

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE RULES COMMITTEE SUBSTITUTE FOR
SENATE BILLS 18, 218 & 238

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

AN ACT

RELATING TO STATE INVESTMENTS; CHANGING THE COMPOSITION OF THE
STATE INVESTMENT COUNCIL; AMENDING POWERS AND DUTIES OF THE
STATE INVESTMENT OFFICER, THE STATE INVESTMENT COUNCIL, THE
PUBLIC EMPLOYEES RETIREMENT BOARD AND THE EDUCATIONAL
RETIREMENT BOARD; PROVIDING FOR THE STATE INVESTMENT COUNCIL TO
APPOINT THE STATE INVESTMENT OFFICER AND TO APPOINT MEMBERS TO
THE PRIVATE EQUITY INVESTMENT ADVISORY COMMITTEE; PROVIDING FOR
ALTERNATIVE INVESTMENT ADVISORY COMMITTEES; RECONCILING
MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005;
DECLARING AN EMERGENCY.

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

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

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

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underscoring material = new
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1 A. There is created a "state investment council".

2 The council shall be composed of:

3 ~~[A. the governor;~~

4 ~~B.]~~ (1) the state treasurer;

5 ~~[C.]~~ (2) the commissioner of public lands;

6 ~~[D.]~~ (3) the secretary;

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

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

10 ~~G. the chief financial officer of a state~~
11 ~~institution of higher education appointed by the governor with~~
12 ~~the advice and consent of the senate;]~~

13 (4) one public member appointed by the
14 president pro tempore of the senate with the advice and consent
15 of the senate;

16 (5) one public member appointed by the
17 minority floor leader of the senate with the advice and consent
18 of the senate;

19 (6) one public member appointed by the speaker
20 of the house of representatives with the advice and consent of
21 the senate;

22 (7) one public member appointed by the
23 minority floor leader of the house of representatives with the
24 advice and consent of the senate; and

25 (8) three members appointed by the governor,

1 with no more than two from the same political party, and with
2 the advice and consent of the senate.

3 B. The ~~[chairman of the]~~ council shall ~~[be the~~
4 ~~governor]~~ select a chair and vice chair from its membership.
5 All actions of the council shall be by majority vote, and ~~[at~~
6 ~~least three members appointed pursuant to Subsections E and G~~
7 ~~of this section must be present to]~~ a majority of the members
8 shall constitute a quorum.

9 C. Members of the council appointed pursuant to
10 Paragraphs (4) through (8) of Subsection [E] A of this section
11 shall be reimbursed per diem and mileage pursuant to the
12 provisions of the Per Diem and Mileage Act."

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

15 "6-8-3. COUNCIL TERMS AND QUALIFICATIONS.--

16 A. Members of the council appointed ~~[by the~~
17 ~~governor]~~ pursuant to Paragraphs (4) through (8) of Subsection
18 A of Section 6-8-2 NMSA 1978, with the advice and consent of
19 the senate, shall serve for staggered terms of five years.
20 Members of the council shall serve until their successors are
21 appointed and have qualified.

22 B. The members of the council appointed pursuant to
23 Paragraphs (4) through (8) of Subsection [E] A of Section 6-8-2
24 NMSA 1978 shall be qualified by competence and no less than ten
25 years experience in the field of investment or finance.

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1 ~~[During tenure, a member of the council shall not be engaged in~~
2 ~~any capacity in the sale of securities to the state.]~~ A member
3 of the council shall not have had any contracts to do business
4 with the state investment council, the investment office, the
5 office of the state treasurer, the educational retirement
6 board, the public employees retirement association, the New
7 Mexico finance authority or the state board of finance for a
8 period of two calendar years prior to the person's appointment
9 to the council and shall not enter into any contracts to do
10 business with any of the named state agencies or
11 instrumentalities for a period of two calendar years after the
12 end of the term for which the member was appointed. Members of
13 the council and officers and employees of the council shall be
14 governed by the provisions of the ~~[Conflict of Interest]~~
15 Governmental Conduct Act. Nothing in this section or in the
16 ~~[Conflict of Interest]~~ Governmental Conduct Act shall be
17 construed as prohibiting an officer of a financial institution
18 from participating as a member of the council in setting
19 general policies of the council, nor shall any provision of the
20 ~~[Conflict of Interest]~~ Governmental Conduct Act prohibit the
21 council or the state treasurer from depositing funds under the
22 jurisdiction of the council in any financial institution. A
23 council member shall not hold an office or employment in a
24 political party. ~~[Any]~~

25 C. A member of the council appointed pursuant to

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1 Paragraphs (4) through (8) of Subsection [E or G] A of Section
 2 6-8-2 NMSA 1978 may be removed from the council by the
 3 [governor] appointing person or entity, for failure to attend
 4 three consecutive meetings or other cause, in the manner
 5 provided for removal of members of boards of regents under
 6 Article 12, Section 13 of the constitution of New Mexico. A
 7 vacancy in the membership of the council occurring other than
 8 by expiration of term shall be filled in the same manner as the
 9 original appointment but for the unexpired term only."

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

12 "6-8-4. INVESTMENT OFFICE--STATE INVESTMENT OFFICER--
 13 TERMS.--

14 A. There is established an "investment office".
 15 The chief administrative officer of the office shall be known
 16 as the "state investment officer".

17 B. The state investment officer shall be appointed
 18 by the [governor] council with the advice and consent of the
 19 senate. [~~Recommendations as to his appointment shall be made~~
 20 ~~to the governor by the investment council.~~] The state
 21 investment officer shall devote [his] the officer's entire time
 22 and attention to the duties of [his] that office and shall not
 23 engage in any other occupation or profession [nor shall he] or
 24 hold any other public office, appointive or elective. [He] The
 25 officer shall be a person qualified, by training and investment

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1 experience, to direct the work of the investment [~~division~~]
2 office and shall have had at least five years' professional
3 experience as an investment officer. [~~He~~] The officer shall
4 receive a salary to be determined by the state investment
5 council but in no case less than fifty thousand dollars
6 (\$50,000) annually.

7 C. The state investment officer shall serve for an
8 initial term of two years beginning July 1, 1981 and thereafter
9 for terms of four years. The state investment officer may be
10 removed from office by the [~~governor~~] council for cause in the
11 manner provided for removal of members of boards of regents
12 under Article 12, Section 13 of the constitution of New
13 Mexico."

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

16 "6-8-6. TRANSFER OF INVESTMENT POWERS.--

17 A. The functions, powers and duties vested by law
18 relating to the investment or reinvestment of money and the
19 purchase, sale or exchange of investments or securities of the
20 permanent fund are transferred to the state investment council,
21 provided, however, that the council may delegate administrative
22 functions and duties to the state investment officer. The
23 state treasurer shall maintain custody of the [~~state~~] permanent
24 fund but shall at all times render the fund or any part of it
25 available for investment in accordance with the provisions of

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underscoring material = new
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1 Sections 6-8-1 through 6-8-18 NMSA 1978.

2 B. Any provision of existing law requiring or
3 designating an elected state official to serve by virtue of
4 ~~[his]~~ the official's office in an active or advisory capacity
5 concerning the investment of the ~~[state]~~ permanent fund ~~[shall~~
6 ~~be]~~ is inoperative."

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

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

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

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

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

24 D. The council shall provide an opportunity for
25 public comment at meetings of the council. Advance notice of

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1 meetings shall be published on the council's web site and in a
2 newspaper of general circulation at least ten days in advance
3 of the meeting.

4 ~~[D.]~~ E. All funds managed by the state investment
5 officer shall be managed in accordance with the Uniform Prudent
6 Investor Act. ~~[With the approval of]~~ The council ~~[the state~~
7 ~~investment officer]~~ may employ investment management services
8 to invest the funds and may pay reasonable compensation for
9 investment management services from the assets of the
10 applicable funds, subject to budgeting and appropriation by the
11 legislature.

12 F. The council, the state investment officer, any
13 person providing investment advice to the council or state
14 investment officer for a fee or other compensation and all
15 persons exercising discretionary authority or control of funds
16 under the management of the council are fiduciaries.

17 G. The council may select and contract for the
18 services of one or more custodian banks for all funds under the
19 council's management. For the purpose of this subsection,
20 "custodian bank" means a financial institution with the general
21 fiduciary duties to manage, control and collect the assets of
22 an investment fund, including receiving all deposits and paying
23 all disbursements as directed by staff, safekeeping of assets,
24 coordination of asset transfers, timely settlement of
25 securities transactions and accurate and timely reporting of

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1 the assets by individual account and in total.

2 [E.] H. For funds available for investment for more
3 than one year, the [~~state investment officer~~] council may
4 contract with any state agency to provide investment advisory
5 or investment management services, separately or through a
6 pooled investment fund, provided the state agency enters into a
7 joint powers agreement with the council and that state agency
8 pays at least the direct cost of such services.

9 Notwithstanding any statutory provision governing state agency
10 investments, the [~~state investment officer~~] council may invest
11 funds available from a state agency pursuant to a joint powers
12 agreement in any type of investment permitted for the land
13 grant permanent funds under the prudent investor rule. In
14 performing investment services for a state agency, the council
15 and the state investment officer are exempt from the New Mexico
16 Uniform Securities Act [~~of 1986~~]. As used in this subsection,
17 "state agency" means any branch, agency, department, board,
18 instrumentality, institution or political subdivision of the
19 state, the New Mexico finance authority, the New Mexico
20 mortgage finance authority and any tax-exempt private endowment
21 entity whose sole beneficiary is a state agency.

22 [F.] I. The state investment officer shall provide
23 quarterly performance reports to the legislative finance
24 committee. Annually, the state investment officer shall ratify
25 and provide written investment policies, including any

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underscoring material = new
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1 amendments, to the legislative finance committee."

2 Section 6. Section 6-8-14 NMSA 1978 (being Laws 1957,
3 Chapter 179, Section 14, as amended) is amended to read:

4 "6-8-14. MONTHLY REPORTS.--No later than ten days after
5 the close of each month, the state investment officer shall
6 submit to the secretary and the state investment council a
7 report of the operations of the [~~division~~] office during the
8 past month. Each report shall give a complete statement of the
9 state investment portfolio as of the time of the report and in
10 addition, shall include a detailed summary of the month's
11 investment, reinvestment, purchase, sale and exchange
12 transactions, setting forth the investments bought, sold or
13 exchanged, the dates thereof, the prices paid or obtained, the
14 names of the dealers involved, fees paid for each transaction,
15 disclosure of contractor arrangements and a statement of the
16 funds or accounts referred to herein. The reports shall also
17 be circulated to a mailing list of investment bankers and
18 brokers recommended by the council. The reports shall be
19 published on the web sites of the council, the legislature and
20 the department of finance and administration and shall be open
21 for inspection to the public and the press in the office of the
22 state investment officer."

23 Section 7. Section 6-8-20 NMSA 1978 (being Laws 1987,
24 Chapter 219, Section 3, as amended) is amended to read:

25 "6-8-20. PRIVATE EQUITY INVESTMENT ADVISORY COMMITTEE

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1 CREATED--MEMBERSHIP--DUTIES--TERMS--LIABILITIES--CONFLICT OF
2 INTEREST.--

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

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

20 C. The committee shall review and make
21 recommendations to the council on investments authorized
22 pursuant to Sections 7-27-5.15 and 7-27-5.26 NMSA 1978 and all
23 other private equity investments and shall advise the council
24 in matters and policies related to such investments. The
25 committee shall establish policies for national private equity

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underscoring material = new
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1 fund investments, New Mexico private equity fund investments
 2 and New Mexico film private equity fund investments not less
 3 often than annually and shall make copies available to
 4 interested parties.

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

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

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

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

20 ~~[H. The state investment officer may enter into~~
 21 ~~contracts with investment advisors for private equity fund~~
 22 ~~investments and film fund investments authorized pursuant to~~
 23 ~~Sections 7-27-5.15 and 7-27-5.26 NMSA 1978 and all other~~
 24 ~~private equity investments and may pay budgeted expenses for~~
 25 ~~the advisors from the assets of any fund administered under the~~

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1 ~~supervision of the council, as applicable.~~

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

8 Section 8. Section 6-10-35 NMSA 1978 (being Laws 1934
9 (S.S.), Chapter 24, Section 3, as amended by Laws 1987, Chapter
10 79, Section 14 and by Laws 1987, Chapter 87, Section 1) is
11 amended to read:

12 "6-10-35. FISCAL AGENT OF NEW MEXICO--STATE CHECKING
13 DEPOSITORIES--STATE DEPOSITORIES--DESIGNATION BY BOARD OF
14 FINANCE.--

15 A. Except as otherwise provided by law, the state
16 board of finance may designate a bank or savings and loan
17 association doing business in this state and having an
18 unimpaired capital and surplus of at least one hundred fifty
19 thousand dollars (\$150,000) as the "fiscal agent of New
20 Mexico". The designation is subject to change, from time to
21 time, by the state board of finance; however, the board shall
22 formulate and adopt designation procedures, filed in accordance
23 with the State Rules Act, ~~[which]~~ that shall be adhered to on
24 each occasion of designation. The board, after it has
25 designated the ~~[state]~~ fiscal agent, shall apprise the

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1 legislature of its action and, in addition to the name of the
2 designated fiscal agent, the communication shall include a
3 brief description of the designee's particular qualifications.

4 B. The bank or savings and loan association [~~se~~]
5 designated as the fiscal agent of New Mexico shall enter into
6 an agreement with the state, acting through [~~its~~] the state
7 board of finance, for:

8 (1) the collection for the state of all checks
9 and other items received by the state on any account;

10 (2) the handling of the checking account of
11 the state treasurer;

12 (3) the handling of all transfers of money in
13 connection with the sale or retirement of bonds or obligations
14 of the state or the purchase by the state of bonds or other
15 securities;

16 (4) the investment of permanent or other funds
17 of the state;

18 (5) the safekeeping of bonds or other
19 securities belonging to or held by the state or any official
20 [~~thereof~~] of the state;

21 (6) the rate of interest to be paid upon
22 average daily balances of state funds; and

23 (7) acting as the agent of the state in fiscal
24 matters generally, subject always to the supervision and
25 approval of the state board of finance.

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1 C. The agreement shall contain the terms and
2 conditions [~~which~~] that are necessary, in the judgment of the
3 state board of finance, for the proper conduct of the fiscal
4 affairs of the state and the safekeeping of the money of the
5 state.

6 D. The state board of finance shall require the
7 fiscal agent of New Mexico to furnish surety company bond or
8 securities of the kinds specified by law for the security of
9 deposits of public money in an amount not less than two million
10 five hundred thousand dollars (\$2,500,000) as security for the
11 safekeeping of the money of the state and the faithful
12 performance of its duties as the fiscal agent. The state board
13 of finance may adjust the amount of bond or security from time
14 to time, but in no event shall the bond or security be in an
15 amount less than two million five hundred thousand dollars
16 (\$2,500,000). No other bond or security is required of the
17 fiscal agent for the securing of funds deposited by the state
18 treasurer in the fiscal agency account, and the state treasurer
19 is not liable upon [~~his~~] the state treasurer's official bond on
20 account of [~~any~~] funds deposited in the fiscal agency account
21 when the account is so secured. Nothing in this section shall
22 prevent the bank or savings and loan association designated as
23 fiscal agent from also qualifying as a state depository [~~under~~
24 ~~Sections 11-2-18 NMSA 1953 or 6-10-30, 6-10-35 and 6-10-36]~~
25 pursuant to Chapter 6, Article 10 NMSA 1978.

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underscoring material = new
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1 E. Payment to the fiscal agent of New Mexico for
2 services performed may be made by the state board of finance
3 upon warrants drawn by the secretary [~~of finance and~~
4 ~~administration~~] upon the state treasury as provided by law for
5 expenditure of state funds or by compensating balances or a
6 combination thereof. The legislature shall appropriate funds
7 to the state board of finance for this purpose annually.

8 F. The state board of finance may also designate,
9 according to its adopted designation procedures, not more than
10 two other banks or savings and loan associations doing business
11 in this state as "state checking depositories" in which money
12 necessary to meet the current obligations of the state may be
13 deposited in temporary checking accounts. No bank or savings
14 and loan association shall be so designated unless it has an
15 unimpaired capital and surplus of at least one hundred fifty
16 thousand dollars (\$150,000). Not more than twenty percent of
17 all the state's money on hand shall be on deposit in all such
18 checking accounts, including the checking account with the
19 fiscal agent of New Mexico, for any period of time longer than
20 is required to distribute the amount above twenty percent to
21 applying, qualified depository banks or savings and loan
22 associations. The state board of finance shall require a
23 designated state checking depository to furnish surety company
24 bond or securities of the kinds specified by law for the
25 security of deposits of public money in an amount established

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1 by the board. Nothing in this section shall prevent ~~[any]~~ a
2 bank or savings and loan association designated as a state
3 checking depository from also qualifying as a state depository
4 ~~[under Sections 11-2-18 NMSA 1953 and 6-10-30, 6-10-35 and~~
5 ~~6-10-36]~~ pursuant to Chapter 6, Article 10 NMSA 1978, and
6 nothing in this section shall prohibit the state treasurer from
7 transferring to out-of-state banks and keeping on deposit with
8 them funds necessary to pay interest upon and principal of
9 those outstanding bonds, debentures and certificates of
10 indebtedness ~~[which]~~ that, with the interest coupons, were made
11 payable at an out-of-state bank.

12 G. ~~[Any]~~ An authorized bank, savings and loan
13 association or credit ~~[unions]~~ union desiring to receive public
14 money deposits may file with the board of finance having
15 control of ~~[any such]~~ the money its written proposal to receive
16 the money on deposit, together with its agreement to pay
17 interest on daily balances of the deposits at the rate of
18 interest fixed by the state board of finance as prescribed in
19 Section 6-10-30 NMSA 1978. The proposal shall specify whether
20 the deposit is desired as a time deposit. ~~[Such]~~ The board of
21 finance shall, at its next meeting after receipt of the
22 proposal, consider the proposal, and, if it is in accordance
23 with ~~[Sections 11-2-18 NMSA 1953 and 6-10-30, 6-10-35 and~~
24 ~~6-10-36]~~ Chapter 6, Article 10 NMSA 1978, the board shall
25 thereupon notify the bank or savings and loan association that

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1 upon its furnishing security as provided, it will be designated
2 as a "state depository" of public money in an amount to be
3 fixed by the board, which amount shall not exceed seventy-five
4 percent of the capital and surplus of the applicant bank or
5 savings and loan association if the deposit is secured by
6 surety bond. If, after considering the proposal of a credit
7 union and finding it in accordance with [~~Sections 6-10-30 and~~
8 Section 6-10-36 NMSA 1978, the board of finance may designate
9 [~~such~~] the credit union a "state depository" of public money in
10 an amount to be fixed by the board, which shall not exceed that
11 amount insured by an agency of the United States. Upon
12 furnishing proper bond or other security authorized by
13 [~~Sections 11-2-18 NMSA 1953 and 6-10-30, 6-10-35 and 6-10-36]~~
14 Chapter 6, Article 10 NMSA 1978, a certificate shall be issued
15 to the bank or savings and loan association by the board of
16 finance qualifying it as a depository of public money; and, if
17 designated, a certificate shall be issued to a credit union
18 qualifying it as a depository of public money; provided that a
19 bank located [~~without~~] outside the state, acting solely in the
20 capacity of a paying bank for the purpose of paying interest
21 upon and principal of state obligations represented by bonds,
22 debentures and certificates of indebtedness and attached
23 interest coupons, is not required to furnish collateral
24 security in excess of one hundred thousand dollars (\$100,000)
25 regardless of the amount of state public money on deposit."

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1 Section 9. Section 10-11-130 NMSA 1978 (being Laws 1987,
2 Chapter 253, Section 130, as amended) is amended to read:

3 "10-11-130. RETIREMENT BOARD--AUTHORITY--MEMBERSHIP.--

4 A. The "retirement board" is created and is the
5 trustee of the association and the funds created by the state
6 retirement system acts and has all the powers necessary or
7 convenient to carry out and effectuate the purposes and
8 provisions of the state retirement system acts, including, in
9 addition to any specific powers provided for in the Public
10 Employees Retirement Act but without limiting the generality of
11 the foregoing, the power to:

12 (1) administer the state retirement system
13 acts, including the management of the association and making
14 effective the provisions of those acts, as well as to
15 administer and manage any other employee benefit acts as
16 provided by law;

17 (2) in addition to utilizing services of the
18 attorney general and notwithstanding any other provision of
19 law, employ or contract with and compensate competent legal
20 counsel to handle the legal matters and litigation of the
21 retirement board and the association and to give advice and
22 counsel in regard to any matter connected with the duties of
23 the retirement board;

24 (3) administer oaths;

25 (4) adopt and use a seal for authentication of

1 records, processes and proceedings;

2 (5) create and maintain records relating to
3 all members, affiliated public employers and all activities and
4 duties required of the retirement board;

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

8 (7) make and execute contracts;

9 (8) make purchases, sales, exchanges,
10 investments and reinvestments of all funds and employ
11 contractors, advisors or investment management services;

12 [~~8~~] (9) purchase, acquire or hold land
13 adjacent to the state capitol grounds or other suitable
14 location and build thereon a building to house the association
15 and its employees and, in the event additional office space is
16 available in the building after the retirement board and its
17 employees have been housed, to rent or lease the additional
18 space to any public agency or private person; provided that
19 first priority for the rental or leasing shall be to public
20 agencies and further provided that for the purpose of
21 purchasing, acquiring or holding the land and the building
22 thereon, the retirement board may use funds from the income
23 fund and any other funds controlled by the retirement board the
24 use of which for such purposes is not prohibited by law;

25 [~~9~~] (10) after the sale of the land and

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1 building acquired pursuant to Paragraph [~~(8)~~] (9) of this
2 subsection, acquire land and build thereon a new building to
3 house the association and its employees and hold the building
4 and land in fee simple in the name of the association. In
5 order to acquire the land and plan, design and construct the
6 building, the retirement board may expend the proceeds of the
7 sale of the land and building acquired pursuant to Paragraph
8 [~~(8)~~] (9) of this subsection or any funds controlled by the
9 board, the use of which for such purposes is not otherwise
10 prohibited by law;

11 [~~(10)~~] (11) make and adopt such reasonable
12 rules as may be necessary or convenient to carry out the duties
13 of the retirement board and activities of the association,
14 including any rules necessary to preserve the status of the
15 association as a qualified pension plan under the provisions of
16 the Internal Revenue Code of 1986, as amended, or under
17 successor or related provisions of law; [~~and~~

18 [~~(11)~~] (12) designate committees and designate
19 committee members, including individuals who may not be members
20 of the association; and

21 (13) select and contract for the services of
22 one or more custodian banks for all funds under the retirement
23 board's management. For the purpose of this subsection,
24 "custodian bank" means a financial institution with the general
25 fiduciary duties to manage, control and collect the assets of

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1 an investment fund, including receiving all deposits and paying
2 all disbursements as directed by staff, safekeeping of assets,
3 coordination of asset transfers, timely settlement of
4 securities transactions and accurate and timely reporting of
5 the assets by individual account and in total.

6 B. The retirement board consists of:

- 7 (1) the secretary of state;
8 (2) the state treasurer;
9 (3) four members under a state coverage plan
10 to be elected by the members under state coverage plans;
11 (4) four members under a municipal coverage
12 plan to be elected by the members under municipal coverage
13 plans, provided one member shall be a municipal member employed
14 by a county; and
15 (5) two retired members to be elected by the
16 retired members of the association.

17 C. The results of elections of elected members of
18 the retirement board shall be certified at the annual meeting
19 of the association. Elections shall be conducted according to
20 rules the retirement board adopts from time to time.

21 D. The regular term of office of the elected
22 members of the retirement board is four years. The term of one
23 retirement board member under a state coverage plan expires
24 annually on December 31. The terms of retirement board members
25 under a municipal coverage plan expire on December 31 of

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1 noncoinciding years in the pattern set by the retirement board.
2 Members of the retirement board serve until their successors
3 have qualified.

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

16 F. Members of the retirement board serve without
17 salary for their services as retirement board members, but they
18 shall receive those amounts authorized under the Per Diem and
19 Mileage Act.

20 G. The retirement board shall hold four regular
21 meetings each year and shall designate in advance the time and
22 place of the meetings. Special meetings and emergency meetings
23 of the retirement board may be held upon call of the [~~chairman~~]
24 chair or any three members of the retirement board. Written
25 notice of special meetings shall be sent to each member of the

1 retirement board at least seventy-two hours in advance of the
2 special meeting. Verbal notice of emergency meetings shall be
3 given to as many members as is feasible at least eight hours
4 before the emergency meeting, and the meeting shall commence
5 with a statement of the nature of the emergency. The
6 retirement board shall adopt its own rules of procedure and
7 shall keep a record of its proceedings. All meetings of the
8 retirement board shall comply with the Open Meetings Act. A
9 majority of retirement board members shall constitute a quorum.
10 Each attending member of the retirement board is entitled to
11 one vote on each question before the retirement board, and at
12 least a majority of a quorum shall be necessary for a decision
13 by the retirement board.

14 H. The retirement board shall provide an
15 opportunity for public comment at meetings. Advance notice of
16 meetings shall be published on the association's web site and
17 in a newspaper of general circulation at least ten days in
18 advance of the meeting.

19 [H.] I. Annual meetings of the members of the
20 association shall be held in Santa Fe at such time and place as
21 the retirement board shall from time to time determine.
22 Special meetings of the members of the association shall be
23 held in Santa Fe upon call of any seven retirement board
24 members. The retirement board shall send a written notice to
25 the last known residence address of each member currently

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

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

21 Section 10. Section 10-11-132 NMSA 1978 (being Laws 1987,
22 Chapter 253, Section 132, as amended) is amended to read:

23 "10-11-132. INVESTMENT OF FUNDS--PRUDENT INVESTOR
24 STANDARD--INDEMNIFICATION OF BOARD MEMBERS.--

25 A. The funds created by the state retirement system
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1 acts are trust funds of which the retirement board is trustee.
 2 Members of the retirement board jointly and individually shall
 3 be indemnified by the state from the funds administered by the
 4 retirement board from all claims, demands, suits, actions,
 5 damages, judgments, costs, charges and expenses, including
 6 court costs and attorney fees and against all liability losses
 7 and damages of any nature that members shall or may sustain by
 8 reason of any decision made in the performance of their duties
 9 pursuant to the state retirement system acts. The retirement
 10 board shall invest and reinvest the funds in accordance with
 11 the Uniform Prudent Investor Act.

12 B. The retirement board and any person providing
 13 investment advice to the retirement board for a fee or other
 14 compensation and all persons exercising discretionary authority
 15 or control of funds under the management of the retirement
 16 board are fiduciaries."

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

19 "10-11-133. INVESTMENT OF FUNDS--PRUDENT INVESTOR
 20 STANDARD--CONDITIONS.--

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

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1 B. The retirement board shall invest and manage the
2 funds administered by the retirement board in accordance with
3 the Uniform Prudent Investor Act.

4 C. The retirement board shall provide quarterly
5 reports disclosing all contractor arrangements and detailing
6 investment, reinvestment, purchase, sale and exchange
7 transactions and fees paid for each transaction and performance
8 [reports] of the funds to the legislative finance committee and
9 the department of finance and administration. The reports
10 shall be published on the web sites of the association, the
11 legislature and the department of finance and administration.
12 Annually, the retirement board shall ratify and provide its
13 written investment policy, including any amendments, to the
14 legislative finance committee and the department of finance and
15 administration. The policies shall be published on the web
16 sites of the association, the legislature and the department of
17 finance and administration.

18 D. Securities purchased with money from or held for
19 any fund administered by the retirement board and for which the
20 retirement board is trustee shall be in the custody of the
21 state treasurer who shall, at the direction of the retirement
22 board, deposit with a bank or trust company the securities for
23 safekeeping or servicing.

24 E. The retirement board may consult with the state
25 investment council or state investment officer and request

underscoring material = new
[bracketed material] = delete

1 information or advice with respect to the retirement board's
2 overall investment plan, may utilize the services of the state
3 investment council and state investment officer and may act on
4 their advice concerning the plan. The state investment council
5 and state investment officer shall render investment services
6 to the retirement board without expense to the retirement
7 board. The retirement board may also employ the investment
8 management services and related management services of a trust
9 company or national bank exercising trust powers or of an
10 investment counseling firm or brokers for the purchase and sale
11 of securities, commission recapture and transitioning services
12 and may pay reasonable compensation for such services from
13 funds administered by the retirement board. The terms of any
14 such investment management services contract shall incorporate
15 the statutory requirements for investment of funds under the
16 retirement board's jurisdiction.

17 F. The retirement board shall annually provide for
18 its members no less than eight hours of training in pension
19 fund investing, fiduciary obligations or ethics. A member
20 elected to the retirement board who fails to attend the
21 training for two consecutive years shall be deemed to have
22 resigned from the retirement board.

23 G. Except as provided in the Public Employees
24 Retirement Act, a member of the retirement board, employee of
25 the retirement board or any person connected with the

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1 retirement board in any manner shall not:

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

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

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

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

16 Section 12. Section 19-1-19 NMSA 1978 (being Laws 1966,
17 Chapter 4, Section 1, as amended) is amended to read:

18 "19-1-19. PUBLIC BUILDINGS AT CAPITAL PERMANENT FUND--
19 INVESTMENT.--The state investment [~~officer~~] council shall, in
20 the same manner provided under Section [~~11-2-8.9 NMSA 1953~~]
21 6-8-6 NMSA 1978 for other permanent funds, assume the
22 investment responsibility for the public buildings at capital
23 permanent fund created by Section [~~7-1-16 NMSA 1953~~] 19-1-17
24 NMSA 1978."

25 Section 13. Section 22-11-3 NMSA 1978 (being Laws 1967,
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1 Chapter 16, Section 127, as amended) is amended to read:

2 "22-11-3. EDUCATIONAL RETIREMENT BOARD--MEMBERS--TERMS--
3 VACANCIES.--

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

5 B. The board shall be composed of seven members,
6 consisting of the following:

7 (1) the [~~superintendent~~] secretary of public
8 [~~instruction~~] education;

9 (2) the state treasurer;

10 (3) one member to be elected for a term of
11 four years by members of the New Mexico association of
12 educational retirees;

13 (4) one member to be elected for a term of
14 four years by the members of the [~~New Mexico~~] national
15 education association of New Mexico;

16 (5) one member to be elected for a term of
17 four years by the New Mexico members of the American
18 association of university professors; and

19 (6) two members to be appointed by the
20 governor for terms of four years each.

21 C. In the initial composition of the board, the
22 member elected by the members of the American association of
23 university professors shall serve for a term of three years;
24 one member appointed by the governor shall serve for a term of
25 two years; and the other member appointed by the governor shall

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1 serve for a term of one year.

2 D. Except for ex-officio members, a member of the
3 board who fails to attend three consecutively scheduled
4 meetings, unless in each case excused for cause by the board
5 members in attendance, is considered to have resigned from the
6 board, and the board shall by resolution declare the office
7 vacated as of the date of adoption of the resolution.

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

13 Section 14. Section 22-11-4 NMSA 1978 (being Laws 1967,
14 Chapter 16, Section 128, as amended) is amended to read:

15 "22-11-4. BOARD--REGULAR AND SPECIAL MEETINGS.--

16 A. The board shall hold regular meetings four times
17 each year and may, by its bylaws, provide for additional
18 regular meetings. Prior to each regular meeting, written
19 notice shall be given to each member of the board specifying
20 the time and place of the regular meeting.

21 B. Special meetings of the board may be called by
22 the ~~[chairman]~~ chair or by any three members of the board.
23 Written notice of the special meeting shall be sent to each
24 member of the board at least three days in advance of the
25 special meeting.

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1 C. If not in violation of Subsection A or B of this
2 section, the rules of the board or the Open Meetings Act, the
3 [~~chairman~~] chair or any of three members of the board may
4 cancel or reschedule a meeting.

5 D. The board shall provide an opportunity for
6 public comment at meetings of the board. Advance notice of
7 meetings shall be published on the board's web site and in a
8 newspaper of general circulation at least ten days in advance
9 of the meeting."

10 Section 15. Section 22-11-5.1 NMSA 1978 (being Laws 1999,
11 Chapter 153, Section 2) is amended to read:

12 "22-11-5.1. RESTRICTIONS ON RECEIPT OF GIFTS--RESTRICTION
13 ON CAMPAIGN CONTRIBUTIONS--REQUIRED REPORTING.--

14 A. Except for gifts of food or beverage given in a
15 place of public accommodation, consumed at the time of receipt,
16 not exceeding fifty dollars (\$50.00) for a single gift and the
17 aggregate value of which gifts may not exceed one hundred fifty
18 dollars (\$150) in a calendar year, neither a board member nor
19 an employee of the board shall receive or accept anything of
20 value directly or indirectly from a person who:

21 (1) has a current contract with the
22 [~~retirement~~] board [~~or association~~];

23 (2) is a potential bidder, offeror or
24 contractor for the provision of services or personal property
25 to the [~~retirement~~] board [~~or association~~];

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1 (3) is authorized to invest public funds
2 pursuant to state or federal law or is an employee or agent of
3 such a person; or

4 (4) is an organization, association or other
5 entity having a membership that includes persons described in
6 Paragraphs (1) through (3) of this subsection.

7 B. No person who is a candidate in a primary or
8 general election for a position that qualifies the person for
9 ex-officio membership on the board, no member serving ex
10 officio on the board and no person who is a nominee for board
11 membership by election by the members of an association shall
12 accept anything of a value of more than twenty-five dollars
13 (\$25.00) as a contribution to an ex-officio member's statewide
14 campaign in a primary or general election or as a contribution
15 to the campaign of a nominee for membership on the board as a
16 member elected by an association from a person who:

17 (1) has a current contract with the board;

18 (2) is a potential bidder, offeror or
19 contractor for the provision of services or personal property
20 to the board;

21 (3) is authorized to invest public funds
22 pursuant to state or federal law or is an employee or agent of
23 such a person; or

24 (4) is an organization, association or other
25 entity having a membership that includes persons described in

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1 Paragraphs (1) through (3) of this subsection.

2 C. Within ten days after an election in which one
3 or more board members are elected by an association, all
4 persons who were candidates for board membership in that
5 election shall file with the board a report disclosing all
6 contributions to their respective campaigns whether made
7 directly to the candidate, to a political action committee or
8 to some other entity supporting the candidate's election. The
9 contributions shall be reported by amount and specific source.
10 Within sixty days after the election, the board shall publish
11 the reports required by this subsection."

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

14 "22-11-13. BOARD AUTHORITY TO INVEST THE FUND--PRUDENT
15 INVESTOR STANDARD--INDEMNIFICATION OF BOARD.--

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

20 B. The board shall provide quarterly reports
21 disclosing all contractor arrangements and detailing
22 investment, reinvestment, purchase, sale and exchange
23 transactions and fees paid for each transaction and performance
24 [reports] of the fund to the legislative finance committee and
25 the department of finance and administration. The reports

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1 shall be published on the web sites of the board, the
2 legislature and the department of finance and administration.
3 Annually, the board shall ratify and provide its written
4 investment policy, including any amendments, to the legislative
5 finance committee and the department of finance and
6 administration. The policies shall be published on the web
7 sites of the board, the legislature and the department of
8 finance and administration.

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

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1 apportion income derived from the investment of cash collateral
2 to pay its agent in securities lending transactions.

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

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

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

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1 and may pay reasonable compensation for those services from
2 funds administered by the board.

3 G. The board shall annually provide for its members
4 no less than eight hours of training in pension fund investing,
5 fiduciary obligations or ethics. A member elected or appointed
6 to the board who fails to attend the training for two
7 consecutive years shall be deemed to have resigned from the
8 board.

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

17 I. The board and any person providing investment
18 advice to the board for a fee or other compensation and all
19 persons exercising discretionary authority or control of funds
20 under the management of the board are fiduciaries.

21 J. The board may select and contract for the
22 services of one or more custodian banks for all funds under the
23 board's management. For the purpose of this subsection,
24 "custodian bank" means a financial institution with the general
25 fiduciary duties to manage, control and collect the assets of

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1 an investment fund, including receiving all deposits and paying
2 all disbursements as directed by staff, safekeeping of assets,
3 coordination of asset transfers, timely settlement of
4 securities transactions and accurate and timely reporting of
5 the assets by individual account and in total."

6 Section 17. A new section of Chapter 6, Article 8 NMSA
7 1978 is enacted to read:

8 "[NEW MATERIAL] ALTERNATIVE INVESTMENT ADVISORY
9 COMMITTEE.--

10 A. An alternative investment advisory committee
11 shall be appointed by the council for any separate alternative
12 investment asset class when the percentage of the portfolio
13 invested by the council in that alternative investment asset
14 class exceeds ten percent of the total funds invested by the
15 council. An alternative investment advisory committee shall
16 consist of five members, one of whom shall be the state
17 investment officer and four of whom shall be appointed by the
18 council. Of the members appointed to the committee by the
19 council, at least one, but not more than two, shall be a member
20 of the council and the remainder of the members appointed by
21 the council shall be public members who are not members of the
22 council. All members appointed by the council shall be
23 qualified by competence, experience and knowledge of the
24 alternative investment asset class for which the advisory
25 committee is created and shall have no less than five years of

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1 experience in the field of investment or finance.

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

10 C. The council may dissolve an alternative
11 investment advisory committee when the percentage of the
12 portfolio invested by the council in that alternative
13 investment asset class falls below five percent of the total
14 funds invested by the council for a period of more than one
15 year.

16 D. An alternative investment advisory committee
17 shall review and make recommendations to the council on its
18 designated alternative investment asset class and shall advise
19 the council in matters and policies related to such
20 investments.

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

25 F. An alternative investment advisory committee

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1 shall elect annually a chair from among its members and may
2 elect other officers as necessary. The committee shall meet
3 upon the call of the chair.

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

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

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

19 Section 18. A new section of the Public Employees
20 Retirement Act is enacted to read:

21 "[NEW MATERIAL] ALTERNATIVE INVESTMENT ADVISORY
22 COMMITTEE.--

23 A. An alternative investment advisory committee
24 shall be appointed by the retirement board for any separate
25 alternative investment asset class when the percentage of the

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1 portfolio invested by the retirement board in that alternative
2 investment asset class exceeds ten percent of the total fund.
3 An alternative investment advisory committee shall consist of
4 five members, one of whom shall be the chief investment officer
5 of the association and four of whom shall be appointed by the
6 retirement board. Of the members appointed to the committee by
7 the retirement board, at least one, but not more than two,
8 shall be a member of the retirement board and the remainder of
9 the members appointed by the retirement board shall be public
10 members who are not members of the retirement board. All
11 members appointed by the retirement board shall be qualified by
12 competence, experience and knowledge of the alternative
13 investment asset class for which the advisory committee is
14 created and shall have no less than five years of experience in
15 the field of investment or finance.

16 B. Public members 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 public members shall
20 be appointed for three-year terms. Members shall serve until
21 their successors are appointed. A vacancy occurring other than
22 by expiration of term shall be filled in the same manner as the
23 original appointment but only for the unexpired term.

24 C. The retirement board may dissolve an alternative
25 investment advisory committee when the percentage of the

1 portfolio invested by the retirement board in that alternative
2 investment asset class falls below five percent of the total
3 fund for a period of more than one year.

4 D. An alternative investment advisory committee
5 shall review and make recommendations to the retirement board
6 on its designated alternative investment asset class and shall
7 advise the retirement board in matters and policies related to
8 such investments.

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

13 F. An alternative investment advisory committee
14 shall elect annually a chair from among its members and may
15 elect other officers as necessary. The committee shall meet
16 upon the call of the chair.

17 G. Members of an alternative investment advisory
18 committee are public employees within the meaning of the Tort
19 Claims Act and are entitled to all immunity and indemnification
20 provided under that act.

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

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1 I. As used in this section, "alternative
2 investment" means an asset class other than publicly traded
3 equities, fixed income securities or mutual funds and includes
4 hedge funds, private equity, commodities, derivative
5 securities, real estate and real assets."

6 Section 19. A new section of the Educational Retirement
7 Act is enacted to read:

8 "[NEW MATERIAL] ALTERNATIVE INVESTMENT ADVISORY
9 COMMITTEE.--

10 A. An alternative investment advisory committee
11 shall be appointed by the board for any separate alternative
12 investment asset class when the portion of the fund invested by
13 the board in that alternative investment asset class exceeds
14 ten percent of the total fund, excluding cash or cash
15 equivalents. An alternative investment advisory committee
16 shall consist of five members, one of whom shall be the
17 director and four of whom shall be appointed by the board. Of
18 the members appointed to the committee by the board, at least
19 one, but not more than two, shall be a member of the board and
20 the remainder of the members appointed by the retirement board
21 shall be public members who are not members of the board. All
22 members appointed by the board shall be qualified by
23 competence, experience and knowledge of the alternative
24 investment asset class for which the advisory committee is
25 created and shall have no less than five years of experience in

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1 the field of investment or finance.

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

10 C. The board may dissolve an alternative investment
11 advisory committee when the percentage of the portfolio
12 invested by the board in that alternative investment asset
13 class falls below five percent of the total fund for a period
14 of more than one year.

15 D. An alternative investment advisory committee
16 shall review and make recommendations to the board on its
17 designated alternative investment asset class and shall advise
18 the board in matters and policies related to such investments.

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

23 F. An alternative investment advisory committee
24 shall elect annually a chair from among its members and may
25 elect other officers as necessary. The committee shall meet

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1 upon the call of the chair.

2 G. Members of an alternative investment advisory
3 committee are public employees within the meaning of the Tort
4 Claims Act and are entitled to all immunity and indemnification
5 provided under that act.

6 H. A person shall not be a member of an alternative
7 investment advisory committee if any recommendation, action or
8 decision of the committee will or is likely to result in
9 direct, measurable economic gain to that person or that
10 person's employer.

11 I. As used in this section, "alternative
12 investment" means an asset class other than publicly traded
13 equities, fixed income securities or mutual funds and includes
14 hedge funds, private equity, commodities, derivative
15 securities, real estate and real assets."

16 Section 20. TEMPORARY PROVISION--TRANSITION MEMBERSHIP OF
17 STATE INVESTMENT COUNCIL.--

18 A. On the effective date of this act:

19 (1) the state investment officer and the
20 governor are no longer members of the state investment council;

21 (2) the three public members serving on the
22 state investment council the day before the effective date of
23 this act shall continue to serve until their successors are
24 appointed for an interim basis pursuant to Subsection B of this
25 section; and

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1 (3) the chief financial officer of a state
2 institution of higher education appointed by the governor shall
3 continue to serve until the officer's successor is appointed on
4 an interim basis pursuant to Subsection C of this section.

5 B. Within forty-five days of the effective date of
6 this act, members shall be appointed pursuant to Paragraphs (4)
7 through (7) of Subsection A of Section 6-8-2 NMSA 1978 and
8 shall serve on an interim basis until confirmed by the senate,
9 provided that the first three members appointed pursuant to
10 this subsection shall succeed to the positions held by the
11 three public members serving on the day before the effective
12 date of this act.

13 C. After the appointments made pursuant to
14 Subsection B of this section, three members may be appointed
15 pursuant to Paragraph (8) of Subsection A of Section 6-8-2 NMSA
16 1978 and shall serve on an interim basis until confirmed by the
17 senate.

18 D. The seven members appointed pursuant to
19 Subsections B and C of this section shall, by lot, determine
20 the initial terms of office for each position so that one
21 position will be for a term of one year, one position will be
22 for a term of two years, two positions will be for a term of
23 three years, two positions will be for a term of four years and
24 one position shall be for a term of five years. Thereafter,
25 the terms shall be for five years.

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