

SENATE BILL 120

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

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This document incorporates amendments that have been adopted during the current legislative session. The document is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO PUBLIC FINANCE; EXPANDING THE TYPES OF INVESTMENTS PERMITTED BY THE TREASURERS OF CERTAIN COUNTIES AND MUNICIPALITIES.

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

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

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

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

D. Duplicate receipts or deposit slips shall be taken for each deposit made pursuant to Subsection A, B or C of this section. When deposits are made by the state treasurer, one copy of the receipt or deposit slip shall be retained by the state treasurer and the other copy shall be filed monthly on the first day of each month with the financial control division of the department. When deposits are made by the treasurer or any other authorized person making the deposits

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for a board of finance of a public or educational institution, one copy of the receipt or deposit slip shall be retained by the treasurer or authorized person making the deposit and the other copy shall be filed monthly on the first day of each month with that board of finance. When deposits are made by a county or municipal treasurer, one of the duplicate receipts or deposit slips shall be retained by the treasurer making the deposit and the other copy shall be filed monthly on the first day of each month with the secretary of the board of finance of the county or municipality for which that treasurer is acting.

E. As used in this section:

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

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

(3) "supranational issuer" means an international development institution formed by two or more central governments. "Supranational issuer" includes the

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international bank for reconstruction and development, the international finance corporation and the inter-American development bank; and

(4) "United States government sponsored enterprises" includes federal home loan banks, the federal home loan mortgage corporation, the federal national mortgage association, the federal farm credit banks funding corporation, the federal agricultural mortgage corporation and the government national mortgage association.

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

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

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at maturity at any time within five years last preceding and that have a maturity date that does not exceed ten years from the date of purchase;

(2) securities that are issued and backed by the full faith and credit of the United States government or issued by its agencies or instrumentalities, including securities issued by federal home loan banks, the federal home loan mortgage corporation, the federal national mortgage association, the federal farm credit banks funding corporation, the federal agricultural mortgage corporation or the government national mortgage association and that have a maturity date that does not exceed ten years from the date of purchase; or

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

G. It shall be the duty of the treasurer to bring amendments to the investment policy to the board of finance and obtain consent before such amendments take effect. The investment policy shall be reviewed at least every two years. The treasurer of a class A county or the treasurer of a municipality having a population of more than sixty-five thousand according to the most recent federal decennial census and located within a class A county, with the advice and consent of the boards of finance, charged with the supervision and control of the funds as can be reflected by an investment

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policy that is amended by the treasurer and approved by the board of finance, may invest all sinking funds or money remaining unexpended from the proceeds of any issue of bonds or other negotiable securities of the county or municipality that is entrusted to the treasurer's care and custody and all money not immediately necessary for the public uses of the county or municipality not invested or deposited in banks, savings and loan associations or credit unions in:

(1) shares of a diversified investment company registered pursuant to the federal Investment Company Act of 1940 that invests in fixed-income securities or debt instruments that passively match or track the components of a broad-market, fixed-income-securities market index; provided that the investment company or manager has total assets under management of at least one hundred million dollars (\$100,000,000) and provided that the board of finance of the county or municipality may allow reasonable administrative and investment expenses to be paid directly from the income or assets of these investments;

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

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(3) mutual funds or exchange-traded funds that substantially track or match the components of the indices of the pooled investment funds managed by the state investment officer SCORC ~~;~~ SCORC provided that the SCORC ~~board of finance of the~~ SCORC county or municipality SCORC ~~shall not have more than twenty percent of its investment portfolio in mutual funds or exchange-traded funds.~~ SCORC SCORC ~~may allow reasonable~~ SCORC SCORC ~~Reasonable~~ SCORC administrative and investment expenses SCORC ~~to~~ SCORC SCORC ~~may~~ SCORC be paid directly from the income or assets of these investments;

[~~3~~] (4) securities that are issued by a supranational issuer and that:

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

(b) are denominated in United States dollars;

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

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

[~~4~~] (5) commercial paper rated "A1" or "P1", also known as "prime" quality, by a nationally recognized statistical rating organization, issued by corporations organized and operating within the United States and having a

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maturity at purchase of no longer than one hundred eighty days;
or

[~~(5)~~] (6) shares of an open-ended diversified investment company that:

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

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

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

H. A local public body, with the advice and consent of the body charged with the supervision and control of the local public body's respective funds, may invest all sinking funds or money remaining unexpended from the proceeds of any issue of bonds or other negotiable securities of the investor that is entrusted to the local public body's care and custody and all money not immediately necessary for the public uses of the investor and not otherwise invested or deposited in banks,

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savings and loan associations or credit unions in contracts with banks, savings and loan associations or credit unions for the present purchase and resale at a specified time in the future of specific securities at specified prices at a price differential representing the interest income to be earned by the investor. The contract shall be fully secured by obligations of the United States or the securities of its agencies, instrumentalities or United States government sponsored enterprises having a market value of at least one hundred two percent of the contract. The collateral required for investment in the contracts provided for in this subsection shall be shown on the books of the financial institution as being the property of the investor and the designation shall be contemporaneous with the investment. As used in this subsection, "local public body" includes all political subdivisions of the state and agencies, instrumentalities and institutions thereof; provided that home rule municipalities that prior to July 1, 1994 had enacted ordinances authorizing the investment of repurchase agreements may continue investment in repurchase agreements pursuant to those ordinances.

I. The state treasurer, with the advice and consent of the state board of finance, may invest money held in demand deposits and not immediately needed for the operation of state government and money held in the local government investment pool, except as provided in Section 6-10-10.1 NMSA 1978. The

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investments may be made in securities that are issued and backed by the full faith and credit of the United States government or issued by its agencies or instrumentalities, including securities issued by all United States government sponsored enterprises.

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

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transferred.

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

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

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

- (1) commercial paper rated "prime" quality by

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a national rating service, issued by corporations organized and operating within the United States;

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

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

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

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

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

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

(c) assesses no fees pursuant to Rule 12b-1, or any successor rule, of the United States securities and exchange commission, no sales load on the purchase of shares and no contingent deferred sales charge or other similar charges, however designated, provided that the state shall not,

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at any time, own more than five percent of a money market mutual fund's assets;

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

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

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

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

(6) securities that are issued by a

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supranational issuer and that:

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

(b) are denominated in United States dollars;

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

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

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

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