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AN ACT

RELATING TO THE INVESTMENT OF PUBLIC MONEY; CLARIFYING THE
TYPE OF MONEY MARKET MUTUAL FUNDS IN WHICH THE STATE
TREASURER MAY INVEST; PROVIDING ADDITIONAL CRITERIA FOR
INVESTMENTS BY THE STATE TREASURER IN REPURCHASE AGREEMENTS;
REQUIRING THAT THE SHORT-TERM INVESTMENT FUND MAINTAIN A "AA"
OR HIGHER RATING; RECONCILING MULTIPLE AMENDMENTS TO THE SAME
SECTION OF LAW IN LAWS 2005.

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 by Laws 2005, Chapter 238,
Section 1 and by Laws 2005, Chapter 239, Section 1) is
amended to read:

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

A. Upon the certification or designation of 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 of that money in credit unions whose deposits
are insured by an agency of the United States, designated by
the authority authorized by law to so designate to receive

1 the deposits of all money thereafter received or collected by
2 the treasurers.

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

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

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

1 receipts or deposit slips shall be retained by the treasurer
2 making the deposit and the other copy shall be filed monthly
3 on the first day of each month with the secretary of the
4 board of finance of the county or municipality for which that
5 treasurer is acting.

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

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

19 (1) bonds or negotiable securities of the
20 United States, the state or a county, municipality or school
21 district that has a taxable valuation of real property for
22 the last preceding year of at least one million dollars
23 (\$1,000,000) and that has not defaulted in the payment of any
24 interest or sinking fund obligation or failed to meet any
25 bonds at maturity at any time within five years last

1 preceding; or

2 (2) securities that are issued by the United
3 States government or by its agencies or instrumentalities and
4 that are either direct obligations of the United States, the
5 federal home loan mortgage association, the federal national
6 mortgage association, the federal farm credit bank, federal
7 home loan banks or the student loan marketing association or
8 that are backed by the full faith and credit of the United
9 States government.

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

23 (1) shares of a diversified investment
24 company registered pursuant to the federal Investment Company
25 Act of 1940 that invests in fixed-income securities or debt

1 instruments that are listed in a nationally recognized,
2 broad-market, fixed-income-securities market index; provided
3 that the investment company or manager has total assets under
4 management of at least one hundred million dollars
5 (\$100,000,000) and provided that the board of finance of the
6 county or municipality may allow reasonable administrative
7 and investment expenses to be paid directly from the income
8 or assets of these investments;

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

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

25 H. A local public body, with the advice and

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

1 repurchase agreements may continue investment in repurchase
2 agreements pursuant to those ordinances.

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

14 J. The state treasurer, with the advice and
15 consent of the state board of finance, may also invest in
16 contracts for the present purchase and resale at a specified
17 time in the future, not to exceed one year or, in the case of
18 bond proceeds, not to exceed three years, of specific
19 securities at specified prices at a price differential
20 representing the interest income to be earned by the state.
21 Such contract shall not be invested in unless the contract is
22 fully secured by obligations of the United States or its
23 agencies or instrumentalities or by other securities backed
24 by the United States or its agencies or instrumentalities
25 having a market value of at least one hundred two percent of

1 the amount of the contract. The securities required as
2 collateral under this subsection shall be delivered to a
3 third-party custodian bank pursuant to a contract with the
4 state and the counterparty or to the fiscal agent of New
5 Mexico or its designee. Delivery shall be made
6 simultaneously with the transfer of funds or as soon as
7 practicable, but no later than the same day that the funds
8 are transferred.

9 K. The state treasurer, with the advice and
10 consent of the state board of finance, may also invest in
11 contracts for the temporary exchange of state-owned
12 securities for the use of broker-dealers, banks or other
13 recognized institutional investors in securities, for periods
14 not to exceed one year for a specified fee rate. Such
15 contract shall not be invested in unless the contract is
16 fully secured by exchange of an irrevocable letter of credit
17 running to the state, cash or equivalent collateral of at
18 least one hundred two percent of the market value of the
19 securities plus accrued interest temporarily exchanged. The
20 collateral required by this subsection shall be delivered to
21 the fiscal agent of New Mexico or its designee simultaneously
22 with the transfer of funds or as soon as practicable, but no
23 later than the same day that the state-owned securities are
24 transferred.

25 L. Neither of the contracts in Subsection J or K

1 of this section shall be invested in unless the contracting
2 bank, brokerage firm or recognized institutional investor has
3 a net worth in excess of five hundred million dollars
4 (\$500,000,000).

5 M. The state treasurer, with the advice and
6 consent of the state board of finance, may also invest in any
7 of the following investments in an amount not to exceed forty
8 percent of any fund that the state treasurer invests:

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

12 (2) medium-term notes and corporate notes
13 with a maturity not exceeding five years that are rated A or
14 its equivalent or better by a nationally recognized rating
15 service and that are issued by a corporation organized and
16 operating in the United States; or

17 (3) an asset-backed obligation with a
18 maturity not exceeding five years that is rated AAA or its
19 equivalent by a nationally recognized rating service.

20 N. The state treasurer, with the advice and
21 consent of the state board of finance, may also invest in:

22 (1) shares of an open-ended diversified
23 investment company that:

24 (a) is registered with the United
25 States securities and exchange commission;

1 (b) complies with the diversification,
2 quality and maturity requirements of Rule 2a-7, or any
3 successor rule, of the United States securities and exchange
4 commission applicable to money market mutual funds; and

5 (c) assesses no fees pursuant to Rule
6 12b-1, or any successor rule, of the United States securities
7 and exchange commission, no sales load on the purchase of
8 shares and no contingent deferred sales charge or other
9 similar charges, however designated, provided that the state
10 shall not, at any time, own more than five percent of a money
11 market mutual fund's assets; or

12 (2) individual, common or collective trust
13 funds of banks or trust companies that invest in United
14 States fixed-income securities or debt instruments authorized
15 pursuant to Subsections I, J and M of this section, provided
16 that the investment manager has assets under management of at
17 least one billion dollars (\$1,000,000,000) and the
18 investments made by the state treasurer pursuant to this
19 paragraph are less than five percent of the assets of the
20 individual, common or collective trust fund.

21 O. Public funds to be invested in negotiable
22 securities or loans to financial institutions fully secured
23 by negotiable securities at current market value shall not be
24 paid out unless there is a contemporaneous transfer of the
25 securities at the earliest time industry practice permits,

1 but in all cases, settlement shall be on a same-day basis
2 either by physical delivery or, in the case of uncertificated
3 securities, by appropriate book entry on the books of the
4 issuer, to the purchaser or to a reputable safekeeping
5 financial institution acting as agent or trustee for the
6 purchaser, which agent or trustee shall furnish timely
7 confirmation to the purchaser."

8 Section 2. Section 6-10-10.1 NMSA 1978 (being Laws
9 1988, Chapter 61, Section 2, as amended) is amended to read:

10 "6-10-10.1. SHORT-TERM INVESTMENT FUND CREATED--
11 DISTRIBUTION OF EARNINGS--REPORT OF INVESTMENTS.--

12 A. There is created in the state treasury the
13 "short-term investment fund". The fund shall consist of all
14 deposits from governmental entities and Indian tribes or
15 pueblos that are placed in the custody of the state treasurer
16 for short-term investment purposes pursuant to this section.
17 The state treasurer shall maintain a separate account for
18 each governmental entity and Indian tribe or pueblo having
19 deposits in the fund.

20 B. If a local public body is unable to receive
21 payment on public money at the rate of interest as set forth
22 in Section 6-10-36 NMSA 1978 from financial institutions
23 within the geographic boundaries of the governmental unit,
24 then a local public finance official having money of that
25 local public body in that official's custody not required for

1 current expenditure may, with the consent of the appropriate
2 local board of finance, if any, remit some or all of such
3 money to the state treasurer for deposit for the purpose of
4 short-term investment as allowed by this section.

5 C. Before local funds are invested or reinvested
6 for the purpose of short-term investment pursuant to this
7 section, the local public body finance official shall notify
8 and make such funds available to banks, savings and loan
9 associations and credit unions located within the
10 geographical boundaries of their respective governmental
11 unit, subject to the limitation on credit union accounts. To
12 be eligible for such funds, the financial institution shall
13 pay to the local public body the rate established by the
14 state treasurer pursuant to a policy adopted by the state
15 board of finance for such short-term investments.

16 D. The local public body finance official shall
17 specify the length of time a deposit shall be in the
18 short-term investment fund, but in any event the deposit
19 shall not be made for more than one hundred eighty-one days.
20 The state treasurer through the use of the state fiscal agent
21 shall separately track each such deposit and shall make such
22 information available to the public upon written request.

23 E. The state treasurer shall invest the short-term
24 investment fund as provided for state funds under Section
25 6-10-10 NMSA 1978 in investments with a maturity at the time

1 of purchase that does not exceed three hundred ninety-seven
2 days. The state treasurer may elect to have the short-term
3 investment fund consolidated for investment purposes with the
4 state funds under the control of the state treasurer;
5 provided that accurate and detailed accounting records are
6 maintained for the account of each participating entity and
7 Indian tribe or pueblo and that a proportionate amount of
8 interest earned is credited to each of the separate
9 government accounts. The fund shall be invested to achieve
10 its objective, which is to realize the maximum return
11 consistent with safe and prudent management.

12 F. At the end of each month, all net investment
13 income or losses from investment of the short-term investment
14 fund shall be distributed by the state treasurer to the
15 contributing entities and Indian tribes or pueblos in amounts
16 directly proportionate to the respective amounts deposited in
17 the fund and the length of time the amounts in the fund were
18 invested. The state treasurer shall charge participating
19 entities, Indian tribes and pueblos reasonable audit,
20 administrative and investment expenses to be paid directly
21 from their net investment income for the investment and
22 administrative services provided pursuant to this section.

23 G. Investments of the short-term investment fund
24 shall be made in such a manner that the fund maintains a "AA"
25 or higher rating. Each fiscal year and at such other times

1 as directed by the state board of finance, the state
2 treasurer shall cause to have the short-term investment fund
3 rated by a nationally recognized statistical rating
4 organization. If the rating received by the fund is lower
5 than "AA", the state treasurer shall immediately submit a
6 plan to the state board of finance detailing the steps that
7 will be taken to obtain a "AA" or higher rating.

8 H. As used in this section, "local public body"
9 means a political subdivision of the state, including school
10 districts and post-secondary educational institutions.

11 I. In addition to the deposit of funds of local
12 public bodies, the state treasurer may also accept for
13 deposit, deposit and account for, in the same manner as funds
14 of local public bodies, funds of the following governmental
15 entities if the governing authority of the entity approves by
16 resolution the deposit of the funds for the short-term
17 investment:

18 (1) the agricultural commodity commission
19 established under the Agricultural Commodity Commission Act;

20 (2) the Albuquerque metropolitan arroyo
21 flood control authority established under the Arroyo Flood
22 Control Act;

23 (3) the business improvement district
24 management committee established under the Business
25 Improvement District Act;

1 (4) the New Mexico community development
2 council established under the New Mexico Community Assistance
3 Act;

4 (5) the governing authority of only special
5 districts authorized under Chapter 73 NMSA 1978;

6 (6) the board of trustees established under
7 the Economic Advancement District Act;

8 (7) the board of directors of a corporation
9 or foundation established under the Educational Assistance
10 Act;

11 (8) a board of directors established under
12 the Flood Control District Act;

13 (9) the New Mexico hospital equipment loan
14 council established under the Hospital Equipment Loan Act;

15 (10) the authority established under the
16 Industrial and Agricultural Finance Authority Act;

17 (11) the authority established under the Las
18 Cruces Arroyo Flood Control Act;

19 (12) the authority established under the
20 Mortgage Finance Authority Act;

21 (13) the authority established under the
22 Municipal Mortgage Finance Act;

23 (14) the authority established under the
24 Public School Insurance Authority Act;

25 (15) the authority established under the

1 Southern Sandoval County Arroyo Flood Control Act;

2 (16) a board of trustees established under
3 the Special Hospital District Act;

4 (17) the authority established under the
5 New Mexico Finance Authority Act; and

6 (18) the corporation established under the
7 Small Business Investment Act.

8 J. In addition to the deposit of funds of local
9 public bodies, the state treasurer may also accept for deposit
10 and deposit and account for, in the same manner as funds of
11 local public bodies, funds of any Indian tribe or pueblo in
12 the state if authorized to do so under a joint powers
13 agreement executed by the state treasurer and the governing
14 authority of the Indian tribe or pueblo under the provisions
15 of the Joint Powers Agreements Act."

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