

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**HOUSE BILL 68**

**45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002**

**INTRODUCED BY**

**Robert M Burpo**

**AN ACT**

**RELATING TO PUBLIC MONEY; REQUIRING ADVICE AND CONSENT OF THE  
STATE BOARD OF FINANCE FOR CERTAIN INVESTMENTS OF THE STATE  
TREASURER.**

**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**

underscored material = new  
[bracketed material] = delete

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

6 B. County or municipal treasurers may deposit  
7 money in one or more accounts with any such bank, savings and  
8 loan 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  
16 of this section. When deposits are made by the state  
17 treasurer, one copy of the receipt or deposit slip shall be  
18 retained by the state treasurer and the other copy shall be  
19 filed monthly on the first day of each month with the  
20 financial control division of the department of finance and  
21 administration. When deposits are made by the treasurer or  
22 any other authorized person making the deposits for a board of  
23 finance of a public or educational institution, one copy of  
24 the receipt or deposit slip shall be retained by the treasurer  
25 or authorized person so making the deposit and the other copy

underscored material = new  
[bracketed material] = delete

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

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

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

22 (1) bonds or negotiable securities of the  
23 United States, the state or any county, municipality or school  
24 district that has a taxable valuation of real property for the  
25 last preceding year of at least one million dollars

. 139339. 1

underscored material = new  
[bracketed material] = delete

1 (\$1,000,000) and has not defaulted in the payment of any  
2 interest or sinking fund obligation or failed to meet any  
3 bonds at maturity at any time within five years last  
4 preceding; or

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

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

24 (1) shares of a diversified investment  
25 company registered pursuant to the federal Investment Company

. 139339. 1

underscored material = new  
[bracketed material] = delete

1 Act of 1940 that invests in fixed income securities or debt  
2 instruments that are listed in a nationally recognized, broad-  
3 market, fixed-income-securities market index; provided that  
4 the investment company or manager has total assets under  
5 management of at least one hundred million dollars  
6 (\$100,000,000) and provided that the board of finance of the  
7 county or municipality may allow reasonable administrative and  
8 investment expenses to be paid directly from the income or  
9 assets of these investments;

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

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

underscored material = new  
[bracketed material] = delete

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

. 139339. 1

underscored material = new  
[bracketed material] = delete

1 rule municipalities that prior to July 1, 1994 had enacted  
2 ordinances authorizing the investment of repurchase agreements  
3 may continue investment in repurchase agreements pursuant to  
4 those ordinances.

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

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

underscored material = new  
[bracketed material] = delete

1 of at least one hundred two percent of the amount of the  
2 contract.

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

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

20 M Neither of the contracts in Subsection J or K  
21 of this section shall be invested in unless the contracting  
22 bank, brokerage firm or recognized institutional investor has  
23 a net worth in excess of five hundred million dollars  
24 (\$500,000,000).

25 N. The state treasurer, with the advice and



underscored material = new  
[bracketed material] = delete

1 consent of the state board of finance, may also invest in any  
2 of the following investments in an amount not to exceed forty  
3 percent of any fund that the state treasurer invests:

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

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

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

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

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

24 (2) individual, common or collective trust  
25 funds of banks or trust companies that invest in United States

underscored material = new  
[bracketed material] = delete

1 fixed income securities or debt instruments authorized  
2 pursuant to Subsections I, J and N of this section, provided  
3 that the investment manager has assets under management of at  
4 least one hundred million dollars (\$100,000,000).

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