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HOUSE BILL 167

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 THE AUTHORIZED
INVESTMENTS FOR CERTAIN COUNTY AND MUNICIPAL FUNDS.**

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 any
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 and loan associations, and may make
deposit of that money in credit unions whose deposits are**

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1 insured by an agency of the United States, designated by the
2 authority authorized by law to so designate to receive the
3 deposits of all money thereafter received or collected by the
4 treasurers.

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

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

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

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

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

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

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

. 133990. 2

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1 interest or sinking fund obligation or failed to meet any
2 bonds at maturity at any time within five years last
3 preceding; or

4 (2) securities that are issued by the United
5 States government or by its agencies or instrumentalities and
6 that are either direct obligations of the United States or are
7 backed by the full faith and credit of the United States
8 government or agencies guaranteed by the United States
9 government.

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

23 (1) shares of a diversified investment
24 company registered pursuant to the federal Investment Company
25 Act of 1940 that invests in ~~[fixed income securities or debt~~

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1 ~~instruments that are listed in a nationally recognized, broad-~~
2 ~~market, fixed income securities market index]~~ bonds, notes,
3 debentures, instruments, conditional sales agreements,
4 securities or other evidences of indebtedness of any
5 corporation, partnership or trust organized and operating
6 within the United States rated not less than Baa or BBB or the
7 equivalent by a national rating service; provided that the
8 investment company or manager has total assets under
9 management of at least [one hundred million dollars
10 ~~(\$100,000,000)]~~ two hundred fifty million dollars
11 ~~(\$250,000,000)~~ and provided that the board of finance of the
12 county or municipality may allow reasonable administrative and
13 investment expenses to be paid directly from the income or
14 assets of these investments;

15 (2) individual, common or collective trust
16 funds of banks or trust companies that invest in [~~fixed income~~
17 ~~securities or debt instruments that are listed in a nationally~~
18 ~~recognized, broad market, fixed income securities market~~
19 ~~index]~~ bonds, notes, debentures, instruments, conditional
20 sales agreements, securities or other evidences of
21 indebtedness of any corporation, partnership or trust
22 organized and operating within the United States rated not
23 less than Baa or BBB or the equivalent by a national rating
24 service; provided that the investment company or manager has
25 total assets under management of at least [~~one hundred million~~

. 133990. 2

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1 ~~dollars (\$100,000,000)]~~ two hundred fifty million dollars
2 (\$250,000,000) and provided that the board of finance of the
3 county or municipality may allow reasonable administrative and
4 investment expenses to be paid directly from the income or
5 assets of these investments; [~~or~~]

6 (3) bonds, notes, debentures, instruments,
7 conditional sales agreements, securities or other evidences of
8 indebtedness of any corporation, partnership or trust
9 organized and operating within the United States rated not
10 less than Baa or BBB or the equivalent by a national rating
11 service; provided that the investment company or manager is
12 registered pursuant to the federal Investment Advisers Act of
13 1940, is registered to do business in the state and has total
14 assets under management of at least two hundred fifty million
15 dollars (\$250,000,000) and provided that the board of finance
16 of the county or municipality may allow reasonable
17 administrative and investment expenses to be paid directly
18 from the income or assets of these investments; or

19 [~~(3)~~] (4) shares of pooled investment funds
20 managed by the state investment officer, as provided in
21 Subsection G of Section 6-8-7 NMSA 1978; provided that the
22 board of finance of the county or municipality may allow
23 reasonable administrative and investment expenses to be paid
24 directly from the income or assets of these investments.

25 H. A local public body, with the advice and

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1 consent of the body charged with the supervision and control
2 of the local public body's respective funds, has the power to
3 invest all sinking funds or money remaining unexpended from
4 the proceeds of any issue of bonds or other negotiable
5 securities of the investor that is entrusted to the local
6 public body's care and custody and all money not immediately
7 necessary for the public uses of the investor and not
8 otherwise invested or deposited in banks, savings and loan
9 associations or credit unions in contracts with banks, savings
10 and loan associations or credit unions for the present
11 purchase and resale at a specified time in the future of
12 specific securities at specified prices at a price
13 differential representing the interest income to be earned by
14 the investor. The contract shall be fully secured by
15 obligations of the United States or other securities backed by
16 the United States having a market value of at least one
17 hundred two percent of the contract. The collateral required
18 for investment in the contracts provided for in this
19 subsection shall be shown on the books of the financial
20 institution as being the property of the investor and the
21 designation shall be contemporaneous with the investment. As
22 used in this subsection, "local public body" includes all
23 political subdivisions of the state and agencies,
24 instrumentalities and institutions thereof; provided that home
25 rule municipalities that prior to July 1, 1994 had enacted

. 133990. 2

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1 ordinances authorizing the investment of repurchase agreements
2 may continue investment in repurchase agreements pursuant to
3 those ordinances.

4 I. The state treasurer, with the advice and
5 consent of the state board of finance, has the power to invest
6 money held in demand deposits and not immediately needed for
7 the operation of state government and money held in the short-
8 term investment fund, except as provided in Section 6-10-10.1
9 NMSA 1978. The investments shall be made only in securities
10 that are issued by the United States government or by its
11 departments or agencies and are either direct obligations of
12 the United States or are backed by the full faith and credit
13 of the United States government or agencies sponsored by the
14 United States government.

15 J. The state treasurer may also invest in
16 contracts for the present purchase and resale at a specified
17 time in the future, not to exceed one year or, in the case of
18 bond proceeds, not to exceed three years, of specific
19 securities at specified prices at a price differential
20 representing the interest income to be earned by the state.
21 No such contract shall be invested in unless the contract is
22 fully secured by obligations of the United States or other
23 securities backed by the United States having a market value
24 of at least one hundred two percent of the amount of the
25 contract.

. 133990. 2

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1 K. The state treasurer may also invest in
2 contracts for the temporary exchange of state-owned securities
3 for the use of broker-dealers, banks or other recognized
4 institutional investors in securities, for periods not to
5 exceed one year for a specified fee rate. No such contract
6 shall be invested in unless the contract is fully secured by
7 exchange of an irrevocable letter of credit running to the
8 state, cash or equivalent collateral of at least one hundred
9 two percent of the market value of the securities plus accrued
10 interest temporarily exchanged.

11 L. The collateral required for either of the forms
12 of investment in Subsection J or K of this section shall be
13 delivered to the state fiscal agent or its designee
14 contemporaneously with the transfer of funds or delivery of
15 the securities at the earliest time industry practice permits,
16 but in all cases, settlement shall be on a same-day basis.

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

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

. 133990. 2

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

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

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

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

14 (1) shares of a diversified investment
15 company registered pursuant to the federal Investment Company
16 Act of 1940 that invests in United States fixed income
17 securities or debt instruments authorized pursuant to
18 Subsections I, J and N of this section, provided that the
19 investment company has total assets under management of at
20 least one hundred million dollars (\$100,000,000); or

21 (2) individual, ~~common~~ or collective trust
22 funds of banks or trust companies that invest in United States
23 fixed income securities or debt instruments authorized
24 pursuant to Subsections I, J and N of this section, provided
25 that the investment manager has assets under management of at

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1 least one hundred million dollars (\$100,000,000).

2 P. No public funds to be invested in negotiable
3 securities or loans to financial institutions fully secured by
4 negotiable securities at current market value shall be paid
5 out unless there is a contemporaneous transfer of the
6 securities at the earliest time industry practice permits, but
7 in all cases, settlement shall be on a same-day basis either
8 by physical delivery or, in the case of uncertificated
9 securities, by appropriate book entry on the books of the
10 issuer, to the purchaser or to a reputable third-party
11 safekeeping financial institution acting as agent or trustee
12 for the purchaser, which agent or trustee shall furnish timely
13 confirmation to the purchaser. "