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HOUSE BILL 146

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

MAX COLL

FOR THE LEGISLATIVE FINANCE COMMITTEE

AN ACT

RELATING TO THE INVESTMENT OF PUBLIC MONEY; PROVIDING FOR BUDGET AND PAYMENT OF ADMINISTRATIVE AND INVESTMENT EXPENSES OF THE INVESTMENT OFFICE FROM THE STATE PERMANENT FUNDS AND OTHER FUNDS MANAGED BY THE INVESTMENT OFFICE; AUTHORIZING THE INVESTMENT OFFICE TO USE INVESTMENT MANAGERS; AUTHORIZING THE STATE INVESTMENT OFFICER TO PROVIDE INVESTMENT SERVICES TO POLITICAL SUBDIVISIONS OF THE STATE AND THE NEW MEXICO FINANCE AUTHORITY; AMENDING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1. Section 6-8-1 NMSA 1978 (being Laws 1957, Chapter 179, Section 1, as amended by Laws 1983, Chapter 301, Section 11 and also by Laws 1983, Chapter 306, Section 1) is amended to read:

"6-8-1. DEFINITIONS. -- As used in ~~[Sections 6-8-1 through~~

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[bracketed material] = delete

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1 ~~6-8-16]~~ Chapter 6, Article 8 NMSA 1978:

2 A. "secretary" means the secretary of finance and
3 administration;

4 B. "department" means the department of finance and
5 administration;

6 C. "land grant permanent [~~fund~~] funds" means those
7 funds derived from lands under the direction, control, care and
8 disposition of the commissioner of public lands conferred by
9 Article 13, Sections 1 and 2 of the constitution of New Mexico;
10 and

11 D. "council" means the state investment council."

12 Section 2. Section 6-8-5 NMSA 1978 (being Laws 1957,
13 Chapter 179, Section 5, as amended) is amended to read:

14 "6-8-5. BOND--STAFF--BUDGET. --

15 A. Before the state investment officer, or other
16 responsible employee of the investment [~~division, shall enter~~]
17 office, enters upon his duties, the secretary shall require an
18 individual bond or [~~shall~~] include the state investment officer
19 and other responsible employees under a blanket bond for an
20 amount and for a coverage deemed best to protect the state's
21 interest. The bond premiums shall be paid by the state.

22 B. The state investment officer shall annually
23 prepare a budget for administering and investing all funds
24 managed by the investment office, which shall be reviewed by the
25 council [~~and the secretary~~]. Any funds provided for the

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[bracketed material] = delete

1 operating budget of the ~~[division]~~ investment office shall be
2 appropriated from ~~[earnings on investments of permanent funds~~
3 ~~before distribution to the income funds]~~ the assets of the land
4 grant permanent funds, the severance tax permanent fund, pooled
5 client funds or any other funds managed by the investment
6 office, as authorized by law; however, in regard to the land
7 grant permanent funds, appropriation shall be made from earnings
8 on investments of the land grant permanent funds before
9 distribution to the income funds during the period prior to the
10 date the United States congress consents to the provisions of
11 Constitutional Amendment 1 approved at the 1996 general
12 election.

13 C. Amounts budgeted or appropriated from the land
14 grant permanent funds and the severance tax permanent fund for
15 the costs of administering and investing those funds shall be in
16 addition to the amounts distributed to the beneficiaries of the
17 land grant permanent funds and to the general fund from the
18 severance tax permanent fund as provided by law; provided that
19 amounts budgeted or appropriated from the land grant permanent
20 funds shall be made from earnings on investments of the funds
21 before distribution to the income funds during the period prior
22 to the date the United States congress consents to the
23 provisions of Constitutional Amendment 1 approved at the 1996
24 general election.

25 ~~[C.]~~ D. The state investment officer shall appoint

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1 all employees of the investment ~~[division]~~ office. "

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

4 "6-8-7. POWERS AND DUTIES OF STATE INVESTMENT OFFICER--
5 INVESTMENT POLICY--INVESTMENT MANAGERS.--

6 A. Subject to the limitations, conditions and
7 restrictions contained in policy-making regulations or
8 resolutions adopted by the council and subject to prior
9 authorization by the council, the state investment officer has
10 the power to make purchases, sales, exchanges, investments and
11 reinvestments of the ~~[permanent fund]~~ assets of all funds
12 administered under the supervision of the council. The state
13 investment officer is charged with the duty of seeing that money
14 invested is at all times handled in the best interests of the
15 state.

16 B. Securities or investments purchased or held may
17 be sold or exchanged for other securities and investments;
18 provided, however, that no sale or exchange ~~[is]~~ shall be at a
19 price less than the going market at the time the securities or
20 investments are sold or exchanged.

21 C. In purchasing bonds, the state investment officer
22 shall require a certified or original written opinion of a
23 reputable bond attorney or the attorney general of the state
24 certifying the legality of the bonds to be purchased; provided,
25 however, this written opinion may be the approving legal opinion

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1 ordinarily furnished with the bond issue.

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

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

25 F. For the purposes of the investment of ~~the~~

Underscored material = new
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1 ~~severance tax permanent fund]~~ all funds managed by the
2 investment office, the state investment officer shall manage the
3 ~~[fund in such a prudent manner as to ensure a reasonable~~
4 ~~diversification and reasonable yield]~~ funds on a total rate of
5 return basis in accordance with the standard of prudence set
6 forth in Section 6-8-10 NMSA 1978. With the approval of the
7 council, the state investment officer may employ investment
8 management services to invest the funds and may pay reasonable
9 compensation for investment management services from the assets
10 of the applicable funds subject to budgeting and appropriation
11 by the legislature.

12 G. For funds available for investment for more than
13 one year, the state investment officer may contract with any
14 state agency to provide investment advisory or investment
15 management services, separately or through a pooled investment
16 fund, provided the state agency enters into a joint powers
17 agreement with the ~~[state investment]~~ council and that state
18 agency pays at least the direct cost of such services.
19 Notwithstanding any statutory provision governing state agency
20 investments, the state investment officer may invest funds of a
21 state agency in any type of investment permitted for the land
22 grant permanent funds under the same standard of care applicable
23 to investments of the land grant permanent funds. In performing
24 investment services for a state agency, the council and the
25 state investment officer are exempt from the New Mexico

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1 Securities Act of 1986. As used in this subsection, "state
2 agency" means any branch, agency, department, board,
3 instrumentality, [or] institution or political subdivision of
4 the state [~~other than the educational retirement board and the~~
5 ~~retirement board created by the Public Employees Retirement Act]~~
6 and the New Mexico finance authority."

7 Section 4. EMERGENCY.--It is necessary for the public
8 peace, health and safety that this act take effect immediately.

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State of New Mexico
House of Representatives

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

February 12, 1997

Mr. Speaker:

Your TAXATION AND REVENUE COMMITTEE, to whom has
been referred

HOUSE BILL 146

has had it under consideration and reports same with
recommendation that it DO PASS, amended as follows:

1. On page 3, lines 4 and 5, strike "pooled client funds"
and insert in lieu thereof "funds available for investment
pursuant to Subsection G of this section".

2. On page 6, line 5, after "basis" strike the remainder of
the line and strike line 6 up to the period.

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FIRST SESSION, 1997

HB 146

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3. On page 6, lines 20 and 21, strike "of a state agency" and insert in lieu thereof "available from a state agency pursuant to a joint powers agreement".

4. On page 7, lines 4 and 5, strike the brackets and line-through, and on line 6, strike "and" and insert in lieu thereof ", but including".,

and thence referred to the APPROPRIATIONS AND FINANCE COMMITTEE.

Respectfully submitted,

Jerry W. Sandel, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

Underscored material = new
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FORTY- THIRD LEGISLATURE
FIRST SESSION, 1997

HB 146

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2 The roll call vote was 11 For 0 Against

3 Yes: 11

4 Excused: Lovejoy, Parsons

5 Absent: None

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State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

February 25, 1997

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7 Mr. Speaker:

8 Your APPROPRIATIONS AND FINANCE COMMITTEE, to
9 whom has been referred

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11 HOUSE BILL 146, as amended

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13 has had it under consideration and reports same with
14 recommendation that it DO PASS, amended as follows:

15 1. Strike House Taxation and Revenue Committee Amendments 1,
16 2 and 4.

17
18 2. On page 3, lines 4 and 5, strike "pooled client funds"
19 and insert in lieu thereof "funds available for investment
20 pursuant to Subsection G of Section 6-8-7 NMSA 1978".

21
22 3. On page 6, line 5, after "in", strike the remainder of
23 the line, strike all of line 6 up to the period and insert in lieu
24 thereof "a prudent manner, unless a higher standard of care is
25 required by law".

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

HAF C/HB 146, aa

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Respectfully submitted,

Max Coll, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 12 For 0 Against

Yes: 12

Excused: Heaton, Marquardt, Taylor, JP, Townsend, Watchman

Absent: None

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

1 HAF/ HB 146, aa

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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March 7, 1997

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10 Mr. President:

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Your WAYS AND MEANS COMMITTEE, to whom has been

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referred

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HOUSE BILL 146, as amended

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16 has had it under consideration and reports same with

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recommendation that it DO PASS, and thence referred to the

18

FINANCE COMMITTEE.

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Respectfully submitted,

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Carlos R. Cisneros, Chairman

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FORTY- THIRD LEGISLATURE
FIRST SESSION, 1997

1 HAF/ HB 146, aa

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 5 For 3 Against

Yes: 5

No: Duran, Kidd, McSorley

Excused: Jennings

Absent: None

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[bracketed material] = delete

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

1 HAF/ HB 146, aa

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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March 12, 1997

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10 Mr. President:

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Your FINANCE COMMITTEE, to whom has been referred

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HOUSE BILL 146, as amended

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15 has had it under consideration and reports same with

16 recommendation that it DO PASS.

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Respectfully submitted,

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Ben D. Altamirano, Chairman

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Adopted _____ Not Adopted _____

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

1 HAF/ HB 146, aa

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(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: None

Excused: Carraro, Ingle, Lyons, McKibben, Fidel

Absent: None

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Underscored material = new
[bracketed material] = delete