocation to absolute return and real estate assets. He stated that this new portfolio was designed to yield a target rate of return of 7.5%.

Mr. Smith continued by detailing the state's asset allocation compared to its peers. He noted that the LGPF is highly allocated to U.S. equities, but the reduction to 31% will bring the state to a level average with its peers. Mr. Smith indicated a desire to become more heavily allocated in international equities and explained the reasoning for the state's low allocation to U.S. fixed income. Mr. Smith also pointed out that the state was above average in its allocation to alternative investments, which include the less volatile real return investments.

Mr. Smith concluded by discussing the investment performance of the LGPF as compared to its public peer funds. Mr. Smith explained that because the LGPF is highly allocated to equities, and equities did well for the first quarter, the LGPF earned 72 basis points over its public peer funds for that quarter. In total, against peer returns, the LGPF earned an additional $300 million in the first quarter. Mr. Smith indicated that over the past year, the LGPF slightly outperformed public peer plans.

A question was asked about the strategy to shift the portfolio allocation from equities to real assets, considering the recent success of equities. Mr. Smith indicated that the rate of return on real assets is comparable to that projected for stocks, with considerably less volatility. Mr. Smith went on to comment that he sees two bubbles: the bond market and corporate earnings. He stated that these bubbles cannot be sustained, and that because the stock market is based on corporate earnings, returns on equities will likely be tempered in the future.

The SIC was asked to provide the committee with a list of the 52 EnnisKnupp recommendations that have been implemented, as well as an explanation of those recommendations that have not been adopted.

Status Report on the Actuarial Soundness of the New Mexico Retiree Health Care Authority (NMRHCA) Fund and Program Reform Proposals

Mark Tyndall, interim executive director, NMRHCA, introduced himself to the committee. Mr. Tyndall went on to introduce members of the NMRHCA board of directors who were present at the meeting, including Alfredo Santistevan, Tom Sullivan, Jan Goodwin, Jeff Barela and Joe Montano.

Mr. Tyndall began by giving the committee background on the NMRHCA, noting that while the authority started paying claims on its initial 15,000 members in 1991, it was not pre-funded like PERA or the Educational Retirement Board (ERB). He stressed that the statute states that no contractual rights are created and that the benefit may be modified at any time. Mr. Tyndall continued by detailing the membership and various plans offered by the NMRHCA. He stated that the NMRHCA has a FY 2012 budget of $240 million and provides health insurance to 50,000 total members. Mr. Tyndall explained that although the plans are good, members do have to pay deductibles and out-of-pocket expenses. In addition to these health plans, dental, vision and life insurance plans are offered 100% on a retiree pay basis, meaning there is no subsidy provided by the NMRHCA. He pointed out that half of the participating employers and employees are from the public school system, and the other half are split evenly between state employees and municipal, county and university (excluding University of New Mexico and New

Mexico State University (NMSU)) employees.

Mr. Tyndall informed the committee that as recently as 2007, the NMRHCA benefit fund only had a solvency period through 2014. He explained that in 2007 and 2009, in order to achieve solvency, the board of directors reduced the subsidies for most pre-Medicare members, increased out-of-pocket expenses and increased contributions for active employees. Mr. Tyndall stated that these changes have achieved solvency for the fund through 2027 and reduced the unfunded liability from $4.1 billion to $3.3 billion. Mr. Tyndall pointed out that the board's goal of having a 15-year solvency period will be challenging because health care costs continue to increase at a rate faster than external revenue sources. He also mentioned the challenges that are created when active employees contribute less during their career than the average retiree will receive in benefits over the course of retirement. Mr. Tyndall summarized the issues discussed at outreach meetings with current retirees, advocacy groups and unions.

He stated further that based upon the plans and subsidy levels currently in place, the NMRHCA has an actuarial accrued liability (AAL) of about $3.5 billion. The fund balance is subtracted from the AAL to arrive at an unfunded AAL of $3.3 billion, which, amortized over 30 years, yields an annual required contribution of $326 million. Mr. Tyndall provided the legislators a graph indicating the current fund balance projection. This solvency projection revealed that the small fund balance will be eliminated by FY 2018, and that by FY 2022 the deficit will start eating into the corpus of the fund, after which the benefit fund balance will recede quickly.

Mr. Tyndall finished by detailing nine reforms under consideration to attain solvency through 2042. First, Mr. Tyndall discussed removing "family coverage" subsidies for dependents. He explained that the NMRHCA cannot provide tiered coverage in the same way a private employer can. Second, Mr. Tyndall talked about increasing the cost-sharing on prescription coverage in 2013. Third, he mentioned increasing the years of service required to receive maximum subsidy from 20 to 25. Fourth, Mr. Tyndall spoke about making targeted changes to the subsidies provided to those who have not worked as long or paid into the program, including reducing the subsidies to spouses on the pre-Medicare plan from 40% to 30%. Fifth, Mr. Tyndall alluded to changing the structure of pre-Medicare plans to possibly increase deductibles or out-of-pocket maximums. Sixth, he stated that the board is looking at lowering the subsidy level to pre-Medicare retirees from 65% to 60%. Seventh, Mr. Tyndall noted that an enhanced wellness program is being discussed, including providing financial incentives to increase wellness. Eighth, Mr. Tyndall stated that the NMRHCA could implement a graduated minimum age, noting that the average age of an individual entering the plan is 58 years old. Last, Mr. Tyndall discussed legislative action to increase the employer/employee contribution by 2.25%, phased in over five years.

A question was asked as to whether NMSU retirees stay on their health insurance plans after retirement. Mr. Tyndall stated that he believes that is the case and noted that they are not on the NMRHCA plan.

A question was asked as to how private plans compare to the plan offered by the NMRHCA. Mr. Tyndall explained that retirees mostly compare the NMRHCA plan to the plans they are on at retirement, such as the public school insurance plan. He noted that in terms of comparison, the NMRHCA plan is about middle of the road. The legislator went on to inquire into how President Obama's health care plan would impact the NMRHCA. Mr. Tyndall responded that the president's plan would be positive to the retiree health care plan, in part because it creates a national program to help finance health care costs for pre-Medicare retirees. He did state, however, that many of the things in the federal health care plan are already in place in New Mexico.

Status Report on Actuarial Soundness of the ERB Pension Fund and Pension Reform Proposals

Ms. Goodwin, executive director, ERB, introduced herself and the ERB board members present to the committee.

Ms. Goodwin began by describing the changes in the ERB's retirement eligibility standards and benefit structure. She stated that an ERB member is eligible to retire when the member meets one of three eligibility requirements, depending on when the member was hired. Ms. Goodwin stated that members hired prior to July 1, 2010 are eligible to retire if: 1) the member has earned service credit totaling 25 or more years, regardless of age; 2) the member's age and earned service credit add up to 75 or more; or 3) the member's age is 65 or more with at least five years of earned service credit. Ms. Goodwin then informed the committee about the changes to retirement eligibility for those ERB members who were hired on or after July 1, 2010. Members falling into this category are eligible to retire if: 1) the member has earned and allowed service credits totaling 30 or more years, regardless of age; 2) the member's age and earned service credit add up to 80 or more; or 3) the member's age is 67 or more with at least five years of earned service credit. Ms. Goodwin also briefly explained the components that make up the ERB's benefit structure.

Ms. Goodwin went on to discuss the history of ERB contribution rates, retirement benefits and funded status. Ms. Goodwin explained that a significant proportion of total contributions is paid by members, and that in FY 2012, ERB members with a salary over $20,000 were paying a higher contribution than their employers. Ms. Goodwin then summarized the trend in ERB retirement benefits, noting in particular the ERB's history in providing cost-of-living adjustments (COLAs). She added that the current COLA averages 2% and begins upon the later of age 65 or one year following retirement. Ms. Goodwin concluded her historical overview by detailing the ERB's funded status since 1992. She indicated that the current funded status of 63% is close to the 65% funded status of 1992. Ms. Goodwin explained that, since 2005, the ERB has greatly changed its investment strategy to become more diversified.

Ms. Goodwin continued by addressing the ERB's projected funded status through the end of the decade given the current statutory contribution rates and asset allocations. She explained that unless some action is taken, such as changing the benefit structure, increasing employee contributions or reducing COLAs, the funded status will continue to slide in a negative direction.

Ms. Goodwin then briefly mentioned the one-year actuarial status calculated by the investment consulting firm NEPC. This estimation shows that the AAL will continue to increase, and the funded status will decline by slightly over 3%.

Discussion then turned to the ERB's legislative proposals during the 2012 legislative session. Ms. Goodwin informed the committee that the ERB's proposal for the 2012 session set funding goals of 80% funded (±2%) by 2030, and 95% funded (±5%) by 2040. She added that the board recommended a 12.5% COLA reduction, a minimum retirement age of 55 with a 10-year grandfather period and an increase in employee contribution to 9.9%. Ms. Goodwin stated that the IPOC endorsed the ERB's proposal, which became SB 150. An amended version of this bill passed the senate but ultimately died in the house.

Ms. Goodwin finished by summarizing the ERB's interim efforts to meet with stakeholders and develop a proposal for the next legislative session. Ms. Goodwin stated that the ERB has held three stakeholder advisory group meetings, and while few areas of consensus have emerged, one area of potential agreement would be to increase employee contributions. Ms. Goodwin informed the committee that the ERB will have a special board meeting on July 19, 2012 to develop a funding policy. These discussions will center around the actuarial cost method and asset valuation method to be used, funding targets and responses to favorable or unfavorable investment performance. Ms. Goodwin affirmed that these discussions, in conjunction with stakeholder input, would lead to another legislative proposal. The ERB would then seek an IPOC endorsement in the fall of 2012.

Bradley Day, board member, ERB, expressed to the committee that the calculation of the AAL is distorted because of an unrealistically high discount rate. He commented that the real unfunded liability is closer to $5.7 billion and conjectured that if the ERB plan was in the private sector, it would likely be declared bankrupt by the Pension Benefit Guaranty Corporation. Mr. Day emphasized that using a discount rate of 7.75% provides unreliable projections, and that contrary to the stated 63% funded level, the funded status is actually closer to 30%.

Mr. Day remarked that there would need to be significant benefit changes in order to achieve solvency, including possibly eliminating COLAs or increasing the retirement age to 62. Mr. Day reiterated the issues related to the discount rate, noting that discount rates in the private sector cannot exceed the corporate bond yield, which is typically around 5%.

Beulah Woodfin, board member, ERB, informed the committee that during the board's listening tour, members informed her that they would rather see an increase in contributions than a reduction in benefits. She further stated that Mr. Day was incorrectly comparing the ERB plan to a private sector defined benefit plan, which does not have any employee contributions in many cases. Ms. Woodfin stressed that while members are willing to see an increase in the minimum age to receive benefits or increased contributions, benefits for current members should be maintained.

Russell Goff, board member, ERB, noted that the board is reviewing the actuary reports and expressed his opinion that elimination of the COLA is not necessary to maintain benefits.

Committee members discussed the reasons why private companies are moving toward defined contribution plans, such as 401(k) plans, and away from defined benefit plans.

A question was asked as to whether most pension plans have COLAs. Ms. Goodwin stated that most private sector plans do not have COLAs. She explained that private sector plans were doing well when investment rates were high, but when they went down, corporations eliminated expenses such as COLAs to avoid showing any liabilities.

Another committee member inquired into the issues relating to growing the fund. Ms. Goodwin stated that the board is focused on reaching the 80% to 90% funding target. Ms. Goodwin also talked about the issues surrounding the discount rate, noting that the actuaries look at the proper discount rate over a long period of time. She also added that investing in a public pension plan is different from investing in a private individual retirement account plan. Public pension plans can pool people together to reduce the longevity risk and are able to invest for a longer period of time than an individual can. Bob Jacksha, chief investment officer, ERB, informed the committee that the most recent quarterly return was 7.2%, while the year-to-date return was around 4%. Mr. Jacksha stated that the 25-year annual return average was around 8%. The committee member emphasized that the fund will not be adequately funded by simply relying on investment earnings and that growing the fund will require increasing contributions.

In response to the discussion concerning increased employee contributions, stakeholders in the audience provided their input to the committee. Stephanie Ly, president, American Federation of Teachers New Mexico, took the position that member contributions should increase from 7.9% to 10%, that there should be no changes to COLAs and that there should be a minimum retirement age of 55. She was also of the opinion that the state should increase its contribution to the pension system. A representative from the American Association of University Professors expressed optimism that a proposal could be structured to reach the 25% annual required contribution, which the actuaries say would pay off the liabilities in the pension system by 2040.

The question was asked as to the role that social security plays in the retirement calculations.

Ms. Goodwin explained that the social security benefit is based on a 35-year work history and that the average benefit is 30% to 40% of the worker's average lifetime earnings. Ms. Goodwin further pointed out that if an ERB member retires with 25 years of service, the retirement percentage rate is 58.75%. This percentage, coupled with social security, often leads to retirees having a larger income when they retire than when they were working.

There was an inquiry from the committee into the possibility of a non-compounding COLA. Ms. Goodwin mentioned that the board looked into a non-compounding COLA with the eligibility changed from 65 years of age to 67, noting that this option would improve solvency.

She stated that a simple 2% COLA with a minimum retirement age of 50 and an employee contribution of 9.9% would achieve a 93% funded status by 2040. Another option would be a 1.5% compounding COLA, a minimum retirement age of 55 and an employee contribution of 9.9%, which would achieve 100% funded status by 2040.

Review of State Investment- and Pension-Related Legislation, 2012 Session

Mr. Pollard and Ms. Faust introduced themselves to the committee. Ms. Faust spoke about the pension-related bills and Mr. Pollard discussed the investment-related bills introduced during the 2012 session. A table summarizing this legislation is attached to these minutes.

A discussion followed on the various pieces of legislation.

Adoption of IPOC Proposed Interim Work Plan

Mr. Pollard summarized the IPOC's interim work plan. He stated that the ERB and PERA would be brought back before the committee to discuss whether the investment portion of each of these entities could be combined to reduce fees and achieve economies of scale. Mr. Pollard also proposed that the committee look into the SIC's shift to real return assets, fiduciary issues related to the SIC's private equity advisory and the funding goals of the state's pension plans.

Mr. Pollard noted that SM 18 was a memorial passed by the senate that requested a task force be created to evaluate public safety retirement plans. He explained that the task force could be established by legislative leadership, or a subcommittee of the IPOC could be appointed to receive testimony. Ms. Faust added that these options would be presented to the New Mexico Legislative Council as alternatives.

There was discussion among legislators regarding the creation of a task force versus a subcommittee of IPOC members. Upon a motion duly made and seconded, without objection, the IPOC resolved that a task force would be requested per the memorial, but if the New Mexico Legislative Council does not create a task force, the fallback would be a subcommittee of IPOC members willing to serve.

Upon a motion duly made and seconded, without objection, the IPOC work plan was approved.

There being no further business before the committee, the first meeting of the IPOC adjourned at 3:22 p.m.

Investments and Pensions Oversight Committee (IPOC) - Endorsed Legislation
Pension-Related

HJM 19, Trujillo	**Requests the Public Employees Retirement Association (PERA) to assess options for changes to public employees' retirement plans to reduce unfunded accrued actuarial liability with a goal to bring the funding status to 100 percent by 2041 and report recommendations by October 2012.** **(IPOC proposal; memorial signed.)**
HB 72, Stewart	Bases judicial and magistrate employer pension plan contributions on payroll rather than docket fees. Under current law, a portion of docket fees are allocated to fund judicial and magistrate retirement. The bill appropriates that portion of docket fees to the general fund and directs that same amount of funding to the PERA. The bill was calculated to be revenue neutral and intended to allow the PERA to accurately assess the ongoing security of the judicial and magistrate retirement funds. (IPOC proposal; bill vetoed by governor for second year in a row.)
SM 18, Munoz	**Requests the formation of a task force to evaluate public safety retirement plans.** **(IPOC proposal; memorial signed.)**
SB 51, Munoz	Provides that retirees under the Educational Retirement Board (ERB) who return to work and who do not suspend their retirement benefits are not required to pay employee contributions to the Educational Retirement Fund. (IPOC proposal; bill died in the senate.)
SB 52, Munoz/ Varela	**Allows public employee retirees to serve as precinct poll workers in municipal and state elections without having to suspend their pensions. Poll workers are designated as "seasonal employees" for purposes of the PERA membership requirements. Poll workers will not become members, nor will they earn service credit under the provisions of the Public Employees Retirement Act and will not be required to make member contributions.** **(IPOC proposal; bill signed on March 3, Chapter 26; note: SB 52 was a duplicate of SB 79, Rodriguez, which died in the senate.)**
SFC Substitute for SB 150, Ingle	New employees under the Educational Retirement Act (ERA) would have had a minimum retirement age of 55 years and a minimum service requirement of eight years, and the employer and employee contribution rates for new and existing employees would have been increased. The bill, as proposed by the ERB, endorsed by the IPOC and introduced, would have established a minimum retirement age for members retiring on or after July 1, 2022, reduced the annual cost-of-living adjustment for retirement annuity payments by 12.5 percent for existing and future retirees and changed member and employer contribution rates to the Educational Retirement Fund. (Bill died in the house.)

HJR 1, Trujillo	Proposes an amendment to Article 12, Section 7 of the Constitution of New Mexico to increase the standard of care exercised by the state investment officer in investing the land grant permanent funds (LGPF) and to remove the constitutional limitation on investment of the funds in international securities, leaving that limitation to be set only in statute. (Proposal brought to the IPOC by the State Investment Council (SIC); resolution died in the house.)
HB 21, Trujillo	Imposes a limit of 25 percent on the portion of the book value of the LGPF that may be invested in international equities at any one time. The bill would become effective upon the certification of the constitutional amendment discussed under HJR 1 that would remove the constitutional limitation on international investing. (Proposal brought to the IPOC by the SIC; bill died in the house.)
SJR 4, Cisneros	Proposes an amendment to Article 12, Section 7 of the Constitution of New Mexico to increase the standard of care exercised by the state investment officer in investing the LGPF and to remove the constitutional limitation on investment of the funds in international securities, leaving that limitation to be set only in statute. (Proposal brought to the IPOC by the SIC; resolution died in the senate.)
SB 28, Keller	Increases from nine percent to 10 percent the portion of the market value of the Severance Tax Permanent Fund (STPF) that may be invested in New Mexico private equity funds. Also, increases the percentage of the STPF automatically allocated to the Small Business Investment Corporation (SBIC) from one percent to two percent and requires that money allocated to the SBIC from the STPF that is not committed within three years of the allocation be returned to the STPF. (IPOC proposal; bill died in the senate.)
SB 53, Neville	Changes the membership of the SIC to: 1) replace the statewide elected officials, the governor, the state treasurer and the commissioner of public lands with members appointed by the elected officials; 2) remove the chief financial officer of a state institution of higher education; 3) replace the four members appointed by the New Mexico Legislative Council with one member each appointed by the president pro tempore of the senate, the minority floor leader of the senate, the speaker of the house of representatives and the minority floor leader of the house of representatives, all appointed with the advice and consent of the senate; 4) increase from two to four the public members appointed by the governor with the requirement that no more than two of the four public members be from the same political party. Requires that the chair and the vice chair of the SIC be elected by the SIC. Requires that the state investment officer be confirmed by the senate. Changes the powers and duties of the SIC, the state investment officer and

	SIC staff, and changes certain reporting deadlines. (IPOC proposal; bill died in the house.)
SB 41, Cisneros	Imposes a limit of 25 percent on the portion of the book value of the LGPF that may be invested in international equities at any one time. The bill would become effective upon the certification of the constitutional amendment discussed under SJR 4 that would remove the constitutional limitation on international investing. (Proposal brought to the IPOC by the SIC; bill died in the senate.)
SB 29, Keller/ Jimmie C. Hall	Clarifies the duties and responsibilities of the state treasurer regarding the deposit and accounting of public money. (Proposal brought to the IPOC by the state treasurer; bill died in the senate.)
Other Pension-Related Legislation Substantially Affecting Retirement System Solvency or the General Fund Budget	
HB 41, Kintigh	Amends the Public Employees Retirement Act to impose a minimum age of 62 years for legislators to receive pension benefits under the legislative pension coverage plans. (Bill died in the house.)
HB 42, Kintigh	**Increases the annual member contribution rate for legislators in state legislator member coverage plan 2 from $500 to $600 and also changes the benefits calculation for legislators. Under prior law, the annual legislative pension benefit was calculated at 11 percent of the per diem rate in effect on December 31 of the calendar year in which the member retires, multiplied by 60 and further multiplied by years of credited legislative service. HB 42 changes the December 31 date to January 1 of the year in which the legislator retires. This allows the PERA to calculate the exact retirement benefit as of the date a legislator retires, rather than estimating retirement benefits for the first year of retirement based on an undetermined future per diem rate. (Bill signed on March 7, Ch. 61.)**
HB 120, Vigil	Amends the Public Employees Retirement Act to include acequias and community ditch associations as public employers. (Bill died in the house.)
HB 141, Stewart	Allows PERA members to return to work and earn up to $15,000 before their pensions are suspended. (Bill died in the house.)

HB 156, T. Garcia	Allows members employed by a hospital or medical center that is subsequently taken over by an affiliated public employer to purchase up to five years of service credit. (Bill died in the house.)
HB 209, Vigil	Allows motor transportation officers and officers in the Special Investigations Division of the Department of Public Safety (DPS) to elect to change their coverage plans in the PERA. (Bill died in the house.)
HB 226, Egolf	Repeals the two existing contribution swaps imposed on state employees and returns employee and employer contribution rates to pre-2009 statutory rates for state employee retirement plans. (Bill died in the house.)
HB 234, T. Garcia	Includes special hospital districts as public employers under the Public Employees Retirement Act. (Bill died in the house.)
HB 269, Stewart	Amends the ERA to provide for an increase in employee contributions and increases age and service requirements for retirement of non-vested members. (Bill died in the senate.)
HB 270, Stewart	Increases all PERA employee contributions; defines "public safety member"; reduces and delays cost-of-living adjustments for non-vested, non-public safety members; increases age and service requirements for retirement of nonvested, non-public safety members. (Bill died in the house.)
SB 115, Beffort	Creates additional salary tiers and changes the employee and employer contribution rates for certain retirement plans in the ERB. (Bill died in the senate.)
SB 228, Morales	Terminates all employee and employer contributions swaps effective July 1, 2012. (Bill died in the senate.)
SPAC Substitute for SB 259, Morales	Authorizes motor transportation officers and officers in the Special Investigations Division of the DPS to elect to change their coverage plans and become members in the enhanced state police and adult correctional officer plan. (Bill died in the senate.)
SB 274, Ingle	Reduces the amount of pension for non-vested PERA members by reducing the multiplier and increasing the number of years used to calculate the final average salary and provides that refunds of member contributions shall not include interest.

	(Bill died in the senate.)
SB 305, Cisneros	Increases employee contributions in the ERB and establishes increased retirement eligibility requirements for non-vested members. (Bill died in the senate.)
Other Investment-Related Legislation	
HJR 2, Trujillo/ Rodriguez	Proposes an amendment to Article 12, Section 7 of the Constitution of New Mexico to make permanent a 5.8 percent annual distribution from the LGPF to public schools and other LGPF beneficiaries, of which 0.8 percent shall be expended to implement and maintain educational reforms as provided by law. The current 5.8 percent distribution rate is scheduled to decline to 5.5 percent in FY 2013 and return to its base distribution of five percent starting in FY 2017. HJR 2 stipulates that, should the five-year average of the LGPF drop below $6 billion, the additional 0.8 percent will be suspended during the current calendar year. The proposal also allows the additional 0.8 percent to be suspended by a three-fifths' vote by both the house and the senate. (Resolution died in the house.)
HJR 15, Miera	Proposes an amendment to Article 12, Section 7 of the Constitution of New Mexico to make permanent the 5.5 percent annual distribution from the LGPF to public schools and other LGPF beneficiaries starting in FY 2013. It also calls for additional distributions in FY 2014 through FY 2023 from the LGPF of 1.5 percent, with an increasing portion specifically earmarked for early childhood education programs. In FY 2024 and each subsequent fiscal year, an additional amount shall be distributed from only the Permanent School Fund equal to 0.3 percent without an earmark for early childhood education programs. The proposal provides that, should the five-year average of the LGPF drop below $8 billion, the additional distribution will be suspended for the fiscal year. The proposal also allows for the additional distribution to be suspended by a three-fifths' vote by both the house and the senate. (Resolution died in the house.)
HJR 21, Miera	Proposes an amendment to Article 12, Section 7 of the Constitution of New Mexico to increase annual distributions from the LGPF to a new permanent base of 5.8 percent from FY 2013 forward, while implementing an additional 1.2 percent distribution for FY 2014 through FY 2023, for a total seven percent distribution during these years. For FY 2014 through FY 2016, a portion of the seven percent distribution, increasing from 0.5 percent in FY 2014 to 1.5 percent in FY 2016, is earmarked specifically for early childhood education, targeting children from birth to five years old. From FY 2016 through FY 2023, 1.5 percent of the total seven percent LGPF distribution is earmarked for early childhood education. HJR 21 also creates the "Public School Support Enhancement Fund" in the state treasury as a repository of the

	annual LGPF distributions, to be combined with legislative appropriations, gifts, grants and donations for administration by the Public Education Department as outlined by law. Should the five-year average of the LGPF drop below $5.8 billion, the additional percentage earmarked for early childhood learning would not be distributed. (Resolution died in the house.)
HB 50, Larrañaga/ Beffort	Increases severance tax contributions to the STPF by reducing by 50 percent the earmarked severance tax bonding capacity available for colonias infrastructure and tribal infrastructure projects. The capacity available for capital outlay projects authorized by the legislature would be reduced by about five percent. The capacity available for the supplemental severance tax bond program, which benefits public school facilities, would be unchanged. (Bill died in the house.)
HB 123, Powdrell-Culbert	**Extends the angel investment credit through December 31, 2016. The angel investment credit expired, pursuant to the current law, on December 31, 2011. Subject to a number of limitations and reporting requirements, a taxpayer who files a New Mexico income tax return, who is not a dependent of another taxpayer, who is an accredited investor and who makes a qualified investment may claim a credit in an amount not to exceed 25 percent of not more than $100,000 of a qualified investment. A qualified investment means a cash investment for equity in a qualified business that engages in high-technology research or manufacturing activities in New Mexico, has 100 or fewer employees calculated on a full-time-equivalent basis at the time of the investment and has not had gross revenues in excess of $5 million in any fiscal year ending on or before the date of the investment. The investor may claim the credit on a maximum of two investments per year.** **(Bill signed on March 5, Ch. 38.)**
SJR 9, Michael S. Sanchez	Proposes an amendment to Article 12, Section 7 of the Constitution of New Mexico to make permanent the 5.5 percent annual distribution from the LGPF to public schools and other LGPF beneficiaries starting in FY 2013. It also calls for an additional distribution from the LGPF of 1.5 percent specifically earmarked for early childhood education programs, to be operated by the public schools or through contracts with authorized private administrators. The proposal provides that should the five-year average of the LGPF drop below $8 billion, the additional 1.5 percent will be suspended for the fiscal year. The proposal also allows the additional 1.5 percent to be suspended by a three-fifths' vote by both the house and the senate. (Resolution died in the senate.)
SJM 17, Beffort	Requests that the SIC and the State Board of Finance study the long-term impact on the STPF of intercepting most of the severance tax revenue for debt

	service, study whether the level of severance tax revenue used to service bond debt for public school facilities construction and renovation remains necessary and propose options to the appropriate interim committee for reducing the severance tax revenue intercepts. (Memorial died in the senate.)
SB 246, Munoz	Moves the administration and investment of the Education Trust Fund from the Education Trust Board to the SIC. Eliminates the Education Trust Board. (Bill died in the senate.)
SB 268, Eric G. Griego	Amends the Severance Tax Bonding Act to provide for a differential rate investment of a portion of the STPF in green industries as defined in the bill. (Bill died in the senate.)