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SENATE BILL 41

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Timothy Z. Jennings

AN ACT

RELATING TO PUBLIC FINANCE; ALLOWING COUNTY AND MUNICIPAL
TREASURERS TO INVEST IN SECURITIES OF AGENCIES SPONSORED BY THE
UNITED STATE GOVERNMENT.

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

Section 1. Section 6-10-10 NMSA 1978 (being Laws 1933,
Chapter 175, Section 4, as amended) is amended to read:

"6-10-10. DEPOSIT AND INVESTMENT OF FUNDS. --

A. Upon the certification or designation of [~~any~~] a
bank, savings and loan association or credit union whose
deposits are insured by an agency of the United States to
receive public money on deposit, the state treasurer and county
or municipal treasurers who have on hand any public money by
virtue of their offices shall make deposit of that money in
banks and savings and loan associations, and may make deposit

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1 of that money in credit unions whose deposits are insured by an
2 agency of the United States, designated by the authority
3 authorized by law to so designate to receive the deposits of
4 all money thereafter received or collected by the treasurers.

5 B. County or municipal treasurers may deposit money
6 in one or more accounts with any such bank, savings and loan
7 association or credit union located in their respective
8 counties, subject to limitation on credit union accounts.

9 C. The state treasurer may deposit money in one or
10 more accounts with any such bank, savings and loan association
11 or credit union, subject to the limitation on credit union
12 accounts.

13 D. Duplicate receipts or deposit slips shall be
14 taken for each deposit made pursuant to Subsection A, B or C of
15 this section. When deposits are made by the state treasurer,
16 one copy of the receipt or deposit slip shall be retained by
17 the state treasurer and the other copy shall be filed monthly
18 on the first day of each month with the financial control
19 division of the department of finance and administration. When
20 deposits are made by the treasurer or any other authorized
21 person making the deposits for a board of finance of a public
22 or educational institution, one copy of the receipt or deposit
23 slip shall be retained by the treasurer or authorized person so
24 making the deposit and the other copy shall be filed monthly on
25 the first day of each month with that board of finance. When

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1 deposits are made by a county or municipal treasurer, one of
2 the duplicate receipts or deposit slips shall be retained by
3 the treasurer so making the deposit and the other copy shall be
4 filed monthly on the first day of each month with the secretary
5 of the board of finance of the county or municipality for which
6 that treasurer is acting.

7 E. "Deposit", as used in this section, means either
8 investment or deposit and includes share, share certificate and
9 share draft.

10 F. County or municipal treasurers, by and with the
11 advice and consent of their respective boards of finance
12 charged with the supervision and control of the respective
13 funds, have the power to invest all sinking funds or money
14 remaining unexpended from the proceeds of any issue of bonds or
15 other negotiable securities of any county, municipality or
16 school district that is entrusted to their care and custody and
17 all money not immediately necessary for the public uses of the
18 counties, municipalities or school districts not invested or
19 deposited in banks, savings and loan associations or credit
20 unions in:

21 (1) bonds or negotiable securities of the
22 United States, the state or any county, municipality or school
23 district that has a taxable valuation of real property for the
24 last preceding year of at least one million dollars
25 (\$1,000,000) and has not defaulted in the payment of any

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1 interest or sinking fund obligation or failed to meet any bonds
2 at maturity at any time within five years last preceding; or

3 (2) securities that are issued by the United
4 States government or by its agencies or instrumentalities and
5 that are either direct obligations of the United States or are
6 backed by the full faith and credit of the United States
7 government or agencies [~~guaranteed~~] sponsored by the United
8 States government.

9 G. The treasurer of a class A county or the
10 treasurer of a municipality having a population of more than
11 sixty-five thousand according to the most recent federal
12 decennial census and located within a class A county, by and
13 with the advice and consent of the boards of finance charged
14 with the supervision and control of the funds, has the power to
15 invest all sinking funds or money remaining unexpended from the
16 proceeds of any issue of bonds or other negotiable securities
17 of the county or municipality that is entrusted to his care and
18 custody and all money not immediately necessary for the public
19 uses of the county or municipality not invested or deposited in
20 banks, savings and loan associations or credit unions in:

21 (1) shares of a diversified investment company
22 registered pursuant to the federal Investment Company Act of
23 1940 that invests in fixed-income securities or debt
24 instruments that are listed in a nationally recognized, broad-
25 market, fixed-income-securities market index; provided that the

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1 investment company or manager has total assets under management
2 of at least one hundred million dollars (\$100,000,000) and
3 provided that the board of finance of the county or
4 municipality may allow reasonable administrative and investment
5 expenses to be paid directly from the income or assets of these
6 investments;

7 (2) individual, common or collective trust
8 funds of banks or trust companies that invest in fixed-income
9 securities or debt instruments that are listed in a nationally
10 recognized, broad-market, fixed-income-securities market index;
11 provided that the investment company or manager has total
12 assets under management of at least one hundred million dollars
13 (\$100,000,000) and provided that the board of finance of the
14 county or municipality may allow reasonable administrative and
15 investment expenses to be paid directly from the income or
16 assets of these investments; or

17 (3) shares of pooled investment funds managed
18 by the state investment officer, as provided in Subsection G of
19 Section 6-8-7 NMSA 1978; provided that the board of finance of
20 the county or municipality may allow reasonable administrative
21 and investment expenses to be paid directly from the income or
22 assets of these investments.

23 H. A local public body, with the advice and consent
24 of the body charged with the supervision and control of the
25 local public body's respective funds, has the power to invest

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1 all sinking funds or money remaining unexpended from the
2 proceeds of any issue of bonds or other negotiable securities
3 of the investor that is entrusted to the local public body's
4 care and custody and all money not immediately necessary for
5 the public uses of the investor and not otherwise invested or
6 deposited in banks, savings and loan associations or credit
7 unions in contracts with banks, savings and loan associations
8 or credit unions for the present purchase and resale at a
9 specified time in the future of specific securities at
10 specified prices at a price differential representing the
11 interest income to be earned by the investor. The contract
12 shall be fully secured by obligations of the United States or
13 other securities backed by the United States having a market
14 value of at least one hundred two percent of the contract. The
15 collateral required for investment in the contracts provided
16 for in this subsection shall be shown on the books of the
17 financial institution as being the property of the investor and
18 the designation shall be contemporaneous with the investment.
19 As used in this subsection, "local public body" includes all
20 political subdivisions of the state and agencies,
21 instrumentalities and institutions thereof; provided that home
22 rule municipalities that, prior to July 1, 1994, had enacted
23 ordinances authorizing the investment of repurchase agreements
24 may continue investment in repurchase agreements pursuant to
25 those ordinances.

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1 I. The state treasurer, with the advice and consent
2 of the state board of finance, has the power to invest money
3 held in demand deposits and not immediately needed for the
4 operation of state government and money held in the short-term
5 investment fund, except as provided in Section 6-10-10.1 NMSA
6 1978. The investments shall be made only in securities that
7 are issued by the United States government or by its
8 departments or agencies and are either direct obligations of
9 the United States or are backed by the full faith and credit of
10 the United States government or agencies sponsored by the
11 United States government.

12 J. The state treasurer, with the advice and consent
13 of the state board of finance, may also invest in contracts for
14 the present purchase and resale at a specified time in the
15 future, not to exceed one year or, in the case of bond
16 proceeds, not to exceed three years, of specific securities at
17 specified prices at a price differential representing the
18 interest income to be earned by the state. [No] Such contract
19 shall not be invested in unless the contract is fully secured
20 by obligations of the United States or other securities backed
21 by the United States having a market value of at least one
22 hundred two percent of the amount of the contract.

23 K. The state treasurer, with the advice and consent
24 of the state board of finance, may also invest in contracts for
25 the temporary exchange of state-owned securities for the use of

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1 broker-dealers, banks or other recognized institutional
2 investors in securities, for periods not to exceed one year for
3 a specified fee rate. [~~No~~] Such contract shall not be invested
4 in unless the contract is fully secured by exchange of an
5 irrevocable letter of credit running to the state, cash or
6 equivalent collateral of at least one hundred two percent of
7 the market value of the securities plus accrued interest
8 temporarily exchanged.

9 L. The collateral required for either of the forms
10 of investment in Subsection J or K of this section shall be
11 delivered to the state fiscal agent or its designee
12 contemporaneously with the transfer of funds or delivery of the
13 securities at the earliest time industry practice permits, but
14 in all cases, settlement shall be on a same-day basis.

15 M. Neither of the contracts in Subsection J or K of
16 this section shall be invested in unless the contracting bank,
17 brokerage firm or recognized institutional investor has a net
18 worth in excess of five hundred million dollars (\$500,000,000).

19 N. The state treasurer, with the advice and consent
20 of the state board of finance, may also invest in any of the
21 following investments in an amount not to exceed forty percent
22 of any fund that the state treasurer invests:

23 (1) commercial paper rated "prime" quality by
24 a national rating service, issued by corporations organized and
25 operating within the United States;

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1 (2) ~~medium-term~~ notes and corporate notes with
2 a maturity not exceeding five years that are rated A or its
3 equivalent or better by a nationally recognized rating service
4 and that are issued by a corporation organized and operating in
5 the United States; or

6 (3) any asset-backed obligation with a
7 maturity not exceeding five years that is rated AAA or its
8 equivalent by a nationally recognized rating service.

9 0. The state treasurer, with the advice and consent
10 of the state board of finance, may also invest in:

11 (1) shares of a diversified investment company
12 registered pursuant to the federal Investment Company Act of
13 1940 that invests in United States fixed income securities or
14 debt instruments authorized pursuant to Subsections I, J and N
15 of this section, provided that the investment company has total
16 assets under management of at least one billion dollars
17 (\$1,000,000,000) and the investments made by the state
18 treasurer pursuant to this paragraph are less than five percent
19 of the assets of the investment company; or

20 (2) individual, common or collective trust
21 funds of banks or trust companies that invest in United States
22 fixed income securities or debt instruments authorized pursuant
23 to Subsections I, J and N of this section, provided that the
24 investment manager has assets under management of at least one
25 billion dollars (\$1,000,000,000) and the investments made by

1 the state treasurer pursuant to this paragraph are less than
2 five percent of the assets of the individual, common or
3 collective trust fund.

4 P. ~~[No]~~ Public funds to be invested in negotiable
5 securities or loans to financial institutions fully secured by
6 negotiable securities at current market value shall not be paid
7 out unless there is a contemporaneous transfer of the
8 securities at the earliest time industry practice permits, but
9 in all cases, settlement shall be on a same-day basis either by
10 physical delivery or, in the case of uncertificated securities,
11 by appropriate book entry on the books of the issuer, to the
12 purchaser or to a reputable third-party safekeeping financial
13 institution acting as agent or trustee for the purchaser, which
14 agent or trustee shall furnish timely confirmation to the
15 purchaser. "

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