

[First Reprint]  
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 units  
2 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

**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.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Senate SSG committee amendments adopted November 18, 1996.

1 date not greater than 12 months from the date of purchase; or  
2 c.];

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

9 (4) Bonds or other obligations of the school district [.] or bonds  
10 or other obligations of the local unit or units within which the school  
11 district is located;

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

16 (6) Local government investment pools;

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

20 (8) Agreements for the repurchase of fully collateralized securities,  
21 if:

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

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

25 (c) the maturity of the agreement is <sup>1</sup>[no] not<sup>1</sup> more than 30 days;

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

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

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

39 d. Any investments not purchased and redeemed directly from the  
40 issuer <sup>1</sup>, government money market mutual fund, local government  
41 investment pool, or the State of New Jersey Cash Management Fund,<sup>1</sup>  
42 shall be purchased and redeemed through the use of a national or  
43 State bank located within this State or through a broker-dealer which,  
44 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 securities  
10 that meet the definition of an eligible security pursuant to 17 C.F.R.  
11 §270.2a-7 and repurchase agreements that are collateralized by such  
12 U.S. Government securities; <sup>1</sup>and<sup>1</sup>
- 13 (c) which is rated <sup>1</sup>[in the highest category]<sup>1</sup> by a nationally  
14 recognized statistical rating organization <sup>1</sup>[: and  
15 (d) which does not permit investments in instruments that: are  
16 subject to high price volatility with changing market conditions; cannot  
17 reasonably be expected, at the time of interest rate adjustment, to have  
18 a market value that approximates their par value; or utilize an index  
19 that does not support a stable net asset value]<sup>1</sup>.
- 20 (2) a "local government investment pool" means an investment  
21 pool:
- 22 (a) which is managed in accordance with 17 C.F.R. <sup>1</sup>[§270.2a7]  
23 §270.2a-7<sup>1</sup>;
- 24 (b) which is rated in the highest category by a nationally  
25 recognized statistical rating organization; <sup>1</sup>[and]<sup>1</sup>
- 26 (c) the portfolio of which is limited to U.S. Government securities  
27 that meet the definition of an eligible security pursuant to 17 C.F.R.  
28 §270.2a-7 and repurchase agreements that are collateralized by such  
29 U.S. Government securities;
- 30 (d) which is in compliance with rules adopted pursuant to the  
31 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)  
32 by the Local Finance Board of the Division of Local Government  
33 Services in the Department of Community Affairs, which rules shall  
34 provide for disclosure and reporting requirements, and other  
35 provisions deemed necessary by the board to provide for the safety,  
36 liquidity and yield of the investments; and
- 37 (e) which does not permit investments in instruments that: are  
38 subject to high price volatility with changing market conditions;  
39 cannot reasonably be expected, at the time of interest rate adjustment,  
40 to have a market value that approximates their par value; or utilize an  
41 index that does not support a stable net asset value.
- 42 f. Investments in, or deposits or purchases of financial instruments  
43 made pursuant to this section shall not be subject to the requirements  
44 of the "Public School Contracts Law," N.J.S.18A:18A-1 et seq.  
45 (cf: P.L.1991, c.458, s.1)

1       2. N.J.S.40A:5-14 is amended to read as follows:  
2       40A:5-14. a. Each local unit shall adopt a cash management plan  
3 and shall deposit its funds pursuant to that plan. The cash  
4 management plan shall include :  
5       (1) the designation of a public depository or depositories as  
6 defined in section 1 of P.L.1970, c.236 (C.17:9-41) and may permit  
7 deposits in such public depository or depositories as permitted in  
8 section 4 of P.L.1970, c.236 (C.17:9-44) ;  
9       (2) the designation of any fund that meets the requirements  
10 established pursuant to section 8 of P.L.1977, c.396 (C.40A:5-15.1);  
11       (3) the authorization for investments in other investment  
12 instruments as permitted by law; or  
13       (4) any combination of the designations or authorizations permitted  
14 pursuant to this subsection a. [In lieu of designating a depository or in  
15 addition to the designation, the cash management plan may provide  
16 that the local unit make deposits with the State of New Jersey Cash  
17 Management Fund established pursuant to section 1 of P.L.1977,  
18 c.281 (C.52:18A-90.4).]  
19       b. The cash management plan shall be approved annually by  
20 majority vote of the governing body of the local unit and may be  
21 modified from time to time in order to reflect changes in federal or  
22 State law or regulations, or in the designations of depositories, funds  
23 or investment instruments. The chief financial officer of the local unit  
24 shall be charged with administering the plan.  
25       c. The cash management plan shall be designed to assure to the  
26 extent practicable the investment of local funds in interest bearing  
27 accounts and [may be modified from time to time in order to reflect  
28 changes in federal or State law or regulations] other permitted  
29 investments. The cash management plan shall be subject to the annual  
30 audit conducted pursuant to N.J.S.40A:5-4. When an investment in  
31 bonds maturing in more than one year is authorized, the maturity of  
32 those bonds shall approximate the prospective use of the funds  
33 invested.  
34       d. The cash management plan may include authorization to invest  
35 in any of the investments authorized pursuant to section 8 of P.L.1977,  
36 c.396 (C.40A:5-15.1) and shall set policies for selecting and evaluating  
37 investment instruments accordingly. Such policies shall consider  
38 preservation of capital, liquidity, current and historical investment  
39 returns, diversification, maturity requirements, costs and fees, and  
40 when appropriate, policies of investment instrument administrators.  
41 Policies shall be based on a cash flow analysis prepared by the chief  
42 financial officer and be commensurate with the nature and size of the  
43 funds held by the local unit. All investments shall be made on a  
44 competitive basis insofar as practicable.  
45       e. The cash management plan shall require a monthly report to the  
46 governing body summarizing all investments made or redeemed since

1 the last meeting. The report shall set forth each organization holding  
2 local unit funds, the amount of securities purchased or sold, class or  
3 type of securities purchased, book value, earned income, fees incurred,  
4 and market value of all investments as of the report date and other  
5 information that may be required by the governing body.

6 f. The official charged with the custody of moneys of a local unit  
7 shall deposit or invest them as designated by the cash management  
8 plan and shall thereafter be relieved of any liability for loss of such  
9 moneys due to the insolvency or closing of any depository or fund  
10 designated in the cash management plan.

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

20 h. The registered principal of any security brokerage firm selling  
21 securities to the local unit shall be provided with, and sign an  
22 acknowledgment that the principal has seen and reviewed the local  
23 unit's cash management plan, and <sup>1</sup>[certifies] <sup>1</sup> that the firm <sup>1</sup>[has  
24 implemented controls against] shall not execute transactions resulting  
25 in<sup>1</sup> investments that are <sup>1</sup>[contrary to] not authorized under<sup>1</sup> the local  
26 unit's cash management plan or State law.

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

28

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

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

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

38 [a.] (1) Bonds or other obligations of the United States of  
39 America or obligations guaranteed by the United States of America [,  
40 including securities of, or other interests in, any open-end or  
41 closed-end management type investment company or investment trust  
42 registered under the "Investment Company Act of 1940," 54 Stat. 847  
43 (15 U.S.C.§80a-1 et seq.), purchased and redeemed only through the  
44 use of National or State banks located within this State, if the portfolio  
45 of that investment company or investment trust is limited to bonds or  
46 other obligations of the United States of America, bonds or other

1 obligations guaranteed by the United States of America and repurchase  
2 agreements fully collateralized by bonds or other obligations of the  
3 United States of America or bonds or other obligations guaranteed by  
4 the United States of America, which collateral shall be delivered to or  
5 held by the investment company or investment trust, either directly or  
6 through an authorized custodian;

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

11 c.];

12 (2) Government money market mutual funds;

13 (3) Any obligation that a federal agency or a federal instrumentality  
14 has issued in accordance with an act of Congress, which security has  
15 a maturity date not greater than 397 days from the date of purchase,  
16 provided that such obligation bears a fixed rate of interest not  
17 dependent on any index or other external factor <sup>1</sup>[.] <sup>1</sup>;

18 (4) Bonds or other obligations of the local unit or bonds or other  
19 obligations of school districts of which the local unit is a part or within  
20 which the school district is located; [or

21 d.] (5) Bonds or other obligations, having a maturity date not  
22 more than [12 months] 397 days from the date of purchase, approved  
23 by the Division of Investment of the Department of the Treasury for  
24 investment by local units <sup>1</sup>[.] <sup>1</sup>;

25 (6) Local government investment pools;

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

29 (8) Agreements for the repurchase of fully collateralized  
30 securities, if:

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

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

34 (c) the maturity of the agreement is not more <sup>1</sup>[that] <sup>1</sup> than  
35 30 days;

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

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

40 b. Any investment instruments in which the security is not  
41 physically held by the local unit shall be covered by a third party  
42 custodial agreement which shall provide for the designation of such  
43 investments in the name of the local unit and prevent unauthorized use  
44 of such investments.

45 c. Purchase of investment securities shall be executed by the  
46 "delivery versus payment" method to ensure that securities are either

1 received by the local unit or a third party custodian prior to or upon  
2 the release of the local unit's funds.

3 d. Any investments not purchased and redeemed directly from the  
4 issuer<sup>1</sup>, government money market mutual fund, local government  
5 investment pool, or the State of New Jersey Cash Management Fund,<sup>1</sup>  
6 shall be purchased and redeemed through the use of a national or  
7 State bank located within this State or through a broker-dealer which,  
8 at the time of purchase or redemption, has been registered  
9 continuously for a period of at least two years pursuant to section 9 of  
10 P.L.1967, c.93 (C.49:3-56) and has at least \$25 million in capital stock  
11 (or equivalent capitalization if not a corporation), surplus reserves for  
12 contingencies and undivided profits.

13 e. For the purposes of this section:

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

16 (a) which is registered with the Securities and Exchange  
17 Commission under the "Investment Company Act of 1940," 15 U.S.C.  
18 §80a-1 et seq., and operated in accordance with 17 C.F.R. §270.2a-7;

19 (b) the portfolio of which is limited to U.S. Government securities  
20 that meet the definition of an eligible security pursuant to 17 C.F.R.  
21 §270.2a-7 and repurchase agreements that are collateralized by such  
22 U.S. Government securities;<sup>1</sup> and<sup>1</sup>

23 (c) which is rated <sup>1</sup>[in the highest category]<sup>1</sup> by a nationally  
24 recognized statistical rating organization <sup>1</sup>[: and

25 (d) which does not permit investments in instruments that: are  
26 subject to high price volatility with changing market conditions; cannot  
27 reasonably be expected, at the time of interest rate adjustment, to have  
28 a market value that approximates their par value; or utilize an index  
29 that does not support a stable net asset value]<sup>1</sup>.

30 (2) a "local government investment pool" means an investment  
31 pool:

32 (a) which is managed in accordance with 17 C.F.R. <sup>1</sup>[§270.2a7]  
33 §270.2a-7<sup>1</sup>;

34 (b) which is rated in the highest category by a nationally  
35 recognized statistical rating organization;

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

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

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

6       f. Investments in, or deposits or purchases of financial instruments  
7 made pursuant to this section shall not be subject to the requirements  
8 of the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et  
9 seq.).

10 (cf: P.L.1991, c.458, s.2)

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12       4. This act shall take effect immediately.

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Allows school boards and local units to make certain investments.