

1 SENATE BILL 49

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

3 INTRODUCED BY

4 Nancy Rodriguez

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10 AN ACT

11 RELATING TO PUBLIC FINANCE; CLARIFYING THE TYPES OF FEDERALLY
12 INSURED OBLIGATIONS IN WHICH COUNTY AND MUNICIPAL TREASURERS
13 MAY INVEST CERTAIN PUBLIC MONEY; MAKING A TECHNICAL CORRECTION.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

18 "6-10-10. DEPOSIT AND INVESTMENT OF FUNDS.--

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

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1 credit unions whose deposits are insured by an agency of the
2 United States, designated by the authority authorized by law to
3 so designate to receive the deposits of all money thereafter
4 received or collected by the treasurers.

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

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

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

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

6 E. As used in this section:

7 (1) "deposit" means either investment or
8 deposit and includes share, share certificate and share draft;

9 (2) "investment policy" means a document
10 drafted between the treasurer and the board of finance that
11 describes the parameters for investing government funds and
12 identifies the investment objectives, preferences or tolerances
13 for risk and constraints on the investment portfolio. The
14 investment policy applies to all financial assets, including
15 general funds, special revenues, capital projects funds,
16 enterprise funds, debt issuance proceeds, debt service funds,
17 debt service reserves, permanent funds and agency funds;

18 (3) "supranational issuer" means an
19 international development institution formed by two or more
20 central governments. "Supranational issuer" includes the
21 international bank for reconstruction and development, the
22 international finance corporation and the inter-American
23 development bank; and

24 (4) "United States government sponsored
25 enterprises" includes federal home loan banks, the federal home

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1 loan mortgage corporation, the federal national mortgage
2 association, the federal farm credit banks funding corporation,
3 the federal agricultural mortgage corporation and the
4 government national mortgage association.

5 F. County or municipal treasurers, with the advice
6 and consent of their respective boards of finance charged with
7 the supervision and control of the respective funds, may invest
8 all sinking funds or money remaining unexpended from the
9 proceeds of any issue of bonds or other negotiable securities
10 of any county, municipality or school district that is
11 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 in
14 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 the
18 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 bonds
21 at maturity at any time within five years last preceding and
22 that have a maturity date that does not exceed ten years from
23 the date of purchase;

24 (2) securities that are issued and backed by
25 the full faith and credit of the United States government or

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1 issued by its agencies or instrumentalities, including
2 securities issued by federal home loan banks, the federal home
3 loan mortgage corporation, the federal national mortgage
4 association, the federal farm credit banks funding corporation,
5 the federal agricultural mortgage corporation or the government
6 national mortgage association and that have a maturity date
7 that does not exceed ten years from the date of purchase; or

8 (3) federally insured obligations, including
9 brokered certificates of deposit, certificate of deposit
10 account [~~registry service~~] placement services and federally
11 insured cash accounts.

12 G. It shall be the duty of the treasurer to bring
13 amendments to the investment policy to the board of finance and
14 obtain consent before such amendments take effect. The
15 investment policy shall be reviewed at least every two years.
16 The treasurer of a class A county or the treasurer of a
17 municipality having a population of more than sixty-five
18 thousand according to the most recent federal decennial census
19 and located within a class A county, with the advice and
20 consent of the boards of finance, charged with the supervision
21 and control of the funds as can be reflected by an investment
22 policy that is amended by the treasurer and approved by the
23 board of finance, may invest all sinking funds or money
24 remaining unexpended from the proceeds of any issue of bonds or
25 other negotiable securities of the county or municipality that

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1 is entrusted to the treasurer's care and custody and all money
2 not immediately necessary for the public uses of the county or
3 municipality not invested or deposited in banks, savings and
4 loan associations or credit unions in:

5 (1) shares of a diversified investment company
6 registered pursuant to the federal Investment Company Act of
7 1940 that invests in fixed-income securities or debt
8 instruments that passively match or track the components of a
9 broad-market, fixed-income-securities market index; provided
10 that the investment company or manager has total assets under
11 management of at least one hundred million dollars
12 (\$100,000,000) and provided that the board of finance of the
13 county or municipality may allow reasonable administrative and
14 investment expenses to be paid directly from the income or
15 assets of these investments;

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

22 (3) securities that are issued by a
23 supranational issuer and that:

24 (a) are eligible for purchase and sale
25 within the United States;

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1 (b) are denominated in United States
2 dollars;

3 (c) have a maturity date that does not
4 exceed five years from the date of purchase; and

5 (d) are rated "AA" or its equivalent or
6 better by a nationally recognized statistical rating
7 organization;

8 (4) commercial paper rated "A1" or "P1", also
9 known as "prime" quality, by a nationally recognized
10 statistical rating organization, issued by corporations
11 organized and operating within the United States and having a
12 maturity at purchase of no longer than one hundred eighty days;
13 or

14 (5) shares of an open-ended diversified
15 investment company that:

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

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

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

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1 charges, however designated, provided that the county or
2 municipality shall not, at any time, own more than five percent
3 of a money market mutual fund's assets.

4 H. A local public body, with the advice and consent
5 of the body charged with the supervision and control of the
6 local public body's respective funds, may invest all sinking
7 funds or money remaining unexpended from the proceeds of any
8 issue of bonds or other negotiable securities of the investor
9 that is entrusted to the local public body's care and custody
10 and all money not immediately necessary for the public uses of
11 the investor and not otherwise invested or deposited in banks,
12 savings and loan associations or credit unions in contracts
13 with banks, savings and loan associations or credit unions for
14 the present purchase and resale at a specified time in the
15 future of specific securities at specified prices at a price
16 differential representing the interest income to be earned by
17 the investor. The contract shall be fully secured by
18 obligations of the United States or the securities of its
19 agencies, instrumentalities or United States government
20 sponsored enterprises having a market value of at least one
21 hundred two percent of the contract. The collateral required
22 for investment in the contracts provided for in this subsection
23 shall be shown on the books of the financial institution as
24 being the property of the investor and the designation shall be
25 contemporaneous with the investment. As used in this

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1 subsection, "local public body" includes all political
2 subdivisions of the state and agencies, instrumentalities and
3 institutions thereof; provided that home rule municipalities
4 that prior to July 1, 1994 had enacted ordinances authorizing
5 the investment of repurchase agreements may continue investment
6 in repurchase agreements pursuant to those ordinances.

7 I. The state treasurer, with the advice and consent
8 of the state board of finance, may invest money held in demand
9 deposits and not immediately needed for the operation of state
10 government and money held in the local government investment
11 pool, except as provided in Section 6-10-10.1 NMSA 1978. The
12 investments may be made in securities that are issued and
13 backed by the full faith and credit of the United States
14 government or issued by its agencies or instrumentalities,
15 including securities issued by all United States government
16 sponsored enterprises.

17 J. The state treasurer, with the advice and consent
18 of the state board of finance, may also invest in contracts for
19 the present purchase and resale at a specified time in the
20 future, not to exceed one year or, in the case of bond
21 proceeds, not to exceed three years, of specific securities at
22 specified prices at a price differential representing the
23 interest income to be earned by the state. Such contract shall
24 not be invested in unless the contract is fully secured by
25 obligations of the United States, its agencies,

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1 instrumentalities or United States government sponsored
2 enterprises or by other securities backed by the United States,
3 its agencies, instrumentalities or United States government
4 sponsored enterprises having a market value of at least one
5 hundred two percent of the amount of the contract. The
6 securities required as collateral under this subsection shall
7 be delivered to a third-party custodian bank pursuant to a
8 contract with the state and the counterparty or to the fiscal
9 agent of New Mexico or its designee. Delivery shall be made
10 simultaneously with the transfer of funds or as soon as
11 practicable, but no later than the same day that the funds are
12 transferred.

13 K. The state treasurer, with the advice and consent
14 of the state board of finance, may also invest in contracts for
15 the temporary exchange of state-owned securities for the use of
16 broker-dealers, banks or other recognized institutional
17 investors in securities, for periods not to exceed one year for
18 a specified fee rate. Such contract shall not be invested in
19 unless the contract is fully secured by exchange of an
20 irrevocable letter of credit running to the state, cash or
21 equivalent collateral of at least one hundred two percent of
22 the market value of the securities plus accrued interest
23 temporarily exchanged. The collateral required by this
24 subsection shall be delivered to the state of New Mexico or its
25 designee simultaneously with the transfer of funds or as soon

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1 as practicable, but no later than the same day that the state-
2 owned securities are transferred.

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

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

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

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

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

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

24 (1) shares of an open-ended diversified
25 investment company that:

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1 (a) is registered with the United States
2 securities and exchange commission;

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

7 (c) assesses no fees pursuant to Rule
8 12b-1, or any successor rule, of the United States securities
9 and exchange commission, no sales load on the purchase of
10 shares and no contingent deferred sales charge or other similar
11 charges, however designated, provided that the state shall not,
12 at any time, own more than five percent of a money market
13 mutual fund's assets;

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

23 (3) the local government investment pool
24 managed by the office of the state treasurer. Investments made
25 pursuant to this paragraph shall, in aggregate, be no more than

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1 thirty-five percent of the total assets of the local government
2 investment pool;

3 (4) securities issued by the state of
4 New Mexico, its agencies, institutions, counties,
5 municipalities, school districts, community college districts
6 or other subdivisions of the state, or as otherwise provided by
7 law;

8 (5) securities issued by states other than New
9 Mexico or governmental entities in states other than New
10 Mexico; or

11 (6) securities that are issued by a
12 supranational issuer and that:

13 (a) are eligible for purchase and sale
14 within the United States;

15 (b) are denominated in United States
16 dollars;

17 (c) have a maturity date that does not
18 exceed five years from the date of purchase; and

19 (d) are rated "AA" or its equivalent or
20 better by a nationally recognized statistical rating
21 organization.

22 O. 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."