

1 SENATE BILL 175

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Nancy Rodriguez

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9  
10 AN ACT

11 RELATING TO PUBLIC FINANCE; CLARIFYING THAT COUNTY AND  
12 MUNICIPAL TREASURERS MAY INVEST CERTAIN PUBLIC MONEY IN  
13 BROKERED CERTIFICATES OF DEPOSIT OFFERED ON THE PRIMARY OR  
14 SECONDARY MARKET.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 6-10-10 NMSA 1978 (being Laws 1933,  
18 Chapter 175, Section 4, as amended) is amended to read:

19 "6-10-10. DEPOSIT AND INVESTMENT OF FUNDS.--

20 A. Upon the certification or designation of a bank,  
21 savings and loan association or credit union whose deposits are  
22 insured by an agency of the United States to receive public  
23 money on deposit, the state treasurer and county or municipal  
24 treasurers who have on hand any public money by virtue of their  
25 offices shall make deposit of that money in banks and savings

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

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

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

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

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

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

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1 at maturity at any time within five years last preceding; or  
2 (2) securities, including brokered  
3 certificates of deposit offered on the primary or secondary  
4 market, that are issued and backed by the full faith and credit  
5 of the United States government or issued by its agencies or  
6 instrumentalities.

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

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

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

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

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

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

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

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

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

6 J. The state treasurer, with the advice and consent  
7 of the state board of finance, may also invest in contracts for  
8 the present purchase and resale at a specified time in the  
9 future, not to exceed one year or, in the case of bond  
10 proceeds, not to exceed three years, of specific securities at  
11 specified prices at a price differential representing the  
12 interest income to be earned by the state. Such contract shall  
13 not be invested in unless the contract is fully secured by  
14 obligations of the United States or its agencies or  
15 instrumentalities or by other securities backed by the United  
16 States or its agencies or instrumentalities having a market  
17 value of at least one hundred two percent of the amount of the  
18 contract. The securities required as collateral under this  
19 subsection shall be delivered to a third-party custodian bank  
20 pursuant to a contract with the state and the counterparty or  
21 to the fiscal agent of New Mexico or its designee. Delivery  
22 shall be made simultaneously with the transfer of funds or as  
23 soon as practicable, but no later than the same day that the  
24 funds are transferred.

25 K. The state treasurer, with the advice and consent

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

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

19 M. The state treasurer, with the advice and consent  
20 of the state board of finance, may also invest in any of the  
21 following investments in an amount not to exceed forty percent  
22 of any fund that the state treasurer invests:

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

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

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

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

11 (1) shares of an open-ended diversified  
12 investment company that:

13 (a) is registered with the United States  
14 securities and exchange commission;

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

19 (c) assesses no fees pursuant to Rule  
20 12b-1, or any successor rule, of the United States securities  
21 and exchange commission, no sales load on the purchase of  
22 shares and no contingent deferred sales charge or other similar  
23 charges, however designated, provided that the state shall not,  
24 at any time, own more than five percent of a money market  
25 mutual fund's assets;

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

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

15                   (4) securities issued by the state of New  
16 Mexico, its agencies, institutions, counties, municipalities,  
17 school districts, community college districts or other  
18 subdivisions of the state, or as otherwise provided by law; or

19                   (5) securities issued by states other than New  
20 Mexico or governmental entities in states other than New  
21 Mexico.

22                   0. Public funds to be invested in negotiable  
23 securities or loans to financial institutions fully secured by  
24 negotiable securities at current market value shall not be paid  
25 out unless there is a contemporaneous transfer of the

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1 securities at the earliest time industry practice permits, but  
2 in all cases, settlement shall be on a same-day basis either by  
3 physical delivery or, in the case of uncertificated securities,  
4 by appropriate book entry on the books of the issuer, to the  
5 purchaser or to a reputable safekeeping financial institution  
6 acting as agent or trustee for the purchaser, which agent or  
7 trustee shall furnish timely confirmation to the purchaser."