

LFC Requester:	Hilla, Emily
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 03/07/2025 *Check all that apply:*
Bill Number: HB 541 Original Correction
 Amendment Substitute

Sponsor: Dayan Hochman-Vigil **Agency Name and Code:** NMSTO 39400
Short Title: Investment of Unexpended Money By Treasurer **Number:** _____
Person Writing: Chavez/Hanges **Phone:** 505-955-1144 **Email:** dominicl.chavez@sto.nm.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

Under current law, subsection F of Section 6-10-10 permits county and municipal treasurers to invest into the securities and obligations listed in subsection F(1) through F(3). The bill proposes to add the State Treasurer and allow investment of state money into the same securities and obligations.

The bill aims to amend Section 6-10-10 of the New Mexico Statutes Annotated (NMSA) 1978, which governs the deposit and investment of public funds and add State Treasurer to section F which is for county and municipal treasurers. The bill's provisions will take effect on July 1, 2025.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

Historically, Section F through H are all tied to local governments, specifically county or municipal treasurers. Placing "State Treasurer" within that section, causes confusion of roles.

Page 5, Section F 3, lines 10 - 12: Referencing brokered CDs becomes complicated because the Constitution has different rules for credit unions and other entities. Banks and savings and loans can only receive public money if they are "incorporated under the laws of the state" but deposits of public money are allowed in "credit unions incorporated under the laws of this state *or* the United States." This at least suggests that federally chartered credit unions may receive deposits of public money, even if not in New Mexico.

The State Treasurer's Office believes that this action could conflict with the constitution unless the CDs are deposits into NM banks. "Federally insured obligations, including brokered certificates of deposit, certificate of deposit account placement services and federally insured cash account." relates to whether these securities violate the NM Constitution, Article VIII, Section 4. STO had not participated in this legislation amending the NM State Statute in 2016, as there is no clear determination that it adheres to the NM Constitution and was in the section related to counties and cities.

The NM Constitution reads:

All public money not invested in interest-bearing securities shall be deposited in national banks in this state, in banks or trust companies incorporated under the laws of the state, in federal savings and loan associations in this state, in savings and loan associations incorporated under

the laws of this state whose deposits are insured by an agency of the United States and in credit unions incorporated under the laws of this state or the United States to the extent that such deposits of public money in credit unions are insured by an agency of the United States, and the interest derived therefrom shall be applied in the manner prescribed by law.

Section F: for unexpended bond proceeds is in direct conflict with the Sections beginning with I: that gives the bond proceeds pools greater leeway to invest.

Section I is where 6-10-10 begins to discuss the roles and responsibilities of the State Treasurer. As such, the oversight includes the state board of finance which is a completely different body than the “local public body” or the “board of finance” referenced in G which is the county commission when the county treasurer is before them.

Sections F-I (Pages 4-9): Concerning because of the local public body language. It has always been applied to counties, cities and municipalities only and not the State Treasurer’s Office. The State Treasurer is not engaged in “local public bodies” as their oversight.

STO’s issues are as follows:

Is a brokered CD considered an interest-bearing security even though it is backed by bank deposits that the constitution states must be from institutions that are national banks operating within the state of NM or incorporated under NM state laws?

CDs up to \$250,000 that are FDIC insured, should only be issued by NM banks? Or does the FDIC insurance allow for a credit substitution? But ultimately aren’t FDIC insured CDs still the obligation of the bank where the deposits were made? So, even if the CD is FDIC insured should it be backed by deposits of NM banks? Any deposits over the FDIC limit must be collateralized as per the Board of Finance’s policy.

The “deposit placement network” would allow for the placing bank (that falls under the NM laws) to collect deposits and then distribute them in increments of \$250,000 to FDIC insured institutions. According to the NM Constitution these must all be CDs of NM banks.

If the placing bank receives “reciprocal deposits,” do those deposits meet the criteria of the NM Constitution? All or in part? How does STO monitor the compliance with the constitution? If the placing bank alternatively receives fees, should government entities be lending money secondarily to banks that do not meet the criteria of the constitution while allowing NM banks to collect fees that may or may not be used for loans to the community, but for bank profitability? We are not sure what the fee use rules are.

Purchasing FDIC insured CDs of \$250,000 maximum do not really help the size of the assets at STO. The deposit placement network might be an option for STO’s size; however, the interest rates may not be attractive enough to warrant further scrutiny.

As far as the bond proceeds referral for (1) and (2) of Section F (pages 4-5), again this would be in direct conflict with the sections that begin with I. that relate directly to what the State Treasurer can and can’t do.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

There would be duplications in the sections related to counties and cities versus the State Treasurer. For example, investing in commercial paper A1 – P1 which is listed in both sections.

TECHNICAL ISSUES

This change would confuse the duties, roles, and investments that are within the county treasurers and city treasurers section with that of the section specifically for the Office of the State Treasurer.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS

The problem with the amendment is that it doesn't track this distinction. Therefore, it might allow various transactions, some of which are constitutionally permissible and some of which are not. The possible solution would be to include some additional language at the end of the introductory paragraph, such as "to the extent consistent with Article VIII, Section 4 of the New Mexico Constitution.