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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 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

1 money in one or more accounts with any such bank, savings and
2 loan association or credit union located in their respective
3 counties, subject to limitation on credit union accounts.

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

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

1 municipality for which that treasurer is acting.

2 E. "Deposit", as used in this section, means
3 either investment or deposit and includes share, share
4 certificate and share draft.

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

15 (1) bonds or negotiable securities of the
16 United States, the state or a county, municipality or school
17 district that has a taxable valuation of real property for
18 the last preceding year of at least one million dollars
19 (\$1,000,000) and that has not defaulted in the payment of any
20 interest or sinking fund obligation or failed to meet any
21 bonds at maturity at any time within five years last
22 preceding;

23 (2) securities that are issued and backed by
24 the full faith and credit of the United States government or
25 issued by its agencies or instrumentalities, including

1 securities issued by federal home loan banks; or

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

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

18 (1) shares of a diversified investment
19 company registered pursuant to the federal Investment Company
20 Act of 1940 that invests in fixed-income securities or debt
21 instruments that are listed in a nationally recognized,
22 broad-market, fixed-income-securities market index; provided
23 that the investment company or manager has total assets under
24 management of at least one hundred million dollars
25 (\$100,000,000) and provided that the board of finance of the

1 county or municipality may allow reasonable administrative
2 and investment expenses to be paid directly from the income
3 or assets of these investments;

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

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

20 H. A local public body, with the advice and
21 consent of the body charged with the supervision and control
22 of the local public body's respective funds, may invest all
23 sinking funds or money remaining unexpended from the proceeds
24 of any issue of bonds or other negotiable securities of the
25 investor that is entrusted to the local public body's care

1 and custody and all money not immediately necessary for the
2 public uses of the investor and not otherwise invested or
3 deposited in banks, savings and loan associations or credit
4 unions in contracts with banks, savings and loan associations
5 or credit unions for the present purchase and resale at a
6 specified time in the future of specific securities at
7 specified prices at a price differential representing the
8 interest income to be earned by the investor. The contract
9 shall be fully secured by obligations of the United States or
10 other securities backed by the United States having a market
11 value of at least one hundred two percent of the contract.

12 The collateral required for investment in the contracts
13 provided for in this subsection shall be shown on the books
14 of the financial institution as being the property of the
15 investor and the designation shall be contemporaneous with
16 the investment. As used in this subsection, "local public
17 body" includes all political subdivisions of the state and
18 agencies, instrumentalities and institutions thereof;
19 provided that home rule municipalities that prior to July 1,
20 1994 had enacted ordinances authorizing the investment of
21 repurchase agreements may continue investment in repurchase
22 agreements pursuant to those ordinances.

23 I. The state treasurer, with the advice and
24 consent of the state board of finance, may invest money held
25 in demand deposits and not immediately needed for the

1 operation of state government and money held in the local
2 government investment pool, except as provided in Section
3 6-10-10.1 NMSA 1978. The investments may be made in
4 securities that are issued and backed by the full faith and
5 credit of the United States government or issued by its
6 agencies or instrumentalities, including securities issued by
7 federal home loan banks.

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

1 practicable, but no later than the same day that the funds
2 are transferred.

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

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

24 M. The state treasurer, with the advice and
25 consent of the state board of finance, may also invest in any

1 of the following investments in an amount not to exceed forty
2 percent of any fund that the state treasurer invests:

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

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

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

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

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

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

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

24 (c) assesses no fees pursuant to Rule
25 12b-1, or any successor rule, of the United States securities

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

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

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

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

25 (5) securities issued by states other than

1 New Mexico or governmental entities in states other than New
2 Mexico.

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

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