

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 513

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
AMENDING SECTION 6-10-10 NMSA 1978 (BEING LAWS 1933, CHAPTER
175, SECTION 4, AS AMENDED) TO CLARIFY THE AUTHORIZATION FOR
THE USE OF LETTERS OF CREDIT ISSUED BY A FEDERAL HOME LOAN BANK
FOR SECURITIZATION OF PUBLIC FUND DEPOSITS IN NEW MEXICO.

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

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1 offices shall make deposit of that money in banks and savings
2 and loan associations and may make deposit of that money in
3 credit unions whose deposits are insured by an agency of the
4 United States, designated by the authority authorized by law to
5 so designate to receive the deposits of all money thereafter
6 received or collected by the treasurers.

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

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

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

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

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

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

21 (1) bonds or negotiable securities of the
22 United States, the state or a 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 that has not defaulted in the payment of any

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

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

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

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 county, with the
14 advice and consent of the boards of finance charged with the
15 supervision and control of the funds, may invest all sinking
16 funds or money remaining unexpended from the proceeds of any
17 issue of bonds or other negotiable securities of the county or
18 municipality that is entrusted to the treasurer's care and
19 custody and all money not immediately necessary for the public
20 uses of the county or municipality not invested or deposited in
21 banks, savings and loan associations or credit unions in:

22 (1) shares of a diversified investment company
23 registered pursuant to the federal Investment Company Act of
24 1940 that invests in fixed-income securities or debt
25 instruments that are listed in a nationally recognized, broad-

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

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

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

24 H. A local public body, with the advice and consent
25 of the body charged with the supervision and control of the

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

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

10 J. The state treasurer, with the advice and consent
11 of the state board of finance, may also invest in contracts for
12 the present purchase and resale at a specified time in the
13 future, not to exceed one year or, in the case of bond
14 proceeds, not to exceed three years, of specific securities at
15 specified prices at a price differential representing the
16 interest income to be earned by the state. Such contract shall
17 not be invested in unless the contract is fully secured by
18 obligations of the United States or its agencies or
19 instrumentalities or by other securities backed by the United
20 States or its agencies or instrumentalities having a market
21 value of at least one hundred two percent of the amount of the
22 contract. The securities required as collateral under this
23 subsection shall be delivered to a third-party custodian bank
24 pursuant to a contract with the state and the counterparty or
25 to the fiscal agent of New Mexico or its designee. Delivery

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1 shall be made simultaneously with the transfer of funds or as
2 soon as practicable, but no later than the same day that the
3 funds are transferred.

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

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

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

1 of any fund that the state treasurer invests:

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

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

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

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

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

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

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

23 (c) assesses no fees pursuant to Rule
 24 12b-1, or any successor rule, of the United States securities
 25 and exchange commission, no sales load on the purchase of

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1 shares and no contingent deferred sales charge or other similar
2 charges, however designated, provided that the state shall not,
3 at any time, own more than five percent of a money market
4 mutual fund's assets;

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

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

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

23 (5) securities issued by states other than New
24 Mexico or governmental entities in states other than New
25 Mexico.

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

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