

SD Codified Laws Applying to Public Funds

These laws apply to the investment of public funds and are referred to in the sample investment policy.

All statutes can be found on the Legislative Research Council's website <http://legis.state.sd.us/statutes/index.aspx>

Title 4 – Public Fiscal Administration

4-5-5. Investment of political subdivision funds--Funds subject to provisions. "Public funds" in §§ 4-5-6 to 4-5-11, inclusive, shall include all general, special, and other funds, regardless of source or purpose, that may now or hereafter be owned, held, or administered by any political subdivision of this state, including counties, municipalities, townships, and school districts, or by any officer, commission, board, bureau, or agency of the political subdivision.

4-5-6. Investment in securities of or guaranteed by United States, repurchase agreements, or shares of registered investment companies. Any public funds which will not be needed for current operating expenses may be invested in: (a) securities of the United States and securities guaranteed by the United States government either directly or indirectly including, without limitation, United States treasury bills, notes, bonds, and other obligations issued or directly or indirectly guaranteed by the United States government, or otherwise directly or indirectly backed by the full faith and credit of the United States government; provided that, for other than permanent, trust, retirement, building, and depreciation reserve funds, such securities shall either mature within eighteen months from the date of purchase or be redeemable at the option of the holder within eighteen months from the date of purchase; or (b) repurchase agreements fully collateralized by securities described in (a) and meeting the requirements of § 4-5-9, if the repurchase agreements are entered into only with those primary reporting dealers that report to the Federal Reserve Bank of New York and with the one hundred largest United States commercial banks, as measured by domestic deposits; or (c) in shares of an open-end, no-load fund administered by an investment company registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933 and whose only investments are in securities described in (a) and repurchase agreements described in (b).

4-5-6.1. Investment of public funds not needed for current operating expenses--Conditions. In lieu of or in addition to other statutory authorization for the investment of public funds, any public funds that are not needed for current operating expenses may be invested in accordance with the following conditions:

(1) The public funds shall initially be placed by the public funds depositor in a bank located in this state which offers Federal Deposit Insurance Corporation insurance on its deposits;

(2) The selected bank shall arrange for the deposit of the public funds in one or more federally insured financial institutions wherever located in the United States, for the account of the public funds depositor;

(3) On the same date that the public funds are deposited pursuant to subdivision (2) of this section, the selected bank shall receive an amount of deposits from customers of other federally insured financial institutions equal to the amount of the public funds initially placed by the public funds depositor;

(4) Each such deposit shall be insured by the Federal Deposit Insurance Corporation;

(5) The selected bank shall act as custodian for the public funds depositor with respect to the deposits placed in the depositor's account.

4-5-6.2. Investment in direct obligations of county, municipality, or school district or in bonds issued by state authority. In addition to the investments permitted by § 4-5-6, any public funds which are not needed for current operating expenses may be invested in:

(1) Direct obligations of any county, municipality, or school district in the state; and

(2) Bonds issued by the South Dakota Housing Development Authority, the South Dakota Health and Educational Facilities Authority, or the South Dakota Building Authority.

The investments shall be registered in the name of the political subdivision or authority or held under a custodial agreement at a bank. The investments shall be rated at the time of purchase within the two highest general classifications established by a rating service of nationally recognized expertise in rating bonds of states and their political subdivisions. Other than permanent, trust, retirement, building, and depreciation reserve funds, such securities as provided in subdivisions (1) and (2) shall mature with eighteen months from the date of purchase or be redeemable at par at the option of the holder within eighteen months from the date of purchase.

Moneys in any bond redemption fund may be invested only in the types of investments listed in § 4-5-6. The investments shall be due and payable on or before the date when the bonds for the payment of which the bond redemption fund was created become due and payable, except bonds of the United States redeemable at par.

No restriction in this section limits the investment authority otherwise granted under the laws of this state.

4-5-8. Investment policies for local funds determined by governing board. Investments of public funds as defined in § 4-5-5 shall be made only after the adoption of a proper resolution by the governing board of such county, municipality, township, or school district. Such resolution shall state the investment policies to be followed by the treasurer thereof.

4-5-9. Custody or deposit of investments--Exception--Credit of interest earned. Except for investments authorized by subdivision 4-5-6(c), all investments made pursuant to §§ 4-5-5, 4-5-6, 4-5-8, 4-5-23, and 4-5-28 shall be in the physical custody of the political subdivision or may be deposited in a safekeeping account with any bank or trust company designated by the political subdivision as its fiscal agent. The interest earned shall be credited to the respective fund or the general fund.

4-5-10. Application for redemption of securities. The governing bodies of such counties, municipalities, townships, and school districts shall, either at the time of purchase or at any other time, direct the time and manner of making application for redemption of such securities.

4-5-11. Supplemental authority for investment of public funds. Sections 4-5-5 to 4-5-10, inclusive, are supplemental to any other laws relating to the investment, deposit, or administration of the public funds therein specified, and shall supersede the provisions thereof only to the extent that such other laws may restrict or prohibit investments in accordance with the provisions thereof.

4-6A-3. Segregation of collateral by public depository--Value--Deposit and designation-- Letters of credit and surety bonds. Every qualified public depository shall at all times maintain, segregated from its other assets, eligible collateral having a value at least equal to its maximum liability under this chapter. Such collateral shall be segregated by deposit in such manner as the commission approves. The collateral shall be clearly designated as security for the benefit of public depositors under this chapter and shall be pledged as collateral for those public deposit accounts which exceed deposit insurance. Irrevocable standby letters of credit or surety bonds shall be segregated or issued in such manner as the commission approves.

Title 51A Banks and Banking

51A-10-9. Preferential deposits. No bank may give preference to any depositor or creditor by pledging the assets of the bank as collateral security except as provided in §§ 51A-4-13 and 51A- 5-18 and as follows:

(1) The bank may deposit with the treasurer of the United States so much of its assets as may be necessary to qualify as a depository for federal funds and bankruptcy court funds;

(2) A bank, in order to qualify as a depository of funds deposited by the state, any political subdivision thereof, including counties, municipalities, townships, and school districts, or by any officer, commission, board, bureau, or agency of the state or political subdivision or any tribal government, shall segregate as security, investment securities as provided in §§ 51A-4-25 and 51A-4-26, or irrevocable standby letters of credit, or a surety bond, in accordance with § 4-6A-3, a sum equal to one hundred percent of the amount deposited in excess of the amount insured by the Federal Deposit Insurance Corporation;

(3) A bank may pledge securities to guarantee deposit of out-of-state municipal, school district, county, or state funds in excess of the amount insured by the federal deposit insurance corporation;

(4) The public deposits preferred by this section are hereby granted a paramount, preferred, and perfected first lien on the bank assets so deposited or segregated or pledged.

Title 9 – Municipalities

9-22-6. Designation of depositories for municipal funds. The governing body shall designate the depository or depositories in which the funds belonging to the municipality shall be deposited. Such depository or depositories shall be a bank or banks within the State of South Dakota, unless otherwise specifically provided by law.

9-22-12. Investment of debt service funds, surplus, utility revenues and bond proceeds-- Special assessment bonds and certificates--Interest on investments. Every municipality maintaining a debt service fund for the payment of outstanding bonds, and every municipality having outstanding revenue bonds and having accumulated "surplus funds" as contemplated by §§ 9-40-30 and 9-40-32, and every municipality owning a public utility or public utilities and having an accumulation of earned reserve or earned surplus funds therefrom, and every municipality having sold its bonds, the proceeds from the sale of which, in the opinion of the governing body, are temporarily not required to carry out the purpose for which the bonds were issued shall keep the accumulations in said funds deposited with the lawful depositories, or invested in registered warrants or bonds of any municipal or public corporation, including those of the municipality issuing such bonds, of the State of South Dakota, or bonds of the United States, or bonds or securities of any kind issued by the State of South Dakota. Nothing herein contained, however, shall be deemed to prevent the transfer, when authorized by law, of special assessment bonds and certificates issued on account of any local improvement to the debt service fund for general obligation bonds, the proceeds of which have been used to finance such improvement. The interest accruing on such investment shall be credited to such fund from which the investment was made.

9-32-18. Perpetual care trust fund--Crediting of income. Payments for perpetual care shall be permanently set aside in a trust fund, and only the income from the trust fund investments shall be used for the care and maintenance of the cemetery. Income from perpetual care investments shall be credited to the cemetery maintenance account as maintained within the municipal general fund. Income received from the sale of burial spaces shall be credited to the cemetery maintenance account.

Title 7 – Counties

7-20-1. Banks eligible for deposits--Application for deposit. The county treasurer shall deposit and at all times keep on deposit the money in his possession as county treasurer in state or national banks within the county. In the event that such deposits exceed the limit prescribed in § 7- 20-10 or if there is but one bank located within the county then such deposits may be made in other banks or branch banks within an adjacent county of this state having an

approved and responsible financial standing. Any such bank may apply for the privilege of keeping such funds upon the conditions herein prescribed and shall state in the application the amount of money desired. If bond or securities are segregated as provided in § 4-6A-3, it shall be the duty of the board of county commissioners to approve such application.

7-24-19. Deposit and investment of debt service fund moneys--Resolution of county commissioners. Every county maintaining a debt service fund for the payment of outstanding bonds shall keep the accumulations in said debt service fund deposited with the lawful depositories or invested in registered warrants or bonds of any municipal or public corporation of the State of South Dakota, including those of the county issuing such bonds, or bonds, notes, or other obligations issued by any federal land bank, federal intermediate credit bank, bank for cooperatives, or any or all of the federal farm credit banks, or obligations of the United States, or bonds or securities of any kind issued by the State of South Dakota, and the interest accruing on such investment shall be credited to such debt service fund. Moneys in any debt service fund shall be invested only in such of the above-named securities as will become due and payable on or before the date when the bonds for the payment of which such debt service fund was created become due and payable, except bonds of the United States or of the State of South Dakota. Where such debt service fund is invested in other bonds of such county, there shall be a levy of a tax upon the taxable property of such county of sufficient amount to pay the interest and also the principal thereof when due and such tax, when collected, shall be returned to the debt service fund for that purpose.

In carrying out the provisions of this section, all transactions shall be by resolution of the board of county commissioners which resolution shall be regularly filed and recorded with the county auditor as a public record.

Title 13 – Education (Schools)

13-16-15. Designation of depositories for school district--Resolution. The school board of every school district shall by resolution duly adopted at any annual, regular, or special meeting designate any bank or banks within the state as depositories for the funds or any part or parts of the funds of the district.

13-16-18. Deposit and investment of fund accumulations--Crediting of interest--Maturity of bond redemption fund investments--Filing of resolutions. All accumulations in all school district funds shall be deposited in lawful depositories in checking accounts, savings accounts, or time deposits, or invested, except as hereinafter limited, in bonds, registered warrants, or promissory notes of the school district making such investment, or securities issued and guaranteed by the United States government. The interest accruing on such investment or deposit shall be credited to the respective fund or the general fund.

Moneys in any bond redemption fund may be invested only in such of the above listed types of securities as will become due and payable on or before the date when the bonds for the payment of which such bond redemption fund was created become due and payable, except bonds of the United States redeemable at par.

In carrying out the provisions of this section, all transactions shall be by resolutions of the board, which resolutions shall be regularly filed and recorded with the business manager as a public record.