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SENATE BILL 473

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Nancy Rodriguez

AN ACT

RELATING TO PUBLIC FINANCE; AMENDING SECTION 6-10-10 NMSA 1978
(BEING LAWS 1933, CHAPTER 175, SECTION 4, AS AMENDED); DEFINING
TERMS; PROVIDING ADDITIONAL INVESTMENT VEHICLES FOR THE STATE
TREASURER AND COUNTY AND MUNICIPAL TREASURERS.

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 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

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

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

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

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

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

7 E. [~~"Deposit"~~] As used in this section:

8 (1) "deposit" means either investment or
9 deposit and includes share, share certificate and share draft;

10 (2) "investment policy" means a document
11 drafted between the treasurer and the board of finance that
12 describes the parameters for investing government funds and
13 identifies the investment objectives, preferences or tolerances
14 for risk and constraints on the investment portfolio. The
15 investment policy applies to all financial assets including:
16 general funds, special revenues, capital projects funds,
17 enterprise funds, debt issuance proceeds, debt service funds,
18 debt service reserves, permanent funds and agency funds;

19 (3) "supranational issuer" means an
20 international development institution formed by two or more
21 central governments. "Supranational issuer" includes the
22 international bank for reconstruction and development, the
23 international finance corporation and the inter-American
24 development bank; and

25 (4) "United States government sponsored

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1 enterprises" includes federal home loan banks, the federal home
2 loan mortgage corporation, the federal national mortgage
3 association, the federal farm credit banks funding corporation,
4 the federal agricultural mortgage corporation and the
5 government national mortgage association.

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

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

25 (2) securities that are issued and backed by

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1 the full faith and credit of the United States government or
2 issued by its agencies or instrumentalities, including
3 securities issued by federal home loan banks, the federal home
4 loan mortgage corporation, the federal national mortgage
5 association, the federal farm credit banks funding corporation,
6 the federal agricultural mortgage corporation or the government
7 national mortgage association and that have a maturity date
8 that does not exceed ten years from the date of purchase; or

9 (3) federally insured obligations, including
10 brokered certificates of deposit, certificate of deposit
11 account registry service and federally insured cash accounts.

12 G. The treasurer of a class A county or the
13 treasurer of a municipality having a population of more than
14 sixty-five thousand according to the most recent federal
15 decennial census and located within a class A county, with the
16 advice and consent of the boards of finance, [~~charged with the~~
17 ~~supervision and control of the funds~~] as can be reflected by an
18 investment policy that is amended by the treasurer and approved
19 by the board of finance at least every two years, may invest
20 all sinking funds or money remaining unexpended from the
21 proceeds of any issue of bonds or other negotiable securities
22 of the county or municipality that is entrusted to the
23 treasurer's care and custody and all money not immediately
24 necessary for the public uses of the county or municipality not
25 invested or deposited in banks, savings and loan associations

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1 or credit unions in:

2 (1) shares of a diversified investment company
3 registered pursuant to the federal Investment Company Act of
4 1940 that invests in fixed-income securities or debt
5 instruments that [~~are listed in a nationally recognized~~]
6 passively match or track the components of a broad-market,
7 fixed-income-securities market index; provided that the
8 investment company or manager has total assets under management
9 of at least one hundred million dollars (\$100,000,000) and
10 provided that the board of finance of the county or
11 municipality may allow reasonable administrative and investment
12 expenses to be paid directly from the income or assets of these
13 investments;

14 [~~(2) individual, common or collective trust~~
15 ~~funds of banks or trust companies that invest in fixed-income~~
16 ~~securities or debt instruments that are listed in a nationally~~
17 ~~recognized, broad-market, fixed-income-securities market index;~~
18 ~~provided that the investment company or manager has total~~
19 ~~assets under management of at least one hundred million dollars~~
20 ~~(\$100,000,000) and provided that the board of finance of the~~
21 ~~county or municipality may allow reasonable administrative and~~
22 ~~investment expenses to be paid directly from the income or~~
23 ~~assets of these investments; or~~

24 ~~(3)]~~ (2) shares of pooled investment funds
25 managed by the state investment officer, as provided in

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1 Subsection I of Section 6-8-7 NMSA 1978; provided that the
2 board of finance of the county or municipality may allow
3 reasonable administrative and investment expenses to be paid
4 directly from the income or assets of these investments;

5 (3) securities that are issued by a
6 supranational issuer and that:

7 (a) are eligible for purchase and sale
8 within the United States;

9 (b) are denominated in United States
10 dollars;

11 (c) have a maturity date that does not
12 exceed five years from the date of purchase; and

13 (d) are rated "AA" or its equivalent or
14 better by a nationally recognized statistical rating
15 organization;

16 (4) commercial paper rated "A1" or "P1", also
17 known as "prime" quality, by a nationally recognized
18 statistical rating organization, issued by corporations
19 organized and operating within the United States and having a
20 maturity at purchase of no longer than one hundred eighty days;
21 or

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

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

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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 similar
9 charges, however designated, provided that the county or
10 municipality shall not, at any time, own more than five percent
11 of a money market mutual fund's assets.

12 H. A local public body, with the advice and consent
13 of the body charged with the supervision and control of the
14 local public body's respective funds, may invest all sinking
15 funds or money remaining unexpended from the proceeds of any
16 issue of bonds or other negotiable securities of the investor
17 that is entrusted to the local public body's care and custody
18 and all money not immediately necessary for the public uses of
19 the investor and not otherwise invested or deposited in banks,
20 savings and loan associations or credit unions in contracts
21 with banks, savings and loan associations or credit unions for
22 the present purchase and resale at a specified time in the
23 future of specific securities at specified prices at a price
24 differential representing the interest income to be earned by
25 the investor. The contract shall be fully secured by

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1 obligations of the United States or [~~other securities backed by~~
2 ~~the United States~~] the securities of its agencies,
3 instrumentalities or United States government sponsored
4 enterprises having a market value of at least one hundred two
5 percent of the contract. The collateral required for
6 investment in the contracts provided for in this subsection
7 shall be shown on the books of the financial institution as
8 being the property of the investor and the designation shall be
9 contemporaneous with the investment. As used in this
10 subsection, "local public body" includes all political
11 subdivisions of the state and agencies, instrumentalities and
12 institutions thereof; provided that home rule municipalities
13 that prior to July 1, 1994 had enacted ordinances authorizing
14 the investment of repurchase agreements may continue investment
15 in repurchase agreements pursuant to those ordinances.

16 I. The state treasurer, with the advice and consent
17 of the state board of finance, may invest money held in demand
18 deposits and not immediately needed for the operation of state
19 government and money held in the local government investment
20 pool, except as provided in Section 6-10-10.1 NMSA 1978. The
21 investments may be made in securities that are issued and
22 backed by the full faith and credit of the United States
23 government or issued by its agencies or instrumentalities,
24 including securities issued by [~~federal home loan banks~~] all
25 United States government sponsored enterprises.

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1 J. The state treasurer, with the advice and consent
2 of the state board of finance, may also invest in contracts for
3 the present purchase and resale at a specified time in the
4 future, not to exceed one year or, in the case of bond
5 proceeds, not to exceed three years, of specific securities at
6 specified prices at a price differential representing the
7 interest income to be earned by the state. Such contract shall
8 not be invested in unless the contract is fully secured by
9 obligations of the United States, ~~[or]~~ its agencies, ~~[or]~~
10 instrumentalities or United States government sponsored
11 enterprises or by other securities backed by the United States,
12 ~~[or]~~ its agencies, ~~[or]~~ instrumentalities or United States
13 government sponsored enterprises having a market value of at
14 least one hundred two percent of the amount of the contract.
15 The securities required as collateral under this subsection
16 shall be delivered to a third-party custodian bank pursuant to
17 a contract with the state and the counterparty or to the fiscal
18 agent of New Mexico or its designee. Delivery shall be made
19 simultaneously with the transfer of funds or as soon as
20 practicable, but no later than the same day that the funds are
21 transferred.

22 K. The state treasurer, with the advice and consent
23 of the state board of finance, may also invest in contracts for
24 the temporary exchange of state-owned securities for the use of
25 broker-dealers, banks or other recognized institutional

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1 investors in securities, for periods not to exceed one year for
2 a specified fee rate. Such contract shall not be invested in
3 unless the contract is fully secured by exchange of an
4 irrevocable letter of credit running to the state, cash or
5 equivalent collateral of at least one hundred two percent of
6 the market value of the securities plus accrued interest
7 temporarily exchanged. The collateral required by this
8 subsection shall be delivered to the state of New Mexico or its
9 designee simultaneously with the transfer of funds or as soon
10 as practicable, but no later than the same day that the state-
11 owned securities are transferred.

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

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

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

23 (2) medium-term notes and corporate notes with
24 a maturity not exceeding five years that are rated [A] "A" or
25 its equivalent or better by a nationally recognized rating

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1 service and that are issued by a corporation organized and
2 operating in the United States; or

3 (3) an asset-backed obligation with a maturity
4 not exceeding five years that is rated [~~AAA~~] "AAA" or its
5 equivalent by a nationally recognized rating service.

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

8 (1) shares of an open-ended diversified
9 investment company that:

10 (a) is registered with the United States
11 securities and exchange commission;

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

16 (c) assesses no fees pursuant to Rule
17 12b-1, or any successor rule, of the United States securities
18 and exchange commission, no sales load on the purchase of
19 shares and no contingent deferred sales charge or other similar
20 charges, however designated, provided that the state shall not,
21 at any time, own more than five percent of a money market
22 mutual fund's assets;

23 (2) individual, common or collective trust
24 funds of banks or trust companies that invest in United States
25 fixed-income securities or debt instruments authorized pursuant

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1 to Subsections I, J and M of this section, provided that the
2 investment manager has assets under management of at least one
3 billion dollars (\$1,000,000,000) and the investments made by
4 the state treasurer pursuant to this paragraph are less than
5 five percent of the assets of the individual, common or
6 collective trust fund;

7 (3) the local government investment pool
8 managed by the office of the state treasurer. Investments made
9 pursuant to this paragraph shall, in aggregate, be no more than
10 thirty-five percent of the total assets of the local government
11 investment pool;

12 (4) securities issued by the state of New
13 Mexico, its agencies, institutions, counties, municipalities,
14 school districts, community college districts or other
15 subdivisions of the state, or as otherwise provided by law;
16 [~~or~~]

17 (5) securities issued by states other than New
18 Mexico or governmental entities in states other than New
19 Mexico; or

20 (6) securities that are issued by a
21 supranational issuer and that:

22 (a) are eligible for purchase and sale
23 within the United States;

24 (b) are denominated in United States
25 dollars;

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1 (c) have a maturity date that does not
2 exceed five years from the date of purchase; and

3 (d) are rated "AA" or its equivalent or
4 better by a nationally recognized statistical rating
5 organization.

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

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