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HOUSE BILL 166

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Robert M. Burpo

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

**RELATING TO PUBLIC FINANCE; EXPANDING INVESTMENT OPPORTUNITIES
FOR LOCAL GOVERNMENT PERMANENT FUNDS.**

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

**Section 1. Section 6-6-19 NMSA 1978 (being Laws 1989,
Chapter 276, Section 3) is amended to read:**

"6-6-19. LOCAL GOVERNMENT PERMANENT FUND. --

**A. The local governing body of any county or
municipality may by ordinance establish a local government
permanent fund and a local government income fund.**

**B. The local government permanent fund shall
constitute a fund in the treasury of the county or
municipality into which may be deposited at the end of every
fiscal year an amount of the unappropriated general fund
surplus. The amount which may be deposited into the local**

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1 government permanent fund is any portion of the unappropriated
2 general fund surplus which is in excess of fifty percent of
3 the prior fiscal year's budget of the county or municipality.
4 Money in the permanent fund may be appropriated or expended
5 only pursuant to approval of the voters of the county or
6 municipality as provided in Subsection D of this section.

7 C. Money in the local government permanent fund
8 may be invested by the local board of finance for the county
9 or municipality as specified in Sections 6-8-9, 6-10-10,
10 6-10-36 and 6-10-44 NMSA 1978. Earnings from the investment
11 of the permanent fund shall be deposited in the local
12 government income fund in the treasury of the county or
13 municipality. Money in the income fund may be budgeted and
14 appropriated by the local governing body for expenditure for
15 any purpose of the county or municipality or deposited in the
16 permanent fund.

17 D. The governing body of a county or municipality
18 may adopt a resolution calling for an election on the question
19 of expenditure of any amount of the local government permanent
20 fund for a specified county or municipal purpose. The
21 election shall be held within sixty days after the action of
22 the governing body. The election shall be called, conducted,
23 counted and canvassed substantially in the manner provided by
24 law for general elections within the county or special
25 municipal elections under the Municipal Election Code. If a

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1 majority of the registered voters of the county or
2 municipality voting on the question vote for the expenditure
3 of a specified amount of the local government permanent fund
4 for a specified county or municipal purpose, then that amount
5 of money shall be available for appropriation and expenditure
6 by the county or municipality for that purpose. If a majority
7 of the registered voters of the county or municipality voting
8 on the question vote against the expenditure of a specified
9 amount of the local government permanent fund for a specified
10 county or municipal purpose, then no money in the local
11 government permanent fund may be expended or appropriated for
12 that purpose. Following an election at which the question was
13 not approved, that question shall not again be submitted to
14 the voters of that county or municipality within one year of
15 the date of that election. "

16 Section 2. Section 6-8-9 NMSA 1978 (being Laws 1957,
17 Chapter 179, Section 9, as amended) is amended to read:

18 "6-8-9. SECURITIES AND INVESTMENT. --

19 A. Money made available from the land grant
20 permanent funds or a local government permanent fund for
21 investment for a period in excess of one year may be invested
22 in the following classes of securities and investments:

23 (1) bonds, notes or other obligations of the
24 United States government, its agencies, government-sponsored
25 enterprises, corporations or instrumentalities and that

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1 portion of bonds, notes or other obligations guaranteed as to
2 principal and interest and issued by the United States
3 government, its agencies, government-sponsored enterprises,
4 corporations or instrumentalities or issued pursuant to acts
5 or programs authorized by the United States government;

6 (2) bonds, notes, debentures and other
7 obligations issued by the state of New Mexico or a
8 municipality or other political subdivision of the state that
9 are secured by an investment grade bond rating from a national
10 rating service, pledged revenue or other collateral or
11 insurance necessary to satisfy the standard of prudence set
12 forth in Section 6-8-10 NMSA 1978;

13 (3) bonds, notes, debentures, instruments,
14 conditional sales agreements, securities or other evidences of
15 indebtedness of any corporation, partnership or trust
16 organized and operating within the United States rated not
17 less than Baa or BBB or the equivalent by a national rating
18 service;

19 (4) notes or obligations securing loans or
20 participation in loans to business concerns or other
21 organizations that are obligated to use the loan proceeds
22 within New Mexico, to the extent that loans are secured by
23 first mortgages on real estate located in New Mexico and are
24 further secured by an assignment of rentals, the payment of
25 which is fully guaranteed by the United States in an amount

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1 sufficient to pay all principal and interest on the mortgage;

2 (5) common and preferred stocks and
3 convertible issues of any corporation; provided that it has
4 securities listed on one or more national stock exchanges or
5 included in a nationally recognized list of stocks; and
6 provided further that the fund shall not own more than five
7 percent of the voting stock of any company;

8 (6) securities of non-United States
9 governmental, quasi-governmental, partnership, trust or
10 corporate entities, and these may be denominated in foreign
11 currencies; provided:

12 (a) aggregate non-United States
13 investments shall not exceed fifteen percent of the book value
14 of the land grant permanent funds or a local government
15 permanent fund;

16 (b) for non-United States stocks and
17 non-United States bonds and notes, issues permitted for
18 purchase shall be limited to those issues traded on a national
19 stock exchange or included in a nationally recognized list of
20 stocks or bonds;

21 (c) currency contracts may be used for
22 investing in non-United States securities only for the purpose
23 of hedging foreign currency risk and not for speculation;

24 (d) the investment management services
25 of a trust company or national bank exercising trust powers or

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1 of an investment counseling firm may be employed; and
2 (e) reasonable compensation for
3 investment management services and other administrative and
4 investment expenses related to these investments shall be paid
5 directly from the assets of the funds, subject to budgeting
6 and appropriation by the legislature or, in the case of a
7 local government permanent fund, the appropriate local
8 governing body; and

9 (7) stocks or shares of a diversified
10 investment company registered under the federal Investment
11 Company Act of 1940, as amended, and listed securities of
12 long-term unit investment trusts or individual, common or
13 collective trust funds of banks or trust companies that invest
14 primarily in equity securities authorized in Paragraphs (5)
15 and (6) of this subsection; provided that the investment
16 company has total assets under management of at least one
17 hundred million dollars (\$100,000,000); and provided further
18 that the council or, in the case of a local government
19 permanent fund, the responsible local board of finance may
20 allow reasonable administrative and investment expenses to be
21 paid directly from the assets derived from these investments,
22 subject to budgeting and appropriation by the legislature or,
23 in the case of a local government permanent fund, the
24 appropriate local governing body.

25 B. Not more than sixty-five percent of the book

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1 value of the land grant permanent funds or a local government
2 permanent fund shall be invested at any given time in
3 securities described in Paragraphs (5), (6) and (7) of
4 Subsection A of this section, and no more than ten percent of
5 the book value of the land grant permanent funds or a local
6 government permanent fund shall be invested at any given time
7 in securities described in Paragraph (3) of Subsection A of
8 this section that are rated Baa or BBB. Assets of the land
9 grant permanent funds or local government permanent funds may
10 be combined for investment in common pooled funds to
11 effectuate efficient management.

12 C. Commissions paid for the purchase and sale of
13 any security shall not exceed brokerage rates prescribed and
14 approved by national stock exchanges or by industry practice."