

STATE INVESTMENT COUNCIL  
MEETING

FY12  
SIGNED MINUTES

February 2, 2012  
Special Meeting Legislative Update

**ACTION SUMMARY**

**STATE INVESTMENT COUNCIL**

**SPECIAL MEETING**

**February 2, 2012**

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**MINUTES OF THE**  
**NEW MEXICO STATE INVESTMENT COUNCIL**  
**SPECIAL MEETING**  
**Santa Fe, New Mexico**

**February 2, 2012**

**1. OPENING MATTERS**

**a. Introduction of Guests and Roll Call: Quorum Present**

A Special Meeting of the New Mexico State Investment Council was called to order on this date at 11:00 a.m. in the State Investment Council Offices, 41 Plaza La Prensa, Santa Fe, NM.

**Members Present:**

Mr. Doug Brown, Public Member, Vice Chair [by telephone]  
The Honorable James B. Lewis, State Treasurer [arriving 11:40 a.m.]  
Dr. Thomas Clifford, Secretary Designate, DFA [by telephone]  
Mr. Peter Frank, Public Member [by telephone]  
Mr. Harold Lavender, Public Member [by telephone]  
Mr. Leonard Lee Rawson, Public Member [by telephone, joining 11:10 a.m.]  
Mr. Scott Smart, Public Member

**Members Excused:**

The Honorable Susana Martinez, Governor  
The Honorable Ray Powell, Commissioner of Public Lands  
Mr. Michael Martin, Public Member

**Assistant Attorney General Present:**

Ms. Tania Maestas

**Staff Present:**

Mr. Steven K. Moise, State Investment Officer  
Mr. Robert "Vince" Smith, Deputy State Investment Officer  
Mr. Evan Land, General Counsel  
Mr. Charles Wollmann, Director of Communications  
Ms. Kerri Segell, Executive Assistant

**Guests Present:**

Mr. AJ Forte, DFA  
Mr. Andrew Jacobson, DFA

## **2. STATE INVESTMENT OFFICER'S REPORT RE: 2012 LEGISLATION**

Mr. Moise reported that, as of this morning, the Fund's NAV was \$14.974 billion.

Mr. Moise stated that he, Vince Smith, Charles Wollmann and Evan Land have been testifying regularly to legislative committees, particularly with respect to the SIC's primary initiative, SJR4 (international investments).

Mr. Moise said Mr. Smith will make a presentation regarding the Severance Tax Permanent Fund inflow analysis to the House Appropriations & Finance Committee soon.

## **3. GOVERNANCE MATTERS: COMMITTEE & INFORMATIONAL REPORTS: DISCUSSION OR VOTE (SCOTT SMART)**

- a. **2012 SIC-related legislation overview (Charles Wollmann)**
- b. **Council discussion and recommendations (Smart)**

Mr. Wollmann presented an updated list of SIC-related legislation and reported on feedback received so far from the five SIC members who have weighed in: Mike Martin, Lee Rawson, Peter Frank, Harold Lavender, and Scott Smart. Some other Council members indicated they preferred to discuss legislation today, prior to voting.

HB 21 (Limit on Land Grant Funds in Some Investments) and SB 41 (companion bill).

-- 5-0 support from SIC members.

Vice Chair Brown and Dr. Clifford added their support.

HB 50 (Reduced Severance Tax Fund Intercepts)

-- 5-0 support from SIC members. Bill is in its first committee.

Vice Chair Brown and Dr. Clifford added their support.

HJ 0001 (Limit on Land Grant Funds in Some Investments). Dormant while SIC pursues SJR 4

-- 5-0 support from SIC members.

Vice Chair Brown and Dr. Clifford added their support.

HJR 0002 (Land Grant Fund Annual Distributions)

-- 5-0 opposition from SIC members. Would make permanent the 5.8% distribution.

Vice Chair Brown and Dr. Clifford added their opposition.

HJR 15 (Permanent Funds for Education)

-- 5-0 opposition from SIC members.

Vice Chair Brown and Dr. Clifford added their opposition.

HJR 21 (Public School Support Enhancement Fund)

-- 5-0 opposition from SIC members.

Vice Chair Brown and Dr. Clifford added their opposition.

SB 28 (Small Business Investment Corp. Funds)

-- 5-0 opposition from SIC members. Would add funds to the SBIC.

Vice Chair Brown and Dr. Clifford added their opposition.

[Mr. Rawson joined the proceedings by phone.]

SB 41 (companion to HB 21)

-- SJR 4 (constitutional amendment) and companion to this bill was amended in Rules Committee.

-- 5-0 support from SIC members to SB 41 and SJR 4.

Vice Chair Brown and Dr. Clifford added their support.

SB 234 (Fraud against Taxpayers Act Public Liability)

-- 5-0 opposition from SIC members.

Vice Chair Brown and Dr. Clifford abstained.

SB 268 (Green Industry Severance Tax Investments)

-- 5-0 opposition from SIC members.

Vice Chair Brown and Dr. Clifford added their votes of opposition.

SJR 9 (Permanent Funds for Education)

-- 5-0 opposition from SIC members.

Vice Chair Brown and Dr. Clifford added their votes of opposition.

With respect to bills that would increase distributions, Mr. Land stated an Attorney General advisory letter dated March 6, 2003, states that New Mexico may have a problem with respect to U.S. Congressional consent in terms of various enabling acts.

Mr. Land said New Mexico was given land pursuant to the Enabling Act, which also required that the funds would have to be used in a certain manner. He said the Attorney General's advisory letter stated that changing the distributions would potentially require U.S. Congressional approval.

Mr. Land said this is multilayered and complex issue that goes beyond the question of whether the Permanent Fund is for future generations or not.

SB 53 (SIC Membership and Authority Changes)

-- Would change the SIC membership, removing the Governor, Treasurer and Land Commissioner.

-- 2 SIC members support, 2 are opposed, and 1 (Peter Frank) is neutral.

Dr. Clifford said he was opposed to this bill, which goes too far in removing the SIC from direct involvement with elected officials.

Vice Chair Brown commented that he feels there is such public interest vested in this fund that he would have a hard time removing the public officials from it.

Mr. Rawson said he initially supported the bill because many public officials are so mired in other responsibilities that they are not up to speed on SIC issues and do not have time to educate themselves.

Mr. Lavender said he opposes the bill – it may be a good idea to change the makeup of the Council in certain ways, but this is not the right way to do it.

Mr. Frank stated that he wished to change his position from neutral to opposed.

Mr. Land noted that EnnisKnupp had recommended that the SIC depoliticize investment decisions to the extent possible and focus on fiduciary duties to optimize the funds. He said various political people have interpreted that to mean that elected officials should be removed.

Vice Chair Brown said he felt the right kind of political involvement and influence at this particular time is very helpful to the SIC in reestablishing its credibility.

HB 123 (Extend Angel Investment Tax Credit)

-- 2 SIC members support and 3 SIC members oppose.

Dr. Clifford said he didn't think it was appropriate for the SIC to take a position on this bill. Vice Chair Brown, Mr. Frank and Mr. Lavender concurred.

HB 133 (Increase Tobacco Products Tax)

-- No position.

SB 246 (Education Trust Fund for SIC)

Vice Chair Brown said just doing the investment aspect of this is fine, but the administrative side involves a whole new element of work. Secondly, Oppenheimer has done a dismal job and returns are well below the benchmarks. Thirdly, their administration has been very neglectful – he has seen court testimony that they have gone three years without an audit. He said a great deal of remedial work would be necessary just to take over the administrative side.

Dr. Clifford, Mr. Lavender, Mr. Rawson and Mr. Frank supported Vice Chair Brown's position.

Mr. Smith said that, if the SIC were to just take on the investment side, it would execute this with external managers and primarily in the publicly traded markets.

Council members agreed that the SIC's position is to support legislation that would have it handle the investment side.

HB 319 (Extension of joint resolution to increase distributions through early childhood education vehicle)

-- SIC members unanimously oppose this bill.

[Treasurer Lewis joined the proceedings.]

SJM 17 (Severance Tax Intercepts Study)

- Would require SIC and Board of Finance to further study this issue.
- SIC members unanimously support this bill.

Mr. Moise stated that staff would keep Council members apprised of changes, if any, to these bills.

#### 4. CLOSING MATTERS

##### a. Old or new business (Brown)

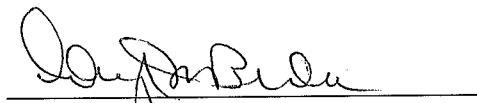
None.

##### b. Next SIC meeting date: Tuesday, Feb. 28, 9:00 a.m., Santa Fe (Brown)

#### 6. ADJOURNMENT

Its business completed, the State Investment Council adjourned the meeting at approximately 11:45 p.m.

Approved by:

  
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Douglas M. Brown, Vice Chair