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HOUSE BILL 109

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY

Rob Burpo

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 insured by an agency of the United States, designated by

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1 the authority authorized by law to so designate to receive
2 the deposits of all money thereafter received or collected by
3 the treasurers.

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

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

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

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1 so making the deposit and the other copy shall be filed
2 monthly on the first day of each month with the secretary of
3 the board of finance of the county or municipality for which
4 that treasurer is acting.

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

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

19 (1) bonds or negotiable securities of the
20 United States, the state or any county, municipality or
21 school district that has a taxable valuation of real property
22 for the last preceding year of at least one million dollars
23 (\$1,000,000) and has not defaulted in the payment of any
24 interest or sinking fund obligation or failed to meet any
25 bonds at maturity at any time within five years last
preceding; or

(2) securities that are issued by the United

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1 States government or by its agencies or instrumentalities and
2 that are either direct obligations of the United States or
3 are backed by the full faith and credit of the United States
4 government or agencies guaranteed by the United States
5 government.

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

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

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1 and investment expenses to be paid directly from the income
2 or assets of these investments;

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

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

19 H. A local public body, with the advice and
20 consent of the body charged with the supervision and control
21 of the local public body's respective funds, has the power to
22 invest all sinking funds or money remaining unexpended from
23 the proceeds of any issue of bonds or other negotiable
24 securities of the investor that is entrusted to the local
25 public body's care and custody and all money not immediately
necessary for the public uses of the investor and not
otherwise invested or deposited in banks, savings and loan

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1 associations or credit unions in contracts with banks,
2 savings and loan associations or credit unions for the
3 present purchase and resale at a specified time in the future
4 of specific securities at specified prices at a price
5 differential representing the interest income to be earned by
6 the investor. The contract shall be fully secured by
7 obligations of the United States or other securities backed
8 by the United States having a market value of at least one
9 hundred two percent of the contract. The collateral required
10 for investment in the contracts provided for in this
11 subsection shall be shown on the books of the financial
12 institution as being the property of the investor, and the
13 designation shall be contemporaneous with the investment. As
14 used in this subsection, "local public body" includes all
15 political subdivisions of the state and agencies,
16 instrumentalities and institutions thereof; provided that
17 home rule municipalities that prior to July 1, 1994 had
18 enacted ordinances authorizing the investment of repurchase
19 agreements may continue investment in repurchase agreements
20 pursuant to those ordinances.

21 I. The state treasurer, with the advice and
22 consent of the state board of finance, has the power to
23 invest money held in demand deposits and not immediately
24 needed for the operation of state government and money held
25 in the short-term investment fund, except as provided in
Section 6-10-10.1 NMSA 1978. The investments shall be made
only in securities that are issued by the United States

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1 government or by its departments or agencies and are either
2 direct obligations of the United States or are backed by the
3 full faith and credit of the United States government or
4 agencies sponsored by the United States government.

5 J. The state treasurer may also invest in
6 contracts for the present purchase and resale at a specified
7 time in the future, not to exceed one year or, in the case of
8 bond proceeds, not to exceed three years, of specific
9 securities at specified prices at a price differential
10 representing the interest income to be earned by the state.
11 No such contract shall be invested in unless the contract is
12 fully secured by obligations of the United States or other
13 securities backed by the United States having a market value
14 of at least one hundred two percent of the amount of the
15 contract.

16 K. The state treasurer may also invest in
17 contracts for the temporary exchange of state-owned
18 securities for the use of broker-dealers, banks or other
19 recognized institutional investors in securities, for periods
20 not to exceed one year for a specified fee rate. No such
21 contract shall be invested in unless the contract is fully
22 secured by exchange of an irrevocable letter of credit
23 running to the state, cash or equivalent collateral of at
24 least one hundred two percent of the market value of the
25 securities plus accrued interest temporarily exchanged.

L. The collateral required for either of the forms
of investment in Subsection J or K of this section shall be

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1 delivered to the state fiscal agent or its designee
2 contemporaneously with the transfer of funds or delivery of
3 the securities at the earliest time industry practice
4 permits, but in all cases, settlement shall be on a same-day
5 basis.

6 M. Neither of the contracts in Subsection J or K
7 of this section shall be invested in unless the contracting
8 bank, brokerage firm or recognized institutional investor has
9 a net worth in excess of five hundred million dollars
10 (\$500,000,000).

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

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

18 (2) medium-term notes and corporate notes
19 with a maturity not exceeding five years that are rated A or
20 its equivalent or better by a nationally recognized rating
21 service and that are issued by a corporation organized and
22 operating in the United States; or

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

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

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

8 (2) individual, common or collective trust
9 funds of banks or trust companies that invest in United
10 States fixed income securities or debt instruments authorized
11 pursuant to Subsections I, J and N of this section, provided
12 that the investment manager has assets under management of at
13 least one hundred million dollars (\$100,000,000).

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