

HOUSE BILL 357

42ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1995

INTRODUCED BY

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... *...*

AN ACT
RELATING TO PUBLIC FINANCE; PROVIDING FOR THE INVESTMENT OF
FUNDS BY COUNTY BOARDS OF FINANCE; DECLARING AN EMERGENCY.

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

Section 1. Section 6-10-8 NMSA 1978 (being Laws 1933,
Chapter 175, Section 1, as amended) is amended to read:

"6-10-8. COUNTY BOARDS OF FINANCE.--

A. The board of county commissioners in each county
[~~in the state~~] shall, ex officio and without additional
compensation, constitute a county board of finance [~~and as~~
~~such~~]. The county board of finance shall [~~subject to the~~
~~limitations of this act~~] have supervision over the
determination of the qualifications and selection of banks,
savings and loan associations and credit unions, whose
deposits are insured by an agency of the United States, to

1 receive the public money of ~~[their respective counties]~~ the
 2 county and of independent rural school districts, rural scho
 3 districts and municipal school districts of municipalities
 4 having less than twenty-five thousand population according to
 5 the ~~[next preceding United States]~~ most recent federal
 6 decennial census and of any special or other districts in
 7 ~~[their respective counties]~~ the county for which the
 8 ~~[respective county treasurers of such counties act]~~ county
 9 treasurer acts as ex-officio tax ~~[collectors]~~ collector. The
 10 county clerk in each county shall, ex officio and without
 11 additional compensation, act as clerk of ~~[such]~~ the county
 12 board of finance. ~~[Every]~~ The county board of finance shall
 13 hold meetings whenever necessary for the discharge of its
 14 duties, and the chairman shall convene ~~[such]~~ the board
 15 whenever ~~[necessity therefor exists or]~~ necessary, when
 16 requested so to do by two of its members or at any time when
 17 the county treasurer ~~[shall advise]~~ advises the chairman that
 18 he has in his custody public money in excess of the aggregate
 19 amount ~~[which]~~ that depositories qualified by law are entitled
 20 to hold. A majority of the board ~~[shall constitute]~~
 21 constitutes a quorum for the transaction of business.

22 B. The county treasurer of each county ~~[in the~~
 23 ~~state]~~ shall have supervision of the ~~[deposit and]~~ safekeeping
 24 of the public money of his county and all the money ~~[which may~~
 25 ~~at any time come into or be]~~ in his possession as county

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treasurer and ex-officio tax collector for the use and benefit of the state or of any county, municipality or district or of any subdivision of any county or of any state or public institution. ~~[and by and]~~ The county treasurer shall supervise the deposit and investment of the money entrusted to his care subject to policies and limitations set by the county board of finance. The county board of finance of a class A county with a population greater than two hundred thousand according to the 1990 federal decennial census by an affirmative vote of at least three of its members may transfer from the county treasurer to another county officer or employee the authority to deposit or invest some or all of the public money in the custody of the county treasurer, in accordance with the policies and limitations set by the county board of finance, if the county treasurer fails to apprise the board of investment activities or fails to comply with any or the county's investment policy.

C. With the advice and consent of the ~~[respective boards of]~~ county board of finance having jurisdiction over the ~~[respective funds]~~ money, the county treasurer shall designate banks, savings and loan associations and credit unions, whose deposits are insured by an agency of the United States, to receive on deposit all ~~[moneys]~~ money entrusted in his care."

Section 2. Section 6-10-10 NMSA 1978 (being Laws 1933,

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Chapter 175, Section 4, as amended) is amended to read:

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

A. Subject to the provisions of Subsection N of this section, 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~~ the several county or municipal treasurers and any other county officer or employee authorized by a county board of finance who have on hand any public money by virtue of their several 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; provided that no deposit of public money shall be made in a credit union unless the deposit is insured by an agency of the United States.

B. Subject to the provisions of Subsection N of this section, the several county or municipal treasurers or other county officers or employees authorized by a county board of finance may deposit money in one or more accounts with any such bank, savings and loan association or credit union located in their respective counties, subject to

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1 limitation on credit union accounts.

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

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

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1 county or municipality for which that treasurer or person is
2 acting.

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

6 F. Subject to the provisions of Subsection N of
7 this section, county or municipal treasurers or other county
8 officers or employees authorized by a county board of finance,
9 by and with the advice and consent of their respective boards
10 of finance charged with the supervision and control of the
11 respective funds, have the power to invest all sinking funds
12 or money remaining unexpended from the proceeds of any issue
13 of bonds or other negotiable securities of any county,
14 municipality or school district [~~which~~] that are now or may
15 hereafter by law be entrusted to their care and custody and
16 all money not immediately necessary for the public uses of the
17 counties, municipalities or school districts not invested or
18 deposited in banks, savings and loan associations or credit
19 unions in:

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

1 bonds at maturity at any time within five years last
2 preceding; or

3 (2) securities that are issued by the United
4 States government or by its agencies or instrumentalities and
5 that are either direct obligations of the United States or are
6 backed by the full faith and credit of the United States
7 government or agencies [~~guaranteed~~] sponsored by the United
8 States government.

9 G. A local public body, with the advice and consent
10 of the body charged with the supervision and control of the
11 local public body's respective funds, has the power to invest
12 all sinking funds or money remaining unexpended from the
13 proceeds of any issue of bonds or other negotiable securities
14 of the investor that is entrusted to the local public body's
15 care and custody and all money not immediately necessary for
16 the public uses of the investor and not otherwise invested or
17 deposited in banks, savings and loan associations or credit
18 unions, in contracts with banks, savings and loan associations
19 or credit unions for the present purchase and resale at a
20 specified time in the future of specific securities at
21 specified prices at a price differential representing the
22 interest income to be earned by the investor. The contract
23 shall be fully secured by obligations of the United States or
24 other securities backed by the United States having a market
25 value of at least one hundred two percent of the contract.

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1 The collateral required for investment in the contracts
2 provided for in this subsection shall be shown on the books of
3 the financial institution as being the property of the
4 investor and the designation shall be contemporaneous with the
5 investment. As used in this subsection, "local public body"
6 includes all political subdivisions of the state and agencies,
7 instrumentalities and institutions thereof; provided that home
8 rule municipalities who prior to July 1, 1994 had enacted
9 ordinances authorizing the investment of repurchase agreements
10 may continue investment in repurchase agreements pursuant to
11 those ordinances.

12 H. The state treasurer, with the advice and consent
13 of the state board of finance, has the power to invest money
14 held in demand deposits and not immediately needed for the
15 operation of state government and money held in the short-term
16 investment fund, except as provided in Section 6-10-10.1 NMSA
17 1978. The investments shall be made only in securities
18 [~~which~~] that are issued by the United States government or by
19 its departments or agencies and [~~which~~] that are either direct
20 obligations of the United States or are backed by the full
21 faith and credit of the United States government or agencies
22 sponsored by the United States government.

23 I. The state treasurer may also invest in contracts
24 for the present purchase and resale at a specified time in the
25 future, not to exceed one year, of specific securities at

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1 specified prices at a price differential representing the
2 interest income to be earned by the state. No such contract
3 shall be invested in unless the contract is fully secured by
4 obligations of the United States, or other securities backed
5 by the United States, having a market value of at least one
6 hundred two percent of the amount of the contract.

7 J. The state treasurer may also invest in contracts
8 for the temporary exchange of state-owned securities for the
9 use of broker-dealers, banks or other recognized institutional
10 investors in securities, for periods not to exceed one year,
11 for a specified fee rate. No such contract shall be invested
12 in unless the contract is fully secured by exchange of an
13 irrevocable letter of credit running to the state, cash or
14 equivalent collateral of at least one hundred two percent of
15 the market value of the securities plus accrued interest
16 temporarily exchanged.

17 K. The collateral required for either of the forms
18 of investment in Subsection I or J of this section shall be
19 delivered to the state fiscal agent or its designee
20 contemporaneously with the transfer of funds or delivery of
21 the securities, at the earliest time industry practice
22 permits, but in all cases settlement shall be on a same-day
23 basis.

24 L. Neither of the contracts in Subsection I or J of
25 this section shall be invested in unless the contracting bank,

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1 brokerage firm or recognized institutional investor has a net
2 worth in excess of five hundred million dollars
3 (\$500,000,000).

4 M. No public funds to be invested in negotiable
5 securities or loans to financial institutions fully secured by
6 negotiable securities at current market value shall be paid
7 out unless there is a contemporaneous transfer of the
8 securities at the earliest time industry practice permits, but
9 in all cases settlement shall be on a same-day basis either by
10 physical delivery or, in the case of uncertificated
11 securities, by appropriate book entry on the books of the
12 issuer, to the purchaser or to a reputable third-party
13 safekeeping financial institution acting as agent or trustee
14 for the purchaser, which agent or trustee shall furnish timely
15 confirmation to the purchaser.

16 N. A county treasurer is authorized to deposit and
17 invest public money in his care in accordance with this
18 section to the extent not limited by the county board of
19 finance. A county board of finance of a class A county with a
20 population greater than two hundred thousand according to the
21 1990 federal decennial census by an affirmative vote of at
22 least three of its members may transfer from the county
23 treasurer to another county officer or employee the authority
24 to deposit or invest some or all of the public money in the
25 custody of the county treasurer."

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Section 3. Section 6-10-44 NMSA 1978 (being Laws 1923, Chapter 76, Section 26, as amended) is amended to read:

"6-10-44. TEMPORARY INVESTMENT OF EXCESS FUNDS--FEDERAL BONDS OR TREASURY CERTIFICATES ELIGIBLE.--If at any time the state treasurer or the treasurer of any county, incorporated municipality or board in control has on hand more money than can be divided equitably or ratably among qualified depositories, [~~such~~] the treasurer or other county officer or employee authorized by a county board of finance may, with the specific approval of the proper board of finance, temporarily invest [~~such~~] the excess [~~funds~~] money in United States bonds or treasury certificates under [~~such~~] rules and regulations as may be prescribed by the state board of finance."

Section 4. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

**State of New Mexico
House of Representatives**

FORTY-SECOND LEGISLATURE
FIRST SESSION, 1995

March 9, 1995

Mr. Speaker:

Your **GOVERNMENT AND URBAN AFFAIRS COMMITTEE**, to whom has been referred


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has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 7, line 7, remove the brackets and line through "guaranteed" and after "guaranteed" insert the word "or".,

and thence referred to the **APPROPRIATIONS AND FINANCE COMMITTEE**.

Respectfully submitted,


Lynda M. Lovejoy, Chairwoman

Adopted 

(Chief Clerk)

Not Adopted _____

(Chief Clerk)

Date 3/10/95

The roll call vote was 5 For 3 Against
Yes: 5
No: Hobbs, Macko, Roberts
Excused: Perls, Saavedra, Wallace
Absent: None

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Respectfully submitted,


Samuel F. Vigil, Chairman

Adopted 
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date

2/21/95

The roll call vote was 8 For 4 Against
Yes: 8
No: Dolliver, Nicely, Weeks, WC Williams
Excused: None
Absent: None

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