AN ACT

RELATING TO THE STATE FISC; CREATING A PREFERENCE FOR COMMUNITY BANKS AND CREDIT UNIONS FOR CERTAIN STATE FUNDS; REQUIRING THE DEVELOPMENT OF A PROGRAM FOR INCREASING INVESTMENT IN COMMUNITY BANKS OR CREDIT UNIONS; REQUIRING A FEASIBILITY STUDY; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 1987.

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

Section 1. A new section of Chapter 6, Article 10 NMSA 1978 is enacted to read:

"[NEW MATERIAL] COMMUNITY BANK INVESTMENTS.--

A. The state treasurer, with the state investment council, the department of finance and administration and the state board of finance, shall develop, pursuant to the State Rules Act, a program to increase state investment in
certificates of deposit at institutions pursuant to Article 8, Section 4 of the constitution of New Mexico to promote community investment by community banks.

B. The state treasurer and the state investment council shall promulgate rules to determine that portion of the general fund operating cash depository account, bond proceeds investment pools and the severance tax permanent fund that is not needed to meet short-term liquidity needs pursuant to Section 6-10-26 NMSA 1978 and, subsequently, create an investment program for the remainder aimed at increasing community bank lending to New Mexico businesses and residents. The investment program rules shall include accountability and reporting provisions requiring a participating community bank to provide information to enable the state treasurer and state investment council to evaluate the effectiveness of the program, including how state funds are being used and the impact of state funds on the ability of the community bank to make loans to New Mexico businesses and residents.

C. The rules promulgated pursuant to Subsection B of this section shall balance the investment priorities, such as the preservation of the principal balance, the maintenance of liquidity and maximum return with the need for a program where the state invests in certificates of deposit with maturity terms of at least one year, thereby providing community banks with additional reserves to lend to New Mexico.
businesses.

D. As used in this section, "community bank" means a federally insured depository institution organized under the laws of New Mexico or of the United States, that is headquarteried in New Mexico and that has been granted a state of New Mexico or federal bank charter or a credit union that is insured by the national credit union administration, that is organized under the laws of New Mexico or the United States and that is headquarteried in New Mexico."

Section 2. Section 6-10-35 NMSA 1978 (being Laws 1934 (S.S.), Chapter 24, Section 3, as amended by Laws 1987, Chapter 79, Section 14 and by Laws 1987, Chapter 87, Section 1) is amended to read:

"6-10-35. FISCAL AGENT OF NEW MEXICO--STATE CHECKING DEPOSITORIES--STATE DEPOSITORIES--DESIGNATION BY BOARD OF FINANCE--PREFERENCES.--

A. The state board of finance may designate a bank or savings and loan association doing business in this state and having an unimpaired capital and surplus of at least one hundred fifty thousand dollars ($150,000) as the "fiscal agent of New Mexico". The designation is subject to change, from time to time, by the state board of finance; however, the board shall formulate and adopt designation procedures, filed in accordance with the State Rules Act, [which] that shall be adhered to on each occasion of designation. The board, after
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it has designated the [state] fiscal agent, shall apprise the
legislature of its action and, in addition to the name of the
designated fiscal agent, the communication shall include a
brief description of the designee's particular qualifications.

B. The bank or savings and loan association [so]
designated as the fiscal agent of New Mexico shall enter into
an agreement with the state, acting through [its] the state
board of finance, for:

(1) the collection for the state of all checks
and other items received by the state on any account;
(2) the handling of the checking account of
the state treasurer;
(3) the handling of all transfers of money in
connection with the sale or retirement of bonds or obligations
of the state or the purchase by the state of bonds or other
securities;
(4) the investment of permanent or other funds
of the state;
(5) the safekeeping of bonds or other
securities belonging to or held by the state or any official
[thereof] of the state;
(6) the rate of interest to be paid upon
average daily balances of state funds; and
(7) acting as the agent of the state in fiscal
matters generally, subject always to the supervision and
approval of the state board of finance.

C. The agreement shall contain the terms and conditions which are necessary, in the judgment of the state board of finance, for the proper conduct of the fiscal affairs of the state and the safekeeping of the money of the state.

D. The state board of finance shall require the fiscal agent of New Mexico to furnish surety company bond or securities of the kinds specified by law for the security of deposits of public money in an amount not less than two million five hundred thousand dollars ($2,500,000) as security for the safekeeping of the money of the state and the faithful performance of its duties as the fiscal agent. The state board of finance may adjust the amount of bond or security from time to time, but in no event shall the bond or security be in an amount less than two million five hundred thousand dollars ($2,500,000). No other bond or security is required of the fiscal agent for the securing of funds deposited by the state treasurer in the fiscal agency account, and the state treasurer is not liable upon his official bond on account of any funds deposited in the fiscal agency account when the account is so secured. Nothing in this section shall prevent the bank or savings and loan association designated as fiscal agent from also qualifying as a state depository [under Sections 11-2-18 NMSA 1953 or 6-10-30, 6-10-35 and 6-10-36].
pursuant to Chapter 6, Article 10 NMSA 1978.

E. Payment to the fiscal agent of New Mexico for services performed may be made by the state board of finance upon warrants drawn by the secretary of finance and administration upon the state treasury as provided by law for expenditure of state funds or by compensating balances or a combination thereof. The legislature shall appropriate funds to the state board of finance for this purpose annually.

F. The state board of finance may also designate, according to its adopted designation procedures, not more than two other banks or savings and loan associations doing business in this state as "state checking depositories" in which money necessary to meet the current obligations of the state may be deposited in temporary checking accounts. No bank or savings and loan association shall be so designated unless it has an unimpaired capital and surplus of at least one hundred fifty thousand dollars ($150,000). Not more than twenty percent of all the state's money on hand shall be on deposit in all such checking accounts, including the checking account with the fiscal agent of New Mexico, for any period of time longer than is required to distribute the amount above twenty percent to applying, qualified depository banks or savings and loan associations. The state board of finance shall require a designated state checking depository to furnish surety company bond or securities of the kinds specified by law for the
security of deposits of public money in an amount established
by the board. Nothing in this section shall prevent [any] a
bank or savings and loan association designated as a state
checking depository from also qualifying as a state depository
[under Sections 11-2-18 NMSA 1953 and 6-10-30, 6-10-35 and
6-10-36] pursuant to Chapter 6, Article 10 NMSA 1978, and
nothing in this section shall prohibit the state treasurer from
transferring to out-of-state banks and keeping on deposit with
them funds necessary to pay interest upon and principal of
those outstanding bonds, debentures and certificates of
indebtedness [which] that, with the interest coupons, were made
payable at an out-of-state bank.

G. [Any] An authorized bank, savings and loan
association or credit [unions] union desiring to receive public
money deposits may file with the board of finance having
control of [any such] the money its written proposal to receive
the money on deposit, together with its agreement to pay
interest on daily balances of the deposits at the rate of
interest fixed by the state board of finance as prescribed in
Section 6-10-30 NMSA 1978. The proposal shall specify whether
the deposit is desired as a time deposit. [Such] The board of
finance shall, at its next meeting after receipt of the
proposal, consider the proposal, and, if it is in accordance
with [Sections 11-2-18 NMSA 1953 and 6-10-30, 6-10-35 and
6-10-36] Chapter 6, Article 10 NMSA 1978, the board shall
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thereupon notify the bank or savings and loan association that
upon its furnishing security as provided, it will be designated
as a "state depository" of public money in an amount to be
fixed by the board, which amount shall not exceed seventy-five
percent of the capital and surplus of the applicant bank or
savings and loan association if the deposit is secured by
surety bond. If, after considering the proposal of a credit
union and finding it in accordance with [Sections 6-10-30 and]
Section 6-10-36 NMSA 1978, the board of finance may designate
[such] the credit union a "state depository" of public money in
an amount to be fixed by the board, which shall not exceed that
amount insured by an agency of the United States. Upon
furnishing proper bond or other security authorized by
[Sections 11-2-18 NMSA 1953 and 6-10-30, 6-10-35 and 6-10-36]
Chapter 6, Article 10 NMSA 1978, a certificate shall be issued
to the bank or savings and loan association by the state board
of finance qualifying it as a depository of public money; and, if designated, a certificate shall be issued to a credit union
qualifying it as a depository of public money; provided that a
bank located [without] outside the state, acting solely in the
capacity of a paying bank for the purpose of paying interest
upon and principal of state obligations represented by bonds,
debentures and certificates of indebtedness and attached
interest coupons, is not required to furnish collateral
security in excess of one hundred thousand dollars ($100,000)
regardless of the amount of state public money on deposit.

H. The state board of finance shall give a preference to a community bank to act as the fiscal agent bank of the state. When proposals are received from a community bank and a nonresident bank, the contract shall be awarded to the community bank if:

(1) the community bank meets the minimum requirements of the state board of finance;

(2) the proposal price of the community bank when multiplied by a factor of .9 is lower than the proposal price of a nonresident bank; and

(3) the community bank proposal meets or exceeds the other evaluation criteria set in the scope of procurement by the state board of finance.

I. As used in this section:

(1) "community bank" means a federally insured depository institution organized under the laws of New Mexico or of the United States, that is headquartered in New Mexico and that has been granted a state of New Mexico or federal bank charter, or a credit union that is insured by the national credit union administration, that is organized under the laws of New Mexico or the United States and that is headquartered in New Mexico; and

(2) "nonresident bank" means a federally insured depository institution that is headquartered in a state
other than New Mexico."

Section 3. TEMPORARY PROVISION--STUDY.--The state treasurer, secretary of finance and administration and a representative from the state investment council and state board of finance shall study the feasibility of dividing the general fund operating cash depository account between community banks and credit unions in order to ensure that state money benefits New Mexico residents. The state treasurer shall report the results of the study to the legislative finance committee and the governor by December 1, 2010.