

SENATE, No. 1413

STATE OF NEW JERSEY

INTRODUCED JULY 25, 1996

By Senator BENNETT

1 AN ACT concerning investments of boards of education and local  
2 units and amending various parts of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 1 of P.L.1977, c.177 (C.18A:20-37) is amended to read  
8 as follows:

9 1. a. When authorized by resolution adopted by a majority vote of  
10 all its members the board of education of any school district may use  
11 moneys, which may be in hand, for the purchase of the following types  
12 of securities which, if suitable for registry, may be registered in the  
13 name of the school district:

14 [a.] (1) Bonds or other obligations of the United States of America  
15 or obligations guaranteed by the United States of America [, including  
16 securities of, or other interests in, any open-end or closed-end  
17 management type investment company or investment trust registered  
18 under the "Investment Company Act of 1940," 54 Stat. 847 (15  
19 U.S.C. §80a-1 et seq.), purchased and redeemed only through the use  
20 of National or State banks located within this State, if the portfolio of  
21 that investment company or investment trust is limited to bonds or  
22 other obligations of the United States of America, bonds or other  
23 obligations guaranteed by the United States of America and repurchase  
24 agreements fully collateralized by bonds or other obligations of the  
25 United States of America or bonds or other obligations guaranteed by  
26 the United States of America, which collateral shall be delivered to or  
27 held by the investment company or investment trust, either directly or  
28 through an authorized custodian;

29 b. Bonds of any Federal Intermediate Credit Bank, Federal Home  
30 Loan Bank, Federal Land Bank, Federal National Mortgage Associates  
31 or of any United States Bank for Cooperatives which have a maturity  
32 date not greater than 12 months from the date of purchase; or

33 c.];

34 (2) Government money market mutual funds;

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1       (3) Any obligation that a federal agency or a federal instrumentality  
2 has issued in accordance with an act of Congress, which security has  
3 a maturity date not greater than 397 days from the date of purchase,  
4 provided that such obligations bear a fixed rate of interest not  
5 dependent on any index or other external factor;

6       (4) Bonds or other obligations of the school district [.] or bonds  
7 or other obligations of the local unit or units within which the school  
8 district is located;

9       (5) Bonds or other obligations, having a maturity date of not more  
10 than 397 days from the date of purchase, approved by the Division of  
11 Investment in the Department of the Treasury for investment by school  
12 districts;

13       (6) Local government investment pools;

14       (7) Deposits with the State of New Jersey Cash Management Fund  
15 established pursuant to section 1 of P.L.1977, c.281 (C.52:18A-90.4);  
16 or

17       (8) Agreements for the repurchase of fully collateralized securities,  
18 if:

19       (a) the underlying securities are permitted investments pursuant to  
20 paragraphs (1) and (3) of this subsection a.;

21       (b) the custody of collateral is transferred to a third party;

22       (c) the maturity of the agreement is no more than 30 days;

23       (d) the underlying securities are purchased through a public  
24 depository as defined in section 1 of P.L.1970, c.236 (C.17:9-41) and  
25 for which a master repurchase agreement providing for the custody  
26 and security of collateral is executed.

27       b. Any investment instruments in which the security is not  
28 physically held by the school district shall be covered by a third party  
29 custodial agreement which shall provide for the designation of such  
30 investments in the name of the school board and prevent unauthorized  
31 use of such investments.

32       c. Purchase of investment securities shall be executed by the  
33 "delivery versus payment" method to ensure that securities are either  
34 received by the school district or a third party custodian prior to or  
35 upon the release of the school district's funds.

36       d. Any investments not purchased and redeemed directly from the  
37 issuer shall be purchased and redeemed through the use of a national  
38 or State bank located within this State or through a broker-dealer  
39 which, at the time of purchase or redemption, has been registered  
40 continuously for a period of at least two years pursuant to section 9 of  
41 P.L.1967, c.93 (C.49:3-56) and has at least \$25 million in capital stock  
42 (or equivalent capitalization if not a corporation), surplus reserves for  
43 contingencies and undivided profits.

44       e. For the purposes of this section:

45       (1) a "government money market mutual fund" means an  
46 investment company or investment trust:

1     (a) which is registered with the Securities and Exchange  
2 Commission under the "Investment Company Act of 1940," 15 U.S.C.  
3 §80a-1 et seq., and operated in accordance with 17 C.F.R. §270.2a-7;

4     (b) the portfolio of which is limited to U.S. Government securities  
5 that meet the definition of an eligible security pursuant to 17 C.F.R.  
6 §270.2a-7 and repurchase agreements that are collateralized by such  
7 U.S. Government securities;

8     (c) which is rated in the highest category by a nationally recognized  
9 statistical rating organization; and

10     (d) which does not permit investments in instruments that: are  
11 subject to high price volatility with changing market conditions; cannot  
12 reasonably be expected, at the time of interest rate adjustment, to have  
13 a market value that approximates their par value; or utilize an index  
14 that does not support a stable net asset value.

15     (2) a "local government investment pool" means an investment  
16 pool:

17     (a) which is managed in accordance with 17 C.F.R. §270.2a7;

18     (b) which is rated in the highest category by a nationally  
19 recognized statistical rating organization; and

20     (c) the portfolio of which is limited to U.S. Government securities  
21 that meet the definition of an eligible security pursuant to 17 C.F.R.  
22 §270.2a-7 and repurchase agreements that are collateralized by such  
23 U.S. Government securities;

24     (d) which is in compliance with rules adopted pursuant to the  
25 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)  
26 by the Local Finance Board of the Division of Local Government  
27 Services in the Department of Community Affairs, which rules shall  
28 provide for disclosure and reporting requirements, and other  
29 provisions deemed necessary by the board to provide for the safety,  
30 liquidity and yield of the investments; and

31     (e) which does not permit investments in instruments that: are  
32 subject to high price volatility with changing market conditions;  
33 cannot reasonably be expected, at the time of interest rate adjustment,  
34 to have a market value that approximates their par value; or utilize an  
35 index that does not support a stable net asset value.

36     f. Investments in, or deposits or purchases of financial instruments  
37 made pursuant to this section shall not be subject to the requirements  
38 of the "Public School Contracts Law," N.J.S.18A:18A-1 et seq.

39 (cf: P.L.1991, c.458, s.1)

40

41     2. N.J.S.40A:5-14 is amended to read as follows:

42     40A:5-14. a. Each local unit shall adopt a cash management plan  
43 and shall deposit its funds pursuant to that plan. The cash  
44 management plan shall include :

45     (1) the designation of a public depository or depositories as  
46 defined in section 1 of P.L.1970, c.236 (C.17:9-41) and may permit

1 deposits in such public depository or depositories as permitted in  
2 section 4 of P.L.1970, c.236 (C.17:9-44) ;

3 (2) the designation of any fund that meets the requirements  
4 established pursuant to section 8 of P.L.1977, c.396 (C.40A:5-15.1);

5 (3) the authorization for investments in other investment  
6 instruments as permitted by law; or

7 (4) any combination of the designations or authorizations permitted  
8 pursuant to this subsection a. [In lieu of designating a depository or in  
9 addition to the designation, the cash management plan may provide  
10 that the local unit make deposits with the State of New Jersey Cash  
11 Management Fund established pursuant to section 1 of P.L.1977,  
12 c.281 (C.52:18A-90.4).]

13 b. The cash management plan shall be approved annually by  
14 majority vote of the governing body of the local unit and may be  
15 modified from time to time in order to reflect changes in federal or  
16 State law or regulations, or in the designations of depositories, funds  
17 or investment instruments. The chief financial officer of the local unit  
18 shall be charged with administering the plan.

19 c. The cash management plan shall be designed to assure to the  
20 extent practicable the investment of local funds in interest bearing  
21 accounts and [may be modified from time to time in order to reflect  
22 changes in federal or State law or regulations] other permitted  
23 investments. The cash management plan shall be subject to the annual  
24 audit conducted pursuant to N.J.S.40A:5-4. When an investment in  
25 bonds maturing in more than one year is authorized, the maturity of  
26 those bonds shall approximate the prospective use of the funds  
27 invested.

28 d. The cash management plan may include authorization to invest  
29 in any of the investments authorized pursuant to section 8 of P.L.1977,  
30 c.396 (C.40A:5-15.1) and shall set policies for selecting and evaluating  
31 investment instruments accordingly. Such policies shall consider  
32 preservation of capital, liquidity, current and historical investment  
33 returns, diversification, maturity requirements, costs and fees, and  
34 when appropriate, policies of investment instrument administrators.  
35 Policies shall be based on a cash flow analysis prepared by the chief  
36 financial officer and be commensurate with the nature and size of the  
37 funds held by the local unit. All investments shall be made on a  
38 competitive basis insofar as practicable.

39 e. The cash management plan shall require a monthly report to the  
40 governing body summarizing all investments made or redeemed since  
41 the last meeting. The report shall set forth each organization holding  
42 local unit funds, the amount of securities purchased or sold, class or  
43 type of securities purchased, book value, earned income, fees incurred,  
44 and market value of all investments as of the report date and other  
45 information that may be required by the governing body.

46 f. The official charged with the custody of moneys of a local unit

1 shall deposit or invest them as designated by the cash management  
2 plan and shall thereafter be relieved of any liability for loss of such  
3 moneys due to the insolvency or closing of any depository or fund  
4 designated in the cash management plan.

5 g. Any official involved in the designation of depositories or  
6 government money market mutual funds, or in the authorization for  
7 investment in other investment instruments, or any combination of the  
8 preceding, pursuant to subsection a. of this section, or the selection of  
9 an entity seeking to sell an investment to the local unit who has a  
10 material business or personal relationship with that organization shall  
11 disclose that relationship to the governing body of the local unit and  
12 to the Local Finance Board or a county or municipal ethics board, as  
13 appropriate.

14 h. The registered principal of any security brokerage firm selling  
15 securities to the local unit shall be provided with, and sign an  
16 acknowledgment that the principal has seen and reviewed the local  
17 unit's cash management plan, and certifies that the firm has  
18 implemented controls against investments that are contrary to the local  
19 unit's cash management plan or State law.

20 (cf: P.L.1983, c.8, s.2)

21  
22 3. Section 8 of P.L.1977, c.396 (C.40A:5-15.1) is amended to  
23 read as follows:

24 8. Securities which may be purchased by local units.

25 a. When authorized by [resolution adopted by a majority vote of  
26 all its members, the governing body of] a cash management plan  
27 approved pursuant to N.J.S.40A:5-14, any local unit may use moneys  
28 which may be in hand for the purchase of the following types of  
29 securities which, if suitable for registry, may be registered in the name  
30 of the local unit:

31 [a.] (1) Bonds or other obligations of the United States of  
32 America or obligations guaranteed by the United States of America [,  
33 including securities of, or other interests in, any open-end or  
34 closed-end management type investment company or investment trust  
35 registered under the "Investment Company Act of 1940," 54 Stat. 847  
36 (15 U.S.C.§80a-1 et seq.), purchased and redeemed only through the  
37 use of National or State banks located within this State, if the portfolio  
38 of that investment company or investment trust is limited to bonds or  
39 other obligations of the United States of America, bonds or other  
40 obligations guaranteed by the United States of America and repurchase  
41 agreements fully collateralized by bonds or other obligations of the  
42 United States of America or bonds or other obligations guaranteed by  
43 the United States of America, which collateral shall be delivered to or  
44 held by the investment company or investment trust, either directly or  
45 through an authorized custodian;

46 b. Bonds of any Federal Intermediate Credit Bank, Federal Home

1 Loan Bank, Federal Land Bank, Federal National Mortgage Associates  
2 or of any United States Bank for Cooperatives which have a maturity  
3 date not greater than 12 months from the date of purchase;

4 c.];

5 (2) Government money market mutual funds;

6 (3) Any obligation that a federal agency or a federal  
7 instrumentality has issued in accordance with an act of Congress,  
8 which security has a maturity date not greater than 397 days from the  
9 date of purchase, provided that such obligation bears a fixed rate of  
10 interest not dependent on any index or other external factor.

11 (4) Bonds or other obligations of the local unit or bonds or other  
12 obligations of school districts of which the local unit is a part or within  
13 which the school district is located; [or

14 d.] (5) Bonds or other obligations, having a maturity date not  
15 more than [12 months] 397 days from the date of purchase, approved  
16 by the Division of Investment of the Department of the Treasury for  
17 investment by local units.

18 (6) Local government investment pools;

19 (7) Deposits with the State of New Jersey Cash Management Fund  
20 established pursuant to section 1 of P.L.1977, c.281 (C.52:18A-90.4);  
21 or

22 (8) Agreements for the repurchase of fully collateralized  
23 securities, if:

24 (a) the underlying securities are permitted investments pursuant to  
25 paragraphs (1) and (3) of this subsection a.;

26 (b) the custody of collateral is transferred to a third party;

27 (c) the maturity of the agreement is not more that 30 days;

28 (d) the underlying securities are purchased through a public  
29 depository as defined in section 1 of P.L.1970, c.236 (C.17:9-41); and

30 (e) a master repurchase agreement providing for the custody and  
31 security of collateral is executed.

32 b. Any investment instruments in which the security is not  
33 physically held by the local unit shall be covered by a third party  
34 custodial agreement which shall provide for the designation of such  
35 investments in the name of the local unit and prevent unauthorized use  
36 of such investments.

37 c. Purchase of investment securities shall be executed by the  
38 "delivery versus payment" method to ensure that securities are either  
39 received by the local unit or a third party custodian prior to or upon  
40 the release of the local unit's funds.

41 d. Any investments not purchased and redeemed directly from the  
42 issuer shall be purchased and redeemed through the use of a national  
43 or State bank located within this State or through a broker-dealer  
44 which, at the time of purchase or redemption, has been registered  
45 continuously for a period of at least two years pursuant to section 9 of  
46 P.L.1967, c.93 (C.49:3-56) and has at least \$25 million in capital stock

- 1 (or equivalent capitalization if not a corporation), surplus reserves for  
2 contingencies and undivided profits.
- 3 e. For the purposes of this section:
- 4 (1) a "government money market mutual fund" means an  
5 investment company or investment trust:
- 6 (a) which is registered with the Securities and Exchange  
7 Commission under the "Investment Company Act of 1940," 15 U.S.C.  
8 §80a-1 et seq., and operated in accordance with 17 C.F.R. §270.2a-7;  
9 (b) the portfolio of which is limited to U.S. Government  
10 securities that meet the definition of an eligible security pursuant to  
11 17 C.F.R. §270.2a-7 and repurchase agreements that are collateralized  
12 by such U.S. Government securities;
- 13 (c) which is rated in the highest category by a nationally  
14 recognized statistical rating organization; and
- 15 (d) which does not permit investments in instruments that: are  
16 subject to high price volatility with changing market conditions;  
17 cannot reasonably be expected, at the time of interest rate adjustment,  
18 to have a market value that approximates their par value; or utilize an  
19 index that does not support a stable net asset value.
- 20 (2) a "local government investment pool" means an investment  
21 pool:
- 22 (a) which is managed in accordance with 17 C.F.R. §270.2a7;  
23 (b) which is rated in the highest category by a nationally  
24 recognized statistical rating organization;
- 25 (c) which is limited to U.S. Government securities that meet the  
26 definition of an eligible security pursuant to 17 C.F.R. §270.2a-7 and  
27 repurchase agreements that are collateralized by such U.S.  
28 Government securities;
- 29 (d) which is in compliance with rules adopted pursuant to the  
30 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)  
31 by the Local Finance Board of the Division of Local Government  
32 Services in the Department of Community Affairs, which rules shall  
33 provide for disclosure and reporting requirements, and other  
34 provisions deemed necessary by the board to provide for the safety,  
35 liquidity and yield of the investments; and
- 36 (e) which does not permit investments in instruments that: are  
37 subject to high price volatility with changing market conditions;  
38 cannot reasonably be expected, at the time of interest rate adjustment,  
39 to have a market value that approximates their par value; or utilize an  
40 index that does not support a stable net asset value.
- 41 f. Investments in, or deposits or purchases of financial instruments  
42 made pursuant to this section shall not be subject to the requirements  
43 of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et  
44 seq.).
- 45 (cf: P.L.1991, c.458, s.2)



1 the requirements of the bill are not subject to the requirements of the  
2 "Public School Contracts Law," N.J.S.18A:18A-1 et seq. or of the  
3 "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.),  
4 respectively.

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Allows school boards and local units to make certain investments.