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SENATE BILL 218

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

INTRODUCED BY

Steven P. Neville

AN ACT

RELATING TO STATE INVESTMENTS; CHANGING THE COMPOSITION OF THE STATE INVESTMENT COUNCIL; CHANGING THE METHOD OF APPOINTMENT OF PUBLIC MEMBERS OF THE STATE INVESTMENT COUNCIL AND THE STATE INVESTMENT OFFICER; 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.--

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

The council shall be composed of:

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

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

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

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

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1                   ~~[E. three public members appointed by the~~  
2 ~~governor with the advice and consent of the senate;~~  
3                   ~~F. the state investment officer; and~~  
4                   ~~G.]~~ (5) the chief financial officer of a state  
5 institution of higher education appointed by the governor with  
6 the advice and consent of the senate;  
7                   (6) one public member appointed by the  
8 president pro tempore of the senate with the advice and consent  
9 of the senate;  
10                  (7) one public member appointed by the  
11 minority floor leader of the senate with the advice and consent  
12 of the senate;  
13                  (8) one public member appointed by the speaker  
14 of the house of representatives with the advice and consent of  
15 the senate;  
16                  (9) one public member appointed by the  
17 minority floor leader of the house of representatives with the  
18 advice and consent of the senate; and  
19                  (10) two members nominated by the governor and  
20 approved by the other nine members of the council with the  
21 advice and consent of the senate.

22                  B. The [chairman] chair of the council shall be the  
23 governor, and the vice chair shall be selected by the council.  
24 All actions of the council shall be by majority vote, and ~~[at~~  
25 ~~least three members appointed pursuant to Subsections E and G~~

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1 ~~of this section must be present to]~~ a majority of the members  
2 shall constitute a quorum.

3 C. Members of the council appointed pursuant to  
4 Paragraphs (6) through (10) of Subsection [E] A of this section  
5 shall be reimbursed per diem and mileage pursuant to the  
6 provisions of the Per Diem and Mileage Act."

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

9 "6-8-3. COUNCIL TERMS AND QUALIFICATIONS.--

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

16 B. The members of the council appointed pursuant to  
17 Paragraphs (6) through (10) of Subsection [E] A of Section  
18 6-8-2 NMSA 1978 shall be qualified by competence and no less  
19 than ten years experience in the field of investment or  
20 finance. [~~During tenure, a member of the council shall not be~~  
21 ~~engaged in any capacity in the sale of securities to the~~  
22 ~~state.] A member of the council shall not have had any  
23 contracts to do business with the state investment council, the  
24 investment office, the office of the state treasurer, the  
25 educational retirement board, the public employees retirement~~

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

19 C. The member appointed pursuant to Paragraph (5)  
20 of Subsection A of Section 6-8-2 NMSA 1978 shall serve at the  
21 pleasure of the governor. [~~Any~~] A member of the council  
22 appointed pursuant to Paragraphs (6) through (10) of Subsection  
23 [~~E or G~~] A of Section 6-8-2 NMSA 1978 may be removed from the  
24 council by the governor, for cause, in the manner provided for  
25 removal of members of boards of regents under Article 12,

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1 Section 13 of the constitution of New Mexico. A vacancy in the  
2 membership of the council occurring other than by expiration of  
3 term shall be filled in the same manner as the original  
4 appointment but for the unexpired term only."

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

7 "6-8-4. INVESTMENT OFFICE--STATE INVESTMENT OFFICER--  
8 TERMS.--

9 A. There is established an "investment office".  
10 The chief administrative officer of the office shall be known  
11 as the "state investment officer".

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

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1 (\$50,000) annually.

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

9 Section 4. TEMPORARY PROVISION--TRANSITION MEMBERSHIP OF  
10 STATE INVESTMENT COUNCIL.--

11 A. On the effective date of this act:

12 (1) the state investment officer is no longer  
13 a member of the state investment council; and

14 (2) the three public members serving on the  
15 state investment council the day before the effective date of  
16 this act shall continue to serve until their successors are  
17 appointed for an interim basis pursuant to Subsection B of this  
18 section.

19 B. On or after the effective date of this act,  
20 members shall be appointed pursuant to Paragraphs (6) through  
21 (9) of Subsection A of Section 6-8-2 NMSA 1978 and shall serve  
22 on an interim basis until confirmed by the senate, provided  
23 that the first three members appointed pursuant to this  
24 subsection shall succeed to the positions held by the three  
25 public members serving on the day before the effective date of

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1 this act.

2 C. After the appointments made pursuant to  
3 Subsection B of this section, two members may be appointed  
4 pursuant to Paragraph (10) of Subsection B of Section 6-8-2  
5 NMSA 1978 and shall serve on an interim basis until confirmed  
6 by the senate.

7 D. The six members appointed pursuant to  
8 Subsections B and C of this section shall, by lot, determine  
9 the initial terms of office for each position so that one  
10 position will be for a term of one year, one position will be  
11 for a term of two years, two positions will be for a term of  
12 three years, one position will be for a term of four years and  
13 one position shall be for a term of five years. Thereafter,  
14 the terms shall be for five years.

15 Section 5. EMERGENCY.--It is necessary for the public  
16 peace, health and safety that this act take effect immediately.