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SENATE BILL 253

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

Nancy Rodriguez

AN ACT

RELATING TO PUBLIC FINANCE; AUTHORIZING THE STATE TREASURER AND
A TREASURER OF A CLASS A COUNTY OR OF CERTAIN MUNICIPALITIES
LOCATED IN A CLASS A COUNTY TO INVEST IN SECURITIES ISSUED BY A
SUPRANATIONAL INSTITUTION.

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 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, means either
8 investment or deposit and includes share, share certificate and
9 share draft.

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

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

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1 at maturity at any time within five years last preceding;

2 (2) securities that are issued and backed by
3 the full faith and credit of the United States government or
4 issued by its agencies or instrumentalities, including
5 securities issued by federal home loan banks; or

6 (3) federally insured obligations, including
7 brokered certificates of deposit, certificate of deposit
8 account registry service and federally insured cash accounts.

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, with the
13 advice and consent of the boards of finance charged with the
14 supervision and control of the 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 county or
17 municipality that is entrusted to the treasurer's 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 I 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; or

23 (4) securities that:

24 (a) are issued by a supranational
25 institution that operates in the United States;

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1 (b) are denominated in United States
2 dollars;

3 (c) have a maturity date that does not
4 exceed five years from the date of issuance; and

5 (d) are rated at least "AA" or the
6 equivalent by a nationally recognized rating agency.

7 H. A local public body, with the advice and consent
8 of the body charged with the supervision and control of the
9 local public body's respective funds, may invest all sinking
10 funds or money remaining unexpended from the proceeds of any
11 issue of bonds or other negotiable securities of the investor
12 that is entrusted to the local public body's care and custody
13 and all money not immediately necessary for the public uses of
14 the investor and not otherwise invested or deposited in banks,
15 savings and loan associations or credit unions in contracts
16 with banks, savings and loan associations or credit unions for
17 the present purchase and resale at a specified time in the
18 future of specific securities at specified prices at a price
19 differential representing the interest income to be earned by
20 the investor. The contract shall be fully secured by
21 obligations of the United States or other securities backed by
22 the United States having a market value of at least one hundred
23 two percent of the contract. The collateral required for
24 investment in the contracts provided for in this subsection
25 shall be shown on the books of the financial institution as

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1 being the property of the investor and the designation shall be
2 contemporaneous with the investment. As used in this
3 subsection, "local public body" includes all political
4 subdivisions of the state and agencies, instrumentalities and
5 institutions thereof; provided that home rule municipalities
6 that prior to July 1, 1994 had enacted ordinances authorizing
7 the investment of repurchase agreements may continue investment
8 in repurchase agreements pursuant to those ordinances.

9 I. The state treasurer, with the advice and consent
10 of the state board of finance, may invest money held in demand
11 deposits and not immediately needed for the operation of state
12 government and money held in the local government investment
13 pool, except as provided in Section 6-10-10.1 NMSA 1978. The
14 investments may be made in securities that are issued and
15 backed by the full faith and credit of the United States
16 government or issued by its agencies or instrumentalities,
17 including securities issued by federal home loan banks.

18 J. The state treasurer, with the advice and consent
19 of the state board of finance, may also invest in contracts for
20 the present purchase and resale at a specified time in the
21 future, not to exceed one year or, in the case of bond
22 proceeds, not to exceed three years, of specific securities at
23 specified prices at a price differential representing the
24 interest income to be earned by the state. Such contract shall
25 not be invested in unless the contract is fully secured by

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1 obligations of the United States or its agencies or
2 instrumentalities or by other securities backed by the United
3 States or its agencies or instrumentalities having a market
4 value of at least one hundred two percent of the amount of the
5 contract. The securities required as collateral under this
6 subsection shall be delivered to a third-party custodian bank
7 pursuant to a contract with the state and the counterparty or
8 to the fiscal agent of New Mexico or its designee. Delivery
9 shall be made simultaneously with the transfer of funds or as
10 soon as practicable, but no later than the same day that the
11 funds are transferred.

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

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1 owned securities are transferred.

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

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

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

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

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

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

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

25 (a) is registered with the United States

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1 securities and exchange commission;

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

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

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

22 (3) the local government investment pool
23 managed by the office of the state treasurer. Investments made
24 pursuant to this paragraph shall, in aggregate, be no more than
25 thirty-five percent of the total assets of the local government

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1 investment pool;

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

6 [~~or~~]

7 (5) securities issued by states other than New
8 Mexico or governmental entities in states other than New
9 Mexico; or

10 (6) securities that:

11 (a) are issued by a supranational
12 institution that operates in the United States;

13 (b) are denominated in United States
14 dollars;

15 (c) have a maturity date that does not
16 exceed five years from the date of issuance; and

17 (d) are rated at least "AA" or the
18 equivalent by a nationally recognized rating agency.

19 0. Public funds to be invested in negotiable
20 securities or loans to financial institutions fully secured by
21 negotiable securities at current market value shall not be paid
22 out unless there is a contemporaneous transfer of the
23 securities at the earliest time industry practice permits, but
24 in all cases, settlement shall be on a same-day basis either by
25 physical delivery or, in the case of uncertificated securities,

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1 by appropriate book entry on the books of the issuer, to the
2 purchaser or to a reputable safekeeping financial institution
3 acting as agent or trustee for the purchaser, which agent or
4 trustee shall furnish timely confirmation to the purchaser."

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