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ASSEMBLY, No. 1722

STATE OF NEW JERSEY
209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Assemblyman LEONARD LANCE

District 23 (Warren, Hunterdon and Mercer)

Assemblyman NEIL M. COHEN

District 20 (Union)

SYNOPSIS

Updates law concerning certain banks which the State Treasurer can select as custodian of funds, securities and assets of the State and as fiscal agent for State pension agencies.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 2/25/2000)

1 AN ACT concerning banks serving as custodians or fiscal agents of
2 certain State assets and amending and supplementing P.L.1977,
3 c.281 and P.L.1954, c.22.

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

7
8 1. Section 1 of P.L.1954, c.22 (C.52:18A-8.1) is amended to read
9 as follows:

10 1. a. The State Treasurer is hereby authorized and empowered to
11 enter into agreement from time to time, and on [such] the terms and
12 for [such] the compensation, if any, [as] the State Treasurer [may
13 deem] deems appropriate, with any [1] one or more of the national
14 banks [, the principal office of which is located in the State of New
15 Jersey,] and the banks authorized by this State to carry on a banking
16 business, which [he] the State Treasurer may select, to act as fiscal
17 agent for the State or as custodian for funds, securities, or other assets
18 of the State and as fiscal agent or as [such] custodian for any pension
19 agency, fund or system maintained in whole or in part by the State.
20 Each bank selected by the State Treasurer to act as custodian or fiscal
21 agent shall have a physical presence in this State in the form of a
22 principal office or branch office and shall employ New Jersey
23 residents. Each bank selected by the State Treasurer may use
24 recognized depositories or clearinghouses for the funds, securities or
25 other assets of the State or may use other banks as sub-custodians or
26 sub-fiscal agents for these assets, provided that in every case each
27 bank selected by the State Treasurer shall retain primary responsibility
28 for these assets.

29 b. If a bank selected by the State Treasurer delegates its
30 responsibilities as custodian or fiscal agent, or both, to a sub-custodian
31 or sub-fiscal agent, the sub-custodian or sub-fiscal agent shall be
32 responsible for the services delegated to it to the same degree as the
33 primary custodian or primary fiscal agent and shall maintain
34 accounting records and be otherwise held accountable to the same
35 degree of fiduciary duty and responsibility as the appointing primary
36 custodian or fiscal agent.

37 c. A bank selected by the State Treasure as a primary custodian or
38 fiscal agent which delegates its responsibilities as custodian or fiscal
39 agent, or both, to a sub-custodian or sub-fiscal agent, shall not be
40 relieved of its fiduciary duties and responsibilities.

41 (cf: P.L.1954, c.22, s.1)

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 2. (New section) As used in Section 1 of P.L.1954, c.22
2 (C.52:18A-8.1):

3 "Branch office" means an office at a fixed location other than a
4 principal office, however designated, at which any business that may
5 be conducted in a principal office of a bank may be transacted.

6 "Clearinghouse" means an association of banks or other payors
7 regularly settling mutual claims, accounts and other items such as
8 securities, payments and income.

9 "Custodian," "primary custodian," "fiscal agent" and "primary fiscal
10 agent" means a bank which is selected by the State Treasurer to
11 perform fiduciary functions in the maintenance of public trust funds
12 and assets.

13 "Depository" means a separately incorporated bank or association
14 of banks which serves as a temporary trustee for securities on behalf
15 of a custodian, sub-custodian, fiscal agent or sub-fiscal agent.

16 "Principal office" means the headquarters of a bank which is its
17 principal place of business.

18 "Sub-custodian" or "sub-fiscal agent" means a bank, located in any
19 state or country, to which a primary custodian or primary fiscal agent
20 may delegate its duties and responsibilities.

21

22 3. Section 1 of P.L.1977, c.281 (C.52:18A-90.4) is amended to
23 read as follows:

24 1. a. Notwithstanding the provisions of section 2 of
25 P.L.1970, c.270 (C.52:18A-90.2), the Director of the Division of
26 Investment may, subject to the approval of the State Investment
27 Council and the State Treasurer, establish, maintain and operate a
28 common trust fund to be known as the State of New Jersey Cash
29 Management Fund in which may be deposited the surplus public
30 moneys of the State, its counties, municipalities and school districts
31 and the agencies or authorities created by any of these entities. This
32 fund shall be considered a legal depository for public moneys and shall
33 satisfy the requirements in that regard of section 1 of P.L.1956, c.174
34 (C.52:18-16.1) and N.J.S.40A:5-14.

35 b. The State Treasurer shall be the custodian of the fund and may
36 receive public moneys paid into the fund by any other custodian of
37 public moneys for the purpose of holding and investing said moneys.
38 In that capacity, he may enter into an agreement with [a bank or trust
39 company having its place of business within the State and organized
40 under the laws of the United States or of] any one or more of the
41 national banks and the banks authorized by this State to carry on a
42 banking business, as he may select, for the custodianship of securities
43 held in the fund and for recording the amounts deposited and
44 withdrawn by each participant, the investment transactions entered
45 into, and the balance to each participant's credit each day. A bank
46 selected by the State Treasurer as custodian pursuant to this section

1 shall have a physical presence in this State in the form of a principal
2 office or branch office and shall employ New Jersey residents. Each
3 bank selected by the State Treasurer may use recognized depositories
4 or clearinghouses for the securities held in the fund or may use other
5 banks as sub-custodians or sub-fiscal agents for these securities,
6 provided that in every case each bank selected by the State Treasurer
7 shall retain primary responsibility for these securities.

8 c. If a bank selected by the State Treasurer delegates its
9 responsibilities as custodian or fiscal agent, or both, to a sub-custodian
10 or sub-fiscal agent, the sub-custodian or sub-fiscal agent shall be
11 responsible for the services delegated to it to the same degree as the
12 primary custodian or primary fiscal agent and shall maintain
13 accounting records and be otherwise held accountable to the same
14 degree of fiduciary duty and responsibility as the appointing primary
15 custodian or fiscal agent.

16 d. A bank selected by the State Treasury as a primary custodian or
17 fiscal agent which delegates its responsibilities as custodian or fiscal
18 agent, or both, to a sub-custodian or sub-fiscal agent, shall not be
19 relieved of its fiduciary duties and responsibilities.

20 e. The State Treasurer may promulgate such rules and regulations
21 pursuant to the Administrative Procedure Act, P.L.1968, c.410
22 (C.52:14B-1 et seq.), as he deems necessary for the efficient
23 administration of the State of New Jersey Cash Management Fund,
24 including but not limited to, (1) the specification of minimum amounts
25 which may be deposited in the fund and minimum periods of time for
26 which deposits shall be retained in the fund; (2) creation of a reserve
27 for losses; (3) provision for payment of administration expenses from
28 its earnings; and (4) distribution of the earnings in excess of such
29 expenses or allocation of losses to the several participants in a manner
30 which equitably reflects the differing amounts of their respective
31 investments and the differing periods of time for which such amounts
32 were in the custody of the fund.

33 f. The Director of the Division of Investment may invest the public
34 moneys constituting the State of New Jersey Cash Management Fund
35 in the same types of investments and subject to the same limitations
36 provided for the investment of funds in the State Treasury. The
37 director shall be responsible for the adequacy of the accounting
38 services provided by the custodian bank and shall maintain such
39 accounting records as may be required for that purpose.

40 (cf: P.L.1977, c.281, s.1)

41
42 4. (New section) As used in section 1 of P.L.1977, c.281
43 (C.52:18A-90.4):

44 "Branch office" means an office at a fixed location other than a
45 principal office, however designated, at which any business that may
46 be conducted in a principal office of a bank may be transacted.

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3 securities, payments and income.

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5 agent" means a bank which is selected by the State Treasurer to
6 perform fiduciary functions in the maintenance of public trust funds
7 and assets.

8 "Depository" means a separately incorporated bank or association
9 of banks which serves as a temporary trustee for securities on behalf
10 of a custodian, sub-custodian, fiscal agent or sub-fiscal agent.

11 "Principal office" means the headquarters of a bank which is its
12 principal place of business.

13 "Sub-custodian" or "sub-fiscal agent" means a bank, located in any
14 state or country, to which a primary custodian or primary fiscal agent
15 may delegate its duties and responsibilities.

16
17 5. This act shall take effect immediately.

18
19
20 STATEMENT

21
22 This bill permits the State Treasurer to select one or more State or
23 federally chartered banks to act as a fiscal agent or custodian of State
24 assets, and for State pension agencies. The bill requires the selected
25 bank or banks to have a physical presence in the State through either
26 a principal or branch office and to employ residents of the State.

27 In addition, the bill permits a bank selected as a custodian or fiscal
28 agent by the State Treasurer to use other banks, located in any other
29 state or country, as sub-custodians or sub-fiscal agents for assets of
30 the State, provided that the bank selected by the State Treasurer
31 retains primary responsibility for those assets and provided further that
32 any bank acting as sub-custodian or sub-fiscal agent be responsible to
33 the same degree as the primary custodian or fiscal agent and be held
34 accountable to the same degree of fiduciary duty and responsibility as
35 the appointing primary custodian or fiscal agent.

36 The bill also permits the State Treasurer, acting as custodian of
37 public moneys in the Cash Management Fund, to select one or more
38 national or State chartered banks for the custodianship of securities
39 held in the fund and for recording the amounts deposited and
40 withdrawn by each participant, the investment transactions entered
41 into, and the balance to each participant's credit each day. The bill
42 requires the selected bank or banks to have a physical presence in the
43 State through either a principal or branch office and to employ
44 residents of the State. Any bank selected by the State Treasurer may
45 use recognized depositories or clearinghouses for the securities held
46 in the fund or may use other banks as sub-custodians or sub-fiscal

1 agents for these securities, provided that in every case each bank
2 selected by the State Treasurer retains primary responsibility for these
3 securities.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1722

STATE OF NEW JERSEY

DATED: MAY 7, 2001

The Assembly State Government Committee reports favorably Assembly, No. 1722.

This bill permits the State Treasurer to select one or more State or federally chartered banks to act as a fiscal agent for the State and the State-administered pension systems or as custodian for assets and funds of the State and the pension systems. The bill requires the selected bank or banks to have a physical presence in the State through either a principal or branch office and to employ residents of the State.

In addition, the bill permits a bank selected as a custodian or fiscal agent by the State Treasurer to use other banks, located in any other state or country, as sub-custodians or sub-fiscal agents for assets of the State, provided that the bank selected by the State Treasurer retains primary responsibility for those assets and provided further that any bank acting as sub-custodian or sub-fiscal agent be responsible to the same degree as the primary custodian or fiscal agent and be held accountable to the same degree of fiduciary duty and responsibility as the appointing primary custodian or fiscal agent.

The bill also permits the State Treasurer, acting as custodian of public moneys in the State of New Jersey Cash Management Fund, to select one or more national or State chartered banks for the custodianship of securities held in the fund and for recording the amounts deposited and withdrawn by each participant, the investment transactions entered into, and the balance to each participant's credit each day. The bill requires the selected bank or banks to have a physical presence in the State through either a principal or branch office and to employ residents of the State. Any bank selected by the State Treasurer may use recognized depositories or clearinghouses for the securities held in the fund or may use other banks as sub-custodians or sub-fiscal agents for these securities, provided that in every case each bank selected by the State Treasurer retains primary responsibility for these securities.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1722

STATE OF NEW JERSEY

DATED: JUNE 21, 2001

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1722.

Assembly Bill No. 1722 permits the State Treasurer to select one or more State or federally chartered banks to act as a fiscal agent or custodian of State assets, and for State pension agencies. The bill requires the selected bank or banks to have a physical presence in the State through either a principal or branch office and to employ residents of the State.

In addition, the bill permits a bank selected as a custodian or fiscal agent by the State Treasurer to use other banks, located in any other state or country, as sub-custodians or sub-fiscal agents for assets of the State, provided that the bank selected by the State Treasurer retains primary responsibility for those assets and provided further that any bank acting as sub-custodian or sub-fiscal agent be responsible to the same degree as the primary custodian or fiscal agent and be held accountable to the same degree of fiduciary duty and responsibility as the appointing primary custodian or fiscal agent.

The bill also permits the State Treasurer, acting as custodian of public moneys in the Cash Management Fund, to select one or more national or State chartered banks for the custodianship of securities held in the fund and for recording the amounts deposited and withdrawn by each participant, the investment transactions entered into, and the balance to each participant's credit each day.

FISCAL IMPACT:

This bill was not certified as requiring a fiscal note.

ASSEMBLY, No. 1722

STATE OF NEW JERSEY 209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Assemblyman LEONARD LANCE

District 23 (Warren, Hunterdon and Mercer)

Assemblyman NEIL M. COHEN

District 20 (Union)

Co-Sponsored by:

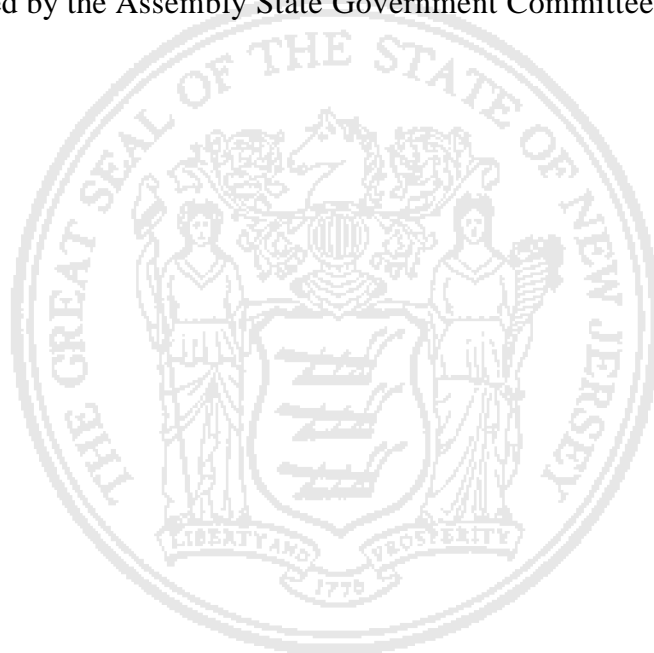
Assemblywoman Heck

SYNOPSIS

Updates law concerning certain banks which the State Treasurer can select as custodian of funds, securities and assets of the State and as fiscal agent for State pension agencies.

CURRENT VERSION OF TEXT

As reported by the Assembly State Government Committee with technical review.



(Sponsorship Updated As Of: 6/29/2001)

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2 certain State assets and amending and supplementing P.L.1977,
3 c.281 and P.L.1954, c.22.

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9 as follows:

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28 for these assets.

29 b. If a bank selected by the State Treasurer delegates its
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37 c. A bank selected by the State Treasure as a primary custodian or
38 fiscal agent which delegates its responsibilities as custodian or fiscal
39 agent, or both, to a sub-custodian or sub-fiscal agent, shall not be
40 relieved of its fiduciary duties and responsibilities.

41 (cf: P.L.1954, c.22, s.1)

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Matter underlined thus is new matter.

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19 state or country, to which a primary custodian or primary fiscal agent
20 may delegate its duties and responsibilities.

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22 3. Section 1 of P.L.1977, c.281 (C.52:18A-90.4) is amended to
23 read as follows:

24 1. a. Notwithstanding the provisions of section 2 of
25 P.L.1970, c.270 (C.52:18A-90.2), the Director of the Division of
26 Investment may, subject to the approval of the State Investment
27 Council and the State Treasurer, establish, maintain and operate a
28 common trust fund to be known as the State of New Jersey Cash
29 Management Fund in which may be deposited the surplus public
30 moneys of the State, its counties, municipalities and school districts
31 and the agencies or authorities created by any of these entities. This
32 fund shall be considered a legal depository for public moneys and shall
33 satisfy the requirements in that regard of section 1 of P.L.1956, c.174
34 (C.52:18-16.1) and N.J.S.40A:5-14.

35 b. The State Treasurer shall be the custodian of the fund and may
36 receive public moneys paid into the fund by any other custodian of
37 public moneys for the purpose of holding and investing said moneys.
38 In that capacity, he may enter into an agreement with [a bank or trust
39 company having its place of business within the State and organized
40 under the laws of the United States or of] any one or more of the
41 national banks and the banks authorized by this State to carry on a
42 banking business, as he may select, for the custodianship of securities
43 held in the fund and for recording the amounts deposited and
44 withdrawn by each participant, the investment transactions entered
45 into, and the balance to each participant's credit each day. A bank
46 selected by the State Treasurer as custodian pursuant to this section

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5 banks as sub-custodians or sub-fiscal agents for these securities,
6 provided that in every case each bank selected by the State Treasurer
7 shall retain primary responsibility for these securities.

8 c. If a bank selected by the State Treasurer delegates its
9 responsibilities as custodian or fiscal agent, or both, to a sub-custodian
10 or sub-fiscal agent, the sub-custodian or sub-fiscal agent shall be
11 responsible for the services delegated to it to the same degree as the
12 primary custodian or primary fiscal agent and shall maintain
13 accounting records and be otherwise held accountable to the same
14 degree of fiduciary duty and responsibility as the appointing primary
15 custodian or fiscal agent.

16 d. A bank selected by the State Treasury as a primary custodian or
17 fiscal agent which delegates its responsibilities as custodian or fiscal
18 agent, or both, to a sub-custodian or sub-fiscal agent, shall not be
19 relieved of its fiduciary duties and responsibilities.

20 e. The State Treasurer may promulgate such rules and regulations
21 pursuant to the Administrative Procedure Act, P.L.1968, c.410
22 (C.52:14B-1 et seq.), as he deems necessary for the efficient
23 administration of the State of New Jersey Cash Management Fund,
24 including but not limited to, (1) the specification of minimum amounts
25 which may be deposited in the fund and minimum periods of time for
26 which deposits shall be retained in the fund; (2) creation of a reserve
27 for losses; (3) provision for payment of administration expenses from
28 its earnings; and (4) distribution of the earnings in excess of such
29 expenses or allocation of losses to the several participants in a manner
30 which equitably reflects the differing amounts of their respective
31 investments and the differing periods of time for which such amounts
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33 f. The Director of the Division of Investment may invest the public
34 moneys constituting the State of New Jersey Cash Management Fund
35 in the same types of investments and subject to the same limitations
36 provided for the investment of funds in the State Treasury. The
37 director shall be responsible for the adequacy of the accounting
38 services provided by the custodian bank and shall maintain such
39 accounting records as may be required for that purpose.

40 (cf: P.L.1977, c.281, s.1)

41
42 4. (New section) As used in section 1 of P.L.1977, c.281
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12 principal place of business.

13 "Sub-custodian" or "sub-fiscal agent" means a bank, located in any
14 state or country, to which a primary custodian or primary fiscal agent
15 may delegate its duties and responsibilities.

16

17 5. This act shall take effect immediately.

SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1722

STATE OF NEW JERSEY

DATED: NOVEMBER 29, 2001

The Senate State Government Committee reports favorably Assembly Bill No. 1722.

This bill permits the State Treasurer to select one or more State or federally chartered banks to act as a fiscal agent for the State and the State-administered pension systems or as custodian for assets and funds of the State and the pension systems. The bill requires the selected bank or banks to have a physical presence in the State through either a principal or branch office and to employ residents of the State.

In addition, the bill permits a bank selected as a custodian or fiscal agent by the State Treasurer to use other banks, located in any other state or country, as sub-custodians or sub-fiscal agents for assets of the State, provided that the bank selected by the State Treasurer retains primary responsibility for those assets and provided further that any bank acting as sub-custodian or sub-fiscal agent be responsible to the same degree as the primary custodian or fiscal agent and be held accountable to the same degree of fiduciary duty and responsibility as the appointing primary custodian or fiscal agent.

The bill also permits the State Treasurer, acting as custodian of public moneys in the State of New Jersey Cash Management Fund, to select one or more national or State chartered banks for the custodianship of securities held in the fund and for recording the amounts deposited and withdrawn by each participant, the investment transactions entered into, and the balance to each participant's credit each day. The bill requires the selected bank or banks to have a physical presence in the State through either a principal or branch office and to employ residents of the State. Any bank selected by the State Treasurer may use recognized depositories or clearinghouses for the securities held in the fund or may use other banks as sub-custodians or sub-fiscal agents for these securities, provided that in every case each bank selected by the State Treasurer retains primary responsibility for these securities.

P.L. 2001, CHAPTER 286, *approved December 27, 2001*
Assembly, No. 1722

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13 **deem]** deems appropriate, with any **[1]** one or more of the national
14 banks **[, the principal office of which is located in the State of New**
15 **Jersey,]** and the banks authorized by this State to carry on a banking
16 business, which **[he]** the State Treasurer may select, to act as fiscal
17 agent for the State or as custodian for funds, securities, or other assets
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41 (cf: P.L.1954, c.22, s.1)

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12 and assets.

13 "Depository" means a separately incorporated bank or association
14 of banks which serves as a temporary trustee for securities on behalf
15 of a custodian, sub-custodian, fiscal agent or sub-fiscal agent.

16 "Principal office" means the headquarters of a bank which is its
17 principal place of business.

18 "Sub-custodian" or "sub-fiscal agent" means a bank, located in any
19 state or country, to which a primary custodian or primary fiscal agent
20 may delegate its duties and responsibilities.

21

22 3. Section 1 of P.L.1977, c.281 (C.52:18A-90.4) is amended to
23 read as follows:

24 1. a. Notwithstanding the provisions of section 2 of
25 P.L.1970, c.270 (C.52:18A-90.2), the Director of the Division of
26 Investment may, subject to the approval of the State Investment
27 Council and the State Treasurer, establish, maintain and operate a
28 common trust fund to be known as the State of New Jersey Cash
29 Management Fund in which may be deposited the surplus public
30 moneys of the State, its counties, municipalities and school districts
31 and the agencies or authorities created by any of these entities. This
32 fund shall be considered a legal depository for public moneys and shall
33 satisfy the requirements in that regard of section 1 of P.L.1956, c.174
34 (C.52:18-16.1) and N.J.S.40A:5-14.

35 b. The State Treasurer shall be the custodian of the fund and may
36 receive public moneys paid into the fund by any other custodian of
37 public moneys for the purpose of holding and investing said moneys.
38 In that capacity, he may enter into an agreement with [a bank or trust
39 company having its place of business within the State and organized
40 under the laws of the United States or of] any one or more of the
41 national banks and the banks authorized by this State to carry on a
42 banking business, as he may select, for the custodianship of securities
43 held in the fund and for recording the amounts deposited and
44 withdrawn by each participant, the investment transactions entered
45 into, and the balance to each participant's credit each day. A bank
46 selected by the State Treasurer as custodian pursuant to this section
47 shall have a physical presence in this State in the form of a principal

1 office or branch office and shall employ New Jersey residents. Each
2 bank selected by the State Treasurer may use recognized depositories
3 or clearinghouses for the securities held in the fund or may use other
4 banks as sub-custodians or sub-fiscal agents for these securities,
5 provided that in every case each bank selected by the State Treasurer
6 shall retain primary responsibility for these securities.

7 c. If a bank selected by the State Treasurer delegates its
8 responsibilities as custodian or fiscal agent, or both, to a sub-custodian
9 or sub-fiscal agent, the sub-custodian or sub-fiscal agent shall be
10 responsible for the services delegated to it to the same degree as the
11 primary custodian or primary fiscal agent and shall maintain
12 accounting records and be otherwise held accountable to the same
13 degree of fiduciary duty and responsibility as the appointing primary
14 custodian or fiscal agent.

15 d. A bank selected by the State Treasurer as a primary custodian or
16 fiscal agent which delegates its responsibilities as custodian or fiscal
17 agent, or both, to a sub-custodian or sub-fiscal agent, shall not be
18 relieved of its fiduciary duties and responsibilities.

19 e. The State Treasurer may promulgate such rules and regulations
20 pursuant to the Administrative Procedure Act, P.L.1968, c.410
21 (C.52:14B-1 et seq.), as he deems necessary for the efficient
22 administration of the State of New Jersey Cash Management Fund,
23 including but not limited to, (1) the specification of minimum amounts
24 which may be deposited in the fund and minimum periods of time for
25 which deposits shall be retained in the fund; (2) creation of a reserve
26 for losses; (3) provision for payment of administration expenses from
27 its earnings; and (4) distribution of the earnings in excess of such
28 expenses or allocation of losses to the several participants in a manner
29 which equitably reflects the differing amounts of their respective
30 investments and the differing periods of time for which such amounts
31 were in the custody of the fund.

32 f. The Director of the Division of Investment may invest the public
33 moneys constituting the State of New Jersey Cash Management Fund
34 in the same types of investments and subject to the same limitations
35 provided for the investment of funds in the State Treasury. The
36 director shall be responsible for the adequacy of the accounting
37 services provided by the custodian bank and shall maintain such
38 accounting records as may be required for that purpose.

39 (cf: P.L.1977, c.281, s.1)

40

41 4. (New section) As used in section 1 of P.L.1977, c.281
42 (C.52:18A-90.4):

43 "Branch office" means an office at a fixed location other than a
44 principal office, however designated, at which any business that may
45 be conducted in a principal office of a bank may be transacted.

46 "Clearinghouse" means an association of banks or other payors
47 regularly settling mutual claims, accounts and other items such as

1 securities, payments and income.

2 "Custodian," "primary custodian," fiscal agent" and "primary fiscal
3 agent" means a bank which is selected by the State Treasurer to
4 perform fiduciary functions in the maintenance of public trust funds
5 and assets.

6 "Depository" means a separately incorporated bank or association
7 of banks which serves as a temporary trustee for securities on behalf
8 of a custodian, sub-custodian, fiscal agent or sub-fiscal agent.

9 "Principal office" means the headquarters of a bank which is its
10 principal place of business.

11 "Sub-custodian" or "sub-fiscal agent" means a bank, located in any
12 state or country, to which a primary custodian or primary fiscal agent
13 may delegate its duties and responsibilities.

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15 5. This act shall take effect immediately.

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20 Updates law concerning certain banks which the State Treasurer can
21 select as custodian of funds, securities and assets of the State and as
22 fiscal agent for State pension agencies.

CHAPTER 286

AN ACT concerning banks serving as custodians or fiscal agents of certain State assets and amending and supplementing P.L.1977, c.281 and P.L.1954, c.22.

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

1. Section 1 of P.L.1954, c.22 (C.52:18A-8.1) is amended to read as follows:

C.52:18A-8.1 Fiscal agent or custodian for funds and other assets; agreements.

1. a. The State Treasurer is hereby authorized and empowered to enter into agreement from time to time, and on the terms and for the compensation, if any, the State Treasurer deems appropriate, with any one or more of the national banks and the banks authorized by this State to carry on a banking business, which the State Treasurer may select, to act as fiscal agent for the State or as custodian for funds, securities, or other assets of the State and as fiscal agent or as custodian for any pension agency, fund or system maintained in whole or in part by the State. Each bank selected by the State Treasurer to act as custodian or fiscal agent shall have a physical presence in this State in the form of a principal office or branch office and shall employ New Jersey residents. Each bank selected by the State Treasurer may use recognized depositories or clearinghouses for the funds, securities or other assets of the State or may use other banks as sub-custodians or sub-fiscal agents for these assets, provided that in every case each bank selected by the State Treasurer shall retain primary responsibility for these assets.

b. If a bank selected by the State Treasurer delegates its responsibilities as custodian or fiscal agent, or both, to a sub-custodian or sub-fiscal agent, the sub-custodian or sub-fiscal agent shall be responsible for the services delegated to it to the same degree as the primary custodian or primary fiscal agent and shall maintain accounting records and be otherwise held accountable to the same degree of fiduciary duty and responsibility as the appointing primary custodian or fiscal agent.

c. A bank selected by the State Treasurer as a primary custodian or fiscal agent which delegates its responsibilities as custodian or fiscal agent, or both, to a sub-custodian or sub-fiscal agent, shall not be relieved of its fiduciary duties and responsibilities.

C.52:18A-8.1a Definitions used in C.52:18A-8.1.

2. As used in section 1 of P.L.1954, c.22 (C.52:18A-8.1):

"Branch office" means an office at a fixed location other than a principal office, however designated, at which any business that may be conducted in a principal office of a bank may be transacted.

"Clearinghouse" means an association of banks or other payors regularly settling mutual claims, accounts and other items such as securities, payments and income.

"Custodian," "primary custodian," "fiscal agent" and "primary fiscal agent" means a bank which is selected by the State Treasurer to perform fiduciary functions in the maintenance of public trust funds and assets.

"Depository" means a separately incorporated bank or association of banks which serves as a temporary trustee for securities on behalf of a custodian, sub-custodian, fiscal agent or sub-fiscal agent.

"Principal office" means the headquarters of a bank which is its principal place of business.

"Sub-custodian" or "sub-fiscal agent" means a bank, located in any state or country, to which a primary custodian or primary fiscal agent may delegate its duties and responsibilities.

3. Section 1 of P.L.1977, c.281 (C.52:18A-90.4) is amended to read as follows:

C.52:18A-90.4 State of New Jersey Cash Management Fund.

1. a. Notwithstanding the provisions of section 2 of P.L.1970, c.270 (C.52:18A-90.2), the Director of the Division of Investment may, subject to the approval of the State Investment Council and the State Treasurer, establish, maintain and operate a common trust fund to be known as the State of New Jersey Cash Management Fund in which may be deposited the surplus public moneys of the State, its counties, municipalities and school districts and the agencies or authorities created by any of these entities. This fund shall be considered a legal depository for public moneys and shall satisfy the requirements in that regard of section 1 of

P.L.1956, c.174 (C.52:18-16.1) and N.J.S.40A:5-14.

b. The State Treasurer shall be the custodian of the fund and may receive public moneys paid into the fund by any other custodian of public moneys for the purpose of holding and investing said moneys. In that capacity, he may enter into an agreement with any one or more of the national banks and the banks authorized by this State to carry on a banking business, as he may select, for the custodianship of securities held in the fund and for recording the amounts deposited and withdrawn by each participant, the investment transactions entered into, and the balance to each participant's credit each day. A bank selected by the State Treasurer as custodian pursuant to this section shall have a physical presence in this State in the form of a principal office or branch office and shall employ New Jersey residents. Each bank selected by the State Treasurer may use recognized depositories or clearinghouses for the securities held in the fund or may use other banks as sub-custodians or sub-fiscal agents for these securities, provided that in every case each bank selected by the State Treasurer shall retain primary responsibility for these securities.

c. If a bank selected by the State Treasurer delegates its responsibilities as custodian or fiscal agent, or both, to a sub-custodian or sub-fiscal agent, the sub-custodian or sub-fiscal agent shall be responsible for the services delegated to it to the same degree as the primary custodian or primary fiscal agent and shall maintain accounting records and be otherwise held accountable to the same degree of fiduciary duty and responsibility as the appointing primary custodian or fiscal agent.

d. A bank selected by the State Treasurer as a primary custodian or fiscal agent which delegates its responsibilities as custodian or fiscal agent, or both, to a sub-custodian or sub-fiscal agent, shall not be relieved of its fiduciary duties and responsibilities.

e. The State Treasurer may promulgate such rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as he deems necessary for the efficient administration of the State of New Jersey Cash Management Fund, including but not limited to, (1) the specification of minimum amounts which may be deposited in the fund and minimum periods of time for which deposits shall be retained in the fund; (2) creation of a reserve for losses; (3) provision for payment of administration expenses from its earnings; and (4) distribution of the earnings in excess of such expenses or allocation of losses to the several participants in a manner which equitably reflects the differing amounts of their respective investments and the differing periods of time for which such amounts were in the custody of the fund.

f. The Director of the Division of Investment may invest the public moneys constituting the State of New Jersey Cash Management Fund in the same types of investments and subject to the same limitations provided for the investment of funds in the State Treasury. The director shall be responsible for the adequacy of the accounting services provided by the custodian bank and shall maintain such accounting records as may be required for that purpose.

C.52:18A-90.4a Definitions used in C.52:18A-90.4.

4. As used in section 1 of P.L.1977, c.281 (C.52:18A-90.4):

"Branch office" means an office at a fixed location other than a principal office, however designated, at which any business that may be conducted in a principal office of a bank may be transacted.

"Clearinghouse" means an association of banks or other payors regularly settling mutual claims, accounts and other items such as securities, payments and income.

"Custodian," "primary custodian," "fiscal agent" and "primary fiscal agent" means a bank which is selected by the State Treasurer to perform fiduciary functions in the maintenance of public trust funds and assets.

"Depository" means a separately incorporated bank or association of banks which serves as a temporary trustee for securities on behalf of a custodian, sub-custodian, fiscal agent or sub-fiscal agent.

"Principal office" means the headquarters of a bank which is its principal place of business.

"Sub-custodian" or "sub-fiscal agent" means a bank, located in any state or country, to which a primary custodian or primary fiscal agent may delegate its duties and responsibilities.

5. This act shall take effect immediately.

Approved December 27, 2001.