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AN ACT

RELATING TO PUBLIC FINANCES; CLARIFYING AUTHORIZED INVESTMENTS OF THE STATE TREASURER; CHANGING THE NAME OF THE PARTICIPATING GOVERNMENT INVESTMENT FUND TO THE LOCAL GOVERNMENT INVESTMENT POOL; INCREASING THE PERCENTAGE OF GENERAL FUNDS AND BOND PROCEEDS THAT MAY BE INVESTED IN THE LOCAL GOVERNMENT INVESTMENT POOL.

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

SECTION 1. Section 6-10-1.1 NMSA 1978 (being Laws 1987, Chapter 79, Section 3, as amended) is amended to read:

"6-10-1.1. DEFINITIONS.--As used in Chapter 6, Article 10 NMSA 1978:

A. "department" means the department of finance and administration;

B. "deposit" includes share, share certificate and share draft;

C. "eligible governing body" means a local governing body, the governing authority of a tribe or any other governmental or quasi-governmental body created or authorized to be created pursuant to New Mexico statutes;

D. "finance officer" means the chief financial officer of an eligible governing body or a participating government;

E. "local governing body" means a political

1 subdivision of the state, including a school district or a
2 post-secondary educational institution;

3 F. "participating government" means an eligible
4 governing body or the state treasurer on behalf of the
5 general fund that has invested money in the local government
6 investment pool;

7 G. "secretary" means the secretary of finance and
8 administration;

9 H. "treasury" means the master depository or cash
10 concentration account held at the state's fiscal agent bank
11 and administered by the office of the state treasurer, unless
12 the context otherwise clearly indicates; and

13 I. "tribe" means a federally recognized Indian
14 nation, tribe or pueblo or a subdivision or agency of a
15 federally recognized Indian nation, tribe or pueblo, located
16 wholly or partially in New Mexico."

17 SECTION 2. Section 6-10-10 NMSA 1978 (being Laws 1933,
18 Chapter 175, Section 4, as amended) is amended to read:

19 "6-10-10. DEPOSIT AND INVESTMENT OF FUNDS.--

20 A. Upon the certification or designation of a
21 bank, savings and loan association or credit union whose
22 deposits are insured by an agency of the United States to
23 receive public money on deposit, the state treasurer and
24 county or municipal treasurers who have on hand any public
25 money by virtue of their offices shall make deposit of that

1 money in banks and savings and loan associations and may make
2 deposit of that money in credit unions whose deposits are
3 insured by an agency of the United States, designated by the
4 authority authorized by law to so designate to receive the
5 deposits of all money thereafter received or collected by the
6 treasurers.

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

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

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

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

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

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

22 (1) bonds or negotiable securities of the
23 United States, the state or a county, municipality or school
24 district that has a taxable valuation of real property for
25 the last preceding year of at least one million dollars

1 (\$1,000,000) and that has not defaulted in the payment of any
2 interest or sinking fund obligation or failed to meet any
3 bonds at maturity at any time within five years last
4 preceding; or

5 (2) securities that are issued and backed by
6 the full faith and credit of the United States government or
7 issued by its agencies or instrumentalities.

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

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

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

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

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

1 sinking funds or money remaining unexpended from the proceeds
2 of any issue of bonds or other negotiable securities of the
3 investor that is entrusted to the local public body's care
4 and custody and all money not immediately necessary for the
5 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.
15 The collateral required for investment in the contracts
16 provided for in this subsection shall be shown on the books
17 of the financial institution as being the property of the
18 investor and the designation shall be contemporaneous with
19 the investment. As used in this subsection, "local public
20 body" includes all political subdivisions of the state and
21 agencies, instrumentalities and institutions thereof;
22 provided that home rule municipalities that prior to
23 July 1, 1994 had enacted ordinances authorizing the
24 investment of repurchase agreements may continue investment
25 in repurchase agreements pursuant to those ordinances.

1 I. The state treasurer, with the advice and
2 consent of the state board of finance, may invest money held
3 in demand deposits and not immediately needed for the
4 operation of state government and money held in the local
5 government investment pool, except as provided in Section
6 6-10-10.1 NMSA 1978. The investments may be made in
7 securities that are issued and backed by the full faith and
8 credit of the United States government or issued by its
9 agencies or instrumentalities.

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

1 New Mexico or its designee. Delivery shall be made
2 simultaneously with the transfer of funds or as soon as
3 practicable, but no later than the same day that the funds
4 are transferred.

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

21 L. Neither of the contracts in Subsection J or K
22 of this section shall be invested in unless the contracting
23 bank, brokerage firm or recognized institutional investor has
24 a net worth in excess of five hundred million dollars
25 (\$500,000,000).

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

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

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

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

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

18 (1) shares of an open-ended diversified
19 investment company that:

20 (a) is registered with the United
21 States securities and exchange commission;

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

1 (c) assesses no fees pursuant to Rule
2 12b-1, or any successor rule, of the United States securities
3 and exchange commission, no sales load on the purchase of
4 shares and no contingent deferred sales charge or other
5 similar charges, however designated, provided that the state
6 shall not, at any time, own more than five percent of a money
7 market mutual fund's assets;

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

17 (3) the local government investment pool
18 managed by the office of the state treasurer. Investments
19 made pursuant to this paragraph shall, in aggregate, be no
20 more than thirty-five percent of the total assets of the
21 local government investment pool;

22 (4) securities issued by the state of New
23 Mexico, its agencies, institutions, counties, municipalities,
24 school districts, community college districts or other
25 subdivisions of the state, or as otherwise provided by law;

1 or

2 (5) securities issued by states other than
3 New Mexico or governmental entities in states other than New
4 Mexico.

5 O. Public funds to be invested in negotiable
6 securities or loans to financial institutions fully secured
7 by negotiable securities at current market value shall not be
8 paid out unless there is a contemporaneous transfer of the
9 securities at the earliest time industry practice permits,
10 but in all cases, settlement shall be on a same-day basis
11 either by physical delivery or, in the case of uncertificated
12 securities, by appropriate book entry on the books of the
13 issuer, to the purchaser or to a reputable safekeeping
14 financial institution acting as agent or trustee for the
15 purchaser, which agent or trustee shall furnish timely
16 confirmation to the purchaser."

17 SECTION 3. Section 6-10-10.1 NMSA 1978 (being Laws
18 1988, Chapter 61, Section 2, as amended) is amended to read:

19 "6-10-10.1. LOCAL GOVERNMENT INVESTMENT POOL CREATED--
20 DISTRIBUTION OF EARNINGS--REPORT OF INVESTMENTS.--

21 A. There is created in the state treasury the
22 "local government investment pool". The fund shall consist
23 of all deposits from participating governments, including
24 revenues dedicated to repaying bonds, that are placed in the
25 custody of the state treasurer for investment purposes

1 pursuant to this section. The state treasurer shall maintain
2 one or more separate accounts for each participating
3 government having deposits in the local government investment
4 pool and may divide the fund into two or more subfunds, as
5 the state treasurer deems appropriate, for short-term and
6 medium-term investment purposes, including one or more
7 subfunds for bond proceeds deposited by participating
8 governments.

9 B. If an eligible governing body is unable to
10 receive payment on public money at the rate of interest as
11 set forth in Section 6-10-36 NMSA 1978 from financial
12 institutions within the geographic boundaries of the eligible
13 governing body, or if the eligible governing body is not
14 bound by the terms of Section 6-10-36 NMSA 1978, the finance
15 officer having control of the money of that eligible
16 governing body not required for current expenditure may, with
17 the consent of the board of finance of the eligible governing
18 body if consent is required by the laws or rules of the
19 eligible governing body, remit some or all of the money to
20 the state treasurer for deposit for the purpose of investment
21 as allowed by this section.

22 C. Before funds are invested or reinvested
23 pursuant to this section, a finance officer shall notify and
24 make the funds available for investment to banks, savings and
25 loan associations and credit unions located within the

1 geographical boundaries of the participating government or
2 the eligible governing body, subject to the limitation on
3 credit union accounts. To be eligible for deposit of the
4 government funds, the financial institution shall pay to the
5 participating government or eligible governing body the rate
6 established by the state treasurer pursuant to a policy
7 adopted by the state board of finance for the investments.

8 D. A finance officer shall specify the length of
9 time a deposit shall be in the local government investment
10 pool. The state treasurer through the use of the state
11 fiscal agent shall separately track each deposit and shall
12 make information regarding the deposit available to the
13 public upon written request.

14 E. The state treasurer shall invest the local
15 government investment pool as provided in Section 6-10-10
16 NMSA 1978 regarding the investment of state funds in
17 investments with a maturity at the time of purchase that does
18 not exceed three years. The state treasurer may elect to
19 have the local government investment pool consolidated for
20 investment purposes with the state funds under the control of
21 the state treasurer; provided that accurate and detailed
22 accounting records are maintained for the account of each
23 participating government and that a proportionate amount of
24 interest earned is credited to each of the separate accounts
25 of a participating government. The fund shall be invested to

1 achieve its objective, which is to realize the maximum return
2 consistent with safe and prudent management.

3 F. At the end of each month, all net investment
4 income or losses from investment of the local government
5 investment pool shall be distributed by the state treasurer
6 to the accounts of participating governments in amounts
7 directly proportionate to the respective amounts deposited by
8 them in the local government investment pool and the length
9 of time the amounts in each account were invested.

10 G. The state treasurer shall charge participating
11 governments reasonable audit, administrative and investment
12 expenses and shall deduct those expenses directly from the
13 net investment income for the investment and administrative
14 services provided pursuant to this subsection. The amount of
15 the charges, the manner of the use by the state treasurer and
16 the nature of bond-related services to be offered shall be
17 established in rules adopted and promulgated by the state
18 treasurer subject to approval by the state board of finance.

19 H. Subject to appropriation by the legislature,
20 amounts deducted from the accounts of participating
21 governments for charges permitted pursuant to this section
22 shall be expended by the state treasurer in fiscal year 2008
23 and in subsequent fiscal years for the administration and
24 management of the local government investment pool, services
25 provided to participating governments related to investment

1 of their money in that fund and other services authorized by
2 this section. Balances remaining at the end of a fiscal year
3 from the amounts deducted pursuant to this section shall
4 revert to the general fund. Balances in the state
5 treasurer's operating account resulting from deductions taken
6 pursuant to this section in excess of the amount required to
7 provide administration, management and related services
8 required by this subsection or other services authorized by
9 this section shall be offset by reductions in the charges
10 made by the state treasurer to the accounts of participating
11 governments in subsequent deductions from participating
12 governments' accounts.

13 I. Each fiscal year, the state treasurer shall
14 cause to have the short-term investment portion of the local
15 government investment pool rated by a nationally recognized
16 statistical rating organization. If the rating received by
17 the short-term investment portion of the fund is lower than
18 "AA", the state treasurer shall immediately submit a plan to
19 the state board of finance detailing the steps that will be
20 taken to obtain an "AA" or higher rating.

21 J. The state treasurer may offer to provide to
22 participating governments services related to requirements of
23 the federal income tax laws applicable to the investment of
24 bond proceeds.

25 K. A tribe or quasi-governmental body created

1 pursuant to New Mexico statute may become a participating
2 government only if the governing authority of the tribe or
3 quasi-governmental body has adopted a resolution authorizing
4 the tribe or quasi-governmental body to remit money to the
5 state treasurer for investment in the local government
6 investment pool.

7 L. Deposits by the state treasurer on behalf of
8 the general fund and bond proceeds investment pools shall, in
9 aggregate, be no more than thirty-five percent of the total
10 amount in the local government investment pool at any time."

11 SECTION 4. Section 6-10-16 NMSA 1978 (being Laws 1969,
12 Chapter 243, Section 1, as amended) is amended to read:

13 "6-10-16. SECURITY FOR DEPOSITS OF PUBLIC MONEY.--

14 A. Deposits of public money shall be secured by:

15 (1) securities of the United States, its
16 agencies or instrumentalities;

17 (2) securities of the state of New Mexico,
18 its agencies, instrumentalities, counties, municipalities or
19 other subdivisions;

20 (3) securities, including student loans,
21 that are guaranteed by the United States or the state of New
22 Mexico;

23 (4) revenue bonds that are underwritten by a
24 member of the financial industry regulatory authority, known
25 as FINRA, and are rated "BAA" or above by a nationally

1 recognized bond rating service; or

2 (5) letters of credit issued by a federal
3 home loan bank.

4 B. No security is required for the deposit of
5 public money that is insured by the federal deposit insurance
6 corporation or the national credit union administration.

7 C. All securities shall be accepted as security at
8 market value. The restrictions of Subsection A of this
9 section apply to all securities subject to this subsection."==

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